

WEEK 7 REPORT

// 2019 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA
APRIL 15 - 19, 2019



// WEEK 7 REPORT

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We are down to just two weeks left in the 2019 Legislative Session. The pace will pick up dramatically as the requirement deadlines for meeting notices change significantly. Starting April 18, the House of Representatives only needs to provide one-day notice. The Senate, as of April 23, will provide a four-hour notice.

Stay close to your computers and we will alert you to any and all bills that are being heard and any and all amendments being filed relating to boating. This is the time of year that amendments start flying around the process.

As for budget conference, we are hopeful the House and Senate will reach allocations and announce the start of Budget Conference this week. The Legislature must pass a budget and it must be on their desks by May 1 (at the latest) in order to end on time.

We hope to get a Week 8 report out next week, but are anticipating working budget conference all weekend. Please be patient, as it could take a little longer to get out.

Many of the issues we have been following for you are still moving and some are positioned to pass. Below are some of the highlighted bills we are following for you this Session.

As always, thank you for allowing us to represent you in Tallahassee!

HB 529 by Mariano and SB 436 by Hooper - Use of Vessel Registration Fees. HB 529 passed the House Transportation and Infrastructure Subcommittee back in February 11-0. The bill passed the House Local, Federal, and Veterans Affairs Subcommittee, 13-0. The bill passed House State Affairs Committee, 23-0. The bill is still on the House Calendar and available for Special Order. The bill is still waiting to be placed on Special Order. The Senate bill should be coming over in Messages and will likely ultimately pass and go to the governor for approval.

Senate Bill 436 passed the Senate Community Affairs agenda on March 3rd. The bill passed, 5-0. The bill is on the Senate Environment and Natural Resources agenda this week. The bill will be passed the Senate Environment and Natural Resources committee, 5-0. The bill passed the Senate Rules Committee 17-0. The bill was on the Special Order calendar on April 10th. The bill passed on the Senate floor 38-0. The bill will be sent in Messages to the House for final passage.

HB 475 by Williamson and SB 676 by Hooper - Certificates of Title for Vessels. HB 475 was heard in its first committee of reference and passed as a committee substitute, 13-0. HB 475 passed the House Transportation and Tourism Appropriations Subcommittee as a committee substitute, 11-0. The bill passed the House State Affairs Committee 19-0 on March 28th. HB 475 passed on the House floor 116-0 with amendments. HB 475 was sent in Messages to the Senate and has been referred to Senate Committees.

The Senate Bill is referred to the Senate Infrastructure and Security Committee, Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development, and the Senate Appropriations Committee. SB 676 passed the Senate Infrastructure and Security Committee on March 26th as a Committee Substitute, 8-0. The bill passed the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development on April 9th as a proposed committee substitute. The bill passed 6-0. The bill passed in Senate Appropriations as a Committee Substitute for Committee Substitute. The bill is now ready for the Senate floor. Once the Senate Bill is placed on Special Order, they will pull up the House Bill that is now in the Senate and vote on it for final passage. Once it passes the Senate, it will be sent to the governor for approval.

HB 1319 by Diamond and SB 1530 by Rouson - Vessels. HB 1319 has been referred to the House Agriculture and Natural Resources Subcommittee, the House Agriculture and Natural Resources Appropriations Subcommittee, and the House State Affairs Committee. The bill was significantly amended in the House Agriculture and Natural Resources Subcommittee. We reported previously that we had one simple amendment to this bill and as expected the amendment was passed on the bill in committee. The bill passed the House Agriculture and Natural Resources Appropriations Subcommittee on April 2 with an amendment by a vote 11-0. The bill is now a Committee Substitute. This bill is waiting to be placed on the agenda in House State Affairs. This bill was not heard in the last House State Affairs Committee. However, another State Affairs Committee could be added at any time, even though one is not currently on the block calendars.

SB 1530 also has three references. The committees are Senate Environment and Natural Resources, Senate Criminal Justice, and Senate Rules. The bill was heard in the Senate Environmental and Natural Resources Committee April 2nd and passed with a requested amendment 4-0. The bill is now a Committee Substitute. CS/SB 1530 passed the Senate Criminal Justice Committee with a 4-1 vote. Senator Brandes was the only "nay" vote. This bill still needs to be heard in the Senate Rules Committee. The bill did not make the April 23rd Senate Rules Committee agenda. As of the writing of this report, there are not any more Senate Rules committees on the block calendars. However, meetings can always be added.

There is still potential for these bills to be amended to HB1221/SB 1666 on the House and Senate floor. We are watching these bills very closely and working with all stakeholders involved.

We have negotiated additional language for this bill if it is to surface, and we do expect an amendment to the bill as it is filed. We appreciate the sponsors and lobbyists on this bill working with us regarding our concerns.

HB 1237 by McClain and SB 1792 by Gruters - Towing and Immobilizing of Vehicles and Vessels. Both bills have three committees of reference.

House Bill 1237 was referred to House Local, Federal and Veterans Affairs Subcommittee, the House Business and Professions Subcommittee, and the State Affairs Committee. House Bill 1237 passed the House Local, Federal and Veterans Affairs Subcommittee on March 19th, 12-1. The bill passed the House Business and Professions Subcommittee on March 26th with a vote of 14-0 as a committee substitute. The bill passed the House State Affairs Committee as a Committee Substitute on April 10th with a vote of 20-1. The bill passed on the House floor April 17th with amendments 83-31.

Senate Bill 1792 was referred to Community Affairs, Infrastructure and Security and Rules. SB 1792 passed the Senate Community Affairs Committee 5-0 as a committee substitute. The bill has now passed in the Senate Infrastructure and Security Committee 8-0. The bill is still waiting to be heard in the Senate Rules Committee. The bill was not placed on the April 23rd agenda. We will continue to monitor closely as the House Bill will be coming over in Messages.

HB 1221 by Polsky and SB 1666 by Flores - Anchoring and Mooring of Vessels Outside of Public Mooring Fields. These bills continue to consume a lot of time and, if they pass, will continue to need our full attention. These bills are positioned to pass and are prime targets for additional anchoring amendments from other local governments who want to limit anchoring.

We continue to watch these bills very closely and appreciate the sponsors working with us regarding our concerns.

House Bill 1221 was referred to the House Agriculture and Natural Resources Subcommittee, the House Agriculture and Natural Resources Appropriations Subcommittee, and the House State Affairs. HB 1221 passed the House Agriculture and Natural Resources Subcommittee as a committee substitute 15-0. The bill passed the House Agriculture and Natural Resources Appropriations Subcommittee March 26th without any amendments. The bill was heard in the House State Affairs Committee and passed as a committee substitute 21-0. The bill will now be placed on the House Calendar and will be heard on the House floor.

Senate Bill 1666 was referred to Senate Environmental and Natural Resources, Senate Community Affairs and Senate Rules. This bill passed the Senate Environmental and Natural Resources Committee with a strike-everything amendment that had a surprise regarding boater education. The amendment passed in committee and, after some negotiations, we hope to see an amendment to clarify the boater education piece of the bill. As expected, amendments were filed to the bill in the Senate Community Affairs Committee and the bill passed 5-0 as a Committee Substitute. The bill passed the Senate Rules Committee agenda April 10th as a committee substitute 17-0. The bill is still on the Senate Calendar. The bill is waiting to be placed on Special Order.

HB1395 by Raschein and SB1758 by Mayfield - Water Quality Improvements. The bills are sponsored by the Senate Appropriations Subcommittee on Agriculture, Environment and General Government Chairwoman and by the House Agriculture and Natural Resources Appropriations Subcommittee Chairwoman.

HB 1395 is referenced to the House Agriculture and Natural Resources Subcommittee, the House Appropriations Committee, and the House State Affairs Committee. This bill was never heard in committee.

Senate Bill 1758 has been referred to the Senate Environment and Natural Resources Committee, the Senate Appropriations Subcommittee on Agriculture, Environment and General Government Committee, and the Senate Appropriations Committee. SB 1758 passed the Senate Environment and Natural Resources Committee as a committee substitute. The bill passed 5-0. SB 1758 passed the Senate Community Affairs Committee on April 2, 2019 as a Committee Substitute 4-0. The bill is still waiting to be heard in the Senate Appropriations Committee. As of the writing of this report, the Senate Appropriations Committee is not scheduled to meet again. However, meetings can be added. So we will continue to monitor.

Another comparable bill to watch that is moving in the House is House Bill 141 by Representative Fine, regarding Water Quality Improvements. This bill is another prime vehicle for anchoring amendments. We will be watching closely. This bill is still waiting to be heard in House State Affairs. As of the writing of this report, House State Affairs is not meeting again. Again, stay tuned.

Another bill that has popped on the radar for water quality is HB973. A proposed committee substitute was adopted in the House State Affairs committee this week that allows this bill to be a water bill. We have attached the language for your convenience.

HB 5401 by House Agriculture and Natural Resources Subcommittee, Raschein ,SB 1502 by Bradley - Department of Environmental Protection. This bill will transfer some positions from FWC to DEP for law enforcement. This bill is a priority. The Senate bill is referred to the Senate Environment and Natural Resources Committee, the Senate Appropriations Subcommittee on Agriculture, Environment and General Government Committee, and the Senate Appropriations Committee. The bill passed the Senate Environment and Natural Resources Committee on March 26th with a vote 5-0. SB 1502 passed the Senate Appropriations Subcommittee on Agriculture, Environment and General Government on April 9th with a vote of 10-0. The

bill was not considered by Senate Appropriations Committee, but the House companion was passed earlier.

HB 5401 Passed the House Appropriations Committee March 27th. The bill passed on Special Order Calendar April 3rd 112-0. This bill is now part of the budget conference. The bill was placed on the Senate Appropriations agenda and passed 18-0. The bill is passed on Second Reading and is now waiting to be heard and passed on Third Reading April 23rd. The bill will be then sent to the Governor for approval.

For more information on these bills and others, please review the attachments.

A handwritten signature in black ink, appearing to read "Margaret Timmins". The signature is stylized with a large, sweeping flourish at the end.

Margaret "Missy" Timmins
President
Timmins Consulting, LLC

// USE OF VESSEL REGISTRATION FEES

Senate Bill 436 // Sen. Ed Hooper // Referred to: Community Affairs; Environment and Natural Resources; Rules

House Bill 529 // Rep. Amber Mariano // Referred to: Transportation & Infrastructure Subcommittee; Local, Federal & Veterans Affairs Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 436: SB 436 expands the authorized uses of the county vessel registration fees to include channel and other navigational dredging; the construction, expansion, or maintenance of public boat ramps and other public water access facilities; and associated engineering and permitting costs.

Most Recent Action: Read Third Time; Passed (Vote: 38 Yeas / 0 Nays)

House Bill 529: Vessels are registered and numbered uniformly throughout the state. Current law establishes state vessel registration fees, which are based on the length of the vessel. Current law also authorizes counties to impose an annual vessel registration fee of 50 percent of the applicable state vessel registration fee. The first \$1 of every optional registration fee is deposited into the Save the Manatee Trust Fund for purposes specified by law and all other moneys received must be expended for the patrol, regulation, and maintenance of lakes, rivers, and waters and for other boating-related activities.

The bill specifies that a county or municipality may use its optional vessel registration fee for channel and other navigational dredging, the construction, expansion, or maintenance of public boat ramps and other public water access facilities, including associated engineering and permitting costs.

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

Most Recent Action: Favorable by State Affairs Committee; 23 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

Attached documents: SB 436 (as filed) + staff analysis

// CERTIFICATES OF TITLES FOR VESSELS

Senate Bill 676 // Sen. Ed Hooper // Referred to: Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 475 // Rep. Jay Williamson // Referred to: Transportation & Infrastructure

Subcommittee; Transportation & Tourism Appropriations Subcommittee; State Affairs CommitteeHOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 676: PCS/CS/SB 676 incorporates the Uniform Certificate of Title for Vessels Act into Florida's existing vessel titling and lien law. The bill contains numerous revisions to current title application requirements, revises information that must be included on a certificate of title for a vessel, provides for the perfection of security interests in a vessel and for the rights of a secured party, provides requirements for the transfer of ownership in a vessel, and revises various duties and responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) with respect to titling of vessels.

Generally, the bill:

- Provides requirements for applications for certificates of titles for vessels, including their detailed content, and provides exceptions from the requirement to apply for a certificate.
- Provides responsibilities of an owner and insurer of a hull-damaged vessel, and of the DHSMV when creating a certificate of title.
- Specifies that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel, but nothing prohibits enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel.
- Provides the DHSMV with duties relating to creation, issuance, refusal to issue, or cancellation of a certificate of title, and provides additional requirements for obtaining a duplicate certificate of title.
- Sets out requirements for the determination and perfection of a security interest in a vessel and for the delivery of a statement of the termination of a security interest.
- Provides for the rights of a purchaser of a vessel who is not a secured party, and for rights of a purchaser who is a secured party.
- Specifies circumstances by which the DHSMV may create a new certificate of title after the receipt of an application for a transfer of ownership or termination of a security interest, without the applicant providing a certificate of title.
- Provides requirements for the voluntary transfer of vessel title ownership, transfer by a secured party, and transfer by operation of law.
- Applies the bill to any transaction, certificate of title, or record relating to a vessel entered into or created before July 1, 2023, but provides for certain exceptions.

The bill will have an insignificant fiscal impact on the DHSMV, which will be absorbed within existing resources. The bill has an indeterminate, but possibly neutral impact to the Marine Resources Conservation Trust Fund of the Fish and Wildlife Conservation Commission.

The bill takes effect July 1, 2023.

Most Recent Action: Favorable with CS by Appropriations; 18 Yeas, 0 Nays

House Bill 475: The bill incorporates the Uniform Certificate of Title for Vessels Act into Florida's existing vessel titling law. In doing this, the bill includes numerous changes to the title application requirements and the duties and responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) relating to vessel titling. In general, the bill:

- Creates the "Uniform Certificate of Title for Vessels Act."
- Provides new requirements for the contents of a certificate of title, including the requirement that an application contain a detailed description of the vessel.
- Provides that state law governs all issues relating to the certificate of title for vessels.
- Requires a vessel owner to deliver an application and any applicable fee for certificate of title for the vessel, no later than 30 days from the date of ownership or the date Florida becomes the state of principal use.
- Provides certain responsibilities applicable to an owner and insurer of a hull-damaged vessel.
- Requires DHSMV to maintain the information contained in all certificates of title and the information submitted with the application for such certificate.
- Specifies that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel.
- Provides DHSMV with certain duties relating to creation, issuance, refusal to issue, or cancellation of a certificate of title.
- Specifies that a certificate of title is effective even if it contains scrivener's errors or does not contain certain required information that DHSMV determines to be inconsequential to issuing a certificate of title.
- Provides additional requirements for obtaining a duplicate certificate of title.
- Provides requirements for the determination and perfection of a security interest in a vessel.
- Provides requirements for the delivery of a statement of the termination of a security interest.
- Provides requirements for the transfer of ownership in a vessel.

Most Recent Action: In Messages; Received; Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

Attached documents: CS/CS/SB 676 (as filed) + staff analysis; HB 475 (1st Engrossed)

// VESSELS

Senate Bill 1530 // Sen. Darryl Rouson // Referred to: Environment and Natural Resources; Criminal Justice; Rules

House Bill 1319 // Rep. Ben Diamond // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1530: CS/SB 1530 requires a vessel operator to reduce speed to a slow speed with minimum wake upon approaching within 300 feet of any emergency vehicle with its emergency lights activated or any construction vessel or barge under specified conditions. A vessel operator found in violation of this requirement is guilty of a noncriminal infraction.

The bill increases several of the civil penalties for a vessel deemed at risk of becoming derelict and increases several of the maximum civil penalties for anchoring or mooring in a prohibited area. The bill also creates civil penalties for vessels that fail to reduce speed for special hazards as specified in the bill.

There may be a positive fiscal impact on the Florida Fish and Wildlife Conservation Commission due to the new and increased civil penalties provided under the bill. See Section V. Fiscal Impact Statement.

Most Recent Action: Favorable by Criminal Justice; 4 Yeas, 1 Nay

House Bill 1319: 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 the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property. Both state and local law enforcement agencies are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

The bill requires vessel operators to reduce to slow speed, minimum wake upon: approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel or auxiliary vessel, fire vessel, or tow vessel, with its emergency lights activated; and approaching within 300 feet of any construction vessel or barge when workers are present and actively engaged in operations and displaying an orange flag or yellow flashing light from the tallest portion of the vessel or barge. The bill provides that a vessel operator found in violation of the above requirements is guilty of a noncriminal infraction and further provides civil penalties.

The bill further provides that a vessel that does not have or is unable to demonstrate an effective means of propulsion and the owner is unable to provide documentation of vessel repair may be deemed at risk for becoming derelict.

The bill increases the civil penalties for a vessel deemed at risk for becoming derelict and for anchoring or mooring in a prohibited area and creates a penalty for a vessel that creates a special hazard. The bill further provides that a person cited more than three times in a 12-month period may have their vessel impounded by law enforcement.

Most Recent Action: Favorable with CS by Agriculture & Natural Resources Appropriations Subcommittee; 11 Yeas, 0 Nays

Attached documents: None

// TOWING AND IMMOBILIZING OF VEHICLES AND VESSELS

Senate Bill 1792 // Sen. Joe Gruters // Referred to: Community Affairs; Infrastructure and Security; Rules

House Bill 1237 // Rep. Stan McClain // Referred to: Local, Federal & Veterans Affairs Subcommittee; Business & Professions Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1792: CS/CS/SB 1792 addresses the towing, removal, storage, and immobilization of vehicles and vessels. Generally, the bill:

- Provides definitions.
- Authorizes a county or municipality to regulate the rates for the towing, immobilization, and storage and removal of vessels parked on private property or involved in an accident scene.
- Requiring a county that regulates the above rates to establish maximum rates, which do not apply within the jurisdiction of a municipality that establishes maximum rates.
- Prohibits counties and municipalities, respectively, from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses for towing, impounding, or storing a vehicle or vessel immobilization services.
- Prohibits counties or municipalities from imposing charges, costs, expenses, fines, fees, or penalties on authorized wrecker operators, registered owners, other legally authorized persons in custody or in control, or lienholders of vehicles or vessels.
- Provides the above prohibitions do not prevent county or municipal levy of a reasonable business tax or imposition of a limited reasonable administrative fee or charge.
- Provides exemptions to bill requirements for certain ordinances enacted by a charter county with a population exceeding 1.3 million on or before January 1, 2019.
- Requires a reasonable administrative fee or charge imposed by a county or municipality to be included as part of the lien on the vehicle or vessel held by the towing operator.

- Includes vessels in the current prohibition against charging a vehicle storage fee when stored for less than six hours.
- Revises various related notice provisions.
- Revises requirements relating to towing and removing vehicles or vessels to include persons who are in custody, or in control or custody, of a vehicle or of a vessel.
- Removes provisions related to liability for improper removal of a vehicle or vessel.
- Prohibits county or municipal ordinances requiring a towing business to accept checks as a form of payment.
- Prohibits county or municipal authorization of attorney fees or court costs in connection with the towing of vehicles or vessels from private property and preempts regulation of such fees or court costs to the state.

The fiscal impact on local government and on the private sector is indeterminate. See the Fiscal Impact Statement heading for details.

The bill's provisions in general may limit the ability of municipalities and counties to raise revenue, thus requiring approval of the bill by each house of the Legislature by two-thirds vote of its membership. However, whether such approval is required is indeterminate. See the Municipality/County Mandates Restrictions heading for details.

Most Recent Action: Favorable with CS by Infrastructure and Security; 8 Yeas, 0 Nays

House Bill 1237: County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators. Counties and municipalities are authorized to establish by ordinance or rule maximum rates for the towing and storage of vehicles. Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies.

Vehicles or vessels parked without permission on private property may be towed at the direction of the owner or lessee of the property. The towing or removal must be conducted by a person regularly engaged in the business of towing vehicles or vessels and is subject to strict compliance with certain conditions and restrictions placed on the towing company. If the property is not a single-family residence, towing may only occur if notice is given via signage that must meet certain conditions.

The bill requires counties and municipalities to establish maximum rates for the towing and immobilization of vessels, and prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill provides that an authorized wrecker operator may impose and collect an administrative fee and is only required to remit the fee to the county or municipality after it has been collected. The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose fees

on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator. The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel must have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill exempts a county with an existing towing license program as of January 1, 2019, from the prohibition on imposing a fee or charge on an authorized wrecker operator or on a towing business. However, a county with such a licensure program would not be authorized to levy a business tax or impose and collect an administrative fee or charge.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. The bill expressly preempts the regulation of attorney fees in connection with the towing of vehicles or vessels from private property to the state and voids any municipal or county ordinance on the subject.

The bill may have an indeterminate fiscal impact on local governments.

Most Recent Action: Read Second Time; Amendments Adopted (560115, 759219, 977681); Read Third Time; Passed (Vote: 83 Yeas / 31 Nays)

Attached documents: CS/CS/HB 1237 + 3 amendments + staff analysis

// ANCHORING AND MOORING OF VESSELS OUTSIDE OF PUBLIC MOORING FIELDS

Senate Bill 1666 // Sen. Anitere Flores // Referred to: Environment and Natural Resources; Community Affairs; Rules

House Bill 1221 // Rep. Tina Polsky // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: COMPARE

Senate Bill 1666: CS/CS/SB 1666:

- Requires a person to have either a boater safety identification card or a temporary certificate before renting and operating a vessel with a 10 horsepower or higher engine or electronic equivalent of such engine.
- Establishes criteria for obtaining a temporary certificate which is valid for 90 days.
- Provides that boating safety identification cards and temporary certificates may be issued in a digital, electronic or paper format.
- Authorizes the Fish and Wildlife Conservation Commission (FWC) to appoint agents to administer qualifying boating safety education and temporary certificate requirements.

- Defines the term “long-term stored vessel” to mean a vessel which has remained anchored or moored without supervision or control for at least 30 days out of a 60-day period.
- Requires the FWC to conduct a study, contingent upon appropriation, on the impacts of longterm stored vessels on local communities and the state, and to present the report to the Governor and Legislature.
- Authorizes counties designated as rural areas of opportunity to create in freshwater waterbodies within their jurisdiction a “no-discharge zone” where treated and untreated sewage discharges are prohibited for specified vessels.
- Requires vessel operators within a no-discharge zone to keep sewage discharges onboard for discharge at sea or onshore at a pump-out facility.
- Imposes a civil penalty and declares the vessel or floating structure a nuisance and hazard to public safety and health if an unlawful discharge is made in a no-discharge zone.
- Requires a certain portion of vessel registration fees designated for use by the counties to be deposited into the Marine Resources Conservation Trust Fund to fund grants for derelict vessel removal. Funds not granted to local governments by a certain date in the fiscal year may be used by the FWC to remove derelict vessels.
- Prohibits a person who leaves or abandons a derelict vessel from residing or dwelling on the vessel until it is permanently removed from state waters or returned to waters in a nonderelict condition.

Most Recent Action: Favorable with CS by Rules; 17 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

House Bill 1221: 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 the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property. Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

The bill defines “long-term stored vessel” as a vessel on the waters of the state that is not under the supervision and control of a person capable of operating, maintaining, or moving it from one location to another and that has remained anchored or moored outside of a public mooring field for at least 30 days out of a 60-day period.

The bill requires the Florida Fish and Wildlife Conservation Commission (FWC) to conduct, for no longer than two years, a study of the impacts of long-term stored vessels on local communities and the state. The study must investigate if and how long-term stored vessels and vessels

anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state; investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, and vessels anchored within public mooring fields on the local and state economies, public safety, and the environment during and after a significant tropical storm or hurricane event; and provide recommendations for appropriate management options for long-term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days to mitigate any identified negative impacts.

The bill further requires FWC to submit a report of its findings to the Governor and the Legislature within six months after the date the study is completed.

The bill prohibits a person from residing or dwelling on a vessel that has been charged by an officer of FWC or any law enforcement agency as derelict until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

The bill may have an indeterminate negative fiscal impact on boat owners or occupants residing on a vessel that has been deemed derelict. The study is contingent upon legislative appropriation, so there is no fiscal impact to state government expenditures.

Most Recent Action: Favorable with CS by State Affairs Committee; 21 Yeas, 0 Nays

Attached documents: Delete-everything amendment (passed) to CS/HB 1221 + staff analysis

// COASTAL MANAGEMENT

Senate Bill 446 // Sen. Debbie Mayfield // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 325 // Rep. Chip LaMarca // Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 446: SB 446 revises the criteria the Department of Environmental Protection uses to determine annual funding priorities for beach erosion control projects and inlet management projects. The bill also revises related requirements for the Department of Environmental Protection regarding reporting and oversight, and the use of surplus funds for beach erosion control projects or inlet management projects. The bill revises requirements regarding funding and reporting on inlet management projects.

The bill revises the requirements for the Department of Environmental Protection to develop and submit the components of the comprehensive long-term management plan for the restoration and maintenance of Florida's critically eroded beaches.

The bill has an indeterminate fiscal impact. The DEP can absorb any costs within existing resources. Funding for beach erosion projects and inlet management projects is subject to legislative appropriations.

The bill takes effect July 1, 2019, except for changes to the scoring system for beach erosion control projects amended in s. 161.101, F.S., and changes to the comprehensive long-term beach management plan amended in s. 161.161, F.S., which will both take effect July 1, 2020.

Most Recent Action: Favorable by Appropriations; 20 Yeas, 0 Nays; Placed on Calendar, on 2nd reading; Placed on Special Order Calendar, 04/23/19

House Bill 325: Due to storm events, construction and maintenance of inlets, imprudent coastal developments, and other factors, 420.9 miles of Florida's beaches are critically eroded. The Beach Management Funding Assistance Program (program) within the Department of Environmental Protection (DEP) works with local sponsors to protect and restore the state's beaches through a comprehensive beach management planning program. Local sponsors submit annual funding requests to DEP for beach management and inlet management projects. DEP ranks the requests and provides a funding recommendation to the Legislature.

As it relates to beach management projects, the bill revises and provides more detail on the criteria DEP must consider when ranking beach management projects for funding consideration and requires DEP to implement a scoring system for annual project funding priorities that consists of criteria divided into four tiers. The bill assigns each tier a certain percentage of overall point value and requires that the criteria be equally weighted within each tier. The bill changes how DEP may utilize surplus funds and the procedures that must be followed.

For inlet management projects, the bill:

- Revises and updates the criteria DEP must consider when ranking inlet management projects for funding consideration, and requires DEP to weigh each criterion equally;
- Authorizes DEP to pay up to 75 percent of the construction costs of an initial major inlet management project component, and allows DEP to share the costs of the other components of inlet management projects equally with the local sponsor;
- Requires DEP to rank the inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests; and
- Eliminates the requirement for the Legislature to designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year.

The bill updates how DEP must develop and maintain a Comprehensive Long-Term Beach Management Plan that requires DEP to include, at a minimum, the following: a strategic beach

management plan, critically eroded beaches report, and statewide long-range budget plan that includes a three-year work plan identifying beach nourishment and inlet management projects viable for implementation during the ensuing fiscal years.

The bill will have an insignificant negative fiscal impact on DEP.

The changes to the beach ranking criteria and the Comprehensive Long-Term Beach Management Plan criteria have an effective date of July 1, 2020. The other aspects of the bill have an effective date of July 1, 2019.

Most Recent Action: Read Second Time; Read Third Time; Passed (Vote: 113 Yeas / 0 Nays)

Attached documents: SB 446 + staff analysis; CS/HB 325 + staff analysis

// WATER QUALITY IMPROVEMENTS

Senate Bill 1758 // Sen. Debbie Mayfield // Referred to: Environment and Natural Resources; Community Affairs; Appropriations

House Bill 1395 // Rep. Holly Raschein // Referred to: Agriculture & Natural Resources Subcommittee; Appropriations Committee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: IDENTICAL

Senate Bill 1758: CS/CS/SB 1758 creates the “Clean Waterways Act,” including a grant program, subject to appropriation, for wastewater treatment facility or onsite sewage treatment and disposal system (OSTDS) improvements or connections within a basin management action plan (BMAP) or alternative restoration plan. The bill requires the Department of Environmental Protection (DEP) and the Department of Health (DOH) to develop a report on the impacts of a type two transfer of the OSTDS program.

The bill revises the requirements for all BMAPs. The bill:

- Requires that each BMAP include a plan, with specific timelines, to be submitted by each local government within the BMAP area for each wastewater treatment plant project and each OSTDS remediation plan.
- Expands and revises the OSTDS remediation plans required for the Outstanding Florida Springs to apply to all BMAPs.
- Imposes penalties for a local government’s failure to meet the deadlines required under the plan, including a prohibition on participation in DEP’s wastewater grant program and existing civil and criminal penalties for pollution. However, the bill authorizes DEP

to grant an extension of time upon a showing of good cause or to reduce penalties based on expenditures for improvements and upgrades.

- Requires local governments within a BMAP or with impaired waters to adopt the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.

The bill requires a wastewater treatment facility that unlawfully discharges raw or partially treated sewage into a waterway or aquifer to provide notification to its customers within 24 hours after discovering the discharge. Effective July 1, 2024, the bill prohibits sanitary sewage disposal into Indian River Lagoon without providing advanced waste treatment.

Most Recent Action: Favorable with CS by Community Affairs; 4 Yeas, 0 Nays;

House Bill 1395: Transfers onsite sewage program of DOH to DEP by type two transfer; prohibits local government from approving certain building permits; requires DEP to develop agricultural remediation plan as part of each basin management action plan; establishes wastewater grant program within DEP; revises requirements for basin management action plan; requires estimated nutrient load reductions in such plans to exceed specified amount; requires each local government to develop wastewater treatment plan that meets certain requirements; requires local government to create onsite sewage treatment & disposal system remediation plan as part of basin management action plan; prohibits facilities for sanitary sewage disposal from disposing of any waste in Indian River Lagoon without first providing advanced waste treatment.

Most Recent Action: Referred to Agriculture & Natural Resources Subcommittee; Appropriations Committee; State Affairs Committee

Attached documents: None

// DEPARTMENT OF ENVIRONMENTAL PROTECTION

Senate Bill 1502 // Sen. Rob Bradley // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 5401 // Agriculture & Natural Resources Appropriations Subcommittee; Rep. Holly Raschein // Referred to: Appropriations Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1502: SB 1502 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers. The bill requires DEP and the Fish and Wildlife Conservation Commission (FWC) to develop a new

memorandum of agreement detailing the respective responsibilities of the two agencies with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of DEP’s administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the commission to DEP which are funded through any trust fund.

As determined by the new memorandum of agreement, the bill transfers the primary powers and duties of FWC with regard to investigating certain environmental crimes and enforcing related laws to DEP. The bill states that FWC will retain law enforcement authority over the patrol of state-owned land managed by DEP.

Most Recent Action: On Committee agenda - Appropriations, 04/18/19, 9:00 am, 412 K; Not Considered by Appropriations

House Bill 5401: HB 5401 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers.

The bill requires the DEP and the Fish and Wildlife Conservation Commission (FWC) to develop a new memorandum of agreement detailing the respective responsibilities of the two agencies, with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of the DEP’s administrative rules related to all of the following program areas:

- o The Division of Recreation and Parks.
- o The Office of Coastal and Aquatic Managed Areas.
- o The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the FWC to the DEP that are funded through any trust fund.

As determined by the new memorandum of agreement, the bill transfers the primary powers and duties of the FWC with regard to investigating certain environmental crimes and enforcing related laws to the DEP. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned land managed by the DEP.

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP. There may be additional, indeterminate negative costs associated with this transfer to the DEP.

Most Recent Action: Read Second Time; Placed on Third Reading, 04/23/19

Attached documents: SB 1502 (as filed) + staff analysis; HB 5401 (as filed) + staff analysis

// ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS

Senate Bill 1022 // Sen. Ben Albritton // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 973 // Rep. Bobby Payne // Referred to: Agriculture & Natural Resources Subcommittee; Appropriations Committee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1022: CS/SB 1022 transfers the Department of Health's (DOH) program for onsite sewage treatment and disposal systems (OSTDS) to the Department of Environmental Protection (DEP) through a type two transfer. The bill requires DOH and DEP to enter into a memorandum of agreement addressing the type two transfer and the respective roles of the county health departments and DEP. The bill requires DEP to appoint an OSTDS technical advisory committee. DEP is required to adopt rules, considering the recommendations of the technical advisory committee, which are intended to increase the availability of cost-effective, low-maintenance, and nutrient-removing onsite systems in the marketplace.

The bill requires DEP and the water management districts to submit information on septic to sewer conversion and septic tank remediation projects and related project costs to the Office

of Economic and Demographic Research. The bill creates additional requirements for DEP to follow when applying the prohibition on new OSTDSs on lots of less than 1 acre within a priority focus area for an Outstanding Florida Spring in conflict with an OSTDS remediation plan. The bill requires DEP to allow the use of systems certified under NSF/ANSI 245 before July 1, 2019.

The bill eliminates DOH's research review and advisory committee and technical review and advisory panel that advise and assist DOH on onsite sewage treatment and disposal systems.

Except as otherwise provided in the bill, the bill will take effect on July 1, 2020.

Most Recent Action: Favorable with CS by Environment and Natural Resources; 5 Yeas, 0 Nays

House Bill 973: States are required by the Clean Water Act to maintain their water quality. In Florida, water quality is addressed through water quality standards, total maximum daily loads (TMDLs), basin management action plans (BMAP), and permits.

The bill amends statutes addressing water quality from wastewater. Specifically, the bill:

- Transfers the onsite sewage program from the Department of Health (DOH) to the Department of Environmental Protection (DEP), effective July 1, 2020, by a type two transfer.
- Requires DEP and DOH to submit recommendations to the Governor and the Legislature regarding the transfer of the onsite sewage program by December 1, 2019.
- Requires consolidated annual reports to be submitted to the Office of Economic and Demographic Research and include certain projects.
- Specifies that a hardship exists under certain criteria when evaluating a lot size for an onsite sewage treatment and disposal system (OSTDS) subject to certain prohibitions.
- Requires DOH to allow the use of certain nutrient removing OSTDSs to meet the requirements of TMDLs and water quality restoration plans.
- Creates an OSTDS technical advisory committee and requires DEP to submit recommendations to the Governor and the Legislature.
- Repeals the Research Review and Advisory Committee and the Technical Review and Advisory Panel.
- Requires a BMAP for a nutrient TMDL to include a wastewater treatment plan and an OSTDS remediation plan and requires DEP to submit a report identifying the costs and funding associated with specified projects.
- Creates a clean water grant program, subject to appropriation, and requires DEP to submit recommended processes for the prioritization of projects and allocation of funds.
- Requires specified sewage spill notification for domestic wastewater facilities that

unlawfully discharge sewage.

- Requires advanced wastewater treatment for domestic wastewater discharges into the Indian River Lagoon and requires DEP to submit a progress report by a time certain.
- Prohibits the land application of biosolids under certain conditions, requires DEP to conduct rulemaking to implement the findings of the Biosolids Technical Advisory Committee, creates a Biosolids Alternative Management Technical Advisory Committee, and requires a report of its findings to be submitted to the Governor and the Legislature.

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

Most Recent Action: Favorable with CS by State Affairs Committee; 23 Yeas, 0 Nays

Attached documents: CS/SB 1022 + staff analysis; PCS for CS/CS/HB 973 + staff analysis

// BOATING-RELATED APPROPRIATIONS

Boating Appropriations Highlights

House Proposed Budget (PCB 19-01)

Fiscal Year 2019-20

1755	SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE	
	FROM GENERAL REVENUE FUND	2,600,000
1766	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA	
	FROM FEDERAL GRANTS TRUST FUND	1,960,000
	FROM GRANTS AND DONATIONS TRUST FUND	200,000
1824	SPECIAL CATEGORIES	
	BOATING AND WATERWAYS ACTIVITIES	
	FROM MARINE RESOURCES CONSERVATION TRUST FUND	1,626,025

1829 SPECIAL CATEGORIES

BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 625,650

1830 FIXED CAPITAL OUTLAY

BOATING INFRASTRUCTURE

FROM FEDERAL GRANTS TRUST FUND 3,900,000

1831 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
DERELICT VESSEL REMOVAL PROGRAM

FROM GENERAL REVENUE FUND 1,400,000

FROM FEDERAL GRANTS TRUST FUND 3,000,000

1832 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

1906 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND

NONSTATE ENTITIES - FIXED CAPITAL OUTLAY

ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND 300,000

FROM MARINE RESOURCES CONSERVATION TRUST FUND 300,000

Senate Proposed Budget (SPB 2500)

Fiscal Year 19-20

1755 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND 2,600,000

From the funds in Specific Appropriation 1755, \$2,600,000 in recurring funds from the General Revenue Fund are provided for the Florida Resilient Coastline

Initiative to assist local governments with storm resiliency, sea level rise planning, coastal resilience projects, and coral reef health.

The department shall perform an analysis for each assessment and planning grant provided to local communities during the 2018-2019 fiscal year. The analysis shall include for each grant; an accounting of grant expenditures, descriptions of goals and objectives, and project recommendations and estimated costs of those projects. The analysis shall be submitted to the chair of the Senate Appropriations Committee, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor's Office of Policy and Budget by October 1, 2019.

1766	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA	
	FROM FEDERAL GRANTS TRUST FUND . . .	1,960,000
	FROM GRANTS AND DONATIONS TRUST FUND	200,000
1824	SPECIAL CATEGORIES BOATING AND WATERWAYS ACTIVITIES	
	FROM MARINE RESOURCES CONSERVATION TRUST FUND	1,626,025
1826	SPECIAL CATEGORIES DERELICT VESSEL REMOVAL PROGRAM	
	FROM FEDERAL GRANTS TRUST FUND . . .	3,000,000
1829	SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM	
	FROM MARINE RESOURCES CONSERVATION TRUST FUND	625,650
1830	FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE	
	FROM FEDERAL GRANTS TRUST FUND . . .	3,900,000
1831	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY DERELICT VESSEL REMOVAL PROGRAM	
	FROM MARINE RESOURCES CONSERVATION TRUST FUND	1,400,000
1832	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

1906 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM

FROM FEDERAL GRANTS TRUST FUND 300,000
FROM MARINE RESOURCES CONSERVATION TRUST FUND 300,000

2019-2020 Governor's Proposed Budget

1755 SPECIAL CATEGORIES

FLORIDA RESILIENT COASTLINE INITIATIVE

FROM GENERAL REVENUE FUND 6,000,000

The funds in Specific Appropriation 1755 are provided for the purpose of assisting local governments with sea level rise planning and coastal resilience projects. Funds may also be used for storm resiliency, including the placement of sand to mitigate erosion and ensure public safety, or for the protection of coral reef health, including restoration and monitoring.

1766 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND
NONSTATE ENTITIES - FIXED CAPITAL OUTLAY CLEAN MARINA

FROM FEDERAL GRANTS TRUST FUND 1,960,000
FROM GRANTS AND DONATIONS TRUST FUND 200,000

1824 SPECIAL CATEGORIES

BOATING AND WATERWAYS ACTIVITIES

FROM MARINE RESOURCES CONSERVATION TRUST FUND 1,626,025

1829 SPECIAL CATEGORIES

BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 625,650

1830	FIXED CAPITAL OUTLAY		
	BOATING INFRASTRUCTURE		
	FROM FEDERAL GRANTS TRUST FUND . . .	3,900,000	
1831	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND		
	NONSTATE ENTITIES - FIXED CAPITAL OUTLAY		
	DERELICT VESSEL REMOVAL PROGRAM		
	FROM GENERAL REVENUE FUND	1,400,000	
1832	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	
1906	GRANTS AND AIDS TO LOCAL GOVERNMENTS AND		
	NONSTATE ENTITIES - FIXED CAPITAL OUTLAY		
	ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM		
	FROM GENERAL REVENUE FUND	300,000	
	FROM FEDERAL GRANTS TRUST FUND . . .	300,000	

APPENDIX

// USE OF VESSEL REGISTRATION FEES

SB 436 (as filed) + Staff Analysis

// CERTIFICATES OF TITLES FOR VESSELS

CS/CS/SB 676 + Staff Analysis
HB 475 (Engrossed)

// VESSELS

No attachments

// TOWING AND IMMOBILIZING OF VEHICLES AND VESSELS

HB 1237 (1st Engrossed)

// ANCHORING AND MOORING OF VESSELS OUTSIDE OF PUBLIC MOORING FIELDS

Delete-Everything Amendment to CS/HB 1221 + Staff Analysis

// COASTAL MANAGEMENT

SB 446 + Staff Analysis
CS/HB 325 + Staff Analysis

// WATER QUALITY IMPROVEMENTS

No attachments

// DEPARTMENT OF ENVIRONMENTAL PROTECTION

SB 1502 (as filed) + Staff Analysis
HB 5401 (as filed) + Staff Analysis

// ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS

CS/SB 1022 + Staff Analysis
PCS for CS/CS/HB 973 + Staff Analysis

// CURRENT BILL TRACKING LIST

By Senator Hooper

16-00829A-19

2019436__

1 A bill to be entitled
2 An act relating to use of vessel registration fees;
3 amending s. 328.66, F.S.; authorizing a portion of
4 county or municipal vessel registration fees to be
5 used for specified additional purposes; providing an
6 effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Subsection (1) of section 328.66, Florida
11 Statutes, is amended to read:

12 328.66 County and municipality optional registration fee.—
13 (1) A ~~Any~~ county may impose an annual registration fee on
14 vessels registered, operated, used, or stored on the waters of
15 this state within its jurisdiction. This fee shall be 50 percent
16 of the applicable state registration fee as provided in s.
17 328.72(1) and not the reduced vessel registration fee specified
18 in s. 328.72(18). However, the first \$1 of every registration
19 fee imposed under this subsection shall be remitted to the state
20 for deposit in the Save the Manatee Trust Fund created within
21 the Fish and Wildlife Conservation Commission, and shall be used
22 only for the purposes specified in s. 379.2431(4). All other
23 moneys received from such fee shall be expended for the patrol,
24 regulation, and maintenance of the lakes, rivers, and waters and
25 for other boating-related activities of such municipality or
26 county, which may include channel and other navigational
27 dredging, the construction, expansion, or maintenance of public
28 boat ramps and other public water access facilities, and
29 associated engineering and permitting costs. A municipality that

16-00829A-19

2019436__

30 was imposing a registration fee before April 1, 1984, may
31 continue to levy such fee, notwithstanding the provisions of
32 this section.

33 Section 2. This act shall take effect July 1, 2019.

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.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 436

INTRODUCER: Senator Hooper

SUBJECT: Use of Vessel Registration Fees

DATE: April 2, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Peacock</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Anderson</u>	<u>Rogers</u>	<u>EN</u>	Favorable
3.	<u>Peacock</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 436 expands the authorized uses of the county vessel registration fees to include channel and other navigational dredging; the construction, expansion, or maintenance of public boat ramps and other public water access facilities; and associated engineering and permitting costs.

II. Present Situation:

Vessel Registration

The term “vessel” is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution¹ and includes every description of watercraft, barge, or airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.² Vessels operated, used, or stored on the waters of this state must be registered with the Department of Highway Safety and Motor Vehicles (DHSMV) as a commercial or recreational³ vessel, unless:

- The vessel is operated, used, and stored exclusively on private lakes and ponds;
- The vessel is owned by the U.S. Government;
- The vessel is used exclusively as a ship’s lifeboat; or
- The vessel is non-motor-powered and less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.⁴

¹ FLA. CONST. art. VII, s.1(b) provides that motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

² Section 327.02(46), F.S.

³ Section 327.02(40), F.S., defines a “recreational vessel” as a vessel manufactured and used primarily for noncommercial purposes, or a vessel leased, rented, or chartered to a person for his or her noncommercial use.

⁴ Section 328.48(2), F.S.

Section 328.72(12), F.S., provides that vessel registration periods are for 12 or 24 months. An individual who owns a vessel is eligible to register the vessel for a 12 or 24 month period that begins the first day of the birth month of the owner and ends the last day of the month preceding the owner's birth month. The registration period for vessels owned by companies, corporations, governmental entities, and registrations issued to dealers and manufacturers is July 1 to June 30.⁵

The base registration fee for vessels is determined by the length of the vessel. The vessel registration fee for a 12-month period is as follows:

- *Class A-1*: Less than 12 feet in length and all canoes to which propulsion motors have been attached, regardless of length: \$5.50;
- *Class A-2*: 12 feet or more and less than 16 feet in length: \$16.25;
- *Class 1*: 16 feet or more and less than 26 feet in length: \$28.75;
- *Class 2*: 26 feet or more and less than 40 feet in length: \$78.25;
- *Class 3*: 40 feet or more and less than 65 feet in length: \$127.75;
- *Class 4*: 65 feet or more and less than 110 feet in length: \$152.75;
- *Class 5*: 110 feet or more in length: \$189.75; and
- *Dealer Registration Certificate*: \$25.50.⁶

A portion of the state vessel registration fees for recreational vessels is distributed to county governments.⁷ Of the portion designated for counties, \$1 is remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission and \$1 is remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant program for public launching facilities, with priority consideration given to counties with more than 35,000 registered vessels.⁸

The remainder of the funds going to counties must be used for specific boating-related purposes:

- Providing, maintaining, or operating recreational channel marking and other uniform waterway markers, public boat ramps, lifts, hoists, marine railways, boat piers, docks, mooring buoys, and other public launching facilities; and
- Removing derelict vessels, debris that specifically impede boat access, not including the dredging of channels, and vessels and floating structures deemed a hazard to public safety and health.⁹

Local Vessel Registration Fees

In addition to the state vessel registration fees above, any county may impose an annual registration fee on vessels registered, operated, used, or stored on waters within its jurisdiction. This fee is 50 percent of the applicable state registration fee as provided in s. 328.72(1), F.S., and not the reduced vessel registration fee specified in s. 328.72(18), F.S.¹⁰ The first \$1 of every

⁵ Section 328.72(12)(c)2., F.S.

⁶ Section 328.72(1)(a), F.S.

⁷ Section 328.72(1), F.S.

⁸ Section 328.72(15), F.S.

⁹ *Id.*

¹⁰ State vessel registration fees are reduced for recreational vessels equipped with an emergency position-indicating radio beacon registered with the U.S. National Oceanic and Atmospheric Administration (NOAA) or whose owner owns a personal locator beacon registered with the NOAA.

county registration fee must be remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission.¹¹ The remainder of the optional county fee is retained by the county where the vessel is registered and is to be used for patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities within the county.¹² A county which imposes a vessel registration fee may share such proceeds with one or more municipalities within the county pursuant to an interlocal agreement to fund authorized boating-related projects.¹³

Currently, 15 counties have elected to impose the local vessel registration fee. The following chart summarizes the associated revenue by county for Fiscal Year (FY) 2018-2019.¹⁴

County	FY 18-19
Broward	\$348,657.83
Charlotte	\$162,291.76
Collier	\$161,248.00
Hardee	\$ 4,314.81
Hillsborough	\$261,766.16
Lee	\$350,021.31
Manatee	\$137,603.99
Martin	\$145,050.98
Miami-Dade	\$575,512.73
Monroe	\$224,956.67
Palm Beach	\$270,853.06
Pinellas	\$335,436.88
Polk	\$184,755.27
Sarasota	\$153,898.38
Volusia	\$166,786.14
Grand Total	\$3,483,153.97

Regulation of Dredging

Dredging means excavation in wetlands or other surface waters or excavation in uplands that creates wetlands or other surface waters.¹⁵ Any activity on or over wetlands and other surface waters (dredging and filling) is regulated by the Department of Environmental Protection (DEP) and the five water management districts (Northwest Florida, Suwannee River, St. Johns River, Southwest Florida, and South Florida) through the Environmental Resources Permitting (ERP) program. Dredging and filling is also regulated by the federal government under a separate program administered by the U.S. Army Corps of Engineers (Corps). The process is initiated by submitting a joint (interagency) application to DEP or to one of the above water management districts. The appropriate agency is determined by a division of responsibilities specified in Operating Agreements between the agencies. Upon receipt of the application by DEP or water

¹¹ Section 328.66(1), F.S.

¹² *Id.*

¹³ Section 328.66(2), F.S.

¹⁴ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: SB 436, (February 15, 2019) (Copy on file with the Senate Committee on Community Affairs).

¹⁵ Department of Environmental Protection, *ERP Dredging and Filling*, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-dredging-and-filling> (last visited on Mar. 17, 2019).

management district, a copy is also forwarded to the Corps to initiate the federal permitting process.¹⁶

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 328.66, F.S., to authorize a county to use a portion of vessel registration fees for additional purposes that may include channel and other navigational dredging; the construction, expansion, or maintenance of public boat ramps and other public water access facilities; and associated engineering and permitting costs.

Section 2 provides that the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If additional counties elect to impose the local vessel registration fees, there may be a negative fiscal impact on vessel owners within a county's jurisdiction.

¹⁶ *Id.*

C. Government Sector Impact:

There may be a positive fiscal impact on counties that elect to impose the optional local vessel registration fee. Additional counties may consider imposing this fee due to the expansion of authorized uses under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 328.66 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.

By the Committees on Appropriations; and Infrastructure and Security; and Senator Hooper

576-04607-19

2019676c2

1 A bill to be entitled
2 An act relating to certificates of title for vessels;
3 creating s. 328.001, F.S.; providing a short title;
4 creating s. 328.0015, F.S.; providing definitions;
5 amending s. 328.01, F.S.; revising requirements for
6 application for, and information to be included in, a
7 certificate of title for a vessel; creating s.
8 328.015, F.S.; requiring the Department of Highway
9 Safety and Motor Vehicles to retain certain
10 information relating to ownership and titling of
11 vessels; requiring the department to furnish certain
12 information upon request; creating s. 328.02, F.S.;
13 providing that the law of the state under which a
14 vessel's certificate of title is covered governs all
15 issues relating to a certificate of title; specifying
16 when a vessel becomes covered by such certificate;
17 amending s. 328.03, F.S.; requiring a vessel owner to
18 deliver an application for certificate of title to the
19 department by a specified time; revising circumstances
20 under which a vessel must be titled by this state;
21 providing requirements for issuing, transferring, or
22 renewing the number of an undocumented vessel issued
23 under certain federal provisions; deleting provisions
24 relating to operation, use, or storage of a vessel;
25 deleting provisions relating to selling, assigning, or
26 transferring a vessel; specifying that a certificate
27 of title is prima facie evidence of the accuracy of
28 the information in the record that constitutes the
29 certificate; creating s. 328.04, F.S.; providing

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30 requirements for the contents of a certificate of
31 title; creating s. 328.045, F.S.; providing
32 responsibilities of an owner and insurer of a hull-
33 damaged vessel when transferring an ownership interest
34 in the vessel; requiring the department to create a
35 new certificate indicating such damage; providing
36 civil penalties; creating s. 328.055, F.S.; requiring
37 the department to maintain certain information in its
38 files and to provide certain information to
39 governmental entities; specifying that certain
40 information is a public record; creating s. 328.06,
41 F.S.; providing responsibilities of the department
42 when creating a certificate of title; creating s.
43 328.065, F.S.; specifying effect of possession of a
44 certificate of title; providing construction; amending
45 s. 328.09, F.S.; providing duties of the department
46 relating to creation, issuance, refusal to issue, or
47 cancellation of a certificate of title; providing for
48 a hearing; creating s. 328.101, F.S.; specifying that
49 a certificate of title and certain other records are
50 effective despite missing or incorrect information;
51 amending s. 328.11, F.S.; providing requirements for
52 obtaining a duplicate certificate of title; creating
53 s. 328.12, F.S.; providing requirements for
54 determination and perfection of a security interest in
55 a vessel; providing applicability; creating s.
56 328.125, F.S.; providing requirements for the delivery
57 of a statement of termination of a security interest;
58 providing duties of the department; providing

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59 liability for noncompliance; creating s. 328.14, F.S.;

60 providing for the rights of a purchaser of a vessel

61 who is not a secured party; creating s. 328.145, F.S.;

62 providing for the rights of a secured party; amending

63 s. 328.15, F.S.; deleting certain provisions relating

64 to notice of a lien; providing for future expiration

65 of certain provisions; amending ss. 328.16 and

66 328.165, F.S.; conforming provisions to changes made

67 by the act; creating s. 328.215, F.S.; specifying

68 circumstances under which the department may create a

69 new certificate of title after receipt of an

70 application for a transfer of ownership or termination

71 of a security interest unaccompanied by a certificate

72 of title; authorizing the department to indicate

73 certain information on the new certificate;

74 authorizing the department to require a bond,

75 indemnity, or other security; providing for the

76 release of such bond, indemnity, or other security;

77 providing that the department is not liable for

78 creating a certificate of title based on erroneous or

79 fraudulent information; providing penalties; creating

80 s. 328.22, F.S.; providing requirements for the

81 transfer of ownership in a vessel; providing effect of

82 noncompliance; creating s. 328.23, F.S.; providing a

83 definition; providing duties of the department upon

84 receipt of a secured party's transfer statement;

85 providing construction; creating s. 328.24, F.S.;

86 providing a definition; providing requirements for a

87 transfer of ownership by operation of law; providing

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88 duties of the department; providing applicability;
89 creating s. 328.25, F.S.; providing that the
90 principles and law of equity supplement the provisions
91 of the act; creating s. 328.41, F.S.; authorizing the
92 department to adopt rules to implement vessel
93 registration provisions; amending ss. 409.2575,
94 705.103, and 721.08, F.S.; conforming provisions and
95 cross-references to changes made by the act; providing
96 construction and applicability regarding transactions,
97 certificates of title, and records entered into or
98 created, actions or proceedings commenced, and
99 security interests perfected before the effective date
100 of the act; providing applicability; providing an
101 effective date.

102
103 Be It Enacted by the Legislature of the State of Florida:

104
105 Section 1. Section 328.001, Florida Statutes, is created to
106 read:

107 328.001 Short title.—This part may be cited as the "Uniform
108 Certificate of Title for Vessels Act."

109 Section 2. Section 328.0015, Florida Statutes, is created
110 to read:

111 328.0015 Definitions.—

112 (1) As used in this part, the term:

113 (a) "Barge" means a vessel that is not self-propelled or
114 fitted for propulsion by sail, paddle, oar, or a similar device.

115 (b) "Builder's certificate" means a certificate of the
116 facts of build of a vessel described in 46 C.F.R. s. 67.99.

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117 (c) "Buyer" means a person who buys or contracts to buy a
118 vessel.

119 (d) "Cancel," with respect to a certificate of title, means
120 to make the certificate ineffective.

121 (e) "Certificate of origin" means a record created by a
122 manufacturer or an importer as the manufacturer's or importer's
123 proof of identity of a vessel. The term includes a
124 manufacturer's certificate or statement of origin and an
125 importer's certificate or statement of origin. The term does not
126 include a builder's certificate.

127 (f) "Certificate of title" means a record, created by the
128 department or by a governmental agency of another jurisdiction
129 under the law of that jurisdiction, that is designated as a
130 certificate of title by the department or agency and is evidence
131 of ownership of a vessel.

132 (g) "Dealer" means a person, including a manufacturer, in
133 the business of selling vessels.

134 (h) "Department" means the Department of Highway Safety and
135 Motor Vehicles.

136 (i) "Documented vessel" means a vessel covered by a
137 certificate of documentation issued pursuant to 46 U.S.C. s.
138 12105. The term does not include a foreign-documented vessel.

139 (j) "Electronic" means relating to technology having
140 electrical, digital, magnetic, wireless, optical,
141 electromagnetic, or similar capabilities.

142 (k) "Electronic certificate of title" means a certificate
143 of title consisting of information that is stored solely in an
144 electronic medium and is retrievable in perceivable form.

145 (l) "Foreign-documented vessel" means a vessel the

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146 ownership of which is recorded in a registry maintained by a
147 country other than the United States which identifies each
148 person who has an ownership interest in the vessel and includes
149 a unique alphanumeric designation for the vessel.

150 (m) "Good faith" means honesty in fact and the observance
151 of reasonable commercial standards of fair dealing.

152 (n) "Hull damaged" means compromised with respect to the
153 integrity of a vessel's hull by a collision, allision, lightning
154 strike, fire, explosion, running aground, or similar occurrence,
155 or the sinking of a vessel in a manner that creates a
156 significant risk to the integrity of the vessel's hull.

157 (o) "Hull identification number" means the alphanumeric
158 designation assigned to a vessel pursuant to 33 C.F.R. part 181.

159 (p) "Lien creditor," with respect to a vessel, means:

160 1. A creditor that has acquired a lien on the vessel by
161 attachment, levy, or the like;

162 2. An assignee for benefit of creditors from the time of
163 assignment;

164 3. A trustee in bankruptcy from the date of the filing of
165 the petition; or

166 4. A receiver in equity from the time of appointment.

167 (q) "Owner" means a person who has legal title to a vessel.

168 (r) "Owner of record" means the owner indicated in the
169 files of the department or, if the files indicate more than one
170 owner, the one first indicated.

171 (s) "Person" means an individual, a corporation, a business
172 trust, an estate, a trust, a statutory trust, a partnership, a
173 limited liability company, an association, a joint venture, a
174 public corporation, a government or governmental subdivision, an

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175 agency, an instrumentality, or any other legal or commercial
176 entity.

177 (t) "Purchase" means to take by sale, lease, mortgage,
178 pledge, consensual lien, security interest, gift, or any other
179 voluntary transaction that creates an interest in a vessel.

180 (u) "Purchaser" means a person who takes by purchase.

181 (v) "Record" means information that is inscribed on a
182 tangible medium or that is stored in an electronic or other
183 medium and is retrievable in perceivable form.

184 (w) "Secured party," with respect to a vessel, means a
185 person:

186 1. In whose favor a security interest is created or
187 provided for under a security agreement, regardless of whether
188 any obligation to be secured is outstanding;

189 2. Who is a consignor as defined under chapter 679; or

190 3. Who holds a security interest arising under s. 672.401,
191 s. 672.505, s. 672.711(3), or s. 680.508(5).

192 (x) "Secured party of record" means the secured party whose
193 name is indicated as the name of the secured party in the files
194 of the department or, if the files indicate more than one
195 secured party, the one first indicated.

196 (y) "Security interest" means an interest in a vessel which
197 secures payment or performance of an obligation if the interest
198 is created by contract or arises under s. 672.401, s. 672.505,
199 s. 672.711(3), or s. 680.508(5). The term includes any interest
200 of a consignor in a vessel in a transaction that is subject to
201 chapter 679. The term does not include the special property
202 interest of a buyer of a vessel on identification of that vessel
203 to a contract for sale under s. 672.501, but a buyer also may

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204 acquire a security interest by complying with chapter 679.
205 Except as otherwise provided in s. 672.505, the right of a
206 seller or lessor of a vessel under chapter 672 or chapter 680 to
207 retain or acquire possession of the vessel is not a security
208 interest, but a seller or lessor also may acquire a security
209 interest by complying with chapter 679. The retention or
210 reservation of title by a seller of a vessel notwithstanding
211 shipment or delivery to the buyer under s. 672.401 is limited in
212 effect to a reservation of a security interest. Whether a
213 transaction in the form of a lease creates a security interest
214 is determined as provided in part II of chapter 671.

215 (z) "Sign" means, with present intent to authenticate or
216 adopt a record, to:

- 217 1. Make or adopt a tangible symbol; or
218 2. Attach to or logically associate with the record an
219 electronic symbol, sound, or process.

220 (aa) "State" means a state of the United States, the
221 District of Columbia, Puerto Rico, the United States Virgin
222 Islands, or any territory or insular possession subject to the
223 jurisdiction of the United States.

224 (bb) "State of principal use" means the state on the waters
225 of which a vessel is or will be used, operated, navigated, or
226 employed more than on the waters of any other state during a
227 calendar year.

228 (cc) "Title brand" means a designation of previous damage,
229 use, or condition that must be indicated on a certificate of
230 title.

231 (dd) "Transfer of ownership" means a voluntary or
232 involuntary conveyance of an interest in a vessel.

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233 (ee) "Vessel" means a watercraft used or capable of being
234 used as a means of transportation on water, except:

235 1. A seaplane;

236 2. An amphibious vehicle for which a certificate of title
237 is issued pursuant to chapter 319 or a similar statute of
238 another state;

239 3. Nonmotor-powered watercraft less than 16 feet in length;

240 4. A watercraft that operates only on a permanently fixed,
241 manufactured course and the movement of which is restricted to
242 or guided by means of a mechanical device to which the
243 watercraft is attached or by which the watercraft is controlled;

244 5. A stationary floating structure that:

245 a. Does not have and is not designed to have a mode of
246 propulsion of its own;

247 b. Is dependent for utilities upon a continuous utility
248 hookup to a source originating on shore; and

249 c. Has a permanent, continuous hookup to a shoreside sewage
250 system;

251 6. Watercraft owned by the United States, a state, or a
252 foreign government or a political subdivision of any of them;
253 and

254 7. A watercraft used solely as a lifeboat on another
255 watercraft.

256 (ff) "Vessel number" means the alphanumeric designation for
257 a vessel issued pursuant to 46 U.S.C. s. 12301.

258 (gg) "Written certificate of title" means a certificate of
259 title consisting of information inscribed on a tangible medium.

260 (2) The following definitions and terms also apply to this
261 part:

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- 262 (a) "Agreement" as defined in s. 671.201(3).
- 263 (b) "Buyer in ordinary course of business" as defined in s.
- 264 671.201(9).
- 265 (c) "Conspicuous" as defined in s. 671.201(10).
- 266 (d) "Consumer goods" as defined in s. 679.1021(1)(w).
- 267 (e) "Debtor" as defined in s. 679.1021(1)(bb).
- 268 (f) "Knowledge" as defined in s. 671.209.
- 269 (g) "Lease" as defined in s. 680.1031(1)(j).
- 270 (h) "Lessor" as defined in 680.1031(1)(p).
- 271 (i) "Notice" as defined s. 671.209.
- 272 (j) "Representative" as defined in s. 671.201(36).
- 273 (k) "Sale" as defined in s. 672.106(1).
- 274 (l) "Security agreement" as defined in s. 679.1021(1)(uuu).
- 275 (m) "Seller" as defined in s. 672.103(1)(d).
- 276 (n) "Send" as defined in s. 671.201(39).
- 277 (o) "Value" as defined in s. 671.211.

278 Section 3. Section 328.01, Florida Statutes, is amended to
 279 read:

280 328.01 Application for certificate of title.—

281 (1)(a) The owner of a vessel which is required to be titled
 282 shall apply to the county tax collector for a certificate of
 283 title. Except as otherwise provided in ss. 328.045, 328.11,
 284 328.12, 328.215, 328.23, and 328.24, only an owner may apply for
 285 a certificate of title.

286 (2) An application for a certificate of title must be
 287 signed by the applicant and contain:

288 (a) The applicant's name, the street address of the
 289 applicant's principal residence, and, if different, the
 290 applicant's mailing address;

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291 (b) The name and mailing address of each other owner of the
292 vessel;

293 (c) The hull identification number for the vessel or, if
294 none, an application for the issuance of a hull identification
295 number for the vessel;

296 (d) The vessel number for the vessel or, if none is issued
297 by the department, an application for a vessel number;

298 (e) A description of the vessel as required by the
299 department, which must include:

300 1. The official number for the vessel, if any, assigned by
301 the United States Coast Guard;

302 2. The name of the manufacturer, builder, or maker;

303 3. The model year or the year in which the manufacture or
304 build of the vessel was completed;

305 4. The overall length of the vessel;

306 5. The vessel type;

307 6. The hull material;

308 7. The propulsion type;

309 8. The engine drive type, if any; and

310 9. The fuel type, if any;

311 (f) An indication of all security interests in the vessel
312 known to the applicant and the name and mailing address of each
313 secured party;

314 (g) A statement that the vessel is not a documented vessel
315 or a foreign-documented vessel;

316 (h) Any title brand known to the applicant and, if known,
317 the jurisdiction under whose law the title brand was created;

318 (i) If the applicant knows that the vessel is hull damaged,
319 a statement that the vessel is hull damaged;

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320 (j) If the application is made in connection with a
321 transfer of ownership, the transferor's name, street address,
322 and, if different, mailing address, the sales price, if any, and
323 the date of the transfer; and

324 (k) If the vessel was previously registered or titled in
325 another jurisdiction, a statement identifying each jurisdiction
326 known to the applicant in which the vessel was registered or
327 titled.

328 (3) In addition to the information required by subsection
329 (2), an application for a certificate of title may contain an
330 electronic address of the owner, transferor, or secured party.

331 (4) Except as otherwise provided in s. 328.11, s. 328.215,
332 s. 328.23, or s. 328.24, an application for a certificate of
333 title must be accompanied by:

334 (a) A certificate of title signed by the owner shown on the
335 certificate and which:

336 1. Identifies the applicant as the owner of the vessel; or
337 2. Is accompanied by a record that identifies the applicant
338 as the owner; or

339 (b) If there is no certificate of title:

340 1. If the vessel was a documented vessel, a record issued
341 by the United States Coast Guard which shows the vessel is no
342 longer a documented vessel and identifies the applicant as the
343 owner;

344 2. If the vessel was a foreign-documented vessel, a record
345 issued by the foreign country which shows the vessel is no
346 longer a foreign-documented vessel and identifies the applicant
347 as the owner; or

348 3. In all other cases, a certificate of origin, bill of

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349 sale, or other record that to the satisfaction of the department
350 identifies the applicant as the owner.

351 (5) A record submitted in connection with an application is
352 part of the application. The department shall maintain the
353 record in its files.

354 (6) The department may require that an application for a
355 certificate of title be accompanied by payment or evidence of
356 payment of all fees and taxes payable by the applicant under the
357 laws of this state, other than this part, in connection with the
358 application or the acquisition or use of the vessel ~~The~~
359 ~~application shall include the true name of the owner, the~~
360 ~~residence or business address of the owner, and the complete~~
361 ~~description of the vessel, including the hull identification~~
362 ~~number, except that an application for a certificate of title~~
363 ~~for a homemade vessel shall state all the foregoing information~~
364 ~~except the hull identification number.~~

365 (7) (a) The application shall be signed by the owner and
366 shall be accompanied by personal or business identification and
367 the prescribed fee. An individual applicant must provide a valid
368 driver license or identification card issued by this state or
369 another state or a valid passport. A business applicant must
370 provide a federal employer identification number, if applicable,
371 verification that the business is authorized to conduct business
372 in the state, or a Florida city or county business license or
373 number.

374 (b) The owner of an undocumented vessel that is exempt from
375 titling may apply to the county tax collector for a certificate
376 of title by filing an application accompanied by the prescribed
377 fee.

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378 ~~(2)(a) The owner of a manufactured vessel that was~~
379 ~~initially sold in this state for which vessel an application for~~
380 ~~an initial title is made shall establish proof of ownership by~~
381 ~~submitting with the application the original copy of the~~
382 ~~manufacturer's statement of origin for that vessel.~~

383 ~~(b) The owner of a manufactured vessel that was initially~~
384 ~~sold in another state or country for which vessel an application~~
385 ~~for an initial title is made shall establish proof of ownership~~
386 ~~by submitting with the application:~~

387 ~~1. The original copy of the manufacturer's statement of~~
388 ~~origin if the vessel was initially sold or manufactured in a~~
389 ~~state or country requiring the issuance of such a statement or~~
390 ~~the original copy of the executed bill of sale if the vessel was~~
391 ~~initially sold or manufactured in a state or country not~~
392 ~~requiring the issuance of a manufacturer's statement of origin;~~
393 ~~and~~

394 ~~2. The most recent certificate of registration for the~~
395 ~~vessel, if such a certificate was issued.~~

396 ~~(c) In making application for an initial title, the owner~~
397 ~~of a homemade vessel shall establish proof of ownership by~~
398 ~~submitting with the application:~~

399 ~~1. A notarized statement of the builder or its equivalent,~~
400 ~~whichever is acceptable to the Department of Highway Safety and~~
401 ~~Motor Vehicles, if the vessel is less than 16 feet in length; or~~

402 ~~2. A certificate of inspection from the Fish and Wildlife~~
403 ~~Conservation Commission and a notarized statement of the builder~~
404 ~~or its equivalent, whichever is acceptable to the Department of~~
405 ~~Highway Safety and Motor Vehicles, if the vessel is 16 feet or~~
406 ~~more in length.~~

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407 ~~(d) The owner of a nontitled vessel registered or~~
408 ~~previously registered in another state or country for which an~~
409 ~~application for title is made in this state shall establish~~
410 ~~proof of ownership by surrendering, with the submission of the~~
411 ~~application, the original copy of the most current certificate~~
412 ~~of registration issued by the other state or country.~~

413 ~~(e) The owner of a vessel titled in another state or~~
414 ~~country for which an application for title is made in this state~~
415 ~~shall not be issued a title unless and until all existing titles~~
416 ~~to the vessel are surrendered to the Department of Highway~~
417 ~~Safety and Motor Vehicles. The department shall retain the~~
418 ~~evidence of title which is presented by the applicant and on the~~
419 ~~basis of which the certificate of title is issued. The~~
420 ~~department shall use reasonable diligence in ascertaining~~
421 ~~whether the facts in the application are true; and, if satisfied~~
422 ~~that the applicant is the owner of the vessel and that the~~
423 ~~application is in the proper form, the department shall issue a~~
424 ~~certificate of title.~~

425 ~~(f) In making application for the titling of a vessel~~
426 ~~previously documented by the Federal Government, the current~~
427 ~~owner shall establish proof of ownership by submitting with the~~
428 ~~application a copy of the canceled documentation papers or a~~
429 ~~properly executed release from documentation certificate~~
430 ~~provided by the United States Coast Guard. In the event such~~
431 ~~documentation papers or certification are in the name of a~~
432 ~~person other than the current owner, the current owner shall~~
433 ~~provide the original copy of all subsequently executed bills of~~
434 ~~sale applicable to the vessel.~~

435 ~~(3) (a) In making application for a title upon transfer of~~

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436 ~~ownership of a vessel, the new owner shall surrender to the~~
437 ~~Department of Highway Safety and Motor Vehicles the last title~~
438 ~~document issued for that vessel. The document shall be properly~~
439 ~~executed. Proper execution includes, but is not limited to, the~~
440 ~~previous owner's signature and certification that the vessel to~~
441 ~~be transferred is debt free or is subject to a lien. If a lien~~
442 ~~exists, the previous owner shall furnish the new owner, on forms~~
443 ~~supplied by the Department of Highway Safety and Motor Vehicles,~~
444 ~~the names and addresses of all lienholders and the dates of all~~
445 ~~liens, together with a statement from each lienholder that the~~
446 ~~lienholder has knowledge of and consents to the transfer of~~
447 ~~title to the new owner.~~

448 ~~(b) If the application for transfer of title is based upon~~
449 ~~a contractual default, the recorded lienholder shall establish~~
450 ~~proof of right to ownership by submitting with the application~~
451 ~~the original certificate of title and a copy of the applicable~~
452 ~~contract upon which the claim of ownership is made. If the claim~~
453 ~~is based upon a court order or judgment, a copy of such document~~
454 ~~shall accompany the application for transfer of title. If, on~~
455 ~~the basis of departmental records, there appears to be any other~~
456 ~~lien on the vessel, the certificate of title must contain a~~
457 ~~statement of such a lien, unless the application for a~~
458 ~~certificate of title is either accompanied by proper evidence of~~
459 ~~the satisfaction or extinction of the lien or contains a~~
460 ~~statement certifying that any lienholder named on the last-~~
461 ~~issued certificate of title has been sent notice by certified~~
462 ~~mail, at least 5 days before the application was filed, of the~~
463 ~~applicant's intention to seek a repossessed title. If such~~
464 ~~notice is given and no written protest to the department is~~

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465 ~~presented by a subsequent lienholder within 15 days after the~~
466 ~~date on which the notice was mailed, the certificate of title~~
467 ~~shall be issued showing no liens. If the former owner or any~~
468 ~~subsequent lienholder files a written protest under oath within~~
469 ~~the 15-day period, the department shall not issue the~~
470 ~~repossessed certificate for 10 days thereafter. If, within the~~
471 ~~10-day period, no injunction or other order of a court of~~
472 ~~competent jurisdiction has been served on the department~~
473 ~~commanding it not to deliver the certificate, the department~~
474 ~~shall deliver the repossessed certificate to the applicant, or~~
475 ~~as is otherwise directed in the application, showing no other~~
476 ~~liens than those shown in the application.~~

477 ~~(c) In making application for transfer of title from a~~
478 ~~deceased titled owner, the new owner or surviving coowner shall~~
479 ~~establish proof of ownership by submitting with the application~~
480 ~~the original certificate of title and the decedent's probated~~
481 ~~last will and testament or letters of administration appointing~~
482 ~~the personal representative of the decedent. In lieu of a~~
483 ~~probated last will and testament or letters of administration, a~~
484 ~~copy of the decedent's death certificate, a copy of the~~
485 ~~decedent's last will and testament, and an affidavit by the~~
486 ~~decedent's surviving spouse or heirs affirming rights of~~
487 ~~ownership may be accepted by the department. If the decedent~~
488 ~~died intestate, a court order awarding the ownership of the~~
489 ~~vessel or an affidavit by the decedent's surviving spouse or~~
490 ~~heirs establishing or releasing all rights of ownership and a~~
491 ~~copy of the decedent's death certificate shall be submitted to~~
492 ~~the department.~~

493 ~~(c)-(d)~~ An owner or coowner who has made a bona fide sale or

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494 transfer of a vessel and has delivered possession thereof to a
495 purchaser shall not, by reason of any of the provisions of this
496 chapter, be considered the owner or coowner of the vessel so as
497 to be subject to civil liability for the operation of the vessel
498 thereafter by another if the owner or coowner has fulfilled
499 either of the following requirements:

500 1. The owner or coowner has delivered to the department, or
501 has placed in the United States mail, addressed to the
502 department, either the certificate of title, properly endorsed,
503 or a notice in the form prescribed by the department; or

504 2. The owner or coowner has made proper endorsement and
505 delivery of the certificate of title as provided by this
506 chapter. As used in this subparagraph, the term "proper
507 endorsement" means:

508 a. The signature of one coowner if the vessel is held in
509 joint tenancy, signified by the vessel's being registered in the
510 names of two or more persons as coowners in the alternative by
511 the use of the word "or." In a joint tenancy, each coowner is
512 considered to have granted to each of the other coowners the
513 absolute right to dispose of the title and interest in the
514 vessel, and, upon the death of a coowner, the interest of the
515 decedent in the jointly held vessel passes to the surviving
516 coowner or coowners. This sub-subparagraph is applicable even if
517 the coowners are husband and wife; or

518 b. The signatures of every coowner or of the respective
519 personal representatives of the coowners if the vessel is
520 registered in the names of two or more persons as coowners in
521 the conjunctive by the use of the word "and."

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523 The department shall adopt suitable language that must appear
524 upon the certificate of title to effectuate the manner in which
525 the interest in or title to the vessel is held.

526 (8)~~(4)~~ If the owner cannot furnish the department ~~of~~
527 ~~Highway Safety and Motor Vehicles~~ with all the required
528 ownership documentation, the department may, at its discretion,
529 issue a title conditioned on the owner's agreement to indemnify
530 the department and its agents and defend the title against all
531 claims or actions arising out of such issuance.

532 (9)~~(5)~~ (a) An application for an initial title or a title
533 transfer shall include payment of the applicable state sales tax
534 or proof of payment of such tax.

535 (b) An application for a title transfer between
536 individuals, which transfer is not exempt from the payment of
537 sales tax, shall include payment of the appropriate sales tax
538 payable on the selling price for the complete vessel rig, which
539 includes the vessel and its motor, trailer, and accessories, if
540 any. If the applicant submits with his or her application an
541 itemized, properly executed bill of sale which separately
542 describes and itemizes the prices paid for each component of the
543 rig, only the vessel and trailer will be subject to the sales
544 tax.

545 (10)~~(6)~~ The department ~~of Highway Safety and Motor Vehicles~~
546 shall prescribe and provide suitable forms for applications,
547 certificates of title, notices of security interests, and other
548 notices and forms necessary to carry out the provisions of this
549 chapter.

550 Section 4. Section 328.015, Florida Statutes, is created to
551 read:

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552 328.015 Duties and operation of the department.-

553 (1) The department shall retain the evidence used to
554 establish the accuracy of the information in its files relating
555 to the current ownership of a vessel and the information on the
556 certificate of title.

557 (2) The department shall retain in its files all
558 information regarding a security interest in a vessel for at
559 least 10 years after the department receives a termination
560 statement regarding the security interest. The information must
561 be accessible by the hull identification number for the vessel
562 and any other methods provided by the department.

563 (3) If a person submits a record to the department, or
564 submits information that is accepted by the department, and
565 requests an acknowledgment of the filing or submission, the
566 department shall send to the person an acknowledgment showing
567 the hull identification number of the vessel to which the record
568 or submission relates, the information in the filed record or
569 submission, and the date and time the record was received or the
570 submission was accepted. A request under this section must
571 contain the hull identification number and be delivered by means
572 authorized by the department.

573 (4) The department shall send or otherwise make available
574 in a record the following information to any person who requests
575 it and pays the applicable fee:

576 (a) Whether the files of the department indicate, as of a
577 date and time specified by the department, but not a date
578 earlier than 3 days before the department received the request,
579 any certificate of title, security interest, termination
580 statement, or title brand that relates to a vessel:

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581 1. Identified by a hull identification number designated in
582 the request;

583 2. Identified by a vessel number designated in the request;
584 or

585 3. Owned by a person designated in the request;

586 (b) With respect to the vessel:

587 1. The name and address of any owner as indicated in the
588 files of the department or on the certificate of title;

589 2. The name and address of any secured party as indicated
590 in the files of the department or on the certificate, and the
591 effective date of the information; and

592 3. A copy of any termination statement indicated in the
593 files of the department and the effective date of the
594 termination statement; and

595 (c) With respect to the vessel, a copy of any certificate
596 of origin, secured party transfer statement, transfer-by-law
597 statement under s. 328.24, and other evidence of previous or
598 current transfers of ownership.

599 (5) In responding to a request under this section, the
600 department may provide the requested information in any medium.
601 On request, the department shall send the requested information
602 in a record that is self-authenticating.

603 Section 5. Section 328.02, Florida Statutes, is created to
604 read:

605 328.02 Law governing vessel covered by certificate of
606 title.-

607 (1) The law of the state under which a vessel's certificate
608 of title is covered governs all issues relating to the
609 certificate from the time the vessel becomes covered by the

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610 certificate until the vessel becomes covered by another
611 certificate or becomes a documented vessel, even if no other
612 relationship exists between the state and the vessel or its
613 owner.

614 (2) A vessel becomes covered by a certificate of title when
615 an application for the certificate and the applicable fee are
616 delivered to the department in accordance with this part or to
617 the governmental agency that creates a certificate in another
618 jurisdiction in accordance with the law of that jurisdiction.

619 Section 6. Section 328.03, Florida Statutes, is amended to
620 read:

621 328.03 Certificate of title required.—

622 (1) Except as otherwise provided in subsections (2) and
623 (3), each vessel that is operated, used, or stored on the waters
624 of this state must be titled by this state pursuant to this
625 part, and the owner of a vessel for which this state is the
626 state of principal use shall deliver to the department an
627 application for a certificate of title for the vessel, with the
628 applicable fee, not later than 30 days after the later of:

629 (a) The date of a transfer of ownership; or
630 (b) The date this state becomes the state of principal use.

631 (2) An application for a certificate of title is not
632 required for ~~chapter~~, unless it is:

633 (a) A documented vessel;

634 (b) A foreign-documented vessel;

635 (c) A barge;

636 (d) A vessel before delivery if the vessel is under
637 construction or completed pursuant to contract;

638 (e) A vessel held by a dealer for sale or lease;

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- 639 (f) A vessel used solely for demonstration, testing, or
640 sales promotional purposes by the manufacturer or dealer;
- 641 ~~(g)(a) A vessel operated, used, or stored exclusively on~~
642 ~~private lakes and ponds;~~
- 643 ~~(h)(b) A vessel owned by the United States Government;~~
- 644 ~~(c) A non-motor powered vessel less than 16 feet in length;~~
645 ~~(d) A federally documented vessel;~~
- 646 (i)(e) A vessel already covered by a registration number in
647 full force and effect which was awarded to it pursuant to a
648 federally approved numbering system of another state or by the
649 United States Coast Guard in a state without a federally
650 approved numbering system, if the vessel is not located in this
651 state for a period in excess of 90 consecutive days; or
- 652 (j)(f) A vessel from a country other than the United States
653 temporarily used, operated, or stored on the waters of this
654 state for a period that is not in excess of 90 days;
- 655 ~~(g) An amphibious vessel for which a vehicle title is~~
656 ~~issued by the Department of Highway Safety and Motor Vehicles;~~
- 657 ~~(h) A vessel used solely for demonstration, testing, or~~
658 ~~sales promotional purposes by the manufacturer or dealer; or~~
- 659 ~~(i) A vessel owned and operated by the state or a political~~
660 ~~subdivision thereof.~~
- 661 (3) The department may not issue, transfer, or renew a
662 number issued to a vessel pursuant to the requirements of 46
663 U.S.C. s. 12301 unless the department has created a certificate
664 of title for the vessel or an application for a certificate for
665 the vessel and the applicable fee have been delivered to the
666 department.
- 667 ~~(2) A person shall not operate, use, or store a vessel for~~

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668 ~~which a certificate of title is required unless the owner has~~
669 ~~received from the Department of Highway Safety and Motor~~
670 ~~Vehicles a valid certificate of title for such vessel. However,~~
671 ~~such vessel may be operated, used, or stored for a period of up~~
672 ~~to 180 days after the date of application for a certificate of~~
673 ~~title while the application is pending.~~

674 ~~(3) A person shall not sell, assign, or transfer a vessel~~
675 ~~titled by the state without delivering to the purchaser or~~
676 ~~transferee a valid certificate of title with an assignment on it~~
677 ~~showing the transfer of title to the purchaser or transferee. A~~
678 ~~person shall not purchase or otherwise acquire a vessel required~~
679 ~~to be titled by the state without obtaining a certificate of~~
680 ~~title for the vessel in his or her name. The purchaser or~~
681 ~~transferee shall, within 30 days after a change in vessel~~
682 ~~ownership, file an application for a title transfer with the~~
683 ~~county tax collector.~~

684 (4) An additional \$10 fee shall be charged against the
685 purchaser or transferee if he or she files a title transfer
686 application after the 30-day period. The county tax collector
687 shall be entitled to retain \$5 of the additional amount.

688 (5)~~(4)~~ A certificate of title is prima facie evidence of
689 the accuracy of the information in the record that constitutes
690 the certificate and of the ownership of the vessel. A
691 certificate of title is good for the life of the vessel so long
692 as the certificate is owned or held by the legal holder. If a
693 titled vessel is destroyed or abandoned, the owner, with the
694 consent of any recorded lienholders, shall, within 30 days after
695 the destruction or abandonment, surrender to the department for
696 cancellation any and all title documents. If a titled vessel is

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697 insured and the insurer has paid the owner for the total loss of
698 the vessel, the insurer shall obtain the title to the vessel
699 and, within 30 days after receiving the title, forward the title
700 to the department ~~of Highway Safety and Motor Vehicles~~ for
701 cancellation. The insurer may retain the certificate of title
702 when payment for the loss was made because of the theft of the
703 vessel.

704 (6)~~(5)~~ The department ~~of Highway Safety and Motor Vehicles~~
705 shall provide labeled places on the title where the seller's
706 price shall be indicated when a vessel is sold and where a
707 selling dealer shall record his or her valid sales tax
708 certificate of registration number.

709 (7)~~(6)~~(a) The department ~~of Highway Safety and Motor~~
710 ~~Vehicles~~ shall charge a fee of \$5.25 for issuing each
711 certificate of title. The tax collector shall be entitled to
712 retain \$3.75 of the fee.

713 (b) ~~Beginning July 1, 1996,~~ The department ~~of Highway~~
714 ~~Safety and Motor Vehicles~~ shall use security procedures,
715 processes, and materials in the preparation and issuance of each
716 certificate of title to prohibit, to the extent possible, a
717 person's ability to alter, counterfeit, duplicate, or modify the
718 certificate.

719 (8)~~(7)~~ The department ~~of Highway Safety and Motor Vehicles~~
720 shall charge a fee of \$4 in addition to that charged in
721 subsection (7) ~~(6)~~ for each initial certificate of title issued
722 for a vessel previously registered outside this state.

723 (9)~~(8)~~ The department ~~of Highway Safety and Motor Vehicles~~
724 shall make regulations necessary and convenient to carry out the
725 provisions of this chapter.

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726 Section 7. Section 328.04, Florida Statutes, is created to
727 read:

728 328.04 Content of certificate of title.-

729 (1) A certificate of title must contain:

730 (a) The date the certificate was created;

731 (b) The name of the owner of record and, if not all owners
732 are listed, an indication that there are additional owners
733 indicated in the files of the department;

734 (c) The mailing address of the owner of record;

735 (d) The hull identification number;

736 (e) The information listed in s. 328.01(2)(e);

737 (f) Except as otherwise provided in s. 328.12(2), the name
738 and mailing address of the secured party of record, if any, and
739 if not all secured parties are listed, an indication that there
740 are other security interests indicated in the files of the
741 department; and

742 (g) All title brands indicated in the files of the
743 department covering the vessel, including brands indicated on a
744 certificate created by a governmental agency of another
745 jurisdiction and delivered to the department.

746 (2) This part does not preclude the department from noting
747 on a certificate of title the name and mailing address of a
748 secured party that is not a secured party of record.

749 (3) For each title brand indicated on a certificate of
750 title, the certificate must identify the jurisdiction under
751 whose law the title brand was created or the jurisdiction that
752 created the certificate on which the title brand was indicated.
753 If the meaning of a title brand is not easily ascertainable or
754 cannot be accommodated on the certificate, the certificate may

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755 state: "Previously branded in (insert the jurisdiction under
756 whose law the title brand was created or whose certificate of
757 title previously indicated the title brand)."

758 (4) If the files of the department indicate that a vessel
759 was previously registered or titled in a foreign country, the
760 department shall indicate on the certificate of title that the
761 vessel was registered or titled in that country.

762 (5) A written certificate of title must contain a form that
763 all owners indicated on the certificate may sign to evidence
764 consent to a transfer of an ownership interest to another
765 person. The form must include a certification, signed under
766 penalty of perjury, that the statements made are true and
767 correct to the best of each owner's knowledge, information, and
768 belief.

769 (6) A written certificate of title must contain a form for
770 the owner of record to indicate, in connection with a transfer
771 of an ownership interest, that the vessel is hull damaged.

772 Section 8. Section 328.045, Florida Statutes, is created to
773 read:

774 328.045 Title brands.—

775 (1) Unless subsection (3) applies, at or before the time
776 the owner of record transfers an ownership interest in a hull-
777 damaged vessel that is covered by a certificate of title created
778 by the department, if the damage occurred while that person was
779 an owner of the vessel and the person has notice of the damage
780 at the time of the transfer, the owner shall:

781 (a) Deliver to the department an application for a new
782 certificate that complies with s. 328.01 and includes the title
783 brand designation "Hull Damaged"; or

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784 (b) Indicate on the certificate in the place designated for
785 that purpose that the vessel is hull damaged and deliver the
786 certificate to the transferee.

787 (2) Not later than 30 days after delivery of the
788 application under paragraph (1) (a) or the certificate of title
789 under paragraph (1) (b), the department shall create a new
790 certificate that indicates that the vessel is branded "Hull
791 Damaged."

792 (3) Before an insurer transfers an ownership interest in a
793 hull-damaged vessel that is covered by a certificate of title
794 created by the department, the insurer shall deliver to the
795 department an application for a new certificate that complies
796 with s. 328.01 and includes the title brand designation "Hull
797 Damaged." Not later than 30 days after delivery of the
798 application to the department, the department shall create a new
799 certificate that indicates that the vessel is branded "Hull
800 Damaged."

801 (4) An owner of record who fails to comply with subsection
802 (1), a person who solicits or colludes in a failure by an owner
803 of record to comply with subsection (1), or an insurer that
804 fails to comply with subsection (3) commits a noncriminal
805 infraction under s. 327.73(1) for which the penalty is \$5,000
806 for the first offense, \$15,000 for a second offense, and \$25,000
807 for each subsequent offense.

808 Section 9. Section 328.055, Florida Statutes, is created to
809 read:

810 328.055 Maintenance of and access to files.-

811 (1) For each record relating to a certificate of title
812 submitted to the department, the department shall:

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813 (a) Ascertain or assign the hull identification number for
814 the vessel;

815 (b) Maintain the hull identification number and all the
816 information submitted with the application pursuant to s.
817 328.01(2) to which the record relates, including the date and
818 time the record was delivered to the department;

819 (c) Maintain the files for public inspection subject to
820 subsection (5); and

821 (d) Index the files of the department as required by
822 subsection (2).

823 (2) The department shall maintain in its files the
824 information contained in all certificates of title created under
825 this part. The information in the files of the department must
826 be searchable by the hull identification number of the vessel,
827 the vessel number, the name of the owner of record, and any
828 other method used by the department.

829 (3) The department shall maintain in its files, for each
830 vessel for which it has created a certificate of title, all
831 title brands known to the department, the name of each secured
832 party known to the department, the name of each person known to
833 the department to be claiming an ownership interest, and all
834 stolen property reports the department has received.

835 (4) Upon request, for safety, security, or law enforcement
836 purposes, the department shall provide to federal, state, or
837 local government the information in its files relating to any
838 vessel for which the department has issued a certificate of
839 title.

840 (5) Except as otherwise provided by the laws of this state,
841 other than this part, the information required under s. 328.04

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842 is a public record.

843 Section 10. Section 328.06, Florida Statutes, is created to
844 read:

845 328.06 Action required on creation of certificate of
846 title.-

847 (1) On creation of a written certificate of title, the
848 department shall promptly send the certificate to the secured
849 party of record or, if none, to the owner of record at the
850 address indicated for that person in the files of the
851 department. On creation of an electronic certificate of title,
852 the department shall promptly send a record evidencing the
853 certificate to the owner of record and, if there is one, to the
854 secured party of record at the address indicated for each person
855 in the files of the department. The department may send the
856 record to the person's mailing address or, if indicated in the
857 files of the department, an electronic address.

858 (2) If the department creates a written certificate of
859 title, any electronic certificate of title for the vessel is
860 canceled and replaced by the written certificate. The department
861 shall maintain in the files of the department the date and time
862 of cancellation.

863 (3) Before the department creates an electronic certificate
864 of title, any written certificate for the vessel must be
865 surrendered to the department. If the department creates an
866 electronic certificate, the department shall destroy or
867 otherwise cancel the written certificate for the vessel which
868 has been surrendered to the department and maintain in the files
869 of the department the date and time of destruction or other
870 cancellation. If a written certificate being canceled is not

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871 destroyed, the department shall indicate on the face of the
872 certificate that it has been canceled.

873 Section 11. Section 328.065, Florida Statutes, is created
874 to read:

875 328.065 Effect of possession of certificate of title;
876 judicial process.—Possession of a certificate of title does not
877 by itself provide a right to obtain possession of a vessel.
878 Garnishment, attachment, levy, replevin, or other judicial
879 process against the certificate is not effective to determine
880 possessory rights to the vessel. This part does not prohibit
881 enforcement under the laws of this state of a security interest
882 in, levy on, or foreclosure of a statutory or common-law lien on
883 a vessel. Absence of an indication of a statutory or common-law
884 lien on a certificate does not invalidate the lien.

885 Section 12. Section 328.09, Florida Statutes, is amended to
886 read:

887 (Substantial rewording of section. See
888 s. 328.09, F.S., for present text.)

889 328.09 Refusal to issue and authority to cancel a
890 certificate of title or registration.—

891 (1) Unless an application for a certificate of title is
892 rejected under subsection (3) or subsection (4), the department
893 shall create a certificate for the vessel in accordance with
894 subsection (2) not later than 30 days after delivery to the
895 department of an application that complies with s. 328.01.

896 (2) If the department creates electronic certificates of
897 title, the department shall create an electronic certificate
898 unless in the application the secured party of record or, if
899 none, the owner of record requests that the department create a

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900 written certificate.

901 (3) Except as otherwise provided in subsection (4), the
902 department may reject an application for a certificate of title
903 only if:

904 (a) The application does not comply with s. 328.01;

905 (b) The application does not contain documentation
906 sufficient for the department to determine whether the applicant
907 is entitled to a certificate;

908 (c) There is a reasonable basis for concluding that the
909 application is fraudulent or issuance of a certificate would
910 facilitate a fraudulent or illegal act;

911 (d) The application does not comply with the laws of this
912 state other than this part; or

913 (e) The application is for a vessel that has been deemed
914 derelict by a law enforcement officer under s. 823.11. In such
915 case, a law enforcement officer must inform the department in
916 writing, which may be provided by facsimile, e-mail, or other
917 electronic means, of the vessel's derelict status and supply the
918 department with the vessel title number or vessel identification
919 number. The department may issue a certificate of title once a
920 law enforcement officer has verified in writing, which may be
921 provided by facsimile, e-mail, or other electronic means, that
922 the vessel is no longer a derelict vessel.

923 (4) The department shall reject an application for a
924 certificate of title for a vessel that is a documented vessel or
925 a foreign-documented vessel.

926 (5) The department may cancel a certificate of title
927 created by it only if the department:

928 (a) Could have rejected the application for the certificate

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929 under subsection (3);

930 (b) Is required to cancel the certificate under another
931 provision of this part; or

932 (c) Receives satisfactory evidence that the vessel is a
933 documented vessel or a foreign-documented vessel.

934 (6) The decision by the department to reject an application
935 for a certificate of title or cancel a certificate of title
936 pursuant to this section is subject to a hearing pursuant to ss.
937 120.569 and 120.57 at which the owner and any other interested
938 party may present evidence in support of or opposition to the
939 rejection of the application for a certificate of title or the
940 cancellation of a certificate of title.

941 Section 13. Section 328.101, Florida Statutes, is created
942 to read:

943 328.101 Effect of missing or incorrect information.—Except
944 as otherwise provided in s. 679.337, a certificate of title or
945 other record required or authorized by this part is effective
946 even if it contains unintended scrivener's errors or does not
947 contain certain required information if such missing information
948 is determined by the department to be inconsequential to the
949 issuing of a certificate of title or other record.

950 Section 14. Section 328.11, Florida Statutes, is amended to
951 read:

952 328.11 Duplicate certificate of title.—

953 (1) If a written certificate of title is lost, stolen,
954 mutilated, destroyed, or otherwise becomes unavailable or
955 illegible, the secured party of record or, if no secured party
956 is indicated in the files of the department, the owner of record
957 may apply for and, by furnishing information satisfactory to the

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958 department, obtain a duplicate certificate in the name of the
959 owner of record.

960 (2) An applicant for a duplicate certificate of title must
961 sign the application, and, except as otherwise permitted by the
962 department, the application must comply with s. 328.01. The
963 application must include the existing certificate unless the
964 certificate is lost, stolen, mutilated, destroyed, or otherwise
965 unavailable.

966 (3) A duplicate certificate of title created by the
967 department must comply with s. 328.04 and indicate on the face
968 of the certificate that it is a duplicate certificate.

969 (4) If a person receiving a duplicate certificate of title
970 subsequently obtains possession of the original written
971 certificate, the person shall promptly destroy the original
972 certificate of title.

973 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
974 ~~may issue a duplicate certificate of title upon application by~~
975 ~~the person entitled to hold such a certificate if the department~~
976 ~~is satisfied that the original certificate has been lost,~~
977 ~~destroyed, or mutilated. The department shall charge a fee of \$6~~
978 ~~for issuing a duplicate certificate.~~

979 ~~(6)(2)~~ (5) In addition to the fee imposed by subsection (5)
980 ~~(1)~~, the department of Highway Safety and Motor Vehicles shall
981 charge a fee of \$5 for expedited service in issuing a duplicate
982 certificate of title. Application for such expedited service may
983 be made by mail or in person. The department shall issue each
984 certificate of title applied for under this subsection within 5
985 working days after receipt of a proper application or shall
986 refund the additional \$5 fee upon written request by the

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987 applicant.

988 ~~(3) If, following the issuance of an original, duplicate,~~
989 ~~or corrected certificate of title by the department, the~~
990 ~~certificate is lost in transit and is not delivered to the~~
991 ~~addressee, the owner of the vessel or the holder of a lien~~
992 ~~thereon may, within 180 days after the date of issuance of the~~
993 ~~title, apply to the department for reissuance of the certificate~~
994 ~~of title. An additional fee may not be charged for reissuance~~
995 ~~under this subsection.~~

996 ~~(7)(4)~~ The department shall implement a system to verify
997 that the application is signed by a person authorized to receive
998 a duplicate title certificate under this section if the address
999 shown on the application is different from the address shown for
1000 the applicant on the records of the department.

1001 Section 15. Section 328.12, Florida Statutes, is created to
1002 read:

1003 328.12 Perfection of security interest.—

1004 (1) Except as otherwise provided in this section, a
1005 security interest in a vessel may be perfected only by delivery
1006 to the department of an application for a certificate of title
1007 that identifies the secured party and otherwise complies with s.
1008 328.01. The security interest is perfected on the later of
1009 delivery to the department of the application and the applicable
1010 fee or attachment of the security interest under s. 679.2031.

1011 (2) If the interest of a person named as owner, lessor,
1012 consignor, or bailor in an application for a certificate of
1013 title delivered to the department is a security interest, the
1014 application sufficiently identifies the person as a secured
1015 party. Identification on the application for a certificate of a

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1016 person as owner, lessor, consignor, or bailor is not by itself a
1017 factor in determining whether the person's interest is a
1018 security interest.

1019 (3) If the department has created a certificate of title
1020 for a vessel, a security interest in the vessel may be perfected
1021 by delivery to the department of an application, on a form the
1022 department may require, to have the security interest added to
1023 the certificate. The application must be signed by an owner of
1024 the vessel or by the secured party and must include:

1025 (a) The name of the owner of record;

1026 (b) The name and mailing address of the secured party;

1027 (c) The hull identification number for the vessel; and

1028 (d) If the department has created a written certificate of
1029 title for the vessel, the certificate.

1030 (4) A security interest perfected under subsection (3) is
1031 perfected on the later of delivery to the department of the
1032 application and all applicable fees or attachment of the
1033 security interest under s. 679.2031.

1034 (5) On delivery of an application that complies with
1035 subsection (3) and payment of all applicable fees, the
1036 department shall create a new certificate of title pursuant to
1037 s. 328.09 and deliver the new certificate or a record evidencing
1038 an electronic certificate pursuant to s. 328.06. The department
1039 shall maintain in the files of the department the date and time
1040 of delivery of the application to the department.

1041 (6) If a secured party assigns a perfected security
1042 interest in a vessel, the receipt by the department of a
1043 statement providing the name of the assignee as secured party is
1044 not required to continue the perfected status of the security

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1045 interest against creditors of and transferees from the original
1046 debtor. A purchaser of a vessel subject to a security interest
1047 who obtains a release from the secured party indicated in the
1048 files of the department or on the certificate takes free of the
1049 security interest and of the rights of a transferee unless the
1050 transfer is indicated in the files of the department or on the
1051 certificate.

1052 (7) This section does not apply to a security interest:

1053 (a) Created in a vessel by a person during any period in
1054 which the vessel is inventory held for sale or lease by the
1055 person or is leased by the person as lessor if the person is in
1056 the business of selling vessels;

1057 (b) In a barge for which no application for a certificate
1058 of title has been delivered to the department; or

1059 (c) In a vessel before delivery if the vessel is under
1060 construction, or completed, pursuant to contract and for which
1061 no application for a certificate has been delivered to the
1062 department.

1063 (8) This subsection applies if a certificate of
1064 documentation for a documented vessel is deleted or canceled. If
1065 a security interest in the vessel was valid immediately before
1066 deletion or cancellation against a third party as a result of
1067 compliance with 46 U.S.C. s. 31321, the security interest is and
1068 remains perfected until the earlier of 4 months after
1069 cancellation of the certificate or the time the security
1070 interest becomes perfected under this part.

1071 (9) A security interest in a vessel arising under s.
1072 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
1073 perfected when it attaches but becomes unperfected when the

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1074 debtor obtains possession of the vessel, unless the security
1075 interest is perfected pursuant to subsection (1) or subsection
1076 (3) before the debtor obtains possession.

1077 (10) A security interest in a vessel as proceeds of other
1078 collateral is perfected to the extent provided in s. 679.3151.

1079 (11) A security interest in a vessel perfected under the
1080 law of another jurisdiction is perfected to the extent provided
1081 in s. 679.3161(4).

1082 (12) For purposes of this section and this part, the
1083 Department of Revenue shall be treated as a secured party when
1084 collecting unpaid support.

1085 Section 16. Section 328.125, Florida Statutes, is created
1086 to read:

1087 328.125 Termination statement.—

1088 (1) A secured party indicated in the files of the
1089 department as having a security interest in a vessel shall
1090 deliver a termination statement to the department and, on the
1091 debtor's request, to the debtor, by the earlier of:

1092 (a) Twenty days after the secured party receives a signed
1093 demand from an owner for a termination statement and there is no
1094 obligation secured by the vessel subject to the security
1095 interest and no commitment to make an advance, incur an
1096 obligation, or otherwise give value secured by the vessel; or

1097 (b) If the vessel is consumer goods, 30 days after there is
1098 no obligation secured by the vessel and no commitment to make an
1099 advance, incur an obligation, or otherwise give value secured by
1100 the vessel.

1101 (2) If a written certificate of title has been created and
1102 delivered to a secured party and a termination statement is

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1103 required under subsection (1), the secured party, not later than
1104 the date required by subsection (1), shall deliver the
1105 certificate to the debtor or to the department with the
1106 statement. If the certificate is lost, stolen, mutilated,
1107 destroyed, or is otherwise unavailable or illegible, the secured
1108 party shall deliver with the statement, not later than the date
1109 required by subsection (1), an application for a duplicate
1110 certificate meeting the requirements of s. 328.11.

1111 (3) On delivery to the department of a termination
1112 statement authorized by the secured party, the security interest
1113 to which the statement relates ceases to be perfected. If the
1114 security interest to which the statement relates was indicated
1115 on the certificate of title, the department shall create a new
1116 certificate and deliver the new certificate or a record
1117 evidencing an electronic certificate. The department shall
1118 maintain in its files the date and time of delivery to the
1119 department of the statement.

1120 (4) A secured party that fails to comply with this section
1121 is liable for any loss that the secured party had reason to know
1122 might result from its failure to comply and which could not
1123 reasonably have been prevented and for the cost of an
1124 application for a certificate of title under s. 328.01 or s.
1125 328.11.

1126 Section 17. Section 328.14, Florida Statutes, is created to
1127 read:

1128 328.14 Rights of purchaser other than secured party.-

1129 (1) A buyer in ordinary course of business has the
1130 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1131 existing certificate of title was not signed and delivered to

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1132 the buyer or a new certificate listing the buyer as owner of
1133 record was not created.

1134 (2) Except as otherwise provided in ss. 328.145 and 328.22,
1135 the rights of a purchaser of a vessel who is not a buyer in
1136 ordinary course of business or a lien creditor are governed by
1137 the Uniform Commercial Code.

1138 Section 18. Section 328.145, Florida Statutes, is created
1139 to read:

1140 328.145 Rights of secured party.-

1141 (1) Subject to subsection (2), the effect of perfection and
1142 nonperfection of a security interest and the priority of a
1143 perfected or unperfected security interest with respect to the
1144 rights of a purchaser or creditor, including a lien creditor,
1145 are governed by the Uniform Commercial Code.

1146 (2) If, while a security interest in a vessel is perfected
1147 by any method under this part, the department creates a
1148 certificate of title that does not indicate that the vessel is
1149 subject to the security interest or contain a statement that it
1150 may be subject to security interests not indicated on the
1151 certificate:

1152 (a) A buyer of the vessel, other than a person in the
1153 business of selling or leasing vessels of that kind, takes free
1154 of the security interest if the buyer, acting in good faith and
1155 without knowledge of the security interest, gives value and
1156 receives possession of the vessel; and

1157 (b) The security interest is subordinate to a conflicting
1158 security interest in the vessel that is perfected under s.
1159 328.12 after creation of the certificate and without the
1160 conflicting secured party's knowledge of the security interest.

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1161 Section 19. Section 328.15, Florida Statutes, is amended to
1162 read:

1163 328.15 Notice of lien on vessel; recording.-

1164 ~~(1) No lien for purchase money or as security for a debt in~~
1165 ~~the form of retain title contract, conditional bill of sale,~~
1166 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
1167 ~~in any of the courts of this state against creditors or~~
1168 ~~subsequent purchasers for a valuable consideration and without~~
1169 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1170 ~~certificate shall contain the following information:~~

1171 ~~(a) Name and address of the registered owner;~~

1172 ~~(b) Date of lien;~~

1173 ~~(c) Description of the vessel to include make, type, motor~~
1174 ~~and serial number; and~~

1175 ~~(d) Name and address of lienholder.~~

1176

1177 ~~The lien shall be recorded by the Department of Highway Safety~~
1178 ~~and Motor Vehicles and shall be effective as constructive notice~~
1179 ~~when filed. The date of filing of the notice of lien is the date~~
1180 ~~of its receipt by the department's central office in~~
1181 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1182 ~~a county tax collector or of the tax collector's agent.~~

1183 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1184 ~~shall not enter any lien upon its lien records, whether it is a~~
1185 ~~first lien or a subordinate lien, unless the official~~
1186 ~~certificate of title issued for the vessel is furnished with the~~
1187 ~~notice of lien, so that the record of lien, whether original or~~
1188 ~~subordinate, may be noted upon the face thereof. After the~~
1189 ~~department records the lien, it shall send the certificate of~~

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1190 ~~title to the holder of the first lien who shall hold such~~
1191 ~~certificate until the lien is satisfied in full.~~

1192 ~~(b) When a vessel is registered in the names of two or more~~
1193 ~~persons as coowners in the alternative by the use of the word~~
1194 ~~"or," whether or not the coowners are husband and wife, each~~
1195 ~~coowner is considered to have granted to any other coowner the~~
1196 ~~absolute right to place a lien or encumbrance on the vessel, and~~
1197 ~~the signature of one coowner constitutes proper execution of the~~
1198 ~~notice of lien. When a vessel is registered in the names of two~~
1199 ~~or more persons as coowners in the conjunctive by the use of the~~
1200 ~~word "and," the signature of each coowner is required in order~~
1201 ~~to place a lien or encumbrance on the vessel.~~

1202 ~~(c) If the owner of the vessel as shown on the title~~
1203 ~~certificate or the director of the state child support~~
1204 ~~enforcement program desires to place a second or subsequent lien~~
1205 ~~or encumbrance against the vessel when the title certificate is~~
1206 ~~in the possession of the first lienholder, the owner shall send~~
1207 ~~a written request to the first lienholder by certified mail and~~
1208 ~~such first lienholder shall forward the certificate to the~~
1209 ~~department for endorsement. The department shall return the~~
1210 ~~certificate to the first lienholder, as indicated in the notice~~
1211 ~~of lien filed by the first lienholder, after endorsing the~~
1212 ~~second or subsequent lien on the certificate and on the~~
1213 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1214 ~~to forward the certificate of title to the department within 10~~
1215 ~~days after the date of the owner's or the director's request,~~
1216 ~~the department, on written request of the subsequent lienholder~~
1217 ~~or an assignee thereof, shall demand of the first lienholder the~~
1218 ~~return of such certificate for the notation of the second or~~

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1219 ~~subsequent lien or encumbrance.~~

1220 (1)~~(3)~~ Upon the payment of a ~~any such~~ lien, the debtor or
1221 the registered owner of the motorboat shall be entitled to
1222 demand and receive from the lienholder a satisfaction of the
1223 lien which shall likewise be filed with the Department of
1224 Highway Safety and Motor Vehicles.

