

WEEK 6 REPORT

// 2018 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA
FEB. 12 - FEB. 16, 2018



// WEEK 6 REPORT

CONTENTS

SB 232 // HB 53

Coral Reefs

As we complete the sixth week of the 2018 Legislative Session, everything has changed with only three weeks left during the regular Session.

SB 632 // HB 247

Vessel Registration

Legislators will be returning to Tallahassee this week to try and address safety for all Floridians, especially our students. Legislators are making calls for increased funding for mental health in our schools, school hardening, and other funding measures to make our schools safer.

SB 388 // HB 1001

Anchoring Limitation Areas

As I write this report, a march is scheduled this week in Tallahassee. Students will be meeting with elected officials to discuss changes they would like to see in our statutes. We will keep you posted as this will be an emotionally-charged week.

SB 664 // HB 469

Salvage of Pleasure Vessels

The “Florida Coral Reef Ecosystem Conservation Area” is still an enrolled bill. The bill has yet to be sent to the Governor for approval as of the writing of this report. As a reminder, the bill passed unanimously.

SB 1132 // HB 915

Vessel Safety Inspection Decals

The “Salvage Bill” only has one committee stop left in the Senate and is ready to be heard on floor of the House of Representatives.

SB 1632 // HB 963

Towing and Immoilization Fees and Charges

Senate Bill 664 by Senator Young is still waiting to be heard in the Senate Rules Committee. The Senate Rules committee is scheduled to have two more meetings. The meetings are scheduled for February 22 and 26 and the agendas have not posted as of the writing of this report.

SB 1308 // HB 1149

Environmental Regulation

House Bill 469 is now ready for the House floor. CS/CS/CS HB 469 passed the House Government Accountability Committee 21-2.

The Environmental Regulation bills, SB 1308/HB 1149, contain language relating to dock replacement. SB 1308 passed the Senate Community Affairs Committee as a committee substitute with a vote of 6-1. The next committee stop for the bill is the Senate Appropriations Committee. HB 1149 is waiting to be heard in its last committee, Government Accountability. The House Government Accountability Committee is scheduled to meet February 22nd and 27th. The agendas had not been released as of the writing of this report.

Anchoring bills have yet to move this Session. If any anchoring legislation were to pass this Session, it would be in amendment form. We will keep a watchful eye out for any and all amendments.

Budget Highlights

We continue to wait for the fourth floor to agree on allocations so we can begin the budget process. Budget conference could begin this

week. Remember, the conference report must rest for seventy two hours before the Legislature can vote on it for final passage. March 9th is the last day of the sixty-day session.

In short, the budget items below have not changed from the previous report.

Below for your information are a few of the boating highlights included in the Governor’s recommendations, the Florida Senate proposal (SB 2500) and Florida House of Representative proposal(HB 5001).

Governor Recommendations

1694 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE
 FROM GENERAL REVENUE FUND 3,600,000
 FROM WATER QUALITY ASSURANCE TRUST FUND
 257,834

From the funds in Specific Appropriation 1694, \$3,600,000 is provided for the purpose of assisting local governments with sea level rise planning and coastal resilience projects. Funds may also be used for storm resiliency, including the placement of sand to mitigate erosion and ensure public safety, or for the protection of coral reef health, including restoration and monitoring.

1703 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
 CLEAN MARINA
 FROM FEDERAL GRANTS TRUST FUND 1,960,000
 FROM GRANTS AND DONATIONS TRUST FUND 200,000

1758 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM
 FROM MARINE RESOURCES CONSERVATION TRUST FUND 850,650

1759 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE
 FROM FEDERAL GRANTS TRUST FUND 3,900,000

1760 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
 DERELICT VESSEL REMOVAL PROGRAM
 FROM GENERAL REVENUE FUND 1,000,000

1761 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
 FLORIDA BOATING IMPROVEMENT PROGRAM
 FROM MARINE RESOURCES CONSERVATION TRUST FUND 2,592,600
 FROM STATE GAME TRUST FUND 1,250,000

1827 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
 ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM
 FROM FEDERAL GRANTS TRUST FUND 300,000
 FROM MARINE RESOURCES CONSERVATION TRUST FUND 300,000

Senate Budget - SB 2500

1694 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE
 FROM WATER QUALITY ASSURANCE TRUST FUND 257,834

1703 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL
 OUTLAY CLEAN MARINA
 FROM FEDERAL GRANTS TRUST FUND 1,960,000
 FROM GRANTS AND DONATIONS TRUST FUND 200,000

1758 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM
 FROM MARINE RESOURCES CONSERVATION TRUST FUND 850,650

1759 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE
 FROM FEDERAL GRANTS TRUST FUND 3,900,000

1760 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL
 OUTLAY DERELICT VESSEL REMOVAL PROGRAM
 FROM GENERAL REVENUE FUND 1,000,000

1761 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL
 OUTLAY FLORIDA BOATING IMPROVEMENT PROGRAM
 FROM MARINE RESOURCES CONSERVATION TRUST FUND 2,592,600
 FROM STATE GAME TRUST FUND 1,250,000

1827 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL
 OUTLAY ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM
 FROM FEDERAL GRANTS TRUST FUND 300,000
 FROM MARINE RESOURCES CONSERVATION TRUST FUND 300,000

House Budget - HB 5001

1694 SPECIAL CATEGORIES FLORIDA RESILIENT COASTLINE INITIATIVE
 FROM GENERAL REVENUE FUND 3,600,000

From the funds provided in Specific Appropriation 1694, \$2,600,000 in recurring and \$1,000,000 in nonrecurring funds from the General Revenue Fund are provided for the Florida Resilient Coastline Initiative to assist local governments with storm resiliency, sea level rise planning, coastal resilience projects, and coral reef health.

1703 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL
 OUTLAY CLEAN MARINA
 FROM FEDERAL GRANTS TRUST FUND 1,960,000
 FROM GRANTS AND DONATIONS TRUST FUND 200,000

1758 SPECIAL CATEGORIES BOATING SAFETY EDUCATION PROGRAM

FROM MARINE RESOURCES CONSERVATION TRUST FUND 625,650

1759 FIXED CAPITAL OUTLAY BOATING INFRASTRUCTURE
FROM FEDERAL GRANTS TRUST FUND 3,900,000

1760 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
DERELICT VESSEL REMOVAL PROGRAM
FROM MARINE RESOURCES CONSERVATION TRUST FUND 1,000,000

1761 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
FLORIDA BOATING IMPROVEMENT PROGRAM
FROM MARINE RESOURCES CONSERVATION TRUST FUND 1,296,300
FROM STATE GAME TRUST FUND 1,250,000

1820A SPECIAL CATEGORIES NUISANCE WILDLIFE CONTROL
FROM MARINE RESOURCES CONSERVATION TRUST FUND 1,000,000

From the funds provided in Specific Appropriation 1820A, \$1,000,000 in nonrecurring funds from the Marine Resources Conservation Trust Fund is provided for the removal of lionfish in the areas of greatest need as determined by the Fish and Wildlife Conservation Commission.

Funds may be used to recruit local dive shops or commercial fishermen to host Fish and Wildlife Conservation Commission sponsored lionfish-specific excursions or dive trips for lionfish removal where they teach anglers how to harvest, safely handle, and clean harvested lionfish, and how to cook lionfish. \$100,000 from the funds provided may be used to partner with local seafood markets and restaurants to market the consumption of lionfish as a food product.

The Fish and Wildlife Conservation Commission shall submit quarterly reports that include the status of the removal process, how many lionfish have been removed, the status of outreach, education and marketing, and how the funds are being utilized. The quarterly reports shall be submitted to the Executive Office of the Governor and the chairs of the Senate Appropriations Committee and the House of Representatives Appropriations Committee no later than 30 days after the close of each quarter.

1827 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY
ARTIFICIAL FISHING REEF CONSTRUCTION PROGRAM
FROM FEDERAL GRANTS TRUST FUND 300,000
FROM MARINE RESOURCES CONSERVATION TRUST FUND 300,000

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



Margaret "Missy" Timmins
President
Timmins Consulting, LLC

// CORAL REEFS

Senate Bill 232 // Sen. Lauren Book // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

House Bill 53 // Rep. Kristin Jacobs // Referred to: Natural Resources & Public Lands Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 232: SB 232 creates the Southeast Florida Coral Reef Ecosystem Conservation Area. The conservation area consists of the sovereignty submerged lands and state waters offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Most Recent Action: Read Second Time; Substituted for HB 0053; Laid on Table, Refer to HB 0053

House Bill 53: Coral reefs in southeast Florida support a rich and diverse assemblage of stony corals, octocorals, macroalgae, sponges, and fishes. These ecological communities run parallel along the coast from the northern border of Biscayne National Park in Miami-Dade County north to the St. Lucie Inlet in Martin County. Coral reefs are valuable natural resources. They protect coastlines by reducing wave energy from storms and hurricanes. They serve as a source of food and shelter and provide critical habitat for over 6,000 species, including important commercial fisheries. Further, people use coral reefs as a resource for recreation, education, scientific research, and public inspiration. Millions of tourists and local residents enjoy scuba diving, snorkeling, and fishing on the coral reefs.

Coral reefs are vulnerable to harmful environmental changes, particularly those resulting from human activities. Globally, 10 percent of all coral reefs are degraded beyond recovery and 30 percent are in critical condition and may die within 10 to 20 years, particularly those near human populations.

The bill establishes the Southeast Florida Coral Reef Ecosystem Conservation Area (conservation area). The conservation area includes the sovereign submerged lands and state waters offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet in the north to the northern boundary of the Biscayne National Park in the south.

Most Recent Action: Read Third Time; Passed (Vote: 35 Yeas / 0 Nays); Enrolled Text (ER) Filed

// VESSEL REGISTRATION

Senate Bill 632 // Sen. Bill Montford // Referred to: Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 247 // Rep. Lorraine Ausley // Referred to: Transportation & Infrastructure Subcommittee; Transportation & Tourism Appropriations Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 632: CS/SB 632 authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to accept applications for vessel registration by electronic or telephonic means, issue electronic vessel registrations in addition to paper registrations, and collect email addresses and use email for providing vessel registration renewal notices in lieu of the United States Postal Service (USPS). The bill also allows a vessel operator to present the electronic certificate of vessel registration on an electronic device upon inspection of the vessel. The bill provides that presentation of the electronic certificate does not constitute consent for inspection of any other information on the device, and the person who presents the device assumes liability for any damage to the device.

The bill may have a negative fiscal impact to the DHSMV for initial implementation; however, the DHSMV may experience reduced mail costs in the future.

Most Recent Action: Favorable by Appropriations Subcommittee on Transportation, Tourism, and Economic Development; 8 Yeas, 0 Nays

House Bill 247: Currently, the Fish and Wildlife Conservation Commission (FWC) is authorized to accept an application for a vessel certificate of registration by electronic or telephonic means whereas for a motor vehicle certificate of registration the Department of Highway Safety and Motor Vehicles (DHSMV) is authorized to:

- Accept an application for motor vehicle registration by electronic or telephonic means; and
- Collect and use email addresses in lieu of the U.S. Postal Service for providing renewal notices.

Florida does not currently allow a motor vehicle or vessel owner or operator to display an electronic certificate of registration in lieu of a paper registration to law enforcement or any other official requesting to view the vessel registration.

The bill replaces “commission” with “department,” when referring to the state agency who is responsible for accepting vessel registration applications. This change recognizes that DHSMV is the state agency responsible for processing registration applications for vessels, not the FWC. Additionally, the bill allows DHSMV to issue an electronic certificate of registration in lieu of

a paper registration and collect and use email addresses in lieu of U.S. mail for the purpose of providing renewal notices. This provision parallels the existing requirements governing the issuance of vessel and motor vehicle certificates of title.

The bill allows owners and operators of vessels to produce an electronic certificate of registration for inspection. The presentation of the electronic certificate of registration does not create consent to inspect any other information on the electronic device. This will enable owners and operators of vessels to produce an electronic certificate of registration (via cell phone, tablet, laptop, etc.) to law enforcement, or any other official requesting to view the vessel registration, rather than producing a paper copy.

The bill will have an indeterminate, but likely negative fiscal impact to DHSMV.

Most Recent Action: Favorable by Transportation & Infrastructure Subcommittee; 12 Yeas, 0 Nays

// ANCHORING LIMITATION AREAS

Senate Bill 388 // Sen. Gary Farmer // Referred to: Environmental Preservation and Conservation; Community Affairs; Rules

House Bill 1001 // Rep. Joe Geller // Referred to: Local, Federal & Veterans Affairs Subcommittee; Natural Resources & Public Lands Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 388: Revising the anchoring limitation areas within the state to include additional specified areas, etc.

Most Recent Action: Referred to Environmental Preservation and Conservation; Community Affairs; Rules

House Bill 1001 Provides exception to general law; provides specified areas are narrow state waterways & anchoring limitation areas.

Most Recent Action: Referred to Local, Federal & Veterans Affairs Subcommittee; Natural Resources & Public Lands Subcommittee; Government Accountability Committee

// SALVAGE OF PLEASURE VESSELS

Senate Bill 664 // Sen. Dana Young // Referred to: Commerce and Tourism; Transportation; Rules

House Bill 469 // Rep. Shawn Harrison // Referred to: Natural Resources & Public Lands Subcommittee; Careers & Competition Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 664: CS/CS/SB 664 creates a new section of law relating to salvage of pleasure vessels, applying its provisions to all salvors in the state, with certain exceptions, and defining relevant terms. The bill requires a salvor to provide a customer with verbal and written notice that the salvor's offered service is not covered by any towing contract before a salvor may engage in the salvage operation of a pleasure vessel. The bill requires the written notice to include a specified statement. The bill relieves a salvor of providing the verbal and written notice if there is an imminent threat of injury or death to any person on board the vessel.

The bill provides that a customer injured by a violation of the new section of law may bring an action in the appropriate court and specifies that a prevailing customer in such an action is entitled to damages in an amount that is 1.5 times that charged by the salvor, plus actual damages, court costs, and reasonable attorney fees. The bill provides that a customer may also bring an action for injunctive relief in the circuit court.

Last Action: Favorable with CS by Transportation; 5 Yeas, 2 Nays

House Bill 469: Salvage is the voluntary assistance to a ship at sea or its cargo, from impending sea peril or the recovery of such property from actual peril or loss. In determining a salvage award, several factors are considered resulting in awards ranging from a few hundred dollars to thousands of dollars. Currently, state law does not require salvors of pleasure vessels to notify customers regarding the potential costs prior to salvage.

