HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB RORS 15-03 Ratification of Department of Environmental Protection Rules (establishing minimum water flows and levels for water bodies)
SPONSOR(S): Rulemaking Oversight & Repeal Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Rulemaking Oversight & Repeal Subcommittee		Rubottom	Rubottom

SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) or the five water management districts (WMDs) are required to establish minimum flows for surface watercourses and minimum levels for groundwater and surface waters within each district. "Minimum flow" is the limit at which further water withdrawals from a given watercourse would significantly harm the water resources or ecology of the area. "Minimum level" is the level of groundwater in an aquifer or the level of a surface waterbody at which further withdrawals will significantly harm the water resources of the area.

For waterbodies that are below their minimum flows and levels (MFLs) or are projected to fall below them within 20 years, the WMDs are required to implement a recovery or prevention strategy, which includes the development of additional water supplies and other actions to achieve recovery to the established MFL as soon as practicable or prevent the existing MFL from falling below the established MFL. The recovery or prevention strategy must include phasing or a timetable that will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses, including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, to the extent practical, and to offset, reductions in permitted withdrawals.

In June 2013, the Suwannee River Water Management District (SRWMD) governing board requested that DEP adopt MFLs it proposed for the Lower Santa Fe and Ichetucknee Rivers and associated priority springs. The decision was based on the technical work conducted for the proposed MFLs by SRWMD staff, and the potential for cross-basin impacts originating outside of the SRWMD. SRWMD staff had also assessed the streamflows observed in the recent historical record and recent trends in the flow regime, and determined that a recovery strategy was required.

On March 7, 2014, DEP proposed Rule 62-42.300, F.A.C., establishing MFLs for the Lower Santa Fe and Ichetucknee Rivers and Associated Priority Springs, as well as regulatory flow recovery provisions. The proposed rule was estimated to have an economic impact in excess of $1 million over 5 years. If an agency rule meets that economic threshold, current law requires legislative ratification of the rule before it can take effect. However, an agency rule may not be ratified by the Legislature until it has been adopted by the agency. On April 8, 2014, the DEP filed a Notice of Change modifying the proposed rule. A challenge to the proposed rule was filed in the Department of Administrative Hearings, suspending rule adoption until after adjournment of the 2014 Regular Session of the Legislature. Because it was critical, according to DEP, for the rule to take effect as soon as possible, the Legislature passed HB 7171 (2014) which exempted the proposed rule from the ratification requirement.

The bill satisfies the legislative ratification requirement based on the rule's economic and regulatory cost impact. The bill expressly states that it serves no purpose other than satisfying the ratification requirement and that it will not be codified in the Florida Statutes.

The bill does not appear to have a fiscal impact on state government. According to DEP's Statement of Estimated Regulatory Costs (SERC), implementation of the rule if ratified will result in a negative fiscal impact of $300,000 on the SRWMD. The bill itself does not have a direct fiscal impact on the private sector; however, the substantive policy of the rule is expected to have an economic impact on the private sector. Those impacts are analyzed in DEP's SERC for the rule. In summary, the SERC estimates that the rule will have a negative fiscal impact of $3 million over a five-year timeframe on agricultural users that are required to eliminate or reduce the impact of new proposed withdrawal quantities on the MFLs. (See Fiscal Analysis Section).

The rule has an effective date upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Consumptive Use Permits

For water uses other than private wells for domestic use, the statutes authorize the Department of Environmental Protection (DEP) and the water management districts (WMDs) to require any person seeking to use "waters in the state"[1] to obtain a consumptive use permit (CUP).[2] A CUP establishes the duration and type of allowed water use as well as the maximum amount that may be used. Each CUP must be consistent with the objectives of the WMD and may not be harmful to the water resources of the area.[3] To obtain a CUP, an applicant must establish that the proposed use of water satisfies a statutory test, commonly referred to as "the three-prong test."[4] Specifically, the proposed water use:

1. Must be a reasonable-beneficial use;[5]
2. May not interfere with any presently existing legal use of water; and
3. Must be consistent with the public interest.