1225 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles
1226 under precautionary rules and regulations to be promulgated by
1227 it may permit the use, in substitution of the formal
1228 satisfaction of lien, of other methods of satisfaction, such as
1229 perforation, appropriate stamp, or otherwise, as it deems
1230 reasonable and adequate.

1231 (3)~~(5)~~(a) The Department of Highway Safety and Motor
1232 Vehicles shall adopt rules to administer this section. The
1233 department may by rule require that a notice of satisfaction of
1234 a lien be notarized. The department shall prepare the forms of
1235 the notice of lien and the satisfaction of lien to be supplied,
1236 at a charge not to exceed 50 percent more than cost, to
1237 applicants for recording the liens or satisfactions and shall
1238 keep a record of such notices of lien and satisfactions
1239 available for inspection by the public at all reasonable times.
1240 The division may furnish certified copies of such satisfactions
1241 for a fee of \$1, which are admissible in evidence in all courts
1242 of this state under the same conditions and to the same effect
1243 as certified copies of other public records.

1244 (b) The department shall establish and administer an
1245 electronic titling program that requires the recording of vessel
1246 title information for new, transferred, and corrected
1247 certificates of title. Lienholders shall electronically transmit

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1248 liens and lien satisfactions to the department in a format
1249 determined by the department. Individuals and lienholders who
1250 the department determines are not normally engaged in the
1251 business or practice of financing vessels are not required to
1252 participate in the electronic titling program.

1253 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1254 ~~entitled to a fee of \$1 for the recording of each notice of~~
1255 ~~lien. No fee shall be charged for recording the satisfaction of~~
1256 ~~a lien. All of the fees collected shall be paid into the Marine~~
1257 ~~Resources Conservation Trust Fund.~~

1258 (4)~~(7)~~(a) Should any person, firm, or corporation holding
1259 such lien, which has been recorded by the Department of Highway
1260 Safety and Motor Vehicles, upon payment of such lien and on
1261 demand, fail or refuse, within 30 days after such payment and
1262 demand, to furnish the debtor or the registered owner of such
1263 vessel a satisfaction of the lien, then, in that event, such
1264 person, firm, or corporation shall be held liable for all costs,
1265 damages, and expenses, including reasonable attorney ~~attorney's~~
1266 fees, lawfully incurred by the debtor or the registered owner of
1267 such vessel in any suit which may be brought in the courts of
1268 this state for the cancellation of such lien.

1269 (b) Following satisfaction of a lien, the lienholder shall
1270 enter a satisfaction thereof in the space provided on the face
1271 of the certificate of title. If there are no subsequent liens
1272 shown thereon, the certificate shall be delivered by the
1273 lienholder to the person satisfying the lien or encumbrance and
1274 an executed satisfaction on a form provided by the department
1275 shall be forwarded to the department by the lienholder within 10
1276 days after satisfaction of the lien.

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1277 (c) If the certificate of title shows a subsequent lien not
1278 then being discharged, an executed satisfaction of the first
1279 lien shall be delivered by the lienholder to the person
1280 satisfying the lien and the certificate of title showing
1281 satisfaction of the first lien shall be forwarded by the
1282 lienholder to the department within 10 days after satisfaction
1283 of the lien.

1284 (d) If, upon receipt of a title certificate showing
1285 satisfaction of the first lien, the department determines from
1286 its records that there are no subsequent liens or encumbrances
1287 upon the vessel, the department shall forward to the owner, as
1288 shown on the face of the title, a corrected certificate showing
1289 no liens or encumbrances. If there is a subsequent lien not
1290 being discharged, the certificate of title shall be reissued
1291 showing the second or subsequent lienholder as the first
1292 lienholder and shall be delivered to the new first lienholder.
1293 The first lienholder shall be entitled to retain the certificate
1294 of title until his or her lien is satisfied. Upon satisfaction
1295 of the lien, the lienholder shall be subject to the procedures
1296 required of a first lienholder in this subsection ~~and in~~
1297 ~~subsection (2)~~.

1298 (5) ~~(8)~~ When the original certificate of title cannot be
1299 returned to the department by the lienholder and evidence
1300 satisfactory to the department is produced that all liens or
1301 encumbrances have been satisfied, upon application by the owner
1302 for a duplicate copy of the certificate of title, upon the form
1303 prescribed by the department, accompanied by the fee prescribed
1304 in this chapter, a duplicate copy of the certificate of title
1305 without statement of liens or encumbrances shall be issued by

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1306 the department and delivered to the owner.

1307 ~~(6)(9)~~ Any person who fails, within 10 days after receipt
1308 of a demand by the department by certified mail, to return a
1309 certificate of title to the department ~~as required by paragraph~~
1310 ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days
1311 after receipt of such demand to forward the appropriate document
1312 to the department as required by paragraph (4)(b) ~~(7)(b)~~ or
1313 paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second
1314 degree, punishable as provided in s. 775.082 or s. 775.083.

1315 ~~(7)(10)~~ The department shall use the last known address as
1316 shown by its records when sending any notice required by this
1317 section.

1318 ~~(8)(11)~~ If the original lienholder sells and assigns his or
1319 her lien to some other person, and if the assignee desires to
1320 have his or her name substituted on the certificate of title as
1321 the holder of the lien, he or she may, after delivering the
1322 original certificate of title to the department and providing a
1323 sworn statement of the assignment, have his or her name
1324 substituted as a lienholder. Upon substitution of the assignee's
1325 name as lienholder, the department shall deliver the certificate
1326 of title to the assignee as the first lienholder.

1327 (9) Subsections (1), (2), and (4)-(8) shall expire October
1328 1, 2026.

1329 Section 20. Section 328.16, Florida Statutes, is amended to
1330 read:

1331 328.16 Issuance in duplicate; delivery; liens, security
1332 interests, and encumbrances.-

1333 (1) The department shall assign a number to each
1334 certificate of title and shall issue each certificate of title

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1335 and each corrected certificate in duplicate. The database record
1336 shall serve as the duplicate title certificate.

1337 (2) An authorized person must sign the original certificate
1338 of title and each corrected certificate and, if there are no
1339 liens, security interests, or encumbrances on the vessel, as
1340 shown in the records of the department or as shown in the
1341 application, must deliver the certificate to the applicant or to
1342 another person as directed by the applicant or person, agent, or
1343 attorney submitting the application. If there are one or more
1344 liens, security interests, or encumbrances on the vessel, the
1345 department must deliver the certificate to the first lienholder
1346 or secured party as shown by department records. The department
1347 shall deliver to the first lienholder or secured party, along
1348 with the certificate, a form to be subsequently used by the
1349 lienholder or secured party as a satisfaction. If the
1350 application for certificate of title shows the name of a first
1351 lienholder or secured party which is different from the name of
1352 the first lienholder or secured party as shown by the records of
1353 the department, the certificate shall not be issued to any
1354 person until after the department notifies all parties who
1355 appear to hold a lien or a security interest and the applicant
1356 for the certificate, in writing by certified mail. If the
1357 parties do not amicably resolve the conflict within 10 days
1358 after the date the notice was mailed, the department shall serve
1359 notice in writing by certified mail on all persons that appear
1360 to hold liens or security interests on that particular vessel,
1361 including the applicant for the certificate, to show cause
1362 within 15 days after the date the notice is mailed why it should
1363 not issue and deliver the certificate to the secured party of

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1364 record or person indicated in the notice of lien filed by the
1365 lienholder whose name appears in the application as the first
1366 lienholder without showing any lien or liens as outstanding
1367 other than those appearing in the application or those filed
1368 subsequent to the filing of the application for the certificate
1369 of title. If, within the 15-day period, any person other than
1370 the lienholder or secured party of record shown in the
1371 application or a party filing a subsequent lien or security
1372 interest, in answer to the notice to show cause, appears in
1373 person or by a representative, or responds in writing, and files
1374 a written statement under oath that his or her lien or security
1375 interest on that particular vessel is still outstanding, the
1376 department shall not issue the certificate to anyone until after
1377 the conflict has been settled by the lien or security interest
1378 claimants involved or by a court of competent jurisdiction. If
1379 the conflict is not settled amicably within 10 days after the
1380 final date for filing an answer to the notice to show cause, the
1381 complaining party shall have 10 days to obtain a ruling, or a
1382 stay order, from a court of competent jurisdiction. If a ruling
1383 or stay order is not issued and served on the department within
1384 the 10-day period, the department shall issue the certificate
1385 showing no liens or security interests, except those shown in
1386 the application or thereafter filed, to the original applicant
1387 if there are no liens or security interests shown in the
1388 application and none are thereafter filed, or to the person
1389 indicated as the secured party of record or in the notice of
1390 lien filed by the lienholder whose name appears in the
1391 application as the first lienholder if there are liens shown in
1392 the application or thereafter filed. A duplicate certificate or

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1393 corrected certificate must show only such security interest or
1394 interests or lien or liens as were shown in the application and
1395 subsequently filed liens or security interests that may be
1396 outstanding.

1397 (3) ~~Except as provided in s. 328.15(11),~~ The certificate of
1398 title shall be retained by the first lienholder or secured party
1399 of record. The first lienholder or secured party of record is
1400 entitled to retain the certificate until the first lien or
1401 security interest is satisfied.

1402 (4) Notwithstanding any requirements in this section ~~or in~~
1403 ~~s. 328.15~~ indicating that a lien or security interest on a
1404 vessel shall be noted on the face of the Florida certificate of
1405 title, if there are one or more liens, security interests, or
1406 encumbrances on a vessel, the department shall electronically
1407 transmit the lien or security interest to the first lienholder
1408 or secured party and notify the first lienholder or secured
1409 party of any additional liens or security interests. Subsequent
1410 lien or security interest satisfactions shall be electronically
1411 transmitted to the department and must include the name and
1412 address of the person or entity satisfying the lien or security
1413 interest. When electronic transmission of liens or security
1414 interests and lien satisfactions or security interests are used,
1415 the issuance of a certificate of title may be waived until the
1416 last lien or security interest is satisfied and a clear
1417 certificate of title is issued to the owner of the vessel.

1418 (5) The owner of a vessel, upon which a lien or security
1419 interest has been filed with the department or noted upon a
1420 certificate of title for a period of 5 years, may apply to the
1421 department in writing for such lien or security interest to be

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1422 removed from the department files or from the certificate of
1423 title. The application must be accompanied by evidence
1424 satisfactory to the department that the applicant has notified
1425 the lienholder or secured party by certified mail, not less than
1426 20 days before ~~prior to~~ the date of the application, of his or
1427 her intention to apply to the department for removal of the lien
1428 or security interest. Ten days after receipt of the application,
1429 the department may remove the lien or security interest from its
1430 files or from the certificate of title, as the case may be, if
1431 no statement in writing protesting removal of the lien or
1432 security interest is received by the department from the
1433 lienholder or secured party within the 10-day period. However,
1434 if the lienholder or secured party files with the department,
1435 within the 10-day period, a written statement that the lien or
1436 security interest is still outstanding, the department may not
1437 remove the lien or security interest until the lienholder or
1438 secured party presents a satisfaction of lien or satisfaction of
1439 security interest to the department.

1440 Section 21. Subsection (1) of section 328.165, Florida
1441 Statutes, is amended to read:

1442 328.165 Cancellation of certificates.-

1443 (1) If it appears that a certificate of title has been
1444 improperly issued, the department shall cancel the certificate.
1445 Upon cancellation of any certificate of title, the department
1446 shall notify the person to whom the certificate of title was
1447 issued, and any lienholders or secured parties appearing
1448 thereon, of the cancellation and shall demand the surrender of
1449 the certificate of title; however, the cancellation does not
1450 affect the validity of any lien or security interest noted

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1451 thereon. The holder of the certificate of title shall
1452 immediately return it to the department. If a certificate of
1453 registration has been issued to the holder of a certificate of
1454 title so canceled, the department shall immediately cancel the
1455 certificate of registration and demand the return of the
1456 certificate of registration, and the holder of such certificate
1457 of registration shall immediately return it to the department.

1458 Section 22. Section 328.215, Florida Statutes, is created
1459 to read:

1460 328.215 Application for transfer of ownership or
1461 termination of security interest without certificate of title.-

1462 (1) Except as otherwise provided in s. 328.23 or s. 328.24,
1463 if the department receives, unaccompanied by a signed
1464 certificate of title, an application for a new certificate that
1465 includes an indication of a transfer of ownership or a
1466 termination statement, the department may create a new
1467 certificate under this section only if:

1468 (a) All other requirements under ss. 328.01 and 328.09 are
1469 met;

1470 (b) The applicant provides an affidavit stating facts
1471 showing the applicant is entitled to a transfer of ownership or
1472 termination statement;

1473 (c) The applicant provides the department with satisfactory
1474 evidence that notification of the application has been sent to
1475 the owner of record and all persons indicated in the files of
1476 the department as having an interest, including a security
1477 interest, in the vessel; at least 45 days have passed since the
1478 notification was sent; and the department has not received an
1479 objection from any of those persons; and

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1480 (d) The applicant submits any other information required by
1481 the department as evidence of the applicant's ownership or right
1482 to terminate the security interest, and the department has no
1483 credible information indicating theft, fraud, or an undisclosed
1484 or unsatisfied security interest, lien, or other claim to an
1485 interest in the vessel.

1486 (2) The department may indicate in a certificate of title
1487 created under subsection (1) that the certificate was created
1488 without submission of a signed certificate or termination
1489 statement. Unless credible information indicating theft, fraud,
1490 or an undisclosed or unsatisfied security interest, lien, or
1491 other claim to an interest in the vessel is delivered to the
1492 department not later than 1 year after creation of the
1493 certificate, on request in a form and manner required by the
1494 department, the department shall remove the indication from the
1495 certificate.

1496 (3) Before the department creates a certificate of title
1497 under subsection (1), the department may require the applicant
1498 to post a reasonable bond or provide an equivalent source of
1499 indemnity or security. The bond, indemnity, or other security
1500 must be in a form required by the department and provide for
1501 indemnification of any owner, purchaser, or other claimant for
1502 any expense, loss, delay, or damage, including reasonable
1503 attorney fees and costs, but not including incidental or
1504 consequential damages, resulting from creation or amendment of
1505 the certificate.

1506 (4) Unless the department receives a claim for indemnity
1507 not later than 1 year after creation of a certificate of title
1508 under subsection (1), on request in a form and manner required

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1509 by the department, the department shall release any bond,
1510 indemnity, or other security. The department is not liable to a
1511 person or entity for creating a certificate of title under this
1512 section when the department issues the certificate of title in
1513 good faith based on the information provided by an applicant. An
1514 applicant that submits erroneous or fraudulent information with
1515 the intent to mislead the department into issuing a certificate
1516 of title under this section is subject to the penalties
1517 established in s. 328.045(4) in addition to any other criminal
1518 or civil penalties provided by law.

1519 Section 23. Section 328.22, Florida Statutes, is created to
1520 read:

1521 328.22 Transfer of ownership.—

1522 (1) On voluntary transfer of an ownership interest in a
1523 vessel covered by a certificate of title, the following
1524 requirements apply:

1525 (a) If the certificate is a written certificate of title
1526 and the transferor's interest is noted on the certificate, the
1527 transferor shall promptly sign the certificate and deliver it to
1528 the transferee. If the transferor does not have possession of
1529 the certificate, the person in possession of the certificate has
1530 a duty to facilitate the transferor's compliance with this
1531 paragraph. A secured party does not have a duty to facilitate
1532 the transferor's compliance with this paragraph if the proposed
1533 transfer is prohibited by the security agreement.

1534 (b) If the certificate of title is an electronic
1535 certificate of title, the transferor shall promptly sign by
1536 hand, or electronically if available, and deliver to the
1537 transferee a record evidencing the transfer of ownership to the

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1538 transferee.

1539 (c) The transferee has a right enforceable by specific
1540 performance to require the transferor to comply with paragraph
1541 (a) or paragraph (b).

1542 (2) The creation of a certificate of title identifying the
1543 transferee as owner of record satisfies subsection (1).

1544 (3) A failure to comply with subsection (1) or to apply for
1545 a new certificate of title does not render a transfer of
1546 ownership of a vessel ineffective between the parties. Except as
1547 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1548 s. 328.23, a transfer of ownership without compliance with
1549 subsection (1) is not effective against another person claiming
1550 an interest in the vessel.

1551 (4) A transferor that complies with subsection (1) is not
1552 liable as owner of the vessel for an event occurring after the
1553 transfer, regardless of whether the transferee applies for a new
1554 certificate of title.

1555 Section 24. Section 328.23, Florida Statutes, is created to
1556 read:

1557 328.23 Transfer of ownership by secured party's transfer
1558 statement.—

1559 (1) For the purposes of this section, "secured party's
1560 transfer statement" means a record signed by the secured party
1561 of record stating:

1562 (a) That there has been a default on an obligation secured
1563 by the vessel;

1564 (b) That the secured party of record is exercising or has
1565 exercised post-default remedies with respect to the vessel;

1566 (c) That by reason of the exercise, the secured party of

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- 1567 record has the right to transfer the ownership interest of an
1568 owner, and the name of the owner;
- 1569 (d) The name and last known mailing address of the owner of
1570 record and the secured party of record;
- 1571 (e) The name of the transferee;
- 1572 (f) Other information required by s. 328.01(2); and
- 1573 (g) One of the following:
- 1574 1. The certificate of title is an electronic certificate.
- 1575 2. The secured party does not have possession of the
1576 written certificate of title created in the name of the owner of
1577 record.
- 1578 3. The secured party is delivering the written certificate
1579 of title to the department with the secured party's transfer
1580 statement.
- 1581 (2) Unless the department rejects a secured party's
1582 transfer statement for a reason stated in s. 328.09(3), not
1583 later than 30 days after delivery to the department of the
1584 statement and payment of fees and taxes payable under the laws
1585 of this state, other than this part, in connection with the
1586 statement or the acquisition or use of the vessel, the
1587 department shall:
- 1588 (a) Accept the statement;
- 1589 (b) Amend the files of the department to reflect the
1590 transfer; and
- 1591 (c) If the name of the owner whose ownership interest is
1592 being transferred is indicated on the certificate of title:
- 1593 1. Cancel the certificate even if the certificate has not
1594 been delivered to the department;
- 1595 2. Create a new certificate indicating the transferee as

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1596 owner; and

1597 3. Deliver the new certificate or a record evidencing an
1598 electronic certificate.

1599 (3) An application under subsection (1) or the creation of
1600 a certificate of title under subsection (2) is not by itself a
1601 disposition of the vessel and does not by itself relieve the
1602 secured party of its duties under chapter 679.

1603 Section 25. Section 328.24, Florida Statutes, is created to
1604 read:

1605 328.24 Transfer by operation of law.—

1606 (1) For the purposes of this section, "by operation of law"
1607 means pursuant to a law or judicial order affecting ownership of
1608 a vessel:

1609 (a) Because of death, divorce, or other family law
1610 proceeding, merger, consolidation, dissolution, or bankruptcy;

1611 (b) Through the exercise of the rights of a lien creditor
1612 or a person having a lien created by statute or rule of law; or

1613 (c) Through other legal process.

1614 (2) A transfer-by-law statement must contain:

1615 (a) The name and last known mailing address of the owner of
1616 record and the transferee and the other information required by
1617 s. 328.01;

1618 (b) Documentation sufficient to establish the transferee's
1619 ownership interest or right to acquire the ownership interest;

1620 (c) A statement that:

1621 1. The certificate of title is an electronic certificate of
1622 title;

1623 2. The transferee does not have possession of the written
1624 certificate of title created in the name of the owner of record;

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1625 or

1626 3. The transferee is delivering the written certificate to
1627 the department with the transfer-by-law statement; and

1628 (d) Except for a transfer described in paragraph (1) (a),
1629 evidence that notification of the transfer and the intent to
1630 file the transfer-by-law statement has been sent to all persons
1631 indicated in the files of the department as having an interest,
1632 including a security interest, in the vessel.

1633 (3) Unless the department rejects a transfer-by-law
1634 statement for a reason stated in s. 328.09(3) or because the
1635 statement does not include documentation satisfactory to the
1636 department as to the transferee's ownership interest or right to
1637 acquire the ownership interest, not later than 30 days after
1638 delivery to the department of the statement and payment of fees
1639 and taxes payable under the law of this state, other than this
1640 part, in connection with the statement or with the acquisition
1641 or use of the vessel, the department shall:

1642 (a) Accept the statement;

1643 (b) Amend the files of the department to reflect the
1644 transfer; and

1645 (c) If the name of the owner whose ownership interest is
1646 being transferred is indicated on the certificate of title:

1647 1. Cancel the certificate even if the certificate has not
1648 been delivered to the department;

1649 2. Create a new certificate indicating the transferee as
1650 owner;

1651 3. Indicate on the new certificate any security interest
1652 indicated on the canceled certificate, unless a court order
1653 provides otherwise; and

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1654 4. Deliver the new certificate or a record evidencing an
1655 electronic certificate.

1656 (4) This section does not apply to a transfer of an
1657 interest in a vessel by a secured party under part VI of chapter
1658 679.

1659 Section 26. Section 328.25, Florida Statutes, is created to
1660 read:

1661 328.25 Supplemental principles of law and equity.—Unless
1662 displaced by a provision of this part, the principles of law and
1663 equity supplement its provisions.

1664 Section 27. Section 328.41, Florida Statutes, is created to
1665 read:

1666 328.41 Rulemaking.—The department may adopt rules pursuant
1667 to ss. 120.536(1) and 120.54 to implement this part.

1668 Section 28. Section 409.2575, Florida Statutes, is amended
1669 to read:

1670 409.2575 Liens on motor vehicles and vessels.—

1671 (1) The director of the state IV-D program, or the
1672 director's designee, may cause a lien for unpaid and delinquent
1673 support to be placed upon motor vehicles, as defined in chapter
1674 320, and upon vessels, as defined in chapter 327, that are
1675 registered in the name of an obligor who is delinquent in
1676 support payments, if the title to the property is held by a
1677 lienholder, in the manner provided in chapter 319 or, if
1678 applicable in accordance with s. 328.15(9), chapter 328. Notice
1679 of lien shall not be mailed unless the delinquency in support
1680 exceeds \$600.

1681 (2) If the first lienholder fails, neglects, or refuses to
1682 forward the certificate of title to the appropriate department

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1683 as requested pursuant to s. 319.24 or, if applicable in
1684 accordance with s. 328.15(9), s. 328.15, the director of the IV-
1685 D program, or the director's designee, may apply to the circuit
1686 court for an order to enforce the requirements of s. 319.24 or
1687 s. 328.15, whichever applies.

1688 Section 29. Subsection (2) of section 705.103, Florida
1689 Statutes, is amended to read:

1690 705.103 Procedure for abandoned or lost property.—

1691 (2) Whenever a law enforcement officer ascertains that an
1692 article of lost or abandoned property is present on public
1693 property and is of such nature that it cannot be easily removed,
1694 the officer shall cause a notice to be placed upon such article
1695 in substantially the following form:

1696
1697 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
1698 PROPERTY. This property, to wit: ...(setting forth brief
1699 description)... is unlawfully upon public property known as
1700 ...(setting forth brief description of location)... and must be
1701 removed within 5 days; otherwise, it will be removed and
1702 disposed of pursuant to chapter 705, Florida Statutes. The owner
1703 will be liable for the costs of removal, storage, and
1704 publication of notice. Dated this: ...(setting forth the date of
1705 posting of notice)..., signed: ...(setting forth name, title,
1706 address, and telephone number of law enforcement officer)....

1707
1708 Such notice shall be not less than 8 inches by 10 inches and
1709 shall be sufficiently weatherproof to withstand normal exposure
1710 to the elements. In addition to posting, the law enforcement
1711 officer shall make a reasonable effort to ascertain the name and

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1712 address of the owner. If such is reasonably available to the
1713 officer, she or he shall mail a copy of such notice to the owner
1714 on or before the date of posting. If the property is a motor
1715 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1716 327.02, the law enforcement agency shall contact the Department
1717 of Highway Safety and Motor Vehicles in order to determine the
1718 name and address of the owner and any person who has filed a
1719 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1720 or s. 328.15 ~~s. 328.15(1)~~. On receipt of this information, the
1721 law enforcement agency shall mail a copy of the notice by
1722 certified mail, return receipt requested, to the owner and to
1723 the lienholder, if any, except that a law enforcement officer
1724 who has issued a citation for a violation of s. 823.11 to the
1725 owner of a derelict vessel is not required to mail a copy of the
1726 notice by certified mail, return receipt requested, to the
1727 owner. If, at the end of 5 days after posting the notice and
1728 mailing such notice, if required, the owner or any person
1729 interested in the lost or abandoned article or articles
1730 described has not removed the article or articles from public
1731 property or shown reasonable cause for failure to do so, the
1732 following shall apply:

1733 (a) For abandoned property, the law enforcement agency may
1734 retain any or all of the property for its own use or for use by
1735 the state or unit of local government, trade such property to
1736 another unit of local government or state agency, donate the
1737 property to a charitable organization, sell the property, or
1738 notify the appropriate refuse removal service.

1739 (b) For lost property, the officer shall take custody and
1740 the agency shall retain custody of the property for 90 days. The

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1741 agency shall publish notice of the intended disposition of the
1742 property, as provided in this section, during the first 45 days
1743 of this time period.

1744 1. If the agency elects to retain the property for use by
1745 the unit of government, donate the property to a charitable
1746 organization, surrender such property to the finder, sell the
1747 property, or trade the property to another unit of local
1748 government or state agency, notice of such election shall be
1749 given by an advertisement published once a week for 2
1750 consecutive weeks in a newspaper of general circulation in the
1751 county where the property was found if the value of the property
1752 is more than \$100. If the value of the property is \$100 or less,
1753 notice shall be given by posting a description of the property
1754 at the law enforcement agency where the property was turned in.
1755 The notice must be posted for not less than 2 consecutive weeks
1756 in a public place designated by the law enforcement agency. The
1757 notice must describe the property in a manner reasonably
1758 adequate to permit the rightful owner of the property to claim
1759 it.

1760 2. If the agency elects to sell the property, it must do so
1761 at public sale by competitive bidding. Notice of the time and
1762 place of the sale shall be given by an advertisement of the sale
1763 published once a week for 2 consecutive weeks in a newspaper of
1764 general circulation in the county where the sale is to be held.
1765 The notice shall include a statement that the sale shall be
1766 subject to any and all liens. The sale must be held at the
1767 nearest suitable place to that where the lost or abandoned
1768 property is held or stored. The advertisement must include a
1769 description of the goods and the time and place of the sale. The

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1770 sale may take place no earlier than 10 days after the final
1771 publication. If there is no newspaper of general circulation in
1772 the county where the sale is to be held, the advertisement shall
1773 be posted at the door of the courthouse and at three other
1774 public places in the county at least 10 days prior to sale.
1775 Notice of the agency's intended disposition shall describe the
1776 property in a manner reasonably adequate to permit the rightful
1777 owner of the property to identify it.

1778 Section 30. Paragraph (c) of subsection (2) of section
1779 721.08, Florida Statutes, is amended to read:

1780 721.08 Escrow accounts; nondisturbance instruments;
1781 alternate security arrangements; transfer of legal title.—

1782 (2) One hundred percent of all funds or other property
1783 which is received from or on behalf of purchasers of the
1784 timeshare plan or timeshare interest prior to the occurrence of
1785 events required in this subsection shall be deposited pursuant
1786 to an escrow agreement approved by the division. The funds or
1787 other property may be released from escrow only as follows:

1788 (c) *Compliance with conditions.*—

1789 1. Timeshare licenses.—If the timeshare plan is one in
1790 which timeshare licenses are to be sold and no cancellation or
1791 default has occurred, the escrow agent may release the escrowed
1792 funds or other property to or on the order of the developer upon
1793 presentation of:

1794 a. An affidavit by the developer that all of the following
1795 conditions have been met:

1796 (I) Expiration of the cancellation period.

1797 (II) Completion of construction.

1798 (III) Closing.

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1799 (IV) Either:

1800 (A) Execution, delivery, and recordation by each
1801 interestholder of the nondisturbance and notice to creditors
1802 instrument, as described in this section; or

1803 (B) Transfer by the developer of legal title to the subject
1804 accommodations and facilities, or all use rights therein, into a
1805 trust satisfying the requirements of subparagraph 4. and the
1806 execution, delivery, and recordation by each other
1807 interestholder of the nondisturbance and notice to creditors
1808 instrument, as described in this section.

1809 b. A certified copy of each recorded nondisturbance and
1810 notice to creditors instrument.

1811 c. One of the following:

1812 (I) A copy of a memorandum of agreement, as defined in s.
1813 721.05, together with satisfactory evidence that the original
1814 memorandum of agreement has been irretrievably delivered for
1815 recording to the appropriate official responsible for
1816 maintaining the public records in the county in which the
1817 subject accommodations and facilities are located. The original
1818 memorandum of agreement must be recorded within 180 days after
1819 the date on which the purchaser executed her or his purchase
1820 agreement.

1821 (II) A notice delivered for recording to the appropriate
1822 official responsible for maintaining the public records in each
1823 county in which the subject accommodations and facilities are
1824 located notifying all persons of the identity of an independent
1825 escrow agent or trustee satisfying the requirements of
1826 subparagraph 4. that shall maintain separate books and records,
1827 in accordance with good accounting practices, for the timeshare

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1828 plan in which timeshare licenses are to be sold. The books and
1829 records shall indicate each accommodation and facility that is
1830 subject to such a timeshare plan and each purchaser of a
1831 timeshare license in the timeshare plan.

1832 2. Timeshare estates.—If the timeshare plan is one in which
1833 timeshare estates are to be sold and no cancellation or default
1834 has occurred, the escrow agent may release the escrowed funds or
1835 other property to or on the order of the developer upon
1836 presentation of:

1837 a. An affidavit by the developer that all of the following
1838 conditions have been met:

1839 (I) Expiration of the cancellation period.

1840 (II) Completion of construction.

1841 (III) Closing.

1842 b. If the timeshare estate is sold by agreement for deed, a
1843 certified copy of the recorded nondisturbance and notice to
1844 creditors instrument, as described in this section.

1845 c. Evidence that each accommodation and facility:

1846 (I) Is free and clear of the claims of any interestholders,
1847 other than the claims of interestholders that, through a
1848 recorded instrument, are irrevocably made subject to the
1849 timeshare instrument and the use rights of purchasers made
1850 available through the timeshare instrument;

1851 (II) Is the subject of a recorded nondisturbance and notice
1852 to creditors instrument that complies with subsection (3) and s.
1853 721.17; or

1854 (III) Has been transferred into a trust satisfying the
1855 requirements of subparagraph 4.

1856 d. Evidence that the timeshare estate:

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1857 (I) Is free and clear of the claims of any interestholders,
1858 other than the claims of interestholders that, through a
1859 recorded instrument, are irrevocably made subject to the
1860 timeshare instrument and the use rights of purchasers made
1861 available through the timeshare instrument; or

1862 (II) Is the subject of a recorded nondisturbance and notice
1863 to creditors instrument that complies with subsection (3) and s.
1864 721.17.

1865 3. Personal property timeshare interests.—If the timeshare
1866 plan is one in which personal property timeshare interests are
1867 to be sold and no cancellation or default has occurred, the
1868 escrow agent may release the escrowed funds or other property to
1869 or on the order of the developer upon presentation of:

1870 a. An affidavit by the developer that all of the following
1871 conditions have been met:

1872 (I) Expiration of the cancellation period.

1873 (II) Completion of construction.

1874 (III) Closing.

1875 b. If the personal property timeshare interest is sold by
1876 agreement for transfer, evidence that the agreement for transfer
1877 complies fully with s. 721.06 and this section.

1878 c. Evidence that one of the following has occurred:

1879 (I) Transfer by the owner of the underlying personal
1880 property of legal title to the subject accommodations and
1881 facilities or all use rights therein into a trust satisfying the
1882 requirements of subparagraph 4.; or

1883 (II) Transfer by the owner of the underlying personal
1884 property of legal title to the subject accommodations and
1885 facilities or all use rights therein into an owners' association

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1886 satisfying the requirements of subparagraph 5.

1887 d. Evidence of compliance with the provisions of
1888 subparagraph 6., if required.

1889 e. If a personal property timeshare plan is created with
1890 respect to accommodations and facilities that are located on or
1891 in an oceangoing vessel, including a "documented vessel" or a
1892 "foreign vessel," as defined and governed by 46 U.S.C. chapter
1893 301:

1894 (I) In making the transfer required in sub-subparagraph c.,
1895 the developer shall use as its transfer instrument a document
1896 that establishes and protects the continuance of the use rights
1897 in the subject accommodations and facilities in a manner that is
1898 enforceable by the trust or owners' association.

1899 (II) The transfer instrument shall comply fully with the
1900 provisions of this chapter, shall be part of the timeshare
1901 instrument, and shall contain specific provisions that:

1902 (A) Prohibit the vessel owner, the developer, any manager
1903 or operator of the vessel, the owners' association or the
1904 trustee, the managing entity, or any other person from incurring
1905 any liens against the vessel except for liens that are required
1906 for the operation and upkeep of the vessel, including liens for
1907 fuel expenditures, repairs, crews' wages, and salvage, and
1908 except as provided in sub-sub-subparagraphs 4.b.(III) and
1909 5.b.(III). All expenses, fees, and taxes properly incurred in
1910 connection with the creation, satisfaction, and discharge of any
1911 such permitted lien, or a prorated portion thereof if less than
1912 all of the accommodations on the vessel are subject to the
1913 timeshare plan, shall be common expenses of the timeshare plan.

1914 (B) Grant a lien against the vessel in favor of the owners'

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1915 association or trustee to secure the full and faithful
1916 performance of the vessel owner and developer of all of their
1917 obligations to the purchasers.

1918 (C) Establish governing law in a jurisdiction that
1919 recognizes and will enforce the timeshare instrument and the
1920 laws of the jurisdiction of registry of the vessel.

1921 (D) Require that a description of the use rights of
1922 purchasers be posted and displayed on the vessel in a manner
1923 that will give notice of such rights to any party examining the
1924 vessel. This notice must identify the owners' association or
1925 trustee and include a statement disclosing the limitation on
1926 incurring liens against the vessel described in sub-sub-sub-
1927 subparagraph (A).

1928 (E) Include the nondisturbance and notice to creditors
1929 instrument for the vessel owner and any other interestholders.

1930 (F) The owners' association created under subparagraph 5.
1931 or trustee created under subparagraph 4. shall have access to
1932 any certificates of classification in accordance with the
1933 timeshare instrument.

1934 (III) If the vessel is a foreign vessel, the vessel must be
1935 registered in a jurisdiction that permits a filing evidencing
1936 the use rights of purchasers in the subject accommodations and
1937 facilities, offers protection for such use rights against
1938 unfiled and inferior claims, and recognizes the document or
1939 instrument creating such use rights as a lien against the
1940 vessel.

1941 (IV) In addition to the disclosures required by s.
1942 721.07(5), the public offering statement and purchase contract
1943 must contain a disclosure in conspicuous type in substantially

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1944 the following form:

1945
1946 *The laws of the State of Florida govern the offering of this*
1947 *timeshare plan in this state. There are inherent risks in*
1948 *purchasing a timeshare interest in this timeshare plan because*
1949 *the accommodations and facilities of the timeshare plan are*
1950 *located on a vessel that will sail into international waters and*
1951 *into waters governed by many different jurisdictions. Therefore,*
1952 *the laws of the State of Florida cannot fully protect your*
1953 *purchase of an interest in this timeshare plan. Specifically,*
1954 *management and operational issues may need to be addressed in*
1955 *the jurisdiction in which the vessel is registered, which is*
1956 *(insert jurisdiction in which vessel is registered). Concerns of*
1957 *purchasers may be sent to (insert name of applicable regulatory*
1958 *agency and address).*

1959
1960 4. Trust.—

1961 a. If the subject accommodations or facilities, or all use
1962 rights therein, are to be transferred into a trust in order to
1963 comply with this paragraph, such transfer shall take place
1964 pursuant to this subparagraph. If the accommodations or
1965 facilities included in such transfer are subject to a lease, the
1966 unexpired term of the lease must be disclosed as the term of the
1967 timeshare plan pursuant to s. 721.07(5)(f)4.

1968 b. Prior to the transfer of the subject accommodations and
1969 facilities, or all use rights therein, to a trust, any lien or
1970 other encumbrance against such accommodations and facilities, or
1971 use rights therein, shall be made subject to a nondisturbance
1972 and notice to creditors instrument pursuant to subsection (3).

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1973 No transfer pursuant to this subparagraph shall become effective
1974 until the trustee accepts such transfer and the responsibilities
1975 set forth herein. A trust established pursuant to this
1976 subparagraph shall comply with the following provisions:

1977 (I) The trustee shall be an individual or a business entity
1978 authorized and qualified to conduct trust business in this
1979 state. Any corporation authorized to do business in this state
1980 may act as trustee in connection with a timeshare plan pursuant
1981 to this chapter. The trustee must be independent from any
1982 developer or managing entity of the timeshare plan or any
1983 interestholder of any accommodation or facility of such plan.

1984 (II) The trust shall be irrevocable so long as any
1985 purchaser has a right to occupy any portion of the timeshare
1986 property pursuant to the timeshare plan.

1987 (III) The trustee shall not convey, hypothecate, mortgage,
1988 assign, lease, or otherwise transfer or encumber in any fashion
1989 any interest in or portion of the timeshare property with
1990 respect to which any purchaser has a right of use or occupancy
1991 unless the timeshare plan is terminated pursuant to the
1992 timeshare instrument, or such conveyance, hypothecation,
1993 mortgage, assignment, lease, transfer, or encumbrance is
1994 approved by a vote of two-thirds of all voting interests of the
1995 timeshare plan. Subject to s. 721.552, a vote of the voting
1996 interests of the timeshare plan is not required for substitution
1997 or automatic deletion of accommodations or facilities.

1998 (IV) All purchasers of the timeshare plan or the owners'
1999 association of the timeshare plan shall be the express
2000 beneficiaries of the trust. The trustee shall act as a fiduciary
2001 to the beneficiaries of the trust. The personal liability of the

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2002 trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
2003 and 736.1015. The agreement establishing the trust shall set
2004 forth the duties of the trustee. The trustee shall be required
2005 to furnish promptly to the division upon request a copy of the
2006 complete list of the names and addresses of the owners in the
2007 timeshare plan and a copy of any other books and records of the
2008 timeshare plan required to be maintained pursuant to s. 721.13
2009 that are in the possession, custody, or control of the trustee.
2010 All expenses reasonably incurred by the trustee in the
2011 performance of its duties, together with any reasonable
2012 compensation of the trustee, shall be common expenses of the
2013 timeshare plan.

2014 (V) The trustee shall not resign upon less than 90 days'
2015 prior written notice to the managing entity and the division. No
2016 resignation shall become effective until a substitute trustee,
2017 approved by the division, is appointed by the managing entity
2018 and accepts the appointment.

2019 (VI) The documents establishing the trust arrangement shall
2020 constitute a part of the timeshare instrument.

2021 (VII) For trusts holding property in a timeshare plan
2022 located outside this state, the trust and trustee holding such
2023 property shall be deemed in compliance with the requirements of
2024 this subparagraph if such trust and trustee are authorized and
2025 qualified to conduct trust business under the laws of such
2026 jurisdiction and the agreement or law governing such trust
2027 arrangement provides substantially similar protections for the
2028 purchaser as are required in this subparagraph for trusts
2029 holding property in a timeshare plan in this state.

2030 (VIII) The trustee shall have appointed a registered agent

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2031 in this state for service of process. In the event such a
2032 registered agent is not appointed, service of process may be
2033 served pursuant to s. 721.265.

2034 5. Owners' association.—

2035 a. If the subject accommodations or facilities, or all use
2036 rights therein, are to be transferred into an owners'
2037 association in order to comply with this paragraph, such
2038 transfer shall take place pursuant to this subparagraph.

2039 b. Before the transfer of the subject accommodations and
2040 facilities, or all use rights therein, to an owners'
2041 association, any lien or other encumbrance against such
2042 accommodations and facilities, or use rights therein, shall be
2043 made subject to a nondisturbance and notice to creditors
2044 instrument pursuant to subsection (3). No transfer pursuant to
2045 this subparagraph shall become effective until the owners'
2046 association accepts such transfer and the responsibilities set
2047 forth herein. An owners' association established pursuant to
2048 this subparagraph shall comply with the following provisions:

2049 (I) The owners' association shall be a business entity
2050 authorized and qualified to conduct business in this state.
2051 Control of the board of directors of the owners' association
2052 must be independent from any developer or managing entity of the
2053 timeshare plan or any interestholder.

2054 (II) The bylaws of the owners' association shall provide
2055 that the corporation may not be voluntarily dissolved without
2056 the unanimous vote of all owners of personal property timeshare
2057 interests so long as any purchaser has a right to occupy any
2058 portion of the timeshare property pursuant to the timeshare
2059 plan.

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2060 (III) The owners' association shall not convey,
2061 hypothecate, mortgage, assign, lease, or otherwise transfer or
2062 encumber in any fashion any interest in or portion of the
2063 timeshare property with respect to which any purchaser has a
2064 right of use or occupancy, unless the timeshare plan is
2065 terminated pursuant to the timeshare instrument, or unless such
2066 conveyance, hypothecation, mortgage, assignment, lease,
2067 transfer, or encumbrance is approved by a vote of two-thirds of
2068 all voting interests of the association and such decision is
2069 declared by a court of competent jurisdiction to be in the best
2070 interests of the purchasers of the timeshare plan. The owners'
2071 association shall notify the division in writing within 10 days
2072 after receiving notice of the filing of any petition relating to
2073 obtaining such a court order. The division shall have standing
2074 to advise the court of the division's interpretation of the
2075 statute as it relates to the petition.

2076 (IV) All purchasers of the timeshare plan shall be members
2077 of the owners' association and shall be entitled to vote on
2078 matters requiring a vote of the owners' association as provided
2079 in this chapter or the timeshare instrument. The owners'
2080 association shall act as a fiduciary to the purchasers of the
2081 timeshare plan. The articles of incorporation establishing the
2082 owners' association shall set forth the duties of the owners'
2083 association. All expenses reasonably incurred by the owners'
2084 association in the performance of its duties, together with any
2085 reasonable compensation of the officers or directors of the
2086 owners' association, shall be common expenses of the timeshare
2087 plan.

2088 (V) The documents establishing the owners' association

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2089 shall constitute a part of the timeshare instrument.

2090 (VI) For owners' associations holding property in a
2091 timeshare plan located outside this state, the owners'
2092 association holding such property shall be deemed in compliance
2093 with the requirements of this subparagraph if such owners'
2094 association is authorized and qualified to conduct owners'
2095 association business under the laws of such jurisdiction and the
2096 agreement or law governing such arrangement provides
2097 substantially similar protections for the purchaser as are
2098 required in this subparagraph for owners' associations holding
2099 property in a timeshare plan in this state.

2100 (VII) The owners' association shall have appointed a
2101 registered agent in this state for service of process. In the
2102 event such a registered agent cannot be located, service of
2103 process may be made pursuant to s. 721.265.

2104 6. Personal property subject to certificate of title.—If
2105 any personal property that is an accommodation or facility of a
2106 timeshare plan is subject to a certificate of title in this
2107 state pursuant to chapter 319 or chapter 328, the following
2108 notation must be made on such certificate of title pursuant to
2109 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2110
2111 *The further transfer or encumbrance of the property subject to*
2112 *this certificate of title, or any lien or encumbrance thereon,*
2113 *is subject to the requirements of section 721.17, Florida*
2114 *Statutes, and the transferee or lienor agrees to be bound by all*
2115 *of the obligations set forth therein.*

2116
2117 7. If the developer has previously provided a certified

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2118 copy of any document required by this paragraph, she or he may
2119 for all subsequent disbursements substitute a true and correct
2120 copy of the certified copy, provided no changes to the document
2121 have been made or are required to be made.

2122 8. In the event that use rights relating to an
2123 accommodation or facility are transferred into a trust pursuant
2124 to subparagraph 4. or into an owners' association pursuant to
2125 subparagraph 5., all other interestholders, including the owner
2126 of the underlying fee or underlying personal property, must
2127 execute a nondisturbance and notice to creditors instrument
2128 pursuant to subsection (3).

2129 Section 31. (1) The rights, duties, and interests flowing
2130 from a transaction, certificate of title, or record relating to
2131 a vessel which was validly entered into or created before the
2132 effective date of this act and would be subject to this act if
2133 it had been entered into or created on or after the effective
2134 date of this act remain valid on and after the effective date of
2135 this act.

2136 (2) This act does not affect an action or a proceeding
2137 commenced before the effective date of this act.

2138 (3) Except as otherwise provided in subsection (4), a
2139 security interest that is enforceable immediately before the
2140 effective date of this act and would have priority over the
2141 rights of a person who becomes a lien creditor at that time is a
2142 perfected security interest under this act.

2143 (4) A security interest perfected immediately before the
2144 effective date of this act remains perfected until the earlier
2145 of:

2146 (a) The time perfection would have ceased under the law

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2147 under which the security interest was perfected; or
2148 (b) Three years after the effective date of this act.
2149 (5) This act does not affect the priority of a security
2150 interest in a vessel if immediately before the effective date of
2151 this act the security interest is enforceable and perfected, and
2152 that priority is established.

2153 Section 32. Subject to section 31 of this act, this act
2154 applies to any transaction, certificate of title, or record
2155 relating to a vessel, even if the transaction, certificate of
2156 title, or record was entered into or created before the
2157 effective date of this act.

2158 Section 33. This act shall take effect July 1, 2023.

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 676

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Infrastructure and Security Committee; and Senator Hooper

SUBJECT: Certificates of Title for Vessels

DATE: April 19, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Fav/CS
2.	Wells	Hrdlicka	ATD	Recommend: Fav/CS
3.	Wells	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 676 incorporates the Uniform Certificate of Title for Vessels Act into Florida's existing vessel titling and lien law. The bill contains numerous revisions to current title application requirements, revises information that must be included on a certificate of title for a vessel, provides for the perfection of security interests in a vessel and for the rights of a secured party, provides requirements for the transfer of ownership in a vessel, and revises various duties and responsibilities of the Department of Highway Safety and Motor Vehicles (DHSMV) with respect to titling of vessels.

Generally, the bill:

- Provides requirements for applications for certificates of titles for vessels, including their detailed content, and provides exceptions from the requirement to apply for a certificate.
- Provides responsibilities of an owner and insurer of a hull-damaged vessel and of the DHSMV when creating a certificate of title.
- Specifies that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel, but nothing prohibits enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel.
- Provides the DHSMV with duties relating to the creation, issuance, refusal to issue, or cancellation of a certificate of title, and provides additional requirements for obtaining a duplicate certificate of title.

- Sets out requirements for the determination and perfection of a security interest in a vessel and for the delivery of a statement of the termination of a security interest.
- Provides for the rights of a purchaser of a vessel who is not a secured party and for the rights of a purchaser who is a secured party.
- Specifies circumstances by which the DHSMV may create a new certificate of title after the receipt of an application for a transfer of ownership or termination of a security interest, without the applicant providing a certificate of title.
- Provides requirements for the voluntary transfer of vessel title ownership, transfer by a secured party, and transfer by operation of law.
- Applies the bill to any transaction, certificate of title, or record relating to a vessel entered into or created before July 1, 2023, but provides for certain exceptions.

The bill will have an insignificant fiscal impact on the DHSMV, which will be absorbed within existing resources. The bill has an indeterminate, but possibly neutral impact to the Marine Resources Conservation Trust Fund of the Fish and Wildlife Conservation Commission.

The bill takes effect July 1, 2023.

II. Present Situation:

Uniform Law Commission

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, is a body “appointed by state governments as well as the District of Columbia, Puerto Rico[,] and the U.S. Virgin Islands to research, draft[,] and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.”¹ The ULC aims to strengthen the federal system by providing rules and procedures that are consistent from state to state.

Uniform Certificate of Title for Vessels Act

The Uniform Certificate of Title for Vessels Act was drafted by the ULC in 2011.² The principal objectives of the act are to:

- Qualify as a state titling law that the Coast Guard will approve;
- Facilitate transfers of ownership of a vessel;
- Deter and impede the theft of vessels by making information about the ownership of vessels available to both government officials and those interested in acquiring an interest in a vessel;
- Accommodate existing financing arrangements for vessels;
- Work seamlessly with the Uniform Commercial Code;
- Manage, to the extent possible, the complications that can arise from a vessel’s transition in or out of federal documentation;
- Provide clear rules on the consequences of compliance or noncompliance;

¹ Uniform Law Commission, *About Us*, available at <http://www.uniformlaws.org/aboutulc/overview> (last viewed March 28, 2019).

² See National Conference of Commissioners on Uniform State Laws, *Uniform Certificate of Title for Vessels Act*, at p. 2, available at http://www.lawrev.state.nj.us/UCOTVA/UCOTVA_FinalAct_2011.pdf (last viewed March 28, 2019).

- Impose minimal or no new burdens or costs on state titling offices; and
- Protect buyers and others acquiring an interest in an undocumented vessel by requiring that the title for the vessel be branded if a casualty or sinking has caused significant damage to the vessel's hull integrity.

The uniform act has been enacted in Virginia (2013), Connecticut (2014), Washington D.C. (2015), and Hawaii (2018).³

Vessel Titling in Florida

The bill substantially revises part I of ch. 328, F.S., related to titling for vessels. For ease of organization and readability, the present situation for each section of the bill is discussed in conjunction with the effect of proposed changes.

III. Effect of Proposed Changes:

The bill revises current law by enacting the Uniform Certificate of Title for Vessels Act. **Section 1** of the bill creates s. 328.001, F.S., providing the short title for part I of ch. 328, F.S., the "Uniform Certificate of Title for Vessels Act." **Section 2** of the bill creates s. 328.0015, F.S., to establish definitions for terms used in the uniform act.

The bill defines a "vessel" to mean a watercraft used or capable of being used as a means of transportation on water, *except*:

- A seaplane;
- An amphibious vehicle for which a certificate of title is issued pursuant to chapter 319, F.S. or a similar statute of another state;
- A nonmotor-powered watercraft less than 16 feet in length;
- Watercraft that operate only on a permanently fixed, manufactured course and the movement of which is restricted to or guided by means of a mechanical device to which the watercraft is attached or by which the watercraft is controlled;
- A stationary floating structure that:
 - Does not have and is not designed to have a mode of propulsion of its own;
 - Is dependent for utilities upon a continuous utility hookup to a source originating on shore; and
 - Has a permanent, continuous hookup to a shoreside sewage system.
- Watercraft owned by the United States, a state, or a foreign government, or a political subdivision of either; and
- Watercraft used solely as a lifeboat on another watercraft.

³ See Uniform Law Commission, *Certificate of Title for Vessels Act*, table entitled "Legislation," available at <https://www.uniformlaws.org/committees/community-home?CommunityKey=61fb3255-092e-4e91-982b-6fa1ae66fd82> (last viewed March 29, 2019).

Application for Certificate of Title

Present Situation

An owner of a vessel that is required to be titled must apply to the DHSMV or county tax collector for a certificate of title. The application⁴ must be signed by the owner and include the:

- True name of the owner;
- Address of the owner;
- Hull identification number; and
- Complete description of the vessel.

The owner must provide valid identification and pay the prescribed fee.⁵

An original copy of the manufacturer's statement of origin for the vessel must be submitted with the application for title of a manufactured vessel sold in Florida. The owner of a manufactured vessel initially sold outside of Florida must provide an original copy of the manufacturer's statement of origin, or the original copy of the executed bill of sale, and the most recent certificate of registration for the vessel.⁶

The owner of a homemade vessel must establish proof of ownership by submitting with the application a notarized statement of the builder (if the vessel is less than 16 feet in length) or a certificate of inspection from the Fish and Wildlife Conservation Commission and a notarized statement of the builder (if the vessel is 16 feet or more in length).⁷

The owner of a non-titled vessel registered outside of Florida must establish proof of ownership by surrendering the original copy of the most current certificate of registration issued by the other state or country.⁸ If a vessel is titled in another state or country, the DHSMV will not issue a Florida title until all existing titles are surrendered to the DHSMV.⁹

In making application for a title upon transfer of ownership of a vessel, the new owner must surrender a properly executed last title document issued for that vessel. If a lien exists and the application for transfer of title is based upon a contractual default, the recorded lienholder must establish proof of right to ownership by submitting with the application the original certificate of title and a copy of the applicable contract upon which the claim of ownership is made. If the claim is based upon a court order or judgment, a copy of such document must accompany the application for transfer of title. If there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien.¹⁰

In making application for transfer of title from a deceased titled owner, the new owner or surviving co-owner must establish proof of ownership by submitting with the application the

⁴ Department of Highway Safety and Motor Vehicles, *Application for Certificate of Title With/Without Registration*, HSMV 82040, Revised November 2015, available at <https://www.flhsmv.gov/dmv/forms/btr/82040.pdf> (last viewed March 28, 2019).

⁵ Section 328.01(1)(a), F.S.

⁶ Section 328.01(2)(a) and (b), F.S.

⁷ Section 328.01(2)(c), F.S.

⁸ Section 328.01(2)(d), F.S.

⁹ Section 328.01(2)(e), F.S.

¹⁰ Section 328.01(3)(a) and (b), F.S.

original certificate of title and the decedent's probated last will or letters of administration appointing the personal representative of the decedent. In lieu of a probated last will and testament or letters of administration, a copy of the decedent's death certificate, a copy of the decedent's last will and testament, and an affidavit by the decedent's surviving spouse or heirs affirming rights of ownership may be accepted by the DHSMV.¹¹

An owner who has made a valid sale or transfer of a vessel and has delivered possession to a purchaser will not be considered the owner of the vessel and subject to civil liability for the operation of the vessel as long as the owner has surrendered the properly endorsed certificate of title to the DHSMV.¹²

Effect of Proposed Changes

Section 3 amends s. 328.01, F.S., providing that with certain newly created and amended statutory exceptions (discussed below), only an owner ("a person who has legal title to a vessel") may apply for a certificate of title.

The bill requires that an application for certificate of title must be signed by the applicant and contain the following information:

- The applicant's name, street address, and, if different, mailing address;
- The name and mailing address of each other owner of the vessel;
- The hull identification number for the vessel or, if none, an application for the issuance of a hull identification number for the vessel;
- The vessel number for the vessel or, if none issued by the DHSMV, an application for a vessel number;
- A description of the vessel, which must include:
 - The official number for the vessel, if any, assigned by the United States Coast Guard;
 - The name of the manufacturer, builder, or maker;
 - The model year or in which year the vessel was completed;
 - The overall length of the vessel;
 - The vessel type;
 - The hull material;
 - The propulsion type;
 - The engine drive type, if any; and
 - The fuel type, if any;
- The name and mailing address of any party with a security interest in the vessel;
- A statement that the vessel is not a documented vessel or a foreign-documented vessel;
- Any title brand¹³ known to the applicant and, if known, the jurisdiction under whose law the title brand was created;
- A statement that the vessel is hull damaged,¹⁴ if applicable;

¹¹ Section 328.01(3)(c), F.S.

¹² Section 328.01(3)(d), F.S.

¹³ The bill defines "title brand" as a designation of previous damage, use, or condition that must be indicated on a certificate of title.

¹⁴ The bill defines "hull damaged" as compromised with respect to the integrity of a vessel's hull by a collision, allision, lightning strike, fire, explosion, running aground, or similar occurrence, or the sinking of a vessel in a manner that creates a significant risk to the integrity of the vessel's hull.

- If the application is made in connection with a transfer of ownership, the transferor's name, street address, and, if different, mailing address, the sales price if any, and the date of the transfer; and
- If the vessel was previously registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the vessel was registered or titled.

Additionally, the application may include an electronic address for the owner, transferor, or secured party.

The application for certificate of title must be accompanied by:

- A certificate of title signed by the owner shown on the certificate and that:
 - Identifies the applicant as the owner of the vessel; or
 - Is accompanied by a record that identifies the applicant as the owner; or
- If there is no certificate of title:
 - If the vessel was a documented vessel, a record issued by the United States Coast Guard which shows the vessel is no longer a documented vessel and identifies the applicant as the owner;
 - If the vessel was a foreign-documented vessel, a record issued by the foreign country which shows the vessel is no longer a foreign-documented vessel and identifies the applicant as the owner; or
 - In all other cases, a certificate of origin,¹⁵ bill of sale, or other record that to the satisfaction of the DHSMV identifies the applicant as the owner.

The bill requires the DHSMV to maintain any records submitted in connection with an application, and authorizes the DHSMV to require an application for a certificate of title to be accompanied by payment of all fees and taxes by the applicant.

The bill repeals provisions related to registration of homemade vessels. The bill also repeals provisions related to nontitled vessels, vessels titled in other jurisdictions, vessels documented by the federal government, and transfer of ownership, including from a deceased owner, that may be covered by the more extensive application requirements created by the bill.

DHSMV Records

Effect of Proposed Changes

Section 4 creates s. 328.015, F.S., to require the DHSMV to retain the evidence used to establish the accuracy of the information in its files relating to the current ownership of a vessel and the information on the certificate of title. The DHSMV must retain all information, by hull identification number, regarding a security interest in a vessel for at least 10 years after the DHSMV receives a termination statement regarding the security interest.

¹⁵ The bill defines "certificate of origin" as a record created by a manufacturer or importer as the manufacturer's or importer's proof of identity of a vessel. The term includes a manufacturer's certificate or statement of origin and an importer's certificate or statement of origin. The term does not include a builder's certificate.

A person¹⁶ who submits a record to the DHSMV may request an acknowledgement of the filing by the DHSMV. The acknowledgment from the DHSMV must show the hull identification number, the information in the filed record, and the date and time the record was received by or the submission was accepted by the DHSMV.

The DHSMV must send the following information to any person who requests it and pays a fee:¹⁷

- Whether the DHSMV's files indicate, as of the a date specified by the DHSMV but no earlier than three days before the request is received, a copy of any certificate of title, security interest, termination statement, or title brand that relates to a vessel;
 - Identified by a hull identification number designated in the request;
 - Identified by a vessel number designated in the request; or
 - Owned by a person designated in the request.
- With respect to the vessel:
 - The name and address of any owner and the secured party as indicated in the DHSMV's files;
 - A copy of any termination statement indicated in the DHSMV's files and the statement's effective date; and
 - A copy of any certificate of origin, secured party transfer statement, transfer-by-law statement, and other evidence of previous or current transfers of ownership.

The DHSMV must, upon request, send the requested information in a record that is self-authenticating.

Governing Vessel Law

Effect of Proposed Changes

Section 5 creates s. 328.02, F.S., providing that the law of the state under whose certificate of title a vessel is covered governs all issues relating to the certificate from the time the vessel becomes covered by the certificate until the vessel becomes covered by another certificate, or becomes a documented vessel, even if no relationship exists between the jurisdiction and the vessel or its owner. A vessel becomes covered when an application and the applicable fee are delivered to the DHSMV or to the governmental agency that creates a certificate in another jurisdiction.

Certificate of Title Required

Present Situation

All vessels operated, used, or stored on the waters of Florida must be titled by the DHSMV unless the vessel is:

- A vessel operated, used, or stored exclusively on private lakes and ponds;

¹⁶ The bill defines the term "person" more broadly than under s. 1.01, F.S., to mean an individual, corporation, business trust, estate, trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

¹⁷ Currently, s. 320.05(3)(b), F.S., sets forth fees for photocopied and certified copies of records (ranging from 50 cents to \$3 per record, or \$1 per page). Fees are deposited into the Highway Safety Operating Trust Fund.

- A vessel owned by the United States Government;
- A non-motor-powered vessel less than 16 feet in length;
- A federally documented vessel;
- A vessel already covered by a registration number, if the vessel is not located in this state for a period in excess of 90 consecutive days;
- A vessel from a country other than the United States temporarily used, operated, or stored on the waters of this state for a period that is not in excess of 90 days;
- An amphibious vessel for which a vehicle title is issued by the DHSMV;
- A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; or
- A vessel owned and operated by the state or a political subdivision.¹⁸

A person may not operate, use, or store a vessel in Florida if the vessel has no certificate of title. However, a vessel may be operated, used, or stored for up to 180 days after the date of application for a certificate of title while the application is pending.¹⁹

When selling, assigning, or transferring a titled vessel, the seller must deliver a valid certificate of title to the purchaser. The purchaser has 30 days to file with the county tax collector an application for title transfer. The purchaser will be charged a \$10 fee for filing a transfer application after the 30-day period.²⁰ A certificate of title is prima facie evidence of the ownership of the vessel.²¹

Effect of Proposed Changes

Section 6 amends s. 328.03, F.S., requiring a vessel owner to deliver an application and fee for certificate of title for the vessel, not later than 30 days from the date of ownership or the date Florida becomes the state of principal use.

The bill creates new exceptions for titling vessels in Florida. An application for a certificate is not required for:

- A documented vessel;²²
- A foreign-documented vessel;
- A barge;
- A vessel before delivery if the vessel is under construction or completed pursuant to contract;
- A vessel held by a dealer for sale or lease; and
- A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer.

The bill repeals other current law exceptions because the definition of “vessel” created under the bill excludes certain vessels from the definition, and thus part I of ch. 328, F.S., no longer applies to them. This includes non-motor-powered vessels less than 16 feet in length; amphibious vessels

¹⁸ Section 328.03(1), F.S.

¹⁹ Section 328.03(2), F.S.

²⁰ Section 328.03(3), F.S.

²¹ Section 328.03(4), F.S.

²² The bill defines “documented vessel” as a vessel covered by a certificate of documentation issued pursuant to 46 USC 12105 by the federal government.

for which a vehicle title is issued by the DHSMV; and vessels owned and operated by the state or political subdivisions.

Additionally, the bill provides requirements for issuing, transferring, or renewing a certificate of number of an undocumented vessel issued under federal law.

The bill repeals the provisions providing that a vessel may be operated, used, or stored for up to 180 days after the date of application for a certificate of title while the application is pending; and the provisions providing that when selling, assigning, or transferring a titled vessel, the seller must deliver a valid certificate of title to the purchaser.

Lastly, the bill specifies that a certificate of title is not only prima facie evidence of the ownership of the vessel, but also of the accuracy of the information in the record that constitutes the certificate.

Content of the Certificate of Title

Effect of Proposed Changes

Section 7 creates s. 328.04, F.S., to provide requirements for the content of a certificate of title. A certificate must contain:

- The date the certificate was created;
- The name of the owner of record and, if not all owners are listed, an indication that there are additional owners indicated in the DHSMV's files;
- The mailing address of the owner of record;
- The hull identification number;
- A description of the vessel as required in s. 328.01(2)(e), F.S. (see above in discussion of Section 3 of the bill);
- The name and mailing address of the secured party of record, when applicable;
- All title brands indicated in the DHSMV's files, including identification of the jurisdiction under whose law the title brand was created; and
- Previous registration or title in a foreign county, if applicable.

The written certificate of title must contain a form and certification that all owners can sign, subject to penalties of perjury, to consent to a transfer of an ownership interest to another person. The written certificate of title must also contain a form for the owner of record to indicate that the vessel is hull damaged.

Title Brands for Hull-Damaged Vehicles

Effect of Proposed Changes

Section 8 creates s. 328.045, F.S., providing responsibilities of an owner and insurer of a hull-damaged vessel. If damage occurred to a vessel while the individual was the owner of the vessel and the owner has notice of the damage at the time of the transfer, the owner must:

- Deliver to the DHSMV an application for a new certificate and include the "Hull Damaged" title brand designation; or

- Indicate on the certificate that the vessel is hull damaged and deliver the certificate to the transferee.

Before an insurer transfers an ownership interest in a hull-damaged vessel that is covered by a certificate of title created by the DHSMV, the insurer must deliver an application to the DHSMV and include the title brand “Hull Damaged.”

Once the DHSMV receives the above information from an owner, transferee, or insurer, the DHSMV has 30 days to create a new certificate that includes the title brand designation “Hull Damaged.” An owner or insurer who fails to comply with the above disclosures or a person who solicits or colludes in a failure by an owner commits a noncriminal infraction under s. 327.73, F.S.,²³ for which the penalty is:

- \$5,000 for the first offense,
- \$15,000 for a second offense, and
- \$25,000 for each subsequent offense.

Maintenance and Access to Vessel Title Files

Effect of Proposed Changes

Section 9 creates s. 328.055, F.S., requiring the DHSMV to maintain the information contained in all certificates of title and the information submitted with the application. Specifically, the DHSMV must:

- Ascertain or assign the hull identification number for the vessel.
- Maintain the hull identification number and all the information submitted with the application, including the date and time the record was delivered to the DHSMV.
- Maintain in its files for each vessel:
 - All title brands;
 - The name of each secured party known to the DHSMV;
 - The name of each person known to the DHSMV to be claiming an ownership interest in the vessel; and
 - All stolen property reports received by the DHSMV.
- Index the files of the DHSMV by hull identification number, vessel number, name of the owner of record, and any other method used by the DHSMV.

The DHSMV is required to release the information in its files to federal, state, or local governments. The bill specifies that information contained on the certificate of title is a public record and that all records relating to a certificate of title must be maintained by the DHSMV for public inspection.

²³ This section of current law provides penalties for violations of the state’s vessel laws. All fees and civil penalties assessed and collected pursuant to s. 327.73, F.S., are remitted by the clerk of court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes.

Creation of Certificate of Title

Effect of Proposed Changes

Section 10 creates s. 328.06, F.S., setting forth responsibilities of the DHSMV when creating a certificate of title. On creation of a written or electronic certificate of title, the DHSMV must promptly send the certificate or record evidencing the certificate to the secured party or owner of record.

If the DHSMV creates a written certificate of title, any electronic certificate of title for the vessel is canceled and replaced by the written certificate.

Before the DHSMV creates an electronic certificate of title, any written certificate must be surrendered to the department. If the DHSMV creates an electronic certificate, the DHSMV must destroy the written certificate or provide on the face of the certificate that it has been canceled.

The DHSMV must maintain in its files the date and time of cancellation of the electronic certificate or destruction or cancellation of the written certificate.

Effect of Possession of Certificate of Title

Effect of Proposed Changes

Section 11 creates s. 328.065, F.S., specifying that possession of a certificate of title does not by itself provide a right to obtain possession of a vessel. Nothing prohibits enforcement of a security interest in, levy on, or foreclosure of a statutory or common-law lien on a vessel. Absence of an indication of such a lien on a certificate does not invalidate the lien.

Duties Relating to Refusal to Issue/Authority to Cancel a Certificate of Title or Registration

Present Situation

The DHSMV may refuse to issue a certificate of title or registration to any applicant who provides a false statement pertaining to the application for a certificate of title. If the DHSMV determines that an owner or dealer named in a certificate of title provided a false statement in applying for the certificate of title, the DHSMV may cancel the certificate.

The DHSMV may cancel any pending application or certificate of title if the DHSMV determines that any title or registration fee or sales tax pertaining to such registration has not been paid, upon reasonable notice. The DHSMV may not issue a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer under s. 823.11, F.S.²⁴

Effect of Proposed Changes

Section 12 substantially amends s. 328.09, F.S., providing the DHSMV with duties relating to the creation, issuance, refusal to issue, or cancellation of a certificate of title. Unless an

²⁴ Section 328.09, F.S.

application for a certificate of title is rejected, the DHSMV must create a certificate for the vessel no later than 30 days after delivery of the application to the DHSMV. If the DHSMV creates electronic certificates of title, then the DHSMV must create an electronic certificate of title unless the owner requests a written certificate.

The DHSMV may reject an application for a certificate of title only if:

- The application is not in compliance;
- The application does not contain sufficient documentation for the DHSMV to determine whether the applicant is entitled to a certificate;
- There is a reasonable basis for concluding that the application is fraudulent or issuance of a certificate would facilitate a fraudulent or illegal act;
- The application does not comply with Florida law; or
- The application is for a vessel that law enforcement has deemed derelict under s. 823.11, F.S.

If law enforcement has determined that a vessel is derelict, a law enforcement officer must notify the DHSMV in writing of the vessel's derelict status and supply the vessel title number or vessel identification number. When law enforcement has verified that the vessel is no longer considered derelict in writing to the DHSMV, then a certificate of title may be issued.

The DHSMV must reject an application for a certificate of title for a vessel that is a documented vessel or a foreign-documented vessel.

The DHSMV may cancel a created certificate of title only if the DHSMV:

- Could have rejected the application for the certificate;
- Is required to cancel the certificate under another provision of part I of ch. 328, F.S.; or
- Receives satisfactory evidence that the vessel is a documented vessel or a foreign-documented vessel.

Lastly, a DHSMV decision to reject an application for a certificate of title under this new section of law is subject to an administrative hearing during which the owner and any other interested person may present evidence in support of or opposition to the rejection of application for a certificate of title or the cancellation of a certificate of title.

Effect of Missing or Incorrect Information

Effect of Proposed Changes

Section 13 creates s. 328.101, F.S., specifying that a certificate of title is effective even if it contains unintended scrivener's errors or does not contain required information if the DHSMV determines the missing information to be inconsequential to the issuance of a certificate of title. This also applies to other records required or authorized by part I of ch. 328, F.S.

Duplicate Certificate of Title

Present Situation

The DHSMV may issue a duplicate certificate of title if it receives an application from the person entitled to hold such a certificate and if the DHSMV is satisfied that the original

certificate has been lost, destroyed, or mutilated. The fee for issuing a duplicate certificate is \$6 and additional \$5 for expedited service to issue a duplicate certificate of title.²⁵ The expedited service must issue the certificate within 5 working days after receipt of a proper application or the \$5 additional fee will be refunded upon written request of the applicant.

If the certificate is lost in transit and is not delivered to the addressee, the owner of the vessel or the holder of a lien may, within 180 days after the date of issuance of the title, apply to the DHSMV for reissuance of the certificate of title. An additional fee may not be charged by the DHSMV for this reissuance. If the address shown on the application is different from the address on record with the department for the applicant, then the DHSMV will verify that the certificate is delivered to an authorized receiver.²⁶

Effect of Proposed Changes

Section 14 amends s. 328.11, F.S., to provide additional requirements for obtaining a duplicate certificate of title. The bill also allows the owner of record to apply for a duplicate certificate of title if the document is stolen or otherwise becomes unavailable or illegible.

The secured party, or if there is no secured party indicated in the DHSMV files then the owner of record, may apply for a duplicate certificate of title and, by furnishing information satisfactory to the DHSMV, obtain a duplicate certificate in the name of the owner of record.

An applicant for a duplicate certificate of title must sign the application and comply with all requirements for title application. The application must include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed, or otherwise unavailable.

The bill provides that a duplicate certificate of title created by the DHSMV must comply with all the requirements for the contents of a certificate of title and must state on its face that it is a “duplicate.” If a person receiving a duplicate certificate of title finds the original certificate, the person must destroy the original certificate.

The bill does not change the fees for a duplicate certificate of title or for expedited service.

Lastly, the bill repeals the provision allowing an applicant for duplicate certificate of title to apply for reissuance of the certificate if the applicant has not received the duplicate title from the DHSMV within 180 days after the date of issuance of the certificate.

Perfection of Security Interest

Effect of Proposed Changes

Section 15 creates s. 328.12, F.S., providing requirements for the determination and perfection of a security interest in a vessel. A security interest in a vessel can be perfected by delivery of an application for a certificate of title to the DHSMV that identifies the secured party and otherwise complies with all application requirements.²⁷ An application identifies a person as a secured

²⁵ Section 328.11(1) and (2), F.S.

²⁶ Section 328.11(3) and (4), F.S.

²⁷ The security interest may also be perfected upon attachment under s. 679.2031, F.S.

party if a person named as an owner, lessor, consignor, or bailor in an application for a certificate of title has a security interest. The bill includes the Department of Revenue as a secured party when collecting unpaid child support.

The bill provides that if the DHSMV has created a certificate of title for a vessel, a security interest in the vessel may be perfected by delivery to the DHSMV of an application to have the security interest added to the certificate. The application must be signed by an owner of the vessel or by the secured party and must include:

- The name of the owner of record;
- The name and mailing address of the secured party;
- The hull identification number for the vessel; and
- The written certificate, if the DHSMV created a written certificate of title for the vessel.

On delivery of an application and payment of fees, the DHSMV must create a new certificate of title and deliver the new certificate or a record evidencing an electronic certificate. The DHSMV must maintain in its files the date and time of delivery of the application.

If a secured party assigns a perfected security interest in a vessel, the receipt by the DHSMV of a statement providing the name of the assignee as secured party is not required to continue the perfected status of the security interest. A purchaser of a vessel subject to a security interest who obtains a release from the secured party takes free of the security interest and of the rights of a transferee, unless the transfer is indicated in the files of the DHSMV or on the certificate.

Section 328.12, F.S., expressly does not apply to a security interest:

- Created in a vessel by a person during any period in which the vessel is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling vessels;
- In a barge for which no application for a certificate of title has been delivered to the DHSMV; or
- In a vessel before delivery if the vessel is under construction, or completed, pursuant to a contract and for which no application for a certificate has been delivered to the DHSMV.

However, the new section does apply if a certificate of documentation for a documented vessel is deleted or canceled. If such a security interest was valid immediately before the deletion or cancellation, then the security interest remains perfected until the earlier of 4 months after cancellation of the certificate or becomes perfected under this law.

The bill also contains provisions specifying when perfected security interests attach, depending on the law under which the security interest arises.

Termination Statement of a Security Interest

Effect of Proposed Changes

Section 16 creates s. 328.125, F.S., providing requirements for the delivery of a statement of the termination of a security interest. A secured party must deliver a termination statement to the DHSMV and, on the debtor's request, to the debtor, by the earlier of:

- Twenty days after the secured party receives a signed demand from an owner for a termination statement if there is no obligation secured by the vessel and no commitment to make an advance, incur an obligation, or otherwise give value secured by the vessel; or
- If the vessel is consumer goods, 30 days after there is no obligation secured by the vessel under the same conditions.

If a written certificate of title has been created and delivered to a secured party and a termination statement is required, the secured party must deliver the certificate to the debtor or to the DHSMV with the termination statement.

The security interest ceases to be perfected upon delivery to the DHSMV of a termination statement authorized by the secured party. If the security interest is indicated on the certificate of title, the DHSMV must create and deliver a new certificate. Additionally, the DHSMV must maintain in its files the date and time of delivery of the termination statement to the DHSMV.

Lastly, the bill provides that a secured party that fails to comply with the new section of law is liable for any loss that the secured party had reason to know might result from its lack of compliance and for the cost of an application for certificate of title.

Rights of a Purchaser Other Than Secured Party

Effect of Proposed Changes

Section 17, creates s. 328.14, F.S., providing rights of a purchaser of a vessel who is not a secured party. A buyer in the ordinary course of business is afforded protection under state law even if an existing certificate of title was not signed and delivered to the buyer or a new certificate listing the buyer as owner of record was not created.

Rights of Secured Party

Effect of Proposed Changes

Section 18 creates s. 328.145, F.S., providing rights of a secured party. The effect of a security interest on the rights of a purchaser or creditor, including a lien creditor, are governed by the Uniform Commercial Code.

If a security interest in a vessel is perfected and the DHSMV creates a certificate of title that does not indicate that the vessel is subject to, or may be subject to, the security interest:

- A buyer of the vessel takes free of the security interest if the buyer, without knowledge of the security interest, acts in good faith and pays for and receives possession of the vessel; and
- The security interest is subordinate to a conflicting security interest in the vessel that is perfected after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

Notice of Lien on Vessel and Recording

Present Situation

A lien for purchase money or as security for a debt in the form of a retain-title contract, conditional bill of sale, chattel mortgage, or otherwise on a vessel, is not enforceable unless a sworn notice of such lien is recorded. The lien certificate must contain the following information:

- Name and address of the registered owner;
- Date of lien;
- Description of the vessel, including make, type, motor, and serial number; and
- Name and address of lienholder.

The lien shall be recorded by the DHSMV.²⁸

The DHSMV will not record a lien unless the official certificate of title is furnished with the notice of lien. Once the lien is recorded, the certificate of title will be held by the first lien holder until the lien is paid in full.²⁹

When a vessel is registered in the names of two or more people by the use of the word “or” each person has the right to place a lien or notice of lien with only his or her signature. When the vessel is registered by the use of the word “and,” the signature of each co-owner is required in order to place a lien on the vessel.³⁰

If the owner of the vessel or the director of the state child support enforcement program desires to place a second or subsequent lien against the vessel when the title certificate is in the possession of the first lienholder, the owner must send a written request to the first lienholder by certified mail and the first lienholder must forward the certificate to the DHSMV for endorsement.³¹

Once the lien is paid in full, the lienholder must provide the owner with a satisfaction of lien, which will be filed with the DHSMV.³² The DHSMV may promulgate rules to substitute the formal satisfaction of liens.³³

The DHSMV may collect a fee of \$1 for the recording of each notice of lien, but no fee may be collected for recording the satisfaction of a lien. The revenues from this fee are deposited into the Marine Resources Conservation Trust Fund.³⁴

A lienholder holding a satisfied lien who fails to issue a satisfaction of the lien within 30 days of satisfaction will be held liable for all costs, damages, and expenses of the registered owner of the vessel. If the certificate of title shows a subsequent lien that has not been discharged, an executed

²⁸ Section 328.15(1), F.S.

²⁹ Section 328.15(2)(a), F.S.

³⁰ Section 328.15(2)(b), F.S.

³¹ Section 328.15(2)(c), F.S.

³² Section 328.15(3), F.S.

³³ Section 328.15(4), F.S.

³⁴ Section 328.15(6), F.S.

satisfaction of the first lien must be delivered by the lienholder to the owner and the certificate of title showing satisfaction of the first lien must be forwarded by the lienholder to the DHSMV within 10 days after satisfaction of the lien.³⁵ A lienholder who is noncompliant with the 10-day time period commits a misdemeanor of the second degree.³⁶ If the original certificate of title cannot be returned to the DHSMV by the lienholder, and all liens have been satisfied, upon application by the owner, a duplicate copy of the certificate of title without lien will be issued to the owner.³⁷ If the original lienholder assigns his or her lien to another person, the new lienholder may have his or her name substituted as lienholder.³⁸

Effect of Proposed Changes

Section 19 amends s. 328.15, F.S., to repeal provisions, some of which are modified in new statutes created by the bill, including the following:

- Requirements relating to enforceable liens and the content of lien certificates;
- Direction to the DHSMV regarding entry of a lien in its records;
- Provisions specifying the result of vessel registration in the names of two or more persons as co-owners using the conjunctives “or” and “and.”
- The process for second or subsequent liens placed on a vessel by the owner or by the state child support enforcement program.
- The \$1 fee to the DHSMV for recording each notice of lien.

The bill sunsets the following provisions of s. 328.15, F.S., on October 1, 2026:

- Authorization of a debtor or registered owner to demand and receive a satisfaction of lien.
- Provisions allowing the DHSMV to adopt rules permitting the use of other methods of lien satisfaction, such as a stamp.
- Assessment of liability for costs and attorney fees for failure to furnish a debtor or registered owner of a vessel a satisfaction of lien and related provisions governing satisfaction of liens.
- Authorization for duplicate certificates of title.
- Misdemeanor penalty for failure to return a certificate of title after demand by the DHSMV or for failure to forward satisfactions of lien after such demand.
- Requirement that the DHSMV use the last known address of record when sending any required notice.
- Provisions for substitution of an original lienholder’s name on the certificate of title by an assignee.

Transfer of Ownership or Termination of Security Interest Without Certain Records

Effect of Proposed Changes

Section 22 creates s. 328.215, F.S., specifying circumstances by which the DHSMV may create a new certificate of title after the receipt of an application for a transfer of ownership or termination of a security interest, without the applicant providing a signed certificate of title or a termination statement.

³⁵ Section 328.15(7), F.S.

³⁶ Section 328.15(9), F.S. A second degree misdemeanor is punishable by a term of jail up to 60 days and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

³⁷ Section 328.15(8), F.S.

³⁸ Section 328.15(11), F.S.

If the DHSMV receives an application for a new certificate of title unaccompanied by a signed certificate of title or termination statement, the DHSMV may create a new certificate of title if:

- The requirements for application for and information to be included in a certificate of title as well as the requirements for fraud prevention are met.
- The applicant provides an affidavit stating facts showing the applicant is entitled to a transfer of ownership or termination statement.
- The applicant provides the DHSMV with evidence that:
 - Proper notification of the application has been sent to the owner of record and anyone with a security interest indicated in the DHSMV records;
 - At least 45 days have passed since the notification was sent; and
 - The DHSMV has not received an object from the owner or anyone with a security interest.
- The applicant submits any other information required by the DHSMV as evidence of the applicant's ownership or right to terminate the security interest.
- The DHSMV has no credible information indicating theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel.

The DHSMV may indicate in the certificate of title that the certificate was created without submission of a signed certificate or termination statement. If after one year, the DHSMV has not received any credible information indicating theft, fraud, unsatisfied security interest, or lien on the vessel, the DHSMV must remove the indication from the certificate if requested by the applicant.

The bill authorizes the DHSMV to require the applicant to post a reasonable bond or provide an equivalent source of indemnity or security to receive a certificate of title under this new section. Unless the DHSMV receives a claim for indemnity within one year after creation of the certificate of title, the DHSMV must release any bond, indemnity, or other security at the request of the applicant.

The DHSMV is not liable to a person or entity for creating a certificate under this new section when the DHSMV issues the certificate in good faith based on the information provided by the applicant. An applicant that submits erroneous or fraudulent information with intent to mislead the DHSMV is subject, in addition to any other criminal or civil penalties provided by law, to the following penalties:

- \$5,000 for the first offense,
- \$15,000 for a second offense, and
- \$25,000 for each subsequent offense.

Transfer of Ownership

Effect of Proposed Changes

Section 23 creates s. 328.22, F.S., providing requirements for the transfer of ownership in a vessel:

- If the transferor's interest is noted on the written certificate, the transferor must promptly sign the certificate and deliver it to the transferee. If the transferor does not have possession

of the certificate, the person in possession of the certificate has a duty to facilitate the transfer.

- If the certificate of title is an electronic certificate, the transferor must promptly sign by hand, or electronically if available, and deliver to the transferee a record evidencing the transfer of ownership to the transferee.
- The transferee has a right to enforce, by specific performance, the transfer of the certificate of title from the transferor.

Failure to comply with the above requirements does not render the transfer of ownership of a vessel ineffective between the parties; however, the transfer may not be effective against another person claiming an interest in the vessel. A transferor who complies with the above requirements is not liable as owner of the vessel for an event occurring after the transfer.

Transfer of Ownership by Secured Party

Effect of Proposed Changes

Section 24 creates s. 328.23, F.S., providing requirements for the transfer of ownership based upon a secured party's transfer statement.

A "secured party's transfer statement" is defined as a record signed by the secured party of record stating:

- That there has been a default on an obligation secured by the vessel;
- That the secured party of record is exercising or has exercised post-default remedies with respect to the vessel;
- That by reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner;
- The name and last known mailing address of the owner of record and the secured party of record;
- The name of the transferee;
- Other information required in the application for certificate of title; and
- One of the following:
 - That the certificate of title is an electronic certificate;
 - That the secured party does not have possession of the written certificate of title created in the name of the owner of record; or
 - That the secured party is delivering the written certificate of title to the DHSMV with the secured party's transfer statement.

Unless the DHSMV has cause to reject a secured party's transfer statement, within 30 days after delivery of the statement and payment of all fees and taxes the department must:

- Accept the statement;
- Amend its files to reflect the transfer; and
- If the name of the owner whose interest is being transferred is indicated on the certificate:
 - Cancel the certificate even if the certificate has not been delivered to the DHSMV;
 - Create a new certificate indicating the transferee as owner; and
 - Deliver the new certificate or a record evidencing an electronic certificate.

The secured party still must meet the duties under the Uniform Commercial Code for secured transactions.

Transfer by Operation of Law

Effect of Proposed Changes

Section 25 creates s. 328.24, F.S., providing requirements for a transfer of ownership by operation of law.

“By operation of law” is defined as pursuant to a law or judicial order affecting ownership of a vessel:

- Because of death, divorce, or other family law proceeding, merger, consolidation, dissolution, or bankruptcy;
- Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or
- Through other legal process.

A transfer-by-law statement must contain:

- The name and last known mailing address of the owner of record and the transferee;
- Other information required in the application for certificate of title;
- Documentation sufficient to establish the transferee’s ownership interest or right to acquire the ownership interest;
- A statement that:
 - The certificate of title is an electronic certificate of title;
 - The transferee does not have possession of the written certificate of title created in the name of the owner of record; or
 - The transferee is delivering the written certificate to the DHSMV with the transfer-by-law statement; and
- Evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the DHSMV’s files as having an interest, including a security interest, in the vessel (for transfer other than because of death, divorce, family law proceeding, merger, consolidation, dissolution, or bankruptcy).

Unless the DHSMV has cause to reject the transfer, within 30 days after delivery of the statement and payment of all fees and taxes the department must:

- Accept the statement;
- Amend its files to reflect the transfer; and
- If the name of the owner whose interest is being transferred is indicated on the certificate:
 - Cancel the certificate even if the certificate has not been delivered to the DHSMV;
 - Create a new certificate indicating the transferee as owner;
 - Indicate on the new certificate any security interest indicated on the canceled certificate, unless a court order provides otherwise; and
 - Deliver the new certificate or a record evidencing an electronic certificate.

Transfer-by-law does not apply to defaults under the Uniform Commercial Code.

Supplemental Principles of Law and Equity

Section 26 creates s. 328.25, F.S., to provide that the principles of law and equity supplement the provisions of the bill.

Rulemaking

Section 27 creates s. 328.41, F.S., authorizing the DHSMV to adopt rules to implement part I of ch. 328, F.S.

“Grandfather” Provisions

Section 31 creates an undesignated section of law providing that the rights, duties, and interests flowing from a transaction, certificate of title, or record relating to a vessel which was validly entered into or created before the effective date of the bill, July 1, 2023, remains valid.

The bill does not affect an action or proceeding commenced before July 1, 2023.

A security interest that is enforceable immediately before July 1, 2023, that would have priority over the rights of a lien creditor at that time, is deemed a perfected security interest. A security interest perfected immediately before the same date remains perfected until the earlier of:

- The time perfection would have ceased under the law under which the security interest was perfected; or
- July 1, 2026.

The bill does not affect the priority of a security interest in a vessel if immediately before July 1, 2023, the security interest is enforceable and perfected, and that priority is established.

Retroactive Application

Section 32 creates an undesignated section of law applying the bill to any transaction, certificate of title, or record relating to a vessel, even if the transaction, certificate, or record was entered into or created before July 1, 2023, except as described above related to **section 31**.

Technical Revisions

Sections 20, 21, 28, 29, and 30 of the bill amend ss. 328.16, 328.165, 409.2575, 705.103, and 721.08, F.S., conforming provisions and cross-references to changes made by the bill.

Effective Date

Section 33 provides that the bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

The bill requires owners of vessels that become hull-damaged and insurers that transfer ownership in hull-damaged vessels to apply to the DHSMV for a new certificate of title that includes the title brand, "Hull Damaged." The existing fee for issuance of each vessel certificate of title is \$5.25, of which \$3.75 is retained by the tax collector.³⁹ An owner transferring ownership of a vessel has the option to simply indicate on the certificate at the time of transfer that the hull is damaged and could avoid paying the fee for a new certificate of title.

While the bill does not impose any new fee, the bill may result in an existing fee applying to a new transaction (application for a branded title). Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, Article VII, s. 19 of the Florida Constitution may apply if the provisions in the bill relating to applications for new branded title certificates are interpreted to be new transactions requiring payment of an existing title fee.

The tax collector offices could see an increase in vessel certificate of title applications and application fees. However, the number of additional transactions is unknown.

B. Private Sector Impact:

The bill may improve the integrity of the vessel titling process by requiring a more detailed description of the vessel on the title and requiring the DHSMV to maintain the information contained in certificates of title and title applications.

³⁹ However, if the vessel was previously registered outside the state, the DHSMV is directed to charge an additional fee of \$4. Section 328.03(6) and (7), F.S.

C. Government Sector Impact:

All funds collected by the DHSMV under ch. 328, F.S., are deposited into the Marine Resources Conservation Trust Fund of the Fish and Wildlife Conservation Commission.⁴⁰

The DHSMV estimates an insignificant, but negative impact on the Marine Resource Conservation Trust Fund due to the elimination of the \$1 recording of lien fee.⁴¹ In addition, the DHSMV also estimates an insignificant, but positive impact in the Marine Resource Conservation Trust Fund due to the potential increase in the number of transactions related to hull-damaged vessel titling. The number of additional title transactions is unknown.⁴²

The bill creates two noncriminal infractions punishable by a civil penalty for failure to provide proper notice of hull damage (s. 328.045(4), F.S.) and for submitting a fraudulent or misleading application for transfer of title or termination of a security interest without certificate the title (s. 328.215(4), F.S.). The first offense is \$5,000; the second offense is \$15,000; and each subsequent offense is \$25,000. These penalties would be remitted by the clerk of court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes. The number of penalties that would be assessed and collected under either provision is indeterminate.

The bill will require the DHSMV to implement changes to vessel titling procedures and databases. However, with a delayed effective date of July 1, 2023, the DHSMV can incorporate the required changes utilizing existing resources.⁴³

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DHSMV to adopt rules to implement part I of ch. 328, F.S.

On lines 898 and 899 of the bill, the provision seems to imply that the DHSMV has the *option* of creating electronic certificates of title. The bill states “if the department creates electronic certificates of title...” Section 328.15, F.S., requires the DHSMV to establish and administer an electronic titling program.

Section 19 of the bill amends s. 328.15, F.S., F.S., deleting current subsections (1), (2), and (6) and re-designating the remaining subsections. A new subsection (9) included in the revisions to s. 328.15, F.S., provides that re-designated subsections (1), (2), and (4)-(8) expire on October 1, 2026. The remaining provision requires the DHSMV to adopt rules to administer “this

⁴⁰ Sections 328.20 and 379.208, F.S.

⁴¹ The DHSMV collects about \$2,300 per year for this fee. Email from DHSMV staff dated April 2, 2019 (On file in the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

⁴² See email from DHSMV staff dated March 18, 2019 (On file in the Senate Infrastructure and Security Committee).

⁴³ *Id.*

section,” including rules about notarization of satisfaction of liens and forms; allow the DHSMV to provide copies of satisfactions of liens for \$1, which are admissible in court; and directs the DHSMV to establish and administer an electronic titling program.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 328.01, 328.03, 328.09, 328.11, 328.15, 328.16, 328.165, 409.2575, 705.103, and 721.08.

This bill creates the following sections of the Florida Statutes: 328.001, 328.0015, 328.015, 328.02, 328.04, 328.045, 328.055, 328.06, 328.065, 328.101, 328.12, 328.125, 328.14, 328.145, 328.215, 328.22, 328.23, 328.24, 328.25, and 328.41.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on April 18, 2019:

The committee substitute:

- Provides that for the purpose of perfecting a security interest, the Department of Revenue shall be treated as a secured party when collecting unpaid child support.
- Clarifies that a nonmotor-powered watercraft less than 16 feet in length is not considered a vessel.
- Restores current law in s. 328.09, F.S., which provides that the DHSMV may reject an application for certificate of vessel title if law enforcement has deemed the vessel derelict.
- Restores current law, requiring a law enforcement officer to also notify any person who has filed a lien pursuant to s. 328.15, F.S., of an abandoned vessel on public property.
- Corrects a cross-reference to a bill section.

CS by Infrastructure and Security on March 20, 2019:

The committee substitute:

- Increases the penalties for an owner or insurer who fails to comply with the required disclosures relating to a hull-damaged-branded certificate of title, or a person who solicits or colludes in such a failure by an owner, or an insurer that fails to apply for a new, branded certificate.
- Expands the DHSMV’s rulemaking authorization from just one section in the bill to the entire part I, ch. 328, F.S.
- Removes provisions relating to creation of a certificate of title for a vessel valued at less than \$5,000, and removes a limitation on the bond amount the DHSMV is authorized to require, in connection with an application for transfer of ownership or termination of security interest without a certificate of title.
- Provides the DHSMV is not liable to a person or entity for creating a certificate of title when the certificate is issued in good faith based on information provided by an

applicant, and specified penalties for an applicant that submits erroneous or fraudulent information with intent to mislead the DHSMV.

- Provides 30-day periods within which to take specified actions, rather than 20-day periods in the as-filed bill, in various sections of the bill.
- Revises the effective date of the act from October 1, 2019, to July 1, 2023.
- Delays the expiration of the specified subsections of s. 328.15, F.S., until October 1, 2026.
- Makes numerous non-substantive editorial revisions.

B. Amendments:

None.

1 A bill to be entitled
2 An act relating to certificates of title for vessels;
3 creating s. 328.001, F.S.; providing a short title;
4 creating s. 328.0015, F.S.; providing definitions;
5 amending s. 328.01, F.S.; revising requirements for
6 application for, and information to be included in, a
7 certificate of title for a vessel; creating s.
8 328.015, F.S.; requiring the Department of Highway
9 Safety and Motor Vehicles to retain certain
10 information relating to ownership and titling of
11 vessels; requiring the department to furnish certain
12 information upon request; creating s. 328.02, F.S.;
13 providing that the law of the state in which a vessel
14 is titled governs all issues relating to a certificate
15 of title; specifying when a vessel becomes covered by
16 such certificate; amending s. 328.03, F.S.; requiring
17 a vessel owner to deliver an application for
18 certificate of title to the department by a specified
19 time; revising circumstances under which a vessel must
20 be titled by this state; providing requirements for
21 issuing, transferring, or renewing the number of an
22 undocumented vessel issued under certain federal
23 provisions; deleting provisions relating to operation,
24 use, or storage of a vessel; deleting provisions
25 relating to selling, assigning, or transferring a

26 vessel; specifying that a certificate of title is
27 prima facie evidence of the accuracy of the
28 information in the record that constitutes the
29 certificate; creating s. 328.04, F.S.; providing
30 requirements for the contents of a certificate of
31 title; creating s. 328.045, F.S.; providing
32 responsibilities of an owner and insurer of a hull-
33 damaged vessel when transferring an ownership interest
34 in the vessel; requiring the department to create a
35 new certificate indicating such damage; providing
36 civil penalties; creating s. 328.055, F.S.; requiring
37 the department to maintain certain information in its
38 files; creating s. 328.06, F.S.; providing
39 responsibilities of the department when creating a
40 certificate of title; creating s. 328.065, F.S.;
41 specifying effect of possession of a certificate of
42 title; providing construction; amending s. 328.09,
43 F.S.; providing duties of the department relating to
44 creation, issuance, refusal to issue, or cancellation
45 of a certificate of title; providing for a hearing;
46 creating s. 328.101, F.S.; specifying that a
47 certificate of title and certain other records are
48 effective despite missing or incorrect information;
49 amending s. 328.11, F.S.; providing requirements for
50 obtaining a duplicate certificate of title; creating

51 s. 328.12, F.S.; providing requirements for
52 determination and perfection of a security interest in
53 a vessel; providing applicability; creating s.
54 328.125, F.S.; providing requirements for the delivery
55 of a statement of termination of a security interest;
56 providing duties of the department; providing
57 liability for noncompliance; creating s. 328.14, F.S.;
58 providing for the rights of a purchaser of a vessel
59 who is not a secured party; creating s. 328.145, F.S.;
60 providing for the rights of a secured party; amending
61 s. 328.15, F.S.; deleting certain provisions relating
62 to notice of a lien; providing for future repeal of
63 certain provisions; amending ss. 328.16 and 328.165,
64 F.S.; conforming provisions to changes made by the
65 act; creating s. 328.215, F.S.; specifying
66 circumstances under which the department may create a
67 new certificate of title after receipt of an
68 application for a transfer of ownership or termination
69 of a security interest unaccompanied by a certificate
70 of title; authorizing the department to indicate
71 certain information on the new certificate;
72 authorizing the department to require a bond,
73 indemnity, or other security; providing for the
74 release of such bond, indemnity, or other security;
75 providing that the department is not liable for

76 creating a certificate of title based on erroneous or
77 fraudulent information; providing penalties; creating
78 s. 328.22, F.S.; providing requirements for the
79 transfer of ownership in a vessel; providing effect of
80 noncompliance; creating s. 328.23, F.S.; providing a
81 definition; providing duties of the department upon
82 receipt of a secured party's transfer statement;
83 providing construction; creating s. 328.24, F.S.;
84 providing a definition; providing requirements for a
85 transfer of ownership by operation of law; providing
86 duties of the department; providing applicability;
87 creating s. 328.25, F.S.; providing that the
88 principles and law of equity supplement the provisions
89 of the act; creating s. 328.35, F.S.; authorizing the
90 department to adopt rules to implement vessel titling
91 provisions; amending ss. 409.2575, 705.103, and
92 721.08, F.S.; conforming provisions and cross-
93 references to changes made by the act; providing
94 construction and applicability regarding transactions,
95 certificates of title, and records entered into or
96 created, actions or proceedings commenced, and
97 security interests perfected before the effective date
98 of the act; providing applicability; providing an
99 effective date.

100

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

102

103 Section 1. Section 328.001, Florida Statutes, is created
104 to read:

105 328.001 Short title.—This part may be cited as the
106 "Uniform Certificate of Title for Vessels Act."

107 Section 2. Section 328.0015, Florida Statutes, is created
108 to read:

109 328.0015 Definitions.—

110 (1) As used in this part, the term:

111 (a) "Barge" means a vessel that is not self-propelled or
112 fitted for propulsion by sail, paddle, oar, or similar device.

113 (b) "Builder's certificate" means a certificate of the
114 facts of build of a vessel described in 46 C.F.R. s. 67.99.

115 (c) "Buyer" means a person who buys or contracts to buy a
116 vessel.

117 (d) "Cancel," with respect to a certificate of title,
118 means to make the certificate ineffective.

119 (e) "Certificate of origin" means a record created by a
120 manufacturer or importer as the manufacturer's or importer's
121 proof of identity of a vessel. The term includes a
122 manufacturer's certificate or statement of origin and an
123 importer's certificate or statement of origin. The term does not
124 include a builder's certificate.

125 (f) "Certificate of title" means a record, created by the

126 department or by a governmental agency of another jurisdiction
127 under the law of that jurisdiction, that is designated as a
128 certificate of title by the department or agency and is evidence
129 of ownership of a vessel.

130 (g) "Dealer" means a person, including a manufacturer, in
131 the business of selling vessels.

132 (h) "Department" means the Department of Highway Safety
133 and Motor Vehicles.

134 (i) "Documented vessel" means a vessel covered by a
135 certificate of documentation issued pursuant to 46 U.S.C. s.
136 12105. The term does not include a foreign-documented vessel.

137 (j) "Electronic" means relating to technology having
138 electrical, digital, magnetic, wireless, optical,
139 electromagnetic, or similar capabilities.

140 (k) "Electronic certificate of title" means a certificate
141 of title consisting of information that is stored solely in an
142 electronic medium and is retrievable in perceivable form.

143 (l) "Foreign-documented vessel" means a vessel the
144 ownership of which is recorded in a registry maintained by a
145 country other than the United States which identifies each
146 person who has an ownership interest in a vessel and includes a
147 unique alphanumeric designation for the vessel.

148 (m) "Good faith" means honesty in fact and the observance
149 of reasonable commercial standards of fair dealing.

150 (n) "Hull damaged" means compromised with respect to the

151 integrity of a vessel's hull by a collision, allision, lightning
152 strike, fire, explosion, running aground, or similar occurrence,
153 or the sinking of a vessel in a manner that creates a
154 significant risk to the integrity of the vessel's hull.

155 (o) "Hull identification number" means the alphanumeric
156 designation assigned to a vessel pursuant to 33 C.F.R. part 181.

157 (p) "Lien creditor," with respect to a vessel, means:

158 1. A creditor that has acquired a lien on the vessel by
159 attachment, levy, or the like;

160 2. An assignee for benefit of creditors from the time of
161 assignment;

162 3. A trustee in bankruptcy from the date of the filing of
163 the petition; or

164 4. A receiver in equity from the time of appointment.

165 (q) "Owner" means a person who has legal title to a
166 vessel.

167 (r) "Owner of record" means the owner indicated in the
168 files of the department or, if the files indicate more than one
169 owner, the one first indicated.

170 (s) "Person" means an individual, corporation, business
171 trust, estate, trust, statutory trust, partnership, limited
172 liability company, association, joint venture, public
173 corporation, government or governmental subdivision, agency, or
174 instrumentality, or any other legal or commercial entity.

175 (t) "Purchase" means to take by sale, lease, mortgage,

176 pledge, consensual lien, security interest, gift, or any other
177 voluntary transaction that creates an interest in a vessel.

178 (u) "Purchaser" means a person who takes by purchase.

179 (v) "Record" means information that is inscribed on a
180 tangible medium or that is stored in an electronic or other
181 medium and is retrievable in perceivable form.

182 (w) "Secured party," with respect to a vessel, means a
183 person:

184 1. In whose favor a security interest is created or
185 provided for under a security agreement, regardless of whether
186 any obligation to be secured is outstanding;

187 2. Who is a consignor as defined under chapter 679; or

188 3. Who holds a security interest arising under s. 672.401,
189 s. 672.505, s. 672.711(3), or s. 680.508(5).

190 (x) "Secured party of record" means the secured party
191 whose name is indicated as the name of the secured party in the
192 files of the department or, if the files indicate more than one
193 secured party, the one first indicated.

194 (y) "Security interest" means an interest in a vessel
195 which secures payment or performance of an obligation if the
196 interest is created by contract or arises under s. 672.401, s.
197 672.505, s. 672.711(3), or s. 680.508(5). The term includes any
198 interest of a consignor in a vessel in a transaction that is
199 subject to chapter 679. The term does not include the special
200 property interest of a buyer of a vessel on identification of

201 that vessel to a contract for sale under s. 672.501, but a buyer
202 also may acquire a security interest by complying with chapter
203 679. Except as otherwise provided in s. 672.505, the right of a
204 seller or lessor of a vessel under chapter 672 or chapter 680 to
205 retain or acquire possession of the vessel is not a security
206 interest, but a seller or lessor also may acquire a security
207 interest by complying with chapter 679. The retention or
208 reservation of title by a seller of a vessel notwithstanding
209 shipment or delivery to the buyer under s. 672.401 is limited in
210 effect to a reservation of a security interest. Whether a
211 transaction in the form of a lease creates a security interest
212 is determined as provided in part II of chapter 671.

213 (z) "Sign" means, with present intent to authenticate or
214 adopt a record, to:

- 215 1. Make or adopt a tangible symbol; or
216 2. Attach to or logically associate with the record an
217 electronic symbol, sound, or process.

218 (aa) "State" means a state of the United States, the
219 District of Columbia, Puerto Rico, the United States Virgin
220 Islands, or any territory or insular possession subject to the
221 jurisdiction of the United States.

222 (bb) "State of principal use" means the state on the
223 waters of which a vessel is or will be used, operated,
224 navigated, or employed more than on the waters of any other
225 state during a calendar year.

226 (cc) "Title brand" means a designation of previous damage,
227 use, or condition that must be indicated on a certificate of
228 title.

229 (dd) "Transfer of ownership" means a voluntary or
230 involuntary conveyance of an interest in a vessel.

231 (ee) "Vessel" means a watercraft used or capable of being
232 used as a means of transportation on water, except:

233 1. A seaplane;

234 2. An amphibious vehicle for which a certificate of title
235 is issued pursuant to chapter 319 or a similar statute of
236 another state;

237 3. Nonmotor-powered watercraft less than 16 feet in
238 length;

239 4. Watercraft that operate only on a permanently fixed,
240 manufactured course and the movement of which is restricted to
241 or guided by means of a mechanical device to which the
242 watercraft is attached or by which the watercraft is controlled;

243 5. A stationary floating structure that:

244 a. Does not have and is not designed to have a mode of
245 propulsion of its own;

246 b. Is dependent for utilities upon a continuous utility
247 hookup to a source originating on shore; and

248 c. Has a permanent, continuous hookup to a shoreside
249 sewage system;

250 6. Watercraft owned by the United States, a state, or a

251 foreign government or a political subdivision of any of them;
252 and

253 7. Watercraft used solely as a lifeboat on another
254 watercraft.

255 (ff) "Vessel number" means the alphanumeric designation
256 for a vessel issued pursuant to 46 U.S.C. s. 12301.

257 (gg) "Written certificate of title" means a certificate of
258 title consisting of information inscribed on a tangible medium.

259 (2) The following definitions and terms also apply to this
260 part:

261 (a) "Agreement" as defined in s. 671.201(3).

262 (b) "Buyer in ordinary course of business" as defined in
263 s. 671.201(9).

264 (c) "Conspicuous" as defined in s. 671.201(10).

265 (d) "Consumer goods" as defined in s. 679.1021(1)(w).

266 (e) "Debtor" as defined in s. 679.1021(1)(bb).

267 (f) "Knowledge" as defined in s. 671.209.

268 (g) "Lease" as defined in s. 680.1031(1)(j).

269 (h) "Lessor" as defined in 680.1031(1)(p).

270 (i) "Notice" as defined s. 671.209.

271 (j) "Representative" as defined in s. 671.201(36).

272 (k) "Sale" as defined in s. 672.106(1).

273 (l) "Security agreement" as defined in s.
274 679.1021(1)(uuu).

275 (m) "Seller" as defined in s. 672.103(1)(d).

276 (n) "Send" as defined in s. 671.201(39).

277 (o) "Value" as defined in s. 671.211.

278 Section 3. Section 328.01, Florida Statutes, is amended to
279 read:

280 328.01 Application for certificate of title.—

281 (1) ~~(a)~~ The owner of a vessel which is required to be
282 titled shall apply to the county tax collector for a certificate
283 of title. Except as otherwise provided in ss. 328.045, 328.11,
284 328.12, 328.215, 328.23, and 328.24, only an owner may apply for
285 a certificate of title.

286 (2) An application for a certificate of title must be
287 signed by the applicant and contain:

288 (a) The applicant's name, the street address of the
289 applicant's principal residence, and, if different, the
290 applicant's mailing address;

291 (b) The name and mailing address of each other owner of
292 the vessel;

293 (c) The hull identification number for the vessel or, if
294 none, an application for the issuance of a hull identification
295 number for the vessel;

296 (d) The vessel number for the vessel or, if none issued by
297 the department, an application for a vessel number;

298 (e) A description of the vessel as required by the
299 department, which must include:

300 1. The official number for the vessel, if any, assigned by

301 | the United States Coast Guard;
 302 | 2. The name of the manufacturer, builder, or maker;
 303 | 3. The model year or the year in which the manufacture or
 304 | build of the vessel was completed;
 305 | 4. The overall length of the vessel;
 306 | 5. The vessel type;
 307 | 6. The hull material;
 308 | 7. The propulsion type;
 309 | 8. The engine drive type, if any; and
 310 | 9. The fuel type, if any;
 311 | (f) An indication of all security interests in the vessel
 312 | known to the applicant and the name and mailing address of each
 313 | secured party;
 314 | (g) A statement that the vessel is not a documented vessel
 315 | or a foreign-documented vessel;
 316 | (h) Any title brand known to the applicant and, if known,
 317 | the jurisdiction under whose law the title brand was created;
 318 | (i) If the applicant knows that the vessel is hull
 319 | damaged, a statement that the vessel is hull damaged;
 320 | (j) If the application is made in connection with a
 321 | transfer of ownership, the transferor's name, street address,
 322 | and, if different, mailing address, the sales price, if any, and
 323 | the date of the transfer; and
 324 | (k) If the vessel was previously registered or titled in
 325 | another jurisdiction, a statement identifying each jurisdiction

326 known to the applicant in which the vessel was registered or
327 titled.

328 (3) In addition to the information required by subsection
329 (2), an application for a certificate of title may contain an
330 electronic communication address of the owner, transferor, or
331 secured party.

