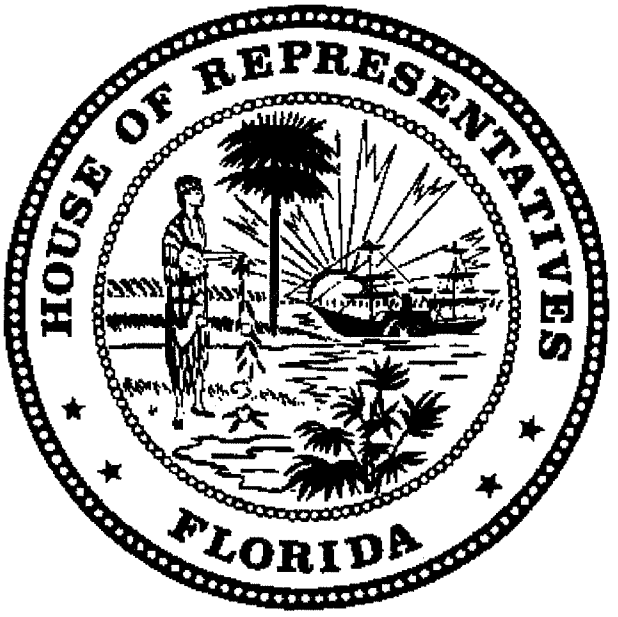


Agriculture & Natural Resources Subcommittee

Tuesday, November 15, 2011
1:00 pm
Reed Hall (102 HOB)

Dean Cannon
Speaker

Steve Crisafulli
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Natural Resources Subcommittee

Start Date and Time:	Tuesday, November 15, 2011 01:00 pm
End Date and Time:	Tuesday, November 15, 2011 03:30 pm
Location:	Reed Hall (102 HOB)
Duration:	2.50 hrs

Consideration of the following bill(s):

HB 13 Sovereignty Submerged Lands by Frishe
HB 377 Miami-Dade County Lake Belt Mitigation Plan by Nuñez
HB 421 Limited Certification for Urban Landscape Commercial Fertilizer Application by Smith
HB 4001 Florida Climate Protection Act by Plakon
HB 4039 Recreation and Parks by Porter
HB 4083 Florida Water Resources Act of 1972 by Eisnaugle

Agency Legislative Proposals:
- Presentation by the Department of Environmental Protection
- Presentation by the Department of Agriculture and Consumer Services
- Presentation by the Department of Citrus
- Presentation by the Fish and Wildlife Conservation Commission

NOTICE FINALIZED on 11/08/2011 15:36 by Love.John

DEP

Environmental Resource Permitting

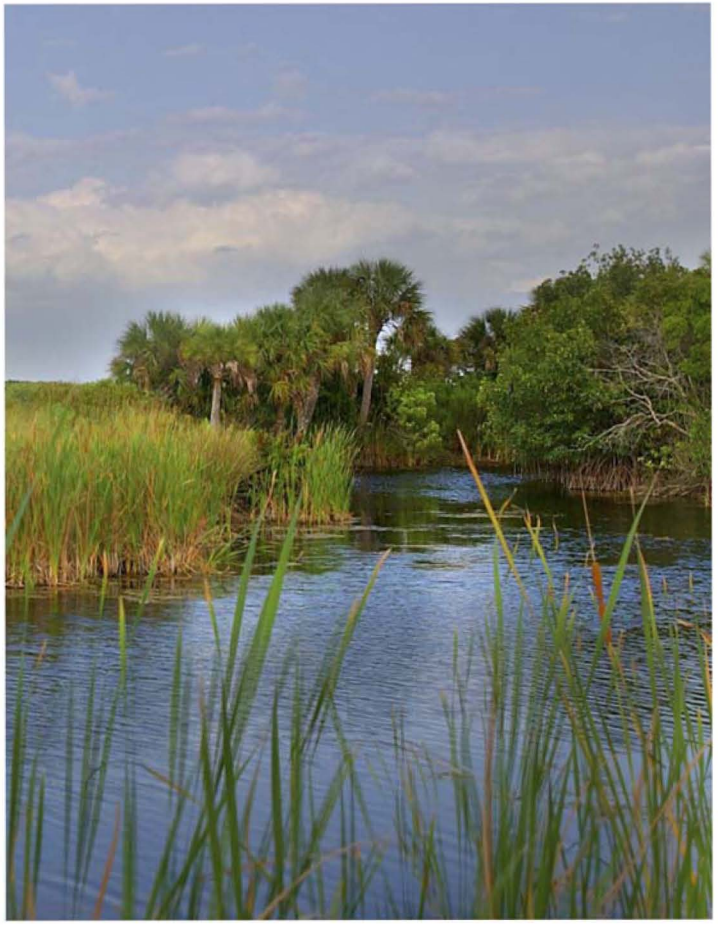
Statewide Rule

House Agriculture and Natural Resources Subcommittee
November 15, 2011

Jeff Littlejohn, P.E.
Deputy Secretary for Regulatory Programs
Florida Department of Environmental Protection

Purpose of the ERP Program

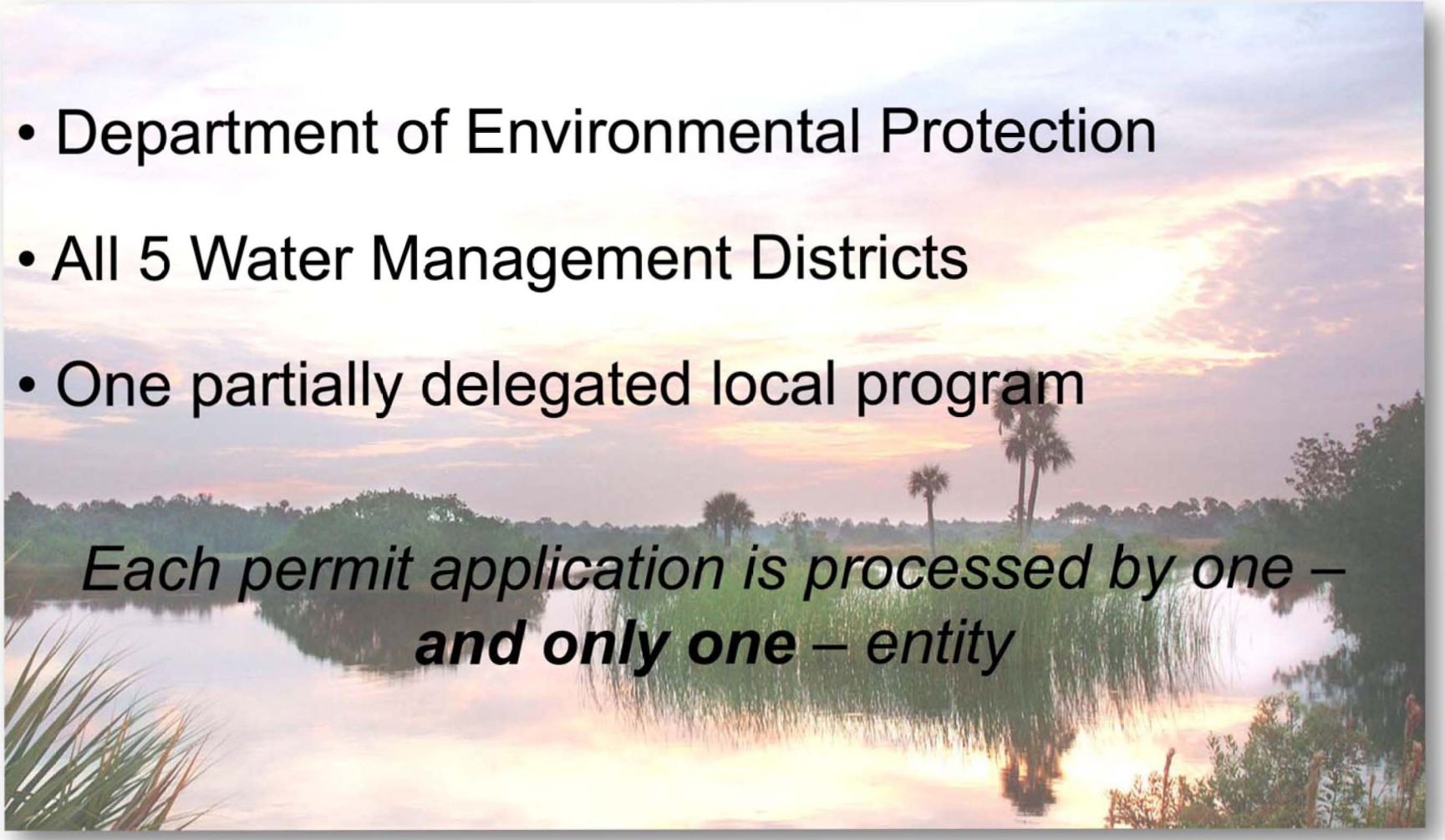
Protecting water resources:



- Water quality
- Water quantity – flood protection
- Environmental functions

Types of ERP Authorizations

ERP Rule Implementation



- Department of Environmental Protection
- All 5 Water Management Districts
- One partially delegated local program

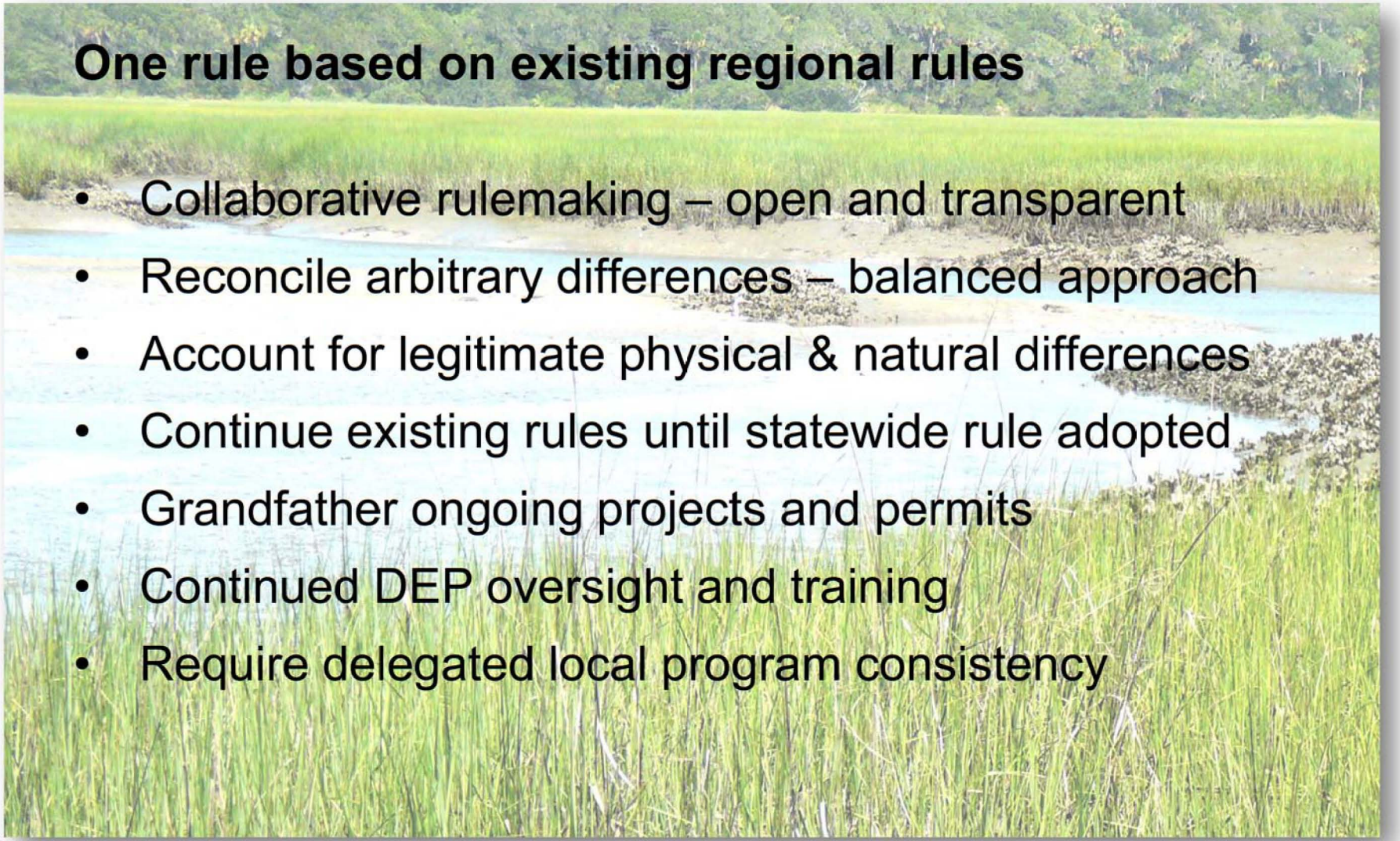
*Each permit application is processed by one – **and only one** – entity*

