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# Appropriations Committee

Thursday, February 22, 2018  
1:00 PM – 4:00 PM  
212 Knott Building

Meeting Packet

Volume I



# The Florida House of Representatives

## Appropriations Committee

Richard Corcoran  
Speaker

Carlos Trujillo  
Chair

### AGENDA

Thursday, February 22, 2018

212 Knott Building


1:00 PM – 4:00 PM

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair Trujillo
- III. **Consideration of the following committee bills:**
  - CS/HB 7063** Natural Resources by Agriculture & Natural Resources Appropriations Subcommittee, Government Accountability Committee, Caldwell
  - HB 7083** Emergency Management by Government Accountability Committee, Raschein
  - HB 7085** Health Care Disaster Preparedness and Response by Health & Human Services Committee, Massullo
  - HB 7089** Public Safety by Judiciary Committee, Byrd
- IV. **Consideration of the following bill(s) with proposed committee substitute:**
  - PCS for HB 7087** – Taxation
- V. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 7063      PCB GAC 18-02      Natural Resources  
**SPONSOR(S):** Agriculture & Natural Resources Appropriations Subcommittee, Government Accountability Committee, Caldwell  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee	20 Y, 0 N	Shugar	Williamson
1) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N, As CS	White	Pigott
2) Appropriations Committee		White <i>CCW</i>	Leznoff 

### SUMMARY ANALYSIS

The bill revises policies relating to Florida's natural resources. The bill, in part:

- Consolidates funding allocations in the Florida Forever Act (Florida Forever) into three categories: land acquisition, Florida Communities Trust, and the Rural and Family Lands Protection Program. Each would receive 33 1/3 percent.
- Removes the authorization to use Florida Forever funding for capital improvement projects, water resource development projects (WRDP), and land management.
- Consolidates all land acquisition into one category, including acquisitions selected by the Acquisition and Restoration Council; water management districts (WMDs) priority lists; inholdings proposed by agencies; and the Florida Recreation and Development Assistance Program.
- Requires annual dedicated funding for Florida Forever from the Land Acquisition Trust Fund (LATF) beginning in fiscal year 2019-2020.
- Prioritizes eligible Comprehensive Everglades Restoration Plan (CERP) projects for funding under the LATF to prioritize Phase I and Phase II of the C-43 Reservoir above other CERP projects.
- Requires counties, municipalities, and WMDs to deposit any proceeds generated from the disposal of conservation lands acquired with state funds in the appropriate state trust fund.
- Requires WMDs to deposit any revenue generated from the use of conservation lands purchased with state funds into a separate agency trust fund or special revenue account to support land management activities.
- Authorizes the Department of Environmental Protection (DEP) and the Department of Agriculture and Consumer Services to assist local governments in implementing rural-lands-protection easement programs.
- Requires the agencies that manage conservation lands to prioritize the exotic and invasive species that must be maintained or controlled and the areas where the control and maintenance must first be addressed.
- Requires DEP to create a volunteer state park annual entrance pass for individuals who perform 50 hours of volunteer service removing nonnative and invasive plants.
- Requires DEP to consider the economic benefit of beach management projects when prioritizing annual funding.
- Requires the comprehensive long-term beach management plan to include at a minimum a Strategic Beach Management Plan, a critically eroded beaches report, and a statewide long-range budget plan.
- Exempts certain local governments from the requirement to develop and maintain a water facilities work plan.
- Clarifies operation provisions of the C-51 reservoir project and provides waiver of repayment.
- Requires regional water supply authorities to provide annual status reports to WMDs on certain WRDPs.
- Allows DEP to include innovative nutrient reduction pilot projects in a Basin Management Action Plan and provide funding.
- Requires the Department of Transportation to coordinate with WMDs, DEP, and local governments to redirect stormwater from road projects for beneficial use, if economically feasible.
- Requires public water systems and domestic wastewater treatment systems to develop an asset management plan (AMP) and create a reserve fund to implement an AMP.
- Requires a public water system or domestic wastewater treatment system within a 100-year floodplain or a 500-year floodplain to build any new infrastructure to withstand the respective flood conditions.
- Authorizes DEP to use data collected and compiled by the Florida LAKEWATCH Program.
- Authorizes a prevailing party to receive reasonable costs and attorney fees in an administrative proceeding from an intervener when the intervener is a nonprevailing adverse party, as determined by the administrative law judge.

The bill appears to have an indeterminate fiscal impact on the state and local governments. See *Fiscal Comments*.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 2/20/2018



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Florida Forever

###### Present Situation

The Florida Forever Program seeks to purchase environmentally sensitive lands to protect natural resources, avoid degradation of water resources, improve recreational opportunities, and preserve wildlife habitat.<sup>1</sup> The state may issue up to \$5.3 billion in Florida Forever bonds to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources in urban and rural settings for:

- Restoration, conservation, recreation, water resource development, or historical preservation; and
- Capital improvements<sup>2</sup> to lands and water areas that accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.<sup>3</sup>

The Florida Forever Trust Fund was created to serve as the repository for Florida Forever bond proceeds to fund the Florida Forever program. The Department of Environmental Protection (DEP) administers the Florida Forever Trust Fund. The Florida Forever Trust Fund receives its funding from the Land Acquisition Trust Fund (LATF).<sup>4</sup> DEP must distribute revenues from the Florida Forever Trust Fund in accordance with the Florida Forever Act.<sup>5</sup>

Each year, at least 1 ½ percent of the cumulative total of funds deposited into the Florida Forever Trust Fund must be made available for the purposes of management, maintenance, and capital improvements, and for associated contractual services, for conservation and recreation lands acquired with funds deposited into the LATF or the former Preservation 2000 or Florida Forever programs.<sup>6</sup> The Board of Trustees of the Internal Improvement Trust Fund (BOT)<sup>7</sup> must reserve up to one-fifth of those funds for interim management of acquisitions and for associated contractual services to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands.<sup>8</sup> Further, managing agencies may use up to one-fourth of these funds to control and remove nonnative, invasive species on public lands.<sup>9</sup>

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<sup>1</sup> Section 259.105(2), F.S.

<sup>2</sup> Section 259.03(3), F.S., defines a “capital improvement” or “capital project expenditure” to mean those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of the Land Conservation Program. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities’ signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas.

<sup>3</sup> Section 215.618(1)(a), F.S.; s. 259.03(6), F.S., defines a water resource development project to mean a project eligible for Florida Forever funding that increases the amount of water available to meet the needs of natural systems and the citizens of the state by enhancing or restoring aquifer recharge, facilitating the capture and storage of excess flows in surface waters, or promoting reuse.

<sup>4</sup> Section 259.1051, F.S.

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

<sup>6</sup> Section 259.032(9)(b), F.S.

<sup>7</sup> Section 253.001, F.S., provides that the BOT holds state lands in trust for the use and benefit of the people of Florida; s. 253.02(1), F.S., provides that the BOT consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture; The BOT may acquire, sell, transfer, and administer state lands in the manner consistent with chs. 253 and 259, F.S.

<sup>8</sup> Section 259.032(9)(d), F.S.

<sup>9</sup> Section 259.032(9)(e), F.S.

## *Florida Forever Projects*

Florida Forever is Florida's conservation and recreation lands acquisition program, a blueprint for conserving natural resources and renewing Florida's commitment to conserve the state's natural and cultural heritage.<sup>10</sup> The Acquisition and Recreation Council (ARC),<sup>11</sup> with the assistance of the Florida Natural Area Inventories and several state agencies, evaluates applications for acquisition projects under the Florida Forever Program and provides recommendations to BOT on the projects to pursue.<sup>12</sup> To be considered for acquisition under the Florida Forever Program, the project must contribute to the achievement of the following goals:

- Enhance the coordination and completion of land acquisition projects;
- Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels;
- Protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state;
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state;
- Increase natural resource-based public recreational and educational opportunities;
- Preserve significant archaeological or historic sites;
- Increase the amount of forestland available for sustainable management of natural resources; or
- Increase the amount of open space available in urban areas.<sup>13</sup>

Further, ARC must consider the following factors when reviewing project applications to determine whether the project:

- Meets multiple goals described above;
- Is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources;
- Enhances or facilitates management of properties already under public ownership;
- Has significant archaeological or historic value;
- Has funding sources that are identified and assured through at least the first two years of the project;
- Contributes to the solution of water resource problems on a regional basis;
- Has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished;
- Implements an element from a plan developed by an ecosystem management team;
- Is one of the components of the Everglades restoration effort;
- May be purchased at 80 percent of appraised value;
- May be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements; and
- Is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.<sup>14</sup>

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<sup>10</sup> DEP, *Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/florida-forever-0> (last visited Jan. 18, 2018).

<sup>11</sup> Section 259.035(1), F.S., provides that the ARC is a 10-member board established to assist the BOT to review the recommendations and plans for state-owned lands. Four members are appointed by the Governor, one member is appointed by the Secretary of DEP, one member is appointed by the Director of the Florida Forest Service, two members are appointed by the Executive Director of the Fish and Wildlife Conservation Commission (FWC), one member is appointed by the Secretary of the Department of State, and one member is appointed by the Commissioner of Agriculture.

<sup>12</sup> Sections 259.105(8), (14) and (15), F.S.

<sup>13</sup> Section 259.105(4), F.S.

<sup>14</sup> Section 259.105(9), F.S.

Using its established criteria, ARC develops a priority list of applications submitted. An affirmative vote of at least five members of ARC is required to place a proposed project on the priority list. ARC evaluates and selects projects twice per year, in June and December, and ranks the projects annually.<sup>15</sup> Each project on the priority list is placed in one of the following categories of expenditure for land conservation projects: climate change, critical natural, less-than-fee, partnerships, greater than 85 percent complete, and critical historical.<sup>16</sup> ARC ranks the projects within each category from highest to lowest priority.

ARC presents the priority list to the BOT.<sup>17</sup> Florida Forever projects may only be implemented if the BOT approves ARC's recommendations to acquire the particular parcel.<sup>18</sup> While the BOT may remove projects from the priority list, the BOT may not add or rearrange projects on the priority list.<sup>19</sup>

The Division of State Lands (DSL) within DEP prepares an annual work plan based on the priority list developed by ARC. This work plan outlines the specific projects and acquisitions within projects that DEP will seek to acquire with Florida Forever funds available for that fiscal year.<sup>20</sup> Currently, there are 43 projects, totaling approximately 1.4 million acres, in the work plan.<sup>21</sup>

### *Water Management District Projects*

Water management districts (WMDs) may acquire real property to conserve and protect water and water-related resources.<sup>22</sup> Each WMD must develop a five-year work plan that identifies projects necessary to promote reclamation, storage, or recovery of water and other properties or activities that would assist in meeting the goals of Florida Forever.<sup>23</sup> DEP must submit the WMDs report on acquisitions to the BOT along with the recommendations from ARC for Florida Forever projects.<sup>24</sup>

### *Florida Communities Trust and Stan Mayfield Working Waterfronts Program Projects*

Florida Communities Trust (FCT) assists communities to protect important natural resources, provide recreational opportunities, and preserve Florida's traditional working waterfronts through the competitive criteria in the Parks and Open Space Florida Forever Grant Program and the Stan Mayfield Working Waterfronts Florida Forever Grant Program. These local land acquisition grant programs provide funding to local governments and eligible non-profit organizations to acquire land for parks, open spaces, greenways, and projects supporting Florida's seafood harvesting and aquaculture industries.<sup>25</sup> From the funds available to the FCT and used for land acquisition, local governments must match at least 75 percent on a dollar-for-dollar basis.<sup>26</sup>

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<sup>15</sup> DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Jan. 18, 2018).

<sup>16</sup> Section 259.105(17), F.S.

<sup>17</sup> Section 259.105(14), F.S.

<sup>18</sup> Section 259.105(16), F.S.

<sup>19</sup> Section 259.105(14), F.S.

<sup>20</sup> Section 259.105(17), F.S.

<sup>21</sup> DEP, *Focused on Florida's Future, Florida Forever Program*, p. 7, presentation before the Senate Appropriations Subcommittee on the Environment and Natural Resources (Oct. 25, 2017), available at:

<https://www.flsenate.gov/Committees/Show/AEN/Meeting%20Packet/3992> (last visited Jan. 18, 2018).

<sup>22</sup> Section 373.139, F.S.

<sup>23</sup> Sections 373.199(2) and (3), F.S.

<sup>24</sup> Section 373.199(7), F.S.

<sup>25</sup> DEP, *Florida Communities Trust Home*, <https://floridadep.gov/ooo/land-and-recreation-grants/content/florida-communities-trust-fct-home> (last visited Jan. 18, 2018); *see also* s. 380.507, F.S.

<sup>26</sup> Section 259.105(3)(c), F.S.

## *Florida Recreation Development Assistance Program Projects*

Florida Recreation Development Assistance Program Projects (FRDAP) is a competitive, reimbursement grant program. FRDAP provides financial assistance for acquisition or development of land for public outdoor recreation. Eligible participants include all county governments, municipalities, and other legally created local governmental entities with the responsibility for providing outdoor recreational sites and facilities for the public.<sup>27</sup> Local governments may submit three applications a year. The most any one project may receive is \$200,000.<sup>28</sup>

## *State Parks Projects*

The Division of Recreation and Parks (DRP) within DEP manages 175 parks covering 800,000 acres and 100 miles of beaches.<sup>29</sup> DRP may acquire in the name of the state any property, real or personal, by purchase, grant, devise, condemnation, donation, or otherwise. In DRP's judgement, this property must be necessary or proper toward the administration of the purposes of the parks.<sup>30</sup> DRP must develop its individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed by ARC for acquisitions. DRP may acquire proposed additions if DRP identified them within the original project boundary, adopted management plan, or management prospectus. If the proposed acquisition does not meet those criteria, ARC must approve the proposed acquisition.<sup>31</sup>

## *Florida Forest Service Projects*

The Florida Forest Service (FFS) within the Department of Agriculture and Consumer Services (DACS) manages 37 state forests consisting of over a million acres of forest for multiple purposes including timber, recreation, and wildlife habitat.<sup>32</sup> FFS may acquire lands suitable for state forest purposes by gift, donation, contribution, purchase, or otherwise and may enter into agreements with the federal government or other agencies for acquiring by gift, purchase, or otherwise such lands as are suitable and desirable for state forests.<sup>33</sup> FFS must develop its individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed by ARC for acquisitions. FFS may acquire proposed additions if FFS identified them within the original project boundary, the adopted management plan, or the management prospectus. If the proposed acquisition does not meet FFS criteria, then ARC must approve the proposed acquisition.<sup>34</sup>

## *Fish and Wildlife Conservation Commission Projects*

Wildlife management areas (WMAs) are public lands managed or cooperatively managed with other government agencies by the Fish and Wildlife Conservation Commission (FWC) for the enjoyment of anglers, hunters, wildlife viewers, and boaters.<sup>35</sup> FWC, with the approval of the Governor, may acquire in the name of the state lands and waters suitable for the protection and propagation of game, fish, nongame birds, or fur-bearing animals, or game farms for hunting purposes, by purchase, lease, gift, or

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<sup>27</sup> DEP, *Florida Recreation Development Assistance Program*, <https://floridadep.gov/ooo/land-and-recreation-grants/content/florida-recreation-development-assistance-program/> (last visited Jan. 18, 2018).

<sup>28</sup> Section 375.075(3), F.S.

<sup>29</sup> DEP, *Division of Recreation and Parks*, <https://floridadep.gov/parks> (last visited Jan. 18, 2018).

<sup>30</sup> Section 258.007(1), F.S. DRP's ability to use condemnation is limited to parks within its jurisdiction on July 1, 1980, and may not exceed 40 acres or 10 percent of the total acreage of the park, whichever is less.

<sup>31</sup> Section 259.105(3)(1), F.S.

<sup>32</sup> DACS, *Florida Forest Service*, <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service> (last visited Jan. 18, 2018); DACS, *Our Forests*, <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests> (last visited Jan. 18, 2018).

<sup>33</sup> Section 589.07, F.S.

<sup>34</sup> Section 259.105(3)(1), F.S.

<sup>35</sup> FWC, *What are Wildlife Management Areas?*, <http://myfwc.com/viewing/recreation/wmas/> (last visited Jan. 18, 2018).

otherwise to be known as state game lands.<sup>36</sup> FWC must develop its individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed by ARC for acquisitions. FWC may acquire proposed additions if it identified them within the original project boundary, adopted management plan, or management prospectus. If the proposed acquisition does not meet those criteria, ARC must approve the proposed acquisition.<sup>37</sup>

### *Florida Greenways and Trails Program Projects*

The Office of Greenways and Trails (OGT) within DRP provides statewide leadership and coordination to establish, expand, and promote the Florida Greenways and Trails System (FGT).<sup>38</sup> FGT is a statewide system of greenways and trails that consists of individual and networks of greenways and trails designated by DEP as part of the statewide system.<sup>39</sup> DEP may acquire land by gift or purchase or any lesser interest in land, including easements, for purposes of greenways and trails.<sup>40</sup> The Florida Greenways and Trails Council (Council) recommends lands for acquisition based on ranking criteria developed by DEP. DEP's Secretary either approves the Council's recommendations or modifies them.<sup>41</sup> OGT must develop its individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures developed by ARC for acquisitions.<sup>42</sup> OGT is exempt from the evaluation and selection procedures developed by ARC.<sup>43</sup>

### *Rural and Family Lands Protection Program Projects*

The Rural and Family Lands Protection Program (RFLPP) within DACS is an agricultural land preservation program designed to protect important agricultural lands through the acquisition of permanent agricultural land conservation easements. The RFLPP meets three needs:

- Protects valuable agricultural lands from conversion to other uses;
- Creates easement documents that work together with agricultural production to ensure sustainable agricultural practices and reasonable protection of the environment without interfering with agricultural operations in such a way that could put the continued economic viability of these operations at risk; and
- Protects natural resources, not as the primary purpose, but in conjunction with economically viable agricultural operations.<sup>44</sup>

DACS adopted rules that established an application process; a process and criteria for setting priorities for use of funds to achieve the purposes of the RFLPP and giving preference to ranch and timber lands managed using sustainable practices; an appraisal process; and a process for title review and compliance and approval of the rules by the BOT.<sup>45</sup>

### *Florida Forever Act*

The proceeds from cash payments or bonds issued under the Florida Forever Act must be deposited into the Florida Forever Trust Fund, minus the costs of issuing and the costs of funding reserve

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<sup>36</sup> Section 379.2222, F.S.

<sup>37</sup> Section 259.105(3)(l), F.S.

<sup>38</sup> DEP, *Office of Greenways and Trails*, <https://floridadep.gov/parks/ogt> (last visited Jan. 18, 2018).

<sup>39</sup> Section 260.014, F.S.

<sup>40</sup> Section 260.015(1), F.S.

<sup>41</sup> Section 260.016(2), F.S.; rr. 62S-1.300(7) and (8), F.A.C.

<sup>42</sup> Section 259.105(3)(l), F.S.

<sup>43</sup> Section 260.015(1)(c), F.S.

<sup>44</sup> DACS, *Rural and Family Lands Protection Program*, <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/Land-Planning-and-Administration-Section/Rural-and-Family-Lands-Protection-Program2> (last visited Jan. 18, 2018); s. 570.71(1), F.S.

<sup>45</sup> Section 570.71(10), F.S.; ch. 5I-7, F.A.C.

accounts and other costs associated with bonds.<sup>46</sup> DEP must distribute those proceeds in the following manner:

- Thirty percent to DEP for the acquisition of lands and capital project expenditures necessary to implement the WMDs' priority lists developed in their five-year work plans. WMDs must use a minimum of 50 percent of the total funds provided over the life of the Florida Forever Program for the acquisition of lands. The funds must be distributed to WMDs as follows: 35 percent to the South Florida WMD, 25 percent to the Southwest Florida WMD, 25 percent to the St. Johns River WMD, 7 ½ percent to the Suwannee River WMD, and 7 ½ percent to the Northwest Florida WMD.<sup>47</sup>
- Thirty-five percent to DEP for the acquisition of lands and capital project expenditures under the Florida Forever Program. The funds for the Florida Forever Program must be spent as follows:
  - Increased priority should be given to those acquisitions that achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge;
  - At a minimum, three percent, and no more than 10 percent, of the funds allocated to the Florida Forever Program must be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access; and
  - Beginning in the 2017-2018 fiscal year (FY) and continuing through the 2026-2027 FY, at least \$5 million must be spent on land acquisition within the Florida Keys Area of Critical State Concern.
- Twenty-one percent to DEP for use by FCT for purposes of the FCT Act and grants to local governments or nonprofit environmental organizations that are tax-exempt under s. 501(c)(3) of the United States Internal Revenue Code. FCT and the grant recipients must use those funds for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans. The funds for FCT must be spent as follows:
  - Emphasize funding projects in low-income or otherwise disadvantaged communities and projects that provide areas for direct water access and water-dependent facilities that are open to the public and offer public access by vessels to waters of the state, including boat ramps and associated parking and other support facilities;
  - At least 30 percent of the total allocation must be used in Standard Metropolitan Statistical Areas. One-half of that amount must be used in localities where the project site is located in built-up commercial, industrial, or mixed-use areas and functions to intersperse open spaces within congested urban core areas; and
  - No less than five percent must be used to acquire lands for recreational trail systems, provided that in the event these funds are not needed for such projects, they will be available for other trust projects.
- Two percent to DEP for grants under FRDAP.
- One and five-tenths percent to DEP for the purchase of inholdings and additions to state parks and for capital project expenditures. At a minimum, one percent, and no more than 10 percent, of the funds allocated to state parks must be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.
- One and five-tenths percent to FFS to fund the acquisition of state forest inholdings and additions, the implementation of reforestation plans or sustainable forestry management practices, and for capital project expenditures. At a minimum, one percent, and no more than 10 percent, of the funds allocated for the acquisition of inholdings and additions for state forests may be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.
- One and five-tenths percent to FWC to fund the acquisition of inholdings and additions to lands managed by FWC. The acquisitions must be important to the conservation of fish and wildlife and for certain capital project expenditures. At a minimum, one percent, and no more than 10

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<sup>46</sup> Section 259.105(3), F.S.

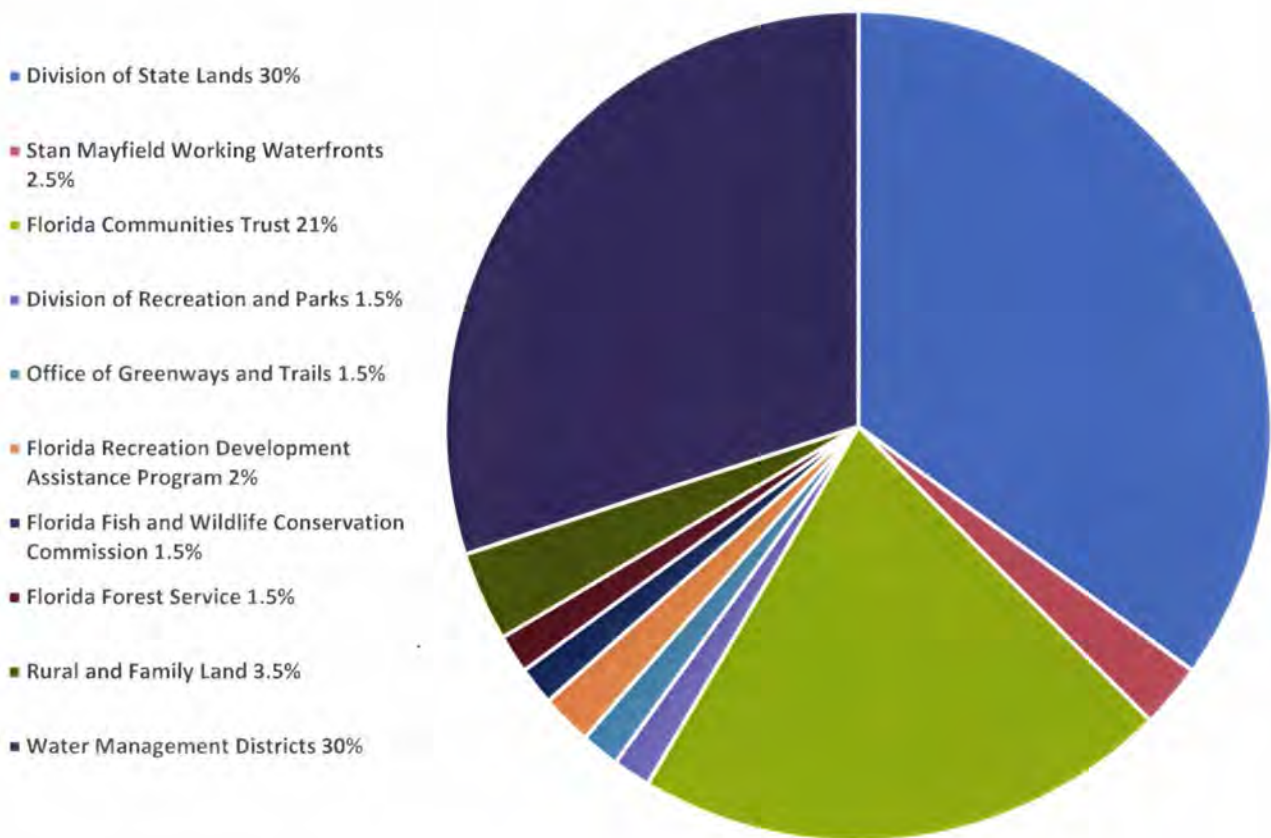
<sup>47</sup> Section 259.105(11), F.S.



percent, of the funds allocated to FWC may be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.

- One and five-tenths percent to DEP for FGT to acquire greenways and trails or greenways and trail systems. At a minimum, one percent, and no more than 10 percent, of the funds allocated to FGT may be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.
- Three and five-tenths percent to DACS for the acquisition of agricultural lands through perpetual conservation easements and other perpetual less than fee techniques that achieve the objectives of the Florida Forever Program and RFLPP.
- Two and five-tenths percent to DEP for the acquisition of land and capital project expenditures necessary to implement the Stan Mayfield Working Waterfronts Program within FCT.<sup>48</sup>

### Current Florida Forever Distribution



### *Everglades Agricultural Area Reservoir Project*

The Everglades Agricultural Area (EAA) Reservoir Project is a restoration project identified in the Comprehensive Everglades Restoration Project (CERP). CERP is composed of a series of projects designed to address the quality, quantity, timing and distribution of flow in the Central & Southern Florida Project to restore the south Florida ecosystem.<sup>49</sup> Chapter 2017-10, Laws of Florida, authorized the issuance of up to \$800 million in Florida Forever bonds for costs related the EAA Reservoir Project and other eligible water storage reservoir projects, including costs for land acquisition, planning, and construction.

<sup>48</sup> Section 259.105(3), F.S.

<sup>49</sup> Corps, *CERP Overview* (Mar. 2015), [http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CERP\\_FS\\_March2015\\_revised.pdf](http://www.saj.usace.army.mil/Portals/44/docs/FactSheets/CERP_FS_March2015_revised.pdf) (last visited Feb. 8, 2018).

## Effect of Proposed Changes

The bill amends ss. 215.618(1)(a); 259.032(9)(b), (d), and (e); and 259.105(2)(a), (2)(e), (4)(c)3., (4)(d)2., and (6), F.S., to remove the authorization to use Florida Forever funds for improvements, land management, enhancement, restoration, water resource development projects, and capital improvement projects to focus Florida Forever on land acquisition. These activities are authorized and are typically funded directly from the LATF. The bill also amends s. 215.618(1)(a), F.S., to authorize the use of Florida Forever funds to finance and refinance costs related to the EAA Reservoir Project and other water storage reservoir projects authorized under s. 373.4598, F.S.

The bill amends s. 259.03, F.S., to remove the definitions of "capital improvement," "capital project expenditure," and "water resource development project" because those types of projects will no longer be funded through Florida Forever based on the changes in the bill.

The bill amends s. 259.105(2)(a)9., F.S., to add connection of wildlife habitat with a wildlife crossing to the list of multiple benefits current and future Florida Forever acquisitions may provide. It also amends s. 259.105(4)(b)3., F.S., to add wildlife crossings to the criteria and numeric performance measures ARC must consider when evaluating projects that contribute to the goals of Florida Forever. These changes may require the BOT to amend ch. 18-24, F.A.C.

The bill amends s. 259.105(3), F.S., to consolidate the allocations identified in the Florida Forever Act into three categories: land acquisition, FCT, and RFLPP. Specifically, the bill:

- Consolidates funding allocations for land acquisition for Florida Forever projects selected by ARC; the purchase of inholdings for lands managed by DEP, FWC, and FFS; and FRDAP grants into one allocation receiving 33 ⅓ percent of the funding. FRDAP grants will not require review and approval by ARC.
- Requires DEP to distribute funds received in its Florida Forever Trust Fund for lands necessary to implement the water management districts' priority lists; purchase of inholdings for lands managed by DEP, FWC, and FFS; and to provide grants for land acquisition for FRDAP, if the acquisition proposed by an agency is identified as a current year priority, has demonstrated to be the greatest need, and is consistent with annual legislative appropriations.
- Requires agencies that receive funds for the acquisition of inholdings to develop individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures similar to ARC's criteria. These agencies may acquire the inholdings if the proposed additions are identified within the original project boundary, the land management plan, or the land management prospectus. Proposed additions not meeting these requirements must be submitted to ARC for approval. ARC may only approve the proposed addition if it meets two or more of the following criteria: serves as a link or corridor to other publicly owned property; enhances the protection or management of the property; adds a desirable resource to the property; creates a more manageable boundary configuration; protects a high resource value that would otherwise not be protected; and can be acquired at less than fair market value. This provision is similar to the requirements in s. 259.105(3)(l), F.S.
- Removes funding allocations for acquisitions identified on WMDs' priority lists; acquisition of inholdings and additions to state parks, state forests, and lands managed by FWC; and greenways and trails. These projects will still be eligible to receive funding through the priority list developed by ARC.
- Increases the funding allocation for FCT projects from 21 percent to 33 ⅓ percent and consolidates the Stan Mayfield Working Waterfronts Program into this allocation.
- Removes the requirement that allocations from FCT funding be used to fund projects in low-income or otherwise disadvantaged communities and projects that provide areas for direct water access and water-dependent facilities that are open to the public and offer public access by vessels to waters of the state.
- Removes the requirement that at least 30 percent of the allocations from FCT funding be used in Standard Metropolitan Statistical Areas.



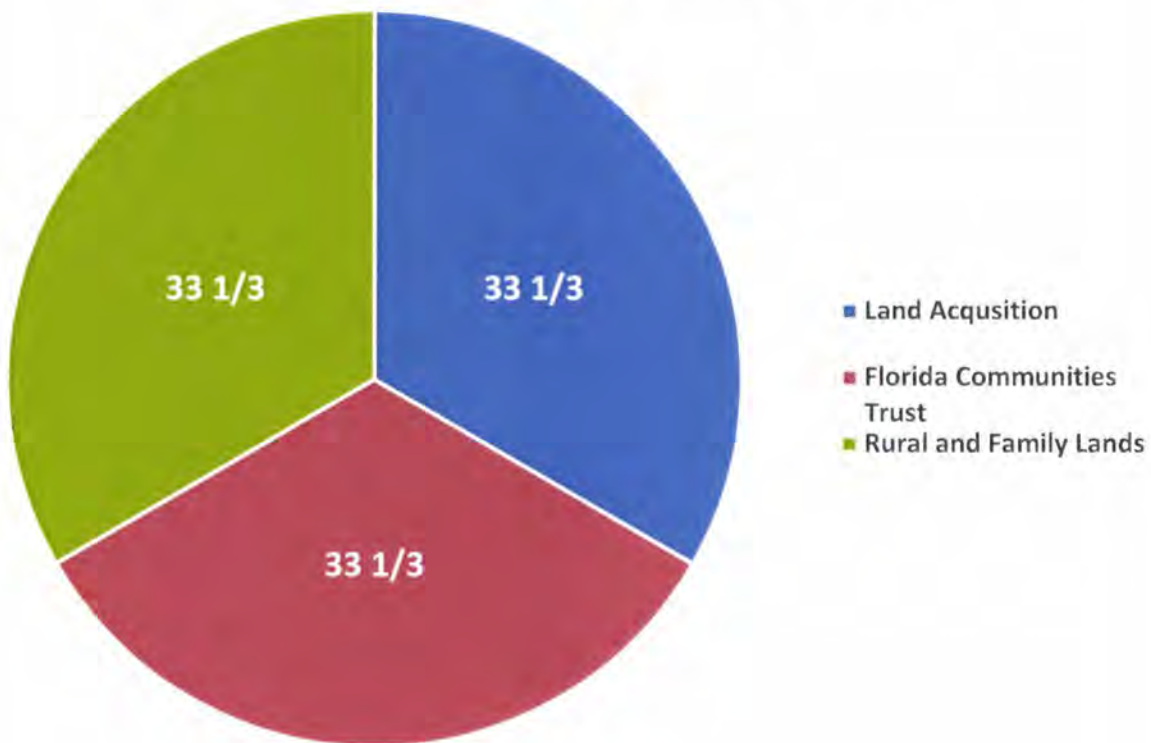
- Removes the requirement that no less than five percent of allocations from FCT funding be used to acquire lands for recreational trail systems.
- Increases funding allocations for RFLPP from  $3\frac{5}{10}$  percent to  $33\frac{1}{3}$  percent and requires that DACS give higher priority to the acquisition of rural-lands-protection easements where local governments are willing to provide cost-share funding for the acquisition.
- Removes specific appropriations for the 2016-2017 FY.

The bill repeals s. 259.105(11), F.S., to remove the requirement that each WMD receives a certain percentage of funds from the Florida Forever Trust Fund. It also amends s. 259.105(12), F.S., to prohibit WMDs from using Florida Forever funds to abrogate the financial responsibility of those point and nonpoint sources that have contributed to the degradation of water or land areas.

The bill amends s. 373.199(4)(h), F.S., to restrict the use of Florida Forever funds received by WMDs by providing that the funds may only be used to acquire land and pay associated land acquisition costs for projects identified in their annual work plans. WMDs must use other funding services to fund all other elements of their works plans.

The following graph represents the proposed changes to the Florida Forever distribution:

**Proposed Changes to Florida Forever Distribution**



## Land Acquisition Trust Fund

### Present Situation

Article X, s. 28 of the Florida Constitution directs 33 percent of net revenues derived from existing excise tax on documents<sup>50</sup> to LATF for 20 years.<sup>51</sup> Funds from LATF must be used to:

- Finance or refinance the acquisition and improvement of land, water areas, and related property interests and resources for conservation lands; WMAs; lands that protect water resources and drinking water sources and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area; beaches and shores; outdoor recreation lands; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands;<sup>52</sup> and
- Pay the debt service on bonds.<sup>53</sup>

Section 375.041, F.S., implements art. X, s. 28 of the Florida Constitution by allocating the distribution of funds from LATF. First, LATF funds must be used to pay debt service or to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds; and pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to Everglades restoration bonds.<sup>54</sup> Next, of the funds remaining after the payments to fund debt service, but before funds may be appropriated, pledged, or dedicated for other uses:

- A minimum of the lesser of 25 percent or \$200 million must be appropriated annually for Everglades restoration projects;<sup>55</sup>
- A minimum of the lesser of 7 <sup>6</sup>/<sub>10</sub> percent or \$50 million must be appropriated annually for spring restoration, protection, and management projects;<sup>56</sup>
- The sum of \$5 million must be appropriated each fiscal year through the 2025-2026 FY to the St. Johns River WMD for projects dedicated to the restoration of Lake Apopka;<sup>57</sup> and
- The sum of \$64 million must be appropriated and transferred to the Everglades Trust Fund for the 2018-2019 FY, and each fiscal year thereafter, for the Everglades Agricultural Area reservoir project.<sup>58</sup>

Finally, any remaining moneys in LATF not distributed as previously discussed must be appropriated for the purposes set forth in art. X, s. 28 of the Florida Constitution.<sup>59</sup>

### *C-43 Reservoir*

CERP is the congressionally approved framework for restoring, protecting and preserving the water resources of central and southern Florida. CERP calls for the construction of the Caloosahatchee River (C-43) West Basin Storage Reservoir Project. The project will help store and manage basin runoff, as

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<sup>50</sup> The documentary stamp tax is imposed on documents that transfer interest in Florida real property and certain types of debt. Documents subject to the tax include deeds, bonds, corporate shares, notes and written obligations to pay money, and mortgages, liens, and other evidences of indebtedness; *see* s. 201.02, 201.07, and 201.08, F.S.

<sup>51</sup> FLA. CONST. art. X, s. 28(a).

<sup>52</sup> FLA. CONST. art. X, s. 28(b)(1).

<sup>53</sup> FLA. CONST. art. X, s. 28(b)(2).

<sup>54</sup> Section 375.041(3)(a), F.S.

<sup>55</sup> Section 375.041(3)(b)1., F.S.

<sup>56</sup> Section 375.041(3)(b)2., F.S.

<sup>57</sup> Section 375.041(3)(b)3., F.S.

<sup>58</sup> Section 375.041(3)(b)4., F.S.

<sup>59</sup> Section 375.041(4), F.S.

well as Lake Okeechobee regulatory discharges, to meet the needs of the Caloosahatchee Estuary during the wet and dry seasons by reducing the frequency of undesirable salinity ranges.<sup>60</sup>

### Effect of Proposed Changes

The bill creates s. 375.041(3)(b)5., F.S., to establish the funding allocations for the Florida Forever Trust Fund for FYs 2019-2020 through 2035-2036. The bill also amends s. 375.041(3)(b)1., F.S., to require the highest funding priority for the construction of the C-43 West Basin Storage Reservoir Project.<sup>61</sup>

## **Conservation Lands**

### Revenue Generated from the Disposition of Conservation Lands

#### *Present Situation*

WMDs and local governments use a myriad of funding sources to purchase conservation lands. These funds may come from the state through the Florida Forever Program (or previously from Preservation 2000) or directly from the LATF. Funds for land acquisition may also come from taxes collected by the WMDs and local governments (ad valorem funds).<sup>62</sup>

For the disposal of property, WMDs follow the procedures in s. 373.089, F.S., while the BOT must follow the procedures found in s. 253.0341, F.S., which include additional requirements to ensure the public's interest is protected. The requirements include a study and standard for determining lands to sell, ARC review, first rights of refusal to local governments and colleges, appraisal procedures, bid requirements, and the management and accounting of funds generated from disposition of lands.

If a WMD sells conservation lands, with the exception of lands purchased with Preservation 2000 or Florida Forever funds, it is unclear where the proceeds of the sale must go. Beginning July 1, 2015, the BOT must deposit proceeds from any sale of conservation lands into the LATF.<sup>63</sup> This requirement arguably may not apply to WMDs because the statute directing the use of the disposition funds only mentions the BOT. The BOT, WMDs, and local governments must deposit any revenues generated from the disposal of lands acquired with Preservation 2000 funds into the Florida Forever Trust Fund within DEP.<sup>64</sup> WMDs cannot use any revenue derived from disposition of Preservation 2000 or Florida Forever lands for any purpose, except for the purchase of other lands meeting the criteria specified for the selection of WMD lands in s. 373.139, F.S., or payment of debt service on revenue bonds or notes issued by the WMD to undertake capital projects or other projects allowed by the Florida Constitution.<sup>65</sup> Further, the BOT and WMDs may not surplus or exchange lands if the effect of the sale or exchange would cause all or any portion of the interest on any revenue bonds issued to lose their tax-exempt status.<sup>66</sup>

It appears that at least one WMD improperly used funds from the disposition of conservation lands for purposes not authorized by statute. Further, some WMDs do not appear to be keeping proper records for the use and disposition of funds for conservation lands.<sup>67</sup>

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<sup>60</sup> South Florida WMD, *Quick Facts on Caloosahatchee River (C-43) West Basin Storage Reservoir*, [https://www.sfwmd.gov/sites/default/files/documents/spl\\_calooos\\_c43\\_reservoir.pdf](https://www.sfwmd.gov/sites/default/files/documents/spl_calooos_c43_reservoir.pdf) (last visited Jan. 18, 2018).

<sup>61</sup> South Florida WMD, *C-43 Draft Financial and Construction Update*, available upon request from the Natural Resources & Public Lands Subcommittee.

<sup>62</sup> Section 373.503, F.S.

<sup>63</sup> Section 253.0341(13), F.S.

<sup>64</sup> Section 259.101(5)(c), F.S.

<sup>65</sup> Section 373.139(6), F.S.

<sup>66</sup> Sections 215.618(6), 253.0341(15) and 373.139(6), F.S.

<sup>67</sup> State of Florida Auditor General, *Operational Audit Report NO. 2017-215, Suwannee River Water Management District* (June 2017), available at: [https://flauditor.gov/pages/pdf\\_files/2017-215.pdf](https://flauditor.gov/pages/pdf_files/2017-215.pdf) (last visited Jan. 18, 2018).

### *Effect of Proposed Changes*

The bill creates ss. 125.35(4) and (5), 166.0452, and 373.089(10) and (11), F.S., to require counties, municipalities, and WMDs to deposit proceeds from the sale of surplus conservation lands purchased with Florida Forever funds before July 1, 2015, into the Florida Forever Trust Fund if the entities do not use the proceeds for another purpose identified in the Florida Forever Act within three years. The bill also requires counties, municipalities, and WMDs to deposit proceeds from the sale of surplus conservation lands purchased with funds from the state on or after July 1, 2015, into the LATF if the entities do not use the proceeds for another purpose identified in article X, s. 28 of the Florida Constitution within three years. When counties, municipalities, or WMDs purchase conservation lands with state funds other than those from LATF or a land acquisition trust fund created to implement, article X, s. 28 of the Florida Constitution, counties, municipalities, and WMDs must deposit the proceeds from the sale into the fund from which they purchased the lands. If counties, municipalities, or WMDs bought the conservation land with multiple revenue sources, counties, municipalities, and WMDs must deposit an amount based on the percentage of state funds used for the original purchase.

The bill also relocates the provision prohibiting WMDs from surplusizing or exchanging lands in certain instances from s. 373.139(6), F.S., to s. 373.089(9), F.S.

### Revenue Generated from the Use of Conservation Lands Purchased with State Funding

#### *Present Situation*

Several WMDs generate revenue from the use of conservation lands purchased with state funds, including timber sales, hunting, and recreation. All state agencies must return revenues generated through multiple-use management or compatible secondary use management of their lands to the lead managing agency. The lead managing agency may only use these funds to pay for management activities on conservation, preservation, and recreation lands under the agency's jurisdiction. In addition, the agency must segregate such revenue in an agency trust fund to remain available to the agency in subsequent fiscal years to support land management activities.<sup>68</sup> It appears at least one WMD has used funds derived from the use of conservation lands purchased with state funding for purposes unrelated to land management, and the WMD did not segregate the revenue into the appropriate trust funds.<sup>69</sup>

#### *Effect of Proposed Changes*

The bill creates s. 373.1391(7), F.S., to require revenue generated through management or compatible secondary use management of district conservation lands purchased with state funds be retained by the WMD responsible for such management. It requires the WMD to use such revenue to pay for management activities on all conservation, preservation, and recreation lands under the district's jurisdiction. In addition, the WMD must segregate such revenue in a district trust fund or special revenue account and such revenue must remain available to the district in subsequent fiscal years to support land management activities.

### Local Rural Conservation Easement Programs

#### *Present Situation*

As previously discussed, the Rural and Family Lands Protection Program (RFLPP) within DACS is an agricultural land preservation program designed to protect important agricultural lands through the

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<sup>68</sup> Sections 253.036 and 259.032(9)(c), F.S.

<sup>69</sup> State of Florida Auditor General, *Operational Audit Report NO. 2017-215, Suwannee River Water Management District* (June 2017), available at: [https://flauditor.gov/pages/pdf\\_files/2017-215.pdf](https://flauditor.gov/pages/pdf_files/2017-215.pdf) (last visited Jan. 18, 2018).

acquisition of permanent agricultural land conservation easements. Local governments may conduct similar conservation easement programs within their jurisdictions to facilitate the preservation of agricultural lands through acquisition of development rights.<sup>70</sup> These types of conservation easement programs provide several benefits including:

- Protecting important farmland while keeping the land in private ownership and on local tax rolls;
- Creating a flexible property interest that can be tailored to meet the needs of individual farmers and ranchers and unique properties;
- Providing land owners with several tax benefits including income, estate, and property tax reductions;<sup>71</sup> and
- Helping farmers and ranchers transfer their operations to the next generation.<sup>72</sup>

### *Effect of Proposed Changes*

The bill creates ss. 253.0251(8) and 570.76(9), F.S., authorizing DEP and DACS to provide assistance to local governments administering their own rural-lands-protection easement program. DEP may provide technical support to review applications for inclusion in the local government's rural-lands-protection easement program, serve as the acquisition agent for the local government using the procedures it uses for the RFLPP, facilitate real estate closings, and monitor compliance with the conservation easements. DACS may provide technical support to review applications for inclusion in the local governments' rural-lands-protection easement program and monitor compliance with the conservation easements. DEP and DACS may not use any state funds to assist in the purchase of such easements or pay any acquisition costs. The local government must compensate DEP and DACS for their services, and DEP, DACS and the local government must document the agreement for assistance in a memorandum of agreement. The local government holds title to the conservation easement acquired on its behalf.

## **Maintenance and Control of Exotic and Invasive Species on State Lands**

### Present Situation

Generally, the state manages its uplands in a manner that will provide the greatest combination of benefits to the general public.<sup>73</sup> The BOT may authorize use of these lands when it determines such use to be in the public interest.<sup>74</sup> Managers of conservation lands must prepare, follow, and update every 10 years "land management plans."<sup>75</sup> All state agencies who use state conservation lands must submit a management plan to DSL for review.<sup>76</sup> The management plan must include goals that include measurable objectives for the following, as appropriate:

- Habitat restoration and improvement;
- Public access and recreational opportunities;
- Hydrological preservation and restoration;
- Sustainable forest management;
- Exotic and invasive species maintenance and control;
- Capital facilities and infrastructure;
- Cultural and historical resources; and
- Imperiled species habitat maintenance, enhancement, restoration, or population restoration.

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<sup>70</sup> See Miami-Dade County, *Purchase of Development Rights*, <http://www.miamidade.gov/business/agriculture-purchase-development-rights.asp> (last visited Jan. 18, 2018).

<sup>71</sup> See s. 193.501, F.S.

<sup>72</sup> Farmland Information Center, *Agricultural Conservation Easements*, available at:

[http://www.farmlandinfo.org/sites/default/files/Agricultural\\_Conservation\\_Easements\\_AFT\\_FIC\\_01-2016.pdf](http://www.farmlandinfo.org/sites/default/files/Agricultural_Conservation_Easements_AFT_FIC_01-2016.pdf) (last visited Jan. 18, 2018).

<sup>73</sup> Rule 18-2.018(2)(b), F.A.C.

<sup>74</sup> Rule 18-2.018(1), F.A.C.

<sup>75</sup> See s. 253.034(5), F.S.; r. 18-2.018(3)(a)5., F.S.

<sup>76</sup> Rule 18-2.018(3)(a)5.a., F.A.C.

## Effect of Proposed Changes

The bill amends s. 253.034(5)(b)5., F.S., to require the agencies that manage conservation lands to prioritize the exotic and invasive species that must be maintained or controlled and the areas where the control and maintenance must first be addressed in their land management plans.

## **State Park Volunteer Annual Entrance Pass**

### Present Situation

The DRP manages 175 parks covering 800,000 acres and 100 miles of beaches.<sup>77</sup> The state established these areas for the protection and preservation of their natural features or historic significance and for public use and enjoyment.<sup>78</sup>

DRP may charge reasonable fees, rentals, or charges for the use or operation of facilities and concessions in state parks. These fees must be deposited in the State Park Trust Fund. DRP may use these funds to administer, improve, maintain, acquire, and develop lands for state park purposes.<sup>79</sup> State park annual entrance passes are available for purchase that provide day use park entry into state parks, in lieu of paying daily entrance fees, for one year from the month of purchase.<sup>80</sup> An individual state park annual entrance pass costs \$60, while a family state park annual entrance pass costs \$120.<sup>81</sup> Discounts to state park annual entrance passes include:

- A 25 percent discount on state park annual entrance passes for active duty members and honorably discharged veterans of the United States Armed Forces, National Guard, or reserve components;<sup>82</sup>
- A lifetime family state park annual entrance passes at no charge for honorably discharged veterans who have service-connected disabilities; surviving spouses and parents of deceased members of the United States Armed Forces, National Guard, or reserve components who have fallen in combat; and surviving spouse and parents of a law enforcement officer or a firefighter who has died in the line of duty;<sup>83</sup>
- A free family state park entrance annual for families operating a family foster home licensed by the Department of Children and Families;
- A one-time family state park annual entrance pass at no charge for families who adopt a special needs child;<sup>84</sup>
- Free admission to a park along with their family for individuals who provide 100 hours of volunteer service; and
- A state park annual entrance pass for individuals who provide 500 hours of volunteer service.<sup>85</sup>

The United States Department of the Interior provides a similar annual pass volunteer program, the America the Beautiful Pass, to provide access to all federal recreation lands including national parks. Individuals may earn an America the Beautiful Pass if they perform 250 hours of volunteer service with federal agencies who manage federal lands.<sup>86</sup>

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<sup>77</sup> DEP, *Division of Recreation and Parks*, <https://floridadep.gov/parks> (last visited Feb. 5, 2018).

<sup>78</sup> Rule 62D-2.013(1), F.A.C.

<sup>79</sup> Section 258.014(1), F.S.

<sup>80</sup> Florida State Parks, *Annual Pass Information*, <https://www.floridastateparks.org/content/annual-pass-information#aboutannualpasses> (last visited Feb. 5, 2018).

<sup>81</sup> *Id.*; Family annual passes cover the entrance of up to eight people in a group, except at Ellie Schiller Homosassa Springs Wildlife State Park, Weeki Wachee Springs State Park, and Skyway Fishing Pier State Park where the family pass is good for admission of up to two people.

<sup>82</sup> Section 258.0145(1), F.S.

<sup>83</sup> Sections 258.0145(2) – (4), F.S.

<sup>84</sup> Section 258.0142(1), F.S.

<sup>85</sup> Florida State Parks, *Volunteer Opportunities*, <https://www.floridastateparks.org/get-involved/volunteer> (last visited Feb. 6, 2018)

<sup>86</sup> National Park Service, *America the Beautiful Passes*, <https://www.nps.gov/planyourvisit/passes.htm> (last visited Feb. 5, 2018).

## Effect of Proposed Changes

The bill adds s. 258.014(3), F.S., to require DRP to adopt rules to create a state park annual entrance pass program for volunteer work related to nonnative and invasive plant species removal. The bill requires DRP to issue a state parks annual entrance pass at no charge to individuals who perform 50 hours of volunteer service at any state park to remove nonnative and invasive plant species. The volunteer work performed by the individual must be consistent with the park's adopted unit management plan and under the supervision of DRP. The rules adopted by DRP must include, at a minimum:

- Identification of what qualifies as volunteer hours performed;
- A process to document and verify the individual performed 50 hours of volunteer service for nonnative and invasive species removal at state parks prior to receiving an annual entrance pass at no charge;
- A process to identify appropriate nonnative and invasive species removal activities and locations appropriate for volunteers consistent with each park's unit management plan; and
- A process for supervising volunteer activities to ensure the safety of the volunteers and the service is conducted in a manner consistent with the park's unit management plan.

## **Beach Management Funding Assistance Program**

Sandy shores line 825 miles of Florida's coasts, fronting the Atlantic Ocean, Gulf of Mexico, and Straits of Florida. These beaches serve several important functions, each being vital to maintaining the health of Florida's economy and environment. The coastal sandy beach system is home to hundreds of species of plants and animals that are dependent upon the beaches, dunes, and nearshore waters.<sup>87</sup> Beaches also serve as Florida's primary tourist attraction, generating millions of dollars for Florida's economy. The Office of Economic and Demographic Research (EDR) identified beaches as the most important feature of Florida's brand, and beaches have the strongest effect in terms of attracting tourists.<sup>88</sup> Nourished beaches contribute to the expanding federal, state, and local tax bases; increase sales, income, and employment opportunities from resident and visitor spending; and enhance property values by protecting the developed shorefront from storm surges and prevent loss of upland property.<sup>89</sup> During the 2010-2011 FY through 2012-2013 FY, \$5.40 of additional tax revenue was generated for every dollar spent by the state on beach restoration.<sup>90</sup>

Beaches are dynamic landforms at the edge of the ocean or gulf subject to both natural erosion and human-created erosion. Sand moves along the shore due to wind-driven currents and tides, and storms can cause dramatic changes to the beach. The majority of human-created erosion is attributed to the creation and maintenance of inlets. Construction and maintenance of the inlets historically removed sand from the coastal system, and jetties block the natural drift of sand along the shore, trapped sand in channels, or moved sand into ebb and flood shoals. The development and the placement of infrastructure in close proximity to the shore also contributes to coastal erosion by limiting the amount of sand stored in dunes and hardening the shore for protection of upland property.<sup>91</sup>

Due to storm events, construction and maintenance of inlets, imprudent coastal development, and other factors, 420.9 miles of Florida's beaches are critically eroded.<sup>92</sup> Recognizing the importance of

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<sup>87</sup> DEP, *Beaches and Coastal Systems*, <https://floridadep.gov/water/beaches> (last visited Feb. 5, 2018).

<sup>88</sup> EDR, *Economic Evaluation of Florida's Investment in Beaches*, Jan. 2015, p. 9, available at: <http://edr.state.fl.us/Content/returnnoninvestment/BeachReport.pdf> (last visited Feb. 5, 2018).

<sup>89</sup> DEP, *Strategic Beach Management Plan*, June 2015, p. 1, available at: <https://floridadep.gov/water/beaches-inlets-ports/documents/introduction-strategic-beach-management-plan> (last visited Feb. 5, 2018).

<sup>90</sup> EDR, *supra* note 90, at p. 12.

<sup>91</sup> DEP, *supra* note 91, at p. 1.

<sup>92</sup> DEP, *Critically Eroded Beaches in Florida Report*, December 2017, p. 5, available at:

<http://www.dep.state.fl.us/beaches/publications/pdf/CriticalErosionReport.pdf> (last visited Feb. 5, 2018). A "critically eroded shoreline" is a segment of shoreline where natural processes or human activities have caused, or contributed to, erosion and recession

the state's beaches and the problems presented by erosion, the Legislature declared it necessary to protect and restore the state's beaches through a comprehensive beach management planning program.<sup>93</sup> Under the planning program, DEP evaluates beach erosion problems throughout the state seeking viable solutions.<sup>94</sup> The Beach Management Funding Assistance Program (funding program) serves as the primary vehicle to implement the beach management planning recommendations with the purpose of working in concert with local, state, and federal governmental entities to achieve the protection, preservation, and restoration of the coastal sandy beach resources of the state.<sup>95</sup> The funding program provides cost-share funding with county and municipal governments, community development districts, or special taxing districts for shore protection and preservation activities (collectively "local sponsors") to implement beach management and inlet management projects.<sup>96</sup> DEP annually evaluates and ranks beach management and inlet management project funding requests submitted by local sponsors and submits its recommendation to the Legislature for funding consideration.<sup>97</sup>

## Beach Management Projects

### *Present Situation*

"Beach Management" is protecting, maintaining, preserving, or enhancing Florida's beaches. Beach management activities include beach restoration<sup>98</sup> and nourishment<sup>99</sup> activities; dune protection and restoration; restoration of natural shoreline processes; removal of derelict structures and obstacles to natural shoreline process in conjunction with restoration or nourishment; and construction of erosion control structures (beach management projects).<sup>100</sup> To receive funding, beach management projects must be consistent with the adopted Strategic Beach Management Plan (SBMP).<sup>101</sup> Funding for these beach management projects comes from federal, state, and local government sources. DEP may provide financial assistance to local sponsors in an amount up to 75 percent of the beach management project costs for beach management projects located on critically eroded beaches fronting the Gulf of Mexico, Atlantic Ocean, or Straits of Florida.<sup>102</sup> However, until the unmet demand for repairing Florida's beaches and dunes is met, DEP may only provide cost-share funding up to 50 percent of the of the non-federal share.<sup>103</sup>

Beach management projects must provide adequate public access, protect natural resources, and provide protection for endangered and threatened species.<sup>104</sup> Further, DEP may not fund projects that provide only recreational benefits. All funded activities must have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing sand in the system.<sup>105</sup>

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of the beach and dune system to such a degree that upland development, recreational interests, wildlife habitat or important cultural resources are threatened or lost. Critically eroded shoreline may also include adjacent segments or gaps between identified critical erosion areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects; r. 62B-36.002(5), F.A.C.

<sup>93</sup> Sections 161.088 and 161.091, F.S.

<sup>94</sup> Section 161.101(2), F.S.

<sup>95</sup> DEP, *Beach Funding*, <https://floridadep.gov/wra/beaches-funding> (last visited Feb. 5, 2018).

<sup>96</sup> Rules 62B-36.001 and 62B-36.002(9), F.A.C.

<sup>97</sup> Sections 161.101 and 161.143, F.S.

<sup>98</sup> "Beach restoration" is the placement of sand on an eroded beach for the purposes of restoring it as a recreational beach and providing storm protection for upland properties; s. 161.021(4), F.S.

<sup>99</sup> "Beach nourishment" is the maintenance of a restored beach by the replacement of sand; s. 161.021(3), F.S.

<sup>100</sup> Rule 62B-36.002(3), F.A.C.

<sup>101</sup> Rule 62B-36.005(3), F.A.C.

<sup>102</sup> Sections 161.101(1) and (7), F.S.

<sup>103</sup> Section 161.101(15), F.S.; rr. 62B-36.003(9) and 62B-36.007(1), F.A.C. DEP may pay up to 100 percent of the costs of a project when the state is the upland riparian owner.; s. 161.101(10), F.S.

<sup>104</sup> Section 161.101(12), F.S.

<sup>105</sup> Section 161.101(13), F.S.



Currently, local, state and federal entities manage approximately 227 miles of critically eroded beaches in Florida.<sup>106</sup>

Annually, local sponsors submit cost-share funding requests to DEP.<sup>107</sup> DEP must evaluate and rank these requests based on the information submitted by the local sponsor prior to submitting a funding recommendation to the Legislature.<sup>108</sup> DEP prioritizes the beach management projects based on the following criteria:

- The severity of erosion conditions, the threat to existing upland development, and recreational or economic benefits;
- The availability of federal matching dollars;
- The extent of the local government sponsor financial and administrative commitment to the beach management project, including a long-term financial plan with a designated funding source or sources for initial construction and periodic maintenance;
- Previous state commitment and involvement in the beach management project;
- The anticipated physical performance of the proposed beach management project, including the frequency of periodic planned nourishment;
- The extent to which the proposed beach management project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches;
- Innovative, cost-effective, and environmentally sensitive applications to reduce erosion;
- Beach management projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles;
- The extent to which local or regional sponsors of beach erosion control beach management projects agree to coordinate the planning, design, and construction of their beach management projects to take advantage of identifiable cost savings; and
- The degree to which the beach management project addresses the state's most significant beach erosion problems.<sup>109</sup>

In the event that more than one beach management project ranks equally, DEP must assign funding priority to those beach management projects that are ready to proceed.<sup>110</sup>

### *Effect of Proposed Changes*

The bill amends s. 161.101(14), F.S., to add the economic benefit of beach management projects to the criteria DEP must consider when determining annual funding priorities. DEP must measure the economic benefit by the ratio of the tourist development tax revenue collected<sup>111</sup> for the most recent year to state sales tax and the tourist development tax revenues for the most recent year. DEP must calculate this ratio using state sales tax and the tourist development tax data of the county having jurisdiction over the beach management project area. If multiple counties have jurisdiction over the beach management project area, DEP must calculate the ratio for each county individually. DEP must then calculate the mean average of these ratios to determine the final overall economic benefit of the beach management project for the multicounty beach management project. This change will likely require rulemaking.

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<sup>106</sup> DEP, *supra* note 97.

<sup>107</sup> Rule 62B-36.005(1), F.A.C.

<sup>108</sup> Rules 62B-36.005(3) and (4), F.A.C.

<sup>109</sup> Section 161.101(14), F.S.

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

<sup>111</sup> Taxes levied on any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, condominium, or timeshare resort for a term of 6 months or less. s. 125.0104, F.S.

## Strategic Beach Management Plan

### *Present Situation*

The SBMP provides an inventory of Florida's strategic beach management areas fronting on the Atlantic Ocean, Gulf of Mexico, and Straits of Florida and an inventory of Florida's 66 coastal barrier tidal inlets.<sup>112</sup> Beach management and inlet management projects proposed by local sponsors must be consistent with the SBMP to receive funding.<sup>113</sup> The SBMP must:

- Address long-term solutions to the problem of critically eroded beaches in this state;
- Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion;
- Design criteria for beach restoration and beach nourishment projects;
- Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches and the source of beach-compatible sand;
- Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles;
- Identify shoreline development and degree of density and assess impacts of development and shoreline protective structures on shoreline change and erosion;
- Identify short-term and long-term economic costs and benefits of beaches;
- Study dune and vegetation conditions;
- Identify beach areas used by marine turtles and develop strategies for protection of the turtles and their nests and nesting locations;
- Identify alternative management responses;
- Establish criteria for alternative management techniques;
- Select and recommend appropriate management measures for all of the state's sandy beaches in a beach management program; and
- Establish a list of beach restoration and beach nourishment projects, arranged in order of priority, and the funding levels needed for such projects.<sup>114</sup>

DEP may prepare the SBMP at the regional level based upon areas of greatest need and probable federal funding. The regional plans must be components of the SBMP and must serve as the basis for state funding decisions once approved by the secretary of DEP and the BOT. DEP staff must submit any completed regional plans to the secretary of DEP for approval no later than March 1 of each year. These regional plans must include, but shall not be limited to, recommendations of appropriate funding mechanisms for implementing projects in the beach management plan. DEP must hold public meetings in the areas affected by the proposed regional plans prior to presenting the plan to the secretary of DEP for approval.

### *Effect of Proposed Changes*

The bill amends s. 161.161(1), F.S., to update how DEP must develop and maintain its comprehensive long-term beach management plan. Specifically, the bill:

- Requires DEP to include improvement of infrastructure to facilitate sand bypassing in its recommendations on how to mitigate each inlet's erosive impacts;
- Eliminates the requirement for DEP to include cost estimates necessary to take inlet corrective measures and recommendations for cost sharing among the beneficiaries of such inlets;
- Requires DEP to evaluate, rather than design, criteria for beach restoration and beach nourishment;
- Adds that DEP must consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach

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<sup>112</sup> DEP, *supra* note 3, at p. 1.

<sup>113</sup> *Id.* at 5.; r. 62B-36.005(3), F.A.C.

<sup>114</sup> Section 161.161(1), F.S.

restoration. DEP must recommend location of such regional sediment management alternatives;

- Eliminates the requirement for DEP to consider the establishment of feeder beaches for inlet sand bypassing projects;
- Requires DEP to maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions;<sup>115</sup>
- Removes the requirement for DEP to project long-term erosion for all major beach and dune systems by surveys and profiles;
- Removes the requirement for DEP to identify shoreline development and degree of density;
- Requires DEP to assess the impact of coastal protection structures on shoreline change and erosion;
- Requires DEP to identify short-term and long-term economic costs and benefits of beaches to the state and individual beach communities;
- Eliminates the requirement to include recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs in the evaluation by DEP;
- Requires DEP to identify existing beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance events;
- Eliminates the requirement for DEP to identify alternative management responses to prevent inappropriate development and redevelopment on migrating beaches and to consider abandonment of development as an alternative management response. DEP must still consider relocation of development;
- Requires DEP to document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates;
- Removes the requirement for DEP to establish criteria including costs and specific implementation actions for alternative management techniques;
- Eliminates the requirement for DEP to select and recommend appropriate management measures for all of the state's sandy beaches in the beach management program. The bill replaces this requirement with the requirement to identify and assess appropriate management measures for all of the critically eroded beaches; and
- Removes the requirement for DEP to establish a list of beach restoration and beach nourishment projects in priority order for funding. This requirement already exists in s. 161.101(14), F.S.

The bill creates s. 161.161(2), F.S., to require the comprehensive long-term management plan developed and maintained by DEP to include at a minimum a SBMP, a critically eroded beaches report, and a statewide long-range budget plan.

The SBMP must identify and recommend appropriate measures for all of the state's critically eroded sandy beaches and may incorporate plans prepared at the regional level, taking into account areas of greatest need and probable federal and local funding. The bill removes information that must be included in the regional plans. This criterion is similar to what DEP considers in the statewide plan. The bill removes the requirement for DEP staff to present the plan to the secretary of DEP by March 1 of each year. DEP must still hold public meetings before finalizing such regional plans. The bill also authorizes DEP to host publically noticed webinars in lieu of holding public meetings.

DEP must base the critically eroded beaches report on data, analyses, and investigations of shoreline conditions.

The statewide long-range budget plan must include at least five years of planned beach restoration, beach nourishment, and inlet management projects funding needs as identified, and subsequently

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<sup>115</sup> DEP's current Critical Erosion Report may be found at: <https://floridadep.gov/water/engineering-hydrology-geology/documents/critically-eroded-beaches-florida> (last visited Feb. 5, 2018).

refined, by local sponsors. The plan must identify the proposed schedule of the feasibility, design, construction, and monitoring phases of the projects anticipated in the next five years and the projected costs of those phases. DEP may present the projects by region and does not need to present the projects in priority order. However, DEP must identify issues that may prevent successful completion of such projects and recommend solutions that would allow the projects to progress.

Lastly, the bill creates s. 161.161(3), F.S., to require the secretary of DEP to present the statewide long-range budget plan to the Legislature as part of the annual budget request. The statewide long-range budget plan must include a five-year financial forecast for the availability of funding for projects.

## **Comprehensive Plan Water Facilities Work Plan**

### Present Situation

Local governments are required to include a general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element in their comprehensive plan, correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area.<sup>116</sup>

The element must describe the problems and needs and the general facilities that will be required for solution of the problems and needs, including correcting existing facility deficiencies. It must address coordinating the extension of, or increase in the capacity of, facilities to meet future needs while maximizing the use of existing facilities and discouraging urban sprawl; conserving potable water resources; and protecting the functions of natural groundwater recharge areas and natural drainage features.<sup>117</sup> The element must also identify traditional water supply projects, alternative water supply projects, conservation, and reuse necessary to meet the water needs within the local government's jurisdiction. It must include a work plan, covering at least a 10-year planning period, for building public, private, and regional water supply facilities, including development of alternative water supplies, which are identified as necessary to serve existing and new development (water facilities work plan). Local governments must update the water facilities work plan at least every five years within 18 months after a WMD approves an updated regional water supply plan (RWSP).<sup>118</sup>

A local government that does not own, operate, or maintain its own water supply facilities, including, but not limited to, wells, treatment facilities, and distribution infrastructure, and is served by a public water utility with a permitted allocation of greater than 300 million gallons per day is not required to:

- Amend its comprehensive plan in response to an updated RWSP; or
- Maintain a work plan if any such local government's usage of water constitutes less than one percent of the public water utility's total permitted allocation.

However, the local government must cooperate with and provide relevant data to any local government or utility provider that provides services within its jurisdiction, and keep its general sanitary sewer, solid waste, potable water, and natural groundwater aquifer recharge element updated.

### *Rural Area of Opportunity*

A rural area of opportunity (RAO) is a rural community,<sup>119</sup> or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event,

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<sup>116</sup> Section 163.3177(6)(c), F.S.

<sup>117</sup> Section 163.3177(6)(c)2., F.S.

<sup>118</sup> Section 163.3177(6)(c)3., F.S.

<sup>119</sup> Section 288.0656(2)(e), defines a "rural community" to mean: a county with a population of 75,000 or fewer; a county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; a municipality within a county meeting the definition of rural community; an unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors and verified by the Department of

severe or chronic distress, or a natural disaster that presents a unique economic development opportunity of regional impact.<sup>120</sup> The three designated RAOs are the:

- Northwest RAO, which includes Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport;
- South Central RAO, which includes DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay, and Immokalee; and
- North Central RAO, which includes Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.<sup>121</sup>

### Effect of Proposed Changes

The bill amends s. 163.3177(6)(c)3., F.S., to exempt a local government that is designated as a RAO, and that does not own, operate, or maintain its own water supply facilities, including, wells, treatment facilities, and distribution infrastructure, from developing or maintaining a water facilities work plan.

### **C-51 Reservoir Project**

#### Present Situation

The C-51 reservoir project is a water storage facility<sup>122</sup> located in western Palm Beach County south of Lake Okeechobee consisting of in-ground reservoirs and conveyance structures that will provide water supply and water management benefits to participating water supply utilities and provide environmental benefits by reducing freshwater discharges to tide and making water available for natural systems.<sup>123</sup>

The C-51 reservoir project consists of Phase I and Phase II. Phase I will provide approximately 14,000 acre-feet of water storage and will hydraulically connect to the South Florida WMD's L-8 Flow Equalization Basin. Phase II will provide approximately 46,000 acre-feet of water storage, for a total increase of 60,000 acre-feet of water storage.<sup>124</sup>

If state funds are appropriated for Phase I or Phase II, the South Florida WMD must operate the reservoir to maximize the reduction of high-volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries, in addition to providing relief to the Lake Worth Lagoon; water made available by the reservoir must be used for natural systems in addition to any allocated amounts for water supply; and any water received from Lake Okeechobee may not be available to support consumptive use permits (CUPs).<sup>125</sup>

Phase I may be funded by appropriation or through the water storage facility revolving loan fund. Phase II may be funded by the issuance of Florida Forever bonds, through the water storage facility revolving loan fund, as a project component of the CERP, or through the Everglades Trust Fund.<sup>126</sup>

#### *Water Storage Facility Revolving Loan Fund*

The state, through DEP, must provide funding assistance to local governments or water supply entities for the development and construction of water storage facilities to increase the availability of sufficient

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Economic Opportunity (DEO). Population must be determined in accordance with the most recent official estimate pursuant to s. 186.901, F.S.