332 (4) Except as otherwise provided in s. 328.11, s. 328.215,
333 s. 328.23, or s. 328.24, an application for a certificate of
334 title must be accompanied by:

335 (a) A certificate of title signed by the owner shown on
336 the certificate and which:

337 1. Identifies the applicant as the owner of the vessel; or
338 2. Is accompanied by a record that identifies the
339 applicant as the owner; or

340 (b) If there is no certificate of title:

341 1. If the vessel was a documented vessel, a record issued
342 by the United States Coast Guard which shows the vessel is no
343 longer a documented vessel and identifies the applicant as the
344 owner;

345 2. If the vessel was a foreign-documented vessel, a record
346 issued by the foreign country which shows the vessel is no
347 longer a foreign-documented vessel and identifies the applicant
348 as the owner; or

349 3. In all other cases, a certificate of origin, bill of
350 sale, or other record that to the satisfaction of the department

351 identifies the applicant as the owner.

352 (5) A record submitted in connection with an application
353 is part of the application. The department shall maintain the
354 record in its files.

355 (6) The department may require that an application for a
356 certificate of title be accompanied by payment or evidence of
357 payment of all fees and taxes payable by the applicant under the
358 laws of this state other than this part in connection with the
359 application or the acquisition or use of the vessel ~~The~~
360 ~~application shall include the true name of the owner, the~~
361 ~~residence or business address of the owner, and the complete~~
362 ~~description of the vessel, including the hull identification~~
363 ~~number, except that an application for a certificate of title~~
364 ~~for a homemade vessel shall state all the foregoing information~~
365 ~~except the hull identification number.~~

366 (7) (a) The application shall be signed by the owner and
367 shall be accompanied by personal or business identification and
368 the prescribed fee. An individual applicant must provide a valid
369 driver license or identification card issued by this state or
370 another state or a valid passport. A business applicant must
371 provide a federal employer identification number, if applicable,
372 verification that the business is authorized to conduct business
373 in the state, or a Florida city or county business license or
374 number.

375 (b) The owner of an undocumented vessel that is exempt

376 from titling may apply to the county tax collector for a
377 certificate of title by filing an application accompanied by the
378 prescribed fee.

379 ~~(2)(a) The owner of a manufactured vessel that was~~
380 ~~initially sold in this state for which vessel an application for~~
381 ~~an initial title is made shall establish proof of ownership by~~
382 ~~submitting with the application the original copy of the~~
383 ~~manufacturer's statement of origin for that vessel.~~

384 ~~(b) The owner of a manufactured vessel that was initially~~
385 ~~sold in another state or country for which vessel an application~~
386 ~~for an initial title is made shall establish proof of ownership~~
387 ~~by submitting with the application:~~

388 ~~1. The original copy of the manufacturer's statement of~~
389 ~~origin if the vessel was initially sold or manufactured in a~~
390 ~~state or country requiring the issuance of such a statement or~~
391 ~~the original copy of the executed bill of sale if the vessel was~~
392 ~~initially sold or manufactured in a state or country not~~
393 ~~requiring the issuance of a manufacturer's statement of origin;~~
394 ~~and~~

395 ~~2. The most recent certificate of registration for the~~
396 ~~vessel, if such a certificate was issued.~~

397 ~~(c) In making application for an initial title, the owner~~
398 ~~of a homemade vessel shall establish proof of ownership by~~
399 ~~submitting with the application:~~

400 ~~1. A notarized statement of the builder or its equivalent,~~

401 ~~whichever is acceptable to the Department of Highway Safety and~~
402 ~~Motor Vehicles, if the vessel is less than 16 feet in length; or~~

403 ~~2. A certificate of inspection from the Fish and Wildlife~~
404 ~~Conservation Commission and a notarized statement of the builder~~
405 ~~or its equivalent, whichever is acceptable to the Department of~~
406 ~~Highway Safety and Motor Vehicles, if the vessel is 16 feet or~~
407 ~~more in length.~~

408 ~~(d) The owner of a nontitled vessel registered or~~
409 ~~previously registered in another state or country for which an~~
410 ~~application for title is made in this state shall establish~~
411 ~~proof of ownership by surrendering, with the submission of the~~
412 ~~application, the original copy of the most current certificate~~
413 ~~of registration issued by the other state or country.~~

414 ~~(e) The owner of a vessel titled in another state or~~
415 ~~country for which an application for title is made in this state~~
416 ~~shall not be issued a title unless and until all existing titles~~
417 ~~to the vessel are surrendered to the Department of Highway~~
418 ~~Safety and Motor Vehicles. The department shall retain the~~
419 ~~evidence of title which is presented by the applicant and on the~~
420 ~~basis of which the certificate of title is issued. The~~
421 ~~department shall use reasonable diligence in ascertaining~~
422 ~~whether the facts in the application are true; and, if satisfied~~
423 ~~that the applicant is the owner of the vessel and that the~~
424 ~~application is in the proper form, the department shall issue a~~
425 ~~certificate of title.~~

426 ~~(f) In making application for the titling of a vessel~~
427 ~~previously documented by the Federal Government, the current~~
428 ~~owner shall establish proof of ownership by submitting with the~~
429 ~~application a copy of the canceled documentation papers or a~~
430 ~~properly executed release from documentation certificate~~
431 ~~provided by the United States Coast Guard. In the event such~~
432 ~~documentation papers or certification are in the name of a~~
433 ~~person other than the current owner, the current owner shall~~
434 ~~provide the original copy of all subsequently executed bills of~~
435 ~~sale applicable to the vessel.~~

436 ~~(3) (a) In making application for a title upon transfer of~~
437 ~~ownership of a vessel, the new owner shall surrender to the~~
438 ~~Department of Highway Safety and Motor Vehicles the last title~~
439 ~~document issued for that vessel. The document shall be properly~~
440 ~~executed. Proper execution includes, but is not limited to, the~~
441 ~~previous owner's signature and certification that the vessel to~~
442 ~~be transferred is debt-free or is subject to a lien. If a lien~~
443 ~~exists, the previous owner shall furnish the new owner, on forms~~
444 ~~supplied by the Department of Highway Safety and Motor Vehicles,~~
445 ~~the names and addresses of all lienholders and the dates of all~~
446 ~~liens, together with a statement from each lienholder that the~~
447 ~~lienholder has knowledge of and consents to the transfer of~~
448 ~~title to the new owner.~~

449 ~~(b) If the application for transfer of title is based upon~~
450 ~~a contractual default, the recorded lienholder shall establish~~

451 ~~proof of right to ownership by submitting with the application~~
452 ~~the original certificate of title and a copy of the applicable~~
453 ~~contract upon which the claim of ownership is made. If the claim~~
454 ~~is based upon a court order or judgment, a copy of such document~~
455 ~~shall accompany the application for transfer of title. If, on~~
456 ~~the basis of departmental records, there appears to be any other~~
457 ~~lien on the vessel, the certificate of title must contain a~~
458 ~~statement of such a lien, unless the application for a~~
459 ~~certificate of title is either accompanied by proper evidence of~~
460 ~~the satisfaction or extinction of the lien or contains a~~
461 ~~statement certifying that any lienholder named on the last-~~
462 ~~issued certificate of title has been sent notice by certified~~
463 ~~mail, at least 5 days before the application was filed, of the~~
464 ~~applicant's intention to seek a repossessed title. If such~~
465 ~~notice is given and no written protest to the department is~~
466 ~~presented by a subsequent lienholder within 15 days after the~~
467 ~~date on which the notice was mailed, the certificate of title~~
468 ~~shall be issued showing no liens. If the former owner or any~~
469 ~~subsequent lienholder files a written protest under oath within~~
470 ~~the 15-day period, the department shall not issue the~~
471 ~~repossessed certificate for 10 days thereafter. If, within the~~
472 ~~10-day period, no injunction or other order of a court of~~
473 ~~competent jurisdiction has been served on the department~~
474 ~~commanding it not to deliver the certificate, the department~~
475 ~~shall deliver the repossessed certificate to the applicant, or~~

476 ~~as is otherwise directed in the application, showing no other~~
477 ~~liens than those shown in the application.~~

478 (c) In making application for transfer of title from a
479 deceased titled owner, the new owner or surviving coowner shall
480 establish proof of ownership by submitting with the application
481 the original certificate of title and the decedent's probated
482 last will and testament or letters of administration appointing
483 the personal representative of the decedent. In lieu of a
484 probated last will and testament or letters of administration, a
485 copy of the decedent's death certificate, a copy of the
486 decedent's last will and testament, and an affidavit by the
487 decedent's surviving spouse or heirs affirming rights of
488 ownership may be accepted by the department. If the decedent
489 died intestate, a court order awarding the ownership of the
490 vessel or an affidavit by the decedent's surviving spouse or
491 heirs establishing or releasing all rights of ownership and a
492 copy of the decedent's death certificate shall be submitted to
493 the department.

494 (d) An owner or coowner who has made a bona fide sale or
495 transfer of a vessel and has delivered possession thereof to a
496 purchaser shall not, by reason of any of the provisions of this
497 chapter, be considered the owner or coowner of the vessel so as
498 to be subject to civil liability for the operation of the vessel
499 thereafter by another if the owner or coowner has fulfilled
500 either of the following requirements:

501 1. The owner or coowner has delivered to the department,
502 or has placed in the United States mail, addressed to the
503 department, either the certificate of title, properly endorsed,
504 or a notice in the form prescribed by the department; or

505 2. The owner or coowner has made proper endorsement and
506 delivery of the certificate of title as provided by this
507 chapter. As used in this subparagraph, the term "proper
508 endorsement" means:

509 a. The signature of one coowner if the vessel is held in
510 joint tenancy, signified by the vessel's being registered in the
511 names of two or more persons as coowners in the alternative by
512 the use of the word "or." In a joint tenancy, each coowner is
513 considered to have granted to each of the other coowners the
514 absolute right to dispose of the title and interest in the
515 vessel, and, upon the death of a coowner, the interest of the
516 decedent in the jointly held vessel passes to the surviving
517 coowner or coowners. This sub-subparagraph is applicable even if
518 the coowners are husband and wife; or

519 b. The signatures of every coowner or of the respective
520 personal representatives of the coowners if the vessel is
521 registered in the names of two or more persons as coowners in
522 the conjunctive by the use of the word "and."

523

524 The department shall adopt suitable language that must appear
525 upon the certificate of title to effectuate the manner in which

526 | the interest in or title to the vessel is held.

527 | (8)~~(4)~~ If the owner cannot furnish the department of
528 | ~~Highway Safety and Motor Vehicles~~ with all the required
529 | ownership documentation, the department may, at its discretion,
530 | issue a title conditioned on the owner's agreement to indemnify
531 | the department and its agents and defend the title against all
532 | claims or actions arising out of such issuance.

533 | (9)~~(5)~~(a) An application for an initial title or a title
534 | transfer shall include payment of the applicable state sales tax
535 | or proof of payment of such tax.

536 | (b) An application for a title transfer between
537 | individuals, which transfer is not exempt from the payment of
538 | sales tax, shall include payment of the appropriate sales tax
539 | payable on the selling price for the complete vessel rig, which
540 | includes the vessel and its motor, trailer, and accessories, if
541 | any. If the applicant submits with his or her application an
542 | itemized, properly executed bill of sale which separately
543 | describes and itemizes the prices paid for each component of the
544 | rig, only the vessel and trailer will be subject to the sales
545 | tax.

546 | (10)~~(6)~~ The department of ~~Highway Safety and Motor~~
547 | ~~Vehicles~~ shall prescribe and provide suitable forms for
548 | applications, certificates of title, notices of security
549 | interests, and other notices and forms necessary to carry out
550 | the provisions of this chapter.

551 Section 4. Section 328.015, Florida Statutes, is created
552 to read:

553 328.015 Duties and operation of the department.-

554 (1) The department shall retain the evidence used to
555 establish the accuracy of the information in its files relating
556 to the current ownership of a vessel and the information on the
557 certificate of title.

558 (2) The department shall retain in its files all
559 information regarding a security interest in a vessel for at
560 least 10 years after the department receives a termination
561 statement regarding the security interest. The information must
562 be accessible by the hull identification number for the vessel
563 and any other methods provided by the department.

564 (3) If a person submits a record to the department, or
565 submits information that is accepted by the department, and
566 requests an acknowledgment of the filing or submission, the
567 department shall send to the person an acknowledgment showing
568 the hull identification number of the vessel to which the record
569 or submission relates, the information in the filed record or
570 submission, and the date and time the record was received or the
571 submission was accepted. A request under this section must
572 contain the hull identification number and be delivered by means
573 authorized by the department.

574 (4) The department shall send or otherwise make available
575 in a record the following information to any person who requests

576 it and pays the applicable fee:

577 (a) Whether the files of the department indicate, as of a
578 date and time specified by the department, but not a date
579 earlier than 3 days before the department received the request,
580 any certificate of title, security interest, termination
581 statement, or title brand that relates to a vessel:

582 1. Identified by a hull identification number designated
583 in the request;

584 2. Identified by a vessel number designated in the
585 request; or

586 3. Owned by a person designated in the request;

587 (b) With respect to the vessel:

588 1. The name and address of any owner as indicated in the
589 files of the department or on the certificate of title;

590 2. The name and address of any secured party as indicated
591 in the files of the department or on the certificate, and the
592 effective date of the information; and

593 3. A copy of any termination statement indicated in the
594 files of the department and the effective date of the
595 termination statement; and

596 (c) With respect to the vessel, a copy of any certificate
597 of origin, secured party transfer statement, transfer-by-law
598 statement under s. 328.24, and other evidence of previous or
599 current transfers of ownership.

600 (5) In responding to a request under this section, the

601 department may provide the requested information in any medium.
602 On request, the department shall send the requested information
603 in a record that is self-authenticating.

604 Section 5. Section 328.02, Florida Statutes, is created to
605 read:

606 328.02 Law governing vessel covered by certificate of
607 title.—

608 (1) The law of the state under which a vessel's
609 certificate of title is covered governs all issues relating to
610 the certificate from the time the vessel becomes covered by the
611 certificate until the vessel becomes covered by another
612 certificate or becomes a documented vessel, even if no other
613 relationship exists between the state and the vessel or its
614 owner.

615 (2) A vessel becomes covered by a certificate of title
616 when an application for the certificate and the applicable fee
617 are delivered to the department in accordance with this part or
618 to the governmental agency that creates a certificate in another
619 jurisdiction in accordance with the law of that jurisdiction.

620 Section 6. Section 328.03, Florida Statutes, is amended to
621 read:

622 328.03 Certificate of title required.—

623 (1) Except as otherwise provided in subsections (2) and
624 (3), each vessel that is operated, used, or stored on the waters
625 of this state must be titled by this state pursuant to this

626 part, and the owner of a vessel for which this state is the
 627 state of principal use shall deliver to the department an
 628 application for a certificate of title for the vessel, with the
 629 applicable fee, not later than 30 days after the later of:

- 630 (a) The date of a transfer of ownership; or
- 631 (b) The date this state becomes the state of principal
 632 use.

633 (2) An application for a certificate of title is not
 634 required for chapter, unless it is:

- 635 (a) A documented vessel;
- 636 (b) A foreign-documented vessel;
- 637 (c) A barge;
- 638 (d) A vessel before delivery if the vessel is under
 639 construction or completed pursuant to contract;
- 640 (e) A vessel held by a dealer for sale or lease;
- 641 (f) A vessel used solely for demonstration, testing, or
 642 sales promotional purposes by the manufacturer or dealer;
- 643 (g)-(a) A vessel operated, used, or stored exclusively on
 644 private lakes and ponds;
- 645 (h)-(b) A vessel owned by the United States Government;
- 646 ~~(c) A non-motor-powered vessel less than 16 feet in~~
 647 ~~length;~~
- 648 ~~(d) A federally documented vessel;~~
- 649 (i)-(e) A vessel already covered by a registration number
 650 in full force and effect which was awarded to it pursuant to a

651 federally approved numbering system of another state or by the
652 United States Coast Guard in a state without a federally
653 approved numbering system, if the vessel is not located in this
654 state for a period in excess of 90 consecutive days; or

655 (j)~~(f)~~ A vessel from a country other than the United
656 States temporarily used, operated, or stored on the waters of
657 this state for a period that is not in excess of 90 days~~;~~

658 ~~(g) An amphibious vessel for which a vehicle title is~~
659 ~~issued by the Department of Highway Safety and Motor Vehicles;~~

660 ~~(h) A vessel used solely for demonstration, testing, or~~
661 ~~sales promotional purposes by the manufacturer or dealer; or~~

662 ~~(i) A vessel owned and operated by the state or a~~
663 ~~political subdivision thereof.~~

664 (3) The department may not issue, transfer, or renew a
665 number issued to a vessel pursuant to the requirements of 46
666 U.S.C. s. 12301 unless the department has created a certificate
667 of title for the vessel or an application for a certificate for
668 the vessel and the applicable fee have been delivered to the
669 department.

670 ~~(2) A person shall not operate, use, or store a vessel for~~
671 ~~which a certificate of title is required unless the owner has~~
672 ~~received from the Department of Highway Safety and Motor~~
673 ~~Vehicles a valid certificate of title for such vessel. However,~~
674 ~~such vessel may be operated, used, or stored for a period of up~~
675 ~~to 180 days after the date of application for a certificate of~~

676 | ~~title while the application is pending.~~

677 | ~~(3) A person shall not sell, assign, or transfer a vessel~~
678 | ~~titled by the state without delivering to the purchaser or~~
679 | ~~transferee a valid certificate of title with an assignment on it~~
680 | ~~showing the transfer of title to the purchaser or transferee. A~~
681 | ~~person shall not purchase or otherwise acquire a vessel required~~
682 | ~~to be titled by the state without obtaining a certificate of~~
683 | ~~title for the vessel in his or her name. The purchaser or~~
684 | ~~transferee shall, within 30 days after a change in vessel~~
685 | ~~ownership, file an application for a title transfer with the~~
686 | ~~county tax collector.~~

687 | (4) An additional \$10 fee shall be charged against the
688 | purchaser or transferee if he or she files a title transfer
689 | application after the 30-day period. The county tax collector
690 | shall be entitled to retain \$5 of the additional amount.

691 | (5) ~~(4)~~ A certificate of title is prima facie evidence of
692 | the accuracy of the information in the record that constitutes
693 | the certificate and of the ownership of the vessel. A
694 | certificate of title is good for the life of the vessel so long
695 | as the certificate is owned or held by the legal holder. If a
696 | titled vessel is destroyed or abandoned, the owner, with the
697 | consent of any recorded lienholders, shall, within 30 days after
698 | the destruction or abandonment, surrender to the department for
699 | cancellation any and all title documents. If a titled vessel is
700 | insured and the insurer has paid the owner for the total loss of

701 the vessel, the insurer shall obtain the title to the vessel
702 and, within 30 days after receiving the title, forward the title
703 to the department ~~of Highway Safety and Motor Vehicles~~ for
704 cancellation. The insurer may retain the certificate of title
705 when payment for the loss was made because of the theft of the
706 vessel.

707 (6)~~(5)~~ The department ~~of Highway Safety and Motor Vehicles~~
708 shall provide labeled places on the title where the seller's
709 price shall be indicated when a vessel is sold and where a
710 selling dealer shall record his or her valid sales tax
711 certificate of registration number.

712 (7)~~(6)~~(a) The department ~~of Highway Safety and Motor~~
713 ~~Vehicles~~ shall charge a fee of \$5.25 for issuing each
714 certificate of title. The tax collector shall be entitled to
715 retain \$3.75 of the fee.

716 (b) ~~Beginning July 1, 1996,~~ The department ~~of Highway~~
717 ~~Safety and Motor Vehicles~~ shall use security procedures,
718 processes, and materials in the preparation and issuance of each
719 certificate of title to prohibit, to the extent possible, a
720 person's ability to alter, counterfeit, duplicate, or modify the
721 certificate.

722 (8)~~(7)~~ The department ~~of Highway Safety and Motor Vehicles~~
723 shall charge a fee of \$4 in addition to that charged in
724 subsection (7) ~~(6)~~ for each initial certificate of title issued
725 for a vessel previously registered outside this state.

726 (9)-(8) The department ~~of Highway Safety and Motor Vehicles~~
 727 shall make regulations necessary and convenient to carry out the
 728 provisions of this chapter.

729 Section 7. Section 328.04, Florida Statutes, is created to
 730 read:

731 328.04 Content of certificate of title.-

732 (1) A certificate of title must contain:

733 (a) The date the certificate was created;

734 (b) The name of the owner of record and, if not all owners
 735 are listed, an indication that there are additional owners
 736 indicated in the files of the department;

737 (c) The mailing address of the owner of record;

738 (d) The hull identification number;

739 (e) The information listed in s. 328.01(2) (e);

740 (f) Except as otherwise provided in s. 328.12(2), the name
 741 and mailing address of the secured party of record, if any, and
 742 if not all secured parties are listed, an indication that there
 743 are other security interests indicated in the files of the
 744 department; and

745 (g) All title brands indicated in the files of the
 746 department covering the vessel, including brands indicated on a
 747 certificate created by a governmental agency of another
 748 jurisdiction and delivered to the department.

749 (2) This part does not preclude the department from noting
 750 on a certificate of title the name and mailing address of a

751 secured party that is not a secured party of record.

752 (3) For each title brand indicated on a certificate of
753 title, the certificate must identify the jurisdiction under
754 whose law the title brand was created or the jurisdiction that
755 created the certificate on which the title brand was indicated.
756 If the meaning of a title brand is not easily ascertainable or
757 cannot be accommodated on the certificate, the certificate may
758 state: "Previously branded in (insert the jurisdiction under
759 whose law the title brand was created or whose certificate of
760 title previously indicated the title brand)."

761 (4) If the files of the department indicate that a vessel
762 was previously registered or titled in a foreign country, the
763 department shall indicate on the certificate of title that the
764 vessel was registered or titled in that country.

765 (5) A written certificate of title must contain a form
766 that all owners indicated on the certificate may sign to
767 evidence consent to a transfer of an ownership interest to
768 another person. The form must include a certification, signed
769 under penalty of perjury, that the statements made are true and
770 correct to the best of each owner's knowledge, information, and
771 belief.

772 (6) A written certificate of title must contain a form for
773 the owner of record to indicate, in connection with a transfer
774 of an ownership interest, that the vessel is hull damaged.

775 Section 8. Section 328.045, Florida Statutes, is created

776 to read:

777 328.045 Title brands.—

778 (1) Unless subsection (3) applies, at or before the time
779 the owner of record transfers an ownership interest in a hull-
780 damaged vessel that is covered by a certificate of title created
781 by the department, if the damage occurred while that person was
782 an owner of the vessel and the person has notice of the damage
783 at the time of the transfer, the owner shall:

784 (a) Deliver to the department an application for a new
785 certificate that complies with s. 328.01 and includes the title
786 brand designation "Hull Damaged"; or

787 (b) Indicate on the certificate in the place designated
788 for that purpose that the vessel is hull damaged and deliver the
789 certificate to the transferee.

790 (2) Not later than 30 days after delivery of the
791 application under paragraph (1)(a) or the certificate of title
792 under paragraph (1)(b), the department shall create a new
793 certificate that indicates that the vessel is branded "Hull
794 Damaged."

795 (3) Before an insurer transfers an ownership interest in a
796 hull-damaged vessel that is covered by a certificate of title
797 created by the department, the insurer shall deliver to the
798 department an application for a new certificate that complies
799 with s. 328.01 and includes the title brand designation "Hull
800 Damaged." Not later than 30 days after delivery of the

801 application to the department, the department shall create a new
802 certificate that indicates that the vessel is branded "Hull
803 Damaged."

804 (4) An owner of record who fails to comply with subsection
805 (1), a person who solicits or colludes in a failure by an owner
806 of record to comply with subsection (1), or an insurer that
807 fails to comply with subsection (3) commits a noncriminal
808 infraction under s. 327.73(1) for which the penalty is \$5,000
809 for the first offense, \$15,000 for a second offense, and \$25,000
810 for each subsequent offense.

811 Section 9. Section 328.055, Florida Statutes, is created
812 to read:

813 328.055 Maintenance of and access to files.—

814 (1) For each record relating to a certificate of title
815 submitted to the department, the department shall:

816 (a) Ascertain or assign the hull identification number for
817 the vessel;

818 (b) Maintain the hull identification number and all the
819 information submitted with the application pursuant to s.
820 328.01(2) to which the record relates, including the date and
821 time the record was delivered to the department; and

822 (c) Index the files of the department as required by
823 subsection (2).

824 (2) The department shall maintain in its files the
825 information contained in all certificates of title created under

826 this part. The information in the files of the department must
827 be searchable by the hull identification number of the vessel,
828 the vessel number, the name of the owner of record, and any
829 other method used by the department.

830 (3) The department shall maintain in its files, for each
831 vessel for which it has created a certificate of title, all
832 title brands known to the department, the name of each secured
833 party known to the department, the name of each person known to
834 the department to be claiming an ownership interest, and all
835 stolen property reports the department has received.

836 Section 10. Section 328.06, Florida Statutes, is created
837 to read:

838 328.06 Action required on creation of certificate of
839 title.-

840 (1) On creation of a written certificate of title, the
841 department shall promptly send the certificate to the secured
842 party of record or, if none, to the owner of record at the
843 address indicated for that person in the files of the
844 department. On creation of an electronic certificate of title,
845 the department shall promptly send a record evidencing the
846 certificate to the owner of record and, if there is one, to the
847 secured party of record at the address indicated for each person
848 in the files of the department. The department may send the
849 record to the person's mailing address or, if indicated in the
850 files of the department, an electronic address.

851 (2) If the department creates a written certificate of
852 title, any electronic certificate of title for the vessel is
853 canceled and replaced by the written certificate. The department
854 shall maintain in the files of the department the date and time
855 of cancellation.

856 (3) Before the department creates an electronic
857 certificate of title, any written certificate for the vessel
858 must be surrendered to the department. If the department creates
859 an electronic certificate, the department shall destroy or
860 otherwise cancel the written certificate for the vessel which
861 has been surrendered to the department and maintain in the files
862 of the department the date and time of destruction or other
863 cancellation. If a written certificate being canceled is not
864 destroyed, the department shall indicate on the face of the
865 certificate that it has been canceled.

866 Section 11. Section 328.065, Florida Statutes, is created
867 to read:

868 328.065 Effect of possession of certificate of title;
869 judicial process.—Possession of a certificate of title does not
870 by itself provide a right to obtain possession of a vessel.
871 Garnishment, attachment, levy, replevin, or other judicial
872 process against the certificate is not effective to determine
873 possessory rights to the vessel. This part does not prohibit
874 enforcement under the laws of this state of a security interest
875 in, levy on, or foreclosure of a statutory or common-law lien on

876 a vessel. Absence of an indication of a statutory or common-law
877 lien on a certificate does not invalidate the lien.

878 Section 12. Section 328.09, Florida Statutes, is amended
879 to read:

880 (Substantial rewording of section. See
881 s. 328.09, F.S., for present text.)

882 328.09 Refusal to issue and authority to cancel a
883 certificate of title or registration.-

884 (1) Unless an application for a certificate of title is
885 rejected under subsection (3) or subsection (4), the department
886 shall create a certificate for the vessel in accordance with
887 subsection (2) not later than 30 days after delivery to the
888 department of an application that complies with s. 328.01.

889 (2) If the department creates electronic certificates of
890 title, the department shall create an electronic certificate
891 unless in the application the secured party of record or, if
892 none, the owner of record requests that the department create a
893 written certificate.

894 (3) Except as otherwise provided in subsection (4), the
895 department may reject an application for a certificate of title
896 only if:

897 (a) The application does not comply with s. 328.01;

898 (b) The application does not contain documentation
899 sufficient for the department to determine whether the applicant
900 is entitled to a certificate;

901 (c) There is a reasonable basis for concluding that the
902 application is fraudulent or issuance of a certificate would
903 facilitate a fraudulent or illegal act;

904 (d) The application does not comply with the laws of this
905 state other than this part; or

906 (e) The application is for a vessel that has been deemed
907 derelict by a law enforcement officer under s. 823.11. In such
908 case, a law enforcement officer must inform the department in
909 writing, which may be provided by facsimile, e-mail, or other
910 electronic means, of the vessel's derelict status and supply the
911 department with the vessel title number or vessel identification
912 number. The department may issue a certificate of title once a
913 law enforcement officer has verified in writing, which may be
914 provided by facsimile, e-mail, or other electronic means, that
915 the vessel is no longer a derelict vessel.

916 (4) The department shall reject an application for a
917 certificate of title for a vessel that is a documented vessel or
918 a foreign-documented vessel.

919 (5) The department may cancel a certificate of title
920 created by it only if the department:

921 (a) Could have rejected the application for the
922 certificate under subsection (3);

923 (b) Is required to cancel the certificate under another
924 provision of this part; or

925 (c) Receives satisfactory evidence that the vessel is a

926 documented vessel or a foreign-documented vessel.

927 (6) The decision by the department to reject an
928 application for a certificate of title or cancel a certificate
929 of title pursuant to this section is subject to a hearing
930 pursuant to ss. 120.569 and 120.57 at which the owner and any
931 other interested party may present evidence in support of or
932 opposition to the rejection of the application for a certificate
933 of title or the cancellation of a certificate of title.

934 Section 13. Section 328.101, Florida Statutes, is created
935 to read:

936 328.101 Effect of missing or incorrect information.—Except
937 as otherwise provided in s. 679.337, a certificate of title or
938 other record required or authorized by this part is effective
939 even if it contains unintended scrivener's errors or does not
940 contain certain required information if such missing information
941 is determined by the department to be inconsequential to the
942 issuing of a certificate of title or other record.

943 Section 14. Section 328.11, Florida Statutes, is amended
944 to read:

945 328.11 Duplicate certificate of title.—

946 (1) If a written certificate of title is lost, stolen,
947 mutilated, destroyed, or otherwise becomes unavailable or
948 illegible, the secured party of record or, if no secured party
949 is indicated in the files of the department, the owner of record
950 may apply for and, by furnishing information satisfactory to the

951 department, obtain a duplicate certificate in the name of the
952 owner of record.

953 (2) An applicant for a duplicate certificate of title must
954 sign the application, and, except as otherwise permitted by the
955 department, the application must comply with s. 328.01. The
956 application must include the existing certificate unless the
957 certificate is lost, stolen, mutilated, destroyed, or otherwise
958 unavailable.

959 (3) A duplicate certificate of title created by the
960 department must comply with s. 328.04 and indicate on the face
961 of the certificate that it is a duplicate certificate.

962 (4) If a person receiving a duplicate certificate of title
963 subsequently obtains possession of the original written
964 certificate, the person shall promptly destroy the original
965 certificate of title.

966 ~~(5)(1) The Department of Highway Safety and Motor Vehicles~~
967 ~~may issue a duplicate certificate of title upon application by~~
968 ~~the person entitled to hold such a certificate if the department~~
969 ~~is satisfied that the original certificate has been lost,~~
970 ~~destroyed, or mutilated. The department shall charge a fee of \$6~~
971 ~~for issuing a duplicate certificate.~~

972 (6)(2) In addition to the fee imposed by subsection (5)
973 ~~(1), the department of Highway Safety and Motor Vehicles shall~~
974 ~~charge a fee of \$5 for expedited service in issuing a duplicate~~
975 ~~certificate of title. Application for such expedited service may~~

976 be made by mail or in person. The department shall issue each
977 certificate of title applied for under this subsection within 5
978 working days after receipt of a proper application or shall
979 refund the additional \$5 fee upon written request by the
980 applicant.

981 ~~(3) If, following the issuance of an original, duplicate,~~
982 ~~or corrected certificate of title by the department, the~~
983 ~~certificate is lost in transit and is not delivered to the~~
984 ~~addressee, the owner of the vessel or the holder of a lien~~
985 ~~thereon may, within 180 days after the date of issuance of the~~
986 ~~title, apply to the department for reissuance of the certificate~~
987 ~~of title. An additional fee may not be charged for reissuance~~
988 ~~under this subsection.~~

989 ~~(7)-(4)~~ The department shall implement a system to verify
990 that the application is signed by a person authorized to receive
991 a duplicate title certificate under this section if the address
992 shown on the application is different from the address shown for
993 the applicant on the records of the department.

994 Section 15. Section 328.12, Florida Statutes, is created
995 to read:

996 328.12 Perfection of security interest.-

997 (1) Except as otherwise provided in this section, a
998 security interest in a vessel may be perfected only by delivery
999 to the department of an application for a certificate of title
1000 that identifies the secured party and otherwise complies with s.

1001 328.01. The security interest is perfected on the later of
1002 delivery to the department of the application and the applicable
1003 fee or attachment of the security interest under s. 679.2031.

1004 (2) If the interest of a person named as owner, lessor,
1005 consignor, or bailor in an application for a certificate of
1006 title delivered to the department is a security interest, the
1007 application sufficiently identifies the person as a secured
1008 party. Identification on the application for a certificate of a
1009 person as owner, lessor, consignor, or bailor is not by itself a
1010 factor in determining whether the person's interest is a
1011 security interest.

1012 (3) If the department has created a certificate of title
1013 for a vessel, a security interest in the vessel may be perfected
1014 by delivery to the department of an application, on a form the
1015 department may require, to have the security interest added to
1016 the certificate. The application must be signed by an owner of
1017 the vessel or by the secured party and must include:

1018 (a) The name of the owner of record;
1019 (b) The name and mailing address of the secured party;
1020 (c) The hull identification number for the vessel; and
1021 (d) If the department has created a written certificate of
1022 title for the vessel, the certificate.

1023 (4) A security interest perfected under subsection (3) is
1024 perfected on the later of delivery to the department of the
1025 application and all applicable fees or attachment of the

1026 security interest under s. 679.2031.

1027 (5) On delivery of an application that complies with
1028 subsection (3) and payment of all applicable fees, the
1029 department shall create a new certificate of title pursuant to
1030 s. 328.09 and deliver the new certificate or a record evidencing
1031 an electronic certificate pursuant to s. 328.06. The department
1032 shall maintain in the files of the department the date and time
1033 of delivery of the application to the department.

1034 (6) If a secured party assigns a perfected security
1035 interest in a vessel, the receipt by the department of a
1036 statement providing the name of the assignee as secured party is
1037 not required to continue the perfected status of the security
1038 interest against creditors of and transferees from the original
1039 debtor. A purchaser of a vessel subject to a security interest
1040 who obtains a release from the secured party indicated in the
1041 files of the department or on the certificate takes free of the
1042 security interest and of the rights of a transferee unless the
1043 transfer is indicated in the files of the department or on the
1044 certificate.

1045 (7) This section does not apply to a security interest:

1046 (a) Created in a vessel by a person during any period in
1047 which the vessel is inventory held for sale or lease by the
1048 person or is leased by the person as lessor if the person is in
1049 the business of selling vessels;

1050 (b) In a barge for which no application for a certificate

1051 of title has been delivered to the department; or

1052 (c) In a vessel before delivery if the vessel is under
1053 construction, or completed, pursuant to contract and for which
1054 no application for a certificate has been delivered to the
1055 department.

1056 (8) This subsection applies if a certificate of
1057 documentation for a documented vessel is deleted or canceled. If
1058 a security interest in the vessel was valid immediately before
1059 deletion or cancellation against a third party as a result of
1060 compliance with 46 U.S.C. s. 31321, the security interest is and
1061 remains perfected until the earlier of 4 months after
1062 cancellation of the certificate or the time the security
1063 interest becomes perfected under this part.

1064 (9) A security interest in a vessel arising under s.
1065 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is
1066 perfected when it attaches but becomes unperfected when the
1067 debtor obtains possession of the vessel, unless the security
1068 interest is perfected pursuant to subsection (1) or subsection
1069 (3) before the debtor obtains possession.

1070 (10) A security interest in a vessel as proceeds of other
1071 collateral is perfected to the extent provided in s. 679.3151.

1072 (11) A security interest in a vessel perfected under the
1073 law of another jurisdiction is perfected to the extent provided
1074 in s. 679.3161(4).

1075 (12) For purposes of this section and this part, the

1076 Department of Revenue shall be treated as a secured party when
1077 collecting unpaid support.

1078 Section 16. Section 328.125, Florida Statutes, is created
1079 to read:

1080 328.125 Termination statement.—

1081 (1) A secured party indicated in the files of the
1082 department as having a security interest in a vessel shall
1083 deliver a termination statement to the department and, on the
1084 debtor's request, to the debtor, by the earlier of:

1085 (a) Twenty days after the secured party receives a signed
1086 demand from an owner for a termination statement and there is no
1087 obligation secured by the vessel subject to the security
1088 interest and no commitment to make an advance, incur an
1089 obligation, or otherwise give value secured by the vessel; or

1090 (b) If the vessel is consumer goods, 30 days after there
1091 is no obligation secured by the vessel and no commitment to make
1092 an advance, incur an obligation, or otherwise give value secured
1093 by the vessel.

1094 (2) If a written certificate of title has been created and
1095 delivered to a secured party and a termination statement is
1096 required under subsection (1), the secured party, not later than
1097 the date required by subsection (1), shall deliver the
1098 certificate to the debtor or to the department with the
1099 statement. If the certificate is lost, stolen, mutilated,
1100 destroyed, or is otherwise unavailable or illegible, the secured

1101 party shall deliver with the statement, not later than the date
1102 required by subsection (1), an application for a duplicate
1103 certificate meeting the requirements of s. 328.11.

1104 (3) On delivery to the department of a termination
1105 statement authorized by the secured party, the security interest
1106 to which the statement relates ceases to be perfected. If the
1107 security interest to which the statement relates was indicated
1108 on the certificate of title, the department shall create a new
1109 certificate and deliver the new certificate or a record
1110 evidencing an electronic certificate. The department shall
1111 maintain in its files the date and time of delivery to the
1112 department of the statement.

1113 (4) A secured party that fails to comply with this section
1114 is liable for any loss that the secured party had reason to know
1115 might result from its failure to comply and which could not
1116 reasonably have been prevented and for the cost of an
1117 application for a certificate of title under s. 328.01 or s.
1118 328.11.

1119 Section 17. Section 328.14, Florida Statutes, is created
1120 to read:

1121 328.14 Rights of purchaser other than secured party.—

1122 (1) A buyer in ordinary course of business has the
1123 protections afforded by ss. 672.403(2) and 679.320(1) even if an
1124 existing certificate of title was not signed and delivered to
1125 the buyer or a new certificate listing the buyer as owner of

1126 record was not created.

1127 (2) Except as otherwise provided in ss. 328.145 and
1128 328.22, the rights of a purchaser of a vessel who is not a buyer
1129 in ordinary course of business or a lien creditor are governed
1130 by the Uniform Commercial Code.

1131 Section 18. Section 328.145, Florida Statutes, is created
1132 to read:

1133 328.145 Rights of secured party.-

1134 (1) Subject to subsection (2), the effect of perfection
1135 and nonperfection of a security interest and the priority of a
1136 perfected or unperfected security interest with respect to the
1137 rights of a purchaser or creditor, including a lien creditor, is
1138 governed by the Uniform Commercial Code.

1139 (2) If, while a security interest in a vessel is perfected
1140 by any method under this part, the department creates a
1141 certificate of title that does not indicate that the vessel is
1142 subject to the security interest or contain a statement that it
1143 may be subject to security interests not indicated on the
1144 certificate:

1145 (a) A buyer of the vessel, other than a person in the
1146 business of selling or leasing vessels of that kind, takes free
1147 of the security interest if the buyer, acting in good faith and
1148 without knowledge of the security interest, gives value and
1149 receives possession of the vessel; and

1150 (b) The security interest is subordinate to a conflicting

1151 security interest in the vessel that is perfected under s.
1152 328.12 after creation of the certificate and without the
1153 conflicting secured party's knowledge of the security interest.

1154 Section 19. Section 328.15, Florida Statutes, is amended
1155 to read:

1156 328.15 Notice of lien on vessel; recording.—

1157 ~~(1) No lien for purchase money or as security for a debt~~
1158 ~~in the form of retain title contract, conditional bill of sale,~~
1159 ~~chattel mortgage, or otherwise on a vessel shall be enforceable~~
1160 ~~in any of the courts of this state against creditors or~~
1161 ~~subsequent purchasers for a valuable consideration and without~~
1162 ~~notice unless a sworn notice of such lien is recorded. The lien~~
1163 ~~certificate shall contain the following information:~~

1164 ~~(a) Name and address of the registered owner;~~

1165 ~~(b) Date of lien;~~

1166 ~~(c) Description of the vessel to include make, type, motor~~
1167 ~~and serial number; and~~

1168 ~~(d) Name and address of lienholder.~~

1169
1170 ~~The lien shall be recorded by the Department of Highway Safety~~
1171 ~~and Motor Vehicles and shall be effective as constructive notice~~
1172 ~~when filed. The date of filing of the notice of lien is the date~~
1173 ~~of its receipt by the department's central office in~~
1174 ~~Tallahassee, if first filed there, or otherwise by the office of~~
1175 ~~a county tax collector or of the tax collector's agent.~~

1176 ~~(2) (a) The Department of Highway Safety and Motor Vehicles~~
1177 ~~shall not enter any lien upon its lien records, whether it is a~~
1178 ~~first lien or a subordinate lien, unless the official~~
1179 ~~certificate of title issued for the vessel is furnished with the~~
1180 ~~notice of lien, so that the record of lien, whether original or~~
1181 ~~subordinate, may be noted upon the face thereof. After the~~
1182 ~~department records the lien, it shall send the certificate of~~
1183 ~~title to the holder of the first lien who shall hold such~~
1184 ~~certificate until the lien is satisfied in full.~~

1185 ~~(b) When a vessel is registered in the names of two or~~
1186 ~~more persons as coowners in the alternative by the use of the~~
1187 ~~word "or," whether or not the coowners are husband and wife,~~
1188 ~~each coowner is considered to have granted to any other coowner~~
1189 ~~the absolute right to place a lien or encumbrance on the vessel,~~
1190 ~~and the signature of one coowner constitutes proper execution of~~
1191 ~~the notice of lien. When a vessel is registered in the names of~~
1192 ~~two or more persons as coowners in the conjunctive by the use of~~
1193 ~~the word "and," the signature of each coowner is required in~~
1194 ~~order to place a lien or encumbrance on the vessel.~~

1195 ~~(c) If the owner of the vessel as shown on the title~~
1196 ~~certificate or the director of the state child support~~
1197 ~~enforcement program desires to place a second or subsequent lien~~
1198 ~~or encumbrance against the vessel when the title certificate is~~
1199 ~~in the possession of the first lienholder, the owner shall send~~
1200 ~~a written request to the first lienholder by certified mail and~~

1201 ~~such first lienholder shall forward the certificate to the~~
1202 ~~department for endorsement. The department shall return the~~
1203 ~~certificate to the first lienholder, as indicated in the notice~~
1204 ~~of lien filed by the first lienholder, after endorsing the~~
1205 ~~second or subsequent lien on the certificate and on the~~
1206 ~~duplicate. If the first lienholder fails, neglects, or refuses~~
1207 ~~to forward the certificate of title to the department within 10~~
1208 ~~days after the date of the owner's or the director's request,~~
1209 ~~the department, on written request of the subsequent lienholder~~
1210 ~~or an assignee thereof, shall demand of the first lienholder the~~
1211 ~~return of such certificate for the notation of the second or~~
1212 ~~subsequent lien or encumbrance.~~

1213 (1)~~(3)~~ Upon the payment of a ~~any such~~ lien, the debtor or
1214 the registered owner of the motorboat shall be entitled to
1215 demand and receive from the lienholder a satisfaction of the
1216 lien which shall likewise be filed with the Department of
1217 Highway Safety and Motor Vehicles.

1218 (2)~~(4)~~ The Department of Highway Safety and Motor Vehicles
1219 under precautionary rules and regulations to be promulgated by
1220 it may permit the use, in substitution of the formal
1221 satisfaction of lien, of other methods of satisfaction, such as
1222 perforation, appropriate stamp, or otherwise, as it deems
1223 reasonable and adequate.

1224 (3)~~(5)~~(a) The Department of Highway Safety and Motor
1225 Vehicles shall adopt rules to administer this section. The

1226 department may by rule require that a notice of satisfaction of
1227 a lien be notarized. The department shall prepare the forms of
1228 the notice of lien and the satisfaction of lien to be supplied,
1229 at a charge not to exceed 50 percent more than cost, to
1230 applicants for recording the liens or satisfactions and shall
1231 keep a record of such notices of lien and satisfactions
1232 available for inspection by the public at all reasonable times.
1233 The division may furnish certified copies of such satisfactions
1234 for a fee of \$1, which are admissible in evidence in all courts
1235 of this state under the same conditions and to the same effect
1236 as certified copies of other public records.

1237 (b) The department shall establish and administer an
1238 electronic titling program that requires the recording of vessel
1239 title information for new, transferred, and corrected
1240 certificates of title. Lienholders shall electronically transmit
1241 liens and lien satisfactions to the department in a format
1242 determined by the department. Individuals and lienholders who
1243 the department determines are not normally engaged in the
1244 business or practice of financing vessels are not required to
1245 participate in the electronic titling program.

1246 ~~(6) The Department of Highway Safety and Motor Vehicles is~~
1247 ~~entitled to a fee of \$1 for the recording of each notice of~~
1248 ~~lien. No fee shall be charged for recording the satisfaction of~~
1249 ~~a lien. All of the fees collected shall be paid into the Marine~~
1250 ~~Resources Conservation Trust Fund.~~

1251 (4) ~~(7)~~ (a) Should any person, firm, or corporation holding
1252 such lien, which has been recorded by the Department of Highway
1253 Safety and Motor Vehicles, upon payment of such lien and on
1254 demand, fail or refuse, within 30 days after such payment and
1255 demand, to furnish the debtor or the registered owner of such
1256 vessel a satisfaction of the lien, then, in that event, such
1257 person, firm, or corporation shall be held liable for all costs,
1258 damages, and expenses, including reasonable attorney ~~attorney's~~
1259 fees, lawfully incurred by the debtor or the registered owner of
1260 such vessel in any suit which may be brought in the courts of
1261 this state for the cancellation of such lien.

1262 (b) Following satisfaction of a lien, the lienholder shall
1263 enter a satisfaction thereof in the space provided on the face
1264 of the certificate of title. If there are no subsequent liens
1265 shown thereon, the certificate shall be delivered by the
1266 lienholder to the person satisfying the lien or encumbrance and
1267 an executed satisfaction on a form provided by the department
1268 shall be forwarded to the department by the lienholder within 10
1269 days after satisfaction of the lien.

1270 (c) If the certificate of title shows a subsequent lien
1271 not then being discharged, an executed satisfaction of the first
1272 lien shall be delivered by the lienholder to the person
1273 satisfying the lien and the certificate of title showing
1274 satisfaction of the first lien shall be forwarded by the
1275 lienholder to the department within 10 days after satisfaction

1276 | of the lien.

1277 | (d) If, upon receipt of a title certificate showing
1278 | satisfaction of the first lien, the department determines from
1279 | its records that there are no subsequent liens or encumbrances
1280 | upon the vessel, the department shall forward to the owner, as
1281 | shown on the face of the title, a corrected certificate showing
1282 | no liens or encumbrances. If there is a subsequent lien not
1283 | being discharged, the certificate of title shall be reissued
1284 | showing the second or subsequent lienholder as the first
1285 | lienholder and shall be delivered to the new first lienholder.
1286 | The first lienholder shall be entitled to retain the certificate
1287 | of title until his or her lien is satisfied. Upon satisfaction
1288 | of the lien, the lienholder shall be subject to the procedures
1289 | required of a first lienholder in this subsection ~~and in~~
1290 | ~~subsection (2)~~.

1291 | (5) ~~(8)~~ When the original certificate of title cannot be
1292 | returned to the department by the lienholder and evidence
1293 | satisfactory to the department is produced that all liens or
1294 | encumbrances have been satisfied, upon application by the owner
1295 | for a duplicate copy of the certificate of title, upon the form
1296 | prescribed by the department, accompanied by the fee prescribed
1297 | in this chapter, a duplicate copy of the certificate of title
1298 | without statement of liens or encumbrances shall be issued by
1299 | the department and delivered to the owner.

1300 | (6) ~~(9)~~ Any person who fails, within 10 days after receipt

1301 of a demand by the department by certified mail, to return a
1302 certificate of title to the department ~~as required by paragraph~~
1303 ~~(2)(e)~~ or who, upon satisfaction of a lien, fails within 10 days
1304 after receipt of such demand to forward the appropriate document
1305 to the department as required by paragraph (4)(b) ~~(7)(b)~~ or
1306 paragraph (4)(c) ~~(7)(e)~~ commits a misdemeanor of the second
1307 degree, punishable as provided in s. 775.082 or s. 775.083.

1308 (7)(10) The department shall use the last known address as
1309 shown by its records when sending any notice required by this
1310 section.

1311 (8)(11) If the original lienholder sells and assigns his
1312 or her lien to some other person, and if the assignee desires to
1313 have his or her name substituted on the certificate of title as
1314 the holder of the lien, he or she may, after delivering the
1315 original certificate of title to the department and providing a
1316 sworn statement of the assignment, have his or her name
1317 substituted as a lienholder. Upon substitution of the assignee's
1318 name as lienholder, the department shall deliver the certificate
1319 of title to the assignee as the first lienholder.

1320 (9) Subsections (1), (2), and (4)-(8) shall expire October
1321 1, 2026.

1322 Section 20. Section 328.16, Florida Statutes, is amended
1323 to read:

1324 328.16 Issuance in duplicate; delivery; liens, security
1325 interests, and encumbrances.-

1326 (1) The department shall assign a number to each
1327 certificate of title and shall issue each certificate of title
1328 and each corrected certificate in duplicate. The database record
1329 shall serve as the duplicate title certificate.

1330 (2) An authorized person must sign the original
1331 certificate of title and each corrected certificate and, if
1332 there are no liens, security interests, or encumbrances on the
1333 vessel, as shown in the records of the department or as shown in
1334 the application, must deliver the certificate to the applicant
1335 or to another person as directed by the applicant or person,
1336 agent, or attorney submitting the application. If there are one
1337 or more liens, security interests, or encumbrances on the
1338 vessel, the department must deliver the certificate to the first
1339 lienholder or secured party as shown by department records. The
1340 department shall deliver to the first lienholder or secured
1341 party, along with the certificate, a form to be subsequently
1342 used by the lienholder or secured party as a satisfaction. If
1343 the application for certificate of title shows the name of a
1344 first lienholder or secured party which is different from the
1345 name of the first lienholder or secured party as shown by the
1346 records of the department, the certificate shall not be issued
1347 to any person until after the department notifies all parties
1348 who appear to hold a lien or a security interest and the
1349 applicant for the certificate, in writing by certified mail. If
1350 the parties do not amicably resolve the conflict within 10 days

1351 after the date the notice was mailed, the department shall serve
1352 notice in writing by certified mail on all persons that appear
1353 to hold liens or security interests on that particular vessel,
1354 including the applicant for the certificate, to show cause
1355 within 15 days after the date the notice is mailed why it should
1356 not issue and deliver the certificate to the secured party of
1357 record or person indicated in the notice of lien filed by the
1358 lienholder whose name appears in the application as the first
1359 lienholder without showing any lien or liens as outstanding
1360 other than those appearing in the application or those filed
1361 subsequent to the filing of the application for the certificate
1362 of title. If, within the 15-day period, any person other than
1363 the lienholder or secured party of record shown in the
1364 application or a party filing a subsequent lien or security
1365 interest, in answer to the notice to show cause, appears in
1366 person or by a representative, or responds in writing, and files
1367 a written statement under oath that his or her lien or security
1368 interest on that particular vessel is still outstanding, the
1369 department shall not issue the certificate to anyone until after
1370 the conflict has been settled by the lien or security interest
1371 claimants involved or by a court of competent jurisdiction. If
1372 the conflict is not settled amicably within 10 days after the
1373 final date for filing an answer to the notice to show cause, the
1374 complaining party shall have 10 days to obtain a ruling, or a
1375 stay order, from a court of competent jurisdiction. If a ruling

1376 or stay order is not issued and served on the department within
1377 the 10-day period, the department shall issue the certificate
1378 showing no liens or security interests, except those shown in
1379 the application or thereafter filed, to the original applicant
1380 if there are no liens or security interests shown in the
1381 application and none are thereafter filed, or to the person
1382 indicated as the secured party of record or in the notice of
1383 lien filed by the lienholder whose name appears in the
1384 application as the first lienholder if there are liens shown in
1385 the application or thereafter filed. A duplicate certificate or
1386 corrected certificate must show only such security interest or
1387 interests or lien or liens as were shown in the application and
1388 subsequently filed liens or security interests that may be
1389 outstanding.

1390 (3) ~~Except as provided in s. 328.15(11),~~ The certificate
1391 of title shall be retained by the first lienholder or secured
1392 party of record. The first lienholder or secured party of record
1393 is entitled to retain the certificate until the first lien or
1394 security interest is satisfied.

1395 (4) Notwithstanding any requirements in this section ~~or in~~
1396 ~~s. 328.15~~ indicating that a lien or security interest on a
1397 vessel shall be noted on the face of the Florida certificate of
1398 title, if there are one or more liens, security interests, or
1399 encumbrances on a vessel, the department shall electronically
1400 transmit the lien or security interest to the first lienholder

1401 or secured party and notify the first lienholder or secured
1402 party of any additional liens or security interests. Subsequent
1403 lien or security interest satisfactions shall be electronically
1404 transmitted to the department and must include the name and
1405 address of the person or entity satisfying the lien or security
1406 interest. When electronic transmission of liens or security
1407 interest and lien satisfactions or security interest are used,
1408 the issuance of a certificate of title may be waived until the
1409 last lien or security interest is satisfied and a clear
1410 certificate of title is issued to the owner of the vessel.

1411 (5) The owner of a vessel~~7~~ upon which a lien or security
1412 interest has been filed with the department or noted upon a
1413 certificate of title for a period of 5 years~~7~~ may apply to the
1414 department in writing for such lien or security interest to be
1415 removed from the department files or from the certificate of
1416 title. The application must be accompanied by evidence
1417 satisfactory to the department that the applicant has notified
1418 the lienholder or secured party by certified mail, not less than
1419 20 days before ~~prior to~~ the date of the application, of his or
1420 her intention to apply to the department for removal of the lien
1421 or security interest. Ten days after receipt of the application,
1422 the department may remove the lien or security interest from its
1423 files or from the certificate of title, as the case may be, if
1424 no statement in writing protesting removal of the lien or
1425 security interest is received by the department from the

1426 | lienholder or secured party within the 10-day period. However,
1427 | if the lienholder or secured party files with the department,
1428 | within the 10-day period, a written statement that the lien or
1429 | security interest is still outstanding, the department may not
1430 | remove the lien or security interest until the lienholder or
1431 | secured party presents a satisfaction of lien or satisfaction of
1432 | security interest to the department.

1433 | Section 21. Subsection (1) of section 328.165, Florida
1434 | Statutes, is amended to read:

1435 | 328.165 Cancellation of certificates.—

1436 | (1) If it appears that a certificate of title has been
1437 | improperly issued, the department shall cancel the certificate.
1438 | Upon cancellation of any certificate of title, the department
1439 | shall notify the person to whom the certificate of title was
1440 | issued, and any lienholders or secured parties appearing
1441 | thereon, of the cancellation and shall demand the surrender of
1442 | the certificate of title; however, the cancellation does not
1443 | affect the validity of any lien or security interest noted
1444 | thereon. The holder of the certificate of title shall
1445 | immediately return it to the department. If a certificate of
1446 | registration has been issued to the holder of a certificate of
1447 | title so canceled, the department shall immediately cancel the
1448 | certificate of registration and demand the return of the
1449 | certificate of registration, and the holder of such certificate
1450 | of registration shall immediately return it to the department.

1451 Section 22. Section 328.215, Florida Statutes, is created
1452 to read:

1453 328.215 Application for transfer of ownership or
1454 termination of security interest without certificate of title.-

1455 (1) Except as otherwise provided in s. 328.23 or s.
1456 328.24, if the department receives, unaccompanied by a signed
1457 certificate of title, an application for a new certificate that
1458 includes an indication of a transfer of ownership or a
1459 termination statement, the department may create a new
1460 certificate under this section only if:

1461 (a) All other requirements under ss. 328.01 and 328.09 are
1462 met;

1463 (b) The applicant provides an affidavit stating facts
1464 showing the applicant is entitled to a transfer of ownership or
1465 termination statement;

1466 (c) The applicant provides the department with
1467 satisfactory evidence that notification of the application has
1468 been sent to the owner of record and all persons indicated in
1469 the files of the department as having an interest, including a
1470 security interest, in the vessel; at least 45 days have passed
1471 since the notification was sent; and the department has not
1472 received an objection from any of those persons; and

1473 (d) The applicant submits any other information required
1474 by the department as evidence of the applicant's ownership or
1475 right to terminate the security interest, and the department has

1476 no credible information indicating theft, fraud, or an
1477 undisclosed or unsatisfied security interest, lien, or other
1478 claim to an interest in the vessel.

1479 (2) The department may indicate in a certificate of title
1480 created under subsection (1) that the certificate was created
1481 without submission of a signed certificate or termination
1482 statement. Unless credible information indicating theft, fraud,
1483 or an undisclosed or unsatisfied security interest, lien, or
1484 other claim to an interest in the vessel is delivered to the
1485 department not later than 1 year after creation of the
1486 certificate, on request in a form and manner required by the
1487 department, the department shall remove the indication from the
1488 certificate.

1489 (3) Before the department creates a certificate of title
1490 under subsection (1), the department may require the applicant
1491 to post a reasonable bond or provide an equivalent source of
1492 indemnity or security. The bond, indemnity, or other security
1493 must be in a form required by the department and provide for
1494 indemnification of any owner, purchaser, or other claimant for
1495 any expense, loss, delay, or damage, including reasonable
1496 attorney fees and costs, but not including incidental or
1497 consequential damages, resulting from creation or amendment of
1498 the certificate.

1499 (4) Unless the department receives a claim for indemnity
1500 not later than 1 year after creation of a certificate of title

1501 under subsection (1), on request in a form and manner required
 1502 by the department, the department shall release any bond,
 1503 indemnity, or other security. The department is not liable to a
 1504 person or entity for creating a certificate of title under this
 1505 section when the department issues the certificate of title in
 1506 good faith based on the information provided by an applicant. An
 1507 applicant that submits erroneous or fraudulent information with
 1508 the intent to mislead the department into issuing a certificate
 1509 of title under this section is subject to the penalties
 1510 established in s. 328.045(4) in addition to any other criminal
 1511 or civil penalties provided by law.

1512 Section 23. Section 328.22, Florida Statutes, is created
 1513 to read:

1514 328.22 Transfer of ownership.—

1515 (1) On voluntary transfer of an ownership interest in a
 1516 vessel covered by a certificate of title, the following
 1517 requirements apply:

1518 (a) If the certificate is a written certificate of title
 1519 and the transferor's interest is noted on the certificate, the
 1520 transferor shall promptly sign the certificate and deliver it to
 1521 the transferee. If the transferor does not have possession of
 1522 the certificate, the person in possession of the certificate has
 1523 a duty to facilitate the transferor's compliance with this
 1524 paragraph. A secured party does not have a duty to facilitate
 1525 the transferor's compliance with this paragraph if the proposed

1526 transfer is prohibited by the security agreement.

1527 (b) If the certificate of title is an electronic
1528 certificate of title, the transferor shall promptly sign by
1529 hand, or electronically if available, and deliver to the
1530 transferee a record evidencing the transfer of ownership to the
1531 transferee.

1532 (c) The transferee has a right enforceable by specific
1533 performance to require the transferor to comply with paragraph
1534 (a) or paragraph (b).

1535 (2) The creation of a certificate of title identifying the
1536 transferee as owner of record satisfies subsection (1).

1537 (3) A failure to comply with subsection (1) or to apply
1538 for a new certificate of title does not render a transfer of
1539 ownership of a vessel ineffective between the parties. Except as
1540 otherwise provided in s. 328.101, s. 328.14(1), s. 328.145, or
1541 s. 328.23, a transfer of ownership without compliance with
1542 subsection (1) is not effective against another person claiming
1543 an interest in the vessel.

1544 (4) A transferor that complies with subsection (1) is not
1545 liable as owner of the vessel for an event occurring after the
1546 transfer, regardless of whether the transferee applies for a new
1547 certificate of title.

1548 Section 24. Section 328.23, Florida Statutes, is created
1549 to read:

1550 328.23 Transfer of ownership by secured party's transfer

1551 statement.—

1552 (1) In this section, "secured party's transfer statement"
1553 means a record signed by the secured party of record stating:

1554 (a) That there has been a default on an obligation secured
1555 by the vessel;

1556 (b) That the secured party of record is exercising or has
1557 exercised post-default remedies with respect to the vessel;

1558 (c) That by reason of the exercise, the secured party of
1559 record has the right to transfer the ownership interest of an
1560 owner, and the name of the owner;

1561 (d) The name and last known mailing address of the owner
1562 of record and the secured party of record;

1563 (e) The name of the transferee;

1564 (f) Other information required by s. 328.01(2); and

1565 (g) One of the following:

1566 1. The certificate of title is an electronic certificate;

1567 2. The secured party does not have possession of the
1568 written certificate of title created in the name of the owner of
1569 record; or

1570 3. The secured party is delivering the written certificate
1571 of title to the department with the secured party's transfer
1572 statement.

1573 (2) Unless the department rejects a secured party's
1574 transfer statement for a reason stated in s. 328.09(3), not
1575 later than 30 days after delivery to the department of the

1576 statement and payment of fees and taxes payable under the laws
 1577 of this state other than this part in connection with the
 1578 statement or the acquisition or use of the vessel, the
 1579 department shall:

1580 (a) Accept the statement;

1581 (b) Amend the files of the department to reflect the
 1582 transfer; and

1583 (c) If the name of the owner whose ownership interest is
 1584 being transferred is indicated on the certificate of title:

1585 1. Cancel the certificate even if the certificate has not
 1586 been delivered to the department;

1587 2. Create a new certificate indicating the transferee as
 1588 owner; and

1589 3. Deliver the new certificate or a record evidencing an
 1590 electronic certificate.

1591 (3) An application under subsection (1) or the creation of
 1592 a certificate of title under subsection (2) is not by itself a
 1593 disposition of the vessel and does not by itself relieve the
 1594 secured party of its duties under chapter 679.

1595 Section 25. Section 328.24, Florida Statutes, is created
 1596 to read:

1597 328.24 Transfer by operation of law.—

1598 (1) In this section, "by operation of law" means pursuant
 1599 to a law or judicial order affecting ownership of a vessel:

1600 (a) Because of death, divorce, or other family law

1601 proceeding, merger, consolidation, dissolution, or bankruptcy;
1602 (b) Through the exercise of the rights of a lien creditor
1603 or a person having a lien created by statute or rule of law; or
1604 (c) Through other legal process.
1605 (2) A transfer-by-law statement must contain:
1606 (a) The name and last known mailing address of the owner
1607 of record and the transferee and the other information required
1608 by s. 328.01;
1609 (b) Documentation sufficient to establish the transferee's
1610 ownership interest or right to acquire the ownership interest;
1611 (c) A statement that:
1612 1. The certificate of title is an electronic certificate
1613 of title;
1614 2. The transferee does not have possession of the written
1615 certificate of title created in the name of the owner of record;
1616 or
1617 3. The transferee is delivering the written certificate to
1618 the department with the transfer-by-law statement; and
1619 (d) Except for a transfer described in paragraph (1)(a),
1620 evidence that notification of the transfer and the intent to
1621 file the transfer-by-law statement has been sent to all persons
1622 indicated in the files of the department as having an interest,
1623 including a security interest, in the vessel.
1624 (3) Unless the department rejects a transfer-by-law
1625 statement for a reason stated in s. 328.09(3) or because the

1626 statement does not include documentation satisfactory to the
1627 department as to the transferee's ownership interest or right to
1628 acquire the ownership interest, not later than 30 days after
1629 delivery to the department of the statement and payment of fees
1630 and taxes payable under the law of this state other than this
1631 part in connection with the statement or with the acquisition or
1632 use of the vessel, the department shall:

1633 (a) Accept the statement;

1634 (b) Amend the files of the department to reflect the
1635 transfer; and

1636 (c) If the name of the owner whose ownership interest is
1637 being transferred is indicated on the certificate of title:

1638 1. Cancel the certificate even if the certificate has not
1639 been delivered to the department;

1640 2. Create a new certificate indicating the transferee as
1641 owner;

1642 3. Indicate on the new certificate any security interest
1643 indicated on the canceled certificate, unless a court order
1644 provides otherwise; and

1645 4. Deliver the new certificate or a record evidencing an
1646 electronic certificate.

1647 (4) This section does not apply to a transfer of an
1648 interest in a vessel by a secured party under part VI of chapter
1649 679.

1650 Section 26. Section 328.25, Florida Statutes, is created

1651 to read:

1652 328.25 Supplemental principles of law and equity.—Unless
 1653 displaced by a provision of this part, the principles of law and
 1654 equity supplement its provisions.

1655 Section 27. Section 328.35, Florida Statutes, is created
 1656 to read:

1657 328.35 Rulemaking.—The department may adopt rules pursuant
 1658 to ss. 120.536(1) and 120.54 to implement this part.

1659 Section 28. Section 409.2575, Florida Statutes, is amended
 1660 to read:

1661 409.2575 Liens on motor vehicles and vessels.—

1662 (1) The director of the state IV-D program, or the
 1663 director's designee, may cause a lien for unpaid and delinquent
 1664 support to be placed upon motor vehicles, as defined in chapter
 1665 320, and upon vessels, as defined in chapter 327, that are
 1666 registered in the name of an obligor who is delinquent in
 1667 support payments, if the title to the property is held by a
 1668 lienholder, in the manner provided in chapter 319 or, if
 1669 applicable in accordance with s. 328.15(9), chapter 328. Notice
 1670 of lien shall not be mailed unless the delinquency in support
 1671 exceeds \$600.

1672 (2) If the first lienholder fails, neglects, or refuses to
 1673 forward the certificate of title to the appropriate department
 1674 as requested pursuant to s. 319.24 or, if applicable in
 1675 accordance with s. 328.15(9), s. 328.15, the director of the IV-

1676 D program, or the director's designee, may apply to the circuit
 1677 court for an order to enforce the requirements of s. 319.24 or
 1678 s. 328.15, whichever applies.

1679 Section 29. Subsection (2) of section 705.103, Florida
 1680 Statutes, is amended to read:

1681 705.103 Procedure for abandoned or lost property.—

1682 (2) Whenever a law enforcement officer ascertains that an
 1683 article of lost or abandoned property is present on public
 1684 property and is of such nature that it cannot be easily removed,
 1685 the officer shall cause a notice to be placed upon such article
 1686 in substantially the following form:

1687 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 1688 PROPERTY. This property, to wit: ...(setting forth brief
 1689 description)... is unlawfully upon public property known as
 1690 ...(setting forth brief description of location)... and must be
 1691 removed within 5 days; otherwise, it will be removed and
 1692 disposed of pursuant to chapter 705, Florida Statutes. The owner
 1693 will be liable for the costs of removal, storage, and
 1694 publication of notice. Dated this: ...(setting forth the date of
 1695 posting of notice)..., signed: ...(setting forth name, title,
 1696 address, and telephone number of law enforcement officer)....

1697 Such notice shall be not less than 8 inches by 10 inches and
 1698 shall be sufficiently weatherproof to withstand normal exposure
 1699 to the elements. In addition to posting, the law enforcement
 1700 officer shall make a reasonable effort to ascertain the name and

1701 address of the owner. If such is reasonably available to the
1702 officer, she or he shall mail a copy of such notice to the owner
1703 on or before the date of posting. If the property is a motor
1704 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
1705 327.02, the law enforcement agency shall contact the Department
1706 of Highway Safety and Motor Vehicles in order to determine the
1707 name and address of the owner and any person who has filed a
1708 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
1709 or s. 328.15 ~~s. 328.15(1)~~. On receipt of this information, the
1710 law enforcement agency shall mail a copy of the notice by
1711 certified mail, return receipt requested, to the owner and to
1712 the lienholder, if any, except that a law enforcement officer
1713 who has issued a citation for a violation of s. 823.11 to the
1714 owner of a derelict vessel is not required to mail a copy of the
1715 notice by certified mail, return receipt requested, to the
1716 owner. If, at the end of 5 days after posting the notice and
1717 mailing such notice, if required, the owner or any person
1718 interested in the lost or abandoned article or articles
1719 described has not removed the article or articles from public
1720 property or shown reasonable cause for failure to do so, the
1721 following shall apply:

1722 (a) For abandoned property, the law enforcement agency may
1723 retain any or all of the property for its own use or for use by
1724 the state or unit of local government, trade such property to
1725 another unit of local government or state agency, donate the

1726 | property to a charitable organization, sell the property, or
1727 | notify the appropriate refuse removal service.

1728 | (b) For lost property, the officer shall take custody and
1729 | the agency shall retain custody of the property for 90 days. The
1730 | agency shall publish notice of the intended disposition of the
1731 | property, as provided in this section, during the first 45 days
1732 | of this time period.

1733 | 1. If the agency elects to retain the property for use by
1734 | the unit of government, donate the property to a charitable
1735 | organization, surrender such property to the finder, sell the
1736 | property, or trade the property to another unit of local
1737 | government or state agency, notice of such election shall be
1738 | given by an advertisement published once a week for 2
1739 | consecutive weeks in a newspaper of general circulation in the
1740 | county where the property was found if the value of the property
1741 | is more than \$100. If the value of the property is \$100 or less,
1742 | notice shall be given by posting a description of the property
1743 | at the law enforcement agency where the property was turned in.
1744 | The notice must be posted for not less than 2 consecutive weeks
1745 | in a public place designated by the law enforcement agency. The
1746 | notice must describe the property in a manner reasonably
1747 | adequate to permit the rightful owner of the property to claim
1748 | it.

1749 | 2. If the agency elects to sell the property, it must do
1750 | so at public sale by competitive bidding. Notice of the time and

1751 place of the sale shall be given by an advertisement of the sale
1752 published once a week for 2 consecutive weeks in a newspaper of
1753 general circulation in the county where the sale is to be held.
1754 The notice shall include a statement that the sale shall be
1755 subject to any and all liens. The sale must be held at the
1756 nearest suitable place to that where the lost or abandoned
1757 property is held or stored. The advertisement must include a
1758 description of the goods and the time and place of the sale. The
1759 sale may take place no earlier than 10 days after the final
1760 publication. If there is no newspaper of general circulation in
1761 the county where the sale is to be held, the advertisement shall
1762 be posted at the door of the courthouse and at three other
1763 public places in the county at least 10 days prior to sale.
1764 Notice of the agency's intended disposition shall describe the
1765 property in a manner reasonably adequate to permit the rightful
1766 owner of the property to identify it.

1767 Section 30. Paragraph (c) of subsection (2) of section
1768 721.08, Florida Statutes, is amended to read:

1769 721.08 Escrow accounts; nondisturbance instruments;
1770 alternate security arrangements; transfer of legal title.—

1771 (2) One hundred percent of all funds or other property
1772 which is received from or on behalf of purchasers of the
1773 timeshare plan or timeshare interest prior to the occurrence of
1774 events required in this subsection shall be deposited pursuant
1775 to an escrow agreement approved by the division. The funds or

1776 other property may be released from escrow only as follows:

1777 (c) Compliance with conditions.—

1778 1. Timeshare licenses.—If the timeshare plan is one in

1779 which timeshare licenses are to be sold and no cancellation or

1780 default has occurred, the escrow agent may release the escrowed

1781 funds or other property to or on the order of the developer upon

1782 presentation of:

1783 a. An affidavit by the developer that all of the following

1784 conditions have been met:

1785 (I) Expiration of the cancellation period.

1786 (II) Completion of construction.

1787 (III) Closing.

1788 (IV) Either:

1789 (A) Execution, delivery, and recordation by each

1790 interestholder of the nondisturbance and notice to creditors

1791 instrument, as described in this section; or

1792 (B) Transfer by the developer of legal title to the

1793 subject accommodations and facilities, or all use rights

1794 therein, into a trust satisfying the requirements of

1795 subparagraph 4. and the execution, delivery, and recordation by

1796 each other interestholder of the nondisturbance and notice to

1797 creditors instrument, as described in this section.

1798 b. A certified copy of each recorded nondisturbance and

1799 notice to creditors instrument.

1800 c. One of the following:

1801 (I) A copy of a memorandum of agreement, as defined in s.
1802 721.05, together with satisfactory evidence that the original
1803 memorandum of agreement has been irretrievably delivered for
1804 recording to the appropriate official responsible for
1805 maintaining the public records in the county in which the
1806 subject accommodations and facilities are located. The original
1807 memorandum of agreement must be recorded within 180 days after
1808 the date on which the purchaser executed her or his purchase
1809 agreement.

1810 (II) A notice delivered for recording to the appropriate
1811 official responsible for maintaining the public records in each
1812 county in which the subject accommodations and facilities are
1813 located notifying all persons of the identity of an independent
1814 escrow agent or trustee satisfying the requirements of
1815 subparagraph 4. that shall maintain separate books and records,
1816 in accordance with good accounting practices, for the timeshare
1817 plan in which timeshare licenses are to be sold. The books and
1818 records shall indicate each accommodation and facility that is
1819 subject to such a timeshare plan and each purchaser of a
1820 timeshare license in the timeshare plan.

1821 2. Timeshare estates.—If the timeshare plan is one in
1822 which timeshare estates are to be sold and no cancellation or
1823 default has occurred, the escrow agent may release the escrowed
1824 funds or other property to or on the order of the developer upon
1825 presentation of:

1826 a. An affidavit by the developer that all of the following
 1827 conditions have been met:

1828 (I) Expiration of the cancellation period.

1829 (II) Completion of construction.

1830 (III) Closing.

1831 b. If the timeshare estate is sold by agreement for deed,
 1832 a certified copy of the recorded nondisturbance and notice to
 1833 creditors instrument, as described in this section.

1834 c. Evidence that each accommodation and facility:

1835 (I) Is free and clear of the claims of any
 1836 interestholders, other than the claims of interestholders that,
 1837 through a recorded instrument, are irrevocably made subject to
 1838 the timeshare instrument and the use rights of purchasers made
 1839 available through the timeshare instrument;

1840 (II) Is the subject of a recorded nondisturbance and
 1841 notice to creditors instrument that complies with subsection (3)
 1842 and s. 721.17; or

1843 (III) Has been transferred into a trust satisfying the
 1844 requirements of subparagraph 4.

1845 d. Evidence that the timeshare estate:

1846 (I) Is free and clear of the claims of any
 1847 interestholders, other than the claims of interestholders that,
 1848 through a recorded instrument, are irrevocably made subject to
 1849 the timeshare instrument and the use rights of purchasers made
 1850 available through the timeshare instrument; or

1851 (II) Is the subject of a recorded nondisturbance and
 1852 notice to creditors instrument that complies with subsection (3)
 1853 and s. 721.17.

1854 3. Personal property timeshare interests.—If the timeshare
 1855 plan is one in which personal property timeshare interests are
 1856 to be sold and no cancellation or default has occurred, the
 1857 escrow agent may release the escrowed funds or other property to
 1858 or on the order of the developer upon presentation of:

1859 a. An affidavit by the developer that all of the following
 1860 conditions have been met:

1861 (I) Expiration of the cancellation period.

1862 (II) Completion of construction.

1863 (III) Closing.

1864 b. If the personal property timeshare interest is sold by
 1865 agreement for transfer, evidence that the agreement for transfer
 1866 complies fully with s. 721.06 and this section.

1867 c. Evidence that one of the following has occurred:

1868 (I) Transfer by the owner of the underlying personal
 1869 property of legal title to the subject accommodations and
 1870 facilities or all use rights therein into a trust satisfying the
 1871 requirements of subparagraph 4.; or

1872 (II) Transfer by the owner of the underlying personal
 1873 property of legal title to the subject accommodations and
 1874 facilities or all use rights therein into an owners' association
 1875 satisfying the requirements of subparagraph 5.

1876 d. Evidence of compliance with the provisions of
1877 subparagraph 6., if required.

1878 e. If a personal property timeshare plan is created with
1879 respect to accommodations and facilities that are located on or
1880 in an oceangoing vessel, including a "documented vessel" or a
1881 "foreign vessel," as defined and governed by 46 U.S.C. chapter
1882 301:

1883 (I) In making the transfer required in sub-subparagraph
1884 c., the developer shall use as its transfer instrument a
1885 document that establishes and protects the continuance of the
1886 use rights in the subject accommodations and facilities in a
1887 manner that is enforceable by the trust or owners' association.

1888 (II) The transfer instrument shall comply fully with the
1889 provisions of this chapter, shall be part of the timeshare
1890 instrument, and shall contain specific provisions that:

1891 (A) Prohibit the vessel owner, the developer, any manager
1892 or operator of the vessel, the owners' association or the
1893 trustee, the managing entity, or any other person from incurring
1894 any liens against the vessel except for liens that are required
1895 for the operation and upkeep of the vessel, including liens for
1896 fuel expenditures, repairs, crews' wages, and salvage, and
1897 except as provided in sub-sub-subparagraphs 4.b.(III) and
1898 5.b.(III). All expenses, fees, and taxes properly incurred in
1899 connection with the creation, satisfaction, and discharge of any
1900 such permitted lien, or a prorated portion thereof if less than

1901 all of the accommodations on the vessel are subject to the
 1902 timeshare plan, shall be common expenses of the timeshare plan.

1903 (B) Grant a lien against the vessel in favor of the
 1904 owners' association or trustee to secure the full and faithful
 1905 performance of the vessel owner and developer of all of their
 1906 obligations to the purchasers.

1907 (C) Establish governing law in a jurisdiction that
 1908 recognizes and will enforce the timeshare instrument and the
 1909 laws of the jurisdiction of registry of the vessel.

1910 (D) Require that a description of the use rights of
 1911 purchasers be posted and displayed on the vessel in a manner
 1912 that will give notice of such rights to any party examining the
 1913 vessel. This notice must identify the owners' association or
 1914 trustee and include a statement disclosing the limitation on
 1915 incurring liens against the vessel described in sub-sub-sub-
 1916 subparagraph (A).

1917 (E) Include the nondisturbance and notice to creditors
 1918 instrument for the vessel owner and any other interestholders.

1919 (F) The owners' association created under subparagraph 5.
 1920 or trustee created under subparagraph 4. shall have access to
 1921 any certificates of classification in accordance with the
 1922 timeshare instrument.

1923 (III) If the vessel is a foreign vessel, the vessel must
 1924 be registered in a jurisdiction that permits a filing evidencing
 1925 the use rights of purchasers in the subject accommodations and

1926 facilities, offers protection for such use rights against
 1927 unfiled and inferior claims, and recognizes the document or
 1928 instrument creating such use rights as a lien against the
 1929 vessel.

1930 (IV) In addition to the disclosures required by s.
 1931 721.07(5), the public offering statement and purchase contract
 1932 must contain a disclosure in conspicuous type in substantially
 1933 the following form:

1934 The laws of the State of Florida govern the offering of this
 1935 timeshare plan in this state. There are inherent risks in
 1936 purchasing a timeshare interest in this timeshare plan because
 1937 the accommodations and facilities of the timeshare plan are
 1938 located on a vessel that will sail into international waters and
 1939 into waters governed by many different jurisdictions. Therefore,
 1940 the laws of the State of Florida cannot fully protect your
 1941 purchase of an interest in this timeshare plan. Specifically,
 1942 management and operational issues may need to be addressed in
 1943 the jurisdiction in which the vessel is registered, which is
 1944 (insert jurisdiction in which vessel is registered). Concerns of
 1945 purchasers may be sent to (insert name of applicable regulatory
 1946 agency and address).

1947 4. Trust.—

1948 a. If the subject accommodations or facilities, or all use
 1949 rights therein, are to be transferred into a trust in order to
 1950 comply with this paragraph, such transfer shall take place

1951 pursuant to this subparagraph. If the accommodations or
1952 facilities included in such transfer are subject to a lease, the
1953 unexpired term of the lease must be disclosed as the term of the
1954 timeshare plan pursuant to s. 721.07(5)(f)4.

1955 b. Prior to the transfer of the subject accommodations and
1956 facilities, or all use rights therein, to a trust, any lien or
1957 other encumbrance against such accommodations and facilities, or
1958 use rights therein, shall be made subject to a nondisturbance
1959 and notice to creditors instrument pursuant to subsection (3).
1960 No transfer pursuant to this subparagraph shall become effective
1961 until the trustee accepts such transfer and the responsibilities
1962 set forth herein. A trust established pursuant to this
1963 subparagraph shall comply with the following provisions:

1964 (I) The trustee shall be an individual or a business
1965 entity authorized and qualified to conduct trust business in
1966 this state. Any corporation authorized to do business in this
1967 state may act as trustee in connection with a timeshare plan
1968 pursuant to this chapter. The trustee must be independent from
1969 any developer or managing entity of the timeshare plan or any
1970 interestholder of any accommodation or facility of such plan.

1971 (II) The trust shall be irrevocable so long as any
1972 purchaser has a right to occupy any portion of the timeshare
1973 property pursuant to the timeshare plan.

1974 (III) The trustee shall not convey, hypothecate, mortgage,
1975 assign, lease, or otherwise transfer or encumber in any fashion

1976 | any interest in or portion of the timeshare property with
 1977 | respect to which any purchaser has a right of use or occupancy
 1978 | unless the timeshare plan is terminated pursuant to the
 1979 | timeshare instrument, or such conveyance, hypothecation,
 1980 | mortgage, assignment, lease, transfer, or encumbrance is
 1981 | approved by a vote of two-thirds of all voting interests of the
 1982 | timeshare plan. Subject to s. 721.552, a vote of the voting
 1983 | interests of the timeshare plan is not required for substitution
 1984 | or automatic deletion of accommodations or facilities.

1985 | (IV) All purchasers of the timeshare plan or the owners'
 1986 | association of the timeshare plan shall be the express
 1987 | beneficiaries of the trust. The trustee shall act as a fiduciary
 1988 | to the beneficiaries of the trust. The personal liability of the
 1989 | trustee shall be governed by ss. 736.08125, 736.08163, 736.1013,
 1990 | and 736.1015. The agreement establishing the trust shall set
 1991 | forth the duties of the trustee. The trustee shall be required
 1992 | to furnish promptly to the division upon request a copy of the
 1993 | complete list of the names and addresses of the owners in the
 1994 | timeshare plan and a copy of any other books and records of the
 1995 | timeshare plan required to be maintained pursuant to s. 721.13
 1996 | that are in the possession, custody, or control of the trustee.
 1997 | All expenses reasonably incurred by the trustee in the
 1998 | performance of its duties, together with any reasonable
 1999 | compensation of the trustee, shall be common expenses of the
 2000 | timeshare plan.

2001 (V) The trustee shall not resign upon less than 90 days'
 2002 prior written notice to the managing entity and the division. No
 2003 resignation shall become effective until a substitute trustee,
 2004 approved by the division, is appointed by the managing entity
 2005 and accepts the appointment.

2006 (VI) The documents establishing the trust arrangement
 2007 shall constitute a part of the timeshare instrument.

2008 (VII) For trusts holding property in a timeshare plan
 2009 located outside this state, the trust and trustee holding such
 2010 property shall be deemed in compliance with the requirements of
 2011 this subparagraph if such trust and trustee are authorized and
 2012 qualified to conduct trust business under the laws of such
 2013 jurisdiction and the agreement or law governing such trust
 2014 arrangement provides substantially similar protections for the
 2015 purchaser as are required in this subparagraph for trusts
 2016 holding property in a timeshare plan in this state.

2017 (VIII) The trustee shall have appointed a registered agent
 2018 in this state for service of process. In the event such a
 2019 registered agent is not appointed, service of process may be
 2020 served pursuant to s. 721.265.

2021 5. Owners' association.—

2022 a. If the subject accommodations or facilities, or all use
 2023 rights therein, are to be transferred into an owners'
 2024 association in order to comply with this paragraph, such
 2025 transfer shall take place pursuant to this subparagraph.

2026 b. Before the transfer of the subject accommodations and
2027 facilities, or all use rights therein, to an owners'
2028 association, any lien or other encumbrance against such
2029 accommodations and facilities, or use rights therein, shall be
2030 made subject to a nondisturbance and notice to creditors
2031 instrument pursuant to subsection (3). No transfer pursuant to
2032 this subparagraph shall become effective until the owners'
2033 association accepts such transfer and the responsibilities set
2034 forth herein. An owners' association established pursuant to
2035 this subparagraph shall comply with the following provisions:

2036 (I) The owners' association shall be a business entity
2037 authorized and qualified to conduct business in this state.
2038 Control of the board of directors of the owners' association
2039 must be independent from any developer or managing entity of the
2040 timeshare plan or any interestholder.

2041 (II) The bylaws of the owners' association shall provide
2042 that the corporation may not be voluntarily dissolved without
2043 the unanimous vote of all owners of personal property timeshare
2044 interests so long as any purchaser has a right to occupy any
2045 portion of the timeshare property pursuant to the timeshare
2046 plan.

2047 (III) The owners' association shall not convey,
2048 hypothecate, mortgage, assign, lease, or otherwise transfer or
2049 encumber in any fashion any interest in or portion of the
2050 timeshare property with respect to which any purchaser has a

2051 right of use or occupancy, unless the timeshare plan is
2052 terminated pursuant to the timeshare instrument, or unless such
2053 conveyance, hypothecation, mortgage, assignment, lease,
2054 transfer, or encumbrance is approved by a vote of two-thirds of
2055 all voting interests of the association and such decision is
2056 declared by a court of competent jurisdiction to be in the best
2057 interests of the purchasers of the timeshare plan. The owners'
2058 association shall notify the division in writing within 10 days
2059 after receiving notice of the filing of any petition relating to
2060 obtaining such a court order. The division shall have standing
2061 to advise the court of the division's interpretation of the
2062 statute as it relates to the petition.

2063 (IV) All purchasers of the timeshare plan shall be members
2064 of the owners' association and shall be entitled to vote on
2065 matters requiring a vote of the owners' association as provided
2066 in this chapter or the timeshare instrument. The owners'
2067 association shall act as a fiduciary to the purchasers of the
2068 timeshare plan. The articles of incorporation establishing the
2069 owners' association shall set forth the duties of the owners'
2070 association. All expenses reasonably incurred by the owners'
2071 association in the performance of its duties, together with any
2072 reasonable compensation of the officers or directors of the
2073 owners' association, shall be common expenses of the timeshare
2074 plan.

2075 (V) The documents establishing the owners' association

2076 shall constitute a part of the timeshare instrument.

2077 (VI) For owners' associations holding property in a
 2078 timeshare plan located outside this state, the owners'
 2079 association holding such property shall be deemed in compliance
 2080 with the requirements of this subparagraph if such owners'
 2081 association is authorized and qualified to conduct owners'
 2082 association business under the laws of such jurisdiction and the
 2083 agreement or law governing such arrangement provides
 2084 substantially similar protections for the purchaser as are
 2085 required in this subparagraph for owners' associations holding
 2086 property in a timeshare plan in this state.

2087 (VII) The owners' association shall have appointed a
 2088 registered agent in this state for service of process. In the
 2089 event such a registered agent cannot be located, service of
 2090 process may be made pursuant to s. 721.265.

2091 6. Personal property subject to certificate of title.—If
 2092 any personal property that is an accommodation or facility of a
 2093 timeshare plan is subject to a certificate of title in this
 2094 state pursuant to chapter 319 or chapter 328, the following
 2095 notation must be made on such certificate of title pursuant to
 2096 s. 319.27(1) or s. 328.15 ~~s. 328.15(1)~~:

2097 The further transfer or encumbrance of the property subject to
 2098 this certificate of title, or any lien or encumbrance thereon,
 2099 is subject to the requirements of section 721.17, Florida
 2100 Statutes, and the transferee or lienor agrees to be bound by all

2101 of the obligations set forth therein.

2102 7. If the developer has previously provided a certified
2103 copy of any document required by this paragraph, she or he may
2104 for all subsequent disbursements substitute a true and correct
2105 copy of the certified copy, provided no changes to the document
2106 have been made or are required to be made.

2107 8. In the event that use rights relating to an
2108 accommodation or facility are transferred into a trust pursuant
2109 to subparagraph 4. or into an owners' association pursuant to
2110 subparagraph 5., all other interestholders, including the owner
2111 of the underlying fee or underlying personal property, must
2112 execute a nondisturbance and notice to creditors instrument
2113 pursuant to subsection (3).

2114 Section 31. (1) The rights, duties, and interests flowing
2115 from a transaction, certificate of title, or record relating to
2116 a vessel which was validly entered into or created before the
2117 effective date of this act and would be subject to this act if
2118 it had been entered into or created on or after the effective
2119 date of this act remain valid on and after the effective date of
2120 this act.

2121 (2) This act does not affect an action or proceeding
2122 commenced before the effective date of this act.

2123 (3) Except as otherwise provided in subsection (4), a
2124 security interest that is enforceable immediately before the
2125 effective date of this act and would have priority over the

2126 rights of a person who becomes a lien creditor at that time is a
2127 perfected security interest under this act.

2128 (4) A security interest perfected immediately before the
2129 effective date of this act remains perfected until the earlier
2130 of:

2131 (a) The time perfection would have ceased under the law
2132 under which the security interest was perfected; or

2133 (b) Three years after the effective date of this act.

2134 (5) This act does not affect the priority of a security
2135 interest in a vessel if immediately before the effective date of
2136 this act the security interest is enforceable and perfected, and
2137 that priority is established.

2138 Section 32. Subject to section 31, this act applies to any
2139 transaction, certificate of title, or record relating to a
2140 vessel, even if the transaction, certificate of title, or record
2141 was entered into or created before the effective date of this
2142 act.

2143 Section 33. This act shall take effect July 1, 2023.

1 A bill to be entitled
2 An act relating to towing and immobilizing vehicles
3 and vessels; amending ss. 125.0103 and 166.043, F.S.;
4 authorizing local governments to enact rates to tow or
5 immobilize vessels on private property and to remove
6 and store vessels under specified circumstances;
7 creating ss. 125.01047 and 166.04465, F.S.;
8 prohibiting counties or municipalities from enacting
9 certain ordinances or rules that impose fees or
10 charges on authorized wrecker operators or towing
11 businesses; defining the term "towing business";
12 providing exceptions; amending s. 323.002, F.S.;
13 prohibiting counties or municipalities from adopting
14 or maintaining in effect certain ordinances or rules
15 that impose charges, costs, expenses, fines, fees, or
16 penalties on registered owners, other legally
17 authorized persons in control, or lienholders of
18 vehicles or vessels under certain conditions;
19 providing an exception; prohibiting counties or
20 municipalities from enacting certain ordinances or
21 rules that require authorized wrecker operators to
22 accept a specified form of payment; providing
23 exceptions; providing application; amending s. 713.78,
24 F.S.; authorizing certain persons to place liens on
25 vehicles or vessels to recover specified fees or

26 | charges; amending s. 715.07, F.S.; removing a
 27 | requirement regarding notices and signs concerning the
 28 | towing or removal of vehicles or vessels; prohibiting
 29 | counties or municipalities from enacting certain
 30 | ordinances or rules that require towing businesses to
 31 | accept a specified form of payment; prohibiting
 32 | counties or municipalities from authorizing attorney
 33 | fees in connection with certain towing activities;
 34 | providing exceptions; providing application;
 35 | preempting to the state the regulation of attorney
 36 | fees in connection with certain towing activities;
 37 | removing a requirement regarding liability for
 38 | attorney fees; providing an effective date.

39 |
 40 | Be It Enacted by the Legislature of the State of Florida:

41 |
 42 | Section 1. Paragraphs (b) and (c) of subsection (1) of
 43 | section 125.0103, Florida Statutes, are amended to read:

44 | 125.0103 Ordinances and rules imposing price controls;
 45 | findings required; procedures.—

46 | (1)

47 | (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
 48 | the enactment by local governments of public service rates
 49 | otherwise authorized by law, including water, sewer, solid
 50 | waste, public transportation, taxicab, or port rates, rates for

51 towing of vehicles or vessels from or immobilization of vehicles
52 or vessels on private property, or rates for removal and storage
53 of wrecked or disabled vehicles or vessels from an accident
54 scene or the removal and storage of vehicles or vessels in the
55 event the owner or operator is incapacitated, unavailable,
56 leaves the procurement of wrecker service to the law enforcement
57 officer at the scene, or otherwise does not consent to the
58 removal of the vehicle or vessel.

59 (c) Counties must establish maximum rates which may be
60 charged on the towing of vehicles or vessels from or
61 immobilization of vehicles or vessels on private property,
62 removal and storage of wrecked or disabled vehicles or vessels
63 from an accident scene or for the removal and storage of
64 vehicles or vessels, in the event the owner or operator is
65 incapacitated, unavailable, leaves the procurement of wrecker
66 service to the law enforcement officer at the scene, or
67 otherwise does not consent to the removal of the vehicle or
68 vessel. However, if a municipality chooses to enact an ordinance
69 establishing the maximum rates ~~fees~~ for the towing or
70 immobilization of vehicles or vessels as described in paragraph
71 (b), the county's ordinance shall not apply within such
72 municipality.

73 Section 2. Section 125.01047, Florida Statutes, is created
74 to read:

75 125.01047 Rules and ordinances relating to towing

76 services.-

77 (1) A county may not enact an ordinance or rule that would
78 impose a fee or charge on an authorized wrecker operator, as
79 defined in s. 323.002(1), or on a towing business for towing,
80 impounding, or storing a vehicle or vessel. As used in this
81 section, the term "towing business" means a business that
82 provides towing services for monetary gain.

83 (2) The prohibition set forth in subsection (1) does not
84 affect a county's authority to:

85 (a) Levy a reasonable business tax under s. 205.0315, s.
86 205.033, or s. 205.0535.

87 (b) Impose and collect a reasonable administrative fee or
88 charge on the registered owner or other legally authorized
89 person in control of a vehicle or vessel, or the lienholder of a
90 vehicle or vessel, not to exceed 25 percent of the maximum
91 towing rate, to cover the cost of enforcement, including parking
92 enforcement, by the county when the vehicle or vessel is towed
93 from public property. However, an authorized wrecker operator or
94 towing business may impose and collect the administrative fee or
95 charge on behalf of the county and shall remit such fee or
96 charge to the county only after it is collected.

97 (3) (a) This section does not apply to a towing or
98 immobilization licensing, regulatory, or enforcement program of
99 a charter county in which at least 90 percent of the population
100 resides in incorporated municipalities, or to a charter county

101 with at least 38 incorporated municipalities within its
102 territorial boundaries as of January 1, 2019. This section does
103 not affect a charter county's authorities to:

104 1. Impose and collect towing operating license fees,
105 license renewal fees, extension fees, expedite fees, storage
106 site inspection or reinspection fees, criminal background check
107 fees, and tow truck decal fees, including decal renewal fees,
108 expedite fees, and decal replacement fees.

109 2. Impose and collect immobilization operating license
110 fees, license extension fees, renewal fees, expedite fees, and
111 criminal background check fees.

112 3. Set maximum rates for the towing or immobilization of
113 vehicles or vessels on private property, including rates based
114 on different classes of towing vehicles, research fees,
115 administrative fees, storage fees, and labor fees; rates for
116 towing services performed or directed by governmental entities;
117 road service rates; winch recovery rates; voluntary expediting
118 fees for vehicle or vessel ownership verification; and to
119 establish conditions in connection with the applicability or
120 payment of maximum rates set for towing or immobilization of
121 vehicles or vessels.

122 4. Impose and collect such other taxes, fees, or charges
123 otherwise authorized by general law, special law, or county
124 ordinance, resolution, or regulation.

125 (b) A charter county may impose and collect an

126 administrative fee or charge as provided in paragraph (2) (b) but
127 may not impose such fee or charge on a towing business or an
128 authorized wrecker operator. If the charter county imposes such
129 administrative fee or charge, the charter county may authorize a
130 towing business or authorized wrecker operator to collect such
131 fee or charge and to remit the fee or charge only after the
132 towing business or authorized wrecker operator has collected the
133 fee or charge.

134 (4) (a) Subsection (1) does not apply to a charter county
135 that had a towing licensing, regulatory, or enforcement program
136 in effect on January 1, 2019. However, such charter county may
137 not impose any new business tax, fee, or charge that was not in
138 effect as of January 1, 2019, on a towing business or an
139 authorized wrecker operator.

140 (b) A charter county as defined may impose and collect an
141 administrative fee or charge as provided in paragraph (2) (b);
142 however, it may not impose that fee or charge upon a towing
143 business or an authorized wrecker operator. If such charter
144 county imposes such administrative fee or charge, such fee or
145 charge must be imposed on the registered owner or other legally
146 authorized person in control of a vehicle or vessel, or the
147 lienholder of a vehicle or vessel. The fee or charge may not
148 exceed 25 percent of the maximum towing rate to cover the cost
149 of enforcement, including parking enforcement, by the charter
150 county when the vehicle or vessel is towed from public property.

151 The charter county may authorize an authorized wrecker operator
 152 or towing business to impose and collect the administrative fee
 153 or charge on behalf of the charter county, and the authorized
 154 wrecker operator or towing business shall remit such fee or
 155 charge to the charter county only after it is collected.

156 (c) For purposes of this subsection, the term "charter
 157 county" means a county as defined in s. 125.011(1).

158 Section 3. Paragraphs (b) and (c) of subsection (1) of
 159 section 166.043, Florida Statutes, are amended to read:

160 166.043 Ordinances and rules imposing price controls;
 161 findings required; procedures.—

162 (1)

163 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
 164 the enactment by local governments of public service rates
 165 otherwise authorized by law, including water, sewer, solid
 166 waste, public transportation, taxicab, or port rates, rates for
 167 towing of vehicles or vessels from or immobilization of vehicles
 168 or vessels on private property, or rates for removal and storage
 169 of wrecked or disabled vehicles or vessels from an accident
 170 scene or the removal and storage of vehicles or vessels in the
 171 event the owner or operator is incapacitated, unavailable,
 172 leaves the procurement of wrecker service to the law enforcement
 173 officer at the scene, or otherwise does not consent to the
 174 removal of the vehicle or vessel.

175 (c) Counties must establish maximum rates which may be

176 | charged on the towing of vehicles or vessels from or
177 | immobilization of vehicles or vessels on private property,
178 | removal and storage of wrecked or disabled vehicles or vessels
179 | from an accident scene or for the removal and storage of
180 | vehicles or vessels, in the event the owner or operator is
181 | incapacitated, unavailable, leaves the procurement of wrecker
182 | service to the law enforcement officer at the scene, or
183 | otherwise does not consent to the removal of the vehicle or
184 | vessel. However, if a municipality chooses to enact an ordinance
185 | establishing the maximum rates ~~fees~~ for the towing or
186 | immobilization of vehicles or vessels as described in paragraph
187 | (b), the county's ordinance established under s. 125.0103 shall
188 | not apply within such municipality.

189 | Section 4. Section 166.04465, Florida Statutes, is created
190 | to read:

191 | 166.04465 Rules and ordinances relating to towing
192 | services.—

193 | (1) A municipality may not enact an ordinance or rule that
194 | would impose a fee or charge on an authorized wrecker operator,
195 | as defined in s. 323.002(1), or on a towing business for towing,
196 | impounding, or storing a vehicle or vessel. As used in this
197 | section, the term "towing business" means a business that
198 | provides towing services for monetary gain.

199 | (2) The prohibition set forth in subsection (1) does not
200 | affect a municipality's authority to:

201 (a) Levy a reasonable business tax under s. 205.0315, s.
 202 205.043, or s. 205.0535.

203 (b) Impose and collect a reasonable administrative fee or
 204 charge on the registered owner or other legally authorized
 205 person in control of a vehicle or vessel, or the lienholder of a
 206 vehicle or vessel, not to exceed 25 percent of the maximum
 207 towing rate, to cover the cost of enforcement, including parking
 208 enforcement, by the municipality when the vehicle or vessel is
 209 towed from public property. However, an authorized wrecker
 210 operator or towing business may impose and collect the
 211 administrative fee or charge on behalf of the municipality and
 212 shall remit such fee or charge to the municipality only after it
 213 is collected.

214 Section 5. Subsection (4) of section 323.002, Florida
 215 Statutes, is renumbered as subsection (6), and new subsections
 216 (4) and (5) are added to that section to read:

217 323.002 County and municipal wrecker operator systems;
 218 penalties for operation outside of system.-

219 (4) (a) Except as provided in paragraph (b), a county or
 220 municipality may not adopt or maintain in effect an ordinance or
 221 rule that imposes a charge, cost, expense, fine, fee, or penalty
 222 on an authorized wrecker operator, registered owner or other
 223 legally authorized person in control of a vehicle or vessel, or
 224 the lienholder of a vehicle or vessel, when the vehicle or
 225 vessel is towed by an authorized wrecker operator under this

226 chapter.

227 (b) A county or municipality may adopt or maintain an
228 ordinance or rule that imposes a reasonable administrative fee
229 or charge on the registered owner or other legally authorized
230 person in control of a vehicle or vessel, or the lienholder of a
231 vehicle or vessel, that is towed by an authorized wrecker
232 operator, not to exceed 25 percent of the maximum towing rate,
233 to cover the cost of enforcement, including parking enforcement,
234 by the county or municipality when the vehicle or vessel is
235 towed from public property. However, an authorized wrecker
236 operator or towing business may impose and collect the
237 administrative fee or charge on behalf of the county or
238 municipality and shall remit such fee or charge to the county or
239 municipality only after it is collected.

240 (c) A county or municipality may not enact an ordinance or
241 rule that requires an authorized wrecker operator to accept a
242 credit card as a form of payment. However, if an authorized
243 wrecker operator does not accept a credit card as a form of
244 payment, the wrecker operator must maintain an operable
245 automatic teller machine for the use of the public at its place
246 of business. This paragraph does not apply to a county or
247 municipality that adopted an ordinance or rule before January 1,
248 2019, requiring an authorized wrecker operator to accept a
249 credit card as a form of payment.

250 (5) Subsection (4) does not apply to the towing or

251 immobilization licensing, regulatory, or enforcement program of
252 a charter county described in s. 125.01047(3) or (4). Such
253 charter county may impose a charge, cost, expense, fine, fee, or
254 penalty on an authorized wrecker operator in connection with a
255 violation of the towing or immobilization program requirements
256 as set forth by ordinance, resolution, or regulation.

257 Section 6. Subsection (2) of section 713.78, Florida
258 Statutes, is amended to read:

259 713.78 Liens for recovering, towing, or storing vehicles
260 and vessels.—

261 (2) Whenever a person regularly engaged in the business of
262 transporting vehicles or vessels by wrecker, tow truck, or car
263 carrier recovers, removes, or stores a vehicle or vessel upon
264 instructions from:

265 (a) The owner thereof;

266 (b) The owner or lessor, or a person authorized by the
267 owner or lessor, of property on which such vehicle or vessel is
268 wrongfully parked, and the removal is done in compliance with s.
269 715.07;

270 (c) The landlord or a person authorized by the landlord,
271 when such motor vehicle or vessel remained on the premises after
272 the tenancy terminated and the removal is done in compliance
273 with s. 83.806 or s. 715.104; or

274 (d) Any law enforcement agency,
275

276 she or he shall have a lien on the vehicle or vessel for a
277 reasonable towing fee, for a reasonable administrative fee or
278 charge imposed by a county or municipality, and for a reasonable
279 storage fee; except that no storage fee shall be charged if the
280 vehicle or vessel is stored for less than 6 hours.

281 Section 7. Subsections (2) and (4) of section 715.07,
282 Florida Statutes, are amended to read:

283 715.07 Vehicles or vessels parked on private property;
284 towing.—

285 (2) The owner or lessee of real property, or any person
286 authorized by the owner or lessee, which person may be the
287 designated representative of the condominium association if the
288 real property is a condominium, may cause any vehicle or vessel
289 parked on such property without her or his permission to be
290 removed by a person regularly engaged in the business of towing
291 vehicles or vessels, without liability for the costs of removal,
292 transportation, or storage or damages caused by such removal,
293 transportation, or storage, under any of the following
294 circumstances:

295 (a) The towing or removal of any vehicle or vessel from
296 private property without the consent of the registered owner or
297 other legally authorized person in control of that vehicle or
298 vessel is subject to substantial ~~strict~~ compliance with the
299 following conditions and restrictions:

300 1.a. Any towed or removed vehicle or vessel must be stored

301 at a site within a 10-mile radius of the point of removal in any
302 county of 500,000 population or more, and within a 15-mile
303 radius of the point of removal in any county of less than
304 500,000 population. That site must be open for the purpose of
305 redemption of vehicles on any day that the person or firm towing
306 such vehicle or vessel is open for towing purposes, from 8:00
307 a.m. to 6:00 p.m., and, when closed, shall have prominently
308 posted a sign indicating a telephone number where the operator
309 of the site can be reached at all times. Upon receipt of a
310 telephoned request to open the site to redeem a vehicle or
311 vessel, the operator shall return to the site within 1 hour or
312 she or he will be in violation of this section.

313 b. If no towing business providing such service is located
314 within the area of towing limitations set forth in sub-
315 subparagraph a., the following limitations apply: any towed or
316 removed vehicle or vessel must be stored at a site within a 20-
317 mile radius of the point of removal in any county of 500,000
318 population or more, and within a 30-mile radius of the point of
319 removal in any county of less than 500,000 population.

320 2. The person or firm towing or removing the vehicle or
321 vessel shall, within 30 minutes after completion of such towing
322 or removal, notify the municipal police department or, in an
323 unincorporated area, the sheriff, of such towing or removal, the
324 storage site, the time the vehicle or vessel was towed or
325 removed, and the make, model, color, and license plate number of

326 | the vehicle or description and registration number of the vessel
327 | and shall obtain the name of the person at that department to
328 | whom such information was reported and note that name on the
329 | trip record.

330 | 3. A person in the process of towing or removing a vehicle
331 | or vessel from the premises or parking lot in which the vehicle
332 | or vessel is not lawfully parked must stop when a person seeks
333 | the return of the vehicle or vessel. The vehicle or vessel must
334 | be returned upon the payment of a reasonable service fee of not
335 | more than one-half of the posted rate for the towing or removal
336 | service as provided in subparagraph 6. The vehicle or vessel may
337 | be towed or removed if, after a reasonable opportunity, the
338 | owner or legally authorized person in control of the vehicle or
339 | vessel is unable to pay the service fee. If the vehicle or
340 | vessel is redeemed, a detailed signed receipt must be given to
341 | the person redeeming the vehicle or vessel.

342 | 4. A person may not pay or accept money or other valuable
343 | consideration for the privilege of towing or removing vehicles
344 | or vessels from a particular location.

345 | 5. Except for property appurtenant to and obviously a part
346 | of a single-family residence, and except for instances when
347 | notice is personally given to the owner or other legally
348 | authorized person in control of the vehicle or vessel that the
349 | area in which that vehicle or vessel is parked is reserved or
350 | otherwise unavailable for unauthorized vehicles or vessels and

351 that the vehicle or vessel is subject to being removed at the
352 owner's or operator's expense, any property owner or lessee, or
353 person authorized by the property owner or lessee, prior to
354 towing or removing any vehicle or vessel from private property
355 without the consent of the owner or other legally authorized
356 person in control of that vehicle or vessel, must post a notice
357 meeting the following requirements:

358 a. The notice must be prominently placed at each driveway
359 access or curb cut allowing vehicular access to the property,
360 ~~within 5 feet from the public right-of-way line.~~ If there are no
361 curbs or access barriers, the signs must be posted not less than
362 one sign for each 25 feet of lot frontage.

363 b. The notice must ~~clearly~~ indicate, in not less than 2-
364 inch high, light-reflective letters on a contrasting background,
365 that unauthorized vehicles will be towed away at the owner's
366 expense. The words "tow-away zone" must be included on the sign
367 in not less than 4-inch high letters.