The bill applies to salvors operating within waters of this state, with certain exceptions. The bill defines terms and provides that if the customer is present on the pleasure vessel, before a salvor may engage in the salvage operation of a pleasure vessel, the salvor must provide the customer with written notice that the service offered is not covered by any towing contract. The bill specifies that a salvor is not required to provide the written notice if there is an imminent threat of injury or death to any person on board the p

The bill requires that the written notice include specific language, in capital letters of at least 12-point type, which can be summarized as follows::

- The service offered is considered salvage work and is not covered by any towing service contract;
- The salvor may present the customer or the customer's insurance company with the

bill at a later date;

- Salvage charges must be calculated according to federal law, which may exceed a charge based on a time and materials calculation, and may amount to the entire value of the vessel, including its gear and equipment;
- If the customer agrees to allow the salvor to perform the work without an agreement for a fixed charge, the only recourse for challenging the bill is by a lawsuit in federal court or binding arbitration;
- The customer may agree to a fixed charge before work begins, and that agreed charge must be documented on the U.S. Open Form Salvage Agreement or other such salvage contract; and
- The customer has the right to reject the salvor's offer of services if the salvor will not agree to a fixed charge before beginning work.

The bill provides that if a written notice is not provided before a salvage operation, the owner of a pleasure vessel may bring an action in an appropriate court of competent jurisdiction. An owner who prevails is entitled to damages equal to 1.5 times the amount paid or awarded to the salvor, plus court costs and reasonable attorney fees and any other remedy provided by law.

The bill does not appear to have a fiscal impact on the state or local government. The bill may have an indeterminate fiscal impact on the private sector.

Most Recent Action: Favorable with CS by Government Accountability Committee; 21 Yeas, 2 Nays

Attached documents: CS/CS/CS/HB 469 + staff analysis

// VESSEL SAFETY INSPECTION DECALS

Senate Bill 1132 // Sen. Travis Hutson // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

House Bill 915 // Rep. Patrick Henry // Referred to: Natural Resources & Public Lands Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 1132: PCS/SB 1132 authorizes the Fish and Wildlife Conservation Commission (FWC) to designate by rule the timeframe for the expiration of, and the specific design for, the safety inspection decal for vessels. The bill specifies that the decal may not be valid for more than five years, and, at a minimum, meet the standards specified in s. 327.70(2)(a), F.S., which requires the decal to be displayed:

- Within six inches of the vessel's properly displayed vessel registration decal; or

- For a non-motorized vessel which is not required to be registered, on the forward half of the port side of the vessel above the waterline.

The FWC will have additional workload relating to rulemaking to implement the bill. The associated costs of such workload will be absorbed within the FWC's existing resources.

Most Recent Action: Favorable with CS by Appropriations Subcommittee on the Environment and Natural Resources; 7 Yeas, 0 Nays

House Bill 915: The owner and operator of every vessel on Florida waters must carry, store, maintain, and use safety equipment in accordance with the United States Coast Guard (USCG) safety equipment requirements, unless exempted by the Florida Fish and Wildlife Conservation Commission (FWC). Additionally, all vessels must be equipped with serviceable lights and shapes required under navigation rules.

In general, all vessels are required to have onboard a wearable USCG-approved personal flotation device for each person, which is the appropriate size for the intended wearer, be in serviceable condition, and within easy access. All vessels are also required to carry an efficient sound-producing device (e.g., bell, horn, whistle). Other safety requirements, for instance, the number of fire extinguishers and visual distress signals, vary depending on the length of the vessel.

An operator of a vessel who has demonstrated compliance with safety equipment and use requirements must be issued a safety inspection decal by a law enforcement officer signifying the vessel has met such requirements at the time and location of the inspection. A law enforcement officer may not stop a vessel that properly displays a valid safety inspection decal for the sole purpose of inspecting the vessel for compliance with safety equipment and use requirements, unless there is reasonable suspicion that a violation of such has occurred or is occurring. Current law does not provide for an expiration date of the safety inspection decal or grant FWC rulemaking authority to design the safety inspection decal.

The bill allows FWC to designate by rule the timeframe for expiration of, and the specific design for, the safety inspection decal. The bill also provides that the safety inspection decal may not be valid for more than five years.

The bill may have a minimal negative fiscal impact on FWC because of an increased workload for the rulemaking requirements of the bill and the creation of decals, but this may be handled within existing resources. The bill does not appear to have a fiscal impact on local governments or the private sector.

Most Recent Action: Favorable by Government Accountability Committee; 20 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

// TOWING AND IMMOBILIZATION FEES AND CHARGES

Senate Bill 1632 // Sen. Debbie Mayfield // Referred to: Community Affairs; Transportation; Rules

House Bill 963 // Rep. Bob Cortes // Referred to: Local, Federal & Veterans Affairs Subcommittee; Transportation & Infrastructure Subcommittee; Government Accountability Committee

Senate Bill 1632: Expanding the application of certain provisions related to ordinances and rules imposing price controls to include the towing or immobilization of vessels; prohibiting counties and municipalities from imposing charges, costs, expenses, fines, fees, or penalties on registered owners, other legally authorized persons in control, or lienholders of vehicles or vessels under certain conditions, etc.

Last Action: Favorable by Transportation; 7 Yeas, 0 Nays

House Bill 963: County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators.

Counties and municipalities are authorized to establish maximum rates for the towing and storage of vehicles pursuant to an ordinance or rule adopted pursuant to s. 125.0103, F.S., or s. 166.043, F.S. Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

The bill requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well placing a cap on the maximum rate for immobilizing a vehicle or vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill does not prohibit a county or municipality from levying a local business tax on authorized wrecker operators and does not impact the ability of a county or municipality to impose a reasonable administrative fee on the legal owner, legally authorized user, or lienholder of a vehicle or vessel to cover the cost of enforcement actions. The bill provides that an authorized wrecker operator may impose and collect the administrative fee and is only required to remit the fee to the county or municipality after it has been collected.

The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose fees on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator.

The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel

shall have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

Last Action: Favorable by Government Accountability Committee; 19 Yeas, 0 Nays

// ENVIRONMENTAL REGULATION

Senate Bill 1308 // Sen. Keith Perry // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

House Bill 1149 // Rep. Bobby Payne // Referred to: Natural Resources & Public Lands Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Government Accountability Committee

Senate Bill 1308: CS/CS/SB 1308 provides that when a water management district (WMD) evaluates a consumptive use permit (CUP), impact offsets may be created if the applicant proposes reclaimed water use in certain ways to increase the quantity of water available for water supply.

The bill requires DEP to develop criteria for the application of an impact offset or a substitution credit to a CUP or to a minimum flows and levels recovery or prevention strategy and requires DEP and the WMDs to enter into a memorandum of agreement providing for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a CUP.

The bill provides criteria by which counties and municipalities must address the contamination of recyclable material in contracts for the collection, transportation, and processing of residential recyclable material, including that residential recycling collectors and materials recovery facilities may not be required to collect, transport, or process contaminated recyclable material. The criteria apply to contracts between a municipality or county and a residential recycling collector or materials recovery facility executed or renewed after July 1, 2018.

The bill revises the exemption from the requirement to obtain an environmental resource permit (ERP) for the replacement or repair of an existing dock or pier and prevents a local government from requiring further verification from DEP for all of the activities and projects exempted from ERP requirements.

Last Action: Favorable with CS by Community Affairs; 6 Yeas, 1 Nay

House Bill 1149: The bill revises policies relating to Florida’s environmental regulation by:

- Providing examples of reclaimed water use that may create an impact offset to include those that prevent or stop further saltwater intrusion, raise aquifer levels, improve the water quality of an aquifer, or augment surface water to increase the quantity of water available for water supply;
- Requiring the Department of Environmental Protection (DEP) to revise the water resource implementation rule to create criteria by which an impact offset or substitution credit may be applied to the issuance, renewal, or extension of a consumptive use permit (CUP) or may be used to address additional water resource constraints imposed by the adoption of a recovery or prevention strategy;
- Including the reuse of reclaimed water through aquifer recharge as a critical component of meeting the state’s existing and future water supply needs while sustaining natural systems;
- Requiring DEP and water management districts (WMD) to develop and enter into a memorandum of agreement no later than December 1, 2018, providing for coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a CUP, to be used solely at the permit applicant’s request;
- Requiring counties and municipalities to address the contamination of recyclable material in contracts with residential recycling collectors for collection or transportation of residential recyclable material;
- Defining “residential recycling collector;”
- Requiring counties and municipalities to address the contamination of recyclable material in contracts with material recovery facilities (MRF) for processing of residential recyclable material;
- Requiring local government contracts with a residential recycling collector or MRF to define “contaminated recyclable material” in a manner that is appropriate for the local community, based on available recyclable material markets;
- Requiring local government contracts with a residential recycling collector or MRF to include strategies and obligations of the parties to reduce the amount of contaminated recyclable material being collected or processed, procedures for identifying, documenting, managing, and rejecting contaminated recyclable materials, and remedies that will be used for contaminated recyclable material;
- Providing applicability of these contract requirements in any local government contract with a residential recycling collector or MRF executed or renewed after the effective date of the act;
- Prohibiting local governments from requiring additional verification from DEP that a particular activity meets a permit exception; and
- Revising the permit exception for the replacement or repair of existing docks and piers to allow for the repair or replacement if it is in approximately the same location,

no larger in size than the existing dock or pier, and no additional aquatic resources are adversely and permanently impacted.

Last Action: Favorable by Agriculture & Natural Resources Appropriations Subcommittee; 11 Yeas, 1 Nay

Attached documents: CS/CS/SB 1308 + staff analysis

APPENDIX

// CORAL REEFS

No attachments

// VESSEL REGISTRATION

No attachments

// ANCHORING LIMITATION AREAS

No attachments

// SALVAGE OF PLEASURE VESSELS

CS/CS/CS/HB 469 + Analysis

// VESSEL SAFETY INSPECTION DECALS

No attachments

// TOWING AND IMMOBILIZATION FEES AND CHARGES

No attachments

// ENVIRONMENTAL REGULATION

CS/CS/SB 1308 + Analysis

// CURRENT BILL TRACKING LIST

1 A bill to be entitled
 2 An act relating to the salvage of pleasure vessels;
 3 creating s. 559.9602, F.S.; providing scope and
 4 applicability; providing definitions; requiring
 5 salvors of pleasure vessels to provide specified
 6 written notice; providing an exception; providing
 7 remedies; specifying that such remedies are in
 8 addition to others provided by law; providing an
 9 effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 559.9602, Florida Statutes, is created
 14 to read:

15 559.9602 Salvage of pleasure vessels.-

16 (1) This section applies to all salvors operating within
 17 the waters of this state, as defined in s. 327.02(47), except:

18 (a) Any person who performs salvage work while employed by
 19 a municipal, county, state, or federal government when carrying
 20 out the functions of that government.

21 (b) Any person who engages solely in salvage work for:

22 1. Pleasure vessels that are owned, maintained, and
 23 operated exclusively by such person and for that person's own
 24 use; or

25 2. For-hire pleasure vessels that are rented for periods
26 of 30 days or less.

27 (c) Any person who owns or operates a marina or shore-
28 based repair facility and is in the business of repairing
29 pleasure vessels, where the salvage work takes place exclusively
30 at that person's facility.

31 (d) Any person who is in the business of repairing
32 pleasure vessels who performs the repair work at a landside or
33 shoreside location designated by the customer.

34 (e) Any person who is in the business of recovering,
35 storing, or selling pleasure vessels on behalf of insurance
36 companies that insure the vessels.

37 (2) As used in this section, the term:

38 (a) "Customer" means the owner of the pleasure vessel or
39 the person who has been given the authority by the owner to
40 authorize salvage work of the pleasure vessel.

41 (b) "Employee" means an individual who is employed full
42 time or part time by a salvor and performs salvage work.

43 (c) "Pleasure vessel" means any watercraft no more than 60
44 feet in length which is used solely for personal pleasure,
45 family use, or the transportation of executives, persons under
46 the employment, and guests of the owner.

47 (d) "Salvage work" means any assistance, services,
48 repairs, or other efforts rendered by a salvor relating to
49 saving, preserving, or rescuing a pleasure vessel or its

50 passengers and crew which are in marine peril. Salvage work does
51 not include towing a pleasure vessel.

52 (e) "Salvor" means a person in the business of voluntarily
53 providing assistance, services, repairs, or other efforts
54 relating to saving, preserving, or rescuing a pleasure vessel or
55 the vessel's passengers and crew which are in marine peril, in
56 exchange for compensation.

57 (3) (a) If the customer is present on the pleasure vessel,
58 before a salvor may engage in the salvage operation of a
59 pleasure vessel, the salvor shall provide the customer with
60 written notice that the service offered is not covered by any
61 towing contract. The written notice must include the following
62 statement, in capital letters of at least 12-point type, and
63 must be signed by the customer:

64
65 THE SERVICE OFFERED BY THE SALVOR IS CONSIDERED SALVAGE
66 WORK AND IS NOT COVERED BY ANY TOWING SERVICE CONTRACT. SALVAGE
67 WORK ALLOWS THE SALVOR TO PRESENT YOU, OR YOUR INSURANCE
68 COMPANY, WITH A BILL FOR THE CHARGES AT A LATER DATE. THE SALVOR
69 SHALL CALCULATE THE CHARGES ACCORDING TO FEDERAL SALVAGE LAW AND
70 SUCH CHARGES MAY EXCEED A CHARGE BASED ON A TIME AND MATERIALS
71 CALCULATION. THE CHARGES COULD AMOUNT TO AS MUCH AS THE ENTIRE
72 VALUE OF YOUR VESSEL, INCLUDING ITS GEAR AND EQUIPMENT.

73 IF YOU AGREE TO ALLOW THE SALVOR TO PERFORM THE OFFERED
74 WORK WITHOUT AN AGREEMENT FOR A FIXED CHARGE FOR THE SALVAGE,

75 YOUR ONLY RECOURSE TO CHALLENGE THE ASSESSED CHARGES IS BY A
76 LAWSUIT IN FEDERAL COURT OR, IF YOU AND THE SALVOR AGREE IN
77 WRITING, BY BINDING ARBITRATION.