<sup>120</sup> Section 288.0656(2)(d), F.S.

<sup>121</sup> DEO, *RAO*, <http://www.floridajobs.org/business-growth-and-partnerships/rural-and-economic-development-initiative/rural-areas-of-opportunity> (last visited Jan. 17, 2018).

<sup>122</sup> Section 373.475(2)(b), F.S., defines water storage facility.

<sup>123</sup> Section 373.4598(9)(a), F.S.

<sup>124</sup> Section 373.4598(9)(b), F.S.

<sup>125</sup> Section 373.4598(9)(d), F.S.

<sup>126</sup> Section 373.4598(9)(e), F.S.; see s. 373.475, F.S., for the water storage facility revolving loan fund.

water for all existing and future reasonable-beneficial uses and natural systems. DEP may make loans, provide loan guarantees, purchase loan insurance, and refinance local debt through the issuance of new loans for water storage facilities approved by DEP. Local governments or water supply entities may borrow funds made available and may pledge any revenues or other adequate security available to them to repay any funds borrowed. DEP may award loan amounts for up to 75 percent of the costs of planning, designing, constructing, upgrading, or replacing water resource infrastructure or facilities, whether natural or manmade, including the acquisition of real property for water storage facilities.<sup>127</sup> The minimum amount of a loan is \$75,000 and the term of the loan may not exceed 30 years.<sup>128</sup>

### Effect of Proposed Changes

The bill amends s. 373.4598(9)(d), F.S., and requires that if state funds are appropriated for Phase I or Phase II: the South Florida WMD, to the extent practicable, must operate either Phase I or Phase II to maximize the reduction of high-volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries, in addition to maximizing the reduction of harmful discharges to the Lake Worth Lagoon; that the operation of Phase I be in accordance with any operation and maintenance agreement adopted by the South Florida WMD; that water made available by Phase I or Phase II be used for natural systems in addition to any permitted amounts for water supply issued in accordance with executed capacity allocation agreements; and water received from Lake Okeechobee may only be available to support CUPs if the use is in accordance with rules of the South Florida WMD for the applicable restricted allocation area.

The bill allows the South Florida WMD to enter into a capacity allocation agreement with a water supply entity for a pro rata share of unreserved capacity in the water storage facility and to request DEP to waive repayment of all or a portion of the loan issued under the water storage facility revolving loan fund. The bill allows DEP to authorize such waiver if, at its determination, it has received reasonable value for the waiver.

## **Regional Water Supply Authorities**

### Present Situation

Municipalities, counties, and special districts are encouraged to create regional water supply authorities (RWSA) or multijurisdictional water supply entities to develop, recover, store, and supply water for county or municipal purposes that will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas.<sup>129</sup> RWSAs are created by interlocal agreement, and are reviewed and approved by DEP to ensure the agreement will be in the public interest. Currently, there are four RWSAs in Florida: Tampa Bay Water (formerly known as the West Coast RWSA), Peace River/Manasota RWSA, Withlacoochee RWSA, and Walton/Okaloosa/Santa Rosa Regional Utility Authority.<sup>130</sup>

### *Water Resource Development and Funding*

WMDs take the lead in identifying and implementing water resource development projects, and are responsible for securing necessary funding for regionally significant water resource development projects, including regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet a MFL or to implement a recovery or prevention strategy or water reservation.<sup>131</sup>

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<sup>127</sup> Sections 373.475(3)(a)-(b), F.S.

<sup>128</sup> Section 373.475(7), F.S.

<sup>129</sup> Sections 373.707(1)(c) and 373.713(1), F.S.

<sup>130</sup> DEO, *Water Supply Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/water-supply-planning> (last visited Jan. 15, 2018).

<sup>131</sup> Sections 373.705(1)(a) and (2)(b), F.S.

WMDs are required to include in their annual budget submittals the amount of funds for each water resource development project in the annual funding plan of the WMD's five-year Water Resource Development Work Program (Work Program).<sup>132</sup>

### *Water Supply Development and Funding*

Local governments, RWSAs, and government-owned and privately owned water utilities are the lead in securing funding for and implementing water supply development projects.<sup>133</sup> Generally, direct beneficiaries of water supply development projects should pay the costs of the projects from which they benefit, and water supply development projects should continue to be paid for through local funding sources.<sup>134</sup>

Water supply development projects that are consistent with RWSPs and that meet one or more of the following criteria must receive priority consideration for state or WMD funding assistance:

- Supports establishment of a dependable, sustainable supply of water that is not otherwise financially feasible;
- Provides substantial environmental benefits, but requires assistance to be economically competitive; or
- Significantly implements reuse, storage, recharge, or conservation of water that contributes to the sustainability of regional water sources.<sup>135</sup>

Additionally, if a water supply development project meets one of the criteria previously mentioned and meets one or more of the following criteria, then the project must be given first consideration for state or WMD funding assistance:

- Brings about replacement of existing sources aiding in the implementation of an MFL;
- Implements reuse assisting in the elimination of a domestic wastewater ocean outfall; or
- Reduces or eliminates the adverse effects of competition between legal users and the natural system.<sup>136</sup>

Water supply development must be conducted in coordination with the WMD regional water supply planning and water resource development.<sup>137</sup>

### *Consolidated WMD Annual Report*

By March 1, each WMD must prepare and submit to DEP, the Governor, and the Legislature a consolidated WMD annual report on the management of water resources.<sup>138</sup> Among the requirements of the consolidated WMD annual report is the inclusion of the Work Program.<sup>139</sup>

The Work Program must describe the WMD's implementation strategy and include an annual funding plan for each of the five years included in the Work Plan for the water resource and water supply development components of each approved RWSP developed or revised. The Work Program must address all the elements of the water resource development component in the WMD's RWSPs, as well as the water supply projects proposed for WMD funding and assistance.<sup>140</sup>

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<sup>132</sup> Section 373.705(3)(b)1., F.S.; s. 373.536(6)(a)4., F.S., describes the Work Program.

<sup>133</sup> Sections 373.705(1)(b) and (2)(c), F.S.

<sup>134</sup> Sections 373.705(2)(c), F.S.

<sup>135</sup> Section 373.705(4)(a), F.S.

<sup>136</sup> Section 373.705(4)(b), F.S.

<sup>137</sup> Section 373.705(2)(d), F.S.

<sup>138</sup> Section 373.036(7)(a), F.S.

<sup>139</sup> Section 373.036(7)(b)5., F.S.

<sup>140</sup> Section 373.536(6)(a)4., F.S.

## *Polk Regional Water Cooperative and Annual Report*

In 2016, Polk County and 15 municipalities within the county entered into an interlocal agreement to create a RWSA known as the Polk Regional Water Cooperative (cooperative).<sup>141</sup> In 2017, HB 573 passed, requiring the cooperative to prepare a comprehensive annual report for water resource projects it identified for state funding consideration.<sup>142</sup> The cooperative must submit its comprehensive annual report by December 1, 2017, and annually thereafter, to the Governor, Legislature, DEP, and appropriate WMDs.<sup>143</sup> Additionally, the cooperative must coordinate annually with the appropriate WMD to submit a status report on projects receiving priority state funding for inclusion in the consolidated WMD annual report.<sup>144</sup>

### Effect of Proposed Changes

The bill amends s. 373.713, F.S., and requires RWSAs to coordinate annually with the appropriate WMD to submit a status report on water resource development projects receiving state funding for inclusion in the consolidated WMD annual report.

### **Innovative Nutrient Reduction**

#### Present Situation

Nutrient pollution is caused by excess nitrogen and phosphorus in the air and water. These nutrients are natural parts of aquatic ecosystems, but when too much enter the environment, usually from a wide range of human activities (e.g., onsite sewage treatment and disposal systems (OSTDS), industrial and domestic wastewater discharges, livestock manure, stormwater runoff, commercial and residential fertilization application, and car and power plant air emissions), the air and water can become polluted. Nutrient pollution has impacted many streams, rivers, lakes, bays and coastal waters, resulting in serious environmental and human health issues, and impacting the economy.<sup>145</sup>

During the 2016 Legislative session, the innovative nutrient and sediment reduction and conservation pilot project program was created.<sup>146</sup> The pilot projects are intended to test the effectiveness of innovative or existing nutrient reduction or water conservation technologies, programs, or practices to minimize nutrient pollution or restore flows in the water bodies of the state.<sup>147</sup>

Upon a specific appropriation in the General Appropriation Act, DEP may fund the pilot projects.<sup>148</sup> DEP is required to initiate rulemaking to establish criteria for evaluating and ranking pilot projects for funding. The criteria must include a determination by DEP that the pilot project will not be harmful to the ecological resources in the study area and give preference to projects that will result in the greatest improvement to water quality and water quantity for the dollars to be expended for the project.<sup>149</sup>

DEP's rules for the innovative nutrient and sediment reduction and conservation pilot project program are contained in ch. 62-570, F.A.C.

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<sup>141</sup> Polk Regional Water Cooperative, *Interlocal Agreement Relating to the Establishment of the Polk Regional Water Cooperative*, [http://www.prcwater.org/docs/default-source/documents/prwc-charter-\(formation-interlocal-agreement\).pdf?sfvrsn=fb00418\\_4](http://www.prcwater.org/docs/default-source/documents/prwc-charter-(formation-interlocal-agreement).pdf?sfvrsn=fb00418_4) (last visited Jan. 15, 2018).

<sup>142</sup> Ch. 2017-111, Laws of Fla.; s. 373.463(1), F.S.

<sup>143</sup> Section 373.463(2), F.S.

<sup>144</sup> Section 373.463(3), F.S.; see s. 373.036(7), F.S., for the consolidated WMD annual report.

<sup>145</sup> EPA, *Nutrient Pollution*, <https://www.epa.gov/nutrientpollution/problem> (last visited Feb. 5, 2018).

<sup>146</sup> Chapter 2016-1, Laws of Fla.; see s. 403.0617, F.S.

<sup>147</sup> Section 403.0671(1), F.S.

<sup>148</sup> Section 403.0671(1), F.S.

<sup>149</sup> Section 403.0617(2), F.S.



## *Water Quality Standards and Total Maximum Daily Loads*

The CWA requires states to adopt water quality standards (WQS) for navigable waters, and to develop lists of waterbodies that do not meet WQS (impaired waters). States are then required to develop a total maximum daily load (TMDL) for the particular pollutants and the concentration of those pollutants causing the impairment relative to WQS, which serves as the maximum allowable amount of pollutants that the waterbody can receive while maintaining WQS.<sup>150</sup>

TMDLs must include reasonable and equitable pollutant load allocations between or among point sources and nonpoint sources that will alone, or in conjunction with other management and restoration activities, provide for the attainment of the pollutant reductions to achieve WQS for the pollutant causing impairment.<sup>151</sup> Implementation of the allocation must include consideration of a cost-effective approach coordinated between contributing point and nonpoint sources of pollution for impaired water bodies and may include the opportunity to implement the allocation through nonregulatory and incentive-based programs.<sup>152</sup>

## *Basin Management Action Plans*

Once a TMDL is adopted,<sup>153</sup> DEP may develop and implement a basin management action plan (BMAP) that addresses some or all of the watersheds and basins tributary to the water body.<sup>154</sup> A BMAP must integrate appropriate management strategies available to the state through existing water quality protection programs to achieve the TMDL.<sup>155</sup> Existing water quality protection programs include, but are not limited to:

- Permitting and other existing regulatory programs (e.g., water quality-based effluent limitations);
- Nonregulatory and incentive-based programs (e.g., best management practices, cost sharing, waste minimization, pollution prevention, and public education);
- Other water quality management and restoration activities (e.g., WMD surface water improvement and management plans);
- Trading of water quality credits or other equitable economically-based agreements;
- Public works including capital facilities; or
- Land acquisition.<sup>156</sup>

The BMAP must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved. An assessment of progress toward these milestones is conducted every five years, and the BMAP is revised as appropriate.<sup>157</sup>

## Effect of Proposed Changes

The bill amends s. 403.067, F.S., relating to the development of BMAPs and implementation of TMDLs. The bill authorizes DEP to consider and include innovative nutrient reduction pilot projects designed to reduce nutrient pollution as part of a BMAP. The bill also allows DEP to provide cost-share funding for these innovative nutrient reduction pilot projects.

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<sup>150</sup> 33 U.S.C. § 1313; *see s. 403.067, F.S.*

<sup>151</sup> Section 403.067(6)(b), F.S.

<sup>152</sup> Section 403.067(1), F.S.

<sup>153</sup> Section 403.067(6)(c), F.S.

<sup>154</sup> Section 403.067(7)(a)1., F.S.

<sup>155</sup> Section 403.067(7)(a)1., F.S.

<sup>156</sup> Section 403.067(7)(b)1., F.S.

<sup>157</sup> Section 403.067(7)(a)6., F.S.

## Stormwater Management

### Present Situation

Stormwater is generated from rain events that produce drainage and runoff, which is the flow of rainfall over land or impervious surfaces (e.g., paved streets, parking lots, rooftops) that does not soak into the ground.<sup>158</sup> The National Pollutant Discharge Elimination System (NPDES) Stormwater Program regulates discharges of stormwater from three potential sources: Municipal Separate Storm Sewer Systems (MS4s), construction activities, and industrial activities. The United States Environmental Protection Agency (EPA) developed the NPDES stormwater permitting program in two phases. Phase I, promulgated in 1990, addresses large and medium MS4s<sup>159</sup> and certain categories of industrial activity, one of which is large construction activity that disturbs five or more acres of land. Phase II, promulgated in 1999, addresses additional sources, including MS4s not regulated under Phase I, and small construction activity disturbing between one and five acres.<sup>160</sup> In October 2000, the EPA authorized DEP to implement the NPDES stormwater permitting program in all areas of the state, except tribal lands.<sup>161</sup>

### *Department of Transportation*

Stormwater discharges from the Department of Transportation's (DOT) projects and facilities are regulated under multiple water pollution control programs, including the NPDES stormwater permitting program. DOT operates both Phase I and Phase II MS4s throughout the state.<sup>162</sup>

### *State, Regional, and Local Stormwater Management Plans and Programs*

DEP, WMDs, and local governments are responsible for the development of mutually compatible stormwater management programs.<sup>163</sup> DEP is required to include goals in the water resource implementation rule for the proper management of stormwater.<sup>164</sup> WMDs are required to establish district and, where appropriate, watershed or drainage basin stormwater management goals that are consistent with the goals adopted by the state and with plans adopted pursuant to the Surface Water Improvement and Management Act (SWIM).<sup>165</sup> In developing their stormwater management programs, local governments must consider the water resource implementation rule, WMD stormwater management goals, plans approved pursuant to the SWIM, and technical assistance information provided by WMDs. Local governments are also encouraged to consult with WMDs, DOT, and DEP before adopting or updating their comprehensive plan or public facilities report, whichever is applicable.<sup>166</sup>

DEP, in coordination and cooperation with WMDs and local governments, must conduct a continuing review of the costs of stormwater management systems<sup>167</sup> and the effect on water quality and quantity and fish and wildlife values. DEP, WMDs, and local governments must use the review for planning purposes and to establish priorities for watersheds and stormwater management systems, which require better management and treatment of stormwater with emphasis on the costs and benefits of

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<sup>158</sup> Rule 62-624.200(12), F.A.C.; DEP, *NPDES Stormwater Program*. <https://floridadep.gov/water/stormwater> (last visited Jan. 16, 2018).

<sup>159</sup> Rules 62-624.200(4) and (7), F.A.C., define large and medium municipal separate storm sewer system, respectively.

<sup>160</sup> DEP, *NPDES Stormwater Program*. <https://floridadep.gov/water/stormwater>; DEP, *EPA Federal Regulations*, <https://floridadep.gov/water/stormwater/content/epa-federal-regulations> (last visited Jan. 16, 2018).

<sup>161</sup> Section 403.0885, F.S.; DEP, *EPA Federal Regulations*, <https://floridadep.gov/water/stormwater/content/epa-federal-regulations> (last visited Jan. 16, 2018).

<sup>162</sup> DOT, *NPDES Storm Water*, [http://www.fdot.gov/maintenance/NPDES\\_StormWater.shtm](http://www.fdot.gov/maintenance/NPDES_StormWater.shtm) (last visited Jan. 16, 2018).

<sup>163</sup> Section 403.0891, F.S.

<sup>164</sup> Section 403.0891(1), F.S.

<sup>165</sup> Section 403.0891(2), F.S.

<sup>166</sup> Section 403.0891(3), F.S.

<sup>167</sup> Section 403.031(16), F.S., defines stormwater management system.

needed improvements to stormwater management systems to better meet needs for flood protection and protection of water quality, and fish and wildlife values.<sup>168</sup> The results of the review must be maintained by DEP and WMDs and be provided to appropriate local governments or other parties on request.<sup>169</sup>

### *Altamonte Springs-FDOT Integrated Reuse and Stormwater Treatment*

A partnership between the City of Altamonte Springs, DOT, DEP, and the St. Johns River WMD provided a multi-faceted funding approach, bringing the Altamonte Springs-FDOT Integrated Reuse and Stormwater Treatment (A-FIRST) to fruition. This \$11.5 million stormwater and reclaimed water management project will provide up to 4.5 million gallons of water to the City of Altamonte Springs and the City of Apopka.<sup>170</sup> The project captures stormwater from Interstate 4 and redirects it to the City of Altamonte Springs' reclaimed water system for use as irrigation. The City of Altamonte Springs sends any of its remaining reclaimed water to the City of Apopka.<sup>171</sup>

### Effect of Proposed Changes

The bill creates s. 403.0891(7), F.S., and requires DOT to coordinate with DEP, WMDs, and local governments to determine whether it is economically feasible to use stormwater resulting from road construction projects for the beneficial use of providing alternative water supplies, including, but not limited to, directing stormwater to reclaimed water facilities or water storage reservoirs. If the affected parties determine that beneficial use of such stormwater is economically feasible, then such use must be implemented. The bill allows DEP, in consultation with DOT, to adopt rules to implement the provisions regarding beneficial uses of stormwater from DOT road construction projects.

## **General Permit for Stormwater Management Systems Serving 10 Acres**

### Present Situation

Section 403.814(12), F.S., grants a general permit for the construction, alteration and maintenance of a stormwater management system serving a total project area of up to 10 acres if the stormwater management system is designed, operated, and maintained in accordance with applicable stormwater rules. There is a rebuttable presumption that the discharge from such systems complies with WQS. The construction of such a system may proceed without any further agency action by DEP or WMD if, before construction begins, an electronic self-certification is submitted to DEP or WMD which certifies that the proposed system was designed by a Florida registered professional and that the registered professional has certified that the proposed system will meet the following additional requirements:

- The total project area is less than 10 acres and less than two acres of impervious surface;
- Activities will not impact wetlands or other surface waters;
- Activities are not conducted in, on, or over wetlands or other surface waters;
- Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;
- The project is not part of a larger common plan, development, or sale; and
- The project does not cause:
  - Adverse water quantity or flooding impacts to receiving water and adjacent lands;
  - Adverse impacts to existing surface water storage and conveyance capabilities;
  - A violation of state water quality standards; or

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<sup>168</sup> Section 403.0891(4), F.S.

<sup>169</sup> Section 403.0891(5), F.S.

<sup>170</sup> DEP, *Regional Water Supply Planning 2016 Annual Report*, pg. 22,

<https://floridadep.gov/sites/default/files/FINAL%20Regional%20Water%20Supply%20Planning%202016%20Status%20Annual%20Report.pdf> (last visited Jan. 15, 2018).

<sup>171</sup> City of Altamonte Springs, *A-FIRST*, <http://www.altamonte.org/index.aspx?NID=699> (last visited Jan. 15, 2018).

- An adverse impact to the maintenance of surface or ground water levels or surface water flows or a work of the WMD (10-2 general permit).<sup>172</sup>

### Effect of Proposed Changes

The bill amends s. 403.814, F.S., relating to the 10-2 general permit. The bill requires that the project does not cause or contribute to:

- Adverse water quantity or flooding impacts to receiving water and adjacent lands;
- Adverse impacts to existing surface water storage and conveyance capabilities;
- A violation of state water quality standards; or
- An adverse impact to the maintenance of surface or ground water levels or surface water flows or a work of the WMD.

## **Drinking Water and Domestic Wastewater Treatment Utilities Asset Management**

### Present Situation

Renewing and replacing drinking water and domestic wastewater treatment infrastructure is an ongoing task. Asset management can help a utility maximize the value of its capital as well as its operations and maintenance dollars. Asset management provides utility managers and decision makers with critical information on capital assets and timing of investments. Some key steps for asset management are making an inventory of critical assets, evaluating the condition and performance of such assets, and developing plans to maintain, repair, and replace assets and to fund these activities.<sup>173</sup> The EPA provides guidance and reference manuals for utilities to aid in developing asset management plans (AMPs).<sup>174</sup> Many states, including Florida, provide financial incentives for the development and implementation of an AMP when requesting funding under the State Revolving Fund (SRF) or other state funding mechanism.<sup>175</sup>

### *State Revolving Loan Fund Asset Management Incentives*

There are currently two SRF programs, the Clean Water SRF created under the Clean Water Act and the Drinking Water SRF created under the Safe Drinking Water Act. A SRF is a fund administered by a state to provide low interest loans for investments in drinking water and domestic wastewater treatment infrastructure and implementation of nonpoint source pollution control and estuary protection projects. A SRF receives its initial capital from federal grants and state contributions, and then revolves through the repayment of principal and earned interest on outstanding loans.<sup>176</sup>

DEP administers both SRF programs.<sup>177</sup> With respect to AMPs,<sup>178</sup> development of such plans are incentivized through priority scoring,<sup>179</sup> reduction of interest rates,<sup>180</sup> principal forgiveness for financially disadvantaged small communities,<sup>181</sup> and eligibility for small community wastewater facilities grants.<sup>182</sup>

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<sup>172</sup> Section 403.814(12), F.S.; see DEP, *Business Portal*, [www.fldepportal.com/go](http://www.fldepportal.com/go) (last visited Feb. 5, 2018).

<sup>173</sup> EPA, *Sustainable Water Infrastructure - Asset Management for Water and Wastewater Utilities*, <https://www.epa.gov/sustainable-water-infrastructure/asset-management-water-and-wastewater-utilities> (last visited Jan. 16, 2018).

<sup>174</sup> EPA, *Asset Management: A Best Practices Guide*, <https://nepis.epa.gov/Exe/ZyPDF.cgi/P1000LP0.PDF?Dockey=P1000LP0.PDF>; EPA, *Reference Guide for Asset Management Tools/Asset Management Plan Components and Implementation Tools for Small and Medium Sized Drinking Water and Wastewater Systems*, (May 2014) [https://www.epa.gov/sites/production/files/2016-04/documents/am\\_tools\\_guide\\_may\\_2014.pdf](https://www.epa.gov/sites/production/files/2016-04/documents/am_tools_guide_may_2014.pdf) (last visited Jan. 16, 2018).

<sup>175</sup> EPA, *State Asset Management Initiatives*, (Aug. 2012), [https://www.epa.gov/sites/production/files/2016-04/documents/state\\_asset\\_management\\_initiatives\\_11-01-12.pdf](https://www.epa.gov/sites/production/files/2016-04/documents/state_asset_management_initiatives_11-01-12.pdf) (last visited Jan. 16, 2018).

<sup>176</sup> EPA, *Fed Funds for Water and Wastewater Utilities*, <https://www.epa.gov/fedfunds/epa-state-revolving-funds> (last visited Jan. 16, 2018); DEP, *SRF*, <https://floridadep.gov/wra/srf> (last visited Jan. 16, 2018).

<sup>177</sup> Sections 403.1835(10) and 403.8532(9), F.S.; ch. 62-503, and 62-552, F.A.C.; DEP, *SRF*, <https://floridadep.gov/wra/srf> (last visited Jan. 16, 2018).

<sup>178</sup> Rules 62-503.200(3) and 62-552.200(2), F.A.C., define an AMP.

<sup>179</sup> Rule 62-503.300(e), F.A.C.

To receive points, the AMP must be adopted by ordinance or resolution and written procedures must be in place that implement the plan in a timely manner. The AMP must include:

- Identification of all assets within the project sponsor's system;
- An evaluation of the current age, condition, and anticipated useful life of each asset;
- The current value of the assets and the cost to operate and maintain all assets;
- A capital improvement plan based on a survey of industry standards, life expectancy, life cycle analysis, and remaining useful life;
- An analysis of funding needs;
- An analysis of population growth and wastewater or stormwater flow projections and drinking water use projections, as applicable, for the sponsor's planning area, and a model, if applicable, for impact fees;
- Commercial, industrial and residential rate structures, and the establishment of an adequate funding rate structure;
- A threshold rate set to ensure the proper operation of the utility. If the sponsor transfers any of the utility proceeds to other funds, the rates must be set higher than the threshold rate to facilitate the transfer and proper operation of the utility; and
- A plan to preserve the assets; renewal, replacement, and repair of the assets as necessary, and a risk-benefit analysis to determine the optimum renewal or replacement time.<sup>183</sup>

#### *Water and Wastewater Utility Reserve Fund*

In 2016, the Legislature authorized the Public Service Commission (PSC) to allow a utility to create a utility reserve fund for repair and replacement of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The utility reserve fund would be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit. The PSC was required to adopt rules governing the implementation, management, and use of the fund, including expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for PSC authorization before disbursements are made from the fund.<sup>184</sup>

An applicant that requests approval to create a utility reserve fund must provide a capital improvement plan,<sup>185</sup> or an AMP prepared by the Florida Rural Water Association,<sup>186</sup> to the PSC.<sup>187</sup> The request may be a stand-alone application or in conjunction with an application for rate increase.<sup>188</sup>

#### *Domestic Wastewater Treatment Facility Renewal Operating Permit*

A domestic wastewater treatment plant operating permit is issued for a term of five years.<sup>189</sup> An applicant may request renewal of an operation permit for a term of up to 10 years for the same fee and under the same conditions as a five-year permit and must be issued the permit if:

- The treatment facility is not regulated under the NPDES program;

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<sup>180</sup> Rules 62-503.300(5)(b)1., 62-503.700(7), 62-552.300(6)(c)1., and 62-552.700(7), F.A.C.

<sup>181</sup> Rules 62-503.500(4) and 62-552.300(2)(b)4., F.A.C.

<sup>182</sup> Rules 62-505.300(d) and 62-505.350(5)(c), F.A.C.

<sup>183</sup> Rules 62-503.700(7) and 62-552.700(7), F.A.C.

<sup>184</sup> Ch. 2016-226, Laws of Fla.; s. 367.081(2)(c), F.S.; see r. 25-30.444, F.A.C., for the adopted rule.

<sup>185</sup> Rule 25-30.444(2)(e), F.A.C., provides a list of requirements for inclusion in the capital improvement plan.

<sup>186</sup> The Florida Rural Water Association is a nonprofit, non-regulatory professional association that assists water and wastewater systems with water and wastewater operations; Florida Rural Water Association, *Home*, <http://www.frwa.net/> (last visited Jan. 16, 2018).

<sup>187</sup> Rules 25-30.444(2)(e) and (m), F.A.C.

<sup>188</sup> Rule 25-30.444(2), F.A.C.; see ss. 367.081(2)(a), 367.0814, or 367.0822, F.S., for rate increases.

<sup>189</sup> Section 403.087(1), F.S.; r. 62-620.320(8), F.A.C.

- The waters from the treatment facility are not discharged to Class I municipal injection wells or the treatment facility is not required to comply with the federal standards under the Underground Injection Control Program;
- The treatment facility is not operating under a temporary operating permit or a permit with an accompanying administrative order and does not have any enforcement action pending against it by EPA, DEP, or an approved local program;
- The treatment facility has operated under an operation permit for five years and, for at least the preceding two years, has generally operated in conformance with the limits of permitted flows and other conditions specified in the permit;
- DEP has reviewed the discharge monitoring reports required by DEP rule and is satisfied that the reports are accurate;
- The treatment facility has generally met water quality standards in the preceding two years, except for violations attributable to events beyond the control of the treatment plant or its operator (e.g., destruction of equipment by fire, wind, or other abnormal events that could not reasonably be expected to occur); and
- DEP or an approved local program has conducted, in the preceding 12 months, an inspection of the facility and has verified in writing to the operator of the facility that it is not exceeding the permitted capacity and is in substantial compliance.<sup>190</sup>

### Effect of Proposed Changes

The bill creates s. 403.892, F.S., relating to AMPs and reserve funds for public water systems and domestic wastewater treatment system assets. The bill provides legislative findings regarding the public health and natural resource benefits of developing and implementing AMPs for public water system and domestic wastewater treatment system assets. The findings include the necessity of establishing and properly funding a reserve fund to ensure the timely implementation of an AMP.

The bill requires each public water system<sup>191</sup> and domestic wastewater treatment system to develop an AMP by August 1, 2022, and create a reserve fund to implement the AMP in a cost effective and timely manner. Every August 1 thereafter, each public water system and domestic wastewater treatment system must post on its website the implementation status of the AMP and reserve fund and must provide a report regarding such information to DEP. The bill requires a public water system or domestic wastewater treatment system to demonstrate that it is adequately implementing its AMP and has reserves available in its reserve fund to be eligible for state funding.

The bill defines a “domestic wastewater treatment system” to mean any plant or other works used to treat, stabilize, or hold domestic wastes, including pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal. Domestic wastewater treatment systems do not include onsite sewage treatment and disposal systems, as defined in s. 381.0065, F.S.

The bill requires DEP to adopt rules by July 1, 2019, establishing AMP requirements that include, but are not limited to:

- Identification of each asset;
- Evaluation of the current age, condition, and useful life of each asset;
- A risk-benefit analysis to determine the optimum repair or replacement time of each asset;
- A list of repair and replacement projects with projected timeframes for completion and estimated costs;
- Identification of funding options, including a separate reserve account or other comparable fund or account, for implementation of the repair or replacement projects; and
- Identification of plans comparable to an AMP.

<sup>190</sup> Section 403.087(3), F.S.

<sup>191</sup> Section 403.852(2), F.S., defines a public water system.

The bill amends s. 403.087(3), F.S., requiring that as part of the criteria for a domestic wastewater treatment facility to be eligible for a 10-year permit, DEP must review the annual status reports and be satisfied that the domestic wastewater treatment system is timely implementing the AMP.

## **Infrastructure Floodplain Resiliency**

### Present Situation

In response to Hurricane Irma, Florida's House of Representatives created the Select Committee on Hurricane Response and Preparedness (Committee). The Speaker of the Florida House of Representatives directed the Committee to gather information and ideas for improvement, and to suggest legislative options for meaningful ways to improve Florida's hurricane preparedness and response capabilities.<sup>192</sup> One of the Committee's final recommendations considered long-range plans to migrate critical infrastructure for public water supply and domestic wastewater treatment plants out of floodplains or have them hardened to prevent damage during a flood event and to establish policies to discourage investment in new facilities in floodplains unless they are hardened to avoid damage from floods.<sup>193</sup>

### Effect of Proposed Changes

The bill creates s. 403.893, F.S., relating to public water system and domestic wastewater treatment system infrastructure floodplain resiliency. The bill provides that it is the policy of the state to encourage such systems to increase the resilience of their critical infrastructure against flooding. The bill requires any new infrastructure for a public water system or domestic wastewater treatment system located within an area identified in accordance with the Federal Emergency Management Agency's 100-year and 500-year flood maps as a special flood hazard area or a moderate flood hazard area to build to withstand the respective flood conditions. Such new infrastructure must include, at a minimum, elevated control panels and appurtenant structures above the flood prone elevation and submersible components, including pumps and flow meters.

## **Florida LAKEWATCH Program**

### Present Situation

Florida LAKEWATCH is a citizen volunteer lake monitoring program that facilitates citizen participation in the management of Florida lakes, rivers and coastal sites through monthly monitoring activities (program). The program has been in existence since 1986. It is coordinated through the Institute of Food and Agricultural Sciences/School of Forest Resources and Conservation's Fisheries and Aquatic Sciences at the University of Florida, previously known as the Department of Fisheries and Aquaculture (DFA).<sup>194</sup>

In 2002, the Florida Legislature codified the program within the DFA of the Institute of Food and Agricultural Sciences and provides that the purpose of the program is to provide public education and training with respect to the water quality of Florida's lakes. The law allows the DFA to implement the program to:

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<sup>192</sup> Florida House of Representatives' Select Committee on Hurricane Response and Preparedness, *Select Committee on Hurricane Response and Preparedness Final Report* (Jan. 16, 2018), [http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=General Publications&FileName=SCHRP - Final Report online.pdf](http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=General%20Publications&FileName=SCHRP%20-%20Final%20Report%20online.pdf) (last visited Feb. 5, 2018).

<sup>193</sup> *Id.*

<sup>194</sup> Florida LAKEWATCH, *About*, <http://lakewatch.ifas.ufl.edu/about.shtml> (last visited Feb. 2, 2018); Florida LAKEWATCH, *History*, <http://sfrfc.ufl.edu/fish/about/history/> (last visited Feb. 2, 2018).

- Train, supervise, and coordinate volunteers to collect water quality data from Florida's lakes;
- Compile the data collected by volunteers;
- Disseminate information to the public about the program;
- Provide or loan equipment to volunteers in the program; and
- Perform other functions as may be necessary or beneficial in coordinating the program.<sup>195</sup>

The data collected and compiled through the program must be used to establish trends and provide general background information. The law provides that the data cannot be used in a regulatory proceeding.<sup>196</sup>

### Effect of Proposed Changes

The bill amends s. 1004.49, F.S., relating to the program, clarifying that the School of Forest Resources and Conservation's Fisheries and Aquatic Science Program, formerly known as the DFA, may implement the program. The bill also allows for the collection of water quality data from Florida's streams and estuaries, and for DEP to use the data if it meets sufficient quality assurance and quality control requirements approved by DEP.

## **Attorney's Fees in Administrative Hearings Regarding Environmental Issues**

### Present Situation

#### *Interveners in Administrative Proceedings Regarding Environmental Issues*

When a party intervenes in an administrative proceeding, it joins an ongoing proceeding that may affect its substantial interests. The Department of Legal Affairs (DLA), a political subdivision or municipality of the state, or a citizen of the state may have standing to intervene as a party in an administrative proceeding regarding environmental issues. The intervener must file a verified pleading asserting that the activity, conduct, or product to be licensed or permitted has or will have the effect of impairing, polluting, or otherwise injuring the air, water, or other natural resources of the state.<sup>197</sup> An intervener is a party<sup>198</sup> and may file motions, participate in discovery and the hearing, and file recommended orders.<sup>199</sup> However, an intervener is often subject to the decisions of the original party.<sup>200</sup>

#### *Attorney Fees in Administrative Proceedings Involving Issues of Disputed Facts*

"Attorney's fees and costs" are the reasonable and necessary attorney fees and costs incurred for all preparations, motions, hearings, trials, and appeals in a proceeding.<sup>201</sup> Costs are calculated using the methods outlined in ch. 57, F.S. The final order in an administrative proceeding involving issues of disputed facts must award reasonable costs and reasonable attorney fees to the prevailing party when the administrative law judge determines the nonprevailing adverse party participated in the proceeding for an improper purpose.<sup>202</sup> An "improper purpose" means participation in an administrative proceeding involving issues of disputed facts primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.<sup>203</sup> A "nonprevailing adverse party" is a party that failed to substantially change the outcome of the proposed or final agency action that was the subject of a proceeding. If the proceeding results in

<sup>195</sup> Section 1004.49, F.S.

<sup>196</sup> *Id.*

<sup>197</sup> Section 403.412(5), F.S.

<sup>198</sup> Section 120.52(13)(c), F.S.

<sup>199</sup> *See* ch. 28-106, F.A.C.

<sup>200</sup> *See* s. 120.574(1)(c), F.S.

<sup>201</sup> Section 57.111(3)(a), F.S.; *see* s. 120.595(e)2., F.S.

<sup>202</sup> Section 120.595(1)(b), F.S.

<sup>203</sup> Section 120.595(1)(e)1., F.S.



any substantial modification or condition intended to resolve the matters raised in a party's petition, the party having raised the issue addressed is not a nonprevailing adverse party. The recommended order shall state whether the change is substantial. The term "nonprevailing party" or "prevailing party" does not include any party that has intervened in a previously existing proceeding to support the position of an agency.<sup>204</sup>

Further, an award of attorney fees and costs shall be made to a prevailing small business party in any adjudicatory proceeding or administrative proceeding initiated by a state agency, unless the actions of the agency were substantially justified or special circumstances exist which would make the award unjust.<sup>205</sup> A small business party<sup>206</sup> is a "prevailing small business party" when a final judgment or order has been entered in favor of the small business party and the judgment or order has not been reversed on appeal or the time for seeking judicial review of the judgment or order has expired, the small business party obtained a settlement that is favorable to the small business party on the majority of issues that the party raised during the course of the proceeding, or the state agency has sought a voluntary dismissal of its complaint.<sup>207</sup> A proceeding is "substantially justified" if the state agency had a reasonable basis in law and fact at the time the proceeding initiated by a state agency.<sup>208</sup> This means the government must have a solid, though not necessarily correct, basis in fact and law for the position that it took in the action.<sup>209</sup>

### Effect of Proposed Changes

The bill amends s. 403.412(5), F.S., to authorize a prevailing party to receive reasonable costs and reasonable attorney fees in an administrative proceeding regarding environmental issues involving issues of disputed fact from an intervener when the intervener is a nonprevailing adverse party, as determined by the administrative law judge. The final order may only require the intervener to pay the portion of the reasonable costs and reasonable attorney fees related to the intervener's participation in the administrative proceeding.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 125.35, F.S., relating to county authorized to sell real and personal property and to lease real estate.

Section 2. Amends s. 161.101, F.S., relating to state and local participation in authorized projects and studies relating to beach management and erosion control.

Section 3. Amends s. 161.161, F.S., relating to procedures for approval of projects.

Section 4. Amends s. 163.3177, F.S., relating to required and optional elements of a comprehensive plan.

Section 5. Creates s. 166.0452, F.S. relating to disposition of municipal conservation land purchased with state funds.

Section 6. Amends s. 215.618, F.S., relating to bonds for acquisition and improvement of land, water areas, and related property interests and resources.

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<sup>204</sup> Section 120.595(1)(e)3., F.S.; In application, a party may lose in an administrative proceeding, but not be a nonprevailing party because it did not fail to change the outcome of the proposed agency action. Johnson v. Department of Corrections, 191 So.3d 965 (Fla. 1st DCA 2016).

<sup>205</sup> Section 57.111(4)(a), F.S.

<sup>206</sup> Section 57.111(3)(d), F.S., defines "small business party."

<sup>207</sup> Section 57.111(3)(c), F.S.

<sup>208</sup> Section 57.111(3)(e), F.S.

<sup>209</sup> McCloskey v. Department of Financial Services, 172 So.3d 973, 976 (Fla. 5th DCA 2016).

- Section 7. Amends s. 253.0251, F.S., relating to alternatives for fee simple acquisition for conservation and recreation lands.
- Section 8. Amends s. 253.034, F.S., relating to state-owned lands, uses.
- Section 9. Amends s. 258.014, F.S., relating to fees for use of state parks.
- Section 10. Amends s. 259.03, F.S., relating to definitions used for the Florida Forever program.
- Section 11. Amends s. 259.032, F.S., relating to conservation and recreation lands.
- Section 12. Amends s. 259.105, F.S., relating to the Florida Forever Act.
- Section 13. Amends s. 373.089, F.S., relating to sale or exchange of lands, or interests or rights in lands by WMDs.
- Section 14. Amends s. 373.139, F.S., relating to acquisition of real property by WMDs.
- Section 15. Amends s. 373.1391, F.S., relating to management of real property by WMDs.
- Section 16. Amends s. 373.199, F.S., relating to Florida Forever WMD Work Plan.
- Section 17. Amends s. 373.4598, F.S., relating to the C-51 reservoir project.
- Section 18. Amends s. 373.713, F.S., relating to RWSAs.
- Section 19. Amends s. 375.041, F.S., relating to the LATF.
- Section 20. Amends s. 403.067, F.S., relating to BMAPs and implementation of TMDLs.
- Section 21. Amends s. 403.087, F.S., relating to permits for domestic wastewater treatment facilities.
- Section 22. Amends s. 403.0891, F.S., relating to state, regional and local stormwater management plans and programs.
- Section 23. Amends s. 403.412, F.S., relating to the Environmental Protection Act.
- Section 24. Amends s. 403.814, F.S., relating to the general permit for stormwater management systems serving 10 acres.
- Section 25. Creates s. 403.892, F.S., relating to an AMP and reserve fund.
- Section 26. Creates s. 403.893, F.S., relating to public water system and domestic wastewater treatment system infrastructure floodplain resiliency.
- Section 27. Amends s. 570.76, F.S., relating to DACS powers and duties.
- Section 28. Amends s. 1004.49, F.S., relating to the Florida LAKEWATCH Program.
- Section 29. Amends s. 20.3315, F.S., conforming cross references.
- Section 30. Amends s. 253.027, F.S., conforming cross references.
- Section 31. Amends s. 259.035, F.S., conforming cross references.

Section 32. Amends s. 259.037, F.S., conforming cross references.

Section 33. Amends s. 380.510, F.S., conforming cross references.

Section 34. Amends s. 570.715, F.S., conforming cross references.

Section 35. Amends s. 589.065, F.S., conforming cross references.

Section 36. Provides a statement of legislative findings.

Section 37. Provides an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

The bill establishes the funding allocations for the Florida Forever Trust Fund for FYs 2019-2020 through 2035-2036 as follows:

- For FY 2019-2020 and FY 2020-2021, the sum of \$57 million.
- For FY 2021-2022, the sum of \$78 million.
- For FY 2022-2023, the sum of \$89 million.
- For FY 2023-2024 and FY 2024-2025, the sum of \$110 million
- For FY 2025-2026, the sum of \$127 million.
- For FY 2026-2027, the sum of \$147 million
- For FY 2027-2028, the sum of \$157 million.
- For FY 2028-2029, the sum of \$179 million.
- For FY 2029-2030 and each FY through 2035-2036, the sum of \$200 million.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

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

The bill may have a positive fiscal impact on the private sector for water supply entities receiving waivers of loan repayment under the water storage facility revolving loan fund for the C-51 reservoir project.

The bill may have a negative fiscal impact on private sector entities that own and operate public water systems and domestic wastewater treatment systems due to the requirement to develop and implement an AMP and reserve fund for their public water systems and domestic wastewater treatment systems.

The bill may also have a negative fiscal impact on private sector entities that own and operate, or intend to build and operate, public water systems and domestic wastewater treatment systems located

within a 100-year or 500-year floodplain that are required to implement infrastructure floodplain resiliency measures required under the bill when building new infrastructure.

#### D. FISCAL COMMENTS:

After all of the recurring base funding and statutorily-required expenditures have been allocated, there is a limited amount of revenues remaining in the LATF to fund issues such as beach projects, total maximum daily loads, state park repairs, state forest repairs, wildlife management area repairs, non-agricultural nonpoint source pollution prevention, and many others. The dedicated LATF allocation to the Florida Forever Program Trust Fund in the bill would require using funding sources other than LATF to fund critical issues that have been funded from the LATF in recent years. The primary alternative funding source would be the General Revenue Fund, because there is not enough funding available in other trust funds to provide for these issues. Assuming that current reserves and typical expenditures are not reduced or shifted to another funding source, the bill would place the LATF at a deficit of \$77.3 million in Fiscal Year 2019-2020.

The bill may have a positive fiscal impact on DEP and DACS by authorizing those agencies to provide assistance to local governments administering their own rural-lands-protection easement program. The local governments must compensate DEP and DACS for the services provided as defined in a memorandum of agreement. In addition, it may have a positive fiscal impact on those local governments choosing to seek assistance from DEP and DACS when administering their own rural-lands-protection easement program, because DEP and DACS may assist the local governments in more efficiently operating their conservation easement program.

The bill may have a negative fiscal impact on counties, municipalities, and WMDs that do not currently return proceeds from the sale of surplus conservation lands purchased with state funds to the proper state trust fund. In addition, the bill may have a negative fiscal impact on WMDs by requiring the districts to deposit any revenue generated from the use of conservation lands purchased with state funds into a separate agency trust fund or special revenue account used to support future land management activities. WMDs will no longer be able to use such funds for other district activities. The bill may have a positive fiscal impact on the South Florida WMD by prioritizing construction of the C-43 reservoir project.

The bill may have an indeterminate negative fiscal impact on DEP by requiring the agency to create a Volunteer Annual Pass for entrance into state parks for individuals who perform 50 hours of volunteer service removing nonnative and invasive plants and adopt rules to implement the new annual pass. It is unknown how many people would meet the volunteer requirements to qualify for a Volunteer Annual Pass.

The bill may have an insignificant negative fiscal impact on DEP by requiring the agency to consider the economic benefit of beach management projects when determining annual funding priorities because this change will likely require rulemaking. DEP can absorb this impact within existing resources.

The bill will have a negative fiscal impact on DEP because it requires the agency to create a statewide long-range budget plan that must include at least five years of planned beach restoration, beach nourishment, and inlet management projects funding needs as identified, and subsequently refined, by local sponsors. It is anticipated that this workload can be absorbed within existing resources.

Chapter 2017-10, L.O.F., provided \$30 million in nonrecurring funds from the General Revenue Trust Fund to be deposited in the Water Resource Projection and Sustainability Trust Fund for the purpose of providing a loan to the water supply entity responsible for implementing Phase I of the C-51 reservoir project utilizing through the water storage facility revolving loan fund as provided in s. 373.475, F.S. The water supply entity has executed capacity allocation agreements with local governments to allow the local governments to utilize specific water allocations identified in the agreements. The executed capacity allocation agreements do not utilize the total capacity of water available in the reservoir. The bill allows the South Florida Water Management District (South Florida WMD) to enter into a capacity

allocation agreement with the water supply entity for an allocation of the unreserved water needed that will be for the natural system based on water needs identified in CERP or other restoration plans. The South Florida WMD may request that DEP waive repayment of all or a portion of the loan based on pro rata share of the costs for providing the water storage capacity in the reservoir that will be used by the South Florida WMD. Instead of the South Florida WMD directly providing the funding to develop the water capacity in the C-51 reservoir, the South Florida WMD may request that DEP waive repayments of the loan by the water supply entity. Waiving the repayment of the loan will reduce the future funding available for other water storage reservoirs that qualify for loans under the water storage facility revolving loan fund.

The bill may have a negative fiscal impact on state agencies and local governments that own and operate public water systems and domestic wastewater treatment systems because it requires them to develop and implement an AMP and reserve fund for their public water systems and domestic wastewater treatment systems. The bill also requires a public water system or domestic wastewater treatment system to demonstrate that it is adequately implementing its AMP and has appropriate reserves in place in its reserve fund to be eligible for state funds. Remote state facilities, such as those owned by the Department of Corrections, own and operate public water systems and domestic wastewater treatment systems that are subject to the requirements, as do local governments.

The bill may also have a negative fiscal impact on state agencies and local governments that own and operate, or intend to build and operate, public water systems and domestic wastewater treatment systems that are located within a 100-year or 500-year floodplain required to implement the infrastructure floodplain resiliency measures required under the bill when building new infrastructure.

The bill may have a positive fiscal impact on those local governments designated as a RAO by exempting them from the requirement to develop or maintain a water facilities work plan.

The bill may have a negative fiscal impact on local governments who are a RWSA due to the requirement that such local governments coordinate annually with the appropriate WMD to submit a status report on water resource development projects receiving state funding for inclusion in the consolidated WMD annual report.

The bill may have a negative fiscal impact on the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state that intervene as a party in an administrative proceeding regarding environmental issues. The bill authorizes a prevailing party to receive reasonable costs and reasonable attorney fees in an administrative proceeding regarding environmental issues involving issues of disputed fact from an intervener when the intervener is a nonprevailing adverse party, as determined by the administrative law judge.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to develop and implement AMPs for public water supply systems and domestic wastewater treatment systems that are local government owned. An exception may apply because the bill provides a legislative finding of important state interest and the bill appears to apply to similarly situated persons in that state agencies and local governments must comply with the requirement. In addition, an exception would apply if the bill passes by a two-thirds vote of the membership since it includes a legislative finding of important state interest.

##### **2. Other:**

None.

## B. RULE-MAKING AUTHORITY:

The bill requires DEP to adopt rules to implement a volunteer state park annual pass program for individuals who perform 50 hours of service removing nonnative and invasive plant species.

The bill allows DEP, in consultation with DOT, to adopt rules to implement beneficial uses of stormwater from DOT road construction projects.

The bill requires DEP to adopt rules establishing AMP requirements by July 1, 2019.

## C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 6, 2018, the Agriculture & Natural Resources Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorable with committee substitute. The strike-all amendment:

- Authorized the use of Florida Forever funds to finance and refinance costs related to the Everglades Agricultural Area Reservoir Project and other reservoir projects authorized under s. 373.4598, F.S.
- Required DEP to distribute funds received in its Florida Forever Trust Fund for lands necessary to implement the water management district priority lists; purchase of inholdings for lands managed by DEP, FWC, and FFS; and provide grants for land acquisition for FRDAP, if the acquisition proposed by an agency is identified as a current year priority, has demonstrated to be the greatest need, and is consistent with annual legislative appropriations.
- Required agencies that receive funds for the acquisition of inholdings to develop individual acquisition or restoration lists in accordance with specific criteria and numeric performance measures similar to ARC's criteria.
- Added that WMDs may segregate revenue from the use of lands bought with state fund into special revenue accounts to remain available to the district in subsequent fiscal years to support land management activities.
- Required the agencies that manage conservation lands to prioritize the exotic and invasive species that must be maintained or controlled and the areas where the control and maintenance must first be addressed in their land management plans.
- Required DEP to create a volunteer state park annual entrance pass for individuals who perform 50 hours of volunteer service removing nonnative and invasive plants.
- Added the economic benefit of beach management projects to the criteria DEP must consider when determining annual funding priorities.
- Updated how DEP must develop and maintain its comprehensive long-term beach management plan.
- Required the comprehensive long-term beach management plan to include at a minimum a SBMP, a critically eroded beaches report, and a statewide long-range budget plan. The statewide long-range budget plan must include at least five years of planned beach restoration, beach nourishment, and inlet management projects funding needs as identified, and subsequently refined, by local sponsors.
- Allowed DEP to consider and include innovative nutrient reduction pilot projects designed to reduce nutrient pollution as part of a BMAP and allows DEP to provide cost-share funding for these innovative nutrient reduction pilot projects.
- Required that as a condition for a 10-2 general permit, the project cannot contribute to:
  - Adverse water quantity or flooding impacts to receiving water and adjacent lands;
  - Adverse impacts to existing surface water storage and conveyance capabilities;
  - A violation of state water quality standards; or
  - An adverse impact to the maintenance of surface or ground water levels or surface water flows.
- Required rules adopted by DEP establishing AMP requirements to also:
  - Identify funding options, including a separate reserve account or other comparable fund or account, for implementation of the repair or replacement projects; and
  - Identify plans comparable to an AMP.

- Required a public water system or domestic wastewater treatment system with infrastructure within a 100-year flood, or a 500-year flood, in accordance with Federal Emergency Management Agency 100-year and 500-year Flood Maps, to build any new infrastructure to withstand the respective flood conditions including, at a minimum, elevated control panels and appurtenant structures above the flood prone elevation, and have submersible components, including pumps and flow meters.
- Clarified that the School of Forest Resources and Conservation's Fisheries and Aquatic Science Program, formerly known as the DFA, may implement the Florida LAKEWATCH Program for streams and estuaries, and allows DEP to use water quality data collected and compiled by the Florida LAKEWATCH Program if the data meets sufficient quality assurance and quality control requirements approved by DEP.
- Authorized a prevailing party to receive reasonable costs and reasonable attorney fees in an administrative proceeding regarding environmental issues involving issues of disputed fact from an intervener when the intervener is a nonprevailing adverse party, as determined by the administrative law judge.

This analysis is drafted to the committee substitute as approved by the Agriculture & Natural Resources Appropriations Subcommittee.

1                   A bill to be entitled  
2           An act relating to natural resources; amending s.  
3           125.35, F.S.; requiring counties to return specified  
4           state conservation funds to the state when certain  
5           lands purchased with such funds are sold under certain  
6           conditions; amending s. 161.101, F.S.; revising the  
7           criteria to be considered by the Department of  
8           Environmental Protection in determining and assigning  
9           annual funding priorities for beach management and  
10          erosion control projects; amending s. 161.161, F.S.;  
11          revising requirements for the development and  
12          maintenance of the comprehensive long-term management  
13          plan for the state's critically eroded beaches;  
14          requiring the plan to include a strategic beach  
15          management plan, a critically eroded beaches report,  
16          and a statewide long-range budget plan; providing for  
17          the development and maintenance of such plans;  
18          deleting a requirement that the department submit a  
19          certain beach management plan on a certain date each  
20          year; requiring the department to hold a public  
21          meeting before finalization of the strategic beach  
22          management plan; requiring the department to submit a  
23          statewide long-range budget plan and a related  
24          forecast for the availability of funding to the  
25          Legislature; amending s. 163.3177, F.S.; exempting



26 certain local governments from requirements to develop  
 27 and maintain work plans for building public, private,  
 28 and regional water supply facilities; creating s.  
 29 166.0452, F.S.; requiring municipalities to return  
 30 specified state conservation funds to the state when  
 31 certain lands purchased with such funds are sold under  
 32 certain conditions; amending s. 215.618, F.S.;

33 removing provisions authorizing the use of Florida  
 34 Forever funds for capital improvement and water  
 35 resource development projects; authorizing the use of  
 36 Florida Forever funds for water storage reservoir  
 37 projects under the Comprehensive Everglades  
 38 Restoration Plan; amending s. 253.0251, F.S.;

39 authorizing the Department of Environmental Protection  
 40 to assist local governments in administering local  
 41 rural-lands-protection easement programs; providing  
 42 requirements and restrictions for such assistance;

43 amending s. 253.034, F.S.; requiring that the  
 44 maintenance and control of exotic and invasive species  
 45 and related areas be prioritized in certain land  
 46 management plans; conforming cross-references;

47 amending s. 258.014; creating a state park volunteer  
 48 annual entrance pass program; amending s. 259.03,  
 49 F.S.; removing the definitions of "capital  
 50 improvement," "capital project expenditure," and

51 "water resource development project"; amending s.  
 52 259.032, F.S.; removing provisions authorizing the use  
 53 of Florida Forever funds for capital improvement and  
 54 water resource development projects; amending s.  
 55 259.105, F.S.; revising the distribution of proceeds  
 56 from the Florida Forever Trust Fund; eliminating and  
 57 consolidating funding for certain land acquisition and  
 58 management programs; removing obsolete provisions;  
 59 removing provisions authorizing the use of Florida  
 60 Forever funds for water resource development projects,  
 61 restoration, enhancement, and management of certain  
 62 land and water areas, and certain capital  
 63 improvements; including wildlife crossings and  
 64 connections between such crossings and wildlife  
 65 habitats as criteria for assessing certain projects  
 66 and land acquisitions; amending s. 373.089, F.S.;  
 67 prohibiting water management districts from disposing  
 68 of lands acquired with state funds under certain  
 69 conditions; requiring water management districts to  
 70 return specified state conservation funds to the state  
 71 when certain lands purchased with such funds are sold;  
 72 amending s. 373.139, F.S.; removing provisions  
 73 prohibiting water management districts from disposing  
 74 of lands acquired with state funds under certain  
 75 conditions; amending s. 373.1391, F.S.; requiring

76 revenue generated from the management of certain  
 77 conservation lands to be retained by the  
 78 jurisdictional water management district and used for  
 79 specified purposes; amending s. 373.199, F.S.;

80 limiting the use of Florida Forever funds for water  
 81 management district projects; amending s. 373.4598,  
 82 F.S.; revising requirements related to the operation  
 83 of water storage and use for Phase I and Phase II of  
 84 the C-51 reservoir project if state funds are  
 85 appropriated for such phases; authorizing the South  
 86 Florida Water Management District to enter into  
 87 certain capacity allocation agreements and to request  
 88 a waiver for repayment of certain loans; authorizing  
 89 the Department of Environmental Protection to waive  
 90 such loan repayment under certain conditions; amending  
 91 s. 373.713, F.S.; requiring regional water supply  
 92 authorities to annually coordinate with water  
 93 management districts on the status of certain water  
 94 resource development projects; amending s. 375.041,  
 95 F.S.; requiring the Department of Environmental  
 96 Protection and the South Florida Water Management  
 97 District to give specified funding priority to the C-  
 98 43 West Basin Storage Reservoir Project; requiring a  
 99 specified amount of funds in the Land Acquisition  
 100 Trust Fund within the Department of Environmental

101 Protection to be appropriated annually each fiscal  
 102 year to the Florida Forever Trust Fund; amending  
 103 403.067, F.S.; authorizing the Department of  
 104 Environmental Protection to include certain nutrient  
 105 pilot projects in basin management action plans and to  
 106 provide cost-share funding for such projects; amending  
 107 s. 403.087, F.S.; revising requirements for the  
 108 renewal of operation permits for domestic wastewater  
 109 treatment facilities; amending s. 403.0891, F.S.;

110 requiring the Department of Transportation to  
 111 coordinate with the Department of Environmental  
 112 Protection, water management districts, and local  
 113 governments to make certain determinations regarding  
 114 beneficial uses of stormwater from road construction  
 115 projects and to implement such beneficial uses under  
 116 certain conditions; authorizing the Department of  
 117 Environmental Protection, in consultation with the  
 118 Department of Transportation, to adopt rules; amending  
 119 s. 403.412, F.S.; providing for the award of  
 120 reasonable costs and fees to certain prevailing  
 121 parties in administrative proceedings for the  
 122 protection of natural resources; amending s. 403.814,  
 123 F.S.; authorizing general permits for the  
 124 construction, alteration, and maintenance of certain  
 125 stormwater management systems for projects that do not

126 contribute to adverse water quantity and quality  
 127 impacts; creating s. 403.892, F.S.; providing  
 128 legislative findings; requiring public water systems  
 129 and domestic wastewater treatment systems to develop  
 130 asset management plans and create reserve funds by a  
 131 specified date; defining the term "domestic wastewater  
 132 treatment system"; providing requirements for such  
 133 plans and funds; specifying eligibility criteria for  
 134 state funding; directing the Department of  
 135 Environmental Protection to adopt rules; creating s.  
 136 403.893, F.S.; providing a declaration of state  
 137 policy; requiring public water and domestic wastewater  
 138 treatment utilities that have infrastructure in  
 139 certain flood hazard areas to build new infrastructure  
 140 that meets specified criteria; amending s. 570.76,  
 141 F.S.; authorizing the Department of Agriculture and  
 142 Consumer Services to assist local governments in  
 143 administering local rural-lands-protection easement  
 144 programs; providing requirements and restrictions for  
 145 such assistance; amending s. 1004.49, F.S.; renaming  
 146 the Department of Fisheries and Aquaculture of the  
 147 Institute of Food and Agricultural Sciences at the  
 148 University of Florida as the School of Forest  
 149 Resources and Conservation's Fisheries and Aquatic  
 150 Science Program; providing that the LAKEWATCH Program

151 may train, supervise, and coordinate volunteers to  
 152 collect water quality data from Florida's lakes,  
 153 streams, and estuaries; providing that the Department  
 154 of Environmental Protection may use the data collected  
 155 if the data collection methods meet sufficient quality  
 156 assurance and quality control requirements; amending  
 157 ss. 20.3315, 253.027, 259.035, 259.037, 380.510,  
 158 570.715, and 589.065, F.S.; conforming cross-  
 159 references; providing a declaration of important state  
 160 interest; providing an effective date.

161

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

163

164 Section 1. Subsections (4) and (5) are added to section  
 165 125.35, Florida Statutes, to read:

166 125.35 County authorized to sell real and personal  
 167 property and to lease real property.—

168 (4) Proceeds from the sale of surplus conservation lands  
 169 purchased with Florida Forever funds before July 1, 2015, shall  
 170 be deposited into the Florida Forever Trust Fund if the county  
 171 does not use the proceeds for another purpose identified in the  
 172 Florida Forever Act within 3 years. If the county purchased the  
 173 conservation land with multiple revenue sources, the county  
 174 shall deposit an amount based on the percentage of Florida  
 175 Forever funds used for the original purchase.

176        (5) Proceeds from the sale of surplus conservation lands  
 177 purchased with state funds on or after July 1, 2015, shall be  
 178 deposited into the Land Acquisition Trust Fund if the county  
 179 does not use the proceeds for another purpose identified in s.  
 180 28, Art. X of the State Constitution within 3 years. If the  
 181 county purchased the conservation land with funds other than  
 182 those from the Land Acquisition Trust Fund or a land acquisition  
 183 trust fund created to implement s. 28, Art. X of the State  
 184 Constitution, the proceeds shall be deposited into the fund from  
 185 which the land was purchased. If the county purchased the  
 186 conservation land with multiple revenue sources, the county  
 187 shall deposit an amount based on the percentage of state funds  
 188 used for the original purchase.

189        Section 2. Paragraph (a) of subsection (14) of section  
 190 161.101, Florida Statutes, is amended, and paragraph (k) is  
 191 added to that subsection, to read:

192        161.101 State and local participation in authorized  
 193 projects and studies relating to beach management and erosion  
 194 control.—

195        (14) The intent of the Legislature in preserving and  
 196 protecting Florida's sandy beaches pursuant to this act is to  
 197 direct beach erosion control appropriations to the state's most  
 198 severely eroded beaches, and to prevent further adverse impact  
 199 caused by improved, modified, or altered inlets, coastal  
 200 armoring, or existing upland development. In establishing annual

201 project funding priorities, the department shall seek formal  
 202 input from local coastal governments, beach and general  
 203 government interest groups, and university experts. Criteria to  
 204 be considered by the department in determining annual funding  
 205 priorities shall include:

206 (a) The severity of erosion conditions, the threat to  
 207 existing upland development, and recreational ~~and/or economic~~  
 208 benefits.

209 (k) The economic benefit of the project as measured by the  
 210 ratio of the tourist development tax revenue collected pursuant  
 211 to s. 125.0104 for the most recent year to the state sales tax  
 212 and the tourist development tax revenues for the most recent  
 213 year. The department shall calculate this ratio using state  
 214 sales tax and the tourist development tax data of the county  
 215 having jurisdiction over the project area. If multiple counties  
 216 have jurisdiction over the project area, the department shall  
 217 assess each county individually using these ratios. The  
 218 department shall calculate the mean average of these ratios to  
 219 determine the final overall economic benefit of the project for  
 220 the multicounty project.

221  
 222 In the event that more than one project qualifies equally under  
 223 the provisions of this subsection, the department shall assign  
 224 funding priority to those projects that are ready to proceed.

225 Section 3. Subsections (2) through (7) of section 161.161,



226 Florida Statutes, are renumbered as subsections (3) through (8),  
 227 respectively, subsection (1) and present subsection (2) are  
 228 amended, and a new subsection (2) is added to that section, to  
 229 read:

230 161.161 Procedure for approval of projects.—

231 (1) The department shall develop and maintain a  
 232 comprehensive long-term beach management plan for the  
 233 restoration and maintenance of the state's critically eroded  
 234 beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits  
 235 of Florida. In developing and maintaining this ~~The beach~~  
 236 ~~management~~ plan, the department shall:

237 (a) Address long-term solutions to the problem of  
 238 critically eroded beaches in this state.

239 (b) Evaluate each improved, modified, or altered inlet and  
 240 determine whether the inlet is a significant cause of beach  
 241 erosion. With respect to each inlet determined to be a  
 242 significant cause of beach erosion, the plan shall include+

243 ~~1.~~ the extent to which such inlet causes beach erosion and  
 244 recommendations to mitigate the erosive impact of the inlet,  
 245 including, but not limited to, ~~recommendations regarding~~ inlet  
 246 sediment bypassing; improvement of infrastructure to facilitate  
 247 sand bypassing; modifications to channel dredging, jetty design,  
 248 and disposal of spoil material; establishment of feeder beaches;  
 249 and beach restoration and beach nourishment; ~~and~~

250 ~~2. Cost estimates necessary to take inlet corrective~~

251 ~~measures and recommendations regarding cost sharing among the~~  
 252 ~~beneficiaries of such inlet.~~

253 (c) Evaluate ~~Design~~ criteria for beach restoration and  
 254 beach nourishment projects, including, but not limited to, 1-  
 255 ~~1-~~ dune elevation and width and revegetation and  
 256 stabilization requirements, + and  
 257 ~~2-~~ beach profiles ~~profile~~.

258 (d) Consider ~~Evaluate~~ the establishment of regional  
 259 sediment management alternatives for one or more individual  
 260 beach and inlet sand bypassing projects ~~feeder beaches~~ as an  
 261 alternative to ~~direct~~ beach restoration when appropriate and  
 262 cost-effective, and recommend the location of such regional  
 263 sediment management alternatives ~~feeder beaches~~ and the source  
 264 of beach-compatible sand.

265 (e) Identify causes of shoreline erosion and change,  
 266 determine ~~calculate~~ erosion rates, and maintain an updated list  
 267 of critically eroded sandy beaches based on data, analyses, and  
 268 investigations of shoreline conditions ~~and project long-term~~  
 269 ~~erosion for all major beach and dune systems by surveys and~~  
 270 ~~profiles~~.

271 (f) ~~Identify shoreline development and degree of density~~  
 272 ~~and~~ Assess impacts of development and coastal protection  
 273 ~~shoreline protective~~ structures on shoreline change and erosion.

274 (g) Identify short-term and long-term economic costs and  
 275 benefits of beaches to the state and individual beach

276 ~~communities, including recreational value to user groups, tax~~  
 277 ~~base, revenues generated, and beach acquisition and maintenance~~  
 278 ~~costs.~~

279 (h) Study dune and vegetation conditions, identify  
 280 existing beach projects without dune features or with dunes  
 281 without adequate elevations, and encourage dune restoration and  
 282 revegetation to be incorporated as part of storm damage recovery  
 283 projects or future dune maintenance events.

284 (i) Identify beach areas used by marine turtles and  
 285 develop strategies for protection of the turtles and their nests  
 286 and nesting locations.

287 (j) Identify alternative management responses to preserve  
 288 undeveloped beach and dune systems and to restore damaged beach  
 289 and dune systems. In identifying such management responses, the  
 290 department shall consider, at a minimum, and to prevent  
 291 ~~inappropriate development and redevelopment on migrating~~  
 292 ~~beaches, and consider~~ beach restoration and nourishment,  
 293 armoring, relocation ~~and abandonment~~, dune and vegetation  
 294 restoration, and acquisition.

295 (k) Document procedures and policies for preparing  
 296 poststorm damage assessments and corresponding recovery plans,  
 297 including repair cost estimates ~~Establish criteria, including~~  
 298 ~~costs and specific implementation actions, for alternative~~  
 299 ~~management techniques.~~

300 (l) Identify and assess ~~Select and recommend~~ appropriate

301 management measures for all of the state's critically eroded  
 302 sandy beaches ~~in a beach management program.~~

303 ~~(m) Establish a list of beach restoration and beach~~  
 304 ~~nourishment projects, arranged in order of priority, and the~~  
 305 ~~funding levels needed for such projects.~~

306 (2) The comprehensive long-term beach management plan  
 307 developed and maintained by the department pursuant to  
 308 subsection (1) must include, at a minimum, a strategic beach  
 309 management plan, a critically eroded beaches report, and a  
 310 statewide long-range budget plan.

311 (a) The strategic beach management plan must identify and  
 312 recommend appropriate measures for all of the state's critically  
 313 eroded sandy beaches and may incorporate plans ~~be~~ prepared at  
 314 the regional level, taking into account ~~based upon~~ areas of  
 315 greatest need and probable federal and local funding. Upon  
 316 approval in accordance with this section, such regional plans  
 317 ~~shall be components of the statewide beach management plan and~~  
 318 ~~shall~~ serve as the basis for state funding decisions ~~upon~~  
 319 ~~approval in accordance with chapter 86-138, Laws of Florida. In~~  
 320 ~~accordance with a schedule established for the submission of~~  
 321 ~~regional plans by the department, any completed plan must be~~  
 322 ~~submitted to the secretary of the department for approval no~~  
 323 ~~later than March 1 of each year. These regional plans shall~~  
 324 ~~include, but shall not be limited to, recommendations of~~  
 325 ~~appropriate funding mechanisms for implementing projects in the~~

326 ~~beach management plan, giving consideration to the use of~~  
327 ~~single county and multicounty taxing districts or other revenue~~  
328 ~~generation measures by state and local governments and the~~  
329 ~~private sector.~~ Before finalizing the strategic beach management  
330 ~~Prior to presenting the plan to the secretary of the department,~~  
331 the department shall hold a public meeting in the region areas  
332 for which the plan is prepared or through a publicly noticed  
333 webinar. ~~The plan submission schedule shall be submitted to the~~  
334 ~~secretary for approval. Any revisions to such schedule must be~~  
335 ~~approved in like manner.~~

336 (b) The critically eroded beaches report must be  
337 developed, in part, based on the requirements specified in  
338 paragraph (1)(e), and must be maintained by the department.