Minimum Flows and Levels (MFLs)

DEP or the five water management districts (WMDs) are required to establish minimum flows for surface watercourses and minimum levels for groundwater and surface waters within each district.[6] "Minimum flow" is the limit at which further water withdrawals from a given watercourse would significantly harm the water resources or ecology of the area.[7] "Minimum level" is the level of groundwater in an aquifer or the level of a surface waterbody at which further withdrawals will significantly harm the water resources of the area.[8]

Section 373.042(2), F.S., requires each WMD to submit annually to DEP for review and approval of a priority list and schedule for the establishment of MFLs for surface watercourses, aquifers, and surface waters within the WMD. The priority list and schedule must identify those waterbodies for which the WMD will voluntarily undertake independent scientific peer review. The priority list and schedule must also identify:

- Any reservations proposed by the WMD to be established under s. 373.223(4), F.S.;[9] and
- Those listed waterbodies that have the potential to be affected by withdrawals in an adjacent WMD for which the DEP adoption of a reservation or MFL may be appropriate.

The WMDs use science that includes a variety of the best available information including meteorological, hydrological, and ecological data that typically includes a historical range of drought

[1] Section 373.019(22), F.S., defines "water" or "waters in the state" to mean any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.
[2] Section 373.219, F.S.
[3] Section 373.219, F.S.
[4] Section 373.223, F.S.
[5] Section 373.019(16), F.S., defines "reasonable-beneficial use" to mean the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner that is both reasonable and consistent with the public interest.
[6] Section 373.042(1), F.S.
[7] Section 373.042(1)(a), F.S.
[8] Section 373.042(1)(b), F.S.
[9] Section 373.223(4), F.S., provides that the governing board or DEP can reserve from use by permit applicants water in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the protection of fish and wildlife or the public health and safety. These reservations must be subject to periodic review and revision in light of changed conditions. However, all presently existing legal uses of water must be protected so long as such use is not contrary to the public interest.

and flood conditions to establish scientifically the point beyond which additional withdrawals would cause significant harm.[10] Usually, a WMD selects a peer review committee to evaluate the scientific principles and methods used to establish MFLs. Once an MFL is calculated, it is adopted by rule and implemented by the district.[11]

For a waterbody that is below an MFL or is projected to fall below it within 20 years, the WMDs are required to implement a recovery or prevention strategy, which includes the development of additional water supplies and other actions to achieve recovery to the established MFL as soon as practicable or prevent the existing MFL from falling below the established MFL.[12] The recovery or prevention strategy must include phasing or a timetable that will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses,[13] including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, to the extent practical, and to offset, reductions in permitted withdrawals.[14]

A WMD is required to provide DEP with technical information and staff support for the development of a reservation, MFL, or recovery or prevention strategy to be adopted by DEP by rule.[15] Furthermore, a WMD is required to apply any reservation, MFL, or recovery or prevention strategy adopted by DEP by rule without the WMD's adoption by rule of a reservation, MFL, or recovery or prevention strategy.[16]

Lower Santa Fe and Ichetucknee Rivers and Associated Springs

The Ichetucknee River and springs are part of the Ichetucknee Springs State Park. The park is a high quality natural area that is partly developed and whose heavy public use is highly regulated in order to minimize damage to the environment.[17] The Ichetucknee River has 11 springs that include one first magnitude spring,[18] seven second magnitude springs,[19] two third magnitude springs,[20] and one whose magnitude is unknown. A list of these springs can be found in Appendix A at the end of this analysis.

O'Leno State Park is located on the Santa Fe River and is also very popular due to the many springs on the Santa Fe River. The Santa Fe River has 67 springs that include 10 first magnitude springs, 23 second magnitude springs, 20 third magnitude springs, 8 fourth magnitude springs,[21] and 6 whose magnitude are unknown. A list of these springs can be found in Appendix A at the end of this analysis.

The following table shows the park attendance for each state park for the last five fiscal years:

	FY 2008/2009	**FY 2009/2010**	**FY 2010/2011**	**FY 2011/2012**	**FY 2012/2013**
O'Leno	63,625	58,586	63,023	63,035	71,429
Ichetucknee	161,990	184,151	204,586	148,213	135,923

Proposed MFL Rules for the Lower Santa Fe and Ichetucknee Rivers and Associated Priority Springs

The Lower Santa Fe and Ichetucknee Rivers are water bodies that have the potential to be affected by withdrawals in an adjacent WMD for which the DEP adoption of a reservation or MFL is required pursuant to s. 373.042(2), F.S. Consequently, the Suwannee River WMD (SRWMD) governing board