78 YOU MAY AGREE TO A FIXED CHARGE FOR THE SALVAGE WITH THE
79 SALVOR BEFORE WORK BEGINS, AND THE AGREED CHARGE SHALL BE
80 DOCUMENTED ON THE U.S. OPEN FORM SALVAGE AGREEMENT OR OTHER SUCH
81 SALVAGE CONTRACT SIGNED BY YOU AND THE SALVOR. YOU HAVE A RIGHT
82 TO REJECT THE SALVOR'S OFFER OF SERVICES IF THE SALVOR WILL NOT
83 AGREE TO A FIXED CHARGE BEFORE BEGINNING WORK.

84
85 CUSTOMER SIGNATURE:.....

86
87 DATE.....TIME:.....

88
89 (b) The salvor is relieved of providing the written notice
90 required by this subsection if there is an imminent threat of
91 injury or death to any person on board the pleasure vessel. The
92 salvor must provide the written notice required by this
93 subsection when there is no longer a threat of injury or death
94 to any person on board the pleasure vessel.

95 (4) (a) If a written notice is not provided before a
96 salvage operation as required by this section, the owner of a
97 pleasure vessel may bring an action in the appropriate court of
98 competent jurisdiction. An owner who prevails in such an action
99 is entitled to damages equal to 1.5 times the amount paid or

100 | awarded to the salvor, plus court costs and reasonable attorney
101 | fees.

102 | (b) The remedies provided for in this subsection shall be
103 | in addition to any other remedy provided by law.

104 | Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 469 Salvage of Pleasure Vessels

SPONSOR(S): Government Accountability Committee; Careers & Competition Subcommittee; Natural Resources & Public Lands Subcommittee and Harrison

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 664

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	13 Y, 0 N, As CS	Moore	Shugar
2) Careers & Competition Subcommittee	9 Y, 2 N, As CS	Willson	Anstead
3) Government Accountability Committee	21 Y, 2 N, As CS	Moore	Williamson

SUMMARY ANALYSIS

Salvage is the voluntary assistance to a ship at sea or its cargo, from impending sea peril or the recovery of such property from actual peril or loss. In determining a salvage award, several factors are considered resulting in awards ranging from a few hundred dollars to thousands of dollars. Currently, state law does not require salvors of pleasure vessels to notify customers regarding the potential costs prior to salvage.

The bill applies to salvors operating within waters of this state, with certain exceptions. The bill defines terms and provides that if the customer is present on the pleasure vessel, before a salvor may engage in the salvage operation of a pleasure vessel, the salvor must provide the customer with written notice that the service offered is not covered by any towing contract. The bill specifies that a salvor is not required to provide the written notice if there is an imminent threat of injury or death to any person on board the pleasure vessel, but must provide the written notice when there is no longer such threat of injury or death.

The bill requires that the written notice be signed by the customer and include specific language, in capital letters of at least 12-point type that includes, but is not limited to:

- The service offered is considered salvage work and is not covered by any towing service contract;
- The salvor may present the customer or the customer's insurance company with the bill at a later date;
- Salvage charges must be calculated according to federal law, which may exceed a charge based on a time and materials calculation, and may amount to the entire value of the vessel, including its gear and equipment;
- If the customer agrees to allow the salvor to perform the work without an agreement for a fixed charge, the only recourse for challenging the bill is by a lawsuit in federal court or binding arbitration;
- The customer may agree to a fixed charge before work begins, and that agreed charge must be documented on the U.S. Open Form Salvage Agreement or other such salvage contract; and
- The customer has the right to reject the salvor's offer of services if the salvor will not agree to a fixed charge before beginning work.

The bill provides that if a written notice is not provided before a salvage operation, the owner of a pleasure vessel may bring an action in an appropriate court of competent jurisdiction. An owner who prevails is entitled to damages equal to 1.5 times the amount paid or awarded to the salvor, plus court costs and reasonable attorney fees and any other remedy provided by law.

The bill does not appear to have a fiscal impact on the state or local government. The bill may have an indeterminate fiscal impact on the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Salvage

Generally, only a vessel of the United States or a numbered motorboat owned by a citizen may engage in any salvage operation in territorial waters of the United States.¹ Salvage is the voluntary assistance to a ship at sea or its cargo, from impending sea peril or the recovery of such property from actual peril or loss (e.g., shipwreck, dereliction, recapture).²

Public policy favors liberally rewarding a person for salvage services, because of the humanitarian and commercial importance of aiding persons and ships in distress and maintaining navigable waterways. Accordingly, salvage awards are viewed as a reward for providing dangerous services, voluntarily rendered, and as an inducement to embark on these life and property saving undertakings.³

Jurisdiction

Salvage claims fall within the admiralty jurisdiction of the federal courts⁴ and are governed by the Supplemental Rules for Certain Admiralty and Maritime Claims (Supplemental Rules) and the Federal Rules of Civil Procedure to the extent they are inconsistent with the Supplemental Rules.⁵ Jurisdiction extends to all waters that are navigable for trade and commerce, and includes:

- Claims against proceeds of salvaged property;
- Claims where the owner of the vessel or cargo has made himself or herself personally liable to pay for salvage services;
- Contracts relating to salvage service;
- Disputes between would-be salvors who submit themselves to the court's jurisdiction;
- Requests by current salvors for exclusive possession and salvage of certain property or wrecks;
- Claims arising out of salvage operations at sea beyond the territorial limits of the United States;
- Claims as to recoveries of salvaged property from state waters, excluding determinations of the state's ownership of any artifacts recovered in state waters;
- Salvage claims for services rendered by one warship to another warship; and
- Liens for salvage services.⁶

While federal courts have exclusive jurisdiction over salvage actions directly against property (e.g., where a vessel or thing is itself treated as the offender and made the defendant by name or description), state courts have concurrent jurisdiction in actions against a person.⁷ State courts, under concurrent jurisdiction, must apply federal maritime law. Generally, state courts may apply state law to maritime actions so long as there is no conflict with federal law.⁸ State courts applying state statutes

¹ 19 C.F.R. § 4.97(a) (1969).

² 67B Am. Jur. 2d *Salvage* § 1 (2017); *see also* 33 CFR § 155.4025, defining salvage to mean any act undertaken to assist a vessel in potential or actual danger, to prevent loss of life, damage or destruction of the vessel and release of its contents into the marine environment.

³ 67B Am. Jur. 2d *Salvage* § 1 (2017).

⁴ 28 U.S.C. § 1333.

⁵ 67B Am. Jur. 2d *Salvage* § 58 (2017).

⁶ 67B Am. Jur. 2d *Salvage* § 61 (2017).

⁷ 28 U.S.C. § 1333; U.S. Const. art. III, § 2.

⁸ John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.2, 3-4 (5th ed., The Florida Bar 2017).

authorizing the payment of a reasonable salvage may look to federal maritime law for the elements or definition of salvage in interpreting state salvage laws.⁹

Actions for common-law remedies can also be brought in state court. For instance, if parties have entered into a contract, which provides a means for measurement of a salvage award, the action can proceed as a contract claim in state court.¹⁰ State courts have also heard salvage claims based on an oral contract for salvage services, however, damages in these cases must be made on contract principles rather than on salvage principles or on state laws pertaining to the payment of salvage.¹¹

Salvage Claim

To have a valid salvage claim, the maritime property must be in peril. It is not necessary that the danger be actual or imminent. It is sufficient if there is a state of difficulty and reasonable apprehension of danger. Some courts add that the peril must be such that, without the salvor's assistance, the property would have been lost.¹²

A defense routinely used against a salvage claim is that the services rendered were for towing, not salvage. Towing service is rendered to expedite a vessel's voyage without reference to any circumstances of danger. Whether the service is one of towage or salvage, and when a towage operation becomes a salvage service, are questions of fact. When the elements of salvage are present, courts will treat the services rendered as salvage regardless of whether a contract is characterized as a towage contract or whether one of the parties refers to it as a towage service; the converse is also true.¹³

Salvage Award

Computation of salvage awards have traditionally considered the following factors:

- Labor and material costs expended by the salvor in rendering the salvage service;
- Promptitude, skill, and energy displayed by the salvor in rendering services and saving the property;
- Value of the property employed by the salvor in rendering the service, and the danger to which the property was exposed;
- Risk incurred by the salvor in securing the property from the impending peril;
- Post-casualty value of the property saved; and
- Degree of danger from which the property was rescued.¹⁴

In weighing these factors, a salvage award can vary greatly from a few hundred dollars to thousands of dollars. Salvage awards have also exceeded the value of the vessel. Additional factors created by the International Convention on Salvage, 1989, to which the United States is a party,¹⁵ include consideration for prevention or minimization of environmental damage and life salvage.¹⁶ In weighing

⁹ 67B Am. Jur. 2d *Salvage* § 58 (2017).

¹⁰ John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.2, 3-4 (5th ed., The Florida Bar 2017).

¹¹ 67B Am. Jur. 2d *Salvage* § 62 (2017).

¹² 67B Am. Jur. 2d *Salvage* § 6 (2017).

¹³ John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.10, 10 (5th ed., The Florida Bar 2017); 67B Am. Jur. 2d *Salvage* § 4 (2017).

¹⁴ *The Blackwall*, 77 US. 1 (1869); John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.18, 17 (5th ed., The Florida Bar 2017).

¹⁵ United Nations, *International Convention on Salvage*, <https://treaties.un.org/doc/Publication/UNTS/Volume%201953/v1953.pdf>, (last visited Nov. 17, 2017).

¹⁶ *International Convention on Salvage, 1989*, <http://treaties.fco.gov.uk/docs/pdf/1996/TS0093.pdf> (last visited Nov. 17, 2017);

International Maritime Organization, *International Convention on Salvage*.

<http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Salvage.aspx>, (last visited Nov. 17, 2017).

these factors, a salvage award can vary greatly from a few hundred dollars to thousands of dollars. Salvage awards have also exceeded the value of the vessel.¹⁷

The court will adjust a salvage award so that the salvor is fairly compensated without undue hardship to the vessel owner. Courts recognize that a generous award should be allowed when the salvaged property value justifies a high award; this is used to compensate salvors for services that are frequently performed when the property is so small that an adequate award cannot be given without hardship to the owner. The value of the salvaged property is usually determined by the fair market value. If the salvaged property is sold in a commercially reasonable manner, then the selling price is the fair market value. If the court determines that the proceeds of the sale would be inadequate to pay the salvor its full reward, the court may award the salvor title to the property, thereby saving the costs of sale.¹⁸

In addition, as in other maritime cases, the award of attorney fees is discretionary and may be awarded by the court or arbitrator for acts of bad faith, either in the salvage action itself or in litigation or arbitration of the dispute.¹⁹

Pure Salvage

Without an express contract defining the rights and duties of the parties, a pure salvage claim arises. The elements of a valid pure salvage claim include a maritime peril; a voluntary act by a salvor, who is under no preexisting official or contractual duty to the owner; and success in saving, or in helping to save, at least part of the property at risk. Some admiralty courts have also required the peril be such that the ship would not have been rescued without the salvor's assistance.²⁰

Salvage Contracts

General contract law principles govern salvage contracts. A formal agreement of the parties will not prevent a court from reaching the merits of the transaction, but salvage contracts for a definite amount of compensation are generally enforced, absent a finding of fraud or duress.²¹ A salvage contract may regulate the compensation paid to the salvor or require arbitration for determining salvage claims. The contract must be clear, definite, and explicit as to the amount of compensation.²²

When the existence of a salvage contract is raised as a defense to a pure salvage claim, the burden is on the party attempting to escape the pure salvage law to prove that a contract exists.²³

Arbitration

Primarily the Federal Arbitration Act²⁴ and the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards²⁵ govern arbitration under maritime law. Many salvage contracts include binding arbitration²⁶ as a means for resolving disputes as to a salvor's compensation. When there is an

¹⁷ John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.18, 17-18 (5th ed., The Florida Bar 2017).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 67B Am. Jur. 2d *Salvage* § 5 (2017); *see, Klein v. Unidentified Wrecked and abandoned Sailing Vessel*, 758 F.2d 1511 (11th Cir. 1985).

²¹ 67B Am. Jur. 2d *Salvage* § 15 (2017).

²² 67B Am. Jur. 2d *Salvage* § 14 (2017).

²³ 67B Am. Jur. 2d *Salvage* § 17 (2017).

²⁴ 9 U.S.C. §§ 1-16

²⁵ 21 U.S.T. 2517; 330 U.N.T.S. 38.

²⁶ *See, The Society of Maritime Arbitrators, U.S. Open Form Salvage Agreement*, <http://www.smany.org/salvage-rules-agreement-form.html>; *Lloyd's Open Form, Form*, <https://www.lloyds.com/the-market/tools-and-resources/lloyds-agency-department/salvage-arbitration-branch/lloyds-open-form-lof> (last visited Jan. 22, 2018).

arbitration clause in a signed contract, the parties have presumptively agreed to arbitrate any disputes arising from the contract, including those disputes about the validity of the contract.²⁷

Notice of Salvage Services

When a vessel is exposed to marine peril and no one is on board a salvor is not required to attempt to locate the owner or obtain permission before undertaking salvage services. On the other hand, a salvor must obtain permission before beginning salvage services when there are people on board the vessel and salvage services can be refused.²⁸ Currently, neither federal nor state law require salvors to notify customers of the potential costs involved in the salvage of their vessel.

Effect of Proposed Changes

The bill creates s. 559.9602, F.S., relating to the salvage of pleasure vessels. The bill requires a salvor to provide written notice to a customer of the potential costs of salvage work before engaging in a salvage operation.

The bill applies to all salvors operating within waters of this state, as defined in s. 327.02(47), F.S., but excludes a person who:

- Performs salvage work while employed by a municipal, county, state, or federal government when carrying out the functions of that government;
- Engages solely in salvage work for pleasure vessels that are owned, maintained, and operated exclusively by such person and for that person's own use or for-hire pleasure vessels that are rented for periods of 30 days or less;
- Owns or operates a marina or shore-based repair facility and is in the business of repairing pleasure vessels, where the salvage work takes place exclusively at that person's facility;
- Is in the business of repairing pleasure vessels who performs the repair work at a landside or shoreside location designated by the customer; and
- Is in the business of recovering, storing, or selling pleasure vessels on behalf of insurance companies that insure the vessels.