368 c. The notice must also provide the name and current
369 telephone number of the person or firm towing or removing the
370 vehicles or vessels.

371 d. The sign structure containing the required notices must
372 be permanently installed with the words "tow-away zone" ~~not less~~
373 ~~than 3 feet and not more than 6 feet above ground level~~ and must
374 be continuously maintained on the property for not less than 24
375 hours prior to the towing or removal of any vehicles or vessels.

376 e. The local government may require permitting and
377 inspection of these signs prior to any towing or removal of
378 vehicles or vessels being authorized.

379 f. A business with 20 or fewer parking spaces satisfies
380 the notice requirements of this subparagraph by prominently
381 displaying a sign stating "Reserved Parking for Customers Only
382 Unauthorized Vehicles or Vessels Will be Towed Away At the
383 Owner's Expense" in not less than 4-inch high, light-reflective
384 letters on a contrasting background.

385 g. A property owner towing or removing vessels from real
386 property must post notice, consistent with the requirements in
387 sub-subparagraphs a.-f., which apply to vehicles, that
388 unauthorized vehicles or vessels will be towed away at the
389 owner's expense.

390
391 A business owner or lessee may authorize the removal of a
392 vehicle or vessel by a towing company when the vehicle or vessel
393 is parked in such a manner that restricts the normal operation
394 of business; and if a vehicle or vessel parked on a public
395 right-of-way obstructs access to a private driveway the owner,
396 lessee, or agent may have the vehicle or vessel removed by a
397 towing company upon signing an order that the vehicle or vessel
398 be removed without a posted tow-away zone sign.

399 6. Any person or firm that tows or removes vehicles or
400 vessels and proposes to require an owner, operator, or person in

401 control or custody of a vehicle or vessel to pay the costs of
402 towing and storage prior to redemption of the vehicle or vessel
403 must file and keep on record with the local law enforcement
404 agency a complete copy of the current rates to be charged for
405 such services and post at the storage site an identical rate
406 schedule and any written contracts with property owners,
407 lessees, or persons in control of property which authorize such
408 person or firm to remove vehicles or vessels as provided in this
409 section.

410 7. Any person or firm towing or removing any vehicles or
411 vessels from private property without the consent of the owner
412 or other legally authorized person in control or custody of the
413 vehicles or vessels shall, on any trucks, wreckers as defined in
414 s. 713.78(1)(c), or other vehicles used in the towing or
415 removal, have the name, address, and telephone number of the
416 company performing such service clearly printed in contrasting
417 colors on the driver and passenger sides of the vehicle. The
418 name shall be in at least 3-inch permanently affixed letters,
419 and the address and telephone number shall be in at least 1-inch
420 permanently affixed letters.

421 8. Vehicle entry for the purpose of removing the vehicle
422 or vessel shall be allowed with reasonable care on the part of
423 the person or firm towing the vehicle or vessel. Such person or
424 firm shall be liable for any damage occasioned to the vehicle or
425 vessel if such entry is not in accordance with the standard of

426 reasonable care.

427 9. When a vehicle or vessel has been towed or removed
428 pursuant to this section, it must be released to its owner or
429 person in control or custody ~~eustodian~~ within one hour after
430 requested. Any vehicle or vessel owner or person in control or
431 custody has ~~agent shall have~~ the right to inspect the vehicle or
432 vessel before accepting its return, and no release or waiver of
433 any kind which would release the person or firm towing the
434 vehicle or vessel from liability for damages noted by the owner
435 or the person in control or custody ~~other legally authorized~~
436 ~~person~~ at the time of the redemption may be required from any
437 vehicle or vessel owner, or person in control or custody
438 ~~eustodian, or agent~~ as a condition of release of the vehicle or
439 vessel to its owner. A detailed, ~~signed~~ receipt showing the
440 legal name of the company or person towing or removing the
441 vehicle or vessel must be given to the person paying towing or
442 storage charges at the time of payment, whether requested or
443 not.

444 (b) These requirements are minimum standards and do not
445 preclude enactment of additional regulations by any municipality
446 or county including the right to regulate rates when vehicles or
447 vessels are towed from private property, except that a county or
448 municipality may not enact an ordinance or rule that requires a
449 towing business to accept a credit card as a form of payment. If
450 a towing business does not accept a credit card as a form of

451 payment, the towing business must maintain an operable automatic
452 teller machine for use by the public at its place of business.
453 This paragraph does not apply to a county or municipality that
454 adopted an ordinance or rule before January 1, 2019, requiring a
455 towing business to accept a credit card as a form of payment.
456 Additionally, a municipality or county may not authorize
457 attorney fees in connection with the towing of vehicles or
458 vessels from private property. The regulation of attorney fees
459 in connection with the towing of vehicles or vessels from
460 private property is expressly preempted to the state and any
461 municipal or county ordinance on the subject is void.

462 (4) When a person improperly causes a vehicle or vessel to
463 be removed, such person shall be liable to the owner or lessee
464 of the vehicle or vessel for the cost of removal,
465 transportation, and storage; any damages resulting from the
466 removal, transportation, or storage of the vehicle or vessel;
467 ~~attorney's fees;~~ and court costs.

468 Section 8. This act shall take effect July 1, 2019.

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COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Polsky offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety education ~~identification cards~~.-

(1) A person born on or after January 1, 1988, may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel photographic identification and a boating ~~boater~~ safety identification card issued by the commission, ~~or~~ a state-issued identification card or driver license indicating possession of the boating ~~boater~~ safety identification card, or photographic

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17 identification and a temporary certificate issued or approved by
18 the commission, which shows that he or she has:

19 (a) Completed a commission-approved boating safety boater
20 education course that meets the minimum requirements 8-hour
21 instruction requirement established by the National Association
22 of State Boating Law Administrators; or

23 (b) ~~Passed a course equivalency examination approved by~~
24 ~~the commission; or~~

25 ~~(c) Passed a temporary certificate examination developed~~
26 ~~or approved by the commission.~~

27 (2) (a) A Any person may obtain a boating boater safety
28 identification card by successfully completing a boating safety
29 education course that meets complying with the requirements of
30 this section and rules adopted by the commission pursuant to
31 this section.

32 (b) A person may obtain a temporary certificate by passing
33 a temporary certificate examination that meets the requirements
34 of this section and rules adopted by the commission pursuant to
35 this section.

36 (3) Any commission-approved boating boater education or
37 boater safety education course, course equivalency examination
38 developed or approved by the commission, or temporary
39 certificate examination developed or approved by the commission
40 must include a component regarding diving vessels, awareness of
41 divers in the water, divers-down warning devices, and the

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42 requirements of s. 327.331.

43 (4) The commission may appoint liveries, marinas, or other
44 persons as its agents to administer the boating safety education
45 ~~course, course equivalency examination,~~ or temporary certificate
46 examination and issue identification cards or temporary
47 certificates in digital, electronic, or paper format under
48 guidelines established by the commission. An agent must charge
49 the \$2 examination fee, which must be forwarded to the
50 commission with proof of passage of the examination and may
51 charge and keep a \$1 service fee.

52 (5) A boating safety ~~An~~ identification card issued to a
53 person who has completed a boating safety education course ~~or a~~
54 ~~course equivalency examination~~ is valid for life. A temporary
55 certificate card issued to a person who has passed a temporary
56 certification examination is valid for 90 days after ~~12 months~~
57 ~~from~~ the date of issuance. The commission may issue either the
58 boating safety identification card or the temporary certificate
59 in a digital, electronic, or paper format.

60 (6) A person is exempt from subsection (1) if he or she:

61 (a) Is licensed by the United States Coast Guard to serve
62 as master of a vessel.

63 (b) Operates a vessel only on a private lake or pond.

64 (c) Is accompanied in the vessel by a person who is exempt
65 from this section or who holds a boating safety ~~an~~
66 identification card in compliance with this section, who is 18

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67 | years of age or older, and who is attendant to the operation of
68 | the vessel and responsible for the safe operation of the vessel
69 | and for any violation that occurs during the operation of the
70 | vessel.

71 | (d) Is a nonresident who has in his or her possession
72 | photographic identification and proof that he or she has
73 | completed a boating safety boater education course or
74 | equivalency examination in another state or a United States
75 | territory which meets or exceeds the minimum requirements
76 | established by the National Association of State Boating Law
77 | Administrators of subsection (1).

78 | (e) Is operating a vessel within 90 days after the
79 | purchase of that vessel and has available for inspection aboard
80 | that vessel a bill of sale meeting the requirements of s.
81 | 328.46(1).

82 | (f) Is operating a vessel within 90 days after completing
83 | the requirements of paragraph (1)(a) ~~or paragraph (1)(b)~~ and has
84 | a photographic identification card and a boating safety boater
85 | education certificate available for inspection as proof of
86 | having completed a boating safety boater education course. The
87 | boating safety boater education temporary certificate must
88 | provide, at a minimum, the student's first and last name, the
89 | student's date of birth, and the date that he or she passed the
90 | course examination.

91 | (g) Is exempted by rule of the commission.

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92 (7) A person who operates a vessel in violation of
93 subsection (1) commits a noncriminal infraction, punishable as
94 provided in s. 327.73.

95 ~~(8) The commission shall design forms and adopt rules to~~
96 ~~administer this section. Such rules shall include provision for~~
97 ~~educational and other public and private entities to offer the~~
98 ~~course and administer examinations.~~

99 (8)(9) The commission shall institute and coordinate a
100 statewide program of boating safety instruction and
101 certification to ensure that boating safety education courses
102 and examinations are available in each county of the state. The
103 commission may appoint agents to administer the boating safety
104 education course or temporary certificate examination and may
105 authorize the agents to issue temporary certificates in digital,
106 electronic, or paper format. The agents shall charge and collect
107 the \$2 fee required in subsection (9) for each temporary
108 certificate, which must be forwarded to the commission.

109 (9)(10) The commission is authorized to establish and to
110 collect a \$2 ~~examination~~ fee for each boating safety
111 identification card and temporary certificate issued pursuant to
112 this section to cover administrative costs.

113 (10)(11) The commission shall design forms and is
114 ~~authorized to~~ adopt rules pursuant to chapter 120 to implement
115 the provisions of this section.

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116 (11)~~(12)~~ This section may be cited as the "Osmany 'Ozzie'
117 Castellanos Boating Safety Education Act."

118 Section 2. Subsection (6) is added to section 327.4109,
119 Florida Statutes, to read:

120 327.4109 Anchoring or mooring prohibited; exceptions;
121 penalties.—

122 (6) (a) As used in this subsection, and applied only for
123 the purposes of the study required by this subsection and not
124 for any other purposes, the term "long-term stored vessel" means
125 a vessel on the waters of the state which is not under the
126 supervision and control of a person capable of operating,
127 maintaining, or moving it from one location to another and which
128 has remained anchored or moored outside of a public mooring
129 field for at least 30 days out of a 60-day period.

130 (b) The commission shall conduct, or contract with a
131 private vendor to conduct, for no longer than 2 years, a study
132 of the impacts of long-term stored vessels on local communities
133 and this state.

134 (c) The study shall:

135 1. Investigate whether, and to what extent, long-term
136 stored vessels and vessels anchored or moored outside of public
137 mooring fields for more than 30 days contribute to the number of
138 derelict and abandoned vessels on the waters of the state.

139 2. Investigate the impacts of long-term stored vessels,
140 vessels anchored or moored outside of public mooring fields for

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141 more than 30 days, and vessels moored within public mooring
142 fields on the local and state economies, public safety, public
143 boat ramps, staging docks, and public marinas; and the
144 environment during and after significant tropical storm and
145 hurricane events.

146 3. Provide recommendations for appropriate management
147 options for long-term stored vessels and vessels anchored or
148 moored outside public mooring fields for more than 30 days to
149 mitigate any identified negative impacts to local communities
150 and this state.

151 (d) The commission shall submit a report of its findings
152 and recommendations to the Governor, the President of the
153 Senate, and the Speaker of the House of Representatives within 6
154 months after the study is completed.

155 (e) This subsection is contingent upon appropriation by
156 the Legislature.

157 (f) This subsection expires January 1, 2024.

158 Section 3. Present paragraphs (c) and (d) of subsection
159 (4) of section 327.60, Florida Statutes, are redesignated as
160 paragraphs (d) and (e), respectively, and a new paragraph (c) is
161 added to that subsection, to read:

162 327.60 Local regulations; limitations.—

163 (4)

164 (c) Upon approval of the Administrator of the
165 Environmental Protection Agency pursuant to s. 1322 of Title 33

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166 of the United States Code, a county designated as a rural area
167 of opportunity may create a no-discharge zone for freshwater
168 waterbodies within the county's jurisdiction to prohibit treated
169 and untreated sewage discharges from floating structures and
170 live-aboard vessels not capable of being used as a means of
171 transportation and from houseboats. Within a no-discharge zone
172 boundary, operators of such floating structures, live-aboard
173 vessels, and houseboats shall retain their sewage on shore for
174 discharge at a pumpout facility or on board for discharge more
175 than 3 miles off the coast in the Atlantic Ocean or more than 9
176 miles off the coast in the Gulf of Mexico. Violations of this
177 paragraph are punishable as provided in s. 327.53(6) and (7).

178 Section 4. Paragraph (r) of subsection (1) of section
179 327.73, Florida Statutes, is amended, and paragraph (s) of that
180 subsection and subsection (4) of that section are reenacted, to
181 read:

182 327.73 Noncriminal infractions.—

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

185 (r) Section 327.53(4), (5), and (7), relating to marine
186 sanitation, and s. 327.60, relating to no-discharge zones, for
187 which the civil penalty is \$250.

188 (s) Section 327.395, relating to boater safety education.

189

190 Any person cited for a violation of any provision of this

Amendment No.

191 subsection shall be deemed to be charged with a noncriminal
192 infraction, shall be cited for such an infraction, and shall be
193 cited to appear before the county court. The civil penalty for
194 any such infraction is \$50, except as otherwise provided in this
195 section. Any person who fails to appear or otherwise properly
196 respond to a uniform boating citation shall, in addition to the
197 charge relating to the violation of the boating laws of this
198 state, be charged with the offense of failing to respond to such
199 citation and, upon conviction, be guilty of a misdemeanor of the
200 second degree, punishable as provided in s. 775.082 or s.
201 775.083. A written warning to this effect shall be provided at
202 the time such uniform boating citation is issued.

203 (4) Any person charged with a noncriminal infraction under
204 this section may:

205 (a) Pay the civil penalty, either by mail or in person,
206 within 30 days of the date of receiving the citation; or,

207 (b) If he or she has posted bond, forfeit bond by not
208 appearing at the designated time and location.

209
210 If the person cited follows either of the above procedures, he
211 or she shall be deemed to have admitted the noncriminal
212 infraction and to have waived the right to a hearing on the
213 issue of commission of the infraction. Such admission shall not
214 be used as evidence in any other proceedings. If a person who is
215 cited for a violation of s. 327.395 can show a boating safety

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Amendment No.

216 identification card issued to that person and valid at the time
217 of the citation, the clerk of the court may dismiss the case and
218 may assess a dismissal fee of up to \$10. If a person who is
219 cited for a violation of s. 328.72(13) can show proof of having
220 a registration for that vessel which was valid at the time of
221 the citation, the clerk may dismiss the case and may assess the
222 dismissal fee.

223 Section 5. Subsection (6) is added to section 823.11,
224 Florida Statutes, to read:

225 823.11 Derelict vessels; relocation or removal; penalty.-

226 (6) If an owner or a responsible party of a vessel
227 determined to be derelict through an administrative or criminal
228 proceeding has been charged by an officer of the commission or
229 any law enforcement agency or officer as specified in s. 327.70
230 under subsection (5) for a violation of subsection (2) or a
231 violation of s. 376.15(2), a person may not reside or dwell on
232 such vessel until the vessel is removed from the waters of the
233 state permanently or returned to the waters of the state in a
234 condition that is no longer derelict.

235 Section 6. This act shall take effect July 1, 2019.

236

237

238

239

240

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

Remove everything before the enacting clause and insert:

Amendment No.

241 A bill to be entitled
242 An act relating to vessels; amending s. 327.395, F.S.;
243 authorizing the commission to appoint certain persons
244 to issue temporary certificates; authorizing the
245 commission to issue boating safety identification
246 cards or temporary certificates in digital or
247 electronic formats; authorizing the commission to
248 appoint agents to collect fees for the boating safety
249 education course or temporary certificate examination;
250 amending s. 327.4109, F.S.; defining a term; directing
251 the Fish and Wildlife Conservation Commission to
252 conduct, contingent upon appropriation, a specified
253 study of the impacts of long-term stored vessels and
254 certain anchored and moored vessels on local
255 communities and the state and to submit a report to
256 the Governor and Legislature within a specified
257 timeframe; providing for expiration of the study
258 requirements; amending s. 327.60, F.S.; authorizing
259 certain counties to create no-discharge zones under
260 certain conditions; providing requirements for
261 discharge in specified areas outside the no-discharge
262 zones; reenacting and amending s. 327.73, F.S.,
263 relating to noncriminal infractions; specifying the
264 fines for violations related to no-discharge zones;
265 amending s. 823.11, F.S.; prohibiting persons from

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1221 (2019)

Amendment No.

266 | residing or dwelling on certain derelict vessels until
267 | certain conditions are met; providing an effective
268 | date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1221 Anchored Vessels

SPONSOR(S): Agriculture & Natural Resources Subcommittee, Polsky, Raschein and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	15 Y, 0 N, As CS	Melkun	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N	White	Pigott
3) State Affairs Committee		Melkun	Williamson

SUMMARY ANALYSIS

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 the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property. Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

The bill defines "long-term stored vessel" as a vessel on the waters of the state that is not under the supervision and control of a person capable of operating, maintaining, or moving it from one location to another and that has remained anchored or moored outside of a public mooring field for at least 30 days out of a 60-day period.

The bill requires the Florida Fish and Wildlife Conservation Commission (FWC) to conduct, for no longer than two years, a study of the impacts of long-term stored vessels on local communities and the state. The study must investigate if and how long-term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state; investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, and vessels anchored within public mooring fields on the local and state economies, public safety, and the environment during and after a significant tropical storm or hurricane event; and provide recommendations for appropriate management options for long-term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days to mitigate any identified negative impacts.

The bill further requires FWC to submit a report of its findings to the Governor and the Legislature within six months after the date the study is completed.

The bill prohibits a person from residing or dwelling on a vessel that has been charged by an officer of FWC or any law enforcement agency as derelict until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

The bill may have an indeterminate negative fiscal impact on boat owners or occupants residing on a vessel that has been deemed derelict. The study is contingent upon legislative appropriation, so there is no fiscal impact to state government expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Anchored Vessels

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel,¹ while mooring is accomplished through the utilization of tie-ups, or moorings, permanently affixed to the bottom of the waterway. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.²

The anchoring of vessels has created conflicts in some areas of the state related to the use and enjoyment of waters. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;
- Vessels that become derelict;
- Inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.³

Local Regulation of the Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.⁴ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.⁵

Local governments are further authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures⁶ or live-aboard vessels⁷ within their jurisdictions and vessels

¹ Section 327.02, F.S., defines "vessel" to include 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.

² Ankersen, Hamann, and Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida* (Rev. May 2012), p. 2, available at <http://nsgl.gso.uri.edu/flsgp/flsgpt12001.pdf> (last visited Mar. 15, 2017).

³ Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations* (Dec. 21, 2016), p. 6, available at <http://myfwc.com/media/4126646/anchoringandmooringpilotprogramreport122116.pdf> (last visited Mar. 15, 2017).

⁴ See s. 373.118, F.S.; r. 62-330.420(1), F.A.C.

⁵ See r. 62-330.420, F.A.C.

⁶ Section 327.02(14), F.S., defines "floating structure" as 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 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.

⁷ Section 327.02(22), F.S., defines "live-aboard vessel" as 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. The definition expressly excludes commercial fishing boats.

that are within the marked boundaries of permitted mooring fields.⁸ However, they are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.⁹

Derelict Vessels

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 the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.¹⁰

It is unlawful to store, leave, or abandon a derelict vessel in Florida.¹¹ Those found in violation of this law commit a first degree misdemeanor.¹² State law further provides that a violation of derelict vessel laws may also be subject to a civil penalty of up to \$50,000 per day.¹³ Each day during any portion of which the violation occurs constitutes a separate offense.¹⁴

Removal of Derelict Vessels

The Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission (FWC) and its officers, and the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S., have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.¹⁵

Both state and local law enforcement are authorized and empowered to relocate or remove a derelict vessel from public waters if the derelict vessel obstructs, or threatens to obstruct, navigation or in any way constitutes a danger to the environment, property, or persons. The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner. A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.¹⁶

Removal costs for derelict vessels are approximately \$350 to \$450 per foot of vessel length. However, a floating vessel may be towed to a boat ramp or hoist and pulled from the water at a much lower cost. Relocation may have a minimal cost if a law enforcement officer is able to tow it to a suitable location. Costs for professional towing services are approximately \$200 per hour.¹⁷

FWC may provide grants to local governments for the removal of derelict vessels from waters of the state if funds are appropriated for the grant program.¹⁸ Grants are awarded based on a set of criteria

⁸ Section 327.602(3), F.S.

⁹ Section 327.60(2)(f), F.S.

¹⁰ Section 823.11(1)(b), F.S.

¹¹ Section 823.11(2), F.S.

¹² A first degree misdemeanor is punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.

¹³ Section 376.16(1), F.S.

¹⁴ *Id.*

¹⁵ Section 943.10(1), F.S., defines “law enforcement officer” as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁶ Section 705.103(4), F.S.

¹⁷ FWC, Agency Analysis of 2016 House Bill 7025, p. 3 (Jan.8, 2016).

¹⁸ Section 376.15, F.S.

outlined in FWC rules.¹⁹ Removal or relocation of the vessel on private property is not eligible for grant funding.²⁰

At-risk vessels

In 2016, the Legislature passed ch. 2016-108, Laws of Fla., to prohibit neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.²¹ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor; or
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk.²²

A violation for anchoring, mooring, or occupying a vessel at risk of becoming derelict on the waters of the state is a noncriminal infraction, for which the civil penalty is \$50 for a first offense, \$100 for a second offense occurring 30 days or more after a first offense, and \$250 for a third or subsequent offense occurring 30 days or more after a previous offense.²³

Effect of Proposed Changes

The bill defines “long-term stored vessel” as a vessel on the waters of the state that is not under the supervision and control of a person capable of operating, maintaining, or moving it from one location to another and that has remained anchored or moored outside of a public mooring field for at least 30 days out of a 60-day period.

The bill requires FWC, contingent upon appropriation, to conduct, or contract with a vendor to conduct, for no longer than two years, a study of the impacts of long-term stored vessels on local communities and the state. The study must:

- Investigate if, and to what extent, long-term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state;
- Investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, and vessels anchored within public mooring fields on the local and state economies, public safety, and the environment during and after a significant tropical storm or hurricane event; and
- Provide recommendations for appropriate management options for long-term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days to mitigate any identified negative impacts.

The bill further requires FWC to submit a report of its findings to the Governor and the Legislature within six months after the date the study is completed. The bill clarifies that the subsection governing the study expires January 1, 2024, and is contingent upon appropriation by the Legislature.

The bill prohibits a person from residing or dwelling on a vessel that has been charged by an officer of FWC or any law enforcement agency as derelict until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

¹⁹ Rule 68-1.003, F.A.C.

²⁰ National Oceanic and Atmospheric Association: Marine Debris Program, *Abandoned and Derelict Vessels in Florida*, available at <https://marinedebris.noaa.gov/abandoned-and-derelict-vessels/florida> (last visited Mar. 15, 2019).

²¹ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

²² Section 327.4107, F.S.

²³ Section 327.73(aa), F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 327.4109, F.S., to define “long-term stored vessel” and requires FWC to conduct a study.

Section 2 amends s. 823.11, F.S., to prohibit a person from residing or dwelling on a vessel that has been charged as derelict until it is no longer considered derelict.

Section 3 provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The study is contingent upon appropriation by the Legislature, so there is no fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on boat owners or occupants residing on a vessel that has been deemed derelict.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill would require FWC to update its existing rules. FWC possesses sufficient rulemaking authority to adopt rules to comply with statutory changes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2019, the Agriculture & Natural Resources Subcommittee adopted a strike all amendment and reported the bill favorably as a committee substitute. The amendment made clarifications to the requirements and parameters of the study to be conducted by FWC and removed provisions regarding the redistribution of vessel registration fees and the local government derelict vessel removal grant program.

This analysis is drafted to the committee substitute as passed by the Agriculture & Natural Resources Subcommittee.

By Senator Mayfield

17-00538-19

2019446__

1 A bill to be entitled
2 An act relating to coastal management; amending s.
3 161.101, F.S.; revising the criteria the Department of
4 Environmental Protection must consider in determining
5 and assigning annual funding priorities for beach
6 management and erosion control projects; specifying
7 tiers for such criteria; requiring tiers to be given
8 certain weight; requiring the department to update
9 active project lists on its website; redefining the
10 term "significant change"; revising the department's
11 reporting requirements; specifying allowable uses for
12 certain surplus funds; revising the requirements for a
13 specified summary; requiring that funding for certain
14 projects remain available for a specified period;
15 amending s. 161.143, F.S.; specifying the scope of
16 certain projects; revising the list of projects
17 included as inlet management projects; requiring that
18 certain projects be considered separate and apart from
19 other specified projects; revising the ranking
20 criteria to be used by the department to establish
21 certain funding priorities for certain inlet-caused
22 beach erosion projects; revising provisions
23 authorizing the department to spend certain
24 appropriated funds for the management of inlets;
25 deleting a provision authorizing the department to
26 spend certain appropriated funds for specified inlet
27 studies; revising the required elements of the
28 department's report of prioritized inlet management
29 projects; revising the funds that the department must

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30 make available to certain inlet management projects;
31 requiring the department to include specified
32 activities on the inlet management project list;
33 deleting provisions requiring the department to make
34 available funding for specified projects; deleting a
35 requirement that the Legislature designate a project
36 as an Inlet of the Year; requiring the department to
37 update and maintain a report regarding the progress of
38 certain inlet management projects; deleting certain
39 temporary provisions relating to specified
40 appropriations; revising the requirements for the
41 report; amending s. 161.161, F.S.; revising
42 requirements for the comprehensive long-term
43 management plan; requiring the plan to include a
44 strategic beach management plan, a critically eroded
45 beaches report, and a statewide long-range budget
46 plan; providing for the development and maintenance of
47 such plans; deleting a requirement that the department
48 submit a certain beach management plan on a certain
49 date each year; requiring the department to hold a
50 public meeting before finalization of the strategic
51 beach management plan; requiring the department to
52 submit a 3-year work plan and a related forecast for
53 the availability of funding to the Legislature;
54 providing effective dates.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Effective July 1, 2020, subsection (14) of

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59 section 161.101, Florida Statutes, is amended to read:

60 161.101 State and local participation in authorized
61 projects and studies relating to beach management and erosion
62 control.—

63 (14) The intent of the Legislature in preserving and
64 protecting Florida's sandy beaches pursuant to this act is to
65 direct beach erosion control appropriations to the state's most
66 severely eroded beaches, and to prevent further adverse impact
67 caused by improved, modified, or altered inlets, coastal
68 armoring, or existing upland development. In establishing annual
69 project funding priorities, the department shall seek formal
70 input from local coastal governments, beach and general
71 government interest groups, and university experts. The
72 department shall adopt by rule a scoring system to determine
73 annual project funding priorities. The scoring system must
74 consist of the following criteria equally weighted within the
75 following specified tiers ~~criteria to be considered by the~~
76 ~~department in determining annual funding priorities shall~~
77 ~~include:~~

78 (a) Tier 1 must account for 20 percent of the total score
79 and consist of the tourism-related return on investment and the
80 economic impact of the project. The return on investment of the
81 project is the ratio of the tourism-related tax revenues for the
82 most recent year to the amount of state funding requested for
83 the proposed project. The economic impact of the project is the
84 ratio of the tourism-related tax revenues for the most recent
85 year to all county tax revenues for the most recent year. The
86 department must calculate these ratios using state sales tax and
87 tourism development tax data of the county having jurisdiction

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88 over the project area. If multiple counties have jurisdiction
89 over the project area, the department must assess each county
90 individually using these ratios. The department shall calculate
91 the mean average of these ratios to determine the final overall
92 assessment for the multicounty project ~~the severity of erosion~~
93 conditions, ~~the threat to existing upland development, and~~
94 recreational and/or economic benefits.

95 (b) Tier 2 must account for 45 percent of the total score
96 and consist of all of the following criteria:

97 1. The availability of federal matching dollars,
98 considering federal authorization, the federal cost-share
99 percentage, and the status of the funding award.

100 2. The storm damage reduction benefits of the project based
101 on the following considerations:

102 a. The current conditions of the project area, including
103 any recent storm damage impact, as a percentage of volume of
104 sand lost since the most recent beach nourishment event or most
105 recent beach surveys. If the project area has not been
106 previously restored, the department must use the historical
107 background erosion rate;

108 b. The overall potential threat to existing upland
109 development, including public and private structures and
110 infrastructure, based on the percentage of vulnerable shoreline
111 within the project boundaries; and

112 c. The value of upland property benefiting from the
113 protection provided by the project and its subsequent
114 maintenance. A property must be within one-quarter mile of the
115 project boundaries to be considered under the criterion
116 specified in this sub-subparagraph.

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117 3. The cost-effectiveness of the project based on the
118 yearly cost per volume per mile of proposed beach fill
119 placement. The department shall also consider the following when
120 assessing cost-effectiveness pursuant to this subparagraph:

121 a. The existence of projects with proposed structural or
122 design components to extend the beach nourishment interval;

123 b. Existing beach nourishment projects that reduce upland
124 storm damage costs by incorporating new or enhanced dune
125 structures or new or existing dune restoration and revegetation
126 projects;

127 c. Proposed innovative technologies designed to reduce
128 project costs; and

129 d. Regional sediment management strategies and coordination
130 to conserve sand source resources and reduce project costs.

131 (c) Tier 3 must account for 20 percent of the total score
132 and consist of all of the following criteria: ~~The extent of~~
133 ~~local government sponsor financial and administrative commitment~~
134 ~~to the project, including a long-term financial plan with a~~
135 ~~designated funding source or sources for initial construction~~
136 ~~and periodic maintenance.~~

137 1.(d) Previous state commitment and involvement in the
138 project, considering previously funded phases, the total amount
139 of previous state funding, and previous partial appropriations
140 for the proposed project.

141 2. The recreational benefits of the project based on:

142 a. The accessible beach area added by the project; and

143 b. The percentage of linear footage within the project
144 boundaries which is zoned:

145 (I) As recreational or open space;

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146 (II) For commercial use; or

147 (III) To otherwise allow for public lodging establishments.

148 ~~(c) The anticipated physical performance of the proposed~~
149 ~~project, including the frequency of periodic planned~~
150 ~~nourishment.~~

151 3.-(f) The extent to which the proposed project mitigates
152 the adverse impact of improved, modified, or altered inlets on
153 adjacent beaches.

154 ~~(g) Innovative, cost effective, and environmentally~~
155 ~~sensitive applications to reduce erosion.~~

156 ~~(h) Projects that provide enhanced habitat within or~~
157 ~~adjacent to designated refuges of nesting sea turtles.~~

158 ~~(i) The extent to which local or regional sponsors of beach~~
159 ~~erosion control projects agree to coordinate the planning,~~
160 ~~design, and construction of their projects to take advantage of~~
161 ~~identifiable cost savings.~~

162 4.-(j) The degree to which the project addresses the state's
163 most significant beach erosion problems as a function of the
164 linear footage of the project shoreline and the cubic yards of
165 sand placed per mile per year.

166 (d) Tier 4 must account for 15 percent of the total score
167 and consist of all of the following criteria:

168 1. Increased prioritization of projects that have been on
169 the department's ranked project list for successive years and
170 that have not previously secured state funding for project
171 implementation.

172 2. Environmental habitat enhancement, recognizing state or
173 federal critical habitat areas for threatened or endangered
174 species which may be subject to extensive shoreline armoring, or

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175 recognizing areas where extensive shoreline armoring threatens
176 the availability or quality of habitat for such species. Turtle-
177 friendly designs, dune and vegetation projects for areas with
178 redesigned or reduced fill templates, proposed incorporation of
179 best management practices and adaptive management strategies to
180 protect resources, and innovative technologies designed to
181 benefit critical habitat preservation may also be considered.

182 3. The overall readiness of the project to proceed in a
183 timely manner, considering the project's readiness for the
184 construction phase of development, the status of required
185 permits, the status of any needed easement acquisition, the
186 availability of local funding sources, and the establishment of
187 an erosion control line. If the department identifies specific
188 reasonable and documented concerns that the project will not
189 proceed in a timely manner, the department may choose not to
190 include the project in the annual funding priorities submitted
191 to the Legislature.

192
193 If ~~In the event that~~ more than one project qualifies equally
194 under the provisions of this subsection, the department shall
195 assign funding priority to those projects shown to be most ~~that~~
196 ~~are~~ ready to proceed.

197 Section 2. Subsection (20) of section 161.101, Florida
198 Statutes, is amended to read:

199 161.101 State and local participation in authorized
200 projects and studies relating to beach management and erosion
201 control.-

202 (20) The department shall maintain active project lists,
203 updated at least quarterly, ~~listings~~ on its website by fiscal

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204 year in order to provide transparency regarding those projects
205 receiving funding and the funding amounts, and to facilitate
206 legislative reporting and oversight. In consideration of this
207 intent:

208 (a) The department shall notify the Executive Office of the
209 Governor and the Legislature regarding any significant changes
210 in the funding levels of a given project as initially requested
211 in the department's budget submission and subsequently included
212 in approved annual funding allocations. The term "significant
213 change" means a project-specific change or cumulative changes
214 that exceed the project's original allocation by \$500,000 or
215 that exceed ~~those changes exceeding~~ 25 percent of the a
216 project's original allocation.

217 1. Except as provided in subparagraph 2., if there is
218 surplus funding, the department must provide a notification and
219 supporting justification ~~shall be provided~~ to the Executive
220 Office of the Governor and the Legislature to indicate whether
221 surplus ~~additional~~ dollars are intended to be used for inlet
222 management projects pursuant to s. 161.143 or for beach
223 restoration and beach nourishment projects, offered for
224 reversion as part of the next appropriations process, or used
225 for other specified priority projects on active project lists.

226 2. For surplus funds for projects that do not have a
227 significant change, the department may use such funds for the
228 same purposes identified in subparagraph 1. The department must
229 post the uses of such funds on the project listing web page of
230 its website. No other notice or supporting justification is
231 required before the use of surplus funds for a project that does
232 not have a significant change.

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233 (b) The department shall prepare a summary of specific
234 project activities for the current fiscal year, their funding
235 status, and changes to annual project lists for the current and
236 preceding fiscal year. ~~shall be prepared by~~ The department shall
237 include the summary and included with the department's
238 submission of its annual legislative budget request.

239 (c) Funding for specific projects on annual project lists
240 approved by the Legislature must remain available for such
241 projects for 18 months. A local project sponsor may at any time
242 release, in whole or in part, appropriated project dollars by
243 formal notification to the department. The department, ~~which~~
244 shall notify the Executive Office of the Governor and the
245 Legislature of such release and. ~~Notification must indicate in~~
246 the notification how the project dollars are recommended
247 intended to be used after such release.

248 Section 3. Subsections (2) through (5) of section 161.143,
249 Florida Statutes, are amended to read:

250 161.143 Inlet management; planning, prioritizing, funding,
251 approving, and implementing projects.-

252 (2) The department shall establish annual funding
253 priorities for studies, activities, or other projects concerning
254 inlet management. Such inlet management projects constitute the
255 intended scope of this section and s. 161.142 and consist of
256 include, but are not limited to, inlet sand bypassing,
257 improvement of infrastructure to facilitate sand bypassing,
258 modifications to channel dredging, jetty redesign, jetty repair,
259 disposal of spoil material, and the development, revision,
260 adoption, or implementation of an inlet management plan.
261 Projects considered for funding pursuant to this section must be

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262 considered separate and apart from projects reviewed and
263 prioritized in s. 161.101(14). The funding priorities
264 established by the department under this section must be
265 consistent with the requirements and legislative declaration in
266 ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing
267 funding priorities under this subsection and before transmitting
268 the annual inlet project list to the Legislature under
269 subsection (4) ~~(5)~~, the department shall seek formal input from
270 local coastal governments, beach and general government
271 associations and other coastal interest groups, and university
272 experts concerning annual funding priorities for inlet
273 management projects. In order to maximize the benefits of
274 efforts to address the inlet-caused beach erosion problems of
275 this state, the ranking criteria used by the department to
276 establish funding priorities for studies, activities, or other
277 projects concerning inlet management must include equal
278 consideration of:

279 (a) An estimate of the annual quantity of beach-quality
280 sand reaching the updrift boundary of the improved jetty or
281 inlet channel.

282 (b) The severity of the erosion to the adjacent beaches
283 caused by the inlet ~~and the extent to which the proposed project~~
284 ~~mitigates the erosive effects of the inlet.~~

285 (c) The overall significance and anticipated success of the
286 proposed project in mitigating the erosive effects of the inlet,
287 balancing the sediment budget of the inlet and adjacent beaches,
288 and addressing the sand deficit along the inlet-affected
289 shorelines.

290 (d) The extent to which ~~existing~~ bypassing activities at an

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291 inlet would benefit from modest, cost-effective improvements
292 when considering the volumetric increases from the proposed
293 project, the availability of beach-quality sand currently not
294 being bypassed to adjacent eroding beaches, and the ease with
295 which such beach-quality sand may be obtained.

296 (e) The cost-effectiveness of sand made available by a
297 proposed inlet management project or activity relative to other
298 sand source opportunities that would be used to address inlet-
299 caused beach erosion ~~The interest and commitment of local~~
300 ~~governments as demonstrated by their willingness to coordinate~~
301 ~~the planning, design, construction, and maintenance of an inlet~~
302 ~~management project and their financial plan for funding the~~
303 ~~local cost share for initial construction, ongoing sand~~
304 ~~bypassing, channel dredging, and maintenance.~~

305 (f) The existence of a proposed or recently updated ~~The~~
306 ~~previous completion or approval of a state-sponsored inlet~~
307 ~~management plan or a local-government-sponsored inlet study~~
308 addressing concerning the inlet addressed by the proposed
309 ~~project, the ease of updating and revising any such plan or~~
310 ~~study, and the adequacy and specificity of the plan's or study's~~
311 ~~recommendations concerning the mitigation of an inlet's erosive~~
312 ~~effects on adjacent beaches.~~

313 (g) The degree to which the proposed project will enhance
314 the performance and longevity of proximate beach nourishment
315 projects, thereby reducing the frequency of such periodic
316 nourishment projects.

317 (h) The project-ranking criteria in s. 161.101(14) to the
318 extent such criteria are applicable to inlet management studies,
319 projects, and activities and are distinct from, and not

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320 duplicative of, the criteria listed in paragraphs (a)-(g).

321 (3) The department may pay from legislative appropriations
322 up to 75 percent of the construction costs of an initial major
323 inlet management project component for the purpose of mitigating
324 the erosive effects of the inlet to the shoreline and balancing
325 the sediment budget. The remaining balance of such construction
326 costs must be paid from other funding sources, such as local
327 sponsors. All project costs not associated with an initial major
328 inlet management project component must be shared equally by
329 state and local sponsors in accordance with, ~~pursuant to s.~~
330 ~~161.101 and notwithstanding s. 161.101(15), pay from legislative~~
331 ~~appropriations provided for these purposes 75 percent of the~~
332 ~~total costs, or, if applicable, the nonfederal costs, of a~~
333 ~~study, activity, or other project concerning the management of~~
334 ~~an inlet. The balance must be paid by the local governments or~~
335 ~~special districts having jurisdiction over the property where~~
336 ~~the inlet is located.~~

337 ~~(4) Using the legislative appropriation to the statewide~~
338 ~~beach management support category of the department's fixed~~
339 ~~capital outlay funding request, the department may employ~~
340 ~~university based or other contractual sources and pay 100~~
341 ~~percent of the costs of studies that are consistent with the~~
342 ~~legislative declaration in s. 161.142 and that:~~

343 ~~(a) Determine, calculate, refine, and achieve general~~
344 ~~consensus regarding net annual sediment transport volumes to be~~
345 ~~used for the purpose of planning and prioritizing inlet~~
346 ~~management projects; and~~

347 ~~(b) Appropriate, assign, and apportion responsibilities~~
348 ~~between inlet beneficiaries for the erosion caused by a~~

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349 ~~particular inlet on adjacent beaches.~~

350 ~~(4)(5)~~ The department shall annually provide an inlet
351 management project list, in priority order, to the Legislature
352 as part of the department's budget request. ~~The list must~~
353 ~~include studies, projects, or other activities that address the~~
354 ~~management of at least 10 separate inlets and that are ranked~~
355 ~~according to the criteria established under subsection (2).~~

356 (a) The department shall designate for ~~make available at~~
357 ~~least 10 percent of the total amount that the Legislature~~
358 ~~appropriates in each fiscal year for statewide beach management~~
359 ~~for the three highest-ranked projects on the current year's~~
360 ~~inlet management project list, in priority order, an amount that~~
361 ~~is at least equal to the greater of:~~

362 1. Ten percent of the total amount that the Legislature
363 appropriates in the fiscal year for statewide beach management;
364 or

365 2. The percentage of inlet management funding requests from
366 local sponsors as a proportion of the total amount of statewide
367 beach management dollars requested in a given year.

368 (b) The department shall include inlet monitoring
369 activities ranked on the inlet management project list as one
370 aggregated subcategory on the overall inlet management project
371 list ~~make available at least 50 percent of the funds~~
372 ~~appropriated for the feasibility and design category in the~~
373 ~~department's fixed capital outlay funding request for projects~~
374 ~~on the current year's inlet management project list which~~
375 ~~involve the study for, or design or development of, an inlet~~
376 ~~management project.~~

377 ~~(c) The department shall make available all statewide beach~~

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378 ~~management funds that remain unencumbered or are allocated to~~
379 ~~non-project-specific activities for projects on legislatively~~
380 ~~approved inlet management project lists. Funding for local-~~
381 ~~government specific projects on annual project lists approved by~~
382 ~~the Legislature must remain available for such purposes for a~~
383 ~~period of 18 months pursuant to s. 216.301(2)(a). Based on an~~
384 ~~assessment and the department's determination that a project~~
385 ~~will not be ready to proceed during this 18-month period, such~~
386 ~~funds shall be used for inlet management projects on~~
387 ~~legislatively approved lists.~~

388 (5)(d) ~~The Legislature shall designate one of the three~~
389 ~~highest projects on the inlet management project list in any~~
390 ~~year as the Inlet of the Year. The department shall update and~~
391 ~~maintain an annual annually report on its website to the~~
392 ~~Legislature concerning the extent to which each inlet project~~
393 ~~designated by the Legislature as Inlet of the Year has succeeded~~
394 ~~in balancing the sediment budget of the inlet and adjacent~~
395 ~~beaches and in, mitigating the inlet's erosive effects on~~
396 ~~adjacent beaches. The report must provide an estimate of the~~
397 ~~quantity of sediment bypassed, transferred, and transferring or~~
398 ~~otherwise placed ~~placing beach-quality sand~~ on adjacent eroding~~
399 ~~beaches, or in such beaches' nearshore area, for the purpose of~~
400 ~~offsetting the erosive effects of inlets on the beaches of this~~
401 ~~state.~~

402 Section 4. Effective July 1, 2020, subsection (1) and
403 present subsection (2) of section 161.161, Florida Statutes, are
404 amended, a new subsection (2) is added to that section, and
405 present subsections (2) through (7) are redesignated as
406 subsections (3) through (8), respectively, to read:

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407 161.161 Procedure for approval of projects.-

408 (1) The department shall develop and maintain a
409 comprehensive long-term beach management plan for the
410 restoration and maintenance of the state's critically eroded
411 beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits
412 of Florida. In developing and maintaining this ~~the beach~~
413 ~~management plan, the department~~ shall:

414 (a) Address long-term solutions to the problem of
415 critically eroded beaches in this state.

416 (b) Evaluate each improved, modified, or altered inlet and
417 determine whether the inlet is a significant cause of beach
418 erosion. With respect to each inlet determined to be a
419 significant cause of beach erosion, the plan shall include:

420 ~~1.~~ the extent to which such inlet causes beach erosion and
421 recommendations to mitigate the erosive impact of the inlet,
422 including, but not limited to, ~~recommendations regarding~~ inlet
423 sediment bypassing; improvement of infrastructure to facilitate
424 sand bypassing; modifications to channel dredging, jetty design,
425 and disposal of spoil material; establishment of feeder beaches;
426 and beach restoration and beach nourishment; ~~and~~

427 ~~2. Cost estimates necessary to take inlet corrective~~
428 ~~measures and recommendations regarding cost sharing among the~~
429 ~~beneficiaries of such inlet.~~

430 (c) Evaluate ~~Design~~ criteria for beach restoration and
431 beach nourishment projects, including, but not limited to, ~~1.~~

432 ~~1.~~ dune elevation and width and revegetation and
433 stabilization requirements, ~~1.~~ and

434 ~~2.~~ beach profiles ~~profile~~.

435 (d) Consider ~~Evaluate~~ the establishment of regional

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436 sediment management alternatives for one or more individual
437 beach and inlet sand bypassing projects ~~feeder beaches~~ as an
438 alternative to ~~direct~~ beach restoration when appropriate and
439 cost-effective, and recommend the location of such regional
440 sediment management alternatives ~~feeder beaches~~ and the source
441 of beach-compatible sand.

442 (e) Identify causes of shoreline erosion and change,
443 determine ~~calculate~~ erosion rates, and maintain an updated list
444 of critically eroded sandy beaches based on data, analyses, and
445 investigations of shoreline conditions ~~and project long-term~~
446 ~~erosion for all major beach and dune systems by surveys and~~
447 ~~profiles.~~

448 (f) ~~Identify shoreline development and degree of density~~
449 ~~and~~ Assess impacts of development and coastal protection
450 ~~shoreline protective~~ structures on shoreline change and erosion.

451 (g) Identify short-term and long-term economic costs and
452 benefits of beaches to the state of Florida and individual beach
453 communities, ~~including recreational value to user groups, tax~~
454 ~~base, revenues generated, and beach acquisition and maintenance~~
455 ~~costs.~~

456 (h) Study dune and vegetation conditions, identify existing
457 beach projects without dune features or with dunes without
458 adequate elevations, and encourage dune restoration and
459 revegetation to be incorporated as part of storm damage recovery
460 projects or future dune maintenance events.

461 (i) Identify beach areas used by marine turtles and develop
462 strategies for protection of the turtles and their nests and
463 nesting locations.

464 (j) Identify alternative management responses to preserve

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465 undeveloped beach and dune systems and, to restore damaged beach
466 and dune systems. In identifying such management responses, the
467 department shall consider, at a minimum, and to prevent
468 ~~inappropriate development and redevelopment on migrating~~
469 ~~beaches, and consider~~ beach restoration and nourishment,
470 armoring, relocation ~~and abandonment~~, dune and vegetation
471 restoration, and acquisition.

472 (k) Document procedures and policies for preparing post-
473 storm damage assessments and corresponding recovery plans,
474 including repair cost estimates ~~Establish criteria, including~~
475 ~~costs and specific implementation actions, for alternative~~
476 ~~management techniques.~~

477 (l) Identify and assess ~~Select and recommend~~ appropriate
478 management measures for all of the state's critically eroded
479 ~~sandy beaches in a beach management program.~~

480 ~~(m) Establish a list of beach restoration and beach~~
481 ~~nourishment projects, arranged in order of priority, and the~~
482 ~~funding levels needed for such projects.~~

483 (2) The comprehensive long-term management plan developed
484 and maintained by the department pursuant to subsection (1) must
485 include, at a minimum, a strategic beach management plan, a
486 critically eroded beaches report, and a statewide long-range
487 budget plan. The long-range budget plan must include a 3-year
488 work plan for beach restoration, beach nourishment, and inlet
489 management projects that lists planned projects for each of the
490 3 fiscal years addressed in the work plan.

491 (a) The strategic beach management plan must identify and
492 recommend appropriate measures for all of the state's critically
493 eroded sandy beaches and may incorporate plans ~~be prepared at~~

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494 the regional level, taking into account ~~based upon~~ areas of
495 greatest need and probable federal and local funding. Upon
496 approval in accordance with this section, such regional plans,
497 along with the 3-year work plan identified in subparagraph
498 (c)1., must ~~shall be components of the statewide beach~~
499 ~~management plan and shall serve as the basis for state funding~~
500 ~~decisions upon approval in accordance with chapter 86-138, Laws~~
501 ~~of Florida. Before finalizing the strategic beach management~~
502 plan ~~In accordance with a schedule established for the~~
503 ~~submission of regional plans by the department, any completed~~
504 ~~plan must be submitted to the secretary of the department for~~
505 ~~approval no later than March 1 of each year. These regional~~
506 ~~plans shall include, but shall not be limited to,~~
507 ~~recommendations of appropriate funding mechanisms for~~
508 ~~implementing projects in the beach management plan, giving~~
509 ~~consideration to the use of single-county and multicounty taxing~~
510 ~~districts or other revenue generation measures by state and~~
511 ~~local governments and the private sector. Prior to presenting~~
512 ~~the plan to the secretary of the department, the department~~
513 ~~shall hold a public meeting in the region areas for which the~~
514 ~~plan is prepared or hold a publicly noticed webinar. The plan~~
515 ~~submission schedule shall be submitted to the secretary for~~
516 ~~approval. Any revisions to such schedule must be approved in~~
517 ~~like manner.~~

518 (b) The critically eroded beaches report must be developed
519 and maintained based primarily on the requirements specified in
520 paragraph (1) (e).

521 (c) The statewide long-range budget plan must include at
522 least 5 years of planned beach restoration, beach nourishment,

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523 and inlet management project funding needs as identified, and
524 subsequently refined, by local government sponsors. This plan
525 must consist of two components:

526 1. A 3-year work plan that identifies beach restoration,
527 beach nourishment, and inlet management projects viable for
528 implementation during the next 3 fiscal years, as determined by
529 available cost-sharing, local sponsor support, regulatory
530 considerations, and the ability of the project to proceed as
531 scheduled. The 3-year work plan must, for each fiscal year,
532 identify proposed projects and their current development status,
533 listing them in priority order based on the applicable criteria
534 established in ss. 161.101(14) and 161.143(2). Specific funding
535 requests and criteria ranking, pursuant to ss. 161.101(14) and
536 161.143(2), may be modified as warranted in each successive
537 fiscal year, and such modifications must be documented and
538 submitted to the Legislature with each 3-year work plan. Year
539 one projects shall consist of those projects identified for
540 funding consideration in the ensuing fiscal year.

541 2. A long-range plan that identifies projects for inclusion
542 in the fourth and fifth ensuing fiscal years. These projects may
543 be presented by region and do not need to be presented in
544 priority order; however, the department should identify issues
545 that may prevent successful completion of such projects and
546 recommend solutions that would allow the projects to progress
547 into the 3-year work plan.

548 (3) ~~(2)~~ Annually, The secretary shall annually present the
549 3-year work plan to the Legislature. The work plan must be
550 accompanied by a 3-year financial forecast for the availability
551 of funding for the projects ~~recommendations for funding beach~~

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552 ~~erosion control projects prioritized according to the criteria~~
553 ~~established in s. 161.101(14).~~

554 Section 5. Except as otherwise expressly provided in this
555 act, this act shall take effect July 1, 2019.

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 446

INTRODUCER: Senators Mayfield, Hutson, Wright, and others

SUBJECT: Coastal Management

DATE: April 17, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3.	<u>Reagan</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SB 446 revises the criteria the Department of Environmental Protection uses to determine annual funding priorities for beach erosion control projects and inlet management projects. The bill also revises related requirements for the Department of Environmental Protection regarding reporting and oversight, and the use of surplus funds for beach erosion control projects or inlet management projects. The bill revises requirements regarding funding and reporting on inlet management projects.

The bill revises the requirements for the Department of Environmental Protection to develop and submit the components of the comprehensive long-term management plan for the restoration and maintenance of Florida's critically eroded beaches.

The bill has an indeterminate fiscal impact. The DEP can absorb any costs within existing resources. Funding for beach erosion projects and inlet management projects is subject to legislative appropriations.

The bill takes effect July 1, 2019, except for changes to the scoring system for beach erosion control projects amended in s. 161.101, F.S., and changes to the comprehensive long-term beach management plan amended in s. 161.161, F.S., which will both take effect July 1, 2020.

II. Present Situation:

Florida has 825 miles of sandy coastline.¹ Beaches are one of Florida's most valuable resources as they serve multiple important functions including providing habitat and protection for many plant and animal species, attracting millions of tourists to the state each year, and providing a

¹ DEP, *Beaches*, <https://floridadep.gov/water/beaches> (last visited Feb. 26, 2019).

line of defense against major storms.² Beaches are the most important feature of Florida's brand, accounting for 25.5 percent of the state's attractiveness to visitors.³

The American Society of Civil Engineers rated Florida's coastal areas infrastructure as a D+ in its 2016 report card, due to the fact that in the ten preceding years the average difference between requested and state appropriated funds exceeded \$40 million per year.⁴ An evaluation by the Office of Economic and Demographic Research determined that the state's investment in beach management and restoration generated a positive rate of return on investment of 5.4.⁵ A return greater than one means that the tax revenues generated by tourists visiting the state more than cover the state's expenditures on beaches.⁶

Beach Erosion and Beach Nourishment

Coastal erosion is the loss of coastal lands due to the net removal of sediment, and it causes beaches to become narrower and lower in elevation.⁷ This erosion is both natural and human-caused. Sand naturally drifts along the shore due to waves, currents, and tides.⁸ Storms can cause dramatic changes in a beach, including significant loss of sand.⁹ An "inlet" is a coastal waterway separating two stretches of beach, and is defined as "a coastal barrier waterway connecting a bay, lagoon, or similar body of water with" the ocean.¹⁰ There are 66 coastal barrier inlets in Florida, and many of them are used for navigating vessels.¹¹ Human-induced erosion is often caused by the creation and maintenance of inlets, where sand has historically been removed from the shore by dredging, and the natural drift of the sand is blocked by jetties, trapped in channels, or moved

² *Id.*

³ Office of Economic & Demographic Research, *Economic Evaluation of Florida's Investment in Beaches: Identifying the State's Brand, Calculating the Return on Investment of Beach Restoration and Assessing the Risk of Disasters*, 1 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 26, 2019).

⁴ American Society of Civil Engineers, *2016 Report Card for Florida's Infrastructure*, 2 (2016), available at http://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf (last visited Feb. 24, 2019).

⁵ Office of Economic & Demographic Research, *Economic Evaluation of Florida's Investment in Beaches: Identifying the State's Brand, Calculating the Return on Investment of Beach Restoration and Assessing the Risk of Disasters*, 1 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 26, 2019).

⁶ *Id.*

⁷ U.S. Geological Survey, Coastal Change Hazards: Hurricanes and Extreme Storms, *Beach Erosion*, <https://coastal.er.usgs.gov/hurricanes/coastal-change/beach-erosion.php> (last visited Feb. 26, 2019); Australian Government, Geoscience Australia, *Coastal Erosion*, <http://www.ga.gov.au/scientific-topics/hazards/coastalerosion> (last visited Feb. 25, 2019).

⁸ DEP, *Strategic Beach Management Plan: Introduction*, 1 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 25, 2019); see U.S. Geological Survey, *Longshore Current*, <https://pubs.usgs.gov/circ/c1075/longshore.html> (last visited Feb. 27, 2019); see University of South Florida, Florida Center for Instructional Technology, *Changing Coastlines*, <https://fcit.usf.edu/florida/teacher/science/mod2/changing.coastlines.html> (last visited Feb. 28, 2019). Longshore transport is the movement of sand along the shore, parallel to the coast, caused by longshore currents.

⁹ DEP, *Strategic Beach Management Plan: Introduction*, 1 (May 2018).

¹⁰ Fla. Admin. Code R. 62B-36.002(7). The complete definition of "inlet" is "a coastal barrier waterway connecting a bay, lagoon, or similar body of water with the Gulf of Mexico, the Straits of Florida, or the Atlantic Ocean and all related flood and ebb tidal shoals and the inlet shorelines. Improved, altered or modified inlets are those where stabilizing rigid coastal structures have been constructed, or where inlet related structures or features such as channels have been constructed or are actively maintained and the channel depth is greater than the inlet system would support in a natural state."

¹¹ DEP, *Strategic Beach Management Plan: Introduction*, 10 (May 2018).

into shallow tidal areas.¹² Developing and placing infrastructure near the shore can also contribute to coastal erosion by limiting the amount of sand stored in dunes.¹³

“Beach nourishment” is the practice of maintaining a beach by the replacement of sand.¹⁴ In a typical beach nourishment project, sand is collected from an offshore location by a dredge and piped onto the beach.¹⁵ Bulldozers are then used to move the new sand on the beach until the beach matches the project design profile.¹⁶ The DEP is authorized to review innovative technologies for beach nourishment and, on a limited basis, authorize alternatives to traditional dredge and fill projects to determine the most cost-effective techniques for beach nourishment.¹⁷

The Legislature has recognized that beach-quality sand for the nourishment of the state's critically eroded beaches is an exhaustible resource, in ever-decreasing supply, which must be carefully managed for the benefit of Florida's beaches.¹⁸ The Legislature has also recognized that inlets interrupt or alter the natural drift of beach-quality sand resources, which often results in these sand resources being deposited in nearshore areas or in the inlet channel, or in the inland waterway adjacent to the inlet, instead of providing natural nourishment to the adjacent eroding beaches.¹⁹

The DEP is required to determine which beaches are critically eroded and in need of restoration and nourishment.²⁰ According to the DEP, as of 2017, there are 420.9 miles of critically eroded beach, 8.7 miles of critically eroded inlet shoreline, 92.2 miles of non-critically eroded beach, and 3.2 miles of non-critically eroded inlet shoreline statewide.²¹ Erosion is termed “critical” if there is a threat to or loss of one of four specific interests: upland development, recreation, wildlife habitat, or important cultural resources.²²

¹² *Id.* at 1.

¹³ *Id.*

¹⁴ Section 161.021(3), (4), F.S.; see DEP, *Strategic Beach Management Plan: Introduction*, 14 (May 2018). The first time sand is added to a beach it is called “beach restoration,” and any subsequent project adding sand to the beach after the beach restoration is called “beach nourishment.”

¹⁵ DEP, *Why Beach Restoration: Why Restore Eroded Beaches?*, <https://floridadep.gov/water/beaches-funding-program/content/why-beach-restoration> (last visited Feb. 25, 2019).

¹⁶ *Id.*

¹⁷ Section 161.082, F.S.

¹⁸ Section 161.144, F.S.

¹⁹ Section 161.142, F.S.

²⁰ Section 161.101(1), F.S.

²¹ DEP, Division of Water Resource Management, *Critically Eroded Beaches in Florida*, 5, 20 (June 2018), available at <https://floridadep.gov/sites/default/files/CriticallyErodedBeaches.pdf> (last visited Feb. 25, 2019); Fla. Admin. Code R. 62B-36.002(5). The term “critically eroded shoreline” is defined as “a segment of shoreline where natural processes or human activities have caused, or contributed to, erosion and recession of the beach and dune system to such a degree that upland development, recreational interests, wildlife habitat or important cultural resources are threatened or lost. Critically eroded shoreline may also include adjacent segments or gaps between identified critical erosion areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects.”

²² Fla. Admin. Code R. 62B-36.002(5).

Beach and Shore Preservation

Beach and inlet management in Florida are governed by Chapter 161, F.S., Beach and Shore Preservation. The DEP is the beach and shore preservation authority for the state.²³ The DEP's programs for beach and shore preservation are implemented through its Division of Water Resource Management.²⁴ Under the Beaches, Inlets and Ports Program, the DEP updates and maintains the components of the Strategic Beach Management Plan (SBMP).²⁵ The SBMP consists of multiple plans developed at the regional level, identifies Florida's critically eroded beaches, and discusses strategies for beach and inlet management.²⁶ Under the Beach Management Funding Assistance Program, the DEP receives funding requests from local governments for cost sharing of beach and inlet management projects.²⁷ The DEP applies certain criteria to these projects to determine funding priorities, creates lists that numerically rank the projects based on the criteria, and then submits the ranked lists of projects to the Legislature in annual funding requests.²⁸

Strategic Beach Management Plan

The DEP is required to develop and maintain a comprehensive long-term management plan for the restoration and maintenance of the state's critically eroded beaches.²⁹ The beach management plan is required, in part, to accomplish the following:

- Address long-term solutions to the problem of critically eroded beaches.
- Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion.
- Design criteria for beach restoration and beach nourishment projects.
- Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles.
- Study dune and vegetation conditions.
- Establish a list of beach restoration and beach nourishment projects, arranged in order of priority, and the funding levels needed for such projects.³⁰

The SBMP is a set of beach management plans and a key component of the DEP's comprehensive long-term management plan.³¹ It is a dynamic management tool for use by

²³ Section 161.101(2), F.S.

²⁴ DEP, *Division of Water Resource Management*, <https://floridadep.gov/Water> (last visited Feb. 25, 2019).

²⁵ Section 161.161(1), F.S.; DEP, *Strategic Planning and Coordination*, <https://floridadep.gov/water/beaches-inlets-ports/content/strategic-planning-and-coordination#IMP> (last visited Feb. 25, 2019).

²⁶ DEP also creates separate Inlet Management Plans.

²⁷ Sections 161.101 and 161.143, F.S.; Fla. Admin. Code R. 62B-36; DEP, *Beaches Funding Program*, <https://floridadep.gov/water/beaches-funding-program> (last visited Feb. 25, 2019).

²⁸ Sections 161.101(14) and 161.161(2), F.S.; DEP, Division of Water Resource Management, *Beach Management Funding Assistance Program Fixed Capital Outlay Local Government Funding Request, Fiscal Year 2019-2020* (Feb. 2019), available at https://floridadep.gov/sites/default/files/FY%2019-20%20LGFR_2.pdf (last visited Feb. 25, 2019). The funding request document states: “[t]he prioritized list of beach erosion control projects is organized in two sections: (1) Beach Restoration and Nourishment Projects (Beach Projects); and (2) Inlet Sand Bypassing/Inlet Management Plan Implementation Projects (Inlet Projects).”

²⁹ Section 161.161(1), F.S.

³⁰ *Id.*

³¹ DEP, *Strategic Planning and Coordination*, <https://floridadep.gov/water/beaches-inlets-ports/content/strategic-planning-and-coordination#Strategic%20Beach%20Management%20Plan%20-%20SBMP> (last visited Feb. 25, 2019); Fla. Admin.

private individuals and local, state, and federal government officials.³² The SBMP is updated periodically as specific strategies are implemented, new resources and opportunities are identified, and proposed strategies are developed by the DEP and federal or local government sponsors.³³ The DEP prepares the SBMP at the regional level.³⁴ The regional plans include recommendations of appropriate funding mechanisms for implementing projects in the beach management plan that describe historical and present beach restoration activities.³⁵

Long Range Budget Plan

The statewide long range budget plan projects the ten-year planning needs for federal, state, and local governments necessary to implement the SBMP.³⁶ The budget plan is subdivided by the same seven regions as the SBMP and provides a statewide survey of many individual project efforts.³⁷ The plan is developed in coordination with local sponsors, and submitted to the Legislature annually as a companion document to the funding requests.³⁸

Beach Management Funding Assistance Program

The DEP established the Beach Management Funding Assistance Program for the purpose of working together with local sponsors to achieve the protection, preservation, and restoration of Florida's sandy beaches, and the management of inlets to replicate the natural drift of sand.³⁹ Pursuant to state public policy, the Legislature is required to fund beach restoration and nourishment projects, including inlet management projects that cost-effectively provide beach-quality material for adjacent critically eroded beaches.⁴⁰ To be eligible for funding under the program, a project must: be in an area designated as critically eroded shoreline, or benefit an adjacent critically eroded shoreline; have a clearly identifiable beach management benefit consistent with the state's beach management plan; and be designed to reduce potential upland damage or mitigate adverse impacts caused by improved, modified, or altered inlets, coastal armoring, or existing upland development.⁴¹

The state is authorized to pay up to 75 percent of the actual costs for restoring and nourishing critically eroded beaches, recognizing that local beach communities derive the primary benefits from the presence of adequate beaches.⁴² The local government in which the beach is located is

Code R. 62B-36.002(1), (18). Only projects consistent with the SBMP will be considered for funding under the Beach Management Funding Assistance Program.

³² DEP, *Strategic Beach Management Plan: Introduction*, 3 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 26, 2019).

³³ *Id.*

³⁴ DEP, *Strategic Planning and Coordination*, <https://floridadep.gov/water/beaches-inlets-ports/content/strategic-planning-and-coordination#Strategic%20Beach%20Management%20Plan%20-%20SBMP> (last visited Feb. 25, 2019). This page shows all of the regional plans that are components of the SBMP.

³⁵ Section 161.161(1), F.S.

³⁶ DEP, *Florida Beach Management Program, Long Range Budget Plan for 2019-2029*, 1 (Feb. 2019), available at https://floridadep.gov/sites/default/files/FY%201929%20LRBP%20Report_0.pdf (last visited Feb. 25, 2019).

³⁷ *Id.* at 2.

³⁸ Fla. Admin. Code R. 62B-36.002(17).

³⁹ Fla. Admin. Code R. 62B-36.001.

⁴⁰ Section 161.088, F.S.

⁴¹ *Id.*

⁴² Section 161.101(1), F.S.

responsible for funding the balance of such costs.⁴³ However, the law states “until the unmet demand for repairing Florida’s damaged beaches and dunes is satisfied, it is the further intent of the Legislature to cost-share such projects equally between state and local sponsors.”⁴⁴

The Beach Management Funding Assistance Program accepts funding requests from local governments in Florida each year.⁴⁵ Local Government Funding Request Applications are available for both beach projects and inlet projects.⁴⁶

For a beach erosion control project to receive state funding, the project must provide adequate public access, protect natural resources, and protect endangered and threatened species.⁴⁷ The DEP is required to consider the following criteria in determining annual funding priorities:

- The severity of erosion conditions, the threat to existing upland development, and recreational or economic benefits.
- The availability of federal matching dollars.
- The extent of the local government sponsor’s financial and administrative commitment to the project, including its long-term financial plan with a designated funding source for initial construction and periodic maintenance.
- Previous state commitment and involvement in the project.
- The anticipated physical performance of the project, including the frequency of periodic planned nourishment.
- The extent to which the project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches.
- Innovative, cost-effective, and environmentally sensitive applications to reduce erosion.
- Projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles.
- The extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planning, design, and construction of their projects to take advantage of identifiable cost savings.
- The degree to which the project addresses the state’s most significant beach erosion problems.⁴⁸

The DEP uses other ranking criteria, in addition to the criteria for all beach erosion control projects (when applicable), to establish funding priorities for inlet management projects.⁴⁹ Those criteria are required to include consideration of the following:

- An estimate of the annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel.
- The severity of the erosion to the adjacent beaches caused by the inlet and the extent to which the proposed project mitigates the erosive effects of the inlet.

⁴³ *Id.*

⁴⁴ Section 161.101(15), F.S.

⁴⁵ DEP, Beaches Funding Assistance Information, *How To Apply*, <https://floridadep.gov/water/beaches-funding-program/content/beaches-funding-assistance-information> (last visited Feb. 26, 2019).

⁴⁶ *Id.*

⁴⁷ Section 161.101(12), F.S.

⁴⁸ Section 161.101(14), F.S. If multiple projects qualify equally under the criteria, DEP assigns priority to projects that are ready to proceed.

⁴⁹ Section 161.143(2), F.S.

- The overall significance and anticipated success of the proposed project in balancing the sediment budget of the inlet and adjacent beaches and addressing the sand deficit along the inlet-affected shorelines.
- The extent to which existing bypassing activities at an inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not being bypassed to adjacent eroding beaches, and the ease with which such beach-quality sand may be obtained.
- The interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost share for initial construction, ongoing sand bypassing, channel dredging, and maintenance.
- The previous completion or approval of a state-sponsored inlet management plan or local-government-sponsored inlet study concerning the inlet addressed by the proposed project, the ease of updating and revising any such plan or study, and the adequacy and specificity of the plan's or study's recommendations concerning the mitigation of an inlet's erosive effects on adjacent beaches.
- The degree to which the proposed project will enhance the performance and longevity of proximate beach nourishment projects, thereby reducing the frequency of such periodic nourishment projects.
- The project-ranking criteria in s. 161.101(14), F.S., to the extent such criteria are applicable to inlet management studies, projects, and activities.⁵⁰

The DEP established a point-based priority ranking system in order to implement the statutory criteria for beach and inlet management projects for funding assistance.⁵¹ Under the system, a project receives a total point score based on the established project ranking criteria. The total amount of points available for beach management projects is 115 points and the total for inlet management projects is 90 points.⁵² The charts below indicate the number of component criteria under each statutory criteria as developed by the DEP.⁵³

⁵⁰ Section 161.143(2)(a)-(h), F.S.; see DEP, *Strategic Beach Management Plan: Introduction*, 10, 14 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 26, 2019). Inlet bypassing projects take sand from one side of the inlet, or from within the inlet, and place it along the shorelines adjacent to the inlet, to mitigate the erosive effects of the inlet. Beach restoration, beach nourishment, and inlet bypassing are collectively referred to as “active management.” As of 2017, 229.1 miles of Florida’s critically eroded sandy beaches are under active management.

⁵¹ Fla. Admin. Code R. 62B-36.006.

⁵² Office of Program Policy Analysis & Government Accountability (OPPAGA), *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist*, 4 (Dec. 2014), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1412rpt.pdf> (last visited Feb. 25, 2019).

⁵³ *Id.*

Statutory Criteria	Number of Component Criteria	Available Points
Beach Management		
Significance	6	20
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Project Performance	2	10
Recreational and Economic Benefits	1	10
Severity of Erosion	1	10
Mitigation of Inlet Effects	1	10
Threat to Upland Structures	1	10
Innovative Technologies	2	5
Regionalization	1	5
Enhance Refuges of Nesting Sea Turtle	1	5
Total	29	115

Statutory Criteria	Number of Component Criteria	Available Points
Inlet Management		
Balancing the Sediment Budget	1	20
Inlet Management Plan	3	15
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funding	3	10
Sand Reaching the Inlet	1	10
Cost Effectiveness	1	10
Enhanced Project Performance	1	5
Total	20	90

The DEP is prohibited from funding projects that provide only recreational benefits.⁵⁴ All funded projects are required to have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing the sand in the system.⁵⁵ The following is a list of activities that are ineligible for cost sharing:

- Recreational structures, such as piers, decks, and boardwalks.
- Park activities and facilities, except for erosion control.
- Aesthetic vegetation.
- Water quality components of stormwater management systems.
- Experimental or demonstration projects, unless favorably peer-reviewed or scientifically documented.
- Hard structures, unless designed for erosion control or to enhance beach nourishment project longevity or bypassing performance.
- Operations and maintenance, with the exception of nourishment.
- Maintenance and repair of over-walks.
- Navigation construction, operation, and maintenance activities, except those elements whose purpose is to place or keep sand on adjacent beaches.⁵⁶

In December 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating the DEP’s process for selecting and prioritizing beach

⁵⁴ Section 161.101(13), F.S.

⁵⁵ *Id.*

⁵⁶ *Id.*

management and inlet management projects.⁵⁷ The review considered the current statutory criteria and related administrative rules, as well as the funding request application process, information requirements, and timeline.⁵⁸ The OPPAGA also reviewed how the DEP uses each ranking criteria for establishing the annual priority order for beach management and restoration projects.⁵⁹

The report made several findings, including, but not limited to, finding that:

- A limited number of factors account for a majority of the points awarded.
- The criteria do not account for statewide differences in beach conditions, such as regional differences in erosion patterns and variations in project costs.
- The criteria do not adequately take into account the economic impact of beach projects, particularly the value of tourism.
- The criteria do not adequately account for a project's cost effectiveness or performance.
- The criteria do not take into account the impacts of recent storms or the current conditions of the shoreline.
- Stakeholders found the application requirements for funding to be too complicated and time consuming.
- Stakeholders perceived a bias for projects that received federal funding.
- Stakeholders found that the criteria do not adequately provide for endangered and threatened species.⁶⁰

III. Effect of Proposed Changes:

Beach Erosion Control Projects

Section 1 amends s. 161.101, F.S., to require the Department of Environmental Protection (DEP) to adopt by rule a scoring system to use when determining the annual funding priorities for beach erosion control projects. The scoring system must consist of four tiers, and use equally weighted criteria within each tier. If multiple projects qualify equally under the scoring system, priority will be assigned to the projects shown to be most ready to proceed. The new scoring system will go into effect on July 1, 2020.

Tier 1 (20 percent of the total project score)

Under Tier 1, the DEP will consider the tourism-related return on investment and the economic impact of the project, using county tax data to individually assess each county with jurisdiction over the project area. The return on investment is the ratio of the tourism-related tax revenues in the most recent year to the state funding requested for the project. The economic impact is the ratio of the tourism-related tax revenues in the most recent year to all the county's tax revenues in the most recent year.

⁵⁷ OPPAGA, *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist* (Dec. 2014), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1412rpt.pdf> (last visited Feb. 26, 2019).

⁵⁸ *Id.* at 1.

⁵⁹ *Id.*

⁶⁰ *Id.* at 6-12.

Tier 2 (45 percent of the total project score)

Under Tier 2, the DEP will consider all of the following criteria relating to federal funding, storm damage reduction, and cost-effectiveness:

- The availability of federal matching dollars, considering federal authorization, the federal cost-share percentage, and the status of the funding award.
- The storm damage reduction benefits of the project based on the following considerations:
 - The current conditions of the project area, including any recent storm damage impact, as a percentage of volume of sand lost since the most recent beach nourishment event or most recent beach surveys. If the project area has not been previously restored, the DEP must use the historical background erosion rate;
 - The overall potential threat to existing upland development, including public and private structures and infrastructure, based on the percentage of vulnerable shoreline within the project boundaries; and
 - The value of upland property benefiting from the protection provided by the project and its subsequent maintenance. A property must be within one-quarter mile of the project boundaries to be considered.
- The cost-effectiveness of the project based on the yearly cost per volume per mile of proposed beach fill placement. Cost-effectiveness is also assessed using the following criteria:
 - The existence of projects with proposed structural or design components to extend the beach nourishment interval;
 - Existing beach nourishment projects that reduce upland storm damage costs by incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects;
 - Proposed innovative technologies designed to reduce project costs; and
 - Regional sediment management strategies and coordination to conserve sand source resources and reduce project costs.

Tier 3 (20 percent of the total project score)

Under Tier 3, the DEP will consider all of the following criteria relating to previous state involvement in the project, recreational benefits, mitigation of the impact of inlets, and the state's most significant beach erosion problems:

- Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.
- The recreational benefits of the projects based on:
 - The accessible beach area added by the project; and
 - The percentage of linear footage within the project boundaries which is zoned:
 - As recreational or open space;
 - For commercial use; or
 - To otherwise allow for public lodging establishments.
- The extent to which the project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches.
- The degree to which the project addresses the state's most significant beach erosion problems as a function of the linear footage of the project shoreline and the cubic yards of sand placed per mile per year.

Tier 4 (15 percent of the total project score)

Under Tier 4, the DEP will consider all of the following criteria relating to projects that have not received funding after successive years, habitat enhancement, and a project's overall readiness:

- Increased prioritization of projects that have been on the DEP's ranked project list for successive years and have not previously secured state funding for project implementation.
- Environmental habitat enhancement, recognizing state or federal critical habitat areas for threatened or endangered species that may be subject to extensive shoreline armoring, or recognizing areas where extensive shoreline armoring threatens the availability or quality of habitat for such species. Turtle-friendly designs, dune and vegetation projects for areas with redesigned or reduced fill templates, proposed incorporation of best management practices and adaptive management strategies to protect resources, and innovative technologies designed to benefit critical habitat preservation may also be considered.
- The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, the availability of local funding sources, and the establishment of an erosion control line. If the DEP identifies specific reasonable and documented concerns that the project will not proceed in a timely manner, the DEP may choose not to include the project in the annual funding priorities submitted to the Legislature.

Section 2 amends s. 161.101(20), F.S., to revise provisions relating to project lists, reporting requirements, and surplus funding.

Project Lists, Notification, and Summary Reports

The bill requires the DEP to update the active project lists quarterly. The DEP is already required to maintain the lists on its website organized by fiscal year.

The bill redefines the term "significant change" to mean a project-specific change or cumulative changes that either exceed the project's original allocation by \$500,000 or exceed 25 percent of the project's original allocation. The DEP is required to notify the Governor and the Legislature when a significant change occurs in the funding levels of a given project, as compared to the originally approved allocation.

The bill requires the DEP to provide a summary of project activities, funding statuses, and changes to annual project lists for both the current and preceding year. Currently, the DEP is not required to include information for the preceding fiscal year in its summary. The DEP submits the summary along with its annual legislative budget request.

The bill requires that funding approved by the Legislature for specific projects on the annual project lists must remain available for such projects for 18 months. The bill requires that, when a local project sponsor releases appropriated project dollars, the DEP will notify the Governor and the Legislature of such release and indicate in the notification how the project dollars are recommended to be used following the release.

Surplus Funding

The bill requires the DEP to provide supporting justification when notifying the Governor and Legislature to indicate whether the DEP intends to use surplus dollars. The bill adds beach restoration and beach nourishment projects to the various project types the DEP is authorized to use surplus funds for.

The bill authorizes the DEP to use surplus funds for projects that do not have a significant change. The DEP will be authorized to use surplus funds for the following purposes, as long as they do not have a significant change: inlet management projects or beach restoration and beach nourishment projects; to be offered for reversion for the next appropriations process; or to be used for other priority projects on active project lists. The DEP must post such uses of surplus funds on its website, on the project listing web page. The bill states that no other notice or supporting justification is required before using surplus funds for a project that does not have a significant change.

Inlet Management Projects

Section 3 amends s. 161.143, F.S., to revise the required considerations for the ranking criteria used to establish funding priorities for inlet management projects.

The bill states that inlet management projects are the intended scope of the section, and of s. 161.142, F.S., which establishes policies for inlet management. The scope of inlet management projects considered for annual funding priority is expanded to include the “improvement of infrastructure to facilitate sand bypassing.”

The bill requires the inlet management projects considered for funding under s. 161.143, F.S., to be considered separate and apart from the beach erosion control projects reviewed and prioritized under s. 161.101, F.S.

The bill requires the DEP to give equal consideration to the ranking criteria in s. 161.143(2)(a)-(h), F.S., and revises such criteria by:

- Removing the term “existing” from the provision requiring the DEP to consider the extent to which bypassing activities at an inlet would benefit from modest, cost-effective improvements.
- Requiring the DEP to consider the cost-effectiveness of sand made available by a proposed inlet management project or activity relative to other sand source opportunities that could be used to address inlet-caused beach erosion.
- Removing the requirement that the DEP consider the interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost share for initial construction, ongoing sand bypassing, channel dredging, and maintenance.
- Requiring the DEP to consider the existence of a proposed or recently updated inlet management plan or a local-government-sponsored inlet study addressing the mitigation of an inlet’s erosive effects on adjacent beaches.

- Clarifying that the DEP is to consider the criteria in s. 161.101(14), F.S., when establishing funding priorities for inlet management projects, but only to the extent the beach erosion control project criteria are distinct from and not duplicative of the inlet management project criteria.

The bill authorizes the DEP to pay from legislative appropriations up to 75 percent of the construction costs of an initial major inlet management project and requires that the remaining balance be paid from other funding sources, such as local sponsors. The bill requires that costs not associated with the initial major inlet management project be shared equally by state and local sponsors.

The bill deletes authorization for the DEP to use a legislative appropriation to contract for studies on sediment transport volumes and responsibilities of inlet beneficiaries for beach erosion. In the subsection requiring the DEP to annually provide an inlet management project list, the bill deletes the requirement for the DEP to include information on the management of ten separate inlets.

The bill deletes the current requirement that at least ten percent of annual legislative appropriations for statewide beach management be made available for the three highest-ranked projects on the current year's inlet management project list. Instead, the bill requires the DEP to designate for projects on the current year's inlet management project list an amount that is at least equal to the greater of:

- Ten percent of the total amount of legislative appropriations for statewide beach management in a given year; or
- The percentage of inlet management funding requests from local sponsors as a proportion of the total amount of statewide beach management dollars requested in a given year.

The bill deletes a requirement that the DEP make certain funds available for the study, design, or development of inlet management projects, and adds a requirement that the DEP include inlet monitoring activities as an aggregated subcategory on the overall project list. The bill deletes a requirement that the DEP make available all statewide beach management funds which are unencumbered or are allocated to non-project-specific activities for projects on legislatively approved lists of inlet management projects.

The bill requires the DEP to update and maintain an annual report on its website concerning the extent to which each inlet project has succeeded in balancing the local sediment budget and inlet's erosive effects on adjacent beaches. The report must provide an estimate of the quantity of sediment bypassed, transferred, or otherwise placed on adjacent eroding beaches, or in such beaches' nearshore area, for the purpose of offsetting the erosive effects of inlets.

Comprehensive Long-Term Beach Management Plan

Section 4 amends s. 161.161, F.S., which establishes requirements for the DEP's comprehensive long-term beach management plan. The changes in section 4 will go into effect on July 1, 2020.

In developing and maintaining the comprehensive long-term beach management plan, the bill requires the DEP to do the following:

- Include recommendations for improvement of infrastructure to facilitate sand bypassing to mitigate the erosive impact of an inlet that is a significant cause of beach erosion.
- Consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach restoration when appropriate and cost-effective, and recommend the location of such regional sediment management alternatives and the source of beach-compatible sand.
- Maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions.
- Identify existing beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance.
- Document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates.
- Identify and assess appropriate management measures for all of the state's critically eroded beaches.

The bill also deletes the following requirements for the DEP in developing and maintaining the comprehensive long-term beach management plan:

- Include cost estimates necessary to take inlet corrective measures and recommendations regarding cost sharing among the beneficiaries of such inlet.
- Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches.
- Project long-term erosion for all major beach and dune systems by surveys and profiles;
- Identify shoreline development and degree of density.
- In identifying short-and long-term economic costs and benefits of beaches, include recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs.
- Identify alternative management responses in order to prevent inappropriate development and redevelopment on migrating beaches.
- Consider abandonment as an alternative management response.
- Establish criteria, including costs and specific implementation actions, for alternative management techniques.
- Establish a list of restoration and beach nourishment projects arranged in order of priority, and the funding levels needed for such projects.
- Submit regional plans on a set schedule and in accordance with specified requirements.

The bill requires that the comprehensive long-term beach management plan, at a minimum, include: a strategic beach management plan; a critically eroded beaches report; and a statewide long-range budget plan.

Strategic Beach Management Plan

The bill requires the strategic beach management plan (SBMP) to identify and recommend appropriate measures for the state's critically eroded sandy beaches. The DEP is authorized to incorporate regional plans and take into account areas of greatest need and probable federal or local funding when creating the SBMP. The bill requires that, before finalizing a SBMP, the

DEP must hold a public meeting or a public webinar in the region for which the plan is prepared. The bill's revisions to the requirements for the comprehensive long-term beach management plan may significantly change what the DEP includes in the SBMP.

Critically Eroded Beaches Report

The bill requires that the DEP develop and maintain the critically eroded beaches report based primarily on data, analyses, and investigations of shoreline conditions.

Long-Range Budget Plan

The bill requires the long range budget plan to include at least five years of planned beach restoration, beach nourishment, and inlet management project funding needs, as identified and refined by local governments. The plan must consist of two components:

- A “three-year work plan” identifying and prioritizing beach restoration, beach nourishment, and inlet management projects viable for implementation during the next three fiscal years. In developing and submitting the three year work plan, the bill requires the DEP to:
 - Use the following criteria for determining the viability of projects:
 - Available cost-sharing,
 - Local sponsor support,
 - Regulatory considerations, and
 - The ability for the project to proceed as scheduled;
 - Identify, for each of the three fiscal years, proposed projects and their current development status, and list the projects in priority order based on the criteria in ss. 161.101(14) and 161.143(2), F.S.; and
 - Submit the three-year work plan to the Legislature annually, accompanied by a three-year financial forecast of available funding for the projects, and any modifications of specific funding requests or criteria ranking that are warranted in each successive fiscal year.
- A “long-range plan” identifying projects for inclusion into the three-year work plan in the fourth and fifth ensuing fiscal years, which includes issues that may prevent successful completion and recommended solutions that will allow projects to progress into the three-year work plan.

Upon approval of the plans, the bill requires the DEP to use regional plans and three-year work plans to serve as the basis for state funding decisions.

Section 5 states that, unless otherwise expressly provided in the act, the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill includes tourism-related return on investment in the criteria considered when establishing funding priorities for beach erosion control projects. Increased tourism could result in economic benefits to businesses and residents in beach communities. Therefore, the bill may have an indeterminate, positive fiscal impact on the private sector.

C. Government Sector Impact:

The bill may have a positive, indeterminate impact on local governments that receive funding for beach erosion control projects or inlet management projects.

The bill may have a positive, indeterminate impact on local governments that receive increased tax revenues due to increasing rates of tourism at or around their beaches.

The bill may have a negative, indeterminate impact on the DEP, because the DEP may incur additional costs by implementing the bill. Implementation may require adopting new rules, developing new agency procedures, and producing new deliverables on an ongoing basis. The DEP can absorb these costs within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.101, 161.143, and 161.161.

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.

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

1 A bill to be entitled
2 An act relating to coastal management; amending s.
3 161.101, F.S.; revising the criteria the Department of
4 Environmental Protection must consider in determining
5 and assigning annual funding priorities for beach
6 management and erosion control projects; specifying
7 tiers for such criteria; requiring tiers to be given
8 certain weight; requiring the department to update
9 active project lists on its website; redefining the
10 term "significant change"; revising the department's
11 reporting requirements; specifying allowable uses for
12 certain surplus funds; revising the requirements for a
13 specified summary; requiring that funding for certain
14 projects remain available for a specified period;
15 amending s. 161.143, F.S.; specifying the scope of
16 certain projects; revising the list of projects
17 included as inlet management projects; requiring that
18 certain projects be considered separate and apart from
19 other specified projects; revising the ranking
20 criteria to be used by the department to establish
21 certain funding priorities for certain inlet-caused
22 beach erosion projects; revising provisions
23 authorizing the department to spend certain
24 appropriated funds for the management of inlets;
25 deleting a provision authorizing the department to

26 | spend certain appropriated funds for specified inlet
27 | studies; revising the required elements of the
28 | department's report of prioritized inlet management
29 | projects; revising the funds that the department must
30 | make available to certain inlet management projects;
31 | requiring the department to include specified
32 | activities on the inlet management project list;
33 | deleting provisions requiring the department to make
34 | available funding for specified projects; deleting a
35 | requirement that the Legislature designate a project
36 | as an Inlet of the Year; requiring the department to
37 | update and maintain a report regarding the progress of
38 | certain inlet management projects; deleting certain
39 | temporary provisions relating to specified
40 | appropriations; revising the requirements for the
41 | report; amending s. 161.161, F.S.; revising
42 | requirements for the comprehensive long-term
43 | management plan; requiring the plan to include a
44 | strategic beach management plan, a critically eroded
45 | beaches report, and a statewide long-range budget
46 | plan; providing for the development and maintenance of
47 | such plans; deleting a requirement that the department
48 | submit a certain beach management plan on a certain
49 | date each year; requiring the department to hold a
50 | public meeting before finalization of the strategic

51 beach management plan; requiring the department to
 52 submit a 3-year work plan and a related forecast for
 53 the availability of funding to the Legislature;
 54 providing effective dates.

55
 56 Be It Enacted by the Legislature of the State of Florida:

57
 58 Section 1. Effective July 1, 2020, subsection (14) of
 59 section 161.101, Florida Statutes, is amended to read:

60 161.101 State and local participation in authorized
 61 projects and studies relating to beach management and erosion
 62 control.—

63 (14) The intent of the Legislature in preserving and
 64 protecting Florida's sandy beaches pursuant to this act is to
 65 direct beach erosion control appropriations to the state's most
 66 severely eroded beaches, and to prevent further adverse impact
 67 caused by improved, modified, or altered inlets, coastal
 68 armoring, or existing upland development. In establishing annual
 69 project funding priorities, the department shall seek formal
 70 input from local coastal governments, beach and general
 71 government interest groups, and university experts. The
 72 department shall implement a scoring system for annual project
 73 funding priorities that consists of criteria equally weighted
 74 within the following specified tiers ~~criteria to be considered~~
 75 ~~by the department in determining annual funding priorities shall~~

76 include:

77 (a) Tier 1 must account for 20 percent of the total score
78 and consist of the tourism-related return on investment and the
79 economic impact of the project. The return on investment of the
80 project is the ratio of the tourism-related tax revenues for the
81 most recent year to the amount of state funding requested for
82 the proposed project. The economic impact of the project is the
83 ratio of the tourism-related tax revenues for the most recent
84 year to all county tax revenues for the most recent year. The
85 department must calculate these ratios using state sales tax and
86 tourism development tax data of the county having jurisdiction
87 over the project area. If multiple counties have jurisdiction
88 over the project area, the department must assess each county
89 individually using these ratios. The department shall calculate
90 the mean average of these ratios to determine the final overall
91 assessment for the multicounty project ~~the severity of erosion~~
92 ~~conditions, the threat to existing upland development, and~~
93 ~~recreational and/or economic benefits.~~

94 (b) Tier 2 must account for 45 percent of the total score
95 and consist of all of the following criteria:

96 1. The availability of federal matching dollars,
97 considering federal authorization, the federal cost-share
98 percentage, and the status of the funding award.

99 2. The storm damage reduction benefits of the project
100 based on the following considerations:

101 a. The current condition of the project area, including
102 any recent storm damage impact, as a percentage of volume of
103 sand lost since the most recent beach nourishment event or most
104 recent beach surveys. If the project area has not been
105 previously restored, the department must use the historical
106 background erosion rate;

107 b. The overall potential threat to existing upland
108 development, including public and private structures and
109 infrastructure, based on the percentage of vulnerable shoreline
110 that exists within the project boundaries; and

111 c. The value of upland property benefiting from the
112 protection provided by the project and its subsequent
113 maintenance. A property must be within one-quarter mile of the
114 project boundaries to be considered under the criterion
115 specified in this sub-subparagraph.

116 3. The cost-effectiveness of the project based on the
117 yearly cost per volume per mile of proposed beach fill
118 placement. The department shall also consider the following when
119 assessing cost-effectiveness pursuant to this subparagraph:

120 a. The existence of projects with proposed structural or
121 design components that could extend the beach nourishment
122 interval;

123 b. Existing beach nourishment projects that reduce upland
124 storm damage costs by incorporating new or enhanced dune
125 structures or new or existing dune restoration and revegetation

126 projects;

127 c. Proposed innovative technologies designed to reduce
128 project costs; and

129 d. Regional sediment management strategies and
130 coordination to conserve sand source resources and reduce
131 project costs.

132 (c) Tier 3 must account for 20 percent of the total score
133 and consist of all of the following criteria: ~~The extent of~~
134 ~~local government sponsor financial and administrative commitment~~
135 ~~to the project, including a long-term financial plan with a~~
136 ~~designated funding source or sources for initial construction~~
137 ~~and periodic maintenance.~~

138 1.(d) Previous state commitment and involvement in the
139 project, considering previously funded phases, the total amount
140 of previous state funding, and previous partial appropriations
141 for the proposed project.

142 2. The recreational benefits of the project based on:

143 a. The accessible beach area added by the project; and

144 b. The percentage of linear footage within the project
145 boundaries which is zoned:

146 (I) As recreational or open space;

147 (II) For commercial use; or

148 (III) To otherwise allow for public lodging
149 establishments.

150 ~~(c) The anticipated physical performance of the proposed~~

151 ~~project, including the frequency of periodic planned~~
152 ~~nourishment.~~

153 3.(f) The extent to which the ~~proposed~~ project mitigates
154 the adverse impact of improved, modified, or altered inlets on
155 adjacent beaches.

156 ~~(g) Innovative, cost-effective, and environmentally~~
157 ~~sensitive applications to reduce erosion.~~

158 ~~(h) Projects that provide enhanced habitat within or~~
159 ~~adjacent to designated refuges of nesting sea turtles.~~

160 ~~(i) The extent to which local or regional sponsors of~~
161 ~~beach erosion control projects agree to coordinate the planning,~~
162 ~~design, and construction of their projects to take advantage of~~
163 ~~identifiable cost savings.~~

164 4.(j) The degree to which the project addresses the
165 state's most significant beach erosion problems as a function of
166 the linear footage of the project shoreline and the cubic yards
167 of sand placed per mile per year.

168 (d) Tier 4 must account for 15 percent of the total score
169 and consist of all of the following criteria:

170 1. Increased prioritization of projects that have been on
171 the department's ranked project list for successive years and
172 that have not previously secured state funding for project
173 implementation.

174 2. Environmental habitat enhancement, recognizing state or
175 federal critical habitat areas for threatened or endangered

176 species which may be subject to extensive shoreline armoring, or
177 recognizing areas where extensive shoreline armoring threatens
178 the availability or quality of habitat for such species. Turtle-
179 friendly designs, dune and vegetation projects for areas with
180 redesigned or reduced fill templates, proposed incorporation of
181 best management practices and adaptive management strategies to
182 protect resources, and innovative technologies designed to
183 benefit critical habitat preservation may also be considered.

184 3. The overall readiness of the project to proceed in a
185 timely manner, considering the project's readiness for the
186 construction phase of development, the status of required
187 permits, the status of any needed easement acquisition, the
188 availability of local funding sources, and the establishment of
189 an erosion control line. If the department identifies specific
190 reasonable and documented concerns that the project will not
191 proceed in a timely manner, the department may choose not to
192 include the project in the annual funding priorities submitted
193 to the Legislature.

194
195 If ~~In the event that~~ more than one project qualifies equally
196 under the provisions of this subsection, the department shall
197 assign funding priority to those projects shown to be most ~~that~~
198 ~~are~~ ready to proceed.

199 Section 2. Subsection (20) of section 161.101, Florida
200 Statutes, is amended to read:

201 161.101 State and local participation in authorized
 202 projects and studies relating to beach management and erosion
 203 control.—

204 (20) The department shall maintain active project lists,
 205 updated at least quarterly, ~~listings~~ on its website by fiscal
 206 year in order to provide transparency regarding those projects
 207 receiving funding and the funding amounts, and to facilitate
 208 legislative reporting and oversight. In consideration of this
 209 intent:

210 (a) The department shall notify the Executive Office of
 211 the Governor and the Legislature regarding any significant
 212 changes in the funding levels of a given project as initially
 213 requested in the department's budget submission and subsequently
 214 included in approved annual funding allocations. The term
 215 "significant change" means a project-specific change or
 216 cumulative changes that exceed the project's original allocation
 217 by \$500,000 or that exceed ~~those changes exceeding~~ 25 percent of
 218 the ~~a~~ project's original allocation.

219 1. Except as provided in subparagraph 2., if there is
 220 surplus funding, the department must notify and provide
 221 supporting justification ~~notification shall be provided~~ to the
 222 Executive Office of the Governor and the Legislature to indicate
 223 whether surplus ~~additional~~ dollars are intended to be used for
 224 inlet management projects pursuant to s. 161.143 or for beach
 225 restoration and beach nourishment projects, offered for

226 reversion as part of the next appropriations process, or used
 227 for other specified priority projects on active project lists.

228 2. The department may use surplus funds for projects
 229 identified in subparagraph 1. that do not have a significant
 230 change. The department must post the uses of such funds on the
 231 project listing web page of its website. The department is not
 232 required to post any other notice or supporting justification
 233 before it uses the surplus funds for a project that does not
 234 have a significant change.

235 (b) The department shall prepare a summary of specific
 236 project activities for the current fiscal year, their funding
 237 status, and changes to annual project lists for the current and
 238 preceding fiscal year. shall be prepared by The department shall
 239 include the summary and included with the department's
 240 submission of its annual legislative budget request.

241 (c) Funding for specific projects on annual project lists
 242 approved by the Legislature must remain available for such
 243 projects for 18 months. A local project sponsor may at any time
 244 release, in whole or in part, appropriated project dollars by
 245 formal notification to the department. The department, which
 246 shall notify the Executive Office of the Governor and the
 247 Legislature of such release and. Notification must indicate in
 248 the notification how the project dollars are recommended
 249 intended to be used after such release.

250 Section 3. Subsections (2) through (5) of section 161.143,

251 Florida Statutes, are amended to read:

252 161.143 Inlet management; planning, prioritizing, funding,
253 approving, and implementing projects.-

254 (2) The department shall establish annual funding
255 priorities for studies, activities, or other projects concerning
256 inlet management. Such inlet management projects constitute the
257 intended scope of this section and s. 161.142 and consist of
258 ~~include, but are not limited to,~~ inlet sand bypassing,
259 improvement of infrastructure to facilitate sand bypassing,
260 modifications to channel dredging, jetty redesign, jetty repair,
261 disposal of spoil material, and the development, revision,
262 adoption, or implementation of an inlet management plan.
263 Projects considered for funding pursuant to this section must be
264 considered separate and apart from projects reviewed and
265 prioritized in s. 161.101(14). The funding priorities
266 established by the department under this section must be
267 consistent with the requirements and legislative declaration in
268 ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing
269 funding priorities under this subsection and before transmitting
270 the annual inlet project list to the Legislature under
271 subsection (4) ~~(5)~~, the department shall seek formal input from
272 local coastal governments, beach and general government
273 associations and other coastal interest groups, and university
274 experts concerning annual funding priorities for inlet
275 management projects. In order to maximize the benefits of

276 efforts to address the inlet-caused beach erosion problems of
277 this state, the ranking criteria used by the department to
278 establish funding priorities for studies, activities, or other
279 projects concerning inlet management must include equal
280 consideration of:

281 (a) An estimate of the annual quantity of beach-quality
282 sand reaching the updrift boundary of the improved jetty or
283 inlet channel.

284 (b) The severity of the erosion to the adjacent beaches
285 caused by the inlet ~~and the extent to which the proposed project~~
286 ~~mitigates the erosive effects of the inlet.~~

287 (c) The overall significance and anticipated success of
288 the proposed project in mitigating the erosive effects of the
289 inlet, balancing the sediment budget of the inlet and adjacent
290 beaches, and addressing the sand deficit along the inlet-
291 affected shorelines.

292 (d) The extent to which ~~existing~~ bypassing activities at
293 an inlet would benefit from modest, cost-effective improvements
294 when considering the volumetric increases from the proposed
295 project, the availability of beach-quality sand currently not
296 being bypassed to adjacent eroding beaches, and the ease with
297 which such beach-quality sand may be obtained.

298 (e) The cost-effectiveness of sand made available by a
299 proposed inlet management project or activity relative to other
300 sand source opportunities that would be used to address inlet-

301 caused beach erosion ~~The interest and commitment of local~~
302 ~~governments as demonstrated by their willingness to coordinate~~
303 ~~the planning, design, construction, and maintenance of an inlet~~
304 ~~management project and their financial plan for funding the~~
305 ~~local cost share for initial construction, ongoing sand~~
306 ~~bypassing, channel dredging, and maintenance.~~

307 (f) The existence of a proposed or recently updated ~~The~~
308 ~~previous completion or approval of a state-sponsored inlet~~
309 ~~management plan or a local-government-sponsored inlet study~~
310 addressing ~~concerning the inlet addressed by the proposed~~
311 ~~project, the ease of updating and revising any such plan or~~
312 ~~study, and the adequacy and specificity of the plan's or study's~~
313 ~~recommendations concerning the mitigation of an inlet's erosive~~
314 ~~effects on adjacent beaches.~~

315 (g) The degree to which the proposed project will enhance
316 the performance and longevity of proximate beach nourishment
317 projects, thereby reducing the frequency of such periodic
318 nourishment projects.

319 (h) The project-ranking criteria in s. 161.101(14) to the
320 extent such criteria are applicable to inlet management studies,
321 projects, and activities and are distinct from, and not
322 duplicative of, the criteria listed in paragraphs (a)-(g).

323 (3) The department may pay from legislative appropriations
324 up to 75 percent of the construction costs of an initial major
325 inlet management project component for the purpose of mitigating

326 the erosive effects of the inlet to the shoreline and balancing
327 the sediment budget. The remaining balance of such construction
328 costs must be paid from other funding sources, such as local
329 sponsors. All project costs not associated with an initial major
330 inlet management project component must be shared equally by
331 state and local sponsors in accordance with, ~~pursuant to s.~~
332 ~~161.101 and notwithstanding s. 161.101(15), pay from legislative~~
333 ~~appropriations provided for these purposes 75 percent of the~~
334 ~~total costs, or, if applicable, the nonfederal costs, of a~~
335 ~~study, activity, or other project concerning the management of~~
336 ~~an inlet. The balance must be paid by the local governments or~~
337 ~~special districts having jurisdiction over the property where~~
338 ~~the inlet is located.~~

339 ~~(4) Using the legislative appropriation to the statewide~~
340 ~~beach management support category of the department's fixed~~
341 ~~capital outlay funding request, the department may employ~~
342 ~~university-based or other contractual sources and pay 100~~
343 ~~percent of the costs of studies that are consistent with the~~
344 ~~legislative declaration in s. 161.142 and that:~~

345 ~~(a) Determine, calculate, refine, and achieve general~~
346 ~~consensus regarding net annual sediment transport volumes to be~~
347 ~~used for the purpose of planning and prioritizing inlet~~
348 ~~management projects; and~~

349 ~~(b) Appropriate, assign, and apportion responsibilities~~
350 ~~between inlet beneficiaries for the erosion caused by a~~

351 ~~particular inlet on adjacent beaches.~~

352 (4)~~(5)~~ The department shall annually provide an inlet
353 management project list, in priority order, to the Legislature
354 as part of the department's budget request. ~~The list must~~
355 ~~include studies, projects, or other activities that address the~~
356 ~~management of at least 10 separate inlets and that are ranked~~
357 ~~according to the criteria established under subsection (2).~~

358 (a) The department shall designate for ~~make available at~~
359 ~~least 10 percent of the total amount that the Legislature~~
360 ~~appropriates in each fiscal year for statewide beach management~~
361 ~~for the three highest-ranked projects on the current year's~~
362 inlet management project list, in priority order, an amount that
363 is at least equal to the greater of:

364 1. Ten percent of the total amount that the Legislature
365 appropriates in the fiscal year for statewide beach management;
366 or

367 2. The percentage of inlet management funding requests
368 from local sponsors as a proportion of the total amount of
369 statewide beach management dollars requested in a given year.

370 (b) The department shall include inlet monitoring
371 activities ranked on the inlet management project list as one
372 aggregated subcategory on the overall inlet management project
373 list ~~make available at least 50 percent of the funds~~
374 ~~appropriated for the feasibility and design category in the~~
375 ~~department's fixed capital outlay funding request for projects~~

376 ~~on the current year's inlet management project list which~~
377 ~~involve the study for, or design or development of, an inlet~~
378 ~~management project.~~

379 ~~(c) The department shall make available all statewide~~
380 ~~beach management funds that remain unencumbered or are allocated~~
381 ~~to non-project-specific activities for projects on legislatively~~
382 ~~approved inlet management project lists. Funding for local-~~
383 ~~government specific projects on annual project lists approved by~~
384 ~~the Legislature must remain available for such purposes for a~~
385 ~~period of 18 months pursuant to s. 216.301(2) (a). Based on an~~
386 ~~assessment and the department's determination that a project~~
387 ~~will not be ready to proceed during this 18-month period, such~~
388 ~~funds shall be used for inlet management projects on~~
389 ~~legislatively approved lists.~~

390 ~~(5)(d) The Legislature shall designate one of the three~~
391 ~~highest projects on the inlet management project list in any~~
392 ~~year as the Inlet of the Year. The department shall update and~~
393 ~~maintain an annual annually report on its website to the~~
394 ~~Legislature concerning the extent to which each inlet project~~
395 ~~designated by the Legislature as Inlet of the Year has succeeded~~
396 ~~in balancing the sediment budget of the inlet and adjacent~~
397 ~~beaches and in, mitigating the inlet's erosive effects on~~
398 ~~adjacent beaches. The report must estimate the quantity of~~
399 ~~sediment bypassed, transferred, and transferring or otherwise~~
400 ~~placed ~~placing~~ beach-quality sand on adjacent eroding beaches,~~

401 or in such beaches' nearshore area, for the purpose of
402 offsetting the erosive effects of inlets on the beaches of this
403 state.

404 Section 4. Effective July 1, 2020, subsections (2) through
405 (7) of section 161.161, Florida Statutes, are renumbered as
406 subsections (3) through (8), respectively, subsection (1) and
407 present subsection (2) are amended, and a new subsection (2) is
408 added to that section, to read:

409 161.161 Procedure for approval of projects.—

410 (1) The department shall develop and maintain a
411 comprehensive long-term beach management plan for the
412 restoration and maintenance of the state's critically eroded
413 beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits
414 of Florida. In developing and maintaining this ~~the beach~~
415 ~~management~~ plan, the department shall:

416 (a) Address long-term solutions to the problem of
417 critically eroded beaches in this state.

418 (b) Evaluate each improved, modified, or altered inlet and
419 determine whether the inlet is a significant cause of beach
420 erosion. With respect to each inlet determined to be a
421 significant cause of beach erosion, the plan shall include:

422 ~~1.~~ the extent to which such inlet causes beach erosion and
423 recommendations to mitigate the erosive impact of the inlet,
424 including, but not limited to, ~~recommendations regarding~~ inlet
425 sediment bypassing; improvement of infrastructure to facilitate

426 sand bypassing; modifications to channel dredging, jetty design,
427 and disposal of spoil material; establishment of feeder beaches;
428 and beach restoration and beach nourishment;~~and~~

429 ~~2. Cost estimates necessary to take inlet corrective~~
430 ~~measures and recommendations regarding cost sharing among the~~
431 ~~beneficiaries of such inlet.~~

432 (c) Evaluate ~~Design~~ criteria for beach restoration and
433 beach nourishment projects, including, but not limited to, 1.~~2.~~

434 ~~1. dune elevation and width and revegetation and~~
435 ~~stabilization requirements;~~ and

436 ~~2. beach profiles~~ profile.

437 (d) Consider ~~Evaluate~~ the establishment of regional
438 sediment management alternatives for one or more individual
439 beach and inlet sand bypassing projects ~~feeder beaches~~ as an
440 alternative to ~~direct~~ beach restoration when appropriate and
441 cost-effective, and recommend the location of such regional
442 sediment management alternatives ~~feeder beaches~~ and the source
443 of beach-compatible sand.

444 (e) Identify causes of shoreline erosion and change,
445 determine ~~calculate~~ erosion rates, and maintain an updated list
446 of critically eroded sandy beaches based on data, analyses, and
447 investigations of shoreline conditions ~~and project long-term~~
448 ~~erosion for all major beach and dune systems by surveys and~~
449 ~~profiles.~~

450 (f) ~~Identify shoreline development and degree of density~~

451 ~~and~~ Assess impacts of development and coastal protection
452 ~~shoreline protective~~ structures on shoreline change and erosion.

453 (g) Identify short-term and long-term economic costs and
454 benefits of beaches to the state and individual beach
455 communities, ~~including recreational value to user groups, tax~~
456 ~~base, revenues generated, and beach acquisition and maintenance~~
457 ~~costs.~~

458 (h) Study dune and vegetation conditions, identify
459 existing beach projects without dune features or with dunes
460 without adequate elevations, and encourage dune restoration and
461 revegetation to be incorporated as part of storm damage recovery
462 projects or future dune maintenance events.