[10] Minimum Flows and Levels Fact Sheet: Lower Santa Fe and Ichetucknee Rivers and Priority Springs Protecting Water Resources from Significant Harm. *See* Suwannee River Water Management District's website, available at http://www.mysuwanneeriver.com/Search/Results?searchPhrase=MFL+fact+sheet&page=1&perPage=10 (accessed March 9, 2015).
[11] Central Florida Water Initiative website; available at http://cfwiwater.com/MFLs.html (accessed March 9, 2015).
[12] Section 373.0421(2), F.S.
[13] Section 373.019(16), F.S., defines "reasonable-beneficial use" to mean the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner that is both reasonable and consistent with the public interest.
[14] Section 373.0421(2), F.S.
[15] Section 373.042(4), F.S.
[16] *Id*.
[17] Florida Geological Survey, Bulletin No.66, Springs of Florida, DEP; available at http://www.dep.state.fl.us/geology/geologictopics/springs/bulletin66.htm (accessed March 9, 2015).
[18] First magnitude springs discharge 64 million gallons of water per day (MGD).
[19] Second magnitude springs discharge 6.46 to 64.6 MGD.
[20] Third magnitude springs discharge 0.0646 to 6.46 MGD.
[21] Fourth magnitude springs discharge 448 gallons of water per minute.

requested that DEP adopt MFLs it proposed for the Lower Santa Fe and Ichetucknee Rivers and associated priority springs In June, 2013. The decision to make the request was also based on the technical work conducted for the proposed MFLs by SRWMD staff.[22] SRWMD staff had also assessed the streamflows observed in the recent historical record and recent trends in the flow regime, and determined that a recovery strategy was required.[23]

The science for analysis preferred in establishing the MFL as described above in the MFL section, shows that the Lower Santa Fe River and its associated priority springs are in "recovery," meaning that they have fallen below their proposed MFL.[24] The flow is 17 cubic feet per second (CFS), or 11 million gallons per day (MGD), *below* the proposed MFL at the river gage near Fort White. The MFL science shows that the Ichetucknee River and its associated priority springs are also in "recovery." The flow is 3 CFS or 2 MGD below the proposed MFL at the river gage located at the US 27 Bridge.

On March 7, 2014, DEP proposed Rules 62.42.100 and 62.42.200, F.A.C., providing the scope and definitions for DEP-adopted MFLs. DEP also proposed Rule 62.42.300, F.A.C., establishing MFLs for the Lower Santa Fe and Ichetucknee Rivers and Associated Priority Springs, as well as regulatory flow recovery provisions. The rules will apply to the SRWMD and the St. Johns River WMD (SJRWMD).

Proposed Rule 62-42.300, F.A.C., also adopts and incorporates by reference a document entitled "Supplemental Regulatory Measures," which contains regulatory provisions for the MFLs proposed for the Lower Santa Fe and Ichetucknee Rivers and Associated Priority Springs. The proposed rule will apply to renewal and new consumptive use permit applications for withdrawals within the SRWMD and Planning Region 1 of the SJRWMD.[25] Only those applications proposing new or additional withdrawal quantities that impact the Lower Santa Fe and Ichetucknee Rivers and Priority Springs MFLs will be subject to additional regulatory costs as a result of the proposed rule. These applications will be required to eliminate or reduce the impact of the new proposed withdrawal quantities on the MFLs. The proposed rule can be generally divided into two components, summarized as follows:[26]

1. Additional Review Criteria for all Individual Water Use Permit Applicants:
   - Primarily defines how the existing requirements that proposed water uses not cause harm to water resources will be addressed in the water use permitting review process with regard to the proposed MFLs.
   - Ensures that the impact of new withdrawals or increases in permitted water use will be eliminated or offset as a condition for issuance of a water use permit.
   - Provides protections for existing uses by specifying that existing uses that do not request increases in water use are considered consistent with the Recovery Strategy. Existing users who request new quantities will only be required to offset the impacts of their increase in water use, and not their existing use.
   - Establishes that the WMD may use the best available information and modeling tools to evaluate the potential impacts of proposed water uses to MFL water bodies.
   - Provides that the additional review criteria for individual water use permit applications will be implemented in the entirety of the SRWMD and the portion of the North Florida Regional Water Supply Planning Area in SJRWMD.