339 (c) The statewide long-range budget plan must include at  
340 least 5 years of planned beach restoration, beach nourishment,  
341 and inlet management project funding needs as identified, and  
342 subsequently refined, by local government sponsors. The plan  
343 must identify the proposed schedule of the feasibility, design,  
344 construction, and monitoring phases of the projects anticipated  
345 in the next 5 years and the projected costs of those phases. The  
346 projects may be presented by region and do not need to be  
347 presented in priority order. However, the department should  
348 identify issues that may prevent successful completion of such  
349 projects and recommend solutions that would allow the projects  
350 to progress.

351        ~~(3)(2)~~ Annually, The secretary shall annually present the  
 352 statewide long-range budget plan to the Legislature as part of  
 353 the department's annual budget request. The work plan must be  
 354 accompanied by a 5-year financial forecast for the availability  
 355 of funding for the projects ~~recommendations for funding beach~~  
 356 ~~erosion control projects prioritized according to the criteria~~  
 357 ~~established in s. 161.101(14)~~.

358        Section 4. Paragraph (c) of subsection (6) of section  
 359 163.3177, Florida Statutes, is amended to read:

360        163.3177 Required and optional elements of comprehensive  
 361 plan; studies and surveys.-

362        (6) In addition to the requirements of subsections (1)-  
 363 (5), the comprehensive plan shall include the following  
 364 elements:

365        (c) A general sanitary sewer, solid waste, drainage,  
 366 potable water, and natural groundwater aquifer recharge element  
 367 correlated to principles and guidelines for future land use,  
 368 indicating ways to provide for future potable water, drainage,  
 369 sanitary sewer, solid waste, and aquifer recharge protection  
 370 requirements for the area. The element may be a detailed  
 371 engineering plan including a topographic map depicting areas of  
 372 prime groundwater recharge.

373        1. Each local government shall address in the data and  
 374 analyses required by this section those facilities that provide  
 375 service within the local government's jurisdiction. Local

376 governments that provide facilities to serve areas within other  
 377 local government jurisdictions shall also address those  
 378 facilities in the data and analyses required by this section,  
 379 using data from the comprehensive plan for those areas for the  
 380 purpose of projecting facility needs as required in this  
 381 subsection. For shared facilities, each local government shall  
 382 indicate the proportional capacity of the systems allocated to  
 383 serve its jurisdiction.

384 2. The element shall describe the problems and needs and  
 385 the general facilities that will be required for solution of the  
 386 problems and needs, including correcting existing facility  
 387 deficiencies. The element shall address coordinating the  
 388 extension of, or increase in the capacity of, facilities to meet  
 389 future needs while maximizing the use of existing facilities and  
 390 discouraging urban sprawl; conserving potable water resources;  
 391 and protecting the functions of natural groundwater recharge  
 392 areas and natural drainage features.

393 3. Within 18 months after the governing board approves an  
 394 updated regional water supply plan, the element must incorporate  
 395 the alternative water supply project or projects selected by the  
 396 local government from those identified in the regional water  
 397 supply plan pursuant to s. 373.709(2)(a) or proposed by the  
 398 local government under s. 373.709(8)(b). If a local government  
 399 is located within two water management districts, the local  
 400 government shall adopt its comprehensive plan amendment within

401 18 months after the later updated regional water supply plan.  
402 The element must identify such alternative water supply projects  
403 and traditional water supply projects and conservation and reuse  
404 necessary to meet the water needs identified in s. 373.709(2)(a)  
405 within the local government's jurisdiction and include a work  
406 plan, covering at least a 10-year planning period, for building  
407 public, private, and regional water supply facilities, including  
408 development of alternative water supplies, which are identified  
409 in the element as necessary to serve existing and new  
410 development. The work plan shall be updated, at a minimum, every  
411 5 years within 18 months after the governing board of a water  
412 management district approves an updated regional water supply  
413 plan. A local government designated as a rural area of  
414 opportunity pursuant to s. 288.0656 which does not own, operate,  
415 or maintain its own water supply facilities, including, but not  
416 limited to, wells, treatment facilities, and distribution  
417 infrastructure, is not required to develop or maintain the work  
418 plan required under this subparagraph. Local governments, public  
419 and private utilities, regional water supply authorities,  
420 special districts, and water management districts are encouraged  
421 to cooperatively plan for the development of multijurisdictional  
422 water supply facilities that are sufficient to meet projected  
423 demands for established planning periods, including the  
424 development of alternative water sources to supplement  
425 traditional sources of groundwater and surface water supplies.



426           4. A local government that does not own, operate, or  
 427 maintain its own water supply facilities, including, but not  
 428 limited to, wells, treatment facilities, and distribution  
 429 infrastructure, and is served by a public water utility with a  
 430 permitted allocation of greater than 300 million gallons per day  
 431 is not required to amend its comprehensive plan in response to  
 432 an updated regional water supply plan or to maintain a work plan  
 433 if any such local government's usage of water constitutes less  
 434 than 1 percent of the public water utility's total permitted  
 435 allocation. However, any such local government is required to  
 436 cooperate with, and provide relevant data to, any local  
 437 government or utility provider that provides service within its  
 438 jurisdiction, and to keep its general sanitary sewer, solid  
 439 waste, potable water, and natural groundwater aquifer recharge  
 440 element updated in accordance with s. 163.3191.

441           Section 5. Section 166.0452, Florida Statutes, is created  
 442 to read:

443           166.0452 Disposition of municipal conservation land  
 444 purchased with state funds.-

445           (1) Proceeds from the sale of surplus conservation lands  
 446 purchased with Florida Forever funds before July 1, 2015, shall  
 447 be deposited into the Florida Forever Trust Fund if the  
 448 municipality does not use the proceeds for another purpose  
 449 identified in the Florida Forever Act within 3 years. If the  
 450 municipality purchased the conservation land with multiple

451 revenue sources, the municipality shall deposit an amount based  
 452 on the percentage of Florida Forever funds used for the original  
 453 purchase.

454 (2) Proceeds from the sale of surplus conservation lands  
 455 purchased with state funds on or after July 1, 2015, shall be  
 456 deposited into the Land Acquisition Trust Fund if the  
 457 municipality does not use the proceeds for another purpose  
 458 identified in s. 28, Art. X of the State Constitution within 3  
 459 years. If the municipality purchased the conservation land with  
 460 funds other than those from the Land Acquisition Trust Fund or a  
 461 land acquisition trust fund created to implement s. 28, Art. X  
 462 of the State Constitution, the proceeds shall be deposited into  
 463 the fund from which the land was purchased. If the municipality  
 464 purchased the conservation land with multiple revenue sources,  
 465 the municipality shall deposit an amount based on the percentage  
 466 of state funds used for the original purchase.

467 Section 6. Paragraph (a) of subsection (1) and subsection  
 468 (6) of section 215.618, Florida Statutes, are amended to read:

469 215.618 Bonds for acquisition and improvement of land,  
 470 water areas, and related property interests and resources.—

471 (1)(a) The issuance of Florida Forever bonds, not to  
 472 exceed \$5.3 billion, to finance or refinance the cost of  
 473 acquisition ~~and improvement~~ of land, water areas, and related  
 474 property interests and resources, in urban and rural settings,  
 475 for the purposes of restoration, conservation, recreation, water

476 resource development, or historical preservation, ~~and for~~  
 477 ~~capital improvements to lands and water areas that accomplish~~  
 478 ~~environmental restoration, enhance public access and~~  
 479 ~~recreational enjoyment, promote long-term management goals, and~~  
 480 ~~facilitate water resource development is hereby authorized,~~  
 481 subject to s. 259.105, and to finance or refinance any costs  
 482 related to the purposes identified in s. 373.4598 is authorized.

483 The issuance of Florida Forever bonds shall be ~~and~~ pursuant to  
 484 s. 11(e), Art. VII of the State Constitution and, on or after  
 485 July 1, 2015, to also finance or refinance the acquisition ~~and~~  
 486 ~~improvement~~ of land, water areas, and related property interests  
 487 and the purposes identified in s. 373.4598 as provided in s. 28,  
 488 Art. X of the State Constitution. The \$5.3 billion limitation on  
 489 the issuance of Florida Forever bonds does not apply to  
 490 refunding bonds. The duration of each series of Florida Forever  
 491 bonds issued may not exceed 20 annual maturities. Not more than  
 492 58.25 percent of documentary stamp taxes collected may be taken  
 493 into account for the purpose of satisfying an additional bonds  
 494 test set forth in any authorizing resolution for bonds issued on  
 495 or after July 1, 2015.

496 (6) ~~There shall be~~ No sale, disposition, lease, easement,  
 497 license, or other use of any land, water areas, or related  
 498 property interests acquired ~~or improved~~ with proceeds of Florida  
 499 Forever bonds may be made if it ~~which~~ would cause all or any  
 500 portion of the interest of such bonds to lose the exclusion from

501 gross income for federal income tax purposes.

502 Section 7. Subsection (8) is added to section 253.0251,  
 503 Florida Statutes, to read:

504 253.0251 Alternatives to fee simple acquisition.-

505 (8) The Department of Environmental Protection may provide  
 506 assistance to local governments administering rural-lands-  
 507 protection easement programs. The department may provide  
 508 technical support to review applications for inclusion in the  
 509 local government's program, serve as acquisition agents for the  
 510 local government using the procedures in s. 570.715, facilitate  
 511 real estate closings, and monitor compliance with the  
 512 conservation easements. The department may not use any state  
 513 funds to assist in the purchase of such easements or pay any  
 514 acquisition costs. The local government must compensate the  
 515 department for its services. The agreement for assistance must  
 516 be documented in a memorandum of agreement between the  
 517 department and the local government. The title to such  
 518 conservation easements shall be held in the name of the local  
 519 government.

520 Section 8. Subsection (3), paragraph (b) of subsection  
 521 (5), and subsection (9) of section 253.034, Florida Statutes,  
 522 are amended to read:

523 253.034 State-owned lands; uses.-

524 (3) Recognizing that recreational trails purchased with  
 525 rails-to-trails funds pursuant to former s. 259.101(3)(g),

526 Florida Statutes 2014, or former s. 259.105(3)(h), Florida  
 527 Statutes 2017, have had historic transportation uses and that  
 528 their linear character may extend many miles, the Legislature  
 529 intends that if the necessity arises to serve public needs,  
 530 after balancing the need to protect trail users from collisions  
 531 with automobiles and a preference for the use of overpasses and  
 532 underpasses to the greatest extent feasible and practical,  
 533 transportation uses shall be allowed to cross recreational  
 534 trails purchased pursuant to former s. 259.101(3)(g), Florida  
 535 Statutes 2014, or former s. 259.105(3)(h), Florida Statutes  
 536 2017. When these crossings are needed, the location and design  
 537 should consider and mitigate the impact on humans and  
 538 environmental resources, and the value of the land shall be paid  
 539 based on fair market value.

540 (5) Each manager of conservation lands shall submit to the  
 541 Division of State Lands a land management plan at least every 10  
 542 years in a form and manner adopted by rule of the board of  
 543 trustees and in accordance with s. 259.032. Each manager of  
 544 conservation lands shall also update a land management plan  
 545 whenever the manager proposes to add new facilities or make  
 546 substantive land use or management changes that were not  
 547 addressed in the approved plan, or within 1 year after the  
 548 addition of significant new lands. Each manager of  
 549 nonconservation lands shall submit to the Division of State  
 550 Lands a land use plan at least every 10 years in a form and

551 manner adopted by rule of the board of trustees. The division  
 552 shall review each plan for compliance with the requirements of  
 553 this subsection and the requirements of the rules adopted by the  
 554 board of trustees pursuant to this section. All nonconservation  
 555 land use plans, whether for single-use or multiple-use  
 556 properties, shall be managed to provide the greatest benefit to  
 557 the state. Plans for managed areas larger than 1,000 acres shall  
 558 contain an analysis of the multiple-use potential of the  
 559 property which includes the potential of the property to  
 560 generate revenues to enhance the management of the property. In  
 561 addition, the plan shall contain an analysis of the potential  
 562 use of private land managers to facilitate the restoration or  
 563 management of these lands. If a newly acquired property has a  
 564 valid conservation plan that was developed by a soil and  
 565 conservation district, such plan shall be used to guide  
 566 management of the property until a formal land use plan is  
 567 completed.

568 (b) Short-term and long-term management goals for state  
 569 conservation lands shall include measurable objectives for the  
 570 following, as appropriate:

- 571 1. Habitat restoration and improvement.
- 572 2. Public access and recreational opportunities.
- 573 3. Hydrological preservation and restoration.
- 574 4. Sustainable forest management.
- 575 5. Exotic and invasive species maintenance and control,

576 including prioritizing the species that must be maintained or  
 577 controlled and the areas where such maintenance and control must  
 578 first be addressed.

579 6. Capital facilities and infrastructure.

580 7. Cultural and historical resources.

581 8. Imperiled species habitat maintenance, enhancement,  
 582 restoration, or population restoration.

583 (9) The following additional uses of conservation lands  
 584 acquired pursuant to the Florida Forever program and other  
 585 state-funded conservation land purchase programs shall be  
 586 authorized, upon a finding by the board of trustees, if they  
 587 meet the criteria specified in paragraphs (a)-(e): water  
 588 resource development projects, water supply development  
 589 projects, stormwater management projects, linear facilities, and  
 590 sustainable agriculture and forestry. Such additional uses are  
 591 authorized if:

592 (a) The use is not inconsistent with the management plan  
 593 for such lands;

594 (b) The use is compatible with the natural ecosystem and  
 595 resource values of such lands;

596 (c) The use is appropriately located on such lands and due  
 597 consideration is given to the use of other available lands;

598 (d) The using entity reasonably compensates the  
 599 titleholder for such use based upon an appropriate measure of  
 600 value; and

601 (e) The use is consistent with the public interest.

602

603 A decision by the board of trustees pursuant to this section  
 604 shall be given a presumption of correctness. Moneys received  
 605 from the use of state lands pursuant to this section shall be  
 606 returned to the lead managing entity in accordance with s.  
 607 259.032(9)(b) ~~s. 259.032(9)(e)~~.

608 Section 9. Subsection (3) is added to section 258.014,  
 609 Florida Statutes, to read:

610 258.014 Fees for use of state parks.-

611 (3) The division shall adopt rules to create a state park  
 612 annual entrance pass program for volunteer work related to  
 613 nonnative and invasive plant species removal. The division shall  
 614 issue an annual entrance pass to all state parks at no charge to  
 615 individuals who perform at least 50 hours of volunteer service  
 616 at any state park to remove nonnative and invasive plant  
 617 species. The volunteer work performed by the individual must be  
 618 consistent with the park's adopted unit management plan and  
 619 under the supervision of the division. The rules must include,  
 620 at a minimum:

621 (a) Identification of what qualifies as volunteer hours  
 622 performed.

623 (b) A process to document and verify the individual  
 624 performed at least 50 hours of volunteer service for nonnative  
 625 and invasive species removal at state parks before receiving an



626 annual entrance pass at no charge.

627 (c) A process to identify appropriate nonnative and  
 628 invasive species removal activities and locations appropriate  
 629 for volunteers consistent with each park's unit management plan.

630 (d) A process for supervising volunteer activities to  
 631 ensure the safety of the volunteers and the service is conducted  
 632 in a manner consistent with the park's unit management plan.

633 Section 10. Subsections (3) and (6) of section 259.03,  
 634 Florida Statutes, are amended to read:

635 259.03 Definitions.—The following terms and phrases when  
 636 used in this chapter shall have the meanings ascribed to them in  
 637 this section, except where the context clearly indicates a  
 638 different meaning:

639 ~~(3) "Capital improvement" or "capital project expenditure"~~  
 640 ~~means those activities relating to the acquisition, restoration,~~  
 641 ~~public access, and recreational uses of such lands, water areas,~~  
 642 ~~and related resources deemed necessary to accomplish the~~  
 643 ~~purposes of this chapter. Eligible activities include, but are~~  
 644 ~~not limited to: the initial removal of invasive plants; the~~  
 645 ~~construction, improvement, enlargement or extension of~~  
 646 ~~facilities' signs, firelanes, access roads, and trails; or any~~  
 647 ~~other activities that serve to restore, conserve, protect, or~~  
 648 ~~provide public access, recreational opportunities, or necessary~~  
 649 ~~services for land or water areas. Such activities shall be~~  
 650 ~~identified prior to the acquisition of a parcel or the approval~~

651 ~~of a project. The continued expenditures necessary for a capital~~  
 652 ~~improvement approved under this subsection shall not be eligible~~  
 653 ~~for funding provided in this chapter.~~

654 ~~(6) "Water resource development project" means a project~~  
 655 ~~eligible for funding pursuant to s. 259.105 that increases the~~  
 656 ~~amount of water available to meet the needs of natural systems~~  
 657 ~~and the citizens of the state by enhancing or restoring aquifer~~  
 658 ~~recharge, facilitating the capture and storage of excess flows~~  
 659 ~~in surface waters, or promoting reuse. The implementation of~~  
 660 ~~eligible projects under s. 259.105 includes land acquisition,~~  
 661 ~~land and water body restoration, aquifer storage and recovery~~  
 662 ~~facilities, surface water reservoirs, and other capital~~  
 663 ~~improvements. The term does not include construction of~~  
 664 ~~treatment, transmission, or distribution facilities.~~

665 Section 11. Paragraphs (b), (d), and (e) of subsection (9)  
 666 of section 259.032, Florida Statutes, are amended to read:

667 259.032 Conservation and recreation lands.-

668 (9)

669 ~~(b) An amount of not less than 1.5 percent of the~~  
 670 ~~cumulative total of funds ever deposited into the former Florida~~  
 671 ~~Preservation 2000 Trust Fund and the Florida Forever Trust Fund~~  
 672 ~~shall be made available for the purposes of management,~~  
 673 ~~maintenance, and capital improvements, and for associated~~  
 674 ~~contractual services, for conservation and recreation lands~~  
 675 ~~acquired with funds deposited into the Land Acquisition Trust~~

676 ~~Fund pursuant to s. 28(a), Art. X of the State Constitution or~~  
 677 ~~pursuant to former s. 259.032, Florida Statutes 2014, former s.~~  
 678 ~~259.101, Florida Statutes 2014, s. 259.105, s. 259.1052, or~~  
 679 ~~previous programs for the acquisition of lands for conservation~~  
 680 ~~and recreation, including state forests, to which title is~~  
 681 ~~vested in the board of trustees and other conservation and~~  
 682 ~~recreation lands managed by a state agency. Each agency with~~  
 683 ~~management responsibilities shall annually request from the~~  
 684 ~~Legislature funds sufficient to fulfill such responsibilities to~~  
 685 ~~implement individual management plans. For the purposes of this~~  
 686 ~~paragraph, capital improvements shall include, but need not be~~  
 687 ~~limited to, perimeter fencing, signs, firelanes, access roads~~  
 688 ~~and trails, and minimal public accommodations, such as primitive~~  
 689 ~~campsites, garbage receptacles, and toilets. Any equipment~~  
 690 ~~purchased with funds provided pursuant to this paragraph may be~~  
 691 ~~used for the purposes described in this paragraph on any~~  
 692 ~~conservation and recreation lands managed by a state agency. The~~  
 693 ~~funding requirement created in this paragraph is subject to an~~  
 694 ~~annual evaluation by the Legislature to ensure that such~~  
 695 ~~requirement does not impact the respective trust fund in a~~  
 696 ~~manner that would prevent the trust fund from meeting other~~  
 697 ~~minimum requirements.~~

698 ~~(d) Up to one-fifth of the funds appropriated for the~~  
 699 ~~purposes identified in paragraph (b) shall be reserved by the~~  
 700 ~~board for interim management of acquisitions and for associated~~

701 ~~contractual services, to ensure the conservation and protection~~  
 702 ~~of natural resources on project sites and to allow limited~~  
 703 ~~public recreational use of lands. Interim management activities~~  
 704 ~~may include, but not be limited to, resource assessments,~~  
 705 ~~control of invasive, nonnative species, habitat restoration,~~  
 706 ~~fencing, law enforcement, controlled burning, and public access~~  
 707 ~~consistent with preliminary determinations made pursuant to~~  
 708 ~~paragraph (7)(f). The board shall make these interim funds~~  
 709 ~~available immediately upon purchase.~~

710 ~~(c) The department shall set long range and annual goals~~  
 711 ~~for the control and removal of nonnative, invasive plant species~~  
 712 ~~on public lands. Such goals shall differentiate between aquatic~~  
 713 ~~plant species and upland plant species. In setting such goals,~~  
 714 ~~the department may rank, in order of adverse impact, species~~  
 715 ~~that impede or destroy the functioning of natural systems.~~  
 716 ~~Notwithstanding paragraph (a), up to one fourth of the funds~~  
 717 ~~provided for in paragraph (b) may be used by the agencies~~  
 718 ~~receiving those funds for control and removal of nonnative,~~  
 719 ~~invasive species on public lands.~~

720 Section 12. Section 259.105, Florida Statutes, is amended  
 721 to read:

722 259.105 The Florida Forever Act.—

723 (1) This section may be cited as the "Florida Forever  
 724 Act."

725 (2)(a) The Legislature finds and declares that:

726           1. Land acquisition programs have provided tremendous  
 727 financial resources for purchasing environmentally significant  
 728 lands to protect those lands from imminent development or  
 729 alteration, thereby ensuring present and future generations'  
 730 access to important waterways, open spaces, and recreation and  
 731 conservation lands.

732           2. The continued alteration and development of the state's  
 733 natural and rural areas to accommodate the state's growing  
 734 population have contributed to the degradation of water  
 735 resources, the fragmentation and destruction of wildlife  
 736 habitats, the loss of outdoor recreation space, and the  
 737 diminishment of wetlands, forests, working landscapes, and  
 738 coastal open space.

739           3. The potential development of the state's remaining  
 740 natural areas and escalation of land values require government  
 741 efforts to restore, bring under public protection, or acquire  
 742 lands and water areas to preserve the state's essential  
 743 ecological functions and invaluable quality of life.

744           4. It is essential to protect the state's ecosystems by  
 745 promoting a more efficient use of land, to ensure opportunities  
 746 for viable agricultural activities on working lands, and to  
 747 promote vital rural and urban communities that support and  
 748 produce development patterns consistent with natural resource  
 749 protection.

750           5. The state's groundwater, surface waters, and springs

751 are under tremendous pressure due to population growth and  
 752 economic expansion and require special protection and  
 753 restoration efforts, including the protection of uplands and  
 754 springsheds that provide vital recharge to aquifer systems and  
 755 are critical to the protection of water quality and water  
 756 quantity of the aquifers and springs. To ensure that sufficient  
 757 quantities of water are available to meet the current and future  
 758 needs of the natural systems and citizens of the state, and  
 759 assist in achieving the planning goals of the department and the  
 760 water management districts, water resource development projects  
 761 on public lands, if compatible with the resource values of and  
 762 management objectives for the lands, are appropriate.

763         6. The needs of urban, suburban, and small communities in  
 764 the state for high-quality outdoor recreational opportunities,  
 765 greenways, trails, and open space have not been fully met by  
 766 previous acquisition programs. Through such programs as the  
 767 Florida Communities Trust and the Florida Recreation Development  
 768 Assistance Program, the state shall place additional emphasis on  
 769 acquiring, protecting, preserving, and restoring open space,  
 770 ecological greenways, and recreation properties within urban,  
 771 suburban, and rural areas where pristine natural communities or  
 772 water bodies no longer exist because of the proximity of  
 773 developed property.

774         7. Many of the state's unique ecosystems, such as the  
 775 Florida Everglades, are facing ecological collapse due to the

776 state's burgeoning population growth and other economic  
 777 activities. To preserve these valuable ecosystems for future  
 778 generations, essential parcels of land must be acquired to  
 779 facilitate ecosystem restoration.

780 8. Access to public lands to support a broad range of  
 781 outdoor recreational opportunities and the development of  
 782 necessary infrastructure, if compatible with the resource values  
 783 of and management objectives for such lands, promotes an  
 784 appreciation for the state's natural assets and improves the  
 785 quality of life.

786 9. Acquisition of lands, in fee simple, less than fee  
 787 interest, or other techniques shall be based on a comprehensive  
 788 science-based assessment of the state's natural resources which  
 789 targets essential conservation lands by prioritizing all current  
 790 and future acquisitions based on a uniform set of data and  
 791 planned so as to protect the integrity and function of  
 792 ecological systems and working landscapes, and provide multiple  
 793 benefits, including preservation of fish and wildlife habitat,  
 794 connection of wildlife habitat with a wildlife crossing,  
 795 recreation space for urban and rural areas, and the restoration  
 796 of natural water storage, flow, and recharge.

797 10. The state has embraced performance-based program  
 798 budgeting as a tool to evaluate the achievements of publicly  
 799 funded agencies, build in accountability, and reward those  
 800 agencies which are able to consistently achieve quantifiable

801 | goals. While previous and existing state environmental programs  
802 | have achieved varying degrees of success, few of these programs  
803 | can be evaluated as to the extent of their achievements,  
804 | primarily because performance measures, standards, outcomes, and  
805 | goals were not established at the outset. Therefore, the Florida  
806 | Forever program shall be developed and implemented in the  
807 | context of measurable state goals and objectives.

808 |       11. The state must play a major role in the recovery and  
809 | management of its imperiled species through the acquisition,  
810 | restoration, enhancement, and management of ecosystems that can  
811 | support the major life functions of such species. It is the  
812 | intent of the Legislature to support local, state, and federal  
813 | programs that result in net benefit to imperiled species habitat  
814 | by providing public and private land owners meaningful  
815 | incentives for acquiring, restoring, managing, and repopulating  
816 | habitats for imperiled species. It is the further intent of the  
817 | Legislature that public lands, both existing and to be acquired,  
818 | identified by the lead land managing agency, in consultation  
819 | with the Fish and Wildlife Conservation Commission for animals  
820 | or the Department of Agriculture and Consumer Services for  
821 | plants, as habitat or potentially restorable habitat for  
822 | imperiled species, be restored, enhanced, managed, and  
823 | repopulated as habitat for such species to advance the goals and  
824 | objectives of imperiled species management for conservation,  
825 | recreation, or both, consistent with the land management plan



826 | without restricting other uses identified in the management  
 827 | plan. It is also the intent of the Legislature that of the  
 828 | proceeds distributed pursuant to subsection (3), additional  
 829 | consideration be given to acquisitions that achieve a  
 830 | combination of conservation goals, including the restoration,  
 831 | enhancement, management, or repopulation of habitat for  
 832 | imperiled species. The council, ~~in addition to the criteria in~~  
 833 | ~~subsection (9)~~, shall give weight to projects that include  
 834 | acquisition, restoration, management, or repopulation of habitat  
 835 | for imperiled species. The term "imperiled species" as used in  
 836 | this chapter and chapter 253, means plants and animals that are  
 837 | federally listed under the Endangered Species Act, or state-  
 838 | listed by the Fish and Wildlife Conservation Commission or the  
 839 | Department of Agriculture and Consumer Services. As part of the  
 840 | state's role, all state lands that have imperiled species  
 841 | habitat shall include as a consideration in management plan  
 842 | development the restoration, enhancement, management, and  
 843 | repopulation of such habitats. In addition, the lead land  
 844 | managing agency of such state lands may use fees received from  
 845 | public or private entities for projects to offset adverse  
 846 | impacts to imperiled species or their habitat in order to  
 847 | restore, enhance, manage, repopulate, or acquire land and to  
 848 | implement land management plans developed under s. 253.034 or a  
 849 | land management prospectus developed and implemented under this  
 850 | chapter. Such fees shall be deposited into a foundation or fund

851 created by each land management agency under s. 379.223, s.  
 852 589.012, or s. 259.032(9)(b) ~~s. 259.032(9)(e)~~, to be used solely  
 853 to restore, manage, enhance, repopulate, or acquire imperiled  
 854 species habitat.

855 12. There is a need to change the focus and direction of  
 856 the state's major land acquisition programs and to extend  
 857 funding and bonding capabilities, so that future generations may  
 858 enjoy the natural resources of this state.

859 (b) The Legislature recognizes that acquisition of lands  
 860 in fee simple is only one way to achieve the aforementioned  
 861 goals and encourages the use of less-than-fee interests, other  
 862 techniques, and the development of creative partnerships between  
 863 governmental agencies and private landowners. Such partnerships  
 864 may include those that advance the restoration, enhancement,  
 865 management, or repopulation of imperiled species habitat on  
 866 state lands as provided for in subparagraph (a)11. Easements  
 867 acquired pursuant to s. 570.71(2)(a) and (b), land protection  
 868 agreements, and nonstate funded tools such as rural land  
 869 stewardship areas, sector planning, and mitigation should be  
 870 used, where appropriate, to bring environmentally sensitive  
 871 tracts under an acceptable level of protection at a lower  
 872 financial cost to the public, and to provide private landowners  
 873 with the opportunity to enjoy and benefit from their property.

874 (c) Public agencies or other entities that receive funds  
 875 under this section shall coordinate their expenditures so that

876 project acquisitions, when combined with acquisitions under  
 877 Florida Forever, Preservation 2000, Save Our Rivers, the Florida  
 878 Communities Trust, other public land acquisition programs, and  
 879 the techniques, partnerships, and tools referenced in  
 880 subparagraph (a)11. and paragraph (b), are used to form more  
 881 complete patterns of protection for natural areas, ecological  
 882 greenways, and functioning ecosystems, to better accomplish the  
 883 intent of this section.

884 (d) A long-term financial commitment to restoring,  
 885 enhancing, and managing the state's ~~Florida's~~ public lands in  
 886 order to implement land management plans developed under s.  
 887 253.034 or a land management prospectus developed and  
 888 implemented under this chapter must accompany any land  
 889 acquisition program to ensure that the natural resource values  
 890 of such lands are restored, enhanced, managed, and protected;  
 891 that the public enjoys the lands to their fullest potential; and  
 892 that the state achieves the full benefits of its investment of  
 893 public dollars. Innovative strategies such as public-private  
 894 partnerships and interagency planning and sharing of resources  
 895 shall be used to achieve the state's management goals.

896 (e) With limited dollars available for ~~restoration,~~  
 897 ~~enhancement, management, and~~ acquisition of land and water areas  
 898 ~~and for providing long-term management and capital improvements,~~  
 899 a competitive selection process shall select those projects best  
 900 able to meet the goals of the Florida Forever program and

901 maximize the efficient use of the program's funding.

902 (f) To ensure success and provide accountability to the  
 903 citizens of this state, it is the intent of the Legislature that  
 904 any cash or bond proceeds used pursuant to this section be used  
 905 to implement the goals and objectives recommended by a  
 906 comprehensive science-based assessment and approved by the board  
 907 ~~of Trustees of the Internal Improvement Trust Fund~~ and the  
 908 Legislature.

909 (g) As it has with previous land acquisition programs, the  
 910 Legislature recognizes the desires of the residents of this  
 911 state to prosper through economic development and to preserve,  
 912 restore, and manage the state's natural areas and recreational  
 913 open space. The Legislature further recognizes the urgency of  
 914 restoring the natural functions, including wildlife and  
 915 imperiled species habitat functions, of public lands or water  
 916 bodies before they are degraded to a point where recovery may  
 917 never occur, yet acknowledges the difficulty of ensuring  
 918 adequate funding for restoration, enhancement, and management  
 919 efforts in light of other equally critical financial needs of  
 920 the state. It is the Legislature's desire and intent to fund the  
 921 implementation of this section and to do so in a fiscally  
 922 responsible manner, by issuing bonds to be repaid with  
 923 documentary stamp tax or other revenue sources, including those  
 924 identified in subparagraph (a)11.

925 (h) The Legislature further recognizes the important role

926 that many of our state and federal military installations  
 927 contribute to protecting and preserving the state's ~~Florida's~~  
 928 natural resources as well as our economic prosperity. Where the  
 929 state's land conservation plans overlap with the military's need  
 930 to protect lands, waters, and habitat to ensure the  
 931 sustainability of military missions, it is the Legislature's  
 932 intent that agencies receiving funds under this program  
 933 cooperate with our military partners to protect and buffer  
 934 military installations and military airspace, by:

935 1. Protecting habitat on nonmilitary land for any species  
 936 found on military land that is designated as threatened or  
 937 endangered, or is a candidate for such designation under the  
 938 Endangered Species Act or any Florida statute;

939 2. Protecting areas underlying low-level military air  
 940 corridors or operating areas;

941 3. Protecting areas identified as clear zones, accident  
 942 potential zones, and air installation compatible use buffer  
 943 zones delineated by our military partners; and

944 4. Providing the military with technical assistance to  
 945 restore, enhance, and manage military land as habitat for  
 946 imperiled species or species designated as threatened or  
 947 endangered, or a candidate for such designation, and for the  
 948 recovery or reestablishment of such species.

949 (3) Less the costs of issuing and the costs of funding  
 950 reserve accounts and other costs associated with bonds, the

951 | proceeds of cash payments or bonds issued pursuant to this  
 952 | section shall be deposited into the Florida Forever Trust Fund  
 953 | created by s. 259.1051. The proceeds shall be distributed by the  
 954 | department ~~of Environmental Protection~~ in the following manner:

955 |       ~~(a) Thirty percent to the Department of Environmental~~  
 956 | ~~Protection for the acquisition of lands and capital project~~  
 957 | ~~expenditures necessary to implement the water management~~  
 958 | ~~districts' priority lists developed pursuant to s. 373.199. The~~  
 959 | ~~funds are to be distributed to the water management districts as~~  
 960 | ~~provided in subsection (11). A minimum of 50 percent of the~~  
 961 | ~~total funds provided over the life of the Florida Forever~~  
 962 | ~~program pursuant to this paragraph shall be used for the~~  
 963 | ~~acquisition of lands.~~

964 |       (a) (b) Thirty-three and one-third Thirty-five percent to  
 965 | the department of Environmental Protection for the acquisition  
 966 | of lands and capital project expenditures described in this  
 967 | section and lands necessary to implement the water management  
 968 | district priority lists developed pursuant to s. 373.199; to  
 969 | purchase inholdings for lands managed by the department, the  
 970 | Fish and Wildlife Conservation Commission, and the Florida  
 971 | Forest Service within the Department of Agriculture and Consumer  
 972 | Services; and to provide grants for the acquisition of lands  
 973 | pursuant to s. 375.075. Of the proceeds distributed pursuant to  
 974 | this paragraph, it is the intent of the Legislature that an  
 975 | increased priority be given to those acquisitions that ~~which~~

976 | achieve a combination of conservation goals, including  
 977 | protecting the state's ~~Florida's~~ water resources and natural  
 978 | groundwater recharge. ~~At a minimum, 3 percent, and no more than~~  
 979 | ~~10 percent, of the funds allocated pursuant to this paragraph~~  
 980 | ~~shall be spent on capital project expenditures identified during~~  
 981 | ~~the time of acquisition which meet land management planning~~  
 982 | ~~activities necessary for public access.~~

983 | 1. In addition to using funds for acquisitions on the list  
 984 | adopted by the council, the department shall distribute funds  
 985 | for the acquisition of lands necessary to implement water  
 986 | management district priority lists developed pursuant to s.  
 987 | 373.199; for the acquisition of inholdings for lands managed by  
 988 | the department, the Fish and Wildlife Conservation Commission,  
 989 | and the Florida Forest Service within the Department of  
 990 | Agriculture and Consumer Services; and to provide grants for the  
 991 | acquisition of lands pursuant to s. 375.075 if the acquisition  
 992 | proposed by an agency is identified as a current year priority,  
 993 | has demonstrated to be the greatest need, and is consistent with  
 994 | annual legislative appropriations.

995 | 2. An agency that receives funds for the acquisition of  
 996 | inholdings shall develop an acquisition or restoration list in  
 997 | accordance with specific criteria and numeric performance  
 998 | measures developed pursuant to s. 259.035(4). Proposed additions  
 999 | may be acquired if the proposed additions are identified within  
 1000 | the original project boundary, the management plan required

1001 pursuant to s. 253.034(5), or the management prospectus required  
 1002 pursuant to s. 259.032(7)(c). Proposed additions not meeting the  
 1003 requirements of this subparagraph shall be submitted to the  
 1004 council for approval. The council may only approve the proposed  
 1005 addition if it meets two or more of the following criteria:  
 1006 a. Serves as a link or corridor to other publicly owned  
 1007 property.  
 1008 b. Enhances the protection or management of the property.  
 1009 c. Adds a desirable resource to the property.  
 1010 d. Creates a more manageable boundary configuration.  
 1011 e. Protects a high resource value that would otherwise not  
 1012 be protected.  
 1013 f. Can be acquired at less than fair market value.  
 1014 3. Beginning in the 2017-2018 fiscal year and continuing  
 1015 through the 2026-2027 fiscal year, at least \$5 million of the  
 1016 funds allocated pursuant to this paragraph shall be spent on  
 1017 land acquisition within the Florida Keys Area of Critical State  
 1018 Concern as authorized pursuant to s. 259.045.  
 1019 (b)(e) ~~Thirty-three and one-third~~ ~~Twenty-one~~ percent to  
 1020 the department ~~of Environmental Protection~~ for use by the  
 1021 Florida Communities Trust for the purposes of part III of  
 1022 chapter 380, including the Stan Mayfield Working Waterfronts  
 1023 Program pursuant to s. 380.5105, as described and limited by  
 1024 this subsection, and grants to local governments or nonprofit  
 1025 environmental organizations that are tax-exempt under s.



1026 501(c)(3) of the United States Internal Revenue Code for the  
 1027 acquisition of community-based projects, urban open spaces,  
 1028 parks, and greenways to implement local government comprehensive  
 1029 plans. From funds available to the trust and used for land  
 1030 acquisition, 75 percent shall be matched by local governments on  
 1031 a dollar-for-dollar basis. ~~The Legislature intends that the~~  
 1032 ~~Florida Communities Trust emphasize funding projects in low-~~  
 1033 ~~income or otherwise disadvantaged communities and projects that~~  
 1034 ~~provide areas for direct water access and water dependent~~  
 1035 ~~facilities that are open to the public and offer public access~~  
 1036 ~~by vessels to waters of the state, including boat ramps and~~  
 1037 ~~associated parking and other support facilities. At least 30~~  
 1038 ~~percent of the total allocation provided to the trust shall be~~  
 1039 ~~used in Standard Metropolitan Statistical Areas, but one half of~~  
 1040 ~~that amount shall be used in localities in which the project~~  
 1041 ~~site is located in built-up commercial, industrial, or mixed use~~  
 1042 ~~areas and functions to intersperse open spaces within congested~~  
 1043 ~~urban core areas. From funds allocated to the trust, no less~~  
 1044 ~~than 5 percent shall be used to acquire lands for recreational~~  
 1045 ~~trail systems, provided that in the event these funds are not~~  
 1046 ~~needed for such projects, they will be available for other trust~~  
 1047 ~~projects.~~ Local governments may use federal grants or loans,  
 1048 private donations, or environmental mitigation funds for any  
 1049 part or all of any local match required for acquisitions funded  
 1050 through the Florida Communities Trust. Any lands purchased by

1051 nonprofit organizations using funds allocated under this  
 1052 paragraph must provide for such lands to remain permanently in  
 1053 public use through a reversion of title to local or state  
 1054 government, conservation easement, or other appropriate  
 1055 mechanism. Projects funded with funds allocated to the trust  
 1056 shall be selected in a competitive process measured against  
 1057 criteria adopted in rule by the trust.

1058 ~~(d) Two percent to the Department of Environmental~~  
 1059 ~~Protection for grants pursuant to s. 375.075.~~

1060 ~~(e) One and five tenths percent to the Department of~~  
 1061 ~~Environmental Protection for the purchase of inholdings and~~  
 1062 ~~additions to state parks and for capital project expenditures as~~  
 1063 ~~described in this section. At a minimum, 1 percent, and no more~~  
 1064 ~~than 10 percent, of the funds allocated pursuant to this~~  
 1065 ~~paragraph shall be spent on capital project expenditures~~  
 1066 ~~identified during the time of acquisition which meet land~~  
 1067 ~~management planning activities necessary for public access. For~~  
 1068 ~~the purposes of this paragraph, "state park" means any real~~  
 1069 ~~property in the state which is under the jurisdiction of the~~  
 1070 ~~Division of Recreation and Parks of the department, or which may~~  
 1071 ~~come under its jurisdiction.~~

1072 ~~(f) One and five tenths percent to the Florida Forest~~  
 1073 ~~Service of the Department of Agriculture and Consumer Services~~  
 1074 ~~to fund the acquisition of state forest inholdings and additions~~  
 1075 ~~pursuant to s. 589.07, the implementation of reforestation plans~~

1076 ~~or sustainable forestry management practices, and for capital~~  
 1077 ~~project expenditures as described in this section. At a minimum,~~  
 1078 ~~1 percent, and no more than 10 percent, of the funds allocated~~  
 1079 ~~for the acquisition of inholdings and additions pursuant to this~~  
 1080 ~~paragraph shall be spent on capital project expenditures~~  
 1081 ~~identified during the time of acquisition which meet land~~  
 1082 ~~management planning activities necessary for public access.~~

1083 ~~(g) One and five tenths percent to the Fish and Wildlife~~  
 1084 ~~Conservation Commission to fund the acquisition of inholdings~~  
 1085 ~~and additions to lands managed by the commission which are~~  
 1086 ~~important to the conservation of fish and wildlife and for~~  
 1087 ~~capital project expenditures as described in this section. At a~~  
 1088 ~~minimum, 1 percent, and no more than 10 percent, of the funds~~  
 1089 ~~allocated pursuant to this paragraph shall be spent on capital~~  
 1090 ~~project expenditures identified during the time of acquisition~~  
 1091 ~~which meet land management planning activities necessary for~~  
 1092 ~~public access.~~

1093 ~~(h) One and five tenths percent to the Department of~~  
 1094 ~~Environmental Protection for the Florida Greenways and Trails~~  
 1095 ~~Program, to acquire greenways and trails or greenways and trail~~  
 1096 ~~systems pursuant to chapter 260, including, but not limited to,~~  
 1097 ~~abandoned railroad rights of way and the Florida National Scenic~~  
 1098 ~~Trail and for capital project expenditures as described in this~~  
 1099 ~~section. At a minimum, 1 percent, and no more than 10 percent,~~  
 1100 ~~of the funds allocated pursuant to this paragraph shall be spent~~

1101 ~~on capital project expenditures identified during the time of~~  
 1102 ~~acquisition which meet land management planning activities~~  
 1103 ~~necessary for public access.~~

1104 (c)(i) Thirty-three and one-third ~~Three and five-tenths~~  
 1105 percent to the Department of Agriculture and Consumer Services  
 1106 for the acquisition of agricultural lands, through perpetual  
 1107 conservation easements and other perpetual less than fee  
 1108 techniques, which will achieve the objectives of the Florida  
 1109 Forever program and s. 570.71. Rules concerning the application,  
 1110 acquisition, and priority ranking process for such easements  
 1111 shall be developed pursuant to s. 570.71(10) and as provided by  
 1112 this paragraph. Increased priority shall be given to the  
 1113 acquisition of rural-lands-protection easements for which local  
 1114 governments are willing to provide cost-share funding for the  
 1115 acquisition. The board shall ensure that such rules are  
 1116 consistent with the acquisition process provided for in s.  
 1117 570.715. The rules developed pursuant to s. 570.71(10), shall  
 1118 also provide for the following:

1119 1. An annual priority list shall be developed pursuant to  
 1120 s. 570.71(10), submitted to the council for review, and approved  
 1121 by the board pursuant to s. 259.04.

1122 2. Terms of easements and acquisitions proposed pursuant  
 1123 to this paragraph shall be approved by the board and may not be  
 1124 delegated by the board to any other entity receiving funds under  
 1125 this section.

1126 3. All acquisitions pursuant to this paragraph shall  
 1127 contain a clear statement that they are subject to legislative  
 1128 appropriation.

1129  
 1130 ~~Funds provided under this paragraph may not be expended until~~  
 1131 ~~final adoption of rules by the board pursuant to s. 570.71.~~

1132 ~~(j) Two and five tenths percent to the Department of~~  
 1133 ~~Environmental Protection for the acquisition of land and capital~~  
 1134 ~~project expenditures necessary to implement the Stan Mayfield~~  
 1135 ~~Working Waterfronts Program within the Florida Communities Trust~~  
 1136 ~~pursuant to s. 380.5105.~~

1137 (d) ~~(k)~~ It is the intent of the Legislature that cash  
 1138 payments or proceeds of Florida Forever bonds distributed under  
 1139 this section shall be expended in an efficient and fiscally  
 1140 responsible manner. An agency that receives proceeds from  
 1141 Florida Forever bonds under this section may not maintain a  
 1142 balance of unencumbered funds in its Florida Forever subaccount  
 1143 beyond 3 fiscal years from the date of deposit of funds from  
 1144 each bond issue. Any funds that have not been expended or  
 1145 encumbered after 3 fiscal years from the date of deposit shall  
 1146 be distributed by the Legislature at its next regular session  
 1147 for use in the Florida Forever program.

1148 ~~(l) For the purposes of paragraphs (c), (f), (g), and (h),~~  
 1149 ~~the agencies that receive the funds shall develop their~~  
 1150 ~~individual acquisition or restoration lists in accordance with~~

1151 ~~specific criteria and numeric performance measures developed~~  
 1152 ~~pursuant to s. 259.035(4). Proposed additions may be acquired if~~  
 1153 ~~they are identified within the original project boundary, the~~  
 1154 ~~management plan required pursuant to s. 253.034(5), or the~~  
 1155 ~~management prospectus required pursuant to s. 259.032(7)(c).~~  
 1156 ~~Proposed additions not meeting the requirements of this~~  
 1157 ~~paragraph shall be submitted to the council for approval. The~~  
 1158 ~~council may only approve the proposed addition if it meets two~~  
 1159 ~~or more of the following criteria: serves as a link or corridor~~  
 1160 ~~to other publicly owned property; enhances the protection or~~  
 1161 ~~management of the property; would add a desirable resource to~~  
 1162 ~~the property; would create a more manageable boundary~~  
 1163 ~~configuration; has a high resource value that otherwise would be~~  
 1164 ~~unprotected; or can be acquired at less than fair market value.~~  
 1165 ~~(m) Notwithstanding paragraphs (a) (j) and for the 2016-~~  
 1166 ~~2017 fiscal year only:~~  
 1167 ~~1. The amount of \$15,156,206 to only the Division of State~~  
 1168 ~~Lands within the Department of Environmental Protection for the~~  
 1169 ~~Board of Trustees Florida Forever Priority List land acquisition~~  
 1170 ~~projects.~~  
 1171 ~~2. Thirty five million dollars to the Department of~~  
 1172 ~~Agriculture and Consumer Services for the acquisition of~~  
 1173 ~~agricultural lands through perpetual conservation easements and~~  
 1174 ~~other perpetual less than fee techniques, which will achieve the~~  
 1175 ~~objectives of Florida Forever and s. 570.71.~~

1176 ~~3.a. Notwithstanding any allocation required pursuant to~~  
 1177 ~~paragraph (c), \$10 million shall be allocated to the Florida~~  
 1178 ~~Communities Trust for projects acquiring conservation or~~  
 1179 ~~recreation lands to enhance recreational opportunities for~~  
 1180 ~~individuals with unique abilities.~~

1181 ~~b. The Department of Environmental Protection may waive~~  
 1182 ~~the local government matching fund requirement of paragraph (c)~~  
 1183 ~~for projects acquiring conservation or recreation lands to~~  
 1184 ~~enhance recreational opportunities for individuals with unique~~  
 1185 ~~abilities.~~

1186 ~~e. Notwithstanding sub-subparagraphs a. and b., any funds~~  
 1187 ~~required to be used to acquire conservation or recreation lands~~  
 1188 ~~to enhance recreational opportunities for individuals with~~  
 1189 ~~unique abilities which have not been awarded for those purposes~~  
 1190 ~~by May 1, 2017, may be awarded to redevelop or renew outdoor~~  
 1191 ~~recreational facilities on public lands, including recreational~~  
 1192 ~~trails, parks, and urban open spaces, together with improvements~~  
 1193 ~~required to enhance recreational enjoyment and public access to~~  
 1194 ~~public lands, if such redevelopment and renewal is primarily~~  
 1195 ~~geared toward enhancing recreational opportunities for~~  
 1196 ~~individuals with unique abilities. The department may waive the~~  
 1197 ~~local matching requirement of paragraph (c) for such~~  
 1198 ~~redevelopment and renewal projects.~~

1199  
 1200 ~~This paragraph expires July 1, 2017.~~

1201 (4) It is the intent of the Legislature that projects or  
 1202 acquisitions funded pursuant to paragraph (3)(a) ~~paragraphs~~  
 1203 ~~(3)(a) and (b)~~ contribute to the achievement of the following  
 1204 goals, which shall be evaluated in accordance with specific  
 1205 criteria and numeric performance measures developed pursuant to  
 1206 s. 259.035(4):

1207 (a) Enhance the coordination and completion of the state's  
 1208 land acquisition projects, as measured by:

1209 1. The number of acres acquired through the state's land  
 1210 acquisition programs that contribute to the enhancement of  
 1211 essential natural resources, ecosystem service parcels, and  
 1212 connecting linkage corridors as identified and developed by the  
 1213 best available scientific analysis;

1214 2. The number of acres protected through the use of  
 1215 alternatives to fee simple acquisition; or

1216 3. The number of shared acquisition projects among Florida  
 1217 Forever funding partners and partners with other funding  
 1218 sources, including local governments and the Federal Government.

1219 (b) Increase the protection of the state's ~~Florida's~~  
 1220 biodiversity at the species, natural community, and landscape  
 1221 levels, as measured by:

1222 1. The number of acres acquired of significant strategic  
 1223 habitat conservation areas;

1224 2. The number of acres acquired of highest priority  
 1225 conservation areas for the state's ~~Florida's~~ rarest species;



1226 3. The number of acres acquired of significant landscapes,  
 1227 landscape linkages, wildlife crossings, and conservation  
 1228 corridors, giving priority to completing linkages;

1229 4. The number of acres acquired of underrepresented native  
 1230 ecosystems;

1231 5. The number of landscape-sized protection areas of at  
 1232 least 50,000 acres that exhibit a mosaic of predominantly intact  
 1233 or restorable natural communities established through new  
 1234 acquisition projects or augmentations to previous projects; or

1235 6. The percentage increase in the number of occurrences of  
 1236 imperiled species on publicly managed conservation areas.

1237 (c) Protect, restore, and maintain the quality and natural  
 1238 functions of the state's land, water, and wetland systems of the  
 1239 state, as measured by:

1240 1. The number of acres of publicly owned land identified  
 1241 as needing restoration, enhancement, and management, acres  
 1242 undergoing restoration or enhancement, acres with restoration  
 1243 activities completed, and acres managed to maintain such  
 1244 restored or enhanced conditions; the number of acres which  
 1245 represent actual or potential imperiled species habitat; the  
 1246 number of acres which are available pursuant to a management  
 1247 plan to restore, enhance, repopulate, and manage imperiled  
 1248 species habitat; and the number of acres of imperiled species  
 1249 habitat managed, restored, enhanced, repopulated, or acquired;

1250 2. The percentage of water segments that fully meet,

1251 partially meet, or do not meet their designated uses as reported  
 1252 in the department's ~~Department of Environmental Protection's~~  
 1253 State Water Quality Assessment 305(b) Report;

1254 ~~3. The percentage completion of targeted capital~~  
 1255 ~~improvements in surface water improvement and management plans~~  
 1256 ~~created under s. 373.453(2), regional or master stormwater~~  
 1257 ~~management system plans, or other adopted restoration plans;~~

1258 3.4. The number of acres acquired that protect natural  
 1259 floodplain functions;

1260 4.5. The number of acres acquired that protect surface  
 1261 waters ~~of the state~~;

1262 5.6. The number of acres identified for acquisition to  
 1263 minimize damage from flooding and the percentage of those acres  
 1264 acquired;

1265 6.7. The number of acres acquired that protect fragile  
 1266 coastal resources;

1267 7.8. The number of acres of functional wetland systems  
 1268 protected;

1269 8.9. The percentage of miles of critically eroding beaches  
 1270 contiguous with public lands that are restored or protected from  
 1271 further erosion;

1272 9.10. The percentage of public lakes and rivers in which  
 1273 invasive, nonnative aquatic plants are under maintenance  
 1274 control; or

1275 10.11. The number of acres of public conservation lands in

1276 | which upland invasive, exotic plants are under maintenance  
 1277 | control.

1278 |       (d) Ensure that sufficient quantities of water are  
 1279 | available to meet the current and future needs of the state's  
 1280 | natural systems and ~~the citizens of the state~~, as measured by:

1281 |           1. The number of acres acquired which provide retention  
 1282 | and storage of surface water in naturally occurring storage  
 1283 | areas, such as lakes and wetlands, consistent with the  
 1284 | maintenance of water resources or water supplies and consistent  
 1285 | with district water supply plans; or

1286 |           ~~2. The quantity of water made available through the water~~  
 1287 | ~~resource development component of a district water supply plan~~  
 1288 | ~~for which a water management district is responsible; or~~

1289 |           2.3. The number of acres acquired of groundwater recharge  
 1290 | areas critical to springs, sinks, aquifers, other natural  
 1291 | systems, or water supply.

1292 |       (e) Increase the state's natural resource-based public  
 1293 | recreational and educational opportunities, as measured by:

1294 |           1. The number of acres acquired that are available for  
 1295 | natural resource-based public recreation or education;

1296 |           2. The miles of trails that are available for public  
 1297 | recreation, giving priority to those that provide significant  
 1298 | connections including those that will assist in completing the  
 1299 | Florida National Scenic Trail; or

1300 |           3. The number of new resource-based recreation facilities,

1301 by type, made available on public land.

1302 (f) Preserve the state's significant archaeological or  
 1303 historic sites, as measured by:

1304 1. The increase in the number of and percentage of  
 1305 historic and archaeological properties listed in the Florida  
 1306 Master Site File or National Register of Historic Places which  
 1307 are protected or preserved for public use; or

1308 2. The increase in the number and percentage of historic  
 1309 and archaeological properties that are in state ownership.

1310 (g) Increase the amount of forestland available for  
 1311 sustainable management of the state's natural resources, as  
 1312 measured by:

1313 1. The number of acres acquired that are available for  
 1314 sustainable forest management;

1315 2. The number of acres of state-owned forestland managed  
 1316 for economic return in accordance with current best management  
 1317 practices;

1318 3. The number of acres of forestland acquired that will  
 1319 serve to maintain natural groundwater recharge functions; or

1320 4. The percentage and number of acres identified for  
 1321 restoration actually restored by reforestation.

1322 (h) Increase the amount of open space available in the  
 1323 state's urban areas, as measured by:

1324 1. The percentage of local governments that participate in  
 1325 land acquisition programs and acquire open space in urban cores;

1326 or

1327 2. The percentage and number of acres of purchases of open  
1328 space within urban service areas.

1329

1330 Florida Forever projects and acquisitions funded pursuant to  
1331 paragraph (3) (b) ~~(3) (e)~~ shall be measured by goals developed by  
1332 rule by the Florida Communities Trust Governing Board created in  
1333 s. 380.504.

1334 (5) (a) All lands acquired pursuant to this section shall  
1335 be managed for multiple-use purposes, if ~~where~~ compatible with  
1336 the resource values of and management objectives for such lands.  
1337 As used in this section, "multiple-use" includes, but is not  
1338 limited to, outdoor recreational activities as described in ss.  
1339 253.034 and 259.032 (7) (b), ~~water resource development projects,~~  
1340 sustainable forestry management, carbon sequestration, carbon  
1341 mitigation, or carbon offsets.

1342 (b) Upon a decision by the entity in which title to lands  
1343 acquired pursuant to this section has vested, such lands may be  
1344 designated single use as defined in s. 253.034 (2) (b).

1345 (c) For purposes of this section, the board ~~of Trustees of~~  
1346 ~~the Internal Improvement Trust Fund~~ shall adopt rules that  
1347 pertain to the use of state lands for carbon sequestration,  
1348 carbon mitigation, or carbon offsets and that provide for  
1349 climate-change-related benefits.

1350 ~~(6) As provided in this section, a water resource or water~~

1351 ~~supply development project may be allowed only if the following~~  
 1352 ~~conditions are met: minimum flows and levels have been~~  
 1353 ~~established for those waters, if any, which may reasonably be~~  
 1354 ~~expected to experience significant harm to water resources as a~~  
 1355 ~~result of the project; the project complies with all applicable~~  
 1356 ~~permitting requirements; and the project is consistent with the~~  
 1357 ~~regional water supply plan, if any, of the water management~~  
 1358 ~~district and with relevant recovery or prevention strategies if~~  
 1359 ~~required pursuant to s. 373.0421(2).~~

1360 (6)~~(7)~~(a) Beginning no later than July 1, 2001, and every  
 1361 year thereafter, the ~~Acquisition and Restoration~~ council shall  
 1362 accept applications from state agencies, local governments,  
 1363 nonprofit and for-profit organizations, private land trusts, and  
 1364 individuals for project proposals eligible for funding pursuant  
 1365 to paragraph (3) (a) ~~(3) (b)~~. The council shall evaluate the  
 1366 proposals received pursuant to this subsection to ensure that  
 1367 they meet at least one of the criteria under subsection (8) ~~(9)~~.

1368 (b) Project applications shall contain, at a minimum, the  
 1369 following:

- 1370 1. A minimum of two numeric performance measures that
- 1371 directly relate to the overall goals adopted by the council.
- 1372 Each performance measure shall include a baseline measurement,
- 1373 which is the current situation; a performance standard which the
- 1374 project sponsor anticipates the project will achieve; and the
- 1375 performance measurement itself, which should reflect the

1376 incremental improvements the project accomplishes towards  
 1377 achieving the performance standard.

1378 2. Proof that property owners within any proposed  
 1379 acquisition have been notified of their inclusion in the  
 1380 proposed project. Any property owner may request the removal of  
 1381 such property from further consideration by submitting a request  
 1382 to the project sponsor or the Acquisition and Restoration  
 1383 Council by certified mail. Upon receiving this request, the  
 1384 council shall delete the property from the proposed project;  
 1385 however, the board ~~of trustees~~, at the time it votes to approve  
 1386 the proposed project lists pursuant to subsection (14) ~~(16)~~, may  
 1387 add the property back on to the project lists if it determines  
 1388 by a super majority of its members that such property is  
 1389 critical to achieve the purposes of the project.

1390 (c) The title to lands acquired under this section shall  
 1391 vest in the board ~~of Trustees of the Internal Improvement Trust~~  
 1392 ~~Fund~~, except that title to lands acquired by a water management  
 1393 district shall vest in the name of that district and lands  
 1394 acquired by a local government shall vest in the name of the  
 1395 purchasing local government.

1396 ~~(7)(8)~~ The ~~Acquisition and Restoration~~ council shall  
 1397 develop a project list that shall represent those projects  
 1398 submitted pursuant to subsection (6) ~~(7)~~.

1399 ~~(8)(9)~~ The ~~Acquisition and Restoration~~ council shall  
 1400 recommend rules for adoption by the board of trustees to

1401 competitively evaluate, select, and rank projects eligible for  
 1402 Florida Forever funds pursuant to paragraph (3) (a) ~~(3) (b)~~. In  
 1403 developing these proposed rules, the ~~Acquisition and Restoration~~  
 1404 council shall give weight to the following criteria:

1405 (a) The project meets multiple goals described in  
 1406 subsection (4).

1407 (b) The project is part of an ongoing governmental effort  
 1408 to restore, protect, or develop land areas or water resources.

1409 (c) The project enhances or facilitates management of  
 1410 properties already under public ownership.

1411 (d) The project has significant archaeological or historic  
 1412 value.

1413 (e) The project has funding sources that are identified  
 1414 and assured through at least the first 2 years of the project.

1415 (f) The project contributes to the solution of water  
 1416 resource problems on a regional basis.

1417 (g) The project has a significant portion of its land area  
 1418 in imminent danger of development, in imminent danger of losing  
 1419 its significant natural attributes or recreational open space,  
 1420 or in imminent danger of subdivision which would result in  
 1421 multiple ownership and make acquisition of the project costly or  
 1422 less likely to be accomplished.

1423 (h) The project implements an element from a plan  
 1424 developed by an ecosystem management team.

1425 (i) The project is one of the components of the Everglades



1426 restoration effort.

1427 (j) The project may be purchased at 80 percent of  
1428 appraised value.

1429 (k) The project may be acquired, in whole or in part,  
1430 using alternatives to fee simple, including but not limited to,  
1431 tax incentives, mitigation funds, or other revenues; the  
1432 purchase of development rights, hunting rights, agricultural or  
1433 silvicultural rights, or mineral rights; or obtaining  
1434 conservation easements or flowage easements.

1435 (l) The project is a joint acquisition, either among  
1436 public agencies, nonprofit organizations, or private entities,  
1437 or by a public-private partnership.

1438 (9)~~(10)~~ The council shall give increased priority to:

1439 (a) Projects for which matching funds are available.

1440 (b) Project elements previously identified on an  
1441 acquisition list pursuant to this section that can be acquired  
1442 at 80 percent or less of appraised value.

1443 (c) Projects that can be acquired in less than fee  
1444 ownership, such as a permanent conservation easement.

1445 (d) Projects that contribute to improving the quality and  
1446 quantity of surface water and groundwater.

1447 (e) Projects that contribute to improving the water  
1448 quality and flow of springs.

1449 (f) Projects for which the state's land conservation plans  
1450 overlap with the military's need to protect lands, water, and

1451 habitat to ensure the sustainability of military missions  
 1452 including:

1453 1. Protecting habitat on nonmilitary land for any species  
 1454 found on military land that is designated as threatened or  
 1455 endangered, or is a candidate for such designation under the  
 1456 Endangered Species Act or any Florida statute;

1457 2. Protecting areas underlying low-level military air  
 1458 corridors or operating areas; and

1459 3. Protecting areas identified as clear zones, accident  
 1460 potential zones, and air installation compatible use buffer  
 1461 zones delineated by our military partners, and for which federal  
 1462 or other funding is available to assist with the project.

1463 ~~(11) For the purposes of funding projects pursuant to~~  
 1464 ~~paragraph (3) (a), the Secretary of Environmental Protection~~  
 1465 ~~shall ensure that each water management district receives the~~  
 1466 ~~following percentage of funds annually:~~

1467 ~~(a) Thirty five percent to the South Florida Water~~  
 1468 ~~Management District, of which amount \$25 million for 2 years~~  
 1469 ~~beginning in fiscal year 2000-2001 shall be transferred by the~~  
 1470 ~~Department of Environmental Protection into the Save Our~~  
 1471 ~~Everglades Trust Fund and shall be used exclusively to implement~~  
 1472 ~~the comprehensive plan under s. 373.470.~~

1473 ~~(b) Twenty five percent to the Southwest Florida Water~~  
 1474 ~~Management District.~~

1475 ~~(c) Twenty five percent to the St. Johns River Water~~

1476 ~~Management District.~~  
 1477 ~~(d) Seven and one-half percent to the Suwannee River Water~~  
 1478 ~~Management District.~~  
 1479 ~~(e) Seven and one-half percent to the Northwest Florida~~  
 1480 ~~Water Management District.~~  
 1481 (10) ~~(12)~~ Water management districts may not use funds  
 1482 received from the Florida Forever Trust Fund ~~It is the intent of~~  
 1483 ~~the Legislature that in developing the list of projects for~~  
 1484 ~~funding pursuant to paragraph (3) (a), that these funds not be~~  
 1485 ~~used~~ to abrogate the financial responsibility of those point and  
 1486 nonpoint sources that have contributed to the degradation of  
 1487 water or land areas. ~~Therefore, an increased priority shall be~~  
 1488 ~~given by~~ The water management district governing boards shall  
 1489 give increased priority to those projects that have secured a  
 1490 cost-sharing agreement allocating responsibility for the cleanup  
 1491 of point and nonpoint sources.  
 1492 (11) ~~(13)~~ An affirmative vote of at least five members of  
 1493 the council shall be required in order to place a project  
 1494 submitted pursuant to subsection (6) ~~(7)~~ on the proposed project  
 1495 list developed pursuant to subsection (7) ~~(8)~~. Any member of the  
 1496 council who by family or a business relationship has a  
 1497 connection with any project proposed to be ranked shall declare  
 1498 such interest before voting for a project's inclusion on the  
 1499 list.  
 1500 (12) ~~(14)~~ Each year that cash disbursements or bonds are to

1501 be issued pursuant to this section, the ~~Acquisition and~~  
 1502 ~~Restoration~~ council shall review the most current approved  
 1503 project list and shall, by the first board meeting in May,  
 1504 present to the board ~~of Trustees of the Internal Improvement~~  
 1505 ~~Trust Fund~~ for approval a listing of projects developed pursuant  
 1506 to subsection (7) ~~(8)~~. The board ~~of trustees~~ may remove projects  
 1507 from the list developed pursuant to this subsection, but may not  
 1508 add projects or rearrange project rankings.

1509 (13) ~~(15)~~ The council shall submit to the board, with its  
 1510 list of projects, a report that includes, but need not be  
 1511 limited to, the following information for each project listed:

- 1512 (a) The stated purpose for inclusion.
- 1513 (b) Projected costs to achieve the project goals.
- 1514 (c) An interim management budget that includes all costs  
 1515 associated with immediate public access.
- 1516 (d) Specific performance measures.
- 1517 (e) Plans for public access.
- 1518 (f) An identification of the essential parcel or parcels  
 1519 within the project without which the project cannot be properly  
 1520 managed.
- 1521 (g) Where applicable, an identification of those projects  
 1522 or parcels within projects which should be acquired in fee  
 1523 simple or in less than fee simple.
- 1524 (h) An identification of those lands being purchased for  
 1525 conservation purposes.

1526 (i) A management policy statement for the project and a  
 1527 management prospectus pursuant to s. 259.032(7)(c).  
 1528 (j) An estimate of land value based on county tax assessed  
 1529 values.  
 1530 (k) A map delineating project boundaries.  
 1531 (l) An assessment of the project's ecological value,  
 1532 outdoor recreational value, forest resources, wildlife  
 1533 resources, ownership pattern, utilization, and location.  
 1534 (m) A discussion of whether alternative uses are proposed  
 1535 for the property and what those uses are.  
 1536 (n) A designation of the management agency or agencies.  
 1537 (14)~~(16)~~ All proposals for projects pursuant to paragraph  
 1538 (3)(a)~~(3)(b)~~ shall be implemented only if adopted by the  
 1539 ~~Acquisition and Restoration~~ council and approved by the board ~~of~~  
 1540 ~~trustees~~. The council shall consider and evaluate in writing the  
 1541 merits and demerits of each project that is proposed for Florida  
 1542 Forever funding. The council shall ensure that each proposed  
 1543 project will meet a stated public purpose for the restoration,  
 1544 conservation, or preservation of environmentally sensitive lands  
 1545 and water areas or for providing outdoor recreational  
 1546 opportunities. The council also shall determine whether the  
 1547 project or addition conforms, where applicable, with the  
 1548 comprehensive plan developed pursuant to s. 259.04(1)(a), the  
 1549 comprehensive multipurpose outdoor recreation plan developed  
 1550 pursuant to s. 375.021, the state lands management plan adopted

1551 pursuant to s. 253.03(7), the water resources work plans  
 1552 developed pursuant to s. 373.199, and the provisions of this  
 1553 section. Grants provided pursuant to s. 375.075 which are funded  
 1554 under paragraph (3)(b) are not subject to review or approval by  
 1555 the council.

1556 (15)~~(17)~~ On an annual basis, the Division of State Lands  
 1557 shall prepare an annual work plan that prioritizes projects on  
 1558 the Florida Forever list and sets forth the funding available in  
 1559 the fiscal year for land acquisition. The work plan shall  
 1560 consider the following categories of expenditure for land  
 1561 conservation projects already selected for the Florida Forever  
 1562 list pursuant to subsection (7) ~~(8)~~:

1563 (a) A critical natural lands category, including  
 1564 functional landscape-scale natural systems, intact large  
 1565 hydrological systems, lands that have significant imperiled  
 1566 natural communities, and corridors linking large landscapes, as  
 1567 identified and developed by the best available scientific  
 1568 analysis.

1569 (b) A partnerships or regional incentive category,  
 1570 including:

1571 1. Projects where local and regional cost-share agreements  
 1572 provide a lower cost and greater conservation benefit to the  
 1573 people of the state. Additional consideration shall be provided  
 1574 under this category where parcels are identified as part of a  
 1575 local or regional visioning process and are supported by

1576 scientific analysis; and

1577         2. Bargain and shared projects where the state will  
 1578 receive a significant reduction in price for public ownership of  
 1579 land as a result of the removal of development rights or other  
 1580 interests in lands or receives alternative or matching funds.

1581         (c) A substantially complete category of projects where  
 1582 mainly inholdings, additions, and linkages between preserved  
 1583 areas will be acquired and where 85 percent of the project is  
 1584 complete.

1585         (d) A climate-change category list of lands where  
 1586 acquisition or other conservation measures will address the  
 1587 challenges of global climate change, such as through protection,  
 1588 restoration, mitigation, and strengthening of the state's  
 1589 ~~Florida's~~ land, water, and coastal resources. This category  
 1590 includes lands that provide opportunities to sequester carbon,  
 1591 provide habitat, protect coastal lands or barrier islands, and  
 1592 otherwise mitigate and help adapt to the effects of sea-level  
 1593 rise and meet other objectives of the program.

1594         (e) A less-than-fee category for working agricultural  
 1595 lands that significantly contribute to resource protection  
 1596 through conservation easements and other less-than-fee  
 1597 techniques, tax incentives, life estates, landowner agreements,  
 1598 and other partnerships, including conservation easements  
 1599 acquired in partnership with federal conservation programs,  
 1600 which will achieve the objectives of the Florida Forever program

1601 while allowing the continuation of compatible agricultural uses  
 1602 on the land. Terms of easements proposed for acquisition under  
 1603 this category shall be developed by the Division of State Lands  
 1604 in coordination with the Department of Agriculture and Consumer  
 1605 Services.