Proposal – Legislation for Statewide Rule

Authorize DEP to adopt a statewide ERP rule:

- Simplify process
- Increase consistency
- Retain regional differences

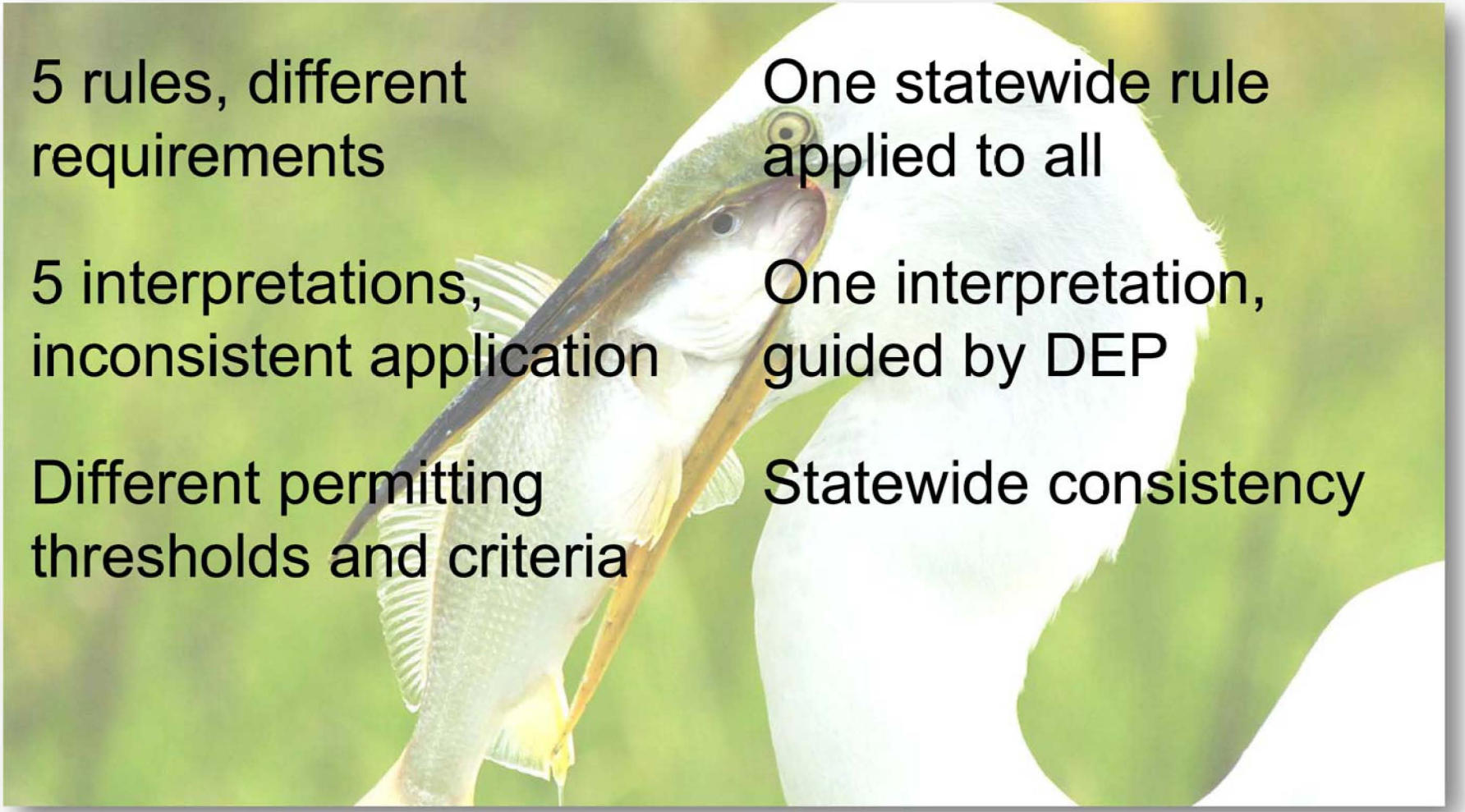
Specifics of the Proposed Legislation



One rule based on existing regional rules

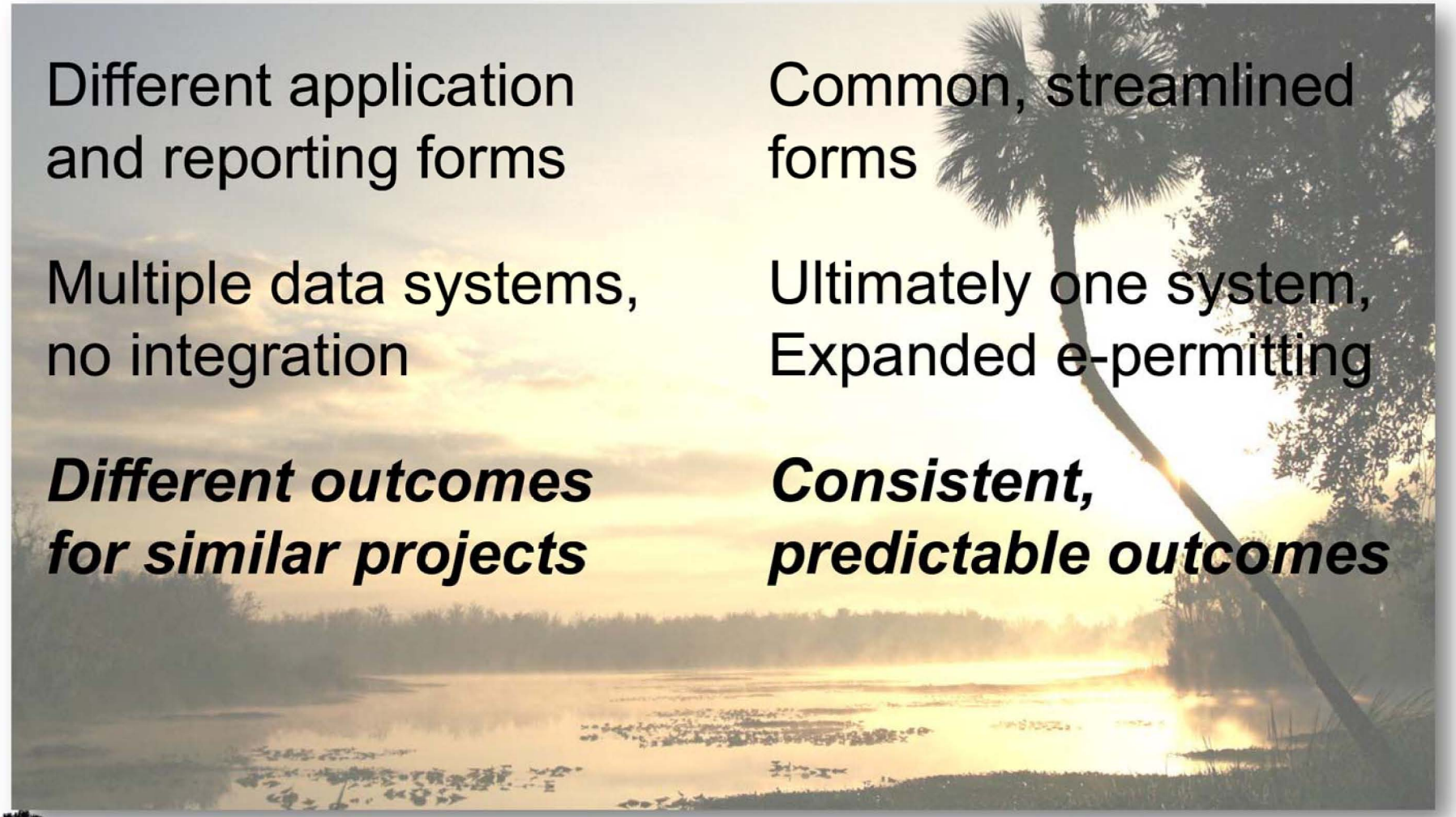
- Collaborative rulemaking – open and transparent
- Reconcile arbitrary differences – balanced approach
- Account for legitimate physical & natural differences
- Continue existing rules until statewide rule adopted
- Grandfather ongoing projects and permits
- Continued DEP oversight and training
- Require delegated local program consistency

Before… *and After*



5 rules, different requirements	One statewide rule applied to all
5 interpretations, inconsistent application	One interpretation, guided by DEP
Different permitting thresholds and criteria	Statewide consistency

Before… *and After*



Different application and reporting forms	Common, streamlined forms
Multiple data systems, no integration	Ultimately one system, Expanded e-permitting
Different outcomes for similar projects	***Consistent, predictable outcomes***

Questions?

Jeff Littlejohn, P.E.
Deputy Secretary for Regulatory Programs
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Department of
Citrus

Florida Department of Citrus

Ellis Hunt
Florida Citrus Commissioner

November 15, 2011
House Agriculture & Natural Resources Subcommittee

Florida Citrus Commission
Florida Department of Citrus

Created in 1935

Chapter 601 F.S.