2. Additional Individual Permit Conditions:

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[22] *See* s. 373.042(4), F.S.
[23] DEP Statement of Estimated Regulatory Costs; available at http://www.dep.state.fl.us/water/waterpolicy/mflrulemaking.htm (accessed March 9, 2015).
[24] The information in this paragraph was obtained from the *Minimum Flows and Levels Fact Sheet: Lower Santa Fe and Ichetucknee Rivers and Priority Springs Protecting Water Resources from Significant Harm. See* Suwannee River Water Management District's website, available at http://www.mysuwanneeriver.com/Search/Results?searchPhrase=MFL+fact+sheet&page=1&perPage=10 (accessed March 9, 2015).
[25] Region 1 includes Alachua, Baker, Bradford, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns counties. Planning in this area is conducted as part of the North Florida Regional Water Supply Partnership in coordination with the SRWMD. *See* St. Johns River Water Management District website, available at http://floridaswater.com/watersupply/planning.html (accessed March 9, 2015).
[26] Minimum Flows and Levels Fact Sheet: Lower Santa Fe and Ichetucknee Rivers and Priority Springs Protecting Water Resources from Significant Harm. *See* Suwannee River Water Management District's website, available at http://www.mysuwanneeriver.com/Search/Results?searchPhrase=MFL+fact+sheet&page=1&perPage=10 (accessed March 9, 2015).

- Establishes two new special conditions that will be applied to new or renewed water use permits:
    - The first special condition will be applied to individual permits issued within the boundaries of the SRWMD and the portion of the North Florida Regional Water Supply Planning Area within the SJRWMD, and is designed to ensure continuing compliance of the water use with the ongoing efforts of the Recovery Strategy. This condition allows for future modification of the permit to address impacts to the MFL water bodies, and provides an important means for adaptive management by the issuing WMD in light of new technical tools, future hydrologic conditions, and the development of long-term recovery strategies to be developed in the context of the North Florida Regional Water Supply Plan.[27]
    - The second special condition will only be applied to individual water use permits for agricultural use located within Columbia, Suwannee, Union, and Gilchrist Counties, and the portions of Baker, Bradford, and Alachua Counties within the boundaries of the SRWMD. This special condition requires that the permittee participate in a Mobile Irrigation Lab (MIL) program and allow access to the Project Site for the purpose of conducting an MIL evaluation at least once every five years. This condition will provide the WMD with critical information about agricultural water use efficiency to direct future water conservation measures and agricultural cost-share programs.

Analysis of future water use projections and permit records indicates approximately 308 current water use permit holders in the SRWMD and affected area of SJRWMD will renew their permits in the next five years, including 49 non-agricultural users and 259 agricultural users. The assessment conducted indicated that it is unlikely that current non-agricultural water users will request increased water allocations that will be affected by the proposed rule in the next five years. Of the 259 agricultural water use permit holders likely to renew in this area in the next five years, approximately 28 would be expected to request new quantities likely to impact the MFLs, and would be required to offset or reduce their impacts to the MFL water bodies. The projected increase in water use that would require offsets of impacts among renewing existing permit holders is approximately 2.6 MGD. [28]

In addition to the renewal of current permits, assessment of water use projections and existing permit records and water uses indicated that it is unlikely that new non-agricultural permits will be affected by the proposed rule. However, approximately 400 new agricultural permit applications are anticipated over the next five years in the SRWMD. Of these, approximately 40 are projected to impact the MFL water bodies, requiring a total offset of approximately 11.2 MGD in new withdrawals.[29]

Rulemaking Authority and Legislative Ratification

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.[30] Rulemaking authority is delegated by the Legislature[31] through statute and authorizes an agency to "adopt, develop, establish, or otherwise create"[32] a rule. Agencies do not have discretion as to whether to engage in rulemaking.[33] To adopt a rule an agency must have a general grant of authority to implement a specific law by rulemaking.[34] The grant of rulemaking authority itself need not be detailed.[35] The specific statute being interpreted or implemented through rulemaking must provide

[27] The North Florida Regional Water Supply Plan is a collaborative effort between DEP, the SRWMD, the SJRWMD, local governments, and other stakeholders throughout the region to ensure sustainable water supplies and protect north Florida's waterways and natural systems. See the North Florida Regional Water Supply Partnership website, available at http://northfloridawater.com/
[28] Statement of Estimated Regulatory Costs for Rule 62-42.300, F.A.C., Executive Summary. On file with the House Rulemaking Oversight & Repeal Subcommittee.
[29] *Id.*
[30] Section 120.52(16), F.S.; *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region,* 969 So. 2d 527, 530 (Fla. 1st DCA 2007).
[31] *Southwest Florida Water Management District v. Save the Manatee Club, Inc.,* 773 So. 2d 594 (Fla. 1st DCA 2000).
[32] Section 120.52(17), F.S.
[33] Section 120.54(1)(a), F.S.
[34] Sections 120.52(8) & 120.536(1), F.S.
[35] *Save the Manatee Club, Inc.,* supra at 599.

specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[36]

An agency begins the formal rulemaking process by filing a notice of the proposed rule.[37] The notice is published by the Department of State in the Florida Administrative Register[38] and must provide certain information, including the text of the proposed rule, a summary of the agency's statement of estimated regulatory costs (SERC), if one is prepared, and how a party may request a public hearing on the proposed rule. The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or increase in regulatory costs.[39]

The economic analysis mandated for each SERC must analyze a rule's potential impact over the five-year period after the rule goes into effect. First discussed in the analysis is the rule's likely adverse impact on economic growth, private-sector job creation or employment, or private-sector investment.[40] Next is the likely adverse impact on business competitiveness,[41] productivity, or innovation.[42] Finally, the analysis must discuss whether the rule is likely to increase regulatory costs, including any transactional costs.[43] If the analysis shows the projected impact of the proposed rule in any one of these areas will exceed $1 million in the aggregate for the five-year period, the rule cannot go into effect until ratified by the Legislature.[44]

Current law distinguishes between a rule being "adopted" and becoming enforceable or "effective."[45] A rule must be filed for adoption before it may go into effect[46] and cannot be filed for adoption until completion of the rulemaking process.[47] A rule submitted under s. 120.541(3), F.S., becomes effective if ratified by the Legislature, and must be filed for adoption before being submitted for legislative ratification.

The economic impact of DEP's proposed Rule 62-42.300, F.A.C., for MFLs for the Lower Santa Fe and Ichetucknee Rivers and Associated Springs is estimated to exceed the economic impact dollar threshold that triggers the legislative ratification requirement. The proposed rule was published in the Florida Administrative Register on March 7, 2014. A rulemaking hearing was scheduled for April 3, 2014.[48] A Notice of Change revising the Proposed Rules was published on April 8, 2014, with the result that the rule could not be filed for adoption and presented for legislative ratification before the end of the 2014 Regular Session. To avoid any significant impact on water quality in the affected areas, the Legislature enacted HB 7171 (2014) exempting the rule as changed on April 8, 2014, from ratification.

Subsequently, a challenge to the rule was filed in DOAH. The Administrative Law Judge issued a ruling on September 11, 2014, finding that the proposed rules setting the river MFLs were vague because either the period of record or the technical source document for the flow duration curve used to set the MFLs was not referenced in the rule. He also found that the rest of proposed Chapter 62-42, including the springs MFLs and the recovery strategy are valid exercises of delegated legislative authority.

On November 7, 2014, a Notice of Change was published making changes adding the existing technical information that the DOAH judge found missing in the previous version of the rule. The November change did not change the proposed minimum flows or the recovery strategy included in the proposed rule. A subsequent DOAH challenge was successfully defended by the DEP and the rules

[36] *Sloban v. Florida Board of Pharmacy,*982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.,* 794 So. 2d 696, 704 (Fla. 1st DCA 2001).
[37] Section 120.54(3)(a)1, F.S.
[38] Section 120.55(1)(b)2, F.S.
[39] Section 120.541(2)(a), F.S.
[40] Section 120.541(2)(a)1., F.S.
[41] Including the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.
[42] Section 120.541(2)(a) 2., F.S.
[43] Section 120.541(2)(a) 3., F.S.
[44] Section 120.541(3), F.S.
[45] Section 120.54(3)(e)6, F.S. Before a rule becomes enforceable, thus "effective," the agency first must complete the rulemaking process and file the rule for adoption with the Department of State.
[46] Section 120.54(3)(e)6, F.S.
[47] Section 120.54(3)(e), F.S.
[48] Section 120.54(3)(c)1., F.S.

was filed for adoption on February 18, 2015. A revised SERC was made available to the public on December 5, 2014.

Effect of Proposed Changes

The bill ratifies the Department of Environmental Protection's (DEP) proposed Rule 62-42.300, F.A.C., regarding minimum flows and levels (MFLs) for the Lower Santa Fe and Ichetucknee Rivers and their associated priority springs, satisfying the legislative ratification requirement in s. 120.541(3), F.S.