1606

1607 Projects within each category shall be ranked by order of  
 1608 priority. The work plan shall be adopted by the ~~Acquisition and~~  
 1609 ~~Restoration~~ council after at least one public hearing. A copy of  
 1610 the work plan shall be provided to the board ~~of trustees of the~~  
 1611 ~~Internal Improvement Trust Fund~~ no later than October 1 of each  
 1612 year.

1613 (16)~~(18)~~(a) The board ~~of Trustees of the Internal~~  
 1614 ~~Improvement Trust Fund~~, or, in the case of water management  
 1615 district lands, the owning water management district, may  
 1616 authorize the granting of a lease, easement, or license for the  
 1617 use of certain lands acquired pursuant to this section, for  
 1618 certain uses that are determined by the appropriate board to be  
 1619 compatible with the resource values of and management objectives  
 1620 for such lands.

1621 (b) Any existing lease, easement, or license acquired for  
 1622 incidental public or private use on, under, or across any lands  
 1623 acquired pursuant to this section shall be presumed to be  
 1624 compatible with the purposes for which such lands were acquired.

1625 (c) Notwithstanding the provisions of paragraph (a), no



1626 such lease, easement, or license may ~~shall~~ be entered into by  
 1627 the department ~~of Environmental Protection~~ or other appropriate  
 1628 state agency if the granting of such lease, easement, or license  
 1629 would adversely affect the exclusion of the interest on any  
 1630 revenue bonds issued to fund the acquisition of the affected  
 1631 lands from gross income for federal income tax purposes,  
 1632 pursuant to Internal Revenue Service regulations.

1633 (17) ~~(19)~~ The council shall recommend adoption of rules by  
 1634 the board necessary to implement this section relating to  
 1635 solicitation, scoring, selecting, and ranking of Florida Forever  
 1636 project proposals; disposing of or leasing lands or water areas  
 1637 selected for funding through the Florida Forever program; and  
 1638 the process of reviewing and recommending for approval or  
 1639 rejection the land management plans associated with publicly  
 1640 owned properties.

1641 (18) ~~(20)~~ Lands listed as projects for acquisition under  
 1642 the Florida Forever program may be managed for conservation  
 1643 pursuant to s. 259.032, on an interim basis by a private party  
 1644 in anticipation of a state purchase in accordance with a  
 1645 contractual arrangement between the acquiring agency and the  
 1646 private party that may include management service contracts,  
 1647 leases, cost-share arrangements, or resource conservation  
 1648 agreements. Lands designated as eligible under this subsection  
 1649 shall be managed to maintain or enhance the resources the state  
 1650 is seeking to protect by acquiring the land and to accelerate

1651 public access to the lands as soon as practicable. Funding for  
 1652 these contractual arrangements may originate from the  
 1653 documentary stamp tax revenue deposited into the Land  
 1654 Acquisition Trust Fund. No more than \$6.2 million may be  
 1655 expended from the Land Acquisition Trust Fund for this purpose.

1656 Section 13. Subsections (9), (10), and (11) are added to  
 1657 section 373.089, Florida Statutes, to read:

1658 373.089 Sale or exchange of lands, or interests or rights  
 1659 in lands.—The governing board of the district may sell lands, or  
 1660 interests or rights in lands, to which the district has acquired  
 1661 title or to which it may hereafter acquire title in the  
 1662 following manner:

1663 (9) No disposition of land may be made if it would cause  
 1664 all or any portion of the interest on any revenue bonds to fund  
 1665 acquisitions made by the district to lose the exclusion from  
 1666 gross income for purposes of federal income taxation. Proceeds  
 1667 derived from such disposition may not be used for any purpose  
 1668 except the purchase of other lands meeting the criteria  
 1669 specified in s. 373.139 or payment of debt service on revenue  
 1670 bonds or notes issued under s. 373.584.

1671 (10) Proceeds from the sale of surplus conservation lands  
 1672 purchased with Florida Forever funds before July 1, 2015, shall  
 1673 be deposited into the Florida Forever Trust Fund if the district  
 1674 does not use the proceeds to purchase other lands meeting the  
 1675 criteria specified in s. 373.139 or payment of debt service on

1676 revenue bonds or notes issued under s. 373.584 within 3 years.  
 1677 If the district purchased the conservation land with multiple  
 1678 revenue sources, the district shall deposit an amount based on  
 1679 the percentage of Florida Forever funds used for the original  
 1680 purchase.

1681 (11) Proceeds from the sale of surplus conservation lands  
 1682 purchased with state funds on or after July 1, 2015, shall be  
 1683 deposited into the Land Acquisition Trust Fund if the district  
 1684 does not use the proceeds to purchase other lands meeting the  
 1685 criteria specified in s. 373.139 or payment of debt service on  
 1686 revenue bonds or notes issued under s. 373.584 within 3 years.  
 1687 If the district purchased the conservation land with funds other  
 1688 than those from the Land Acquisition Trust Fund or a land  
 1689 acquisition trust fund created to implement s. 28, Art. X of the  
 1690 State Constitution, the proceeds shall be deposited into the  
 1691 fund from which the land was purchased. If the district  
 1692 purchased the conservation land with multiple revenue sources,  
 1693 the district shall deposit an amount based on the percentage of  
 1694 state funds used for the original purchase.

1695  
 1696 If the Board of Trustees of the Internal Improvement Trust Fund  
 1697 declines to accept title to the lands offered under this  
 1698 section, the land may be disposed of by the district under the  
 1699 provisions of this section.

1700 Section 14. Subsection (6) of section 373.139, Florida

1701 Statutes, is amended to read:

1702 373.139 Acquisition of real property.-

1703 ~~(6) A district may dispose of land acquired under this~~  
 1704 ~~section pursuant to s. 373.056 or s. 373.089. However, no such~~  
 1705 ~~disposition of land shall be made if it would have the effect of~~  
 1706 ~~causing all or any portion of the interest on any revenue bonds~~  
 1707 ~~issued pursuant to s. 259.101 or s. 259.105 to fund the~~  
 1708 ~~acquisition programs detailed in this section to lose the~~  
 1709 ~~exclusion from gross income for purposes of federal income~~  
 1710 ~~taxation. Revenue derived from such disposition may not be used~~  
 1711 ~~for any purpose except the purchase of other lands meeting the~~  
 1712 ~~criteria specified in this section or payment of debt service on~~  
 1713 ~~revenue bonds or notes issued under s. 373.584.~~

1714 Section 15. Subsection (7) is added to section 373.1391,  
 1715 Florida Statutes, to read:

1716 373.1391 Management of real property.-

1717 (7) All revenues generated through multiple-use management  
 1718 or compatible secondary-use management of district conservation  
 1719 lands purchased with state funds shall be retained by the  
 1720 district responsible for such management and shall be used to  
 1721 pay for management activities on all conservation, preservation,  
 1722 and recreation lands under the district's jurisdiction. In  
 1723 addition, such revenues shall be segregated in a district trust  
 1724 fund or special revenue account and shall remain available to  
 1725 the district in subsequent fiscal years to fund land management

1726 activities.

1727 Section 16. Paragraph (h) of subsection (4) of section  
1728 373.199, Florida Statutes, is amended to read:

1729 373.199 Florida Forever Water Management District Work  
1730 Plan.—

1731 (4) The list submitted by the districts shall include,  
1732 where applicable, the following information for each project:

1733 (h) A clear and concise estimate of the funding needed to  
1734 carry out the restoration, protection, or improvement project,  
1735 or the development of new water resources, where applicable, and  
1736 a clear and concise identification of the projected sources and  
1737 uses of Florida Forever funds. Only the land acquisition  
1738 elements and associated land acquisition costs for projects  
1739 identified on the list may receive Florida Forever funding. All  
1740 other project elements must use other funding sources.

1741 Section 17. Paragraph (d) of subsection (9) of section  
1742 373.4598, Florida Statutes, is amended and paragraph (f) is  
1743 added to that subsection to read:

1744 373.4598 Water storage reservoirs.—

1745 (9) C-51 RESERVOIR PROJECT.—

1746 (d) If state funds are appropriated for Phase I or Phase  
1747 II of the C-51 reservoir project:

1748 1. The district, to the extent practicable, shall operate  
1749 either Phase I or Phase II of the reservoir to maximize the  
1750 reduction of high-volume Lake Okeechobee regulatory releases to

1751 the St. Lucie or Caloosahatchee estuaries, in addition to  
 1752 maximizing the reduction of harmful discharges ~~providing relief~~  
 1753 to the Lake Worth Lagoon. However, the operation of Phase I of  
 1754 the C-51 reservoir project must be in accordance with any  
 1755 operation and maintenance agreement adopted by the district;

1756 2. Water made available by Phase I or Phase II of the  
 1757 reservoir must ~~shall~~ be used for natural systems in addition to  
 1758 any permitted ~~allocated~~ amounts for water supply issued in  
 1759 accordance with executed capacity allocation agreements; and

1760 3. ~~Any~~ Water received from Lake Okeechobee may only ~~not~~ be  
 1761 available to support consumptive use permits if such use is in  
 1762 accordance with the South Florida Water Management District  
 1763 rules for the applicable restricted allocation area as defined  
 1764 in s. 373.037(1).

1765 (f) The South Florida Water Management District may enter  
 1766 into a capacity allocation agreement with a water supply entity  
 1767 for a pro rata share of unreserved capacity in the water storage  
 1768 facility and may request the department to waive repayment of  
 1769 all or a portion of the loan issued pursuant to s. 373.475. The  
 1770 department may authorize such waiver if the department  
 1771 determines it has received reasonable value for such waiver.

1772 Section 18. Subsection (10) is added to section 373.713,  
 1773 Florida Statutes, to read:

1774 373.713 Regional water supply authorities.—

1775 (10) Each regional water supply authority shall annually

1776 coordinate with the appropriate water management district to  
 1777 submit a status report on water resource development projects  
 1778 receiving state funding for inclusion in the consolidated water  
 1779 management district annual report required by s. 373.036(7).

1780 Section 19. Paragraph (b) of subsection (3) of section  
 1781 375.041, Florida Statutes, is amended to read:

1782 375.041 Land Acquisition Trust Fund.—

1783 (3) Funds distributed into the Land Acquisition Trust Fund  
 1784 pursuant to s. 201.15 shall be applied:

1785 (b) Of the funds remaining after the payments required  
 1786 under paragraph (a), but before funds may be appropriated,  
 1787 pledged, or dedicated for other uses:

1788 1. A minimum of the lesser of 25 percent or \$200 million  
 1789 shall be appropriated annually for Everglades projects that  
 1790 implement the Comprehensive Everglades Restoration Plan as set  
 1791 forth in s. 373.470, including the Central Everglades Planning  
 1792 Project subject to Congressional authorization; the Long-Term  
 1793 Plan as defined in s. 373.4592(2); and the Northern Everglades  
 1794 and Estuaries Protection Program as set forth in s. 373.4595.  
 1795 From these funds, \$32 million shall be distributed each fiscal  
 1796 year through the 2023-2024 fiscal year to the South Florida  
 1797 Water Management District for the Long-Term Plan as defined in  
 1798 s. 373.4592(2). After deducting the \$32 million distributed  
 1799 under this subparagraph, from the funds remaining, a minimum of  
 1800 the lesser of 76.5 percent or \$100 million shall be appropriated

1801 each fiscal year through the 2025-2026 fiscal year for the  
 1802 planning, design, engineering, and construction of the  
 1803 Comprehensive Everglades Restoration Plan as set forth in s.  
 1804 373.470, including the Central Everglades Planning Project , the  
 1805 Everglades Agricultural Area Storage Reservoir Project, the Lake  
 1806 Okeechobee Watershed Project, the C-43 West Basin Storage  
 1807 Reservoir Project, the Indian River Lagoon-South Project, the  
 1808 Western Everglades Restoration Project, and the Picayune Strand  
 1809 Restoration Project. The Department of Environmental Protection  
 1810 and the South Florida Water Management District shall give  
 1811 preference to those Everglades restoration projects that reduce  
 1812 harmful discharges of water from Lake Okeechobee to the St.  
 1813 Lucie or Caloosahatchee estuaries in a timely manner, with the  
 1814 highest priority given to the C-43 West Basin Storage Reservoir  
 1815 Project. For the purpose of performing the calculation provided  
 1816 in this subparagraph, the amount of debt service paid pursuant  
 1817 to paragraph (a) for bonds issued after July 1, 2016, for the  
 1818 purposes set forth under paragraph (b) shall be added to the  
 1819 amount remaining after the payments required under paragraph  
 1820 (a). The amount of the distribution calculated shall then be  
 1821 reduced by an amount equal to the debt service paid pursuant to  
 1822 paragraph (a) on bonds issued after July 1, 2016, for the  
 1823 purposes set forth under this subparagraph.

1824 2. A minimum of the lesser of 7.6 percent or \$50 million  
 1825 shall be appropriated annually for spring restoration,



1826 protection, and management projects. For the purpose of  
 1827 performing the calculation provided in this subparagraph, the  
 1828 amount of debt service paid pursuant to paragraph (a) for bonds  
 1829 issued after July 1, 2016, for the purposes set forth under  
 1830 paragraph (b) shall be added to the amount remaining after the  
 1831 payments required under paragraph (a). The amount of the  
 1832 distribution calculated shall then be reduced by an amount equal  
 1833 to the debt service paid pursuant to paragraph (a) on bonds  
 1834 issued after July 1, 2016, for the purposes set forth under this  
 1835 subparagraph.

1836 3. The sum of \$5 million shall be appropriated annually  
 1837 each fiscal year through the 2025-2026 fiscal year to the St.  
 1838 Johns River Water Management District for projects dedicated to  
 1839 the restoration of Lake Apopka. This distribution shall be  
 1840 reduced by an amount equal to the debt service paid pursuant to  
 1841 paragraph (a) on bonds issued after July 1, 2016, for the  
 1842 purposes set forth in this subparagraph.

1843 4. The sum of \$64 million is appropriated and shall be  
 1844 transferred to the Everglades Trust Fund for the 2018-2019  
 1845 fiscal year, and each fiscal year thereafter, for the EAA  
 1846 reservoir project pursuant to s. 373.4598. Any funds remaining  
 1847 in any fiscal year shall be made available only for Phase II of  
 1848 the C-51 reservoir project or projects identified in  
 1849 subparagraph 1. and must be used in accordance with laws  
 1850 relating to such projects. Any funds made available for such

1851 purposes in a fiscal year are in addition to the amount  
 1852 appropriated under subparagraph 1. This distribution shall be  
 1853 reduced by an amount equal to the debt service paid pursuant to  
 1854 paragraph (a) on bonds issued after July 1, 2017, for the  
 1855 purposes set forth in this subparagraph.

1856 5. The following sums shall be appropriated annually each  
 1857 fiscal year to the Florida Forever Trust Fund for distribution  
 1858 by the Department of Environmental Protection pursuant to s.  
 1859 259.105(3):

1860 a. For the 2019-2020 fiscal year and the 2020-2021 fiscal  
 1861 year, the sum of \$57 million.

1862 b. For the 2021-2022 fiscal year, the sum of \$78 million.

1863 c. For the 2022-2023 fiscal year, the sum of \$89 million.

1864 d. For the 2023-2024 fiscal year and the 2024-2025 fiscal  
 1865 year, the sum of \$110 million.

1866 e. For the 2025-2026 fiscal year, the sum of \$127 million.

1867 f. For the 2026-2027 fiscal year, the sum of \$147 million.

1868 g. For the 2027-2028 fiscal year, the sum of \$157 million.

1869 h. For the 2028-2029 fiscal year, the sum of \$179 million.

1870 i. For the 2029-2030 fiscal year and each fiscal year  
 1871 through the 2035-2036 fiscal year, the sum of \$200 million.

1872  
 1873 The distribution shall be reduced by an amount equal to the debt  
 1874 service paid pursuant to paragraph (a) on bonds issued after  
 1875 July 1, 2018, for the purposes set forth in this subparagraph.

1876 ~~5. Notwithstanding subparagraph 3., for the 2017-2018~~  
 1877 ~~fiscal year, funds shall be appropriated as provided in the~~  
 1878 ~~General Appropriations Act. This subparagraph expires July 1,~~  
 1879 ~~2018.~~

1880 Section 20. Paragraph (c) is added to subsection (12) of  
 1881 section 403.067, Florida Statutes, to read:

1882 403.067 Establishment and implementation of total maximum  
 1883 daily loads.-

1884 (12) IMPLEMENTATION OF ADDITIONAL PROGRAMS.-

1885 (c) The department may consider and include innovative  
 1886 nutrient reduction pilot projects designed to reduce nutrient  
 1887 pollution as part of basin management action plans pursuant to  
 1888 subsection (7). The department may also provide cost-share  
 1889 funding for innovative nutrient reduction pilot projects.

1890 Section 21. Paragraphs (e) and (f) of subsection (3) of  
 1891 section 403.087, Florida Statutes, are amended and paragraph (g)  
 1892 is added to that subsection to read:

1893 403.087 Permits; general issuance; denial; revocation;  
 1894 prohibition; penalty.-

1895 (3) A renewal of an operation permit for a domestic  
 1896 wastewater treatment facility other than a facility regulated  
 1897 under the National Pollutant Discharge Elimination System  
 1898 (NPDES) Program under s. 403.0885 must be issued upon request  
 1899 for a term of up to 10 years, for the same fee and under the  
 1900 same conditions as a 5-year permit, in order to provide the

1901 owner or operator with a financial incentive, if:

1902 (e) The treatment facility has generally met water quality  
 1903 standards in the preceding 2 years, except for violations  
 1904 attributable to events beyond the control of the treatment plant  
 1905 or its operator, such as destruction of equipment by fire, wind,  
 1906 or other abnormal events that could not reasonably be expected  
 1907 to occur; ~~and~~

1908 (f) The department, or a local program approved under s.  
 1909 403.182, has conducted, in the preceding 12 months, an  
 1910 inspection of the facility and has verified in writing to the  
 1911 operator of the facility that it is not exceeding the permitted  
 1912 capacity and is in substantial compliance; and

1913 (g) The department has reviewed the annual status reports  
 1914 required by s. 403.892 and is satisfied that the treatment  
 1915 facility is timely implementing its asset management plan.

1916  
 1917 The department shall keep records of the number of 10-year  
 1918 permits applied for and the number and duration of permits  
 1919 issued for longer than 5 years.

1920 Section 22. Section 403.0891, Florida Statutes, is amended  
 1921 to read:

1922 403.0891 State, regional, and local stormwater management  
 1923 plans and programs.—The department, the water management  
 1924 districts, ~~and~~ local governments, and the Department of  
 1925 Transportation shall have the responsibility for the development

1926 of mutually compatible stormwater management programs.

1927 (1) The department shall include goals in the water  
 1928 resource implementation rule for the proper management of  
 1929 stormwater.

1930 (2) Each water management district to which the state's  
 1931 stormwater management program is delegated shall establish  
 1932 district and, where appropriate, watershed or drainage basin  
 1933 stormwater management goals which are consistent with the goals  
 1934 adopted by the state and with plans adopted pursuant to ss.  
 1935 373.451-373.4595, the Surface Water Improvement and Management  
 1936 Act.

1937 (3)(a) Each local government required by chapter 163 to  
 1938 submit a comprehensive plan, whose plan is submitted after July  
 1939 1, 1992, and the others when updated after July 1, 1992, in the  
 1940 development of its stormwater management program described by  
 1941 elements within its comprehensive plan shall consider the water  
 1942 resource implementation rule, district stormwater management  
 1943 goals, plans approved pursuant to the Surface Water Improvement  
 1944 and Management Act, ss. 373.451-373.4595, and technical  
 1945 assistance information provided by the water management  
 1946 districts pursuant to s. 373.711.

1947 (b) Local governments are encouraged to consult with the  
 1948 water management districts, the Department of Transportation,  
 1949 and the department before adopting or updating their local  
 1950 government comprehensive plan or public facilities report as

1951 required by s. 189.08, whichever is applicable.

1952 (4) The department, in coordination and cooperation with  
 1953 water management districts and local governments, shall conduct  
 1954 a continuing review of the costs of stormwater management  
 1955 systems and the effect on water quality and quantity, and fish  
 1956 and wildlife values. The department, the water management  
 1957 districts, and local governments shall use the review for  
 1958 planning purposes and to establish priorities for watersheds and  
 1959 stormwater management systems which require better management  
 1960 and treatment of stormwater with emphasis on the costs and  
 1961 benefits of needed improvements to stormwater management systems  
 1962 to better meet needs for flood protection and protection of  
 1963 water quality, and fish and wildlife values.

1964 (5) The results of the review shall be maintained by the  
 1965 department and the water management districts and shall be  
 1966 provided to appropriate local governments or other parties on  
 1967 request. The results also shall be used in the development of  
 1968 the goals developed pursuant to subsections (1) and (2).

1969 (6) The department and the Department of Economic  
 1970 Opportunity, in cooperation with local governments in the  
 1971 coastal zone, shall develop a model stormwater management  
 1972 program that could be adopted by local governments. The model  
 1973 program shall contain dedicated funding options, including a  
 1974 stormwater utility fee system based upon an equitable unit cost  
 1975 approach. Funding options shall be designed to generate capital

1976 to retrofit existing stormwater management systems, build new  
 1977 treatment systems, operate facilities, and maintain and service  
 1978 debt.

1979 (7) The Department of Transportation shall coordinate with  
 1980 the department, water management districts, and local  
 1981 governments to determine whether it is economically feasible to  
 1982 use stormwater resulting from road construction projects for the  
 1983 beneficial use of providing alternative water supplies,  
 1984 including, but not limited to, directing stormwater to reclaimed  
 1985 water facilities or water storage reservoirs. If the affected  
 1986 parties determine that beneficial use of such stormwater is  
 1987 economically feasible, such use shall be implemented by the  
 1988 parties. The department, in consultation with the Department of  
 1989 Transportation, may adopt rules to implement this subsection.

1990 Section 23. Subsection (5) of section 403.412, Florida  
 1991 Statutes, is amended to read:

1992 403.412 Environmental Protection Act.—

1993 (5) In any administrative, licensing, or other proceedings  
 1994 authorized by law for the protection of the air, water, or other  
 1995 natural resources of the state from pollution, impairment, or  
 1996 destruction, the Department of Legal Affairs, a political  
 1997 subdivision or municipality of the state, or a citizen of the  
 1998 state shall have standing to intervene as a party on the filing  
 1999 of a verified pleading asserting that the activity, conduct, or  
 2000 product to be licensed or permitted has or will have the effect

2001 of impairing, polluting, or otherwise injuring the air, water,  
 2002 or other natural resources of the state. As used in this section  
 2003 and as it relates to citizens, the term "intervene" means to  
 2004 join an ongoing s. 120.569 or s. 120.57 proceeding.† This  
 2005 section does not authorize a citizen to institute, initiate,  
 2006 petition for, or request a proceeding under s. 120.569 or s.  
 2007 120.57 and does not limit or prohibit. ~~Nothing herein limits or~~  
 2008 ~~prohibits~~ a citizen whose substantial interests will be  
 2009 determined or affected by a proposed agency action from  
 2010 initiating a formal administrative proceeding under s. 120.569  
 2011 or s. 120.57. A citizen's substantial interests will be  
 2012 considered to be determined or affected if the party  
 2013 demonstrates it may suffer an injury in fact which is of  
 2014 sufficient immediacy and is of the type and nature intended to  
 2015 be protected by this chapter. No demonstration of special injury  
 2016 different in kind from the general public at large is required.  
 2017 A sufficient demonstration of a substantial interest may be made  
 2018 by a petitioner who establishes that the proposed activity,  
 2019 conduct, or product to be licensed or permitted affects the  
 2020 petitioner's use or enjoyment of air, water, or natural  
 2021 resources protected by this chapter. The final order in a  
 2022 proceeding under s. 120.57(1) may award reasonable costs and  
 2023 reasonable attorney fees to the prevailing party from an  
 2024 intervener when the intervener is a nonprevailing adverse party,  
 2025 as defined in s. 120.595, as determined by the administrative



2026 law judge. The final order may only require the intervener to  
 2027 pay the portion of the reasonable costs and reasonable attorney  
 2028 fees related to the intervener's participation in the  
 2029 administrative proceeding.

2030 Section 24. Subsection (12) of section 403.814, Florida  
 2031 Statutes, is amended to read:

2032 403.814 General permits; delegation.—

2033 (12) A general permit is granted for the construction,  
 2034 alteration, and maintenance of a stormwater management system  
 2035 serving a total project area of up to 10 acres meeting the  
 2036 criteria of this subsection. Such stormwater management systems  
 2037 must be designed, operated, and maintained in accordance with  
 2038 applicable rules adopted pursuant to part IV of chapter 373.  
 2039 There is a rebuttable presumption that the discharge from such  
 2040 systems complies with state water quality standards. The  
 2041 construction of such a system may proceed without any further  
 2042 agency action by the department or water management district if,  
 2043 before construction begins, an electronic self-certification is  
 2044 submitted to the department or water management district which  
 2045 certifies that the proposed system was designed by a Florida  
 2046 registered professional and that the registered professional has  
 2047 certified that the proposed system meets the requirements of  
 2048 this section and will meet the following additional  
 2049 requirements:

2050 (a) The total project area involves less than 10 acres and

2051 less than 2 acres of impervious surface;

2052 (b) Activities will not impact wetlands or other surface

2053 waters;

2054 (c) Activities are not conducted in, on, or over wetlands

2055 or other surface waters;

2056 (d) Drainage facilities will not include pipes having

2057 diameters greater than 24 inches, or the hydraulic equivalent,

2058 and will not use pumps in any manner;

2059 (e) The project is not part of a larger common plan,

2060 development, or sale; and

2061 (f) The project does not cause or contribute to:

2062 1. ~~Cause~~ Adverse water quantity or flooding impacts to

2063 receiving water and adjacent lands;

2064 2. ~~Cause~~ Adverse impacts to existing surface water storage

2065 and conveyance capabilities;

2066 3. ~~Cause~~ A violation of state water quality standards; or

2067 4. ~~Cause~~ An adverse impact to the maintenance of surface

2068 or ground water levels or surface water flows established

2069 pursuant to s. 373.042 or a work of the district established

2070 pursuant to s. 373.086.

2071 Section 25. Section 403.892, Florida Statutes, is created

2072 to read:

2073 403.892 Asset management plan and reserve fund.—

2074 (1) The Legislature finds that the systematic management

2075 of public water system and domestic wastewater treatment system

2076 assets is essential to the protection of public health and  
 2077 natural resources. The development and implementation of an  
 2078 asset management plan focusing on the long-term life cycle and  
 2079 performance of system assets, including transmission,  
 2080 distribution, and collection lines, is necessary to ensure the  
 2081 timely planning, assessment, maintenance, repair, and  
 2082 replacement of these system components. The establishment and  
 2083 proper funding of a reserve fund is necessary to ensure the  
 2084 timely implementation of an asset management plan.

2085 (2) By August 1, 2022, each public water system, as  
 2086 defined in s. 403.852, and domestic wastewater treatment system  
 2087 shall develop an asset management plan and create a reserve fund  
 2088 to implement the asset management plan in a cost effective and  
 2089 timely manner. Each August 1 thereafter, each public water  
 2090 system and domestic wastewater treatment system shall post on  
 2091 its website the implementation status of its asset management  
 2092 plan and reserve fund and shall provide a report regarding such  
 2093 information to the department. As used in this subsection, the  
 2094 term "domestic wastewater treatment system" means any plant or  
 2095 other works used to treat, stabilize, or hold domestic wastes,  
 2096 including pipelines or conduits, pumping stations, and force  
 2097 mains and all other structures, devices, appurtenances, and  
 2098 facilities used for collecting or conducting wastes to an  
 2099 ultimate point for treatment or disposal. A domestic wastewater  
 2100 treatment system does not include an onsite sewage treatment and

2101 disposal system as defined in s. 381.0065.  
 2102 (3) To be eligible for state funding, a public water  
 2103 system or domestic wastewater treatment system must demonstrate  
 2104 that it is adequately implementing its asset management plan and  
 2105 has reserves available in its reserve fund.  
 2106 (4) By July 1, 2019, the department shall adopt rules  
 2107 establishing the asset management plan requirements, including,  
 2108 but not limited to:  
 2109 (a) Identification of each asset;  
 2110 (b) Evaluation of the current age, condition, and useful  
 2111 life of each asset;  
 2112 (c) A risk-benefit analysis to determine the optimum  
 2113 repair or replacement time of each asset;  
 2114 (d) A list of repair and replacement projects with  
 2115 projected timeframes for completion and estimated costs;  
 2116 (e) Identification of funding options, including a  
 2117 separate reserve account or other comparable fund or account,  
 2118 for implementation of the repair or replacement projects; and  
 2119 (f) Identification of plans comparable to an asset  
 2120 management plan.  
 2121 Section 26. Section 403.893, Florida Statutes, is created  
 2122 to read:  
 2123 403.893 Public water system and domestic wastewater  
 2124 treatment system infrastructure floodplain resiliency.—It is the  
 2125 policy of the state to encourage public water systems and

2126 domestic wastewater treatment systems to increase the resilience  
 2127 of their critical infrastructure against flooding. Any new  
 2128 infrastructure for a public water system or domestic wastewater  
 2129 treatment system located within an area identified in accordance  
 2130 with the Federal Emergency Management Agency's 100-year and 500-  
 2131 year flood maps as a special flood hazard area or a moderate  
 2132 flood hazard area must be built to withstand the respective  
 2133 flood conditions. Such new infrastructure must include, at a  
 2134 minimum, elevated control panels and appurtenant structures  
 2135 above the flood prone elevation and submersible components,  
 2136 including pumps and flow meters.

2137 Section 27. Subsection (9) is added to section 570.76,  
 2138 Florida Statutes, to read:

2139 570.76 Department of Agriculture and Consumer Services;  
 2140 powers and duties.—For the accomplishment of the purposes  
 2141 specified in this act, the department shall have all powers and  
 2142 duties necessary, including, but not limited to, the power and  
 2143 duty to:

2144 (9) Provide assistance to local governments in  
 2145 administering local rural-lands-protection easement programs.  
 2146 The department may provide technical support to review  
 2147 applications for inclusion in the local government's program and  
 2148 monitor compliance with the conservation easements. The  
 2149 department may not use any state funds to assist in the purchase  
 2150 of such easements or pay any acquisition costs. The local

2151 government must compensate the department for its services. The  
 2152 agreement for assistance must be documented in a memorandum of  
 2153 agreement between the department and the local government. The  
 2154 title to such conservation easements shall be held in the name  
 2155 of the local government.

2156 Section 28. Section 1004.49, Florida Statutes, is amended  
 2157 to read:

2158 1004.49 Florida LAKEWATCH Program.—The Florida LAKEWATCH  
 2159 Program is hereby created within the School of Forest Resources  
 2160 and Conservation's Fisheries and Aquatic Sciences Program  
 2161 ~~Department of Fisheries and Aquaculture~~ of the Institute of Food  
 2162 and Agricultural Sciences at the University of Florida. The  
 2163 purpose of the program is to provide public education and  
 2164 training with respect to the water quality of Florida's lakes.  
 2165 The Fisheries and Aquatic Sciences Program ~~Department of~~  
 2166 ~~Fisheries and Aquaculture~~ may, in implementing the LAKEWATCH  
 2167 program:

- 2168 (1) Train, supervise, and coordinate volunteers to collect
- 2169 water quality data from Florida's lakes, streams, and estuaries.
- 2170 (2) Compile the data collected by volunteers.
- 2171 (3) Disseminate information to the public about the
- 2172 LAKEWATCH program.
- 2173 (4) Provide or loan equipment to volunteers in the
- 2174 program.
- 2175 (5) Perform other functions as may be necessary or

2176 beneficial in coordinating the LAKEWATCH program.

2177

2178 Data collected and compiled shall be used to establish trends  
 2179 and provide general background information and ~~may shall in no~~  
 2180 ~~instance~~ be used by the Department of Environmental Protection  
 2181 if the data collection methods meet sufficient quality assurance  
 2182 and quality control requirements approved by the Department of  
 2183 Environmental Protection in a regulatory proceeding.

2184 Section 29. Subsection (1) of section 20.3315, Florida  
 2185 Statutes, is amended to read:

2186 20.3315 Florida Forever Program Trust Fund of the Florida  
 2187 Fish and Wildlife Conservation Commission.—

2188 (1) There is created a Florida Forever Program Trust Fund  
 2189 within the Florida Fish and Wildlife Conservation Commission to  
 2190 carry out the duties of the commission under the Florida Forever  
 2191 Act as specified in s. 259.105 ~~s. 259.105(3)(g)~~. The trust fund  
 2192 shall receive funds pursuant to s. 259.105 ~~s. 259.105(3)(g)~~.

2193 Section 30. Subsection (4) and paragraph (b) of subsection  
 2194 (5) of section 253.027, Florida Statutes, are amended to read:

2195 253.027 Emergency archaeological property acquisition.—

2196 (4) EMERGENCY ARCHAEOLOGICAL ACQUISITION.—The sum of \$2  
 2197 million shall be reserved annually within the Florida Forever  
 2198 Trust Fund for the purpose of emergency archaeological  
 2199 acquisition. Any portion of that amount not spent or obligated  
 2200 by the end of the third quarter of the fiscal year may be used

2201 for approved acquisitions pursuant to s. 259.105(3)(a) ~~s.~~  
 2202 ~~259.105(3)(b)~~.

2203 (5) ACCOUNT EXPENDITURES.—

2204 (b) Funds may not ~~No moneys shall~~ be spent from the  
 2205 account for excavation or restoration of the properties  
 2206 acquired. Funds may be spent for preliminary surveys to  
 2207 determine if the sites meet the criteria of this section. An  
 2208 amount not to exceed \$100,000 may also be spent from the account  
 2209 to inventory and evaluate archaeological and historic resources  
 2210 on properties purchased, or proposed for purchase, pursuant to  
 2211 s. 259.105(3)(a) ~~s. 259.105(3)(b)~~.

2212 Section 31. Subsection (3), paragraph (b) of  
 2213 subsection(4), and subsection (6) of section 259.035, Florida  
 2214 Statutes, are amended to read:

2215 259.035 Acquisition and Restoration Council.—

2216 (3) The council shall provide assistance to the board in  
 2217 reviewing the recommendations and plans for state-owned  
 2218 conservation lands required under s. 253.034 and this chapter.  
 2219 The council shall, in reviewing such plans, consider the  
 2220 optimization of multiple-use and conservation strategies to  
 2221 accomplish the provisions funded pursuant to former s.  
 2222 259.101(3)(a), Florida Statutes 2014, and to s. 259.105(3)(a) ~~s.~~  
 2223 ~~259.105(3)(b)~~.

2224 (4)

2225 (b) In developing or amending rules, the council shall



2226 give weight to the criteria included in s. 259.105(8) ~~s.~~  
 2227 ~~259.105(9)~~. The board of trustees shall review the  
 2228 recommendations and shall adopt rules necessary to administer  
 2229 this section.

2230 (6) The proposal for a project pursuant to this section or  
 2231 s. 259.105(3)(a) ~~s. 259.105(3)(b)~~ may be implemented only if  
 2232 adopted by the council and approved by the board of trustees.  
 2233 The council shall consider and evaluate in writing the merits  
 2234 and demerits of each project that is proposed for acquisition  
 2235 using funds available pursuant to s. 28, Art. X of the State  
 2236 Constitution or Florida Forever funding and shall ensure that  
 2237 each proposed project meets the requirements of s. 28, Art. X of  
 2238 the State Constitution. The council also shall determine whether  
 2239 the project conforms, where applicable, with the comprehensive  
 2240 plan developed pursuant to s. 259.04(1)(a), the comprehensive  
 2241 multipurpose outdoor recreation plan developed pursuant to s.  
 2242 375.021, the state lands management plan adopted pursuant to s.  
 2243 253.03(7), the water resources work plans developed pursuant to  
 2244 s. 373.199, and the provisions of s. 259.032, s. 259.101, or s.  
 2245 259.105, whichever is applicable.

2246 Section 32. Paragraph (b) of subsection (3) of section  
 2247 259.037, Florida Statutes, is amended to read:

2248 259.037 Land Management Uniform Accounting Council.—

2249 (3)

2250 (b) Each reporting agency shall also:

2251 1. Include a report of the available public use  
 2252 opportunities for each management unit of state land, the total  
 2253 management cost for public access and public use, and the cost  
 2254 associated with each use option.

2255 2. List the acres of land requiring minimal management  
 2256 effort, moderate management effort, and significant management  
 2257 effort pursuant to s. 259.032(9)(b) ~~s. 259.032(9)(c)~~. For each  
 2258 category created in paragraph (a), the reporting agency shall  
 2259 include the amount of funds requested, the amount of funds  
 2260 received, and the amount of funds expended for land management.

2261 3. List acres managed and cost of management for each  
 2262 park, preserve, forest, reserve, or management area.

2263 4. List acres managed, cost of management, and lead  
 2264 manager for each state lands management unit for which secondary  
 2265 management activities were provided.

2266 5. Include a report of the estimated calculable financial  
 2267 benefits to the public for the ecosystem services provided by  
 2268 conservation lands, based on the best readily available  
 2269 information or science that provides a standard measurement  
 2270 methodology to be consistently applied by the land managing  
 2271 agencies. Such information may include, but need not be limited  
 2272 to, the value of natural lands for protecting the quality and  
 2273 quantity of drinking water through natural water filtration and  
 2274 recharge, contributions to protecting and improving air quality,  
 2275 benefits to agriculture through increased soil productivity and

2276 preservation of biodiversity, and savings to property and lives  
 2277 through flood control.

2278 Section 33. Subsection (7) of section 380.510, Florida  
 2279 Statutes, is amended to read:

2280 380.510 Conditions of grants and loans.—

2281 (7) Any funds received by the trust pursuant to s.  
 2282 259.105(3)(b) ~~s. 259.105(3)(c)~~ or s. 375.041 shall be held  
 2283 separate and apart from any other funds held by the trust and  
 2284 used for the land acquisition purposes of this part.

2285 (a) The administration and use of Florida Forever funds  
 2286 are subject to such terms and conditions imposed thereon by the  
 2287 agency of the state responsible for the bonds, the proceeds of  
 2288 which are deposited into the Florida Forever Trust Fund,  
 2289 including restrictions imposed to ensure that the interest on  
 2290 any such bonds issued by the state as tax-exempt bonds is not  
 2291 included in the gross income of the holders of such bonds for  
 2292 federal income tax purposes.

2293 (b) All deeds or leases with respect to any real property  
 2294 acquired with funds received by the trust from the former  
 2295 Preservation 2000 Trust Fund, the Florida Forever Trust Fund, or  
 2296 the Land Acquisition Trust Fund must contain such covenants and  
 2297 restrictions as are sufficient to ensure that the use of such  
 2298 real property at all times complies with s. 375.051 and s. 9,  
 2299 Art. XII of the State Constitution. Each deed or lease with  
 2300 respect to any real property acquired with funds received by the

2301 trust from the Florida Forever Trust Fund before July 1, 2015,  
 2302 must contain covenants and restrictions sufficient to ensure  
 2303 that the use of such real property at all times complies with s.  
 2304 11(e), Art. VII of the State Constitution. Each deed or lease  
 2305 with respect to any real property acquired with funds received  
 2306 by the trust from the Florida Forever Trust Fund after July 1,  
 2307 2015, must contain covenants and restrictions sufficient to  
 2308 ensure that the use of such real property at all times complies  
 2309 with s. 28, Art. X of the State Constitution. Each deed or lease  
 2310 must contain a reversion, conveyance, or termination clause that  
 2311 vests title in the Board of Trustees of the Internal Improvement  
 2312 Trust Fund if any of the covenants or restrictions are violated  
 2313 by the titleholder or leaseholder or by some third party with  
 2314 the knowledge of the titleholder or leaseholder.

2315 Section 34. Paragraph (d) of subsection (1) of section  
 2316 570.715, Florida Statutes, is amended to read:

2317 570.715 Conservation easement acquisition procedures.—

2318 (1) For less than fee simple acquisitions pursuant to s.  
 2319 570.71, the Department of Agriculture and Consumer Services  
 2320 shall comply with the following acquisition procedures:

2321 (d) On behalf of the board of trustees and before the  
 2322 appraisal of parcels approved for purchase under ss.

2323 259.105(3)(c) ~~ss. 259.105(3)(i)~~ and 570.71, the department may  
 2324 enter into option contracts to buy less than fee simple interest  
 2325 in such parcels. Any such option contract shall state that the

2326 final purchase price is subject to approval by the board of  
 2327 trustees and that the final purchase price may not exceed the  
 2328 maximum offer authorized by law. Any such option contract  
 2329 presented to the board of trustees for final purchase price  
 2330 approval shall explicitly state that payment of the final  
 2331 purchase price is subject to an appropriation by the  
 2332 Legislature. The consideration for any such option contract may  
 2333 not exceed \$1,000 or 0.01 percent of the estimate by the  
 2334 department of the value of the parcel, whichever amount is  
 2335 greater.

2336 Section 35. Subsection (1) of section 589.065, Florida  
 2337 Statutes, is amended to read:

2338 589.065 Florida Forever Program Trust Fund of the  
 2339 Department of Agriculture and Consumer Services.—

2340 (1) There is created a Florida Forever Program Trust Fund  
 2341 within the Department of Agriculture and Consumer Services to  
 2342 carry out the duties of the department under the Florida Forever  
 2343 Act as specified in s. 259.105 ~~s. 259.105(3)(f)~~. The trust fund  
 2344 shall receive funds pursuant to s. 259.105 ~~s. 259.105(3)(f)~~.

2345 Section 36. The Legislature finds that the systematic  
 2346 management of public water system and domestic wastewater  
 2347 treatment system assets is essential to the protection of public  
 2348 health and natural resources. Therefore, the Legislature  
 2349 determines and declares that this act fulfills an important  
 2350 state interest.

2351

Section 37. This act shall take effect July 1, 2018.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7063 (2018)

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 \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Caldwell offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 469-495 and insert:

6 215.618 Bonds for acquisition and improvement of land,  
7 water areas, and related property interests and resources.-

8 (1)(a) The issuance of Florida Forever bonds, not to  
9 exceed \$5.3 billion, to finance or refinance the cost of  
10 acquisition and ~~improvement~~ of land, water areas, and related  
11 property interests and resources, in urban and rural settings,  
12 for the purposes of restoration, conservation, recreation, water  
13 resource development, or historical preservation, ~~and for~~  
14 ~~capital improvements to lands and water areas that accomplish~~  
15 ~~environmental restoration, enhance public access and~~  
16 ~~recreational enjoyment, promote long term management goals, and~~

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Amendment No. 1

17 ~~facilitate water resource development is hereby authorized,~~  
18 subject to s. 259.105, and to finance or refinance costs  
19 identified in s. 373.4598(10)(b) is authorized. The issuance of  
20 Florida Forever bonds shall be ~~and~~ pursuant to s. 11(e), Art.  
21 VII of the State Constitution and, on or after July 1, 2015, to  
22 also finance or refinance the acquisition ~~and improvement~~ of  
23 land, water areas, and related property interests and the costs  
24 identified in s. 373.4598(10)(b) as provided in s. 28, Art. X of  
25 the State Constitution. The \$5.3 billion limitation on the  
26 issuance of Florida Forever bonds does not apply to refunding  
27 bonds. The duration of each series of Florida Forever bonds  
28 issued may not exceed 20 annual maturities. Not more than 58.25  
29 percent of documentary stamp taxes collected may be taken into  
30 account for the purpose of satisfying an additional bonds test  
31 set forth in any authorizing resolution for bonds issued on or  
32 after July 1, 2015.

33  
34 -----  
35 **T I T L E A M E N D M E N T**

36 Remove lines 35-38 and insert:

37 resource development projects; authorizing the use of proceeds  
38 from Florida Forever bonds for water storage reservoir projects  
39 under the Comprehensive Everglades Restoration Plan; amending s.  
40 253.0251, F.S.;



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7063 (2018)

Amendment No. 2

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: Appropriations Committee  
Representative Caldwell offered the following:

**Amendment (with title amendment)**

Remove lines 1656-2350 and insert:

Section 13. Paragraph (j) is added to subsection (4) of  
section 260.0142, Florida Statutes, to read:

260.0142 Florida Greenways and Trails Council;  
composition; powers and duties.-

(4) The duties of the council shall include the following:

(j) Assist state agencies, local governments, and trail  
support organizations seeking recognition and designation from  
regional and national recreation organizations for outstanding  
and interconnected trail systems or trail centers.

Section 14. Paragraph (a) of subsection (2) of section  
260.016, Florida Statutes, is amended to read:

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17 260.016 General powers of the department.—

18 (2) The department shall:

19 (a) Evaluate lands for the acquisition of greenways and  
20 trails and compile a list of suitable corridors, greenways, and  
21 trails, ranking them in order of priority for proposed  
22 acquisition. The department shall devise a method of evaluation  
23 which includes, but is not limited to, the consideration of:

24 1. The importance and function of such corridors within  
25 the statewide system as reflected on the opportunity maps; and

26 2. The landowners' willingness to negotiate;

27 3. The trail system's ability to connect communities,  
28 developed and natural areas, and other recreational  
29 opportunities; and

30 4. The trail system's potential to receive recognition and  
31 designation from regional and national recreation organizations  
32 for outstanding and interconnected trail systems or trail  
33 centers.

34 Section 15. Subsections (9), (10), and (11) are added to  
35 section 373.089, Florida Statutes, to read:

36 373.089 Sale or exchange of lands, or interests or rights  
37 in lands.—The governing board of the district may sell lands, or  
38 interests or rights in lands, to which the district has acquired  
39 title or to which it may hereafter acquire title in the  
40 following manner:

41 (9) No disposition of land may be made if it would cause

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42 all or any portion of the interest on any revenue bonds to fund  
43 acquisitions made by the district to lose the exclusion from  
44 gross income for purposes of federal income taxation. Proceeds  
45 derived from such disposition may not be used for any purpose  
46 except the purchase of other lands meeting the criteria  
47 specified in s. 373.139 or payment of debt service on revenue  
48 bonds or notes issued under s. 373.584.

49 (10) Proceeds from the sale of surplus conservation lands  
50 purchased with Florida Forever funds before July 1, 2015, shall  
51 be deposited into the Florida Forever Trust Fund if the district  
52 does not use the proceeds to purchase other lands meeting the  
53 criteria specified in s. 373.139 or payment of debt service on  
54 revenue bonds or notes issued under s. 373.584 within 3 years.  
55 If the district purchased the conservation land with multiple  
56 revenue sources, the district shall deposit an amount based on  
57 the percentage of Florida Forever funds used for the original  
58 purchase.

59 (11) Proceeds from the sale of surplus conservation lands  
60 purchased with state funds on or after July 1, 2015, shall be  
61 deposited into the Land Acquisition Trust Fund if the district  
62 does not use the proceeds to purchase other lands meeting the  
63 criteria specified in s. 373.139 or payment of debt service on  
64 revenue bonds or notes issued under s. 373.584 within 3 years.  
65 If the district purchased the conservation land with funds other  
66 than those from the Land Acquisition Trust Fund or a land

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67 acquisition trust fund created to implement s. 28, Art. X of the  
68 State Constitution, the proceeds shall be deposited into the  
69 fund from which the land was purchased. If the district  
70 purchased the conservation land with multiple revenue sources,  
71 the district shall deposit an amount based on the percentage of  
72 state funds used for the original purchase.

73

74 If the Board of Trustees of the Internal Improvement Trust Fund  
75 declines to accept title to the lands offered under this  
76 section, the land may be disposed of by the district under the  
77 provisions of this section.

78 Section 16: Subsection (6) of section 373.139, Florida  
79 Statutes, is amended to read:

80 373.139 Acquisition of real property.—

81 ~~(6) A district may dispose of land acquired under this~~  
82 ~~section pursuant to s. 373.056 or s. 373.089. However, no such~~  
83 ~~disposition of land shall be made if it would have the effect of~~  
84 ~~causing all or any portion of the interest on any revenue bonds~~  
85 ~~issued pursuant to s. 259.101 or s. 259.105 to fund the~~  
86 ~~acquisition programs detailed in this section to lose the~~  
87 ~~exclusion from gross income for purposes of federal income~~  
88 ~~taxation. Revenue derived from such disposition may not be used~~  
89 ~~for any purpose except the purchase of other lands meeting the~~  
90 ~~criteria specified in this section or payment of debt service on~~  
91 ~~revenue bonds or notes issued under s. 373.584.~~

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92 Section 17. Subsection (7) is added to section 373.1391,  
93 Florida Statutes, to read:

94 373.1391 Management of real property.—

95 (7) All revenues generated through multiple-use management  
96 or compatible secondary-use management of district conservation  
97 lands purchased with state funds shall be retained by the  
98 district responsible for such management and shall be used to  
99 pay for management activities on all conservation, preservation,  
100 and recreation lands under the district's jurisdiction. In  
101 addition, such revenues shall be segregated in a district trust  
102 fund or special revenue account and shall remain available to  
103 the district in subsequent fiscal years to fund land management  
104 activities.

105 Section 18. Paragraph (h) of subsection (4) of section  
106 373.199, Florida Statutes, is amended to read:

107 373.199 Florida Forever Water Management District Work  
108 Plan.—

109 (4) The list submitted by the districts shall include,  
110 where applicable, the following information for each project:

111 (h) A clear and concise estimate of the funding needed to  
112 carry out the restoration, protection, or improvement project,  
113 or the development of new water resources, where applicable, and  
114 a clear and concise identification of the projected sources and  
115 uses of Florida Forever funds. Only the land acquisition  
116 elements and associated land acquisition costs for projects

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117 identified on the list may receive Florida Forever funding. All  
118 other project elements must use other funding sources.

119 Section 19. Paragraph (d) of subsection (9) of section  
120 373.4598, Florida Statutes, is amended and paragraph (f) is  
121 added to that subsection to read:

122 373.4598 Water storage reservoirs.--

123 (9) C-51 RESERVOIR PROJECT.--

124 (d) If state funds are appropriated for Phase I or Phase  
125 II of the C-51 reservoir project:

126 1. The district, to the extent practicable, must shall  
127 operate either Phase I or Phase II of the reservoir project to  
128 maximize the reduction of high-volume Lake Okeechobee regulatory  
129 releases to the St. Lucie or Caloosahatchee estuaries, in  
130 addition to maximizing the reduction of harmful discharges  
131 providing relief to the Lake Worth Lagoon. However, the  
132 operation of Phase I of the C-51 reservoir project must be in  
133 accordance with any operation and maintenance agreement adopted  
134 by the district;

135 2. Water made available by Phase I or Phase II of the  
136 reservoir must shall be used for natural systems in addition to  
137 any permitted allocated amounts for water supply; and

138 3. Any Water received from Lake Okeechobee may only not be  
139 available to support consumptive use permits if such use is in  
140 accordance with the district rules.

141 (f) The district may enter into a capacity allocation

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142 agreement with a water supply entity for a pro rata share of  
143 unreserved capacity in the water storage facility and may  
144 request the department to waive repayment of all or a portion of  
145 the loan issued pursuant to s. 373.475. The department may  
146 authorize such waiver if the department determines it has  
147 received reasonable value for such waiver. The district is not  
148 responsible for repaying any portion of the loan issued pursuant  
149 to s. 373.475, which is waived pursuant to this paragraph.

150 Section 20. Subsection (10) is added to section 373.713,  
151 Florida Statutes, to read:

152 373.713 Regional water supply authorities.—

153 (10) Each regional water supply authority shall annually  
154 coordinate with the appropriate water management district to  
155 submit a status report on water resource development projects  
156 receiving state funding for inclusion in the consolidated water  
157 management district annual report required by s. 373.036(7).

158 Section 21. Paragraph (b) of subsection (3) of section  
159 375.041, Florida Statutes, is amended to read:

160 375.041 Land Acquisition Trust Fund.—

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

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

166 1. A minimum of the lesser of 25 percent or \$200 million

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167 shall be appropriated annually for Everglades projects that  
168 implement the Comprehensive Everglades Restoration Plan as set  
169 forth in s. 373.470, including the Central Everglades Planning  
170 Project subject to Congressional authorization; the Long-Term  
171 Plan as defined in s. 373.4592(2); and the Northern Everglades  
172 and Estuaries Protection Program as set forth in s. 373.4595.  
173 From these funds, \$32 million shall be distributed each fiscal  
174 year through the 2023-2024 fiscal year to the South Florida  
175 Water Management District for the Long-Term Plan as defined in  
176 s. 373.4592(2). After deducting the \$32 million distributed  
177 under this subparagraph, from the funds remaining, a minimum of  
178 the lesser of 76.5 percent or \$100 million shall be appropriated  
179 each fiscal year through the 2025-2026 fiscal year for the  
180 planning, design, engineering, and construction of the  
181 Comprehensive Everglades Restoration Plan as set forth in s.  
182 373.470, including the Central Everglades Planning Project , the  
183 Everglades Agricultural Area Storage Reservoir Project, the Lake  
184 Okeechobee Watershed Project, the C-43 West Basin Storage  
185 Reservoir Project, the Indian River Lagoon-South Project, the  
186 Western Everglades Restoration Project, and the Picayune Strand  
187 Restoration Project. The Department of Environmental Protection  
188 and the South Florida Water Management District shall give  
189 preference to those Everglades restoration projects that reduce  
190 harmful discharges of water from Lake Okeechobee to the St.  
191 Lucie or Caloosahatchee estuaries in a timely manner, with the

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192 highest priority given to the C-43 West Basin Storage Reservoir  
193 Project. For the purpose of performing the calculation provided  
194 in this subparagraph, the amount of debt service paid pursuant  
195 to paragraph (a) for bonds issued after July 1, 2016, for the  
196 purposes set forth under paragraph (b) shall be added to the  
197 amount remaining after the payments required under paragraph  
198 (a). The amount of the distribution calculated shall then be  
199 reduced by an amount equal to the debt service paid pursuant to  
200 paragraph (a) on bonds issued after July 1, 2016, for the  
201 purposes set forth under this subparagraph.

202 2. A minimum of the lesser of 7.6 percent or \$50 million  
203 shall be appropriated annually for spring restoration,  
204 protection, and management projects. For the purpose of  
205 performing the calculation provided in this subparagraph, the  
206 amount of debt service paid pursuant to paragraph (a) for bonds  
207 issued after July 1, 2016, for the purposes set forth under  
208 paragraph (b) shall be added to the amount remaining after the  
209 payments required under paragraph (a). The amount of the  
210 distribution calculated shall then be reduced by an amount equal  
211 to the debt service paid pursuant to paragraph (a) on bonds  
212 issued after July 1, 2016, for the purposes set forth under this  
213 subparagraph.

214 3. The sum of \$5 million shall be appropriated annually  
215 each fiscal year through the 2025-2026 fiscal year to the St.  
216 Johns River Water Management District for projects dedicated to

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217 the restoration of Lake Apopka. This distribution shall be  
218 reduced by an amount equal to the debt service paid pursuant to  
219 paragraph (a) on bonds issued after July 1, 2016, for the  
220 purposes set forth in this subparagraph.

221 4. The sum of \$64 million is appropriated and shall be  
222 transferred to the Everglades Trust Fund for the 2018-2019  
223 fiscal year, and each fiscal year thereafter, for the EAA  
224 reservoir project pursuant to s. 373.4598. Any funds remaining  
225 in any fiscal year shall be made available only for Phase II of  
226 the C-51 reservoir project or projects identified in  
227 subparagraph 1. and must be used in accordance with laws  
228 relating to such projects. Any funds made available for such  
229 purposes in a fiscal year are in addition to the amount  
230 appropriated under subparagraph 1. This distribution shall be  
231 reduced by an amount equal to the debt service paid pursuant to  
232 paragraph (a) on bonds issued after July 1, 2017, for the  
233 purposes set forth in this subparagraph.

234 5. The following sums shall be appropriated annually each  
235 fiscal year to the Florida Forever Trust Fund for distribution  
236 by the Department of Environmental Protection pursuant to s.  
237 259.105(3):

238 a. For the 2019-2020 fiscal year and the 2020-2021 fiscal  
239 year, the sum of \$57 million.

240 b. For the 2021-2022 fiscal year, the sum of \$78 million.

241 c. For the 2022-2023 fiscal year, the sum of \$89 million.

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242 d. For the 2023-2024 fiscal year and the 2024-2025 fiscal  
243 year, the sum of \$110 million.

244 e. For the 2025-2026 fiscal year, the sum of \$127 million.

245 f. For the 2026-2027 fiscal year, the sum of \$147 million.

246 g. For the 2027-2028 fiscal year, the sum of \$157 million.

247 h. For the 2028-2029 fiscal year, the sum of \$179 million.

248 i. For the 2029-2030 fiscal year and each fiscal year  
249 through the 2035-2036 fiscal year, the sum of \$200 million.

250

251 The distribution shall be reduced by an amount equal to the debt  
252 service paid pursuant to paragraph (a) on bonds issued after  
253 July 1, 2018, for the purposes set forth in this subparagraph.

254 ~~5. Notwithstanding subparagraph 3., for the 2017-2018~~  
255 ~~fiscal year, funds shall be appropriated as provided in the~~  
256 ~~General Appropriations Act. This subparagraph expires July 1,~~  
257 ~~2018.~~

258 Section 22. Subsection (3) of section 380.508, Florida  
259 Statutes, is amended to read:

260 380.508 Projects; development, review, and approval.—

261 (3) In accordance with procedures adopted by the trust,  
262 local governments and nonprofit organizations may propose  
263 projects for the trust to consider for funding or technical  
264 assistance. When a local government demonstrates the need for  
265 assistance in preparing a project proposal, the trust, whenever  
266 possible, shall provide such assistance. When selecting projects

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267 to provide funding or technical assistance, the trust must  
268 emphasize projects that enhance the coordination and completion  
269 of land acquisition projects, as measured by:

270 (a) The number of acres acquired that enhance essential  
271 natural resources, contribute to ecosystem service parcels, and  
272 connect linkage corridors;

273 (b) The number of shared acquisition projects among  
274 Florida Forever funding partners and partners with other funding  
275 sources, including local governments and the federal government;  
276 and

277 (c) For urban greenways and open space projects, the number  
278 of acres acquired that connect communities, developed and  
279 natural areas, and other recreational opportunities that have  
280 the potential to receive recognition and designation from  
281 regional and national recreation organizations for outstanding  
282 and interconnected trail systems or trail centers.

283 Section 23. Subsection (4) of section 388.261, Florida  
284 Statutes, is amended to read:

285 388.261 State aid to counties and districts for arthropod  
286 control; distribution priorities and limitations.—

287 (4) The department must use Up to 20 percent of the annual  
288 funds appropriated to local governments for ~~arthropod control~~  
289 ~~may be used for~~ arthropod control research or demonstration  
290 projects as approved by the department.

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291 Section 24. Paragraph (c) is added to subsection (12) of  
292 section 403.067, Florida Statutes, to read:

293 403.067 Establishment and implementation of total maximum  
294 daily loads.—

295 (12) IMPLEMENTATION OF ADDITIONAL PROGRAMS.—

296 (c) The department may consider and include innovative  
297 nutrient reduction pilot projects designed to reduce nutrient  
298 pollution as part of basin management action plans pursuant to  
299 subsection (7). The department may also provide cost-share  
300 funding for innovative nutrient reduction pilot projects.

301 Section 25. Section 403.0891, Florida Statutes, is amended  
302 to read:

303 403.0891 State, regional, and local stormwater management  
304 plans and programs.—The department, the water management  
305 districts, ~~and~~ local governments, and the Department of  
306 Transportation shall have the responsibility for the development  
307 of mutually compatible stormwater management programs.

308 (1) The department shall include goals in the water  
309 resource implementation rule for the proper management of  
310 stormwater.

311 (2) Each water management district to which the state's  
312 stormwater management program is delegated shall establish  
313 district and, where appropriate, watershed or drainage basin  
314 stormwater management goals which are consistent with the goals  
315 adopted by the state and with plans adopted pursuant to ss.

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316 373.451-373.4595, the Surface Water Improvement and Management  
317 Act.

318 (3) (a) Each local government required by chapter 163 to  
319 submit a comprehensive plan, whose plan is submitted after July  
320 1, 1992, and the others when updated after July 1, 1992, in the  
321 development of its stormwater management program described by  
322 elements within its comprehensive plan shall consider the water  
323 resource implementation rule, district stormwater management  
324 goals, plans approved pursuant to the Surface Water Improvement  
325 and Management Act, ss. 373.451-373.4595, and technical  
326 assistance information provided by the water management  
327 districts pursuant to s. 373.711.

328 (b) Local governments are encouraged to consult with the  
329 water management districts, the Department of Transportation,  
330 and the department before adopting or updating their local  
331 government comprehensive plan or public facilities report as  
332 required by s. 189.08, whichever is applicable.

333 (4) The department, in coordination and cooperation with  
334 water management districts and local governments, shall conduct  
335 a continuing review of the costs of stormwater management  
336 systems and the effect on water quality and quantity, and fish  
337 and wildlife values. The department, the water management  
338 districts, and local governments shall use the review for  
339 planning purposes and to establish priorities for watersheds and  
340 stormwater management systems which require better management

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341 and treatment of stormwater with emphasis on the costs and  
342 benefits of needed improvements to stormwater management systems  
343 to better meet needs for flood protection and protection of  
344 water quality, and fish and wildlife values.

345 (5) The results of the review shall be maintained by the  
346 department and the water management districts and shall be  
347 provided to appropriate local governments or other parties on  
348 request. The results also shall be used in the development of  
349 the goals developed pursuant to subsections (1) and (2).

350 (6) The department and the Department of Economic  
351 Opportunity, in cooperation with local governments in the  
352 coastal zone, shall develop a model stormwater management  
353 program that could be adopted by local governments. The model  
354 program shall contain dedicated funding options, including a  
355 stormwater utility fee system based upon an equitable unit cost  
356 approach. Funding options shall be designed to generate capital  
357 to retrofit existing stormwater management systems, build new  
358 treatment systems, operate facilities, and maintain and service  
359 debt.

360 (7) The Department of Transportation shall coordinate with  
361 the department, water management districts, and local  
362 governments to determine whether it is economically feasible to  
363 use stormwater resulting from road construction projects for the  
364 beneficial use of providing alternative water supplies,  
365 including, but not limited to, directing stormwater to reclaimed

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366 water facilities or water storage reservoirs. If the affected  
367 parties determine that beneficial use of such stormwater is  
368 economically feasible, such use shall be implemented by the  
369 parties. The department, in consultation with the Department of  
370 Transportation, may adopt rules to implement this subsection.

371 Section 26. Subsection (12) of section 403.814, Florida  
372 Statutes, is amended to read:

373 403.814 General permits; delegation.-

374 (12) A general permit is granted for the construction,  
375 alteration, and maintenance of a stormwater management system  
376 serving a total project area of up to 10 acres meeting the  
377 criteria of this subsection. Such stormwater management systems  
378 must be designed, operated, and maintained in accordance with  
379 applicable rules adopted pursuant to part IV of chapter 373.  
380 There is a rebuttable presumption that the discharge from such  
381 systems complies with state water quality standards. The  
382 construction of such a system may proceed without any further  
383 agency action by the department or water management district if,  
384 before construction begins, an electronic self-certification is  
385 submitted to the department or water management district which  
386 certifies that the proposed system was designed by a Florida  
387 registered professional and that the registered professional has  
388 certified that the proposed system meets the requirements of  
389 this section and will meet the following additional  
390 requirements:

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391 (a) The total project area involves less than 10 acres and  
392 less than 2 acres of impervious surface;

393 (b) Activities will not impact wetlands or other surface  
394 waters;

395 (c) Activities are not conducted in, on, or over wetlands  
396 or other surface waters;

397 (d) Drainage facilities will not include pipes having  
398 diameters greater than 24 inches, or the hydraulic equivalent,  
399 and will not use pumps in any manner;

400 (e) The project is not part of a larger common plan,  
401 development, or sale; and

402 (f) The project does not cause or contribute to:

403 1. ~~Cause~~ Adverse water quantity or flooding impacts to  
404 receiving water and adjacent lands;

405 2. ~~Cause~~ Adverse impacts to existing surface water storage  
406 and conveyance capabilities;

407 3. ~~Cause~~ A violation of state water quality standards; or

408 4. ~~Cause~~ An adverse impact to the maintenance of surface  
409 or ground water levels or surface water flows established  
410 pursuant to s. 373.042 or a work of the district established  
411 pursuant to s. 373.086.

412 Section 27. Section 403.892, Florida Statutes, is created  
413 to read:

414 403.892 Asset management plan and reserve fund.-

415 (1) The Legislature finds the development and

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416 implementation of an asset management program by public water  
417 systems and domestic wastewater treatment systems that includes  
418 a long-range financial planning component is consistent with  
419 industry best practices and is necessary to achieve sustainable  
420 infrastructure and protect public health. An asset management  
421 program is implemented through a written asset management plan  
422 that includes detailed asset inventories, sustainable levels of  
423 service and performance goals, identification and ranking of  
424 assets critical to sustainable performance, analysis of minimum  
425 life-cycle costs, and optimum long-term funding strategies.

426 (2) By August 1, 2020, each public water system, as  
427 defined in s. 403.852, and domestic wastewater treatment system  
428 shall develop a written asset management plan in accordance with  
429 United States Environmental Protection Agency guidance on asset  
430 management for water and wastewater utilities. The asset  
431 management plan shall be updated annually. The plan and annual  
432 updates to the plan shall be posted on a publicly available  
433 website. As used in this section, the term "domestic wastewater  
434 treatment system" means any plant or other works used to treat,  
435 stabilize, or hold domestic wastes, including pipelines or  
436 conduits, pumping stations, and force mains and all other  
437 structures, devices, appurtenances, and facilities used for  
438 collecting or conducting wastes to an ultimate point for  
439 treatment or disposal. A domestic wastewater treatment system  
440 does not include an onsite sewage treatment and disposal system

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441 as defined in s. 381.0065.

442 (3) To be eligible for state funding, a public water  
443 system or domestic wastewater treatment system must demonstrate  
444 that it is implementing an asset management plan in accordance  
445 with this section, and the plan adequately addresses long-term  
446 funding strategies for maintaining assets to meet required  
447 levels of service and long-term system needs. Funding strategies  
448 may include a rate structure appropriate for the customer base,  
449 use of reserves or other forms of asset annuities, and financing  
450 mechanisms for repair and replacement of assets.

451 Section 28. Section 403.893, Florida Statutes, is created  
452 to read:

453 403.893 Public water system and domestic wastewater  
454 treatment system infrastructure floodplain resiliency.—It is the  
455 policy of the state to encourage public water systems and  
456 domestic wastewater treatment systems to increase the resilience  
457 of their critical infrastructure against flooding. Any new  
458 infrastructure for a public water system or domestic wastewater  
459 treatment system located within an area identified in accordance  
460 with the Federal Emergency Management Agency's 100-year and 500-  
461 year flood maps as a special flood hazard area or a moderate  
462 flood hazard area must be built to withstand the respective  
463 flood conditions. Such new infrastructure must include, at a  
464 minimum, elevated control panels and appurtenant structures  
465 above the flood prone elevation and submersible components,

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466 including pumps and flow meters.

467 Section 29. Subsection (9) is added to section 570.76,  
468 Florida Statutes, to read:

469 570.76 Department of Agriculture and Consumer Services;  
470 powers and duties.—For the accomplishment of the purposes  
471 specified in this act, the department shall have all powers and  
472 duties necessary, including, but not limited to, the power and  
473 duty to:

474 (9) Provide assistance to local governments in  
475 administering local rural-lands-protection easement programs.  
476 The department may provide technical support to review  
477 applications for inclusion in the local government's program and  
478 monitor compliance with the conservation easements. The  
479 department may not use any state funds to assist in the purchase  
480 of such easements or pay any acquisition costs. The local  
481 government must compensate the department for its services. The  
482 agreement for assistance must be documented in a memorandum of  
483 agreement between the department and the local government. The  
484 title to such conservation easements shall be held in the name  
485 of the local government.

486 Section 30. Section 1004.49, Florida Statutes, is amended  
487 to read:

488 1004.49 Florida LAKEWATCH Program.—The Florida LAKEWATCH  
489 Program is hereby created within the School of Forest Resources  
490 and Conservation's Fisheries and Aquatic Sciences Program

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491 ~~Department of Fisheries and Aquaculture~~ of the Institute of Food  
492 and Agricultural Sciences at the University of Florida. The  
493 purpose of the program is to provide public education and  
494 training with respect to the water quality of Florida's lakes.  
495 The Fisheries and Aquatic Sciences Program ~~Department of~~  
496 ~~Fisheries and Aquaculture~~ may, in implementing the LAKEWATCH  
497 program:

498 (1) Train, supervise, and coordinate volunteers to collect  
499 water quality data from Florida's lakes, streams, and estuaries.

500 (2) Compile the data collected by volunteers.

501 (3) Disseminate information to the public about the  
502 LAKEWATCH program.

503 (4) Provide or loan equipment to volunteers in the  
504 program.

505 (5) Perform other functions as may be necessary or  
506 beneficial in coordinating the LAKEWATCH program.

507

508 Data collected and compiled shall be used to establish trends  
509 and provide general background information and may shall in no  
510 instance be used by the Department of Environmental Protection  
511 if the data collection methods meet sufficient quality assurance  
512 and quality control requirements approved by the Department of  
513 Environmental Protection in a regulatory proceeding.