463 (i) Identify beach areas used by marine turtles and
464 develop strategies for protection of the turtles and their nests
465 and nesting locations.

466 (j) Identify alternative management responses to preserve
467 undeveloped beach and dune systems and, to restore damaged beach
468 and dune systems. In identifying such management responses, the
469 department shall consider, at a minimum, and to prevent
470 ~~inappropriate development and redevelopment on migrating~~
471 ~~beaches, and consider~~ beach restoration and nourishment,
472 armoring, relocation ~~and abandonment~~, dune and vegetation
473 restoration, and acquisition.

474 (k) Document procedures and policies for preparing post-
475 storm damage assessments and corresponding recovery plans,

476 including repair cost estimates ~~Establish criteria, including~~
 477 ~~costs and specific implementation actions, for alternative~~
 478 ~~management techniques.~~

479 (1) Identify and assess ~~Select and recommend~~ appropriate
 480 management measures for all of the state's critically eroded
 481 sandy beaches ~~in a beach management program.~~

482 ~~(m) Establish a list of beach restoration and beach~~
 483 ~~nourishment projects, arranged in order of priority, and the~~
 484 ~~funding levels needed for such projects.~~

485 (2) The comprehensive long-term management plan developed
 486 and maintained by the department pursuant to subsection (1) must
 487 include, at a minimum, a strategic beach management plan, a
 488 critically eroded beaches report, and a statewide long-range
 489 budget plan. The long-range budget plan must include a 3-year
 490 work plan for beach restoration, beach nourishment, and inlet
 491 management projects that lists planned projects for each of the
 492 3 fiscal years addressed in the work plan.

493 (a) The strategic beach management plan must identify and
 494 recommend appropriate measures for all of the state's critically
 495 eroded sandy beaches and may incorporate plans ~~be~~ prepared at
 496 the regional level, taking into account ~~based upon~~ areas of
 497 greatest need and probable federal and local funding. Upon
 498 approval in accordance with this section, such regional plans,
 499 along with the 3-year work plan identified in subparagraph
 500 (c)1., must ~~shall be components of the statewide beach~~

501 ~~management plan and shall~~ serve as the basis for state funding
502 ~~decisions upon approval in accordance with chapter 86-138, Laws~~
503 ~~of Florida. Before finalizing the strategic beach management~~
504 ~~plan~~ In accordance with a schedule established for the
505 ~~submission of regional plans by the department, any completed~~
506 ~~plan must be submitted to the secretary of the department for~~
507 ~~approval no later than March 1 of each year. These regional~~
508 ~~plans shall include, but shall not be limited to,~~
509 ~~recommendations of appropriate funding mechanisms for~~
510 ~~implementing projects in the beach management plan, giving~~
511 ~~consideration to the use of single county and multicounty taxing~~
512 ~~districts or other revenue generation measures by state and~~
513 ~~local governments and the private sector. Prior to presenting~~
514 ~~the plan to the secretary of the department, the department~~
515 ~~shall hold a public meeting in the region areas for which the~~
516 ~~plan is prepared or hold a publicly noticed webinar. The plan~~
517 ~~submission schedule shall be submitted to the secretary for~~
518 ~~approval. Any revisions to such schedule must be approved in~~
519 ~~like manner.~~

520 (b) The critically eroded beaches report must be developed
521 and maintained based primarily on the requirements specified in
522 paragraph (1) (e).

523 (c) The statewide long-range budget plan must include at
524 least 5 years of planned beach restoration, beach nourishment,
525 and inlet management project funding needs as identified, and

526 subsequently refined, by local government sponsors. This plan
527 must consist of two components:

528 1. A 3-year work plan that identifies beach restoration,
529 beach nourishment, and inlet management projects viable for
530 implementation during the next 3 fiscal years, as determined by
531 available cost-sharing, local sponsor support, regulatory
532 considerations, and the ability of the project to proceed as
533 scheduled. The 3-year work plan must, for each fiscal year,
534 identify proposed projects and their current development status,
535 listing them in priority order based on the applicable criteria
536 established in ss. 161.101(14) and 161.143(2). Specific funding
537 requests and criteria ranking, pursuant to ss. 161.101(14) and
538 161.143(2), may be modified as warranted in each successive
539 fiscal year, and such modifications must be documented and
540 submitted to the Legislature with each 3-year work plan. Year
541 one projects shall consist of those projects identified for
542 funding consideration in the ensuing fiscal year.

543 2. A long-range plan that identifies projects for
544 inclusion in the fourth and fifth ensuing fiscal years. These
545 projects may be presented by region and do not need to be
546 presented in priority order; however, the department should
547 identify issues that may prevent successful completion of such
548 projects and recommend solutions that would allow the projects
549 to progress into the 3-year work plan.

550 (3)-(2) Annually, The secretary shall present the 3-year

551 work plan to the Legislature annually. The work plan must be
552 accompanied by a 3-year financial forecast for the availability
553 of funding for the projects ~~recommendations for funding beach~~
554 ~~erosion control projects prioritized according to the criteria~~
555 ~~established in s. 161.101(14).~~

556 Section 5. Except as otherwise expressly provided in this
557 act, this act shall take effect July 1, 2019.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 325 Coastal Management
SPONSOR(S): State Affairs Committee, LaMarca and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 446

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	10 Y, 0 N	Melkun	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee	8 Y, 0 N	White	Pigott
3) State Affairs Committee	22 Y, 0 N, As CS	Melkun	Williamson

SUMMARY ANALYSIS

Due to storm events, construction and maintenance of inlets, imprudent coastal developments, and other factors, 420.9 miles of Florida's beaches are critically eroded. The Beach Management Funding Assistance Program (program) within the Department of Environmental Protection (DEP) works with local sponsors to protect and restore the state's beaches through a comprehensive beach management planning program. Local sponsors submit annual funding requests to DEP for beach management and inlet management projects. DEP ranks the requests and provides a funding recommendation to the Legislature.

As it relates to beach management projects, the bill revises and provides more detail on the criteria DEP must consider when ranking beach management projects for funding consideration and requires DEP to implement a scoring system for annual project funding priorities that consists of criteria divided into four tiers. The bill assigns each tier a certain percentage of overall point value and requires that the criteria be equally weighted within each tier. The bill changes how DEP may utilize surplus funds and the procedures that must be followed.

For inlet management projects, the bill:

- Revises and updates the criteria DEP must consider when ranking inlet management projects for funding consideration, and requires DEP to weigh each criterion equally;
- Authorizes DEP to pay up to 75 percent of the construction costs of an initial major inlet management project component, and allows DEP to share the costs of the other components of inlet management projects equally with the local sponsor;
- Requires DEP to rank the inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests; and
- Eliminates the requirement for the Legislature to designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year.

The bill updates how DEP must develop and maintain a Comprehensive Long-Term Beach Management Plan that requires DEP to include, at a minimum, the following: a strategic beach management plan, critically eroded beaches report, and statewide long-range budget plan that includes a three-year work plan identifying beach nourishment and inlet management projects viable for implementation during the ensuing fiscal years.

The bill will have an insignificant negative fiscal impact on DEP.

The changes to the beach ranking criteria and the Comprehensive Long-Term Beach Management Plan criteria have an effective date of July 1, 2020. The other aspects of the bill have an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Beach Management

Present Situation

Beach Management Funding Assistance Program

There are 825 miles of sandy shores lining Florida's coasts, fronting the Atlantic Ocean, Gulf of Mexico, and Straits of Florida. These beaches serve several important functions in maintaining the health of Florida's economy and environment. The coastal sandy beach system is home to hundreds of species of plants and animals that are dependent upon the beaches, dunes, and nearshore waters.¹ Beaches also serve as Florida's primary tourist attraction, generating millions of dollars for Florida's economy. The Office of Economic and Demographic Research (EDR) identified beaches as the most important feature of Florida and have the strongest effect in terms of attracting tourists.² Nourished beaches contribute to the expanding federal, state, and local tax bases; increase sales, income, and employment opportunities from resident and visitor spending; and enhance property values by protecting the developed shorefront from storm surges thereby preventing loss of upland property.³ For every dollar spent by the state on beach restoration, \$5.40 of additional tax revenue was generated during the 2010-2011 through 2012-2013 fiscal years.⁴

Beaches are subject to both natural and manmade erosion. Sand naturally moves along the shore due to wind driven currents and tides, and storms can cause dramatic and immediate changes to the coastline. The majority of manmade erosion is caused by the creation and maintenance of inlets where the sand has historically been removed from the coastal system and the natural drift of sand along the shore is blocked by jetties, trapped in channels, or moved into ebb and flood shoals. The development and placement of infrastructure near the shore also contributes to coastal erosion by preventing the storage of sand in dunes and hardening the shore for protection of upland property.⁵

Due to storm events, construction and maintenance of inlets, imprudent coastal development, and other factors, 420.9 miles of Florida's beaches are critically eroded.⁶ Recognizing the importance of the state's beaches and the problems presented by erosion, the Legislature declared a necessity to protect and restore the state's beaches through a comprehensive beach management planning program.⁷ Under the planning program, the Department of Environmental Protection (DEP) evaluates beach

¹ Department of Environmental Protection (DEP), *Beaches and Coastal Systems*, available at <https://floridadep.gov/water/beaches> (last visited Feb. 5, 2019).

² EDR, *Economic Evaluation of Florida's Investment in Beaches*, p. 9 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 5, 2019).

³ DEP, *Strategic Beach Management Plan*, p. 1 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁴ EDR, *Economic Evaluation of Florida's Investment in Beaches*, p. 12 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Feb. 5, 2019).

⁵ DEP, *Strategic Beach Management Plan*, p. 1 (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁶ DEP, *Critically Eroded Beaches in Florida Report*, p. 5 (June 2018), available at <https://floridadep.gov/sites/default/files/CriticallyErodedBeaches.pdf> (last visited Feb. 5, 2019); A "critically eroded shoreline" is a segment of shoreline where natural processes or human activities have caused, or contributed to, erosion and recession of the beach and dune system to such a degree that upland development, recreational interests, wildlife habitat or important cultural resources are threatened or lost. Critically eroded shoreline may also include adjacent segments or gaps between identified critical erosion areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects; r. 62B-36.002(5), F.A.C.

⁷ Sections 161.088 and 161.091, F.S.

erosion problems throughout the state seeking viable solutions.⁸ The Beach Management Funding Assistance Program (program) serves as the primary vehicle to implement the beach management planning recommendations and works with local, state, and federal governmental entities to achieve the protection, preservation, and restoration of the coastal resources of the state.⁹ The program provides cost-share to county and municipal governments, community development districts, or special taxing districts (collectively “local sponsors”) for shore protection and preservation activities to implement beach management and inlet management projects.¹⁰ DEP annually evaluates and ranks beach management and inlet management project funding requests submitted by local sponsors and submits a recommendation to the Legislature for funding consideration.¹¹

OPPAGA Report on Beach Management Funding

In December 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating DEP’s process for selecting and prioritizing local beach management and inlet management projects. The review considered the existing statutory criteria and related administrative rules and the funding request application process, information requirements, and timeline. Further, OPPAGA reviewed how DEP uses each ranking criteria for establishing the annual priority order for beach management and restoration projects.¹²

The report made several findings, including:

- Certain criteria accounts for the majority of the points awarded;
- Certain criteria only apply to a limited number of projects;
- The criteria do not adequately account for the economic impact of beach projects;
- The criteria do not adequately account for a project’s cost effectiveness or performance;
- The criteria do not account for the impacts of recent storms or current conditions of the shoreline;
- Stakeholders found the application requirements for funding to be too complicated and time consuming; and
- Stakeholders perceived a bias for projects that received federal funding.¹³

Beach Management Projects

“Beach Management” is protecting, maintaining, preserving, or enhancing Florida’s beaches. Beach management activities include beach restoration¹⁴ and nourishment¹⁵ activities, dune protection and restoration, restoration of natural shoreline processes, removal of derelict structures and obstacles to natural shoreline process, and construction of erosion control structures (projects).¹⁶ To receive funding, projects must be consistent with the adopted Strategic Beach Management Plan.¹⁷ Funding for these projects comes from federal, state, and local government sources. DEP may provide financial assistance to local sponsors in an amount up to 75 percent of the project costs for projects located on critically eroded beaches fronting the Gulf of Mexico, Atlantic Ocean, or Straits of Florida.¹⁸ However,

⁸ Section 161.101(2), F.S.

⁹ DEP, *Beaches Funding Program*, available at <https://floridadep.gov/water/beaches-funding-program> (last visited Feb. 5, 2019).

¹⁰ Rules 62B-36.001 and 62B-36.002(9), F.A.C.

¹¹ Sections 161.101 and 161.143, F.S.

¹² OPPAGA, *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist*, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=14-12> (last visited Feb. 5, 2019).

¹³ *Id.*

¹⁴ “Beach restoration” is the placement of sand on an eroded beach for the purposes of restoring it as a recreational beach and providing storm protection for upland properties; s. 161.021(4), F.S.

¹⁵ “Beach nourishment” is the maintenance of a restored beach by the replacement of sand; s. 161.021(3), F.S.

¹⁶ Rule 62B-36.002(3), F.A.C.

¹⁷ Rule 62B-36.005(3), F.A.C.

¹⁸ Sections 161.101(1) and 161.101(7), F.S.

until the unmet demand for repairing beaches and dunes is met, DEP may only provide cost-share up to 50 percent of the non-federal share.¹⁹

Projects must provide adequate public access, protect natural resources, and provide protection for endangered and threatened species.²⁰ Further, DEP may not fund projects that provide only recreational benefits. All funded activities must have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing sand in the system.²¹ Currently, local, state and federal entities manage approximately 227 miles of critically eroded beaches in Florida.²²

Annually, local sponsors submit cost-share funding requests to DEP.²³ DEP must then evaluate and rank these requests based on the information submitted by the local sponsor.²⁴ DEP prioritizes the projects based on the following criteria:

- Severity of erosion conditions, the threat to existing upland development, and recreational or economic benefits;
- Availability of federal matching dollars;
- Extent of the local government sponsor financial and administrative commitment to the project;
- Previous state commitment and involvement in the project;
- Anticipated physical performance of the proposed project, including the frequency of periodic planned nourishment;
- Extent to which the proposed project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches;
- Innovative, cost-effective, and environmentally sensitive applications to reduce erosion;
- Projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles;
- Extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planning, design, and construction of their projects to take advantage of identifiable cost savings; and
- Degree to which the project addresses the state's most significant beach erosion problems.²⁵

In the event that more than one project ranks equally, DEP must assign funding priority to those projects that are ready to proceed.²⁶ DEP adopted a point system for scoring projects based on the criteria in the statute. Each criterion can have more than one component. The following table illustrates how points are assigned.

¹⁹ Section 161.101(15), F.S.; rr. 62B-36.003(9) and 62B-36.007(1), F.A.C.; DEP may pay up to 100 percent of the costs of a project when the state is the upland riparian owner; s. 161.101(10), F.S.

²⁰ Section 161.101(12), F.S.

²¹ Section 161.101(13), F.S.

²² DEP, *Beaches Funding Program*, available at <https://floridadep.gov/water/beaches-funding-program> (last visited Feb. 5, 2019).

²³ Rule 62B-36.005(1), F.A.C.

²⁴ Rules 62B-36.005(3) and 62B-36.005(4), F.A.C.

²⁵ Section 161.101(14), F.S.

²⁶ *Id.*

Beach Management Ranking Points²⁷		
Statutory Criteria	Number of Component Criteria	Available Points
Significance	6	20
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Recreational and Economic Benefit	1	10
Severity of Erosion	1	10
Mitigation of Inlet Effects	1	10
Threat to Upland Structures	1	10
Project Performance	2	10
Innovative Technologies	2	5
Regionalization	1	5
Enhance Refuges of Nesting Sea Turtles	1	5

Once DEP creates a ranking list, the local sponsors have 21 days to review the list and provide clarification to support additional points.²⁸ Then, DEP considers the requests, finalizes a ranking, and submits a recommendation to the Legislature for funding consideration.²⁹ As part of the annual legislative budget request, DEP must prepare a summary of specific project activities for the current fiscal year, funding status, and changes to annual project lists.³⁰

DEP must maintain active project listings on the website by fiscal year in order to provide transparency regarding projects receiving funding and to facilitate legislative reporting and oversight. DEP must notify the Governor and the Legislature if the funding levels of a given project significantly change from what the local sponsor initially requested in DEP's budget submission and subsequently included in approved annual funding allocations. The term "significant change" means changes exceeding 25 percent of a project's original allocation.³¹ If there is surplus funding, DEP must notify the Governor and the Legislature to indicate whether the intention is to use the additional dollars for inlet management projects, reversion as part of the next appropriations process, or for other specified priority projects on active project lists.³²

A local sponsor may at any time release, in whole or in part, appropriated project dollars by formal notification to DEP. DEP must then notify the Governor and the Legislature and indicate how the project dollars will be used.³³

Effect of the Proposed Changes

The bill amends s. 161.101(14), F.S., to revise and clarify the criteria DEP must consider when ranking beach management projects for funding consideration. The bill requires DEP to implement a scoring system for annual project funding priorities that consists of criteria divided into a four-tier scoring system, assigns each tier a certain percentage of overall point value, and requires that the criteria be equally weighted within each tier.

²⁷ Rule 62B-36.006(1), F.A.C.; *see also*, ss. 161.101(1) – (6), F.S.

²⁸ Rule 62B-36.005(4), F.A.C.

²⁹ Section 161.161(2), F.S.

³⁰ Section 161.101(20)(b), F.S.

³¹ Section 161.101(20)(a), F.S.

³² *Id.*

³³ Section 161.101(20)(c), F.S.

Tier one addresses tourism-related return on investment and the economic impact of beach management projects and must account for 20 percent of the total score. DEP must weigh the following criteria equally in tier one:

- Return on investment by applying the ratio of the tourism-related tax revenues for the most recent year to the amount of state funding requested for the proposed project; and
- Economic impact of the project by applying the ratio of the tourism-related tax revenues for the most recent year to all county tax revenues for the most recent year.³⁴

DEP must calculate the ratios in tier one by using state sales tax and tourism development tax data of the county with jurisdiction over the project area. If the proposed beach management project covers two jurisdictions, DEP must assess each county individually then calculate the average.

Tier two accounts for 45 percent of the total score, and requires DEP to weigh the following criteria equally:

- Availability of federal matching dollars considering federal authorization, the federal cost-share percentage, and the status of the funding award;³⁵
- The storm damage reduction benefit of the beach management project based on following considerations:
 - The current condition of the project area, including any recent storm damage impact, as a percentage of volume of sand lost since the most recent beach nourishment event or most recent beach surveys. DEP must use the historical background erosion rate if the project has not been previously restored;³⁶
 - The overall potential threat to existing upland development, including public and private infrastructure, based on a percentage of vulnerable structures within the project boundaries;³⁷ and
 - The value of upland property benefiting from the protection provided by the project and subsequent maintenance. DEP must only consider property within one quarter of a mile from the project boundaries when creating this score;
- The cost-effectiveness of the proposed beach management project based on yearly cost per volume per mile of proposed beach fill placement.³⁸ When assessing cost effectiveness, DEP must also consider:
 - Existence of projects with proposed structural or design components that extend the beach nourishment interval;³⁹
 - Existence of beach nourishment projects that reduce upland damage cost by incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects;⁴⁰
 - Proposed innovative technologies designed to reduce project costs;⁴¹ and
 - Regional sediment management strategies and coordination to conserve sand source resources and reduce project costs.⁴²

³⁴ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(c), F.A.C.

³⁵ This is similar to existing criteria in s. 161.101(14)(b), F.S., and r. 62B-36.006(1)(d), F.A.C.

³⁶ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(a), F.A.C.; These criteria will measure the volume of sand lost from the last beach nourishment or most recent beach survey and not the last beach restoration, define beach restoration as the placement of sand on an eroded beach, define beach nourishment as the maintenance of a restored beach, and will prevent DEP from using data on the sand lost from the initial placement of sand on an eroding beach unless a recent beach survey has been performed.

³⁷ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(b), F.A.C.

³⁸ This is similar to existing criteria in s. 161.101(14)(g), F.S., and r. 62B-36.006(1)(g), F.A.C.

³⁹ This is similar to existing criteria in s. 161.101(14)(e), F.S., and r. 62B-36.006(1)(g), F.A.C.

⁴⁰ This is similar to existing criteria in s. 161.101(14)(e), F.S., and r. 62B-36.006(1)(g), F.A.C. This revised criterion will only consider beach nourishment projects incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects and will not consider beach restoration projects that incorporate such dune structures; thus, only applying to projects that have already accomplished one maintenance event.

⁴¹ This is similar to existing criteria in s. 161.101(14)(g), F.S., and r. 62B-36.006(1)(i), F.A.C.

⁴² This is similar to existing criteria in s. 161.101(14)(i), F.S., and r. 62B-36.006(1)(k), F.A.C.

Tier three accounts for 20 percent of the total score and requires DEP to weigh the following criteria equally:

- Previous state commitment, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project;⁴³
- Recreational benefit of the beach management project based on:
 - Accessibility of the beach area added to the project, which is a new criteria; and
 - Percentage of linear footage within the project boundaries that is zoned as recreational or open space, for commercial use, and to otherwise allow public lodging establishments;⁴⁴
- Extent that the beach management project mitigates adverse impacts of improved, modified, or altered inlets on adjacent beach;⁴⁵ and
- Degree that the beach management project addresses most significant beach erosion problems based on the ratio of the linear footage of the project shoreline to the cubic yards of sand placed per mile per year.⁴⁶

Tier four accounts for 15 percent of the total score and requires DEP to weigh the following criteria equally:

- Increased prioritization for projects continually ranked on a DEP project list for successive years that have not previously secured state funding for project implementation;
- Environmental habitat enhancement, recognizing state or federal critical habitat areas for threatened or endangered species that may be subject to extensive shoreline armoring or recognizing areas where extensive shoreline armoring threatens the availability or quality of habitat for such species. The bill allows DEP to consider turtle-friendly designs, dune and vegetation projects for areas with redesigned or reduced fill templates, proposed incorporation of best management practices and adaptive management strategies to protect resources, and innovative technologies designed to benefit critical habitat preservation;⁴⁷ and
- The overall readiness of the beach management project to proceed.⁴⁸ The bill requires DEP to consider the readiness of beach management projects, including readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, the availability of local funding sources, and the establishment of an erosion control line.⁴⁹

If DEP identifies specific reasonable and documented concerns that the project will not proceed in a timely manner, DEP may choose not to include the project in the annual funding priorities submitted to the Legislature.⁵⁰

The bill removes s. 161.101(14)(c), F.S., to eliminate the requirement that DEP assign points for the financial and administrative commitment to the project by the local sponsor, including a long-term financial plan with a designated funding source or sources for initial construction and periodic maintenance. Currently, local sponsors may receive up to 10 points for this criterion.⁵¹

⁴³ This is similar to existing criteria in s. 161.101(14)(d), F.S., and r. 62B-36.006(1)(f), F.A.C.

⁴⁴ This is similar to existing criteria in s. 161.101(14)(a), F.S., and r. 62B-36.006(1)(c), F.A.C.

⁴⁵ This is similar to existing criteria in s. 161.101(14)(f), F.S., and r. 62B-36.006(1)(h), F.A.C.

⁴⁶ This is similar to existing criteria in s. 161.101(14)(j), F.S., and r. 62B-36.006(1)(l)6., F.A.C.

⁴⁷ These criteria are similar to existing criteria in s. 161.101(14)(h), F.S., and r. 62B-36.006(1)(j), F.A.C.; however, it will likely apply to more beach management projects.

⁴⁸ This is similar to the existing tie breaking criteria in s. 161.101(14), F.S., and r. 62B-36.006(1)(m), F.A.C.

⁴⁹ An “erosion control line” is the line determined in accordance with the procedures in ch. 161, F.S., that represents the landward extent of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons and other tidal reaches thereof on the date of the recording of the survey; s. 161.151(3), F.S.

⁵⁰ This is similar to the procedures in s. 161.143(5)(c), F.S.; however, this new procedure prevents projects from receiving funds in the first place, rather than requiring the local sponsor to return the funds if a project is not ready to proceed.

⁵¹ Rule 62B-36.006(1)(e), F.A.C.

The bill amends s. 161.101(14), F.S., to change the tiebreaking criteria if two beach management projects receive the same score by requiring DEP to assign the highest priority to the beach management projects shown most ready to proceed, rather than the projects that are ready to proceed.

The bill amends s. 161.101(20), F.S., to require DEP to quarterly update the active beach management project list on its website.

The bill amends s. 161.101(20)(a), F.S., to change the definition of “significant change” to include a project-specific change or cumulative changes that exceed the project’s original allocation by \$500,000. When a funding level for a project significantly changes from the amount the local sponsor requested and was approved in the funding allocation, DEP must notify the Governor and the Legislature how the surplus funds will be used.

The bill creates s. 161.101(20)(a)1., F.S., to change how DEP utilizes surplus funds. If there is available surplus funding from a significant change, DEP must provide supporting justification to the Governor and the Legislature to indicate how the surplus dollars will be used. The bill allows surplus dollars to be used on beach restoration and beach nourishment projects. Currently, DEP may only use surplus funds for inlet management projects approved by the Legislature, offered for reversion as part of the next appropriations process, or used for other specified priority projects on active project lists.

The bill creates s. 161.101(20)(a)2., F.S., to authorize DEP to use surplus funds from projects that do not have a significant change for inlet management projects, beach restoration and beach nourishment projects, reversion as part of the next appropriations process, or other specified priority projects on active project lists. The bill requires DEP to post the use of surplus funds from a project that did not significantly change on the website. However, the bill does not require DEP to provide notice and supporting justification to the Governor and Legislature before using the surplus funds, as was previously required.

The bill amends s. 161.101(20)(c), F.S., to require funding for specific projects on annual project lists approved by the Legislature to remain available for such projects for 18 months. This provision was moved from s. 161.143(5)(c), F.S.

The changes to s. 161.101(14), F.S., related to the beach ranking criteria have an effective date of July 1, 2020. The changes to s. 161.101(20), F.S., related to surplus funds have an effective date of July 1, 2019.

Inlet Management Projects

Present Situation

Inlets interrupt or alter the natural littoral drift of sand resources. This often results in sand resources depositing in nearshore areas, in the inlet channel, or in the inland waterway adjacent to the inlet, instead of providing natural nourishment to the adjacent eroding beaches. The Legislature declared it is in the public interest to replicate the natural drift of sand interrupted or altered by inlets. Such projects should balance the sediment budget of the inlet and adjacent beaches and extend the life of proximate beach restoration projects so that periodic nourishment is needed by the local sponsor less frequently.⁵²

“Inlet Management” is comprised of actions taken to minimize, eliminate, or mitigate the effects of the inlet on the adjacent shorelines, including feasibility, engineering, design, environmental studies, construction, and post-construction monitoring to support such activities.⁵³ Inlet management projects

⁵² Section 161.142, F.S.

⁵³ Rule 62B-36.002(8), F.A.C.

include, but are not limited to, inlet sand bypassing,⁵⁴ modifications to channel dredging, jetty redesign, jetty repair, disposal of spoil material, and the development, revision, adoption, or implementation of an inlet management plan.⁵⁵

Funding for these projects comes from federal, state, and local government sources. DEP may use legislative appropriations to pay for 75 percent of the non-federal cost-share of inlet management projects, and local sponsors must pay the balance of such costs.⁵⁶ Further, DEP may employ university-based or other contractual sources and pay 100 percent of the costs of studies that are consistent with the state's inlet policies and determine, calculate, refine, and achieve general consensus regarding net annual sediment transport volumes to be used for the purpose of planning and prioritizing inlet management projects; and appropriate, assign, and apportion responsibilities between inlet beneficiaries for the erosion caused by a particular inlet on adjacent beaches.

Local sponsors submit annual funding requests for inlet management projects to DEP⁵⁷ for evaluation and ranking based on the information received before DEP submits a funding recommendation to the Legislature.⁵⁸ DEP prioritizes the projects based on the following criteria:

- Estimate of the annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel;
- Severity of the erosion to the adjacent beaches caused by the inlet and the extent that the proposed project mitigates the erosive effects of the inlet;
- Overall significance and anticipated success of the proposed project in balancing the sediment budget of the inlet and adjacent beaches and addressing the sand deficit along the inlet-affected shorelines;
- Extent to which existing bypassing activities at an inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not bypassed to adjacent eroding beaches, and the ease with which such beach-quality sand may be obtained;
- Interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost-share for initial construction, ongoing sand bypassing, channel dredging, and maintenance;
- Previous completion or approval of a state-sponsored inlet management plan or local-government-sponsored inlet study concerning the inlet addressed by the proposed project, the ease of updating and revising any such plan or study, and the adequacy and specificity of the recommendations of the plan or study concerning the mitigation of an inlet's erosive effects on adjacent beaches;
- Degree to which the proposed project will enhance the performance and longevity of proximate beach nourishment projects, thereby reducing the frequency of such periodic nourishment projects; and
- Beach management project-ranking criteria, described above, to the extent such criteria are applicable to inlet management studies, projects, and activities.⁵⁹

DEP adopted by rule a point system for scoring projects based on criteria in statute. Each criterion can have more than one component. The table below illustrates how points are assigned.

⁵⁴ "Sand bypassing" is the artificial transport of littoral drift across tidal entrances to help prevent accretion, on the updrift side, control downdrift erosion, and maintain navigation channels; Coastal Wiki, *Sand by-pass system*, available at http://www.coastalwiki.org/wiki/Sand_by-pass_system (last visited Feb. 5, 2019).

⁵⁵ Section 161.143(2), F.S.

⁵⁶ Section 161.143(3), F.S.

⁵⁷ Rule 62B-36.005(1), F.A.C.

⁵⁸ Rules 62B-36.005(3) and 62B-36.005(4), F.A.C.

⁵⁹ Section 161.143(2), F.S.

Inlet Management Ranking Points⁶⁰		
Statutory Criteria	Number of Component Criteria	Available Points
Balancing the Sand Budget	1	20
Inlet Management Plan	3	15
Estimated annual quantity of beach-quality sand reaching the updrift boundary of the improved jetty or inlet channel	1	10
Cost Effective Alternatives	1	10
Local Sponsor Financial and Administrative Commitment	6	10
Previous State Commitment	4	10
Availability of Federal Funds	3	10
Enhanced Project Performance	1	5

Once DEP creates a ranking list, the local sponsors have 21 days to review the rankings and provide clarification to support additional points.⁶¹ Then, DEP considers the requests, finalizes the ranking, and submits a recommendation to the Legislature for consideration of funding in priority order. The funding recommendation list must include studies, projects, or other activities that address the management of at least 10 separate inlets.⁶²

DEP must make available at least 10 percent of the total amount of the statewide beach management appropriation each fiscal year for the three highest-ranked projects on the current year's inlet management project list.⁶³ DEP must also make available 50 percent of the funds appropriated for the feasibility and design category in DEP's fixed capital outlay funding request for projects which involve the study for, or design or development of, an inlet management project that appear on the current year inlet management project list.⁶⁴

DEP must make available all statewide beach management funds that are unencumbered or allocated to non-project-specific activities for projects on legislatively approved inlet management project lists. Funding for local-government-specific projects on annual project lists approved by the Legislature must remain available for such purposes for a period of 18 months. If a project will not be ready to proceed during this 18-month period, based on an assessment and a determination by DEP, then the department must use the funds for inlet management projects on the legislatively approved lists.⁶⁵

When approving the beach management project funding list, the Legislature must designate one of the three highest projects on the inlet management project list provided by DEP each year as the Inlet of the Year. DEP must annually report to the Legislature the extent to which each Inlet of the Year project has succeeded in balancing the sediment budget of the inlet and adjacent beaches, mitigating the inlet's erosive effects on adjacent beaches, and transferring or otherwise placing beach-quality sand on adjacent eroding beaches.⁶⁶

Effect of the Proposed Changes

The bill changes the procedure and criteria for funding inlet management projects. The bill amends 161.143(2), F.S., to require that inlet management projects funded by DEP constitute the intended scope of the state's public policy relating to improved navigation inlets found in s. 161.142, F.S., and the planning, prioritizing, funding, approving, and implementation of inlet management projects found in

⁶⁰ Rule 62B-36.006(2), F.A.C.

⁶¹ Rule 62B-36.005(4), F.A.C.

⁶² Section 161.143(5), F.S.

⁶³ Section 161.143(5)(a), F.S.

⁶⁴ Section 161.143(5)(b), F.S.

⁶⁵ Section 161.143(5)(c), F.S.

⁶⁶ Section 161.143(5)(d), F.S.

s. 161.143, F.S. The bill also expands the inlet management projects DEP may fund by including improvement of infrastructure to facilitate sand bypassing. DEP must consider inlet management projects separate and apart from beach management projects when creating the annual funding priorities.

The bill amends s. 161.143(2), F.S., to revise and update the criteria DEP must consider when ranking inlet management projects for funding consideration and require DEP to weigh each criterion equally. Specifically, the bill:

- Moves the requirement that DEP consider the extent that the proposed project mitigates the erosion effects of the inlet from the severity of erosion criteria in s. 161.143(2)(b), F.S., to the significance of the project in s. 161.143(2)(c), F.S.;
- Removes “existing” from consideration of the extent that bypassing activities at the inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project, the availability of beach-quality sand currently not bypassed to adjacent eroding beaches, and the ease to obtain such beach-quality sand. This change will allow local sponsors who currently do not perform sand bypassing at their inlet, but wish to start, to receive points;
- Adds cost-effectiveness of sand made available by a proposed inlet management project or activity relative to other sand source opportunities that would be used to address inlet-caused beach erosion to the criteria DEP must consider;
- Eliminates the requirement that DEP assign points for the local sponsor’s interest and commitment as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost-share for initial construction, ongoing sand bypassing, channel dredging, and maintenance;
- Adds the existence of proposed or recently updated inlet management plan or local government sponsored inlet study addressing the mitigation of an inlet’s erosive effects on adjacent beaches to the criteria DEP must consider;
- Eliminates the requirement that DEP assign points for the previous completion or approval of a state-sponsored inlet management plan or study, the ease of updating and revising the inlet management plan or study, and the adequacy and specificity of the recommendations in the plan or study concerning the mitigation of an inlet’s erosive effects on adjacent beaches; and
- Clarifies that DEP may use the same criteria used for ranking beach management projects for inlet management projects if the criteria are distinct from and not duplicative of inlet management project ranking criteria.

The bill amends s. 161.143(3), F.S., to authorize DEP to pay from legislative appropriations up to 75 percent of the construction costs of an initial major inlet management project component for the purpose of mitigating the erosive effects of the inlet to the shoreline and balancing the sediment budget. The local sponsor must pay the remaining balance of the costs for the initial major inlet management project components. DEP and the local sponsor must share equally all other costs associated with an inlet management project.

The bill removes s. 161.143(4), F.S., to eliminate the authority to use an appropriation from the fixed capital outlay funding request to pay 100 percent of the costs for studies that are consistent with the state’s inlet management policy.

The bill amends s. 161.143(4), F.S., to remove the requirement that DEP include in the funding priorities studies, projects, or other activities that address the management of at least 10 separate inlets. The bill also removes the requirement that DEP make available at least 10 percent of the funding appropriated by the Legislature for beach management for the three highest ranked inlet management projects on the current year project list. Instead, the bill requires DEP to designate for inlet management projects on the current year project list, in priority order, an amount that is at least equal to the greater of 10 percent of the funding appropriated by the Legislature for the fiscal year for statewide beach management or the percentage of inlet management funding requests from local

sponsors as a proportion of the total amount of statewide beach management dollars requested in a given year.

The bill amends s. 161.143(5), F.S., to require DEP to rank inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests. The bill removes the requirement for DEP to make 50 percent of funds appropriated available from the feasibility and design category for DEP's fixed capital outlay for projects on current year inlet management projects list for, or design or development of, an inlet management project.

The bill removes s. 161.143(5)(c), F.S., to eliminate the requirement that DEP make all statewide beach management funds remaining unencumbered or allocated to non-project-specific activities for projects on legislatively approved inlet management project lists. The bill also moves the requirement that funds for local sponsors' specific projects on annual projects lists approved by the Legislature to remain available for 18 months from s. 161.143(5)(c), F.S., to s. 161.101(20)(c), F.S. The bill eliminates DEP's ability to use funds on inlet management projects from other projects that received appropriations that were determined not ready to proceed. The bill replaces this power by granting DEP the ability to not include projects on the priority list that DEP determines are not ready to proceed by amending s. 161.101(14), F.S.

The bill removes s. 161.143(5)(d), F.S., to eliminate the requirement for the Legislature to designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year. DEP will no longer be required to provide reports to the Legislature on the Inlets of the Year. The bill amends s. 161.143(5), F.S., to require DEP to update and maintain an annual report on the website on each inlet project and how the project has succeeded in balancing the sediment budget and mitigated erosive effects of the inlet. The report must provide an estimate of the quantity of sediment bypassed, transferred, or otherwise placed on adjacent eroding beaches, or in such nearshore areas of beaches, for offsetting the erosive effects of inlets on the beaches of this state. This change allows DEP to report on sand bypassed, transferred, or otherwise placed in the nearshore, not just on the adjacent beach.

These changes will require DEP to amend chapter 62B-36, F.A.C.

The changes to s. 161.143, F.S., related to inlet management projects have an effective date of July 1, 2020.

Strategic Beach Management Plan

Present Situation

The Strategic Beach Management Plan (SBMP) provides an inventory of Florida's strategic beach management areas fronting on the Atlantic Ocean, Gulf of Mexico, Straits of Florida and an inventory of Florida's 66 coastal barrier tidal inlets.⁶⁷ Beach management and inlet management projects proposed by local sponsors must be consistent with the SBMP to receive funding.⁶⁸ The SBMP must:

- Address long-term solutions to the problem of critically eroded beaches in this state;
- Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion;
- Design criteria for beach restoration and beach nourishment projects;
- Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches and the source of beach-compatible sand;
- Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles;

⁶⁷ DEP, *Strategic Beach Management Plan* (May 2018), available at https://floridadep.gov/sites/default/files/SBMP-Introduction_0.pdf (last visited Feb. 5, 2019).

⁶⁸ *Id.*; r. 62B-36.005(3), F.A.C.

- Identify shoreline development and degree of density and assess impacts of development and shoreline protective structures on shoreline change and erosion;
- Identify short-term and long-term economic costs and benefits of beaches;
- Study dune and vegetation conditions;
- Identify beach areas used by marine turtles and develop strategies for protection of the turtles and their nests and nesting locations;
- Identify alternative management responses;
- Establish criteria for alternative management techniques;
- Select and recommend appropriate management measures for all of the state's sandy beaches in a beach management program; and
- Establish a list of beach restoration and beach nourishment projects, arranged in order of priority, and the funding levels needed for such projects.⁶⁹

DEP may prepare the SBMP at the regional level based upon areas of greatest need and probable federal funding. The regional plans must be components of the SBMP and must serve as the basis for state funding decisions once approved by the secretary of DEP and the Board of Trustees of the Internal Improvement Trust Fund. DEP staff must submit any completed regional plan to the secretary of DEP for approval no later than March 1 of each year. These regional plans must include, but are not limited to, recommendations of appropriate funding mechanisms for implementing projects in the SBMP. DEP must hold public meetings in the areas affected by the proposed regional plans prior to presenting the plan to the secretary of DEP for approval.

Effect of the Proposed Changes

The bill amends s. 161.161(1), F.S., to update how DEP must develop a comprehensive beach management planning program and maintain the Comprehensive Long-Term Beach Management Plan. Specifically, the bill:

- Requires DEP to include improvement of infrastructure to facilitate sand bypassing in the recommendations on how to mitigate each inlet's erosive impacts;
- Eliminates the requirement for DEP to include cost estimates necessary to take inlet corrective measures and recommendations for cost-share among the beneficiaries of such inlets;
- Requires DEP to evaluate, rather than design, criteria for beach restoration and beach nourishment;
- Adds that DEP must consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach restoration and requires DEP to recommend locations of such regional sediment management alternatives;
- Eliminates the requirement for DEP to consider the establishment of feeder beaches;
- Requires DEP to maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions;⁷⁰
- Removes the requirement for DEP to project long-term erosion for all major beach and dune systems by surveys and profiles and identify shoreline development and degree of density;
- Adds that DEP must assess the impact of coastal protection structures on shoreline change and erosion;
- Requires DEP to identify short-term and long-term economic costs and benefits of beaches to the state and individual beach communities;
- Eliminates the requirement to include recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs in the evaluation by DEP;

⁶⁹ Section 161.161(1), F.S.

⁷⁰ DEP. *Critical Erosion Report*, available at <https://floridadep.gov/water/engineering-hydrology-geology/documents/critically-eroded-beaches-florida> (last visited Feb. 14, 2019).

- Requires DEP to identify existing beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance events;
- Removes the requirement for DEP to identify alternative management responses to prevent inappropriate development and redevelopment on migrating beaches;
- Eliminates the requirement for DEP to consider abandonment of development as an alternative management response, but continues to require DEP to consider relocation of development;
- Requires DEP to include document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates in the Comprehensive Long-Term Beach Management Plan;
- Removes the requirement for DEP to include costs and specific implementation actions for alternative management techniques;
- Eliminates the requirement for DEP to select and assess appropriate management measures for all of the state's sandy beaches in the beach management program and requires DEP to identify and assess appropriate management measures for all of the critically eroded beaches; and
- Removes the requirement for DEP to establish a list of beach restoration and beach nourishment projects in priority order for funding because the requirement already exists in s. 161.101(14), F.S.

The bill creates s. 161.161(2), F.S., to require DEP's Comprehensive Long-Term Beach Management Plan to include, at a minimum, a SBMP, critically eroded beaches report, and statewide long-range budget plan.

The SBMP must identify and recommend appropriate measures for all of the state's critically eroded sandy beaches and may incorporate plans prepared at the regional level taking into account areas of greatest need and probable federal and local funding. The bill adds local funding to the evaluation by DEP. The bill removes what must be included in the regional plans. This criterion is similar to what DEP considers in the statewide plan. The bill removes the requirement for DEP to present the plan to the secretary of DEP by March 1 of each year. DEP must still hold public meetings before finalizing such regional plans. The bill also authorizes DEP to host publically noticed webinars in lieu of holding public meetings. The state may use the SBMP, along with the three-year work plan, as a basis for funding decisions once DEP finalizes the SBMP.

DEP must base the critically eroded beaches report on data, analyses, and investigations of shoreline conditions.

The statewide long-range budget plan must include at least five years of planned beach restoration, beach nourishment, and inlet management projects funding needs as identified, and subsequently refined, by local sponsors. The statewide long-range budget plan must include:

- A three-year work plan that identifies beach restoration, beach nourishment, and inlet management projects viable for implementation during the next ensuing fiscal years, as determined by available cost-share, local sponsor support, regulatory considerations, and the ability of the project to proceed as scheduled. For each fiscal year, DEP must identify proposed projects and their development status, listing them in priority order based on the applicable criteria for beach and inlet management projects for inclusion in the three-year work plan. DEP may modify specific funding requests and criteria ranking as warranted in each successive fiscal year. DEP must document and submit such modifications to the Legislature with each three-year work plan. Year one projects must consist of those projects identified for funding consideration in the ensuing fiscal year; and
- A long-range plan that identifies projects for inclusion in the fourth and fifth ensuing fiscal years. DEP may present these projects by region. DEP does not need to present these projects in priority order. However, DEP must identify issues that may prevent successful completion of such projects and recommend solutions that would allow the projects to progress into the three-year work plan.

Lastly, the bill adds s. 161.161(3), F.S., to require the secretary of DEP to annually present the three-year work plan to the Legislature that includes a three-year financial forecast for the availability of funding for projects.

The changes to s. 161.161, F.S., related to the Comprehensive Long-Term Beach Management Plan have an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1. Amends s. 161.101, F.S., relating to state and local participation in authorized projects and studies for beach management and erosion control.

Section 2. Amends s. 161.143, F.S., relating to inlet management, planning, prioritization, funding, approval, and implementation of projects.

Section 3. Amends s. 161.161, F.S., relating to the procedure for approval of projects.

Section 4. Provides an effective date of July 1, 2019, except as otherwise provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will have an insignificant negative fiscal impact on DEP because the department will need to revise rules to comply with the statutory changes in the bill. Further, DEP must comply with additional reporting requirements and the creation of a five-year work plan. The rulemaking and workload requirements of the bill can be handled within existing resources since those sections of the bill are not effective until July 1, 2020.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Current law authorizes DEP to adopt rules to implement s. 161.101, F.S. As such, no additional rulemaking authority is necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 14, 2019, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed unnecessary language directing DEP to adopt rules.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.

By Senator Bradley

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1 A bill to be entitled
2 An act relating to the Department of Environmental
3 Protection; transferring and reassigning functions and
4 responsibilities of the Division of Law Enforcement
5 relating to investigators of environmental crimes
6 within the Fish and Wildlife Conservation Commission
7 to the Division of Law Enforcement of the Department
8 of Environmental Protection; providing requirements
9 for a memorandum of agreement between the department
10 and the commission regarding the responsibilities of
11 the department and the commission; transferring
12 personnel and equipment within the department's Office
13 of Emergency Response to the department's Division of
14 Law Enforcement; providing for a transition advisory
15 working group; providing for the retention and
16 transfer of specified benefits for employees who are
17 transferred from the commission to fill positions
18 transferred to the department; amending s. 20.255,
19 F.S.; establishing the Division of Law Enforcement
20 within the department; providing law enforcement
21 officers of the department who meet certain
22 requirements with specified authority, subject to
23 applicable law; amending ss. 258.004, 258.008,
24 258.501, 282.709, 316.640, 376.3071, 403.413, 784.07,
25 843.08, 843.085, 870.04, and 932.7055, F.S.;

26 conforming provisions to changes made by the act;
27 reenacting s. 790.166(8)(a), F.S., relating to the
28 manufacture, possession, sale, delivery, display, use
29 or attempted or threatened use of a weapon of mass

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30 destruction or hoax weapon of mass destruction
31 prohibited, to incorporate the amendment made to s.
32 784.07, F.S., in a reference thereto; providing
33 severability; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. (1) The primary powers and duties of the Fish
38 and Wildlife Conservation Commission with regard to the
39 investigation of certain environmental crimes and the
40 enforcement of related laws, as specified in the new memorandum
41 of agreement developed as required under subsection (2), are
42 transferred from the commission to the Department of
43 Environmental Protection. The commission retains law enforcement
44 authority over the patrol of state-owned lands managed by the
45 department and shall coordinate with the department in that
46 regard.

47 (2) A new memorandum of agreement must be developed between
48 the commission and the department detailing the respective
49 responsibilities of the department and the commission with
50 regard to at least all of the following:

51 (a) Support and response for oil spills, hazardous spills,
52 and natural disasters.

53 (b) Law enforcement patrol and investigative services for
54 all state-owned lands managed by the department.

55 (c) Law enforcement services, including investigative
56 services, for all criminal law violations of chapters 161, 258,
57 373, 376, 377, 378, and 403, Florida Statutes.

58 (d) Enforcement services for civil violations of department

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59 administrative rules related to all of the following program
60 areas:

61 1. The Division of Recreation and Parks.

62 2. The Office of Coastal and Aquatic Managed Areas.

63 3. The Office of Greenways and Trails.

64 (e) Current and future funding, training, or other support
65 for positions and equipment being transferred from the
66 commission to the department which are funded through any trust
67 fund.

68 Section 2. All personnel and equipment assigned to the
69 Department of Environmental Protection's Office of Emergency
70 Response are reassigned to the Division of Law Enforcement of
71 the department.

72 Section 3. The Secretary of Environmental Protection and
73 the Executive Director of the Fish and Wildlife Conservation
74 Commission shall each appoint two staff members to a transition
75 advisory working group to review the administrative rules
76 promulgated by the department and the commission to identify any
77 rules that must be amended to reflect the changes made by this
78 act.

79 Section 4. Notwithstanding chapter 60L-34, Florida
80 Administrative Code, or any law to the contrary, employees who
81 are transferred from the Fish and Wildlife Conservation
82 Commission to fill positions transferred to the Department of
83 Environmental Protection shall retain and transfer any accrued
84 annual leave, sick leave, and regular and special compensatory
85 leave balances. The employees shall retain their current
86 position status, including permanent status, upon transfer to
87 the Department of Environmental Protection.

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88 Section 5. Subsection (3) of section 20.255, Florida
89 Statutes, is amended, and subsection (10) is added to that
90 section, to read:

91 20.255 Department of Environmental Protection.—There is
92 created a Department of Environmental Protection.

93 (3) The following divisions of the Department of
94 Environmental Protection are established:

95 (a) Division of Administrative Services.

96 (b) Division of Air Resource Management.

97 (c) Division of Water Resource Management.

98 (d) Division of Environmental Assessment and Restoration.

99 (e) Division of Waste Management.

100 (f) Division of Recreation and Parks.

101 (g) Division of State Lands, the director of which is
102 appointed by the secretary of the department, subject to
103 confirmation by the Governor and Cabinet sitting as the Board of
104 Trustees of the Internal Improvement Trust Fund.

105 (h) Division of Water Restoration Assistance.

106 (i) Division of Law Enforcement.

107

108 In order to ensure statewide and intradepartmental consistency,
109 the department's divisions shall direct the district offices and
110 bureaus on matters of interpretation and applicability of the
111 department's rules and programs.

112 (10) Law enforcement officers of the Department of
113 Environmental Protection who meet the requirements of s. 943.13
114 are constituted law enforcement officers of this state with full
115 power to investigate and arrest for any violation of the laws of
116 this state and the rules of the department and the Board of

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117 Trustees of the Internal Improvement Trust Fund. The general
118 laws applicable to investigations, searches, and arrests by
119 peace officers of this state apply to such law enforcement
120 officers.

121 Section 6. Subsection (8) is added to section 258.004,
122 Florida Statutes, to read:

123 258.004 Duties of division.—

124 (8) This chapter shall be enforced by the Division of Law
125 Enforcement within the Department of Environmental Protection
126 and its officers and by the Division of Law Enforcement within
127 the Fish and Wildlife Conservation Commission and its officers.

128 Section 7. Subsection (1) of section 258.008, Florida
129 Statutes, is amended to read:

130 258.008 Prohibited activities; penalties.—

131 (1) Except as provided in subsection (3), any person who
132 violates or otherwise fails to comply with the rules adopted
133 under this chapter commits a noncriminal infraction for which
134 ejection from all property managed by the Division of Recreation
135 and Parks and a fine of up to \$500 may be imposed by the
136 division. Fines paid under this subsection shall be paid to the
137 Fish and Wildlife Conservation Commission and deposited in the
138 State Game Trust Fund as provided in ss. 379.338, 379.339, and
139 379.3395 or to the Department of Environmental Protection and
140 deposited into the State Park Trust Fund, as applicable.

141 Section 8. Subsection (16) of section 258.501, Florida
142 Statutes, is amended to read:

143 258.501 Myakka River; wild and scenic segment.—

144 (16) ENFORCEMENT.—Officers of the department and the Fish
145 and Wildlife Conservation Commission shall have full authority

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146 to enforce any rule adopted by the department.

147 Section 9. Paragraph (a) of subsection (2) of section
148 282.709, Florida Statutes, is amended to read:

149 282.709 State agency law enforcement radio system and
150 interoperability network.—

151 (2) The Joint Task Force on State Agency Law Enforcement
152 Communications is created adjunct to the department to advise
153 the department of member-agency needs relating to the planning,
154 designing, and establishment of the statewide communication
155 system.

156 (a) The Joint Task Force on State Agency Law Enforcement
157 Communications shall consist of the following members:

158 1. A representative of the Division of Alcoholic Beverages
159 and Tobacco of the Department of Business and Professional
160 Regulation who shall be appointed by the secretary of the
161 department.

162 2. A representative of the Division of Florida Highway
163 Patrol of the Department of Highway Safety and Motor Vehicles
164 who shall be appointed by the executive director of the
165 department.

166 3. A representative of the Department of Law Enforcement
167 who shall be appointed by the executive director of the
168 department.

169 4. A representative of the Fish and Wildlife Conservation
170 Commission who shall be appointed by the executive director of
171 the commission.

172 5. A representative of the Division of Law Enforcement of
173 the Department of Environmental Protection who shall be
174 appointed by the secretary of the department.

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175 ~~6.5.~~ A representative of the Department of Corrections who
176 shall be appointed by the secretary of the department.

177 ~~7.6.~~ A representative of the Department of Financial
178 Services who shall be appointed by the Chief Financial Officer.

179 ~~8.7.~~ A representative of the Department of Agriculture and
180 Consumer Services who shall be appointed by the Commissioner of
181 Agriculture.

182 ~~9.8.~~ A representative of the Florida Sheriffs Association
183 who shall be appointed by the president of the Florida Sheriffs
184 Association.

185 Section 10. Paragraph (a) of subsection (1) of section
186 316.640, Florida Statutes, is amended to read:

187 316.640 Enforcement.—The enforcement of the traffic laws of
188 this state is vested as follows:

189 (1) STATE.—

190 (a)1.a. The Division of Florida Highway Patrol of the
191 Department of Highway Safety and Motor Vehicles; the Division of
192 Law Enforcement of the Fish and Wildlife Conservation
193 Commission; the Division of Law Enforcement of the Department of
194 Environmental Protection; and the agents, inspectors, and
195 officers of the Department of Law Enforcement each have
196 authority to enforce all of the traffic laws of this state on
197 all the streets and highways thereof and elsewhere throughout
198 the state wherever the public has a right to travel by motor
199 vehicle.

200 b. University police officers may enforce all of the
201 traffic laws of this state when violations occur on or within
202 1,000 feet of any property or facilities that are under the
203 guidance, supervision, regulation, or control of a state

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204 university, a direct-support organization of such state
205 university, or any other organization controlled by the state
206 university or a direct-support organization of the state
207 university, or when such violations occur within a specified
208 jurisdictional area as agreed upon in a mutual aid agreement
209 entered into with a law enforcement agency pursuant to s.
210 23.1225(1). Traffic laws may also be enforced off-campus when
211 hot pursuit originates on or within 1,000 feet of any such
212 property or facilities, or as agreed upon in accordance with the
213 mutual aid agreement.

214 c. Florida College System institution police officers may
215 enforce all the traffic laws of this state only when such
216 violations occur on or within 1,000 feet of any property or
217 facilities that are under the guidance, supervision, regulation,
218 or control of the Florida College System institution, or when
219 such violations occur within a specified jurisdictional area as
220 agreed upon in a mutual aid agreement entered into with a law
221 enforcement agency pursuant to s. 23.1225. Traffic laws may also
222 be enforced off-campus when hot pursuit originates on or within
223 1,000 feet of any such property or facilities, or as agreed upon
224 in accordance with the mutual aid agreement.

225 d. Police officers employed by an airport authority may
226 enforce all of the traffic laws of this state only when such
227 violations occur on any property or facilities that are owned or
228 operated by an airport authority.

229 (I) An airport authority may employ as a parking
230 enforcement specialist any individual who successfully completes
231 a training program established and approved by the Criminal
232 Justice Standards and Training Commission for parking

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233 enforcement specialists but who does not otherwise meet the
234 uniform minimum standards established by the commission for law
235 enforcement officers or auxiliary or part-time officers under s.
236 943.12. This sub-sub-subparagraph may not be construed to permit
237 the carrying of firearms or other weapons, nor shall such
238 parking enforcement specialist have arrest authority.

239 (II) A parking enforcement specialist employed by an
240 airport authority may enforce all state, county, and municipal
241 laws and ordinances governing parking only when such violations
242 are on property or facilities owned or operated by the airport
243 authority employing the specialist, by appropriate state,
244 county, or municipal traffic citation.

245 e. The Office of Agricultural Law Enforcement of the
246 Department of Agriculture and Consumer Services may enforce
247 traffic laws of this state.

248 f. School safety officers may enforce all of the traffic
249 laws of this state when such violations occur on or about any
250 property or facilities that are under the guidance, supervision,
251 regulation, or control of the district school board.

252 2. Any disciplinary action taken or performance evaluation
253 conducted by an agency of the state as described in subparagraph
254 1. of a law enforcement officer's traffic enforcement activity
255 must be in accordance with written work-performance standards.
256 Such standards must be approved by the agency and any collective
257 bargaining unit representing such law enforcement officer. A
258 violation of this subparagraph is not subject to the penalties
259 provided in chapter 318.

260 3. The Division of the Florida Highway Patrol may employ as
261 a traffic accident investigation officer any individual who

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262 successfully completes instruction in traffic accident
263 investigation and court presentation through the Selective
264 Traffic Enforcement Program as approved by the Criminal Justice
265 Standards and Training Commission and funded through the
266 National Highway Traffic Safety Administration or a similar
267 program approved by the commission, but who does not necessarily
268 meet the uniform minimum standards established by the commission
269 for law enforcement officers or auxiliary law enforcement
270 officers under chapter 943. Any such traffic accident
271 investigation officer who makes an investigation at the scene of
272 a traffic accident may issue traffic citations, based upon
273 personal investigation, when he or she has reasonable and
274 probable grounds to believe that a person who was involved in
275 the accident committed an offense under this chapter, chapter
276 319, chapter 320, or chapter 322 in connection with the
277 accident. This subparagraph does not permit the officer to carry
278 firearms or other weapons, and such an officer does not have
279 authority to make arrests.

280 Section 11. Paragraph (p) of subsection (4) of section
281 376.3071, Florida Statutes, is amended to read:

282 376.3071 Inland Protection Trust Fund; creation; purposes;
283 funding.—

284 (4) USES.—Whenever, in its determination, incidents of
285 inland contamination related to the storage of petroleum or
286 petroleum products may pose a threat to the public health,
287 safety, or welfare, water resources, or the environment, the
288 department shall obligate moneys available in the fund to
289 provide for:

290 (p) Enforcement of this section and ss. 376.30-376.317 by

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291 the Fish and Wildlife Conservation Commission and the Department
292 of Environmental Protection. The department may ~~shall~~ disburse
293 moneys to the commission for such purpose.

294

295 The issuance of a site rehabilitation completion order pursuant
296 to subsection (5) or paragraph (12)(b) for contamination
297 eligible for programs funded by this section does not alter the
298 project's eligibility for state-funded remediation if the
299 department determines that site conditions are not protective of
300 human health under actual or proposed circumstances of exposure
301 under subsection (5). The Inland Protection Trust Fund may be
302 used only to fund the activities in ss. 376.30-376.317 except
303 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
304 each fiscal year must first be applied or allocated for the
305 payment of amounts payable by the department pursuant to
306 paragraph (n) under a service contract entered into by the
307 department pursuant to s. 376.3075 and appropriated in each year
308 by the Legislature before making or providing for other
309 disbursements from the fund. This subsection does not authorize
310 the use of the fund for cleanup of contamination caused
311 primarily by a discharge of solvents as defined in s.
312 206.9925(6), or polychlorinated biphenyls when their presence
313 causes them to be hazardous wastes, except solvent contamination
314 which is the result of chemical or physical breakdown of
315 petroleum products and is otherwise eligible. Facilities used
316 primarily for the storage of motor or diesel fuels as defined in
317 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
318 to this section.

319 Section 12. Paragraph (e) of subsection (2) of section

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320 403.413, Florida Statutes, is amended to read:

321 403.413 Florida Litter Law.—

322 (2) DEFINITIONS.—As used in this section:

323 (e) "Law enforcement officer" means any officer of the
324 Florida Highway Patrol, a county sheriff's department, a
325 municipal law enforcement department, a law enforcement
326 department of any other political subdivision, the Department of
327 Environmental Protection, or the Fish and Wildlife Conservation
328 Commission. In addition, and solely for the purposes of this
329 section, "law enforcement officer" means any employee of a
330 county or municipal park or recreation department designated by
331 the department head as a litter enforcement officer.

332 Section 13. Paragraph (d) of subsection (1) of section
333 784.07, Florida Statutes, is amended to read:

334 784.07 Assault or battery of law enforcement officers,
335 firefighters, emergency medical care providers, public transit
336 employees or agents, or other specified officers;
337 reclassification of offenses; minimum sentences.—

338 (1) As used in this section, the term:

339 (d) "Law enforcement officer" includes a law enforcement
340 officer, a correctional officer, a correctional probation
341 officer, a part-time law enforcement officer, a part-time
342 correctional officer, an auxiliary law enforcement officer, and
343 an auxiliary correctional officer, as those terms are
344 respectively defined in s. 943.10, and any county probation
345 officer; an employee or agent of the Department of Corrections
346 who supervises or provides services to inmates; an officer of
347 the Florida Commission on Offender Review; a federal law
348 enforcement officer as defined in s. 901.1505; and law

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349 enforcement personnel of the Fish and Wildlife Conservation
350 Commission, the Department of Environmental Protection, or the
351 Department of Law Enforcement.

352 Section 14. Section 843.08, Florida Statutes, is amended to
353 read:

354 843.08 False personation.—A person who falsely assumes or
355 pretends to be a firefighter, sheriff, officer of the Florida
356 Highway Patrol, officer of the Fish and Wildlife Conservation
357 Commission, officer of the Department of Environmental
358 Protection, fire or arson investigator of the Department of
359 Financial Services, officer of the Department of Financial
360 Services, officer of the Department of Corrections, correctional
361 probation officer, deputy sheriff, state attorney or assistant
362 state attorney, statewide prosecutor or assistant statewide
363 prosecutor, state attorney investigator, coroner, police
364 officer, lottery special agent or lottery investigator, beverage
365 enforcement agent, or watchman, or any member of the Florida
366 Commission on Offender Review and any administrative aide or
367 supervisor employed by the commission, or any personnel or
368 representative of the Department of Law Enforcement, or a
369 federal law enforcement officer as defined in s. 901.1505, and
370 takes upon himself or herself to act as such, or to require any
371 other person to aid or assist him or her in a matter pertaining
372 to the duty of any such officer, commits a felony of the third
373 degree, punishable as provided in s. 775.082, s. 775.083, or s.
374 775.084. However, a person who falsely personates any such
375 officer during the course of the commission of a felony commits
376 a felony of the second degree, punishable as provided in s.
377 775.082, s. 775.083, or s. 775.084. If the commission of the

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378 felony results in the death or personal injury of another human
379 being, the person commits a felony of the first degree,
380 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
381 The term "watchman" means a security officer licensed under
382 chapter 493.

383 Section 15. Section 843.085, Florida Statutes, is amended
384 to read:

385 843.085 Unlawful use of badges or other indicia of
386 authority.—

387 (1) It is unlawful for any person, unless appointed by the
388 Governor pursuant to chapter 354, authorized by the appropriate
389 agency, or displayed in a closed or mounted case as a collection
390 or exhibit, to wear or display any authorized indicia of
391 authority, including any badge, insignia, emblem, identification
392 card, or uniform, or any colorable imitation thereof, of any
393 federal, state, county, or municipal law enforcement agency, or
394 other criminal justice agency as defined in s. 943.045, with the
395 intent to mislead or cause another person to believe that he or
396 she is a member of that agency or is authorized to display or
397 wear such item, or to wear or display any item that displays in
398 any manner or combination the word or words "police,"
399 "patrolman," "agent," "sheriff," "deputy," "trooper," "highway
400 patrol," "commission officer," "Wildlife Officer," "Marine
401 Patrol Officer," "state attorney," "public defender," "marshal,"
402 "constable," "bailiff," ~~or~~ "fire department," or "Department of
403 Environmental Protection officer," with the intent to mislead or
404 cause another person to believe that he or she is a member of
405 that agency or is authorized to wear or display such item.

406 (2) It is unlawful for a person to own or operate a motor

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407 vehicle marked or identified in any manner or combination by the
408 word or words "police," "patrolman," "sheriff," "deputy,"
409 "trooper," "highway patrol," "commission officer," "Wildlife
410 Officer," "Marine Patrol Officer," "marshal," "constable,"
411 "bailiff," ~~or~~ "fire department," or "Department of Environmental
412 Protection officer," or by any lettering, marking, or insignia,
413 or colorable imitation thereof, including, but not limited to,
414 stars, badges, or shields, officially used to identify the
415 vehicle as a federal, state, county, or municipal law
416 enforcement vehicle or a vehicle used by a criminal justice
417 agency as defined in s. 943.045, or a vehicle used by a fire
418 department with the intent to mislead or cause another person to
419 believe that such vehicle is an official vehicle of that agency
420 and is authorized to be used by that agency, unless such vehicle
421 is owned or operated by the appropriate agency and its use is
422 authorized by such agency, or the local law enforcement agency
423 or fire department authorizes the use of such vehicle, or the
424 person is appointed by the Governor pursuant to chapter 354.

425 (3) It is unlawful for a person to sell, transfer, or give
426 away the authorized badge, or colorable imitation thereof,
427 including miniatures, of any criminal justice agency as defined
428 in s. 943.045, or bearing in any manner or combination the word
429 or words "police," "patrolman," "sheriff," "deputy," "trooper,"
430 "highway patrol," "commission officer," "Wildlife Officer,"
431 "Marine Patrol Officer," "marshal," "constable," "agent," "state
432 attorney," "public defender," "bailiff," ~~or~~ "fire department,"
433 or "Department of Environmental Protection officer," with the
434 intent to mislead or cause another person to believe that he or
435 she is a member of that agency or is authorized to wear or

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436 display such item, except for agency purchases or upon the
 437 presentation and recordation of both a driver license and other
 438 identification showing any transferee to actually be a member of
 439 such criminal justice agency or unless the person is appointed
 440 by the Governor pursuant to chapter 354. A transferor of an item
 441 covered by this subsection is required to maintain for 2 years a
 442 written record of such transaction, including records showing
 443 compliance with this subsection, and if such transferor is a
 444 business, it shall make such records available during normal
 445 business hours for inspection by any law enforcement agency
 446 having jurisdiction in the area where the business is located.

447 (4) This section does not prohibit a fraternal, benevolent,
 448 or labor organization or association, or their chapters or
 449 subsidiaries, from using the following words, in any manner or
 450 in any combination, if those words appear in the official name
 451 of the organization or association: "police," "patrolman,"
 452 "sheriff," "deputy," "trooper," "highway patrol," "commission
 453 officer," "Wildlife Officer," "Marine Patrol Officer,"
 454 "marshal," "constable," "bailiff," "fire department," or
 455 "Department of Environmental Protection officer." ~~or "fire~~
 456 ~~department."~~

457 (5) Violation of any provision of this section is a
 458 misdemeanor of the first degree, punishable as provided in s.
 459 775.082 or s. 775.083. This section is cumulative to any law now
 460 in force in the state.

461 Section 16. Section 870.04, Florida Statutes, is amended to
 462 read:

463 870.04 Specified officers to disperse riotous assembly.—If
 464 any number of persons, whether armed or not, are unlawfully,

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465 riotously, or tumultuously assembled in any county, city, or
466 municipality, the sheriff or the sheriff's deputies, or the
467 mayor, or any commissioner, council member, alderman, or police
468 officer of the city or municipality, or any officer or member of
469 the Florida Highway Patrol, or any officer or agent of the Fish
470 and Wildlife Conservation Commission or the Department of
471 Environmental Protection, any beverage enforcement agent, any
472 personnel or representatives of the Department of Law
473 Enforcement or its successor, or any other peace officer, shall
474 go among the persons so assembled, or as near to them as may be
475 done with safety, and shall in the name of the state command all
476 the persons so assembled immediately and peaceably to disperse.
477 If such persons do not thereupon immediately and peaceably
478 disperse, such officers shall command the assistance of all such
479 persons in seizing, arresting, and securing such persons in
480 custody. If any person present being so commanded to aid and
481 assist in seizing and securing such rioter or persons so
482 unlawfully assembled, or in suppressing such riot or unlawful
483 assembly, refuses or neglects to obey such command, or, when
484 required by such officers to depart from the place, refuses and
485 neglects to do so, the person shall be deemed one of the rioters
486 or persons unlawfully assembled, and may be prosecuted and
487 punished accordingly.

488 Section 17. Present paragraphs (b) through (l) of
489 subsection (6) of section 932.7055, Florida Statutes, are
490 redesignated as paragraphs (c) through (m), respectively, and a
491 new paragraph (b) is added to that subsection, to read:

492 932.7055 Disposition of liens and forfeited property.—

493 (6) If the seizing agency is a state agency, all remaining

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494 proceeds shall be deposited into the General Revenue Fund.

495 However, if the seizing agency is:

496 (b) The Department of Environmental Protection, the
497 proceeds accrued pursuant to the Florida Contraband Forfeiture
498 Act shall be deposited into the Internal Improvement Trust Fund,
499 the Water Quality Assurance Trust Fund, the Inland Protection
500 Trust Fund, the Coastal Protection Trust Fund, or the Solid
501 Waste Management Trust Fund, as specified by the statute under
502 which the violation occurs.

503 Section 18. For the purpose of incorporating the amendment
504 made by this act to section 784.07, Florida Statutes, in a
505 reference thereto, paragraph (a) of subsection (8) of section
506 790.166, Florida Statutes, is reenacted to read:

507 790.166 Manufacture, possession, sale, delivery, display,
508 use, or attempted or threatened use of a weapon of mass
509 destruction or hoax weapon of mass destruction prohibited;
510 definitions; penalties.—

511 (8) For purposes of this section, the term “weapon of mass
512 destruction” does not include:

513 (a) A device or instrument that emits or discharges smoke
514 or an offensive, noxious, or irritant liquid, powder, gas, or
515 chemical for the purpose of immobilizing, incapacitating, or
516 thwarting an attack by a person or animal and that is lawfully
517 possessed or used by a person for the purpose of self-protection
518 or, as provided in subsection (7), is lawfully possessed or used
519 by any member or employee of the Armed Forces of the United
520 States, a federal or state governmental agency, or a private
521 entity. A member or employee of a federal or state governmental
522 agency includes, but is not limited to, a law enforcement

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523 officer, as defined in s. 784.07; a federal law enforcement
524 officer, as defined in s. 901.1505; and an emergency service
525 employee, as defined in s. 496.404.

526 Section 19. If any provision of this act or the application
527 thereof to any person or circumstance is held invalid, the
528 invalidity does not affect other provisions or applications of
529 the act which can be given effect without the invalid provisions
530 or applications, and to this end the provisions of this act are
531 severable.

532 Section 20. This act shall take effect July 1, 2019.

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 1502

INTRODUCER: Senator Bradley

SUBJECT: Department of Environmental Protection

DATE: April 16, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schreiber</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3.	<u>Reagan</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

I. Summary:

SB 1502 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers.

The bill requires the DEP and the Fish and Wildlife Conservation Commission (FWC) to develop a new memorandum of agreement, detailing the respective responsibilities of the two agencies with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of the DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the FWC to the DEP that are funded through any trust fund.

As determined by the new memorandum of agreement, the bill transfers the primary powers and duties of the FWC with regard to investigating certain environmental crimes and enforcing related laws to the DEP. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned land managed by the DEP.

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP. There may be additional, indeterminate negative costs associated with this transfer to the DEP.

The bill takes effect July 1, 2019.

II. Present Situation:

Environmental Law Enforcement Organizational Structure

The DEP is Florida's lead agency for environmental management and stewardship.¹ The DEP's activities are primarily divided into three areas: land and recreation, regulatory programs, and ecosystem restoration.² There are currently eight divisions established within the DEP.³ Currently, the DEP does not have any law enforcement officers. The DEP previously had a Division of Law Enforcement.⁴ This division was responsible for statewide environmental law enforcement, providing law enforcement services to Florida's state parks and trails, and providing assistance for disasters such as hurricanes or chemicals spills.⁵ This division oversaw four bureaus: Emergency Response, Criminal Investigations, Park Police, and the Office of Training and Professional Standards.⁶

The FWC is authorized to exercise regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life, and in these areas the FWC's staff is authorized to conduct management, research, and enforcement.⁷ The FWC currently has a Division of Law Enforcement with 1,051 members, including 853 sworn personnel, operating in six regions throughout the state.⁸ The FWC's Division of Law Enforcement has broad areas of responsibility including enforcing laws that protect Florida's wildlife and habitats, conducting environmental crime investigations, and protecting the public and environment from illegal environmental violations.⁹

In 2011, the Legislature created a Law Enforcement Consolidation Task Force.¹⁰ The task force was directed to evaluate any duplication of law enforcement functions throughout state government and identify any functions that are appropriate for possible consideration.¹¹ If the task force concluded that any consolidation of state law enforcement was appropriate then recommendations and a plan would be submitted.¹² In December of 2011, the task force recommended integrating the entire DEP Division of Law Enforcement into the Division of Law

¹ Section 20.255, F.S.; DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Mar. 22, 2019).

² *Id.*

³ Section 20.255, F.S.; see DEP, *Divisions*, <https://floridadep.gov/divisions> (last visited Mar. 22, 2019).

⁴ DEP, *DEP Law Enforcement Personnel Awarded for Outstanding Performance and Commitment to the Environment*, <https://content.govdelivery.com/accounts/FLDEP/bulletins/22db55> (last visited Mar. 22, 2019).

⁵ *Id.*

⁶ *Id.*

⁷ FLA. CONST. art. IV, s. 9.

⁸ Section 20.331, (4)(a)4., F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

⁹ Section 20.331, (7)(e), F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

¹⁰ Ch. 2011-66, s. 31, Laws of Fla.

¹¹ *Id.*

¹² *Id.*

Enforcement within the FWC.¹³ The reasons for the recommendation included overlapping duties, cost efficiencies and reductions, and enhanced recovery and response times.¹⁴

In 2012, the Legislature transferred all powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the DEP's Division of Law Enforcement, excluding the Bureau of Emergency Response, to the FWC's Division of Law Enforcement through a type two transfer.¹⁵ The DEP was also required to transfer to the FWC a number of administrative, auditing, inspector general, attorney, and operational support positions proportional to the DEP's Division of Law Enforcement being transferred.¹⁶ The legislation required the DEP and the FWC to develop a memorandum of agreement detailing the responsibilities of the FWC to the DEP regarding law enforcement, emergency response, and funding.¹⁷

The DEP and the FWC have a memorandum of agreement identifying the responsibilities of the FWC with regard to the DEP. The FWC provides law enforcement services for the DEP. The DEP transfers funds to the FWC to compensate for these services.

In 2018, the following appropriations were made to the FWC's Marine Resources Conservation Trust Fund or State Game Trust Fund for law enforcement:

- \$11,310,256 from the Coastal Protection Trust Fund
- \$1,991,722 from the Inland Protection Trust Fund
- \$2,822,599 from the Solid Waste Management Trust Fund.¹⁸

In January of 2019, Governor DeSantis issued Executive Order 2019-12.¹⁹ The order directed the DEP to take all necessary actions to move the Environmental Crimes Enforcement Unit from the FWC to the DEP, to align resources focused on environmental protection and ensure strong enforcement of Florida's environmental laws.²⁰

Severability

When a court decides that a portion of a statute is unconstitutional, this does not necessarily mean all provisions of that statute are unconstitutional.²¹ Under Florida law, when part of a statute is declared unconstitutional the remainder of the act will be permitted to stand provided: (1) the unconstitutional provisions can be separated from the remaining valid provisions; (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those

¹³ Law Enforcement Consolidation Task Force, *Task Force Report Pursuant to SB 2160 Enacted by the 2011 Legislature*, 5 (Dec. 21, 2011), available at <https://www.flhsmv.gov/lectaskforce/LECTFReport.pdf> (last visited Mar. 22, 2019).

¹⁴ *Id.*

¹⁵ Ch. 2012-88, Laws of Fla.; see s. 20.06(2), F.S.; see DEP, *Office of Emergency Response*, <https://floridadep.gov/oer> (last visited Mar. 22, 2019).

¹⁶ Ch. 2012-88, Laws of Fla.

¹⁷ *Id.*

¹⁸ Ch. 2018-9, Special Appropriation 1536, Laws of Fla.

¹⁹ Office of the Governor, *Executive Order Number 19-12* (2019), available at https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf (last visited Mar. 22, 2019).

²⁰ *Id.* at 5.

²¹ *Cramp v. Bd. of Pub. Instruction of Orange Cnty.*, 137 So.2d 828, 830 (Fla. 1962).

which are void; (3) the good and the bad features are not so inseparable in substance that it can be said that the Legislature would have passed the one without the other; and (4) an act complete in itself remains valid after the invalid provisions are stricken.²²

A severability clause in a statute, stating that any of its provisions found to be invalid should be severed from the remaining sections, may be considered by a court applying the test for severability.²³ When a severability clause is included in a statute, the courts hold that the expressed legislative intent should be carried out unless doing so would produce an unreasonable, unconstitutional, or absurd result.²⁴ If the valid and the void parts of a statute are mutually connected and dependent upon each other, then severance would effect a result not contemplated by the Legislature, in which case applying the severability clause to save the valid parts of the statute is not compatible with the legislative intent.²⁵

III. Effect of Proposed Changes:

Section 1 transfers the primary powers and duties of the FWC with regard to the investigation of certain environmental crimes and the enforcement of related laws to the DEP, as specified in the memorandum of agreement developed under the bill. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned lands managed by the DEP, and the FWC will coordinate with the DEP in that regard.

The bill requires the FWC and the DEP to develop a new memorandum of agreement detailing the respective responsibilities of the FWC and the DEP with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of the DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the FWC to the DEP that are funded through any trust fund.

Section 2 requires that all of the personnel and equipment assigned to the DEP's Office of Emergency Response be reassigned to the DEP's Division of Law Enforcement.

Section 3 requires the Secretary of the DEP and the Executive Director of the FWC to each appoint two staff members to a transition advisory working group to review the administrative

²² *Id.*; see *Booker v. State*, 244 So. 3d 1151, 1167 (Fla. Dist. Ct. App. 2018).

²³ *Smith v. Dep't of Ins.*, 507 So. 2d 1080, 1090 (Fla. 1987).

²⁴ *Small v. Sun Oil Co.*, 222 So. 2d 196, 199 (Fla. 1969).

²⁵ *Id.* at 199-200.

rules promulgated by the DEP and the FWC to identify any rules that must be amended to reflect the changes made by the bill.

Section 4 requires that, notwithstanding ch. 60L-34 F.A.C., or any law to the contrary, employees transferred from the FWC to fill positions transferred to the DEP shall retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balance. The bill requires that the employees retain their current position status, including permanent status, upon transfer to the DEP.

Section 5 amends s. 20.255, F.S., which establishes the organizational structure of the DEP. The bill adds the Division of Law Enforcement to the list of the DEP's divisions. The bill states that law enforcement officers of the DEP, who meet the minimum qualification requirements for a law enforcement officer in s. 943.13, F.S., are constituted law enforcement officers of the state with full power to investigate and arrest for any violation of the laws of the state and the rules of the DEP and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of the state apply to such law enforcement officers.

Section 6 amends s. 258.004, F.S., which establishes the duties of the DEP's Division of Recreation and Parks. The bill requires that ch. 258, F.S., State Parks and Preserves, be enforced by the DEP's Division of Law Enforcement and its officers, and by the FWC's Division of Law Enforcement and its officers.

Section 7 amends s. 258.008, F.S., which establishes the fines and penalties for violating rules adopted under ch. 258, F.S. The bill requires that fines paid for violations of rules adopted under ch. 258, F.S., will go into either the FWC's State Game Trust Fund or the DEP's State Park Trust Fund, "as applicable."

Section 8 amends s. 258.501, F.S., by authorizing "officers" of the DEP to enforce certain DEP rules.

Section 9 amends s. 282.709, F.S., which authorizes a statewide radio communications system to serve state and local law enforcement units. The bill requires that the Secretary of the DEP appoint a representative of the DEP's Division of Law Enforcement to serve as a member of the Joint Task Force on State Agency Law Enforcement Communications, which advises on agency needs relating to the planning, designing, and establishment of the statewide communication system.

Section 10 amends s. 316.640, F.S., which vests authority for the enforcement of Florida's traffic laws. The bill authorizes the DEP's Division of Law Enforcement to enforce all of the traffic laws of the state on all of the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.

Section 11 amends s. 376.3071, F.S., which establishes the Inland Protection Trust Fund and programs for its use. The bill provides that when the DEP determines that incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the public health, safety, welfare, water resources, or the environment, the DEP is required to spend

available money from the Inland Protection Trust Fund to provide for enforcement of related laws by the FWC and the DEP. The bill authorizes, but does not require, the DEP to disburse money to the FWC for this purpose.

Section 12 amends s. 403.413, F.S., which is Florida's litter law. The bill changes the section's definition of "law enforcement officer" to include any officer of the DEP.

Section 13 amends s. 784.07, F.S., which establishes the penalties for assault or battery of law enforcement officers. The bill expands the section's definition of law enforcement officer to include law enforcement personnel of the DEP.

Section 14 amends s. 843.08, F.S., which establishes penalties for falsely impersonating or pretending to be a law enforcement officer. The bill expands the scope of the section to include officers of the DEP.

Section 15 amends s. 843.085, F.S., which prohibits the unlawful use of badges or indicia of authority. The bill prohibits wearing or displaying any item containing the words "Department of Environmental Protection Officer" with the intent to mislead or cause another person to believe that he or she is a member of the agency or is authorized to wear or display the item. The bill prohibits a person from owning or operating a vehicle marked or identified by the words "Department of Environmental Protection Officer." The bill prohibits a person from selling, transferring, or giving away an authorized badge bearing the words "Department of Environmental Protection Officer." Violation of any of these prohibitions is a misdemeanor of the first degree. The bill provides exceptions for fraternal, benevolent, or labor organizations using the words.

Section 16 amends s. 870.04, F.S., and authorizes an officer or agent of the DEP to go among people that are rioting or tumultuously assembled and command those people in the name of the state to immediately and peaceably disperse.

Section 17 amends s. 932.7055, F.S., which determines the disposition of liens and property when a seizing agent has obtained a judgement granting forfeiture. The bill provides that if the seizing agency is the DEP then proceeds accrued pursuant to the Florida Contraband Forfeiture Act must be deposited into one of five trust funds, as specified in the statute under which the violation occurs:

- The Internal Improvement Trust Fund;
- The Water Quality Assurance Trust Fund;
- The Inland Protection Trust Fund;
- The Coastal Protection Trust Fund; or
- The Solid Waste Management Trust Fund.

Section 18 reenacts s. 790.166(8)(a), F.S., relating to an exclusion from the definition of weapons of mass destruction for devices or instruments lawfully used by state law enforcement.

Section 19 states that, if any provision of the bill or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can

be given effect without the invalid provisions or applications. To this end, the provisions of the act are severable.

Section 20 states that the bill shall take effect on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The separation of powers doctrine prevents the Legislature from delegating its constitutional duties.²⁶ Legislative power involves the exercise of policy-related discretion over the content of law.²⁷ The Florida Supreme Court, in *Askew v. Cross Key Waterways*, provided a framework for measuring the constitutionality of legislative power delegations.²⁸ The court adopted a formal interpretation of the delegation of powers doctrine. Where the Legislature makes the fundamental policy decision and delegates to some other body the task of implementing that policy under adequate safeguards, there is no violation of the doctrine. However, when legislation is so lacking in guidelines that neither the agency nor the courts can determine whether the agency is carrying out the intent of the legislature in its conduct, then, in fact, the agency becomes the lawgiver rather than the administrator of the law.²⁹

Until such time as the FWC and the DEP create a new memorandum of agreement there are many outstanding questions regarding the size and role of the DEP's new Division of Law Enforcement.

²⁶ *Florida State Bd. Of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

²⁷ *State ex rel. Taylor v. City of Tallahassee*, 177 So. 719, 720-721 (Fla. 1937).

²⁸ 372 So.2d 913 (Fla. 1978).

²⁹ *Id.* at 918-19; *see also Conner v. Joe Hatton, Inc.*, 216 So.2d 209, 211 (Fla. 1968) (“[w]hen the statute is couched in vague and uncertain terms or is so broad in scope that no one can say with certainty, from the terms of the law itself, what would be deemed an infringement of the law, it must be held unconstitutional as attempting to grant to the administrative body the power to say what the law shall be.”).

While the bill itself does not answer these questions, both the Senate's and House of Representative's proposed budgets for Fiscal Year 2019-2020 anticipate a transfer of 19 full-time equivalent positions with an approved salary rate of \$1,076,218 and other associated financial transfers. Furthermore, the bill is drafted in many ways to reverse the transfer of the DEP's law enforcement functions by Ch. 2012-88, L.O.F. Those provisions were similar to the provisions set out in this bill, and that transfer was in part effectuated by a memorandum of agreement analogous to the one that the DEP and the FWC are directed to carryout in this bill. Therefore, there may be enough context to provide adequate legislative guidance for this to be a constitutional delegation.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a new division of law enforcement within the DEP and adds significant new duties and responsibilities to the DEP.

The FWC's bill analysis states that revenues collected in the Inland Protection Trust Fund currently provide for the functions described in the bill.³⁰ The FWC's analysis states that the costs for the functions described in the bill are covered by the FWC's base budget and that those expenditures would be made by the DEP.³¹

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³⁰ FWC, 2019 Agency Legislative Bill Analysis, *Senate Bill (SB) 1502*, 5 (2019) (on file with the Senate Committee on Environment and Natural Resources).

³¹ *Id.*

³² *Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787 and House Bill 5001, Eng., the House's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.255, 258.004, 258.008, 258.501, 282.709, 316.640, 376.3071, 403.413, 784.07, 843.08, 843.085, 870.04, and 932.7055.

This bill reenacts section 790.166 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.

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

1 A bill to be entitled
2 An act relating to the Department of Environmental
3 Protection; transferring primary powers and duties of
4 the Fish and Wildlife Conservation Commission relating
5 to certain environmental crimes and the enforcement of
6 related laws to the Division of Law Enforcement within
7 the Department of Environmental Protection; providing
8 requirements for a memorandum of agreement between the
9 department and the commission regarding their
10 respective responsibilities; reassigning personnel and
11 equipment from the Office of Emergency Response within
12 the department to the Division of Law Enforcement
13 within the department; providing for a transition
14 advisory working group; providing for the retention
15 and transfer of specified benefits for employees who
16 are transferred from the commission to the department;
17 amending s. 20.255, F.S.; establishing the Division of
18 Law Enforcement within the department; providing law
19 enforcement officers of the department who meet
20 certain requirements with specified authority;
21 amending s. 258.004, F.S.; requiring the Division of
22 Law Enforcement of the department and its officers and
23 the Division of Law Enforcement of the commission and
24 its officers to enforce laws relating to state parks;
25 amending s. 258.008, F.S.; providing for certain fines

26 | to be paid to the department and deposited in the
27 | State Park Trust Fund; amending s. 258.501, F.S.;
28 | conforming provisions to changes made by the act;
29 | amending s. 282.709, F.S.; appointing a representative
30 | of the Division of Law Enforcement of the department
31 | to the Joint Task Force on State Agency Law
32 | Enforcement Communications; amending s. 316.640, F.S.;
33 | vesting the enforcement of certain traffic laws in the
34 | Division of Law Enforcement of the department;
35 | amending s. 376.3071, F.S.; authorizing the use of
36 | moneys from the Inland Protection Trust Fund for the
37 | enforcement of certain laws by the department;
38 | amending ss. 403.413 and 784.07, F.S.; revising
39 | definitions; amending ss. 843.08 and 843.085, F.S.;
40 | providing penalties for false personation and unlawful
41 | use of badges and other symbols of an officer of the
42 | department, respectively; amending s. 870.04, F.S.;
43 | vesting the dispersement of riotous assembly in the
44 | officers of the department; amending s. 932.7055,
45 | F.S.; providing for proceeds accrued pursuant to the
46 | Florida Contraband Forfeiture Act to be deposited in
47 | specified trust funds of the department; reenacting s.
48 | 790.166(8)(a), F.S., relating to the prohibited
49 | manufacturing, possession, sale, delivery, display,
50 | use, or attempted or threatened use of a weapon of

51 mass destruction or hoax weapon of mass destruction,
52 to incorporate the amendment made to s. 784.07, F.S.,
53 in a reference thereto; providing an effective date.
54

55 Be It Enacted by the Legislature of the State of Florida:
56

57 Section 1. (1) The primary powers and duties of the Fish
58 and Wildlife Conservation Commission relating to the
59 investigation of certain environmental crimes and the
60 enforcement of related laws, as specified in the new memorandum
61 of agreement developed as required under subsection (2), are
62 transferred to the Division of Law Enforcement within the
63 Department of Environmental Protection. The commission retains
64 law enforcement authority over the patrol of state-owned lands
65 managed by the department and shall coordinate with the
66 department in that regard.

67 (2) A new memorandum of agreement must be developed
68 between the commission and the department detailing their
69 respective responsibilities regarding, at minimum, the
70 following:

71 (a) Support and response for oil spills, hazardous spills,
72 and natural disasters.

73 (b) Law enforcement patrol and investigative services for
74 all state-owned lands managed by the department.

75 (c) Law enforcement services, including investigative

76 services, for all criminal law violations of chapters 161, 258,
 77 373, 376, 377, 378, and 403, Florida Statutes.

78 (d) Enforcement services for civil violations of
 79 department administrative rules related to all of the following
 80 program areas:

- 81 1. The Division of Recreation and Parks.
- 82 2. The Office of Coastal and Aquatic Managed Areas.
- 83 3. The Office of Greenways and Trails.

84 (e) Current and future funding, training, or other support
 85 for positions and equipment being transferred from the
 86 commission to the department which are funded through any trust
 87 fund.

88 Section 2. All personnel and equipment assigned to the
 89 Office of Emergency Response within the Department of
 90 Environmental Protection are reassigned to the Division of Law
 91 Enforcement within the department.

92 Section 3. The Secretary of Environmental Protection and
 93 the Executive Director of the Fish and Wildlife Conservation
 94 Commission shall each appoint two staff members to a transition
 95 advisory working group to review the administrative rules
 96 adopted by the Department of Environmental Protection and the
 97 commission to identify any rules that must be amended to reflect
 98 the changes made by this act.

99 Section 4. Notwithstanding chapter 60L-34, Florida
 100 Administrative Code, or any law to the contrary, employees who

101 are transferred from the Fish and Wildlife Conservation
102 Commission to fill positions transferred to the Department of
103 Environmental Protection shall retain and transfer any accrued
104 annual leave, sick leave, and regular and special compensatory
105 leave balances. The employees shall retain their current
106 position status, including permanent status, upon transfer to
107 the department.

108 Section 5. Paragraph (i) is added to subsection (3) of
109 section 20.255, Florida Statutes, and subsection (10) is added
110 that section, to read:

111 20.255 Department of Environmental Protection.—There is
112 created a Department of Environmental Protection.

113 (3) The following divisions of the Department of
114 Environmental Protection are established:

115 (i) Division of Law Enforcement.

116

117 In order to ensure statewide and intradepartmental consistency,
118 the department's divisions shall direct the district offices and
119 bureaus on matters of interpretation and applicability of the
120 department's rules and programs.

121 (10) Law enforcement officers of the Department of
122 Environmental Protection who meet the requirements of s. 943.13
123 are constituted law enforcement officers of this state with full
124 power to investigate and arrest for any violation of the laws of
125 this state and the rules of the department and the Board of

126 Trustees of the Internal Improvement Trust Fund. The general
127 laws applicable to investigations, searches, and arrests by
128 peace officers of this state apply to such law enforcement
129 officers.

130 Section 6. Subsection (8) is added to section 258.004,
131 Florida Statutes, to read:

132 258.004 Duties of division.—

133 (8) This part shall be enforced by the Division of Law
134 Enforcement of the Department of Environmental Protection and
135 its officers and by the Division of Law Enforcement of the Fish
136 and Wildlife Conservation Commission and its officers.

137 Section 7. Subsection (1) of section 258.008, Florida
138 Statutes, is amended to read:

139 258.008 Prohibited activities; penalties.—

140 (1) Except as provided in subsection (3), any person who
141 violates or otherwise fails to comply with the rules adopted
142 under this chapter commits a noncriminal infraction for which
143 ejection from all property managed by the Division of Recreation
144 and Parks and a fine of up to \$500 may be imposed by the
145 division. Fines paid under this subsection shall be paid to the
146 Fish and Wildlife Conservation Commission and deposited in the
147 State Game Trust Fund as provided in ss. 379.338, 379.339, and
148 379.3395 or to the Department of Environmental Protection and
149 deposited in the State Park Trust Fund, as applicable.

150 Section 8. Subsection (16) of section 258.501, Florida

151 Statutes, is amended to read:

152 258.501 Myakka River; wild and scenic segment.—

153 (16) ENFORCEMENT.—Officers of the department and the Fish
 154 and Wildlife Conservation Commission shall have full authority
 155 to enforce any rule adopted by the department.

156 Section 9. Paragraph (a) of subsection (2) of section
 157 282.709, Florida Statutes, is amended to read:

158 282.709 State agency law enforcement radio system and
 159 interoperability network.—

160 (2) The Joint Task Force on State Agency Law Enforcement
 161 Communications is created adjunct to the department to advise
 162 the department of member-agency needs relating to the planning,
 163 designing, and establishment of the statewide communication
 164 system.

165 (a) The Joint Task Force on State Agency Law Enforcement
 166 Communications shall consist of the following members:

167 1. A representative of the Division of Alcoholic Beverages
 168 and Tobacco of the Department of Business and Professional
 169 Regulation who shall be appointed by the secretary of the
 170 department.

171 2. A representative of the Division of Florida Highway
 172 Patrol of the Department of Highway Safety and Motor Vehicles
 173 who shall be appointed by the executive director of the
 174 department.

175 3. A representative of the Department of Law Enforcement

176 | who shall be appointed by the executive director of the
 177 | department.

178 | 4. A representative of the Fish and Wildlife Conservation
 179 | Commission who shall be appointed by the executive director of
 180 | the commission.

181 | 5. A representative of the Division of Law Enforcement of
 182 | the Department of Environmental Protection who shall be
 183 | appointed by the secretary of the department.

184 | ~~6.5.~~ A representative of the Department of Corrections who
 185 | shall be appointed by the secretary of the department.

186 | ~~7.6.~~ A representative of the Department of Financial
 187 | Services who shall be appointed by the Chief Financial Officer.

188 | ~~8.7.~~ A representative of the Department of Agriculture and
 189 | Consumer Services who shall be appointed by the Commissioner of
 190 | Agriculture.

191 | ~~9.8.~~ A representative of the Florida Sheriffs Association
 192 | who shall be appointed by the president of the Florida Sheriffs
 193 | Association.

194 | Section 10. Paragraph (a) of subsection (1) of section
 195 | 316.640, Florida Statutes, is amended to read:

196 | 316.640 Enforcement.—The enforcement of the traffic laws
 197 | of this state is vested as follows:

198 | (1) STATE.—

199 | (a)1.a. The Division of Florida Highway Patrol of the
 200 | Department of Highway Safety and Motor Vehicles; the Division of

201 Law Enforcement of the Fish and Wildlife Conservation
202 Commission; the Division of Law Enforcement of the Department of
203 Environmental Protection; and the agents, inspectors, and
204 officers of the Department of Law Enforcement each have
205 authority to enforce all of the traffic laws of this state on
206 all the streets and highways thereof and elsewhere throughout
207 the state wherever the public has a right to travel by motor
208 vehicle.

209 b. University police officers may enforce all of the
210 traffic laws of this state when violations occur on or within
211 1,000 feet of any property or facilities that are under the
212 guidance, supervision, regulation, or control of a state
213 university, a direct-support organization of such state
214 university, or any other organization controlled by the state
215 university or a direct-support organization of the state
216 university, or when such violations occur within a specified
217 jurisdictional area as agreed upon in a mutual aid agreement
218 entered into with a law enforcement agency pursuant to s.
219 23.1225(1). Traffic laws may also be enforced off-campus when
220 hot pursuit originates on or within 1,000 feet of any such
221 property or facilities, or as agreed upon in accordance with the
222 mutual aid agreement.

223 c. Florida College System institution police officers may
224 enforce all the traffic laws of this state only when such
225 violations occur on or within 1,000 feet of any property or

226 facilities that are under the guidance, supervision, regulation,
227 or control of the Florida College System institution, or when
228 such violations occur within a specified jurisdictional area as
229 agreed upon in a mutual aid agreement entered into with a law
230 enforcement agency pursuant to s. 23.1225. Traffic laws may also
231 be enforced off-campus when hot pursuit originates on or within
232 1,000 feet of any such property or facilities, or as agreed upon
233 in accordance with the mutual aid agreement.

234 d. Police officers employed by an airport authority may
235 enforce all of the traffic laws of this state only when such
236 violations occur on any property or facilities that are owned or
237 operated by an airport authority.

238 (I) An airport authority may employ as a parking
239 enforcement specialist any individual who successfully completes
240 a training program established and approved by the Criminal
241 Justice Standards and Training Commission for parking
242 enforcement specialists but who does not otherwise meet the
243 uniform minimum standards established by the commission for law
244 enforcement officers or auxiliary or part-time officers under s.
245 943.12. This sub-sub-subparagraph may not be construed to permit
246 the carrying of firearms or other weapons, nor shall such
247 parking enforcement specialist have arrest authority.

248 (II) A parking enforcement specialist employed by an
249 airport authority may enforce all state, county, and municipal
250 laws and ordinances governing parking only when such violations

251 are on property or facilities owned or operated by the airport
252 authority employing the specialist, by appropriate state,
253 county, or municipal traffic citation.

254 e. The Office of Agricultural Law Enforcement of the
255 Department of Agriculture and Consumer Services may enforce
256 traffic laws of this state.

257 f. School safety officers may enforce all of the traffic
258 laws of this state when such violations occur on or about any
259 property or facilities that are under the guidance, supervision,
260 regulation, or control of the district school board.

261 2. Any disciplinary action taken or performance evaluation
262 conducted by an agency of the state as described in subparagraph
263 1. of a law enforcement officer's traffic enforcement activity
264 must be in accordance with written work-performance standards.
265 Such standards must be approved by the agency and any collective
266 bargaining unit representing such law enforcement officer. A
267 violation of this subparagraph is not subject to the penalties
268 provided in chapter 318.

269 3. The Division of the Florida Highway Patrol may employ
270 as a traffic accident investigation officer any individual who
271 successfully completes instruction in traffic accident
272 investigation and court presentation through the Selective
273 Traffic Enforcement Program as approved by the Criminal Justice
274 Standards and Training Commission and funded through the
275 National Highway Traffic Safety Administration or a similar

276 | program approved by the commission, but who does not necessarily
 277 | meet the uniform minimum standards established by the commission
 278 | for law enforcement officers or auxiliary law enforcement
 279 | officers under chapter 943. Any such traffic accident
 280 | investigation officer who makes an investigation at the scene of
 281 | a traffic accident may issue traffic citations, based upon
 282 | personal investigation, when he or she has reasonable and
 283 | probable grounds to believe that a person who was involved in
 284 | the accident committed an offense under this chapter, chapter
 285 | 319, chapter 320, or chapter 322 in connection with the
 286 | accident. This subparagraph does not permit the officer to carry
 287 | firearms or other weapons, and such an officer does not have
 288 | authority to make arrests.

289 | Section 11. Paragraph (p) of subsection (4) of section
 290 | 376.3071, Florida Statutes, is amended to read:

291 | 376.3071 Inland Protection Trust Fund; creation; purposes;
 292 | funding.—

293 | (4) USES.—Whenever, in its determination, incidents of
 294 | inland contamination related to the storage of petroleum or
 295 | petroleum products may pose a threat to the public health,
 296 | safety, or welfare, water resources, or the environment, the
 297 | department shall obligate moneys available in the fund to
 298 | provide for:

299 | (p) Enforcement of this section and ss. 376.30-376.317 by
 300 | the Fish and Wildlife Conservation Commission and the Department

301 of Environmental Protection. The department may ~~shall~~ disburse
302 moneys to the commission for such purpose.

303

304 The issuance of a site rehabilitation completion order pursuant
305 to subsection (5) or paragraph (12)(b) for contamination
306 eligible for programs funded by this section does not alter the
307 project's eligibility for state-funded remediation if the
308 department determines that site conditions are not protective of
309 human health under actual or proposed circumstances of exposure
310 under subsection (5). The Inland Protection Trust Fund may be
311 used only to fund the activities in ss. 376.30-376.317 except
312 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
313 each fiscal year must first be applied or allocated for the
314 payment of amounts payable by the department pursuant to
315 paragraph (n) under a service contract entered into by the
316 department pursuant to s. 376.3075 and appropriated in each year
317 by the Legislature before making or providing for other
318 disbursements from the fund. This subsection does not authorize
319 the use of the fund for cleanup of contamination caused
320 primarily by a discharge of solvents as defined in s.
321 206.9925(6), or polychlorinated biphenyls when their presence
322 causes them to be hazardous wastes, except solvent contamination
323 which is the result of chemical or physical breakdown of
324 petroleum products and is otherwise eligible. Facilities used
325 primarily for the storage of motor or diesel fuels as defined in

326 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
 327 to this section.

328 Section 12. Paragraph (e) of subsection (2) of section
 329 403.413, Florida Statutes, is amended to read:

330 403.413 Florida Litter Law.—

331 (2) DEFINITIONS.—As used in this section:

332 (e) "Law enforcement officer" means any officer of the
 333 Florida Highway Patrol, a county sheriff's department, a
 334 municipal law enforcement department, a law enforcement
 335 department of any other political subdivision, the Department of
 336 Environmental Protection, or the Fish and Wildlife Conservation
 337 Commission. In addition, and solely for the purposes of this
 338 section, "law enforcement officer" means any employee of a
 339 county or municipal park or recreation department designated by
 340 the department head as a litter enforcement officer.

341 Section 13. Paragraph (d) of subsection (1) of section
 342 784.07, Florida Statutes, is amended to read:

343 784.07 Assault or battery of law enforcement officers,
 344 firefighters, emergency medical care providers, public transit
 345 employees or agents, or other specified officers;
 346 reclassification of offenses; minimum sentences.—

347 (1) As used in this section, the term:

348 (d) "Law enforcement officer" includes a law enforcement
 349 officer, a correctional officer, a correctional probation
 350 officer, a part-time law enforcement officer, a part-time

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351 correctional officer, an auxiliary law enforcement officer, and
352 an auxiliary correctional officer, as those terms are
353 respectively defined in s. 943.10, and any county probation
354 officer; an employee or agent of the Department of Corrections
355 who supervises or provides services to inmates; an officer of
356 the Florida Commission on Offender Review; a federal law
357 enforcement officer as defined in s. 901.1505; and law
358 enforcement personnel of the Fish and Wildlife Conservation
359 Commission, the Department of Environmental Protection, or the
360 Department of Law Enforcement.

361 Section 14. Section 843.08, Florida Statutes, is amended
362 to read:

363 843.08 False personation.—A person who falsely assumes or
364 pretends to be a firefighter, sheriff, officer of the Florida
365 Highway Patrol, officer of the Fish and Wildlife Conservation
366 Commission, officer of the Department of Environmental
367 Protection, fire or arson investigator of the Department of
368 Financial Services, officer of the Department of Financial
369 Services, officer of the Department of Corrections, correctional
370 probation officer, deputy sheriff, state attorney or assistant
371 state attorney, statewide prosecutor or assistant statewide
372 prosecutor, state attorney investigator, coroner, police
373 officer, lottery special agent or lottery investigator, beverage
374 enforcement agent, or watchman, or any member of the Florida
375 Commission on Offender Review and any administrative aide or

376 supervisor employed by the commission, or any personnel or
377 representative of the Department of Law Enforcement, or a
378 federal law enforcement officer as defined in s. 901.1505, and
379 takes upon himself or herself to act as such, or to require any
380 other person to aid or assist him or her in a matter pertaining
381 to the duty of any such officer, commits a felony of the third
382 degree, punishable as provided in s. 775.082, s. 775.083, or s.
383 775.084. However, a person who falsely personates any such
384 officer during the course of the commission of a felony commits
385 a felony of the second degree, punishable as provided in s.
386 775.082, s. 775.083, or s. 775.084. If the commission of the
387 felony results in the death or personal injury of another human
388 being, the person commits a felony of the first degree,
389 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
390 The term "watchman" means a security officer licensed under
391 chapter 493.

392 Section 15. Section 843.085, Florida Statutes, is amended
393 to read:

394 843.085 Unlawful use of badges or other indicia of
395 authority.—

396 (1) It is unlawful for any person, unless appointed by the
397 Governor pursuant to chapter 354, authorized by the appropriate
398 agency, or displayed in a closed or mounted case as a collection
399 or exhibit, to wear or display any authorized indicia of
400 authority, including any badge, insignia, emblem, identification

401 card, or uniform, or any colorable imitation thereof, of any
402 federal, state, county, or municipal law enforcement agency, or
403 other criminal justice agency as defined in s. 943.045, with the
404 intent to mislead or cause another person to believe that he or
405 she is a member of that agency or is authorized to display or
406 wear such item, or to wear or display any item that displays in
407 any manner or combination the word or words "police,"
408 "patrolman," "agent," "sheriff," "deputy," "trooper," "highway
409 patrol," "commission officer," "Wildlife Officer," "Department
410 of Environmental Protection officer," "Marine Patrol Officer,"
411 "state attorney," "public defender," "marshal," "constable,"
412 "bailiff," or "fire department," with the intent to mislead or
413 cause another person to believe that he or she is a member of
414 that agency or is authorized to wear or display such item.

415 (2) It is unlawful for a person to own or operate a motor
416 vehicle marked or identified in any manner or combination by the
417 word or words "police," "patrolman," "sheriff," "deputy,"
418 "trooper," "highway patrol," "commission officer," "Wildlife
419 Officer," "Department of Environmental Protection officer,"
420 "Marine Patrol Officer," "marshal," "constable," "bailiff," or
421 "fire department," or by any lettering, marking, or insignia, or
422 colorable imitation thereof, including, but not limited to,
423 stars, badges, or shields, officially used to identify the
424 vehicle as a federal, state, county, or municipal law
425 enforcement vehicle or a vehicle used by a criminal justice

426 agency as defined in s. 943.045, or a vehicle used by a fire
427 department with the intent to mislead or cause another person to
428 believe that such vehicle is an official vehicle of that agency
429 and is authorized to be used by that agency, unless such vehicle
430 is owned or operated by the appropriate agency and its use is
431 authorized by such agency, or the local law enforcement agency
432 or fire department authorizes the use of such vehicle, or the
433 person is appointed by the Governor pursuant to chapter 354.

434 (3) It is unlawful for a person to sell, transfer, or give
435 away the authorized badge, or colorable imitation thereof,
436 including miniatures, of any criminal justice agency as defined
437 in s. 943.045, or bearing in any manner or combination the word
438 or words "police," "patrolman," "sheriff," "deputy," "trooper,"
439 "highway patrol," "commission officer," "Wildlife Officer,"
440 "Department of Environmental Protection officer," "Marine Patrol
441 Officer," "marshal," "constable," "agent," "state attorney,"
442 "public defender," "bailiff," or "fire department," with the
443 intent to mislead or cause another person to believe that he or
444 she is a member of that agency or is authorized to wear or
445 display such item, except for agency purchases or upon the
446 presentation and recordation of both a driver license and other
447 identification showing any transferee to actually be a member of
448 such criminal justice agency or unless the person is appointed
449 by the Governor pursuant to chapter 354. A transferor of an item
450 covered by this subsection is required to maintain for 2 years a

451 written record of such transaction, including records showing
 452 compliance with this subsection, and if such transferor is a
 453 business, it shall make such records available during normal
 454 business hours for inspection by any law enforcement agency
 455 having jurisdiction in the area where the business is located.

456 (4) This section does not prohibit a fraternal,
 457 benevolent, or labor organization or association, or their
 458 chapters or subsidiaries, from using the following words, in any
 459 manner or in any combination, if those words appear in the
 460 official name of the organization or association: "police,"
 461 "patrolman," "sheriff," "deputy," "trooper," "highway patrol,"
 462 "commission officer," "Wildlife Officer," "Department of
 463 Environmental Protection officer," "Marine Patrol Officer,"
 464 "marshal," "constable," "bailiff," or "fire department."