Grower assessment is primary support

Responsible for:

- Regulation
- Research
- Market Promotion

Economic Impact

$9.3 Billion

- Nearly 550,000 acres
- Nearly 80,000 jobs

Florida Citrus Commission
601 Advisory Committee

- Comprised of representatives of all nine grower/processor organizations
- Each organization provided input
- 601 Committee approved each change
- Industry unanimously supports the document

Florida Citrus Commission
601 Committee - Representatives

- Florida Citrus Grower Associates
- Florida Citrus Mutual
- Florida Citrus Packers
- Florida Citrus Processors Association
- Gulf Citrus Growers Association
- Highlands County Citrus Growers Association
- Indian River Citrus League
- Peace River Citrus Growers Association
- Florida Citrus Commission/Department of Citrus

Florida Citrus Commission
601 Revisions

- Cleans up obsolete language
  - Federal law pre-empts Florida standards
- Clarifies super-majority vote requirements
- Provide confidentiality to non-published research data and reports
- Reinforces rulemaking authority


FLORIDA
CITRUS
™

DACS

DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES

ADAM H. PUTNAM, COMMISSIONER

Department Bill Overview
November 15, 2011

Grace Lovett, Director
Office of Legislative Affairs

2011…A Successful Session

- **School Nutrition Program transfer from Florida Department of Education to Florida Department of Agriculture and Consumer Services**
  - Waiver was been received from USDA October 14, 2011.
  - DACS officially takes over January 1, 2012.

- **State Office of Energy (OOE)**
  - OOE transferred from the Governors Office to ACS July 1, 2011.
  - Priorities
  - Energy Summit

- **Department Bills**
  - Agriculture
  - Consumer Services
  - Florida Forest Service
  - Wounded Warrior—Operation Outdoor Freedom

2012 Legislative Priorities

Agriculture Environmental Services

- **Mosquito Control Act**
  - Removes language that allows pesticidal practices that are no longer legal; a consumer and environmental protection.
  - Provides more time for mosquito control districts to provide budget information to DACS; a government efficiency.
  - Simplifies the process for a mosquito control district to dispose of surplus property.
  - Eliminates references to a non-existing program—the John A Mulrennan, Sr. Arthropod Research Laboratory and to FAMU as part of the Florida Coordinating Council on Mosquito Control.
  - Eliminates reference to the Florida Coastal Management Program Interagency Management Committee.

- **Agriculture Feed, Seed and Fertilizer Advisory Council**
  - Eliminates three technical councils and creates one new council.

Agriculture Environmental Services--Continued

- **Animal Feed Statutes**
  - Feed Master Registration—requires quarterly reporting on amount of feed distributed in Florida.
  - Authorizes DACS to impose and recover monetary penalties for commercial feed found to be deficient or excessive in nutrients. Without this change consumers who are entitled to reimbursement will have to continue to seek compensation through the courts.

Animal Industry

- **Whole-herd and calf vaccination**
  - Repeals the statute requiring vaccination for Brucella Abortus. Florida was declared free of Bovine Brucellosis in 2001.

- **Florida Agricultural Exposition**
  - Repeals the statute relating to the Florida Agricultural Exposition—A joint program between DACS and the Department of Corrections that was eliminated in 2008.

Aquaculture

- **Waiver of Aquaculture Certification fee for schools**
  - Aquaculture Certification—The proposed legislative change will provide for a fee waiver for elementary, middle and high schools.

- **Elimination of the Aquaculture Interagency Coordinating Council (ICC)**
  - Due to the elimination of the Aquaculture ICC, DACS will need to amend the makeup of the Aquaculture Review Council.

Florida Forest Service

- **Leasing on DACS lands**
  - With concurrence of the Board of Trustees (BOT), authorizes DACS to conduct the oil, gas and mineral leasing on lands DACS has leased from the BOT.
  - DACS proposes to staff the BOT for the purpose of the Florida Rural and Family Lands Protection Program (agriculture conservation easements).

- **Florida Forest Service Incidental Trust Fund**
  - Allows DACS to deposit funds from sources, other than federal funds, into this trust fund for reforestation projects.

- **Silviculture and Agriculture Open Burning Permitting**
  - Gives the DACS Florida Forest Service the sole authority to authorize silviculture and agriculture open burning and eliminates duplicative permitting by another entity of the state.

Food Safety

- **Food and Drug Administration Food Code and Code of Federal Regulations**
  - This statute change will allow DACS to adopt the latest and best guide for a uniform system of provisions that address the safety and protection of food offered at retail and wholesale.

- **Eliminating Food Safety Pilot Program**
  - No food establishments have participated in the program since 2004.

- **Updating milk, milk products and frozen dessert laws**
  - Duplicative program—the US Department of Agriculture Federal Milk Market Administration oversees a program that provides the same function.

Office of Water Policy

•Extends expiration dates of December 31, 2012 and December 31, 2017 to December 31, 2022 and December 31, 2027 in ss. 576.045(8) F.S. to ensure that a steady source of funding continues and that progress is achieved on agricultural best management practices (BMPs) and nutrient pollution abatement efforts.

•Name change from the Office of Energy and Water to the Office of Agriculture Water Policy

Miscellaneous

•Office of Food, Nutrition and Wellness

- •The legislation creates a new division which will house the school nutrition program as well as all the other programs which will enhance DACS' efforts in these areas...food , nutrition and wellness.

•Marketing Orders

- •Proposing a change to auditing practice for the Citrus, Peanut and Tobacco Marketing Orders

•Authority to Distribute Funds

- •Provides direct statutory authority to DACS to distribute grants funds.

•Advisory Councils

- •Travel and per diem
- •Plant Industry Technical Council

•Soil and Water Conservation Districts

- •Provides the ability for Districts to work across district lines.
- •Makes it clear that it is the SWCD's responsibility for any of its legal obligations, contracts and/or liabilities at the time of a dissolution.

QUESTIONS?

DEPARTMENT OF AGRICULTURE
& CONSUMER SERVICES
ADAM H. PUTNAM, COMMISSIONER

Department Bill Overview
November 15, 2011

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Fish and Wildlife
Conservation Commission

Fish and Wildlife Conservation Commission
2012 Session Legislative Proposals
presentation to

House Agriculture & Natural Resources Subcommittee

Jackie Fauls, Legislative Affairs Director

November 15, 2011

Blue Crab Soft Shell Endorsement Fee Reduction

- Proposal - Reduces fee for commercial blue crab soft shell endorsement by half, from $250 to $125
- Would make the fee for endorsements for all trap fisheries $125
- 83 blue crab soft shell endorsements issued for the 2011-2012 license year
- Reduction in revenue of $10,375
- Blue Crab Advisory Board and industry representatives support

FWC Legislative Proposals – 2012 Session

Florida Wildlife Magazine

- Current law requires a printed publication of Florida Wildlife magazine and creation of Florida Wildlife Magazine Advisory Council
- 2011 Session - budget for *Florida Wildlife* magazine was permanently cut ($240,000)
- 2011 Session implementing bill - suspension of printing the magazine and the Council was authorized for 2011-2012 Fiscal Year
- Proposal - Repeal the law requiring a printed version of the magazine and the Council
- Proposal is necessary because the funding was permanently cut

FWC Legislative Proposals – 2012 Session

Lobster Trap Theft

- Current penalty for lobster trap theft – 3rd degree felony
  - Up to 5 years in prison and/or up to $5000 fine
- Considered a non-violent felony
  - Up to 1 year in jail and/or up to $1000 fine
- Stealing honest commercial fishermen's livelihood
- Proposal - allow judges to assess the full penalty range for 3rd degree felony
- Florida Keys Commercial Fishermen's Association requested
- Monroe County State's Attorney requested

Marine Resources Conservation Trust Fund

- Technical fix
- 2009 Session – Legislature changed funding source for marine mammal care from documentary stamp tax revenues to vessel registration fees
- Statutory language in documentary stamp tax statute was amended to reflect funding change
- Statutory language in Marine Resources Conservation Trust Fund was not amended to reflect funding change
- Proposal - amends Marine Resources Conservation Trust Fund statute to be consistent with 2009 funding change

Questions?

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 13 Sovereignty Submerged Lands
SPONSOR(S): Frishe; Harrell
TIED BILLS: None **IDEN./SIM. BILLS:** SB 88

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Smith	Blalock
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Board of Trustees of the Internal Improvement Fund is responsible for the administration and disposition of the state's sovereign submerged lands, including the authority to adopt regulations pertaining to anchoring, mooring, or otherwise attaching to the bottom and the establishment of anchorages. Waterfront landowners must receive the board's authorization to build docks and related structures on sovereign submerged lands. The Department of Environmental Protection (DEP) is required by law to perform all staff functions on behalf of the board.

The board has promulgated detailed rules regulating the design of docks and related structures, determining whether a lease is required, and setting the amount of fees a lessee must pay to the board. The DEP determines whether a lease is required for a person to build a dock or related structure on sovereign submerged lands based on a number of factors including:

- Location within or outside of an aquatic preserve,
- Area of sovereign submerged land preempted,
- Number of wet slips or the number of boats the structure is designed to moor,
- Whether the dock is for a single-family residence or a multi-unit dwelling,
- Whether the dock generates revenue,
- Whether the dock is "private residential" or "commercial, industrial and other revenue generating/income related".

This bill provides statutory lease requirements for private residential docks and related structures on sovereign submerged lands. Specifically, the bill:

- Extends the maximum term for an initial standard lease and for successive renewal to 10 years from the five years maximum currently provided by rule and requires inspection by the DEP at least once every 10 years instead of every five years
- Requires standard lease contracts to disclose all applicable lease fees as established by the board
- Exempts multi-family docks and structures that require a lease from paying a fee on minimal amounts of sovereignty submerged lands that are leased to reflect the same size-based exemption currently in place for single-family docks
- Clarifies that lessees whose upland property qualifies for a homestead exemption are not required to pay a lease fee on revenue derived from the transfer of fee simple or beneficial ownership
- Specifies that the board and the DEP are not prohibited from imposing additional application fees, regulatory permitting fees, or other lease requirements as otherwise authorized by law.

The 2011 Revenue Estimating Conference estimated that the additional lease exemptions will result in an annual recurring reduction of $0.1 million to state General Revenue and $0.9 million in revenues to the Internal Improvement Trust Fund.

The bill also contains a recurring appropriation of $1 million from General Revenue to the Internal Improvement Trust Fund beginning in FY 2012-13.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Introduction

Upon statehood, Florida gained title to all sovereign submerged lands[1] within its boundaries, to be held in trust for the public.[2] The Board of Trustees of the Internal Improvement Fund (board) is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of such lands.[3] The Florida Constitution requires the sale of such lands to be authorized by law, but only when in the public interest, and private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.[4] When disposing of sovereign submerged lands, the board is required to "ensure maximum benefit and use."[5] The board has the authority to adopt regulations pertaining to anchoring, mooring, or otherwise attaching to the bottom and the establishment of anchorages on sovereign submerged lands.[6]

Florida recognizes "riparian rights" for landowners with waterfront property bordering on navigable waters.[7] These rights include ingress, egress, boating, bathing, fishing, and others as defined by law.[8] Riparian landowners must obtain the board's authorization for installation and maintenance of docks, piers, and boat ramps on sovereign submerged land.[9] Under the board's rules, "dock" generally means a fixed or floating structure, including moorings and access walkways, used for the purpose of mooring and accessing vessels.[10] Authorization may be in the form of consent by rule,[11] letter of consent,[12] or lease.[13] All leases authorizing activities on sovereign submerged lands must include provisions for lease fee adjustments and annual payments.[14]

HB 13 creates s. 253.0347, F.S., relating to leases of sovereignty submerged lands for private residential single-family docks or piers, private residential multi-family docks or piers, and private residential multi-slip docks located in and outside of an aquatic preserve. For these types of leases, the bill affects (1) lease duration, (2) lease fee applicability and calculation, and (3) site inspection.