514 Section 31. Subsection (1) of section 20.3315, Florida  
515 Statutes, is amended to read:

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7063 (2018)

Amendment No. 2

516 20.3315 Florida Forever Program Trust Fund of the Florida  
517 Fish and Wildlife Conservation Commission.—

518 (1) There is created a Florida Forever Program Trust Fund  
519 within the Florida Fish and Wildlife Conservation Commission to  
520 carry out the duties of the commission under the Florida Forever  
521 Act as specified in s. 259.105 ~~s. 259.105(3)(g)~~. The trust fund  
522 shall receive funds pursuant to s. 259.105 ~~s. 259.105(3)(g)~~.

523 Section 32. Subsection (4) and paragraph (b) of subsection  
524 (5) of section 253.027, Florida Statutes, are amended to read:

525 253.027 Emergency archaeological property acquisition.—

526 (4) EMERGENCY ARCHAEOLOGICAL ACQUISITION.—The sum of \$2  
527 million shall be reserved annually within the Florida Forever  
528 Trust Fund for the purpose of emergency archaeological  
529 acquisition. Any portion of that amount not spent or obligated  
530 by the end of the third quarter of the fiscal year may be used  
531 for approved acquisitions pursuant to s. 259.105(3)(a) ~~s.~~  
532 ~~259.105(3)(b)~~.

533 (5) ACCOUNT EXPENDITURES.—

534 (b) Funds may not ~~No moneys shall~~ be spent from the  
535 account for excavation or restoration of the properties  
536 acquired. Funds may be spent for preliminary surveys to  
537 determine if the sites meet the criteria of this section. An  
538 amount not to exceed \$100,000 may also be spent from the account  
539 to inventory and evaluate archaeological and historic resources  
540 on properties purchased, or proposed for purchase, pursuant to

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7063 (2018)

Amendment No. 2

541 s. 259.105(3)(a) ~~s. 259.105(3)(b)~~.

542 Section 33. Subsection (3), paragraph (b) of  
543 subsection(4), and subsection (6) of section 259.035, Florida  
544 Statutes, are amended to read:

545 259.035 Acquisition and Restoration Council.—

546 (3) The council shall provide assistance to the board in  
547 reviewing the recommendations and plans for state-owned  
548 conservation lands required under s. 253.034 and this chapter.

549 The council shall, in reviewing such plans, consider the  
550 optimization of multiple-use and conservation strategies to  
551 accomplish the provisions funded pursuant to former s.  
552 259.101(3)(a), Florida Statutes 2014, and to s. 259.105(3)(a) ~~s.~~  
553 ~~259.105(3)(b)~~.

554 (4)

555 (b) In developing or amending rules, the council shall  
556 give weight to the criteria included in s. 259.105(8) ~~s.~~  
557 ~~259.105(9)~~. The board of trustees shall review the  
558 recommendations and shall adopt rules necessary to administer  
559 this section.

560 (6) The proposal for a project pursuant to this section or  
561 s. 259.105(3)(a) ~~s. 259.105(3)(b)~~ may be implemented only if  
562 adopted by the council and approved by the board of trustees.  
563 The council shall consider and evaluate in writing the merits  
564 and demerits of each project that is proposed for acquisition  
565 using funds available pursuant to s. 28, Art. X of the State

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566 Constitution or Florida Forever funding and shall ensure that  
567 each proposed project meets the requirements of s. 28, Art. X of  
568 the State Constitution. The council also shall determine whether  
569 the project conforms, where applicable, with the comprehensive  
570 plan developed pursuant to s. 259.04(1)(a), the comprehensive  
571 multipurpose outdoor recreation plan developed pursuant to s.  
572 375.021, the state lands management plan adopted pursuant to s.  
573 253.03(7), the water resources work plans developed pursuant to  
574 s. 373.199, and the provisions of s. 259.032, s. 259.101, or s.  
575 259.105, whichever is applicable.

576 Section 34. Paragraph (b) of subsection (3) of section  
577 259.037, Florida Statutes, is amended to read:

578 259.037 Land Management Uniform Accounting Council.—

579 (3)

580 (b) Each reporting agency shall also:

581 1. Include a report of the available public use  
582 opportunities for each management unit of state land, the total  
583 management cost for public access and public use, and the cost  
584 associated with each use option.

585 2. List the acres of land requiring minimal management  
586 effort, moderate management effort, and significant management  
587 effort pursuant to s. 259.032(9)(b) ~~s. 259.032(9)(e)~~. For each  
588 category created in paragraph (a), the reporting agency shall  
589 include the amount of funds requested, the amount of funds  
590 received, and the amount of funds expended for land management.

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591 3. List acres managed and cost of management for each  
592 park, preserve, forest, reserve, or management area.

593 4. List acres managed, cost of management, and lead  
594 manager for each state lands management unit for which secondary  
595 management activities were provided.

596 5. Include a report of the estimated calculable financial  
597 benefits to the public for the ecosystem services provided by  
598 conservation lands, based on the best readily available  
599 information or science that provides a standard measurement  
600 methodology to be consistently applied by the land managing  
601 agencies. Such information may include, but need not be limited  
602 to, the value of natural lands for protecting the quality and  
603 quantity of drinking water through natural water filtration and  
604 recharge, contributions to protecting and improving air quality,  
605 benefits to agriculture through increased soil productivity and  
606 preservation of biodiversity, and savings to property and lives  
607 through flood control.

608 Section 35. Subsection (7) of section 380.510, Florida  
609 Statutes, is amended to read:

610 380.510 Conditions of grants and loans.—

611 (7) Any funds received by the trust pursuant to s.  
612 259.105(3)(b) ~~s. 259.105(3)(e)~~ or s. 375.041 shall be held  
613 separate and apart from any other funds held by the trust and  
614 used for the land acquisition purposes of this part.

615 (a) The administration and use of Florida Forever funds

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616 are subject to such terms and conditions imposed thereon by the  
617 agency of the state responsible for the bonds, the proceeds of  
618 which are deposited into the Florida Forever Trust Fund,  
619 including restrictions imposed to ensure that the interest on  
620 any such bonds issued by the state as tax-exempt bonds is not  
621 included in the gross income of the holders of such bonds for  
622 federal income tax purposes.

623 (b) All deeds or leases with respect to any real property  
624 acquired with funds received by the trust from the former  
625 Preservation 2000 Trust Fund, the Florida Forever Trust Fund, or  
626 the Land Acquisition Trust Fund must contain such covenants and  
627 restrictions as are sufficient to ensure that the use of such  
628 real property at all times complies with s. 375.051 and s. 9,  
629 Art. XII of the State Constitution. Each deed or lease with  
630 respect to any real property acquired with funds received by the  
631 trust from the Florida Forever Trust Fund before July 1, 2015,  
632 must contain covenants and restrictions sufficient to ensure  
633 that the use of such real property at all times complies with s.  
634 11(e), Art. VII of the State Constitution. Each deed or lease  
635 with respect to any real property acquired with funds received  
636 by the trust from the Florida Forever Trust Fund after July 1,  
637 2015, must contain covenants and restrictions sufficient to  
638 ensure that the use of such real property at all times complies  
639 with s. 28, Art. X of the State Constitution. Each deed or lease  
640 must contain a reversion, conveyance, or termination clause that

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641 vests title in the Board of Trustees of the Internal Improvement  
642 Trust Fund if any of the covenants or restrictions are violated  
643 by the titleholder or leaseholder or by some third party with  
644 the knowledge of the titleholder or leaseholder.

645 Section 36. Paragraph (d) of subsection (1) of section  
646 570.715, Florida Statutes, is amended to read:

647 570.715 Conservation easement acquisition procedures.—

648 (1) For less than fee simple acquisitions pursuant to s.  
649 570.71, the Department of Agriculture and Consumer Services  
650 shall comply with the following acquisition procedures:

651 (d) On behalf of the board of trustees and before the  
652 appraisal of parcels approved for purchase under ss.  
653 259.105(3)(c) ~~ss. 259.105(3)(i)~~ and 570.71, the department may  
654 enter into option contracts to buy less than fee simple interest  
655 in such parcels. Any such option contract shall state that the  
656 final purchase price is subject to approval by the board of  
657 trustees and that the final purchase price may not exceed the  
658 maximum offer authorized by law. Any such option contract  
659 presented to the board of trustees for final purchase price  
660 approval shall explicitly state that payment of the final  
661 purchase price is subject to an appropriation by the  
662 Legislature. The consideration for any such option contract may  
663 not exceed \$1,000 or 0.01 percent of the estimate by the  
664 department of the value of the parcel, whichever amount is  
665 greater.

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Amendment No. 2

666 Section 37. Subsection (1) of section 589.065, Florida  
667 Statutes, is amended to read:

668 589.065 Florida Forever Program Trust Fund of the  
669 Department of Agriculture and Consumer Services.—

670 (1) There is created a Florida Forever Program Trust Fund  
671 within the Department of Agriculture and Consumer Services to  
672 carry out the duties of the department under the Florida Forever  
673 Act as specified in s. 259.105 ~~s. 259.105(3)(f)~~. The trust fund  
674 shall receive funds pursuant to s. 259.105 ~~s. 259.105(3)(f)~~.

675 Section 38. The Legislature finds that the systematic  
676 management of public water system and domestic wastewater  
677 treatment system assets and the resiliency of public water  
678 system and domestic wastewater system infrastructure in  
679 floodplains is essential to the protection of public health and  
680 natural resources. Therefore, the Legislature determines and  
681 declares that this act fulfills an important state interest.

682

683 -----

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

685 Remove line 66 and insert:

686 and land acquisitions; amending s. 260.0142, F.S.; expanding the  
687 duties of the Florida Greenways and Trails Council; amending s.  
688 260.016, F.S.; adding criteria the department must consider for  
689 acquisition of greenways and trails; amending s. 373.089, F.S.;

690 Remove line 90 and insert:

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691 such loan repayment under certain conditions; providing the  
692 district is not responsible for repaying these loans; amending

693 Remove line 102 and insert:

694 year to the Florida Forever Trust Fund; amending s. 380.508,  
695 F.S.; identifying projects the Florida Communities Trust must  
696 emphasize; amending s. 388.261, F.S.; requiring the department  
697 to use a certain percentage of funds for research or  
698 demonstration projects; amending

699 Remove lines 107-109 and insert:

700 s. 403.0891, F.S.;

701 Remove lines 119-122 and insert:

702 amending s. 403.814,

703 Remove lines 130-135 and insert:

704 asset management plans in accordance with the United States  
705 Environmental Protection Agency guidance by a specified date;  
706 requiring updates to the plan annually and posting of the plan  
707 and updates on a publically available website; defining the term  
708 "domestic wastewater treatment system"; specifying eligibility  
709 criteria for state funding; creating s.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7083    PCB GAC 18-04    Emergency Management  
**SPONSOR(S):** Government Accountability Committee, Raschein  
**TIED BILLS:**                    **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee	22 Y, 0 N	Harrington	Williamson
1) Appropriations Committee		Delaney <i>and</i>	Leznoff <i>[Signature]</i>

**SUMMARY ANALYSIS**

The Division of Emergency Management (DEM) is established within the Executive Office of the Governor. DEM is responsible for administering programs to rapidly apply all available aid to communities stricken by an emergency and is the liaison with federal agencies and other public and private agencies. DEM is responsible for carrying out the State’s Emergency Management Act, which includes creating a statewide comprehensive emergency management plan (CEMP). The CEMP serves as the master operations document for Florida and is the framework through which the state handles emergencies and disasters. The CEMP must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters. Additionally, each county is required to establish and maintain an emergency management program and develop a county CEMP that is consistent with the state emergency management program and state CEMP.

The bill revises various provisions relating to emergency management, including:

- Extending the number of days that a state agency employee can be authorized leave during an emergency from 15 to 20 days.
- Authorizing Florida Hurricane Catastrophe Funds to be used for local projects to enhance emergency power generation and to ensure compliance with the Americans with Disabilities Act.
- Requiring the CEMP to include the following:
  - A fuel contingency plan;
  - A requirement that the appropriate emergency support function personnel consult with a representative of the passenger rail industry;
  - A requirement that DEM use a qualified interpreter in certain emergency broadcasts; and
  - A requirement that a dedicated private sector emergency hotline be activated during a major disaster.
- Requiring county emergency management plans to include a fuel contingency plan and to provide certain information online about shelters, including which shelters are open, which are at capacity, which take pets, and when additional shelters will be opened.
- Prohibiting a public entity from holding a meeting during a declared state of emergency for purposes of discussing or voting on a budget during an imposed curfew if such entity is within the jurisdiction of the curfew.
- Directing the Department of Transportation, in consultation with railroad and fuel industries, to conduct a study examining options for using rail tank cars to facilitate the delivery of motor vehicle fuels to areas impacted by hurricane events, and address the use of tanker cars and mobile fuel transfer systems as temporary storage and dispensing facilities for motor vehicle fuels before, during, and after a hurricane.

The bill provides that an important state interest is served by ensuring proper emergency management readiness and response.

The bill has an indeterminate negative fiscal impact on the state and local governments. See Fiscal Comments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### Division of Emergency Management

The Division of Emergency Management (DEM) is established within the Executive Office of the Governor as a separate budget entity.<sup>1</sup> The director of DEM is appointed by and serves at the pleasure of the Governor.<sup>2</sup> DEM is responsible for administering programs to rapidly apply all available aid to communities stricken by an emergency and is the liaison with federal agencies and other public and private agencies.<sup>3</sup> DEM is responsible for carrying out the State Emergency Management Act,<sup>4</sup> which includes creating a statewide comprehensive emergency management plan (CEMP).<sup>5</sup>

###### State Comprehensive Emergency Management Plan

DEM is required by law to prepare a CEMP.<sup>6</sup> The CEMP serves as the master operations document for Florida and is the framework through which the state handles emergencies and disasters. The CEMP must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters.<sup>7</sup>

Additionally, each county is required to establish and maintain an emergency management program and develop a county CEMP that is consistent with the state emergency management program and state CEMP.<sup>8</sup> Municipalities may also elect to establish an emergency management program and in doing so must comply with the guidelines for a county CEMP.<sup>9</sup>

###### State Watch Office

DEM is required to establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.<sup>10</sup> To accomplish this directive, DEM has created the State Watch Office (SWO), a "24-hour emergency communications center and situational awareness hub" within the State Emergency Operations Center (SEOC).<sup>11</sup> The CEMP sets forth the purposes and goals of the SWO:

The SWO provides the state with a single point to disseminate information and warnings to governmental officials (federal, state and/or local) that a hazardous situation could threaten or has threatened the general welfare, health, safety, and/or property of the state's population. The SWO maintains continuous

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<sup>1</sup> Section 14.2016, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*; s. 252.35(1), F.S.

<sup>4</sup> Sections 252.31-252.60, F.S., are known as the "State Emergency Management Act."

<sup>5</sup> Section 252.35(2)(a), F.S.

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

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

<sup>8</sup> Section 252.38(1)(a), F.S. DEM is required to adopt standards and requirements for county CEMPs, assist local governments in preparing and maintaining their CEMP's, and periodically review local government CEMPs for consistency with the state CEMP and the standards and requirements adopted by the DEM. *See* s. 252.35(2)(b), F.S.

<sup>9</sup> Section 252.38(2), F.S.

<sup>10</sup> Section 252.35(2)(a)6., F.S.,

<sup>11</sup> 2014 Comprehensive Emergency Management Plan, DIVISION OF EMERGENCY MANAGEMENT, pgs. 25-27, incorporated by reference in FLA. ADMIN. CODE. R. 27P-2.002, available at <https://floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf> (last visited February 6, 2018).



situational awareness of natural and technological hazards during non-emergency periods as well as in times of emergencies and disasters.<sup>12</sup>

The SWO is equipped with multiple communication networks composed of local, state, and federal emergency communications systems.<sup>13</sup>

### Emergency Support Functions

The State Emergency Response Team (SERT) serves as the primary operational mechanism through which state assistance to local governments is managed.<sup>14</sup> To facilitate effective operations, the SERT is organized into 18 groups called Emergency Support Functions (ESF).<sup>15</sup> Each ESF focuses on a specific mission area and is led by a representative from the state agency that best reflects the authorities, resources, and capabilities of the ESF.<sup>16</sup>

### Public Shelters

DEM currently manages a program for surveying existing public and private buildings, with the owner's written agreement, to identify which facilities are appropriately designed and located to serve as shelters in the event of an emergency.<sup>17</sup> Public facilities, including schools, post-secondary education facilities, and other facilities owned or leased by the state or local governments, but excluding hospitals or nursing homes, which are suitable for use as public hurricane evacuation shelters must be made available at the request of the local emergency management agencies.<sup>18</sup>

The CEMP<sup>19</sup> must include a shelter component, the Statewide Emergency Shelter Plan (plan),<sup>20</sup> with specific planning provisions and the CEMP must promote shelter activity coordination between the public, private, and nonprofit sectors.<sup>21</sup> The plan must:

- Contain strategies to ensure the availability of adequate shelter space in each region of the state;
- Establish strategies for refuge-of-last-resort programs;
- Provide strategies to assist local emergency management efforts to ensure that adequate staffing plans exist for all shelters, including medical and security personnel;
- Provide for a postdisaster communications system for public shelters;
- Establish model shelter guidelines for operations, registration, inventory, power generation capability, information management, and staffing; and
- Set forth policy guidance for sheltering people with special needs.<sup>22</sup>

DEM must address strategies for the evacuation of persons with pets in the plan and must include the requirement for similar strategies in its standards and requirements for local comprehensive emergency

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

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

<sup>14</sup> 2014 Comprehensive Emergency Management Plan, DIVISION OF EMERGENCY MANAGEMENT, incorporated by reference in FLA. ADMIN. CODE R. 27P-2.002, available at <https://floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf> (last visited February 5, 2018).

<sup>15</sup> *Id.*

<sup>16</sup> Section 252.35(2)(a), F.S.

<sup>17</sup> Section 252.385(2)(a), F.S.

<sup>18</sup> Section 252.385(4)(a), F.S.

<sup>19</sup> FLA. ADMIN. CODE R. 27P-2.002, incorporates the CEMP by reference; *See* Comprehensive Emergency Management Plan, Division of Emergency Management, available at <https://www.floridadisaster.org/globalassets/importedpdfs/2014-state-cemp-basic-plan.pdf> (last visited February 5, 2018).

<sup>20</sup> 2018 Statewide Emergency Shelter Plan, DIVISION OF EMERGENCY MANAGEMENT, available at <https://www.floridadisaster.org/globalassets/dem/response/sesp/2018/2018-sesp-entire-document.pdf> (last visited February 5, 2018).

<sup>21</sup> Section 252.35(2)(a)2., F.S.

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

management plans.<sup>23</sup> The Department of Agriculture and Consumer Services must assist DEM in determining strategies regarding evacuations of persons with pets.<sup>24</sup>

The plan must be prepared and submitted to the Governor and Cabinet each even-numbered year.<sup>25</sup> The plan, among other requirements, must identify the location and square footage of existing shelters as well as shelters needed in the next five years.<sup>26</sup> The plan must include information on the availability of shelters that accept pets. The plan must also identify the types of public facilities that should be constructed to comply with emergency-shelter criteria and must recommend an appropriate and available source of funding for the additional cost of constructing emergency shelters within these public facilities.<sup>27</sup>

#### Emergency Broadcasts - Use of Interpreters for the Deaf

ESF 14 (External Affairs) is responsible for the dissemination of information to the media and general public.<sup>28</sup> The Executive Office of the Governor Office of Communications serves as the lead agency in ESF 14. One of its primary functions is to provide clear and consistent direction to citizens before, during, and after a disaster. It is a current practice of ESF 14 to include a qualified interpreter in all televised broadcasts during emergency situations.<sup>29</sup>

The Registry of Interpreters for the Deaf (RID) is a non-profit organization and national membership organization that advocates for excellence in the delivery of interpretation and transliteration services between people who use sign language and people who use spoken language.<sup>30</sup> RID encourages the growth of the profession through the establishment of a national standard for qualified sign language interpreters and transliterators, ongoing professional development, and adherence to a code of professional conduct.<sup>31</sup>

RID currently offers certified, associate, student, supporting, and organizational memberships.<sup>32</sup> Certified members of RID must hold the National Interpreter Certification (NIC) or be a Certified Deaf Interpreter (CDI). Associate members must be engaged in interpreting or transliterating and enrolled in a continuing education program.<sup>33</sup> There are currently 564 RID certified and 299 associate members in Florida.<sup>34</sup>

The NIC requires demonstrated general knowledge in the field of interpreting, ethical decision making, and interpreting skills. Candidates earn the national certification if they demonstrate professional knowledge and skills that meet or exceed the minimum professional standards<sup>35</sup> necessary to perform in a broad range of interpretation and transliteration assignments.<sup>36</sup>

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<sup>23</sup> Section 252.3568, F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 1013.372(2), F.S.

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

<sup>27</sup> *Id.*

<sup>28</sup> 2014 Comprehensive Emergency Management Plan, Appendix XIV, DIVISION OF EMERGENCY MANAGEMENT, incorporated by reference in Fla. Admin. Code. R. 27P-2.002, available at [https://floridadisaster.org/globalassets/importedpdfs/2014-esf-14-appendix\\_finalized.pdf](https://floridadisaster.org/globalassets/importedpdfs/2014-esf-14-appendix_finalized.pdf) (last visited February 5, 2018).

<sup>29</sup> 2018 Agency Bill Analysis for HB 1109, DIVISION OF EMERGENCY MANAGEMENT, on file with the Oversight, Transparency & Administration Subcommittee.

<sup>30</sup> About RID, REGISTRY OF INTERPRETERS FOR THE DEAF, INC. (RID), <https://www.rid.org/about-rid/> (last visited February 5, 2018).

<sup>31</sup> *Id.*

<sup>32</sup> Membership, Join/Renew Membership, RID, <https://www.rid.org/membership/join/> (last visited February 5, 2018).

<sup>33</sup> *Id.*

<sup>34</sup> Membership, RID, <https://www.rid.org/membership/> (last visited February 5, 2018).

<sup>35</sup> RID's Standard Practice Papers articulate the consensus of its membership by outlining standard practices and positions on various interpreting roles and issues. *See* Interpreting Resources, Standard Practice Papers, RID, <https://www.rid.org/about-rid/about-interpreting/standard-practice-papers/> (last visited February 5, 2018).

<sup>36</sup> *National Interpreter Certification (NIC)*, RID, <https://www.rid.org/rid-certification-overview/nic-certification/> (last visited February 5, 2018). This credential has been available since 2005.

A CDI has specialized training and experience in the use of gesture, mime, props, drawings, and other tools to enhance communication. Holders possess native or near-native fluency in American Sign Language and are recommended for a broad range of assignments where an interpreter who is deaf or hard-of-hearing would be beneficial.<sup>37</sup>

The Florida Registry of Interpreters for the Deaf (FRID) is a non-profit corporation that initiates, sponsors, promotes, and executes policies and activities that further the profession of interpreting and transliterating.<sup>38</sup> FRID works to improve the professional lives of interpreters and to improve quality and accessibility of interpreting services for the deaf and hard-of-hearing individuals living in Florida.<sup>39</sup> Membership options include nationally certified, pre-certified associate, organizational, and supporting memberships.<sup>40</sup> FRID members are eligible to apply for testing and monetary scholarships to pursue national certifications such as the NIC and CDI, and other professional development opportunities.<sup>41</sup>

Beginning in 2012, FRID began a partnership with DEM, Florida Department of Health, and other emergency management personnel from across the state to discuss interpreting services and to provide training. As part of the training, officials were taught the logistics of having interpreters in public briefings, what information interpreters would need to be successful, and that the interpreter needed to remain visible in the frame at all times.<sup>42</sup>

#### Hurricane Loss Mitigation Program

Annually, the Legislature appropriates \$10 million from the Florida Hurricane Catastrophe Fund to DEM to administer the Hurricane Loss Mitigation Program. The \$10 million must be allocated as follows:<sup>43</sup>

- Seven million dollars “to improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; educating persons concerning the Florida Building Code cooperative programs with local governments and the Federal Government; and other efforts to prevent or reduce losses or reduce the cost of rebuilding after a disaster.”
  - Forty percent of the total appropriation must be used to inspect and improve tie-downs for mobile homes.
  - Ten percent must be allocated to the Florida International University center dedicated to hurricane research.
- Three million dollars “to retrofit existing facilities used as public hurricane shelters.” Each year DEM must prioritize the use of funds for projects included in the annual report of the Shelter Retrofit Report prepared in accordance with s. 252.385(3), F.S. DEM must give funding priority to projects in regional planning council regions that have shelter deficits and to projects that maximize the use of state funds.

Money provided to DEM under this program is intended to supplement, not supplant, DEM's other funding sources.<sup>44</sup> On January 1st of each year, DEM must provide a full report and accounting of activities under the program and an evaluation of such activities to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate.<sup>45</sup> In addition, DEM must deliver a copy of the report to the Office of

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<sup>37</sup> *Certified Deaf Interpreter (CDI)*, RID, <https://www.rid.org/rid-certification-overview/cdi-certification/> (last visited February 5, 2018).

<sup>38</sup> *Mission Statement*, FLORIDA REGISTRY OF INTERPRETERS FOR THE DEAF (FRID), <http://www.fridcentral.org/> (last visited February 5, 2018).

<sup>39</sup> *About FRID*, FRID, <http://www.fridcentral.org/about-us> (last visited February 5, 2018).

<sup>40</sup> *New Member Online Application*, FRID, <http://www.fridcentral.org/apply-online> (last visited February 5, 2018).

<sup>41</sup> *FRID Scholarships*, FRID, <http://www.fridcentral.org/scholarships> (last visited Jan. 25, 2018).

<sup>42</sup> *FRID's Statement on Hurricane Irma, Manatee County, and Access to Emergency Information for Florida's Deaf Community* (Sept. 28, 2017), FRID, <http://www.fridcentral.org/FRID-Blog/5285203> (last visited February 5, 2018).

<sup>43</sup> Section 215.559, F.S.

<sup>44</sup> Section 215.559(5), F.S.

<sup>45</sup> Section 215.559(6), F.S.

Insurance Regulation (OIR) so that OIR can make recommendations to the insurance industry.<sup>46</sup> The funding provisions are repealed June 30, 2021.<sup>47</sup>

#### Florida Disaster Volunteer Leave Act

An employee of a state agency who is a certified disaster service volunteer of the American Red Cross may be granted a leave of absence with pay for not more than 15 working days in any 12-month period to participate in specialized disaster relief services for the American Red Cross.<sup>48</sup> In order to be paid, the leave must be requested from the American Red Cross and approved by the employee's employing agency. If such leave is approved, the employee is not considered an employee of the state for purposes of workers' compensation while on leave. Leave may only be granted for a disaster occurring within the boundaries of the state, except that, with the approval of the Governor and Cabinet, leave may be granted for services in response to a disaster within the boundaries of the United States.<sup>49</sup>

#### Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. It requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed to be open and noticed to the public.

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision at which official acts are to be taken to be open to the public at all times. The board or commission must provide reasonable notice of all public meetings.<sup>50</sup> Minutes of a public meeting must be promptly recorded and be open to public inspection.<sup>51</sup>

No resolution, rule, or formal action is considered binding unless action is taken or made at a public meeting.<sup>52</sup> Acts taken by a board or commission in violation of this requirement are considered void,<sup>53</sup> though a failure to comply with open meeting requirements may be cured by independent final action by the board or commission fully in compliance with public meeting requirements.<sup>54</sup>

#### *Local Government Meeting Requirements - Budget*

The board of county commissioners must hold public hearings to adopt tentative and final budgets pursuant to s. 200.065, F.S.<sup>55</sup> The hearings must be for the purpose of hearing requests and complaints from the public regarding the budgets and the proposed tax levies and for explaining the budget and any proposed or adopted amendments. The tentative budget must be posted on the county's official website at least two days before the public hearing to consider such budget. The final budget must be posted on the website within 30 days after adoption.<sup>56</sup> Likewise, the governing body of each municipality must hold public meetings to adopt a budget and must post tentative and final budgets online.<sup>57</sup>

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<sup>46</sup> *Id.*

<sup>47</sup> Section 215.559(7), F.S.

<sup>48</sup> Section 110.120(3), F.S.

<sup>49</sup> *Id.*

<sup>50</sup> Section 286.011(1), F.S.

<sup>51</sup> Section 286.011(2), F.S.

<sup>52</sup> Section 286.011(1), F.S.

<sup>53</sup> *Grapski v. City of Alachua*, 31 So. 3d 193 (Fla. 1st DCA 2010).

<sup>54</sup> *Finch v. Seminole County School Board*, 995 So. 2d 1068 (Fla. 5th DCA 2008).

<sup>55</sup> Section 129.03(3)(c), F.S.

<sup>56</sup> *Id.*

<sup>57</sup> Section 166.241(3), F.S.

## Department of Transportation – State Rail Program

The Department of Transportation (DOT) is responsible for developing and implementing a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs.<sup>58</sup> Specifically, DOT must:

- Provide the overall leadership, coordination, and financial and technical assistance necessary to assure the effective responses of the state's rail system to current and anticipated mobility needs;<sup>59</sup>
- Provide technical and financial assistance to units of local government to address identified rail transportation needs;<sup>60</sup>
- Develop and administer state standards concerning the safety and performance of rail systems, hazardous material handling, and operations;<sup>61</sup>
- Furnish required emergency rail transportation service if no other private or public rail transportation operation is available to supply the required service and such service is clearly in the best interest of the people in the communities being served;<sup>62</sup> and
- Conduct research into innovative or potentially effective rail technologies and methods and maintain expertise in state-of-the-art rail developments.<sup>63</sup>

### **Effect of the Bill**

The bill extends the number of days that a state agency employee can be authorized leave during an emergency. Specifically, the bill extends the number of days from 15 to 20.

The bill authorizes Florida Hurricane Catastrophe Funds to be used for local projects to enhance emergency power generation and to ensure compliance with the Americans with Disabilities Act (ADA).

The bill amends the CEMP requirements to require the CEMP to:

- Contain a fuel contingency plan;
- Require the appropriate ESF personnel consult with a representative of the passenger rail industry;
- Direct DEM to require the use of a qualified interpreter in certain emergency broadcasts; and
- Require the activation of a dedicated private sector emergency hotline during a major disaster.

The bill requires county emergency management plans to include a fuel contingency plan and to provide certain information online about shelters, including which shelters are open, which are at capacity, which take pets, and when additional shelters will be opened.

The bill prohibits a public entity from holding a meeting during a declared state of emergency for purposes of discussing or voting on a budget during an imposed curfew if such entity is within the jurisdiction of the curfew.

The bill requires DOT, in consultation with the railroad and fuel industries, to conduct a study examining options for using rail tank cars to facilitate the delivery of motor vehicle fuels to areas of the state impacted by hurricane events. The study must address the use of tanker cars and mobile fuel transfer systems as temporary storage and dispensing facilities for motor vehicle fuels before, during, and after a hurricane. The report is due to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2018.

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<sup>58</sup> Section 341.302, F.S.

<sup>59</sup> Section 341.302(1), F.S.

<sup>60</sup> Section 341.302(5), F.S.

<sup>61</sup> Section 341.302(7), F.S.

<sup>62</sup> Section 341.302(14), F.S.

<sup>63</sup> Section 341.302(16), F.S.

Lastly, the bill provides that an important state interest is served by ensuring proper emergency management readiness and response. Such readiness and response will ensure that the state is prepared to deal with and recover from emergencies and disasters and will reduce the vulnerabilities that threaten the life, health, and safety of its people.

**B. SECTION DIRECTORY:**

Section 1 amends s. 110.120, F.S., extending the number of days that certain state employees may be granted administrative leave to participate in federal disaster relief services.

Section 2 amends s. 215.559, F.S., authorizing Florida Hurricane Catastrophe Funds to be used for local projects to enhance emergency power generation and to ensure compliance with the ADA.

Section 3 amends s. 252.35, F.S., providing specified requirements for the state CEMP and county emergency management plans.

Section 4 creates s. 252.375, F.S., prohibiting public entities from holding certain meetings during a declared state of emergency during an imposed curfew if such entity is within the jurisdiction of the curfew.

Section 5 amends s. 341.302, F.S., requiring DOT to conduct a study examining the use of rail tank cars to facilitate the delivery and storage of motor vehicle fuels to areas of the state impacted by hurricane events.

Section 6 provides that an important state interest is served by ensuring proper emergency management readiness and response.

Section 7 provides an effective date of upon becoming a law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

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:**

None.

**D. FISCAL COMMENTS:**

The bill has an indeterminate negative fiscal impact on the state and local governments.

The bill extends the number of days that an employee of a state agency may be authorized paid leave during a disaster. The fiscal impact on the state is indeterminate, but likely insignificant, as granting of such leave is at the discretion of the agency, and is also contingent on the number and severity of any qualifying disasters.

The bill requires the use of a qualified interpreter in certain emergency broadcasts. There is no fiscal impact on the state as DEM currently uses a qualified interpreter for all emergency broadcasts. There may be some fiscal impact on local governments depending on the extent they are involved in making such broadcasts and are currently not providing a qualified interpreter.

The bill requires the CEMP to require the activation of a dedicated private sector emergency hotline during a major disaster. As DEM routinely activates a dedicated emergency hotline, there is no fiscal impact on the state.

The bill requires a county emergency management plan to post certain information online regarding the type, availability and services provided by shelters. If the counties are not currently posting this information online, there may be some indeterminate costs to local governments to update their websites to include such information.

Lastly, the bill requires DOT to undertake a study examining the use of rail tank cars to facilitate the delivery and storage of motor vehicle fuels to areas of the state impacted by hurricane events. DOT can absorb the costs associated with conducting the study within existing agency resources.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The county/municipality mandates provision of Art. VII, s. 18, of the Florida Constitution may apply because this bill requires counties to post certain information regarding shelters online, which may have some costs; however, an exemption may apply if this bill results in an insignificant fiscal impact to local governments. If this bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to emergency management; amending s.  
 3           110.120, F.S.; extending the number of days that  
 4           certain state employees may be granted administrative  
 5           leave to participate in federal disaster relief  
 6           services; amending s. 215.559, F.S.; authorizing  
 7           Florida Hurricane Catastrophe Funds to be used for  
 8           specified purposes; amending s. 252.35, F.S.;  
 9           providing specified requirements for the state  
 10          comprehensive emergency management plan and county  
 11          emergency management plans; creating s. 252.375, F.S.;  
 12          prohibiting certain public entities from holding  
 13          specified meetings during a declared state of  
 14          emergency under certain circumstances; amending s.  
 15          341.302, F.S.; requiring the Department of  
 16          Transportation to conduct a study and providing  
 17          requirements therefor; requiring the department to  
 18          submit a report to the Governor and Legislature by a  
 19          specified date; providing that the act fulfills an  
 20          important state interest; providing an effective date.

21  
 22    Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1. Subsection (3) of section 110.120, Florida  
 25           Statutes, is amended to read:



26 110.120 Administrative leave for disaster service  
 27 volunteers.-

28 (3) LEAVE OF ABSENCE.-An employee of a state agency who is  
 29 a certified disaster service volunteer of the American Red Cross  
 30 may be granted a leave of absence with pay for not more than 20  
 31 ~~15~~ working days in any 12-month period to participate in  
 32 specialized disaster relief services for the American Red Cross.  
 33 Such leave of absence may be granted upon the request of the  
 34 American Red Cross and upon the approval of the employee's  
 35 employing agency. An employee granted leave under this section  
 36 shall not be deemed to be an employee of the state for purposes  
 37 of workers' compensation. Leave under this act may be granted  
 38 only for services related to a disaster occurring within the  
 39 boundaries of the State of Florida, except that, with the  
 40 approval of the Governor and Cabinet, leave may be granted for  
 41 services in response to a disaster occurring within the  
 42 boundaries of the United States.

43 Section 2. Paragraph (a) of subsection (1) of section  
 44 215.559, Florida Statutes, is amended to read:

45 215.559 Hurricane Loss Mitigation Program.-A Hurricane  
 46 Loss Mitigation Program is established in the Division of  
 47 Emergency Management.

48 (1) The Legislature shall annually appropriate \$10 million  
 49 of the moneys authorized for appropriation under s.  
 50 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the

51 | division for the purposes set forth in this section. Of the  
 52 | amount:

53 |       (a) Seven million dollars in funds shall be used for  
 54 | programs to improve the wind resistance of residences and mobile  
 55 | homes, including loans, subsidies, grants, demonstration  
 56 | projects, and direct assistance; educating persons concerning  
 57 | the Florida Building Code cooperative programs with local  
 58 | governments and the Federal Government; local projects to  
 59 | enhance emergency power generation and to ensure compliance with  
 60 | the Americans with Disabilities Act; and other efforts to  
 61 | prevent or reduce losses or reduce the cost of rebuilding after  
 62 | a disaster.

63 |       Section 3. Paragraphs (a) and (b) of subsection (2) of  
 64 | section 252.35, Florida Statutes, are amended to read:

65 |       252.35 Emergency management powers; Division of Emergency  
 66 | Management.—

67 |       (2) The division is responsible for carrying out the  
 68 | provisions of ss. 252.31-252.90. In performing its duties, the  
 69 | division shall:

70 |       (a) Prepare a state comprehensive emergency management  
 71 | plan, which shall be integrated into and coordinated with the  
 72 | emergency management plans and programs of the Federal  
 73 | Government. The division must adopt the plan as a rule in  
 74 | accordance with chapter 120. The plan shall be implemented by a  
 75 | continuous, integrated comprehensive emergency management

76 | program. The plan must contain provisions to ensure that the  
 77 | state is prepared for emergencies and minor, major, and  
 78 | catastrophic disasters, and the division shall work closely with  
 79 | local governments and agencies and organizations with emergency  
 80 | management responsibilities in preparing and maintaining the  
 81 | plan. The state comprehensive emergency management plan shall be  
 82 | operations oriented and:

83 |         1. Include an evacuation component that includes specific  
 84 | regional and interregional planning provisions and promotes  
 85 | intergovernmental coordination of evacuation activities. This  
 86 | component must, at a minimum: contain guidelines for lifting  
 87 | tolls on state highways; ensure coordination pertaining to  
 88 | evacuees crossing county lines; set forth procedures for  
 89 | directing people caught on evacuation routes to safe shelter;  
 90 | contain a fuel contingency plan and establish strategies for  
 91 | ensuring sufficient, reasonably priced fueling locations along  
 92 | evacuation routes; and establish policies and strategies for  
 93 | emergency medical evacuations.

94 |         2. Include a shelter component that includes specific  
 95 | regional and interregional planning provisions and promotes  
 96 | coordination of shelter activities between the public, private,  
 97 | and nonprofit sectors. This component must, at a minimum:  
 98 | contain strategies to ensure the availability of adequate public  
 99 | shelter space in each region of the state; establish strategies  
 100 | for refuge-of-last-resort programs; provide strategies to assist

101 local emergency management efforts to ensure that adequate  
 102 staffing plans exist for all shelters, including medical and  
 103 security personnel; provide for a postdisaster communications  
 104 system for public shelters; establish model shelter guidelines  
 105 for operations, registration, inventory, power generation  
 106 capability, information management, and staffing; and set forth  
 107 policy guidance for sheltering people with special needs.

108 3. Include a postdisaster response and recovery component  
 109 that includes specific regional and interregional planning  
 110 provisions and promotes intergovernmental coordination of  
 111 postdisaster response and recovery activities. This component  
 112 must provide for postdisaster response and recovery strategies  
 113 according to whether a disaster is minor, major, or  
 114 catastrophic. The postdisaster response and recovery component  
 115 must, at a minimum: establish the structure of the state's  
 116 postdisaster response and recovery organization; establish  
 117 procedures for activating the state's plan; set forth policies  
 118 used to guide postdisaster response and recovery activities;  
 119 describe the chain of command during the postdisaster response  
 120 and recovery period; describe initial and continuous  
 121 postdisaster response and recovery actions; identify the roles  
 122 and responsibilities of each involved agency and organization;  
 123 provide for a comprehensive communications plan; establish  
 124 procedures for monitoring mutual aid agreements; provide for  
 125 rapid impact assessment teams; ensure the availability of an

126 effective statewide urban search and rescue program coordinated  
 127 with the fire services; ensure the existence of a comprehensive  
 128 statewide medical care and relief plan administered by the  
 129 Department of Health; and establish systems for coordinating  
 130 volunteers and accepting and distributing donated funds and  
 131 goods.

132 4. Include additional provisions addressing aspects of  
 133 preparedness, response, recovery, and mitigation as determined  
 134 necessary by the division.

135 5. Address the need for coordinated and expeditious  
 136 deployment of state resources, including the Florida National  
 137 Guard. In the case of an imminent major disaster, procedures  
 138 should address predeployment of the Florida National Guard, and,  
 139 in the case of an imminent catastrophic disaster, procedures  
 140 should address predeployment of the Florida National Guard and  
 141 the United States Armed Forces.

142 6. Establish a system of communications and warning to  
 143 ensure that the state's population and emergency management  
 144 agencies are warned of developing emergency situations and can  
 145 communicate emergency response decisions. Such system must  
 146 require that an interpreter certified by the National Registry  
 147 of Interpreters for the Deaf or the Florida Registry of  
 148 Interpreters for the Deaf is included in any televised broadcast  
 149 of a developing weather emergency.

150 7. Establish guidelines and schedules for annual exercises

151 that evaluate the ability of the state and its political  
152 subdivisions to respond to minor, major, and catastrophic  
153 disasters and support local emergency management agencies. Such  
154 exercises shall be coordinated with local governments and, to  
155 the extent possible, the Federal Government.

156 8. Assign lead and support responsibilities to state  
157 agencies and personnel for emergency support functions and other  
158 support activities. An assignment for support responsibilities  
159 related to transportation must require the assigned agencies and  
160 personnel to consult, as appropriate, with representatives of  
161 the passenger rail industry.

162 9. Require the activation of a dedicated private sector  
163 emergency hotline for drivers distributing fuel and other  
164 emergency cargo to use as needed in communicating with emergency  
165 management officials during a major disaster. The hotline phone  
166 number must be made available at seaports to all drivers  
167 departing with critical emergency goods and supplies.

168  
169 The complete state comprehensive emergency management plan shall  
170 be submitted to the President of the Senate, the Speaker of the  
171 House of Representatives, and the Governor on February 1 of  
172 every even-numbered year.

173 (b) Adopt standards and requirements for county emergency  
174 management plans. The standards and requirements must ensure  
175 that county plans are coordinated and consistent with the state

176 comprehensive emergency management plan. At a minimum, each  
 177 county emergency management plan must include a fuel contingency  
 178 plan and require the county to post information online relating  
 179 to shelters, including, but not limited to, whether a shelter is  
 180 open, when a shelter reaches capacity, if a shelter accepts  
 181 pets, and when additional shelters will be opened. If a  
 182 municipality elects to establish an emergency management  
 183 program, it must adopt a city emergency management plan that  
 184 complies with all standards and requirements applicable to  
 185 county emergency management plans.

186 Section 4. Section 252.375, Florida Statutes, is created  
 187 to read:

188 252.375 Prohibited public meetings.—If a curfew is imposed  
 189 during a declared state of emergency, a public entity may not  
 190 hold a meeting during the curfew to discuss or vote on its  
 191 budget if such entity is located within the jurisdiction of the  
 192 curfew.

193 Section 5. Subsection (18) of section 341.302, Florida  
 194 Statutes, is renumbered as subsection (19), and a new subsection  
 195 (18) is added to that section to read:

196 341.302 Rail program; duties and responsibilities of the  
 197 department.—The department, in conjunction with other  
 198 governmental entities, including the rail enterprise and the  
 199 private sector, shall develop and implement a rail program of  
 200 statewide application designed to ensure the proper maintenance,

201 safety, revitalization, and expansion of the rail system to  
 202 assure its continued and increased availability to respond to  
 203 statewide mobility needs. Within the resources provided pursuant  
 204 to chapter 216, and as authorized under federal law, the  
 205 department shall:

206 (18) In consultation with the rail and fuel industries,  
 207 conduct a study examining options for using rail tank cars to  
 208 facilitate the delivery of motor vehicle fuel to areas of the  
 209 state impacted by hurricane events. The study must address the  
 210 use of tank cars and mobile fuel transfer systems as temporary  
 211 storage and dispensing facilities for motor vehicle fuel before,  
 212 during, and after a hurricane. The report must be submitted to  
 213 the Governor, the President of the Senate, and the Speaker of  
 214 the House of Representatives by July 1, 2018.

215 Section 6. The Legislature finds that proper emergency  
 216 management readiness and response will ensure that the state is  
 217 prepared to deal with and recover from emergencies and disasters  
 218 and will reduce the subsequent vulnerabilities that threaten the  
 219 life, health, and safety of its people. Therefore, the  
 220 Legislature determines and declares that this act fulfills an  
 221 important state interest.

222 Section 7. This act shall take effect upon becoming law.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7085      PCB HHS 18-02      Health Care Disaster Preparedness and Response  
**SPONSOR(S):** Health & Human Services Committee, Massullo, MD  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Committee	18 Y, 0 N	Royal	Calamas
1) Appropriations Committee		Mielke <i>BW</i>	Leznoff <i>[Signature]</i>

**SUMMARY ANALYSIS**

In September 2017, Hurricane Irma posed an unprecedented threat to the state and a severe test of existing emergency preparedness and response protocols. In the aftermath, the House Select Committee on Hurricane Response and Preparedness was convened to gather information, solicit ideas for improvement, and make recommendations for legislation to improve hurricane preparedness and response. Testimony in the select committee revealed instances in which nursing homes, assisted living facilities, home health agencies, nurse registries, and other entities caring for Florida’s most vulnerable populations were insufficiently prepared for a disaster.

The Agency for Health Care Administration (AHCA) licenses and regulates nursing homes, assisted living facilities, home health agencies and nurse registries. The Agency for Persons with Disabilities (APD) licenses and regulates community-based residential facilities. Current law requires most of these providers to have comprehensive emergency management plans that are reviewed and approved by either the local emergency management agencies or county health departments. Testimony during the select committee revealed that some facilities’ plans were inadequate or were not followed. The bill adds components that must be addressed in the facilities’ comprehensive emergency plans to address inadequacies in the facilities’ plans. The bill also provides enforcement authority to AHCA and APD to ensure that facilities comply with the new plan requirements and follow their plans during an emergency.

Special needs shelters provide shelter and services to persons with special needs who have no other safe option for sheltering during an emergency or disaster. Testimony at the select committee revealed that special needs shelters were inadequately staffed during Hurricane Irma. The bill directs the Department of Health (DOH) to recruit faculty and students from state university and college health care programs to staff special needs shelters, and requires these entities, and state agencies, to allow employees who are health care practitioners to staff local special needs shelters if they have no other disaster-related duties for their employers. The bill requires local emergency management agencies and hospitals to enter into mutual agreements for sheltering people with complex medical needs beyond the capabilities of the local special needs shelters.

The Division of Emergency Management (DEM) has a state special needs registry for those that may need assistance sheltering in an emergency. However, most local emergency management agencies have their own registries. Additionally, the availability of special needs shelter information varies greatly between the local emergency management agencies. These factors, plus a surge of last minute registrations and health care providers that brought patients and residents to shelters without providing staffing, made it difficult for local emergency management agencies to manage the shelters. The bill requires DOH, rather than DEM, to establish a uniform statewide special needs shelter registry, and requires local emergency management agencies to use it, rather than local registries, while preserving local control over special needs shelter eligibility criteria.

Finally, the bill requires local emergency management agencies to establish procedures to allow health care facility staff to travel to and from work during declared curfews.

The bill has a significant negative fiscal impact on AHCA and DOH and no fiscal impact on local governments. See Fiscal Analysis.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Since 2000, 79 tropical or subtropical cyclones have impacted Florida, including Hurricanes Charley (2004), Ivan (2004), Jeanne (2004), Dennis (2005), Wilma (2005), and Matthew (2016).<sup>1</sup> However, in September 2017, Hurricane Irma posed an unprecedented threat to the state and a severe test of existing emergency preparedness and response protocols.

As Hurricane Irma moved across the state, at least 32 of Florida's rivers and creeks flooded, and 18 tornadoes were confirmed across the peninsula. Fifty-four of Florida's 67 counties issued evacuation orders to a record 6.8 million people. Nearly 700 shelters were opened throughout the state, housing a record-breaking peak population of 191,764 people.<sup>2</sup>

All of Florida's 67 counties were included under a Presidential Disaster Declaration. Out of these, 47 counties were declared for all categories of public assistance, while 48 counties were declared for individual assistance.<sup>3</sup> The widespread impact of Hurricane Irma tested Florida's emergency management capabilities, and the state can use the experience gained to further refine its emergency management framework.

##### **House Select Committee on Hurricane Response and Preparedness**

In September 2017, the Speaker of the House of Representatives created a Select Committee on Hurricane Response and Preparedness. The select committee was directed to gather information, solicit ideas for improvement, make recommendations to the executive branch, and suggest legislative options to address hurricane preparedness and response for consideration during the 2018 Legislative Session.<sup>4</sup> Specifically, the select committee was directed to consider the following topics.

- Avoiding and Mitigating Future Storm Damage
- Public Safety
- Evacuation
- Critical Worker and Employee Protections
- Medical Facilities
- Medical Care
- Shelters<sup>5</sup>

After conversations with constituents and local emergency management officials and over 16 hours of presentations and discussions with experts in numerous fields, the committee agreed to a list of proposed recommendations for consideration and further development by the standing substantive and fiscal committees of the House.<sup>6</sup> The select committee concluded that six policy areas clearly require action, including: vulnerable populations residing in health care and residential facilities; and shelters and vulnerable populations.<sup>7</sup>

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<sup>1</sup> Florida House of Representatives, Final Report of the Select Committee on Hurricane Response and Preparedness, January 16, 2018, Available at [http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=General Publications&FileName=select committee - Final Report online.pdf](http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=General%20Publications&FileName=select%20committee%20-%20Final%20Report%20online.pdf) (last accessed February 10, 2018).

<sup>2</sup> Id., at 2.

<sup>3</sup> Id., at 3.

<sup>4</sup> Id., at 9.

<sup>5</sup> Id.

<sup>6</sup> Id., at 11.

<sup>7</sup> Id., at 13.

The committee found that while nursing homes, assisted living facilities, and other state-licensed entities responsible for vulnerable populations generally did what was necessary to prevent negative outcomes for their patients and residents, improvements are necessary to ensure the health and safety of Florida's most vulnerable populations living in facilities.<sup>8</sup>

The committee made numerous recommendations for consideration by the standing Health and Human Services Committee related to vulnerable populations, special needs shelters, and health care licensees:

- Improve the quality of the Comprehensive Emergency Management Plans (CEMP) required of facilities and health care providers and ensure through oversight and enforcement that they are capable of and prepared to implement these plans;
- Require facilities to share provisions of their CEMPs with residents, a resident's designated family member, legal representative or guardian;<sup>9</sup>
- Require licensed or contracted entities that provide home health or home and community based services to work with clients to develop individual emergency plans;
- Create a statewide special needs shelter registration system with standardized information, while continuing to allow counties to set shelter eligibility/exclusions to special needs shelters capacity; and
- Require all counties to post the eligibility criteria and registration process – including a link to the statewide registration form – on their websites.<sup>10</sup>

The committee published its final report on January 16, 2018.

### Emergency Management Framework

Chapter 252, F.S., the State Emergency Management Act, provides the statutory outline for disaster response in Florida. It delegates responsibilities to entities within state and local governments and establishes the Division of Emergency Management (DEM), which is charged with coordinating state efforts to mitigate the impact of natural, technological, and manmade emergencies and disasters.<sup>11</sup>

#### *Powers of the Governor*

The Governor is responsible for meeting the dangers presented to this state and its people during emergencies. In the event of an emergency beyond local control, the Governor, or his or her designee, may assume direct operational control over all or any part of the emergency management functions within this state.<sup>12</sup> The Governor may by executive order or proclamation declare a state of emergency. A state of emergency has the force and effect of law and assists in the management of an emergency by activating the emergency mitigation, response, and recovery aspects of the state, local, and inter-jurisdictional emergency management plans applicable to the political subdivision or area in question. A state of emergency may be declared if the Governor finds that an emergency has occurred or is imminent.<sup>13</sup>

#### *Florida Division of Emergency Management*

Florida's Division of Emergency Management (DEM) administers programs to rapidly apply all available aid to impacted communities stricken by emergency.<sup>14</sup> The DEM is responsible for maintaining a comprehensive statewide program of emergency management to ensure that Florida is prepared to

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<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id, at 15.

<sup>11</sup> SS. 252.32 and 252.35, F.S.

<sup>12</sup> S. 252.36(1)(a), F.S.

<sup>13</sup> S. 252.36, F.S.

<sup>14</sup> S. 14.2016, F.S.

respond to emergencies, recover from them, and mitigate against their impacts. In doing so, the DEM coordinates efforts with and among the federal government, other state agencies, local governments, school boards, and private agencies that have a role in emergency management.<sup>15</sup>

### *State Comprehensive Emergency Management Plan*

The DEM is required by s. 252.35, F.S., to prepare a State Comprehensive Emergency Management Plan (SCEMP) to be integrated into and coordinated with the emergency management plans and programs of the federal government. The SCEMP must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters.<sup>16</sup> The SCEMP must be updated biannually and submitted to the Governor, the Speaker of the House of Representatives, and the President of the Senate, on February 1 of each even numbered year.<sup>17</sup>

The SCEMP designates the State Emergency Operations Center (SEOC) as the permanent location in which the state emergency response team (SERT) carries out the coordination and completion of response and recovery activities.<sup>18</sup> The SERT is comprised of DEM staff, other state agencies, and private volunteer organizations and non-governmental agencies and serves as the primary operational mechanism through which state assistance to local governments is managed. Members of the SERT are organized into sections, branches, and emergency support functions (ESFs).<sup>19</sup>

The 18 ESFs are the primary mechanisms for providing assistance at the state level. The ESFs ensure that all levels of government are able to mobilize as a unified emergency organization to safeguard the well-being of the residents and visitors of the state.<sup>20</sup> ESF-8, Public Health and Medical Services, coordinates the plans, procedures, and resources to address health care and medical needs. The Department of Health (DOH) is the primary agency in charge of ESF-8 with support from various agencies and organizations, including, the Agency for Health Care Administration (ACHA), Agency for Persons with Disabilities (APD), Department of Elder Affairs (DOEA), and the Department of Children and Families (DCF).<sup>21</sup>

The ESF-8 core mission is to, among other duties, support local assessment and identification of public health and medical needs in impacted counties and implement plans to address those needs, coordinate and support stabilization of the public health and medical system in impacted counties, support sheltering of persons with medical and functional needs, and monitor and coordinate resources to support care and movement of persons with medical and functional needs in impacted counties.<sup>22</sup>

The SCEMP states that the SEOC will be activated at a level necessary to effectively monitor or respond to threats or emergency situations. The SEOC operates 24 hours a day, 7 days a week, but the level of staffing varies with the activation level.<sup>23</sup> There are three levels of activation:

- Level 3: Normal conditions (maintained at all times other than during Level 1 or 2 conditions).
- Level 2: The SERT is activated, but may not require activation of every section, branch, or ESF.

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<sup>15</sup> S. 252.35(1), F.S.

<sup>16</sup> S. 252.35(2)(a), F.S.

<sup>17</sup> S. 252.35(8), F.S.

<sup>18</sup> Florida Division of Emergency Management. *Comprehensive Emergency Management Plan* (2016). Available at <https://floridadisaster.org/dem/preparedness/natural-hazards/comprehensive-emergency-management-plan/> (last accessed February 9, 2018).

<sup>19</sup> *Id.*, at 5. The 18 ESFs are transportation, communications, public works and engineering, firefighting, information and planning, mass care, resource management, health and medical services, search and rescue, environmental protection, food and water, energy, military support, external affairs – public information, volunteers and donations, law enforcement and security, animal and agricultural services, and business, industry and economic stabilization.

<sup>20</sup> <https://floridadisaster.org/dem/preparedness/natural-hazards/comprehensive-emergency-management-plan> (last accessed on February 13, 2018).

<sup>21</sup> *Id.*, at 2.

<sup>22</sup> *Id.*, at 5.

<sup>23</sup> *Id.*, at 32.

- Level 1: The SERT has activated all sections, branches, and ESFs to conduct response and recovery operations.<sup>24</sup>

### *Local Government Responsibilities*

Chapter 252, F.S., also recognizes the innate emergency responsibilities that belong to political subdivisions within the state. Section 252.39, F.S., assigns counties and municipalities rights and responsibilities for emergency management. Each county in the state must establish and maintain an emergency management agency and develop an emergency management plan that is consistent with the state CEMP.<sup>25</sup> Municipalities also have the option of establishing municipal emergency management programs that are subject to the same laws, rules, and requirements that apply to county emergency management programs.<sup>26</sup>

Counties and municipalities operating emergency management programs have authority to charge and collect fees to support those programs, and to appropriate and expend funds in support of programming.<sup>27</sup> In the event that an emergency or disaster impacts only one political subdivision of the state, that subdivision has the authority to declare a local state of emergency, limited to a period of seven days.<sup>28</sup>

### **Special Needs**

#### Special Needs Shelters

People with sensory disabilities or physical, mental, or cognitive impairments may require assistance during evacuations and sheltering in an emergency. Special needs shelters provide shelter and services to persons with special needs who have no other safe option for sheltering during an emergency or disaster.<sup>29</sup> These shelters must have back-up generator power and are intended to sustain an individual's level of health to the extent possible under emergency conditions.<sup>30</sup> DOH is the lead agency for coordination and recruitment of health care practitioners to staff the special needs shelters during an emergency or disaster.<sup>31</sup> Pursuant to ss. 401.273 and 456.38, F.S., DOH maintains a registry of health care practitioners who volunteer to assist in the event of an emergency, which it may use to staff special needs shelters during such an emergency or disaster.<sup>32</sup>

An individual must be medically stable and have special needs that exceed the basic first aid provided at general population shelters, but do not exceed the capacity, staffing, and equipment of the special needs shelter, to be eligible to shelter in a special needs shelter.<sup>33</sup> A special needs shelter may accept an individual who does not meet these requirements, but is not obligated to do so.<sup>34</sup>

#### *Special Needs Shelters Staffing*

Special needs shelters must be staffed with at least one registered nurse or advanced registered nurse practitioner on every shift during the sheltering event, and may be additionally staffed with one or more licensed medical practitioners per 20 persons.<sup>35</sup> Staffing levels may require adjustment as the

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<sup>24</sup> Id., at 32.

<sup>25</sup> S. 252.38(1), F.S.

<sup>26</sup> S. 252.38(2), F.S.

<sup>27</sup> SS. 252.38(1)(e) and 252.38(3)(a), F.S.

<sup>28</sup> S. 252.38(3)(a)5., F.S.

<sup>29</sup> Rule 64-3.015, F.A.C.; *Guidelines for Special Needs Shelter, December 2016 Edition*, DEPARTMENT OF HEALTH, p. 2, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-08031> (last visited Feb. 8, 2018).

<sup>30</sup> Id.

<sup>31</sup> S. 381.0303(1), F.S.

<sup>32</sup> S. 381.0303(5), F.S.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id., at 3.

sheltering event progresses based on changes in the health status of special needs individuals or the availability of caregivers and other volunteers.<sup>36</sup>

If funds have been appropriated for disaster coordinator positions in the DOH county health departments, the following provisions for special needs shelter planning apply.<sup>37</sup>

- DOH must coordinate with local medical and health providers, the American Red Cross, and other interested parties to develop a plan for staffing and medical management of special needs shelters, to conform with the local CEMP. The local Children's Medical Services offices assume this role for pediatric special needs shelters.
- County health departments, in conjunction with the local emergency management agencies, must coordinate the recruitment of health care practitioners to staff the local special needs shelters. County health department and county government employees are required to help staff special needs shelters, as needed.
- The local county health departments, Children's Medical Services offices, and emergency management agencies must jointly decide who is responsible for medical supervision in each special needs shelter.
- Local emergency management agencies, in cooperation with the local county health departments, are responsible for the designation and operation of special needs shelters during times of emergency or disaster.
- The Secretary of the Department of Elderly Affairs may convene a multiagency<sup>38</sup> special needs shelter discharge planning team to assist local emergency management agencies with continued operation or closure of special needs shelters and discharging special needs clients to alternate facilities.

Subject to availability of federal funds and barring other exclusions,<sup>39</sup> DOH must reimburse health care practitioners and emergency services personnel for care provided in special needs shelters at its request and health care facilities for care provided to special needs individuals who were transferred from special needs shelters by the multiagency special needs shelter discharge planning team.<sup>40</sup>

During Hurricane Irma 113 special needs shelters were opened in 53 counties.<sup>41</sup> These shelters served 10,452 special needs clients and 4,490 caregivers.<sup>42</sup> This was an unprecedented number of individuals seeking special needs sheltering.<sup>43</sup> Additionally, Hurricane Irma's path severely limited DOH's ability to reallocate staff between counties.<sup>44</sup> The select committee received testimony that these factors, among others, created staffing issues at special needs shelters.<sup>45</sup> The select committee recommended that the Department of Health recruit faculty and students of state university and college's health care programs to staff special needs shelters. The select committee additionally recommended that health care employees of state agencies, universities and colleges be authorized to staff special needs shelters.

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<sup>36</sup> Id.

<sup>37</sup> S. 381.0303(2), F.S.

<sup>38</sup> Each multiagency special needs shelter discharge planning team shall include at least one representative from each of the following state agencies: Department of Elderly Affairs, Department of Health, Department of Children and Families, Department of Veterans' Affairs, Division of Emergency Management, Agency for Health Care Administration, and Agency for Persons with Disabilities. S. 381.0303(2)(e), F.S.

<sup>39</sup> A health care provider cannot be reimbursed for providing care to a patient under an existing contract; facilities cannot be reimbursed if at the time service was provided to the patient, the patient was enrolled in another state-funded program such as Medicaid, was covered by health insurance, or was a member of an HMO or prepaid health clinic that would otherwise pay for the same services. s. 381.0303(4), F.S.

<sup>40</sup> S. 381.0303(4), F.S.

<sup>41</sup> Department of Health PowerPoint presentation, Florida House of Representatives, Select Committee on Hurricane Response and Preparedness meeting, November 9, 2017, available at

[http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=Meeting Packets&FileName=select committee 11-9-17.pdf](http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=Meeting%20Packets&FileName=select%20committee%2011-9-17.pdf) (last viewed on February 11, 2018)

<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> *Supra*, FN 1.

## *Special Needs Shelters Intake and Discharge Information*

DOH has issued a Special Needs Shelter Operation Guide (Guide) that includes a uniform intake and discharge form<sup>46</sup> with guidance on when to use the form.<sup>47</sup> The Guide recommends using the form for any individual who did not register prior to arriving to the special needs shelter or individuals with incomplete registration information.<sup>48</sup> The Guide also requires special needs shelter staff to update the discharge portion of the form, although the form itself only requires discharge planning if the individual cannot return home.<sup>49</sup>

Current law does not require local emergency management agencies to obtain intake and discharge information from individuals sheltering at a special needs shelter. Thus, local emergency management agencies are not required to comply with the Guide's requirements. Instead, local emergency management agencies are able to establish their own intake and discharge policies and forms, which may vary greatly throughout the state.

### Special Needs Registry

Current law requires DEM to develop and maintain a registry of individuals who may require assistance during evacuations and sheltering in an emergency to ensure their needs are met.<sup>50</sup> DEM coordinates with local emergency management agencies to create this registry of special needs individuals within each local emergency management agency jurisdiction.<sup>51</sup> Registration requires identification of the individual with special needs as well as a plan for resource allocation to meet those identified needs.<sup>52</sup> All records, data, information, correspondence, and communications relating to registration are exempt from a public records request.<sup>53</sup>

The county health departments review registry application information and determine whether it is appropriate to place the individual in a special needs shelter during an evacuation or emergency.<sup>54</sup> Each local county health department must notify the local emergency management agency of its determinations.<sup>55</sup>

DEM is responsible for public education and outreach regarding the special needs registry, including a brochure available on its website.<sup>56</sup> Various agencies, facilities, and providers are required to annually provide registration information to their special needs clients or their caregivers and must assist local emergency management agencies by annually registering persons with special needs for special needs shelters.<sup>57</sup> Physicians and pharmacies may also provide registration information and assist with registration or educating patients about the registration process.<sup>58</sup>

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<sup>46</sup> The Special Needs Shelter (SpNS) Intake Form is available at <http://www.floridahealth.gov/programs-and-services/emergency-preparedness-and-response/healthcare-system-preparedness/spns-healthcare/index.html> (last viewed February 13, 2018).

<sup>47</sup> *Department of Health Special Needs Shelter Operation Guide*, available at <http://www.floridahealth.gov/programs-and-services/emergency-preparedness-and-response/healthcare-system-preparedness/spns-healthcare/documents/spns-8-iop.pdf> (last viewed February 13, 2018).

<sup>48</sup> Id.

<sup>49</sup> Id.

<sup>50</sup> S. 252.355(1), F.S.

<sup>51</sup> S. 252.355(1), F.S.

<sup>52</sup> S. 252.355(1), F.S. The DEM's special needs registration program includes a uniform electronic registration form and a database for uploading and storing submitted registration forms that may be accessed by the appropriate local emergency management agency. The link to the registration form must be easily accessible on each local emergency management agency's website and the agency must enter into the database any registration form it receives in paper format. S. 252.355(2)(a), F.S.

<sup>53</sup> S. 252.355(4), F.S.

<sup>54</sup> Rule 64-3.015, F.A.C.; *Guidelines for Special Needs Shelter, December 2016 Edition*, DEPARTMENT OF HEALTH, p. 3, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-08031> (last visited Feb. 8, 2018).

<sup>55</sup> Id.

<sup>56</sup> S. 252.355(2), F.S. This includes home health agencies, hospices, nurse registries, home medical equipment providers, the Department of Children and Families, the Department of Health, the Agency for Health Care Administration, the Department of Education, the Agency for Persons with Disabilities, the Department of Elderly Affairs, and memory disorder clinics.

<sup>57</sup> Id.

<sup>58</sup> S. 252.355(2) F.S.



The select committee heard testimony identifying numerous challenges for registering special needs clients and staffing special needs shelters. Current law requires DEM to create a uniform electronic registration form and database for special needs sheltering,<sup>59</sup> but does not require all local emergency management agencies to use the statewide registry. This created a situation where all 67 counties had their own special needs registries with various registration forms and eligibility requirements.<sup>60</sup> Additionally, the availability of special needs shelter information varied greatly between the local emergency management agencies.<sup>61</sup> This, coupled with a surge of last minute registrations,<sup>62</sup> made it difficult for individuals to obtain, and local emergency management agencies to provide, special needs sheltering during Hurricane Irma.

The volume of people signing up for special needs shelters led to an overflow of people with special needs being sent to general shelters.<sup>63</sup> According to select committee testimony, this overflow resulted in a lack of proper care for people with special needs because general shelters were not prepared to staff these additional individuals. Staffing both general and special needs shelters was another challenge illuminated by select committee testimony. Many shelter staff personnel earn minimum wage, may be single parents, and did not have the support they needed to work during Hurricane Irma. Staff members faced further difficulties with physically getting to shelters due to curfews during the storm. Special needs shelters also lacked adequate medical personnel.

Consequently, the select committee recommended a statewide uniform registration form and a single, statewide registry that all local emergency management agencies must use to register individuals with special needs.<sup>64</sup> However, the select committee recognized that local circumstances and capabilities vary, and recommended the local emergency management agencies maintain authority over setting eligibility criteria for special needs shelters.

### **Effect of the Bill – Special Needs**

#### *Special Needs Shelters*

The bill amends s. 381.0303, F.S. to address the special needs shelter staffing issues identified by the select committee. The bill directs DOH to recruit faculty and students from state university and college health care programs to staff special needs shelters. The bill also requires state agencies, universities and colleges to authorize their employees who are health care practitioners to staff local special needs shelters, if they do not have a designated emergency duty with their employer. The bill requires state agencies, universities and colleges to submit a roster of such employers to DOH by January 31, and any amended roster by May 31, of each year. The bill requires DOH to reimburse any state agency, university or college employee who provides care at a special needs shelters at the request of DOH.

The select committee received testimony that AHCA-licensed health care entities, like assisted living facilities and home health agencies dropped off residents and patients at special needs shelters without providing staffing or supplies to assist them in the shelter. Local emergency management agencies did not have sufficient information on the providers to file licensure complaints with AHCA. The bill amends s. 381.0303, F.S., to require local emergency management agencies to collect intake and discharge information from each individual who shelters in a special needs shelter, including whether these individuals are patients or residents of health care entities licensed under chapter 393, chapter 400 or

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<sup>59</sup> S. 252.355(2)(a), F.S.

<sup>60</sup> 16 counties do not list eligibility criteria for special needs shelters on their websites and 6 additional counties neither list eligibility requirements nor provide the special needs registration form on their websites. 16 counties require a caregiver; 5 counties prohibit dialysis patients; 2 counties prohibit IV patients; 8 counties prohibit electronic life support dependent patients; 2 counties prohibit patients in their 3rd trimester of pregnancy; 4 counties have weight restrictions; 4 counties prohibit patients requiring isolation; and 8 counties will accept patients on the basis of transportation needs.

<sup>61</sup> Id.

<sup>62</sup> Supra, FN 41.

<sup>63</sup> Testimony at the Florida House of Representatives, Select Committee on Hurricane Response and Preparedness, November 9, 2017.

<sup>64</sup> Supra, FN 1.

chapter 429. These chapters include nursing homes, assisted living facilities, home health agencies, nurse registries, and developmental disability residential providers, among others. The bill requires local emergency management agencies to use a form developed by DOH to collect this information. These changes create statewide, uniform intake and discharge requirements which will allow DOH to collect accurate utilization data and identify any circumstances in which one of these health care providers improperly left a patient or client at a special needs shelter.

### *Special Needs Registry*

The bill amends s. 252.355, F.S., to address the issues identified by the select committee related to each local emergency management agency having its own special needs shelter registry, and the lack of clear information about registration processes between counties.