465 (5) A violation of ~~any provision of~~ this section is a
 466 misdemeanor of the first degree, punishable as provided in s.
 467 775.082 or s. 775.083. This section is cumulative to any law now
 468 in force in the state.

469 Section 16. Section 870.04, Florida Statutes, is amended
 470 to read:

471 870.04 Specified officers to disperse riotous assembly.—If
 472 any number of persons, whether armed or not, are unlawfully,
 473 riotously, or tumultuously assembled in any county, city, or
 474 municipality, the sheriff or the sheriff's deputies, or the
 475 mayor, or any commissioner, council member, alderman, or police

476 officer of the city or municipality, or any officer or member of
477 the Florida Highway Patrol, or any officer or agent of the Fish
478 and Wildlife Conservation Commission or the Department of
479 Environmental Protection, any beverage enforcement agent, any
480 personnel or representatives of the Department of Law
481 Enforcement or its successor, or any other peace officer, shall
482 go among the persons so assembled, or as near to them as may be
483 done with safety, and shall in the name of the state command all
484 the persons so assembled immediately and peaceably to disperse.
485 If such persons do not thereupon immediately and peaceably
486 disperse, such officers shall command the assistance of all such
487 persons in seizing, arresting, and securing such persons in
488 custody. If any person present being so commanded to aid and
489 assist in seizing and securing such rioter or persons so
490 unlawfully assembled, or in suppressing such riot or unlawful
491 assembly, refuses or neglects to obey such command, or, when
492 required by such officers to depart from the place, refuses and
493 neglects to do so, the person shall be deemed one of the rioters
494 or persons unlawfully assembled, and may be prosecuted and
495 punished accordingly.

496 Section 17. Present paragraphs (b) through (l) of
497 subsection (6) of section 932.7055, Florida Statutes, are
498 redesignated as paragraphs (c) through (m), respectively, and a
499 new paragraph (b) is added to that subsection to read:

500 932.7055 Disposition of liens and forfeited property.—

501 (6) If the seizing agency is a state agency, all remaining
 502 proceeds shall be deposited into the General Revenue Fund.
 503 However, if the seizing agency is:

504 (b) The Department of Environmental Protection, the
 505 proceeds accrued pursuant to the Florida Contraband Forfeiture
 506 Act shall be deposited in the Internal Improvement Trust Fund,
 507 the Water Quality Assurance Trust Fund, the Inland Protection
 508 Trust Fund, the Coastal Protection Trust Fund, or the Solid
 509 Waste Management Trust Fund, as specified by the statute under
 510 which the violation occurs.

511 Section 18. For the purpose of incorporating the amendment
 512 made by this act to section 784.07, Florida Statutes, in a
 513 reference thereto, paragraph (a) of subsection (8) of section
 514 790.166, Florida Statutes, is reenacted to read:

515 790.166 Manufacture, possession, sale, delivery, display,
 516 use, or attempted or threatened use of a weapon of mass
 517 destruction or hoax weapon of mass destruction prohibited;
 518 definitions; penalties.—

519 (8) For purposes of this section, the term "weapon of mass
 520 destruction" does not include:

521 (a) A device or instrument that emits or discharges smoke
 522 or an offensive, noxious, or irritant liquid, powder, gas, or
 523 chemical for the purpose of immobilizing, incapacitating, or
 524 thwarting an attack by a person or animal and that is lawfully
 525 possessed or used by a person for the purpose of self-protection

526 or, as provided in subsection (7), is lawfully possessed or used
527 by any member or employee of the Armed Forces of the United
528 States, a federal or state governmental agency, or a private
529 entity. A member or employee of a federal or state governmental
530 agency includes, but is not limited to, a law enforcement
531 officer, as defined in s. 784.07; a federal law enforcement
532 officer, as defined in s. 901.1505; and an emergency service
533 employee, as defined in s. 496.404.

534 Section 19. This act shall take effect July 1, 2019.

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: HB 5401

INTRODUCER: Agriculture and Natural Resources Appropriations Subcommittee and Representative Raschein

SUBJECT: Department of Environmental Protection

DATE: April 10, 2019 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Reagan</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

HB 5401 creates the Division of Law Enforcement within the Department of Environmental Protection (DEP), which will employ state law enforcement officers.

The bill requires the DEP and the Fish and Wildlife Conservation Commission (FWC) to develop a new memorandum of agreement detailing the respective responsibilities of the two agencies, with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of the DEP’s administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the FWC to the DEP that are funded through any trust fund.

As determined by the new memorandum of agreement, the bill transfers the primary powers and duties of the FWC with regard to investigating certain environmental crimes and enforcing related laws to the DEP. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned land managed by the DEP.

Senate Bill 2500, Eng., the Senate’s 2019-2020 General Appropriations Bill transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP. There may be additional, indeterminate negative costs associated with this transfer to the DEP.

The bill takes effect July 1, 2019.

II. Present Situation:

Environmental Law Enforcement Organizational Structure

The DEP is Florida's lead agency for environmental management and stewardship.¹ The DEP's activities are primarily divided into three areas: land and recreation, regulatory programs, and ecosystem restoration.² There are currently eight divisions established within the DEP.³ Currently, the DEP does not have any law enforcement officers. The DEP previously had a Division of Law Enforcement.⁴ This division was responsible for statewide environmental law enforcement, providing law enforcement services to Florida's state parks and trails, and providing assistance for disasters such as hurricanes or chemicals spills.⁵ This division oversaw four bureaus: Emergency Response, Criminal Investigations, Park Police, and the Office of Training and Professional Standards.⁶

The FWC is authorized to exercise regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life, and in these areas the FWC's staff is authorized to conduct management, research, and enforcement.⁷ The FWC currently has a Division of Law Enforcement with 1,051 members, including 853 sworn personnel, operating in six regions throughout the state.⁸ The FWC's Division of Law Enforcement has broad areas of responsibility including enforcing laws that protect Florida's wildlife and habitats, conducting environmental crime investigations, and protecting the public and environment from illegal environmental violations.⁹

In 2011, the Legislature created a Law Enforcement Consolidation Task Force.¹⁰ The task force was directed to evaluate any duplication of law enforcement functions throughout state government and identify any functions that are appropriate for possible consideration.¹¹ If the task force concluded that any consolidation of state law enforcement was appropriate then recommendations and a plan would be submitted.¹² In December of 2011, the task force recommended integrating the entire DEP Division of Law Enforcement into the Division of Law

¹ Section 20.255, F.S.; DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Mar. 22, 2019).

² *Id.*

³ Section 20.255, F.S.; see DEP, *Divisions*, <https://floridadep.gov/divisions> (last visited Mar. 22, 2019).

⁴ DEP, *DEP Law Enforcement Personnel Awarded for Outstanding Performance and Commitment to the Environment*, <https://content.govdelivery.com/accounts/FLDEP/bulletins/22db55> (last visited Mar. 22, 2019).

⁵ *Id.*

⁶ *Id.*

⁷ FLA. CONST. art. IV, s. 9.

⁸ Section 20.331, (4)(a)4., F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

⁹ Section 20.331, (7)(e), F.S.; FWC, *What We Do*, <https://myfwc.com/about/inside-fwc/le/what-we-do/> (last visited Mar. 22, 2019).

¹⁰ Ch. 2011-66, s. 31, Laws of Fla.

¹¹ *Id.*

¹² *Id.*

Enforcement within the FWC.¹³ The reasons for the recommendation included overlapping duties, cost efficiencies and reductions, and enhanced recovery and response times.¹⁴

In 2012, the Legislature transferred all powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the DEP's Division of Law Enforcement, excluding the Bureau of Emergency Response, to the FWC's Division of Law Enforcement through a type two transfer.¹⁵ The DEP was also required to transfer to the FWC a number of administrative, auditing, inspector general, attorney, and operational support positions proportional to the DEP's Division of Law Enforcement being transferred.¹⁶ The legislation required the DEP and the FWC to develop a memorandum of agreement detailing the responsibilities of the FWC to the DEP regarding law enforcement, emergency response, and funding.¹⁷

The DEP and the FWC have a memorandum of agreement identifying the responsibilities of the FWC with regard to the DEP. The FWC provides law enforcement services for the DEP. The DEP transfers funds to the FWC to compensate for these services.

In 2018, the following appropriations were made to the FWC's Marine Resources Conservation Trust Fund or State Game Trust Fund for law enforcement:

- \$11,310,256 from the Coastal Protection Trust Fund
- \$1,991,722 from the Inland Protection Trust Fund
- \$2,822,599 from the Solid Waste Management Trust Fund.¹⁸

In January of 2019, Governor DeSantis issued Executive Order 2019-12.¹⁹ The order directed the DEP to take all necessary actions to move the Environmental Crimes Enforcement Unit from the FWC to the DEP, to align resources focused on environmental protection and ensure strong enforcement of Florida's environmental laws.²⁰

III. Effect of Proposed Changes:

Section 1 transfers the primary powers and duties of the FWC with regard to the investigation of certain environmental crimes and the enforcement of related laws to the DEP, as specified in the memorandum of agreement developed under the bill. The bill states that the FWC will retain law enforcement authority over the patrol of state-owned lands managed by the DEP, and the FWC will coordinate with the DEP in that regard.

¹³ Law Enforcement Consolidation Task Force, *Task Force Report Pursuant to SB 2160 Enacted by the 2011 Legislature*, 5 (Dec. 21, 2011), available at <https://www.flhsmv.gov/lectaskforce/LECTFReport.pdf> (last visited Mar. 22, 2019).

¹⁴ *Id.*

¹⁵ Ch. 2012-88, Laws of Fla.; see s. 20.06(2), F.S.; see DEP, *Office of Emergency Response*, <https://floridadep.gov/oer> (last visited Mar. 22, 2019).

¹⁶ Ch. 2012-88, Laws of Fla.

¹⁷ *Id.*

¹⁸ Ch. 2018-9, Special Appropriation 1536, Laws of Fla.

¹⁹ Office of the Governor, *Executive Order Number 19-12* (2019), available at https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf (last visited Mar. 22, 2019).

²⁰ *Id.* at 5.

The bill requires the FWC and the DEP to develop a new memorandum of agreement detailing the respective responsibilities of the FWC and the DEP with regard to at least all of the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the DEP.
- Law enforcement services, including investigative services, for all criminal law violations of chapters 161, 258, 373, 376, 377, 378, and 403, F.S.
- Enforcement services for civil violations of the DEP's administrative rules related to all of the following program areas:
 - The Division of Recreation and Parks.
 - The Office of Coastal and Aquatic Managed Areas.
 - The Office of Greenways and Trails.
- Current and future funding, training, or other support for positions and equipment being transferred from the FWC to the DEP, which are funded through any trust fund.

Section 2 requires that all of the personnel and equipment assigned to the DEP's Office of Emergency Response be reassigned to the DEP's Division of Law Enforcement.

Section 3 requires the Secretary of the DEP and the Executive Director of the FWC to each appoint two staff members to a transition advisory working group to review the administrative rules promulgated by the DEP and the FWC to identify any rules that must be amended to reflect the changes made by the bill.

Section 4 requires that, notwithstanding ch. 60L-34 F.A.C., or any law to the contrary, employees transferred from the FWC to fill positions transferred to the DEP shall retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balance. The bill requires that the employees retain their current position status, including permanent status, upon transfer to the DEP.

Section 5 amends s. 20.255, F.S., which establishes the organizational structure of the DEP. The bill adds the Division of Law Enforcement to the list of the DEP's divisions. The bill states that law enforcement officers of the DEP, who meet the minimum qualification requirements for a law enforcement officer in s. 943.13, F.S., are constituted law enforcement officers of the state with full power to investigate and arrest for any violation of the laws of the state and the rules of the DEP and the Board of Trustees of the Internal Improvement Trust Fund. The general laws applicable to investigations, searches, and arrests by peace officers of the state apply to such law enforcement officers.

Section 6 amends s. 258.004, F.S., which establishes the duties of the DEP's Division of Recreation and Parks. The bill requires that ch. 258, F.S., State Parks and Preserves, be enforced by the DEP's Division of Law Enforcement and its officers, and by the FWC's Division of Law Enforcement and its officers.

Section 7 amends s. 258.008, F.S., which establishes the fines and penalties for violating rules adopted under ch. 258, F.S. The bill requires that fines paid for violations of rules adopted under

ch. 258, F.S., will go into either the FWC's State Game Trust Fund or the DEP's State Park Trust Fund, "as applicable".

Section 8 amends s. 258.501, F.S., by authorizing "officers" of the DEP to enforce certain DEP rules.

Section 9 amends s. 282.709, F.S., which authorizes a statewide radio communications system to serve state and local law enforcement units. The bill requires that the Secretary of the DEP appoint a representative of the DEP's Division of Law Enforcement to serve as a member of the Joint Task Force on State Agency Law Enforcement Communications, which advises on agency needs relating to the planning, designing, and establishment of the statewide communication system.

Section 10 amends s. 316.640, F.S., which vests authority for the enforcement of Florida's traffic laws. The bill authorizes the DEP's Division of Law Enforcement to enforce all of the traffic laws of the state on all of the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.

Section 11 amends s. 376.3071, F.S., which establishes the Inland Protection Trust Fund and programs for its use. The bill provides that when the DEP determines that incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the public health, safety, welfare, water resources, or the environment, the DEP is required to spend available money from the Inland Protection Trust Fund to provide for enforcement of related laws by the FWC and the DEP. The bill authorizes, but does not require, the DEP to disburse money to the FWC for this purpose.

Section 12 amends s. 403.413, F.S., which is Florida's litter law. The bill changes the section's definition of "law enforcement officer" to include any officer of the DEP.

Section 13 amends s. 784.07, F.S., which establishes the penalties for assault or battery of law enforcement officers. The bill expands the section's definition of law enforcement officer to include law enforcement personnel of the DEP.

Section 14 amends s. 843.08, F.S., which establishes penalties for falsely impersonating or pretending to be a law enforcement officer. The bill expands the scope of the section to include officers of the DEP.

Section 15 amends s. 843.085, F.S., which prohibits the unlawful use of badges or indicia of authority. The bill prohibits wearing or displaying any item containing the words "Department of Environmental Protection Officer" with the intent to mislead or cause another person to believe that he or she is a member of the agency or is authorized to wear or display the item. The bill prohibits a person from owning or operating a vehicle marked or identified by the words "Department of Environmental Protection Officer." The bill prohibits a person from selling, transferring, or giving away an authorized badge bearing the words "Department of Environmental Protection Officer." Violation of any of these prohibitions is a misdemeanor of the first degree. The bill provides exceptions for fraternal, benevolent, or labor organizations using the words.

Section 16 amends s. 870.04, F.S., and authorizes an officer or agent of the DEP to go among people that are rioting or tumultuously assembled and command those people in the name of the state to immediately and peaceably disperse.

Section 17 amends s. 932.7055, F.S., which determines the disposition of liens and property when a seizing agent has obtained a judgement granting forfeiture. The bill provides that if the seizing agency is the DEP then proceeds accrued pursuant to the Florida Contraband Forfeiture Act must be deposited into one of five trust funds, as specified in the statute under which the violation occurs:

- The Internal Improvement Trust Fund;
- The Water Quality Assurance Trust Fund;
- The Inland Protection Trust Fund;
- The Coastal Protection Trust Fund; or
- The Solid Waste Management Trust Fund.

Section 18 reenacts s. 790.166(8)(a), F.S., relating to an exclusion from the definition of weapons of mass destruction for devices or instruments lawfully used by state law enforcement.

Section 19 states that the bill shall take effect on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The separation of powers doctrine prevents the Legislature from delegating its constitutional duties.²¹ Legislative power involves the exercise of policy-related discretion over the content of law.²² The Florida Supreme Court, in *Askew v. Cross Key Waterways*, provided a framework for measuring the constitutionality of legislative

²¹ *Florida State Bd. Of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

²² *State ex rel. Taylor v. City of Tallahassee*, 177 So. 719, 720-721 (Fla. 1937).

power delegations.²³ The court adopted a formal interpretation of the delegation of powers doctrine. Where the Legislature makes the fundamental policy decision and delegates to some other body the task of implementing that policy under adequate safeguards, there is no violation of the doctrine. However, when legislation is so lacking in guidelines that neither the agency nor the courts can determine whether the agency is carrying out the intent of the legislature in its conduct, then, in fact, the agency becomes the lawgiver rather than the administrator of the law.²⁴

Until such time as the FWC and the DEP create a new memorandum of agreement there are many outstanding questions regarding the size and role of the DEP's new Division of Law Enforcement.

Although while the bill itself does not answer these questions, both the Senate's and House's proposed budgets for Fiscal Year 2019-2020 anticipate a transfer of 19 full-time equivalent positions with an approved salary rate of \$1,076,218 and other associated financial transfers. Furthermore, the bill is drafted in many ways to reverse the transfer of the DEP's law enforcement functions by Ch. 2012-88, L.O.F. Those provisions were similar to the provisions set out in this bill, and that transfer was in part effectuated by a memorandum of agreement analogous to the one that the DEP and the FWC are directed to carryout in this bill. Therefore, there may be enough context to provide adequate legislative guidance for this to be a constitutional delegation.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a new division of law enforcement within the DEP and adds significant new duties and responsibilities to the DEP.

The FWC's bill analysis states that revenues collected in the Inland Protection Trust Fund currently provide for the functions described in the bill.²⁵ The FWC's analysis states that

²³ 372 So.2d 913 (Fla. 1978).

²⁴ *Id.* at 918-19; *see also* *Conner v. Joe Hatton, Inc.*, 216 So.2d 209, 211 (Fla. 1968) (“[w]hen the statute is couched in vague and uncertain terms or is so broad in scope that no one can say with certainty, from the terms of the law itself, what would be deemed an infringement of the law, it must be held unconstitutional as attempting to grant to the administrative body the power to say what the law shall be.”).

²⁵ FWC, 2019 Agency Legislative Bill Analysis, *Senate Bill (SB) 1502*, 5 (2019) (on file with the Senate Committee on Environment and Natural Resources).

the costs for the functions described in the bill are covered by the FWC's base budget and that those expenditures would be made by the DEP.²⁶

Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, transfers 19 full time employees and \$1,991,722 in trust fund budget authority from the FWC to the DEP.²⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.255, 258.004, 258.008, 258.501, 282.709, 316.640, 376.3071, 403.413, 784.07, 843.08, 843.085, 870.04, and 932.7055.

This bill reenacts section 790.166 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.

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

²⁶ *Id.*

²⁷ *Senate Bill 2500, Eng., the Senate's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787 and House Bill 5001, Eng., the House's 2019-2020 General Appropriations Bill, Specific Appropriations 1782 through 1787.*

By the Committee on Environment and Natural Resources; and
Senator Albritton

592-03517-19

20191022c1

1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; transferring the Onsite Sewage
4 Program within the Department of Health to the
5 Department of Environmental Protection; requiring a
6 memorandum of agreement between the Department of
7 Health and the Department of Environmental Protection
8 by a specified date; amending ss. 153.54, 153.73,
9 163.3180, and 180.03, F.S.; conforming provisions to
10 changes made by the act; amending s. 373.036, F.S.;
11 requiring water management districts to submit
12 consolidated annual reports to the Office of Economic
13 and Demographic Research by a specified date;
14 requiring such reports to include septic-to-sewer
15 conversion and septic tank remediation projects;
16 amending ss. 373.807, 381.006, 381.0061, and 381.0064,
17 F.S.; conforming provisions and a cross-reference to
18 changes made by the act; amending s. 381.0065, F.S.;
19 conforming provisions to changes made by the act;
20 removing provisions requiring certain onsite sewage
21 treatment and disposal system research projects to be
22 approved by a Department of Health technical review
23 and advisory panel; removing provisions prohibiting
24 the award of research projects to certain entities;
25 removing provisions establishing a Department of
26 Health onsite sewage treatment and disposal system
27 research review and advisory committee; providing
28 requirements for the department's lot size
29 calculation; authorizing the department to allow the

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30 use of National Sanitation Foundation
31 International/American National Standards Institute
32 245 systems; amending s. 381.00651, F.S.; requiring
33 the county health departments to coordinate with the
34 department to administer onsite sewage treatment and
35 disposal system evaluation programs; conforming
36 provisions to changes made by the act; creating s.
37 381.00652, F.S.; requiring the Department of
38 Environmental Protection to appoint an onsite sewage
39 treatment and disposal systems technical advisory
40 committee; providing for committee purpose,
41 membership, and expiration; directing the department
42 to initiate rulemaking by a specified date and to
43 adopt specified rules; repealing s. 381.0068, F.S.,
44 relating to the Department of Health onsite sewage
45 treatment and disposal systems technical review and
46 advisory panel; amending s. 381.0101, F.S.; conforming
47 provisions to changes made by the act; amending s.
48 403.067, F.S.; directing the department to submit
49 certain water quality project cost estimates to the
50 Office of Economic and Demographic Research; amending
51 s. 489.551, F.S.; conforming provisions to changes
52 made by the act; providing effective dates.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. All powers, duties, functions, records, offices,
57 personnel, associated administrative support positions,
58 property, pending issues, existing contracts, administrative

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59 authority, administrative rules, and unexpended balances of
60 appropriations, allocations, and other funds for the regulation
61 of onsite sewage treatment and disposal systems relating to the
62 Onsite Sewage Program in the Department of Health are
63 transferred by a type two transfer, as defined in s. 20.06(2),
64 Florida Statutes, to the Department of Environmental Protection.

65 Section 2. The Department of Health and the Department of
66 Environmental Protection shall enter into a memorandum of
67 agreement regarding the type 2 transfer of the Onsite Sewage
68 Program before January 1, 2020. The agreement must address all
69 aspects of the transfer identified in section 1 of this act and
70 the respective administrative and regulatory roles of the county
71 health departments and the Department of Environmental
72 Protection after the July 1, 2020 type two transfer of
73 authority.

74 Section 3. Subsection (5) of section 153.54, Florida
75 Statutes, is amended to read:

76 153.54 Preliminary report by county commissioners with
77 respect to creation of proposed district.—Upon receipt of a
78 petition duly signed by not less than 25 qualified electors who
79 are also freeholders residing within an area proposed to be
80 incorporated into a water and sewer district pursuant to this
81 law and describing in general terms the proposed boundaries of
82 such proposed district, the board of county commissioners if it
83 shall deem it necessary and advisable to create and establish
84 such proposed district for the purpose of constructing,
85 establishing or acquiring a water system or a sewer system or
86 both in and for such district (herein called "improvements"),
87 shall first cause a preliminary report to be made which such

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88 report together with any other relevant or pertinent matters,
89 shall include at least the following:

90 (5) For the construction of a new proposed sewerage system
91 or the extension of an existing sewerage system that was not
92 previously approved, the report shall include a study that
93 includes the available information from the Department of
94 Environmental Protection ~~Health~~ on the history of onsite sewage
95 treatment and disposal systems currently in use in the area and
96 a comparison of the projected costs to the owner of a typical
97 lot or parcel of connecting to and using the proposed sewerage
98 system versus installing, operating, and properly maintaining an
99 onsite sewage treatment system that is approved by the
100 Department of Environmental Protection ~~Health~~ and that provides
101 for the comparable level of environmental and health protection
102 as the proposed central sewerage system; consideration of the
103 local authority's obligations or reasonably anticipated
104 obligations for water body cleanup and protection under state or
105 federal programs, including requirements for water bodies listed
106 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
107 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
108 the local authority.

109
110 Such report shall be filed in the office of the clerk of the
111 circuit court and shall be open for the inspection of any
112 taxpayer, property owner, qualified elector or any other
113 interested or affected person.

114 Section 4. Paragraph (c) of subsection (2) of section
115 153.73, Florida Statutes, is amended to read:

116 153.73 Assessable improvements; levy and payment of special

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117 assessments.—Any district may provide for the construction or
118 reconstruction of assessable improvements as defined in s.
119 153.52, and for the levying of special assessments upon
120 benefited property for the payment thereof, under the provisions
121 of this section.

122 (2) (c) For the construction of a new proposed sewerage
123 system or the extension of an existing sewerage system that was
124 not previously approved, the report shall include a study that
125 includes the available information from the Department of
126 Environmental Protection ~~Health~~ on the history of onsite sewage
127 treatment and disposal systems currently in use in the area and
128 a comparison of the projected costs to the owner of a typical
129 lot or parcel of connecting to and using the proposed sewerage
130 system versus installing, operating, and properly maintaining an
131 onsite sewage treatment system that is approved by the
132 Department of Environmental Protection ~~Health~~ and that provides
133 for the comparable level of environmental and health protection
134 as the proposed central sewerage system; consideration of the
135 local authority's obligations or reasonably anticipated
136 obligations for water body cleanup and protection under state or
137 federal programs, including requirements for water bodies listed
138 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
139 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
140 the local authority.

141 Section 5. Subsection (2) of section 163.3180, Florida
142 Statutes, is amended to read:

143 163.3180 Concurrency.—

144 (2) Consistent with public health and safety, sanitary
145 sewer, solid waste, drainage, adequate water supplies, and

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146 potable water facilities shall be in place and available to
147 serve new development no later than the issuance by the local
148 government of a certificate of occupancy or its functional
149 equivalent. Prior to approval of a building permit or its
150 functional equivalent, the local government shall consult with
151 the applicable water supplier to determine whether adequate
152 water supplies to serve the new development will be available no
153 later than the anticipated date of issuance by the local
154 government of a certificate of occupancy or its functional
155 equivalent. A local government may meet the concurrency
156 requirement for sanitary sewer through the use of onsite sewage
157 treatment and disposal systems approved by the Department of
158 Environmental Protection ~~Health~~ to serve new development.

159 Section 6. Subsection (3) of section 180.03, Florida
160 Statutes, is amended to read:

161 180.03 Resolution or ordinance proposing construction or
162 extension of utility; objections to same.-

163 (3) For the construction of a new proposed sewerage system
164 or the extension of an existing sewerage system that was not
165 previously approved, the report shall include a study that
166 includes the available information from the Department of
167 Environmental Protection ~~Health~~ on the history of onsite sewage
168 treatment and disposal systems currently in use in the area and
169 a comparison of the projected costs to the owner of a typical
170 lot or parcel of connecting to and using the proposed sewerage
171 system versus installing, operating, and properly maintaining an
172 onsite sewage treatment system that is approved by the
173 Department of Environmental Protection ~~Health~~ and that provides
174 for the comparable level of environmental and health protection

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175 as the proposed central sewerage system; consideration of the
176 local authority's obligations or reasonably anticipated
177 obligations for water body cleanup and protection under state or
178 federal programs, including requirements for water bodies listed
179 under s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
180 U.S.C. ss. 1251 et seq.; and other factors deemed relevant by
181 the local authority. The results of such a study shall be
182 included in the resolution or ordinance required under
183 subsection (1).

184 Section 7. Paragraphs (a) and (b) of subsection (7) of
185 section 373.036, Florida Statutes, are amended to read:

186 373.036 Florida water plan; district water management
187 plans.—

188 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

189 (a) By March 1, annually, each water management district
190 shall prepare and submit to the Office of Economic and
191 Demographic Research, the department, the Governor, the
192 President of the Senate, and the Speaker of the House of
193 Representatives a consolidated water management district annual
194 report on the management of water resources. In addition, copies
195 must be provided by the water management districts to the chairs
196 of all legislative committees having substantive or fiscal
197 jurisdiction over the districts and the governing board of each
198 county in the district having jurisdiction or deriving any funds
199 for operations of the district. Copies of the consolidated
200 annual report must be made available to the public, either in
201 printed or electronic format.

202 (b) The consolidated annual report must ~~shall~~ contain the
203 following elements, as appropriate to that water management

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204 district:

205 1. A district water management plan annual report or the
206 annual work plan report allowed in subparagraph (2)(e)4.

207 2. The department-approved minimum flows and minimum water
208 levels annual priority list and schedule required by s.
209 373.042(3).

210 3. The annual 5-year capital improvements plan required by
211 s. 373.536(6)(a)3.

212 4. The alternative water supplies annual report required by
213 s. 373.707(8)(n).

214 5. The final annual 5-year water resource development work
215 program required by s. 373.536(6)(a)4.

216 6. The Florida Forever Water Management District Work Plan
217 annual report required by s. 373.199(7).

218 7. The mitigation donation annual report required by s.
219 373.414(1)(b)2.

220 8. Information on all projects related to water quality or
221 water quantity as part of a 5-year work program, including:

222 a. A list of all specific projects identified to implement
223 a basin management action plan, including any septic-to-sewer
224 conversion and septic tank remediation projects, or a recovery
225 or prevention strategy;

226 b. A priority ranking for each listed project for which
227 state funding through the water resources development work
228 program is requested, which must be made available to the public
229 for comment at least 30 days before submission of the
230 consolidated annual report;

231 c. The estimated cost for each listed project;

232 d. The estimated completion date for each listed project;

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233 e. The source and amount of financial assistance to be made
234 available by the department, a water management district, or
235 other entity for each listed project; and

236 f. A quantitative estimate of each listed project's benefit
237 to the watershed, water body, or water segment in which it is
238 located.

239 9. A grade for each watershed, water body, or water segment
240 in which a project listed under subparagraph 8. is located
241 representing the level of impairment and violations of adopted
242 minimum flow or minimum water levels. The grading system must
243 reflect the severity of the impairment of the watershed, water
244 body, or water segment.

245 Section 8. Subsection (3) of section 373.807, Florida
246 Statutes, is amended to read:

247 373.807 Protection of water quality in Outstanding Florida
248 Springs.—By July 1, 2016, the department shall initiate
249 assessment, pursuant to s. 403.067(3), of Outstanding Florida
250 Springs or spring systems for which an impairment determination
251 has not been made under the numeric nutrient standards in effect
252 for spring vents. Assessments must be completed by July 1, 2018.

253 (3) As part of a basin management action plan that includes
254 an Outstanding Florida Spring, the department, ~~the Department of~~
255 ~~Health~~, relevant local governments, and relevant local public
256 and private wastewater utilities shall develop an onsite sewage
257 treatment and disposal system remediation plan for a spring if
258 the department determines onsite sewage treatment and disposal
259 systems within a priority focus area contribute at least 20
260 percent of nonpoint source nitrogen pollution or if the
261 department determines remediation is necessary to achieve the

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262 total maximum daily load. The plan shall identify cost-effective
263 and financially feasible projects necessary to reduce the
264 nutrient impacts from onsite sewage treatment and disposal
265 systems and shall be completed and adopted as part of the basin
266 management action plan no later than the first 5-year milestone
267 required by subparagraph (1)(b)8. The department is the lead
268 agency in coordinating the preparation of and the adoption of
269 the plan. The department shall:

270 (a) Collect and evaluate credible scientific information on
271 the effect of nutrients, particularly forms of nitrogen, on
272 springs and springs systems; and

273 (b) Develop a public education plan to provide area
274 residents with reliable, understandable information about onsite
275 sewage treatment and disposal systems and springs.

276

277 In addition to the requirements in s. 403.067, the plan must
278 ~~shall~~ include options for repair, upgrade, replacement,
279 drainfield modification, addition of effective nitrogen reducing
280 features, connection to a central sewerage system, or other
281 action for an onsite sewage treatment and disposal system or
282 group of systems within a priority focus area that contribute at
283 least 20 percent of nonpoint source nitrogen pollution or if the
284 department determines remediation is necessary to achieve a
285 total maximum daily load. For these systems, the department
286 shall include in the plan a priority ranking for each system or
287 group of systems that requires remediation and shall award funds
288 to implement the remediation projects contingent on an
289 appropriation in the General Appropriations Act, which may
290 include all or part of the costs necessary for repair, upgrade,

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291 replacement, drainfield modification, addition of effective
292 nitrogen reducing features, initial connection to a central
293 sewerage system, or other action. In awarding funds, the
294 department may consider expected nutrient reduction benefit per
295 unit cost, size and scope of project, relative local financial
296 contribution to the project, and the financial impact on
297 property owners and the community. The department may waive
298 matching funding requirements for proposed projects within an
299 area designated as a rural area of opportunity under s.
300 288.0656.

301 Section 9. Section 381.006, Florida Statutes, is amended to
302 read:

303 381.006 Environmental health.—The Department of Health
304 shall conduct an environmental health program as part of
305 fulfilling the state's public health mission. The purpose of
306 this program is to detect and prevent disease caused by natural
307 and manmade factors in the environment. The environmental health
308 program shall include, but not be limited to:

309 (1) A drinking water function.

310 (2) An environmental health surveillance function which
311 shall collect, compile, and correlate information on public
312 health and exposure to hazardous substances through sampling and
313 testing of water, air, or foods. Environmental health
314 surveillance shall include a comprehensive assessment of
315 drinking water under the department's supervision and an indoor
316 air quality testing and monitoring program to assess health
317 risks from exposure to chemical, physical, and biological agents
318 in the indoor environment.

319 (3) A toxicology and hazard assessment function which shall

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320 conduct toxicological and human health risk assessments of
321 exposure to toxic agents, for the purposes of:

322 (a) Supporting determinations by the State Health Officer
323 of safe levels of contaminants in water, air, or food if
324 applicable standards or criteria have not been adopted. These
325 determinations shall include issuance of health advisories to
326 protect the health and safety of the public at risk from
327 exposure to toxic agents.

328 (b) Provision of human toxicological health risk
329 assessments to the public and other governmental agencies to
330 characterize the risks to the public from exposure to
331 contaminants in air, water, or food.

332 (c) Consultation and technical assistance to the Department
333 of Environmental Protection and other governmental agencies on
334 actions necessary to ameliorate exposure to toxic agents,
335 including the emergency provision by the Department of
336 Environmental Protection of drinking water in cases of drinking
337 water contamination that present an imminent and substantial
338 threat to the public's health, as required by s.
339 376.30(3)(c)1.a.

340 (d) Monitoring and reporting the body burden of toxic
341 agents to estimate past exposure to these toxic agents, predict
342 future health effects, and decrease the incidence of poisoning
343 by identifying and eliminating exposure.

344 (4) A sanitary nuisance function, as that term is defined
345 in chapter 386.

346 (5) A migrant labor function.

347 (6) A public facilities function, including sanitary
348 practices relating to state, county, municipal, and private

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349 institutions serving the public; jointly with the Department of
350 Education, publicly and privately owned schools; all places used
351 for the incarceration of prisoners and inmates of state
352 institutions for the mentally ill; toilets and washrooms in all
353 public places and places of employment; any other condition,
354 place, or establishment necessary for the control of disease or
355 the protection and safety of public health.

356 ~~(7) An onsite sewage treatment and disposal function.~~

357 ~~(8) A biohazardous waste control function.~~

358 (8)~~(9)~~ A function to control diseases transmitted from
359 animals to humans, including the segregation, quarantine, and
360 destruction of domestic pets and wild animals having or
361 suspected of having such diseases.

362 (9)~~(10)~~ An environmental epidemiology function which shall
363 investigate food-borne disease, waterborne disease, and other
364 diseases of environmental causation, whether of chemical,
365 radiological, or microbiological origin. A \$10 surcharge for
366 this function shall be assessed upon all persons permitted under
367 chapter 500. This function shall include an educational program
368 for physicians and health professionals designed to promote
369 surveillance and reporting of environmental diseases, and to
370 further the dissemination of knowledge about the relationship
371 between toxic substances and human health which will be useful
372 in the formulation of public policy and will be a source of
373 information for the public.

374 (10)~~(11)~~ Mosquito and pest control functions as provided in
375 chapters 388 and 482.

376 (11)~~(12)~~ A radiation control function as provided in
377 chapter 404 and part IV of chapter 468.

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378 (12)~~(13)~~ A public swimming and bathing facilities function
379 as provided in chapter 514.

380 (13)~~(14)~~ A mobile home park, lodging park, recreational
381 vehicle park, and recreational camp function as provided in
382 chapter 513.

383 (14)~~(15)~~ A sanitary facilities function, which shall
384 include minimum standards for the maintenance and sanitation of
385 sanitary facilities; public access to sanitary facilities; and
386 fixture ratios for special or temporary events and for homeless
387 shelters.

388 (15)~~(16)~~ A group-care-facilities function. As used in this
389 subsection, the term "group care facility" means any public or
390 private school, assisted living facility, adult family-care
391 home, adult day care center, short-term residential treatment
392 center, residential treatment facility, home for special
393 services, transitional living facility, crisis stabilization
394 unit, hospice, prescribed pediatric extended care center,
395 intermediate care facility for persons with developmental
396 disabilities, or boarding school. The department may adopt rules
397 necessary to protect the health and safety of residents, staff,
398 and patrons of group care facilities. Rules related to public
399 and private schools shall be developed by the Department of
400 Education in consultation with the department. Rules adopted
401 under this subsection may include definitions of terms;
402 provisions relating to operation and maintenance of facilities,
403 buildings, grounds, equipment, furnishings, and occupant-space
404 requirements; lighting; heating, cooling, and ventilation; food
405 service; water supply and plumbing; sewage; sanitary facilities;
406 insect and rodent control; garbage; safety; personnel health,

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407 hygiene, and work practices; and other matters the department
408 finds are appropriate or necessary to protect the safety and
409 health of the residents, staff, students, faculty, or patrons.
410 The department may not adopt rules that conflict with rules
411 adopted by the licensing or certifying agency. The department
412 may enter and inspect at reasonable hours to determine
413 compliance with applicable statutes or rules. In addition to any
414 sanctions that the department may impose for violations of rules
415 adopted under this section, the department shall also report
416 such violations to any agency responsible for licensing or
417 certifying the group care facility. The licensing or certifying
418 agency may also impose any sanction based solely on the findings
419 of the department.

420 (16)~~(17)~~ A function for investigating elevated levels of
421 lead in blood. Each participating county health department may
422 expend funds for federally mandated certification or
423 recertification fees related to conducting investigations of
424 elevated levels of lead in blood.

425 (17)~~(18)~~ A food service inspection function for domestic
426 violence centers that are certified by the Department of
427 Children and Families and monitored by the Florida Coalition
428 Against Domestic Violence under part XII of chapter 39 and group
429 care homes as described in subsection (15) ~~(16)~~, which shall be
430 conducted annually and be limited to the requirements in
431 department rule applicable to community-based residential
432 facilities with five or fewer residents.

433
434 The department may adopt rules to carry out ~~the provisions of~~
435 this section.

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436 Section 10. Subsection (1) of section 381.0061, Florida
437 Statutes, is amended to read:

438 381.0061 Administrative fines.—

439 (1) In addition to any administrative action authorized by
440 chapter 120 or by other law, the department may impose a fine,
441 which shall not exceed \$500 for each violation, for a violation
442 of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s.
443 381.0072, or part III of chapter 489, for a violation of any
444 rule adopted under this chapter, or for a violation of any of
445 the provisions of chapter 386. Notice of intent to impose such
446 fine shall be given by the department to the alleged violator.
447 Each day that a violation continues may constitute a separate
448 violation.

449 Section 11. Subsection (1) of section 381.0064, Florida
450 Statutes, is amended to read:

451 381.0064 Continuing education courses for persons
452 installing or servicing septic tanks.—

453 (1) The Department of Environmental Protection ~~Health~~ shall
454 establish a program for continuing education which meets the
455 purposes of ss. 381.0101 and 489.554 regarding the public health
456 and environmental effects of onsite sewage treatment and
457 disposal systems and any other matters the department determines
458 desirable for the safe installation and use of onsite sewage
459 treatment and disposal systems. The department may charge a fee
460 to cover the cost of such program.

461 Section 12. Present paragraphs (d) through (q) of
462 subsection (2) of section 381.0065, Florida Statutes, are
463 redesignated as paragraphs (e) through (r), respectively, and a
464 new paragraph (d) is added to that subsection, subsections (3)

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465 and (4) are amended, and subsections (7) and (8) are added to
466 that section, to read:

467 381.0065 Onsite sewage treatment and disposal systems;
468 regulation.—

469 (2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the
470 term:

471 (d) "Department" means the Department of Environmental
472 Protection.

473 (3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL
474 PROTECTION ~~HEALTH~~.—The department shall:

475 (a) Adopt rules to administer ss. 381.0065–381.0067,
476 including definitions that are consistent with the definitions
477 in this section, decreases to setback requirements where no
478 health hazard exists, increases for the lot-flow allowance for
479 performance-based systems, requirements for separation from
480 water table elevation during the wettest season, requirements
481 for the design and construction of any component part of an
482 onsite sewage treatment and disposal system, application and
483 permit requirements for persons who maintain an onsite sewage
484 treatment and disposal system, requirements for maintenance and
485 service agreements for aerobic treatment units and performance-
486 based treatment systems, and recommended standards, including
487 disclosure requirements, for voluntary system inspections to be
488 performed by individuals who are authorized by law to perform
489 such inspections and who shall inform a person having ownership,
490 control, or use of an onsite sewage treatment and disposal
491 system of the inspection standards and of that person's
492 authority to request an inspection based on all or part of the
493 standards.

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494 (b) Perform application reviews and site evaluations, issue
495 permits, and conduct inspections and complaint investigations
496 associated with the construction, installation, maintenance,
497 modification, abandonment, operation, use, or repair of an
498 onsite sewage treatment and disposal system for a residence or
499 establishment with an estimated domestic sewage flow of 10,000
500 gallons or less per day, or an estimated commercial sewage flow
501 of 5,000 gallons or less per day, which is not currently
502 regulated under chapter 403.

503 (c) Develop a comprehensive program to ensure that onsite
504 sewage treatment and disposal systems regulated by the
505 department are sized, designed, constructed, installed,
506 repaired, modified, abandoned, used, operated, and maintained in
507 compliance with this section and rules adopted under this
508 section to prevent groundwater contamination and surface water
509 contamination and to preserve the public health. The department
510 is the final administrative interpretive authority regarding
511 rule interpretation. In the event of a conflict regarding rule
512 interpretation, the State Surgeon General, or his or her
513 designee, shall timely assign a staff person to resolve the
514 dispute.

515 (d) Grant variances in hardship cases under the conditions
516 prescribed in this section and rules adopted under this section.

517 (e) Permit the use of a limited number of innovative
518 systems for a specific period of time, when there is compelling
519 evidence that the system will function properly and reliably to
520 meet the requirements of this section and rules adopted under
521 this section.

522 (f) Issue annual operating permits under this section.

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523 (g) Establish and collect fees as established under s.
524 381.0066 for services provided with respect to onsite sewage
525 treatment and disposal systems.

526 (h) Conduct enforcement activities, including imposing
527 fines, issuing citations, suspensions, revocations, injunctions,
528 and emergency orders for violations of this section, part I of
529 chapter 386, or part III of chapter 489 or for a violation of
530 any rule adopted under this section, part I of chapter 386, or
531 part III of chapter 489.

532 (i) Provide or conduct education and training of department
533 personnel, service providers, and the public regarding onsite
534 sewage treatment and disposal systems.

535 (j) Supervise research on, demonstration of, and training
536 on the performance, environmental impact, and public health
537 impact of onsite sewage treatment and disposal systems within
538 this state. Research fees collected under s. 381.0066(2)(k) must
539 be used to develop and fund hands-on training centers designed
540 to provide practical information about onsite sewage treatment
541 and disposal systems to septic tank contractors, master septic
542 tank contractors, contractors, inspectors, engineers, and the
543 public and must also be used to fund research projects which
544 focus on improvements of onsite sewage treatment and disposal
545 systems, including use of performance-based standards and
546 reduction of environmental impact. Research projects shall be
547 ~~initially approved by the technical review and advisory panel~~
548 ~~and shall be~~ applicable to and reflect the soil conditions
549 specific to Florida. Such projects shall be awarded through
550 competitive negotiation, using the procedures provided in s.
551 287.055, to public or private entities that have experience in

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552 onsite sewage treatment and disposal systems in Florida and that
553 are principally located in Florida. ~~Research projects shall not~~
554 ~~be awarded to firms or entities that employ or are associated~~
555 ~~with persons who serve on either the technical review and~~
556 ~~advisory panel or the research review and advisory committee.~~

557 (k) Approve the installation of individual graywater
558 disposal systems in which blackwater is treated by a central
559 sewerage system.

560 (l) Regulate and permit the sanitation, handling,
561 treatment, storage, reuse, and disposal of byproducts from any
562 system regulated under this chapter and not regulated by the
563 Department of Environmental Protection.

564 (m) Permit and inspect portable or temporary toilet
565 services and holding tanks. The department shall review
566 applications, perform site evaluations, and issue permits for
567 the temporary use of holding tanks, privies, portable toilet
568 services, or any other toilet facility that is intended for use
569 on a permanent or nonpermanent basis, including facilities
570 placed on construction sites when workers are present. The
571 department may specify standards for the construction,
572 maintenance, use, and operation of any such facility for
573 temporary use.

574 (n) Regulate and permit maintenance entities for
575 performance-based treatment systems and aerobic treatment unit
576 systems. To ensure systems are maintained and operated according
577 to manufacturer's specifications and designs, the department
578 shall establish by rule minimum qualifying criteria for
579 maintenance entities. The criteria shall include: training,
580 access to approved spare parts and components, access to

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581 manufacturer's maintenance and operation manuals, and service
582 response time. The maintenance entity shall employ a contractor
583 licensed under s. 489.105(3)(m), or part III of chapter 489, or
584 a state-licensed wastewater plant operator, who is responsible
585 for maintenance and repair of all systems under contract.

586 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
587 construct, repair, modify, abandon, or operate an onsite sewage
588 treatment and disposal system without first obtaining a permit
589 approved by the department. The department may issue permits to
590 carry out this section, ~~but shall not make the issuance of such~~
591 ~~permits contingent upon prior approval by the department of~~
592 ~~Environmental Protection, except that~~ The issuance of a permit
593 for work seaward of the coastal construction control line
594 established under s. 161.053 is ~~shall be~~ contingent upon receipt
595 of any required coastal construction control line permit from
596 the department ~~of Environmental Protection~~. A construction
597 permit is valid for 18 months from the issuance date and may be
598 extended by the department for one 90-day period under rules
599 adopted by the department. A repair permit is valid for 90 days
600 from the date of issuance. An operating permit must be obtained
601 before ~~prior to~~ the use of any aerobic treatment unit or if the
602 establishment generates commercial waste. Buildings or
603 establishments that use an aerobic treatment unit or generate
604 commercial waste shall be inspected by the department at least
605 annually to assure compliance with the terms of the operating
606 permit. The operating permit for a commercial wastewater system
607 is valid for 1 year from the date of issuance and must be
608 renewed annually. The operating permit for an aerobic treatment
609 unit is valid for 2 years from the date of issuance and must be

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610 renewed every 2 years. If all information pertaining to the
611 siting, location, and installation conditions or repair of an
612 onsite sewage treatment and disposal system remains the same, a
613 construction or repair permit for the onsite sewage treatment
614 and disposal system may be transferred to another person, if the
615 transferee files, within 60 days after the transfer of
616 ownership, an amended application providing all corrected
617 information and proof of ownership of the property. A ~~There is~~
618 ~~no~~ fee is not associated with the processing of this
619 supplemental information. A person may not contract to
620 construct, modify, alter, repair, service, abandon, or maintain
621 any portion of an onsite sewage treatment and disposal system
622 without being registered under part III of chapter 489. A
623 property owner who personally performs construction,
624 maintenance, or repairs to a system serving his or her own
625 owner-occupied single-family residence is exempt from
626 registration requirements for performing such construction,
627 maintenance, or repairs on that residence, but is subject to all
628 permitting requirements. A municipality or political subdivision
629 of the state may not issue a building or plumbing permit for any
630 building that requires the use of an onsite sewage treatment and
631 disposal system unless the owner or builder has received a
632 construction permit for such system from the department. A
633 building or structure may not be occupied and a municipality,
634 political subdivision, or any state or federal agency may not
635 authorize occupancy until the department approves the final
636 installation of the onsite sewage treatment and disposal system.
637 A municipality or political subdivision of the state may not
638 approve any change in occupancy or tenancy of a building that

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639 uses an onsite sewage treatment and disposal system until the
640 department has reviewed the use of the system with the proposed
641 change, approved the change, and amended the operating permit.

642 (a) Subdivisions and lots in which each lot has a minimum
643 area of at least one-half acre and either a minimum dimension of
644 100 feet or a mean of at least 100 feet of the side bordering
645 the street and the distance formed by a line parallel to the
646 side bordering the street drawn between the two most distant
647 points of the remainder of the lot may be developed with a water
648 system regulated under s. 381.0062 and onsite sewage treatment
649 and disposal systems, provided the projected daily sewage flow
650 does not exceed an average of 1,500 gallons per acre per day,
651 and provided satisfactory drinking water can be obtained and all
652 distance and setback, soil condition, water table elevation, and
653 other related requirements of this section and rules adopted
654 under this section can be met.

655 (b) Subdivisions and lots using a public water system as
656 defined in s. 403.852 may use onsite sewage treatment and
657 disposal systems, provided there are no more than four lots per
658 acre, provided the projected daily sewage flow does not exceed
659 an average of 2,500 gallons per acre per day, and provided that
660 all distance and setback, soil condition, water table elevation,
661 and other related requirements that are generally applicable to
662 the use of onsite sewage treatment and disposal systems are met.

663 (c) Notwithstanding paragraphs (a) and (b), for
664 subdivisions platted of record on or before October 1, 1991,
665 when a developer or other appropriate entity has previously made
666 or makes provisions, including financial assurances or other
667 commitments, acceptable to the Department of Health, that a

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668 central water system will be installed by a regulated public
669 utility based on a density formula, private potable wells may be
670 used with onsite sewage treatment and disposal systems until the
671 agreed-upon densities are reached. In a subdivision regulated by
672 this paragraph, the average daily sewage flow may not exceed
673 2,500 gallons per acre per day. This section does not affect the
674 validity of existing prior agreements. After October 1, 1991,
675 the exception provided under this paragraph is not available to
676 a developer or other appropriate entity.

677 (d) Paragraphs (a) and (b) do not apply to any proposed
678 residential subdivision with more than 50 lots or to any
679 proposed commercial subdivision with more than 5 lots where a
680 publicly owned or investor-owned sewage treatment ~~sewerage~~
681 system is available. ~~It is the intent of~~ This paragraph does not
682 ~~to~~ allow development of additional proposed subdivisions in
683 order to evade the requirements of this paragraph.

684 (e) Onsite sewage treatment and disposal systems must not
685 be placed closer than:

- 686 1. Seventy-five feet from a private potable well.
- 687 2. Two hundred feet from a public potable well serving a
688 residential or nonresidential establishment having a total
689 sewage flow of greater than 2,000 gallons per day.
- 690 3. One hundred feet from a public potable well serving a
691 residential or nonresidential establishment having a total
692 sewage flow of less than or equal to 2,000 gallons per day.
- 693 4. Fifty feet from any nonpotable well.
- 694 5. Ten feet from any storm sewer pipe, to the maximum
695 extent possible, but in no instance shall the setback be less
696 than 5 feet.

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697 6. Seventy-five feet from the mean high-water line of a
698 tidally influenced surface water body.

699 7. Seventy-five feet from the mean annual flood line of a
700 permanent nontidal surface water body.

701 8. Fifteen feet from the design high-water line of
702 retention areas, detention areas, or swales designed to contain
703 standing or flowing water for less than 72 hours after a
704 rainfall or the design high-water level of normally dry drainage
705 ditches or normally dry individual lot stormwater retention
706 areas.

707 (f) Except as provided under paragraphs (e) and (s) ~~(t)~~, ~~no~~
708 limitations may not ~~shall~~ be imposed by rule, relating to the
709 distance between an onsite disposal system and any area that
710 ~~either~~ permanently or temporarily has visible surface water.

711 (g) ~~All provisions of~~ This section and rules adopted under
712 this section relating to soil condition, water table elevation,
713 distance, and other setback requirements must be equally applied
714 to all lots, with the following exceptions:

715 1. Any residential lot that was platted and recorded on or
716 after January 1, 1972, or that is part of a residential
717 subdivision that was approved by the appropriate permitting
718 agency on or after January 1, 1972, and that was eligible for an
719 onsite sewage treatment and disposal system construction permit
720 on the date of such platting and recording or approval shall be
721 eligible for an onsite sewage treatment and disposal system
722 construction permit, regardless of when the application for a
723 permit is made. If rules in effect at the time the permit
724 application is filed cannot be met, residential lots platted and
725 recorded or approved on or after January 1, 1972, shall, to the

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726 maximum extent possible, comply with the rules in effect at the
727 time the permit application is filed. At a minimum, however,
728 those residential lots platted and recorded or approved on or
729 after January 1, 1972, but before January 1, 1983, shall comply
730 with those rules in effect on January 1, 1983, and those
731 residential lots platted and recorded or approved on or after
732 January 1, 1983, shall comply with those rules in effect at the
733 time of such platting and recording or approval. In determining
734 the maximum extent of compliance with current rules that is
735 possible, the department shall allow structures and
736 appurtenances thereto which were authorized at the time such
737 lots were platted and recorded or approved.

738 2. Lots platted before 1972 are subject to a 50-foot
739 minimum surface water setback and are not subject to lot size
740 requirements. The projected daily flow for onsite sewage
741 treatment and disposal systems for lots platted before 1972 may
742 not exceed:

743 a. Two thousand five hundred gallons per acre per day for
744 lots served by public water systems as defined in s. 403.852.

745 b. One thousand five hundred gallons per acre per day for
746 lots served by water systems regulated under s. 381.0062.

747 (h)1. The department may grant variances in hardship cases
748 which may be less restrictive than ~~the provisions~~ specified in
749 this section. If a variance is granted and the onsite sewage
750 treatment and disposal system construction permit has been
751 issued, the variance may be transferred with the system
752 construction permit, if the transferee files, within 60 days
753 after the transfer of ownership, an amended construction permit
754 application providing all corrected information and proof of

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755 ownership of the property and if the same variance would have
756 been required for the new owner of the property as was
757 originally granted to the original applicant for the variance. A
758 ~~There is no fee~~ is not associated with the processing of this
759 supplemental information. A variance may not be granted under
760 this section until the department is satisfied that:

761 a. The hardship was not caused intentionally by the action
762 of the applicant;

763 b. A ~~No~~ reasonable alternative, taking into consideration
764 factors such as cost, does not exist ~~exists~~ for the treatment of
765 the sewage; and

766 c. The discharge from the onsite sewage treatment and
767 disposal system will not adversely affect the health of the
768 applicant or the public or significantly degrade the groundwater
769 or surface waters.

770

771 Where soil conditions, water table elevation, and setback
772 provisions are determined by the department to be satisfactory,
773 special consideration must be given to those lots platted before
774 1972.

775 2. The department shall appoint and staff a variance review
776 and advisory committee, which shall meet monthly to recommend
777 agency action on variance requests. The committee shall make its
778 recommendations on variance requests at the meeting in which the
779 application is scheduled for consideration, except for an
780 extraordinary change in circumstances, the receipt of new
781 information that raises new issues, or when the applicant
782 requests an extension. The committee shall consider the criteria
783 in subparagraph 1. in its recommended agency action on variance

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784 requests and shall also strive to allow property owners the full
785 use of their land where possible. The committee consists of the
786 following:

787 a. The Secretary of the department ~~State Surgeon General~~ or
788 his or her designee.

789 b. A representative from the county health departments.

790 c. A representative from the home building industry
791 recommended by the Florida Home Builders Association.

792 d. A representative from the septic tank industry
793 recommended by the Florida Onsite Wastewater Association.

794 e. A representative from the Department of Health
795 ~~Environmental Protection~~.

796 f. A representative from the real estate industry who is
797 also a developer in this state who develops lots using onsite
798 sewage treatment and disposal systems, recommended by the
799 Florida Association of Realtors.

800 g. A representative from the engineering profession
801 recommended by the Florida Engineering Society.

802

803 Members shall be appointed for a term of 3 years, with such
804 appointments being staggered so that the terms of no more than
805 two members expire in any one year. Members shall serve without
806 remuneration, but if requested, shall be reimbursed for per diem
807 and travel expenses as provided in s. 112.061.

808 (i) A construction permit may not be issued for an onsite
809 sewage treatment and disposal system in any area zoned or used
810 for industrial or manufacturing purposes, or its equivalent,
811 where a publicly owned or investor-owned sewage treatment system
812 is available, or where a likelihood exists that the system will

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813 receive toxic, hazardous, or industrial waste. An existing
814 onsite sewage treatment and disposal system may be repaired if a
815 publicly owned or investor-owned sewage treatment ~~sewerage~~
816 system is not available within 500 feet of the building sewer
817 stub-out and if system construction and operation standards can
818 be met. This paragraph does not require publicly owned or
819 investor-owned sewage ~~sewerage~~ treatment systems to accept
820 anything other than domestic wastewater.

821 1. A building located in an area zoned or used for
822 industrial or manufacturing purposes, or its equivalent, when
823 such building is served by an onsite sewage treatment and
824 disposal system, must not be occupied until the owner or tenant
825 has obtained written approval from the department. The
826 department may ~~shall~~ not grant approval when the proposed use of
827 the system is to dispose of toxic, hazardous, or industrial
828 wastewater or toxic or hazardous chemicals.

829 2. Each person who owns or operates a business or facility
830 in an area zoned or used for industrial or manufacturing
831 purposes, or its equivalent, or who owns or operates a business
832 that has the potential to generate toxic, hazardous, or
833 industrial wastewater or toxic or hazardous chemicals, and uses
834 an onsite sewage treatment and disposal system that is installed
835 on or after July 5, 1989, must obtain an annual system operating
836 permit from the department. A person who owns or operates a
837 business that uses an onsite sewage treatment and disposal
838 system that was installed and approved before July 5, 1989, does
839 not need to ~~not~~ obtain a system operating permit. However, upon
840 change of ownership or tenancy, the new owner or operator must
841 notify the department of the change, and the new owner or

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842 operator must obtain an annual system operating permit,
843 regardless of the date that the system was installed or
844 approved.

845 3. The department shall periodically review and evaluate
846 the continued use of onsite sewage treatment and disposal
847 systems in areas zoned or used for industrial or manufacturing
848 purposes, or its equivalent, and may require the collection and
849 analyses of samples from within and around such systems. If the
850 department finds that toxic or hazardous chemicals or toxic,
851 hazardous, or industrial wastewater have been or are being
852 disposed of through an onsite sewage treatment and disposal
853 system, the department shall initiate enforcement actions
854 against the owner or tenant to ensure adequate cleanup,
855 treatment, and disposal.

856 (j) An onsite sewage treatment and disposal system designed
857 by a professional engineer registered in the state and certified
858 by such engineer as complying with performance criteria adopted
859 by the department must be approved by the department subject to
860 the following:

861 1. The performance criteria applicable to engineer-designed
862 systems must be limited to those necessary to ensure that such
863 systems do not adversely affect the public health or
864 significantly degrade the groundwater or surface water. Such
865 performance criteria shall include consideration of the quality
866 of system effluent, the proposed total sewage flow per acre,
867 wastewater treatment capabilities of the natural or replaced
868 soil, water quality classification of the potential surface-
869 water-receiving body, and the structural and maintenance
870 viability of the system for the treatment of domestic

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871 wastewater. However, performance criteria shall address only the
872 performance of a system and not a system's design.

873 2. A person electing to use ~~utilize~~ an engineer-designed
874 system shall, upon completion of the system design, submit such
875 design, certified by a registered professional engineer, to the
876 county health department. The county health department may use
877 ~~utilize~~ an outside consultant to review the engineer-designed
878 system, with the actual cost of such review to be borne by the
879 applicant. Within 5 working days after receiving an engineer-
880 designed system permit application, the county health department
881 shall request additional information if the application is not
882 complete. Within 15 working days after receiving a complete
883 application for an engineer-designed system, the county health
884 department either shall issue the permit or, if it determines
885 that the system does not comply with the performance criteria,
886 shall notify the applicant of that determination and refer the
887 application to the department for a determination as to whether
888 the system should be approved, disapproved, or approved with
889 modification. The department engineer's determination shall
890 prevail over the action of the county health department. The
891 applicant shall be notified in writing of the department's
892 determination and of the applicant's rights to pursue a variance
893 or seek review under ~~the provisions of~~ chapter 120.

894 3. The owner of an engineer-designed performance-based
895 system must maintain a current maintenance service agreement
896 with a maintenance entity permitted by the department. The
897 maintenance entity shall inspect each system at least twice each
898 year and shall report quarterly to the department on the number
899 of systems inspected and serviced. The reports may be submitted

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900 electronically.

901 4. The property owner of an owner-occupied, single-family
902 residence may be approved and permitted by the department as a
903 maintenance entity for his or her own performance-based
904 treatment system upon written certification from the system
905 manufacturer's approved representative that the property owner
906 has received training on the proper installation and service of
907 the system. The maintenance service agreement must conspicuously
908 disclose that the property owner has the right to maintain his
909 or her own system and is exempt from contractor registration
910 requirements for performing construction, maintenance, or
911 repairs on the system but is subject to all permitting
912 requirements.

913 5. The property owner shall obtain a biennial system
914 operating permit from the department for each system. The
915 department shall inspect the system at least annually, or on
916 such periodic basis as the fee collected permits, and may
917 collect system-effluent samples if appropriate to determine
918 compliance with the performance criteria. The fee for the
919 biennial operating permit shall be collected beginning with the
920 second year of system operation.

921 6. If an engineer-designed system fails to properly
922 function or fails to meet performance standards, the system
923 shall be re-engineered, if necessary, to bring the system into
924 compliance with ~~the provisions of~~ this section.

925 (k) An innovative system may be approved in conjunction
926 with an engineer-designed site-specific system that ~~which~~ is
927 certified by the engineer to meet the performance-based criteria
928 adopted by the department.

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929 (1) For the Florida Keys, the department shall adopt a
930 special rule for the construction, installation, modification,
931 operation, repair, maintenance, and performance of onsite sewage
932 treatment and disposal systems which considers the unique soil
933 conditions and water table elevations, densities, and setback
934 requirements. On lots where a setback distance of 75 feet from
935 surface waters, saltmarsh, and buttonwood association habitat
936 areas cannot be met, an injection well, approved and permitted
937 by the department, may be used for disposal of effluent from
938 onsite sewage treatment and disposal systems. The following
939 additional requirements apply to onsite sewage treatment and
940 disposal systems in Monroe County:

941 1. The county, each municipality, and those special
942 districts established for the purpose of the collection,
943 transmission, treatment, or disposal of sewage shall ensure, in
944 accordance with the specific schedules adopted by the
945 Administration Commission under s. 380.0552, the completion of
946 onsite sewage treatment and disposal system upgrades to meet the
947 requirements of this paragraph.

948 2. Onsite sewage treatment and disposal systems must cease
949 discharge by December 31, 2015, or must comply with department
950 rules and provide the level of treatment which, on a permitted
951 annual average basis, produces an effluent that contains no more
952 than the following concentrations:

953 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

954 b. Suspended Solids of 10 mg/l.

955 c. Total Nitrogen, expressed as N, of 10 mg/l or a
956 reduction in nitrogen of at least 70 percent. A system that has
957 been tested and certified to reduce nitrogen concentrations by

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958 at least 70 percent shall be deemed to be in compliance with
959 this standard.

960 d. Total Phosphorus, expressed as P, of 1 mg/l.

961

962 In addition, onsite sewage treatment and disposal systems
963 discharging to an injection well must provide basic disinfection
964 as defined by department rule.

965 3. In areas not scheduled to be served by a central sewer,
966 onsite sewage treatment and disposal systems must, by December
967 31, 2015, comply with department rules and provide the level of
968 treatment described in subparagraph 2.

969 4. In areas scheduled to be served by a central sewerage
970 system ~~sewer~~ by December 31, 2015, if the property owner has
971 paid a connection fee or assessment for connection to the
972 central sewerage ~~sewer~~ system, the property owner may install a
973 holding tank with a high water alarm or an onsite sewage
974 treatment and disposal system that meets the following minimum
975 standards:

976 a. The existing tanks must be pumped and inspected and
977 certified as being watertight and free of defects in accordance
978 with department rule; and

979 b. A sand-lined drainfield or injection well in accordance
980 with department rule must be installed.

981 5. Onsite sewage treatment and disposal systems must be
982 monitored for total nitrogen and total phosphorus concentrations
983 as required by department rule.

984 6. The department shall enforce proper installation,
985 operation, and maintenance of onsite sewage treatment and
986 disposal systems pursuant to this chapter, including ensuring

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987 that the appropriate level of treatment described in
988 subparagraph 2. is met.

989 7. The authority of a local government, including a special
990 district, to mandate connection of an onsite sewage treatment
991 and disposal system is governed by s. 4, chapter 99-395, Laws of
992 Florida.

993 8. Notwithstanding any other ~~provision of~~ law, an onsite
994 sewage treatment and disposal system installed after July 1,
995 2010, in unincorporated Monroe County, excluding special
996 wastewater districts, that complies with the standards in
997 subparagraph 2. is not required to connect to a central sewer
998 system until December 31, 2020.

999 (m) Any ~~No~~ product sold in the state for use in onsite
1000 sewage treatment and disposal systems may not contain any
1001 substance in concentrations or amounts that would interfere with
1002 or prevent the successful operation of such system, or that
1003 would cause discharges from such systems to violate applicable
1004 water quality standards. The department shall publish criteria
1005 for products known or expected to meet the conditions of this
1006 paragraph. If ~~In the event~~ a product does not meet such
1007 criteria, such product may be sold if the manufacturer
1008 satisfactorily demonstrates to the department that the
1009 conditions of this paragraph are met.

1010 (n) Evaluations for determining the seasonal high-water
1011 table elevations or the suitability of soils for the use of a
1012 new onsite sewage treatment and disposal system shall be
1013 performed by department personnel, professional engineers
1014 registered in the state, or such other persons with expertise,
1015 as defined by rule, in making such evaluations. Evaluations for

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1016 determining mean annual flood lines shall be performed by those
1017 persons identified in paragraph (2) (k) ~~(2) (j)~~. The department
1018 shall accept evaluations submitted by professional engineers and
1019 such other persons as meet the expertise established by this
1020 section or by rule unless the department has a reasonable
1021 scientific basis for questioning the accuracy or completeness of
1022 the evaluation.

1023 ~~(o) The department shall appoint a research review and~~
1024 ~~advisory committee, which shall meet at least semiannually. The~~
1025 ~~committee shall advise the department on directions for new~~
1026 ~~research, review and rank proposals for research contracts, and~~
1027 ~~review draft research reports and make comments. The committee~~
1028 ~~is comprised of:~~

1029 1. ~~A representative of the State Surgeon General, or his or~~
1030 ~~her designee.~~

1031 2. ~~A representative from the septic tank industry.~~

1032 3. ~~A representative from the home building industry.~~

1033 4. ~~A representative from an environmental interest group.~~

1034 5. ~~A representative from the State University System, from~~
1035 ~~a department knowledgeable about onsite sewage treatment and~~
1036 ~~disposal systems.~~

1037 6. ~~A professional engineer registered in this state who has~~
1038 ~~work experience in onsite sewage treatment and disposal systems.~~

1039 7. ~~A representative from local government who is~~
1040 ~~knowledgeable about domestic wastewater treatment.~~

1041 8. ~~A representative from the real estate profession.~~

1042 9. ~~A representative from the restaurant industry.~~

1043 10. ~~A consumer.~~

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1045 ~~Members shall be appointed for a term of 3 years, with the~~
1046 ~~appointments being staggered so that the terms of no more than~~
1047 ~~four members expire in any one year. Members shall serve without~~
1048 ~~remuneration, but are entitled to reimbursement for per diem and~~
1049 ~~travel expenses as provided in s. 112.061.~~

1050 ~~(o)~~ (p) An application for an onsite sewage treatment and
1051 disposal system permit shall be completed in full, signed by the
1052 owner or the owner's authorized representative, or by a
1053 contractor licensed under chapter 489, and shall be accompanied
1054 by all required exhibits and fees. ~~No~~ Specific documentation of
1055 property ownership is not ~~shall be~~ required as a prerequisite to
1056 the review of an application or the issuance of a permit. The
1057 issuance of a permit does not constitute determination by the
1058 department of property ownership.

1059 ~~(p)~~ (q) The department may not require any form of
1060 subdivision analysis of property by an owner, developer, or
1061 subdivider before ~~prior to~~ submission of an application for an
1062 onsite sewage treatment and disposal system.

1063 ~~(q)~~ (r) ~~Nothing in This section does not limit~~ limits the
1064 power of a municipality or county to enforce other laws for the
1065 protection of the public health and safety.

1066 ~~(r)~~ (s) In the siting of onsite sewage treatment and
1067 disposal systems, including drainfields, shoulders, and slopes,
1068 guttering may ~~shall~~ not be required on single-family residential
1069 dwelling units for systems located greater than 5 feet from the
1070 roof drip line of the house. If guttering is used on residential
1071 dwelling units, the downspouts shall be directed away from the
1072 drainfield.

1073 ~~(s)~~ (t) Notwithstanding ~~the provisions of~~ subparagraph

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1074 (g)1., onsite sewage treatment and disposal systems located in
1075 floodways of the Suwannee and Aucilla Rivers must adhere to the
1076 following requirements:

1077 1. The absorption surface of the drainfield may ~~shall~~ not
1078 be subject to flooding based on 10-year flood elevations.
1079 Provided, however, for lots or parcels created by the
1080 subdivision of land in accordance with applicable local
1081 government regulations before ~~prior to~~ January 17, 1990, if an
1082 applicant cannot construct a drainfield system with the
1083 absorption surface of the drainfield at an elevation equal to or
1084 above 10-year flood elevation, the department shall issue a
1085 permit for an onsite sewage treatment and disposal system within
1086 the 10-year floodplain of rivers, streams, and other bodies of
1087 flowing water if all of the following criteria are met:

1088 a. The lot is at least one-half acre in size;

1089 b. The bottom of the drainfield is at least 36 inches above
1090 the 2-year flood elevation; and

1091 c. The applicant installs either: a waterless,
1092 incinerating, or organic waste composting toilet and a graywater
1093 system and drainfield in accordance with department rules; an
1094 aerobic treatment unit and drainfield in accordance with
1095 department rules; a system ~~approved by the State Health Office~~
1096 that is capable of reducing effluent nitrate by at least 50
1097 percent in accordance with department rules; or a system other
1098 than a system using alternative drainfield materials in
1099 accordance with department rules ~~approved by the county health~~
1100 ~~department pursuant to department rule other than a system using~~
1101 ~~alternative drainfield materials~~. The United States Department
1102 of Agriculture Soil Conservation Service soil maps, State of

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1103 Florida Water Management District data, and Federal Emergency
1104 Management Agency Flood Insurance maps are resources that shall
1105 be used to identify flood-prone areas.

1106 2. The use of fill or mounding to elevate a drainfield
1107 system out of the 10-year floodplain of rivers, streams, or
1108 other bodies of flowing water may ~~shall~~ not be permitted if such
1109 a system lies within a regulatory floodway of the Suwannee and
1110 Aucilla Rivers. In cases where the 10-year flood elevation does
1111 not coincide with the boundaries of the regulatory floodway, the
1112 regulatory floodway will be considered for the purposes of this
1113 subsection to extend at a minimum to the 10-year flood
1114 elevation.

1115 (t)1. ~~(u)1.~~ The owner of an aerobic treatment unit system
1116 shall maintain a current maintenance service agreement with an
1117 aerobic treatment unit maintenance entity permitted by the
1118 department. The maintenance entity shall inspect each aerobic
1119 treatment unit system at least twice each year and shall report
1120 quarterly to the department on the number of aerobic treatment
1121 unit systems inspected and serviced. The reports may be
1122 submitted electronically.

1123 2. The property owner of an owner-occupied, single-family
1124 residence may be approved and permitted by the department as a
1125 maintenance entity for his or her own aerobic treatment unit
1126 system upon written certification from the system manufacturer's
1127 approved representative that the property owner has received
1128 training on the proper installation and service of the system.
1129 The maintenance entity service agreement must conspicuously
1130 disclose that the property owner has the right to maintain his
1131 or her own system and is exempt from contractor registration

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1132 requirements for performing construction, maintenance, or
1133 repairs on the system but is subject to all permitting
1134 requirements.

1135 3. A septic tank contractor licensed under part III of
1136 chapter 489, if approved by the manufacturer, may not be denied
1137 access by the manufacturer to aerobic treatment unit system
1138 training or spare parts for maintenance entities. After the
1139 original warranty period, component parts for an aerobic
1140 treatment unit system may be replaced with parts that meet
1141 manufacturer's specifications but are manufactured by others.
1142 The maintenance entity shall maintain documentation of the
1143 substitute part's equivalency for 2 years and shall provide such
1144 documentation to the department upon request.

1145 4. The owner of an aerobic treatment unit system shall
1146 obtain a system operating permit from the department and allow
1147 the department to inspect during reasonable hours each aerobic
1148 treatment unit system at least annually, and such inspection may
1149 include collection and analysis of system-effluent samples for
1150 performance criteria established by rule of the department.

1151 (u)~~(v)~~ The department may require the submission of
1152 detailed system construction plans that are prepared by a
1153 professional engineer registered in this state. The department
1154 shall establish by rule criteria for determining when such a
1155 submission is required.

1156 (v)~~(w)~~ Any permit issued and approved by the department for
1157 the installation, modification, or repair of an onsite sewage
1158 treatment and disposal system shall transfer with the title to
1159 the property in a real estate transaction. A title may not be
1160 encumbered at the time of transfer by new permit requirements by

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1161 a governmental entity for an onsite sewage treatment and
1162 disposal system which differ from the permitting requirements in
1163 effect at the time the system was permitted, modified, or
1164 repaired. An inspection of a system may not be mandated by a
1165 governmental entity at the point of sale in a real estate
1166 transaction. This paragraph does not affect a septic tank phase-
1167 out deferral program implemented by a consolidated government as
1168 defined in s. 9, Art. VIII of the State Constitution (1885).

1169 (w)~~(*)~~ A governmental entity, including a municipality,
1170 county, or statutorily created commission, may not require an
1171 engineer-designed performance-based treatment system, excluding
1172 a passive engineer-designed performance-based treatment system,
1173 before the completion of the Florida Onsite Sewage Nitrogen
1174 Reduction Strategies Project. This paragraph does not apply to a
1175 governmental entity, including a municipality, county, or
1176 statutorily created commission, which adopted a local law,
1177 ordinance, or regulation on or before January 31, 2012.
1178 Notwithstanding this paragraph, an engineer-designed
1179 performance-based treatment system may be used to meet the
1180 requirements of the variance review and advisory committee
1181 recommendations.

1182 (x)1.~~(y)~~1. An onsite sewage treatment and disposal system
1183 is not considered abandoned if the system is disconnected from a
1184 structure that was made unusable or destroyed following a
1185 disaster and if the system was properly functioning at the time
1186 of disconnection and was not adversely affected by the disaster.
1187 The onsite sewage treatment and disposal system may be
1188 reconnected to a rebuilt structure if:

1189 a. The reconnection of the system is to the same type of

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1190 structure which contains the same number of bedrooms or fewer,
1191 if the square footage of the structure is less than or equal to
1192 110 percent of the original square footage of the structure that
1193 existed before the disaster;

1194 b. The system is not a sanitary nuisance; and

1195 c. The system has not been altered without prior
1196 authorization.

1197 2. An onsite sewage treatment and disposal system that
1198 serves a property that is foreclosed upon is not considered
1199 abandoned.

1200 (y)~~(z)~~ If an onsite sewage treatment and disposal system
1201 permittee receives, relies upon, and undertakes construction of
1202 a system based upon a validly issued construction permit under
1203 rules applicable at the time of construction but a change to a
1204 rule occurs within 5 years after the approval of the system for
1205 construction but before the final approval of the system, the
1206 rules applicable and in effect at the time of construction
1207 approval apply at the time of final approval if fundamental site
1208 conditions have not changed between the time of construction
1209 approval and final approval.

1210 (z)~~(aa)~~ An existing-system inspection or evaluation and
1211 assessment, or a modification, replacement, or upgrade of an
1212 onsite sewage treatment and disposal system is not required for
1213 a remodeling addition or modification to a single-family home if
1214 a bedroom is not added. However, a remodeling addition or
1215 modification to a single-family home may not cover any part of
1216 the existing system or encroach upon a required setback or the
1217 unobstructed area. To determine if a setback or the unobstructed
1218 area is impacted, the local health department shall review and

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1219 verify a floor plan and site plan of the proposed remodeling
1220 addition or modification to the home submitted by a remodeler
1221 which shows the location of the system, including the distance
1222 of the remodeling addition or modification to the home from the
1223 onsite sewage treatment and disposal system. The local health
1224 department may visit the site or otherwise determine the best
1225 means of verifying the information submitted. A verification of
1226 the location of a system is not an inspection or evaluation and
1227 assessment of the system. The review and verification must be
1228 completed within 7 business days after receipt by the local
1229 health department of a floor plan and site plan. If the review
1230 and verification is not completed within such time, the
1231 remodeling addition or modification to the single-family home,
1232 for the purposes of this paragraph, is approved.

1233 (7) LOT SIZE CALCULATION.—When applying the prohibition
1234 imposed by s. 373.811(2), the department shall:

1235 (a) Include portions of the lot subject to an easement or
1236 right of entry when determining the size of a lot.

1237 (b) Determine that a hardship exists in accordance with s.
1238 403.201(1)(c) when an applicant for a variance demonstrates that
1239 the lot subject to the request is no smaller than 0.85 acres and
1240 that lots in the immediate proximity average one acre in size or
1241 larger.

1242 (8) In addition to allowing the use of other department
1243 approved nutrient removing onsite sewage treatment and disposal
1244 systems to meet the requirements of a total maximum daily load
1245 or basin management action plan adopted pursuant to 403.067, a
1246 reasonable assurance plan, or other water quality protection and
1247 restoration requirements, the department shall also allow the

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1248 use of National Sanitation Foundation International/American
1249 National Standards Institute 245 systems approved by the Public
1250 Health and Safety Organization before July 1, 2019.

1251 Section 13. Paragraph (d) of subsection (7) and subsections
1252 (8) and (9) of section 381.00651, Florida Statutes, are amended
1253 to read:

1254 381.00651 Periodic evaluation and assessment of onsite
1255 sewage treatment and disposal systems.—

1256 (7) The following procedures shall be used for conducting
1257 evaluations:

1258 (d) *Assessment procedure.*—All evaluation procedures used by
1259 a qualified contractor shall be documented in the environmental
1260 health database of the department ~~of Health~~. The qualified
1261 contractor shall provide a copy of a written, signed evaluation
1262 report to the property owner upon completion of the evaluation
1263 and to the county health department within 30 days after the
1264 evaluation. The report shall contain the name and license number
1265 of the company providing the report. A copy of the evaluation
1266 report shall be retained by the local county health department
1267 for a minimum of 5 years and until a subsequent inspection
1268 report is filed. The front cover of the report must identify any
1269 system failure and include a clear and conspicuous notice to the
1270 owner that the owner has a right to have any remediation of the
1271 failure performed by a qualified contractor other than the
1272 contractor performing the evaluation. The report must further
1273 identify any crack, leak, improper fit, or other defect in the
1274 tank, manhole, or lid, and any other damaged or missing
1275 component; any sewage or effluent visible on the ground or
1276 discharging to a ditch or other surface water body; any

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1277 downspout, stormwater, or other source of water directed onto or
1278 toward the system; and any other maintenance need or condition
1279 of the system at the time of the evaluation which, in the
1280 opinion of the qualified contractor, would possibly interfere
1281 with or restrict any future repair or modification to the
1282 existing system. The report shall conclude with an overall
1283 assessment of the fundamental operational condition of the
1284 system.

1285 (8) The county health department, in coordination with the
1286 department, shall administer any evaluation program on behalf of
1287 a county, or a municipality within the county, that has adopted
1288 an evaluation program pursuant to this section. In order to
1289 administer the evaluation program, the county or municipality,
1290 in consultation with the county health department, may develop a
1291 reasonable fee schedule to be used solely to pay for the costs
1292 of administering the evaluation program. Such a fee schedule
1293 shall be identified in the ordinance that adopts the evaluation
1294 program. When arriving at a reasonable fee schedule, the
1295 estimated annual revenues to be derived from fees may not exceed
1296 reasonable estimated annual costs of the program. Fees shall be
1297 assessed to the system owner during an inspection and separately
1298 identified on the invoice of the qualified contractor. Fees
1299 shall be remitted by the qualified contractor to the county
1300 health department. The county health department's administrative
1301 responsibilities include the following:

1302 (a) Providing a notice to the system owner at least 60 days
1303 before the system is due for an evaluation. The notice may
1304 include information on the proper maintenance of onsite sewage
1305 treatment and disposal systems.

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1306 (b) In consultation with the department ~~of Health~~,
1307 providing uniform disciplinary procedures and penalties for
1308 qualified contractors who do not comply with the requirements of
1309 the adopted ordinance, including, but not limited to, failure to
1310 provide the evaluation report as required in this subsection to
1311 the system owner and the county health department. Only the
1312 county health department may assess penalties against system
1313 owners for failure to comply with the adopted ordinance,
1314 consistent with existing requirements of law.

1315 (9) (a) A county or municipality that adopts an onsite
1316 sewage treatment and disposal system evaluation and assessment
1317 program pursuant to this section shall notify the Secretary of
1318 Environmental Protection, the Department of Health, and the
1319 applicable county health department upon the adoption of its
1320 ordinance establishing the program.

1321 (b) Upon receipt of the notice under paragraph (a), the
1322 department ~~of Environmental Protection~~ shall, within existing
1323 resources, notify the county or municipality of the potential
1324 use of, and access to, program funds under the Clean Water State
1325 Revolving Fund or s. 319 of the Clean Water Act, provide
1326 guidance in the application process to receive such moneys, and
1327 provide advice and technical assistance to the county or
1328 municipality on how to establish a low-interest revolving loan
1329 program or how to model a revolving loan program after the low-
1330 interest loan program of the Clean Water State Revolving Fund.
1331 This paragraph does not obligate the department ~~of Environmental~~
1332 ~~Protection~~ to provide any county or municipality with money to
1333 fund such programs.

1334 (c) The department ~~of Health~~ may not adopt any rule that

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1335 alters the provisions of this section.

1336 (d) The department ~~of Health~~ must allow county health
1337 departments and qualified contractors access to the
1338 environmental health database to track relevant information and
1339 assimilate data from assessment and evaluation reports of the
1340 overall condition of onsite sewage treatment and disposal
1341 systems. The environmental health database must be used by
1342 contractors to report each service and evaluation event and by a
1343 county health department to notify owners of onsite sewage
1344 treatment and disposal systems when evaluations are due. Data
1345 and information must be recorded and updated as service and
1346 evaluations are conducted and reported.

1347 Section 14. Effective July 1, 2019, section 381.00652,
1348 Florida Statutes, is created to read:

1349 381.00652 Onsite treatment and disposal systems;
1350 permitting.-

1351 (1) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS TECHNICAL
1352 ADVISORY COMMITTEE.-

1353 (a) By August 1, 2019, the department, in consultation with
1354 the Department of Health, shall appoint a technical advisory
1355 committee to assist in developing rules that will increase the
1356 availability of nutrient-removing onsite sewage treatment and
1357 disposal systems in the marketplace, including such systems that
1358 are cost-effective, low maintenance, and reliable. By July 1,
1359 2020, the committee shall consider and recommend regulatory
1360 options, such as fast-track approval, prequalification, or
1361 expedited permitting, to facilitate the introduction and use of
1362 nutrient-removing onsite sewage treatment and disposal systems
1363 that have been reviewed and approved by a national agency or

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1364 organization, such as the National Sanitation Foundation
1365 International/American National Standards Institute 245 systems
1366 approved by the Public Health and Safety Organization. The
1367 department shall use existing and available resources to
1368 administer and support the activities of the technical advisory
1369 committee.

1370 (b) The advisory committee shall consist of at least five
1371 but not more than nine members representing the home-building
1372 industry, the real estate industry, the onsite sewage treatment
1373 and disposal system industry, septic tank contractors,
1374 engineers, and local governments. Members shall serve without
1375 compensation and are not entitled to reimbursement for per diem
1376 or travel expenses.

1377 (c) This subsection shall expire on July 1, 2020.

1378 (2) ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS
1379 RULEMAKING.—The department shall initiate rulemaking no later
1380 than August 1, 2020, considering the recommendations of the
1381 technical advisory committee, and adopt rules to increase the
1382 availability of cost-effective, low maintenance, and reliable
1383 nutrient-removing onsite sewage treatment and disposal systems
1384 in the marketplace.

1385 Section 15. Section 381.0068, Florida Statutes, is
1386 repealed.

1387 Section 16. Paragraph (g) of subsection (1) of section
1388 381.0101, Florida Statutes, is amended to read:

1389 381.0101 Environmental health professionals.—

1390 (1) DEFINITIONS.—As used in this section:

1391 (g) "Primary environmental health program" means those
1392 programs determined by the department to be essential for

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1393 providing basic environmental and sanitary protection to the
1394 public. At a minimum, these programs shall include food
1395 protection programs ~~program work and onsite sewage treatment and~~
1396 ~~disposal system evaluations.~~

1397 Section 17. Paragraph (a) of subsection (7) of section
1398 403.067, Florida Statutes, is amended to read:

1399 403.067 Establishment and implementation of total maximum
1400 daily loads.—

1401 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
1402 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

1403 (a) *Basin management action plans.*—

1404 1. In developing and implementing the total maximum daily
1405 load for a water body, the department, or the department in
1406 conjunction with a water management district, may develop a
1407 basin management action plan that addresses some or all of the
1408 watersheds and basins tributary to the water body. Such plan
1409 must integrate the appropriate management strategies available
1410 to the state through existing water quality protection programs
1411 to achieve the total maximum daily loads and may provide for
1412 phased implementation of these management strategies to promote
1413 timely, cost-effective actions as provided for in s. 403.151.
1414 The plan must establish a schedule implementing the management
1415 strategies, establish a basis for evaluating the plan's
1416 effectiveness, and identify feasible funding strategies for
1417 implementing the plan's management strategies. The management
1418 strategies may include regional treatment systems or other
1419 public works, where appropriate, and voluntary trading of water
1420 quality credits to achieve the needed pollutant load reductions.

1421 2. A basin management action plan must equitably allocate,

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1422 pursuant to paragraph (6) (b), pollutant reductions to individual
1423 basins, as a whole to all basins, or to each identified point
1424 source or category of nonpoint sources, as appropriate. For
1425 nonpoint sources for which best management practices have been
1426 adopted, the initial requirement specified by the plan must be
1427 those practices developed pursuant to paragraph (c). Where
1428 appropriate, the plan may take into account the benefits of
1429 pollutant load reduction achieved by point or nonpoint sources
1430 that have implemented management strategies to reduce pollutant
1431 loads, including best management practices, before the
1432 development of the basin management action plan. The plan must
1433 also identify the mechanisms that will address potential future
1434 increases in pollutant loading.

1435 3. The basin management action planning process is intended
1436 to involve the broadest possible range of interested parties,
1437 with the objective of encouraging the greatest amount of
1438 cooperation and consensus possible. In developing a basin
1439 management action plan, the department shall assure that key
1440 stakeholders, including, but not limited to, applicable local
1441 governments, water management districts, the Department of
1442 Agriculture and Consumer Services, other appropriate state
1443 agencies, local soil and water conservation districts,
1444 environmental groups, regulated interests, and affected
1445 pollution sources, are invited to participate in the process.
1446 The department shall hold at least one public meeting in the
1447 vicinity of the watershed or basin to discuss and receive
1448 comments during the planning process and shall otherwise
1449 encourage public participation to the greatest practicable
1450 extent. Notice of the public meeting must be published in a

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1451 newspaper of general circulation in each county in which the
1452 watershed or basin lies at least ~~not less than~~ 5 days but not
1453 ~~no~~ more than 15 days before the public meeting. A basin
1454 management action plan does not supplant or otherwise alter any
1455 assessment made under subsection (3) or subsection (4) or any
1456 calculation or initial allocation.

1457 4. Each new or revised basin management action plan shall
1458 include:

1459 a. The appropriate management strategies available through
1460 existing water quality protection programs to achieve total
1461 maximum daily loads, which may provide for phased implementation
1462 to promote timely, cost-effective actions as provided ~~for~~ in s.
1463 403.151;

1464 b. A description of best management practices adopted by
1465 rule;

1466 c. A list of projects in priority ranking with a planning-
1467 level cost estimate and estimated date of completion for each
1468 listed project;

1469 d. The source and amount of financial assistance to be made
1470 available by the department, a water management district, or
1471 other entity for each listed project, if applicable; and

1472 e. A planning-level estimate of each listed project's
1473 expected load reduction, if applicable.

1474 5. The department shall adopt all or any part of a basin
1475 management action plan and any amendment to such plan by
1476 secretarial order pursuant to chapter 120 to implement ~~the~~
1477 ~~provisions of~~ this section.

1478 6. The basin management action plan must include milestones
1479 for implementation and water quality improvement, and an

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1480 associated water quality monitoring component sufficient to
1481 evaluate whether reasonable progress in pollutant load
1482 reductions is being achieved over time. An assessment of
1483 progress toward these milestones shall be conducted every 5
1484 years, and revisions to the plan shall be made as appropriate.
1485 Revisions to the basin management action plan shall be made by
1486 the department in cooperation with basin stakeholders. Revisions
1487 to the management strategies required for nonpoint sources must
1488 follow the procedures set forth in subparagraph (c)4. Revised
1489 basin management action plans must be adopted pursuant to
1490 subparagraph 5.

1491 7. In accordance with procedures adopted by rule under
1492 paragraph (9)(c), basin management action plans, and other
1493 pollution control programs under local, state, or federal
1494 authority as provided in subsection (4), may allow point or
1495 nonpoint sources that will achieve greater pollutant reductions
1496 than required by an adopted total maximum daily load or
1497 wasteload allocation to generate, register, and trade water
1498 quality credits for the excess reductions to enable other
1499 sources to achieve their allocation; however, the generation of
1500 water quality credits does not remove the obligation of a source
1501 or activity to meet applicable technology requirements or
1502 adopted best management practices. Such plans must allow trading
1503 between NPDES permittees, and trading that may or may not
1504 involve NPDES permittees, where the generation or use of the
1505 credits involve an entity or activity not subject to department
1506 water discharge permits whose owner voluntarily elects to obtain
1507 department authorization for the generation and sale of credits.

1508 8. The provisions of the department's rule relating to the

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1509 equitable abatement of pollutants into surface waters do not
1510 apply to water bodies or water body segments for which a basin
1511 management plan that takes into account future new or expanded
1512 activities or discharges has been adopted under this section.

1513 9. The department shall submit to the Office of Economic
1514 and Demographic Research the project cost estimates required in
1515 sub-subparagraph 4.c., including any septic-to-sewer conversion
1516 and septic tank remediation project costs.

1517 Section 18. Subsection (1) of section 489.551, Florida
1518 Statutes, is amended to read:

1519 489.551 Definitions.—As used in this part:

1520 (1) "Department" means the Department of Environmental
1521 Protection Health.

1522 Section 19. Except as otherwise expressly provided in this
1523 act, and except for section 2, s. 381.0065(7) as amended by this
1524 act, and this section, which shall take effect upon July 1,
1525 2019, this act shall take effect on July 1, 2020.

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.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: CS/SB 1022

INTRODUCER: Environment and Natural Resources and Senator Albritton

SUBJECT: Onsite Treatment and Disposal Systems

DATE: March 28, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	Fav/CS
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1022 transfers the Department of Health's (DOH) program for onsite sewage treatment and disposal systems (OSTDS) to the Department of Environmental Protection (DEP) through a type two transfer. The bill requires DOH and DEP to enter into a memorandum of agreement addressing the type two transfer and the respective roles of the county health departments and DEP. The bill requires DEP to appoint an OSTDS technical advisory committee. DEP is required to adopt rules, considering the recommendations of the technical advisory committee, which are intended to increase the availability of cost-effective, low-maintenance, and nutrient-removing onsite systems in the marketplace.

The bill requires DEP and the water management districts to submit information on septic to sewer conversion and septic tank remediation projects and related project costs to the Office of Economic and Demographic Research. The bill creates additional requirements for DEP to follow when applying the prohibition on new OSTDSs on lots of less than 1 acre within a priority focus area for an Outstanding Florida Spring in conflict with an OSTDS remediation plan. The bill requires DEP to allow the use of systems certified under NSF/ANSI 245 before July 1, 2019.

The bill eliminates DOH's research review and advisory committee and technical review and advisory panel that advise and assist DOH on onsite sewage treatment and disposal systems.

Except as otherwise provided in the bill, the bill will take effect on July 1, 2020.

II. Present Situation:

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDS) (commonly referred to as “septic systems”) can contain any one or more of the following components: a septic tank; a subsurface drainfield; an aerobic treatment unit; a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless incinerating or organic waste-composting toilet; and a sanitary pit privy.¹ OSTDSs generally consist of two basic parts: the septic tank and the drainfield.² The septic tank is a watertight box with an inlet pipe and an outlet pipe.³ Wastewater flows from the building to the septic tank through the sewer pipe. The septic tank treats the wastewater naturally by holding it in the tank long enough for solids and liquids to separate. Solids heavier than water settle at the bottom of the tank forming a layer of sludge, leaving a layer of partially clarified wastewater. The layers of sludge remain in the septic tank where bacteria found naturally in the wastewater work to break down the solids. The sludge that cannot be broken down remains in the tank until the tank is pumped. The layer of clarified liquid flows from the septic tank to the drainfield, which helps to uniformly distribute the wastewater in the drainfield. The drainfield is generally a series of trenches lined with gravel or coarse sand, buried one to three feet below ground. Perforated pipes run through the trenches to distribute the wastewater. The drainfield treats the wastewater by allowing it to slowly trickle from the pipes out into the gravel and down through the soil, which acts as a biological filter to remove pathogens and excess nutrients.⁴

The Department of Health (DOH) administers OSTDS programs, develops statewide rules, and provides training and standardization.⁵ DOH must inspect and issue a permit for an OSTDS prior to construction, modification, or operation.⁶ Sewage waste and effluent from OSTDSs may not be discharged onto the ground or into groundwaters, surface waters, or aquifers.⁷ The permitting and inspection of OSTDSs is regulated by the environmental health section of county health departments and DOH’s Bureau of Onsite Sewage Programs.⁸ County health departments are described as state-local partnerships, and they are units of DOH that are located in each of

¹ DEP, *Septic Systems*, <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Mar. 21, 2019); See s. 381.0065(2)(k), F.S. “Onsite sewage treatment and disposal system” is defined as “a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.”

² DOH, *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Mar. 21, 2019).

³ West Virginia University Energy Institute, National Environmental Services Center, *What is a Septic System? How Do I Maintain One?*, http://www.nesc.wvu.edu/subpages/septic_defined.cfm (last visited Mar. 21, 2019).

⁴ *Id.*

⁵ Section 381.006(7), F.S.; Section 381.0065(3), F.S.

⁶ Section 381.0065(4), F.S.; Fla. Admin. Code Chapter 64E-6.

⁷ Fla. Admin. Code R. 64E-6.005.

⁸ Fla. Admin. Code Chapter 64E-6; DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Mar. 21, 2019); DEP, *Septic Systems*, <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Mar. 21, 2019).

Florida's 67 counties.⁹ DOH has an interagency agreement with the Department of Environmental Protection (DEP) that clarifies responsibilities relating to OSTDSs between the two departments.¹⁰

DOH established the Technical Review and Advisory Panel to assist in the adoption of rules for OSTDSs and to review and comment on any legislation or existing policy related to OSTDSs.¹¹ All rules proposed by DOH that relate to OSTDSs must be presented to the panel for review and comment prior to adoption.¹² DOH's research and review advisory committee advises DOH on directions for new research, reviews and ranks proposals for research contracts, and reviews and provides comments on draft research reports regarding the OSTDS industry.¹³

There are an estimated 2.6 million OSTDS systems in Florida, providing wastewater disposal for 30 percent of the state's population.¹⁴ In some areas, development is dependent on OSTDSs due to the cost and time it takes to install central sewer systems. For example, in rural areas and low-density developments, central sewer systems are not cost effective. Less than one percent of septic systems in Florida are actively managed.¹⁵ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.¹⁶ In Florida, approximately 30-40 percent of the nitrogen levels are reduced in a system that is installed 24 inches or more from groundwater.¹⁷ This leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.¹⁸

Total Maximum Daily Loads and Basin Management Action Plans

A total maximum daily load (TMDL), which must be adopted by rule, is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards.¹⁹ Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water

⁹ Chapter 154, part I, F.S.; DOH, *County Health Departments*, <http://www.floridahealth.gov/programs-and-services/county-health-departments/index.html> (last visited Mar. 21, 2019).

¹⁰ *Interagency Agreement Between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems* (Sept. 30, 2015), available at https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf (last visited Mar. 24, 2019).

¹¹ Section 381.0068, F.S.

¹² Section 381.0068(2), F.S.

¹³ Section 381.0065(4)(o), F.S.

¹⁴ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Mar. 21, 2019).

¹⁵ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/2008-11-06.pdf> (last visited Mar. 21, 2019). The report begins on page 58 of the PDF.

¹⁶ *Id.*

¹⁷ DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study, Final Report 2008-2015*, 21 (Dec. 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf> (last visited Mar. 6, 2019).

¹⁸ University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), available at <http://edis.ifas.ufl.edu/pdf/SS/SS55000.pdf> (last visited Mar. 21, 2019).

¹⁹ DEP, *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Mar. 21, 2019).

Act, DEP is required to establish a TMDL for impaired waterbodies.²⁰ A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.²¹ Waste load allocations are pollutant loads attributable to existing and future point sources. Load allocations are pollutant loads attributable to existing and future nonpoint sources. Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.²²

DEP is the lead agency in coordinating the development and implementation of TMDLs.²³ Basin management action plans (BMAPs) are one of the primary mechanisms DEP uses to achieve TMDLs.²⁴ BMAPs are plans that use existing planning tools to address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices and non-regulatory and incentive-based programs, including cost sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.²⁵

DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.²⁶ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. Each new or revised BMAP must include a list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project.²⁷

In 2016, the Florida Legislature passed the Florida Springs and Aquifer Protection Act, which identified 30 "Outstanding Florida Springs" (OFS) that have additional statutory protections and requirements.²⁸ Key aspects of the Springs and Aquifer Protection Act relating to water quality include:

- The development of an onsite sewage treatment and disposal system (OSTDS) remediation plan if it has been determined that OSTDSs within a priority focus area contribute at least 20

²⁰ Section 403.067, F.S.

²¹ Section 403.031(21), F.S.

²² Fla. Admin. Code R. 62-620.200(37). "Point source" is defined as "any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged."

²³ Section 403.067(7)(b), F.S.

²⁴ DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Mar. 21, 2019).

²⁵ Section 403.067(7), F.S.

²⁶ *Id.*

²⁷ Section 403.067(7)(a)4.c., F.S.

²⁸ Chapter 2016-1, Laws of Fla.; ch. 373, p. VIII, F.S.; see s. 373.802(4), F.S., Outstanding Florida Springs include all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs, and their associated spring runs.

percent of nonpoint source nitrogen pollution or that remediation is necessary to achieve the TMDL;

- A 20-year timeline for implementation of the TMDL, including 5-, 10-, and 15-year targets; and
- The prohibition against new OSTDSs on parcels of less than 1 acre, unless the system complies with the OSTDS remediation plan.²⁹

The OSTDS remediation plan must include options for repair, upgrade, replacement, drainfield modification, addition of effective nitrogen reducing features, connection to a central sewerage system, or other action for a sewage system or group of systems.³⁰ The options must be cost-effective and financially feasible projects necessary to reduce the nutrient impacts from OSTDSs within the area.³¹

A priority focus area of an OFS means the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by DEP in consultation with the appropriate water management districts, and delineated in a BMAP.³²

Office of Economic and Demographic Research

The Office of Economic and Demographic Research (EDR) is a research arm of the Florida Legislature, principally focused on forecasting economic and social trends that affect policy making, revenues, and appropriations.³³ EDR also researches projects for legislative committees, and works with agencies, statewide commissions, and task forces that have legislators among their membership to assess the impact of proposals they are considering submitting to the Legislature.³⁴ EDR provides information related to a broad array of subjects.³⁵

In 2016, the Legislature passed a law requiring EDR to conduct an annual assessment of Florida's water resources and conservation lands.³⁶ The assessment must include historical and current expenditures, and projections of future expenditures, by government entities and public and private utilities for water quality protection and restoration.³⁷ Various agencies and local governmental entities are directed to aid EDR with their respective areas of expertise and provide EDR access to any information, confidential or otherwise, that EDR considers necessary to complete the assessment.³⁸ The assessment must be submitted to the Legislature by January 1 each year.³⁹ EDR has begun the process of evaluating the data and methodology used to forecast

²⁹ Sections 373.807 and 373.811, F.S.

³⁰ Section 373.807(3), F.S.

³¹ *Id.*

³² Section 373.802(5), F.S.

³³ EDR, *Welcome*, <http://edr.state.fl.us/Content/> (last visited Mar. 24, 2019).

³⁴ EDR, *Functions of EDR*, <http://edr.state.fl.us/Content/about/functions.cfm> (last visited Mar. 24, 2019).

³⁵ Section 216.136, F.S.

³⁶ Ch. 2016-1, Laws of Fla.; see s. 403.928, F.S.; see EDR, *Annual Assessment of Florida's Water Resources and Conservation Lands, 2019 Edition* (2019), available at http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment_2019Edition.pdf (last visited Mar. 24, 2019).

³⁷ Section 403.928(1)(a)2., F.S.

³⁸ Section 403.928(5), (6), F.S.

³⁹ Section 403.928(7), F.S.

expenditures that are necessary to comply with federal and state laws and regulations governing water quality.⁴⁰ EDR indicates that subsequent editions of its Annual Assessment of Florida's Water Resources and Conservation Lands will further analyze the future expenditures necessary to comply with laws governing water supply and water quality.⁴¹

Type Two Transfers

Florida law defines a type two transfer as the merging of an existing department, program, or activity into another department.⁴² Any program or activity transferred by a type two transfer retains all the statutory powers, duties, and functions it held previous to the transfer. The program or activity also retains its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between the program and the revenue source is retained. Unless otherwise provided by law, the administrative rules of any department involved in the transfer remain in effect until specifically changed.⁴³

Consolidated Annual Reports

By March 1 of each year, Florida's water management districts are required to submit a consolidated annual report to the Governor, the President of the Senate, the Speaker of the House, and DEP.⁴⁴ The water management districts must also provide copies of the report to the chairs of the legislative committees having substantive or fiscal jurisdiction over water management districts and the governing boards of all county entities having jurisdiction or deriving any funds for operations of the district.⁴⁵ The report must also be made available to the public in either a printed or electronic format.⁴⁶ The consolidated annual reports inform the state about the status of each district's programs and water resources, and the reports must contain numerous elements including statutorily required plans and reports.⁴⁷

NSF/ANSI 245

NSF International (NSF) is a private non-profit organization that develops standards and certifies products and systems.⁴⁸ DOH's regulations provide the following definition for NSF: "National Sanitation Foundation International, hereinafter referred to as NSF - a not for profit research,

⁴⁰ EDR, *Annual Assessment of Florida's Water Resources and Conservation Lands, 2019 Edition*, 2 (2019), available at http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment_2019Edition.pdf (last visited Mar. 24, 2019).

⁴¹ *Id.* at 3.

⁴² Section 20.06(2), F.S.

⁴³ *Id.*

⁴⁴ Section 373.036(7)(a), F.S.

⁴⁵ *Id.*

⁴⁶ *Id.*; see Northwest Florida Water Management District, *Consolidated Annual Reports*, <https://www.nwfwater.com/Data-Publications/Reports-Plans/Consolidated-Annual-Reports> (last visited Mar. 21, 2019).

⁴⁷ Section 373.036(7)(b)-(e), F.S.

⁴⁸ NSF, *About NSF*, <http://www.nsf.org/about-nsf> (last visited Mar. 27, 2019). NSF was founded in 1944 as the National Sanitation Foundation and in 1990 changed its name to NSF International. According to its website the letters "NSF" do not represent any specific words today; ANSI, *SDO: NSF International*, https://www.standardsportal.org/usa_en/sdo/nsf.aspx (last visited Mar. 27, 2019).

education and service organization . . . that develops standards and criteria for equipment, products and services that bear upon health.”⁴⁹ NSF follows the standards development process of the American National Standards Institute, which involves developing standards by joint committees of stakeholders and experts and then ratifying standards through an independent council.⁵⁰ NSF currently has more than 140 active public health standards and independent testing protocols, and provides testing and certification services to many industries, including water and wastewater.⁵¹

The American National Standards Institute (ANSI) is a private non-profit organization that develops national standards in the United States by accrediting the procedures of standards developing organizations.⁵² ANSI has accredited more than 200 standards developers, which have created over 11,000 American national standards.⁵³ ANSI has accredited NSF as a standards developing organization.⁵⁴

NSF/ANSI 245 is a standard that establishes minimum requirements for materials, design and construction, and performance of residential wastewater treatment systems providing for nitrogen reduction.⁵⁵ The standard covers systems with rated capacities between 400 and 1,500 gallons per day.⁵⁶ Regardless of a system’s treatment technology, NSF installs the unit at their test facility to evaluate the product.⁵⁷ Wastewater is introduced to the system to simulate various scenarios, and the system must meet minimum requirements for things such as structural integrity, leakage, and failure sensor and signaling equipment.⁵⁸ To achieve the certification a treatment system must produce an acceptable quality of effluent during a 26-week test, during which any service or maintenance to the system is prohibited.⁵⁹ The effluent criteria is based on the United States Environmental Protection Agency’s secondary effluent treatment requirements for municipal treatment facilities.⁶⁰ NSF/ANSI 245 requires a minimum 50% reduction in total nitrogen.⁶¹

⁴⁹ Fla. Admin. Code R. 64E-6.002(38).

⁵⁰ NSF, *NSF Standards*, <http://www.nsf.org/regulatory/regulator-nsf-standards> (last visited Mar. 27, 2019).

⁵¹ NSF, *Who Is NSF International?*, <http://www.nsf.org/consumer-resources/who-is-nsf-international> (last visited Mar. 27, 2019); NSF, *Services by Industry: Water and Wastewater*, <http://www.nsf.org/services/by-industry/water-wastewater> (last visited Mar. 28, 2019).

⁵² ANSI, *Introduction to ANSI*, https://www.ansi.org/about_ansi/introduction/introduction?menuid=1 (last visited Mar. 27, 2019); Fla. Admin. Code R. 64E-6.002(4); *see* Fla. Admin. Code 64E-6.012(1)(a). In this regulation, DOH requires that a third party certifying program be accredited by ANSI; *see* ss. 316.2065, 320.8231, and 553.963, F.S. ANSI is referenced in the Florida Statutes for standards in industries including bicycle helmets, recreational vehicles, and showers.

⁵³ ANSI, *Introduction to ANSI*, https://www.ansi.org/about_ansi/introduction/introduction?menuid=1 (last visited Mar. 27, 2019).

⁵⁴ NSF, *Accreditations and Quality*, <http://www.nsf.org/about-nsf/accreditations> (last visited Mar. 27, 2019).

⁵⁵ ANSI, *Webstore: NSF/ANSI 245-2018, Residential Wastewater Treatment Systems - Nitrogen Reduction*, <https://webstore.ansi.org/Standards/NSF/NSFANSI2452018> (last visited Mar. 27, 2019).

⁵⁶ NSF, *NSF/ANSI 245: Nitrogen Reduction*, <http://www.nsf.org/services/by-industry/water-wastewater/onsite-wastewater/nitrogen-reduction> (last visited Mar. 27, 2019).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* This information is under the “Testing Process” tab; *see* NSF, *NSF/ANSI 40: Residential Onsite Systems*, <http://www.nsf.org/services/by-industry/water-wastewater/onsite-wastewater/residential-wastewater-treatment-systems> (last visited Mar. 28, 2019). Certification to NSF/ANSI 245 also meets all the requirements of NSF/ANSI 40.