The bill defines the term:

- "Customer" to mean the owner of a pleasure vessel or the person who has been given the authority by the owner to authorize salvage work of the pleasure vessel.
- "Employee" to mean an individual who is employed full-time or part-time by a salvor and performs salvage work.
- "Pleasure vessel" to mean any watercraft no more than 60 feet in length that is used solely for personal pleasure, family use, or the transportation of executives, persons under the employment, and guests of the owner.
- "Salvage work" to mean any assistance, services, repairs, or other efforts rendered by a salvor relating to saving, preserving, or rescuing a pleasure vessel or its passengers and crew, which are in marine peril. Salvage work does not include towing a pleasure vessel.
- "Salvor" to mean a person in the business of voluntarily providing assistance, services, repairs, or other efforts relating to saving, preserving, or rescuing a pleasure vessel or the vessel's passengers and crew, which are in marine peril, in exchange for compensation.

²⁷ John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.24, 25 (5th ed., The Florida Bar 2017).

²⁸ John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.19, 19 (5th ed., The Florida Bar 2017).

The bill requires that if the customer is present on the pleasure vessel, before a salvor may engage in the salvage operation of a pleasure vessel, the salvor must provide the customer with written notice that the service offered is not covered by any towing contract. The bill requires that the written notice include the following statement, in capital letters of at least 12-point type, and be signed by the customer:

THE SERVICE OFFERED BY THE SALVOR IS CONSIDERED SALVAGE WORK AND IS NOT COVERED BY ANY TOWING SERVICE CONTRACT. SALVAGE WORK ALLOWS THE SALVOR TO PRESENT YOU, OR YOUR INSURANCE COMPANY, WITH A BILL FOR THE CHARGES AT A LATER DATE. THE SALVOR SHALL CALCULATE THE CHARGES ACCORDING TO FEDERAL SALVAGE LAW AND SUCH CHARGES MAY EXCEED A CHARGE BASED ON A TIME AND MATERIALS CALCULATION. THE CHARGES COULD AMOUNT TO AS MUCH AS THE ENTIRE VALUE OF YOUR VESSEL, INCLUDING ITS GEAR AND EQUIPMENT.

IF YOU AGREE TO ALLOW THE SALVOR TO PERFORM THE OFFERED WORK WITHOUT AN AGREEMENT FOR A FIXED CHARGE FOR THE SALVAGE, YOUR ONLY RECOURSE TO CHALLENGE THE ASSESSED CHARGES IS BY A LAWSUIT IN FEDERAL COURT OR, IF YOU AND THE SALVOR AGREE IN WRITING, BY BINDING ARBITRATION.

YOU MAY AGREE TO A FIXED CHARGE FOR THE SALVAGE WITH THE SALVOR BEFORE WORK BEGINS, AND THE AGREED CHARGE SHALL BE DOCUMENTED ON THE U.S. OPEN FORM SALVAGE AGREEMENT OR OTHER SUCH SALVAGE CONTRACT SIGNED BY YOU AND THE SALVOR. YOU HAVE A RIGHT TO REJECT THE SALVOR'S OFFER OF SERVICES IF THE SALVOR WILL NOT AGREE TO A FIXED CHARGE BEFORE BEGINNING WORK.

CUSTOMER SIGNATURE:.....

DATE:.....

TIME:.....

The bill specifies that a salvor is not required to provide the written notice if there is an imminent threat of injury or death to any person on board the pleasure vessel and requires the salvor to provide the written notice when there is no longer such threat of injury or death.

The bill provides that if a written notice is not provided before a salvage operation, the owner of a pleasure vessel may bring an action in the appropriate court of competent jurisdiction. An owner who prevails is entitled to damages equal to 1.5 times the amount paid or awarded to the salvor, plus court costs and reasonable attorney fees. The bill provides that these remedies are in addition to any other remedy provided by law.

B. SECTION DIRECTORY:

Section 1. Creates s. 559.9602, F.S., relating to the salvage of pleasure vessels.

Section 2. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate fiscal impact on the private sector. The required notice may result in a positive fiscal impact to customers and salvors who agree upon an amount for salvage services, resulting in a reduction in legal disputes over the amount paid for services rendered. The bill may have a negative fiscal impact on salvors if by providing the required notice they experience a reduction in customers seeking salvage services. The bill may have a positive fiscal impact on customers if by providing the required notice they choose other alternatives to cure their vessel situation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

While federal courts have exclusive jurisdiction over salvage actions directly against property, state courts have concurrent jurisdiction in actions against a person.²⁹ State courts under concurrent jurisdiction must apply federal maritime law. Generally, state courts may apply state law to maritime actions so long as there is no conflict with federal law.³⁰ State courts applying state statutes authorizing the payment of a reasonable salvage may look to federal maritime law for the elements or definition of salvage in interpreting state salvage laws.³¹

Actions for common-law remedies can also be brought in state court. For instance, if parties have entered into a contract, which provides a means for measurement of a salvage award, the action can proceed as a contract claim in state court.³² State courts have also heard salvage claims based on

²⁹ 28 U.S.C. § 1333; U.S. Const. art. III, § 2.

³⁰ John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.2, 3-4 (5th ed., The Florida Bar 2017).

³¹ 67B Am. Jur. 2d *Salvage* § 58 (2017).

³² John Howard Thomas, Andrew W. Anderson, *Maritime Law and Practice* ch. 8, § 8.2, 3-4 (5th ed., The Florida Bar 2017).

an oral contract for salvage services; however, damages in these cases must be made on contract principles rather than on salvage principles or on state laws pertaining to the payment of salvage.³³

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2017, the Natural Resources & Public Lands Subcommittee adopted two amendments and reported the bill favorable with committee substitute. The amendments:

- Direct the Division of Law Revision and Information to change the title of part XII of ch. 559, F.S., from “Miscellaneous Provisions” to “Internet Sales,” and to create a new part XIII of ch. 559, F.S., consisting of ss. 559.9601-559.9608, F.S., to be entitled “Salvage of Pleasure Vessels;”
- Exempt any person who is in the business of recovering, storing, or selling pleasure vessels on behalf of insurance companies that insure the vessels from the Act;
- Clarify the definition of “pleasure vessel;” and
- Require a salvor to present a written disclosure statement to the customer if the salvage work will exceed \$500, the customer is present on the vessel, and there is no imminent threat of injury or death to any person.

On January 16, 2018, the Careers and Competition Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment makes the following changes:

- Redefines “customer” to mean the person to whom a salvor offers salvage work;
- Revises the disclosure provision to only require that, before a salvor may engage in the salvage operation of a pleasure vessel, the salvor shall provide the customer with verbal and written notice that the service offered is not covered by any towing contract;
- Substantially revises the content of the written notice;
- Removes all provisions relating to the salvage work estimate;
- Removes all provisions relating to the notification of charges in excess of the salvage estimate and to unlawful charges;
- Removes provisions relating to required signs posted on salvor vessels informing customers of the right to an estimate for services;
- Removes all provisions relating to unlawful acts and practices;
- Removes the provision directing the Division of Law Revision and Information to re-designate statutes; and
- Reduces the damages multiplier in the remedies provision, from “three times that” to “1.5 times that” charged by the salvor.

On February 13, 2018, the Government Accountability Committee adopted a strike-all amendment and reported the bill favorably with a committee substitute. The strike-all amendment:

- Provided that the bill applies to all salvors operating within waters of the state as defined in s. 327.02(47), F.S.;
- Defined “customer” to mean the owner of the pleasure vessel or the person who has been given the authority by the owner to authorize salvage work of the pleasure vessel;
- Removed the requirement for the salvor to give verbal notice to a customer;
- Clarified that the written notice requirement of the bill applies when the customer is present on the pleasure vessel;

³³ 67B Am. Jur. 2d *Salvage* § 62 (2017).

- Clarified the written notice by providing:
 - That if the customer agrees to allow the salvor to perform salvage work without an agreement for a fixed charge of the salvage, then the only recourse to challenge the charges is through a federal court action or, if agreed to in writing, to binding arbitration;
 - That if the customer and salvor agree to a fixed charge for the salvage before work begins, then the agreed upon charge must be documented on the U.S. Open Form Salvage Agreement or other such salvage contract and signed by the customer and salvor; and
 - A signature block for the customer;
- Required the salvor, when previously exempted from providing the written notice, to provide the written notice when there is no longer a threat of injury or death to any person on board the pleasure vessel;
- Clarified that a civil cause of action may be brought by an owner who has not received the required written notice from the salvor;
- Clarified that a prevailing owner is entitled to damages equal to 1.5 times the amount paid or awarded to the savor; and
- Removed provisions relating to an award of actual damages and injunctive relief to a customer.

This analysis is drafted to the committee substitute as adopted by the Government Accountability Committee.

By the Committees on Community Affairs; and Environmental Preservation and Conservation; and Senator Perry

578-03176-18

20181308c2

1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 s. 373.250, F.S.; deleting an obsolete provision;
4 providing examples of reclaimed water use that may
5 create an impact offset; revising the required
6 provisions of the water resource implementation rule;
7 amending s. 403.064, F.S.; revising legislative
8 findings; requiring the Department of Environmental
9 Protection and the water management districts to
10 develop and enter into a memorandum of agreement
11 providing for a coordinated review of any reclaimed
12 water project requiring a reclaimed water facility
13 permit, an underground injection control permit, and a
14 consumptive use permit; specifying the required
15 provisions of such memorandum; specifying the date by
16 which the memorandum must be developed and executed;
17 amending s. 403.706, F.S.; requiring counties and
18 municipalities to address contamination of recyclable
19 material in specified contracts; prohibiting counties
20 and municipalities from requiring the collection or
21 transport of contaminated recyclable material by
22 residential recycling collectors except under certain
23 conditions; defining the term "residential recycling
24 collector"; prohibiting counties and municipalities
25 from requiring the processing of contaminated
26 recyclable material by recovered materials processing
27 facilities except under certain conditions; specifying
28 required contract provisions in residential recycling
29 collector and recovered materials processing facility

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30 contracts with counties and municipalities; providing
31 applicability; amending s. 403.813, F.S.; prohibiting
32 a local government from requiring an individual to
33 provide further department verification for certain
34 projects; revising the types of dock and pier
35 replacements and repairs that are exempt from such
36 verification and certain permitting requirements;
37 providing a directive to the Division of Law Revision
38 and Information; providing an effective date.
39

40 Be It Enacted by the Legislature of the State of Florida:
41

42 Section 1. Subsection (5) of section 373.250, Florida
43 Statutes, is amended to read:

44 373.250 Reuse of reclaimed water.-

45 (5) (a) ~~No later than October 1, 2012, the department shall~~
46 ~~initiate rulemaking to adopt revisions to~~ The water resource
47 implementation rule, as defined in s. 373.019(25), must ~~which~~
48 ~~shall~~ include:

49 1. Criteria for the use of a proposed impact offset derived
50 from the use of reclaimed water when a water management district
51 evaluates an application for a consumptive use permit. As used
52 in this subparagraph, the term "impact offset" means the use of
53 reclaimed water to reduce or eliminate a harmful impact that has
54 occurred or would otherwise occur as a result of other surface
55 water or groundwater withdrawals. Examples of reclaimed water
56 use that may create an impact offset include, but are not
57 limited to, the use of reclaimed water to:

58 a. Prevent or stop further saltwater intrusion;

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59 b. Raise aquifer levels;

60 c. Improve the water quality of an aquifer; or

61 d. Augment surface water to increase the quantity of water
62 available for water supply.

63 2. Criteria for the use of substitution credits where a
64 water management district has adopted rules establishing
65 withdrawal limits from a specified water resource within a
66 defined geographic area. As used in this subparagraph, the term
67 "substitution credit" means the use of reclaimed water to
68 replace all or a portion of an existing permitted use of
69 resource-limited surface water or groundwater, allowing a
70 different user or use to initiate a withdrawal or increase its
71 withdrawal from the same resource-limited surface water or
72 groundwater source provided that the withdrawal creates no net
73 adverse impact on the limited water resource or creates a net
74 positive impact if required by water management district rule as
75 part of a strategy to protect or recover a water resource.

76 3. Criteria by which an impact offset or substitution
77 credit may be applied to the issuance, renewal, or extension of
78 the utility's or another user's consumptive use permit or may be
79 used to address additional water resource constraints imposed
80 through the adoption of a recovery or prevention strategy under
81 s. 373.0421.

82 (b) Within 60 days after the final adoption by the
83 department of the revisions to the water resource implementation
84 rule required under paragraph (a), each water management
85 district must ~~shall~~ initiate rulemaking to incorporate those
86 revisions by reference into the rules of the district.

87 Section 2. Subsection (1) of section 403.064, Florida

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88 Statutes, is amended, and subsection (17) is added to that
89 section, to read:

90 403.064 Reuse of reclaimed water.—

91 (1) The encouragement and promotion of water conservation,
92 and reuse of reclaimed water, as defined by the department, are
93 state objectives and are considered to be in the public
94 interest. The Legislature finds that the reuse of reclaimed
95 water, including reuse through aquifer recharge, is a critical
96 component of meeting the state's existing and future water
97 supply needs while sustaining natural systems. The Legislature
98 further finds that for those wastewater treatment plants
99 permitted and operated under an approved reuse program by the
100 department, the reclaimed water shall be considered
101 environmentally acceptable and not a threat to public health and
102 safety. The Legislature encourages the development of incentive-
103 based programs for reuse implementation.

104 (17) The department and the water management districts
105 shall develop and enter into a memorandum of agreement providing
106 for a coordinated review of any reclaimed water project
107 requiring a reclaimed water facility permit, an underground
108 injection control permit, and a consumptive use permit. The
109 memorandum of agreement must provide that the coordinated review
110 is performed only if the applicant for such permits requests a
111 coordinated review. The goal of the coordinated review is to
112 share information, avoid requesting the applicant to submit
113 redundant information, and ensure, to the extent feasible, a
114 harmonized review of the reclaimed water project under these
115 various permitting programs, including the use of a proposed
116 impact offset or substitution credit in accordance with s.

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117 373.250(5). The department and the water management districts
118 must develop and execute such memorandum of agreement no later
119 than December 1, 2018.

120 Section 3. Present subsection (22) of section 403.706,
121 Florida Statutes, is renumbered as subsection (23), and a new
122 subsection (22) is added to that section, to read:

123 403.706 Local government solid waste responsibilities.—

124 (22) Counties and municipalities must address the
125 contamination of recyclable material in contracts for the
126 collection, transportation, and processing of residential
127 recyclable material based upon the following:

128 (a) A residential recycling collector may not be required
129 to collect or transport contaminated recyclable material, except
130 pursuant to a contract consistent with paragraph (c). As used in
131 this subsection, the term "residential recycling collector"
132 means a for-profit business entity that collects and transports
133 residential recyclable material on behalf of a county or
134 municipality.