The bill requires DOH to develop and maintain a statewide special needs registry program, rather than DEM. The bill requires DOH to develop the registration program by January 1, 2019, and fully implement it by March 1, 2019.

DOH must develop a uniform special needs registration form by October 31, 2018, and the bill creates a Special Needs Shelter Registry Work Group within DOH to make recommendations for the form. The 12-member work group will include the agency heads (or their designees) of DOH, DEM, AHCA, DOEA, DCF, and APD, the CEO of the Arc of Florida, and five representatives of local emergency management agencies appointed by the Florida Association of Counties.

The bill requires each individual seeking sheltering in a special needs shelter to use the uniform special needs registration form, and requires each local emergency management agency to use the statewide special needs shelter registry to register individuals with special needs. The bill prohibits the use of separate, local special needs registries.

The bill also addresses the select committee's recommendation to improve communication about how to register for special needs shelters. It requires each local emergency management agency to post its eligibility criteria for special needs sheltering, and the uniform registration forms on its website. The bill also requires local emergency management agencies to make paper registration forms available and establish procedures for submitting and entering a paper registration form into the statewide special needs registry.

The bill also addresses concerns about how to plan for individuals whose needs are too great for the capability of a special needs shelter. The bill requires a local emergency management agency to notify a registrant in writing within 10 days after submission of a registration form whether he or she is eligible to shelter in a special needs shelter, and to designate such status in the special needs shelter registry. The bill also requires DOH to assist local emergency management agencies in developing alternative sheltering options for any registrant determined to be ineligible, and authorizes local emergency management agencies to coordinate with AHCA to facilitate placement in a health care facility for any individual who registers during a declared emergency or disaster and is deemed ineligible to shelter in a local special needs shelter.

In addition, the bill requires each local emergency management agency, and each general hospital<sup>65</sup> licensed under ch. 395, F.S., (within the same jurisdiction) to enter into agreements for sheltering people who have complex medical issues or who rely on devices or equipment that exceed the capabilities of local special needs shelters. The bill does not specify the content of such agreements, allowing the local emergency management agencies and the hospitals to work out mutually agreeable terms and conditions.

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<sup>65</sup> A "general hospital" is defined in ch. 395 as a facility that offers certain, enumerated hospital services and makes its facilities and services available to the general population. The term does not include specialty hospitals, which either restrict the range of services available or restrict their services to a defined age or gender group of the population. S. 395.002(10), (27), F.S.

The bill authorizes physician assistants and advance registered nurse practitioners to provide registration information for special needs shelters and assist with registration or educating patients about the registration process. This allows additional health care practitioners to assist in the registration process and may increase the number of individuals who register prior to a hurricane.

## **Health Care Facility Regulation**

### Background

The Agency for Health Care Administration (AHCA) licenses, certifies, and regulates 40 different types of health care providers.<sup>66</sup> Certain health care providers<sup>67</sup> are regulated under part II of ch. 408, F.S., which is the Health Care Licensing Procedures Act (Act), or core licensing statutes. The Act provides uniform licensing procedures and standards for 29 provider types, including hospitals, nursing homes, assisted living facilities, home health agencies and nurse registries.<sup>68</sup> In addition to the Act, each provider type has an authorizing statute, which includes unique provisions for licensure beyond the uniform criteria. In the case of conflict between the Act and an individual authorizing statute, the Act prevails.<sup>69</sup>

### *Health Care Facility Inspections and Penalties*

Under the Act, AHCA may inspect or investigate a facility to determine the state of compliance with the core licensing statute, the facility's authorizing statutes, and applicable rules.<sup>70</sup> Inspections must be unannounced, except for those performed pursuant to initial licensure and license renewal. If at the time of the inspection, AHCA identifies a deficiency, the facility must file a plan of correction within 10 calendar days of notification, unless an alternative timeframe is required.

For any violation of the core licensing statute, the facility authorizing statutes, or applicable rules, AHCA may impose administrative fines.<sup>71</sup> Under the Act, violations are classified according to the nature of the violation and the gravity of its probable effect on clients:

- Class I violations are those conditions that AHCA determines presents an immediate danger to clients or there is a substantial probability of death or serious physical or emotional harm. These violations must be abated or eliminated within 24 hours unless a fixed period is required for correction.
- Class II violations are those conditions that AHCA determines directly threaten the physical and emotional health, safety, or security of clients.
- Class III violations are those conditions that AHCA determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients.
- Class IV violations are those conditions that do not have the potential of negatively affecting clients.<sup>72</sup>

AHCA may also impose an administrative fine for a violation that is not designated in one of the classes listed above, but the amount of the fine may not exceed \$500 for each violation unless otherwise specified by law.

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<sup>66</sup> Agency for Health Care Administration, *Health Quality Assurance*, 2017, available at <http://ahca.myflorida.com/MCHQ/> (last visited February 6, 2018).

<sup>67</sup> "Provider" means any activity, service, agency, or facility regulated by the agency and listed in s. 408.802, F.S.

<sup>68</sup> S. 408.802, F.S.

<sup>69</sup> S. 408.832, F.S.

<sup>70</sup> S. 408.811, F.S.

<sup>71</sup> S. 408.813, F.S.

<sup>72</sup> *Id.*

## *Health Care Facility Emergency Management Planning*

The Act requires each provider required by its authorizing statutes to have an emergency operations plan to designate a safety liaison to serve as the primary contact for emergency operations.<sup>73</sup> The Act also authorizes providers to temporarily exceed its licensed capacity to act as a receiving provider in accordance with an approved emergency operations plan for up to 15 days.<sup>74</sup> AHCA may approve requests for overcapacity in excess of 15 days based upon satisfactory justification and need as provided by the receiving and sending providers.<sup>75</sup> While in an overcapacity status, each provider must furnish or arrange for appropriate care and services to all clients. The Act allows AHCA to issue an inactive license to a licensee located in a geographic area in which a state of emergency was declared by the Governor if the provider:

- Suffered damage to its operation during the state of emergency;
- Is currently licensed;
- Does not have a provisional license; and
- Will be temporarily unable to provide services but is reasonably expected to resume services within 12 months.<sup>76</sup>

The Act authorizes AHCA to adopt rules relating to emergency management planning, communications, and operations.

Current law requires licensed health care facilities providing residential or inpatient services<sup>77</sup> to report emergency status, planning, and operations to AHCA through an AHCA-approved online database.<sup>78</sup> Prior to the 2017 hurricane season, AHCA used a commercially available off-the-shelf system, EMResource, as the online emergency management database.<sup>79</sup> The EMResource system provided each participating facility with a homepage in the system to enter, maintain and update facility information requested by AHCA.<sup>80</sup> The type of information that could be entered into EMResource includes:<sup>81</sup>

- Emergency contact information;
- Evacuation status;
- Bed availability and capacity;
- Damage, impacts and needs; and,
- Generator and fuel status.

Each facility is required to register two individuals with AHCA to be responsible for maintaining their facility data in the system, and to respond to requests for data updates.<sup>82</sup>

On July 1, 2017, DOH replaced EMResource with FLHealthSTAT as the approved online emergency management database, using federal hospital preparedness program funding.<sup>83</sup> DOH developed FLHealthSTAT with input from various stakeholder groups. The system contains many of the same

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<sup>73</sup> Section 408.821(1), F.S

<sup>74</sup> Section 408.821(2), F.S

<sup>75</sup> Id.

<sup>76</sup> Section 408.821(3), F.S

<sup>77</sup> These include hospitals, nursing homes, assisted living facilities, hospices, dialysis centers, intermediate care facilities, transitional living facilities, crisis stabilization units, short-term residential treatment facilities, residential treatment facilities, residential treatment centers and adult family care homes.

<sup>78</sup> S. 408.821(4), F.S.

<sup>79</sup> AHCA educational presentation to Florida Argentum, Catherine Avery, Assisted Living Unit Manager, available at <http://www.fl.argentum.org/wp-content/uploads/2016/10/Clinical-2-0915-1015.pdf> (last viewed February 13, 2018).

<sup>80</sup> Id.

<sup>81</sup> Id.

<sup>82</sup> Id.

<sup>83</sup> *FL Health Systems*, Department of Health, available at <http://www.floridahealth.gov/programs-and-services/emergency-preparedness-and-response/disaster-response-resources/fl-health-systems/index.html> (last viewed February 13, 2018).

facility information requests as EMResource but also allows DOH and AHCA to create ad hoc fields to request additional information.<sup>84</sup>

AHCA required licensed health care facilities to report every day at 10:00 A.M. and 3:00 P.M. during Hurricane Irma and its aftermath.<sup>85</sup> The select committee received testimony that various licensed facilities encountered difficulties using FLHealthSTAT that prevented them from responding to AHCA's information requests through the system.<sup>86</sup> Consequently, these licensed facilities had to contact AHCA either directly or through ESF-8 by telephone. Similarly, ESF-8 was contacting licensed facilities by telephone for status updates. The select committee received testimony that having to make and receive phone calls was burdensome for the licensed facilities and diverted staff that could otherwise be used to assist patients.

## Effect of the Bill – Health Care Facilities

### *Inspections and Penalties*

The bill requires licensees required by authorizing statutes to have an emergency operations plan to conduct annual staff training on the policies and procedures for implementing the emergency operations plan within 2 months before the start of hurricane season. The bill requires the training to include testing of the implementation of the plan, either in a planned drill or in response to a disaster or emergency. The bill requires documentation of the training and testing to be provided to AHCA and the local emergency management agency within 30 days of completing the training and testing. The documentation must include an evaluation of the outcome of the training and any modifications to the plan to address any deficiencies. The bill requires a survey of staff to be conducted to determine staff's familiarity with the plan.

The bill makes failure to have an approved comprehensive emergency management plan as required by authorizing statutes a violation of the Act, subject to a \$500 fine. The bill also makes the failure of a licensee to follow the policies and procedures in the comprehensive emergency management plan grounds for disciplinary action by AHCA. The bill requires AHCA to consider the licensee's efforts to follow the plan and any circumstances beyond the licensee's control that caused the failure. The bill requires AHCA to evaluate the potential or actual harm to the client's health, safety, and security caused by the failure in determining the penalty.

Similarly, the bill makes the failure of a general hospital to enter into and maintain sheltering agreements with local emergency management agencies a violation of the Act, subject to a \$500 fine. The bill specifies that such failures are violations after July 1, 2019, providing the agencies sufficient time to engage in such agreements.

### *Emergency Management Planning*

The bill moves the responsibility from DOH to AHCA to establish and maintain the online database for licensees providing residential or inpatient services to report information regarding its emergency status, planning, or operations to AHCA. The bill also authorizes AHCA to adopt rules requiring any licensee to use the online database for reporting information regarding its emergency status, planning, or operations to AHCA.

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<sup>84</sup> Correspondence from the Department of Health to the Florida House of Representatives Health and Human Services Committee, dated February 13, 2018, on file with committee staff.

<sup>85</sup> Id.

<sup>86</sup> Supra, FN 63.

## Nursing Homes

### *Nursing Home Licensure*

Nursing homes are regulated by the Agency for Health Care Administration (AHCA) under the Health Care Licensing Procedures Act (Act) in part II of chapter 408, F.S., which contains uniform licensing standards for 29 provider types including nursing homes. In addition, nursing homes must comply with the requirements contained in the individual authorizing statutes of part II of chapter 400, F.S., which includes unique provisions for licensure beyond the uniform criteria.

### *Nursing Home Inspections and Penalties*

In addition to the requirements of the core licensing statute in s. 408.813, F.S., a nursing home is also subject to inspections and investigations under its authorizing statute, s. 400.19, F.S. Section 400.19(3), F.S., requires AHCA to conduct at least one unannounced inspection every 15 months of nursing home facilities to determine compliance with statutes and AHCA rules governing minimum standards of construction, quality and adequacy of care, and rights of residents.

In conducting an inspection or investigation, AHCA may cite a nursing home for violations of laws and rules and may impose administrative fines. Under s. 408.813, F.S., and s. 400.102, F.S., nursing homes may be subject to administrative fines imposed by the AHCA for certain types of violations. Both s. 408.813, F.S., and s. 400.23(8), F.S., categorize violations into four defined classes according to the nature and severity of the violation. Section 400.23(8), F.S. sets the fine amounts for each class of violation.

If a deficiency is cited during an inspection, AHCA must conduct a subsequent inspection to determine if the deficiency identified during inspection has been corrected. If the cited deficiency is a Class III or Class IV deficiency, AHCA may verify the correction without re-inspecting the facility if adequate written documentation has been received from the facility ensuring that the deficiency has been corrected. However, the Class III or IV deficiency must be unrelated to resident rights or resident care.<sup>87</sup>

### *Nursing Home Comprehensive Emergency Management Plans*

Nursing homes must prepare a comprehensive emergency management plan that must address at a minimum:<sup>88</sup>

- Emergency evacuation transportation;
- Adequate sheltering arrangements;
- Post-disaster activities, including emergency power, food, and water;
- Post-disaster transportation;
- Supplies;
- Staffing;
- Emergency equipment;
- Individual identification of residents and transfer of records; and
- Responding to family inquiries.

The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency must ensure that DOEA, DOH, AHCA, the Division of Emergency Management, and appropriate volunteer organizations are given the opportunity to review the plan. The local emergency management agency must complete its review within 60 days and either approve the plan or advise the facility of necessary revisions. However, some local emergency management agencies do not provide AHCA an opportunity

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<sup>87</sup> S. 400.19(3), F.S.

<sup>88</sup> S. 400.23(2)(g), F.S.

to review the plan, and current law does not require facilities to notify AHCA when a plan is approved.<sup>89</sup> Often, AHCA is not aware if a facility has an approved plan or of the contents of the plan until it conducts its next regular inspection.<sup>90</sup>

During Hurricane Irma, some nursing home's comprehensive emergency management plans were either inadequate or not followed.<sup>91</sup> Nursing homes were unable to maintain adequate staffing during the hurricane. Local emergency operations centers received calls from nursing homes requesting help with hardening and power outages.<sup>92</sup>

## Assisted Living Facilities

### *ALF Licensure*

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.<sup>93</sup> A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.<sup>94</sup> Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.<sup>95</sup>

ALFs are licensed and regulated by AHCA under part I of ch. 429, F.S., and part II of ch. 408, F.S.<sup>96</sup> In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,<sup>97</sup> limited mental health services,<sup>98</sup> and extended congregate care services.<sup>99</sup> The Department of Elder Affairs (DOEA) is responsible for establishing training requirements for ALF administrators and staff.<sup>100</sup>

As of February 8, 2018, there are 3088 licensed ALFs in Florida with 99,390 beds.<sup>101</sup>

### *ALF Inspections and Penalties*

Current law authorizes AHCA to inspect each licensed ALF at least once every 24 months to determine compliance with statutes and rules. Both s. 408.813, F.S. and s. 429.19, F.S. categorizes violations into

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<sup>89</sup> *Supra*, FN 63.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> S. 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

<sup>94</sup> S. 429.02(16), F.S.

<sup>95</sup> S. 429.02(1), F.S.

<sup>96</sup> Under s. 429.04, F.S., the following are exempt from licensure: ALFs operated by an agency of the federal government; facilities licensed under ch. 393, F.S., relating to individuals with developmental disabilities; facilities licensed under ch. 394, F.S., relating to mental health; licensed adult family care homes; a person providing housing, meals, and one or more personal services on a 24-basis in the person's own home to no more than 2 adults; certain facilities that have been incorporated in this state for 50 years or more on or before July 1, 1983; certain continuing care facilities; certain retirement facilities; and residential units located within a community care facility or co-located with a nursing home or ALF in which services are provided on an outpatient basis.

<sup>97</sup> S. 429.07(3)(c), F.S. Limited nursing services include acts that may be performed by a licensed nurse but are not complex enough to require 24-hour nursing supervision and may include such services as the application and care of routine dressings, and care of casts, braces, and splints (s. 429.02(13), F.S.)

<sup>98</sup> S. 429.075, F.S. A facility that serves one or mental health residents must obtain a licensed mental health license. A limited mental health ALF must assist a mental health patient in carrying out activities identified in the resident's community support living plan. A community support plan is a written document that includes information about the supports, services, and special needs of the resident to live in the ALF and a method by which facility staff can recognize and respond to the signs and symptoms particular to that resident which indicate the need for professional services (s. 429.02(7), F.S.)

<sup>99</sup> S. 429.07(3)(b), F.S. Extended congregate care facilities provide services to an individual that would otherwise be ineligible for continued care in an ALF. The primary purpose is to allow a resident the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency as they become more impaired.

<sup>100</sup> S. 429.52, F.S.

<sup>101</sup> Agency for Health Care Administration, *Facility/Provider Search Results-Assisted Living Facilities*, available at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (report generated on February 8, 2018).

four classes according to the nature and gravity of the violation. Section 429.19, F.S. sets the fine amounts for each class of violation.

If an ALF is cited for a class I violation or three or more class II violations arising from separate surveys within a 60-day period or due to unrelated circumstances during the same survey, AHCA must conduct an additional licensure inspection within six months.<sup>102</sup> Similarly, the Resident Bill of Rights requires AHCA to perform a biennial survey to determine whether a facility is adequately protecting residents' rights.<sup>103</sup>

During any calendar year in which no survey is performed, AHCA may conduct at least one monitoring visit of a facility, as necessary, to ensure compliance of a facility with a history of certain violations that threaten the health, safety, or security of residents. If warranted, AHCA will perform an inspection as a part of a complaint investigation of alleged noncompliance with the Resident Bill of Rights.<sup>104</sup>

Under s. 408.813, F.S., ALFs are subject to administrative fines imposed by AHCA for certain types of violations. In addition, AHCA may deny, revoke, or suspend any license for any of the actions listed in s. 429.14(1)(a)-(k), F.S., such as an intentional or negligent act seriously affecting the health, safety, or welfare of a resident of the facility or a determination by AHCA that the owner lacks the financial responsibility to provide continuing adequate care to residents. AHCA must deny or revoke the license of an ALF with two or more class I violations that are similar to violations identified during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous 2 years.<sup>105</sup> AHCA may also impose an immediate moratorium or emergency suspension on any provider if it determines that any condition presents a threat to the health, safety, or welfare of a client.<sup>106</sup> AHCA is required to publicly post notification of a license suspension or revocation, or denial of a license renewal, at the facility.<sup>107</sup> Finally, ch. 825, F.S., provides criminal penalties for the abuse, neglect, and exploitation of elderly persons<sup>108</sup> and disabled adults.<sup>109</sup>

#### *ALF Comprehensive Emergency Management Plans*

ALFs must prepare a comprehensive emergency management plan that must address at a minimum:<sup>110</sup>

- Emergency evacuation transportation;
- Adequate sheltering arrangements;
- Post-disaster activities, including provision of emergency power, food, and water;
- Post-disaster transportation;
- Supplies;
- Staffing;
- Emergency equipment;
- Individual identification of residents and transfer of records; and
- Communication with families, and responses to family inquiries.<sup>111</sup>

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<sup>102</sup> S. 429.34(2), F.S.

<sup>103</sup> S. 429.28(3), F.S.

<sup>104</sup> Id.

<sup>105</sup> S. 429.14(4), F.S.

<sup>106</sup> S. 408.814(1), F.S.

<sup>107</sup> S. 429.14(7), F.S.

<sup>108</sup> "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired. S. 825.101(5), F.S. It does not constitute a defense to a prosecution for any violation of ch. 825, F.S. that the accused did not know the age of the victim. S. 825.104, F.S.

<sup>109</sup> "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living. S. 825.101(4), F.S.

<sup>110</sup> S.429.41(1)(b), F.S.

<sup>111</sup> Id.



The comprehensive emergency management plan is subject to review and approval by the local emergency management agency.<sup>112</sup> The local emergency management agency must ensure the DOEA, DOH, AHCA, the Division of Emergency Management, and the appropriate volunteer organizations are given the opportunity to review the plan.<sup>113</sup> The local emergency management agency must complete its review within 60 days and must either approve the plan or advise the ALF of necessary revisions.<sup>114</sup> However, some local emergency management agencies do not provide AHCA an opportunity to review the plan, and current law does not require facilities to notify AHCA when a plan is approved.<sup>115</sup> Often, AHCA is not aware if a facility has an approved plan or of the contents of the plan until it conducts its next regular inspection.<sup>116</sup>

During Hurricane Irma, some ALF's comprehensive emergency management plans were either inadequate or not followed.<sup>117</sup> The select committee received testimony that, during Hurricane Irma, ALFs brought residents to special needs shelters but did not provide staffing or assistance for them in the shelter, and did not have a plan for taking them back to the facility after the emergency. ALFs were unable to maintain adequate staffing during the hurricane. Some ALFs dropped off clients at shelters with no staff or other caregivers to care for them, and no plan for picking clients up after the hurricane.<sup>118</sup> Some ALF clients were registered with special needs shelters and dropped off by their ALF without their consent.<sup>119</sup> Local emergency operations centers received calls from ALFs requesting help with hardening and power outages.<sup>120</sup>

#### Effect of the Bill – Nursing Homes and Assisted Living Facilities

To address the inadequacy of the comprehensive emergency management plans, the bill requires nursing homes and ALFs to address additional components in their plans:

- Hardening;
- Which staff are responsible for implementing each element of the plan;
- How the facility will maintain staffing during emergencies;
- Whether and how the facility will accommodate family members of staff;
- Whether the facility is located in an evacuation zone;
- Whether the facility intends to shelter in place or relocate to another facility;
- Whether the facility has an emergency power source;
- How the facility will inform residents and the resident's designated family member, legal representative, or guardian when the plan has been activated; and
- A working phone number for the facility for use by the resident's designated family member, legal representative, or guardian to make contact post-disaster.

The bill requires the above information, an overview of the facility's plan and, if appropriate, a description of the evacuation plan, to be provided to AHCA, the facility's residents and the resident's designated family member, legal representative, or guardian. The bill requires AHCA to post this information to its consumer information website. The bill requires any changes in this information to be provided to AHCA, the facility's residents, and the resident's designated family member, legal representative, or guardian within 30 days of the change.

The bill requires a facility to submit its plan to the local emergency management agency within 90 days after licensure or change of ownership. The bill requires the plan to be submitted annually or within 30

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<sup>112</sup> Id.

<sup>113</sup> Id.

<sup>114</sup> Id.

<sup>115</sup> Supra, FN 63.

<sup>116</sup> Id.

<sup>117</sup> Id.

<sup>118</sup> Id.

<sup>119</sup> Id.

<sup>120</sup> Id.

days of any modification to a previously approved plan. The bill requires the facility to notify AHCA within 30 days of submission of the plan and within 30 days after approval of the plan by the local emergency management agency. The bill requires facilities to submit revisions requested by the local emergency management agency within 30 days after written notification from the local emergency management agency. These requirements ensure AHCA receives timely information regarding the nursing home's comprehensive emergency management plan.

The bill also provides enforcement authority to AHCA to ensure nursing homes and ALFs comply with the requirements for the plans. The bill adds compliance with the requirements for comprehensive emergency management plans to the list of items AHCA must evaluate during its inspections of each facility type, and makes it a licensure violation for a nursing home or an ALF to fail to comply with the requirements for the comprehensive management plan, subject to a \$500 fine.

## Home Health Agencies

### *HHA Licensure*

Home health agencies (HHAs) are organizations licensed by AHCA to provide home health and staffing services.<sup>121</sup> Home health services are health and medical services and medical supplies furnished to an individual in the individual's home or place of residence. These services include:

- Nursing care;
- Physical, occupational, respiratory, or speech therapy;
- Home health aide services (assistance with daily living such as bathing, dressing, eating, personal hygiene, and ambulation);
- Dietetics and nutrition practice and nutrition counseling; and
- Medical supplies, restricted to drugs and biologicals prescribed by a physician.<sup>122</sup>

Staffing services are provided to health care facilities, schools, or other business entities on a temporary or school-year basis by licensed health care personnel and by certified nursing assistants and home health aides who are employed by, or work under the umbrella of, a licensed HHA.<sup>123</sup>

A HHA may also provide homemaker<sup>124</sup> and companion<sup>125</sup> services without additional licensing or registration. These services do not involve hands-on personal care to a client and typically include housekeeping, meal planning and preparation, shopping assistance, routine household activities, and accompanying the client on outings. Personnel providing homemaker or companion services are employed by or under contract with a HHA.<sup>126</sup>

Since 1975, HHAs operating in Florida have been required to obtain a state license.<sup>127</sup> HHAs must meet the general health care licensing provisions<sup>128</sup> and specific HHA licensure provisions and standards.<sup>129</sup> A HHA license is valid for 2 years, unless revoked.<sup>130</sup> If a HHA operates related offices, each related office outside the health service planning district where the main office is located must be separately licensed.<sup>131</sup> As of February 8, 2018, there are 1,916 licensed HHAs in Florida.<sup>132</sup>

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<sup>121</sup> S. 400.462(12), F.S.

<sup>122</sup> S. 400.462(14), F.S.

<sup>123</sup> S. 400.462(30), F.S.

<sup>124</sup> S. 400.462(16), F.S.

<sup>125</sup> S. 400.462(7), F.S.

<sup>126</sup> S. 400.462(13), F.S.

<sup>127</sup> SS. 36 – 51 of ch. 75-233, Laws of Fla.

<sup>128</sup> Part II of ch. 408, F.S.

<sup>129</sup> Part III of ch. 400, F.S., and Rule 59A-8, F.A.C.

<sup>130</sup> S. 408.808(1), F.S.

<sup>131</sup> S. 400.464(2), F.S. There are eleven health service planning districts grouped by county.

<sup>132</sup> Florida Health Finder, *Facility/Provider Search Results-Home Health Agencies*, available at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (report generated February 8, 2018).

A HHA may obtain an initial license by submitting to AHCA a signed, complete, and accurate application and the \$1,705 licensure fee.<sup>133</sup> The HHA must also submit the results of a survey conducted by AHCA.<sup>134</sup> The application must identify the geographic service areas<sup>135</sup> and counties in which the HHA will provide services. An initial licensure applicant must be fully accredited to obtain a license to provide skilled nursing services, however, accreditation is not required if, after initial licensure, a home health agency requests to begin providing skilled nursing services.

### *HHA Inspections and Penalties*

In addition to the requirements of the core licensing statute in s. 408.813, F.S.,<sup>136</sup> a HHA is also subject to inspections and investigations under its authorizing statute, s. 400.484, F.S. In conducting an inspection or investigation, AHCA may cite an HHA for violations of laws and rules and may impose administrative fines. Both s. 408.813, F.S., and s. 400.484, F.S., categorize violations into four defined classes according to the nature of the violation. Section 408.813, F.S., authorizes AHCA to impose fines for those violations “as provided by law”, referring to s. 400.484, F.S., which specifies the fines AHCA may impose.

### *Provision of HHA Services During an Emergency*

HHAs must prepare a comprehensive emergency management plan that provides for the continuation of home health services during an emergency that interrupts patient care or services in the patient’s home.<sup>137</sup> The plan must include the means by which the HHA will continue to provide staff to perform the same type and quantity of services to their patients who evacuate to special needs shelters that were being provided to those patients prior to evacuation.<sup>138</sup> The plan must address:

- Notification of staff when emergency response measures are initiated;
- Communication between staff members, county health departments, and local emergency management agencies, including a backup system;
- Identification of resources necessary to continue essential care or services or referrals to other organizations subject to written agreement; and
- Prioritization and contact of patients who need continued care or services.<sup>139</sup>

The plan must be consistent with standards adopted by national or state accreditation organizations and consistent with the local special needs plan.<sup>140</sup>

Current law requires the HHA to submit the plan to the local county health department for review and approval. However, such submission is conditional upon receipt of an appropriation by DOH to establish disaster coordinator positions in county health departments, unless the State Surgeon General and a local county commission jointly determine to require that such plans be submitted based on a determination that there is a special need to protect public health in the local area during an emergency.<sup>141</sup>

For patients listed in the special needs registry,<sup>142</sup> HHAs must document in the patient’s record how care or services will be continued in the event of an emergency or disaster.<sup>143</sup> The HHA must discuss the emergency provisions with the patient and the patient’s caregivers, including where and how the

<sup>133</sup> S. 400.471(5) and Rule 59A-8.003(12).

<sup>134</sup> *Id.*

<sup>135</sup> S. 408.032(5), F.S. lists the eleven health service planning districts grouped by county.

<sup>136</sup> S. 408.813, F.S.

<sup>137</sup> S. 400.492, F.S.

<sup>138</sup> *Id.*

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

<sup>140</sup> *Id.*

<sup>141</sup> S. 381.0303(8), F.S.

<sup>142</sup> S. 252.355, F.S.

<sup>143</sup> S. 400.492(1), F.S.

patient is to evacuate, procedures for notifying the HHA if the patient evacuates to a location other than the shelter identified in the patient record, and a list of medications and equipment which must either accompany the patient or will be needed by the patient in the event of an evacuation.<sup>144</sup>

HHAs must maintain a current prioritized list of patients who need continued services during an emergency. The list must specify how services will be continued in the event of an emergency or disaster for each patient and if the patient is to be transported to a special needs shelter, if the patient is receiving skilled nursing services, and the patient's medication and equipment needs. HHAs must provide the list upon request to county health departments and to local emergency management agencies.<sup>145</sup>

HHAs are not required to continue to provide care to patients in emergency situations beyond their control that make it impossible to provide services.<sup>146</sup> HHAs may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for the agency to reach its clients.<sup>147</sup> If HHAs cannot provide services to patients in the special needs registry due to situations beyond their control that make it impossible to provide services, they must demonstrate a good faith effort to attempt to provide services by documenting staff attempts to follow procedures outlined in the HHA's comprehensive emergency management plan and the patient's record.<sup>148</sup>

HHAs are authorized to provide services in special needs shelters located in any county.<sup>149</sup>

During Hurricane Irma, some HHAs dropped off clients at shelters with no staff or other caregivers to care for them.<sup>150</sup> Current law requires home health agencies to provide staff to perform the same type and quantity of services to patients evacuated to special needs shelters that the patient was receiving prior to evacuation. However, an AHCA rule states that if the patient has a caregiver, the caregiver must accompany and remain with the patient at the special needs shelter, and that caregivers who regularly assist the patient in the home are expected to continue to do the same care in the shelter.<sup>151</sup> Further, the rule defines caregivers as relatives, household members, guardians, friends, neighbors, and volunteers – not HHA staff.<sup>152</sup> The AHCA rule appears to negate the statutory requirement that the HHA staff its evacuated clients during an emergency.

### Nurse Registries

A nurse registry is a business that procures, offers, promises, or attempts to secure health care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as independent contractors, including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to hospitals, nursing homes, hospices, ALFs, and other business entities.<sup>153</sup> A nurse registry is exempt from the licensing requirements of a HHA, but must be licensed as a nurse registry.<sup>154</sup> Nurse registries are governed by part II of chapter 408, F.S.,<sup>155</sup> associated rules in Chapter 59A-35, F.A.C., and the nurse registry rules in Chapter 59A-18, F.A.C. A nurse registry must be licensed by the Agency for Health Care Administration (AHCA), pursuant to part II of ch. 400, F.S., to offer contracts in Florida.<sup>156</sup>

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<sup>144</sup> Id.

<sup>145</sup> S. 400.492(2), F.S.

<sup>146</sup> S. 400.492(3), F.S. , e.g. when roads are impassable or when patients do not go to the location specified in their patient records

<sup>147</sup> Id.

<sup>148</sup> Id.

<sup>149</sup> S. 400.492(4), F.S.

<sup>150</sup> Supra, FN 63.

<sup>151</sup> Rule 59A-8.027, F.A.C. (AHCA Form 3110-1022, rev. March 2013, incorporated by reference).

<sup>152</sup> Id..

<sup>153</sup> S. 400.462(21), F.S.

<sup>154</sup> S. 400.506(1)(a), F.S. A licensed nurse registry may operate a satellite office.

<sup>155</sup> S. 400.506(2), F.S. A nurse registry is also governed by the provisions in s. 400.506, F.S.

<sup>156</sup> S. 400.506(1), F.S.

The workers referred by the nurse registry are hired as independent contractors by the patient, health care facility, or other business entities.<sup>157</sup> This is a key defining feature of a nurse registry; it cannot have any employees except for the administrator, alternate administrator and office staff – all individuals who enter the home of patients to provide direct care must be independent contractors.<sup>158</sup>

### *Nurse Registry Inspections and Penalties*

Nurse registries are surveyed by AHCA biennially.<sup>159</sup> In addition to the biennial inspection, nurse registries may also be inspected to determine compliance with the relevant statutes and rules.<sup>160</sup> In addition to the requirements of the core licensing statute in s. 408.813, F.S.,<sup>161</sup> nurse registries are also subject to inspections and investigations under its authorizing statute, s. 400.484, F.S. In conducting an inspection or investigation, AHCA may cite a nurse registry for violations of laws and rules and may impose administrative fines. Both s. 408.813, F.S., and s. 400.484, F.S., categorize violations into four defined classes according to the nature of the violation. Section 408.813, F.S., authorizes AHCA to impose fines for those violations “as provided by law”, referring to s. 400.484, F.S., which specifies the fines AHCA may impose.

### *Provision of Nurse Registry Services During an Emergency*

Nurse registries must prepare a comprehensive emergency management plan that addresses the means by which the nurse registry will continue to provide the same type and quantity of services to its patients who evacuate to special needs shelters that were being provided to those patients prior to evacuation.<sup>162</sup> The plan must specify how the nurse registry will facilitate the provision of continuous care to persons in the special needs registry during an emergency that interrupts the provision of care or services in private residences.<sup>163</sup> The plan must also be consistent with the local special needs plan and must be updated annually.<sup>164</sup>

The submission of emergency management plans to county health departments by nurse registries is conditional upon receipt of an appropriation by DOH to establish disaster coordinator positions in county health departments, unless the State Surgeon General and a local county commission jointly determine that such plans must be submitted based on a determination that there is a special need to protect public health in the local area during an emergency.<sup>165</sup> If the nurse registry submits the comprehensive emergency management plan, the county health department must ensure that the plan complies with the criteria set forth in AHCA rule<sup>166</sup> within 90 days after receipt of the plan.<sup>167</sup> The county health department must either approve the plan or advise the nurse registry of necessary revisions.<sup>168</sup> The county health department must notify AHCA if a nurse registry fails to submit a plan or fails to submit requested information or revisions to the county health department within 30 days after written notification from the county health department.<sup>169</sup> AHCA must notify the nurse registry that its failure constitutes a deficiency, subject to a fine of \$5,000 per occurrence.<sup>170</sup> AHCA may impose the fine if the plan is not submitted, information is not provided, or revisions are not made as requested.<sup>171</sup>

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<sup>157</sup> Id.

<sup>158</sup> Agency for Health Care Administration, *Frequently Asked Questions Nurse Registries: What is a nurse registry?* [http://ahca.myflorida.com/mchq/Health\\_Facility\\_Regulation/Home\\_Care/NR\\_FAQS/section1.shtml](http://ahca.myflorida.com/mchq/Health_Facility_Regulation/Home_Care/NR_FAQS/section1.shtml) (last visited March 13, 2015).

<sup>159</sup> S. 408.811(1)(b), F.S.

<sup>160</sup> S. 400.484(1), F.S.

<sup>161</sup> S. 408.813, F.S.

<sup>162</sup> S. 400.506(12), F.S.

<sup>163</sup> Id.

<sup>164</sup> Id.

<sup>165</sup> S. 381.0303(8), F.S.

<sup>166</sup> Rule 59A-18.018, F.A.C.

<sup>167</sup> S. 400.506(12)(e), F.S.

<sup>168</sup> Id.

<sup>169</sup> Id.

<sup>170</sup> Id.

<sup>171</sup> Id.

Nurse registries may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for a provider to reach its clients.<sup>172</sup>

Nurse registries must assist persons who would need assistance and sheltering during evacuations because of physical, mental, or sensory disabilities in registering with the special needs registry.<sup>173</sup> Nurse registries must maintain a current prioritized list of patients in private residences who are in the special needs registry, under the care of persons referred for contract, and who need continued services during an emergency.<sup>174</sup> The list must specify if the patient is to be transported to a special needs shelter and if the patient is receiving skilled nursing services. Nurse registries must make the list available to county health departments and to local emergency management agencies upon request.<sup>175</sup>

Nurse registries must demonstrate a good faith effort to provide services to patients in the special needs registry identified as needing care during an emergency by documenting attempts of staff to follow procedures outlined in the nurse registry's comprehensive emergency management plan.<sup>176</sup> Persons referred for contract who care for persons in the special needs registry must include in the patient record a description of how care will be continued during a disaster or emergency that interrupts the provision of care in the patient's home.<sup>177</sup> Persons referred for contract who care for persons in the special needs registry must provide a list of the patient's medication and equipment needs to the nurse registry and must make this information available to county health departments and to local emergency management agencies upon request.<sup>178</sup>

The person referred for contract is responsible for ensuring that continuous care is provided.<sup>179</sup> However, a person referred for contract is not required to continue to provide care to patients in emergency situations that are beyond the person's control and that make it impossible to provide services, such as when roads are impassable or when patients do not go to the location specified in their patient records.<sup>180</sup>

Current law requires nurse registries to provide staff to perform the same type and quantity of services to patients evacuated to special needs shelters that the patient was receiving prior to evacuation. However, an AHCA rule states that if the patient has a caregiver, the caregiver must accompany and remain with the patient at the special needs shelter, and that caregivers who regularly assist the patient in the home are expected to continue to do the same care in the shelter.<sup>181</sup> Further, the rule defines caregivers as relatives, household members, guardians, friends, neighbors, and volunteers.<sup>182</sup> The AHCA rule appears to negate statutory requirement that the nurse registry staff its evacuated patients.

#### Effect of the Bill – Home Health Agencies and Nurse Registries

Current law requires HHAs and nurse registries to prepare and submit a comprehensive emergency management plan to the county health department for review and approval. The bill requires HHAs and nurse registries to submit their plans within 90 days after licensure or a change of ownership. Under the bill, HHA and nurse registry plans must be updated annually or within 30 days after modification to a previously approved plan.

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<sup>172</sup> Id.

<sup>173</sup> S. 400.506(11), F.S.

<sup>174</sup> S. 400.506(12)(b), F.S.

<sup>175</sup> S. 400.506(12)(b), F.S.

<sup>176</sup> S. 400.506(12), F.S.

<sup>177</sup> S. 400.506(12)(a), F.S.

<sup>178</sup> S. 400.506(12)(c), F.S.

<sup>179</sup> S. 400.506(12)(a), F.S.

<sup>180</sup> S. 400.506(12)(d), F.S.

<sup>181</sup> Rule 59A-18.018, F.A.C. (Form 3110-1017, Rev. March 2013 incorporated by reference).

<sup>182</sup> Agency for Health Care Administration, Form 3110-1017, Rev. March 2013, pursuant to Rule 59A-18.018, F.A.C., available at [http://ahca.myflorida.com/MCHQ/Emergency\\_Activities/index.shtml](http://ahca.myflorida.com/MCHQ/Emergency_Activities/index.shtml) (last visited on Feb. 12, 2018).

Currently, if a HHA or nurse registry fails to submit a plan or fails to submit requested information or revisions to the county health department within 30 days after a written request, such failure constitutes a deficiency and is subject to a \$5,000 fine per occurrence. The bill requires the county health department to notify AHCA of the HHA or nurse registry's failure to comply within 10 days. If AHCA does not impose the fine, the bill would require AHCA to document the reason in the licensee's file.

The bill requires HHAs and persons referred for contract by nurse registries to continue to provide services in an emergency unless an emergency situation is beyond their control. The bill requires HHAs and nurse registries to document in their comprehensive emergency management plans how they will staff and provide continuous services to patients during an emergency, either in the home or in a shelter. The plans must include how the HHA or nurse registry will respond if it is unable to continue to provide services or cease operation due to circumstances beyond their control. The licensee must then notify the patient whose services will be discontinued as well as the local emergency operations center. The bill requires the licensee to document its efforts to comply with its comprehensive emergency management plan and the efforts of its staff to notify the patients, designated family members, legal representatives or guardians.

The bill requires HHAs to discuss with each patient, their designated family member, legal representative or guardian, how to register for a special needs shelter. Current law directs HHAs and nurse registries to maintain a list of patients who need continued services during an emergency and to submit the list to the local emergency management agencies and the county health departments, upon request. The bill removes the condition of a request, and instead requires the HHA and nurse registry to submit the list as part of the comprehensive emergency management plan. The bill also requires the HHA and nurse registry to update the list annually or each time a patient is identified as needing services.

The bill requires AHCA to review the documentation required by the bill to determine the licensee's compliance with its emergency plan during any inspection conducted pursuant to part II of chapter 408.

## **Services for Individuals with Developmental Disabilities**

### Developmental Disability Community Services

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.<sup>183</sup> APD's overarching goal is to prevent or reduce the severity of the developmental disability and implement community-based services that will help individuals with developmental disabilities achieve their greatest potential for independent and productive living in the least restrictive means.<sup>184</sup>

Individuals with specified developmental disabilities who meet Medicaid eligibility requirements may choose to receive services in the community through the state's Medicaid Home and Community-Based Services (HCBS) waiver, known as iBudget Florida, or in an institutional setting known as an Intermediate Care Facility for the Developmentally Disabled (ICF/DD).<sup>185</sup> APD serves almost 33,900 individuals through iBudget Florida, offering 27 supports and services delivered by contracted service providers to enable individuals to live in their community rather than in an institutional setting.<sup>186</sup>

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<sup>183</sup> S. 393.063(9), F.S.

<sup>184</sup> S. 393.062, F.S.

<sup>185</sup> S. 393.0662, F.S.

<sup>186</sup> AGENCY FOR PERSONS WITH DISABILITIES, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs: Third Quarter Fiscal Year 2016-17*, November 2017, available at <http://apdcares.org/publications/reports/docs/Quarterly%20Report%203rd%20Quarter%20FY%202016-17.pdf> (last visited Jan. 21, 2018).

Examples of waiver services are residential habilitation, behavioral services, personal supports, adult day training, employment services, and occupational and physical therapy.<sup>187</sup> AHCA has adopted a handbook in rule that outlines the requirements service providers must meet when delivering iBudget Florida services.<sup>188</sup> Providers who do not meet these requirements will not be able to bill for services rendered to clients.

### *Individual Support Plans*

Pursuant to s. 393.0651, F.S., APD must develop a support plan for each client receiving services from APD.<sup>189</sup> This support plan is developed with the individual's support coordinator.<sup>190</sup> Each support plan must include the most appropriate, least restrictive, and most cost-beneficial environment for accomplishment of the objectives for client progress and a specification of all services authorized.<sup>191</sup> The client and his or her support coordinator must review and, if necessary, revise the support plan annually to review progress in achieving the objectives specified.<sup>192</sup>

### Developmental Disability Residential Services

#### *Types of Residential Facilities*

Persons with developmental disabilities reside in various types of residential settings. Some individuals with developmental disabilities live with family, some live in their own homes, while others may live in community-based residential facilities.<sup>193</sup> Pursuant to s. 393.067, F.S., APD licenses and regulates community-based residential facilities that serve and assist individuals with developmental disabilities; these include foster care facilities, group home facilities, residential habilitation centers, and comprehensive transitional education programs (CTEPs).<sup>194</sup> While the majority of APD clients live in the community, a small number live in Intermediate Care Facilities for the Developmentally Disabled (ICF/DD). ICF/DDs are residential facilities licensed and regulated by the Agency for Health Care Administration pursuant to part VIII of ch. 400, F.S.<sup>195</sup> Most APD clients living in the community, about 19,500, live and receive services in their families' homes, with another 5,000 living in their own homes. However, nearly 9,000 clients live in facilities licensed and overseen by APD.<sup>196</sup>

#### *Residential Facility Inspections and Penalties*

APD must conduct annual inspections and reviews of its licensed facilities and may also conduct unannounced inspections to determine compliance of its facilities with the applicable provisions of ch. 393, F.S., and the rules adopted pursuant thereto.<sup>197</sup> APD may discipline a facility's license in various ways and refuse to issue a license to a facility if it is determined that the facility has failed to comply

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<sup>187</sup> Id.

<sup>188</sup> Rule 59G-13.070, F.A.C.

<sup>189</sup> S. 393.0651, F.S.

<sup>190</sup> S. 393.063(37), F.S., defines "Support Coordinator" as a person designated by APD to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the necessary supports and services; advocating on behalf of the individual or family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.

<sup>191</sup> Id.

<sup>192</sup> S. 393.0651(7), F.S.

<sup>193</sup> S. 393.063(28) defines residential facility as a facility providing room and board and personal care for persons who have developmental disabilities.

<sup>194</sup> AGENCY FOR PERSONS WITH DISABILITIES, *Planning Resources*, <http://apd.myflorida.com/planning-resources/> (last visited Jan. 21, 2018).

<sup>195</sup> S. 393.063(25), F.S.

<sup>196</sup> Email from Caleb Hawkes, Legislative Affairs Director, Agency for Persons with Disabilities, RE: Agency Client Placements (February 9, 2018)(on file with the Health and Human Services Committee staff)

<sup>197</sup> Ss. 393.067(2) and 393.067(9), F.S.



with the applicable requirements of ch. 393, F.S., or the rules adopted pursuant thereto.<sup>198</sup> Additionally, APD may pursue injunctions against a facility for any violation constituting an emergency requiring immediate action.<sup>199</sup>

### *Provision of Residential Services During an Emergency*

Residential facilities licensed by APD must develop their own comprehensive emergency management plans to address the needs of their residents in the event of an emergency.<sup>200</sup> Each comprehensive emergency management plan must be updated annually<sup>201</sup> and include:<sup>202</sup>

- A description of potential hazards to which the facility is vulnerable, such as hurricanes, tornadoes, flooding, fires, hazardous materials, power outages, and severe weather conditions;
- Provisions for the care of residents remaining in the facility during an emergency, including pre-disaster or emergency preparation, protecting the facility, supplies, emergency power, food and water, staffing, and emergency equipment;
- Provisions for the care of both residents who are evacuated from and remain in the facility during an emergency, including identification of such residents, transfer of resident records, evacuation transportation, sheltering arrangements, supplies, staffing, emergency equipment, and medication;
- Identification of residents with mobility limitations who may need specialized assistance either at the facility or in case of evacuation;
- Identification of and coordination with the local emergency management agency;
- Arrangement for post-disaster activities including responding to family inquiries, obtaining medical intervention for residents, transportation, and reporting to the county office of emergency management the number of residents who have been relocated and the place of relocation; and
- The identification of staff responsible for implementing each part of the plan.

All comprehensive transitional education programs and those facilities that serve residents with complex medical conditions must have their emergency management plans approved by the local emergency management agency;<sup>203</sup> this approval is not required for foster care facilities, group home facilities, or residential habilitation centers that do not serve residents with complex medical conditions. During its review, the local emergency management agency must allow APD, the Division, and relevant volunteer organizations to review these comprehensive emergency management plans.<sup>204</sup> The local emergency management agency must complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.<sup>205</sup>

### Effect of the Bill - Services for Individuals with Developmental Disabilities

#### *Individual Support Plans*

The bill requires APD waiver clients' individual support plans to include an individual emergency plan, updated annually, to include the selection of an evacuation shelter and documented registration with the special needs registry, if appropriate, and a staffing plan for the client in the shelter, if necessary.

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<sup>198</sup> S. 393.0673, F.S. Possible discipline includes revocation or suspension of a license, imposition of an administrative fine, or an immediate moratorium on admissions to a facility. Additionally, APD may initiate receivership or injunctive proceedings in court when violations require immediate action to ensure the safety and welfare of residents, ss. 393.0678 and 393.0675, F.S.

<sup>199</sup> S. 393.0675, F.S.

<sup>200</sup> S. 393.067(8), F.S.

<sup>201</sup> S. 393.067(8), F.S.

<sup>202</sup> Rule 65G-2.010(3)(a), F.A.C.

<sup>203</sup> S. 393.067(8), F.S.

<sup>204</sup> S. 393.067(8), F.S.

<sup>205</sup> S. 393.067(8), F.S.

### *Provision of Residential Services during an Emergency*

The bill requires additional components in comprehensive emergency management plans for APD facilities regarding:

- Hardening;
- Identifying which staff are responsible for implementing each element of the plan; how the facility will maintain staffing during emergencies; and how the facility will accommodate family members of staff;
- Whether the facility is located in an evacuation zone, intends to shelter in place or relocate to another facility, and has an emergency power source; and
- How the facility intends to inform residents, the residents' designated family members, legal representatives, or guardians once the emergency management plan has been activated.

The bill requires the facilities to provide their residents, the residents' designated family members, legal representatives, or guardians the overview of the comprehensive emergency management plan and description of the evacuation plan, if appropriate. Any changes or updates to the plan should similarly be provided within 30 days of the change.

The bill adds specific timelines for submission of the comprehensive emergency management plans by CTEP's and facilities serving individuals with complex medical conditions. Specifically, these APD facilities must submit their plans to the local emergency management agency within 90 days of licensure and notify APD within 30 days of such submission. Thereafter, the plan must be submitted annually or after modification to a previously approved plan. Facilities must notify APD within 30 days of its plan being approved.

The bill requires APD facilities to conduct annual staff training on the policies and procedures for implementing the emergency management plan. The training must be conducted within the two months before the hurricane season. This training includes testing of the implementation of the plan, either through a planned drill or in response to an actual disaster or emergency.

The bill requires APD to determine and communicate prior to disaster impact which requirements for service provision it intends to waive for its clients who are relocated to shelters or other facilities during an emergency; however, APD may waive additional requirements following disaster impact, if appropriate.

### *Residential Facility Inspections and Penalties*

The bill adds to APD's existing authority to conduct unannounced inspections of its facilities to determine compliance with applicable laws and rules by requiring APD to consider compliance with the requirements of the comprehensive emergency management plan during these inspections. Additionally, the bill requires periodic follow-up inspections as necessary to monitor compliance with the plan.

The bill allows APD to discipline or refuse to issue or renew a facility's license or pursue injunctive proceedings against a facility if it failed to:

- Comply with the requirements of the comprehensive emergency management planning process, or
- Follow the policies and procedures in the comprehensive emergency management plan. However, APD shall consider mitigating factors, including the facility's efforts to follow the plan and circumstances beyond the facility's control that caused the failure. Additionally, APD shall evaluate the potential or actual harm to the client's health, safety, and security caused by the failure when determining any penalty.

## Emergency Curfews

### Background

Curfews are often imposed during an emergency or disaster to ensure the safety of citizens. Curfews are generally enacted by counties and municipalities and vary depending on the nature of the emergency or disaster. This can create a patchwork of differing restrictions in the affected areas making travel and the delivery of emergency supplies difficult.

DEM may issue individuals that transport or distribute essential goods used to preserve, protect, or sustain life, health, safety, or economic well-being during a declared emergency a certificate of exemption from curfews.<sup>206</sup> Certificate holders may enter and remain in curfew areas for the limited purposes of transporting and distributing essential goods.<sup>207</sup> However, law enforcement retains the right to determine the route into and through curfew areas, even for individuals with a certificate.<sup>208</sup>

Currently, there is no statutory exemption to allow employees of health care facilities to enter and remain in curfew areas during a declared state of emergency. The select committee received testimony that the inability of health care facility employees to travel through and remain in curfew areas created staffing and access to care issues during and after Hurricane Irma.<sup>209</sup> Additionally, the select committee recommended a statutory exemption to curfews for health care facility employees.<sup>210</sup>

### Effect of Bill – Emergency Curfews

The bill creates s. 252.3591, F.S., requiring each local emergency management agency to establish a procedure for authorizing employees of health care facilities subject to ch. 408, F.S., and developmental disability facilities licensed under ch. 393, F.S., to enter and remain in curfew areas during a declared emergency or disaster. Authorized employees of these licensees may enter and remain in curfew areas to provide services to patients and clients. This should create greater access to care during a declared emergency or disaster and resolve some staffing difficulties for these facilities.

#### B. SECTION DIRECTORY:

- Section 1:** Amends s. 252.355, F.S., relating to registry of persons with special needs; notice; registration program.
- Section 2:** Creates s. 252.3591, F.S., relating to ensuring access to care.
- Section 3:** Amends s. 381.0303, F.S., relating to special needs shelters.
- Section 4:** Amends s. 393.0651, F.S., relating to family or individual support plan.
- Section 5:** Amends s. 393.067, F.S., relating to facility licensure.
- Section 6:** Amends s. 393.0673, F.S., relating to denial, suspension, or revocation of license; moratorium on admissions; administrative fines; procedures.
- Section 7:** Amends s. 393.0675, F.S., relating to injunctive proceedings authorized.
- Section 8:** Amends s. 400.102, F.S., relating to action by agency against licensee; grounds.
- Section 9:** Amends s. 400.19, F.S., relating to right of entry and inspection.
- Section 10:** Amends s. 400.23, F.S., relating to rules; evaluation and deficiencies; licensure status.
- Section 11:** Amends s. 400.492, F.S., relating to provision of services during an emergency.
- Section 12:** Amends s. 400.497, F.S., relating to rules establishing minimum standards.
- Section 13:** Amends s. 400.506, F.S., relating to licensure of nurse registries; requirements; penalties.
- Section 14:** Amends s. 408.813, F.S., relating to administrative fines; violations.

<sup>206</sup> Ss. 252.359(5) and 252.36(5)(m), F.S. The certificate of exemption is valid for one year and may be renewed as long as the individual continues to meet the criteria for certification.

<sup>207</sup> S. 252.359.

<sup>208</sup> Id.

<sup>209</sup> Supra, FN 63.

<sup>210</sup> Supra, FN 1.

- Section 15:** Amends s. 408.821, F.S., relating to emergency management planning; emergency operations; inactive license.
- Section 16:** Amends s. 429.14, F.S., relating to administrative penalties.
- Section 17:** Amends s. 429.28, F.S., relating to resident bill of rights.
- Section 18:** Amends s. 429.41, F.S., relating to rules establishing standards.
- Section 19:** Provides for an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

##### *Department of Health*

Currently, 13 county health departments charge fees for reviewing comprehensive emergency management plans. These fees range from \$48-\$65 for initial review and \$24-\$35 for updates or revisions. The DOH does not have data on the volume of CEMPs currently being reviewed. It is estimated revenues received from CEMP reviews may help offset the expenditures to the DOH, however, this revenue is indeterminate.

#### 2. Expenditures:

The Agency for Health Care Administration and the Department of Health will have expenditures to implement the requirements of the bill relating to information technology and personnel needs. The following table provides a summary of these expenditures:

Function	Department	Year One	Year Two
<i>Information Technology</i>			
FLHealthSTAT	AHCA	\$ 300,000	\$ 300,000
Registry Development and Maintenance	DOH	\$ 642,835	\$ 473,355
Registry Hosting	DOH	\$ 61,000	\$ 61,000
Registry Alert and Notification Services	DOH	\$ 345,600	\$ 345,600
<i>IT Subtotal:</i>		\$ 1,349,435	\$ 1,179,955
<i>Personnel</i>			
Health Facility Evaluators (8)	AHCA	\$ 425,832	\$ 425,832
Government Analysts (2)	AHCA	\$ 145,710	\$ 145,710
Senior Attorney	AHCA	\$ 81,095	\$ 81,095
Expenses/HR Services	AHCA	\$ 195,117	\$ 134,983
Registry Administrator and Special Needs Shelter Coordinator	DOH	\$ 146,476	\$ 146,476
Comprehensive Emergency Management Plan Reviewers (8)	DOH	\$ 435,837	\$ 435,837
Expenses/HR Services	DOH	\$ 206,716	\$ 161,976
<i>Personnel Subtotal:</i>		\$ 1,636,783	\$ 1,531,909
<b>AHCA Total:</b>		\$ 1,147,754	\$ 1,087,620
<b>DOH Total:</b>		\$ 1,838,464	\$ 1,624,244
<b>Bill Total:</b>		\$ 2,986,218	\$ 2,711,864
<i>Fiscal Impact by Fund</i>			
		<i>Recurring</i>	<i>Nonrecurring</i>
General Revenue:	\$ 1,624,244	\$ 214,220	
Trust Fund:	\$ 1,087,620	\$ 60,134	
<b>Total:</b>	<b>\$ 2,711,864</b>	<b>\$ 274,354</b>	

### *Agency for Health Care Administration*

The bill requires AHCA to manage additional coordination and oversight of CEMP's and implementation of plans for health care facilities. AHCA anticipates an increase in workload related to inspections, complaint investigations, verification of CEMP compliance prior to license renewal and within 90 days of new licensure, legal case management and coordination with local emergency management officials. Eleven new FTE will be required for AHCA to address this increase in workload.

The bill requires AHCA to establish and maintain the FloridaHealthStat database to gather information from facilities, providers and others for use during a declared emergency. AHCA has estimated an annual recurring cost to host the database.

### *Department of Health*

The bill requires the DOH to develop and maintain the special needs shelter registry. DOH anticipates the special needs shelter registry will create an increase in workload and have requested two FTEs responsible for registry technical assistance, training local emergency management agencies and county health departments, website development, facilitating the Special Needs Shelter Registry Work Group, and partner outreach.

The bill does not expressly require the special needs registry to be capable of providing alert and notification services to registrants. Such services could be used, among other things, to send out mass notifications during emergencies directly to registrants or to send reminders to individual registrants to renew their registration. DOH estimated a recurring cost based on the number of registrants anticipated to be in the special needs shelter registry.

The bill requires county health departments to review comprehensive emergency management plans. DOH anticipates the review of these plans will create an increase in workload and have requested eight FTE, allocated statewide across the county health departments, to review these plans.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

None.

### 2. Expenditures:

None

## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires various health care facilities and health care providers to submit CEMPs to local county health departments. This may create a negative fiscal impact on health care facilities and health care providers in counties which charge for reviewing CEMPs, for those which currently do not submit CEMPs for review, if any. Currently, 13 counties<sup>211</sup> charge a fee for reviewing a CEMP.<sup>212</sup> These fees are \$48-\$65 for initial review and \$24-\$35<sup>213</sup> for review of updates or revisions to the CEMP.<sup>214</sup>

## D. FISCAL COMMENTS:

None.

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<sup>211</sup> Id. Citrus, Collier, Escambia, Hardee, Hernando, Hillsborough, Manatee, Miami-Dade, Monroe, Pasco, Pinellas, Polk and Sumter.

<sup>212</sup> Id.

<sup>213</sup> Id. Monroe County charges \$65 for both initial and update/revision reviews.

<sup>214</sup> Id.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

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

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The rulemaking authority provided in the bill and in current law is sufficient to implement the bill.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 15, 2018, the Health and Human Services Committee adopted two amendments and reported PCB 18-02 favorably as amended. The amendments:

- Add a deadline for a nurse registry to submit a comprehensive emergency management plan to the county health department for review (within 90 days after licensure or change of ownership).
- Add the CEO of the ARC of Florida to the Special Needs Shelter Registry Work Group created by the bill.

The analysis is drafted to the PCB as passed by the Health and Human Services Committee.

1                                   A bill to be entitled  
2       An act relating to health care disaster preparedness  
3       and response; amending s. 252.355, F.S.; directing the  
4       Department of Health, in coordination with the  
5       Division of Emergency Management and local emergency  
6       management agencies to maintain a statewide registry  
7       of persons with special needs; requiring the  
8       department to develop and maintain a statewide special  
9       needs shelter registration program; creating the  
10      Special Needs Shelter Registry Work Group; providing  
11      for membership and meetings; directing the work group  
12      to develop the uniform special needs registration form  
13      by a certain date; requiring local emergency  
14      management agencies to exclusively use the statewide  
15      registry to register persons for special needs  
16      shelters; requiring local emergency management  
17      agencies to enter into agreements with certain  
18      hospitals to shelter certain individuals; requiring  
19      the Department of Health to assist local emergency  
20      management agencies with developing alternative  
21      sheltering options for persons deemed ineligible for a  
22      special needs shelter; authorizing local emergency  
23      management agencies to coordinate with the Agency for  
24      Health Care Administration for placement of certain  
25      persons deemed ineligible for a special needs shelter

26 in certain circumstances; creating s. 252.3591, F.S.;

27 requiring local emergency management agencies to

28 establish a procedure for authorizing employees of

29 health care facilities to enter and remain in curfew

30 areas during a declared emergency or disaster;

31 authorizing a law enforcement officer to specify a

32 permissible route of ingress or egress for an

33 authorized person; amending s. 381.0303, F.S.;

34 directing the department to recruit faculty and

35 students from state university and college health care

36 programs to staff special needs shelters; authorizing

37 certain employees of state agencies, universities, and

38 colleges to staff local special needs shelters;

39 requiring the department to reimburse a state agency,

40 university, or college employee who staffs a special

41 needs shelters at the request of the department;

42 deleting a provision specifying that the submission of

43 emergency management plans to county health

44 departments is contingent upon a specified

45 appropriation by the department; amending s. 393.0651,

46 F.S.; requiring the Agency for Persons with

47 Disabilities to develop a personal disaster plan for

48 each client receiving services under the home and

49 community-based services Medicaid waiver program and

50 update such plan annually; amending s. 393.067, F.S.;



51 requiring the agency to determine compliance with  
 52 specified requirements by entities licensed by the  
 53 agency; directing the agency to require facilities  
 54 licensed under ch. 393, F.S., to include additional  
 55 components in their comprehensive emergency management  
 56 plans; requiring a facility to provide information  
 57 regarding its plan and any changes thereto to  
 58 designated individuals, the agency, and the local  
 59 emergency management agency within a specified  
 60 timeframe; requiring a facility to conduct specified  
 61 staff training on the policies and procedures for  
 62 implementing the plan; requiring the agency to  
 63 communicate before the disaster impacts the area which  
 64 service provision requirements may be waived during  
 65 the emergency; amending s. 393.0673, F.S.; authorizing  
 66 the agency to discipline or refuse to issue or renew a  
 67 facility's license for failure to comply with the  
 68 requirements of the comprehensive emergency management  
 69 plan or to follow the policies or procedures in the  
 70 plan during a disaster; amending s. 393.0675, F.S.;  
 71 authorizing the agency to pursue injunctive  
 72 proceedings against a facility for failure to comply  
 73 with the requirements of the comprehensive emergency  
 74 management plan or to follow the policies or  
 75 procedures in the plan during a disaster; amending s.

76 400.102, F.S.; providing additional grounds for action  
 77 by the agency against a licensee; amending s. 400.19,  
 78 F.S.; requiring the Agency for Health Care  
 79 Administration to conduct certain unannounced  
 80 inspections of any facility licensed under part II of  
 81 ch. 400, F.S., a district nursing home unit in a  
 82 hospital, and certain freestanding facilities licensed  
 83 under ch. 395, F.S., to determine compliance with  
 84 comprehensive emergency management plan requirements;  
 85 amending s. 400.23, F.S.; directing the agency to  
 86 require facilities licensed under part II of ch. 400,  
 87 F.S., to include additional components in their  
 88 comprehensive emergency management plans; requiring a  
 89 facility to provide information regarding its plan and  
 90 any changes thereto to designated individuals, the  
 91 agency, and the local emergency management agency  
 92 within a specified timeframe; amending s. 400.492,  
 93 F.S.; revising requirements with respect to the  
 94 comprehensive emergency management plans of home  
 95 health agencies to include the means by which  
 96 continuing services will be provided to patients in  
 97 private residences, assisted living facilities, or  
 98 adult family care homes and patients who evacuate to  
 99 special needs shelters; providing requirements for  
 100 notification of patients and designated interested

101 parties; requiring the list of patients needing  
 102 continued home health agency care to include certain  
 103 patients; requiring home health agencies to  
 104 demonstrate a good faith effort to attempt to provide  
 105 services by documenting staff attempts to follow  
 106 procedures outlined in the comprehensive emergency  
 107 management plan; amending s. 400.497, F.S.; providing  
 108 deadlines for submission and approval of a home health  
 109 agency's comprehensive emergency management plan;  
 110 authorizing the Agency for Health Care Administration  
 111 to impose a fine on a home health agency for failure  
 112 to comply with plan requirements and submission  
 113 deadlines; amending s. 400.506, F.S.; revising  
 114 requirements with respect to the comprehensive  
 115 emergency management plans of nurse registries to  
 116 include the means by which continuing services will be  
 117 provided to certain patients who remain at home or in  
 118 an assisted living facility or adult family care home  
 119 or who evacuate to a special needs shelter; requiring  
 120 a nurse registry to document efforts to comply with  
 121 plan requirements; providing requirements for  
 122 notification of patients and designated interested  
 123 parties; requiring the list of patients needing  
 124 continued care to include certain patients; providing  
 125 additional responsibilities of a nurse registry;

126 providing deadlines for plan submission and approval;  
 127 amending s. 408.813, F.S.; authorizing the agency to  
 128 impose a fine on a health care provider regulated  
 129 under part II of ch. 408, F.S., for failure to have an  
 130 approved comprehensive emergency management plan and  
 131 for failure to have certain agreements after a certain  
 132 date; amending s. 408.821, F.S.; requiring licensees  
 133 required by authorizing statutes to have an emergency  
 134 operations plan to conduct annual staff training on  
 135 the policies and procedures for implementing the  
 136 emergency operations plan within a specified  
 137 timeframe; providing for agency action for failure to  
 138 comply; amending s. 429.14, F.S.; authorizing the  
 139 agency to deny or revoke the license of an assisted  
 140 living facility for failure to comply with  
 141 comprehensive emergency management plan requirements;  
 142 amending s. 429.28, F.S.; revising the assisted living  
 143 facility resident bill of rights to include a  
 144 requirement that the agency determine compliance with  
 145 the facility's comprehensive emergency management plan  
 146 and conduct followup inspections to monitor compliance  
 147 under certain circumstances; amending s. 429.41, F.S.;  
 148 directing the agency to require facilities licensed  
 149 under ch. 429, F.S., to include additional components  
 150 in their comprehensive emergency management plans;

151 requiring a facility to provide information regarding  
 152 its plan and any changes thereto to designated  
 153 individuals, the agency, and the local emergency  
 154 management agency within a specified timeframe;  
 155 providing an effective date.  
 156

157 Be It Enacted by the Legislature of the State of Florida:  
 158

159 Section 1. Section 252.355, Florida Statutes, is amended to  
 160 read:

161 252.355 Registry of persons with special needs; notice;  
 162 registration program.—

163 (1) In order to meet the special needs of persons who  
 164 would need assistance during evacuations and sheltering because  
 165 of physical, mental, cognitive impairment, or sensory  
 166 disabilities, the Department of Health ~~division~~, in coordination  
 167 with the division and each local emergency management agency in  
 168 the state, shall maintain a statewide registry of persons with  
 169 special needs ~~located within the jurisdiction of the local~~  
 170 ~~agency. The registration shall identify those persons in need of~~  
 171 ~~assistance and plan for resource allocation to meet those~~  
 172 ~~identified needs.~~

173 (2) ~~In order to ensure that all persons with special needs~~  
 174 ~~may register,~~ The Department of Health ~~division~~ shall develop  
 175 and maintain a statewide special needs shelter registration

176 program. ~~The registration program must be developed by January~~  
 177 ~~1, 2015, and fully implemented by March 1, 2015.~~

178 (a) The statewide special needs shelter registration  
 179 program shall:

180 1. Identify those persons in need of assistance and plan  
 181 for resource allocation to meet those identified needs.

182 2. Include, at a minimum, a uniform registration form and  
 183 a database for uploading and storing submitted registration  
 184 forms that may be accessed by the Department of Health, the  
 185 division, and local emergency management agencies.

186 (b) The registration program must be developed by January  
 187 1, 2019, and fully implemented by March 1, 2019.

188 ~~(a) The registration program shall include, at a minimum,~~  
 189 ~~a uniform electronic registration form and a database for~~  
 190 ~~uploading and storing submitted registration forms that may be~~  
 191 ~~accessed by the appropriate local emergency management agency.~~  
 192 ~~The link to the registration form shall be easily accessible on~~  
 193 ~~each local emergency management agency's website. Upon receipt~~  
 194 ~~of a paper registration form, the local emergency management~~  
 195 ~~agency shall enter the person's registration information into~~  
 196 ~~the database.~~

197 (3) The Department of Health shall develop the uniform  
 198 registration form based upon recommendations of the Special  
 199 Needs Shelter Registry Work Group.

200 (a) The Special Needs Shelter Registry Work Group is

201 created within the Department of Health for the purpose of  
 202 making recommendations for the development of the uniform  
 203 registration form. The Department of Health shall use existing  
 204 and available resources to administer and support the activities  
 205 of the work group. Members of the work group shall serve without  
 206 compensation and are not entitled to reimbursement for per diem  
 207 or travel expenses. Meetings may be conducted in person, by  
 208 teleconference, or by other electronic means.

209 (b) The work group shall consist of 12 members:

210 1. The State Surgeon General or a designee, who shall  
 211 serve as the chair of the work group.

212 2. The Director of the Division of Emergency Management or  
 213 a designee.

214 3. The Secretary of the Agency for Health Care  
 215 Administration or a designee.

216 4. The Secretary of the Department of Children and  
 217 Families or a designee.

218 5. The Secretary of the Department of Elder Affairs or a  
 219 designee.

220 6. The Director of the Agency for Persons with  
 221 Disabilities or a designee.

222 7. Five representatives of local emergency management  
 223 agencies appointed by the Florida Association of Counties.

224 8. The Chief Executive Officer of the Arc of Florida or a  
 225 designee.

226 (c) The Special Needs Shelter Registry Work Group shall  
 227 submit its recommendations to the Department of Health on or  
 228 before October 31, 2018.

229 (d) This subsection expires January 1, 2019.