⁶¹ NSF, *NSF/ANSI 40 and 245*, http://www.nsf.org/newsroom_pdf/ww_nsf_40_and_245.pdf (last visited Mar. 27, 2019); NSF International, *Onsite Wastewater Treatment Unit Program Standards, Testing and Certification*, 16 (2017), available at

DOH's regulations require that aerobic treatment units used for treating domestic and commercial sewage waste, which are designed to treat up to 1500 gallons of sewage per day, comply with one of three NSF/ANSI standards, including NSF/ANSI 245.⁶² These standards are incorporated by reference into the Florida Administrative Code. NSF provides listings of products that have been certified under NSF/ANSI 245.⁶³ According to NSF, at least ten states have accepted or adopted NSF/ANSI 245.⁶⁴

III. Effect of Proposed Changes:

Section 1 transfers all of the Department of Health's (DOH) powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the regulation of onsite sewage treatment and disposal systems (OSTDS) relating to DOH's onsite sewage program to the Department of Environmental Protection (DEP). The bill transfers the program through a type two transfer.

Section 2 requires DOH and DEP to enter into a memorandum of agreement regarding the type 2 transfer of the Onsite Sewage Program before January 1, 2020. The agreement must address all aspects of the transfer identified in section 1 of the bill and the respective administrative and regulatory roles of the county health departments and DEP after the July 1, 2020 type two transfer.

Section 7 amends s. 373.036, F.S., which requires DEP and the water management districts to develop certain plans and reports for water resources.

The bill requires each water management district to submit its consolidated annual report to the Office of Economic and Demographic Research (EDR), in addition to the recipients under existing law. The bill requires that the consolidated water management district annual reports include any septic to sewer conversion and septic tank remediation projects when listing the specific projects identified to implement Basin Management Action Plans.

Section 12 amends s. 381.0065, F.S., which pertains to the regulation of OSTDSs. The bill eliminates DOH's research review and advisory committee for OSTDSs. The bill requires DEP to do the following when applying the prohibition on new OSTDSs within priority focus areas that are on lots of less than 1 acre and conflict with an OSTDS remediation plan:

- Include portions of the lot subject to an easement or right of entry when determining the size of the lot.

<https://www.env.nm.gov/wp-content/uploads/2017/08/NSFWastewaterProgramUpdateMarch192010.pdf> (last visited Mar. 28, 2019).

⁶² Fla. Admin. Code R. 64E-6.012(1).

⁶³ DOH, *NSF Standard 245 (Nitrogen-Reducing) Certified Aerobic Treatment Units (ATUs) in Florida (Rule 64E-6.012, Florida Administrative Code)* (2019), http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/245cert-atu-18.pdf (last visited Mar. 28, 2019); NSF, NSF Product and Service Listings, *NSF/ANSI 245 Wastewater Treatment Systems - Nitrogen Reduction*, <http://info.nsf.org/Certified/Wastewater/Listings.asp?TradeName=&Standard=245> (last visited Mar. 28, 2019).

⁶⁴ NSF, *NSF/ANSI 40 and 245*, http://www.nsf.org/newsroom_pdf/ww_nsf_40_and_245.pdf (last visited Mar. 27, 2019).

- Determine that a hardship exists in accordance with s. 403.201(1)(c), F.S., when an applicant for a variance demonstrates that the lot subject to the request is no smaller than 0.85 acres and that lots in the immediate proximity average one acre in size or larger.

The bill requires DEP to allow the use of National Sanitation Foundation International/American National Standards Institute 245 (NSF/ANSI 245) systems approved by the Public Health and Safety Organization before July 1, 2019. This requirement is in addition to DEP allowing the use of other DEP-approved nutrient removing OSTDSs to meet the requirements of a total maximum daily load or basin management action plan, a reasonable assurance plan, or other water quality protection and restoration requirements.

Section 14 creates s. 381.00652, F.S. The section takes effect on July 1, 2019. The bill requires DEP, in consultation with DOH, to appoint a technical advisory committee for OSTDSs by August 1, 2019. The bill requires the technical advisory committee to:

- Consist of at least five, but no more than nine, members representing the home building industry, the real estate industry, the OSTDS industry, septic tank contractors, engineers, and local governments. Members may not receive compensation or reimbursement for per diem or travel expenses.
- Assist in developing rules that increase the availability of nutrient-moving OSTDSs in the marketplace, including such systems that are cost-effective, low maintenance, and reliable.
- By July 1, 2020, consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient-removing OSTDSs that have been reviewed and approved by a national agency or organization, such as the NSF/ANSI 245 systems approved by the Public Health and Safety Organization.
- The subsection creating the technical advisory committee expires on July 1, 2020.

The bill requires DEP to initiate rulemaking no later than August 1, 2020, considering the recommendations of the technical advisory committee, and adopt rules to increase the availability of cost-effective, low-maintenance, and reliable nutrient-removing OSTDSs in the marketplace.

Section 15 repeals s. 381.0068, F.S., which requires DOH to establish a technical review and advisory panel to assist DOH with rule adoption and contains requirements for the members and operations of the panel. The bill eliminates the technical review and advisory panel under DOH.

Section 17 amends s. 403.067, F.S., pertaining to the establishment and implementation of total maximum daily loads. The bill requires DEP to submit to EDR the project cost estimates required for new or revised Basin Management Action Plans, including any septic to sewer conversion and septic tank remediation projects costs.

Sections 3, 4, 5, 6, 8, 9, 10, 11, 13, 16, and 18 contain conforming changes to the Florida Statutes that implement the bill's type two transfer of DOH's onsite sewage program to DEP, such as changing DOH to DEP.

Section 19 states that except as otherwise expressly provided in the bill and except for section 2, s. 381.0065(7) F.S., as amended by the bill, and section 19 which takes effect on July 1, 2019, the bill will take effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill requires DEP to merge into its department a large program transferred from DOH. If the revenue sources for the program do not cover all of the costs associated with the program then this transfer may cause DEP to incur additional costs. The bill also requires DEP to initiate rulemaking, which may cause DEP to incur additional costs. Therefore, the bill may have a negative, indeterminate fiscal impact on DEP.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill states that the Public Health and Safety Organization approves systems under the NSF/ANSI 245 standard. NSF is the organization that approves and certifies systems under the NSF/ANSI 245 standard. While NSF refers to itself as the Public Health and Safety Organization on its website, it may be unclear that “The Public Health and Safety Organization” is referring to NSF. Changing the language to state that NSF is approving the systems may improve clarity.

The bill references “National Sanitation Foundation International/American National Standards Institute systems,” as a type of system. NSF/ANSI 245 is a standard for third-party certification that applies to the systems. Therefore, it may improve clarity to refer to systems certified under the NSF/ANSI 245 standard and approved by NSF.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 153.54, 153.73, 163.3180, 180.03, 373.036, 373.807, 381.006, 381.0061, 381.0064, 381.0065, 381.00651, 381.0101, 403.067, and 489.551.

The bill creates section 381.00652 of the Florida Statutes.

The bill repeals section 381.0068 of the Florida Statutes.

IX. Additional Information:

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

CS by Environment and Natural Resources Committee on March 26, 2019:

- Adds a requirement that DOH and DEP enter into a memorandum of agreement regarding the type 2 transfer of the Onsite Sewage Program before January 1, 2020. The agreement must address all aspects of the transfer identified in section 1 of the bill and the respective administrative and regulatory roles of the county health departments and DEP after the July 1, 2020 type two transfer;
- Makes conforming changes relating to the type 2 transfer;
- Creates s. 381.00652, F.S., which contains the requirements for DEP to appoint a technical advisory committee, and to initiate rulemaking to increase the availability of onsite systems in the marketplace and revises the timeline for these requirements.
- Adds a lot size calculation to s. 381.0065, F.S., to be used when applying the prohibition on new OSTDSs on lots of less than 1 acre within a priority focus area for an Outstanding Florida Spring, when in conflict with an OSTDS remediation plan in a BMAP. The bill requires DEP to do the following when applying the prohibition:
 - Include portions of the lot subject to an easement or right of entry when determining the size of the lot.
 - Determine that a hardship exists in accordance with s. 403.201(1)(c), F.S., when an applicant for a variance demonstrates that the lot subject to the request is no smaller than 0.85 acres and that lots in the immediate proximity average one acre in size or larger;

- Adds a requirement that DEP allow the use of National Sanitation Foundation International/American National Standards Institute 245 systems approved by the Public Health and Safety Organization before July 1, 2019, in addition to allowing the use of other DEP-approved nutrient removing OSTDSs to meet the requirements of a total maximum daily load or basin management action plan, a reasonable assurance plan, or other water quality protection and restoration requirements; and
- Provides that except as otherwise expressly provided in the bill and except for section 2 of the bill, s. 381.0065(7) as amended by the bill, and the section providing the effective date which takes effect on July 1, 2019, the bill takes effect on July 1, 2020.

B. Amendments:

None.

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

26 removing provisions requiring certain onsite sewage
27 treatment and disposal system research projects to be
28 approved by a Department of Health technical review
29 and advisory panel; removing provisions prohibiting
30 the award of research projects to certain entities;
31 removing provisions establishing a Department of
32 Health onsite sewage treatment and disposal system
33 research review and advisory committee; allowing the
34 use of specified nutrient removing onsite sewage
35 treatment and disposal systems to meet water quality
36 protection and restoration requirements; amending s.
37 381.00651, F.S.; directing county health departments
38 to coordinate with the department to administer onsite
39 sewage treatment and disposal system evaluation
40 programs; conforming provisions to changes made by the
41 act; creating s. 381.00652, F.S.; authorizing the
42 department, in consultation with the Department of
43 Health, to appoint an onsite sewage treatment and
44 disposal systems technical advisory committee;
45 providing for committee purpose, membership, and
46 expiration; directing the department to initiate
47 rulemaking by a specified date and to adopt specified
48 rules; repealing s. 381.0068, F.S., relating to the
49 Department of Health onsite sewage treatment and
50 disposal systems technical review and advisory panel;

51 amending s. 381.0101, F.S.; conforming provisions to
52 changes made by the act; amending s. 403.067, F.S.;
53 requiring wastewater treatment plans and onsite sewage
54 treatment and disposal systems in basin management
55 action plans; creating 403.0671, F.S.; directing the
56 department to submit certain water quality project
57 cost estimates to the Office of Economic and
58 Demographic Research; requiring the department to
59 submit a report evaluating certain projects identified
60 in a basin management action plan; requiring the
61 department to submit a report assessing water quality
62 monitoring; creating s. 403.0673, F.S.; establishing
63 the wastewater grant program; requiring the department
64 to submit a report recommending a prioritization
65 process and the allocation of funds for certain
66 projects; creating s. 403.0771, F.S.; requiring
67 wastewater treatment facilities to notify the county
68 health departments and local governments of sewage
69 spills; providing certain notification requirements;
70 amending s. 403.086, F.S.; requiring advanced
71 wastewater treatment for the Indian River Lagoon by a
72 specified date; requiring the department to submit a
73 progress report for sewage disposal facilities;
74 creating s. 403.08715, F.S.; providing legislative
75 findings; providing a definition of "biosolids";

76 prohibiting the land application of biosolids on
 77 certain sites; requiring the department to adopt rules
 78 and implement a specified water quality monitoring
 79 program; establishing a technical advisory committee
 80 and providing for committee purpose, membership,
 81 expiration; providing applicability; amending s.
 82 489.551, F.S.; conforming provisions to changes made
 83 by the act; providing an important state interest,
 84 providing effective dates.

85

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

87

88 Section 1. All powers, duties, functions, records,
 89 offices, personnel, associated administrative support positions,
 90 property, pending issues, existing contracts, administrative
 91 authority, administrative rules, and unexpended balances of
 92 appropriations, allocations, and other funds for the regulation
 93 of onsite sewage treatment and disposal systems relating to the
 94 Onsite Sewage Program in the Department of Health are
 95 transferred by a type two transfer, as defined in s. 20.06(2),
 96 to the Department of Environmental Protection.

97 Section 2. Before December 1, 2019, the Department of
 98 Health and the Department of Environmental Protection shall
 99 submit recommendations to the Governor, the President of the
 100 Senate, and the Speaker of the House of Representatives

101 regarding the type two transfer of the Onsite Sewage Program in
 102 section 1. The recommendations must address all aspects of the
 103 type two transfer, including the continued role of the county
 104 health departments in the permitting, inspection, and tracking
 105 of onsite sewage treatment and disposal systems under the
 106 direction of the Department of Environmental Protection. This
 107 section shall take effect upon becoming a law.

108 Section 3. Subsection (5) of section 153.54, Florida
 109 Statutes, is amended to read:

110 153.54 Preliminary report by county commissioners with
 111 respect to creation of proposed district.—Upon receipt of a
 112 petition duly signed by not less than 25 qualified electors who
 113 are also freeholders residing within an area proposed to be
 114 incorporated into a water and sewer district pursuant to this
 115 law and describing in general terms the proposed boundaries of
 116 such proposed district, the board of county commissioners if it
 117 shall deem it necessary and advisable to create and establish
 118 such proposed district for the purpose of constructing,
 119 establishing or acquiring a water system or a sewer system or
 120 both in and for such district (herein called "improvements"),
 121 shall first cause a preliminary report to be made which such
 122 report together with any other relevant or pertinent matters,
 123 shall include at least the following:

124 (5) For the construction of a new proposed central
 125 sewerage system or the extension of an existing central sewerage

126 | system that was not previously approved, the report shall
127 | include a study that includes the available information from the
128 | Department of Environmental Protection ~~Health~~ on the history of
129 | onsite sewage treatment and disposal systems currently in use in
130 | the area and a comparison of the projected costs to the owner of
131 | a typical lot or parcel of connecting to and using the proposed
132 | central sewerage system versus installing, operating, and
133 | properly maintaining an onsite sewage treatment and disposal
134 | system that is approved by the Department of Environmental
135 | Protection ~~Health~~ and that provides for the comparable level of
136 | environmental and health protection as the proposed central
137 | sewerage system; consideration of the local authority's
138 | obligations or reasonably anticipated obligations for water body
139 | cleanup and protection under state or federal programs,
140 | including requirements for water bodies listed under s. 303(d)
141 | of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251
142 | et seq.; and other factors deemed relevant by the local
143 | authority.

144 |
145 | Such report shall be filed in the office of the clerk of the
146 | circuit court and shall be open for the inspection of any
147 | taxpayer, property owner, qualified elector or any other
148 | interested or affected person.

149 | Section 4. Paragraph (c) of subsection (2) of section
150 | 153.73, Florida Statutes, is amended to read:

151 153.73 Assessable improvements; levy and payment of
152 special assessments.—Any district may provide for the
153 construction or reconstruction of assessable improvements as
154 defined in s. 153.52, and for the levying of special assessments
155 upon benefited property for the payment thereof, under the
156 provisions of this section.

157 (2)

158 (c) For the construction of a new proposed central
159 sewerage system or the extension of an existing central sewerage
160 system that was not previously approved, the report shall
161 include a study that includes the available information from the
162 Department of Environmental Protection ~~Health~~ on the history of
163 onsite sewage treatment and disposal systems currently in use in
164 the area and a comparison of the projected costs to the owner of
165 a typical lot or parcel of connecting to and using the proposed
166 central sewerage system versus installing, operating, and
167 properly maintaining an onsite sewage treatment and disposal
168 system that is approved by the Department of Environmental
169 Protection ~~Health~~ and that provides for the comparable level of
170 environmental and health protection as the proposed central
171 sewerage system; consideration of the local authority's
172 obligations or reasonably anticipated obligations for water body
173 cleanup and protection under state or federal programs,
174 including requirements for water bodies listed under s. 303(d)
175 of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251

176 et seq.; and other factors deemed relevant by the local
 177 authority.

178 Section 5. Subsection (2) of section 163.3180, Florida
 179 Statutes, is amended to read:

180 163.3180 Concurrency.—

181 (2) Consistent with public health and safety, sanitary
 182 sewer, solid waste, drainage, adequate water supplies, and
 183 potable water facilities shall be in place and available to
 184 serve new development no later than the issuance by the local
 185 government of a certificate of occupancy or its functional
 186 equivalent. Before ~~Prior to~~ approval of a building permit or its
 187 functional equivalent, the local government shall consult with
 188 the applicable water supplier to determine whether adequate
 189 water supplies to serve the new development will be available no
 190 later than the anticipated date of issuance by the local
 191 government of a certificate of occupancy or its functional
 192 equivalent. A local government may meet the concurrency
 193 requirement for sanitary sewer through the use of onsite sewage
 194 treatment and disposal systems approved by the Department of
 195 Environmental Protection ~~Health~~ to serve new development.

196 Section 6. Subsection (3) of section 180.03, Florida
 197 Statutes, is amended to read:

198 180.03 Resolution or ordinance proposing construction or
 199 extension of utility; objections to same.—

200 (3) For the construction of a new proposed central

201 sewerage system or the extension of an existing central sewerage
 202 system that was not previously approved, the report shall
 203 include a study that includes the available information from the
 204 Department of Environmental Protection ~~Health~~ on the history of
 205 onsite sewage treatment and disposal systems currently in use in
 206 the area and a comparison of the projected costs to the owner of
 207 a typical lot or parcel of connecting to and using the proposed
 208 central sewerage system versus installing, operating, and
 209 properly maintaining an onsite sewage treatment and disposal
 210 system that is approved by the Department of Environmental
 211 Protection ~~Health~~ and that provides for the comparable level of
 212 environmental and health protection as the proposed central
 213 sewerage system; consideration of the local authority's
 214 obligations or reasonably anticipated obligations for water body
 215 cleanup and protection under state or federal programs,
 216 including requirements for water bodies listed under s. 303(d)
 217 of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251
 218 et seq.; and other factors deemed relevant by the local
 219 authority. The results of the ~~such a~~ study shall be included in
 220 the resolution or ordinance required under subsection (1).

221 Section 7. Paragraphs (a) and (b) of subsection (7) of
 222 section 373.036, Florida Statutes, are amended to read:

223 373.036 Florida water plan; district water management
 224 plans.—

225 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

226 (a) By March 1, annually, each water management district
227 shall prepare and submit to the Office of Economic and
228 Demographic Research, the department, the Governor, the
229 President of the Senate, and the Speaker of the House of
230 Representatives a consolidated water management district annual
231 report on the management of water resources. In addition, copies
232 must be provided by the water management districts to the chairs
233 of all legislative committees having substantive or fiscal
234 jurisdiction over the districts and the governing board of each
235 county in the district having jurisdiction or deriving any funds
236 for operations of the district. Copies of the consolidated
237 annual report must be made available to the public, either in
238 printed or electronic format.

239 (b) The consolidated annual report shall contain the
240 following elements, as appropriate to that water management
241 district:

242 1. A district water management plan annual report or the
243 annual work plan report allowed in subparagraph (2)(e)4.

244 2. The department-approved minimum flows and minimum water
245 levels annual priority list and schedule required by s.
246 373.042(3).

247 3. The annual 5-year capital improvements plan required by
248 s. 373.536(6)(a)3.

249 4. The alternative water supplies annual report required
250 by s. 373.707(8)(n).

251 5. The final annual 5-year water resource development work
252 program required by s. 373.536(6) (a)4.

253 6. The Florida Forever Water Management District Work Plan
254 annual report required by s. 373.199(7).

255 7. The mitigation donation annual report required by s.
256 373.414(1) (b)2.

257 8. Information on all projects related to water quality or
258 water quantity as part of a 5-year work program, including:

259 a. A list of all specific projects identified to implement
260 a basin management action plan, including any projects
261 connecting onsite sewage treatment and disposal systems to
262 central sewerage systems and conversions of onsite sewage
263 treatment and disposal systems to advanced nutrient removing
264 onsite sewage treatment and disposal systems, or a recovery or
265 prevention strategy;

266 b. A priority ranking for each listed project for which
267 state funding through the water resources development work
268 program is requested, which must be made available to the public
269 for comment at least 30 days before submission of the
270 consolidated annual report;

271 c. The estimated cost for each listed project;

272 d. The estimated completion date for each listed project;

273 e. The source and amount of financial assistance to be
274 made available by the department, a water management district,
275 or other entity for each listed project; and

276 f. A quantitative estimate of each listed project's
 277 benefit to the watershed, water body, or water segment in which
 278 it is located.

279 9. A grade for each watershed, water body, or water
 280 segment in which a project listed under subparagraph 8. is
 281 located representing the level of impairment and violations of
 282 adopted minimum flow or minimum water levels. The grading system
 283 must reflect the severity of the impairment of the watershed,
 284 water body, or water segment.

285 Section 8. Subsection (3) of section 373.807, Florida
 286 Statutes, is amended to read:

287 373.807 Protection of water quality in Outstanding Florida
 288 Springs.—By July 1, 2016, the department shall initiate
 289 assessment, pursuant to s. 403.067(3), of Outstanding Florida
 290 Springs or spring systems for which an impairment determination
 291 has not been made under the numeric nutrient standards in effect
 292 for spring vents. Assessments must be completed by July 1, 2018.

293 (3) As part of a basin management action plan that
 294 includes an Outstanding Florida Spring, the department, ~~the~~
 295 ~~Department of Health,~~ relevant local governments, and relevant
 296 local public and private wastewater utilities shall develop an
 297 onsite sewage treatment and disposal system remediation plan for
 298 a spring if the department determines onsite sewage treatment
 299 and disposal systems within a priority focus area contribute at
 300 least 20 percent of nonpoint source nitrogen pollution or if the

301 department determines remediation is necessary to achieve the
302 total maximum daily load. The plan shall identify cost-effective
303 and financially feasible projects necessary to reduce the
304 nutrient impacts from onsite sewage treatment and disposal
305 systems and shall be completed and adopted as part of the basin
306 management action plan no later than the first 5-year milestone
307 required by subparagraph (1)(b)8. The department is the lead
308 agency in coordinating the preparation of and the adoption of
309 the plan. The department shall:

310 (a) Collect and evaluate credible scientific information
311 on the effect of nutrients, particularly forms of nitrogen, on
312 springs and springs systems; and

313 (b) Develop a public education plan to provide area
314 residents with reliable, understandable information about onsite
315 sewage treatment and disposal systems and springs.

316
317 In addition to the requirements in s. 403.067, the plan shall
318 include options for repair, upgrade, replacement, drainfield
319 modification, addition of effective nitrogen reducing features,
320 connection to a central sewerage system, or other action for an
321 onsite sewage treatment and disposal system or group of systems
322 within a priority focus area that contribute at least 20 percent
323 of nonpoint source nitrogen pollution or if the department
324 determines remediation is necessary to achieve a total maximum
325 daily load. For these systems, the department shall include in

326 | the plan a priority ranking for each system or group of systems
 327 | that requires remediation and shall award funds to implement the
 328 | remediation projects contingent on an appropriation in the
 329 | General Appropriations Act, which may include all or part of the
 330 | costs necessary for repair, upgrade, replacement, drainfield
 331 | modification, addition of effective nitrogen reducing features,
 332 | initial connection to a central sewerage system, or other
 333 | action. In awarding funds, the department may consider expected
 334 | nutrient reduction benefit per unit cost, size and scope of
 335 | project, relative local financial contribution to the project,
 336 | and the financial impact on property owners and the community.
 337 | The department may waive matching funding requirements for
 338 | proposed projects within an area designated as a rural area of
 339 | opportunity under s. 288.0656.

340 | Section 9. Effective July 1, 2019, subsection (2) of
 341 | section 373.811, Florida Statutes, is amended to read:

342 | 373.811 Prohibited activities within a priority focus
 343 | area.—The following activities are prohibited within a priority
 344 | focus area in effect for an Outstanding Florida Spring:

345 | (2) New onsite sewage treatment and disposal systems on
 346 | lots of less than 1 acre, if the addition of the specific
 347 | systems conflicts with an onsite treatment and disposal system
 348 | remediation plan incorporated into a basin management action
 349 | plan in accordance with s. 373.807(3). The department and the
 350 | Department of Health shall include all portions of the lot

351 subject to any easement, right of way, and right of entry when
352 calculating the lot size.

353 Section 10. Section 381.006, Florida Statutes, is amended
354 to read:

355 381.006 Environmental health.—The Department of Health
356 shall conduct an environmental health program as part of
357 fulfilling the state's public health mission. The purpose of
358 this program is to detect and prevent disease caused by natural
359 and manmade factors in the environment. The environmental health
360 program shall include, but not be limited to:

361 (1) A drinking water function.

362 (2) An environmental health surveillance function which
363 shall collect, compile, and correlate information on public
364 health and exposure to hazardous substances through sampling and
365 testing of water, air, or foods. Environmental health
366 surveillance shall include a comprehensive assessment of
367 drinking water under the department's supervision and an indoor
368 air quality testing and monitoring program to assess health
369 risks from exposure to chemical, physical, and biological agents
370 in the indoor environment.

371 (3) A toxicology and hazard assessment function which
372 shall conduct toxicological and human health risk assessments of
373 exposure to toxic agents, for the purposes of:

374 (a) Supporting determinations by the State Health Officer
375 of safe levels of contaminants in water, air, or food if

376 applicable standards or criteria have not been adopted. These
 377 determinations shall include issuance of health advisories to
 378 protect the health and safety of the public at risk from
 379 exposure to toxic agents.

380 (b) Provision of human toxicological health risk
 381 assessments to the public and other governmental agencies to
 382 characterize the risks to the public from exposure to
 383 contaminants in air, water, or food.

384 (c) Consultation and technical assistance to the
 385 Department of Environmental Protection and other governmental
 386 agencies on actions necessary to ameliorate exposure to toxic
 387 agents, including the emergency provision by the Department of
 388 Environmental Protection of drinking water in cases of drinking
 389 water contamination that present an imminent and substantial
 390 threat to the public's health, as required by s.
 391 376.30(3)(c)1.a.

392 (d) Monitoring and reporting the body burden of toxic
 393 agents to estimate past exposure to these toxic agents, predict
 394 future health effects, and decrease the incidence of poisoning
 395 by identifying and eliminating exposure.

396 (4) A sanitary nuisance function, as that term is defined
 397 in chapter 386.

398 (5) A migrant labor function.

399 (6) A public facilities function, including sanitary
 400 practices relating to state, county, municipal, and private

401 institutions serving the public; jointly with the Department of
402 Education, publicly and privately owned schools; all places used
403 for the incarceration of prisoners and inmates of state
404 institutions for the mentally ill; toilets and washrooms in all
405 public places and places of employment; any other condition,
406 place, or establishment necessary for the control of disease or
407 the protection and safety of public health.

408 ~~(7) An onsite sewage treatment and disposal function.~~

409 (7)~~(8)~~ A biohazardous waste control function.

410 (8)~~(9)~~ A function to control diseases transmitted from
411 animals to humans, including the segregation, quarantine, and
412 destruction of domestic pets and wild animals having or
413 suspected of having such diseases.

414 (9)~~(10)~~ An environmental epidemiology function which shall
415 investigate food-borne disease, waterborne disease, and other
416 diseases of environmental causation, whether of chemical,
417 radiological, or microbiological origin. A \$10 surcharge for
418 this function shall be assessed upon all persons permitted under
419 chapter 500. This function shall include an educational program
420 for physicians and health professionals designed to promote
421 surveillance and reporting of environmental diseases, and to
422 further the dissemination of knowledge about the relationship
423 between toxic substances and human health which will be useful
424 in the formulation of public policy and will be a source of
425 information for the public.

426 (10)~~(11)~~ Mosquito and pest control functions as provided
427 in chapters 388 and 482.

428 (11)~~(12)~~ A radiation control function as provided in
429 chapter 404 and part IV of chapter 468.

430 (12)~~(13)~~ A public swimming and bathing facilities function
431 as provided in chapter 514.

432 (13)~~(14)~~ A mobile home park, lodging park, recreational
433 vehicle park, and recreational camp function as provided in
434 chapter 513.

435 (14)~~(15)~~ A sanitary facilities function, which shall
436 include minimum standards for the maintenance and sanitation of
437 sanitary facilities; public access to sanitary facilities; and
438 fixture ratios for special or temporary events and for homeless
439 shelters.

440 (15)~~(16)~~ A group-care-facilities function. As used in this
441 subsection, the term "group care facility" means any public or
442 private school, assisted living facility, adult family-care
443 home, adult day care center, short-term residential treatment
444 center, residential treatment facility, home for special
445 services, transitional living facility, crisis stabilization
446 unit, hospice, prescribed pediatric extended care center,
447 intermediate care facility for persons with developmental
448 disabilities, or boarding school. The department may adopt rules
449 necessary to protect the health and safety of residents, staff,
450 and patrons of group care facilities. Rules related to public

451 and private schools shall be developed by the Department of
452 Education in consultation with the department. Rules adopted
453 under this subsection may include definitions of terms;
454 provisions relating to operation and maintenance of facilities,
455 buildings, grounds, equipment, furnishings, and occupant-space
456 requirements; lighting; heating, cooling, and ventilation; food
457 service; water supply and plumbing; sewage; sanitary facilities;
458 insect and rodent control; garbage; safety; personnel health,
459 hygiene, and work practices; and other matters the department
460 finds are appropriate or necessary to protect the safety and
461 health of the residents, staff, students, faculty, or patrons.
462 The department may not adopt rules that conflict with rules
463 adopted by the licensing or certifying agency. The department
464 may enter and inspect at reasonable hours to determine
465 compliance with applicable statutes or rules. In addition to any
466 sanctions that the department may impose for violations of rules
467 adopted under this section, the department shall also report
468 such violations to any agency responsible for licensing or
469 certifying the group care facility. The licensing or certifying
470 agency may also impose any sanction based solely on the findings
471 of the department.

472 (16)~~(17)~~ A function for investigating elevated levels of
473 lead in blood. Each participating county health department may
474 expend funds for federally mandated certification or
475 recertification fees related to conducting investigations of

476 elevated levels of lead in blood.

477 (17)~~(18)~~ A food service inspection function for domestic
478 violence centers that are certified by the Department of
479 Children and Families and monitored by the Florida Coalition
480 Against Domestic Violence under part XII of chapter 39 and group
481 care homes as described in subsection (16), which shall be
482 conducted annually and be limited to the requirements in
483 department rule applicable to community-based residential
484 facilities with five or fewer residents.

485

486 The department may adopt rules to carry out ~~the provisions of~~
487 this section.

488 Section 11. Subsection (1) of section 381.0061, Florida
489 Statutes, is amended to read:

490 381.0061 Administrative fines.—

491 (1) In addition to any administrative action authorized by
492 chapter 120 or by other law, the department may impose a fine,
493 which shall not exceed \$500 for each violation, for a violation
494 of s. 381.006(15) ~~s. 381.006(16)~~, s. 381.0065, s. 381.0066, s.
495 381.0072, or part III of chapter 489, for a violation of any
496 rule adopted under this chapter, or for a violation of any of
497 the provisions of chapter 386. Notice of intent to impose such
498 fine shall be given by the department to the alleged violator.
499 Each day that a violation continues may constitute a separate
500 violation.

501 Section 12. Subsection (1) of section 381.0064, Florida
 502 Statutes, is amended to read:

503 381.0064 Continuing education courses for persons
 504 installing or servicing septic tanks.—

505 (1) The Department of Environmental Protection ~~Health~~
 506 shall establish a program for continuing education which meets
 507 the purposes of ss. 381.0101 and 489.554 regarding the public
 508 health and environmental effects of onsite sewage treatment and
 509 disposal systems and any other matters the department determines
 510 desirable for the safe installation and use of onsite sewage
 511 treatment and disposal systems. The department may charge a fee
 512 to cover the cost of such program.

513 Section 13. Effective July 1, 2019, paragraph (h) of
 514 subsection (4) of section 381.0065, Florida Statutes, is amended
 515 to read:

516 381.0065 Onsite sewage treatment and disposal systems;
 517 regulation.—

518 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may
 519 not construct, repair, modify, abandon, or operate an onsite
 520 sewage treatment and disposal system without first obtaining a
 521 permit approved by the department. The department may issue
 522 permits to carry out this section, but shall not make the
 523 issuance of such permits contingent upon prior approval by the
 524 Department of Environmental Protection, except that the issuance
 525 of a permit for work seaward of the coastal construction control

526 | line established under s. 161.053 shall be contingent upon
527 | receipt of any required coastal construction control line permit
528 | from the Department of Environmental Protection. A construction
529 | permit is valid for 18 months from the issuance date and may be
530 | extended by the department for one 90-day period under rules
531 | adopted by the department. A repair permit is valid for 90 days
532 | from the date of issuance. An operating permit must be obtained
533 | prior to the use of any aerobic treatment unit or if the
534 | establishment generates commercial waste. Buildings or
535 | establishments that use an aerobic treatment unit or generate
536 | commercial waste shall be inspected by the department at least
537 | annually to assure compliance with the terms of the operating
538 | permit. The operating permit for a commercial wastewater system
539 | is valid for 1 year from the date of issuance and must be
540 | renewed annually. The operating permit for an aerobic treatment
541 | unit is valid for 2 years from the date of issuance and must be
542 | renewed every 2 years. If all information pertaining to the
543 | siting, location, and installation conditions or repair of an
544 | onsite sewage treatment and disposal system remains the same, a
545 | construction or repair permit for the onsite sewage treatment
546 | and disposal system may be transferred to another person, if the
547 | transferee files, within 60 days after the transfer of
548 | ownership, an amended application providing all corrected
549 | information and proof of ownership of the property. There is no
550 | fee associated with the processing of this supplemental

551 information. A person may not contract to construct, modify,
552 alter, repair, service, abandon, or maintain any portion of an
553 onsite sewage treatment and disposal system without being
554 registered under part III of chapter 489. A property owner who
555 personally performs construction, maintenance, or repairs to a
556 system serving his or her own owner-occupied single-family
557 residence is exempt from registration requirements for
558 performing such construction, maintenance, or repairs on that
559 residence, but is subject to all permitting requirements. A
560 municipality or political subdivision of the state may not issue
561 a building or plumbing permit for any building that requires the
562 use of an onsite sewage treatment and disposal system unless the
563 owner or builder has received a construction permit for such
564 system from the department. A building or structure may not be
565 occupied and a municipality, political subdivision, or any state
566 or federal agency may not authorize occupancy until the
567 department approves the final installation of the onsite sewage
568 treatment and disposal system. A municipality or political
569 subdivision of the state may not approve any change in occupancy
570 or tenancy of a building that uses an onsite sewage treatment
571 and disposal system until the department has reviewed the use of
572 the system with the proposed change, approved the change, and
573 amended the operating permit.

574 (h)1. The department may grant variances in hardship cases
575 which may be less restrictive than the provisions specified in

576 | this section. If a variance is granted and the onsite sewage
577 | treatment and disposal system construction permit has been
578 | issued, the variance may be transferred with the system
579 | construction permit, if the transferee files, within 60 days
580 | after the transfer of ownership, an amended construction permit
581 | application providing all corrected information and proof of
582 | ownership of the property and if the same variance would have
583 | been required for the new owner of the property as was
584 | originally granted to the original applicant for the variance.
585 | There is no fee associated with the processing of this
586 | supplemental information. A variance may not be granted under
587 | this section until the department is satisfied that:

588 | a. The hardship was not caused intentionally by the action
589 | of the applicant;

590 | b. No reasonable alternative, taking into consideration
591 | factors such as cost, exists for the treatment of the sewage;
592 | and

593 | c. The discharge from the onsite sewage treatment and
594 | disposal system will not adversely affect the health of the
595 | applicant or the public or significantly degrade the groundwater
596 | or surface waters.

597 |

598 | Where soil conditions, water table elevation, and setback
599 | provisions are determined by the department to be satisfactory,
600 | special consideration must be given to those lots platted before

601 1972.

602 2. The department shall determine that a hardship exists
603 when an applicant for a variance demonstrates that the lot
604 subject to the variance request is at least 0.85 acres and that
605 the lots in the immediate proximity average at least 1 acre. For
606 purposes of this subparagraph, the term "immediate proximity"
607 means lots within the same unit or phase of a subdivision,
608 adjacent lots, contiguous lots, or lots located across the road
609 from the lot under variance consideration.

610 ~~3.2.~~ The department shall appoint and staff a variance
611 review and advisory committee, which shall meet monthly to
612 recommend agency action on variance requests. The committee
613 shall make its recommendations on variance requests at the
614 meeting in which the application is scheduled for consideration,
615 except for an extraordinary change in circumstances, the receipt
616 of new information that raises new issues, or when the applicant
617 requests an extension. The committee shall consider the criteria
618 in subparagraph 1. in its recommended agency action on variance
619 requests and shall also strive to allow property owners the full
620 use of their land where possible. The committee consists of the
621 following:

- 622 a. The State Surgeon General or his or her designee.
623 b. A representative from the county health departments.
624 c. A representative from the home building industry
625 recommended by the Florida Home Builders Association.

- 626 d. A representative from the septic tank industry
- 627 recommended by the Florida Onsite Wastewater Association.
- 628 e. A representative from the Department of Environmental
- 629 Protection.
- 630 f. A representative from the real estate industry who is
- 631 also a developer in this state who develops lots using onsite
- 632 sewage treatment and disposal systems, recommended by the
- 633 Florida Association of Realtors.
- 634 g. A representative from the engineering profession
- 635 recommended by the Florida Engineering Society.

636

637 Members shall be appointed for a term of 3 years, with such

638 appointments being staggered so that the terms of no more than

639 two members expire in any one year. Members shall serve without

640 remuneration, but if requested, shall be reimbursed for per diem

641 and travel expenses as provided in s. 112.061.

642 Section 14. Paragraphs (d) and (e) and paragraphs (g)

643 through (q) of subsection (2) of section 381.0065, Florida

644 Statutes, are redesignated as paragraphs (e) and (g),

645 respectively, and paragraphs (h) through (r), respectively,

646 paragraph (j) of subsection (3) and subsection (4) are amended,

647 a new paragraph (d) is added to subsection (2), and effective

648 July 1, 2019, subsection (7) is added to that section, to read:

649 381.0065 Onsite sewage treatment and disposal systems;

650 regulation.—

651 (2) DEFINITIONS.—As used in ss. 381.0065–381.0067, the
 652 term:

653 (d) "Department" means the Department of Environmental
 654 Protection.

655 (3) DUTIES AND POWERS OF THE DEPARTMENT OF ENVIRONMENTAL
 656 PROTECTION ~~HEALTH~~.—The department shall:

657 (j) Supervise research on, demonstration of, and training
 658 on the performance, environmental impact, and public health
 659 impact of onsite sewage treatment and disposal systems within
 660 this state. Research fees collected under s. 381.0066(2)(k) must
 661 be used to develop and fund hands-on training centers designed
 662 to provide practical information about onsite sewage treatment
 663 and disposal systems to septic tank contractors, master septic
 664 tank contractors, contractors, inspectors, engineers, and the
 665 public and must also be used to fund research projects which
 666 focus on improvements of onsite sewage treatment and disposal
 667 systems, including use of performance-based standards and
 668 reduction of environmental impact. Research projects shall be
 669 ~~initially approved by the technical review and advisory panel~~
 670 ~~and shall be~~ applicable to and reflect the soil conditions
 671 specific to Florida. Such projects shall be awarded through
 672 competitive negotiation, using the procedures provided in s.
 673 287.055, to public or private entities that have experience in
 674 onsite sewage treatment and disposal systems in Florida and that
 675 are principally located in Florida. ~~Research projects shall not~~

676 ~~be awarded to firms or entities that employ or are associated~~
677 ~~with persons who serve on either the technical review and~~
678 ~~advisory panel or the research review and advisory committee.~~

679 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may
680 not construct, repair, modify, abandon, or operate an onsite
681 sewage treatment and disposal system without first obtaining a
682 permit approved by the department. The department may issue
683 permits to carry out this section, but shall not make the
684 issuance of such permits contingent upon prior approval by the
685 department ~~of Environmental Protection~~, except that the issuance
686 of a permit for work seaward of the coastal construction control
687 line established under s. 161.053 shall be contingent upon
688 receipt of any required coastal construction control line permit
689 from the department ~~of Environmental Protection~~. A construction
690 permit is valid for 18 months after ~~from~~ the date of issuance
691 ~~date~~ and may be extended by the department for one 90-day period
692 under rules adopted by the department. A repair permit is valid
693 for 90 days from the date of issuance. An operating permit must
694 be obtained before ~~prior to~~ the use of any aerobic treatment
695 unit or if the establishment generates commercial waste.
696 Buildings or establishments that use an aerobic treatment unit
697 or generate commercial waste shall be inspected by the
698 department at least annually to assure compliance with the terms
699 of the operating permit. The operating permit for a commercial
700 wastewater system is valid for 1 year after ~~from~~ the date of

701 issuance and must be renewed annually. The operating permit for
702 an aerobic treatment unit is valid for 2 years after ~~from~~ the
703 date of issuance and must be renewed every 2 years. If all
704 information pertaining to the siting, location, and installation
705 conditions or repair of an onsite sewage treatment and disposal
706 system remains the same, a construction or repair permit for the
707 onsite sewage treatment and disposal system may be transferred
708 to another person, if the transferee files, within 60 days after
709 the transfer of ownership, an amended application providing all
710 corrected information and proof of ownership of the property. A
711 ~~There is no fee~~ is not associated with the processing of this
712 supplemental information. A person may not contract to
713 construct, modify, alter, repair, service, abandon, or maintain
714 any portion of an onsite sewage treatment and disposal system
715 without being registered under part III of chapter 489. A
716 property owner who personally performs construction,
717 maintenance, or repairs to a system serving his or her own
718 owner-occupied single-family residence is exempt from
719 registration requirements for performing such construction,
720 maintenance, or repairs on that residence, but is subject to all
721 permitting requirements. A municipality or political subdivision
722 of the state may not issue a building or plumbing permit for any
723 building that requires the use of an onsite sewage treatment and
724 disposal system unless the owner or builder has received a
725 construction permit for such system from the department. A

726 building or structure may not be occupied and a municipality,
727 political subdivision, or any state or federal agency may not
728 authorize occupancy until the department approves the final
729 installation of the onsite sewage treatment and disposal system.
730 A municipality or political subdivision of the state may not
731 approve any change in occupancy or tenancy of a building that
732 uses an onsite sewage treatment and disposal system until the
733 department has reviewed the use of the system with the proposed
734 change, approved the change, and amended the operating permit.

735 (a) Subdivisions and lots in which each lot has a minimum
736 area of at least one-half acre and either a minimum dimension of
737 100 feet or a mean of at least 100 feet of the side bordering
738 the street and the distance formed by a line parallel to the
739 side bordering the street drawn between the two most distant
740 points of the remainder of the lot may be developed with a water
741 system regulated under s. 381.0062 and onsite sewage treatment
742 and disposal systems, provided the projected daily sewage flow
743 does not exceed an average of 1,500 gallons per acre per day,
744 and provided satisfactory drinking water can be obtained and all
745 distance and setback, soil condition, water table elevation, and
746 other related requirements of this section and rules adopted
747 under this section can be met.

748 (b) Subdivisions and lots using a public water system as
749 defined in s. 403.852 may use onsite sewage treatment and
750 disposal systems, provided there are no more than four lots per

751 acre, provided the projected daily sewage flow does not exceed
752 an average of 2,500 gallons per acre per day, and provided that
753 all distance and setback, soil condition, water table elevation,
754 and other related requirements that are generally applicable to
755 the use of onsite sewage treatment and disposal systems are met.

756 (c) Notwithstanding paragraphs (a) and (b), for
757 subdivisions platted of record on or before October 1, 1991,
758 when a developer or other appropriate entity has previously made
759 or makes provisions, including financial assurances or other
760 commitments, acceptable to the department ~~of Health~~, that a
761 central water system will be installed by a regulated public
762 utility based on a density formula, private potable wells may be
763 used with onsite sewage treatment and disposal systems until the
764 agreed-upon densities are reached. In a subdivision regulated by
765 this paragraph, the average daily sewage flow may not exceed
766 2,500 gallons per acre per day. This section does not affect the
767 validity of existing prior agreements. After October 1, 1991,
768 the exception provided under this paragraph is not available to
769 a developer or other appropriate entity.

770 (d) Paragraphs (a) and (b) do not apply to any proposed
771 residential subdivision with more than 50 lots or to any
772 proposed commercial subdivision with more than 5 lots where a
773 publicly owned or investor-owned sewage treatment ~~sewerage~~
774 system is available. ~~It is the intent of~~ This paragraph does not
775 ~~to~~ allow development of additional proposed subdivisions in

776 | order to evade the requirements of this paragraph.

777 | (e) Onsite sewage treatment and disposal systems must not
778 | be placed closer than:

779 | 1. Seventy-five feet from a private potable well.

780 | 2. Two hundred feet from a public potable well serving a
781 | residential or nonresidential establishment having a total
782 | sewage flow of greater than 2,000 gallons per day.

783 | 3. One hundred feet from a public potable well serving a
784 | residential or nonresidential establishment having a total
785 | sewage flow of less than or equal to 2,000 gallons per day.

786 | 4. Fifty feet from any nonpotable well.

787 | 5. Ten feet from any storm sewer pipe, to the maximum
788 | extent possible, but in no instance shall the setback be less
789 | than 5 feet.

790 | 6. Seventy-five feet from the mean high-water line of a
791 | tidally influenced surface water body.

792 | 7. Seventy-five feet from the mean annual flood line of a
793 | permanent nontidal surface water body.

794 | 8. Fifteen feet from the design high-water line of
795 | retention areas, detention areas, or swales designed to contain
796 | standing or flowing water for less than 72 hours after a
797 | rainfall or the design high-water level of normally dry drainage
798 | ditches or normally dry individual lot stormwater retention
799 | areas.

800 | (f) Except as provided under paragraphs (e) and (t), ~~no~~

801 limitations may not ~~shall~~ be imposed by rule, relating to the
802 distance between an onsite disposal system and any area that
803 ~~either~~ permanently or temporarily has visible surface water.

804 (g) ~~All provisions of~~ This section and rules adopted under
805 this section relating to soil condition, water table elevation,
806 distance, and other setback requirements must be equally applied
807 to all lots, with the following exceptions:

808 1. Any residential lot that was platted and recorded on or
809 after January 1, 1972, or that is part of a residential
810 subdivision that was approved by the appropriate permitting
811 agency on or after January 1, 1972, and that was eligible for an
812 onsite sewage treatment and disposal system construction permit
813 on the date of such platting and recording or approval shall be
814 eligible for an onsite sewage treatment and disposal system
815 construction permit, regardless of when the application for a
816 permit is made. If rules in effect at the time the permit
817 application is filed cannot be met, residential lots platted and
818 recorded or approved on or after January 1, 1972, shall, to the
819 maximum extent possible, comply with the rules in effect at the
820 time the permit application is filed. At a minimum, however,
821 those residential lots platted and recorded or approved on or
822 after January 1, 1972, but before January 1, 1983, shall comply
823 with those rules in effect on January 1, 1983, and those
824 residential lots platted and recorded or approved on or after
825 January 1, 1983, shall comply with those rules in effect at the

826 time of such platting and recording or approval. In determining
827 the maximum extent of compliance with current rules that is
828 possible, the department shall allow structures and
829 appurtenances thereto which were authorized at the time such
830 lots were platted and recorded or approved.

831 2. Lots platted before 1972 are subject to a 50-foot
832 minimum surface water setback and are not subject to lot size
833 requirements. The projected daily flow for onsite sewage
834 treatment and disposal systems for lots platted before 1972 may
835 not exceed:

836 a. Two thousand five hundred gallons per acre per day for
837 lots served by public water systems as defined in s. 403.852.

838 b. One thousand five hundred gallons per acre per day for
839 lots served by water systems regulated under s. 381.0062.

840 (h)1. The department may grant variances in hardship cases
841 which may be less restrictive than ~~the provisions~~ specified in
842 this section. If a variance is granted and the onsite sewage
843 treatment and disposal system construction permit has been
844 issued, the variance may be transferred with the system
845 construction permit, if the transferee files, within 60 days
846 after the transfer of ownership, an amended construction permit
847 application providing all corrected information and proof of
848 ownership of the property and if the same variance would have
849 been required for the new owner of the property as was
850 originally granted to the original applicant for the variance. A

851 ~~There is no fee~~ is not associated with the processing of this
852 supplemental information. A variance may not be granted under
853 this section until the department is satisfied that:

854 a. The hardship was not caused intentionally by the action
855 of the applicant;

856 b. A ~~No~~ reasonable alternative, taking into consideration
857 factors such as cost, does not exist ~~exists~~ for the treatment of
858 the sewage; and

859 c. The discharge from the onsite sewage treatment and
860 disposal system will not adversely affect the health of the
861 applicant or the public or significantly degrade the groundwater
862 or surface waters.

863
864 Where soil conditions, water table elevation, and setback
865 provisions are determined by the department to be satisfactory,
866 special consideration must be given to those lots platted before
867 1972.

868 2. The department shall appoint and staff a variance
869 review and advisory committee, which shall meet monthly to
870 recommend agency action on variance requests. The committee
871 shall make its recommendations on variance requests at the
872 meeting in which the application is scheduled for consideration,
873 except for an extraordinary change in circumstances, the receipt
874 of new information that raises new issues, or when the applicant
875 requests an extension. The committee shall consider the criteria

876 in subparagraph 1. in its recommended agency action on variance
 877 requests and shall also strive to allow property owners the full
 878 use of their land where possible. The committee consists of the
 879 following:

880 a. The Secretary of the Department of Environmental
 881 Protection ~~State Surgeon General~~ or his or her designee.

882 b. A representative from the county health departments.

883 c. A representative from the home building industry
 884 recommended by the Florida Home Builders Association.

885 d. A representative from the septic tank industry
 886 recommended by the Florida Onsite Wastewater Association.

887 e. A representative from the Department of Health
 888 ~~Environmental Protection~~.

889 f. A representative from the real estate industry who is
 890 also a developer in this state who develops lots using onsite
 891 sewage treatment and disposal systems, recommended by the
 892 Florida Association of Realtors.

893 g. A representative from the engineering profession
 894 recommended by the Florida Engineering Society.

895
 896 Members shall be appointed for a term of 3 years, with such
 897 appointments being staggered so that the terms of no more than
 898 two members expire in any one year. Members shall serve without
 899 remuneration, but if requested, shall be reimbursed for per diem
 900 and travel expenses as provided in s. 112.061.

901 (i) A construction permit may not be issued for an onsite
 902 sewage treatment and disposal system in any area zoned or used
 903 for industrial or manufacturing purposes, or its equivalent,
 904 where a publicly owned or investor-owned sewage treatment system
 905 is available, or where a likelihood exists that the system will
 906 receive toxic, hazardous, or industrial waste. An existing
 907 onsite sewage treatment and disposal system may be repaired if a
 908 publicly owned or investor-owned sewage treatment ~~sewerage~~
 909 system is not available within 500 feet of the building sewer
 910 stub-out and if system construction and operation standards can
 911 be met. This paragraph does not require publicly owned or
 912 investor-owned sewage ~~sewerage~~ treatment systems to accept
 913 anything other than domestic wastewater.

914 1. A building located in an area zoned or used for
 915 industrial or manufacturing purposes, or its equivalent, when
 916 such building is served by an onsite sewage treatment and
 917 disposal system, must not be occupied until the owner or tenant
 918 has obtained written approval from the department. The
 919 department may ~~shall~~ not grant approval when the proposed use of
 920 the system is to dispose of toxic, hazardous, or industrial
 921 wastewater or toxic or hazardous chemicals.

922 2. Each person who owns or operates a business or facility
 923 in an area zoned or used for industrial or manufacturing
 924 purposes, or its equivalent, or who owns or operates a business
 925 that has the potential to generate toxic, hazardous, or

926 industrial wastewater or toxic or hazardous chemicals, and uses
927 an onsite sewage treatment and disposal system that is installed
928 on or after July 5, 1989, must obtain an annual system operating
929 permit from the department. A person who owns or operates a
930 business that uses an onsite sewage treatment and disposal
931 system that was installed and approved before July 5, 1989, does
932 not need to ~~not~~ obtain a system operating permit. However, upon
933 change of ownership or tenancy, the new owner or operator must
934 notify the department of the change, and the new owner or
935 operator must obtain an annual system operating permit,
936 regardless of the date that the system was installed or
937 approved.

938 3. The department shall periodically review and evaluate
939 the continued use of onsite sewage treatment and disposal
940 systems in areas zoned or used for industrial or manufacturing
941 purposes, or its equivalent, and may require the collection and
942 analyses of samples from within and around such systems. If the
943 department finds that toxic or hazardous chemicals or toxic,
944 hazardous, or industrial wastewater have been or are being
945 disposed of through an onsite sewage treatment and disposal
946 system, the department shall initiate enforcement actions
947 against the owner or tenant to ensure adequate cleanup,
948 treatment, and disposal.

949 (j) An onsite sewage treatment and disposal system
950 designed by a professional engineer registered in the state and

951 certified by such engineer as complying with performance
952 criteria adopted by the department must be approved by the
953 department subject to the following:

954 1. The performance criteria applicable to engineer-
955 designed systems must be limited to those necessary to ensure
956 that such systems do not adversely affect the public health or
957 significantly degrade the groundwater or surface water. Such
958 performance criteria shall include consideration of the quality
959 of system effluent, the proposed total sewage flow per acre,
960 wastewater treatment capabilities of the natural or replaced
961 soil, water quality classification of the potential surface-
962 water-receiving body, and the structural and maintenance
963 viability of the system for the treatment of domestic
964 wastewater. However, performance criteria shall address only the
965 performance of a system and not a system's design.

966 2. A person electing to use ~~utilize~~ an engineer-designed
967 system shall, upon completion of the system design, submit such
968 design, certified by a registered professional engineer, to the
969 county health department. The county health department may use
970 ~~utilize~~ an outside consultant to review the engineer-designed
971 system, with the actual cost of such review to be borne by the
972 applicant. Within 5 working days after receiving an engineer-
973 designed system permit application, the county health department
974 shall request additional information if the application is not
975 complete. Within 15 working days after receiving a complete

976 application for an engineer-designed system, the county health
977 department ~~either~~ shall issue the permit or, if it determines
978 that the system does not comply with the performance criteria,
979 shall notify the applicant of that determination and refer the
980 application to the department for a determination as to whether
981 the system should be approved, disapproved, or approved with
982 modification. The department engineer's determination shall
983 prevail over the action of the county health department. The
984 applicant shall be notified in writing of the department's
985 determination and of the applicant's rights to pursue a variance
986 or seek review under the provisions of chapter 120.

987 3. The owner of an engineer-designed performance-based
988 system must maintain a current maintenance service agreement
989 with a maintenance entity permitted by the department. The
990 maintenance entity shall inspect each system at least twice each
991 year and shall report quarterly to the department on the number
992 of systems inspected and serviced. The reports may be submitted
993 electronically.

994 4. The property owner of an owner-occupied, single-family
995 residence may be approved and permitted by the department as a
996 maintenance entity for his or her own performance-based
997 treatment system upon written certification from the system
998 manufacturer's approved representative that the property owner
999 has received training on the proper installation and service of
1000 the system. The maintenance service agreement must conspicuously

1001 disclose that the property owner has the right to maintain his
1002 or her own system and is exempt from contractor registration
1003 requirements for performing construction, maintenance, or
1004 repairs on the system but is subject to all permitting
1005 requirements.

1006 5. The property owner shall obtain a biennial system
1007 operating permit from the department for each system. The
1008 department shall inspect the system at least annually, or on
1009 such periodic basis as the fee collected permits, and may
1010 collect system-effluent samples if appropriate to determine
1011 compliance with the performance criteria. The fee for the
1012 biennial operating permit shall be collected beginning with the
1013 second year of system operation.

1014 6. If an engineer-designed system fails to properly
1015 function or fails to meet performance standards, the system
1016 shall be re-engineered, if necessary, to bring the system into
1017 compliance with the provisions of this section.

1018 (k) An innovative system may be approved in conjunction
1019 with an engineer-designed site-specific system that ~~which~~ is
1020 certified by the engineer to meet the performance-based criteria
1021 adopted by the department.

1022 (l) For the Florida Keys, the department shall adopt a
1023 special rule for the construction, installation, modification,
1024 operation, repair, maintenance, and performance of onsite sewage
1025 treatment and disposal systems which considers the unique soil

1026 conditions and water table elevations, densities, and setback
1027 requirements. On lots where a setback distance of 75 feet from
1028 surface waters, saltmarsh, and buttonwood association habitat
1029 areas cannot be met, an injection well, approved and permitted
1030 by the department, may be used for disposal of effluent from
1031 onsite sewage treatment and disposal systems. The following
1032 additional requirements apply to onsite sewage treatment and
1033 disposal systems in Monroe County:

1034 1. The county, each municipality, and those special
1035 districts established for the purpose of the collection,
1036 transmission, treatment, or disposal of sewage shall ensure, in
1037 accordance with the specific schedules adopted by the
1038 Administration Commission under s. 380.0552, the completion of
1039 onsite sewage treatment and disposal system upgrades to meet the
1040 requirements of this paragraph.

1041 2. Onsite sewage treatment and disposal systems must cease
1042 discharge by December 31, 2015, or must comply with department
1043 rules and provide the level of treatment which, on a permitted
1044 annual average basis, produces an effluent that contains no more
1045 than the following concentrations:

- 1046 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
1047 b. Suspended Solids of 10 mg/l.
1048 c. Total Nitrogen, expressed as N, of 10 mg/l or a
1049 reduction in nitrogen of at least 70 percent. A system that has
1050 been tested and certified to reduce nitrogen concentrations by

1051 at least 70 percent shall be deemed to be in compliance with
 1052 this standard.

1053 d. Total Phosphorus, expressed as P, of 1 mg/l.

1054
 1055 In addition, onsite sewage treatment and disposal systems
 1056 discharging to an injection well must provide basic disinfection
 1057 as defined by department rule.

1058 3. In areas not scheduled to be served by a central
 1059 sewerage system ~~sewer~~, onsite sewage treatment and disposal
 1060 systems must, by December 31, 2015, comply with department rules
 1061 and provide the level of treatment described in subparagraph 2.

1062 4. In areas scheduled to be served by a central sewerage
 1063 system ~~sewer~~ by December 31, 2015, if the property owner has
 1064 paid a connection fee or assessment for connection to the
 1065 central sewerage ~~sewer~~ system, the property owner may install a
 1066 holding tank with a high water alarm or an onsite sewage
 1067 treatment and disposal system that meets the following minimum
 1068 standards:

1069 a. The existing tanks must be pumped and inspected and
 1070 certified as being watertight and free of defects in accordance
 1071 with department rule; and

1072 b. A sand-lined drainfield or injection well in accordance
 1073 with department rule must be installed.

1074 5. Onsite sewage treatment and disposal systems must be
 1075 monitored for total nitrogen and total phosphorus concentrations

1076 as required by department rule.

1077 6. The department shall enforce proper installation,
 1078 operation, and maintenance of onsite sewage treatment and
 1079 disposal systems pursuant to this chapter, including ensuring
 1080 that the appropriate level of treatment described in
 1081 subparagraph 2. is met.

1082 7. The authority of a local government, including a
 1083 special district, to mandate connection of an onsite sewage
 1084 treatment and disposal system is governed by s. 4, chapter 99-
 1085 395, Laws of Florida.

1086 8. Notwithstanding any other ~~provision of law~~, an onsite
 1087 sewage treatment and disposal system installed after July 1,
 1088 2010, in unincorporated Monroe County, excluding special
 1089 wastewater districts, that complies with the standards in
 1090 subparagraph 2. is not required to connect to a central sewerage
 1091 ~~sewer~~ system until December 31, 2020.

1092 (m) Any ~~No~~ product sold in the state for use in onsite
 1093 sewage treatment and disposal systems may not contain any
 1094 substance in concentrations or amounts that would interfere with
 1095 or prevent the successful operation of such system, or that
 1096 would cause discharges from such systems to violate applicable
 1097 water quality standards. The department shall publish criteria
 1098 for products known or expected to meet the conditions of this
 1099 paragraph. If ~~In the event~~ a product does not meet such
 1100 criteria, such product may be sold if the manufacturer

1101 satisfactorily demonstrates to the department that the
 1102 conditions of this paragraph are met.

1103 (n) Evaluations for determining the seasonal high-water
 1104 table elevations or the suitability of soils for the use of a
 1105 new onsite sewage treatment and disposal system shall be
 1106 performed by department personnel, professional engineers
 1107 registered in the state, or such other persons with expertise,
 1108 as defined by rule, in making such evaluations. Evaluations for
 1109 determining mean annual flood lines shall be performed by those
 1110 persons identified in paragraph (2)(j). The department shall
 1111 accept evaluations submitted by professional engineers and such
 1112 other persons as meet the expertise established by this section
 1113 or by rule unless the department has a reasonable scientific
 1114 basis for questioning the accuracy or completeness of the
 1115 evaluation.

1116 ~~(o) The department shall appoint a research review and~~
 1117 ~~advisory committee, which shall meet at least semiannually. The~~
 1118 ~~committee shall advise the department on directions for new~~
 1119 ~~research, review and rank proposals for research contracts, and~~
 1120 ~~review draft research reports and make comments. The committee~~
 1121 ~~is comprised of:~~

- 1122 ~~1. A representative of the State Surgeon General, or his~~
- 1123 ~~or her designee.~~
- 1124 ~~2. A representative from the septic tank industry.~~
- 1125 ~~3. A representative from the home building industry.~~

- 1126 ~~4. A representative from an environmental interest group.~~
- 1127 ~~5. A representative from the State University System, from~~
- 1128 ~~a department knowledgeable about onsite sewage treatment and~~
- 1129 ~~disposal systems.~~
- 1130 ~~6. A professional engineer registered in this state who~~
- 1131 ~~has work experience in onsite sewage treatment and disposal~~
- 1132 ~~systems.~~
- 1133 ~~7. A representative from local government who is~~
- 1134 ~~knowledgeable about domestic wastewater treatment.~~
- 1135 ~~8. A representative from the real estate profession.~~
- 1136 ~~9. A representative from the restaurant industry.~~
- 1137 ~~10. A consumer.~~

1138

1139 ~~Members shall be appointed for a term of 3 years, with the~~

1140 ~~appointments being staggered so that the terms of no more than~~

1141 ~~four members expire in any one year. Members shall serve without~~

1142 ~~remuneration, but are entitled to reimbursement for per diem and~~

1143 ~~travel expenses as provided in s. 112.061.~~

1144 (o) ~~(p)~~ An application for an onsite sewage treatment and

1145 disposal system permit shall be completed in full, signed by the

1146 owner or the owner's authorized representative, or by a

1147 contractor licensed under chapter 489, and shall be accompanied

1148 by all required exhibits and fees. ~~No~~ Specific documentation of

1149 property ownership is not ~~shall be~~ required as a prerequisite to

1150 the review of an application or the issuance of a permit. The

1151 issuance of a permit does not constitute determination by the
 1152 department of property ownership.

1153 (p)~~(q)~~ The department may not require any form of
 1154 subdivision analysis of property by an owner, developer, or
 1155 subdivider before ~~prior to~~ submission of an application for an
 1156 onsite sewage treatment and disposal system.

1157 (q)~~(r)~~ Nothing in This section does not limit ~~limits~~ the
 1158 power of a municipality or county to enforce other laws for the
 1159 protection of the public health and safety.

1160 (r)~~(s)~~ In the siting of onsite sewage treatment and
 1161 disposal systems, including drainfields, shoulders, and slopes,
 1162 guttering may ~~shall~~ not be required on single-family residential
 1163 dwelling units for systems located greater than 5 feet from the
 1164 roof drip line of the house. If guttering is used on residential
 1165 dwelling units, the downspouts shall be directed away from the
 1166 drainfield.

1167 (s)~~(t)~~ Notwithstanding ~~the provisions of~~ subparagraph
 1168 (g)1., onsite sewage treatment and disposal systems located in
 1169 floodways of the Suwannee and Aucilla Rivers must adhere to the
 1170 following requirements:

- 1171 1. The absorption surface of the drainfield may ~~shall~~ not
 1172 be subject to flooding based on 10-year flood elevations.
 1173 Provided, however, for lots or parcels created by the
 1174 subdivision of land in accordance with applicable local
 1175 government regulations before ~~prior to~~ January 17, 1990, if an

1176 applicant cannot construct a drainfield system with the
 1177 absorption surface of the drainfield at an elevation equal to or
 1178 above 10-year flood elevation, the department shall issue a
 1179 permit for an onsite sewage treatment and disposal system within
 1180 the 10-year floodplain of rivers, streams, and other bodies of
 1181 flowing water if all of the following criteria are met:

- 1182 a. The lot is at least one-half acre in size;
- 1183 b. The bottom of the drainfield is at least 36 inches
 1184 above the 2-year flood elevation; and
- 1185 c. The applicant installs ~~either~~ a waterless,
 1186 incinerating, or organic waste composting toilet and a graywater
 1187 system and drainfield in accordance with department rules; an
 1188 aerobic treatment unit and drainfield in accordance with
 1189 department rules; a system ~~approved by the State Health Office~~
 1190 that is capable of reducing effluent nitrate by at least 50
 1191 percent in accordance with department rules; or a system other
 1192 than a system using alternative drainfield materials in
 1193 accordance with department rules ~~approved by the county health~~
 1194 ~~department pursuant to department rule other than a system using~~
 1195 ~~alternative drainfield materials~~. The United States Department
 1196 of Agriculture Soil Conservation Service soil maps, State of
 1197 Florida Water Management District data, and Federal Emergency
 1198 Management Agency Flood Insurance maps are resources that shall
 1199 be used to identify flood-prone areas.

1200 2. The use of fill or mounding to elevate a drainfield

1201 system out of the 10-year floodplain of rivers, streams, or
 1202 other bodies of flowing water may ~~shall~~ not be permitted if such
 1203 a system lies within a regulatory floodway of the Suwannee and
 1204 Aucilla Rivers. In cases where the 10-year flood elevation does
 1205 not coincide with the boundaries of the regulatory floodway, the
 1206 regulatory floodway will be considered for the purposes of this
 1207 subsection to extend at a minimum to the 10-year flood
 1208 elevation.

1209 (t)1. ~~(u)1.~~ The owner of an aerobic treatment unit system
 1210 shall maintain a current maintenance service agreement with an
 1211 aerobic treatment unit maintenance entity permitted by the
 1212 department. The maintenance entity shall inspect each aerobic
 1213 treatment unit system at least twice each year and shall report
 1214 quarterly to the department on the number of aerobic treatment
 1215 unit systems inspected and serviced. The reports may be
 1216 submitted electronically.

1217 2. The property owner of an owner-occupied, single-family
 1218 residence may be approved and permitted by the department as a
 1219 maintenance entity for his or her own aerobic treatment unit
 1220 system upon written certification from the system manufacturer's
 1221 approved representative that the property owner has received
 1222 training on the proper installation and service of the system.
 1223 The maintenance entity service agreement must conspicuously
 1224 disclose that the property owner has the right to maintain his
 1225 or her own system and is exempt from contractor registration

1226 requirements for performing construction, maintenance, or
 1227 repairs on the system but is subject to all permitting
 1228 requirements.

1229 3. A septic tank contractor licensed under part III of
 1230 chapter 489, if approved by the manufacturer, may not be denied
 1231 access by the manufacturer to aerobic treatment unit system
 1232 training or spare parts for maintenance entities. After the
 1233 original warranty period, component parts for an aerobic
 1234 treatment unit system may be replaced with parts that meet
 1235 manufacturer's specifications but are manufactured by others.
 1236 The maintenance entity shall maintain documentation of the
 1237 substitute part's equivalency for 2 years and shall provide such
 1238 documentation to the department upon request.

1239 4. The owner of an aerobic treatment unit system shall
 1240 obtain a system operating permit from the department and allow
 1241 the department to inspect during reasonable hours each aerobic
 1242 treatment unit system at least annually, and such inspection may
 1243 include collection and analysis of system-effluent samples for
 1244 performance criteria established by rule of the department.

1245 (u)~~(v)~~ The department may require the submission of
 1246 detailed system construction plans that are prepared by a
 1247 professional engineer registered in this state. The department
 1248 shall establish by rule criteria for determining when such a
 1249 submission is required.

1250 (v)~~(w)~~ Any permit issued and approved by the department

1251 for the installation, modification, or repair of an onsite
 1252 sewage treatment and disposal system shall transfer with the
 1253 title to the property in a real estate transaction. A title may
 1254 not be encumbered at the time of transfer by new permit
 1255 requirements by a governmental entity for an onsite sewage
 1256 treatment and disposal system which differ from the permitting
 1257 requirements in effect at the time the system was permitted,
 1258 modified, or repaired. An inspection of a system may not be
 1259 mandated by a governmental entity at the point of sale in a real
 1260 estate transaction. This paragraph does not affect a septic tank
 1261 phase-out deferral program implemented by a consolidated
 1262 government as defined in s. 9, Art. VIII of the State
 1263 Constitution (1885).

1264 (w)~~(*)~~ A governmental entity, including a municipality,
 1265 county, or statutorily created commission, may not require an
 1266 engineer-designed performance-based treatment system, excluding
 1267 a passive engineer-designed performance-based treatment system,
 1268 before the completion of the Florida Onsite Sewage Nitrogen
 1269 Reduction Strategies Project. This paragraph does not apply to a
 1270 governmental entity, including a municipality, county, or
 1271 statutorily created commission, which adopted a local law,
 1272 ordinance, or regulation on or before January 31, 2012.
 1273 Notwithstanding this paragraph, an engineer-designed
 1274 performance-based treatment system may be used to meet the
 1275 requirements of the variance review and advisory committee

1276 recommendations.

1277 (x)1.~~(y)1.~~ An onsite sewage treatment and disposal system
1278 is not considered abandoned if the system is disconnected from a
1279 structure that was made unusable or destroyed following a
1280 disaster and if the system was properly functioning at the time
1281 of disconnection and was not adversely affected by the disaster.
1282 The onsite sewage treatment and disposal system may be
1283 reconnected to a rebuilt structure if:

1284 a. The reconnection of the system is to the same type of
1285 structure which contains the same number of bedrooms or fewer,
1286 if the square footage of the structure is less than or equal to
1287 110 percent of the original square footage of the structure that
1288 existed before the disaster;

1289 b. The system is not a sanitary nuisance; and

1290 c. The system has not been altered without prior
1291 authorization.

1292 2. An onsite sewage treatment and disposal system that
1293 serves a property that is foreclosed upon is not considered
1294 abandoned.

1295 (y)~~(z)~~ If an onsite sewage treatment and disposal system
1296 permittee receives, relies upon, and undertakes construction of
1297 a system based upon a validly issued construction permit under
1298 rules applicable at the time of construction but a change to a
1299 rule occurs within 5 years after the approval of the system for
1300 construction but before the final approval of the system, the

1301 rules applicable and in effect at the time of construction
1302 approval apply at the time of final approval if fundamental site
1303 conditions have not changed between the time of construction
1304 approval and final approval.

1305 (z)~~(aa)~~ An existing-system inspection or evaluation and
1306 assessment, or a modification, replacement, or upgrade of an
1307 onsite sewage treatment and disposal system is not required for
1308 a remodeling addition or modification to a single-family home if
1309 a bedroom is not added. However, a remodeling addition or
1310 modification to a single-family home may not cover any part of
1311 the existing system or encroach upon a required setback or the
1312 unobstructed area. To determine if a setback or the unobstructed
1313 area is impacted, the local health department shall review and
1314 verify a floor plan and site plan of the proposed remodeling
1315 addition or modification to the home submitted by a remodeler
1316 which shows the location of the system, including the distance
1317 of the remodeling addition or modification to the home from the
1318 onsite sewage treatment and disposal system. The local health
1319 department may visit the site or otherwise determine the best
1320 means of verifying the information submitted. A verification of
1321 the location of a system is not an inspection or evaluation and
1322 assessment of the system. The review and verification must be
1323 completed within 7 business days after receipt by the local
1324 health department of a floor plan and site plan. If the review
1325 and verification is not completed within such time, the

1326 remodeling addition or modification to the single-family home,
 1327 for the purposes of this paragraph, is approved.

1328 (7) USE OF NUTRIENT REMOVING ONSITE SEWAGE TREATMENT AND
 1329 DISPOSAL SYSTEMS.-Effective July 1, 2019, in addition to
 1330 allowing the use of other department-approved nutrient removing
 1331 onsite sewage treatment and disposal systems to meet the
 1332 requirements of a total maximum daily load or basin management
 1333 action plan adopted pursuant to s. 403.067, a reasonable
 1334 assurance plan, or other water quality protection and
 1335 restoration requirements, the department shall allow the use of
 1336 American National Standards Institute 245 systems approved by
 1337 the National Sanitation Foundation International before July 1,
 1338 2019.

1339 Section 15. Paragraph (d) of subsection (7) and
 1340 subsections (8) and (9) of section 381.00651, Florida Statutes,
 1341 are amended to read:

1342 381.00651 Periodic evaluation and assessment of onsite
 1343 sewage treatment and disposal systems.-

1344 (7) The following procedures shall be used for conducting
 1345 evaluations:

1346 (d) Assessment procedure.-All evaluation procedures used
 1347 by a qualified contractor shall be documented in the
 1348 environmental health database of the department ~~of Health~~. The
 1349 qualified contractor shall provide a copy of a written, signed
 1350 evaluation report to the property owner upon completion of the

1351 evaluation and to the county health department within 30 days
1352 after the evaluation. The report shall contain the name and
1353 license number of the company providing the report. A copy of
1354 the evaluation report shall be retained by the local county
1355 health department for a minimum of 5 years and until a
1356 subsequent inspection report is filed. The front cover of the
1357 report must identify any system failure and include a clear and
1358 conspicuous notice to the owner that the owner has a right to
1359 have any remediation of the failure performed by a qualified
1360 contractor other than the contractor performing the evaluation.
1361 The report must further identify any crack, leak, improper fit,
1362 or other defect in the tank, manhole, or lid, and any other
1363 damaged or missing component; any sewage or effluent visible on
1364 the ground or discharging to a ditch or other surface water
1365 body; any downspout, stormwater, or other source of water
1366 directed onto or toward the system; and any other maintenance
1367 need or condition of the system at the time of the evaluation
1368 which, in the opinion of the qualified contractor, would
1369 possibly interfere with or restrict any future repair or
1370 modification to the existing system. The report shall conclude
1371 with an overall assessment of the fundamental operational
1372 condition of the system.

1373 (8) The county health department, in coordination with the
1374 department, shall administer any evaluation program on behalf of
1375 a county, or a municipality within the county, that has adopted

1376 an evaluation program pursuant to this section. In order to
1377 administer the evaluation program, the county or municipality,
1378 in consultation with the county health department, may develop a
1379 reasonable fee schedule to be used solely to pay for the costs
1380 of administering the evaluation program. Such a fee schedule
1381 shall be identified in the ordinance that adopts the evaluation
1382 program. When arriving at a reasonable fee schedule, the
1383 estimated annual revenues to be derived from fees may not exceed
1384 reasonable estimated annual costs of the program. Fees shall be
1385 assessed to the system owner during an inspection and separately
1386 identified on the invoice of the qualified contractor. Fees
1387 shall be remitted by the qualified contractor to the county
1388 health department. The county health department's administrative
1389 responsibilities include the following:

1390 (a) Providing a notice to the system owner at least 60
1391 days before the system is due for an evaluation. The notice may
1392 include information on the proper maintenance of onsite sewage
1393 treatment and disposal systems.

1394 (b) In consultation with the department ~~of Health~~,
1395 providing uniform disciplinary procedures and penalties for
1396 qualified contractors who do not comply with the requirements of
1397 the adopted ordinance, including, but not limited to, failure to
1398 provide the evaluation report as required in this subsection to
1399 the system owner and the county health department. Only the
1400 county health department may assess penalties against system

1401 owners for failure to comply with the adopted ordinance,
 1402 consistent with existing requirements of law.

1403 (9) (a) A county or municipality that adopts an onsite
 1404 sewage treatment and disposal system evaluation and assessment
 1405 program pursuant to this section shall notify the Secretary of
 1406 Environmental Protection, the Department of Health, and the
 1407 applicable county health department upon the adoption of its
 1408 ordinance establishing the program.

1409 (b) Upon receipt of the notice under paragraph (a), the
 1410 department ~~of Environmental Protection~~ shall, within existing
 1411 resources, notify the county or municipality of the potential
 1412 use of, and access to, program funds under the Clean Water State
 1413 Revolving Fund or s. 319 of the Clean Water Act, provide
 1414 guidance in the application process to receive such moneys, and
 1415 provide advice and technical assistance to the county or
 1416 municipality on how to establish a low-interest revolving loan
 1417 program or how to model a revolving loan program after the low-
 1418 interest loan program of the Clean Water State Revolving Fund.
 1419 This paragraph does not obligate the department ~~of Environmental~~
 1420 ~~Protection~~ to provide any county or municipality with money to
 1421 fund such programs.

1422 (c) The department ~~of Health~~ may not adopt any rule that
 1423 alters the provisions of this section.

1424 (d) The department ~~of Health~~ must allow county health
 1425 departments and qualified contractors access to the

1426 environmental health database to track relevant information and
 1427 assimilate data from assessment and evaluation reports of the
 1428 overall condition of onsite sewage treatment and disposal
 1429 systems. The environmental health database must be used by
 1430 contractors to report each service and evaluation event and by a
 1431 county health department to notify owners of onsite sewage
 1432 treatment and disposal systems when evaluations are due. Data
 1433 and information must be recorded and updated as service and
 1434 evaluations are conducted and reported.

1435 Section 16. Effective July 1, 2019, section 381.00652,
 1436 Florida Statutes, is created to read:

1437 381.00652 Onsite sewage treatment and disposal systems
 1438 technical advisory committee.-

1439 (1) There is established within the department the Onsite
 1440 Sewage Treatment and Disposal Systems Technical Advisory
 1441 Committee, a committee as defined in s. 20.03(8), to:

1442 (a) Provide recommendations to increase the availability
 1443 of nutrient removing onsite sewage treatment and disposal
 1444 systems in the marketplace, including such systems that are
 1445 cost-effective, low maintenance, and reliable.

1446 (b) Consider and recommend regulatory options, such as
 1447 fast-track approval, prequalification, or expedited permitting,
 1448 to facilitate the introduction and use of nutrient removing
 1449 onsite sewage treatment and disposal systems that have been
 1450 reviewed and approved by a national agency or organization, such

1451 as the American National Standards Institute 245 systems
1452 approved by the National Sanitation Foundation International.

1453 (2) The department shall use existing and available
1454 resources to administer and support the activities of the
1455 technical advisory committee.

1456 (3) (a) By August 1, 2019, the department, in consultation
1457 with the Department of Health, shall appoint members to the
1458 technical advisory committee. The committee shall consist of no
1459 more than nine members with at least:

- 1460 1. One member representing the home building industry.
- 1461 2. One member representing the real estate industry.
- 1462 3. One member representing the onsite sewage treatment and
1463 disposal system industry.
- 1464 4. One member representing the septic tank contractors.
- 1465 5. One engineer.
- 1466 6. One member representing local governments.

1467 (b) Members shall serve without compensation and are not
1468 entitled to reimbursement for per diem or travel expenses.

1469 (4) By August 1, 2020, the technical advisory committee
1470 shall submit its recommendations to the Governor, the President
1471 of the Senate, and the Speaker of the House of Representatives.

1472 (5) This section expires August 15, 2020.

1473 Section 17. Section 381.0068, Florida Statutes, is
1474 repealed.

1475 Section 18. Paragraphs (g) of subsection (1) of section

1476 381.0101, Florida Statutes, is amended to read:

1477 381.0101 Environmental health professionals.—

1478 (1) DEFINITIONS.—As used in this section:

1479 (g) "Primary environmental health program" means those
 1480 programs determined by the department to be essential for
 1481 providing basic environmental and sanitary protection to the
 1482 public. At a minimum, these programs shall include food
 1483 protection program work ~~and onsite sewage treatment and disposal~~
 1484 ~~system evaluations.~~

1485 Section 19. Effective July 1, 2019, paragraph (a) of
 1486 subsection (7) of section 403.067, Florida Statutes, is amended
 1487 to read:

1488 403.067 Establishment and implementation of total maximum
 1489 daily loads.—

1490 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
 1491 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

1492 (a) Basin management action plans.—

1493 1. In developing and implementing the total maximum daily
 1494 load for a water body, the department, or the department in
 1495 conjunction with a water management district, may develop a
 1496 basin management action plan that addresses some or all of the
 1497 watersheds and basins tributary to the water body. Such plan
 1498 must integrate the appropriate management strategies available
 1499 to the state through existing water quality protection programs
 1500 to achieve the total maximum daily loads and may provide for

1501 | phased implementation of these management strategies to promote
1502 | timely, cost-effective actions as provided for in s. 403.151.
1503 | The plan must establish a schedule implementing the management
1504 | strategies, establish a basis for evaluating the plan's
1505 | effectiveness, and identify feasible funding strategies for
1506 | implementing the plan's management strategies. The management
1507 | strategies may include regional treatment systems or other
1508 | public works, where appropriate, and voluntary trading of water
1509 | quality credits to achieve the needed pollutant load reductions.

1510 | 2. A basin management action plan must equitably allocate,
1511 | pursuant to paragraph (6) (b), pollutant reductions to individual
1512 | basins, as a whole to all basins, or to each identified point
1513 | source or category of nonpoint sources, as appropriate. For
1514 | nonpoint sources for which best management practices have been
1515 | adopted, the initial requirement specified by the plan must be
1516 | those practices developed pursuant to paragraph (c). When ~~Where~~
1517 | appropriate, the plan may take into account the benefits of
1518 | pollutant load reduction achieved by point or nonpoint sources
1519 | that have implemented management strategies to reduce pollutant
1520 | loads, including best management practices, before the
1521 | development of the basin management action plan. The plan must
1522 | also identify the mechanisms that will address potential future
1523 | increases in pollutant loading.

1524 | 3. The basin management action planning process is
1525 | intended to involve the broadest possible range of interested

1526 parties, with the objective of encouraging the greatest amount
 1527 of cooperation and consensus possible. In developing a basin
 1528 management action plan, the department shall assure that key
 1529 stakeholders, including, but not limited to, applicable local
 1530 governments, water management districts, the Department of
 1531 Agriculture and Consumer Services, other appropriate state
 1532 agencies, local soil and water conservation districts,
 1533 environmental groups, regulated interests, and affected
 1534 pollution sources, are invited to participate in the process.
 1535 The department shall hold at least one public meeting in the
 1536 vicinity of the watershed or basin to discuss and receive
 1537 comments during the planning process and shall otherwise
 1538 encourage public participation to the greatest practicable
 1539 extent. Notice of the public meeting must be published in a
 1540 newspaper of general circulation in each county in which the
 1541 watershed or basin lies at least ~~not less than~~ 5 days but not
 1542 ~~nor~~ more than 15 days before the public meeting. A basin
 1543 management action plan does not supplant or otherwise alter any
 1544 assessment made under subsection (3) or subsection (4) or any
 1545 calculation or initial allocation.

1546 4. Each new or revised basin management action plan shall
 1547 include:

1548 a. The appropriate management strategies available through
 1549 existing water quality protection programs to achieve total
 1550 maximum daily loads, which may provide for phased implementation

1551 to promote timely, cost-effective actions as provided ~~for~~ in s.
 1552 403.151;

1553 b. A description of best management practices adopted by
 1554 rule;

1555 c. A list of projects in priority ranking with a planning-
 1556 level cost estimate and estimated date of completion for each
 1557 listed project;

1558 d. The source and amount of financial assistance to be
 1559 made available by the department, a water management district,
 1560 or other entity for each listed project, if applicable; and

1561 e. A planning-level estimate of each listed project's
 1562 expected load reduction, if applicable.

1563 5. The department shall adopt all or any part of a basin
 1564 management action plan and any amendment to such plan by
 1565 secretarial order pursuant to chapter 120 to implement ~~the~~
 1566 ~~provisions of~~ this section.

1567 6. The basin management action plan must include
 1568 milestones for implementation and water quality improvement, and
 1569 an associated water quality monitoring component sufficient to
 1570 evaluate whether reasonable progress in pollutant load
 1571 reductions is being achieved over time. An assessment of
 1572 progress toward these milestones shall be conducted every 5
 1573 years, and revisions to the plan shall be made as appropriate.
 1574 Revisions to the basin management action plan shall be made by
 1575 the department in cooperation with basin stakeholders. Revisions

1576 to the management strategies required for nonpoint sources must
1577 follow the procedures set forth in subparagraph (c)4. Revised
1578 basin management action plans must be adopted pursuant to
1579 subparagraph 5.

1580 7. In accordance with procedures adopted by rule under
1581 paragraph (9)(c), basin management action plans, and other
1582 pollution control programs under local, state, or federal
1583 authority as provided in subsection (4), may allow point or
1584 nonpoint sources that will achieve greater pollutant reductions
1585 than required by an adopted total maximum daily load or
1586 wasteload allocation to generate, register, and trade water
1587 quality credits for the excess reductions to enable other
1588 sources to achieve their allocation; however, the generation of
1589 water quality credits does not remove the obligation of a source
1590 or activity to meet applicable technology requirements or
1591 adopted best management practices. Such plans must allow trading
1592 between NPDES permittees, and trading that may or may not
1593 involve NPDES permittees, where the generation or use of the
1594 credits involve an entity or activity not subject to department
1595 water discharge permits whose owner voluntarily elects to obtain
1596 department authorization for the generation and sale of credits.

1597 8. The provisions of the department's rule relating to the
1598 equitable abatement of pollutants into surface waters do not
1599 apply to water bodies or water body segments for which a basin
1600 management plan that takes into account future new or expanded

1601 activities or discharges has been adopted under this section.

1602 9. A basin management action plan for a nutrient total
1603 maximum daily load must include the following:

1604 a. A wastewater treatment plan developed by each local
1605 government, in cooperation with the department, the water
1606 management district, and the public and private domestic
1607 wastewater facilities within the jurisdiction of the local
1608 government to address domestic wastewater.

1609 (I) The wastewater treatment plan must provide for
1610 construction, expansion, or upgrades necessary to achieve the
1611 total maximum daily load requirements applicable to the domestic
1612 wastewater facility.

1613 (II) The wastewater treatment plan must include the
1614 permitted capacity of the domestic wastewater facility or
1615 facilities, in gallons per day, the average nutrient
1616 concentration, the estimated average nutrient load, a timeline
1617 of the dates by which the construction of any improvements will
1618 commence and be completed and operations of the improved
1619 facility or facilities will commence, and the identification of
1620 responsible parties.

1621 (III) The wastewater treatment plan must be adopted as
1622 part of the basin management action plan no later than the first
1623 5-year milestone assessment.

1624 (IV) A local government that does not have a domestic
1625 wastewater treatment facility in its jurisdiction is not

1626 required to develop a wastewater treatment plan, unless there is
1627 a demonstrated need to establish a domestic wastewater treatment
1628 facility within its jurisdiction to improve water quality
1629 necessary to meet the total maximum daily load.

1630 b. An onsite sewage treatment and disposal system
1631 remediation plan developed by the department, in cooperation
1632 with the Department of Health, water management districts, local
1633 governments, and public and private domestic wastewater
1634 facilities, if the department identifies onsite sewage treatment
1635 and disposal systems are contributing to at least 20 percent of
1636 nonpoint source nutrient pollution or determines that the
1637 remediation of onsite sewage treatment and disposal systems is
1638 necessary to achieve a total maximum daily load.

1639 (I) The onsite sewage treatment and disposal system
1640 remediation plan must identify cost-effective and financially
1641 feasible projects necessary to achieve the nutrient load
1642 reductions required for the onsite sewage treatment and disposal
1643 systems. In order to identify cost-effective and financially
1644 feasible projects for remediation of onsite sewage treatment and
1645 disposal systems, the department may identify and prioritize one
1646 or more priority focus areas in such plan by considering soil
1647 conditions, groundwater or surface water travel time, proximity
1648 to surface waters, including predominantly marine waters,
1649 hydrogeology, density of onsite sewage treatment and disposal
1650 systems, nutrient load, and other factors that may lead to water

1651 quality degradation.

1652 (II) The department shall develop and adopt the onsite
1653 sewage treatment and disposal system remediation plan as part of
1654 the basin management action plan no later than the first 5-year
1655 milestone assessment or as required in s. 373.807(1)(b)8., for
1656 Outstanding Florida Springs.

1657 10. When identifying wastewater projects in basin
1658 management action plans, the department may not require the
1659 higher cost option if it achieves the same nutrient load
1660 reduction as a lower cost option. A regulated entity may choose
1661 a different cost option if it provides additional benefits or
1662 meets other water quality or water supply requirements.

1663 Section 20. Effective July 1, 2019, section 403.0671,
1664 Florida Statutes, is created to read:

1665 403.0671 Basin management action plan wastewater reports.-

1666 (1) Beginning January 1, 2021, the department shall submit
1667 to the Office of Economic and Demographic Research the cost
1668 estimates for projects required in s. 403.067(7)(a)9. The Office
1669 of Economic and Demographic Research shall include the project
1670 cost estimates in its annual assessment conducted pursuant to s.
1671 403.928.

1672 (2) The department, in coordination with the county health
1673 departments, wastewater treatment facilities, and other
1674 governmental entities, shall submit a report by July 1, 2020, to
1675 the Governor, the President of the Senate, and the Speaker of

1676 the House of Representatives evaluating the costs of wastewater
1677 projects identified in the basin management action plans
1678 developed pursuant to ss. 373.807 and 403.067(7), and the onsite
1679 sewage treatment and disposal system remediation plans and other
1680 restoration plans developed to meet the total maximum daily
1681 loads required in s. 403.067. The report shall include:

1682 (a) The following projects:

1683 1. Projects to replace onsite sewage treatment and
1684 disposal systems with enhanced nutrient removing onsite sewage
1685 treatment and disposal systems.

1686 2. Projects to install or retrofit onsite sewage treatment
1687 and disposal systems with enhanced nutrient removing
1688 technologies.

1689 3. Projects to construct, upgrade, or expand wastewater
1690 facilities to meet the wastewater plan as required in s.
1691 403.067(7)(a)9.

1692 4. Projects to connect onsite sewage treatment and
1693 disposal systems to wastewater treatment facilities.

1694 (b) The estimated costs, nutrient load reduction
1695 estimates, and other benefits of the each project reported in
1696 paragraph (a).

1697 (c) The estimated implementation timeline for each project
1698 reported in paragraph (a).

1699 (d) A proposed 5-year funding plan for the projects
1700 described in paragraph (a) and the source and amount of

1701 financial assistance the department, a water management, or
 1702 other project partner will make available to fund such projects.

1703 (e) The projected costs of installation of nutrient
 1704 removing onsite sewage treatment and disposal systems on
 1705 buildable lots in priority focus areas to comply with the
 1706 prohibited activites in s. 373.811.

1707 (3) By July 1, 2020, the department shall submit a report
 1708 to the Governor, the President of the Senate, and the Speaker of
 1709 the House of Representatives that provides an assessment of the
 1710 water quality monitoring being conducted for each basin
 1711 management action plan implementing a nutrient total maximum
 1712 daily load. In developing the report, the department may
 1713 coordinate with water management districts and any applicable
 1714 university. The report shall:

1715 (a) Evaluate the water quality monitoring prescribed for
 1716 each basin management action plan to determine if it is
 1717 sufficient to detect changes in water quality from project
 1718 implementation.

1719 (b) Identify gaps in water quality monitoring.

1720 (c) Recommend water quality monitoring needs.

1721 Section 21. Effective July 1, 2019, section 403.0673,
 1722 Florida Statutes, is created to read:

1723 403.0673 Clean water grant program; reporting
 1724 requirements.—

1725 (1) LEGISLATIVE FINDINGS.—The Legislature finds that it is

1726 in the public interest to create predictability and transparency
1727 for grant funding and cost share requirements for implementing a
1728 nutrient total maximum daily load.

1729 (2) REPORT.—The department shall submit a report to the
1730 Governor, the President of the Senate, and the Speaker of the
1731 House of Representatives by January 1, 2020, that includes:

1732 (a) A process to prioritize projects considered for grant
1733 funding under this section. In developing the prioritization
1734 process, the department must consider the estimated nutrient
1735 load reduction per project, cost effectiveness of the project,
1736 overall environmental benefit of a project, project readiness,
1737 the location of a project within a basin management action plan
1738 area, and availability of local matching funds.

1739 (b) A process to allocate cost share responsibilities for
1740 the projects described in s. 403.0671(2). The process must
1741 include a minimum cost share match for local governments, water
1742 management districts, public and private domestic wastewater
1743 facilities, and homeowners for each project type, as applicable,
1744 and hardship criteria for lowering the cost share requirements.

1745 (3) CLEAN WATER GRANT PROGRAM.—

1746 (a) Effective July 1, 2020, a clean water grant program is
1747 established within the department to provide grants to projects
1748 identified in s. 403.0671(2), subject to legislative
1749 appropriation, that will individually or collectively reduce
1750 excess nutrient pollution within a basin management action plan

1751 or an alternative restoration plan adopted by department
 1752 secretarial order to meet the total maximum daily load
 1753 requirements in s. 403.067.

1754 (b) The department shall coordinate with each water
 1755 management district, as necessary, to identify grant recipients
 1756 in each district.

1757 (c) Beginning October 1, 2021, and each October 1
 1758 thereafter, the department shall submit a progress report on
 1759 projects funded pursuant to this section to the Governor, the
 1760 President of the Senate, and the Speaker of the House of
 1761 Representatives.

1762 Section 22. Section 403.0771, Florida Statutes, is created
 1763 to read:

1764 403.0771 Sewage spill notification.—

1765 (1) In addition to the public notification requirements of
 1766 s. 403.077, any domestic wastewater treatment facility that has
 1767 an unauthorized release or spill of raw or partially treated
 1768 domestic wastewater as defined in s. 367.021(5), which requires
 1769 notice to the department pursuant to s. 403.077, shall also
 1770 provide notice to the county health department and the local
 1771 government with jurisdiction of the area in which the spill
 1772 occurred.

1773 (2) A county health department and local government
 1774 notified by a wastewater treatment facility pursuant to
 1775 subsection (1) shall publish on a website accessible by the

1776 public all notices submitted by the facility within 24 hours
1777 after receiving notification of the discharge. Each listing
1778 shall remain on the website until such time that the discharge
1779 has ceased or, if the discharge endangers the public health or
1780 environment, until such time that the danger no longer exists,
1781 whichever is longer.

1782 (3) The wastewater treatment facility, in coordination
1783 with the county health department, shall place signage
1784 indicating a sewage spill has occurred next to any surface water
1785 or publically accessible area impacted by a discharge described
1786 in subsection (1). Each sign shall remain in place until such
1787 time that the discharge has ceased or, if the discharge
1788 endangers the public health or environment, until such time that
1789 the danger no longer exists, whichever is longer.

1790 (4) The local government shall make a good faith effort to
1791 notify the public of a discharge described in subsection (1)
1792 within 24 hours after discovering the discharge by using press
1793 releases, digital strategies, social media, and any other form
1794 of messaging deemed necessary and appropriate to notify the
1795 public.

1796 (5) The costs of notification shall be paid for by the
1797 wastewater treatment facility or entity responsible for the
1798 unlawful discharge.

1799 Section 23. Effective July 1, 2019, paragraph (c) of
1800 subsection (1) of section 403.086, Florida Statutes, is amended

1801 to read:

1802 403.086 Sewage disposal facilities; advanced and secondary
1803 waste treatment.—

1804 (1)

1805 (c) Notwithstanding any other provisions of this chapter
1806 or chapter 373, facilities for sanitary sewage disposal may not
1807 dispose of any wastes into Old Tampa Bay, Tampa Bay,
1808 Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater
1809 Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay,
1810 or Charlotte Harbor Bay, Indian River Lagoon by July 1, 2024, or
1811 into any river, stream, channel, canal, bay, bayou, sound, or
1812 other water tributary thereto, without providing advanced waste
1813 treatment, as defined in subsection (4), approved by the
1814 department. This paragraph shall not apply to facilities which
1815 were permitted by February 1, 1987, and which discharge
1816 secondary treated effluent, followed by water hyacinth
1817 treatment, to tributaries of tributaries of the named waters; or
1818 to facilities permitted to discharge to the nontidally
1819 influenced portions of the Peace River.

1820 (d) The department, in consultation with the water
1821 management districts and sewage disposal facilities, shall
1822 submit a progress report to the Governor, the President of the
1823 Senate, and the Speaker of the House of Representatives by July
1824 1, 2020, that provides the status of upgrades by each sewage
1825 disposal facility required to meet the advanced treatment

1826 requirements in paragraph (c). The report must include a list of
1827 sewage disposal facilities in the Indian River Lagoon that will
1828 be required to upgrade to advanced waste treatment, the
1829 preliminary cost estimates for the upgrades, and a projected
1830 timeline.

1831 Section 24. Effective July 1, 2019, section 403.08715,
1832 Florida Statutes, is created to read:

1833 403.08715 Biosolids Management.-

1834 (1) LEGISLATIVE FINDINGS.-The Legislature finds it is in
1835 the best interest of the state to:

1836 (a) Regulate biosolids management to minimize the
1837 migration of nutrients that may impair or contribute to the
1838 impairment of waterbodies.

1839 (b) Expedite implementation of the recommendations of the
1840 Biosolids Technical Advisory Committee, which includes
1841 permitting based on site-specific application conditions,
1842 increased inspection frequencies, groundwater and surface water
1843 monitoring protocols, and nutrient management research to
1844 improve the management of biosolids and protect the state's
1845 water resources and water quality.

1846 (c) Expedite the implementation of biosolids processing
1847 innovative technologies as a means to improve biosolids
1848 management and protect water resources and water quality.

1849 (2) DEFINITIONS.-As used in this section, the term
1850 "biosolids" has the same meaning as in s. 373.4595.

1851 (3) PROHIBITED LAND APPLICATION.—

1852 (a) Beginning July 1, 2022, the land application of
 1853 biosolids is prohibited on any site when the biosolids
 1854 application zone interacts with the seasonal high ground water
 1855 level.

1856 (b) The department may not issue a new permit or renew an
 1857 existing permit for the land application of biosolids for any
 1858 site where the land application of biosolids is prohibited
 1859 pursuant to paragraph (a).

1860 (c) Permits issued before July 1, 2019, shall continue in
 1861 effect until July 1, 2022, or the termination date of the
 1862 permit, whichever is earlier.

1863 (4) RULEMAKING.—

1864 (a) The department shall adopt rules for biosolids
 1865 management to:

1866 1. Permit the use of biosolids in a manner that minimizes
 1867 the migration of nutrients, including nitrogen and phosphorus,
 1868 that impair or contribute to the impairment of surface water and
 1869 groundwater quality, including:

1870 a. Site-specific land application rates of biosolids based
 1871 on soil characteristics, soil adsorption capacity, water table
 1872 characteristics, hydrogeology, site use, and distance to surface
 1873 water;

1874 b. An evaluation of the percentage of water-extractable
 1875 phosphorus in all biosolids to inform the appropriate

1876 application rate; and

1877 c. Criteria for low-, medium-, and high-risk sites that
1878 guide application practices and required water quality
1879 monitoring.

1880 2. Establish site specific groundwater and surface water
1881 monitoring requirements.

1882 (b) The department shall initiate rulemaking by August 1,
1883 2019.

1884 (5) WATER QUALITY MONITORING.—The department shall
1885 implement an offsite water quality monitoring program sufficient
1886 to determine impacts from the land application of biosolids on
1887 downstream and nearby surface water and groundwater quality.

1888 (6) BIOSOLIDS ALTERNATIVE MANAGEMENT TECHNICAL ADVISORY
1889 COMMITTEE.—

1890 (a) There is established within the department the
1891 Biosolids Alternative Management Technical Advisory Committee, a
1892 committee as defined in s. 20.03(8), for the purpose of
1893 reviewing the recommendations of the Biosolids Technical
1894 Advisory Committee, the costs and impacts of proposed future
1895 regulation of the land application of biosolids, the
1896 identification of alternative management approaches, and the
1897 identification of new biosolids processing technologies.

1898 (b) The Biosolids Alternative Management Technical
1899 Advisory Committee is a 9-member committee appointed by the
1900 Secretary. It is chaired by a representative of the department

1901 and consists of the following members:

1902 1. A representative of a wastewater facility that land
 1903 applies biosolids.

1904 2. A representative of a wastewater facility that uses an
 1905 alternative biosolids disposal method.

1906 3. An agricultural representative that is knowledgeable of
 1907 biosolids land application.

1908 4. A representative from a nonuniversity, public or
 1909 private environmental organization.

1910 5. A representative from a university or educational
 1911 institution that has knowledge of alternative biosolids uses or
 1912 disposal methods.

1913 6. A biosolids hauler.

1914 7. A member from a local government.

1915 8. A professional engineer experienced in biosolids
 1916 management.

1917 (c) The Biosolids Alternative Management Technical
 1918 Advisory Committee shall:

1919 1. Conduct its first meeting on or before August 1, 2019.

1920 2. Conduct at least 3 meetings for the purpose of
 1921 receiving input from the public regarding alternative management
 1922 approaches and the identification of biosolids processing
 1923 technologies. At least 7 days before each public meeting, notice
 1924 of the time, date, and location of the meeting shall be
 1925 published in the Florida Administrative Register.

1926 3. Conduct additional meetings as often as necessary in
 1927 order to fulfill its responsibilities under this subsection. Any
 1928 additional meetings may be conducted in person, by
 1929 teleconference, or by other electronic means.

1930 (d) In evaluating the costs and impacts of the land
 1931 application of biosolids, the identification of alternative
 1932 management approaches, and the identification of biosolids
 1933 processing technologies, the advisory committee must consider:

1934 1. The existing costs associated with the land application
 1935 of biosolids.

1936 2. The costs related to the elimination of land
 1937 application of biosolids.

1938 3. The alternative processing technologies available for
 1939 biosolids management.

1940 4. Identification of new alternative technologies for
 1941 biosolids management.

1942 (e) By July 1, 2020, the Biosolids Alternative Technical
 1943 Advisory Committee shall submit a report of its findings and
 1944 recommendations to the Governor, the President of the Senate,
 1945 and the Speaker of the House of Representatives.

1946 (f) This subsection expires July 15, 2020.

1947 (7) APPLICABILITY.—

1948 (a) This section does not conflict with or supersede s.
 1949 373.4595 or s. 373.811.

1950 (b) This section does not apply to Class AA biosolids that

1951 are marketed and distributed as fertilizer products in
 1952 accordance with department rule.

1953 (c)1. This section does not preempt a municipality or
 1954 county from enforcing or extending an ordinance, regulation,
 1955 resolution, rule, moratorium, or policy adopted before February
 1956 1, 2019, relating to the land application of Class B biosolids
 1957 until the ordinance, regulation, resolution, rule, moratorium,
 1958 or policy is repealed by the county or municipality or until the
 1959 effective date of the rules adopted by the department pursuant
 1960 to subsection (4).

1961 2. Upon adoption of rules by the department pursuant to
 1962 subsection (4), a county or municipality may not adopt or
 1963 enforce any ordinance, regulation, resolution, rule, moratorium,
 1964 or policy relating to biosolids.

1965 Section 25. Subsection (1) of section 489.551, Florida
 1966 Statutes, is amended to read:

1967 489.551 Definitions.—As used in this part:

1968 (1) "Department" means the Department of Environmental
 1969 Protection Health.

1970 Section 26. The Legislature finds that the development of
 1971 wastewater treatment plans and the reporting of unauthorized
 1972 wastewater spills is essential to the protection of public
 1973 health and natural resources. Therefore, the Legislature
 1974 determines and declares that this act fulfills an important
 1975 state interest.

1976 | Section 27. Except as otherwise expressly provided in this
1977 | act and except for this section, which shall take effect upon
1978 | this act becoming a law, this act shall take effect July 1,
1979 | 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/CS/HB 973 Water Quality Improvements
SPONSOR(S): State Affairs Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Melkun	Williamson

SUMMARY ANALYSIS

States are required by the Clean Water Act to maintain their water quality. In Florida, water quality is addressed through water quality standards, total maximum daily loads (TMDLs), basin management action plans (BMAP), and permits.

The bill amends statutes addressing water quality from wastewater. Specifically, the bill:

- Transfers the onsite sewage program from the Department of Health (DOH) to the Department of Environmental Protection (DEP), effective July 1, 2020, by a type two transfer.
- Requires DEP and DOH to submit recommendations to the Governor and the Legislature regarding the transfer of the onsite sewage program by December 1, 2019.
- Requires consolidated annual reports to be submitted to the Office of Economic and Demographic Research and include certain projects.
- Specifies that a hardship exists under certain criteria when evaluating a lot size for an onsite sewage treatment and disposal system (OSTDS) subject to certain prohibitions.
- Requires DOH to allow the use of certain nutrient removing OSTDSs to meet the requirements of TMDLs and water quality restoration plans.
- Creates an OSTDS technical advisory committee and requires DEP to submit recommendations to the Governor and the Legislature.
- Repeals the Research Review and Advisory Committee and the Technical Review and Advisory Panel.
- Requires a BMAP for a nutrient TMDL to include a wastewater treatment plan and an OSTDS remediation plan and requires DEP to submit a report identifying the costs and funding associated with specified projects.
- Creates a clean water grant program, subject to appropriation, and requires DEP to submit recommended processes for the prioritization of projects and allocation of funds.
- Requires specified sewage spill notification for domestic wastewater facilities that unlawfully discharge sewage.
- Requires advanced wastewater treatment for domestic wastewater discharges into the Indian River Lagoon and requires DEP to submit a progress report by a time certain.
- Prohibits the land application of biosolids under certain conditions, requires DEP to conduct rulemaking to implement the findings of the Biosolids Technical Advisory Committee, creates a Biosolids Alternative Management Technical Advisory Committee, and requires a report of its findings to be submitted to the Governor and the Legislature.

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:

Present Situation

Water Quality

The federal Clean Water Act (CWA) requires states to adopt water quality standards (WQS) for navigable waters.¹ The CWA requires states to develop lists of water bodies that do not meet WQS, which are called impaired waters. States are then required to develop a total maximum daily load (TMDL) for the particular pollutants causing the impairment. The TMDL is the maximum allowable amount of the pollutants the water body can receive while maintaining WQS.²

Total Maximum Daily Loads and Basin Management Action Plans

The Florida Watershed Restoration Act guides the development and implementation of TMDLs.³ TMDLs must include reasonable and equitable pollutant load allocations between or among point sources (e.g., pipes, culverts discharging from a permitted facility, such as a domestic wastewater treatment facility) and nonpoint sources (e.g., agriculture, septic tanks, golf courses) that will alone, or in conjunction with other management and restoration activities, reduce pollutants and achieve WQS.⁴ The allocation must consider cost-effective approaches coordinated between contributing point and nonpoint sources of pollution for impaired water bodies and may include nonregulatory and incentive-based programs.⁵

The Department of Environmental Protection (DEP) is the lead agency in coordinating the development and implementation of TMDLs.⁶ Once a TMDL is adopted,⁷ DEP may develop and implement a basin management action plan (BMAP), which is a restoration plan for the watersheds and basins connected to the impaired water body.⁸ A BMAP must integrate appropriate management strategies available to the state through existing water quality protection programs to achieve the TMDL.⁹ The BMAP must include milestones for implementation and water quality improvement, and associated water quality monitoring, which determines whether there has been reasonable progress in pollutant load reductions. An assessment of progress must be conducted every five years, and revisions to the BMAP must be made as appropriate.¹⁰

For point source discharges, any management strategies and pollutant reduction requirements associated with a TMDL must be incorporated into subsequent permits or permit modifications. DEP may not impose limits or conditions implementing an adopted TMDL in a permit until the permit expires, the discharge is modified, or the permit is reopened pursuant to an adopted BMAP.¹¹

¹ 33 U.S.C. s. 1313.

² 33 U.S.C. s. 1313; *see* s. 403.067, F.S.