For ease of reading, "private residential single-family or multi-family dock" is used in this analysis to refer to private residential single-family docks or piers, private residential multi-family docks or piers, and private residential multi-slip docks.[15]

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[1] In Florida, "submerged lands" are "publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state." Section 253.03(8)(b), F.S.
[2] Broward v. Marbry, 50 So. 826, 829-30 (Fla. 1909).
[3] Section 253.03(1), F.S. (2010).
[4] FLA. CONST. art. X, s. 11.
[5] Section 253.03(7)(a), F.S.
[6] Section 253.03(7)(b), F.S.
[7] Section 253.141(1), F.S. These rights are appurtenant to and inseparable from the riparian land; the rights inure to the property owner, but the rights are not proprietary in nature. *Id.*
[8] Section 253.141(1), F.S.
[9] 18-21.005(1)(d), F.A.C. (2010).
[10] *See* 18-20.003(19), F.A.C.; 18-21.003(20), F.A.C.
[11] 18-21.005(1)(b), F.A.C.
[12] 18-21.005(1)(c), F.A.C.
[13] 18-21.005(1)(d), F.A.C.
[14] 18-21.008(1)(b)(2), F.A.C.
[15] For definitions of these terms as used in the board's rules, see 18-20.003(44), F.A.C. ("private residential single-family dock"); 18-20.003(45) ("private residential multi-slip dock"), 18-21.003(47), F.A.C. ("private residential multi-family dock or pier"); 18-21.003(48), F.A.C. ("private residential single-family dock or pier").

Duration of Leases

Present Situation

Currently, the duration of a standard lease is five years.[16] Extended term leases with durations up to 25 years are also available under limited circumstances if approved by the board.[17] According to the Department of Environmental Protection (DEP), the vast majority of residential leases are standard leases with a duration of five years.

Effects of Proposed Bill

The bill establishes a 10-year maximum duration for initial sovereignty submerged land standard leases for private residential single-family or multi-family docks. Upon agreement of the parties and compliance with all applicable laws and rules, such leases may be renewed for successive terms of up to 10 years. The DEP does not anticipate granting leases of a duration shorter than 10 years.

Lease Fees and Calculation

Present Situation

The board has promulgated extensive and detailed rules regulating the design of docks and related structures. Multiple factors jointly determine which docks on sovereign submerged land require a lease, and subsequently when lease fees apply, including:

- Location within or outside of an aquatic preserve[18]
- Area of sovereign submerged land preempted[19]
- Number of wet slips or the number of boats the structure is designed to moor
- Whether the dock is for a single-family residence or a multi-unit dwelling
- Whether the dock generates revenue
- Whether the dock is "private residential"[20] or "commercial, industrial and other revenue generating/income related"[21]

The following currently require a lease and lease fees:

- All revenue-generating docks[22]
- Outside of an aquatic preserve:
    - Single-family docks that preempt an area of more than 10 square feet for each foot of shoreline

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[16] 18-21.008(1), F.A.C.

[17] 18-21.008(2)(a), F.A.C. Extended term leases are available where the use of sovereignty submerged lands has an expected life or amortization period equal to or greater than the requested lease term and where the applicant demonstrates the following: that the facility or activity provides access to public waters and sovereignty submerged lands for the general public on a first-come, first-served basis; that the facility is constructed operated, or maintained by the government, or funded by government secured bonds with a term greater than or equal to the requested lease term; or that an extended term is necessary to satisfy unique operational constraints. *Id.*

[18] Aquatic preserves are areas specifically designated by the legislature as having exceptional biological, aesthetic, or scientific value. *See* s. 258.37, F.S. (2010).

[19] Relevant area is determined by a ratio of the area of sovereign submerged land preempted by the dock to the total linear feet of shoreline a riparian landowner holds on the affected water body (i.e., sovereign submerged land area in square feet: feet of shoreline owned). *See* 18-21.008(4)(a), (b), F.A.C. However, the board may allow exceptions to regulation based on this ratio in certain circumstances when the dock is consistent with the public interest. *See* 18-21.008(4)(b), F.A.C.

[20] These generally include docks used for private, recreational or leisure purposes. *See* 18-20.003(44), (45), F.A.C.

[21] "Commercial, industrial and other revenue generating/income related docks" means docking facilities for any activity which produces income, through rental or any other means, or which serves as an accessory facility to other rental, commercial or industrial operations. It includes, but is not limited to, docking for: marinas, restaurants, hotels, motels, commercial fishing, shipping, boat or ship construction, repair, and sales. 18-20.003(16), F.A.C.

[22] 18-21.005(1)(d)(5), F.A.C.

    - Multi-family docks that preempt an area of more than 10 square feet for each foot of shoreline and include more than two wet slips
- Within an aquatic preserve, other than the Boca Ciega Bay or Pinellas County aquatic preserves:
    - Single-family docks that preempt an area of more than 10 square feet for each foot of shoreline[23]
    - Multi-slip[24] docks that include two or fewer wet slips and preempt an area of more than 10 square feet for each foot of shoreline[25]
    - Multi-slip docks that include three or more wet slips and exceed both the design criteria for single-family docks and preempt an area of more than 10 square feet for each foot of shoreline[26]
- Within the Boca Ciega Bay or Pinellas County aquatic preserves:[27]
    - Single-family docks that preempt an area of more than 10 square feet for each foot of shoreline[28]
    - Multi-slip docks that preempt an area of more than 10 square feet for each foot of shoreline or include more than two wet slips[29]

Lease fees for both standard and extended term leases are calculated through a fee formula, with adjustments for applicable discounts, surcharges, and other payments.[30] The annual lease fee for a standard lease is based on either 6% of the annual income, the base fee, or the minimum annual fee, whichever is greatest.[31] The base fee is approximately 15¢ per square foot per year.[32] The minimum annual fee is approximately $460, adjusted annually based on the Consumer Price Index.[33] Private residential multi-family docks that include 10 or more wet slips developed in conjunction with upland property may be subject to a one-time premium when a lease is initiated calculated at three times the base fee.[34] The extended term lease formula includes a multiplier for the number of years of the lease term.[35]

Revenue derived from sale of the property is currently included as revenue for the purposes of calculating the annual lease fee.

Effects of Proposed Bill

The bill requires lease contracts for sovereignty submerged lands for private residential single-family or multi-family docks to disclose the lease fees as established by the board.

The bill also extends the same financial benefit that currently exists for private residential single-family docks – exclusion from lease fees for a preempted area of 10 square feet or less for each linear foot of shoreline – to private residential multi-family docks. This benefit is extended only to private residential

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[23] 18-21.005(1)(c)(2), F.A.C.
[24] The term "private residential multi-slip dock" refers to docks and related structures for multi-unit residential dwellings in aquatic preserves, whereas the term "private residential multi-family dock" addresses similar structures outside of aquatic preserves. 18-20.003(45), F.A.C; 18-21.003(48), F.A.C..
[25] 18-20.004(5)(c)(1), F.A.C.
[26] *Id.*
[27] Boca Ciega Bay and Pinellas County aquatic preserves are in highly developed and urban areas. As such, certain regulatory differences exist for the building and maintenance of docks and other structures in these aquatic preserves.
[28] *See* 18-21.005(1)(c)(2), F.A.C.; 18-21.005(1)(d)(1.), F.A.C.
[29] Whereas in most aquatic preserves multi-slip docks that preempt an area more than 10 square feet for each foot of shoreline are effectively prohibited, in the Boca Ciega Bay and Pinellas County aquatic preserves multi-slip docks may preempt an area of more than 10 square feet for each foot of shoreline and less than 30 square feet for each foot of shoreline, with a lease from the board. 18-20.019(7)(a), F.A.C.
[30] 18-21.011(1)(a), F.A.C.
[31] *Id.*
[32] 18-21.011(1)(b)(1), F.A.C.
[33] 18-21.011(1)(b)(4), F.A.C.
[34] 18-21.011(1)(c), F.A.C.
[35] 18-21.011(1)(a), F.A.C.

multi-family dwellings that include no more than one wet slip for each approved upland residential unit. As such, lessees of sovereign submerged land for private residential multi-family docks that include no more than one wet slip for each approved upland residential unit are not required to pay lease fees on a preempted area of 10 square feet or less for each linear foot of shoreline. However, those private residential multi-family docks that include no more than one wet slip for each approved upland residential unit but do preempt an area of more than 10 square feet for each linear foot of shoreline (exceeding the ratio under which private residential single-family docks receive the exemption from lease fees) are subject to lease fees only on the preempted area of sovereign submerged land that exceeds 10 square feet for each linear foot of shoreline.

In addition, the bill establishes that lessees whose upland property qualifies for a homestead exemption at the time of any transfer of fee simple or beneficial ownership of the property are not required to pay a lease fee on revenue derived from the transfer. Thus, the 6% of revenue from such a sale would be applicable to a lease fee only upon the first transfer from a non-resident developer or subsequent sale by a person who is not eligible for a homestead exemption pursuant to s. 196.031, F.S.

The bill also codifies current board rules regarding income generated through leased sovereign submerged lands. A lessee of sovereignty submerged lands for a private residential single-family or multi-family dock must pay a lease fee on any income derived from a wet slip, dock, or pier, as determined by the board.

Lastly, the board and the DEP are not prohibited from imposing additional application fees, regulatory permitting fees, or other lease requirements as authorized by law.

Site Inspection

Present Situation

According to board rule, the DEP or water management district staff must inspect a leased site at least once every five years to determine compliance with the terms and conditions of the lease.[36]

Effects of Proposed Bill

The bill provides by statute for the DEP to inspect sites under lease for private residential single-family or multi-family docks at least once every 10 years. Although the bill does not include authority for the water management districts to conduct inspections, currently they perform only regulatory reviews of lease applications and do not conduct proprietary reviews, including inspections.

Appropriation

The bill provides for a recurring appropriation of $1 million from General Revenue to the Internal Improvement Trust Fund beginning in FY 2012-13.

B. SECTION DIRECTORY:

Section 1: Creates s. 253.0347, F.S., specifying the maximum initial terms for standard leases of sovereignty submerged lands for private residential single-family docks or piers, private residential multi-family docks or piers, and private residential multi-slip docks; requiring lease contracts to specify lease fees; adding an exemption for lease fees below a certain threshold for certain multi-family and multi-slip leases; eliminating lease fees on revenue generated through transfer of fee simple or beneficial ownership if property is entitled to a homestead exemption pursuant to s. 196.031, F.S.; requiring the payment of lease fees upon income generated from sovereign submerged land leases; requiring inspections at least every 10 years.

[36] 18-21.008(1)(b)(4), F.A.C.

Section 2: Provides a recurring appropriation of $1 million from General Revenue to the Internal Improvement Trust Fund beginning in FY 2012-13.

Section 2: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The 2011 Revenue Estimating Conference estimated that the lease exemptions in this bill will result in an annual recurring reduction of $0.1 million to state General Revenue and $0.9 million to the Internal Improvement Trust Fund.