The bill expressly states that it serves no purpose other than satisfying the ratification requirement and that it will not be codified in the Florida Statutes. Furthermore, the bill specifies that it does not:

- Alter rulemaking authority delegated by prior law;
- Constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rule cited; or
- Cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

B. SECTION DIRECTORY:

Section 1. Ratifies specified rules to satisfy the requirements of s. 120.541(3), F.S.

Section 2. The bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

According to the applicable SERC, and its revisions through December 12, 2014, implementation of the rule being ratified will result in a negative fiscal impact of $300,000 on the SRWMD. The rule requires DEP, in coordination with the SRWMD and the SJRWMD, to reevaluate the MFL and the present status of the waterbody and readopt the rule before December 31, 2019. Current statute[49] also requires that MFLs be reevaluated periodically and revised as needed. To the extent that these costs could be considered attributable to the proposed rule, SRWMD would include an analysis by district staff and would likely include contractor assistance and a peer review. (See C., below, for discussion of cost-share program of SRWMD relating to potential agricultural water conservation measures implicated by the likely reductions in water allocations under the rule.)

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill itself does not have a direct fiscal impact on the private sector; however, the substantive policy of the rule is expected to have an economic impact on the private sector. Those impacts are analyzed in DEP's Statement of Estimated Regulatory Costs (SERC) for the rule, as revised.[50]

According to the SERC , based on the SRWMD's analysis of likely water use permit renewals in the SRWMD and the SJRWMD (permits expiring in years 2014 through 2018) and assessment of future new water use projections and recent new water use permit applications, the SRWMD estimates Rule 62-42.300 is likely to affect some future agricultural water users (approximately 68 over a five-year timeframe) in the Santa Fe Basin because potential adverse impacts to the MFL waterbodies resulting from new and increased water quantity allocations must be offset for 13.8 MGD. If all of the 13.8 MGD were offset by implementing additional agricultural water conservation measures, the cost of providing these offsets would be approximately $3 million over a five-year timeframe (approximately $600,000 per year) for agricultural water users. The existing SRWMD cost-share program typically covers 80 percent of retrofit costs and is expected to substantially reduce the cost to be borne by the agricultural users.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

[49] Section 373.0421(3), F.S.
[50] All versions of the SERC are available for review on the DEP rulemaking website at: http://www.dep.state.fl.us/water/waterpolicy/mflrulemaking.htm (accessed March 9, 2015).

B. RULE-MAKING AUTHORITY:

The bill does not grant additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

APPENDIX A

Summary and List of Springs of the Santa Fe and Ichetucknee Rivers
Prepared by the Suwannee River Water Management District
March 2014

Springs of the Santa Fe River		
Spring Name	**County**	**Historic Magnitude**
COL1105041 (COLUMBIA)	COLUMBIA	1
COLUMBIA SPRING	COLUMBIA	1
DEVILS EAR SPRING (GILCHRIST)	GILCHRIST	1
DEVILS EYE SPRING (GILCHRIST)	GILCHRIST	1
HORNSBY SPRING	ALACHUA	1
JULY SPRING	COLUMBIA	1
SANTA FE RIVER RISE (ALACHUA)	ALACHUA	1
SANTA FE SPRING (COLUMBIA)	COLUMBIA	1
SIPHON CREEK RISE	GILCHRIST	1
TREEHOUSE SPRING	ALACHUA	1
ALA930971 (ALACHUA)	ALACHUA	2
ALA930972 (ALACHUA)	ALACHUA	2
ALLEN SPRING	COLUMBIA	2
COL1012972 (COLUMBIA)	COLUMBIA	2
COL101974 (COLUMBIA)	COLUMBIA	2
COL930971 (COLUMBIA)	COLUMBIA	2
DARBY SPRING	ALACHUA	2
DOGWOOD SPRING	GILCHRIST	2
GIL1012971 (GILCHRIST)	GILCHRIST	2
GIL1012974 (GILCHRIST)	GILCHRIST	2
GIL107971 (GILCHRIST)	GILCHRIST	2
GIL107972 (GILCHRIST)	GILCHRIST	2
GIL729971 (GILCHRIST)	GILCHRIST	2
GILCHRIST BLUE SPRING	GILCHRIST	2
GINNIE SPRING	GILCHRIST	2
JOHNSON SPRING	GILCHRIST	2
LILLY SPRING	GILCHRIST	2
MYRTLES FISSURE SPRING	GILCHRIST	2
PICKARD SPRING	GILCHRIST	2
POE SPRING	ALACHUA	2
SUW107971 (SUWANNEE)	SUWANNEE	2
TWIN SPRING	GILCHRIST	2
WILSON SPRING (COLUMBIA)	COLUMBIA	2
BETTY SPRING	SUWANNEE	3
CAMPGROUND SPRING (GILCHRIST)	GILCHRIST	3
COL101971 (COLUMBIA)	COLUMBIA	3