135 (b) A recovered materials processing facility may not be
136 required to process contaminated recyclable material, except
137 pursuant to a contract consistent with paragraph (d).

138 (c) Each contract between a residential recycling collector
139 and a county or municipality for the collection or transport of
140 residential recyclable material, and each request for proposal
141 or other solicitation for residential recyclable material, must
142 define the term "contaminated recyclable material." The term
143 should be defined in a manner that is appropriate for the local
144 community, taking into consideration available markets for
145 recyclable material, available waste composition studies, and

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146 other relevant factors. The contract and request for proposal or
147 other solicitation must include:

148 1. The respective strategies and obligations of the county
149 or municipality and the residential recycling collector to
150 reduce the amount of contaminated recyclable material being
151 collected;

152 2. The procedures for identifying, documenting, managing,
153 and rejecting residential recycling containers, carts, or bins
154 that contain contaminated recyclable material;

155 3. The remedies authorized to be used if a container, cart,
156 or bin contains contaminated recyclable material; and

157 4. The education and enforcement measures that will be used
158 to reduce the amount of contaminated recyclable material.

159 (d) Each contract between a recovered materials processing
160 facility and a county or municipality for processing residential
161 recyclable material, and each request for proposal or other
162 solicitation for processing residential recyclable material,
163 must define the term "contaminated recyclable material." The
164 term should be defined in a manner that is appropriate for the
165 local community, taking into consideration available markets for
166 recyclable material, available waste composition studies, and
167 other relevant factors. The contract and request for proposal
168 must include:

169 1. The respective strategies and obligations of the county
170 or municipality and the facility to reduce the amount of
171 contaminated recyclable material being collected and processed;

172 2. The procedures for identifying, documenting, managing,
173 and rejecting residential recycling containers, carts, or bins
174 that contain contaminated recyclable material; and

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175 3. The remedies authorized to be used if a container or
176 load contains contaminated recyclable material.

177 (e) This subsection applies to each contract between a
178 municipality or county and a residential recycling collector or
179 recovered materials processing facility executed or renewed
180 after July 1, 2018.

181 Section 4. Subsection (1) of section 403.813, Florida
182 Statutes, is amended to read:

183 403.813 Permits issued at district centers; exceptions.—

184 (1) A permit is not required under this chapter, chapter
185 373, chapter 61-691, Laws of Florida, or chapter 25214 or
186 chapter 25270, 1949, Laws of Florida, and a local government may
187 not require an individual claiming this exemption to provide
188 further department verification, for activities associated with
189 the following types of projects; however, except as otherwise
190 provided in this subsection, this subsection does not relieve an
191 applicant from any requirement to obtain permission to use or
192 occupy lands owned by the Board of Trustees of the Internal
193 Improvement Trust Fund or a water management district in its
194 governmental or proprietary capacity or from complying with
195 applicable local pollution control programs authorized under
196 this chapter or other requirements of county and municipal
197 governments:

198 (a) The installation of overhead transmission lines, having
199 ~~with~~ support structures that ~~which~~ are not constructed in waters
200 of the state and which do not create a navigational hazard.

201 (b) The installation and repair of mooring pilings and
202 dolphins associated with private docking facilities or piers and
203 the installation of private docks, piers, and recreational

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204 docking facilities, or piers and recreational docking facilities
205 of local governmental entities when the local governmental
206 entity's activities will not take place in any manatee habitat,
207 any of which docks:

208 1. Has 500 square feet or less of over-water surface area
209 for a dock ~~which is~~ located in an area designated as Outstanding
210 Florida Waters or 1,000 square feet or less of over-water
211 surface area for a dock ~~which is~~ located in an area that ~~which~~
212 is not designated as Outstanding Florida Waters;

213 2. Is constructed on or held in place by pilings or is a
214 floating dock ~~which is~~ constructed so as not to involve filling
215 or dredging other than that necessary to install the pilings;

216 3. May ~~shall~~ not substantially impede the flow of water or
217 create a navigational hazard;

218 4. Is used for recreational, noncommercial activities
219 associated with the mooring or storage of boats and boat
220 paraphernalia; and

221 5. Is the sole dock constructed pursuant to this exemption
222 as measured along the shoreline for a distance of 65 feet,
223 unless the parcel of land or individual lot as platted is less
224 than 65 feet in length along the shoreline, in which case there
225 may be one exempt dock allowed per parcel or lot.

226
227 ~~Nothing in~~ This paragraph does not ~~shall~~ prohibit the department
228 from taking appropriate enforcement action pursuant to this
229 chapter to abate or prohibit any activity otherwise exempt from
230 permitting pursuant to this paragraph if the department can
231 demonstrate that the exempted activity has caused water
232 pollution in violation of this chapter.

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233 (c) The installation and maintenance to design
234 specifications of boat ramps on artificial bodies of water where
235 navigational access to the proposed ramp exists or the
236 installation of boat ramps open to the public in any waters of
237 the state where navigational access to the proposed ramp exists
238 and where the construction of the proposed ramp will be less
239 than 30 feet wide and will involve the removal of less than 25
240 cubic yards of material from the waters of the state, and the
241 maintenance to design specifications of such ramps; however, the
242 material to be removed shall be placed upon a self-contained
243 upland site so as to prevent the escape of the spoil material
244 into the waters of the state.

245 (d) The replacement or repair of existing docks and piers,
246 except that fill material may not be used and the replacement or
247 repaired dock or pier must be within 5 feet of the same location
248 and no larger in size than the existing dock or pier, and
249 additional aquatic resources may not be adversely and
250 permanently impacted by such replacement or repair ~~in the same~~
251 ~~location and of the same configuration and dimensions as the~~
252 ~~dock or pier being replaced or repaired.~~ This does not preclude
253 the use of different construction materials or minor deviations
254 to allow upgrades to current structural and design standards.

255 (e) The restoration of seawalls at their previous locations
256 or upland of, or within 18 inches waterward of, their previous
257 locations. However, this may ~~shall~~ not affect the permitting
258 requirements of chapter 161, and department rules shall clearly
259 indicate that this exception does not constitute an exception
260 from the permitting requirements of chapter 161.

261 (f) The performance of maintenance dredging of existing

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262 manmade canals, channels, intake and discharge structures, and
263 previously dredged portions of natural water bodies within
264 drainage rights-of-way or drainage easements which have been
265 recorded in the public records of the county, where the spoil
266 material is to be removed and deposited on a self-contained,
267 upland spoil site which will prevent the escape of the spoil
268 material into the waters of the state, provided that no more
269 dredging is to be performed than is necessary to restore the
270 canals, channels, and intake and discharge structures, and
271 previously dredged portions of natural water bodies, to original
272 design specifications or configurations, provided that the work
273 is conducted in compliance with s. 379.2431(2)(d), provided that
274 no significant impacts occur to previously undisturbed natural
275 areas, and provided that control devices for return flow and
276 best management practices for erosion and sediment control are
277 utilized to prevent bank erosion and scouring and to prevent
278 turbidity, dredged material, and toxic or deleterious substances
279 from discharging into adjacent waters during maintenance
280 dredging. Further, for maintenance dredging of previously
281 dredged portions of natural water bodies within recorded
282 drainage rights-of-way or drainage easements, an entity that
283 seeks an exemption must notify the department or water
284 management district, as applicable, at least 30 days before
285 ~~prior to~~ dredging and provide documentation of original design
286 specifications or configurations where such exist. This
287 exemption applies to all canals and previously dredged portions
288 of natural water bodies within recorded drainage rights-of-way
289 or drainage easements constructed before ~~prior to~~ April 3, 1970,
290 and to those canals and previously dredged portions of natural

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291 water bodies constructed on or after April 3, 1970, pursuant to
292 all necessary state permits. This exemption does not apply to
293 the removal of a natural or manmade barrier separating a canal
294 or canal system from adjacent waters. When no previous permit
295 has been issued by the Board of Trustees of the Internal
296 Improvement Trust Fund or the United States Army Corps of
297 Engineers for construction or maintenance dredging of the
298 existing manmade canal or intake or discharge structure, such
299 maintenance dredging shall be limited to a depth of no more than
300 5 feet below mean low water. The Board of Trustees of the
301 Internal Improvement Trust Fund may fix and recover from the
302 permittee an amount equal to the difference between the fair
303 market value and the actual cost of the maintenance dredging for
304 material removed during such maintenance dredging. However, no
305 charge shall be exacted by the state for material removed during
306 such maintenance dredging by a public port authority. The
307 removing party may subsequently sell such material; however,
308 proceeds from such sale that exceed the costs of maintenance
309 dredging shall be remitted to the state and deposited in the
310 Internal Improvement Trust Fund.

311 (g) The maintenance of existing insect control structures,
312 dikes, and irrigation and drainage ditches, provided that spoil
313 material is deposited on a self-contained, upland spoil site
314 which will prevent the escape of the spoil material into waters
315 of the state. In the case of insect control structures, if the
316 cost of using a self-contained upland spoil site is so
317 excessive, as determined by the Department of Health, pursuant
318 to s. 403.088(1), that it will inhibit proposed insect control,
319 then-existing spoil sites or dikes may be used, upon

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320 notification to the department. In the case of insect control
321 where upland spoil sites are not used pursuant to this
322 exemption, turbidity control devices shall be used to confine
323 the spoil material discharge to that area previously disturbed
324 when the receiving body of water is used as a potable water
325 supply, is designated as shellfish harvesting waters, or
326 functions as a habitat for commercially or recreationally
327 important shellfish or finfish. In all cases, no more dredging
328 is to be performed than is necessary to restore the dike or
329 irrigation or drainage ditch to its original design
330 specifications.

331 (h) The repair or replacement of existing functional pipes
332 or culverts the purpose of which is the discharge or conveyance
333 of stormwater. In all cases, the invert elevation, the diameter,
334 and the length of the culvert may ~~shall~~ not be changed. However,
335 the material used for the culvert may be different from the
336 original.

337 (i) The construction of private docks of 1,000 square feet
338 or less of over-water surface area and seawalls in artificially
339 created waterways where such construction will not violate
340 existing water quality standards, impede navigation, or affect
341 flood control. This exemption does not apply to the construction
342 of vertical seawalls in estuaries or lagoons unless the proposed
343 construction is within an existing manmade canal where the
344 shoreline is currently occupied in whole or part by vertical
345 seawalls.

346 (j) The construction and maintenance of swales.

347 (k) The installation of aids to navigation and buoys
348 associated with such aids, provided the devices are marked

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349 pursuant to s. 327.40.

350 (l) The replacement or repair of existing open-trestle foot
351 bridges and vehicular bridges that are 100 feet or less in
352 length and two lanes or less in width, provided that no more
353 dredging or filling of submerged lands is performed other than
354 that which is necessary to replace or repair pilings and that
355 the structure to be replaced or repaired is the same length, the
356 same configuration, and in the same location as the original
357 bridge. No debris from the original bridge shall be allowed to
358 remain in the waters of the state.

359 (m) The installation of subaqueous transmission and
360 distribution lines laid on, or embedded in, the bottoms of
361 waters in the state, except in Class I and Class II waters and
362 aquatic preserves, provided no dredging or filling is necessary.

363 (n) The replacement or repair of subaqueous transmission
364 and distribution lines laid on, or embedded in, the bottoms of
365 waters of the state.

366 (o) The construction of private seawalls in wetlands or
367 other surface waters where such construction is between and
368 adjoins at both ends existing seawalls; follows a continuous and
369 uniform seawall construction line with the existing seawalls; is
370 no more than 150 feet in length; and does not violate existing
371 water quality standards, impede navigation, or affect flood
372 control. However, in estuaries and lagoons the construction of
373 vertical seawalls is limited to the circumstances and purposes
374 stated in s. 373.414(5)(b)1.-4. This paragraph does not affect
375 the permitting requirements of chapter 161, and department rules
376 must clearly indicate that this exception does not constitute an
377 exception from the permitting requirements of chapter 161.

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378 (p) The restoration of existing insect control impoundment
379 dikes which are less than 100 feet in length. Such impoundments
380 shall be connected to tidally influenced waters for 6 months
381 each year beginning September 1 and ending February 28 if
382 feasible or operated in accordance with an impoundment
383 management plan approved by the department. A dike restoration
384 may involve no more dredging than is necessary to restore the
385 dike to its original design specifications. For the purposes of
386 this paragraph, restoration does not include maintenance of
387 impoundment dikes of operating insect control impoundments.

388 (q) The construction, operation, or maintenance of
389 stormwater management facilities which are designed to serve
390 single-family residential projects, including duplexes,
391 triplexes, and quadruplexes, if they are less than 10 acres
392 total land and have less than 2 acres of impervious surface and
393 if the facilities:

394 1. Comply with all regulations or ordinances applicable to
395 stormwater management and adopted by a city or county;

396 2. Are not part of a larger common plan of development or
397 sale; and

398 3. Discharge into a stormwater discharge facility exempted
399 or permitted by the department under this chapter which has
400 sufficient capacity and treatment capability as specified in
401 this chapter and is owned, maintained, or operated by a city,
402 county, special district with drainage responsibility, or water
403 management district; however, this exemption does not authorize
404 discharge to a facility without the facility owner's prior
405 written consent.

406 (r) The removal of aquatic plants, the removal of tussocks,

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407 the associated replanting of indigenous aquatic plants, and the
408 associated removal from lakes of organic detrital material when
409 such planting or removal is performed and authorized by permit
410 or exemption granted under s. 369.20 or s. 369.25, provided
411 that:

412 1. Organic detrital material that exists on the surface of
413 natural mineral substrate shall be allowed to be removed to a
414 depth of 3 feet or to the natural mineral substrate, whichever
415 is less;

416 2. All material removed pursuant to this paragraph shall be
417 deposited in an upland site in a manner that will prevent the
418 reintroduction of the material into waters in the state except
419 when spoil material is permitted to be used to create wildlife
420 islands in freshwater bodies of the state when a governmental
421 entity is permitted pursuant to s. 369.20 to create such islands
422 as a part of a restoration or enhancement project;

423 3. All activities are performed in a manner consistent with
424 state water quality standards; and

425 4. No activities under this exemption are conducted in
426 wetland areas, as defined in s. 373.019(27), which are supported
427 by a natural soil as shown in applicable United States
428 Department of Agriculture county soil surveys, except when a
429 governmental entity is permitted pursuant to s. 369.20 to
430 conduct such activities as a part of a restoration or
431 enhancement project.