2. Expenditures:

   The bill provides for a recurring appropriation of $1 million from General Revenue to the Internal Improvement Trust Fund beginning in FY 2012-13.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   According to the Department of Environmental Protection, this bill would result in a loss of $37,868 in sales tax and $6,311 in county discretionary tax.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would have an undetermined positive impact on the private sector, based on reduced lease fees under exemptions created.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill appears to implicate the mandate provision in Art. VII, section 18, of the Florida Constitution by reducing the authority of the local governments to collect certain sales tax and discretionary tax; however, the bill appears to meet the insignificant fiscal impact exemption in the constitution.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill provides that this new section of law does not prohibit the board or the DEP from imposing additional application fees, regulatory permitting fees, or other lease requirements as otherwise authorized by law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to sovereignty submerged lands; creating s. 253.0347, F.S.; providing for the lease of sovereignty submerged lands for private residential single-family docks and piers, private residential multifamily docks and piers, and private residential multislip docks; providing for the term of the lease and lease fees; providing for inspection of such docks, piers, and related structures by the Department of Environmental Protection; clarifying the authority of the Board of Trustees of the Internal Improvement Trust Fund and the department to impose additional fees and requirements; providing an appropriation; providing an effective date.

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

Section 1. Section 253.0347, Florida Statutes, is created to read:

253.0347 Lease of sovereignty submerged lands for private residential docks and piers.—

(1) The maximum initial term of a standard lease of sovereignty submerged lands for a private residential single-family dock or pier, private residential multifamily dock or pier, or private residential multislip dock is 10 years. A lease is renewable for successive terms of up to 10 years if the parties agree and the lessee complies with all terms of the lease and all applicable laws and rules.

(2)(a) A standard lease contract for sovereignty submerged lands for a private residential single-family dock or pier, private residential multifamily dock or pier, or private residential multislip dock must specify the amount of lease fees as established by the Board of Trustees of the Internal Improvement Trust Fund.

(b) If private residential multifamily docks or piers, private residential multislip docks, and other private residential structures pertaining to the same upland parcel include a total of no more than one wet slip for each approved upland residential unit, the lessee is not required to pay a lease fee on a preempted area of 10 square feet or less of sovereignty submerged lands for each linear foot of shoreline in which the lessee has a sufficient upland interest as determined by the Board of Trustees of the Internal Improvement Trust Fund.

(c) A lessee of sovereignty submerged lands for a private residential single-family dock or pier, private residential multifamily dock or pier, or private residential multislip dock is not required to pay a lease fee on revenue derived from the transfer of fee simple or beneficial ownership of private residential property that is entitled to a homestead exemption pursuant to s. 196.031 at the time of transfer.

(d) A lessee of sovereignty submerged lands for a private residential single-family dock or pier, private residential multifamily dock or pier, or private residential multislip dock must pay a lease fee on any income derived from a wet slip, dock, or pier in the preempted area under lease in an amount

determined by the Board of Trustees of the Internal Improvement Trust Fund.

(3) The Department of Environmental Protection shall inspect each private residential single-family dock or pier, private residential multifamily dock or pier, private residential multislip dock, or other private residential structure under lease at least once every 10 years to determine compliance with the terms and conditions of the lease.

(4) This section does not prohibit the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection from imposing additional application fees, regulatory permitting fees, or other lease requirements as otherwise authorized by law.

Section 2. Beginning with the 2012-2013 fiscal year, the sum of $1 million in recurring funds is appropriated from the General Revenue Fund to the Internal Improvement Trust Fund for purposes of administration, management, and disposition of sovereignty submerged lands.

Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 377 Miami-Dade County Lake Belt Mitigation Plan
SPONSOR(S): Nuñez and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Deslatte JD	Blalock AFB
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Limestone operations in the Miami-Dade County Lake Belt are guided by the Lake Belt Mitigation Plan. Under the plan provided in current law, the Lake Belt limestone companies pay a special mitigation fee. The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Mitigation Plan Implementation Committee and adopted under s. 373.4149, F.S. The fee is collected by the Department of Revenue and transferred to the South Florida Water Management District's Lake Belt Mitigation Trust Fund. The Lake Belt limestone companies also pay a water treatment plant upgrade fee of 15 cents per ton, to be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. The fee is collected by the Department of Revenue and transferred to a trust fund established by Miami-Dade County.

The bill expands the authorized uses of the proceeds of the water treatment plant upgrade fee by allowing the proceeds of the fee to be used to pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

Beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee will be deposited into the Lake Belt Mitigation Trust Fund (instead of the trust fund established by Miami-Dade County to pay for water treatment plant upgrades) until:

- $20 million is placed in the trust fund, or
- Pathogen sampling demonstrates that the water in any quarry lake in the vicinity of the Northwest Wellfield would be classified as being in Bin 2 or higher.

Once either of these qualifications is triggered, the proceeds would again be transferred to a trust fund established by Miami-Dade County for the purpose of upgrading a water treatment plant that treats water coming from the Northwest Wellfield.

Proceeds of the water treatment plant upgrade fee deposited into the Lake Belt Mitigation Trust Fund must be used to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

The bill changes the allowed uses of the mitigation fee to require approval by the Miami-Dade County Lake Belt Mitigation Committee rather than requiring them to be used in a manner consistent with the recommendations submitted to the Legislature under s. 337.4149, F.S. The bill also allows for wetland mitigation and for any modifications to the existing drainage system to enhance the hydrology of the Miami-Dade Lake Belt Area to occur in the Everglades watershed in addition to the Miami-Dade Lake Belt Area.

Applicable to both the mitigation fee and the water treatment upgrade fee, the bill also specifies that "proceeds of a fee" means all funds collected and received by the Department of Revenue under s. 373.41492, F.S., including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues and may equal only those administrative costs reasonably attributable to the fees.

The bill appears to have a temporary positive fiscal impact on revenues of the South Florida Water Management District and a temporary negative fiscal impact on Miami-Dade County.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Mitigation for Mining Activities Within the Miami-Dade County Lake Belt

The Miami-Dade County Lake Belt Area encompasses 77.5 square miles of environmentally sensitive land at the western edge of the Miami-Dade County urban area. The wetlands and lakes of the Lake Belt offer the potential to buffer the Everglades from the potentially adverse impacts of urban development[1]. The Northwest Wellfield, located at the eastern edge of the Lake Belt, is the largest drinking water wellfield in Florida and supplies approximately 40 percent of the potable water for Miami-Dade County.

Construction aggregates provide the basic materials needed for concrete, asphalt, and road base. Aggregate materials are located in various natural deposits around the state. Geologic conditions and other issues affect decisions in mine planning. These issues include the quality of the rock, thickness of overburden, water table levels, and sinkhole conditions. Rock mined from the Lake Belt supplies one half of the limestone used annually in Florida. Approximately 50 percent of the land within the Lake Belt Area is owned by the mining industry, 25 percent is owned by government agencies, and the remaining 25 percent is owned by non-mining private landowners[2].

The Florida Legislature recognized the importance of the Lake Belt Area to the citizens of Florida and mandated that a plan be prepared to address a number of concerns critical to the State in s. 373.4139, F.S. The Legislature established the Lake Belt Committee and assigned it the task of developing a long-term plan for the Lake Belt Area. Through a cooperative process involving government agencies, mining interests, non-mining interests, and environmental groups, the Lake Belt Committee completed the Miami-Dade County Lake Belt Plan.

Limestone operations in the Lake Belt are guided by the Lake Belt Mitigation Plan. Under the plan established in s. 373.41492, F.S., the Lake Belt limestone companies pay a special mitigation fee. The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Mitigation Plan Implementation Committee and adopted under s. 373.4149, F.S. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149, F.S., for mitigation due to rock mining. The fee is collected from the mining industry by the Department of Revenue and transferred to the South Florida Water Management District's Lake Belt Mitigation Trust Fund.

The Lake Belt limestone companies also pay a water treatment plant upgrade fee of 15 cents per ton, to be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. The fee is collected by the Department of Revenue and, less administrative costs, transferred to a trust fund established by Miami-Dade County. According to the Department of Environmental Protection (DEP), this fee was established to address the concern that the expansion of mining may cause the wellfield to be designated as "under the influence of surface water," which would

[1] South Florida Water Management District, Miami-Dade, http://my.sfwmd.gov/portal/page/portal/xweb%20about%20us/miami%20dade%20service%20center

[2] *Id.*

mandate upgraded treatment. To date, this designation has not been made by the DEP, and water quality sampling and studies conducted indicate that such a designation is unlikely. Limestone operations in the Lake Belt require water quality certification from the state and a dredge and fill permit from the U.S. Army Corps of Engineers.

The Environmental Protection Agency's (EPA) Long Term 2 Enhanced Surface Water Treatment Rule

The EPA has developed the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule) to improve drinking water quality and provide additional protection from disease-causing microorganisms and contaminants that can form during drinking water treatment. The purpose of the LT2 rule is to reduce disease incidence associated with *Cryptosporidium* and other pathogenic microorganisms in drinking water[3]. The rule applies to all public water systems that use surface water or ground water that is under the direct influence of surface water. The rule bolsters existing regulations by:

- Targeting additional *Cryptosporidium* treatment requirements to higher risk systems;
- Requiring provisions to reduce risks from uncovered finished water storage facilities; and
- Providing provisions to ensure that systems maintain microbial protection as they take steps to reduce the formation of disinfection byproducts.

This combination of steps, together with the existing regulations, is designed to provide protection from microbial pathogens while simultaneously minimizing health risks to the population from disinfection byproducts. "Bin classifications" indicate the concentration of pathogens in the water sample[4] and are based on the results of the average number of oocysts[5] detected in water samples taken from a public water system.

Bin Classifications for Public Water Systems

Cryptosporidium Bin Concentration	Bin Classification
Cryptosporidium < 0.075 oocysts/L	Bin 1
0.075 oocysts/L # *Cryptosporidium* < 1.0 oocyst/L	Bin 2
1.0 oocyst/L # *Cryptosporidium* < 3.0 oocysts/L	Bin 3
Cryptosporidium $ 3.0 oocysts/L	Bin 4
Public Water Systemss that serve fewer than 10,000 people and NOT required to monitor for *Cryptosporidium* a	Bin 1

Effect of Proposed Changes

The bill amends s. 373.41492, F.S., by expanding the authorized uses of the proceeds of the water treatment plant upgrade fee to allow the per ton fee to also be used to pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

Beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee will be deposited into the Lake Belt Mitigation Trust Fund (instead of the trust fund established by Miami-Dade County to pay for water treatment plant upgrades) until:

- $20 million is placed in the trust fund, or
- Pathogen sampling demonstrates that the water in any quarry lake in the vicinity of the Northwest Wellfield would be classified as being in Bin 2 or higher.

[3] U.S. ENVIRONMENTAL PROTECTION AGENCY, WATER: LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE, http://water.epa.gov/lawsregs/rulesregs/sdwa/lt2/basicinformation.cfm

[4] 40 CFR § 141.710; U.S. ENVIRONMENTAL PROTECTION AGENCY, SOURCE WATER MONITORING GUIDANCE MANUAL FOR PUBLIC WATER SYSTEMS, 49 (Feb. 2006) *available at* http://www.epa.gov/ogwdw/disinfection/lt2/pdfs/guide_lt2_swmonitoringguidance.pdf.

[5] An oocyst is a thick-walled structure in which sporozoan zygotes develop and that serves to transfer them to new hosts.

Once either of these qualifications is triggered, the proceeds would again be transferred to a trust fund established by Miami-Dade County for the purpose of upgrading a water treatment plant that treats water coming from the Northwest Wellfield.