Springs of the Santa Fe River (cont.)		
Spring Name	**County**	**Historic Magnitude**
COL428981 (COLUMBIA)	COLUMBIA	3
COL917971 (COLUMBIA)	COLUMBIA	3
COL928971 (COLUMBIA)	COLUMBIA	3
DEER SPRING (GILCHRIST)	GILCHRIST	3
GIL1012972 (GILCHRIST)	GILCHRIST	3
GIL928971 (GILCHRIST)	GILCHRIST	3
GIL99972 (GILCHRIST)	GILCHRIST	3
GIL99974 (GILCHRIST)	GILCHRIST	3
JONATHAN SPRING	COLUMBIA	3
LITTLE DEVIL SPRING	GILCHRIST	3
OASIS SPRING	GILCHRIST	3
RUM ISLAND SPRING	COLUMBIA	3
SAWDUST SPRING	COLUMBIA	3
SUNBEAM SPRING	COLUMBIA	3
SUW917971 (SUWANNEE)	SUWANNEE	3
TRAIL SPRING	GILCHRIST	3
TROOP SPRING	GILCHRIST	3
COL101975 (COLUMBIA)	COLUMBIA	4
COL61982 (COLUMBIA)	COLUMBIA	4
GIL729972 (GILCHRIST)	GILCHRIST	4
GIL729973 (GILCHRIST)	GILCHRIST	4
GIL928972 (GILCHRIST)	GILCHRIST	4
GIL99971 (GILCHRIST)	GILCHRIST	4
SUW917972 (SUWANNEE)	GILCHRIST	4
WORTHINGTON SPRING	UNION	4
HOLLY SPRING	GILCHRIST	UNKNOWN
JAMISON SPRINGS	COLUMBIA	UNKNOWN
LITTLE BLUE SPRING (GILCHRIST)	GILCHRIST	UNKNOWN
NAKED SPRING	GILCHRIST	UNKNOWN
POE WOODS SPRING	ALACHUA	UNKNOWN
UNNAMED SPRING (GILCHRIST) 2953480824601	GILCHRIST	UNKNOWN

Springs of the Ichetucknee River		
Spring Name	**County**	**Historic Magnitude**
BLUE HOLE SPRING (COLUMBIA)	COLUMBIA	1
CEDAR HEAD SPRING	COLUMBIA	2
COL1012971 (COLUMBIA)	COLUMBIA	2
DEVILS EYE SPRINGS (SUWANNEE)	SUWANNEE	2
ICHETUCKNEE HEAD SPRING (SUWANNEE)	SUWANNEE	2
MILL POND SPRINGS (COLUMBIA)	COLUMBIA	2
MISSION SPRINGS	COLUMBIA	2
ROARING SPRING	COLUMBIA	2
COFFEE SPRINGS	SUWANNEE	3
GRASSY HOLE SPRING	COLUMBIA	3
SINGING SPRING	COLUMBIA	UNKNOWN

Springs of the Santa Fe and Ichetucknee Rivers by Historic Magnitude			
Spring Magnitude	**Santa Fe River Springs**	**Ichetucknee Springs**	**Total: Santa Fe and Ichetucknee**
1st Magnitude	10	1	11
2nd Magnitude	23	7	30
3rd Magnitude	20	2	22
4th Magnitude	8	0	8
Other/Unknown	6	1	7
Total:	**67**	**11**	**78**

Notes:

1) The above list only includes documented and mapped springs at the time of publication.
2) Several of the springs listed above are part of springs clusters, and are considered part of first magnitude spring groups.
3) Historic magnitudes presented were obtained from previous work conducted by SRWMD (Hornsby, D., & Ceryak, R. (1998). Springs of the Suwannee River Basin in Florida) and the Florida Geological Survey (Bulletin No. 66, 2004), as compiled by FDEP in 2011.
4) Collection of springflow data is ongoing and spring magnitudes may be subject to future revision.