432
433 The department may not adopt implementing rules for this
434 paragraph, notwithstanding any other provision of law.

435 (s) The construction, installation, operation, or

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436 maintenance of floating vessel platforms or floating boat lifts,
437 provided that such structures:

438 1. Float at all times in the water for the sole purpose of
439 supporting a vessel so that the vessel is out of the water when
440 not in use;

441 2. Are wholly contained within a boat slip previously
442 permitted under ss. 403.91-403.929, 1984 Supplement to the
443 Florida Statutes 1983, as amended, or part IV of chapter 373, or
444 do not exceed a combined total of 500 square feet, or 200 square
445 feet in an Outstanding Florida Water, when associated with a
446 dock that is exempt under this subsection or associated with a
447 permitted dock with no defined boat slip or attached to a
448 bulkhead on a parcel of land where there is no other docking
449 structure;

450 3. Are not used for any commercial purpose or for mooring
451 vessels that remain in the water when not in use, and do not
452 substantially impede the flow of water, create a navigational
453 hazard, or unreasonably infringe upon the riparian rights of
454 adjacent property owners, as defined in s. 253.141;

455 4. Are constructed and used so as to minimize adverse
456 impacts to submerged lands, wetlands, shellfish areas, aquatic
457 plant and animal species, and other biological communities,
458 including locating such structures in areas where seagrasses are
459 least dense adjacent to the dock or bulkhead; and

460 5. Are not constructed in areas specifically prohibited for
461 boat mooring under conditions of a permit issued in accordance
462 with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes
463 1983, as amended, or part IV of chapter 373, or other form of
464 authorization issued by a local government.

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465
466 Structures that qualify for this exemption are relieved from any
467 requirement to obtain permission to use or occupy lands owned by
468 the Board of Trustees of the Internal Improvement Trust Fund
469 and, with the exception of those structures attached to a
470 bulkhead on a parcel of land where there is no docking
471 structure, may ~~shall~~ not be subject to any more stringent
472 permitting requirements, registration requirements, or other
473 regulation by any local government. Local governments may
474 require either permitting or one-time registration of floating
475 vessel platforms to be attached to a bulkhead on a parcel of
476 land where there is no other docking structure as necessary to
477 ensure compliance with local ordinances, codes, or regulations.
478 Local governments may require either permitting or one-time
479 registration of all other floating vessel platforms as necessary
480 to ensure compliance with the exemption criteria in this
481 section; to ensure compliance with local ordinances, codes, or
482 regulations relating to building or zoning, which are no more
483 stringent than the exemption criteria in this section or address
484 subjects other than subjects addressed by the exemption criteria
485 in this section; and to ensure proper installation, maintenance,
486 and precautionary or evacuation action following a tropical
487 storm or hurricane watch of a floating vessel platform or
488 floating boat lift that is proposed to be attached to a bulkhead
489 or parcel of land where there is no other docking structure. The
490 exemption provided in this paragraph shall be in addition to the
491 exemption provided in paragraph (b). The department shall adopt
492 a general permit by rule for the construction, installation,
493 operation, or maintenance of those floating vessel platforms or

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494 floating boat lifts that do not qualify for the exemption
495 provided in this paragraph but do not cause significant adverse
496 impacts to occur individually or cumulatively. The issuance of
497 such general permit shall also constitute permission to use or
498 occupy lands owned by the Board of Trustees of the Internal
499 Improvement Trust Fund. No local government shall impose a more
500 stringent regulation, permitting requirement, registration
501 requirement, or other regulation covered by such general permit.
502 Local governments may require either permitting or one-time
503 registration of floating vessel platforms as necessary to ensure
504 compliance with the general permit in this section; to ensure
505 compliance with local ordinances, codes, or regulations relating
506 to building or zoning that are no more stringent than the
507 general permit in this section; and to ensure proper
508 installation and maintenance of a floating vessel platform or
509 floating boat lift that is proposed to be attached to a bulkhead
510 or parcel of land where there is no other docking structure.

511 (t) The repair, stabilization, or paving of existing county
512 maintained roads and the repair or replacement of bridges that
513 are part of the roadway, within the Northwest Florida Water
514 Management District and the Suwannee River Water Management
515 District, provided:

516 1. The road and associated bridge were in existence and in
517 use as a public road or bridge, and were maintained by the
518 county as a public road or bridge on or before January 1, 2002;

519 2. The construction activity does not realign the road or
520 expand the number of existing traffic lanes of the existing
521 road; however, the work may include the provision of safety
522 shoulders, clearance of vegetation, and other work reasonably

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523 necessary to repair, stabilize, pave, or repave the road,
524 provided that the work is constructed by generally accepted
525 engineering standards;

526 3. The construction activity does not expand the existing
527 width of an existing vehicular bridge in excess of that
528 reasonably necessary to properly connect the bridge with the
529 road being repaired, stabilized, paved, or repaved to safely
530 accommodate the traffic expected on the road, which may include
531 expanding the width of the bridge to match the existing
532 connected road. However, no debris from the original bridge
533 shall be allowed to remain in waters of the state, including
534 wetlands;

535 4. Best management practices for erosion control shall be
536 employed as necessary to prevent water quality violations;

537 5. Roadside swales or other effective means of stormwater
538 treatment must be incorporated as part of the project;

539 6. No more dredging or filling of wetlands or water of the
540 state is performed than that which is reasonably necessary to
541 repair, stabilize, pave, or repave the road or to repair or
542 replace the bridge, in accordance with generally accepted
543 engineering standards; and

544 7. Notice of intent to use the exemption is provided to the
545 department, if the work is to be performed within the Northwest
546 Florida Water Management District, or to the Suwannee River
547 Water Management District, if the work is to be performed within
548 the Suwannee River Water Management District, 30 days before
549 ~~prior to~~ performing any work under the exemption.

550
551 Within 30 days after this act becomes a law, the department

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552 shall initiate rulemaking to adopt a no fee general permit for
553 the repair, stabilization, or paving of existing roads that are
554 maintained by the county and the repair or replacement of
555 bridges that are part of the roadway where such activities do
556 not cause significant adverse impacts to occur individually or
557 cumulatively. The general permit shall apply statewide and, with
558 no additional rulemaking required, apply to qualified projects
559 reviewed by the Suwannee River Water Management District, the
560 St. Johns River Water Management District, the Southwest Florida
561 Water Management District, and the South Florida Water
562 Management District under the division of responsibilities
563 contained in the operating agreements applicable to part IV of
564 chapter 373. Upon adoption, this general permit shall, pursuant
565 to ~~the provisions of~~ subsection (2), supersede and replace the
566 exemption in this paragraph.

567 (u) Notwithstanding any provision to the contrary in this
568 subsection, a permit or other authorization under chapter 253,
569 chapter 369, chapter 373, or this chapter is not required for an
570 individual residential property owner for the removal of organic
571 detrital material from freshwater rivers or lakes that have a
572 natural sand or rocky substrate and that are not Aquatic
573 Preserves or for the associated removal and replanting of
574 aquatic vegetation for the purpose of environmental enhancement,
575 providing that:

576 1. No activities under this exemption are conducted in
577 wetland areas, as defined in s. 373.019(27), which are supported
578 by a natural soil as shown in applicable United States
579 Department of Agriculture county soil surveys.

580 2. No filling or peat mining is allowed.

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581 3. No removal of native wetland trees, including, but not
582 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.

583 4. When removing organic detrital material, no portion of
584 the underlying natural mineral substrate or rocky substrate is
585 removed.

586 5. Organic detrital material and plant material removed is
587 deposited in an upland site in a manner that will not cause
588 water quality violations.

589 6. All activities are conducted in such a manner, and with
590 appropriate turbidity controls, so as to prevent any water
591 quality violations outside the immediate work area.

592 7. Replanting with a variety of aquatic plants native to
593 the state shall occur in a minimum of 25 percent of the
594 preexisting vegetated areas where organic detrital material is
595 removed, except for areas where the material is removed to bare
596 rocky substrate; however, an area may be maintained clear of
597 vegetation as an access corridor. The access corridor width may
598 not exceed 50 percent of the property owner's frontage or 50
599 feet, whichever is less, and may be a sufficient length
600 waterward to create a corridor to allow access for a boat or
601 swimmer to reach open water. Replanting must be at a minimum
602 density of 2 feet on center and be completed within 90 days
603 after removal of existing aquatic vegetation, except that under
604 dewatered conditions replanting must be completed within 90 days
605 after reflooding. The area to be replanted must extend waterward
606 from the ordinary high water line to a point where normal water
607 depth would be 3 feet or the preexisting vegetation line,
608 whichever is less. Individuals are required to make a reasonable
609 effort to maintain planting density for a period of 6 months

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610 after replanting is complete, and the plants, including
611 naturally recruited native aquatic plants, must be allowed to
612 expand and fill in the revegetation area. Native aquatic plants
613 to be used for revegetation must be salvaged from the
614 enhancement project site or obtained from an aquatic plant
615 nursery regulated by the Department of Agriculture and Consumer
616 Services. Plants that are not native to the state may not be
617 used for replanting.

618 8. No activity occurs any farther than 100 feet waterward
619 of the ordinary high water line, and all activities must be
620 designed and conducted in a manner that will not unreasonably
621 restrict or infringe upon the riparian rights of adjacent upland
622 riparian owners.

623 9. The person seeking this exemption notifies the
624 applicable department district office in writing at least 30
625 days before commencing work and allows the department to conduct
626 a preconstruction site inspection. Notice must include an
627 organic-detrital-material removal and disposal plan and, if
628 applicable, a vegetation-removal and revegetation plan.

629 10. The department is provided written certification of
630 compliance with the terms and conditions of this paragraph
631 within 30 days after completion of any activity occurring under
632 this exemption.

633 (v) Notwithstanding any other provision in this chapter,
634 chapter 373, or chapter 161, a permit or other authorization is
635 not required for the following exploratory activities associated
636 with beach restoration and nourishment projects and inlet
637 management activities:

638 1. The collection of geotechnical, geophysical, and

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639 cultural resource data, including surveys, mapping, acoustic
640 soundings, benthic and other biologic sampling, and coring.

641 2. Oceanographic instrument deployment, including temporary
642 installation on the seabed of coastal and oceanographic data
643 collection equipment.

644 3. Incidental excavation associated with any of the
645 activities listed under subparagraph 1. or subparagraph 2.

646 Section 5. The Division of Law Revision and Information is
647 directed to replace the phrase "the effective date of this act"
648 wherever it occurs in this act with the date the act becomes a
649 law.

650 Section 6. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/CS/SB 1308

INTRODUCER: Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senator Perry

SUBJECT: Environmental Regulation

DATE: February 13, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Cochran</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1308 provides that when a water management district (WMD) evaluates a consumptive use permit (CUP), impact offsets may be created if the applicant proposes reclaimed water use in certain ways to increase the quantity of water available for water supply.

The bill requires DEP to develop criteria for the application of an impact offset or a substitution credit to a CUP or to a minimum flows and levels recovery or prevention strategy and requires DEP and the WMDs to enter into a memorandum of agreement providing for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a CUP.

The bill provides criteria by which counties and municipalities must address the contamination of recyclable material in contracts for the collection, transportation, and processing of residential recyclable material, including that residential recycling collectors and materials recovery facilities may not be required to collect, transport, or process contaminated recyclable material. The criteria apply to contracts between a municipality or county and a residential recycling collector or materials recovery facility executed or renewed after July 1, 2018.

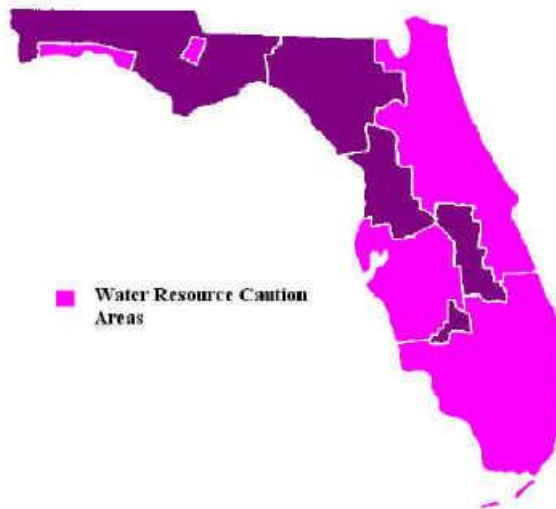
The bill revises the exemption from the requirement to obtain an environmental resource permit (ERP) for the replacement or repair of an existing dock or pier and prevents a local government

from requiring further verification from DEP for all of the activities and projects exempted from ERP requirements.

II. Present Situation:

Water Supply and Constraints

By 2030, Florida's population is estimated to reach 23,609,000 – almost a 26 percent increase over 2010.¹ Fresh water demand is projected to reach 7.7 billion gallons per day by 2030, an additional 1.3 billion gallons more than the water use for the state in 2010.² In Florida, groundwater accounts for about 90 percent of public and domestic water supply.³ The major source of groundwater supply in Florida is the Floridan Aquifer System, which underlies the entire state.⁴



Water Management Districts (WMDs) are required to ensure an adequate supply of water and water resources for all citizens and natural features, provide protection and improvement of natural systems and water quality, minimize harm to water resources, and promote the reuse of reclaimed water.⁵ The WMDs set minimum flows and minimum levels (MFLs) for surface waters and groundwater, respectively. The purpose of setting MFLs is to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.⁶ The WMDs regulate consumptive use of water through a permitting process.⁷ WMD governing boards are required to conduct regional water supply planning for areas where existing water sources are insufficient to meet projected 20-year demands while sustaining water resources and related natural systems. Those areas are also to be designated as Water

Resource Caution Areas. Chapter 62-40 of the Florida Administrative Code, requires the reuse of reclaimed water in these areas.⁸

¹ Department of Environmental Protection (DEP), *Report on Expansion of Beneficial Use of Reclaimed Water, Stormwater and Excess Surface Water*, 11 (December 1, 2015) available at <https://floridadep.gov/sites/default/files/SB536%20Final%20Report.pdf>.