Proceeds of the water treatment plant upgrade fee deposited into the Lake Belt Mitigation Trust Fund must be used to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee. Proceeds of the water treatment plant upgrade fee that are transmitted to a trust fund established by Miami-Dade County must be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield.

Regarding the proceeds of the mitigation fee, the bill requires approval by the Miami-Dade County Lake Belt Mitigation Committee rather than requiring the proceeds to be used in a manner consistent with the recommendations submitted to the Legislature under s. 337.4149, F.S. The bill also authorizes wetland mitigation and for any modifications to the existing drainage system to enhance the hydrology of the Miami-Dade Lake Belt Area to occur in the Everglades watershed in addition to the Miami-Dade Lake Belt Area.

Applicable to both the mitigation fee and the water treatment upgrade fee, the bill also specifies that "proceeds of a fee" means all funds collected and received by the Department of Revenue under s. 373.41492, F.S., including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues and may equal only those administrative costs reasonably attributable to the fees.

B. SECTION DIRECTORY:

Section 1. Amends s. 373.41492, F.S., deleting references to a report by the Miami-Dade County Lake Belt Plan Implementation Committee; providing for the redirection of funds from the water treatment plant upgrade fee to fund seepage mitigation projects; requiring the proceeds of the water treatment plant upgrade fee to be transferred by the Department of Revenue to the South Florida Water Management District and to be deposited into the Lake Belt Mitigation Trust Fund; providing criterion when the transfer is not required; providing for the proceeds of the mitigation fee to be used to conduct mitigation activities that are approved by the Miami-Dade County Lake Belt Mitigation Committee.

Section 2. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See fiscal comments section.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See fiscal comments section.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

By diverting, from Miami-Dade County to the South Florida Water Management District, the proceeds from the water treatment plant upgrade fee, the bill has a temporary positive fiscal impact on revenues of the South Florida Water Management, and a temporary negative fiscal impact on Miami-Dade County.

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 take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In an effort to delete outdated provisions in statute, it appears the bill unintentionally alters the fee structure in s. 373.41492(2), F.S., for the mitigation fee that is imposed for each ton of limerock and sand sold. An amendment appears to be necessary to correct this scrivener's error.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Miami-Dade County Lake Belt Mitigation Plan; amending s. 373.41492, F.S.; deleting references to a report by the Miami-Dade County Lake Belt Plan Implementation Committee; providing for the redirection of funds for seepage mitigation projects; requiring the proceeds of the water treatment plant upgrade fee to be transferred by the Department of Revenue to the South Florida Water Management District and to be deposited into the Lake Belt Mitigation Trust Fund; providing criterion when the transfer is not required; providing for the proceeds of the mitigation fee to be used to conduct mitigation activities that are approved by the Miami-Dade County Lake Belt Mitigation Committee; clarifying the authorized uses for the proceeds from the water treatment plant upgrade fee; providing an effective date.

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

Section 1. Subsections (1), (2), (3), and (6) of section 373.41492, Florida Statutes, are amended to read:

373.41492 Miami-Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Miami-Dade County Lake Belt.—

(1) The Legislature finds that the impact of mining within the rock mining supported and allowable areas of the Miami-Dade

County Lake Belt Plan adopted by s. 373.4149(1) can best be offset by the implementation of a comprehensive mitigation plan ~~as recommended in the 1998 Progress Report to the Florida Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee~~. The Lake Belt Mitigation Plan consists of those provisions contained in subsections (2)-(9). The per-ton mitigation fee assessed on limestone sold from the Miami-Dade County Lake Belt Area and sections 10, 11, 13, 14, Township 52 South, Range 39 East, and sections 24, 25, 35, and 36, Township 53 South, Range 39 East, shall be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes. It is the intent of the Legislature that the per-ton mitigation fee ~~shall~~ not be a revenue source for purposes other than enumerated in this section ~~herein~~. Further, the Legislature finds that the public benefit of a sustainable supply of limestone construction materials for public and private projects requires a coordinated approach to permitting activities on wetlands within Miami-Dade County in order to provide the certainty necessary to encourage substantial and continued investment in the limestone processing plant and equipment required to efficiently extract the limestone resource. It is the intent of the Legislature that the Lake Belt Mitigation Plan satisfy all local, state, and federal requirements for mining activity within the rock mining supported and allowable areas.

(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on

each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Miami-Dade County Lake Belt Area and the east one-half of sections 24 and 25 and all of sections 35 and 36, Township 53 South, Range 39 East. The mitigation fee is imposed for each ton of limerock and sand sold from within the properties where the fee applies in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. The mitigation fee imposed by this subsection for each ton of limerock and sand sold shall be ~~12 cents per ton beginning January 1, 2007; 18 cents per ton beginning January 1, 2008;~~ 24 cents per ton ~~beginning January 1, 2009;~~ and 45 cents per ton beginning close of business December 31, 2011. To pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee, and to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County, a water treatment plant upgrade fee is imposed within the same Lake Belt Area subject to the mitigation fee and upon the same kind of mined limerock and sand subject to the mitigation fee. The water treatment plant upgrade fee imposed by this subsection for each ton of limerock and sand sold shall be 15 cents per ton ~~beginning on January 1, 2007~~, and the collection of this fee shall cease once the total amount of proceeds collected for this fee reaches the amount of the actual moneys necessary to design and construct the water treatment plant upgrade, as determined

in an open, public solicitation process. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fees. The amount of the mitigation fee and the water treatment plant upgrade fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock or sand product from the limerock or sand miner, or its subsidiary or affiliate, for which the fee or fees apply. The limerock or sand miner, or its subsidiary or affiliate, who sells the limerock or sand product shall collect the mitigation fee and the water treatment plant upgrade fee and forward the proceeds of the fees to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs. The proceeds of a fee imposed by this section include all funds collected and received by the Department of Revenue relating to the fee, including interest and penalties on a delinquent fee. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the fee.

(3) The mitigation fee and the water treatment plant upgrade fee imposed by this section must be reported to the Department of Revenue. Payment of the mitigation and the water treatment plant upgrade fees must be accompanied by a form prescribed by the Department of Revenue.

(a) The proceeds of the mitigation fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund.

(b) Beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund until:

1. A total of $20 million from the proceeds of the water treatment plant upgrade fee, less administrative costs, is deposited into the Lake Belt Mitigation Trust Fund; or

2. The quarterly pathogen sampling conducted as a condition of the permits issued by the department for rock mining activities in the Miami-Dade County Lake Belt Area demonstrates that the water in any quarry lake in the vicinity of the Northwest Wellfield would be classified as being in Bin 2 or higher as defined in the Environmental Protection Agency's Long Term 2 Enhanced Surface Water Treatment Rule.

(c) Upon the earliest occurrence of the criterion under subparagraph (b)1. or subparagraph (b)2., the proceeds of the water treatment plant upgrade fee, less administrative costs, must be transferred by the Department of Revenue to a trust fund established by Miami-Dade County, for the sole purpose authorized by paragraph (6)(a). ~~As used in this section, the term "proceeds of the fee" means all funds collected and received by the Department of Revenue under this section, including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the fees.~~

(6)(a) The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and ~~must~~ be approved ~~used in a manner consistent with the recommendations contained in the reports submitted to the Legislature~~ by the Miami-Dade County Lake Belt Mitigation ~~Plan Implementation~~ Committee ~~and adopted under s. 373.4149~~. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands in the Everglades watershed, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area or the Everglades watershed. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149 for mitigation due to rock mining. The proceeds of the water treatment plant upgrade fee deposited into the Lake Belt Mitigation Trust Fund shall be used solely to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee. The proceeds of the water treatment plant upgrade fee which are transmitted to a trust fund established by Miami-Dade County shall be used to upgrade a water treatment plant that

treats water coming from the Northwest Wellfield in Miami-Dade County. As used in this section, the terms "upgrade a water treatment plant" or "treatment plant upgrade" mean ~~means~~ those works necessary to treat or filter a surface water source or supply or both.

(b) Expenditures of the mitigation fee must be approved by an interagency committee consisting of representatives from each of the following: the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Fish and Wildlife Conservation Commission. In addition, the limerock mining industry shall select a representative to serve as a nonvoting member of the interagency committee. At the discretion of the committee, additional members may be added to represent federal regulatory, environmental, and fish and wildlife agencies.

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

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Agriculture & Natural Resources Subcommittee

Representative Nuñez offered the following:

Amendment

Remove lines 69-70 and insert:

~~2008; 24 cents per ton beginning January 1, 2009; and~~ 45 cents per ton ~~beginning close of business December 31, 2011~~. To pay

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 421 Limited Certification for Urban Landscape Commercial Fertilizer Application
SPONSOR(S): Smith
TIED BILLS: None **IDEN./SIM. BILLS:** SB 604

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		EC Cunningham	Blalock AFB
2) Community & Military Affairs Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
4) State Affairs Committee			

SUMMARY ANALYSIS

Current Florida law provides a limited certification for urban landscape commercial fertilizer application. Starting January 1, 2014, any person applying commercial fertilizer to an urban landscape must be certified. In order to obtain a limited certification for urban landscape commercial fertilizer application, an applicant must submit to the Department of Agriculture and Consumer Services (DACS):

- A training certificate issued by DACS; and
- Pay a certification fee, which is set by DACS in an amount of at least $25, but not more than $75.

The certification for urban landscape commercial fertilizer application does not authorize:

- The application of pesticides to turf or ornamentals, or pesticide fertilizer including pesticide fertilizer mixtures;
- The operation of a pest control business; or
- The application of pesticides or fertilizers by unlicensed or uncertified personnel under the supervision of the certified person.

Current law also provides that DACS may provide information concerning the certification status of certified persons to local and state governmental agencies, and DACS is encouraged to create an online database listing those persons who are certified. DACS also is granted the authority to adopt rules to administer the limited certification.

The bill amends current law to provide that the Legislature finds that the implementation of best management practices for commercial fertilizer application to urban landscapes is a critical component of the state's efforts to minimize potential impacts to water quality. The bill also provides that persons who have obtained the limited certification for urban landscape commercial fertilizer application are exempt from local government ordinances that address the fertilization of urban turfs, lawns, and landscapes. In addition, the bill requires DACS to provide to local and state governmental agencies information concerning the certification status of persons that have obtained the limited certification.

Lastly, the bill grants DACS enforcement authority over persons that have obtained the limited certification for urban landscape commercial fertilizer application, and specifies that all penalties, fines, and administrative actions must be consistent with this chapter.[1]

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

[1] Section 482.191, F.S., provides that a person who violates any provision of this chapter is guilty of a misdemeanor of the second degree, which is punishable by up to 60 days in jail and a $500 fine.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 421.1562, F.S., creates a limited certification for urban landscape commercial fertilizer application to provide a means of documenting and ensuring compliance with the best management practices for commercial fertilizer application to urban landscapes. Starting January 1, 2014, any person applying commercial fertilizer to an urban landscape must be certified. In order to obtain a limited certification for urban landscape commercial fertilizer application, an applicant must submit to the Department of Agriculture and Consumer Services (DACS):

- A training certificate issued by DACS; and
- Pay a certification fee, which is set by DACS in an amount of at least $25, but not more than $75.

The limited certification is valid for 4 years and recertification requires that the applicant complete 4 hours of acceptable continuing education, 2 hours of which, must address fertilizer best management practices.