³ Section 403.067, F.S.; ch. 99-223, Laws of Fla.

⁴ Section 403.067(6)(b), F.S.

⁵ Section 403.067(1), F.S.

⁶ Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it; s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

⁷ Section 403.067(6)(c), F.S.

⁸ Section 403.067(7)(a)1., F.S.

⁹ *Id.*

¹⁰ Section 403.067(7)(a)6., F.S.

¹¹ Section 403.067(7)(b)2., F.S.

to develop a TMDL if there is existing reasonable assurance or proposed pollution control mechanisms or programs that will effectively address the impairment.¹⁷

Restoration plans are required to include a description of the impaired waterbody, water quality and aquatic ecological goals, proposed management actions to be undertaken, procedures for monitoring and reporting results, and proposed corrective actions.¹⁸ Local stakeholders provide documentation to demonstrate, with reasonable assurance, that the proposed control mechanisms will restore the particular waterbody.¹⁹

Wastewater

A person generates approximately 100 gallons of domestic wastewater²⁰ per day.²¹ This wastewater must be managed to protect public health, water quality, recreation, fish, wildlife, and the aesthetic appeal of the state's waterways.²²

Onsite Sewage Treatment and Disposal

One of the methods utilized to treat domestic wastewater is an onsite sewage treatment and disposal system (OSTDS)²³, commonly referred to as a septic system.²⁴ Approximately 30 percent of the population in Florida uses an OSTDS.

An OSTDS must be permitted and inspected by the Department of Health (DOH) before it is placed into operation and must be located and installed so that, along with proper maintenance, the system functions in a sanitary manner, does not create a sanitary nuisance or health hazard, and does not endanger the safety of any domestic water supply, groundwater, or surface water.²⁵ Sewage waste and effluent from an OSTDS may not be discharged onto the ground surface or directly or indirectly discharged into ditches, drainage structures, ground waters, surface waters, or aquifers.²⁶ DOH regulates an estimated 2.6 million OSTDSs.²⁷ The permitting and inspection of OSTDSs is handled mainly by county health departments with support from the Bureau of Onsite Sewage.²⁸

¹⁷ DEP, *Guidance on Developing Restoration Plans as Alternatives to TMDLs – Assessment Category 4b and 4e Plans*, 2 (June 2015), available at <https://floridadep.gov/sites/default/files/4b4ePlansGuidance.pdf> (last visited Apr. 8, 2019).

¹⁸ *Id.* at 6-7.

¹⁹ *Id.*

²⁰ Section 367.021(5), F.S., defines “domestic wastewater” as wastewater principally from dwellings, business buildings, institutions, and sanitary wastewater or sewage treatment plants.

²¹ DEP, *Domestic Wastewater Program*, available at <https://floridadep.gov/water/domestic-wastewater> (last visited Feb. 20, 2019).

²² Sections 381.0065(1) and 403.021, F.S.

²³ Section 381.0065(2)(k), F.S., defines an “OSTDS” as a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under ch. 403, F.S.

²⁴ Sections 381.0065(2)(k) and 381.0065(3), F.S.; chs. 62-600 and 62-701, F.A.C.

²⁵ Section 381.0065(4), F.S.; rr. 64E-6.003, F.A.C. and 64E-6.004, F.A.C.

²⁶ Rule 64E-6.005, F.A.C.

²⁷ DOH, *Onsite Sewage*, available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Jan. 10, 2019).

²⁸ Sections 381.006(7) and 381.0065, F.S.; r. 62-600.120, F.A.C.; see DEP, *Domestic Wastewater - Septic Systems*, available at <https://floridadep.gov/water/domestic-wastewater/content/septic-systems> (last visited Feb. 20, 2019); DOH is an integrated agency that is comprised of the main state office in Tallahassee and 67 county health departments. OSTDS functions are performed by both the state office and the county health departments, with permitting and inspections the responsibility of the counties.

DOH Advisory Committees

DOH operates and serves three advisory organizations: the Research Review and Advisory Committee (RRAC),²⁹ the Technical Review and Advisory Panel (TRAP),³⁰ and the Variance Review and Advisory Committee.³¹ The TRAP assists in the adoption of rules for OSTDSs and it reviews and comments on any legislation or existing policy related to OSTDSs. All rules proposed by DOH that relate to OSTDSs must be presented to the TRAP for review and comment prior to adoption.³² The RRAC advises on new research, reviews and ranks proposals for research contracts, and reviews and provides comments on draft research reports regarding the OSTDS industry.³³

The Variance Review and Advisory Committee recommends agency action on variance requests. A person who applies for an OSTDS construction permit but cannot meet the requirements of the rule or statute will not be issued a permit; however, a person may request a variance from the standards.³⁴ DOH, in hardship cases, may grant variances, which may be less restrictive than the OSTDS provisions required by statute and rule.³⁵

Outstanding Florida Springs

Nutrients, specifically nitrogen and phosphorous, are naturally present in the water and necessary for the growth of plant and animal life. However, too much nitrogen or phosphorous can harm water quality. In some areas, the wastewater leaving OSTDSs has been identified as a contributor to nitrogen pollution.³⁶

In 2016, the Legislature required additional protections to conserve and protect 30 Outstanding Florida Springs³⁷. The Springs and Aquifer Protection Act (act) directed DEP to assess the Outstanding Florida Springs for nutrient impairment and, in collaboration with other state agencies and local governments, develop BMAPs by July 1, 2016.³⁸ Each BMAP must identify the sources of nitrogen pollution within the springshed and identify projects and strategies that will achieve the reductions needed to improve water quality in the region, including, as necessary, an OSTDS remediation plan that identifies cost-effective and financially feasible projects to reduce nitrogen contributions from OSTDSs.³⁹

Further, the act prohibits new homes or businesses with new OSTDSs on lots less than one acre in priority focus areas from installing conventional non-nitrogen reducing OSTDSs if the installation is

²⁹ Section 381.0065(4)(o), F.S.

³⁰ Section 381.0068, F.S.

³¹ Section 381.0065(4)(h)2., F.S.; *see also*, DOH, *Boards, Councils and Committees*, available at <http://www.floridahealth.gov/provider-and-partner-resources/advisory-councils-stakeholder-groups/index.html> (last visited Mar. 1, 2019).

³² Section 381.0068, F.S.

³³ Section 381.0065(4)(o), F.S.

³⁴ DOH, *Variances*, available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/variances/index.html> (last visited Mar. 1, 2019).

³⁵ Section 381.0065(4)(h), F.S.

³⁶ DEP, *Meeting the Septic System Permitting Requirements: Springs and Aquifer Protection Act*, available at https://floridadep.gov/sites/default/files/Springs%20and%20Aquifer%20Protection%20Act_0.pdf (last visited Mar. 1, 2019).

³⁷ Section 373.802(4), F.S., defines an “Outstanding Florida Spring” as all historic first magnitude springs, including their associated spring runs, as determined by DEP using the most recent Florida Geological Survey springs bulletin, and the following additional springs, including their associated spring runs: De Leon Springs, Peacock Springs, Poe Springs, Rock Springs, Wekiwa Springs, and Gemini Springs. The term does not include submarine springs or river rises; ch. 2016-001, Laws of Fla., also known as the Springs and Aquifer Protection Act.

³⁸ DEP, *Meeting the Septic System Permitting Requirements: Springs and Aquifer Protection Act*, available at https://floridadep.gov/sites/default/files/Springs%20and%20Aquifer%20Protection%20Act_0.pdf (last visited Mar. 1, 2019).

³⁹ Section 373.807, F.S.; DEP, *Meeting the Septic System Permitting Requirements: Springs and Aquifer Protection Act*, available at https://floridadep.gov/sites/default/files/Springs%20and%20Aquifer%20Protection%20Act_0.pdf (last visited Mar. 1, 2019).

inconsistent with a BMAP.⁴⁰ Instead, new construction must either connect to available central sewer lines, install a nitrogen-reducing OSTDS, such as “in-ground, passive nitrogen-reducing systems” that use additional soil and media layers to reduce nitrogen flowing into the aquifer, or install nitrogen-reducing Aerobic Treatment Units and Performance-Based Treatment Systems.⁴¹

Wastewater Treatment Facilities

Domestic wastewater treatment facilities are stationary installations that are reasonably expected to be sources of water pollution and must be operated, maintained, constructed, expanded, or modified with a permit issued by DEP.⁴² Approximately 2,000 domestic wastewater treatment facilities in the state serve roughly two-thirds of the state’s population.⁴³ Each day over 1.5 billion gallons of treated wastewater effluent⁴⁴ and reclaimed water⁴⁵ are disposed of from these facilities.⁴⁶ Methods of disposal include reuse and land application systems, groundwater disposal by underground injection, groundwater recharge using injection wells, surface water discharges, disposal to coastal and open ocean waters, or wetland discharges.⁴⁷

Most domestic wastewater treatment facilities must meet either basic disinfection or high-level disinfection requirements, dependent upon the type of discharge.⁴⁸ Basic disinfection requires the effluent to contain less than 200 fecal coliforms per 100 microgram per milliliter,⁴⁹ while high-level disinfection requires fecal coliforms to be reduced below detection.⁵⁰ Domestic wastewater treatment facilities that discharge to surface waters⁵¹ must also obtain a National Pollutant Discharge Elimination System (NPDES) permit, which is established by the CWA to control point source discharges.⁵² NPDES permit requirements for most domestic wastewater facilities are incorporated into the DEP-issued permit.⁵³

⁴⁰ Section 373.802(5), F.S., defines a “priority focus area” as the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring, as determined by DEP in consultation with the appropriate WMDs, and delineated in a BMAP.

⁴¹ DOH, *OSTDS Permitting in a County affected by the Florida Springs and Aquifer Protection Act* (May 14, 2018), available at http://www.floridahealth.gov/environmental-health/onsite-sewage/_documents/letter-to-builders-springs.pdf (last visited Mar. 1, 2019).

⁴² Section 403.087(1), F.S.

⁴³ DEP, *General Facts and Statistics about Wastewater in Florida*, available at <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Jan. 16, 2019); the remainder of the state is served by on-site sewage and disposal systems permitted and regulated by DOH.

⁴⁴ Rule 62-600.200(22), F.A.C., defines “effluent” to mean, unless specifically stated otherwise, water that is not reused after flowing out of any plant or other works used for the purpose of treating, stabilizing, or holding wastes.

⁴⁵ 62-600.200(54), F.A.C.; reclaimed water means water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.

⁴⁶ DEP, *General Facts and Statistics about Wastewater in Florida*, available at <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Jan. 16, 2019).

⁴⁷ Rule 62-600.440(4), F.A.C.

⁴⁸ DEP, *Ultraviolet Disinfection for Domestic Wastewater*, available at <https://floridadep.gov/water/domestic-wastewater/content/ultraviolet-uv-disinfection-domestic-wastewater> (last visited Jan. 16, 2019).

⁴⁹ Rules 62-600.510(1) and 62-600.440(5), F.A.C.

⁵⁰ Rule 62-600.440(6), F.A.C.

⁵¹ Section 373.019(21), F.S., defines “surface water” to mean water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs is classified as surface water when it exits from the spring onto the earth’s surface; s. 403.031(13), F.S., defines “waters” to mean rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters; r. 62-620.200(56), F.A.C.

⁵² 33 U.S.C. s. 1342.

⁵³ Section 403.0885, F.S.; ch. 62-620, F.A.C.; DEP, *Wastewater Permitting*, available at <https://floridadep.gov/water/domestic-wastewater/content/wastewater-permitting> (last visited Jan. 16, 2019); DEP, *Types of Permits*, available at <http://flwaterpermits.com/typesofpermits.html> (last visited Jan. 16, 2019).

Sanitary Sewer Overflows

Although domestic wastewater treatment facilities are permitted and designed to safely and properly collect and manage a specified wastewater capacity, obstructions or extreme conditions can cause a sanitary sewer overflow (SSO). Any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system is a SSO.⁵⁴ Factors contributing to SSOs may include:

- Build-up of solids, fats, oils, and greases in the wastewater collection system which impedes flow;
- Too much rainfall infiltrating the system through leaky infrastructure, roof drains, or poorly connected wastewater lines;
- Blocked, broken, or cracked pipes and other equipment or power failures that keep the system from functioning properly (e.g., tree roots growing into the system, pipe settling or shifting so pipe joints no longer match, buildup of sediment and other material causing pipes to break or collapse); and
- A deteriorating or aging system.⁵⁵

A key concern with SSOs entering rivers, lakes, or streams is their negative effect on water quality. Because SSOs contain partially treated or potentially untreated domestic wastewater, ingestion or similar contact may cause illness. People can be exposed through direct contact in areas of high public access, food that has been contaminated, inhalation, and skin absorption. DOH may issue health advisories when bacteria levels present a risk to human health, and may post warning signs when bacteria affect public beaches or other areas where there is a risk of human exposure.⁵⁶

Advanced Waste Treatment

Under Florida law, facilities for sanitary sewage disposal are required to provide for advanced waste treatment, under certain conditions.⁵⁷ The standard for advanced waste treatment is defined in statute using the maximum concentrations of nutrients or contaminants that a reclaimed water product may contain.⁵⁸ The reclaimed water product must be disinfected to a higher standard.⁵⁹

Nutrient or Contaminant	Maximum concentration annually
Biochemical Oxygen Demand	5 mg/L
Suspended Solids	5 mg/L
Total Nitrogen	3 mg/L
Total Phosphorus	1 mg/L

Facilities for sanitary sewage disposal are prohibited from disposing of waste into certain waters in the state without providing advanced waste treatment approved by DEP.⁶⁰

⁵⁴ DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Apr. 8, 2019).

⁵⁵ DEP, *Preventing SSOs*, available at <https://floridadep.gov/sites/default/files/preventing-sanitary-sewer-overflows.pdf> (last visited Jan. 16, 2019); DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Jan. 16, 2019).

⁵⁶ DEP, *SSOs*, available at <https://floridadep.gov/sites/default/files/sanitary-sewer-overflows.pdf> (last visited Mar. 15, 2019).

⁵⁷ Section 403.086(2), F.S.

⁵⁸ Section 403.086(4), F.S.

⁵⁹ Section 403.086(4)(b), F.S.; r. 62-600.440(6), F.A.C.

⁶⁰ Section 403.086(1)(c), F.S. Facilities for sanitary sewage disposal may not dispose of any wastes into Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or into any river, stream, channel, canal, bay, bayou, sound, or other water tributary thereto, without providing advanced waste treatment approved by DEP. This prohibition does not apply to facilities permitted by February 1, 1987, and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of the named waters; or to facilities permitted to discharge to the nontidally influenced portions of the Peace River.

Biosolids

When domestic wastewater is treated, a solid byproduct accumulates in the wastewater treatment plant and must be removed periodically to keep the plant operating properly. The collected material, called biosolids or “sewage sludge,” is high in organic content and contains moderate amounts of nutrients.⁶¹ Wastewater facilities can dispose of biosolids by transferring them to another facility, placing them in a landfill, incineration, distributing them as fertilizer, or land applying them to permitted sites.⁶² The option selected for use or disposal is typically stated in the permit issued to the wastewater treatment facility by DEP.⁶³ Florida produces a total of 340,000 dry tons of biosolids annually, of which approximately two-thirds are beneficially used and one-third is landfilled.⁶⁴

Three classes of biosolids are regulated for beneficial use and are categorized based on treatment and quality: Class B, Class A, and Class AA.⁶⁵ Treatment is required to either reduce or completely eliminate pathogens. Class B treatment significantly reduces pathogens, but does not completely eliminate them. Class AA treatment essentially eliminates pathogens and meets strict concentration limits for heavy metals. Class A treatment level is between Class B and Class AA. While Class A and Class AA can be used for a variety of beneficial purposes, Class B, the lowest quality of biosolids, is typically only used for land application.⁶⁶

Land application is the use of biosolids at a permitted site to provide nutrients or organic matter to the soil, such as agricultural land, golf courses, forests, parks, or reclamation sites. The biosolids are applied in accordance with restrictions based on crop nutrient needs, phosphorus limits in the area, and soil fertility.⁶⁷ Biosolids contain macronutrients (such as nitrogen and phosphorus) and micronutrients (such as copper, iron, and manganese) that are utilized by crops. The application of these nutrient-rich biosolids increases the organic content of the soil, fostering more productive plant growth.⁶⁸ To prevent odor or the contamination of soils, crops, livestock, and humans, land application sites must meet site management requirements such as site slopes, setbacks, and proximity to groundwater restrictions.⁶⁹ There are approximately 140 permitted land application sites in Florida.⁷⁰

Class AA biosolids can be land applied or can be distributed and marketed as a commercial fertilizer.⁷¹ Class AA biosolids products are also not subject to site management requirements if distributed and marketed as a fertilizer or distributed and marketed to a person or entity that will sell or give away the

⁶¹ DEP, *Domestic Wastewater Biosolids*, available at <https://floridadep.gov/water/domestic-wastewater/content/domestic-wastewater-biosolids> (last visited Feb. 4, 2019); “Biosolids” is defined in r. 62-640.200(6), F.A.C., as the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility, formerly known as “domestic wastewater residuals” or “residuals.” The treated effluent or reclaimed water from a domestic wastewater treatment plant is not included. Also, solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, other solids as defined in subsection 62-640.200(31), F.A.C., and ash generated during the incineration of biosolids are not included. Biosolids include products and treated material from biosolids treatment facilities and septage management facilities regulated by DEP.

⁶² DEP, *Biosolids Use and Regulations in Florida* (Sept. 2018), slide 3, available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Feb. 22, 2019).

⁶³ *Id.* at slide 4.

⁶⁴ *Id.* at slide 5.

⁶⁵ *Id.* at slide 6.

⁶⁶ *Id.* at slide 7.

⁶⁷ DEP, *Biosolids Use and Regulations in Florida* (Sept. 2018), slide 23, available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Feb. 25, 2019); *see also*, United States Environmental Protection Agency (EPA), *A Plain English Guide to the EPA Part 503 Biosolids Rule* (Sept. 1994), p. 26, available at <https://www.epa.gov/sites/production/files/2018-12/documents/plain-english-guide-part503-biosolids-rule.pdf> (last visited Feb. 26, 2019).

⁶⁸ DEP, *Biosolids Use and Regulations in Florida* (Sept. 2018), slide 20, available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Feb. 25, 2019).

⁶⁹ *Id.* at slides 8-9.

⁷⁰ *Id.* at slide 20.

⁷¹ *Id.* at slide 6.

biosolids products as a fertilizer or component of a fertilizer.⁷² There are approximately 39 facilities in Florida that produce Class AA biosolids.⁷³ In 2016, 197,115 dry tons of Class AA biosolids product was distributed and marketed in Florida.⁷⁴

The beneficial use of biosolids is regulated by DEP under ch. 62-640, F.A.C., and by the United States Environmental Protection Agency (EPA) under Title 40 Code of Federal Regulations Part 503 (Part 503).⁷⁵ Adopted in 1993, Part 503 created standards for the final use or disposal of biosolids generated during domestic wastewater treatment. The standards included general requirements, pollutant limits, management practices, and operational standards for biosolids. Standards were also included for biosolids applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator.⁷⁶

In 1990, DEP adopted rules governing biosolids based on the draft of Part 503 and previously adopted solid waste rules.⁷⁷ DEP's rules were revised in 1998 to be consistent with the final version of Part 503. Part 503 was self-implementing, meaning it did not require permits to be issued. Also, it did not address phosphorus, a major pollutant in Florida.⁷⁸ As a result, Florida amended the rules in 2010 to improve site accountability and nutrient management by requiring site permits for the land application of biosolids, nutrient management plans (NMPs), provisions governing phosphorus limitations, and site management requirements.⁷⁹ Additionally, the rules clarified that the disposal and incineration of biosolids must be in accordance with DEP's solid waste⁸⁰ and air⁸¹ rules to protect water quality and human health.

NMPs are site-specific plans that specify the rate at which biosolids can be applied in the area, the method of application allowed (i.e. surface application, injection, incorporation, etc.), the zone in which biosolids can be applied, pollutant concentration targets,⁸² and cumulative pollutant loading limits from all sources at the application site.⁸³ NMPs are submitted to DEP along with the permit application for each agricultural site.

Agricultural sites that are required to have a NMP for the application of biosolids are also often required to participate in the Florida Department of Agriculture and Consumer Services (DACS) BMP program if the site is located in an impaired watershed because of the potential impact biosolids may have on

⁷² DEP, *Biosolids in Florida: 2013 Summary* (Dec. 2014), p. 4, available at https://floridadep.gov/sites/default/files/BiosolidsFlorida-2013-Summary_2.pdf (last visited Feb. 25, 2019).

⁷³ DEP, *Biosolids Use and Regulations in Florida* (Sept. 2018), slide 13, available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Feb. 25, 2019).

⁷⁴ *Id.* at slide 19.

⁷⁵ EPA, *Biosolids Laws and Regulations*, available at <https://www.epa.gov/biosolids/biosolids-laws-and-regulations> (last visited Feb. 25, 2019).

⁷⁶ 40 C.F.R. Part 503.

⁷⁷ Chapters 62-701 and 62-709, F.A.C.

⁷⁸ DEP, *Biosolids Rule/Permitting* (Nov. 2018), slide 2, available at <https://floridadep.gov/water/domestic-wastewater/documents/tac-3-biosolids-rulepermitting> (last visited Feb. 25, 2018); *see also*, DEP, *Biosolids Use and Regulations in Florida* (Sept. 2018), slide 11, available at <https://floridadep.gov/sites/default/files/Biosolids101-TAC-090518.pdf> (last visited Feb. 25, 2019).

⁷⁹ DEP, *Biosolids Rule/Permitting* (Nov. 2018), slide 2, available at <https://floridadep.gov/water/domestic-wastewater/documents/tac-3-biosolids-rulepermitting> (last visited Feb. 25, 2018); *see* ch. 62-640, F.A.C.

⁸⁰ Chapter 62-701, F.A.C.

⁸¹ *See* Chapters 62-204, 62-210, 62-212, 62-213, 62-296, and 62-297, F.A.C.

⁸² The pollutant concentration target may be a total maximum daily load (TMDL). When a river, lake, estuary, or spring does not meet state water quality standards, DEP determines a water quality restoration goal known as a TMDL that will restore the waterbody so that it meets water quality standards. TMDLs establish a target for the maximum of a specific pollutant that may be present while ensuring the functionality and health of the affected waterbody; therefore, a waterbody may have multiple TMDLs to address different pollutants.

⁸³ DEP, *NMPs*, available at <https://floridadep.gov/water/domestic-wastewater/documents/nutrient-management-plans-biosolids> (last visited Feb. 25, 2019); *see also*, r. 62-640.500, F.A.C.

water quality.⁸⁴ Typical BMP practices include nutrient management, irrigation and water table management, and water resource protection. Nutrient management practices for biosolids land application address appropriate source, rate, timing, and placement of nutrients to minimize impacts to water resources. Irrigation and water table management practices address methods for irrigating to reduce water and nutrient losses to the environment and to maximize the efficient use and distribution of water. Finally, water resource protection practices, such as the site management requirements for biosolids, help to reduce or prevent the transport of nutrients and sediments from production areas to water resources.⁸⁵ The BMPs for the site are typically included in facility permits.⁸⁶

While counties do not have the authority to permit the management of biosolids in Florida, some, through their local regulations, have enacted limitations on the use of biosolids within the county limits. For example, Indian River County has established a moratorium that prohibits the use of Class B biosolids for a certain period where waterways are at high risk for pollutant loadings due to the rainy season.⁸⁷

Biosolids Technical Advisory Committee

In 2018, DEP created a Biosolids Technical Advisory Committee (TAC) to evaluate current management practices and explore opportunities to better protect Florida's water resources.⁸⁸ The TAC members represented stakeholders from several interest areas including environmental and agricultural industry experts, large and small utilities, waste haulers, consultants, and academics.⁸⁹ The meetings included presentations and public comment as well as discussion among the TAC members, the audience, and DEP.

Based on the deliberations of the TAC and feedback from public participants, DEP recommended the following actions:

- Permit biosolids in a manner that minimizes migration of nutrients to prevent impairment to waterbodies and amend current permitting rules to: establish the rate of biosolids application based on site specifics, such as soil characteristics/adsorption capacity, water table, hydrogeology, site use, and distance to surface water; evaluate the percentage of water extractable phosphorus in all biosolids to inform the appropriate application rate; and establish criteria for low, medium and high-risk sites that guide application practices and required water quality monitoring.
- Increase the inspection rate of land application.
- Develop site specific groundwater and/or surface water monitoring protocols to detect nutrient migration.
- Develop and conduct biosolids and nutrient management research on nutrient run-off through surface and groundwater flow using various application rates, types of biosolids application, and different geologic conditions.
- Promote innovative technology pilot projects for biosolids processing that could provide a wider range of beneficial end products.⁹⁰

⁸⁴ "Impaired water" is defined in r. 62-303.200(7), F.A.C., as a waterbody or waterbody segment that does not meet its applicable water quality standards [...] due in whole or in part to discharges of pollutants from point or nonpoint sources.

⁸⁵ DACS, *Agriculture and Water Quality*, available at

https://www.freshfromflorida.com/content/download/33106/813038/Agriculture_and_water_quality_2018.pdf (last visited Feb. 26, 2019).

⁸⁶ Section 403.067(7)(c), F.S.; see ch. 2016-1, Laws of Fla.

⁸⁷ Southwest Florida Regional Planning Council Res. 2018-03; Treasure Coast Regional Planning Council Res. 18-03.

⁸⁸ DEP, *DEP Biosolids Technical Advisory Committee*, available at <https://floridadep.gov/water/domestic-wastewater/content/dep-biosolids-technical-advisory-committee> (last visited Feb. 25, 2018).

⁸⁹ *Id.*

⁹⁰ DEP, *Biosolids Technical Advisory Committee Recommendations* (January 2019), available at

<https://floridadep.gov/water/domestic-wastewater/documents/tac-4-biosolids-tac-considerations> (last visited Feb. 25, 2018).

Public Notice of Pollution

Many commercial, industrial, agricultural, and utility operations and entities are required to report various releases, discharges, or emissions as a condition of permitted operations or pursuant to law or rule. Notification typically must be made to DEP.⁹¹ In some cases, notice to DEP is provided through the State Watch Office, an emergency communications center in the Division of Emergency Management. The State Watch Office, also known as the State Warning Point, serves as Florida's primary point of contact for a wide variety of both natural and man-made emergencies. It serves as the contact point in Florida for communications between local governments and emergency agencies of both the state and federal governments and provides emergency information to newspapers and radio and television stations. Examples of notification to the State Watch Office include notification of petroleum discharges,⁹² wastewater discharges,⁹³ and releases of hazardous substances.⁹⁴

Section 403.077, F.S., requires an owner or operator of a facility that commits a reportable pollution release⁹⁵ to provide DEP the information reported to the State Watch Office within 24 hours after the owner's or operator's discovery of such reportable pollution release. DEP must then publish, on a website accessible to the public, all notices of reportable pollution releases provided by an owner or operator within 24 hours after receipt.⁹⁶

The Indian River Lagoon

The Indian River Lagoon (IRL) system runs along 156 miles of Florida's east coast, extending from Ponce de Leon Inlet near New Smyrna Beach in Volusia County to Jupiter Inlet in Martin County.⁹⁷ The IRL system is composed of three main waterbodies: the Mosquito Lagoon, the Banana River, and the IRL.⁹⁸ More than 71 percent of its area and nearly half its length is within Brevard County.⁹⁹ The IRL system is an estuary in which freshwater from uplands and tributaries meets and mixes with saltwater from the ocean to create an estuarine environment.¹⁰⁰

The IRL is a biologically diverse estuary that is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.¹⁰¹ The estimated economic value received from the IRL in 2014 was approximately \$7.6 billion, of which \$1.57 million was attributed to recreation and visitor-related activity.¹⁰² Industry groups that are directly influenced by the IRL support nearly 72,000 jobs.¹⁰³

Much of the IRL ecosystem has been disturbed by increased development in the area. Development has led to harmful levels of nutrients and sediments are entering the IRL as a result of stormwater

⁹¹ See, e.g., ss. 377.371(2), 376.30702, 403.862(1)(b), and 403.93345(5), F.S.

⁹² Division of Emergency Management, *State Watch Office*, available at <https://www.floridadisaster.org/dem/response/operations/> (last visited Jan. 23, 2019); see, r. 62-780.210, F.A.C.

⁹³ Rule 62-620.610, F.A.C.

⁹⁴ Rule 62-150.300, F.A.C.

⁹⁵ The term "reportable pollution release" means the release or discharge of a substance from an installation to the air, land, or waters of the state which is discovered by the owner or operator of the installation, which is not authorized by law, and which is reportable to the State Watch Office within the Division of Emergency Management pursuant to any DEP rule, permit, order, or variance.

⁹⁶ DEP Pollution Notice, available at <http://prodenv.dep.state.fl.us/DepPNP/reports/viewIncidentDetails?page=1> (last visited Jan. 25, 2019).

⁹⁷ IRL Council, *About the Indian River Lagoon*, available at <http://www.irlcouncil.com/> (last visited Jan. 22, 2019).

⁹⁸ *Id.*

⁹⁹ Tetra Tech, Inc. & Closewaters, LLC, *Save Our Lagoon Project Plan for Brevard County, Florida* (April 2018), p. 1, [hereinafter referred to as *Save Our Lagoon*], available at <https://www.brevardfl.gov/docs/default-source/save-our-lagoon-documents/final-2018-save-our-indian-river-lagoon-project-plan-update-041218.pdf?sfvrsn=2> (last visited Jan. 22, 2019).

¹⁰⁰ IRL Council, *About the Indian River Lagoon*, available at <http://www.irlcouncil.com/> (last visited Jan. 22, 2019).

¹⁰¹ *Id.*

¹⁰² IRL National Estuary Program, *Annual Report 2017* (Feb. 26, 2018), p. 4, available at http://www.irlcouncil.com/uploads/7/9/2/7/79276172/annrept_final_2-26-18.pdf (last visited Jan. 23, 2019).

¹⁰³ *Id.*

runoff from urban and agricultural areas, wastewater treatment facility discharges, septic systems, and excess fertilizer applications.¹⁰⁴ The nutrients have led to recurring brown tides; unusual mortalities of dolphins, manatees, and shorebirds; and large fish kills due to low dissolved oxygen from decomposing algae.¹⁰⁵

¹⁰⁴ *Save Our Lagoon* at ix.

¹⁰⁵ *Id.*

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as the merging of an existing department, program or activity into another department. Any program or activity transferred by a type two transfer retains all the statutory powers, duties, and functions it held before the transfer. The program or activity also retains its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between the program and the revenue source is retained.¹⁰⁶

Consolidated Annual Reports

By March 1 of each year, the WMDs must submit a consolidated annual report to the Governor, the Legislature, and DEP. The WMDs must also provide copies of the report to the chairs of the legislative committees having substantive or fiscal jurisdiction over the WMDs and the governing boards of all county entities having jurisdiction or deriving any funds for operations of the district. The report must also be made available to the public in either a printed or an electronic format.¹⁰⁷

The consolidated annual report includes several legislatively mandated plans and reports regarding the status of water resource programs. The consolidated annual report includes: the Strategic Water Management Plan Annual Work Plan Report; the Minimum Flows and Minimum Water Levels Annual Priority List and Schedule; the Annual Five-Year Capital Improvement Plan; the Alternative Water Supplies Annual Report; the Five-Year Water Resource Development Work Program; the Florida Forever WMD Work Plan Annual Report; the Mitigation Donation Annual Report; the Water Projects in the Five-Year Water Resources Development Work Program; and the Surface Water Improvement and Management Program Annual Report.¹⁰⁸

The Office of Economic and Demographic Research

The Office of Economic and Demographic Research (EDR) is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations.¹⁰⁹ EDR publishes all of the official economic, demographic, revenue, and agency workload forecasts that are developed by Consensus Estimating Conferences and makes them available to the Legislature, state agencies, universities, research organizations, and the general public.¹¹⁰

Effect of Proposed Changes

The bill transfers the onsite sewage program from DOH to DEP by type two transfer, effective July 1, 2020, and requires DEP and DOH to submit recommendations to the Governor and the Legislature addressing the transfer, including the continued role of the county health departments in permitting, inspection, and tracking of OSTDSs under the direction of DEP.

The bill requires the consolidated WMD annual report to be submitted to EDR in addition to DEP, the Governor, and the Legislature and requires the report to include projects connecting OSTDSs to central sewerage systems and projects converting OSTDSs to advanced nutrient removing OSTDSs.

The bill requires DEP and DOH to include all portions of a lot subject to any easement, right of way, and right of entry when calculating the lot size.

¹⁰⁶ Section 20.06(2), F.S.

¹⁰⁷ Northwest Florida WMD, *Consolidated Annual Reports*, available at <https://www.nfwfwater.com/Data-Publications/Reports-Plans/Consolidated-Annual-Reports> (last visited Mar. 2, 2019).

¹⁰⁸ Section 373.036(7), F.S.

¹⁰⁹ EDR, *Welcome*, available at <http://edr.state.fl.us/Content/> (last visited Apr. 11, 2019).

¹¹⁰ EDR, *About Us*, available at <http://edr.state.fl.us/Content/about/index.cfm> (last visited Apr. 11, 2019).

The bill provides that a hardship exists when an applicant for a variance demonstrates that the lot is at least 0.85 acres and that lots in the immediate proximity average at least one acre. The bill specifies that the term "immediate proximity" means lots within the same unit or phase of a subdivision, adjacent lots, contiguous lots, or lots located across the road from the lot under variance consideration.

The bill repeals the TRAP and the RRAC.

The bill requires DOH, effective July 1, 2019, to allow the use of American National Standards Institute 245 systems approved by the National Sanitation Foundation International (NSF/ANSI 245).¹¹¹

The bill creates an OSTDS Technical Advisory Committee (TAC) and requires DEP, in consultation with DOH, to appoint members to make recommendations that increase the availability of nutrient removing OSTDSs. The bill requires the TAC to consider and recommend regulatory options, such as fast-track approval, prequalification, or expedited permitting, to facilitate the introduction and use of nutrient removing OSTDSs that have been reviewed and approved by a national agency or organization, and requires the TAC to submit its recommendations to the Governor and the Legislature by August 1, 2020

The bill specifies that the TAC should consist of no more than nine members representing the home building industry, the real estate industry, the OSTDS industry, septic tank contractors, engineers, and local governments. The bill specifies that the TAC will expire on August 15, 2020.

The bill requires each local government, in cooperation with DEP, the WMD, and the public and private domestic wastewater facilities within the jurisdiction of the local government, to develop a wastewater treatment plan to provide for construction, expansion, or upgrades necessary to achieve the TMDL requirements applicable to the domestic wastewater facilities. The bill specifies that the wastewater treatment plan must be adopted as part of the BMAP no later than the first five-year milestone assessment. The plan must include the permitted capacity of the facility, in gallons per day; the average nutrient concentration; the estimated average nutrient load; and a timeline of the dates by which the construction of any improvements will commence, construction will be completed, and operations of the improved facility or facilities will commence.

The bill provides that a local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan, unless there is a demonstrated need for water quality improvement that requires the creation of such a facility within its jurisdiction.

If DEP determines that OSTDSs contribute at least 20 percent of the nonpoint source nutrient pollution or that remediation is necessary to achieve a TMDL, the bill requires the BMAP to include an OSTDS remediation plan that identifies cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for OSTDSs.

In order to promote cost-effective remediation, DEP may identify one or more OSTDS priority focus areas considering soil conditions; groundwater or surface water travel time; proximity to surface waters, including predominantly marine waters; hydrogeology; density of OSTDSs; nutrient load; and other factors that may lead to water quality degradation when identifying these priority focus areas.

The bill requires DEP, in cooperation with DOH, WMDs, and public and private domestic wastewater facilities, to develop and adopt the OSTDS remediation plan as part of the BMAP no later than the first five-year milestone assessment, or as required for Outstanding Florida Springs. The bill specifies that

¹¹¹ NSF/ANSI 245 is a certification applied to an OSTDS that defines total nitrogen reduction requirements. A NSF/ANSI 245 certified system covers residential wastewater treatment systems with rated capacities between 400 and 1,500 gallons per day. To achieve certification, treatment systems must produce an acceptable quality of effluent during a six-month (26-week) test; *see also*, The Public Health and Safety Organization, *NSF/ANSI 245: Nitrogen Reduction*, available at <http://www.nsf.org/services/by-industry/water-wastewater/onsite-wastewater/nitrogen-reduction> (last visited Mar. 6, 2019).

DEP, when identifying wastewater projects in BMAPs, may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. The bill further specifies that a regulated entity may choose an alternative option if it provides additional benefits or meets other water quality or water supply requirements.

The bill requires DEP to submit to EDR the cost estimates for projects required in s. 403.067(7)(a)9., F.S., and requires EDR to include the project cost estimates in its annual assessment.

The bill requires DEP, in coordination with the county health departments, domestic wastewater treatment facilities, and other governmental entities, to submit a report by July 1, 2020, to the Governor and the Legislature evaluating the costs of wastewater projects identified in BMAPs, the OSTDS remediation plans, and other restoration plans developed to meet TMDLs. The bill requires the report to include projects to replace OSTDSs with enhanced nutrient removing OSTDSs; projects to install retrofit OSTDSs with enhanced nutrient removing technologies; projects to construct, upgrade, or expand wastewater facilities to provide advanced waste treatment; and projects to connect OSTDSs to wastewater treatment facilities. The bill further requires the report to include the estimated costs, nutrient load reduction estimates, other benefits, and an estimated implementation timeline for each project. The report must also include a proposed five-year funding plan and the source and amount of financial assistance to be made available by DEP, a WMD, or other project partner.

The bill requires DEP to submit a report by July 1, 2020, to the Governor and the Legislature assessing the water quality monitoring being conducted for each BMAP. The report must evaluate the water quality monitoring prescribed for each BMAP to determine if it is sufficient to detect changes in water quality from project implementation, identify gaps in water quality monitoring, and recommend water quality monitoring needs. The bill specifies that DEP may coordinate with the WMDs and any applicable university in developing the report.

The bill creates a clean water grant program within DEP and requires DEP to submit a report to the Governor and the Legislature by January 1, 2020, that includes a recommended process for the prioritization of projects that are considered for grant funding. The bill further requires DEP, in consideration of the prioritization process, to consider estimated nutrient load reduction per project, cost effectiveness of the project, overall environmental benefit of a project, project readiness, the location of a project within the plan area, and availability of local matching funds. In determining a process for allocating funds, DEP must recommend a minimum cost share match for local governments, the WMDs, public and private domestic wastewater facilities, and homeowners for each project type, as applicable, and hardship criteria for lowering the cost share requirements.

Effective July 1, 2020, and subject to appropriation, DEP may provide grants for projects that will individually or collectively reduce excess nutrient pollution in a BMAP or an alternative restoration plan adopted by final order that will install or retrofit OSTDSs; construct, upgrade, or expand wastewater facilities to provide advanced waste treatment; or connect OSTDSs to central sewerage facilities. The bill authorizes DEP to coordinate with the WMDs to identify grant recipients. The bill requires DEP to submit a progress report on funded projects to the Governor and the Legislature every October 1, beginning in 2021, on the implementation status and the funds expended or committed to each project.

The bill requires additional public notification for domestic wastewater treatment facilities that unlawfully discharge raw or partially treated domestic wastewater. The domestic wastewater treatment facility must provide notice to the county health department and the local government with jurisdiction of the area in which the spill occurred.

The bill requires a county health department and local government notified by a domestic wastewater treatment facility to publish on a website accessible by the public all notices submitted by the facility within 24 hours after receiving notification of the discharge. The bill requires each listing remain on the website until such time that the discharge has ceased or, if the discharge endangers the public health or environment, until such time that the danger no longer exists, whichever is longer.

The bill requires the domestic wastewater treatment facility, in coordination with the county health department, to place signage indicating a sewage spill has occurred next to any surface water or publicly accessible area impacted by a discharge. The bill requires each sign remain in place until such time that the discharge has ceased or, if the discharge endangers the public health or environment, until such time that the danger no longer exists, whichever is longer.

The bill further requires the local government to make a good faith effort to notify the public of a discharge within 24 hours after discovering the discharge by using press releases digital strategies, social media, and any other form of messaging deemed necessary and appropriate to notify the public. The bill requires the cost of notification be paid by the wastewater treatment facility or entity responsible for the discharge.

The bill requires advanced waste treatment for wastewater discharges into the IRL by July 1, 2024.

The bill requires DEP, in consultation with the WMDs and sewage disposal facilities, to submit a progress report to the Governor and the Legislature by July 1, 2020, that provides the status of upgrades by each sewage disposal facility required to meet advanced waste treatment requirements. The report must also include a list of sewage disposal facilities in the IRL that will be required to upgrade to advanced waste treatment, the preliminary cost estimated for the upgrades, and a projected timeline.

The bill provides legislative intent to regulate biosolids management to minimize the migration of nutrients that impair or contribute to the impairment of waterbodies and to expedite the implementation of the Biosolids TAC recommendations and biosolids processing innovative technologies. The bill provides that the term biosolids has the same meaning as in s. 373.4595(2), F.S.

The bill prohibits the land application of biosolids on any site when the biosolids application zone interacts with the seasonal high ground water level. The bill specifies that DEP may not issue a new permit or renew an existing permit for the land application of biosolids for any site where it is prohibited. The bill further specifies that permits issued prior to July 1, 2019, continue in effect until July 1, 2022, or the termination date of the permit, whichever is earlier.

The bill directs DEP to initiate rulemaking by August 1, 2019, and to adopt rules for biosolids management to:

- Permit the use of biosolids in a manner that minimizes the migration of nutrients, including phosphorus and nitrogen, that impair or contribute to the impairment of surface water and groundwater quality, including:
 - Site-specific land application rates of biosolids based on soil characteristics, soil adsorption capacity, water table characteristics, hydrogeology, site use, and distance to surface water;
 - An evaluation of the percentage of water extractable phosphorus in all biosolids to inform the appropriate application rates; and
 - Criteria for low, medium, and high-risk sites that guide application practices and required water quality monitoring;
- Establish site specific groundwater and surface water monitoring requirements.

The bill requires DEP to implement an offsite water quality monitoring program sufficient to determine impacts from the application of biosolids on downstream and nearby surface water and groundwater quality.

The bill creates the Biosolids Alternative Management TAC within DEP for the purpose of reviewing the recommendations of the Biosolids TAC. The bill specifies that the TAC must be chaired by DEP and consist of the following members:

- A representative of a wastewater facility that land applies biosolids;

- A representative of a wastewater facility that uses an alternative biosolids disposal method;
- An agricultural representative that is knowledgeable of biosolids land application;
- A representative from a nonuniversity public or private environmental organization;
- A representative from a university or educational institution that has knowledge of alternative biosolids uses or disposal methods;
- A biosolids hauler;
- A member from a local government; and
- A professional engineer experienced in biosolids management.

The bill requires the TAC to conduct at least three meetings, with the first convening on or before August 1, 2019. The bill further requires the TAC to conduct additional meetings, as needed, to receive input from the public regarding alternative management approaches and the identification of biosolids processing technologies.

The bill requires the TAC to evaluate the costs and impacts of the land application of biosolids and the identification of alternative management approaches and the identification of biosolids processing technologies by considering:

- The existing costs associated with the land application of biosolids;
- The costs related to the elimination of land application of biosolids;
- The alternative processing technologies available for biosolids; and
- Identification of new alternative technologies for biosolids management.

The bill further requires the TAC to submit a report to the Governor and the Legislature by July 1, 2020, on the TAC findings and recommendations.

The bill provides that this section does not apply to Class AA biosolids that are marketed and distributed as fertilizer products in accordance with DEP rule. Finally, the bill clarifies that this section does not preempt a municipality or county from enforcing or extending an ordinance, moratorium, or regulation adopted before February 1, 2019, relating to the land application of Class B biosolids until the ordinance, moratorium, or regulation expires or is repealed by the municipality or county, or until rules adopted by DEP are in effect. The bill specifies that upon adoption of rules by DEP, no local government or county may adopt or enforce any ordinance, regulation, resolution, rule, moratorium, or policy pertaining to biosolids.

The bill provides that the development of wastewater treatment plans and the reporting of unauthorized wastewater spills is essential to the protection of public health and natural resources and, therefore, the Legislature determines and declares that this act fulfills an important state interest.

B. SECTION DIRECTORY:

Section 1 transfers authority of the onsite sewage program from DOH to DEP via a type two transfer.

Section 2 requires DOH and DEP to submit recommendations to the Governor and the Legislature regarding the type two transfer, before December 1, 2019.

Section 3 amends s. 153.54, F.S., to conform to changes made in the act.

Section 4 amends s. 153.73, F.S., to conform to changes made in the act.

Section 5 amends s. 163.3180, F.S., to conform to changes made in the act.

Section 6 amends s. 180.03, F.S., to conform to changes made in the act.

Section 7 amends s. 373.036, F.S., to require consolidated annual reports to be submitted to EDR and include projects connecting OSTDSs to central sewerage systems and conversions of OSTDSs to advanced nutrient removing OSTDSs.

Section 8 amends s. 373.807, F.S., to conform to changes made in the act.

Section 9 amends s. 373.811, F.S., to require DEP to include all portions of a lot subject to an easement, right of way, or right of entry when calculating the lot size.

Section 10 amends s. 381.006, F.S., to clarify DOH must retain the environmental health program with the exception of the OSTDS program.

Section 11 amends s. 381.0061, F.S., to update a cross-reference.

Section 12 amends s. 381.0064, F.S., to conform to changes made in the act.

Section 13 amends 381.0065, F.S., to specify that a hardship exists under certain conditions.

Section 14 amends s. 381.0065, F.S., to define “department” and require DEP to allow the use of NSF/ANSI 245 systems before July 1, 2019, to meet the requirements to a TMDL or BMAP, a reasonable assurance plan, or other water quality protection and restoration requirements.

Section 15 amends s. 381.00651, F.S., to conform to changes made in the act.

Section 16 creates s. 381.00652, F.S., to require DEP to appoint an OSTDS TAC and submit recommendations no later than August 1, 2020.

Section 17 repeals s. 381.0068, F.S., to repeal the TRAP.

Section 18 amends s. 381.0101, F.S., to conform to changes made in the act.

Section 19 amends s. 403.067, F.S., to require a BMAP for a nutrient TMDL to be subject to certain requirements and require DEP to prepare a report identifying the costs and funding associated with certain projects identified in BMAPs, OSTDS remediation plans, or other restoration plans.

Section 20 creates s. 403.0671, F.S., to require DEP to submit to EDR the cost estimates of certain projects required by BMAPs, to submit reports evaluating the costs of wastewater projects identified in the BMAPS, and to assess the water quality monitoring that is conducted for each BMAP.

Section 21 creates s. 403.0673, F.S., to establish the clean water grant program.

Section 22 creates s. 403.0771, F.S., to require sewage spill notification for domestic wastewater treatment facilities that unlawfully discharge sewage.

Section 23 amends s. 403.086, F.S., to require advanced wastewater treatment for wastewater discharges into the IRL by July 1, 2024, and require DEP to submit a progress report by July 1, 2020.

Section 24 creates s. 403.08715, F.S., to prohibit the land application of biosolids, require DEP to conduct rulemaking, establish the Biosolids Alternative Management TAC, and require the TAC to submit a report of its findings.

Section 25 amends s. 489.551, F.S., to conform to changes made in the act.

Section 26 provides that this act fulfills an important state interest.

Section 27 provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate effect on state government revenues because some revenue could be realized from enforcement citations and fines, but this revenue stream would likely be minimal.

2. Expenditures:

The bill may have an insignificant negative fiscal impact on DEP and DOH that can be absorbed within existing resources to complete recommendations on the type two transfer. The bill transfers all of the resources and personnel for the OSTDS program by type two transfer from DOH to DEP, so DEP would use these resources to regulate the OSTDS program beginning July 1, 2020. There may also be an insignificant negative fiscal impact on DEP that can be absorbed within existing resources to administer and support the OSTDS TAC.

The bill may have an indeterminate negative fiscal impact to DEP that can likely be absorbed within existing resources because the agency must:

- Provide recommendations to the Governor and the Legislature for the clean water grant program process and administering the clean water grant program if funds are appropriated; a report identifying the costs and funding associated with certain projects identified in BMAPs, OSTDS remediation plans, or other restoration plans; a report to the Governor and Legislature evaluating the costs of wastewater projects identified in the BMAPS and assessing the water quality monitoring being conducted for each BMAP; a progress report of all advanced waste treatment facilities discharging into certain waterways; and a report to the Governor and Legislature of the findings of the a Biosolids Alternative Management TAC.
- Conduct rulemaking.
- Perform water quality monitoring.

The bill may have a positive fiscal impact on state government expenditures if the revisions to BMAPs improve water quality, resulting in decreased expenditures on water cleanup efforts.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate positive fiscal impact to local governments that receive clean water grants to upgrade existing facilities, expand existing facilities, and connect onsite sewage treatment and disposal systems to central sewer systems.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact because local governments will be required to create wastewater treatment plans.

The bill may have an indeterminate negative fiscal impact if an unlawful discharge occurs at a wastewater treatment facility owned by a local government because of costs of notification.

The bill may have an indeterminate negative fiscal impact to any local government-owned wastewater facilities discharging into the IRL because they must upgrade to provide advanced waste treatment.

The bill may have an indeterminate negative fiscal impact on local government expenditures because of the ban on the application of biosolids for certain sites and the potential for more restrictive biosolids land application rules may reduce or prohibit the future use of existing permitted biosolids land application sites, thereby requiring wastewater facilities owned by local governments to identify alternative biosolids disposal methods.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

It is unclear whether the transfer of the OSTDS program to DEP on July 1, 2020, will result in changes to the program that could affect the private sector, such as changes in the cost of permit fees or the approval of using lower cost, nutrient reducing OSTDSs.

The bill may have an indeterminate negative fiscal impact on the private sector if unlawful discharges occur at privately owned wastewater treatment facilities due to the costs of notification.

The bill may have an indeterminate negative fiscal impact to any private wastewater facilities discharging into the IRL because the facility must make facility improvements to provide advanced waste treatment.

The bill may also have an indeterminate negative fiscal impact because the prohibition on the application of biosolids for certain sites and the potential for more restrictive land application rules may require wastewater facilities and biosolids haulers to find alternative biosolids disposal methods. The bill may have an indeterminate negative impact on private landowners where biosolids are land applied. Further, the bill may have a negative impact on customers served by a wastewater facility that must find alternative disposal options for biosolids.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to develop wastewater treatment plans, in cooperation with DEP, the WMD, and the public and private domestic wastewater facilities. An exemption may apply if the requirement results in an insignificant fiscal impact. In addition, an exception may apply because the requirement applies to similarly situated persons and the bill provides a legislative finding that the requirement to develop the wastewater treatment plan is essential to the protection of public health and natural resources.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DEP to conduct rulemaking to increase the availability of cost-effective, low maintenance, and reliable nutrient removing OSTDSs in the marketplace and adopt the recommendations of the Biosolids TAC. While the bill does not expressly grant rulemaking authority to DEP, existing rulemaking authority is sufficient.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

MIAF Bill Tracking

Sorted by Bill Number

<u>HB 9</u>	Community Redevelopment Agencies	LaMarca
	Community Redevelopment Agencies: Specifies ethics training requirements for community redevelopment agency commissioners; establishes procedures for appointing board of community redevelopment agency board members; requires referendum to create community redevelopment agency; establishes procurement procedures; provides reporting and boundary map requirements; provides termination dates for certain community redevelopment agencies; provides phase-out period for existing community redevelopment agencies; requires DEO to declare inactive certain community redevelopment agencies; requires DEO to maintain website identifying inactive community redevelopment agencies; specifies level of tax increment financing that governing body may establish; revises requirements for budgets of community redevelopment agencies; revises requirements for annual audit. Effective Date: July 1, 2019 4/17/2019 HOUSE Read Second Time; Read Third Time; Passed (Vote: 70 Yeas / 47 Nays)	
<u>HB 53</u>	Single Subject Requirement for Revisions or Amendments to the Constitution	Byrd
	Single Subject Requirement for Revisions or Amendments to the Constitution: Proposes amendments to Sections 2 and 6 of Article XI of the State Constitution to limit each revision or amendment to the Constitution proposed by the constitution revision commission or the taxation and budget reform commission to one subject and matter directly connected therewith. 4/17/2019 HOUSE Placed on Calendar, on 2nd reading	
<u>SB 78</u>	Public Financing of Construction Projects	Rodriguez (J)
	Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study and having such study published and approved by the Department of Environmental Protection; requiring the department to develop by rule standards for such studies; providing for enforcement; requiring the department to publish such studies on its website, subject to certain conditions, etc. Effective Date: 7/1/2019 4/9/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government	
<u>HB 85</u>	Onsite Sewage Treatment and Disposal Systems	Robinson
	Onsite Sewage Treatment and Disposal Systems: Requires periodic inspection of onsite sewage treatment & disposal systems; directs DOH to administer onsite sewage treatment & disposal system inspection program; provides program requirements, exemptions, inspection procedures, & notice & reporting requirements; authorizes DOH to develop fee schedule by rule; requires system owners to pay costs of inspections & pump-outs. Effective Date: October 1, 2019 4/1/2019 HOUSE Now in Health Care Appropriations Subcommittee	
<u>HB 87</u>	Registration and Titling of Vehicles and Vessels	Ponder
	Registration and Titling of Vehicles and Vessels: Revises registration periods for certain vehicles; requires DHSMV to prorate registration renewals for customers; authorizes DHSMV or its agent to verify necessary information through electronic file of death records maintained by DOH for surviving spouse of motor vehicle owner when requesting registration certificate & license plate transfer or for new owner or surviving coowner of vessel when applying for transfer of title. Effective Date: July 1, 2019 4/3/2019 HOUSE Enrolled Text (ER) Filed	
<u>HB 89</u>	Verification of Employment Eligibility	Altman
	Verification of Employment Eligibility: Requires employers to register with & use E-Verify system to verify employment eligibility of new employees; suspends employer licenses until registration with E-Verify system; provides for license reinstatement; prohibits employer from knowingly employing unauthorized alien; authorizes complaint to be filed with DEO; provides specified immunity; requires DEO to maintain public database containing certain information & make such information available on its website; authorizes injunctive relief; provides private cause of action & remedies; requires public employers, contractors, & subcontractors to register with & use E-Verify system for specified purposes; prohibits such entities from entering into contract unless each party to contract registers with & uses E-Verify system; authorizes termination of contract; authorizes challenge to such termination. Effective Date: July 1, 2019 1/3/2019 HOUSE Now in Workforce Development & Tourism Subcommittee	
<u>SB 92</u>	C-51 Reservoir Project	Book
	C-51 Reservoir Project; Revising the portions of the C-51 reservoir project for which the South Florida Water Management District may negotiate; revising water storage and use requirements specified for the project if state funds are appropriated for the project; specifying that Phase II of the project may be funded by appropriation, in addition to other sources, etc. Effective Date: 7/1/2019 4/19/2019 SENATE Committee Substitute Text (C2) Filed	
<u>HB 95</u>	C-51 Reservoir Project	Jacobs
	C-51 Reservoir Project: Revises portions of C-51 reservoir project for which South Florida Water Management District may negotiate; revises water storage & use requirements for project; specifies funding sources for Phase II of project; authorizes district to enter into certain agreements & request waiver for certain loan repayment; authorizes DEP to waive loan repayment under certain conditions. Effective Date: July 1, 2019 3/25/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations	

<u>HB 99</u>	Shark Fins and Ray Parts Shark Fins and Ray Parts: Prohibits certain possession of shark fins & ray parts; provides exceptions; directs FWCC to adopt specified rules; provides & revises penalties. Effective Date: July 1, 2019 1/3/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	Jacobs
<u>SB 134</u>	Florida Black Bears Florida Black Bears; Creating the "Florida Black Bear Protection Act"; prohibiting the Fish and Wildlife Conservation Commission from allowing the recreational hunting of Florida black bears mothering cubs that weigh less than 100 pounds under a Florida black bear hunting permit; specifying a penalty for the unlawful harvesting of saw palmetto berries on state lands; prohibiting prescribed burns in certain designated habitats during specified times, etc. Effective Date: 7/1/2019 1/10/2019 SENATE Referred to Environment and Natural Resources; Agriculture; Criminal Justice; Rules	Stewart
<u>HB 141</u>	Water Quality Improvements Water Quality Improvements: Authorizes DEP to provide grants for certain projects identified in Indian River Lagoon Comprehensive Conservation & Management Plan; directs DEP to submit annual report regarding projects to Governor & Legislature; requires local governments to submit annual reports regarding projects to DEP & water management districts; requires wastewater facilities permitted under National Pollutant Discharge Elimination System program that unlawfully discharge certain amount of raw or partially treated sewage to provide written notification; provides penalties; provides for such facilities to make certain upgrades & repairs. Effective Date: July 1, 2019 3/26/2019 HOUSE Now in State Affairs Committee	Fine
<u>SB 146</u>	Advanced Well Stimulation Treatment Advanced Well Stimulation Treatment; Defining the term "advanced well stimulation treatment"; prohibiting the performance of advanced well stimulation treatments; clarifying that permits for drilling or operating a well do not authorize the performance of advanced well stimulation treatments, etc. Effective Date: Upon becoming a law 1/10/2019 SENATE Referred to Environment and Natural Resources; Innovation, Industry, and Technology; Appropriations	Stewart
<u>SB 164</u>	Verification of Employment Eligibility Verification of Employment Eligibility; Requiring employers to register with and use the E-Verify system beginning on a specified date to verify the employment eligibility of new employees; requiring the Department of Economic Opportunity to order certain agencies to suspend an employer's license under certain circumstances; prohibiting the department from independently making a final determination regarding whether an employee is an unauthorized alien; requiring public employers, contractors, and subcontractors to register with and use the E-Verify system, etc. Effective Date: 7/1/2019 1/10/2019 SENATE Referred to Judiciary; Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	Bean
<u>HB 169</u>	Public Financing of Construction Projects Public Financing of Construction Projects: Prohibits state-financed constructors from commencing construction of certain structures in coastal areas without first conducting sea level impact projection study & having such study published & approved by DEP; requires department to develop by rule standards for such studies; provides for enforcement; requires department to publish such studies on its website; requires department to enforce certain requirements & to adopt rules. Effective Date: July 1, 2019 1/16/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	Fernández
<u>SB 216</u>	Water Quality Improvements Water Quality Improvements; Requiring each wastewater facility that unlawfully discharges specified volumes of sewage into a waterway or aquifer to notify certain customers by first class mail within a specified timeframe; providing penalties for wastewater treatment facilities that unlawfully discharge a specified volume of sewage into designated areas, etc. Effective Date: 7/1/2019 3/14/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government	Gruters
<u>SB 234</u>	Registration and Titling of Vehicles and Vessels Registration and Titling of Vehicles and Vessels; Revising registration periods for certain vehicles; requiring the Department of Highway Safety and Motor Vehicles to prorate registration renewals for customers in order to implement changes made by the act; authorizing the department or its agent to verify necessary information through the electronic file of death records maintained by the Department of Health for a surviving spouse of a motor vehicle owner when requesting a registration certificate and license plate transfer, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019 4/3/2019 SENATE Read Second Time; Substituted for HB 0087; Laid on Table, Refer to HB 0087	Baxley
<u>HB 239</u>	Advanced Well Stimulation Treatment Advanced Well Stimulation Treatment: Prohibits performance of advanced well stimulation treatments; provides that permits for drilling or operating wells do not authorize performance of advanced well treatments; provides applicability. Effective Date: upon becoming a law 1/23/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	Fitzenhagen
<u>HB 249</u>	Repeal of Constitution Revision Commission Repeal of Constitution Revision Commission: Proposes amendments to State Constitution to repeal establishment,	Drake

membership selection & composition, & duties of Constitution Revision Commission.
3/22/2019 HOUSE Placed on Calendar, on 2nd reading

HB 251	Constitution Revision Commission	Drake
	Constitution Revision Commission: Repeals references to Constitution Revision Commission, powers of chair, & assistance by state & local agencies. Effective Date: the effective date of the amendment to the State Constitution proposed by HJR 249 or a similar joint resolution having substantially the same specific intent and purpose 3/22/2019 HOUSE Placed on Calendar, on 2nd reading	
HB 291	Growth Management	McClain
	Growth Management: Requires comprehensive plan to include property rights element; provides statement of rights local government may use; requires local government to adopt property rights element by specified date; provides local government's property rights element may not conflict with statutorily provided statement rights; requires comprehensive plans to recognize terms of existing development orders; requires local land development regulations to provide for existing development orders. Effective Date: July 1, 2019 4/17/2019 HOUSE Engrossed Text (E1) Filed	
HB 309	Railroad-Highway Grade Crossings	Duggan
	Railroad-Highway Grade Crossings: Prohibits railroad train from blocking public highway, street, or road at railroad-highway grade crossing for more than specified time period; provides exceptions; provides civil penalties; exempts certain persons from liability for violations. Effective Date: July 1, 2019 1/23/2019 HOUSE Now in Transportation & Infrastructure Subcommittee	
SB 314	Advanced Well Stimulation Treatment	Montford
	Advanced Well Stimulation Treatment; Defining the terms "high-pressure well stimulation" and "matrix acidization"; prohibiting the performance of high-pressure well stimulation treatments or matrix acidization; clarifying that permits for drilling or operating a well do not authorize the performance of high-pressure well stimulation treatments or matrix acidization; requiring the Department of Environmental Protection to conduct a study on high-pressure well stimulation and matrix acidization, etc. Effective Date: Upon becoming a law 2/15/2019 SENATE Now in Innovation, Industry, and Technology	
SB 320	Residential Conservation Programs	Hooper
	Residential Conservation Programs; Authorizing the Fish and Wildlife Conservation Commission to organize, staff, equip, and operate residential conservation programs for a specified purpose, etc. Effective Date: 7/1/2019 4/17/2019 HOUSE Substituted for HB 0377; Read Second Time; Read Third Time; Passed (Vote: 117 Yeas / 0 Nays)	
HB 331	Nontransferable Tickets	Rodriguez (AM)
	Nontransferable Tickets: Requires ticket issuers to offer option for transferable tickets; prohibits discrimination against holders of such tickets; provides civil penalties. Effective Date: July 1, 2019 2/28/2019 HOUSE Withdrawn prior to introduction	
SB 336	Local Tax Referenda	Brandes
	Local Tax Referenda; Providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election, etc. Effective Date: 7/1/2019 4/18/2019 SENATE Committee Substitute Text (C2) Filed	
HB 347	Towing-storage Operating Liens	Rodriguez (AM)
	Towing-storage Operating Liens: Requires certain lien notices be sent through third-party mailing service; removes authorization of certain attorney fees; revises requirements for inspection & release of vehicles or vessels & personal property in such vehicles or vessels; requires third-party mailing services to apply to DHSMV; authorizes department to approve application if certain conditions are met; requires approved third-party notification services to maintain performance bond & conduct annual audit; authorizes department to deny, suspend, or revoke its approval; requires third-party mailing service to maintain certain records for specified period & allow inspection & copying of such records by department; authorizes towing-storage operators to send notices on their own behalf. Effective Date: January 1, 2020 4/18/2019 HOUSE Placed on Special Order Calendar, 04/24/19	
SB 352	Shark Fins and Ray Parts	Gruters
	Shark Fins And Ray Parts; Prohibiting the possession, sale or offer to sell, purchase or offer to purchase, or distribution of shark fins and ray parts, instead of only the possession of separated shark fins, under specified circumstances, etc. Effective Date: 10/1/2019 1/25/2019 SENATE Referred to Environment and Natural Resources; Criminal Justice; Rules	
SB 362	Abolishing the Constitution Revision Commission	Brandes
	Abolishing the Constitution Revision Commission; Proposing amendments to the State Constitution to abolish the Constitution Revision Commission, etc. 4/10/2019 SENATE Placed on Calendar, on 2nd reading	
SB 368	Land Acquisition Trust Fund	Harrell
	Land Acquisition Trust Fund; Providing an appropriation for certain projects related to the Indian River Lagoon	

Comprehensive Conservation and Management Plan; authorizing the Department of Environmental Protection to make grants for such projects, etc. Effective Date: 7/1/2019
3/13/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government

<u>SB 376</u>	Land Acquisition Trust Fund	Montford
	Land Acquisition Trust Fund; Requiring that certain funds distributed into the Land Acquisition Trust Fund be used for conservation and management projects in certain counties; providing the types of projects for which the Department of Environmental Protection may use such funds; authorizing the department to distribute such funds to the appropriate agency, etc. Effective Date: 7/1/2019 3/7/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government	
<u>HB 377</u>	Residential Conservation Programs	Stone
	Residential Conservation Programs: Authorizes FWCC to organize & operate certain conservation education & training programs; provides for implementation of programs. Effective Date: July 1, 2019 4/17/2019 HOUSE Read Second Time; Substituted for SB 0320; Laid on Table, Refer to SB 0320	
<u>HB 389</u>	Notice of Tobacco Smoking Policy on Rental Premises	Goff-Marcil
	Notice of Tobacco Smoking Policy on Rental Premises: Requires certain persons to provide written notice of tobacco smoking policy to tenant or potential tenant that includes certain information before entering into rental agreement; requires such persons to obtain written acknowledgment of receipt of notice before entering into rental agreement. Effective Date: July 1, 2019 1/30/2019 HOUSE Now in Civil Justice Subcommittee	
<u>HB 393</u>	Employment Practices	Joseph
	Employment Practices: Requires employer to allow certain employees to take paid family leave for certain purposes; specifies limitations & duties related to employer's administration of family leave; provides family leave requirements; provides responsibilities and powers of DEO; provides penalties; authorizes civil action; authorizes award of specified compensation, damages, & fees; provides protections for employee who acts in good faith; prohibits employee from taking certain actions in bad faith; authorizes department to adopt rules; prohibits specified employment practices; provides certain rights for employee who is disabled from pregnancy, childbirth, or related medical condition; reenacts & revises provisions relating to administrative & civil remedies for violations of Florida Civil Rights Act of 1992. Effective Date: July 1, 2019 1/30/2019 HOUSE Now in Business & Professions Subcommittee	
<u>HB 399</u>	Millage Notices	DiCeglie
	Millage Notices: Authorizes property appraiser to make proposed property tax & non-ad valorem assessment notices available on website in lieu of mailing notices; requires property appraiser to hold public hearing before posting notices; specifies items included on property appraiser's website; requires property appraiser to mail notice containing specified information for specified timeframe after implementing web-based noticing system; specifies items that must be included on website to inform new property owners of their options for receiving notification of notices & their appeal rights; revises dates within which taxpayers may petition value adjustment board on valuation issues. Effective Date: July 1, 2019 2/13/2019 HOUSE Now in Ways & Means Committee	
<u>SB 404</u>	Strategic Fuel Reserve	Farmer, Jr.
	Strategic Fuel Reserve; Creating the Florida Strategic Fuel Reserve Task Force within the Division of Emergency Management to develop a recommended strategic fuel reserve plan for an emergency or disaster, etc. Effective Date: 7/1/2019 4/10/2019 SENATE Now in Rules	
<u>HB 405</u>	Biosolids Management	Grall
	Biosolids Management: Prohibits land application of biosolids on certain sites; prohibits DEP from issuing or renewing certain permits; directs DEP to initiate rulemaking by specified date, adopt specified rules for biosolids management, & implement specified water quality monitoring program. Effective Date: July 1, 2019 3/28/2019 HOUSE Now in State Affairs Committee	
<u>HB 417</u>	Workplace Sexual Harassment	Eskamani
	Workplace Sexual Harassment: Requires Florida Commission on Human Relations to create & publish model sexual harassment prevention policy & model sexual harassment prevention training program; requires employers to use model policy & program. Effective Date: January 1, 2020 1/30/2019 HOUSE Now in Civil Justice Subcommittee	
<u>HB 419</u>	Discrimination in Labor and Employment	Joseph
	Discrimination in Labor and Employment: Prohibits employer from providing less favorable employment opportunities to employees based on sex, with exceptions; provides affirmative defense; provides civil penalties; provides exemption for minority business enterprises; prohibits employer from taking certain employment actions against employees; prohibits employer from engaging in certain activities relating to employee wages & benefits or requiring employees to sign certain waivers & documents; authorizes employer to confirm wage or salary history under certain conditions. Effective Date: July 1, 2019 3/3/2019 HOUSE Withdrawn prior to introduction	

<u>SB 428</u>	Growth Management	Perry
	Growth Management; Requiring a local government's comprehensive plan to include a property rights element; providing a statement of rights that a local government may use; requiring each local government to adopt a property rights element by a specified date, etc. Effective Date: 7/1/2019 3/28/2019 SENATE Now in Judiciary	
<u>SB 430</u>	Prohibited Discrimination	Rouson
	Prohibited Discrimination; Citing this act as as the "Florida Competitive Workforce Act"; adding sexual orientation and gender identity as impermissible grounds for discrimination in public lodging establishments and public food service establishments; providing an exception for constitutionally protected free exercise of religion; revising the purposes of the Florida Civil Rights Act of 1992 to conform to changes made by the act; defining the terms "gender identity" and "sexual orientation", etc. Effective Date: 7/1/2019 2/1/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules	
<u>SB 432</u>	Employment Conditions	Gruters
	Employment Conditions; Prohibiting a political subdivision from establishing, mandating, or otherwise requiring an employer to offer conditions of employment not otherwise required by state or federal law; specifying that certain requirements related to minimum wage and other conditions of employment are expressly preempted to the state, etc. Effective Date: Upon becoming a law 3/12/2019 SENATE Now in Community Affairs	
<u>SB 436</u>	Use of Vessel Registration Fees	Hooper
	Use of Vessel Registration Fees; Authorizing a portion of county or municipal vessel registration fees to be used for specified additional purposes, etc. Effective Date: 7/1/2019 4/17/2019 SENATE Read Third Time; Passed (Vote: 38 Yeas / 0 Nays)	
<u>HB 437</u>	Community Development Districts	Buchanan
	Community Development Districts: Authorizes certain lands within county or municipality which petitioner anticipates adding to a new community development district to be identified in petition to establish new district; provides detailed procedures for amending boundaries of a district to add land; authorizes community development districts to merge with another type of special district created by special act or by filing petition for establishment of new district; authorizes community development district merging with another type of district to enter into merger agreements for certain purposes. Effective Date: upon becoming a law 4/17/2019 HOUSE Read Second Time; Read Third Time; Passed (Vote: 106 Yeas / 9 Nays)	
<u>SB 438</u>	Prohibited Discrimination	Gruters
	Prohibited Discrimination; Citing this act as the "Florida Inclusive Workforce Act"; revising the purposes of the Florida Civil Rights Act of 1992 to conform to changes made by the act; revising provisions regarding remedies for unlawful discrimination to include discrimination based on sexual orientation and gender identity in the area of employment, to conform to changes made by the act; adding sexual orientation and gender identity as impermissible grounds for discrimination with respect to specified unlawful employment practices, etc. Effective Date: 7/1/2019 2/1/2019 SENATE Referred to Governmental Oversight and Accountability; Judiciary; Rules	
<u>HB 443</u>	Assessment of Property	Rodriguez (Ant)
	Assessment of Property: Requires property appraisers to consider restrictive covenants related to affordable housing when determining just value of properties; requires counties & municipalities to provide list of such agreements to property appraiser by specified date; revises requirements that allow property appraisers to exempt certain property from tangible personal property tax; revises type of limited partnerships eligible to receive ad valorem tax exemption for certain property used as nonprofit homes for aged. Effective Date: July 1, 2019 3/28/2019 HOUSE Now in Ways & Means Committee	
<u>SB 474</u>	Discrimination in Labor and Employment	Stewart
	Discrimination in Labor and Employment; Creating the "Senator Helen Gordon Davis Fair Pay Protection Act"; prohibiting an employer from providing less favorable employment opportunities to employees based on their sex; prohibiting an employer from taking certain employment actions against employees; prohibiting an employer from engaging in certain activities relating to wages and benefits, etc. Effective Date: 7/1/2019 2/8/2019 SENATE Referred to Commerce and Tourism; Judiciary; Rules	
<u>HB 475</u>	Certificates of Title for Vessels	Williamson
	Certificates of Title for Vessels: Revises & provides requirements for application for and issuance of certificate of title for vessel; revises & provides duties of DHSMV related to issuance, renewal, replacement, or cancellation of certificate; revises & provides requirements for transferring ownership interest; provides requirements related to security interest in vessel; provides for rights of vessel purchasers; provides for repeal of certain provisions on specified dates; provides that principles & law of equity supplement provisions of act; authorizes DHSMV to adopt rules; provides construction & applicability regarding transactions, certificates of title, & records entered into or created, actions or proceedings commenced, & security interests perfected before effective date of act. Effective Date: July 1, 2023 4/18/2019 SENATE Received; Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	
<u>HB 485</u>	Prohibited Discrimination	Webb

Prohibited Discrimination: Provides that sexual orientation & gender identity are impermissible grounds for discrimination in public lodging establishments & public food service establishments; revises provisions of Florida Civil Rights Act of 1992 & Fair Housing Act to include sexual orientation & gender identity; provides exception for constitutionally protected free exercise of religion. Effective Date: July 1, 2019
1/30/2019 HOUSE Now in Civil Justice Subcommittee

<u>HB 493</u>	Social Media Accounts Privacy	Hart
	Social Media Accounts Privacy: Prohibits employer from requesting or requiring access to social media account of employee or prospective employee; prohibits employer from taking retaliatory personnel action against employee or failing or refusing to hire prospective employee as result of employee's refusal to allow access to his or her social media account; provides for civil action; requires that civil action be brought within specified timeframe; provides for fees & costs. Effective Date: October 1, 2019 1/30/2019 HOUSE Now in Workforce Development & Tourism Subcommittee	
<u>HB 497</u>	Sanitary Sewer Laterals	Webb
	Sanitary Sewer Laterals: Defines "sanitary sewer lateral"; requires districts to notify homeowners if they discover leaky sanitary sewer lateral on homeowner's property; specifies that homeowner is not required to take action; requires districts to notify specified homeowners for past discoveries of leaky sanitary sewer laterals; requires certain districts to create publicly accessible databases for certain purposes; provides that certain districts are not liable for failure to maintain records of notifications. Effective Date: July 1, 2019 1/30/2019 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee	
<u>HB 507</u>	Annual Business Organization Reports and Fees	Hage
	Annual Business Organization Reports and Fees: Authorizes domestic & foreign limited liability companies, corporations, corporations not for profit, limited partnerships, & limited liability corporations to submit biennial reports to DOS; establishes biennial report filing fee & biennial supplemental corporate fee; authorizes DOS to escrow amount necessary to annualize revenues collected from biennial report filing fees & biennial supplemental corporate fees. Effective Date: July 1, 2019 1/30/2019 HOUSE Now in Business & Professions Subcommittee	
<u>HB 517</u>	Minimum Wage	Jacquet
	Minimum Wage: Revises formula for adjusted state minimum wage. Effective Date: July 1, 2019 1/30/2019 HOUSE Now in Workforce Development & Tourism Subcommittee	
<u>HB 521</u>	Wetland Mitigation	McClure
	Wetland Mitigation: Authorizes local government to allow certain permittee-responsible mitigation on lands purchased & owned by local government for conservation purposes; provides exception to provisions prohibiting governmental entity from creating or providing mitigation for project other than its own unless certain conditions are met. Effective Date: July 1, 2019 4/18/2019 SENATE Received; Referred to Community Affairs; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations	
<u>HB 529</u>	Use of Vessel Registration Fees	Mariano
	Use of Vessel Registration Fees: Authorizes portion of county or municipal vessel registration fees to be used for specified purposes. Effective Date: July 1, 2019 3/21/2019 HOUSE Placed on Calendar, on 2nd reading	
<u>SB 532</u>	Wetland Mitigation	Lee
	Wetland Mitigation; Authorizing a local government to allow permittee-responsible mitigation on lands purchased and owned by a local government for conservation purposes under certain circumstances; requiring such mitigation to meet specified requirements, etc. Effective Date: 7/1/2019 3/28/2019 SENATE Placed on Calendar, on 2nd reading	
<u>HB 555</u>	Land Acquisition Trust Fund	Drake
	Land Acquisition Trust Fund: Requires that certain funds distributed into Land Acquisition Trust Fund be used for conservation & management projects in certain counties; provides types of projects for which DEP may use such funds. Effective Date: July 1, 2019 2/6/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	
<u>SB 564</u>	Pilot Program for Truth-in-millage Notices	Hooper
	Pilot Program for Truth-in-millage Notices; Establishing the Web-based TRIM Notice Pilot Program in specified counties; providing the purpose of the program; providing for expiration of the pilot program; requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a specified report and recommendations to the Governor and Legislature by a certain date, etc. Effective Date: 10/1/2019 3/28/2019 SENATE Now in Finance and Tax	
<u>SB 568</u>	Assessment of Property	Diaz
	Assessment of Property; Authorizing counties and municipalities to enter into agreements with property owners to record certain restrictive covenants running with the land; authorizing property owners and the county or municipality to amend	

the covenant under certain circumstances; providing requirements for counties and municipalities in recording covenants and in providing property appraisers with a list of agreements, etc. Effective Date: 7/1/2019
3/14/2019 SENATE Now in Finance and Tax

<u>HB 573</u>	Strategic Fuel Reserve	Casello
	Strategic Fuel Reserve: Creates Florida Strategic Fuel Reserve Task Force within DEM to develop strategic fuel reserve plan for emergencies or disasters; requires DEM to provide administrative & support services; specifies membership of task force; requires task force to elect chair & vice chair; requires task force to submit recommended plan to Governor & Legislature. Effective Date: July 1, 2019. 2/6/2019 HOUSE Now in Transportation & Infrastructure Subcommittee	
<u>SB 580</u>	Taxation of Aircraft Sales and Leases	Bean
	Taxation of Aircraft Sales and Leases; Decreasing the sales tax rate on aircraft sales and leases; decreasing the maximum applicable sales tax rate under the flyable aircraft partial sales tax exemption, etc. Effective Date: 7/1/2019 3/20/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 03/22/19, 10:30 am, 117 K (No Votes Will Be Taken)	
<u>SB 608</u>	Railroad-highway Grade Crossings	Bean
	Railroad-highway Grade Crossings; Prohibiting a railroad train from blocking a public highway, street, or road at a railroad-highway grade crossing for more than a specified time; exempting certain persons from liability for violations under certain circumstances, etc. Effective Date: 7/1/2019 4/2/2019 SENATE Temporarily Postponed by Infrastructure and Security	
<u>SB 628</u>	Water Resources	Albritton
	Water Resources; Revising requirements for the Office of Economic and Demographic Research's annual assessment of this state's water resources and conservation lands; requiring the office to consult with the Department of Environmental Protection; requiring the assessment to be submitted to the Legislature by a specified date, etc. Effective Date: 7/1/2019 3/28/2019 SENATE Now in Infrastructure and Security	
<u>HB 641</u>	Community Development District Bond Financing	Andrade
	Community Development District Bond Financing; Requires district boards to authorize bonds by two-thirds majority vote. Effective Date: October 1, 2019 4/18/2019 SENATE Received; Referred to Community Affairs; Finance and Tax; Rules	
<u>HB 645</u>	Disaster Recovery	Trumbull
	Disaster Recovery: Authorizes specified counties to levy discretionary sales surtax; authorizes political subdivisions to declare local emergency irrespective of number of political subdivisions it affects; revises number of days each state of emergency is effective; specifies conditions & areas in which certain counties or their authorized collectors may remove debris as result of declared local or state emergency. Effective Date: upon becoming a law 2/21/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/22/19, 1:30 pm, 117 K (No Votes Will Be Taken)	
<u>SB 660</u>	Transportation	Brandes
	Transportation; Requiring the Department of Transportation to consist of a central office that establishes policies and procedures and districts that carry out projects as authorized or required under the policies and procedures of the central office; prohibiting the driver of any vehicle from following another vehicle more closely than is reasonable and prudent given certain circumstances; revising the number of times that certain persons may elect to attend a basic driver improvement course; providing requirements, beginning on a specified date, for license plates, cab cards, and validation stickers for vehicles registered in accordance with the International Registration Plan; directing the department to implement protocols for issuing an optional electronic credential and to procure a related technology system, etc. Effective Date: Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect October 1, 2019 2/15/2019 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	
<u>SB 676</u>	Certificates of Title for Vessels	Hooper
	Certificates of Title for Vessels; Designating the "Uniform Certificate of Title for Vessels Act"; revising requirements for application for, and information to be included in, a certificate of title for a vessel; requiring the Department of Highway Safety and Motor Vehicles to retain certain information relating to ownership and titling of vessels; providing duties of the department relating to creation, issuance, refusal to issue, or cancellation of a certificate of title; providing for the rights of a purchaser of a vessel who is not a secured party; providing rules for the transfer of ownership in a vessel, etc. Effective Date: 10/1/2019 4/19/2019 SENATE Committee Substitute Text (C2) Filed	
<u>SB 690</u>	Single Subject Limitation for Taxation and Budget Reform Commission	Rodriguez (J)
	Single Subject Limitation for Taxation and Budget Reform Commission; Proposing an amendment to the State Constitution to require that any proposals to revise the State Constitution, or any part thereof, filed by the Taxation and Budget Reform Commission be limited to a single subject, etc. 3/21/2019 SENATE Placed on Calendar, on 2nd reading	

<u>SB 692</u>	Employment Practices	Cruz
	Employment Practices; Creating the "Florida Family Leave Act"; requiring an employer to allow certain employees to take paid family leave to bond with a new child upon the child's birth, adoption, or foster care placement; requiring that family leave be taken concurrently with any leave taken pursuant to federal family and medical leave provisions; requiring an employer to provide notice to employees of the right to paid family leave, etc. Effective Date: 7/1/2019 2/15/2019 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations	
<u>HB 707</u>	Drug-free Workplaces	DiCeglie
	Drug-free Workplaces: Revises contents of employer policy statement with respect to employee drug use; revises frequency of followup testing; revises specimen collection, verification, & documentation procedures; revises requirements for confirmation testing. Effective Date: July 1, 2019 2/13/2019 HOUSE Now in Workforce Development & Tourism Subcommittee	
<u>SB 708</u>	Sale of Sunscreen	Stewart
	Sale of Sunscreen; Prohibiting the sale, offer for sale, or distribution of certain sunscreen products to a consumer who does not have a prescription for such product, etc. Effective Date: 7/1/2019 4/4/2019 SENATE Withdrawn from further consideration	
<u>SB 728</u>	Community Development Districts	Lee
	Community Development Districts; Authorizing sufficiently contiguous lands located within the county or municipality which a petitioner anticipates adding to the boundaries of a new community development district to also be identified in a petition to establish the new district under certain circumstances; providing requirements for the petition; providing notification requirements for the petition, etc. Effective Date: Upon becoming a law 4/18/2019 SENATE On Committee agenda - Rules, 04/23/19, 2:00 pm, 110 S	
<u>SB 736</u>	Nontransferable Tickets	Hutson
	Nontransferable Tickets; Authorizing a ticket issuer to employ a nontransferable ticketing system only under specified circumstances; prohibiting a ticket buyer or seller from being penalized, discriminated against, or denied access to an event under certain circumstances, etc. Effective Date: 7/1/2019 2/15/2019 SENATE Referred to Innovation, Industry, and Technology; Judiciary; Rules	
<u>HB 757</u>	Lakes and Lagoons	Massullo, Jr.
	Lakes and Lagoons: Excludes manmade lakes & lagoons over certain size from definitions of terms "public swimming pool" & "swimming pool" for certain purposes. Effective Date: July 1, 2019 2/20/2019 HOUSE Now in Health Quality Subcommittee	
<u>SB 826</u>	Towing-storage Operator Liens	Rouson
	Towing-storage Operator Liens; Requiring that certain lien notices be sent through an electronic third-party mailing service; requiring electronic third-party mailing services to apply to the Department of Highway Safety and Motor Vehicles for approval; requiring an electronic third-party mailing service to maintain certain records for a specified timeframe and to allow inspection of such records by the department, etc. Effective Date: 7/1/2019 4/9/2019 SENATE Now in Appropriations	
<u>HB 829</u>	Attorney Fees and Costs	Sabatini
	Attorney Fees and Costs: Provides for award of attorney fees & costs & damages in successful civil actions challenging local ordinances as being preempted by State Constitution or state law; provides exceptions. Effective Date: July 1, 2019 4/18/2019 HOUSE Placed on Special Order Calendar, 04/24/19	
<u>HB 847</u>	Preemption of Conditions of Employment	Rommel
	Preemption of Conditions of Employment: Preempts to state the right to regulate conditions of employment by an employer; voids existing ordinance, regulation, or policy that is preempted by act. Effective Date: upon becoming a law 3/28/2019 HOUSE Now in Commerce Committee	
<u>SB 866</u>	Workplace Sexual Harassment and Sexual Assault	Berman
	Workplace Sexual Harassment and Sexual Assault; Prohibiting an employer from requiring an employee to sign a nondisclosure agreement, waiver, or other document, as a condition of employment, to prevent the employee from disclosing sexual harassment or sexual assault; prohibiting an employer from discharging or retaliating against an employee for disclosing or discussing workplace sexual harassment or sexual assault, etc. Effective Date: 10/1/2019 2/19/2019 SENATE Referred to Commerce and Tourism; Judiciary; Rules	
<u>SB 890</u>	Drug-free Workplaces	Baxley
	Drug-free Workplaces; Revising the contents of an employer policy statement with respect to employee drug use; revising the frequency of followup testing; revising specimen collection, verification, and documentation procedures, etc. Effective Date: 7/1/2019 3/20/2019 SENATE Now in Judiciary	
<u>SB 944</u>	Land Acquisition Trust Fund	Stewart
	Land Acquisition Trust Fund; Requiring a specified annual appropriation to the Florida Forever Trust Fund; prohibiting moneys from the Land Acquisition Trust Fund from being used for specified costs, etc. Effective Date: 7/1/2019	

<u>SB 946</u>	Background Screening	Powell
	Background Screening; Prohibiting employers from excluding applicants from an initial interview for employment under certain conditions; requiring the Department of Economic Opportunity to enforce the act, etc. Effective Date: 7/1/2019 2/19/2019 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations	
<u>HB 957</u>	Petroleum Restoration	Perez
	Petroleum Restoration: Requires limited contamination assessment reports & Petroleum Cleanup Participation Program site rehabilitation agreements to include cost savings; removes requirements for demonstration & determination of copayment & assessment report requirements; requires advanced cleanup applications to include agreements for continued program participation & conceptual proposed courses of actions; removes provisions prohibiting refund of contamination assessment report costs from Inland Protection Trust Fund; requires selected agency term contractors to submit scopes of work for limited contamination assessments to DEP; directs DEP to issue purchase orders. Effective Date: July 1, 2019 2/28/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	
<u>HB 973</u>	Onsite Sewage Treatment and Disposal Systems	Payne
	Onsite Sewage Treatment and Disposal Systems; Transfers Onsite Sewage Program in DOH to DEP; removes provisions relating to DOH technical review & advisory panel & research & review advisory committee; directs DEP to appoint technical advisory committee, initiate rulemaking, & adopt rules; directs county health departments to coordinate with DEP to administer evaluation programs; directs WMDs to submit consolidated annual reports to OEDR; directs DEP to submit certain cost estimates to OEDR. Effective Date: 7/1/2019 4/18/2019 HOUSE Favorable with CS by State Affairs Committee; 23 Yeas, 0 Nays	
<u>SB 974</u>	Motor Vehicles	Perry
	Motor Vehicles; Authorizing any motor vehicle to be equipped with certain lamps or devices under certain circumstances; authorizing certain vehicles to display red and white warning signals under certain circumstances; authorizing an insurance company to provide an independent entity with a certain release statement authorizing it to release a vehicle to the lienholder, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019 4/15/2019 SENATE Placed on Calendar, on 2nd reading	
<u>SB 1022</u>	Onsite Treatment and Disposal Systems	Albritton
	Onsite Treatment and Disposal Systems; Transferring the onsite sewage program of the Department of Health to the Department of Environmental Protection by a type two transfer; defining the term "department" as it relates to onsite sewage treatment and disposal systems provisions; requiring the department to convene a technical advisory committee by a specified date; requiring county health departments to coordinate with the department to administer certain programs, etc. Effective Date: 7/1/2019 3/28/2019 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government	
<u>HB 1053</u>	Department of Highway Safety and Motor Vehicles	Brannan III
	Department of Highway Safety and Motor Vehicles: Revises & provides requirements relating to compliance with federal commercial motor vehicle regulations, investigations & inspections by DHSMV, apportionable vehicles, the International Registration Plan, identification cards & driver licenses, motor vehicle dealer licensing, crash reports, electronic transactions, & truancy reporting. Effective Date: July 1, 2019 4/18/2019 HOUSE Favorable with CS by State Affairs Committee; 22 Yeas, 0 Nays	
<u>SB 1054</u>	Community Redevelopment Agencies	Lee
	Community Redevelopment Agencies; Requiring ethics training for community redevelopment agency commissioners; requiring a community redevelopment agency to publish certain digital boundary maps on its website; requiring the Department of Economic Opportunity to declare inactive community redevelopment agencies that have reported no financial activity for a specified number of years; specifying the level of tax increment financing that a governing body may establish for funding the redevelopment trust fund, etc. Effective Date: 10/1/2019 4/19/2019 SENATE Committee Substitute Text (C2) Filed	
<u>SB 1056</u>	Florida Disaster Resilience Task Force	Rodriguez (J)
	Florida Disaster Resilience Task Force; Establishing the task force adjunct to the Department of Environmental Protection; providing the purpose and membership of the task force; requiring the appointees to be experts from specified subject areas, etc. Effective Date: 7/1/2019 2/22/2019 SENATE Referred to Environment and Natural Resources; Innovation, Industry, and Technology; Rules	
<u>HB 1121</u>	Support Organizations	Altman
	Support Organizations: Requires DEP to submit report to Legislature; abrogates scheduled repeal of provisions governing DEP, DOS, FWCC, & DACS support organizations; repeals Florida Intergovernmental Relations Foundation & directs EOG & foundation to satisfy liabilities & transfer funds; authorizes court to order persons convicted of certain violations to pay additional assessment; authorizes specified citizen support organization to pay certain rewards. Effective Date: July 1, 2019 4/18/2019 HOUSE Placed on Special Order Calendar, 04/24/19	

<u>HB 1135</u>	Florida Red Tide Mitigation and Technology Development Initiative	Grant (M)
	Florida Red Tide Mitigation and Technology Development Initiative: Establishes Florida Red Tide Mitigation & Technology Development Initiative; provides purpose & goal of initiative; provides for funding; requires initiative to submit annual report; establishes Initiative Technology Advisory Council; provides for meetings, membership, terms of office, & compensation of council; provides for expiration of initiative. Effective Date: July 1, 2019 4/18/2019 HOUSE Placed on Special Order Calendar, 04/24/19	
<u>SB 1140</u>	Attorney Fees and Costs	Hutson
	Attorney Fees and Costs; Defining the term "attorney fees and costs"; providing for award of attorney fees and costs and damages in civil actions challenging local ordinances as being preempted by the State Constitution or state law; prohibiting an award of attorney fees and costs under certain circumstances, etc. Effective Date: 7/1/2019 4/18/2019 SENATE On Committee agenda - Rules, 04/23/19, 2:00 pm, 110 S	
<u>SB 1148</u>	Vehicles for Rent or Lease	Perry
	Vehicles for Rent or Lease; Requiring a member of a certain car-sharing service who uses a motor vehicle for less than a specified period of time pursuant to an agreement with the car-sharing service to pay a specified surcharge per usage; authorizing an electronic copy of certain rental or lease documentation to be in the possession of the vehicle operator or carried in the vehicle and to be exhibited upon demand of any authorized law enforcement officer or any agent of the Department of Highway Safety and Motor Vehicles; prohibiting a person from renting a motor vehicle to another person unless he or she has verified that the renter's driver license is unexpired, etc. Effective Date: 7/1/2019 4/11/2019 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 04/12/19, 10:00 am, 117 K (No Votes Will Be Taken)	
<u>HB 1149</u>	Workforce Retention	Hattersley
	Workforce Retention: Requires employers intending to relocate out of state or cease operation to notify DBPR; provides penalty; requires DBPR to compile list of employers that relocate or cease operation; provides that such employers are ineligible for certain benefits for specified period; requires employers to remit certain funds to DBPR; requires each state agency head to ensure certain services are performed by state contractors within state. Effective Date: 240 days after becoming a law 3/4/2019 HOUSE Now in Workforce Development & Tourism Subcommittee	
<u>SB 1150</u>	Wildlife Protection	Pizzo
	Wildlife Protection; Prohibiting the import, sale, purchase, and distribution of ivory articles and rhinoceros horns; providing that it is unlawful to take, possess, injure, shoot, collect, or sell Florida black bears; providing that the illegal taking, possession, injuring, shooting, collecting, or selling of Florida black bears is a Level Four violation, which is subject to criminal and civil penalties, etc. Effective Date: 7/1/2019 4/3/2019 SENATE Withdrawn from further consideration	
<u>HB 1199</u>	Water Resources	Jacobs
	Water Resources: Revises requirements for Office of Economic & Demographic Research's annual assessment of this state's water resources & conservation lands; requires office to consult with DEP; requires assessment to be submitted to Legislature by specified date. Effective Date: July 1, 2019 3/8/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	
<u>HB 1221</u>	Anchored Vessels	Polsky
	Anchored Vessels: Directs FWCC to conduct study of impacts of long-term stored vessels & certain anchored & moored vessels on local communities & state & to submit report to Governor & Legislature; prohibits residing or dwelling on certain derelict vessels until certain conditions are met. Effective Date: July 1, 2019 4/18/2019 HOUSE Favorable with CS by State Affairs Committee; 21 Yeas, 0 Nays	
<u>HB 1237</u>	Towing and Immobilizing Vehicles and Vessels	McClain
	Towing and Immobilizing Vehicles and Vessels: Authorizes local governments to enact rates to tow vessels on private property & remove & store vessels; prohibits counties or municipalities from enacting ordinances imposing costs or penalties on owners, persons in control, or lienholders of vehicles or vessels or that require wrecker operators or towing businesses to accept specified form of payment; authorizes persons to place liens on vehicles or vessels to recover fees or charges; removes requirement regarding notices & signs concerning towing or removal of vehicles & vessels & liability for attorney fees; prohibits counties or municipalities from authorizing attorney fees in connection with towing activities & preempts to state regulation of such fees. Effective Date: July 1, 2019 4/17/2019 HOUSE Engrossed Text (E1) Filed	
<u>HB 1269</u>	Vehicle and Vessel Registration Data	Fernandez-Barquin
	Vehicle and Vessel Registration Data: Requires DHSMV to provide tax collectors & their agents with real-time access to certain vehicle & vessel registration data in same manner as provided to other third parties. Effective Date: July 1, 2019 4/3/2019 HOUSE Now in State Affairs Committee	
<u>HB 1273</u>	Legislative Preemption	Goff-Marcil
	Legislative Preemption: Proposes s. 22 of Art. III of State Constitution to require supermajority of each house to approve general law preempting subject of legislation to state. Effective Date: Not Specified 3/8/2019 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee	

<u>HB 1279</u>	Prohibited Discrimination	Fernández
	Prohibited Discrimination: Defines terms "gender identity" & "sexual orientation"; revises functions of Florida Commission on Human Relations; revises provisions regarding remedies for unlawful discrimination to include discrimination based on sexual orientation & gender identity in area of employment; adds sexual orientation & gender identity as impermissible grounds for discrimination with respect to specified unlawful employment practices; provides exception to specified provisions for constitutionally protected free exercise of religion. Effective Date: July 1, 2019 3/8/2019 HOUSE Now in Civil Justice Subcommittee	
<u>HB 1285</u>	Heat Illness Prevention	Smith (C)
	Heat Illness Prevention: Requires certain employers to provide drinking water, shade, & annual training to certain employees & supervisors; requires DACS to adopt rules. Effective Date: October 1, 2019 3/8/2019 HOUSE Now in Workforce Development & Tourism Subcommittee	
<u>HB 1291</u>	State Renewable Energy Goals	Eskamani
	State Renewable Energy Goals: Directs Office of Energy within DACS to develop unified statewide plan to generate state's energy from renewable sources by specified dates; requires state & public entities to cooperate as requested; provides plan requirements; requires office to submit plan & updates to Governor & Legislature. Effective Date: July 1, 2019 3/8/2019 HOUSE Now in Energy & Utilities Subcommittee	
<u>HB 1319</u>	Vessels	Diamond
	Vessels: Requires vessel operators to reduce speed in specified hazardous situations; revises criteria for at risk vessel determinations; revises civil penalties relating to certain at risk vessels & prohibited anchoring or mooring; provides civil penalties for vessels that fail to reduce speed for special hazards. Effective Date: July 1, 2019 4/4/2019 HOUSE Now in State Affairs Committee	
<u>SB 1352</u>	Minimum Wage	Rodriguez (J)
	Minimum Wage; Revising the formula for the adjusted state minimum wage; reducing over time the amount of tip credit an employer may claim; prohibiting an employer from claiming a tip credit beginning on a specified date, etc. Effective Date: 7/1/2019 3/4/2019 SENATE Referred to Commerce and Tourism; Innovation, Industry, and Technology; Rules	
<u>HB 1395</u>	Water Quality Improvements	Raschein
	Water Quality Improvements: Transfers onsite sewage program of DOH to DEP by type two transfer; prohibits local government from approving certain building permits; requires DEP to develop agricultural remediation plan as part of each basin management action plan; establishes wastewater grant program within DEP; revises requirements for basin management action plan; requires estimated nutrient load reductions in such plans to exceed specified amount; requires each local government to develop wastewater treatment plan that meets certain requirements; requires local government to create onsite sewage treatment & disposal system remediation plan as part of basin management action plan; prohibits facilities for sanitary sewage disposal from disposing of any waste in Indian River Lagoon without first providing advanced waste treatment. Effective Date: July 1, 2019 3/8/2019 HOUSE Now in Agriculture & Natural Resources Subcommittee	
<u>SB 1404</u>	Fuel Taxes	Mayfield
	Fuel Taxes; Requiring a specified percentage of certain state motor and diesel fuel taxes to be transferred to the Florida Forever Trust Fund; authorizing county and municipal governments to use certain local option motor and diesel fuel taxes to build, operate, and maintain stormwater systems, etc. Effective Date: 7/1/2019 2/26/2019 SENATE Withdrawn prior to introduction	
<u>SB 1474</u>	Workforce Retention	Torres, Jr.
	Workforce Retention; Citing this act as the "Florida Jobs Retention Act of 2019"; requiring certain employers that intend to relocate out of state or cease operation to notify the Department of Business and Professional Regulation within a specified period; requiring the department to compile a semiannual list of employers that relocate out of state or cease operation; providing that such employers are ineligible for state grants, loans, or tax benefits for a specified period, etc. Effective Date: 240 days after becoming a law 3/8/2019 SENATE Referred to Commerce and Tourism; Judiciary; Appropriations	
<u>SB 1482</u>	Department of Highway Safety and Motor Vehicles	Stargel
	The Department Of Highway Safety And Motor Vehicles; Authorizing the Department of Highway Safety and Motor Vehicles or its authorized agents to collect electronic mail addresses and use electronic mail for certain purposes; limiting the applications the department may accept by electronic or telephonic means; authorizing the department, instead of the Fish and Wildlife Conservation Commission, to accept certain applications by electronic or telephonic means, etc. Effective Date: 7/1/2019 3/8/2019 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	
<u>SB 1502</u>	Department of Environmental Protection	Bradley
	Department of Environmental Protection; Transferring and reassigning functions and responsibilities of the Division of Law Enforcement relating to investigators of environmental crimes within the Fish and Wildlife Conservation Commission	

to the Division of Law Enforcement of the Department of Environmental Protection; providing requirements for a memorandum of agreement between the department and the commission regarding the responsibilities of the department and the commission; establishing the Division of Law Enforcement within the department, etc. Effective Date: 7/1/2019
4/18/2019 SENATE Not Considered by Appropriations

<u>SB 1530</u>	Vessels	Rouson
	Vessels; Requiring vessel operators to reduce speed in specified hazardous situations; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring; providing civil penalties relating to vessels that fail to reduce speed for special hazards, etc. Effective Date: 7/1/2019 4/8/2019 SENATE Now in Rules	
<u>SB 1538</u>	Heat Illness Prevention	Torres, Jr.
	Heat Illness Prevention; Providing applicability; providing definitions; providing responsibilities of certain employers and employees; requiring the Department of Agriculture and Consumer Services to adopt rules, etc. Effective Date: 10/1/2019 3/8/2019 SENATE Referred to Health Policy; Governmental Oversight and Accountability; Rules	
<u>SB 1552</u>	Florida Red Tide Mitigation and Technology Development Initiative	Gruters
	Florida Red Tide Mitigation and Technology Development Initiative; Establishing the Florida Red Tide Mitigation and Technology Development Initiative; requiring the initiative to submit an annual 8 report by a specified date to the Governor, the Legislature, the Secretary of Environmental Protection, and the executive director of the Fish and Wildlife Conservation Commission; establishing the Initiative Technology Advisory Council, etc. APPROPRIATION: Indeterminate Effective Date: 7/1/2019 4/19/2019 SENATE Placed on Calendar, on 2nd reading	
<u>SB 1554</u>	Regulation of Oil and Gas Resources	Rodriguez (J)
	Regulation of Oil and Gas Resources; Prohibiting the Division of Resource Management within the Department of Environmental Protection from granting permits for a gas or oil well within the Everglades Protection Area; prohibiting the department from issuing a permit for a structure intended for the drilling for, or production of, oil, gas, or other petroleum products within the Everglades Protection Area, etc. Effective Date: Upon becoming a law 3/8/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations	
<u>SB 1564</u>	Petroleum Cleanup	Albritton
	Petroleum Cleanup; Revising requirements for a limited contamination assessment report in which a property owner, operator, or person otherwise responsible for site rehabilitation must provide to the Department of Environmental Protection for the Petroleum Cleanup Participation Program; revising the contents of an advanced cleanup application to include a specified property owner or responsible party agreement, etc. Effective Date: 7/1/2019 3/8/2019 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations	
<u>SB 1580</u>	Workplace Sexual Harassment	Book
	Workplace Sexual Harassment; Requiring the Florida Commission on Human Relations to create and publish a model sexual harassment prevention guidance document and sexual harassment prevention policy; requiring employers to adopt the model policy or one that equals or exceeds it; requiring the commission to produce a model sexual harassment prevention training program, etc. Effective Date: 1/1/2020 3/8/2019 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations	
<u>SB 1614</u>	Lakes and Lagoons	Baxley
	Lakes and Lagoons; Excluding manmade lakes and lagoons over a certain size from the definitions of the terms "public swimming pool" and "swimming pool," respectively, for certain purposes, etc. Effective Date: 7/1/2019 3/18/2019 SENATE Now in Rules	
<u>SB 1666</u>	Vessels	Flores
	Vessels; Requiring all persons, rather than only persons born after a specified date, to have a specified boating safety identification card in their possession before operating certain vessels; directing the Fish and Wildlife Conservation Commission to conduct, contingent upon appropriation, a specified study of the impacts of long-term stored vessels and certain anchored and moored vessels on local communities and the state and to submit a report to the Governor and Legislature within a specified time; authorizing certain counties to create no-discharge zones, etc. Effective Date: 7/1/2019 4/12/2019 SENATE Placed on Calendar, on 2nd reading	
<u>SB 1674</u>	Registration Data	Diaz
	Registration Data; Requiring that the Department of Highway Safety and Motor Vehicles provide tax collectors and their agents with real-time access to data that other third parties receive from the department related to registration of vehicles, mobile homes, and vessels, etc. Effective Date: 7/1/2019 3/8/2019 SENATE Referred to Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	

SB 1698	Legislative Preemption	Berman
	Legislative Preemption; Proposing amendments to the State Constitution to require a supermajority vote of each house of the Legislature to enact a general law preempting a subject of legislation to the state, etc. 3/8/2019 SENATE Referred to Community Affairs; Judiciary; Rules	
SB 1758	Water Quality Improvements	Mayfield
	Water Quality Improvements; Citing this act as the "Clean Waterways Act"; requiring the Department of Environmental Protection, in coordination with the Department of Health, to develop a report to be submitted to the Legislature by a specified date on the impacts of transferring the onsite sewage program of the Department of Health to the Department of Environmental Protection by a type two transfer; revising the requirements for a basin management action plan for an Outstanding Florida Spring; establishing a wastewater grant program within the Department of Environmental Protection, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019 4/3/2019 SENATE Now in Appropriations	
SB 1762	State Renewable Energy Goals	Rodriguez (J)
	State Renewable Energy Goals; Directing the Office of Energy within the Department of Agriculture and Consumer Services, in consultation with other state agencies, state colleges and universities, public utilities, and other private and public entities, to develop a unified statewide plan to generate the state's energy from renewable sources by specified dates, etc. Effective Date: 7/1/2019 3/8/2019 SENATE Referred to Innovation, Industry, and Technology; Governmental Oversight and Accountability; Rules	
SB 1792	Towing of Vehicles and Vessels	Gruters
	Towing of Vehicles and Vessels; Specifying that local governments may enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; prohibiting counties or municipalities from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; prohibiting municipalities or counties from enacting an ordinance or rule requiring an authorized wrecker operator to accept checks as a form of payment; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges, etc. Effective Date: 7/1/2019 4/4/2019 SENATE Now in Rules	
HB 3191	Florida Gulf Coast University - Red Tide Initiative	Rommel
	Florida Gulf Coast University - Red Tide Initiative: Provides an appropriation for the Florida Gulf Coast University - Red Tide Initiative. Effective Date: July 1, 2019 3/14/2019 HOUSE Now in Appropriations Committee	
SB 7022	Fish and Wildlife Conservation Commission Citizen Support Organizations	Environment and Natural Resources
	Fish and Wildlife Conservation Commission Citizen Support Organizations; Abrogating the scheduled repeal of provisions governing citizen support organizations established under the Fish and Wildlife Conservation Commission; authorizing a court to order persons convicted of certain violations to pay an additional assessment; authorizing a specified citizen support organization to post certain rewards, etc. Effective Date: 7/1/2019 4/17/2019 SENATE Read Third Time; Passed (Vote: 38 Yeas / 0 Nays)	
SB 7024	Department of Environmental Protection Citizen Support Organizations	Environment and Natural Resources
	Department of Environmental Protection Citizen Support Organizations; Requiring the department to submit a report to the Legislature by a specified date; abrogating the scheduled repeal of provisions governing citizen support organizations established under the department; abrogating the scheduled repeal of provisions governing citizen support organizations established under the department for the benefit of the state park system, etc. Effective Date: 7/1/2019 3/29/2019 SENATE Placed on Calendar, on 2nd reading	
HB 7029	Fracking	Agriculture & Natural Resources Subcommittee
	Fracking: Prohibits fracking; provides applicability of permits to drill & operate wells; requires well operators to provide written notice to DEP before performing specified activities. Effective Date: upon becoming a law 3/28/2019 HOUSE Now in State Affairs Committee	
SB 7064	Oil Drilling	Agriculture
	Oil Drilling; Defining the term "fracking"; requiring specified amounts for bonds for certain operations in the Everglades Protection Area; prohibiting fracking in this state; requiring an applicant for certain explorations for and extraction of minerals to post a specified surety bond for projects in the Everglades Protection Area; prohibiting the refining of oil within the Everglades Protection Area; prohibiting the use of flowback fluid for crop irrigation in this state, etc. Effective Date: 7/1/2019 3/26/2019 SENATE Now in Environment and Natural Resources	
ANR1	Department of Environmental Protection	Agriculture & Natural Resources

PCB ANR 19-01 -- Department of Environmental Protection
3/19/2019 HOUSE Committee Bill filed as HB 5401