² *Id.*

³ *Id.* at 14.

⁴ DEP, *Aquifers*, available at <https://fldep.dep.state.fl.us/swapp/Aquifer.asp#> (last visited Feb. 1, 2018).

⁵ Section 373.036, F.S.

⁶ Section 373.042, F.S.

⁷ Section 373.219, F.S. Note that a water management district may not require a permit for the use of reclaimed water. Section 373.250 (3)(b), F.S.

⁸ See also s. 403.064(2), F.S.

Consumptive Use Permits (CUPs)

A consumptive use permit (CUP) establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the Department of Environmental Protection (DEP) and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- Be a “reasonable-beneficial use;”⁹
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.¹⁰

If two or more competing applications qualify equally, the applicable WMD or the DEP must give preference to a renewal application over an initial application.¹¹ If neither application is a renewal, preference is given to the applicant nearest the source.¹²

Reclaimed Water

Section 373.019(17), F.S., defines the term “reclaimed water” as “water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.” Water conservation and the promotion of reuse of reclaimed water have been established as formal state objectives in ss. 403.064 and 373.250, F.S. Florida tracks its reuse inventory in an annual report compiled by DEP.¹³ In 2016, a total of 478 domestic wastewater treatment facilities reported making reclaimed water available for reuse.¹⁴ The 760 million gallons per day (mgd) of reclaimed water use represents approximately 44 percent of the total domestic wastewater flow in the state.¹⁵ The 1,645 mgd of reuse capacity represents approximately 64 percent of the total domestic wastewater treatment capacity in the state.¹⁶ Reclaimed water from these systems was used to irrigate 397,750 residences, 574 golf courses, 1,053 parks, and 381 schools.¹⁷ Over 12,739 acres of edible crops on 65 farms were reported to be irrigated with reclaimed water.¹⁸ Approximately 43 wastewater treatment facilities do not provide reuse of any kind.¹⁹ Reclaimed water is a type of alternative water supply as defined in s. 373.019(1), F.S., and is eligible for alternative water supply funding.

⁹ Section 373.019(16), F.S., defines reasonable-beneficial use as, “the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.” *See also* Fla. Admin. Code R. 62-40.410(2) for additional factors to help determine if a water use is a reasonable-beneficial use.

¹⁰ Fla. Admin. Code R. 62-40.410(1).

¹¹ Section 373.233(2), F.S.

¹² *Id.*

¹³ DEP, *2016 Reuse Inventory*, available at https://floridadep.gov/sites/default/files/2016_reuse-report_0.pdf (last visited Feb. 1, 2018); compiled from reports collected pursuant to Fla. Admin. Code R. Ch. 62-610 (note that this report tracks wastewater facilities with permitted capacities of 0.1 million gallons per day or greater).

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 3.

¹⁶ *Id.*

¹⁷ *Id.* at 2.

¹⁸ *Id.*, noting that “[a]round 79 percent of the farmland was dedicated to the production of citrus (i.e., oranges, tangerines, grapefruit, etc.).”

¹⁹ *Id.* at 3.

Originally, water reuse was required only within water resource caution areas, unless such reuse was not economically, environmentally, or technically feasible as determined by a reuse feasibility study. Currently, ch. 62-40 of the Florida Administrative Code requires use of reclaimed water statewide. A domestic wastewater facility located within, discharging within, or serving a population within designated water resource caution areas is required to prepare a reuse feasibility study before receiving a domestic wastewater permit.²⁰ Section 403.064, F.S., provides that if the study shows that reuse is feasible, the permit applicant must give significant consideration to making reuse available.

Discharges of Reclaimed Water into Surface Waters

DEP may issue permits for backup discharges. A “backup discharge” is a surface water discharge that occurs as part of a functioning reuse system which has been permitted under DEP rules and which provides reclaimed water for irrigation of public access areas, residential properties, or edible food crops, or for industrial cooling or other acceptable reuse purposes. Backup discharges may occur during periods of reduced demand for reclaimed water in the reuse system. Backup discharges of reclaimed water meeting advanced water treatment standards are presumed to be allowable and are permitted in all waters in the state at a reasonably accessible point where such discharge results in minimal negative impact. Discharges of reclaimed water must meet applicable water quality standards.²¹

Impact Offsets and Substitution Credits

The water resource implementation rule (Florida Administrative Code Chapter 62-40), formerly known as the state water policy rule, is part of the Florida water plan and sets forth the goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives.²² DEP adopts changes or additions to the water resource implementation rule and has adopted a rule establishing criteria for the use of proposed impact offsets and substitution credits when a water management district evaluates applications for CUPs.²³ Substitution credits may be considered if a water management district has adopted rules establishing withdrawal limits from a specified water resource within a defined geographic area.

An impact offset is the use of reclaimed water to reduce or eliminate a harmful impact that has occurred or would otherwise occur as a result of other surface water or groundwater withdrawals. A substitution credit is the use of reclaimed water to replace all or a portion of an existing permitted use of resource-limited surface water or groundwater which then allows a different user or use to initiate a withdrawal or increase its withdrawal from the same resource-limited surface water or groundwater source.²⁴ CUP permit applicants may propose impact offsets or substitution credits as part of a permit application. The portion of a surface water or groundwater allocation made available by an impact offset will be based on the beneficial water resource

²⁰ *Id.* at 20

²¹ Section 403.086, F.S.

²² Section 373.036(1), F.S.

²³ Fla. Admin. Code R. 62-40.416.

²⁴ Section 373.250(5), F.S.

impact provided by the impact offset project. The proposed withdrawal, after application of a substitution credit, must result in no net adverse impact on the limited water resource or create a net positive impact if required by district rule as part of a strategy to protect or recover a water resource.²⁵

Ground Water Regulations

DEP regulates underground injection;²⁶ water well permitting;²⁷ water well construction;²⁸ source water and wellhead protection programs;²⁹ and ground water classes, standards, and monitoring.³⁰ DEP's Aquifer Protection Program is responsible for regulatory programs affecting ground water.³¹ DEP exercises regulatory authority over ground water quality under Chapter 62-520 of the Florida Administrative Code. In Florida, ground water standards are equivalent to the drinking water standards. By definition, a violation of any ground water standard or criterion constitutes pollution.³²

The Safe Drinking Water Act

The Safe Drinking Water Act (SDWA) is the federal law that protects public drinking water supplies throughout the nation.³³ Under the SDWA, the U.S. Environmental Protection Agency (EPA) sets standards for drinking water quality and, with its partners, implements various technical and financial programs to ensure drinking water safety.³⁴ Florida has the primary authority to implement the SDWA, having adopted a Florida SDWA that has been demonstrated to be at least as stringent as the federal law.³⁵ These statutes direct DEP to formulate and enforce rules pertaining to drinking water. The rules adopt the federal primary and secondary drinking water standards and create additional rules to fulfill state requirements. Drinking water standards are set out in ch. 62-550 of the Florida Administrative Code.

Local Government Solid Waste Responsibilities

The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.³⁶ Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county. Counties may charge reasonable fees for the handling and disposal of solid waste

²⁵ Fla. Admin. Code R. 62-40.416.

²⁶ Fla. Admin. Code R. Ch. 62-528.

²⁷ Fla. Admin. Code R. Ch. 62-532.

²⁸ Fla. Admin. Code R. Chs. 62-531 (Water Well Contractors) and 62-532 (Water Well Permitting and Construction Requirements)

²⁹ Fla. Admin. Code R. Ch. 62-521.

³⁰ Fla. Admin. Code R. Ch. 62-520

³¹ DEP, *Aquifer Protection Program- UIC*, available at <https://floridadep.gov/water/aquifer-protection> (last visited Feb. 1, 2018).

³² Florida Admin. Code s. 62-520.310.

³³ The Public Health Service Act, 42 U.S. ss. 300f to 300j-26 (2016).

³⁴ U.S. Environmental Protection Agency, *Summary of the Safe Water Drinking Act*, available at <https://www.epa.gov/laws-regulations/summary-safe-drinking-water-act> (last visited Feb. 1, 2018).

³⁵ Sections 403.850-403.864, F.S.

³⁶ Section 403.706(1), F.S.

at their facilities. Each county must have a recyclable materials recycling program that has a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.³⁷

Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs. Each county must implement a program for recycling construction and demolition debris. If the state's recycling rate is below 60 percent by January 1, 2017; below 70 percent by January 1, 2019; or below 75 percent by January 1, 2021, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives. The report must identify those additional programs or statutory changes needed to achieve the state's recycling goals. The programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers;
- Aluminum cans;
- Steel cans;
- Glass;
- Plastic bottles;
- Cardboard;
- Office paper; and
- Yard trash.³⁸

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.³⁹

“Municipal solid waste” includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations.⁴⁰ DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to DEP that:

- The achievement of the goal would have an adverse effect on the financial obligations of the county that are directly related to the county's waste-to-energy facility; and
- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county's waste-to-energy facility.⁴¹

³⁷ Section 403.706(2), F.S.

³⁸ Section 403.706(2)(f), F.S.

³⁹ Section 403.706(3), F.S.

⁴⁰ Section 403.706(5), F.S.

⁴¹ Section 403.706(6), F.S.

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality. Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government. A market must exist for the recyclable materials and the local government must specifically intend for them to be recycled. Local governments are authorized to provide for the collection of the recyclable materials. Such ordinances may include, but are not limited to, provisions that prohibit any person from knowingly disposing of recyclable materials designated by the local government and that ensure the collection of recovered materials as necessary to protect public health and safety.⁴²

A local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government;
- Restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has registered with DEP; and
- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.⁴³

Local governments may require a commercial establishment to source separate the recovered materials generated on the premises.⁴⁴

Florida's Recycling Goal

In recognition of the volume of waste generated by Floridians and visitors every year and the value of some of these discarded commodities, the Legislature set a goal to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in waste management facilities, landfills, or incineration facilities by 2020.⁴⁵ DEP established several programs and initiatives to reach that goal. In 2015, Florida's recycling rate was 54 percent, meeting the 50 percent target rate specified in statute.⁴⁶

Florida achieved the interim recycling goals established for 2012 and 2014, but Florida's recycling rate for 2016 was 56 percent, falling short of the 2016 interim recycling goal of 60 percent. The current practices in Florida are not expected to significantly increase the recycling

⁴² Section 403.706(21), F.S.

⁴³ Section 403.7046(3), F.S.

⁴⁴ Section 403.7046(3)(a), F.S.

⁴⁵ Section 403.7032, F.S.; DEP, *Florida and the 2020 75% Recycling Goal* (2017) 5

https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Feb. 1, 2018).

⁴⁶ DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Feb. 1, 2018).

rate beyond the 56 percent rate. Without significant changes to Florida's current approach, the state's recycling rate will likely fall short of the 2020 goal of 75 percent.⁴⁷

DEP, in partnership with material recycling facilities (MRFs) across the state, has developed a statewide public education campaign, entitled "Rethink. Reset. Recycle." The campaign addresses the need to educate Florida residents on how to reduce single stream curbside recycling contamination. Plastic bags, cords, clothing and packaging are causing contamination problems that can shut down MRF operations and cause good loads of recyclables to become trash. The campaign also serves to remind Florida residents of the basics of curbside recycling: clean and dry aluminum and steel cans, plastic bottles and jugs and paper and cardboard. DEP is also working on the following recycling options:

- Evaluating the implications of shifting from a weight-based recycling goal to sustainable materials management processes;
- Researching the concept of moving from a weight-based recycling goal of 75 percent by 2020, to market specific goals such as a food diversion goal or an organics recycling goal;
- Engaging Florida's state universities and the Florida Department of Education to review potential K-12 curriculum programs emphasizing waste reduction and recycling practices;
- Continuing to work with state agencies to identify recycling/cost saving measures specific to their operations; and
- Providing counties not achieving the 2016 interim recycling goal with assistance in analyzing, planning and executing opportunities to increase recycling.⁴⁸

A number of counties and municipalities have instituted single stream recycling programs. Single stream recycling programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling materials from paper and plastic bottles to metal cans and glass containers. Single stream recycling programs have been marginally successful in providing curbside collection efficiency by increasing the amount of recyclables collected and residential participation. While there are many advantages to single stream recycling, it has not consistently yielded positive results for the recycling industry. The unexpected consequence of single stream recycling has been the collection of unwanted materials and poorly sorted recyclables, resulting in increased contamination originating in the curbside recycling cart.⁴⁹

Contamination hinders processing at MRFs when unwanted items are placed into recycling carts. Those items are often harmful to the automated equipment typically used to process and separate recyclable materials from single stream collections. While MRFs are equipped to handle some non-recyclable materials, excessive contamination can undermine the recycling process resulting in additional sorting, processing, energy consumption, and other increased costs due to equipment downtime, repair or replacement costs and delays. In addition to increased recycling processing costs, contamination also results in poorer quality recyclables, and increased rejection and landfilling on unusable materials. Although some local governments have implemented successful single stream recycling programs with low contamination rates, contamination rates

⁴⁷ DEP, *Florida and the 2020 75% Recycling Goal* (2017) 5
https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Feb. 1, 2018).

⁴⁸ *Id.* at 11.

⁴⁹ *Id.* at 13.

for other programs have continued to rise, in some case reaching contamination rates of more than 30-40 percent by weight.⁵⁰

Exceptions to Requirements for Environmental Permits

An environmental resource permit (ERP) is required, if a project exceeds certain thresholds, for surface water management systems and, more specifically, for the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on or over wetlands or other surface waters).⁵¹ However, for a number of low impact activities and projects that are narrow in scope, an environmental permit under state law is not required.⁵² Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to an agency.⁵³ Activities exempted from an ERP are varied and include the installation of overhead transmission lines, installation and maintenance of boat ramps, work on sea walls and mooring pilings, swales, and foot bridges, the removal of aquatic plants, construction of floating vessel platforms, and work on county roads and bridges, among many others.⁵⁴ Included among activities exempt from the requirement to obtain a permit is the replacement or repair of existing docks and piers, if fill material is not used and the replacement or repaired dock or pier is in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.⁵⁵ Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a water management district in its governmental or proprietary capacity.⁵⁶

III. Effect of Proposed Changes:

Impact Offsets and Substitution Credits

CS/SB 1308 provides that when a water management district (WMD) evaluates a consumptive use permit (CUP), impact offsets may be created if the applicant proposes reclaimed water use to:

- Prevent or stop further saltwater intrusion;
- Raise aquifer levels;
- Improve the water quality of an aquifer; or
- Augment surface water to increase the quantity of water available for water supply.