An application for recertification must be made 90 days before the expiration of the current certificate and include proof of the 4 hour continuing education class, and a recertification fee of no less than $25 but not more than $75. A late renewal charge of $50 per month will be assessed 30 days after the date the application for recertification is due and must be paid in addition to the renewal feel. Unless timely recertified, a certificate automatically expires 90 days after the recertification date. Upon expiration, an applicant must reapply in the manner described above.

The certification for urban landscape commercial fertilizer application does not authorize:

- The application of pesticides to turf or ornamentals, or pesticide fertilizer including pesticide fertilizer mixtures;
- The operation of a pest control business; or
- The application of pesticides or fertilizers by unlicensed or uncertified personnel under the supervision of the certified person.

Current law also provides that DACS may provide information concerning the certification status of certified persons to local and state governmental agencies, and DACS is encouraged to create an online database listing those persons who are certified. DACS also is granted the authority to adopt rules to administer the limited certification. Yard workers who apply fertilizer only to individual residential property using fertilizer and equipment provided by the residential property owner or resident are exempt from the limited certification requirements. DACS has the authority to adopt rules to administer this limited certification for urban landscape commercial fertilizer application.

Effect of Proposed Changes

The bill amends s. 482.1562, F.S., to provide that the Legislature finds that the implementation of best management practices for commercial fertilizer application to urban landscapes is a critical component of the state's efforts to minimize potential impacts to water quality. The bill also provides that persons who have obtained the limited certification for urban landscape commercial fertilizer application are exempt from local government ordinances that address the fertilization of urban turfs, lawns, and landscapes. In addition, the bill requires DACS to provide to local and state governmental agencies information concerning the certification status of persons that have obtained the limited certification.

Lastly, the bill grants DACS enforcement authority over persons that have obtained the limited certification for urban landscape commercial fertilizer application, and specifies that all penalties, fines, and administrative actions must be consistent with this chapter.[2]

B. SECTION DIRECTORY:

Section 1. Amends s. 482.1562, F.S., providing that the Legislature finds that best management practices for commercial fertilizer application to urban landscapes is a critical component to minimize potential impacts to Florida's water quality; exempts persons certified and licensed by the Department of Agriculture and Consumer Services (DACS) from local ordinances that address the fertilization of urban turfs, lawns, and landscapes; requires DACS to provide specified information to other local and state governmental agencies; provides DACS with certain enforcement authority; and provides a requirement for related penalties, fines, and administrative actions.

Section 2. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

[2] Section 482.191, F.S., provides that a person who violates any provision of this chapter is guilty of a misdemeanor of the second degree, which is punishable by up to 60 days in jail and a $500 fine.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to limited certification for urban landscape commercial fertilizer application; amending s. 482.1562, F.S.; providing legislative findings; providing an exemption from certain local government ordinances; requiring the Department of Agriculture and Consumer Services to provide specified information to other local and state governmental agencies; providing the department with certain enforcement authority; providing a requirement for related penalties, fines, and administrative actions; providing an effective date.

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

Section 1. Subsections (1) through (10) of section 482.1562, Florida Statutes, are renumbered as subsections (2) through (11), respectively, a new subsection (1) is added to that section, and present subsections (2), (8), and (10) of that section are amended, to read:

482.1562 Limited certification for urban landscape commercial fertilizer application.—

(1) The Legislature finds that the implementation of best management practices for commercial fertilizer application to urban landscapes is a critical component of the state's efforts to minimize potential impacts to water quality.

(3) ~~(2)~~ Beginning January 1, 2014, any person applying commercial fertilizer to an urban landscape must be certified

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

under this section. A person certified under this section is exempt from local government ordinances that address the fertilization of urban turfs, lawns, and landscapes.

(9) ~~(8)~~ The department shall ~~may~~ provide information concerning the certification status of persons certified under this section to other local and state governmental agencies. The department is encouraged to create an online database that lists all persons certified under this section.

(11) ~~(10)~~ The department has enforcement authority over persons certified under this section and may adopt rules to administer this section. All penalties, fines, and administrative actions must be consistent with this chapter.

Section 2. This act shall take effect July 1, 2012.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Agriculture & Natural Resources Subcommittee

Representative Smith offered the following:

Amendment (with title amendment)

Remove line 29 and insert:

under this section. A person certified under this section must follow best management practices for commercial fertilizer application to urban landscapes as established by the Department of Environmental Protection. A person certified under this section is

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

Remove line 5 and insert:

requiring persons that obtain the limited certification for urban landscape commercial fertilizer application to follow best

Amendment No. 1

management practices for commercial fertilizer application; providing an exemption from certain local government

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4001 Florida Climate Protection Act
SPONSOR(S): Plakon
TIED BILLS: None **IDEN./SIM. BILLS:** SB 648

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Deslatte	Blalock
2) State Affairs Committee			

SUMMARY ANALYSIS

On July 13, 2007, Governor Crist signed Executive Order 07-127, establishing greenhouse gas (GHG) emission reduction targets for the State of Florida.

To achieve these GHG emissions reduction targets, the executive order directed the Secretary of the Department of Environmental Protection (DEP) to develop a rule adopting the following maximum allowable GHG emissions levels for electric utilities in the State of Florida:

- By 2017, emissions not greater than Year 2000 utility sector emissions;
- By 2025, emissions not greater than Year 1990 utility sector emissions; and
- By 2050, emissions not greater than 20% of Year 1990 utility sector emissions (i.e., 80% reduction of 1990 emissions by 2050).

Maintaining that the DEP had legislative authority to impose limitations on GHG emissions from electric utilities, the DEP initiated rulemaking to establish such standards in the Fall of 2007. Simultaneously, the DEP requested legislation granting the department authority to establish, by rule, a market-based program for electric utilities to meet any future GHG emission standards.

Finding that, "it is in the best interest of the state to document, to the greatest extent practicable, greenhouse gas emissions and to pursue a market-based emissions abatement program such as cap-and-trade, to address greenhouse gas emissions reductions," the 2008 Legislature enacted HB 7135, which in part grants the DEP authority to adopt rules for a cap-and-trade regulatory program to reduce GHG emissions from electric utilities. However, the DEP was prohibited from adopting such rules until after January 2010, and the rules, if adopted, may not take effect until ratified by the Legislature. Subsequently, the DEP chose not to promulgate a cap-and-trade rule, and congressional efforts to adopt a cap and trade program have stalled. Recently a bipartisan group of Congressional legislators have proposed bills to delay or block EPA from regulating greenhouse gases under the Clean Air Act and other environmental laws.

This bill repeals current law that creates the cap-and-trade regulatory program to reduce those greenhouse gas emissions from electric utilities.

As discussed in the Fiscal Comments section, passage of this bill arguably will reduce the likelihood of both the public and private sectors experiencing the anticipated negative fiscal impacts associated with a state mandated cap and trade program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Under a cap-and-trade regulatory program, the government sets a limit or cap on the amount of greenhouse gases that can be emitted. Regulated entities, such as electric utilities, are issued emission permits and are required to hold an equivalent number of allowances (or credits) which represent the right to emit a specific amount of GHGs. Typically, in a cap-and-trade program each allowance equals 1 ton of CO2 equivalent. The total amount of allowances cannot exceed the cap, limiting total emissions to that level. Regulated entities that need to increase their emission allowance must buy credits from those who pollute less. The transfer of allowances is referred to as a trade. In effect, the buyer is paying a charge for polluting, while the seller is being rewarded for having reduced emissions by more than was required. Thus, in theory, those who can easily reduce emissions most cheaply will do so, achieving the pollution reduction at the lowest possible marginal cost.

To implement a cap-and-trade program, certain design elements must be established, and how each of these design elements is implemented plays a significant role in the efficiency and cost-effectiveness of any cap-and-trade program. These design elements include:

- The stringency of the cap;
- The breadth of coverage (utility sector only, motor vehicle sector only, industrial sector only, or economy wide);
- The point of administration (up-stream or downstream);
- Which GHGs are covered (just CO2, just methane, or all GHGs);
- Allowance allocation (free allocation or auction); and
- Additional compliance options (offsets, banking, borrowing, or safety valve).

On July 13, 2007, Governor Crist signed Executive Order 07-127, establishing GHG emission reduction targets for the State of Florida.

To achieve these GHG emissions reduction targets, the executive order directed the Secretary of the DEP to develop a rule adopting the following maximum allowable GHG emissions levels for electric utilities in the State of Florida:

- By 2017, emissions not greater than Year 2000 utility sector emissions;
- By 2025, emissions not greater than Year 1990 utility sector emissions; and
- By 2050, emissions not greater than 20% of Year 1990 utility sector emissions (i.e., 80% reduction of 1990 emissions by 2050).

Maintaining that the DEP had legislative authority to impose limitations on GHG emissions from electric utilities, the DEP initiated rulemaking to establish such standards in the Fall of 2007. Simultaneously, the DEP requested legislation granting the department authority to establish by rule a market-based program for electric utilities to meet any future GHG emission standards.

Finding that, "it is in the best interest of the state to document, to the greatest extent practicable, greenhouse gas emissions and to pursue a market-based emissions abatement program such as cap-and-trade, to address greenhouse gas emissions reductions," the 2008 Legislature enacted HB 7135, which in part grants the DEP authority to adopt rules for a cap-and-trade regulatory program to reduce GHG emissions from electric utilities. However, the DEP was prohibited from adopting such rules until after January 2010, and the rules, if adopted, may not take effect until ratified by the Legislature. Subsequently, the DEP chose not to promulgate a cap-and-trade rule, and congressional efforts to adopt a cap and trade program have stalled. Recently a bipartisan group of Congressional legislators

have proposed bills to delay or block EPA from regulating greenhouse gases under the Clean Air Act and other environmental laws.

The bill created s. 403.44, F.S., to provide that the DEP may adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from electric utilities. In developing rules, the DEP must consult with the Department of Agriculture and Consumer Services (DACS) and the Public Service Commission (PSC), and may consult with the Governor's Action Team on Energy and Climate Change (Action Team). The DEP cannot adopt rules until after January 1, 2010. The rules cannot become effective until they are ratified by the Legislature.

The bill also provided that the rules of the cap-and-trade regulatory program must include:

- A statewide limit or cap on the amount of GHG emissions emitted by major emitters.
- Methods, requirements, and conditions for allocating the cap among major emitters.
- Methods, requirements, and conditions for emissions allowances and the process for issuing emissions allowances.
- The relationship between allowances and the specific amounts of GHGs they represent.
- The length of allowance periods and the time over which entities must account for emissions and surrender allowances equal to emissions.
- The time path of allowances from the initiation of the program through 2050.
- A process for trading allowances between major emitters.
- Cost containment mechanisms to reduce price and cost risks associated with the electric generation market in the state. Methods to be considered include:
    - Allowing major emitters to borrow allowances from future time periods to meet their emissions limit.
    - Allowing major emitters to bank emissions reductions in the current year to be used to meet future emissions limits.
    - Allowing major emitters to purchase emissions offsets from other entities who produce reductions in unregulated GHGs or who produce reductions in GHGs through capture and storage.
    - Providing a safety valve mechanism to ensure that the market prices for allowances or offsets do not surpass a predetermined level of affordability of electric utility rates and well being of the state's economy.
- A process to allow the DEP to discourage leakage of GHG emissions to neighboring states.
- Provisions for a trial period on the trading of allowances before fully implementing a trading system.