230 (4) Each local emergency management agency shall  
 231 exclusively use the statewide special needs shelter registry to  
 232 register individuals for special needs shelters and may not use  
 233 local special needs registries. Each local emergency management  
 234 agency, in coordination with its local county health department,  
 235 shall establish eligibility requirements for sheltering in a  
 236 local special needs shelter and publish these requirements and a  
 237 link to the uniform registration form for the statewide special  
 238 needs shelter registry on its website. Each local emergency  
 239 management agency shall also make paper registration forms  
 240 available and establish procedures for submitting a paper  
 241 registration form and entering into the statewide special needs  
 242 shelter registry.

243 (a) A local emergency management agency shall notify a  
 244 registrant in writing within 10 days after submission of a  
 245 registration form whether he or she is eligible to shelter in a  
 246 local special needs shelter and designate his or her eligibility  
 247 status in the registry.

248 (b) The Department of Health shall assist local emergency  
 249 management agencies with developing alternative sheltering  
 250 options for any ineligible registrant. Each local emergency



251 management agency and each general hospital licensed under  
 252 chapter 395 located within the local emergency management  
 253 agency's jurisdiction shall enter into agreements to shelter  
 254 individuals during a declared emergency, whose medical  
 255 complexity or reliance on life support devices or other medical  
 256 equipment exceeds the capabilities of special needs shelters. A  
 257 local emergency management agency may coordinate with the Agency  
 258 for Health Care Administration to facilitate placement in a  
 259 health care facility for any individual who registers during a  
 260 declared emergency or disaster and is deemed ineligible to  
 261 shelter in a local special needs shelter.

262 (5) The Department of Health, in conjunction with the  
 263 division, shall be the designated lead agency responsible for  
 264 community education and outreach to the public, including  
 265 special needs clients, regarding registration and special needs  
 266 shelters and general information regarding shelter stays. The  
 267 Department of Health shall develop a brochure that provides  
 268 information regarding special needs shelter registration  
 269 procedures. The Department of Health, the division, and each  
 270 local management agency shall make the brochure easily  
 271 accessible on their websites.

272 (6) ~~(b)~~ To assist in identifying persons with special  
 273 needs, home health agencies, hospices, nurse registries, home  
 274 medical equipment providers, the Department of Children and  
 275 Families, the Department of Health, the Agency for Health Care

276 Administration, the Department of Education, the Agency for  
 277 Persons with Disabilities, the Department of Elderly Affairs,  
 278 and memory disorder clinics shall, and any physician or  
 279 physician assistant licensed under chapter 458 or chapter 459,  
 280 any advanced registered nurse practitioner licensed under  
 281 chapter 464, and any pharmacy licensed under chapter 465 may,  
 282 annually provide registration information to all of their  
 283 special needs clients or their caregivers. ~~The division shall~~  
 284 ~~develop a brochure that provides information regarding special~~  
 285 ~~needs shelter registration procedures. The brochure must be~~  
 286 ~~easily accessible on the division's website.~~ All appropriate  
 287 agencies and community-based service providers, including aging  
 288 and disability resource centers, memory disorder clinics, home  
 289 health care providers, hospices, nurse registries, and home  
 290 medical equipment providers, shall, and any physician or  
 291 physician assistant licensed under chapter 458 or chapter 459  
 292 and any advanced registered nurse practitioner licensed under  
 293 chapter 464 may, assist emergency management agencies by  
 294 annually registering persons with special needs for special  
 295 needs shelters, collecting registration information for persons  
 296 with special needs as part of the program intake process, and  
 297 establishing programs to educate clients about the registration  
 298 process and disaster preparedness safety procedures. A client of  
 299 a state-funded or federally funded service program who has a  
 300 physical, mental, or cognitive impairment or sensory disability

301 and who needs assistance in evacuating, or when in a shelter,  
 302 must register as a person with special needs. The registration  
 303 program shall give persons with special needs the option of  
 304 preauthorizing emergency response personnel to enter their homes  
 305 during search and rescue operations if necessary to ensure their  
 306 safety and welfare following disasters.

307 ~~(c) The division shall be the designated lead agency~~  
 308 ~~responsible for community education and outreach to the public,~~  
 309 ~~including special needs clients, regarding registration and~~  
 310 ~~special needs shelters and general information regarding shelter~~  
 311 ~~stays.~~

312 (7)(d) On or before May 31 of each year, each electric  
 313 utility in the state shall annually notify residential customers  
 314 in its service area of the availability of the registration  
 315 program available through their local emergency management  
 316 agency by:

317 (a)1. An initial notification upon the activation of new  
 318 residential service with the electric utility, followed by one  
 319 annual notification between January 1 and May 31; or

320 (b)2. Two separate annual notifications between January 1  
 321 and May 31.

322

323 The notification may be made by any available means, including,  
 324 but not limited to, written, electronic, or verbal notification,  
 325 and may be made concurrently with any other notification to

326 residential customers required by law or rule.

327 ~~(8)(3)~~ A local emergency management agency shall allow a  
 328 person with special needs ~~must be allowed~~ to bring his or her  
 329 service animal into a special needs shelter in accordance with  
 330 s. 413.08.

331 ~~(9)(4)~~ All records, data, information, correspondence, and  
 332 communications relating to the registration of persons with  
 333 special needs as provided in subsection (1) are confidential and  
 334 exempt from s. 119.07(1), except that such information shall be  
 335 available to other emergency response agencies, as determined by  
 336 the local emergency management director. Local law enforcement  
 337 agencies shall be given complete shelter roster information upon  
 338 request.

339 Section 2. Section 252.3591, Florida Statutes, is created  
 340 to read:

341 252.3591 Ensuring access to care.-

342 (1) Each local emergency management agency shall establish  
 343 a procedure for authorizing employees of a facility licensed  
 344 under chapter 393 or subject to part II of chapter 408 to enter  
 345 and remain in a curfew area during a declared emergency or  
 346 disaster.

347 (2) Notwithstanding any curfew, a person authorized under  
 348 subsection (1) may enter or remain in a curfew area for the  
 349 limited purpose of implementing a licensed facility's emergency  
 350 management plan and providing services authorized under chapter

351 393 or chapter 408.

352 (3) This section does not prohibit a law enforcement  
 353 officer from specifying the permissible route of ingress or  
 354 egress for a person authorized under this section.

355 Section 3. Section 381.0303, Florida Statutes, is amended  
 356 to read:

357 381.0303 Special needs shelters.—

358 (1) PURPOSE.—The purpose of this section is to provide for  
 359 the operation and closure of special needs shelters and to  
 360 designate the Department of Health, through its county health  
 361 departments, as the lead agency for coordination of the  
 362 recruitment of health care practitioners, as defined in s.  
 363 456.001(4), to staff special needs shelters in times of  
 364 emergency or disaster and to provide resources to the department  
 365 to carry out this responsibility. However, nothing in this  
 366 section prohibits a county health department from entering into  
 367 an agreement with a local emergency management agency to assume  
 368 the lead responsibility for recruiting health care  
 369 practitioners.

370 (2) SPECIAL NEEDS SHELTER PLAN; STAFFING; STATE AGENCY  
 371 ASSISTANCE.—~~If funds have been appropriated to support disaster~~  
 372 ~~coordinator positions in county health departments.~~

373 (a) The department shall assume lead responsibility for  
 374 the coordination of local medical and health care providers, the  
 375 American Red Cross, and other interested parties in developing a

376 plan for the staffing and medical management of special needs  
 377 shelters. The local Children's Medical Services offices shall  
 378 assume lead responsibility for the coordination of local medical  
 379 and health care providers, the American Red Cross, and other  
 380 interested parties in developing a plan for the staffing and  
 381 medical management of pediatric special needs shelters. Plans  
 382 must conform to the local comprehensive emergency management  
 383 plan.

384 (b) County health departments shall, in conjunction with  
 385 the local emergency management agencies, have the lead  
 386 responsibility for coordination of the recruitment of health  
 387 care practitioners, including faculty and students from state  
 388 university and college health care programs, to staff local  
 389 special needs shelters. ~~County health departments shall assign~~  
 390 ~~their employees to work in special needs shelters when those~~  
 391 ~~employees are needed to protect the health and safety of persons~~  
 392 ~~with special needs. County governments shall assist the~~  
 393 ~~department with nonmedical staffing and the operation of special~~  
 394 ~~needs shelters. The local health department and emergency~~  
 395 ~~management agency shall coordinate these efforts to ensure~~  
 396 ~~appropriate staffing in special needs shelters, including a~~  
 397 ~~staff member who is familiar with the needs of persons with~~  
 398 ~~Alzheimer's disease.~~

399 (c) State agencies, universities, and colleges shall  
 400 authorize employees that are health care practitioners as

401 defined in s. 456.001(4) to staff local special needs shelters,  
 402 unless such employees have a designated emergency duty for their  
 403 agency, university, or college. Each state agency, university,  
 404 and college shall submit a roster of such employees to the  
 405 department by January 31 of each year and submit an amended  
 406 roster, if necessary, by May 31 of each year ~~The appropriate~~  
 407 ~~county health department, Children's Medical Services office,~~  
 408 ~~and local emergency management agency shall jointly decide who~~  
 409 ~~has responsibility for medical supervision in each special needs~~  
 410 ~~shelter.~~

411 (d) County health departments shall assign their  
 412 employees, and state employees pursuant to paragraph (c), to  
 413 work in special needs shelters when such employees are needed to  
 414 protect the health and safety of persons with special needs.  
 415 County governments shall assist the department with nonmedical  
 416 staffing and the operation of special needs shelters. The local  
 417 health department and emergency management agency shall  
 418 coordinate these efforts to ensure appropriate staffing in  
 419 special needs shelters, including a staff member who is familiar  
 420 with the needs of persons with Alzheimer's disease.

421 (e) The appropriate county health department and local  
 422 emergency management agency shall jointly decide who has  
 423 responsibility for medical supervision in each special needs  
 424 shelter.

425 (f) ~~(d)~~ Local emergency management agencies shall be

426 responsible for the designation and operation of special needs  
427 shelters during times of emergency or disaster and the closure  
428 of the facilities following an emergency or disaster. The local  
429 health department and emergency management agency shall  
430 coordinate these efforts to ensure the appropriate designation  
431 and operation of special needs shelters. County health  
432 departments shall assist the local emergency management agency  
433 with regard to the management of medical services in special  
434 needs shelters.

435 (g)~~(e)~~ The Secretary of Elderly Affairs, or his or her  
436 designee, shall convene, at any time that he or she deems  
437 appropriate and necessary, a multiagency special needs shelter  
438 discharge planning team to assist local areas that are severely  
439 impacted by a natural or manmade disaster that requires the use  
440 of special needs shelters. Multiagency special needs shelter  
441 discharge planning teams shall provide assistance to local  
442 emergency management agencies with the continued operation or  
443 closure of the shelters, as well as with the discharge of  
444 special needs clients to alternate facilities if necessary.  
445 Local emergency management agencies may request the assistance  
446 of a multiagency special needs shelter discharge planning team  
447 by alerting statewide emergency management officials of the  
448 necessity for additional assistance in their area. The Secretary  
449 of Elderly Affairs shall ~~is encouraged to proactively~~ work with  
450 other state agencies prior to any natural disasters for which



451 warnings are provided to ensure that multiagency special needs  
 452 shelter discharge planning teams are ready to assemble and  
 453 deploy rapidly upon a determination by state emergency  
 454 management officials that a disaster area requires additional  
 455 assistance. The Secretary of Elderly Affairs may call upon any  
 456 state agency or office to provide staff to assist a multiagency  
 457 special needs shelter discharge planning team. Unless the  
 458 secretary determines that the nature or circumstances  
 459 surrounding the disaster do not warrant participation from a  
 460 particular agency's staff, each multiagency special needs  
 461 shelter discharge planning team shall include at least one  
 462 representative from each of the following state agencies:

- 463 1. Department of Elderly Affairs.
- 464 2. Department of Health.
- 465 3. Department of Children and Families.
- 466 4. Department of Veterans' Affairs.
- 467 5. Division of Emergency Management.
- 468 6. Agency for Health Care Administration.
- 469 7. Agency for Persons with Disabilities.

470 (h) Each local emergency management agency shall collect  
 471 intake and discharge information from each person who shelters  
 472 in a special needs shelter during an emergency or disaster,  
 473 including information regarding whether a person is a patient or  
 474 resident of a licensee under chapter 393, chapter 400, or  
 475 chapter 429. Each local emergency management agency shall use a

476 form developed by the Department of Health to collect this  
 477 information.

478 (3) SPECIAL CARE FOR PERSONS WITH ALZHEIMER'S DISEASE OR  
 479 RELATED FORMS OF DEMENTIA.—All special needs shelters must  
 480 establish designated shelter areas for persons with Alzheimer's  
 481 disease or related forms of dementia to enable those persons to  
 482 maintain their normal habits and routines to the greatest extent  
 483 possible.

484 (4) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS AND  
 485 FACILITIES.—

486 (a) The department shall, upon request, reimburse in  
 487 accordance with paragraph (b):

488 1. Health care practitioners, as defined in s. 456.001,  
 489 provided the practitioner is not providing care to a patient  
 490 under an existing contract, and emergency medical technicians  
 491 and paramedics licensed under chapter 401 for medical care  
 492 provided at the request of the department in special needs  
 493 shelters or at other locations during times of emergency or a  
 494 declared disaster. Reimbursement for health care practitioners,  
 495 except for physicians licensed under chapter 458 or chapter 459,  
 496 shall be based on the average hourly rate that such  
 497 practitioners were paid according to the most recent survey of  
 498 Florida hospitals conducted by the Florida Hospital Association  
 499 or other nationally recognized or state-recognized data source.

500 2. Health care facilities, such as hospitals, nursing

501 homes, assisted living facilities, and community residential  
 502 homes, if, upon closure of a special needs shelter, a  
 503 multiagency special needs shelter discharge planning team  
 504 determines that it is necessary to discharge persons with  
 505 special needs to other health care facilities. The receiving  
 506 facilities are eligible for reimbursement for services provided  
 507 to the individuals for up to 90 days. A facility must show proof  
 508 of a written request from a representative of an agency serving  
 509 on the multiagency special needs shelter discharge planning team  
 510 that the individual for whom the facility is seeking  
 511 reimbursement for services rendered was referred to that  
 512 facility from a special needs shelter. The department shall  
 513 specify by rule which expenses are reimbursable and the rate of  
 514 reimbursement for each service.

515 (b) Reimbursement is subject to the availability of  
 516 federal funds and shall be requested on forms prepared by the  
 517 department. If a Presidential Disaster Declaration has been  
 518 issued, the department shall request federal reimbursement of  
 519 eligible expenditures. The department may not provide  
 520 reimbursement to facilities under this subsection for services  
 521 provided to a person with special needs if, during the period of  
 522 time in which the services were provided, the individual was  
 523 enrolled in another state-funded program, such as Medicaid or  
 524 another similar program, was covered under a policy of health  
 525 insurance as defined in s. 624.603, or was a member of a health

526 maintenance organization or prepaid health clinic as defined in  
 527 chapter 641, which would otherwise pay for the same services.  
 528 Travel expense and per diem costs shall be reimbursed pursuant  
 529 to s. 112.061.

530 (5) HEALTH CARE PRACTITIONER REGISTRY.—The department may  
 531 use the registries established in ss. 401.273 and 456.38 when  
 532 health care practitioners are needed to staff special needs  
 533 shelters or to assist with other disaster-related activities.

534 (6) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.—The State  
 535 Surgeon General may establish a special needs shelter  
 536 interagency committee and serve as, or appoint a designee to  
 537 serve as, the committee's chair. The department shall provide  
 538 any necessary staff and resources to support the committee in  
 539 the performance of its duties. The committee shall address and  
 540 resolve problems related to special needs shelters not addressed  
 541 in the state comprehensive emergency medical plan and shall  
 542 consult on the planning and operation of special needs shelters.

543 (a) The committee shall develop, negotiate, and regularly  
 544 review any necessary interagency agreements, and undertake other  
 545 such activities as the department deems necessary to facilitate  
 546 the implementation of this section.

547 (b) The special needs shelter interagency committee shall  
 548 be composed of representatives of emergency management, health,  
 549 medical, and social services organizations. Membership shall  
 550 include, but shall not be limited to, representatives of the

551 Departments of Health, Children and Families, Elderly Affairs,  
 552 and Education; the Agency for Health Care Administration; the  
 553 Division of Emergency Management; the Florida Medical  
 554 Association; the Florida Osteopathic Medical Association;  
 555 Associated Home Health Industries of Florida, Inc.; the Florida  
 556 Nurses Association; the Florida Health Care Association; the  
 557 Florida Assisted Living Affiliation; the Florida Hospital  
 558 Association; the Florida Statutory Teaching Hospital Council;  
 559 the Florida Association of Homes for the Aging; the Florida  
 560 Emergency Preparedness Association; the American Red Cross;  
 561 Florida Hospices and Palliative Care, Inc.; the Association of  
 562 Community Hospitals and Health Systems; the Florida Association  
 563 of Health Maintenance Organizations; the Florida League of  
 564 Health Systems; the Private Care Association; the Salvation  
 565 Army; the Florida Association of Aging Services Providers; the  
 566 AARP; and the Florida Renal Coalition.

567 (c) Meetings of the committee shall be held in  
 568 Tallahassee, and members of the committee shall serve at the  
 569 expense of the agencies or organizations they represent. The  
 570 committee shall make every effort to use teleconference or  
 571 videoconference capabilities in order to ensure statewide input  
 572 and participation.

573 (7) RULES.—The department, in coordination with the  
 574 Division of Emergency Management, has the authority to adopt  
 575 rules necessary to implement this section. Rules shall include:

576 (a) The definition of a "person with special needs,"  
 577 including eligibility criteria for individuals with physical,  
 578 mental, cognitive impairment, or sensory disabilities and the  
 579 services a person with special needs can expect to receive in a  
 580 special needs shelter.

581 (b) The process for special needs shelter health care  
 582 practitioners and facility reimbursement for services provided  
 583 in a disaster.

584 (c) Guidelines for special needs shelter staffing levels  
 585 to provide services.

586 (d) The definition of and standards for special needs  
 587 shelter supplies and equipment, including durable medical  
 588 equipment.

589 (e) Standards for the special needs shelter registration  
 590 program, including all necessary forms and guidelines for  
 591 addressing the needs of unregistered persons in need of a  
 592 special needs shelter.

593 (f) Standards for addressing the needs of families where  
 594 only one dependent is eligible for admission to a special needs  
 595 shelter and the needs of adults with special needs who are  
 596 caregivers for individuals without special needs.

597 (g) The requirement of the county health departments to  
 598 seek the participation of hospitals, nursing homes, assisted  
 599 living facilities, home health agencies, hospice providers,  
 600 nurse registries, home medical equipment providers, dialysis

601 centers, and other health and medical emergency preparedness  
 602 stakeholders in pre-event planning activities.

603 ~~(8) EMERGENCY MANAGEMENT PLANS. The submission of~~  
 604 ~~emergency management plans to county health departments by home~~  
 605 ~~health agencies, nurse registries, hospice programs, and home~~  
 606 ~~medical equipment providers is conditional upon receipt of an~~  
 607 ~~appropriation by the department to establish disaster~~  
 608 ~~coordinator positions in county health departments unless the~~  
 609 ~~State Surgeon General and a local county commission jointly~~  
 610 ~~determine to require that such plans be submitted based on a~~  
 611 ~~determination that there is a special need to protect public~~  
 612 ~~health in the local area during an emergency.~~

613 Section 4. Subsection (9) is added to section 393.0651,  
 614 Florida Statutes, to read:

615 393.0651 Family or individual support plan.—The agency  
 616 shall provide directly or contract for the development of a  
 617 family support plan for children ages 3 to 18 years of age and  
 618 an individual support plan for each client. The client, if  
 619 competent, the client's parent or guardian, or, when  
 620 appropriate, the client advocate, shall be consulted in the  
 621 development of the plan and shall receive a copy of the plan.  
 622 Each plan must include the most appropriate, least restrictive,  
 623 and most cost-beneficial environment for accomplishment of the  
 624 objectives for client progress and a specification of all  
 625 services authorized. The plan must include provisions for the

626 most appropriate level of care for the client. Within the  
 627 specification of needs and services for each client, when  
 628 residential care is necessary, the agency shall move toward  
 629 placement of clients in residential facilities based within the  
 630 client's community. The ultimate goal of each plan, whenever  
 631 possible, shall be to enable the client to live a dignified life  
 632 in the least restrictive setting, be that in the home or in the  
 633 community. For children under 6 years of age, the family support  
 634 plan shall be developed within the 45-day application period as  
 635 specified in s. 393.065(1); for all applicants 6 years of age or  
 636 older, the family or individual support plan shall be developed  
 637 within the 60-day period as specified in that subsection.

638 (9) A personal disaster plan should be completed for each  
 639 client enrolled in any home and community-based services  
 640 Medicaid waiver program administered by the agency and updated  
 641 annually, to include, at a minimum:

642 (a) Evacuation shelter selection as appropriate.

643 (b) Documented special needs shelter registration as  
 644 appropriate.

645 (c) A staffing plan for the client in the shelter, if  
 646 necessary.

647 Section 5. Subsections (2), (8) and (9) of section 393.067,  
 648 Florida Statutes, are amended to read:

649 393.067 Facility licensure.—

650 (2) The agency shall conduct annual inspections and



651 reviews of facilities and programs licensed under this section.  
 652 The agency shall determine compliance by foster care facilities,  
 653 group home facilities, residential habilitation centers, and  
 654 comprehensive transitional education programs with the  
 655 applicable provisions of this chapter and rules adopted pursuant  
 656 hereto, including the requirements for the comprehensive  
 657 emergency management plan.

658 (8) (a) The agency, after consultation with the Division of  
 659 Emergency Management, shall adopt rules for foster care  
 660 facilities, group home facilities, and residential habilitation  
 661 centers which establish minimum standards for the preparation  
 662 and annual update of a comprehensive emergency management plan.

663 1. At a minimum, the rules must provide for plan  
 664 components that address:

- 665 a. Emergency evacuation transportation;
- 666 b. Adequate sheltering arrangements;
- 667 c. Postdisaster activities, including emergency power,  
 668 food, and water;
- 669 d. Postdisaster transportation;
- 670 e. Supplies;
- 671 f. Hardening;
- 672 g. Staffing, including which staff are responsible for  
 673 implementing each element of the plan, how the facility will  
 674 maintain staffing during emergencies, and whether and how the  
 675 facility will accommodate family members of staff;

676        h. Emergency equipment;

677        i. Individual identification of residents and transfer of

678 records; and

679        j. Responding to family inquiries.

680        2. Facilities must include information in their plans

681 about:

682        a. Whether the facility is located in an evacuation zone;

683        b. Whether the facility intends to shelter in place or

684 relocate to another facility;

685        c. Whether the facility has an emergency power source;

686        d. How the facility will inform residents and the

687 resident's designated family member, legal representative, or

688 guardian when the emergency management plan has been activated;

689 and

690        e. A working phone number for the facility for use by the

691 resident's designated family member, legal representative, or

692 guardian to make contact postdisaster.

693        3. A facility must provide to the agency, its residents,

694 and the resident's designated family member, legal

695 representative, or guardian the information specified in

696 subparagraph 2., an overview of the facility's comprehensive

697 emergency management plan, and a description of the evacuation

698 plan, if appropriate. Any changes to this information must be

699 provided to the agency, the facility's residents, and the

700 resident's designated family member, legal representative, or

701 guardian within 30 days after the change takes effect.

702 (b) The comprehensive emergency management plan for all  
 703 comprehensive transitional education programs and for homes  
 704 serving individuals who have complex medical conditions is  
 705 subject to review and approval by the local emergency management  
 706 agency.

707 1. A facility must submit its plan to the local emergency  
 708 management agency within 90 days after licensure or change of  
 709 ownership and must notify the agency within 30 days after  
 710 submission of the plan.

711 2. Such plan must be submitted annually and within 30 days  
 712 after any modification to a previously approved plan.

713 3. During its review, the local emergency management  
 714 agency shall ensure that the agency and the Division of  
 715 Emergency Management, at a minimum, are given the opportunity to  
 716 review the plan. Also, appropriate volunteer organizations must  
 717 be given the opportunity to review the plan.

718 4. The local emergency management agency shall complete  
 719 its review within 60 days and either approve the plan or advise  
 720 the facility of necessary revisions. A facility must submit the  
 721 requested revisions to the local emergency management agency  
 722 within 30 days after receiving written notification from the  
 723 local emergency management agency.

724 5. A facility must notify the agency within 30 days after  
 725 approval of its plan by the local emergency management agency.

726        (c) A facility must conduct annual staff training on the  
 727 policies and procedures for implementing the emergency  
 728 management plan within 2 months before the start of the  
 729 hurricane season, including testing of the implementation of the  
 730 plan, either in a planned drill or in response to a disaster or  
 731 an emergency. New staff must receive such training within 30  
 732 days after commencement of employment. Documentation of the  
 733 training and testing, including evaluation of the outcome of the  
 734 training and testing and modifications to the plan to address  
 735 deficiencies must be provided to the agency within 30 days after  
 736 the training and testing is finished. The evaluation must  
 737 include a survey of staff to determine their familiarity with  
 738 the plan.

739        (d) In the event of a declared emergency, the agency shall  
 740 communicate before the disaster impacts the area which  
 741 requirements for providing services to clients in shelters and  
 742 other facilities may be waived during the emergency. The agency  
 743 may waive additional requirements following the initial impact  
 744 of the disaster, if appropriate.

745        (9) The agency may conduct unannounced inspections to  
 746 determine compliance by foster care facilities, group home  
 747 facilities, residential habilitation centers, and comprehensive  
 748 transitional education programs with the applicable provisions  
 749 of this chapter and the rules adopted pursuant hereto, including  
 750 the requirements for the comprehensive emergency management plan

751 and the rules adopted for training staff of a facility or a  
 752 program to detect, report, and prevent sexual abuse, abuse,  
 753 neglect, exploitation, and abandonment, as defined in ss. 39.01  
 754 and 415.102, of residents and clients. The agency shall conduct  
 755 periodic followup inspections as necessary to monitor facility  
 756 compliance with the requirements for the comprehensive emergency  
 757 management plan. The facility or program shall make copies of  
 758 inspection reports available to the public upon request.

759 Section 6. Paragraph (a) of subsection (1) and paragraph  
 760 (a) of subsection (2) of section 393.0673, Florida Statutes, are  
 761 amended to read:

762 393.0673 Denial, suspension, or revocation of license;  
 763 moratorium on admissions; administrative fines; procedures.—

764 (1) The agency may revoke or suspend a license or impose  
 765 an administrative fine, not to exceed \$1,000 per violation per  
 766 day, if:

767 (a) The licensee has:

768 1. Falsely represented or omitted a material fact in its  
 769 license application submitted under s. 393.067;

770 2. Had prior action taken against it under the Medicaid or  
 771 Medicare program; ~~or~~

772 3. Failed to comply with the applicable requirements of  
 773 this chapter or rules applicable to the licensee; ~~or~~

774 4. Failed to comply with the requirements for the  
 775 comprehensive emergency management plan under this part; or

776        5. Failed to follow the policies and procedures in the  
 777 comprehensive emergency management plan. However, the agency  
 778 shall consider the facility's efforts to follow the plan and  
 779 circumstances beyond the facility's control that caused the  
 780 failure. In determining the penalty, the agency shall evaluate  
 781 the potential or actual harm to the client's health, safety, and  
 782 security caused by the failure.

783            (2) The agency may deny an application for licensure  
 784 submitted under s. 393.067 if:

785            (a) The applicant has:

786            1. Falsely represented or omitted a material fact in its  
 787 license application submitted under s. 393.067;

788            2. Had prior action taken against it under the Medicaid or  
 789 Medicare program;

790            3. Failed to comply with the applicable requirements of  
 791 this chapter or rules applicable to the applicant; ~~or~~

792            4. Failed to comply with the requirements for the  
 793 comprehensive emergency management plan under this chapter;

794            5. Failed to follow the policies and procedures in the  
 795 comprehensive emergency management plan. However, the agency  
 796 shall consider the facility's efforts to follow the plan and  
 797 circumstances beyond the facility's control that caused the  
 798 failure. In determining the penalty, the agency shall evaluate  
 799 the potential or actual harm to the client's health, safety, and  
 800 security caused by the failure; or

801        ~~6.4.~~ Previously had a license to operate a residential  
 802 facility revoked by the agency, the Department of Children and  
 803 Families, or the Agency for Health Care Administration; or  
 804 (b) The Department of Children and Families has verified that  
 805 the applicant is responsible for the abuse, neglect, or  
 806 abandonment of a child or the abuse, neglect, or exploitation of  
 807 a vulnerable adult.

808        Section 7. Subsection (1) of section 393.0675, Florida  
 809 Statutes, is amended to read:

810        393.0675 Injunctive proceedings authorized.--

811        (1) The agency may institute injunctive proceedings in a  
 812 court of competent jurisdiction to:

813        (a) Enforce the provisions of this chapter or any minimum  
 814 standard, rule, regulation, or order issued or entered pursuant  
 815 thereto; or

816        (b) Terminate the operation of facilities licensed  
 817 pursuant to this chapter when any of the following conditions  
 818 exist:

819        1. Failure by the facility to take preventive or  
 820 corrective measures in accordance with any order of the agency.

821        2. Failure by the facility to abide by any final order of  
 822 the agency once it has become effective and binding.

823        3. Any violation by the facility constituting an emergency  
 824 requiring immediate action as provided in s. 393.0673.

825        4. Failed to comply with the requirements for the

826 comprehensive emergency management plan under this chapter.

827 5. Failed to follow the policies and procedures in the  
 828 comprehensive emergency management plan. However, the agency  
 829 shall consider the facility's efforts to follow the plan and  
 830 circumstances beyond the facility's control that caused the  
 831 failure. In determining the penalty, the agency shall evaluate  
 832 the potential or actual harm to the client's health, safety, and  
 833 security caused by the failure.

834 Section 8. Section 400.102, Florida Statutes, is amended  
 835 to read:

836 400.102 Action by agency against licensee; grounds.—In  
 837 addition to the grounds listed in part II of chapter 408, any of  
 838 the following conditions shall be grounds for action by the  
 839 agency against a licensee:

840 (1) An intentional or negligent act materially affecting  
 841 the health or safety of residents of the facility;

842 (2) Misappropriation or conversion of the property of a  
 843 resident of the facility;

844 (3) Failure to follow the criteria and procedures provided  
 845 under part I of chapter 394 relating to the transportation,  
 846 voluntary admission, and involuntary examination of a nursing  
 847 home resident; ~~or~~

848 (4) Fraudulent altering, defacing, or falsifying any  
 849 medical or nursing home records, or causing or procuring any of  
 850 these offenses to be committed; or



851           (5) Failure to comply with the requirements for the  
 852 comprehensive emergency management plan under this part or s.  
 853 408.821.

854           Section 9. Subsection (3) of section 400.19, Florida  
 855 Statutes, is amended to read:

856           400.19 Right of entry and inspection.—

857           (3) The agency shall every 15 months conduct at least one  
 858 unannounced inspection to determine compliance by the licensee  
 859 with statutes, and with rules promulgated under the provisions  
 860 of those statutes, governing minimum standards of construction,  
 861 requirements for the comprehensive emergency management plan,  
 862 quality and adequacy of care, and rights of residents. The  
 863 survey shall be conducted every 6 months for the next 2-year  
 864 period if the facility has been cited for a class I deficiency,  
 865 has been cited for two or more class II deficiencies arising  
 866 from separate surveys or investigations within a 60-day period,  
 867 or has had three or more substantiated complaints within a 6-  
 868 month period, each resulting in at least one class I or class II  
 869 deficiency. In addition to any other fees or fines in this part,  
 870 the agency shall assess a fine for each facility that is subject  
 871 to the 6-month survey cycle. The fine for the 2-year period  
 872 shall be \$6,000, one-half to be paid at the completion of each  
 873 survey. The agency may adjust this fine by the change in the  
 874 Consumer Price Index, based on the 12 months immediately  
 875 preceding the increase, to cover the cost of the additional

876 surveys. The agency shall verify through subsequent inspection  
 877 that any deficiency identified during inspection is corrected.  
 878 However, the agency may verify the correction of a class III or  
 879 class IV deficiency unrelated to resident rights or resident  
 880 care without reinspecting the facility if adequate written  
 881 documentation has been received from the facility, which  
 882 provides assurance that the deficiency has been corrected. The  
 883 giving or causing to be given of advance notice of such  
 884 unannounced inspections by an employee of the agency to any  
 885 unauthorized person shall constitute cause for suspension of not  
 886 fewer than 5 working days according to the provisions of chapter  
 887 110.

888 Section 10. Paragraph (g) of subsection (2) of section  
 889 400.23, Florida Statutes, is amended to read:

890 400.23 Rules; evaluation and deficiencies; licensure  
 891 status.—

892 (2) Pursuant to the intention of the Legislature, the  
 893 agency, in consultation with the Department of Health and the  
 894 Department of Elderly Affairs, shall adopt and enforce rules to  
 895 implement this part and part II of chapter 408, which shall  
 896 include reasonable and fair criteria in relation to:

897 (g) The preparation and annual update of a comprehensive  
 898 emergency management plan. The agency shall adopt rules  
 899 establishing minimum criteria for the plan after consultation  
 900 with the Division of Emergency Management.

901        1. At a minimum, the rules must provide for plan  
 902 components that address:  
 903        a. Emergency evacuation transportation;  
 904        b. Adequate sheltering arrangements;  
 905        c. Postdisaster activities, including emergency power,  
 906 food, and water;  
 907        d. Postdisaster transportation;  
 908        e. Supplies;  
 909        f. Hardening;  
 910        g. Staffing, including which staff are responsible for  
 911 implementing each element of the plan, how the facility will  
 912 maintain staffing during emergencies, and whether and how the  
 913 facility will accommodate family members of staff;  
 914        h. Emergency equipment;  
 915        i. Individual identification of residents and transfer of  
 916 records; and  
 917        j. Responding to family inquiries.  
 918        2. Facilities must include information in their plans  
 919 about:  
 920        a. Whether the facility is located in an evacuation zone;  
 921        b. Whether the facility intends to shelter in place or  
 922 relocate to another facility;  
 923        c. Whether the facility has an emergency power source;  
 924        d. How the facility will inform residents and the  
 925 resident's designated family member, legal representative, or

926 guardian when the emergency management plan has been activated;  
 927 and

928 e. A working phone number for the facility for use by the  
 929 resident's designated family member, legal representative, or  
 930 guardian to make contact postdisaster.

931 3. A facility must provide to the agency, its residents,  
 932 and the resident's designated family member, legal  
 933 representative, or guardian the information in subparagraph 2.  
 934 and an overview of the facility's comprehensive emergency  
 935 management plan and, if appropriate, a description of the  
 936 evacuation plan. The agency must post this information on its  
 937 consumer information website. Any changes to this information  
 938 must be provided to the agency, the facility's residents, and  
 939 the resident's designated family member, legal representative,  
 940 or guardian within 30 days after the change takes effect.

941 4. The comprehensive emergency management plan is subject  
 942 to review and approval by the local emergency management agency.

943 a. A facility must submit its plan to the local emergency  
 944 management agency within 90 days after licensure or change of  
 945 ownership and must notify the agency within 30 days after  
 946 submission of the plan.

947 b. Such plan must be submitted annually or within 30 days  
 948 after any modification to a previously approved plan.

949 c. During its review, the local emergency management  
 950 agency shall ensure that the following agencies, at a minimum,

951 are given the opportunity to review the plan: the Department of  
 952 Elderly Affairs, the Department of Health, the Agency for Health  
 953 Care Administration, and the Division of Emergency Management.  
 954 Also, appropriate volunteer organizations must be given the  
 955 opportunity to review the plan.

956 d. The local emergency management agency shall complete  
 957 its review within 60 days and either approve the plan or advise  
 958 the facility of necessary revisions. A facility must submit the  
 959 requested revisions to the local emergency management agency  
 960 within 30 days after receiving written notification from the  
 961 local emergency management agency.

962 e. A facility must notify the agency within 30 days after  
 963 approval of its plan by the local emergency management agency.

964 Section 11. Section 400.492, Florida Statutes, is amended  
 965 to read:

966 400.492 Provision of services during an emergency.—Each  
 967 home health agency shall prepare and maintain a comprehensive  
 968 emergency management plan that is consistent with the standards  
 969 adopted by national or state accreditation organizations, the  
 970 requirements set forth in this section, and ~~consistent with the~~  
 971 local special needs plan. The home health agency plan shall be  
 972 submit the plan to the county health department for review and  
 973 approval within 90 days after the home health agency is licensed  
 974 or there is a change of ownership. The plan must be submitted  
 975 ~~updated~~ annually or within 30 days after modification to a

976 previously approved plan. The plan ~~and~~ shall document how the  
 977 agency will continue to provide ~~for continuing~~ home health  
 978 services during an emergency that interrupts patient care or  
 979 services in the patient's private residence, assisted living  
 980 facility, or adult family care home. The plan shall include  
 981 identification of the staff ~~the means by which~~ the home health  
 982 agency will ~~continue to provide~~ in the special needs shelter  
 983 ~~staff~~ to perform the same type and quantity of services for ~~to~~  
 984 their patients who evacuate to special needs shelters as that  
 985 were being provided to those patients before ~~prior to~~  
 986 evacuation. The plan shall describe how the home health agency  
 987 establishes and maintains an effective response to emergencies  
 988 and disasters, including, but not limited to, ~~+~~ notifying staff  
 989 when emergency response measures are initiated; providing for  
 990 communication between staff members, county health departments,  
 991 and local emergency management agencies, including a backup  
 992 system; identifying resources necessary to continue essential  
 993 care or services or referrals to other organizations, subject to  
 994 written agreement; ~~and~~ prioritizing and contacting patients who  
 995 need continued care or services that are provided by agency  
 996 staff or by designated family members or other nonhome health  
 997 agency caregivers; and how services will be provided to patients  
 998 in the event the home health agency cannot continue to provide  
 999 services or ceases operation due to the emergency.

1000 (1) The home health agency shall inform each patient and

1001 the patient's legal representative, designated family member, or  
 1002 guardian of the special needs registry established pursuant to  
 1003 s. 252.355 and how to register the patient. The home health  
 1004 agency shall collect and submit to the local emergency  
 1005 management office a list of registered patients who will need  
 1006 continuing care or services during an emergency. Each ~~patient~~  
 1007 record for a patient who is registered under ~~patients who are~~  
 1008 ~~listed in the registry established pursuant to s. 252.355 shall~~  
 1009 include a description of how care or services will be continued  
 1010 in the event of an emergency or disaster and identify designated  
 1011 staff who will provide such services. The home health agency  
 1012 shall discuss with the patient and the patient's legal  
 1013 representative, designated family member, guardian, or nonhome  
 1014 health agency caregiver and document in his or her record how  
 1015 the home health agency will continue to provide the same type  
 1016 and quantity of services, including staffing, to the patient in  
 1017 his or her private residence, assisted living facility, or adult  
 1018 family care home, or in the special needs shelter if the patient  
 1019 evacuates to the special needs shelter, which were being  
 1020 provided before the emergency or evacuation. The patient's  
 1021 record shall contain ~~the emergency provisions with the patient~~  
 1022 ~~and the patient's caregivers, including where and how the~~  
 1023 ~~patient is to evacuate,~~ procedures for notifying the home health  
 1024 agency in the event that the patient evacuates to a location  
 1025 other than the shelter identified in the patient record, and a

1026 list of medications and equipment which must either accompany  
 1027 the patient or will be needed by the patient in the event of an  
 1028 evacuation.

1029 (2) If the home health agency's patient is a resident of  
 1030 an assisted living facility or an adult family care home, the  
 1031 home health agency must contact the assisted living facility or  
 1032 adult family care home administrator to determine the plans for  
 1033 evacuation and document the resident's plans in his or her  
 1034 record.

1035 (3)~~(2)~~ Each home health agency shall create and maintain a  
 1036 current ~~prioritized~~ list of patients who need continued agency  
 1037 services during an emergency. The list shall include patients to  
 1038 be evacuated to a shelter, in private residences, assisted  
 1039 living facilities, and adult family care homes who require  
 1040 continued home health agency services. The list shall indicate  
 1041 how services will ~~shall~~ be continued in the event of an  
 1042 emergency or disaster for each patient, ~~and~~ if the patient is  
 1043 remaining in the home or is to be transported to a special needs  
 1044 shelter, if the patient is listed in the registry established  
 1045 pursuant to s. 252.355, and shall indicate if the patient is  
 1046 receiving skilled nursing services, and the patient's medication  
 1047 and equipment needs. The list shall be furnished to county  
 1048 health departments and to local emergency management agencies as  
 1049 part of the home health agency's comprehensive emergency  
 1050 management plan, upon request. The list shall be updated



1051 annually or each time a patient is identified as needing  
1052 services.

1053 (4)(3) A home health agency is ~~agencies shall not be~~  
1054 required to continue to provide care to patients in emergency  
1055 situations that are beyond its ~~their~~ control and that make it  
1056 impossible to provide services, such as when roads are  
1057 impassable or when the patient does ~~patients do~~ not go to the  
1058 location specified in the patient's record ~~their patient~~  
1059 records. If a home health agency is unable to continue to  
1060 provide services or ceases operation due to situations beyond  
1061 its control, the home health agency must notify the patient  
1062 whose services will be discontinued during the emergency and the  
1063 local emergency operations center as soon as possible. If the  
1064 home health agency is providing services to residents of  
1065 assisted living facilities and adult family care homes, the home  
1066 health agency must make arrangements for continuation of  
1067 services and notify the local emergency operations center of  
1068 such arrangements. Home health agencies shall ~~may~~ establish  
1069 links to local emergency operations centers to determine a  
1070 mechanism by which to approach specific areas within a disaster  
1071 area in order for the agency to reach its clients. When a home  
1072 health agency is unable to continue providing services during an  
1073 emergency, the home health agency ~~agencies~~ shall document its  
1074 efforts ~~demonstrate a good faith effort~~ to comply with the  
1075 requirements of its comprehensive emergency management plan and

1076 this subsection, including ~~by documenting~~ attempts by ~~of~~ staff  
 1077 to contact the patient and the patient's designated family  
 1078 member, legal representative, guardian, or nonhome health agency  
 1079 caregiver, if applicable; contact the resident's assisted living  
 1080 facility or adult family care home, if applicable; contact the  
 1081 local emergency operations centers to obtain assistance in  
 1082 contacting patients; and contact other agencies that may be able  
 1083 to provide temporary services. The home health agency must also  
 1084 document attempts by staff to follow procedures outlined in the  
 1085 home health agency's comprehensive emergency management plan,  
 1086 and in ~~by~~ the patient's record,  
 1087 which support a finding that the provision of continuing care has been attempted for those  
 1088 patients who have been identified as needing care by the home  
 1089 health agency in his or her private residence, assisted living  
 1090 facility, or adult family care home and the patients who are  
 1091 registered under s. 252.355, in the event of an emergency or  
 1092 disaster under subsection (1). The agency shall review the  
 1093 documentation required by this section during any inspection  
 1094 conducted under part II of this chapter to determine the home  
 1095 health agency's compliance with its emergency plan.

1096 (5)(4) Notwithstanding the provisions of s. 400.464(2) or  
 1097 any other provision of law to the contrary, a home health agency  
 1098 may provide services in a special needs shelter located in any  
 1099 county.

1100 Section 12. Subsection (10) of section 400.497, Florida

1101 Statutes, is amended to read:

1102 400.497 Rules establishing minimum standards.—The agency  
 1103 shall adopt, publish, and enforce rules to implement part II of  
 1104 chapter 408 and this part, including, as applicable, ss. 400.506  
 1105 and 400.509, which must provide reasonable and fair minimum  
 1106 standards relating to:

1107 (10) Preparation of and compliance with a comprehensive  
 1108 emergency management plan pursuant to s. 400.492.

1109 (a) The Agency for Health Care Administration shall adopt  
 1110 rules establishing minimum criteria for the plan and plan  
 1111 updates, with the concurrence of the Department of Health and in  
 1112 consultation with the Division of Emergency Management.

1113 (b) The rules must address the requirements in s. 400.492.  
 1114 In addition, the rules shall provide for the maintenance of  
 1115 patient-specific medication lists that can accompany patients  
 1116 who are transported from their private residence, assisted  
 1117 living facility, or adult family care home ~~homes~~.

1118 (c) The plan is subject to review and approval by the  
 1119 county health department. During its review, the county health  
 1120 department shall contact state and local health and medical  
 1121 stakeholders when necessary. The county health department shall  
 1122 complete its review to ensure that the plan is in accordance  
 1123 with the criteria in the Agency for Health Care Administration  
 1124 rules within 90 days after the home health agency is licensed or  
 1125 within 90 days after receipt of the annual plan and shall

1126 | approve the plan or advise the home health agency of necessary  
 1127 | revisions. If the home health agency fails to submit a plan or  
 1128 | fails to submit the requested information or revisions to the  
 1129 | county health department within 30 days after written  
 1130 | notification from the county health department, the county  
 1131 | health department shall, within 10 days after the home health  
 1132 | agency's failure to comply, notify the Agency for Health Care  
 1133 | Administration. The agency shall notify the home health agency  
 1134 | that its failure constitutes a deficiency, subject to a fine of  
 1135 | \$5,000 per occurrence. If either the initial or annual ~~the~~ plan  
 1136 | is not submitted, information is not provided, or revisions are  
 1137 | not made as requested, the agency may impose the fine. If the  
 1138 | fine is not imposed against the home health agency, the agency  
 1139 | must document in the home health agency's file the reason the  
 1140 | fine was not imposed.

1141 | (d) For any home health agency that operates in more than  
 1142 | one county, the home health agency must submit its plan to the  
 1143 | Department of Health. The department shall review the plan,  
 1144 | after consulting with state and local health and medical  
 1145 | stakeholders when necessary. The department shall complete its  
 1146 | review within 90 days after the home health agency is licensed  
 1147 | in the county or within 90 days after receipt of the annual plan  
 1148 | and shall approve the plan or advise the home health agency of  
 1149 | necessary revisions. The department shall make every effort to  
 1150 | avoid imposing differing requirements on a home health agency

1151 that operates in more than one county as a result of differing  
 1152 or conflicting comprehensive plan requirements of the counties  
 1153 in which the home health agency operates. If the home health  
 1154 agency fails to submit a plan or fails to submit requested  
 1155 information or revisions to the Department of Health within 30  
 1156 days after written notification from the department, the  
 1157 department must notify the Agency for Health Care Administration  
 1158 within 10 days after the home health agency's failure to comply.  
 1159 The agency shall notify the home health agency that its failure  
 1160 constitutes a deficiency, subject to a fine of \$5,000 per  
 1161 occurrence. If the plan is not submitted, information is not  
 1162 provided, or revisions are not made as requested, the agency may  
 1163 impose the fine. If the fine is not imposed against the home  
 1164 health agency, the agency must document in the home health  
 1165 agency's file the reason the fine was not imposed.

- 1166 (e) The requirements in this subsection do not apply to:
- 1167 1. A facility that is certified under chapter 651 and has
  - 1168 a licensed home health agency used exclusively by residents of
  - 1169 the facility; or
  - 1170 2. A retirement community that consists of residential
  - 1171 units for independent living and either a licensed nursing home
  - 1172 or an assisted living facility, and has a licensed home health
  - 1173 agency used exclusively by the residents of the retirement
  - 1174 community, provided the comprehensive emergency management plan
  - 1175 for the facility or retirement community provides for continuous

1176 care of all residents with special needs during an emergency.

1177 Section 13. Subsection (12) of section 400.506, Florida  
 1178 Statutes, is amended to read:

1179 400.506 Licensure of nurse registries; requirements;  
 1180 penalties.—

1181 (12) Each nurse registry shall prepare and maintain a  
 1182 comprehensive emergency management plan that is consistent with  
 1183 the criteria in this subsection and with the local special needs  
 1184 plan. The plan shall be submitted to the county health  
 1185 department for review and approval within 90 days after the  
 1186 nurse registry is licensed or there is a change of ownership.  
 1187 The plan must be updated annually or within 30 days after  
 1188 modification to a previously approved plan. The plan shall  
 1189 document how ~~include the means by which~~ the nurse registry will  
 1190 continue to provide the same type and quantity of services to  
 1191 each patient who remains in his or her private residence,  
 1192 assisted living facility, or adult family care home or who  
 1193 evacuates ~~its patients who evacuate~~ to special needs shelters  
 1194 which were being provided to ~~those patients~~ before the emergency  
 1195 ~~prior to evacuation.~~ The plan shall specify how the nurse  
 1196 registry shall provide staff and continuous services to each  
 1197 such patient ~~facilitate the provision of continuous care by~~  
 1198 ~~persons referred for contract to persons who are registered~~  
 1199 ~~pursuant to s. 252.355 during an emergency that interrupts the~~  
 1200 ~~provision of care or services in private residences.~~ Nurse

1201 registries shall ~~may~~ establish links to local emergency  
 1202 operations centers to determine a mechanism by which to approach  
 1203 specific areas within a disaster area in order for a provider to  
 1204 reach its clients. A nurse registry shall document its efforts  
 1205 ~~registries shall demonstrate a good faith effort~~ to comply with  
 1206 the requirements of its comprehensive emergency management plan  
 1207 and this subsection in the patient's records, including by  
 1208 ~~documenting~~ attempts by ~~of~~ staff to contact the patient and the  
 1209 patient's designated family member, legal representative,  
 1210 guardian, or other person who provides care; contact the  
 1211 resident's assisted living facility or adult family care home,  
 1212 if applicable; contact the local emergency operations centers to  
 1213 obtain assistance in contacting patients; and contact other  
 1214 agencies that may be able to provide temporary services. The  
 1215 nurse registry must also document attempts by staff to follow  
 1216 procedures outlined in the nurse registry's comprehensive  
 1217 emergency management plan which support a finding that the  
 1218 provision of continuing care has been attempted for patients  
 1219 identified as needing care by the nurse registry either in home  
 1220 or in a special needs shelter ~~and registered under s. 252.355~~ in  
 1221 the event of an emergency under this subsection.

1222 (a) All persons referred for contract who care for  
 1223 patients ~~persons~~ registered pursuant to s. 252.355 must include  
 1224 in the patient record a description of how the nurse registry  
 1225 will continue to provide the same type and quantity of services

1226 to the patient, including identification of staff to provide  
 1227 such services, ~~care will be continued~~ during a disaster or  
 1228 emergency that interrupts the provision of care ~~in the patient's~~  
 1229 ~~home~~. It shall be the responsibility of the person referred for  
 1230 contract to ensure that continuous care is provided.

1231 (b) A ~~Each~~ nurse registry shall create and maintain a  
 1232 current ~~prioritized~~ list of patients in private residences,  
 1233 assisted living facilities, or adult family care homes who are  
 1234 registered pursuant to s. 252.355 and are under the care of  
 1235 persons referred for contract and who need continued services  
 1236 during an emergency. This list shall indicate, for each patient,  
 1237 if the client is to be transported to a special needs shelter  
 1238 and if the patient is receiving skilled nursing services. A  
 1239 nurse registry ~~registries~~ shall make this list available to  
 1240 county health departments and to local emergency management  
 1241 agencies as part of its comprehensive emergency management plan  
 1242 ~~upon request~~. The list shall be updated annually or each time a  
 1243 patient is identified as needing services.

1244 (c) A ~~Each~~ person referred for contract who is caring for  
 1245 a patient who is registered pursuant to s. 252.355 shall provide  
 1246 a list of the patient's medication and equipment needs to the  
 1247 nurse registry. Each person referred for contract shall make  
 1248 this information available to county health departments and to  
 1249 local emergency management agencies ~~upon request~~.

1250 (d) A ~~Each~~ person referred for contract is ~~shall~~ not be



1251 required to continue to provide care to patients in emergency  
 1252 situations that are beyond the person's control and that make it  
 1253 impossible to provide services, such as when roads are  
 1254 impassable or when patients do not go to the location specified  
 1255 in their patient records. It is the responsibility of the nurse  
 1256 registry to contact another person available for referral to  
 1257 provide care for the patient. If the nurse registry is unable to  
 1258 continue to provide services or ceases operation due to  
 1259 situations beyond its control, the nurse registry must notify  
 1260 the patient whose services will be discontinued during the  
 1261 emergency and the local emergency management operations center  
 1262 as soon as possible. If the nurse registry is providing services  
 1263 to residents of assisted living facilities or adult family care  
 1264 homes, it must make arrangements for continuation of services  
 1265 and notify the local emergency operations center of such  
 1266 arrangement. When a nurse registry is unable to continue to  
 1267 provide services during the emergency, the nurse registry shall  
 1268 document its efforts to comply with the requirements of its  
 1269 comprehensive emergency management plan and this subsection by  
 1270 documenting attempts of the registry or its staff to contact the  
 1271 patient and the patient's designated family member, legal  
 1272 representative, guardian, or other caregiver, if applicable;  
 1273 contact the resident's assisted living facility or adult family  
 1274 care home, if applicable; contact the local emergency operations  
 1275 centers to obtain assistance in contacting patients and contact

1276 other agencies that may be able to provide temporary services.  
 1277 The agency shall review the documentation required by this  
 1278 section during any inspection conducted pursuant to part II of  
 1279 this chapter to determine the nurse registry's compliance with  
 1280 its emergency plan.

1281 (e) The comprehensive emergency management plan required  
 1282 by this subsection is subject to review and approval by the  
 1283 county health department. During its review, the county health  
 1284 department shall contact state and local health and medical  
 1285 stakeholders when necessary. The county health department shall  
 1286 complete its review to ensure that the plan complies with the  
 1287 criteria in this section and the Agency for Health Care  
 1288 Administration rules within 90 days after the nurse registry is  
 1289 licensed or within 90 days after receipt of the annual plan and  
 1290 shall either approve the plan or advise the nurse registry of  
 1291 necessary revisions. If a nurse registry fails to submit a plan  
 1292 or fails to submit requested information or revisions to the  
 1293 county health department within 30 days after written  
 1294 notification from the county health department, the county  
 1295 health department shall, within 10 days after the nurse  
 1296 registry's failure to comply, notify the Agency for Health Care  
 1297 Administration. The agency shall notify the nurse registry that  
 1298 its failure constitutes a deficiency, subject to a fine of  
 1299 \$5,000 per occurrence. If either the initial or annual plan is  
 1300 not submitted, information is not provided, or revisions are not

1301 made as requested, the agency may impose the fine. If the fine  
 1302 is not imposed against the nurse registry, the agency must  
 1303 document in the nurse registry's file the reason the fine was  
 1304 not imposed.

1305 (f) The Agency for Health Care Administration shall adopt  
 1306 rules establishing minimum criteria for the comprehensive  
 1307 emergency management plan and plan updates required by this  
 1308 subsection, with the concurrence of the Department of Health and  
 1309 in consultation with the Division of Emergency Management.

1310 Section 14. Subsection (3) of section 408.813, Florida  
 1311 Statutes, is amended to read:

1312 408.813 Administrative fines; violations.—As a penalty for  
 1313 any violation of this part, authorizing statutes, or applicable  
 1314 rules, the agency may impose an administrative fine.

1315 (3) The agency may impose an administrative fine for a  
 1316 violation that is not designated as a class I, class II, class  
 1317 III, or class IV violation. Unless otherwise specified by law,  
 1318 the amount of the fine may not exceed \$500 for each violation.  
 1319 Unclassified violations include:

- 1320 (a) Violating any term or condition of a license.
- 1321 (b) Violating any provision of this part, authorizing  
 1322 statutes, or applicable rules.
- 1323 (c) Exceeding licensed capacity.
- 1324 (d) Providing services beyond the scope of the license.
- 1325 (e) Violating a moratorium imposed pursuant to s. 408.814.

1326 (f) Failure to have an approved comprehensive emergency  
 1327 management plan as required by authorizing statutes.

1328 (g) Failure to enter into and maintain agreements required  
 1329 by s. 252.355(4)(b) by July 1, 2019.

1330 Section 15. Section 408.821, Florida Statutes, is amended  
 1331 to read:

1332 408.821 Emergency management planning; emergency  
 1333 operations; inactive license.—

1334 (1) A licensee required by authorizing statutes to have an  
 1335 emergency operations plan must designate a safety liaison to  
 1336 serve as the primary contact for emergency operations.

1337 (2) A licensee required by authorizing statutes to have an  
 1338 emergency operations plan must conduct annual staff training on  
 1339 the policies and procedures for implementing the emergency  
 1340 operations plan within 2 months before the start of hurricane  
 1341 season, including testing of the implementation of the plan,  
 1342 either in a planned drill or in response to a disaster or an  
 1343 emergency. New staff must receive such training within 30 days  
 1344 after commencement of employment. Documentation of the training  
 1345 and testing, including evaluation of the outcome of the training  
 1346 and testing and modifications to the plan to address  
 1347 deficiencies must be provided to the agency and the local  
 1348 emergency management agency within 30 days after the training  
 1349 and testing is finished. The evaluation must include a survey of  
 1350 staff to determine their familiarity with the plan.

1351        (3) Failure to follow the policies and procedures in the  
 1352 licensee's emergency operations plan is grounds for action by  
 1353 the agency against a licensee. The agency shall consider the  
 1354 licensee's efforts to follow the plan and circumstances beyond  
 1355 the licensee's control that caused the failure. In determining  
 1356 the penalty, the agency shall evaluate the potential or actual  
 1357 harm to the client's health, safety, and security caused by the  
 1358 failure.

1359        (4)~~(2)~~ An entity subject to this part may temporarily  
 1360 exceed its licensed capacity to act as a receiving provider in  
 1361 accordance with an approved emergency operations plan for up to  
 1362 15 days. While in an overcapacity status, each provider must  
 1363 furnish or arrange for appropriate care and services to all  
 1364 clients. In addition, the agency may approve requests for  
 1365 overcapacity in excess of 15 days, which approvals may be based  
 1366 upon satisfactory justification and need as provided by the  
 1367 receiving and sending providers.

1368        (5)~~(3)~~ (a) An inactive license may be issued to a licensee  
 1369 subject to this section when the provider is located in a  
 1370 geographic area in which a state of emergency was declared by  
 1371 the Governor if the provider:

- 1372            1. Suffered damage to its operation during the state of
- 1373 emergency.
- 1374            2. Is currently licensed.
- 1375            3. Does not have a provisional license.

1376 4. Will be temporarily unable to provide services but is  
 1377 reasonably expected to resume services within 12 months.

1378 (b) An inactive license may be issued for a period not to  
 1379 exceed 12 months but may be renewed by the agency for up to 12  
 1380 additional months upon demonstration to the agency of progress  
 1381 toward reopening. A request by a licensee for an inactive  
 1382 license or to extend the previously approved inactive period  
 1383 must be submitted in writing to the agency, accompanied by  
 1384 written justification for the inactive license, which states the  
 1385 beginning and ending dates of inactivity and includes a plan for  
 1386 the transfer of any clients to other providers and appropriate  
 1387 licensure fees. Upon agency approval, the licensee shall notify  
 1388 clients of any necessary discharge or transfer as required by  
 1389 authorizing statutes or applicable rules. The beginning of the  
 1390 inactive licensure period shall be the date the provider ceases  
 1391 operations. The end of the inactive period shall become the  
 1392 license expiration date, and all licensure fees must be current,  
 1393 must be paid in full, and may be prorated. Reactivation of an  
 1394 inactive license requires the prior approval by the agency of a  
 1395 renewal application, including payment of licensure fees and  
 1396 agency inspections indicating compliance with all requirements  
 1397 of this part and applicable rules and statutes.

1398 (6)~~(4)~~ The agency may adopt rules relating to emergency  
 1399 management planning, communications, and operations. Licensees  
 1400 providing residential or inpatient services must utilize an

1401 online database established and maintained ~~approved~~ by the  
 1402 agency to report information to the agency regarding the  
 1403 provider's emergency status, planning, or operations. The agency  
 1404 may adopt rules requiring other providers to use the online  
 1405 database for reporting the provider's emergency status,  
 1406 planning, or operations.

1407 Section 16. Paragraph (1) is added to subsection (1) of  
 1408 section 429.14, Florida Statutes, to read:

1409 429.14 Administrative penalties.—

1410 (1) In addition to the requirements of part II of chapter  
 1411 408, the agency may deny, revoke, and suspend any license issued  
 1412 under this part and impose an administrative fine in the manner  
 1413 provided in chapter 120 against a licensee for a violation of  
 1414 any provision of this part, part II of chapter 408, or  
 1415 applicable rules, or for any of the following actions by a  
 1416 licensee, any person subject to level 2 background screening  
 1417 under s. 408.809, or any facility staff:

1418 (1) Failure to comply with the requirements for the  
 1419 comprehensive emergency management plan under this part or s.  
 1420 408.821.

1421 Section 17. Subsection (3) of section 429.28, Florida  
 1422 Statutes, is amended to read:

1423 429.28 Resident bill of rights.—

1424 (3)(a) The agency shall conduct a survey to determine  
 1425 general compliance with facility standards, requirements for the

1426 comprehensive emergency management plan, and ~~compliance with~~  
 1427 residents' rights as a prerequisite to initial licensure or  
 1428 licensure renewal. The agency shall adopt rules for uniform  
 1429 standards and criteria that will be used to determine compliance  
 1430 with facility standards, requirements for the comprehensive  
 1431 emergency management plan, and ~~compliance with~~ residents'  
 1432 rights.

1433 (b) In order to determine whether the facility is  
 1434 adequately protecting residents' rights, the biennial survey  
 1435 shall include private informal conversations with a sample of  
 1436 residents and consultation with the ombudsman council in the  
 1437 district in which the facility is located to discuss residents'  
 1438 experiences within the facility.

1439 (c) During any calendar year in which no survey is  
 1440 conducted, the agency shall conduct at least one monitoring  
 1441 visit of each facility cited in the previous year for a class I  
 1442 or class II violation, or more than three uncorrected class III  
 1443 violations.

1444 (d) The agency may conduct periodic followup inspections  
 1445 as necessary to monitor the compliance of facilities with a  
 1446 history of any class I, class II, or class III violations that  
 1447 threaten the health, safety, or security of residents.

1448 (e) The agency may conduct complaint investigations as  
 1449 warranted to investigate any allegations of noncompliance with  
 1450 requirements required under this part or rules adopted under



1451 this part.

1452 (f) The agency shall conduct periodic followup inspections  
 1453 as necessary to monitor the compliance of facilities with a  
 1454 history of any violations related to the requirements for the  
 1455 comprehensive emergency management plan.

1456 Section 18. Paragraph (b) of subsection (1) of section  
 1457 429.41, Florida Statutes, is amended to read:

1458 429.41 Rules establishing standards.—

1459 (1) It is the intent of the Legislature that rules  
 1460 published and enforced pursuant to this section shall include  
 1461 criteria by which a reasonable and consistent quality of  
 1462 resident care and quality of life may be ensured and the results  
 1463 of such resident care may be demonstrated. Such rules shall also  
 1464 ensure a safe and sanitary environment that is residential and  
 1465 noninstitutional in design or nature. It is further intended  
 1466 that reasonable efforts be made to accommodate the needs and  
 1467 preferences of residents to enhance the quality of life in a  
 1468 facility. Uniform firesafety standards for assisted living  
 1469 facilities shall be established by the State Fire Marshal  
 1470 pursuant to s. 633.206. The agency, in consultation with the  
 1471 department, may adopt rules to administer the requirements of  
 1472 part II of chapter 408. In order to provide safe and sanitary  
 1473 facilities and the highest quality of resident care  
 1474 accommodating the needs and preferences of residents, the  
 1475 department, in consultation with the agency, the Department of

1476 Children and Families, and the Department of Health, shall adopt  
 1477 rules, policies, and procedures to administer this part, which  
 1478 must include reasonable and fair minimum standards in relation  
 1479 to:

1480 (b) The preparation and annual update of a comprehensive  
 1481 emergency management plan. Such standards must be included in  
 1482 the rules adopted by the department after consultation with the  
 1483 Division of Emergency Management.

1484 1. At a minimum, the rules must provide for plan  
 1485 components that address:

1486 a. Emergency evacuation transportation;

1487 b. Adequate sheltering arrangements;

1488 c. Postdisaster activities, including provision of  
 1489 emergency power, food, and water;

1490 d. Postdisaster transportation;

1491 e. Supplies;

1492 f. Hardening;

1493 g. Staffing, including which staff are responsible for  
 1494 implementing each element of the plan, how the facility will  
 1495 maintain staffing during emergencies, and whether and how the  
 1496 facility will accommodate family members of staff;

1497 h. Emergency equipment;

1498 i. Individual identification of residents and transfer of  
 1499 records;

1500 j. Communication with families; and

1501        k. Responses to family inquiries.

1502        2. Facilities must include information in their plans

1503 about:

1504        a. Whether the facility is located in an evacuation zone;

1505        b. Whether the facility intends to shelter in place or

1506 relocate to another facility;

1507        c. Whether the facility has an emergency power source;

1508        d. How the facility will inform residents and the

1509 resident's designated family member, legal representative, or

1510 guardian when the emergency management plan has been activated;

1511 and

1512        e. A working phone number for the facility for use by the

1513 resident's designated family member, legal representative, or

1514 guardian to make contact postdisaster.

1515        3. A facility must provide to the agency, its residents,

1516 and the resident's designated family member, legal

1517 representative, or guardian the information in subparagraph 2.

1518 and an overview of the facility's comprehensive emergency

1519 management plan and, if appropriate, a description of the

1520 evacuation plan. The agency must post this information on its

1521 consumer information website. Any changes to this information

1522 must be provided to the agency, the facility's residents, and

1523 the resident's designated family member, legal representative,

1524 or guardian within 30 days after the change takes effect.

1525        4. The comprehensive emergency management plan is subject

1526 to review and approval by the local emergency management agency.

1527 a. A facility must submit its plan to the local emergency  
 1528 management agency within 90 days after licensure and change of  
 1529 ownership and must notify the agency within 30 days after  
 1530 submission of the plan.

1531 b. Such plan must be submitted annually or within 30 days  
 1532 after any modification to a previously approved plan.

1533 c. During its review, the local emergency management  
 1534 agency shall ensure that the following agencies, at a minimum,  
 1535 are given the opportunity to review the plan: the Department of  
 1536 Elderly Affairs, the Department of Health, the Agency for Health  
 1537 Care Administration, and the Division of Emergency Management.  
 1538 Also, appropriate volunteer organizations must be given the  
 1539 opportunity to review the plan.

1540 d. The local emergency management agency shall complete  
 1541 its review within 60 days and either approve the plan or advise  
 1542 the facility of necessary revisions. A facility must submit the  
 1543 requested revisions to the local emergency management agency  
 1544 within 30 days after receiving written notification from the  
 1545 local emergency management agency.

1546 e. A facility must notify the agency within 30 days after  
 1547 approval of its plan by the local emergency management agency.

1548 Section 19. This act shall take effect July 1, 2018.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7085 (2018)

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                                    \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Massullo offered the following:

3  
4       **Amendment (with title amendment)**

5       Remove everything after the enacting clause and insert:

6       Section 1. Section 252.355, Florida Statutes, is amended  
7 to read:

8       252.355 Registry of persons with special needs; notice;  
9 registration program.-

10       (1) In order to meet the special needs of persons who  
11 would need assistance during evacuations and sheltering because  
12 of physical, mental, cognitive impairment, or sensory  
13 disabilities, the Department of Health ~~division~~, in coordination  
14 with the division and each local emergency management agency in  
15 the state, shall maintain a statewide registry of persons with  
16 special needs ~~located within the jurisdiction of the local~~

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17 ~~agency. The registration shall identify those persons in need of~~  
18 ~~assistance and plan for resource allocation to meet those~~  
19 ~~identified needs.~~

20 ~~(2) In order to ensure that all persons with special needs~~  
21 ~~may register, The Department of Health division shall develop~~  
22 ~~and maintain a statewide special needs shelter registration~~  
23 ~~program. The registration program must be developed by January~~  
24 ~~1, 2015, and fully implemented by March 1, 2015.~~

25 (a) The statewide special needs shelter registration  
26 program shall:

27 1. Identify those persons in need of assistance and plan  
28 for resource allocation to meet those identified needs.

29 2. Include, at a minimum, a uniform registration form and  
30 a database for uploading and storing submitted registration  
31 forms that may be accessed by the Department of Health, the  
32 division, and local emergency management agencies.

33 (b) The registration program must be developed by January  
34 1, 2019, and fully implemented by March 1, 2019.

35 ~~(a) The registration program shall include, at a minimum,~~  
36 ~~a uniform electronic registration form and a database for~~  
37 ~~uploading and storing submitted registration forms that may be~~  
38 ~~accessed by the appropriate local emergency management agency.~~  
39 ~~The link to the registration form shall be easily accessible on~~  
40 ~~each local emergency management agency's website. Upon receipt~~  
41 ~~of a paper registration form, the local emergency management~~

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42 ~~agency shall enter the person's registration information into~~  
43 ~~the database.~~

44 (3) The Department of Health shall develop the uniform  
45 registration form based upon recommendations of the Special  
46 Needs Shelter Registry Work Group.

47 (a) The Special Needs Shelter Registry Work Group is  
48 created within the Department of Health for the purpose of  
49 making recommendations for the development of the uniform  
50 registration form. The Department of Health shall use existing  
51 and available resources to administer and support the activities  
52 of the work group. Members of the work group shall serve without  
53 compensation and are not entitled to reimbursement for per diem  
54 or travel expenses. Meetings may be conducted in person, by  
55 teleconference, or by other electronic means.

56 (b) The work group shall consist of 12 members:

57 1. The State Surgeon General or a designee, who shall  
58 serve as the chair of the work group.

59 2. The Director of the Division of Emergency Management or  
60 a designee.

61 3. The Secretary of the Agency for Health Care  
62 Administration or a designee.