The bill further required the following factors be considered in recommending and evaluating the proposed features of the cap-and-trade system:

- The overall cost-effectiveness of the cap-and-trade system in combination with other policies and measures in meeting statewide targets.
- Minimizing the administrative burden to the state of implementing, monitoring, and enforcing the program.
- Minimizing the administrative burden on entities covered under the cap.
- The impacts on electricity prices for consumers.
- The specific benefits to Florida's economy for early adoption of a cap-and-trade system in the context of federal climate change legislation and the development of new international compacts.
- The specific benefits to Florida's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.
- The potential effects on leakage if economic activity relocates out of the state.
- The effectiveness of the combination of measures in meeting identified targets.
- The implications for near-term periods of long run targets specified in the overall policy.

- The overall cost to the Florida economy.
- How to moderate the economic impacts on low income consumers.
- Consistency of the program with other state and possible Federal programs.
- The feasibility and cost-effectiveness of extending the program scope as broadly as possible among emitting activities and sinks in Florida.
- Evaluation of the conditions under which Florida should consider linking its trading system to other states' or other countries' systems, and how that might be affected by the potential inclusion in the rule of a safety valve.

In addition, the bill required the DEP, prior to submitting the proposed rules to the Legislature for its consideration, to submit the proposed rules to DACS, which must review the proposed rules and submit a report to the Governor, the President of the Florida Senate, the Speaker of the Florida House of Representatives, and the DEP. The report must address the following:

- The overall cost-effectiveness of the proposed cap-and-trade system in combination with other policies and measures in meeting statewide targets.
- The administrative burden to the state of implementing, monitoring, and enforcing the program.
- The administrative burden on entities covered under the cap.
- The impacts on electricity prices for consumers.
- The specific benefits to Florida's economy for early adoption of a cap-and-trade system in the context of federal climate change legislation and the development of new international compacts.
- The specific benefits to Florida's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.
- The potential effects on leakage if economic activity relocates out of the state.
- The effectiveness of the combination of measures in meeting identified targets.
- The economic implications for near-term periods of short-term and long-term targets specified in the overall policy.
- The overall cost to the Florida economy.
- The impacts on low income consumers that result from energy price increases.
- The consistency of the program with other state and possible Federal efforts.
- The evaluation of the conditions under which Florida should consider linking its trading system to other states' or other countries' systems, and how that might be affected by the potential inclusion in the rule of a safety valve.
- The timing and changes in the external environment, such as proposals by other states or implementation of a Federal program that would spur reevaluation of the Florida program.
- The conditions and options for eliminating the Florida program if a Federal program were to supplant it.
- The need for a regular reevaluation of the progress of other emitting regions of the country and of the world, and whether other regions are abating emissions in a commensurate manner.
- The desirability and possibility of broadening the scope of Florida's cap-and-trade system at a later date to include more emitting activities as well as sinks in Florida, and the conditions that would need to be met to do so.

Effect of Proposed Changes

The bill repeals s. 403.44, F.S., relating to the cap-and-trade program to reduce greenhouse gas emissions from electric utilities. The bill also amends a cross-reference to conform to the repeal.

B. SECTION DIRECTORY:

Section 1. Repeals s. 403.44, F.S., relating to a cap-and-trade regulatory program to reduce greenhouse gas emissions from electric utilities.

Section 2. Amends s. 366.8255, F.S., conforming a cross-reference.

Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

As noted in the "Effects of Proposed Changes" section, the DEP thus far has chosen not to exercise its authority to adopt a cap-and-trade rule. If such a rule were adopted, it would not take effect until ratified by an act of the Legislature. In the event a cap-and-trade rule was adopted and ratified by the Legislature, both state and local governments would experience increased expenditures; however, the private sector would experience the most significant negative fiscal impact. Arguably, passage of this bill will reduce the likelihood of such impacts occurring as a result of a state cap-and trade program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Florida Climate Protection Act; repealing s. 403.44, F.S., relating to a cap-and-trade regulatory program to reduce greenhouse gas emissions from electric utilities; amending s. 366.8255, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Section 403.44, Florida Statutes, is repealed.

Section 2. Paragraph (d) of subsection (1) of section 366.8255, Florida Statutes, is amended to read:

366.8255 Environmental cost recovery.—

(1) As used in this section, the term:

(d) "Environmental compliance costs" includes all costs or expenses incurred by an electric utility in complying with environmental laws or regulations, including, but not limited to:

1. Inservice capital investments, including the electric utility's last authorized rate of return on equity thereon.

2. Operation and maintenance expenses.

3. Fuel procurement costs.

4. Purchased power costs.

5. Emission allowance costs.

6. Direct taxes on environmental equipment.

7. Costs or expenses prudently incurred by an electric utility pursuant to an agreement entered into on or after the

effective date of this act and prior to October 1, 2002, between the electric utility and the Florida Department of Environmental Protection or the United States Environmental Protection Agency for the exclusive purpose of ensuring compliance with ozone ambient air quality standards by an electrical generating facility owned by the electric utility.

~~8. Costs or expenses prudently incurred for the quantification, reporting, and third-party verification as required for participation in greenhouse gas emission registries for greenhouse gases as defined in s. 403.44.~~

8.~~9.~~ Costs or expenses prudently incurred for scientific research and geological assessments of carbon capture and storage conducted in this state for the purpose of reducing an electric utility's greenhouse gas emissions when such costs or expenses are incurred in joint research projects with Florida state government agencies and Florida state universities.

Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4039 Recreation and Parks
SPONSOR(S): Porter
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Cunningham	Blalock
2) State Affairs Committee			

SUMMARY ANALYSIS

In 1925, the Legislature enacted a law authorizing cities and counties to set aside lands and/or buildings for use as playgrounds and recreation centers and to appropriate funds to conduct, equip, and maintain these facilities. The law also authorizes the governing body of a city or a county to establish a system of supervised recreation. Cities and counties were able to finance these recreational lands and/or buildings through the issuance of bonds and the levy of an annual ad valorem tax of up to 1 mill specifically designated as the "playground and recreation tax." Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap.

In addition, the law prescribes the duties and functions of the Division of Recreation and Parks within the Department of Environmental Protection (DEP). While the bill deletes these provisions, DEP maintains that it will still be able to conduct its outreach or training regarding the grant process, if requested by local governments, through the Florida Recreation Development Assistance Program.

The bill repeals this law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Part 1, of chapter 418, F.S., was created in 1925, and authorizes cities and counties to set aside lands and/or buildings for use as playgrounds and recreation centers and appropriate funds to conduct, equip, and maintain these facilities. It also authorizes the governing body of a city or county to establish a system of supervised recreation. Cities and counties are authorized under Part 1, of chapter 418, F.S., to finance recreational lands and/or buildings through the issuance of bonds and the levy of an annual ad valorem tax of up to 1 mill specifically designated as the "playground and recreation tax." Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap.[1]

Section 418.12, F.S., of Part 1, describes the duties and functions of the Division of Recreation and Parks within the Department of Environmental Protection.

Effect of Proposed Changes

The bill repeals Part 1 of chapter 418, F.S., ss. 418.01-418.12, F.S. Part 1 was enacted in 1925, and for the most part has not been amended since its inception. The most recent amendment to Part 1 of ch. 418, F.S., occurred in 1994 to s. 418.12, F.S., when the Department of Natural Resources was changed to the Department of Environmental Protection. While the bill deletes this section, the Department of Environmental Protection maintains that it will still be able to conduct its outreach or training regarding the grant process, if requested by local governments, through the Florida Recreation Development Assistance Program. Local governments can accomplish the provisions of Part 1 under their general authority.

B. SECTION DIRECTORY:

Section 1: Repeals sections 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, F.S.

Section 2: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

[1] See s. 201.01(1)(c), F.S., for counties and s. 200.01(2)(c), F.S., for municipalities.

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 expenditure of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities. The tax levy authorized by s. 418.08, F.S., is subject to referendum and is therefore already included within the millages authorized for counties under s. 201.01(1)(c), F.S., and municipalities under s. 200.01(2)(c), F.S.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to recreation and parks; repealing s. 418.01, F.S., relating to scope of chapter and a definition; repealing s. 418.02, F.S., relating to recreation centers, use and acquisition of land, and equipment and maintenance; repealing s. 418.03, F.S., relating to supervision; repealing s. 418.04, F.S., relating to playground and recreation boards; repealing s. 418.05, F.S., relating to cooperation with other units and boards; repealing s. 418.06, F.S., relating to gifts, grants, devises, and bequests; repealing s. 418.07, F.S., relating to issuance of bonds; repealing s. 418.08, F.S., relating to petition for referendum; repealing s. 418.09, F.S., relating to resolution or ordinance providing for recreation system; repealing s. 418.10, F.S., relating to tax levy; repealing s. 418.11, F.S., relating to payment of expenses and custody of funds; repealing s. 418.12, F.S., relating to duties and functions of the Division of Recreation and Parks of the Department of Environmental Protection; providing an effective date.

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

Section 1. Sections 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, Florida Statutes, are repealed.

Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4083 Florida Water Resources Act of 1972
SPONSOR(S): Eisnaugle
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Cunningham	Blalock

SUMMARY ANALYSIS

The Florida Water Resources Act of 1972[1] addresses various policies pertaining to water resources, water supply planning and management, water quality, and the permitting of activities that impact water resources in the state. The Department of Environmental Protection (DEP) and water management districts (WMDs) implement these policies by:

- Establishing state and regional water supply plans;
- Permitting the consumptive use of water;
- Establishing minimum flows and levels;
- Establishing alternative water supplies;
- Permitting the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, including dredging, filling, and construction activities in, on, and over wetlands and other surface waters; and
- Enforcing water quality standards.

Currently, two statutes provide that the provisions of ch. 373, F.S., must be liberally construed in order to effectively carry out its purposes.

The bill repeals one of these statutes.

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

[1] Chapter 373, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Water Resources Act of 1972[2] addresses various policies pertaining to water resources, water supply planning and management, water quality, and the permitting of activities that impact water resources in the state. The Department of Environmental Protection (DEP) and water management districts (WMDs) implement these policies by:

- Establishing state and regional water supply plans;
- Permitting the consumptive use of water;
- Establishing minimum flows and levels;
- Establishing alternative water supplies;
- Permitting the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, including dredging, filling, and construction activities in, on, and over wetlands and other surface waters; and
- Enforcing water quality standards.

Currently, ss. 373.616 and 373.6161, F.S., provide that ch. 373, F.S., must be liberally construed in order to effectively carry out its purposes.

Effect of Proposed Changes

The bill repeals s. 373.616, F.S., because the language is duplicative to s. 373.6161, F.S.

B. SECTION DIRECTORY:

Section 1. Repeals s. 373.616, F.S., relating to the liberal interpretation of ch. 373, F.S.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

[2] Chapter 373, F.S.

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 affect county or municipal governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Florida Water Resources Act of 1972; repealing s. 373.616, F.S., relating to the liberal construction of ch. 373, F.S.; providing an effective date.

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

Section 1. Section 373.616, Florida Statutes, is repealed.

Section 2. This act shall take effect July 1, 2012.