63 4. The Secretary of the Department of Children and  
64 Families or a designee.

65 5. The Secretary of the Department of Elder Affairs or a  
66 designee.

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67       6. The Director of the Agency for Persons with  
68 Disabilities or a designee.

69       7. Five representatives of local emergency management  
70 agencies appointed by the Florida Association of Counties.

71       8. The Chief Executive Officer of the Arc of Florida or a  
72 designee.

73       (c) The Special Needs Shelter Registry Work Group shall  
74 submit its recommendations to the Department of Health on or  
75 before October 31, 2018.

76       (d) This subsection expires January 1, 2019.

77       (4) Each local emergency management agency shall  
78 exclusively use the statewide special needs shelter registry to  
79 register individuals for special needs shelters and may not use  
80 local special needs registries. Each local emergency management  
81 agency, in coordination with its local county health department,  
82 shall establish eligibility requirements for sheltering in a  
83 local special needs shelter and publish these requirements and a  
84 link to the uniform registration form for the statewide special  
85 needs shelter registry on its website. Each local emergency  
86 management agency shall also make paper registration forms  
87 available and establish procedures for submitting a paper  
88 registration form and entering into the statewide special needs  
89 shelter registry.

90       (a) A local emergency management agency shall notify a  
91 registrant in writing within 30 days after submission of a



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92 registration form whether he or she is eligible to shelter in a  
93 local special needs shelter and designate his or her eligibility  
94 status in the registry.

95 (b) The Department of Health shall assist local emergency  
96 management agencies with developing alternative sheltering  
97 options for any ineligible registrant. Each local emergency  
98 management agency and each general hospital licensed under  
99 chapter 395 located within the local emergency management  
100 agency's jurisdiction shall enter into agreements to shelter  
101 individuals during a declared emergency, whose medical  
102 complexity or reliance on life support devices or other medical  
103 equipment exceeds the capabilities of special needs shelters. A  
104 local emergency management agency may coordinate with the Agency  
105 for Health Care Administration to facilitate placement in a  
106 health care facility for any individual who registers during a  
107 declared emergency or disaster and is deemed ineligible to  
108 shelter in a local special needs shelter.

109 (5) The Department of Health, in conjunction with the  
110 division and local emergency management agencies, shall be the  
111 designated lead agency responsible for community education and  
112 outreach to the public, including special needs clients,  
113 regarding registration and special needs shelters and general  
114 information regarding shelter stays. The Department of Health  
115 shall develop a brochure that provides information regarding  
116 special needs shelter registration procedures. The Department of

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7085 (2018)

Amendment No. 1

117 Health, the division, and each local management agency shall  
118 make the brochure easily accessible on their websites.

119 ~~(6)(b)~~ To assist in identifying persons with special  
120 needs, home health agencies, hospices, nurse registries, home  
121 medical equipment providers, the Department of Children and  
122 Families, the Department of Health, the Agency for Health Care  
123 Administration, the Department of Education, the Agency for  
124 Persons with Disabilities, the Department of Elderly Affairs,  
125 and memory disorder clinics shall, and any physician or  
126 physician assistant licensed under chapter 458 or chapter 459,  
127 any advanced registered nurse practitioner licensed under  
128 chapter 464, and any pharmacy licensed under chapter 465 may,  
129 annually provide registration information to all of their  
130 special needs clients or their caregivers. ~~The division shall~~  
131 ~~develop a brochure that provides information regarding special~~  
132 ~~needs shelter registration procedures. The brochure must be~~  
133 ~~easily accessible on the division's website.~~ All appropriate  
134 agencies and community-based service providers, including aging  
135 and disability resource centers, memory disorder clinics, home  
136 health care providers, hospices, nurse registries, and home  
137 medical equipment providers, shall, and any physician or  
138 physician assistant licensed under chapter 458 or chapter 459  
139 and any advanced registered nurse practitioner licensed under  
140 chapter 464 may, assist emergency management agencies by  
141 annually registering persons with special needs for special

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142 needs shelters, collecting registration information for persons  
143 with special needs as part of the program intake process, and  
144 establishing programs to educate clients about the registration  
145 process and disaster preparedness safety procedures. A client of  
146 a state-funded or federally funded service program who has a  
147 physical, mental, or cognitive impairment or sensory disability  
148 and who needs assistance in evacuating, or when in a shelter,  
149 must register as a person with special needs. The registration  
150 program shall give persons with special needs the option of  
151 preauthorizing emergency response personnel to enter their homes  
152 during search and rescue operations if necessary to ensure their  
153 safety and welfare following disasters.

154 ~~(c) The division shall be the designated lead agency~~  
155 ~~responsible for community education and outreach to the public,~~  
156 ~~including special needs clients, regarding registration and~~  
157 ~~special needs shelters and general information regarding shelter~~  
158 ~~stays.~~

159 (7) ~~(d)~~ On or before May 31 of each year, each electric  
160 utility in the state shall annually notify residential customers  
161 in its service area of the availability of the registration  
162 program available through their local emergency management  
163 agency by:

164 (a) ~~1-~~ An initial notification upon the activation of new  
165 residential service with the electric utility, followed by one  
166 annual notification between January 1 and May 31; or

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167        (b)2- Two separate annual notifications between January 1  
168 and May 31.

169

170 The notification may be made by any available means, including,  
171 but not limited to, written, electronic, or verbal notification,  
172 and may be made concurrently with any other notification to  
173 residential customers required by law or rule.

174        (8)(3) A local emergency management agency shall allow a  
175 person with special needs ~~must be allowed~~ to bring his or her  
176 service animal into a special needs shelter in accordance with  
177 s. 413.08.

178        (9)(4) All records, data, information, correspondence, and  
179 communications relating to the registration of persons with  
180 special needs as provided in subsection (1) are confidential and  
181 exempt from s. 119.07(1), except that such information shall be  
182 available to other emergency response agencies, as determined by  
183 the local emergency management director, and the Department of  
184 Health. Local law enforcement agencies shall be given complete  
185 shelter roster information upon request.

186        Section 2. Section 252.3591, Florida Statutes, is created  
187 to read:

188        252.3591 Ensuring access to care.-

189        (1) Each local emergency management agency shall establish  
190 a procedure for authorizing employees of a facility licensed  
191 under chapter 393 or subject to part II of chapter 408 to enter

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192 and remain in a curfew area during a declared emergency or  
193 disaster.

194 (2) Notwithstanding any curfew, a person authorized under  
195 subsection (1) may enter or remain in a curfew area for the  
196 limited purpose of implementing a licensed facility's emergency  
197 management plan and providing services authorized under chapter  
198 393 or chapter 408.

199 (3) This section does not prohibit a law enforcement  
200 officer from specifying the permissible route of ingress or  
201 egress for a person authorized under this section.

202 Section 3. Section 381.0303, Florida Statutes, is amended  
203 to read:

204 381.0303 Special needs shelters.—

205 (1) PURPOSE.—The purpose of this section is to provide for  
206 the operation and closure of special needs shelters and to  
207 designate the Department of Health, through its county health  
208 departments, as the lead agency for coordination of the  
209 recruitment of health care practitioners, as defined in s.  
210 456.001(4), to staff special needs shelters in times of  
211 emergency or disaster and to provide resources to the department  
212 to carry out this responsibility. However, nothing in this  
213 section prohibits a county health department from entering into  
214 an agreement with a local emergency management agency to assume  
215 the lead responsibility for recruiting health care  
216 practitioners.

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217 (2) SPECIAL NEEDS SHELTER PLAN; STAFFING; STATE AGENCY  
218 ASSISTANCE. ~~If funds have been appropriated to support disaster~~  
219 ~~coordinator positions in county health departments.~~

220 (a) The department shall assume lead responsibility for  
221 the coordination of local medical and health care providers, the  
222 American Red Cross, and other interested parties in developing a  
223 plan for the staffing and medical management of special needs  
224 shelters. The local Children's Medical Services offices shall  
225 assume lead responsibility for the coordination of local medical  
226 and health care providers, the American Red Cross, and other  
227 interested parties in developing a plan for the staffing and  
228 medical management of pediatric special needs shelters. Plans  
229 must conform to the local comprehensive emergency management  
230 plan.

231 (b) County health departments shall, in conjunction with  
232 the local emergency management agencies, have the lead  
233 responsibility for coordination of the recruitment of health  
234 care practitioners, including faculty and students from state  
235 university and college health care programs, to staff local  
236 special needs shelters. ~~County health departments shall assign~~  
237 ~~their employees to work in special needs shelters when those~~  
238 ~~employees are needed to protect the health and safety of persons~~  
239 ~~with special needs. County governments shall assist the~~  
240 ~~department with nonmedical staffing and the operation of special~~  
241 ~~needs shelters. The local health department and emergency~~

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242 ~~management agency shall coordinate these efforts to ensure~~  
243 ~~appropriate staffing in special needs shelters, including a~~  
244 ~~staff member who is familiar with the needs of persons with~~  
245 ~~Alzheimer's disease.~~

246 (c) State agencies, universities, and colleges shall  
247 authorize employees that are health care practitioners as  
248 defined in s. 456.001(4) to staff local special needs shelters,  
249 unless such employees have a designated emergency duty for their  
250 agency, university, or college. Each state agency, university,  
251 and college shall submit a roster of such employees to the  
252 department by January 31 of each year and submit an amended  
253 roster, if necessary, by May 31 of each year ~~The appropriate~~  
254 ~~county health department, Children's Medical Services office,~~  
255 ~~and local emergency management agency shall jointly decide who~~  
256 ~~has responsibility for medical supervision in each special needs~~  
257 ~~shelter.~~

258 (d) County health departments shall assign their  
259 employees, and state employees pursuant to paragraph (c), to  
260 work in special needs shelters when such employees are needed to  
261 protect the health and safety of persons with special needs.  
262 County governments shall assist the department with nonmedical  
263 staffing and the operation of special needs shelters. The local  
264 health department and emergency management agency shall  
265 coordinate these efforts to ensure appropriate staffing in  
266 special needs shelters, including a staff member who is familiar

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267 with the needs of persons with Alzheimer's disease.

268 (e) The appropriate county health department and local  
269 emergency management agency shall jointly decide who has  
270 responsibility for medical supervision in each special needs  
271 shelter.

272 (f) ~~(d)~~ Local emergency management agencies shall be  
273 responsible for the designation and operation of special needs  
274 shelters during times of emergency or disaster and the closure  
275 of the facilities following an emergency or disaster. The local  
276 health department and emergency management agency shall  
277 coordinate these efforts to ensure the appropriate designation  
278 and operation of special needs shelters. County health  
279 departments shall assist the local emergency management agency  
280 with regard to the management of medical services in special  
281 needs shelters.

282 (g) ~~(e)~~ The Secretary of Elderly Affairs, or his or her  
283 designee, shall convene, at any time that he or she deems  
284 appropriate and necessary, a multiagency special needs shelter  
285 discharge planning team to assist local areas that are severely  
286 impacted by a natural or manmade disaster that requires the use  
287 of special needs shelters. Multiagency special needs shelter  
288 discharge planning teams shall include the Surgeon General, or  
289 his or her designee, and shall provide assistance to local  
290 emergency management agencies with the continued operation or  
291 closure of the shelters, as well as with the discharge of



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292 special needs clients to alternate facilities if necessary.  
293 Local emergency management agencies may request the assistance  
294 of a multiagency special needs shelter discharge planning team  
295 by alerting statewide emergency management officials of the  
296 necessity for additional assistance in their area. The Secretary  
297 of Elderly Affairs shall ~~is encouraged to proactively~~ work with  
298 other state agencies prior to any natural disasters for which  
299 warnings are provided to ensure that multiagency special needs  
300 shelter discharge planning teams are ready to assemble and  
301 deploy rapidly upon a determination by state emergency  
302 management officials that a disaster area requires additional  
303 assistance. The Secretary of Elderly Affairs may call upon any  
304 state agency or office to provide staff to assist a multiagency  
305 special needs shelter discharge planning team. Unless the  
306 secretary determines that the nature or circumstances  
307 surrounding the disaster do not warrant participation from a  
308 particular agency's staff, each multiagency special needs  
309 shelter discharge planning team shall include at least one  
310 representative from each of the following state agencies:

- 311 1. Department of Elderly Affairs.
- 312 ~~2. Department of Health.~~
- 313 ~~2.3.~~ Department of Children and Families.
- 314 ~~3.4.~~ Department of Veterans' Affairs.
- 315 ~~4.5.~~ Division of Emergency Management.
- 316 ~~5.6.~~ Agency for Health Care Administration.

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317 6.7. Agency for Persons with Disabilities.

318 (h) The Department of Health shall collect intake and  
319 discharge information from each person who shelters in a special  
320 needs shelter during an emergency or disaster, including  
321 information regarding whether a person is a patient or resident  
322 of a licensee under chapter 393, chapter 400, or chapter 429.  
323 Each local emergency management agency shall use a form  
324 developed by the Department of Health to collect this  
325 information.

326 (3) SPECIAL CARE FOR PERSONS WITH ALZHEIMER'S DISEASE OR  
327 RELATED FORMS OF DEMENTIA.—All special needs shelters must  
328 establish designated shelter areas for persons with Alzheimer's  
329 disease or related forms of dementia to enable those persons to  
330 maintain their normal habits and routines to the greatest extent  
331 possible.

332 (4) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS AND  
333 FACILITIES.—

334 (a) The department shall, upon request, reimburse in  
335 accordance with paragraph (b):

336 1. Health care practitioners, as defined in s. 456.001,  
337 provided the practitioner is not providing care to a patient  
338 under an existing contract, and emergency medical technicians  
339 and paramedics licensed under chapter 401 for medical care  
340 provided at the request of the department in special needs  
341 shelters or at other locations during times of emergency or a

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342 declared disaster. Reimbursement for health care practitioners,  
343 except for physicians licensed under chapter 458 or chapter 459,  
344 shall be based on the average hourly rate that such  
345 practitioners were paid according to the most recent survey of  
346 Florida hospitals conducted by the Florida Hospital Association  
347 or other nationally recognized or state-recognized data source.

348 2. Health care facilities, such as hospitals, nursing  
349 homes, assisted living facilities, and community residential  
350 homes, if, upon closure of a special needs shelter, a  
351 multiagency special needs shelter discharge planning team  
352 determines that it is necessary to discharge persons with  
353 special needs to other health care facilities. The receiving  
354 facilities are eligible for reimbursement for services provided  
355 to the individuals for up to 90 days. A facility must show proof  
356 of a written request from a representative of an agency serving  
357 on the multiagency special needs shelter discharge planning team  
358 that the individual for whom the facility is seeking  
359 reimbursement for services rendered was referred to that  
360 facility from a special needs shelter. The department shall  
361 specify by rule which expenses are reimbursable and the rate of  
362 reimbursement for each service.

363 (b) Reimbursement is subject to the availability of  
364 federal funds and shall be requested on forms prepared by the  
365 department. If a Presidential Disaster Declaration has been  
366 issued, the department shall request federal reimbursement of

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367 eligible expenditures. The department may not provide  
368 reimbursement to facilities under this subsection for services  
369 provided to a person with special needs if, during the period of  
370 time in which the services were provided, the individual was  
371 enrolled in another state-funded program, such as Medicaid or  
372 another similar program, was covered under a policy of health  
373 insurance as defined in s. 624.603, or was a member of a health  
374 maintenance organization or prepaid health clinic as defined in  
375 chapter 641, which would otherwise pay for the same services.  
376 Travel expense and per diem costs shall be reimbursed pursuant  
377 to s. 112.061.

378 (5) HEALTH CARE PRACTITIONER REGISTRY.—The department may  
379 use the registries established in ss. 401.273 and 456.38 when  
380 health care practitioners are needed to staff special needs  
381 shelters or to assist with other disaster-related activities.

382 (6) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.—The State  
383 Surgeon General may establish a special needs shelter  
384 interagency committee and serve as, or appoint a designee to  
385 serve as, the committee's chair. The department shall provide  
386 any necessary staff and resources to support the committee in  
387 the performance of its duties. The committee shall address and  
388 resolve problems related to special needs shelters not addressed  
389 in the state comprehensive emergency medical plan and shall  
390 consult on the planning and operation of special needs shelters.

391 (a) The committee shall develop, negotiate, and regularly

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392 review any necessary interagency agreements, and undertake other  
393 such activities as the department deems necessary to facilitate  
394 the implementation of this section.

395 (b) The special needs shelter interagency committee shall  
396 be composed of representatives of emergency management, health,  
397 medical, and social services organizations. Membership shall  
398 include, but shall not be limited to, representatives of the  
399 Departments of Health, Children and Families, Elderly Affairs,  
400 and Education; the Agency for Health Care Administration; the  
401 Division of Emergency Management; the Florida Medical  
402 Association; the Florida Osteopathic Medical Association;  
403 Associated Home Health Industries of Florida, Inc.; the Florida  
404 Nurses Association; the Florida Health Care Association; the  
405 Florida Assisted Living Affiliation; the Florida Hospital  
406 Association; the Florida Statutory Teaching Hospital Council;  
407 the Florida Association of Homes for the Aging; the Florida  
408 Emergency Preparedness Association; the American Red Cross;  
409 Florida Hospices and Palliative Care, Inc.; the Association of  
410 Community Hospitals and Health Systems; the Florida Association  
411 of Health Maintenance Organizations; the Florida League of  
412 Health Systems; the Private Care Association; the Salvation  
413 Army; the Florida Association of Aging Services Providers; the  
414 AARP; and the Florida Renal Coalition.

415 (c) Meetings of the committee shall be held in  
416 Tallahassee, and members of the committee shall serve at the

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417 expense of the agencies or organizations they represent. The  
418 committee shall make every effort to use teleconference or  
419 videoconference capabilities in order to ensure statewide input  
420 and participation.

421 (7) RULES.—The department, in coordination with the  
422 Division of Emergency Management, has the authority to adopt  
423 rules necessary to implement this section. Rules shall include:

424 (a) The definition of a "person with special needs,"  
425 including eligibility criteria for individuals with physical,  
426 mental, cognitive impairment, or sensory disabilities and the  
427 services a person with special needs can expect to receive in a  
428 special needs shelter.

429 (b) The process for special needs shelter health care  
430 practitioners and facility reimbursement for services provided  
431 in a disaster.

432 (c) Guidelines for special needs shelter staffing levels  
433 to provide services.

434 (d) The definition of and standards for special needs  
435 shelter supplies and equipment, including durable medical  
436 equipment.

437 (e) Standards for the special needs shelter registration  
438 program, including all necessary forms and guidelines for  
439 addressing the needs of unregistered persons in need of a  
440 special needs shelter.

441 (f) Standards for addressing the needs of families where

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442 only one dependent is eligible for admission to a special needs  
443 shelter and the needs of adults with special needs who are  
444 caregivers for individuals without special needs.

445 (g) The requirement of the county health departments to  
446 seek the participation of hospitals, nursing homes, assisted  
447 living facilities, home health agencies, hospice providers,  
448 nurse registries, home medical equipment providers, dialysis  
449 centers, and other health and medical emergency preparedness  
450 stakeholders in pre-event planning activities.

451 ~~(8) EMERGENCY MANAGEMENT PLANS. The submission of~~  
452 ~~emergency management plans to county health departments by home~~  
453 ~~health agencies, nurse registries, hospice programs, and home~~  
454 ~~medical equipment providers is conditional upon receipt of an~~  
455 ~~appropriation by the department to establish disaster~~  
456 ~~coordinator positions in county health departments unless the~~  
457 ~~State Surgeon General and a local county commission jointly~~  
458 ~~determine to require that such plans be submitted based on a~~  
459 ~~determination that there is a special need to protect public~~  
460 ~~health in the local area during an emergency.~~

461 Section 4. Subsection (9) is added to section 393.0651,  
462 Florida Statutes, to read:

463 393.0651 Family or individual support plan.—The agency  
464 shall provide directly or contract for the development of a  
465 family support plan for children ages 3 to 18 years of age and  
466 an individual support plan for each client. The client, if

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467 competent, the client's parent or guardian, or, when  
468 appropriate, the client advocate, shall be consulted in the  
469 development of the plan and shall receive a copy of the plan.  
470 Each plan must include the most appropriate, least restrictive,  
471 and most cost-beneficial environment for accomplishment of the  
472 objectives for client progress and a specification of all  
473 services authorized. The plan must include provisions for the  
474 most appropriate level of care for the client. Within the  
475 specification of needs and services for each client, when  
476 residential care is necessary, the agency shall move toward  
477 placement of clients in residential facilities based within the  
478 client's community. The ultimate goal of each plan, whenever  
479 possible, shall be to enable the client to live a dignified life  
480 in the least restrictive setting, be that in the home or in the  
481 community. For children under 6 years of age, the family support  
482 plan shall be developed within the 45-day application period as  
483 specified in s. 393.065(1); for all applicants 6 years of age or  
484 older, the family or individual support plan shall be developed  
485 within the 60-day period as specified in that subsection.

486 (9) A personal disaster plan should be completed for each  
487 client enrolled in any home and community-based services  
488 Medicaid waiver program administered by the agency and updated  
489 annually, to include, at a minimum:

490 (a) Evacuation shelter selection as appropriate.

491 (b) Documented special needs shelter registration as



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492 appropriate.

493 (c) A staffing plan for the client in the shelter, if  
494 necessary.

495 Section 5. Subsections (2), (8) and (9) of section  
496 393.067, Florida Statutes, are amended to read:

497 393.067 Facility licensure.—

498 (2) The agency shall conduct annual inspections and  
499 reviews of facilities and programs licensed under this section.  
500 The agency shall determine compliance by foster care facilities,  
501 group home facilities, residential habilitation centers, and  
502 comprehensive transitional education programs with the  
503 applicable provisions of this chapter and rules adopted pursuant  
504 hereto, including the requirements for the comprehensive  
505 emergency management plan.

506 (8)(a) The agency, after consultation with the Division of  
507 Emergency Management, shall adopt rules for foster care  
508 facilities, group home facilities, and residential habilitation  
509 centers which establish minimum standards for the preparation  
510 and annual update of a comprehensive emergency management plan.

511 1. At a minimum, the rules must provide for plan  
512 components that address:

513 a. Emergency evacuation transportation;

514 b. Adequate sheltering arrangements;

515 c. Postdisaster activities, including emergency power,  
516 food, and water;

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- 517        d. Postdisaster transportation;  
518        e. Supplies;  
519        f. Hardening;  
520        g. Staffing, including which staff are responsible for  
521 implementing each element of the plan, how the facility will  
522 maintain staffing during emergencies, and whether and how the  
523 facility will accommodate family members of staff;  
524        h. Emergency equipment;  
525        i. Individual identification of residents and transfer of  
526 records; and  
527        j. Responding to family inquiries.  
528        2. Facilities must include information in their plans  
529 about:  
530        a. Whether the facility is located in an evacuation zone;  
531        b. Whether the facility intends to shelter in place or  
532 relocate to another facility;  
533        c. Whether the facility has an emergency power source;  
534        d. How the facility will inform residents and the  
535 resident's designated family member, legal representative, or  
536 guardian when the emergency management plan has been activated;  
537 and  
538        e. A working phone number for the facility for use by the  
539 resident's designated family member, legal representative, or  
540 guardian to make contact postdisaster.  
541        3. A facility must provide to the agency, its residents,

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542 and the resident's designated family member, legal  
543 representative, or guardian the information specified in  
544 subparagraph 2., an overview of the facility's comprehensive  
545 emergency management plan, and a description of the evacuation  
546 plan, if appropriate. Any changes to this information must be  
547 provided to the agency, the facility's residents, and the  
548 resident's designated family member, legal representative, or  
549 guardian within 30 days after the change takes effect.

550 (b) The comprehensive emergency management plan for all  
551 comprehensive transitional education programs and for homes  
552 serving individuals who have complex medical conditions is  
553 subject to review and approval by the local emergency management  
554 agency.

555 1. A facility must submit its plan to the local emergency  
556 management agency within 90 days after licensure or change of  
557 ownership and must notify the agency within 30 days after  
558 submission of the plan.

559 2. Such plan must be submitted annually and within 30 days  
560 after any significant modification, as defined by agency rule,  
561 to a previously approved plan.

562 3. During its review, the local emergency management  
563 agency shall ensure that the agency and the Division of  
564 Emergency Management, at a minimum, are given the opportunity to  
565 review the plan. Also, appropriate volunteer organizations must  
566 be given the opportunity to review the plan.

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567       4. The local emergency management agency shall complete  
568 its review within 60 days and either approve the plan or advise  
569 the facility of necessary revisions. A facility must submit the  
570 requested revisions to the local emergency management agency  
571 within 30 days after receiving written notification from the  
572 local emergency management agency.

573       5. A facility must notify the agency within 30 days after  
574 approval of its plan by the local emergency management agency.

575       (c) A facility must conduct annual staff training on the  
576 policies and procedures for implementing the emergency  
577 management plan within 2 months before the start of the  
578 hurricane season, including testing of the implementation of the  
579 plan, either in a planned drill or in response to a disaster or  
580 an emergency. New staff must receive such training within 30  
581 days after commencement of employment. Such training for new  
582 staff is not required to include testing of the implementation  
583 of the plan if testing is impracticable. Documentation of the  
584 training and testing, including evaluation of the outcome of the  
585 training and testing and modifications to the plan to address  
586 inadequacies must be provided to the agency within 30 days after  
587 the training and testing is finished. The evaluation must  
588 include a survey of staff to determine their familiarity with  
589 the plan.

590       (d) In the event of a declared emergency, the agency shall  
591 communicate before the disaster impacts the area which

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592 requirements for providing services to clients in shelters and  
593 other facilities may be waived during the emergency. The agency  
594 may waive additional requirements following the initial impact  
595 of the disaster, if appropriate.

596 (9) The agency may conduct unannounced inspections to  
597 determine compliance by foster care facilities, group home  
598 facilities, residential habilitation centers, and comprehensive  
599 transitional education programs with the applicable provisions  
600 of this chapter and the rules adopted pursuant hereto, including  
601 the requirements for the comprehensive emergency management plan  
602 and the rules adopted for training staff of a facility or a  
603 program to detect, report, and prevent sexual abuse, abuse,  
604 neglect, exploitation, and abandonment, as defined in ss. 39.01  
605 and 415.102, of residents and clients. The agency shall conduct  
606 periodic followup inspections as necessary to monitor facility  
607 compliance with the requirements for the comprehensive emergency  
608 management plan. The facility or program shall make copies of  
609 inspection reports available to the public upon request.

610 Section 6. Paragraph (a) of subsection (1) and paragraph  
611 (a) of subsection (2) of section 393.0673, Florida Statutes, are  
612 amended to read:

613 393.0673 Denial, suspension, or revocation of license;  
614 moratorium on admissions; administrative fines; procedures.—

615 (1) The agency may revoke or suspend a license or impose  
616 an administrative fine, not to exceed \$1,000 per violation per

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617 day, if:

618 (a) The licensee has:

619 1. Falsely represented or omitted a material fact in its  
620 license application submitted under s. 393.067;

621 2. Had prior action taken against it under the Medicaid or  
622 Medicare program; ~~or~~

623 3. Failed to comply with the applicable requirements of  
624 this chapter or rules applicable to the licensee; ~~or~~

625 4. Failed to comply with the requirements for the  
626 comprehensive emergency management plan under this part; or

627 5. Failed to follow the policies and procedures in the  
628 comprehensive emergency management plan. However, the agency  
629 shall consider the facility's efforts to follow the plan and  
630 circumstances beyond the facility's control that caused the  
631 failure. In determining the penalty, the agency shall evaluate  
632 the potential or actual harm to the client's health, safety, and  
633 security caused by the failure.

634 (2) The agency may deny an application for licensure  
635 submitted under s. 393.067 if:

636 (a) The applicant has:

637 1. Falsely represented or omitted a material fact in its  
638 license application submitted under s. 393.067;

639 2. Had prior action taken against it under the Medicaid or  
640 Medicare program;

641 3. Failed to comply with the applicable requirements of

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642 this chapter or rules applicable to the applicant; ~~or~~

643 4. Failed to comply with the requirements for the  
644 comprehensive emergency management plan under this chapter;

645 5. Failed to follow the policies and procedures in the  
646 comprehensive emergency management plan. However, the agency  
647 shall consider the facility's efforts to follow the plan and  
648 circumstances beyond the facility's control that caused the  
649 failure. In determining the penalty, the agency shall evaluate  
650 the potential or actual harm to the client's health, safety, and  
651 security caused by the failure; or

652 6.4. Previously had a license to operate a residential  
653 facility revoked by the agency, the Department of Children and  
654 Families, or the Agency for Health Care Administration; or

655 (b) The Department of Children and Families has verified that  
656 the applicant is responsible for the abuse, neglect, or  
657 abandonment of a child or the abuse, neglect, or exploitation of  
658 a vulnerable adult.

659 Section 7. Subsection (1) of section 393.0675, Florida  
660 Statutes, is amended to read:

661 393.0675 Injunctive proceedings authorized.—

662 (1) The agency may institute injunctive proceedings in a  
663 court of competent jurisdiction to:

664 (a) Enforce the provisions of this chapter or any minimum  
665 standard, rule, regulation, or order issued or entered pursuant  
666 thereto; or

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667 (b) Terminate the operation of facilities licensed  
668 pursuant to this chapter when any of the following conditions  
669 exist:

670 1. Failure by the facility to take preventive or  
671 corrective measures in accordance with any order of the agency.

672 2. Failure by the facility to abide by any final order of  
673 the agency once it has become effective and binding.

674 3. Any violation by the facility constituting an emergency  
675 requiring immediate action as provided in s. 393.0673.

676 4. Failed to comply with the requirements for the  
677 comprehensive emergency management plan under this chapter.

678 5. Failed to follow the policies and procedures in the  
679 comprehensive emergency management plan. However, the agency  
680 shall consider the facility's efforts to follow the plan and  
681 circumstances beyond the facility's control that caused the  
682 failure. In determining the penalty, the agency shall evaluate  
683 the potential or actual harm to the client's health, safety, and  
684 security caused by the failure.

685 Section 8. Section 400.102, Florida Statutes, is amended  
686 to read:

687 400.102 Action by agency against licensee; grounds.—In  
688 addition to the grounds listed in part II of chapter 408, any of  
689 the following conditions shall be grounds for action by the  
690 agency against a licensee:

691 (1) An intentional or negligent act materially affecting



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692 the health or safety of residents of the facility;

693 (2) Misappropriation or conversion of the property of a  
694 resident of the facility;

695 (3) Failure to follow the criteria and procedures provided  
696 under part I of chapter 394 relating to the transportation,  
697 voluntary admission, and involuntary examination of a nursing  
698 home resident; ~~or~~

699 (4) Fraudulent altering, defacing, or falsifying any  
700 medical or nursing home records, or causing or procuring any of  
701 these offenses to be committed; or

702 (5) Failure to comply with the requirements for the  
703 comprehensive emergency management plan under this part or s.  
704 408.821.

705 Section 9. Subsection (3) of section 400.19, Florida  
706 Statutes, is amended to read:

707 400.19 Right of entry and inspection.—

708 (3) The agency shall every 15 months conduct at least one  
709 unannounced inspection to determine compliance by the licensee  
710 with statutes, and with rules promulgated under the provisions  
711 of those statutes, governing minimum standards of construction,  
712 requirements for the comprehensive emergency management plan,  
713 quality and adequacy of care, and rights of residents. The  
714 survey shall be conducted every 6 months for the next 2-year  
715 period if the facility has been cited for a class I deficiency,  
716 has been cited for two or more class II deficiencies arising

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717 from separate surveys or investigations within a 60-day period,  
718 or has had three or more substantiated complaints within a 6-  
719 month period, each resulting in at least one class I or class II  
720 deficiency. In addition to any other fees or fines in this part,  
721 the agency shall assess a fine for each facility that is subject  
722 to the 6-month survey cycle. The fine for the 2-year period  
723 shall be \$6,000, one-half to be paid at the completion of each  
724 survey. The agency may adjust this fine by the change in the  
725 Consumer Price Index, based on the 12 months immediately  
726 preceding the increase, to cover the cost of the additional  
727 surveys. The agency shall verify through subsequent inspection  
728 that any deficiency identified during inspection is corrected.  
729 However, the agency may verify the correction of a class III or  
730 class IV deficiency unrelated to resident rights or resident  
731 care without reinspecting the facility if adequate written  
732 documentation has been received from the facility, which  
733 provides assurance that the deficiency has been corrected. The  
734 giving or causing to be given of advance notice of such  
735 unannounced inspections by an employee of the agency to any  
736 unauthorized person shall constitute cause for suspension of not  
737 fewer than 5 working days according to the provisions of chapter  
738 110.

739 Section 10. Paragraph (g) of subsection (2) of section  
740 400.23, Florida Statutes, is amended to read:

741 400.23 Rules; evaluation and deficiencies; licensure

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742 status.—

743 (2) Pursuant to the intention of the Legislature, the  
744 agency, in consultation with the Department of Health and the  
745 Department of Elderly Affairs, shall adopt and enforce rules to  
746 implement this part and part II of chapter 408, which shall  
747 include reasonable and fair criteria in relation to:

748 (g) The preparation and annual update of a comprehensive  
749 emergency management plan. The agency shall adopt rules  
750 establishing minimum criteria for the plan after consultation  
751 with the Division of Emergency Management.

752 1. At a minimum, the rules must provide for plan  
753 components that address:

754 a. Emergency evacuation transportation;

755 b. Adequate sheltering arrangements;

756 c. Postdisaster activities, including emergency power,  
757 food, and water;

758 d. Postdisaster transportation;

759 e. Supplies;

760 f. Hardening;

761 g. Staffing, including which staff are responsible for  
762 implementing each element of the plan, how the facility will  
763 maintain staffing during emergencies, and whether and how the  
764 facility will accommodate family members of staff;

765 h. Emergency equipment;

766 i. Individual identification of residents and transfer of

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767 records; and

768 j. Responding to family inquiries.

769 2. Facilities must include information in their plans

770 about:

771 a. Whether the facility is located in an evacuation zone;

772 b. Whether the facility intends to shelter in place or

773 relocate to another facility;

774 c. Whether the facility has an emergency power source;

775 d. How the facility will inform residents and the

776 resident's designated family member, legal representative, or

777 guardian when the emergency management plan has been activated;

778 and

779 e. A working phone number for the facility for use by the

780 resident's designated family member, legal representative, or

781 guardian to make contact postdisaster.

782 3. A facility must provide to the agency, its residents,

783 and the resident's designated family member, legal

784 representative, or guardian the information in subparagraph 2.

785 and an overview of the facility's comprehensive emergency

786 management plan and, if appropriate, a description of the

787 evacuation plan. The agency must post this information on its

788 consumer information website. Any changes to this information

789 must be provided to the agency, the facility's residents, and

790 the resident's designated family member, legal representative,

791 or guardian within 30 days after the change takes effect.

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792       4. The comprehensive emergency management plan is subject  
793 to review and approval by the local emergency management agency.

794       a. A facility must submit its plan to the local emergency  
795 management agency within 90 days after licensure or change of  
796 ownership and must notify the agency within 30 days after  
797 submission of the plan.

798       b. Such plan must be submitted annually or within 30 days  
799 after any significant modification, as defined by agency rule,  
800 to a previously approved plan.

801       c. During its review, the local emergency management  
802 agency shall ensure that the following agencies, at a minimum,  
803 are given the opportunity to review the plan: the Department of  
804 Elderly Affairs, the Department of Health, the Agency for Health  
805 Care Administration, and the Division of Emergency Management.  
806 Also, appropriate volunteer organizations must be given the  
807 opportunity to review the plan.

808       d. The local emergency management agency shall complete  
809 its review within 60 days and either approve the plan or advise  
810 the facility of necessary revisions. A facility must submit the  
811 requested revisions to the local emergency management agency  
812 within 30 days after receiving written notification from the  
813 local emergency management agency.

814       e. A facility must notify the agency within 30 days after  
815 approval of its plan by the local emergency management agency.

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816 Section 11. Section 400.492, Florida Statutes, is amended  
817 to read:

818 400.492 Provision of services during an emergency.—Each  
819 home health agency shall prepare and maintain a comprehensive  
820 emergency management plan that is consistent with the standards  
821 adopted by national or state accreditation organizations, the  
822 requirements set forth in this section, and consistent with the  
823 local special needs plan. The home health agency plan shall be  
824 submit the plan to the county health department for review and  
825 approval within 90 days after the home health agency is licensed  
826 or there is a change of ownership. The plan must be submitted  
827 updated annually or within 30 days after any significant  
828 modification, as defined by agency rule, to a previously  
829 approved plan. The plan and shall document how the agency will  
830 continue to provide for continuing home health services during  
831 an emergency that interrupts patient care or services in the  
832 patient's private residence, assisted living facility, or adult  
833 family care home. The plan shall include identification of the  
834 staff the means by which the home health agency will continue to  
835 provide in the special needs shelter staff to perform the same  
836 type and quantity of services for to their patients who evacuate  
837 to special needs shelters as that were being provided to those  
838 patients before prior to evacuation. The plan shall describe how  
839 the home health agency establishes and maintains an effective  
840 response to emergencies and disasters, including, but not

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841 limited to,+ notifying staff when emergency response measures  
842 are initiated; providing for communication between staff  
843 members, county health departments, and local emergency  
844 management agencies, including a backup system; identifying  
845 resources necessary to continue essential care or services or  
846 referrals to other organizations, subject to written agreement;  
847 ~~and~~ prioritizing and contacting patients who need continued care  
848 or services that are provided by agency staff or by designated  
849 family members or other nonhome health agency caregivers; and  
850 how services will be provided to patients in the event the home  
851 health agency cannot continue to provide services or ceases  
852 operation due to the emergency.

853 (1) The home health agency shall inform each patient and  
854 the patient's legal representative, designated family member, or  
855 guardian of the special needs registry established pursuant to  
856 s. 252.355 and how to register the patient. The home health  
857 agency shall collect and submit to the local emergency  
858 management office a list of registered patients who will need  
859 continuing care or services during an emergency. Each patient  
860 record for a patient who is registered under ~~patients who are~~  
861 ~~listed in the registry established pursuant to s. 252.355~~ shall  
862 include a description of how care or services will be continued  
863 in the event of an emergency or disaster and identify designated  
864 staff who will provide such services. The home health agency  
865 shall discuss with the patient and the patient's legal

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866 representative, designated family member, guardian, or nonhome  
867 health agency caregiver and document in his or her record how  
868 the home health agency will continue to provide the same type  
869 and quantity of services, including staffing, to the patient in  
870 his or her private residence, assisted living facility, or adult  
871 family care home, or in the special needs shelter if the patient  
872 evacuates to the special needs shelter, which were being  
873 provided before the emergency or evacuation. The patient's  
874 record shall contain ~~the emergency provisions with the patient~~  
875 ~~and the patient's caregivers, including where and how the~~  
876 ~~patient is to evacuate,~~ procedures for notifying the home health  
877 agency in the event that the patient evacuates to a location  
878 other than the shelter identified in the patient record, and a  
879 list of medications and equipment which must either accompany  
880 the patient or will be needed by the patient in the event of an  
881 evacuation.

882 (2) If the home health agency's patient is a resident of  
883 an assisted living facility or an adult family care home, the  
884 home health agency must contact the assisted living facility or  
885 adult family care home administrator to determine the plans for  
886 evacuation and document the resident's plans in his or her  
887 record.

888 (3) ~~(2)~~ Each home health agency shall create and maintain a  
889 current prioritized list of patients who need continued agency  
890 services during an emergency. The list shall include patients to



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891 be evacuated to a shelter, in private residences, assisted  
892 living facilities, and adult family care homes who require  
893 continued home health agency services. The list shall indicate  
894 how services will ~~shall~~ be continued in the event of an  
895 emergency or disaster for each patient, and if the patient is  
896 remaining in the home or is to be transported to a special needs  
897 shelter, if the patient is listed in the registry established  
898 pursuant to s. 252.355, and shall indicate if the patient is  
899 receiving skilled nursing services, and the patient's medication  
900 and equipment needs. The list shall be furnished to county  
901 health departments and to local emergency management agencies as  
902 part of the home health agency's comprehensive emergency  
903 management plan, upon request. The list shall be updated  
904 annually or each time a patient is identified as needing  
905 services during an emergency.

906 (4)(3) A home health agency is agencies shall not be  
907 required to continue to provide care to patients in emergency  
908 situations that are beyond its their control and that make it  
909 impossible to provide services, such as when roads are  
910 impassable or when the patient does patients do not go to the  
911 location specified in the patient's record their patient  
912 records. If a home health agency is unable to continue to  
913 provide services or ceases operation due to situations beyond  
914 its control, the home health agency must notify the patient  
915 whose services will be discontinued during the emergency and the

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916 local emergency operations center as soon as possible. If the  
917 home health agency is providing services to residents of  
918 assisted living facilities and adult family care homes, the home  
919 health agency must make arrangements for continuation of  
920 services and notify the local emergency operations center of  
921 such arrangements. Home health agencies shall may establish  
922 links to local emergency operations centers to determine a  
923 mechanism by which to approach specific areas within a disaster  
924 area in order for the agency to reach its clients. When a home  
925 health agency is unable to continue providing services during an  
926 emergency, the home health agency agencies shall document its  
927 efforts demonstrate a good faith effort to comply with the  
928 requirements of its comprehensive emergency management plan and  
929 this subsection, including by documenting attempts by of staff  
930 to contact the patient and the patient's designated family  
931 member, legal representative, guardian, or nonhome health agency  
932 caregiver, if applicable; contact the resident's assisted living  
933 facility or adult family care home, if applicable; contact the  
934 local emergency operations centers to obtain assistance in  
935 contacting patients; and contact other agencies that may be able  
936 to provide temporary services. The home health agency must also  
937 document attempts by staff to follow procedures outlined in the  
938 home health agency's comprehensive emergency management plan,  
939 and in by the patient's record, which support a finding that the  
940 provision of continuing care has been attempted for those

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941 patients who have been identified as needing care by the home  
942 health agency in his or her private residence, assisted living  
943 facility, or adult family care home and the patients who are  
944 registered under s. 252.355, in the event of an emergency or  
945 disaster under subsection (1). The agency shall review the  
946 documentation required by this section during any inspection  
947 conducted under part II of this chapter to determine the home  
948 health agency's compliance with its emergency plan.

949 ~~(5)(4)~~ Notwithstanding the provisions of s. 400.464(2) or  
950 any other provision of law to the contrary, a home health agency  
951 may provide services in a special needs shelter located in any  
952 county.

953 Section 12. Subsection (10) of section 400.497, Florida  
954 Statutes, is amended to read:

955 400.497 Rules establishing minimum standards.—The agency  
956 shall adopt, publish, and enforce rules to implement part II of  
957 chapter 408 and this part, including, as applicable, ss. 400.506  
958 and 400.509, which must provide reasonable and fair minimum  
959 standards relating to:

960 (10) Preparation of and compliance with a comprehensive  
961 emergency management plan pursuant to s. 400.492.

962 (a) The Agency for Health Care Administration shall adopt  
963 rules establishing minimum criteria for the plan and plan  
964 updates, with the concurrence of the Department of Health and in  
965 consultation with the Division of Emergency Management.

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966 (b) The rules must address the requirements in s. 400.492.  
967 In addition, the rules shall provide for the maintenance of  
968 patient-specific medication lists that can accompany patients  
969 who are transported from their private residence, assisted  
970 living facility, or adult family care home homes.

971 (c) The plan is subject to review and approval by the  
972 county health department. During its review, the county health  
973 department shall contact state and local health and medical  
974 stakeholders when necessary. The county health department shall  
975 complete its review to ensure that the plan is in accordance  
976 with the criteria in the Agency for Health Care Administration  
977 rules within 90 days after receipt of the plan and shall approve  
978 the plan or advise the home health agency of necessary  
979 revisions. If the home health agency fails to submit a plan or  
980 fails to submit the requested information or revisions to the  
981 county health department within 30 days after written  
982 notification from the county health department, the county  
983 health department shall, within 10 days after the home health  
984 agency's failure to comply, notify the Agency for Health Care  
985 Administration. The agency shall notify the home health agency  
986 that its failure constitutes a deficiency, subject to a fine of  
987 \$5,000 per occurrence. If either the initial or annual ~~the~~ plan  
988 is not submitted, information is not provided, or revisions are  
989 not made as requested, the agency may impose the fine. If the  
990 fine is not imposed against the home health agency, the agency

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991 must document in the home health agency's file the reason the  
992 fine was not imposed.

993 (d) For any home health agency that operates in more than  
994 one county, the home health agency must submit its plan to the  
995 Department of Health. The department shall review the plan,  
996 after consulting with state and local health and medical  
997 stakeholders when necessary. The department shall complete its  
998 review within 90 days after receipt of the plan and shall  
999 approve the plan or advise the home health agency of necessary  
1000 revisions. The department shall make every effort to avoid  
1001 imposing differing requirements on a home health agency that  
1002 operates in more than one county as a result of differing or  
1003 conflicting comprehensive plan requirements of the counties in  
1004 which the home health agency operates. If the home health agency  
1005 fails to submit a plan or fails to submit requested information  
1006 or revisions to the Department of Health within 30 days after  
1007 written notification from the department, the department must  
1008 notify the Agency for Health Care Administration within 10 days  
1009 after the home health agency's failure to comply. The agency  
1010 shall notify the home health agency that its failure constitutes  
1011 a deficiency, subject to a fine of \$5,000 per occurrence. If the  
1012 plan is not submitted, information is not provided, or revisions  
1013 are not made as requested, the agency may impose the fine. If  
1014 the fine is not imposed against the home health agency, the  
1015 agency must document in the home health agency's file the reason

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1016 the fine was not imposed.

1017 (e) The requirements in this subsection do not apply to:

1018 1. A facility that is certified under chapter 651 and has  
1019 a licensed home health agency used exclusively by residents of  
1020 the facility; or

1021 2. A retirement community that consists of residential  
1022 units for independent living and either a licensed nursing home  
1023 or an assisted living facility, and has a licensed home health  
1024 agency used exclusively by the residents of the retirement  
1025 community, provided the comprehensive emergency management plan  
1026 for the facility or retirement community provides for continuous  
1027 care of all residents with special needs during an emergency.

1028 Section 13. Subsection (12) of section 400.506, Florida  
1029 Statutes, is amended to read:

1030 400.506 Licensure of nurse registries; requirements;  
1031 penalties.—

1032 (12) Each nurse registry shall prepare and maintain a  
1033 comprehensive emergency management plan that is consistent with  
1034 the criteria in this subsection and with the local special needs  
1035 plan. The plan shall be submitted to the county health  
1036 department for review and approval within 90 days after the  
1037 nurse registry is licensed or there is a change of ownership.  
1038 The plan must be updated annually or within 30 days after any  
1039 significant modification, as defined by agency rule, to a  
1040 previously approved plan. The plan shall document how include

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1041 ~~the means by which~~ the nurse registry will facilitate the  
1042 provision of ~~continue to provide~~ the same type and quantity of  
1043 services by persons referred for contract to each patient who  
1044 remains in his or her private residence, assisted living  
1045 facility, or adult family care home or who evacuates its  
1046 ~~patients who evacuate~~ to special needs shelters which were being  
1047 provided to ~~these patients before the emergency prior to~~  
1048 ~~evacuation. The plan shall specify how the nurse registry shall~~  
1049 ~~facilitate the provision of continuous care by persons referred~~  
1050 ~~for contract to persons who are registered pursuant to s.~~  
1051 ~~252.355 during an emergency that interrupts the provision of~~  
1052 ~~care or services in private residences. Nurse registries shall~~  
1053 ~~may~~ establish links to local emergency operations centers to  
1054 determine a mechanism by which to approach specific areas within  
1055 a disaster area in order for a provider to reach its clients. A  
1056 nurse registry shall document its efforts ~~registries shall~~  
1057 ~~demonstrate a good faith effort~~ to comply with the requirements  
1058 of its comprehensive emergency management plan and this  
1059 subsection in the patient's records, including by documenting  
1060 attempts by of staff to contact the patient and the patient's  
1061 designated family member, legal representative, guardian, or  
1062 other person who provides care; contact the resident's assisted  
1063 living facility or adult family care home, if applicable;  
1064 contact the local emergency operations centers to obtain  
1065 assistance in contacting patients; and contact other agencies

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1066 that may be able to provide temporary services. The nurse  
1067 registry must also document attempts by staff to follow  
1068 procedures outlined in the nurse registry's comprehensive  
1069 emergency management plan which support a finding that the  
1070 provision of continuing care has been attempted for patients  
1071 identified as needing care by the nurse registry either in home  
1072 or in a special needs shelter and registered under s. 252.355 in  
1073 the event of an emergency under this subsection.

1074 (a) All persons referred for contract who care for  
1075 patients persons registered pursuant to s. 252.355 must include  
1076 in the patient record a description of how the person referred  
1077 for contract will continue to provide the same type and quantity  
1078 of services to the patient care will be continued during a  
1079 disaster or emergency that interrupts the provision of care ~~in~~  
1080 ~~the patient's home~~. It shall be the responsibility of the person  
1081 referred for contract to ensure that continuous care is  
1082 provided.

1083 (b) ~~A Each~~ nurse registry shall create and maintain a  
1084 current prioritized list of patients in private residences,  
1085 assisted living facilities, or adult family care homes who are  
1086 registered pursuant to s. 252.355 and are under the care of  
1087 persons referred for contract and who need continued services  
1088 during an emergency. This list shall indicate, for each patient,  
1089 if the client is to be transported to a special needs shelter  
1090 and if the patient is receiving skilled nursing services. A



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1091 nurse registry registries shall make this list available to  
1092 county health departments and to local emergency management  
1093 agencies as part of its comprehensive emergency management plan  
1094 upon request. The list shall be updated annually or each time a  
1095 patient is identified as needing services during an emergency.

1096 (c) A ~~Each~~ person referred for contract who is caring for  
1097 a patient who is registered pursuant to s. 252.355 shall provide  
1098 a list of the patient's medication and equipment needs to the  
1099 nurse registry. Each nurse registry person referred for contract  
1100 shall make this information available to county health  
1101 departments and to local emergency management agencies ~~upon~~  
1102 ~~request.~~

1103 (d) A ~~Each~~ person referred for contract is ~~shall~~ not be  
1104 required to continue to provide care to patients in emergency  
1105 situations that are beyond the person's control and that make it  
1106 impossible to provide services, such as when roads are  
1107 impassable or when patients do not go to the location specified  
1108 in their patient records. It is the responsibility of the nurse  
1109 registry to contact another person available for referral to  
1110 provide care for the patient. If the nurse registry is unable to  
1111 continue to provide services or ceases operation due to  
1112 situations beyond its control, the nurse registry must notify  
1113 the patient whose services will be discontinued during the  
1114 emergency and the local emergency management operations center  
1115 as soon as possible. If the nurse registry is providing services

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1116 to residents of assisted living facilities or adult family care  
1117 homes, it must make arrangements for continuation of services  
1118 and notify the local emergency operations center of such  
1119 arrangement. When a nurse registry is unable to continue to  
1120 provide services during the emergency, the nurse registry shall  
1121 document its efforts to comply with the requirements of its  
1122 comprehensive emergency management plan and this subsection by  
1123 documenting attempts of the registry or its staff to contact the  
1124 patient and the patient's designated family member, legal  
1125 representative, guardian, or other caregiver, if applicable;  
1126 contact the resident's assisted living facility or adult family  
1127 care home, if applicable; contact the local emergency operations  
1128 centers to obtain assistance in contacting patients and contact  
1129 other agencies that may be able to provide temporary services.  
1130 The agency shall review the documentation required by this  
1131 section during any inspection conducted pursuant to part II of  
1132 this chapter to determine the nurse registry's compliance with  
1133 its emergency plan.

1134 (e) The comprehensive emergency management plan required  
1135 by this subsection is subject to review and approval by the  
1136 county health department. During its review, the county health  
1137 department shall contact state and local health and medical  
1138 stakeholders when necessary. The county health department shall  
1139 complete its review to ensure that the plan complies with the  
1140 criteria in this section and the Agency for Health Care

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1141 Administration rules within 90 days after receipt of the plan  
1142 and shall either approve the plan or advise the nurse registry  
1143 of necessary revisions. If a nurse registry fails to submit a  
1144 plan or fails to submit requested information or revisions to  
1145 the county health department within 30 days after written  
1146 notification from the county health department, the county  
1147 health department shall, within 10 days after the nurse  
1148 registry's failure to comply, notify the Agency for Health Care  
1149 Administration. The agency shall notify the nurse registry that  
1150 its failure constitutes a deficiency, subject to a fine of  
1151 \$5,000 per occurrence. If either the initial or annual plan is  
1152 not submitted, information is not provided, or revisions are not  
1153 made as requested, the agency may impose the fine. If the fine  
1154 is not imposed against the nurse registry, the agency must  
1155 document in the nurse registry's file the reason the fine was  
1156 not imposed.

1157 (f) The Agency for Health Care Administration shall adopt  
1158 rules establishing minimum criteria for the comprehensive  
1159 emergency management plan and plan updates required by this  
1160 subsection, with the concurrence of the Department of Health and  
1161 in consultation with the Division of Emergency Management.

1162 Section 14. Subsection (3) of section 408.813, Florida  
1163 Statutes, is amended to read:

1164 408.813 Administrative fines; violations.—As a penalty for  
1165 any violation of this part, authorizing statutes, or applicable

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1166 rules, the agency may impose an administrative fine.

1167 (3) The agency may impose an administrative fine for a  
1168 violation that is not designated as a class I, class II, class  
1169 III, or class IV violation. Unless otherwise specified by law,  
1170 the amount of the fine may not exceed \$500 for each violation.

1171 Unclassified violations include:

1172 (a) Violating any term or condition of a license.

1173 (b) Violating any provision of this part, authorizing  
1174 statutes, or applicable rules.

1175 (c) Exceeding licensed capacity.

1176 (d) Providing services beyond the scope of the license.

1177 (e) Violating a moratorium imposed pursuant to s. 408.814.

1178 (f) Failure to have an approved comprehensive emergency  
1179 management plan as required by authorizing statutes.

1180 (g) Failure to enter into and maintain agreements required  
1181 by s. 252.355(4)(b) by July 1, 2019.

1182 Section 15. Section 408.821, Florida Statutes, is amended  
1183 to read:

1184 408.821 Emergency management planning; emergency  
1185 operations; inactive license.—

1186 (1) A licensee required by authorizing statutes to have an  
1187 comprehensive emergency management operations plan must  
1188 designate a safety liaison to serve as the primary contact for  
1189 emergency operations.

1190 (2) A licensee required by authorizing statutes to have a

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1191 comprehensive emergency management plan must conduct annual  
1192 staff training on the policies and procedures for implementing  
1193 the emergency operations plan within 2 months before the start  
1194 of hurricane season, including testing of the implementation of  
1195 the plan, either in a planned drill or in response to a disaster  
1196 or an emergency. New staff must receive such training within 30  
1197 days after commencement of employment. Such training for new  
1198 staff is not required to include testing of the implementation  
1199 of the plan if testing is impracticable. Documentation of the  
1200 training and testing, including evaluation of the outcome of the  
1201 training and testing and modifications to the plan to address  
1202 inadequacies must be provided to the agency and the local  
1203 emergency management agency within 30 days after the training  
1204 and testing is finished. The evaluation must include a survey of  
1205 staff to determine their familiarity with the plan.

1206 (3) Failure to follow the policies and procedures in the  
1207 licensee's comprehensive emergency management plan is grounds  
1208 for action by the agency against a licensee. The agency shall  
1209 consider the licensee's efforts to follow the plan and  
1210 circumstances beyond the licensee's control that caused the  
1211 failure. In determining the penalty, the agency shall evaluate  
1212 the potential or actual harm to the client's health, safety, and  
1213 security caused by the failure.

1214 (4)-(2) An entity subject to this part may temporarily  
1215 exceed its licensed capacity to act as a receiving provider in

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1216 accordance with an approved comprehensive emergency management  
1217 ~~operations~~ plan for up to 15 days. While in an overcapacity  
1218 status, each provider must furnish or arrange for appropriate  
1219 care and services to all clients. In addition, the agency may  
1220 approve requests for overcapacity in excess of 15 days, which  
1221 approvals may be based upon satisfactory justification and need  
1222 as provided by the receiving and sending providers.

1223 ~~(5)(3)~~(a) An inactive license may be issued to a licensee  
1224 subject to this section when the provider is located in a  
1225 geographic area in which a state of emergency was declared by  
1226 the Governor if the provider:

1227 1. Suffered damage to its operation during the state of  
1228 emergency.

1229 2. Is currently licensed.

1230 3. Does not have a provisional license.

1231 4. Will be temporarily unable to provide services but is  
1232 reasonably expected to resume services within 12 months.

1233 (b) An inactive license may be issued for a period not to  
1234 exceed 12 months but may be renewed by the agency for up to 12  
1235 additional months upon demonstration to the agency of progress  
1236 toward reopening. A request by a licensee for an inactive  
1237 license or to extend the previously approved inactive period  
1238 must be submitted in writing to the agency, accompanied by  
1239 written justification for the inactive license, which states the  
1240 beginning and ending dates of inactivity and includes a plan for

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1241 the transfer of any clients to other providers and appropriate  
1242 licensure fees. Upon agency approval, the licensee shall notify  
1243 clients of any necessary discharge or transfer as required by  
1244 authorizing statutes or applicable rules. The beginning of the  
1245 inactive licensure period shall be the date the provider ceases  
1246 operations. The end of the inactive period shall become the  
1247 license expiration date, and all licensure fees must be current,  
1248 must be paid in full, and may be prorated. Reactivation of an  
1249 inactive license requires the prior approval by the agency of a  
1250 renewal application, including payment of licensure fees and  
1251 agency inspections indicating compliance with all requirements  
1252 of this part and applicable rules and statutes.

1253 ~~(6)(4)~~ The agency may adopt rules relating to emergency  
1254 management planning, communications, and operations. Licensees  
1255 providing residential or inpatient services must utilize an  
1256 online database established and maintained ~~approved~~ by the  
1257 agency to report information to the agency regarding the  
1258 provider's emergency status, planning, or operations. The agency  
1259 shall provide the Department of Health with direct access to the  
1260 online database. The agency may adopt rules requiring other  
1261 providers to use the online database for reporting the  
1262 provider's emergency status, planning, or operations.

1263 Section 16. Paragraph (1) is added to subsection (1) of  
1264 section 429.14, Florida Statutes, to read:

1265 429.14 Administrative penalties.—

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1266 (1) In addition to the requirements of part II of chapter  
1267 408, the agency may deny, revoke, and suspend any license issued  
1268 under this part and impose an administrative fine in the manner  
1269 provided in chapter 120 against a licensee for a violation of  
1270 any provision of this part, part II of chapter 408, or  
1271 applicable rules, or for any of the following actions by a  
1272 licensee, any person subject to level 2 background screening  
1273 under s. 408.809, or any facility staff:

1274 (1) Failure to comply with the requirements for the  
1275 comprehensive emergency management plan under this part or s.  
1276 408.821.

1277 Section 17. Subsection (3) of section 429.28, Florida  
1278 Statutes, is amended to read:

1279 429.28 Resident bill of rights.-

1280 (3) (a) The agency shall conduct a survey to determine  
1281 general compliance with facility standards, requirements for the  
1282 comprehensive emergency management plan, and ~~compliance with~~  
1283 residents' rights as a prerequisite to initial licensure or  
1284 licensure renewal. The agency shall adopt rules for uniform  
1285 standards and criteria that will be used to determine compliance  
1286 with facility standards, requirements for the comprehensive  
1287 emergency management plan, and ~~compliance with~~ residents'  
1288 rights.

1289 (b) In order to determine whether the facility is  
1290 adequately protecting residents' rights, the biennial survey

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1291 shall include private informal conversations with a sample of  
1292 residents and consultation with the ombudsman council in the  
1293 district in which the facility is located to discuss residents'  
1294 experiences within the facility.

1295 ~~(c) During any calendar year in which no survey is~~  
1296 ~~conducted, the agency shall conduct at least one monitoring~~  
1297 ~~visit of each facility cited in the previous year for a class I~~  
1298 ~~or class II violation, or more than three uncorrected class III~~  
1299 ~~violations.~~

1300 ~~(d) The agency may conduct periodic followup inspections~~  
1301 ~~as necessary to monitor the compliance of facilities with a~~  
1302 ~~history of any class I, class II, or class III violations that~~  
1303 ~~threaten the health, safety, or security of residents.~~

1304 ~~(e) The agency may conduct complaint investigations as~~  
1305 ~~warranted to investigate any allegations of noncompliance with~~  
1306 ~~requirements required under this part or rules adopted under~~  
1307 ~~this part.~~

1308 Section 18. Subsection (2) of section 429.34, Florida  
1309 Statutes, is amended to read:

1310 429.34 Right of entry and inspection.—

1311 (2) (a) In addition to the requirements of s. 408.811, the  
1312 agency may inspect and investigate facilities as necessary to  
1313 determine compliance with this part, part II of chapter 408, and  
1314 rules adopted thereunder ~~The agency shall inspect each licensed~~  
1315 ~~assisted living facility at least once every 24 months to~~

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1316 ~~determine compliance with this chapter and related rules.~~ If an  
1317 assisted living facility is cited for a class I violation or  
1318 three or more class II violations arising from separate surveys  
1319 within a 60-day period or due to unrelated circumstances during  
1320 the same survey, the agency must conduct an additional licensure  
1321 inspection within 6 months.

1322 (b) During any calendar year in which a survey is not  
1323 conducted, the agency may conduct monitoring visits of each  
1324 facility cited in the previous year for a class I or class II  
1325 violation or for more than three uncorrected class III  
1326 violations.

1327 (c) The agency shall conduct periodic followup inspections  
1328 as necessary to monitor the compliance of facilities with a  
1329 history of any violations related to the requirements for the  
1330 comprehensive emergency management plan.

1331 Section 19. Paragraph (b) of subsection (1) of section  
1332 429.41, Florida Statutes, is amended to read:

1333 429.41 Rules establishing standards.—

1334 (1) It is the intent of the Legislature that rules  
1335 published and enforced pursuant to this section shall include  
1336 criteria by which a reasonable and consistent quality of  
1337 resident care and quality of life may be ensured and the results  
1338 of such resident care may be demonstrated. Such rules shall also  
1339 ensure a safe and sanitary environment that is residential and  
1340 noninstitutional in design or nature. It is further intended

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1341 that reasonable efforts be made to accommodate the needs and  
1342 preferences of residents to enhance the quality of life in a  
1343 facility. Uniform firesafety standards for assisted living  
1344 facilities shall be established by the State Fire Marshal  
1345 pursuant to s. 633.206. The agency, in consultation with the  
1346 department, may adopt rules to administer the requirements of  
1347 part II of chapter 408. In order to provide safe and sanitary  
1348 facilities and the highest quality of resident care  
1349 accommodating the needs and preferences of residents, the  
1350 department, in consultation with the agency, the Department of  
1351 Children and Families, and the Department of Health, shall adopt  
1352 rules, policies, and procedures to administer this part, which  
1353 must include reasonable and fair minimum standards in relation  
1354 to:

1355 (b) The preparation and annual update of a comprehensive  
1356 emergency management plan. Such standards must be included in  
1357 the rules adopted by the department after consultation with the  
1358 Division of Emergency Management.

1359 1. At a minimum, the rules must provide for plan  
1360 components that address:

1361 a. Emergency evacuation transportation;

1362 b. Adequate sheltering arrangements;

1363 c. Postdisaster activities, including provision of  
1364 emergency power, food, and water;

1365 d. Postdisaster transportation;

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- 1366        e. Supplies;  
1367        f. Hardening;  
1368        g. Staffing, including which staff are responsible for  
1369 implementing each element of the plan, how the facility will  
1370 maintain staffing during emergencies, and whether and how the  
1371 facility will accommodate family members of staff;  
1372        h. Emergency equipment;  
1373        i. Individual identification of residents and transfer of  
1374 records;  
1375        j. Communication with families; and  
1376        k. Responses to family inquiries.  
1377        2. Facilities must include information in their plans  
1378 about:  
1379        a. Whether the facility is located in an evacuation zone;  
1380        b. Whether the facility intends to shelter in place or  
1381 relocate to another facility;  
1382        c. Whether the facility has an emergency power source;  
1383        d. How the facility will inform residents and the  
1384 resident's designated family member, legal representative, or  
1385 guardian when the emergency management plan has been activated;  
1386 and  
1387        e. A working phone number for the facility for use by the  
1388 resident's designated family member, legal representative, or  
1389 guardian to make contact postdisaster.  
1390        3. A facility must provide to the agency, its residents,

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1391 and the resident's designated family member, legal  
1392 representative, or guardian the information in subparagraph 2.  
1393 and an overview of the facility's comprehensive emergency  
1394 management plan and, if appropriate, a description of the  
1395 evacuation plan. The agency must post this information on its  
1396 consumer information website. Any changes to this information  
1397 must be provided to the agency, the facility's residents, and  
1398 the resident's designated family member, legal representative,  
1399 or guardian within 30 days after the change takes effect.

1400 4. The comprehensive emergency management plan is subject  
1401 to review and approval by the local emergency management agency.

1402 a. A facility must submit its plan to the local emergency  
1403 management agency within 90 days after licensure and change of  
1404 ownership and must notify the agency within 30 days after  
1405 submission of the plan.

1406 b. Such plan must be submitted annually or within 30 days  
1407 after any significant modification, as defined by agency rule,  
1408 to a previously approved plan.

1409 c. During its review, the local emergency management  
1410 agency shall ensure that the following agencies, at a minimum,  
1411 are given the opportunity to review the plan: the Department of  
1412 Elderly Affairs, the Department of Health, the Agency for Health  
1413 Care Administration, and the Division of Emergency Management.  
1414 Also, appropriate volunteer organizations must be given the  
1415 opportunity to review the plan.

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1416 d. The local emergency management agency shall complete  
1417 its review within 60 days and either approve the plan or advise  
1418 the facility of necessary revisions. A facility must submit the  
1419 requested revisions to the local emergency management agency  
1420 within 30 days after receiving written notification from the  
1421 local emergency management agency.

1422 e. A facility must notify the agency within 30 days after  
1423 approval of its plan by the local emergency management agency.

1424 Section 20. (1) For the 2018-2019 fiscal year, 11 full-time  
1425 equivalent positions, with associated salary rate of 458,789,  
1426 are authorized and the sums of \$81,095 in recurring funds from  
1427 the Administrative Trust Fund, \$706,525 in recurring funds from  
1428 the Health Care Trust Fund, and \$60,134 in nonrecurring funds  
1429 from the Health Care Trust Fund are appropriated to the Agency  
1430 for Health Care Administration for the purpose of implementing  
1431 the oversight and enforcement requirements of this act.

1432 (2) For the 2018-2019 fiscal year, \$300,000 in recurring  
1433 funds from the Health Care Trust Fund are appropriated to the  
1434 Agency for Health Care Administration for the purpose of  
1435 implementing technology changes necessary to implement this act.

1436 (3) For the 2018-2019 fiscal year, 10 full-time equivalent  
1437 positions, with associated salary rate of 407,212 are authorized  
1438 and the sums of \$744,289 in recurring funds from the General  
1439 Revenue Fund, \$562,140 in recurring funds from the County Health  
1440 Department Trust Fund, \$44,740 in nonrecurring funds from the

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1441 General Revenue Fund, and \$35,792 in nonrecurring funds from the  
1442 County Health Department Trust Fund are appropriated to the  
1443 Department of Health for the purpose of implementing the special  
1444 needs registry and comprehensive emergency management plan  
1445 requirements of this act.

1446 (4) For the 2018-2019 fiscal year, \$879,955 in recurring  
1447 funds from the General Revenue Fund and \$169,480 in nonrecurring  
1448 funds from the General Revenue Fund are appropriated to the  
1449 Department of Health for the purpose of implementing technology  
1450 changes necessary to implement this act.

1451 Section 21. This act shall take effect July 1, 2018.

1452

1453

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

1454

Remove lines 133-155 and insert:

1455

1456 required by authorizing statutes to have a comprehensive  
1457 emergency management plan to conduct annual staff training on  
1458 the policies and procedures for implementing the plan within a  
1459 specified timeframe; providing for agency action for failure to  
1460 comply; amending s. 429.14, F.S.; authorizing the agency to deny  
1461 or revoke the license of an assisted living facility for failure  
1462 to comply with comprehensive emergency management plan  
1463 requirements; amending s. 429.28, F.S.; revising the assisted  
1464 living facility resident bill of rights to include a requirement  
1465 that the agency determine compliance with the facility's

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1466 comprehensive emergency management plan; deleting a requirement  
1467 that the agency conduct at least one monitoring visit under  
1468 certain circumstances; deleting provisions authorizing the  
1469 agency to conduct periodic followup inspections and complaint  
1470 investigations under certain circumstances; amending s. 429.34,  
1471 F.S., authorizing the agency to inspect and investigate assisted  
1472 living facilities as necessary to determine compliance with  
1473 certain laws; removing a provision requiring the agency to  
1474 inspect each licensed assisted living facility at least  
1475 biennially; authorizing the agency to conduct monitoring visits  
1476 of each facility cited for prior violations under certain  
1477 circumstances; requiring the agency to conduct followup  
1478 inspections to monitor compliance with requirements for the  
1479 comprehensive emergency management plan under certain  
1480 circumstances; amending s. 429.41, F.S.; directing the agency to  
1481 require facilities licensed under ch. 429, F.S., to include  
1482 additional components in their comprehensive emergency  
1483 management plans; requiring a facility to provide information  
1484 regarding its plan and any changes thereto to designated  
1485 individuals, the agency, and the local emergency management  
1486 agency within a specified timeframe; providing an appropriation  
1487 to the Agency for Health Care Administration and the Department  
1488 of Health; providing an effective date.

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