The bill requires the water resource implementation rule to include criteria for the application of an impact offset or a substitution credit to a consumptive use permit or to a minimum flows and levels recovery or prevention strategy.

⁵⁰ *Id.*

⁵¹ Fla. Admin. Code R. 62-330.010.

⁵² Section 403.813, F.S.

⁵³ Fla. Admin. Code R. 62-330.50.

⁵⁴ Section 403.813, F.S., Fla. Admin. Code R. 62-330.051.

⁵⁵ Section 403.813(1)(d), F.S.

⁵⁶ Section 403.813(1), F.S.

Memorandum of Agreement

The bill includes a legislative finding that reuse through aquifer recharge is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems. The bill requires the Department of Environmental Protection (DEP) and the WMDs to develop and enter into a memorandum of agreement (MOA) no later than December 1, 2018 providing for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a consumptive use permit. The MOA must provide that the coordinated review is performed only if the applicant for such permits requests a coordinated review. The goal of the coordinated review is to share information, avoid the need for an applicant to submit redundant information, and ensure, to the extent feasible, a harmonized review of the reclaimed water project under these various permitting programs, including the use of a proposed impact offset or substitution credit.

Contaminated Recyclable Material

The bill provides the following criteria by which counties and municipalities must address the contamination of recyclable material in contracts for the collection, transportation, and processing of residential recyclable material:

- A residential recycling collector may not be required to collect or transport contaminated recyclable material, unless specified by contract.
- A materials recovery facility may not be required to process contaminated recyclable material, unless specified by contract.
- Contracts between a residential recycling collector and a county or municipality, each request for proposal for residential recyclable material, and contracts between a materials recovery facility and a county or municipality must include:
 - A definition of the term “contaminated recyclable material” that is appropriate for the local community, based on the available markets for recyclable material, available waste composition studies, and other relevant factors;
 - The respective strategies and obligations of the parties to reduce the amount of contaminated recyclable material being collected or processed;
 - The procedures for identifying, documenting, managing, and rejecting residential recycling containers, carts, bins, or loads that contain contaminated recyclable material; and
 - The remedies that will be used if a container, cart, bin, or load contains contaminated recyclable material.
- Contracts between a collector and a county or municipality and each request for proposal for residential recyclable material must include the education and enforcement measures that will be used to reduce the amount of contaminated recyclable material.
- Provides that the above criteria apply to contracts between a municipality or county and a residential recycling collector or materials recovery facility executed or renewed after July 1, 2018.

The bill provides that “residential recycling collector” means a for-profit business entity that collects and transports residential recyclable material on behalf of a county or municipality.

ERP Exemptions for Repair or Replacement of Existing Docks or Piers/Verification from DEP

The bill revises the ERP exemption for the repair or replacement of existing docks and piers. The bill prohibits a local government from requiring an individual claiming certain permit exemptions to provide further department verification. Existing law requires the replaced or repaired dock or pier to be in the same location and of the same configuration and dimensions as the deck or pier being replaced or repaired. The bill provides that, in order to be exempt from permitting, the replaced or repaired dock or pier must be within five feet of the same location and no larger in size than the existing dock or pier. It also requires that no additional aquatic resources be adversely and permanently impacted by the replacement or repair. The bill provides that for all of the activities and projects excluded from the requirement to obtain a permit, a local government may not require further verification from DEP.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

The bill may have an indeterminate fiscal effect on local government recycling and waste removal services.

The bill may have an indeterminate, negative fiscal impact on DEP as a result of the costs of rulemaking to develop criteria for use of impact offsets or substitution credits. The bill may also have indeterminate negative fiscal impacts on DEP and the WMDs as a result of the costs of developing an MOA for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a consumptive use permit.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.250, 403.064, 403.706, and 403.813.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Community Affairs on February 13, 2018:**

- Maintains the ability for a homeowner, business, or local government to rebuild a dock or pier without going through the permitting process, making clear that a rebuilt dock or pier does not need to be exactly the same so long as it is within 5 feet of the same location and is no larger in size than the existing dock.

CS by Environmental Preservation and Conservation on January 22, 2018:

The amendment removes provisions in the bill related to contaminated recycling and adds the following criteria by which counties and municipalities must address the contamination of recyclable material in contracts for the collection, transportation, and processing of residential recyclable material:

- A residential recycling collector may not be required to collect or transport contaminated recyclable material.
- A materials recovery facility may not be required to process contaminated recyclable material.
- Each contract between a residential recycling collector and a county or municipality for the collection or transport of residential recyclable material, and each request for proposal for residential recyclable material, must define the term “contaminated recyclable material” in a manner that is appropriate for the local community, based on the available markets for recyclable material. The amendment specifies elements that the contract and request for proposal must include.
- Each contract between a materials recovery facility and a county or municipality for processing residential recyclable material must define the term “contaminated recyclable material” in a manner that is appropriate for the local community, based on the available markets for recyclable material. The amendment specifies elements that the contract must include.
- Provides that the above criteria apply to contracts between a municipality or county and a residential recycling collector or materials recovery facility executed or renewed after the effective date of the act.

The amendment provides that “residential recycling collector” means a for-profit business entity that collects and transports residential recyclable material on behalf of a county or municipality.

B. Amendments:

None.

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

MIAF Bill Tracking

Sorted by Bill Number

<u>HB 3</u>	Economic Development and Tourism Promotion Accountability	Grant (M)
	Economic Development and Tourism Promotion Accountability: Authorizes & requires Auditor General to conduct certain audits; provides transparency & accountability provisions applicable to economic development agencies & tourism promotion agencies; provides penalties; requires county governing board to review certain proposed contracts & certifications. Effective Date: October 1, 2018 2/1/2018 SENATE Received; Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations; Rules	
<u>HB 7</u>	Local Government Fiscal Transparency	Burton
	Local Government Fiscal Transparency: Revises Legislative Auditing Committee duties; specifies purpose of local government fiscal transparency requirements; requires local governments to post certain voting record information on websites; requires property appraisers & local governments to post certain property tax information & history on websites; requires public notices for public hearings & meetings prior to certain increases of local government tax levies; specifies noticing & advertising requirements; requires local governments to conduct debt affordability analyses under specified conditions; provides method for local governments that do not operate website to post certain required information. Effective Date: July 1, 2018 1/30/2018 SENATE Received; Referred to Community Affairs; Appropriations; Rules	
<u>HB 17</u>	Community Redevelopment Agencies	Raburn
	Community Redevelopment Organizations: Provides reporting requirements; revises requirements for operating community redevelopment agencies; prohibits creation of community redevelopment agencies after date certain; provides phase-out period; creates criteria for determining whether community redevelopment agency is inactive; provides hearing procedures; authorizes certain financial activity from inactive community redevelopment agencies; revises requirements for use of redevelopment trust fund proceeds; revises county & municipal government reporting requirements; revises criteria for finding that county or municipality failed to file report; requires DFS to provide report to DEO concerning community redevelopment agencies with no revenues, no expenditures, & no debts. Effective Date: October 1, 2018 1/30/2018 SENATE Received; Referred to Community Affairs; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations; Rules	
<u>HB 51</u>	Background Screening	Jones
	Background Screening: Prohibits employers from excluding applicant from initial interview for employment under certain conditions; provides applicability; provides exceptions; requires DEO to enforce act. Effective Date: July 1, 2018 11/7/2017 HOUSE Withdrawn prior to introduction	
<u>HB 53</u>	Coral Reefs	Jacobs
	Coral Reefs: Establishes Southeast Florida Coral Reef Ecosystem Conservation Area. Effective Date: July 1, 2018 2/9/2018 HOUSE Enrolled Text (ER) Filed	
<u>SB 76</u>	Small Business Saturday Sales Tax Holiday	Garcia
	Small Business Saturday Sales Tax Holiday; Defining the term "small business"; providing that small businesses are not required to collect the sales and use tax on the retail sale of certain items of tangible personal property during a specified timeframe, etc. APPROPRIATION: \$200,000.00 Effective Date: 7/1/2018 11/7/2017 SENATE Now in Appropriations Subcommittee on Finance and Tax	
<u>HB 83</u>	Agency Rulemaking	Spano
	Agency Rulemaking: Requires certain notices to include agency website address for specified purpose; requires agency to prepare statement of estimated regulatory costs before adopting or amending rule other than emergency rule; requires agency to prepare statement of estimated regulatory costs before repealing rule in certain circumstances; requires DOS to include on Florida Administrative Register website agency website addresses where statements of estimated regulatory costs can be viewed. Effective Date: July 1, 2018 2/8/2018 SENATE Received; Referred to Governmental Oversight and Accountability; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	
<u>SB 102</u>	Discrimination in Employment Screening	Bracy
	Discrimination in Employment Screening; Prohibiting an employer from inquiring into or considering an applicant's criminal history on an initial employment application unless otherwise required to do so by law, etc. Effective Date: 7/1/2018 8/28/2017 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Criminal Justice; Rules	
<u>SB 110</u>	Language Requirements for State Agency Websites and Advertisements	Campbell
	Language Requirements for State Agency Websites and Advertisements; Requiring specified information to be published on state agency websites in certain languages; requiring state agencies to disseminate certain advertisements to the public in languages other than English through specified media outlets in certain counties; requiring the Office of Economic and Demographic Research to publish certain information on its website, etc. Effective Date: 10/1/2018 8/28/2017 SENATE Referred to Governmental Oversight and Accountability; Appropriations; Rules	

<u>HB 131</u>	Coastal Management	Peters
	Coastal Management: Revises criteria for state & local participation in authorized projects & studies relating to beach management & erosion control; revises procedures for prioritizing & funding beach restoration, beach management, & inlet management projects; requires certain funds from Land Acquisition Trust Fund be used for beach preservation & restoration projects. Effective Date: July 1, 2018 9/14/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee	
<u>SB 156</u>	Florida Black Bears	Stewart
	Florida Black Bears; Creating the "Florida Black Bear Protection Act"; prohibiting the Fish and Wildlife Conservation Commission from allowing the recreational hunting of Florida black bears mothering cubs that weigh less than 100 pounds under a black bear hunting permit; prohibiting prescribed burns in certain designated habitats during specified times, etc. Effective Date: 7/1/2018 8/28/2017 SENATE Referred to Environmental Preservation and Conservation; Criminal Justice; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations	
<u>SB 166</u>	Minimum Wage	Rodriguez (J)
	Minimum Wage; Revising the formula for the adjusted state minimum wage, etc. Effective Date: 7/1/2018 8/28/2017 SENATE Referred to Commerce and Tourism; Community Affairs; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	
<u>SB 174</u>	Coastal Management	Hukill
	Coastal Management; Revising the criteria to be considered by the Department of Environmental Protection in determining and assigning annual funding priorities for beach management and erosion control projects; requiring that certain projects be considered separate and apart from other specified projects; revising requirements for the comprehensive long-term management plan, etc. Effective Date: Except as otherwise provided in this act, this act shall take effect July 1, 2018 2/5/2018 SENATE Placed on Calendar, on 2nd reading	
<u>HB 203</u>	Environmental Regulation Commission	Willhite
	Environmental Regulation Commission: Requires Governor to make appointments to fill commission vacancies within certain time frame; requires that specified rules submitted to commission receive certain vote totals for approval or modification. Effective Date: July 1, 2018 11/6/2017 HOUSE Now in Judiciary Committee	
<u>HB 207</u>	Growth Management	McClain
	Growth Management: Requires local governments to address protection of private property rights in their comprehensive plans; requires comprehensive plan to include private property rights element; requires counties & municipalities to adopt or amend land development regulations consistent with private property rights element; provides deadlines; requires state land planning agency to approve private property rights element if it is substantially in specified form. Effective Date: July 1, 2018 10/12/2017 HOUSE Now in Agriculture & Property Rights Subcommittee	
<u>SB 232</u>	Coral Reefs	Book
	Coral Reefs; Establishing the Southeast Florida Coral Reef Ecosystem Conservation Area, etc. Effective Date: 7/1/2018 2/1/2018 SENATE Read Second Time; Substituted for HB 0053; Laid on Table, Refer to HB 0053	
<u>HB 247</u>	Vessel Registration	Ausley
	Vessel Registration: Authorizes DHSMV to issue electronic certificate of registration for vessel & use electronic mail for certain purposes; authorizes vessel operator to present such electronic certificate for inspection under certain circumstances. Effective Date: July 1, 2018 11/15/2017 HOUSE Now in Transportation & Tourism Appropriations Subcommittee	
<u>SB 316</u>	Environmental Regulation Commission	Stewart
	Environmental Regulation Commission; Requiring the Governor to appoint a new member to the commission within a certain timeframe after the occurrence of a vacancy, etc. Effective Date: 7/1/2018 2/15/2018 SENATE Now in Rules	
<u>HB 319</u>	Gulf of Mexico Range Complex	Ponder
	Gulf of Mexico Range Complex: Supports extension of current moratorium on drilling in Gulf of Mexico east of Military Mission Line. 1/31/2018 HOUSE Read Second Time; Adopted	
<u>HB 337</u>	Community Development Districts	Cortes (J)
	Community Development Districts: Requires community development districts to obtain a valuation before acquiring certain property. Effective Date: July 1, 2018 10/26/2017 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee	
<u>HB 339</u>	Land Acquisition Trust Fund	Harrell
	Land Acquisition Trust Fund: Provides appropriation for certain projects related to Indian River Lagoon Comprehensive	

Conservation & Management Plan; authorizes DEP to make grants for such projects; directs DEP to submit annual report to Governor & Legislature. Effective Date: July 1, 2018
10/26/2017 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

HB 345	Duty to Provide Emergency Assistance	Goodson
	Duty to Provide Emergency Assistance: Requires person at scene of emergency to provide reasonable assistance to endangered person; provides criminal penalties; provides immunity from liability for providing reasonable assistance. Effective Date: October 1, 2018 1/25/2018 Bill to be Discussed During the Office of EDR's Criminal Justice Impact Conference, 01/29/18, 3:00 pm, 117 K (No Votes Will Be Taken)	
SB 362	Growth Management	Perry
	Growth Management; Requiring local governments to address the protection of private property rights in their comprehensive plans; requiring the comprehensive plan to include a private property rights element that sets forth principles, guidelines, standards, and strategies to achieve certain objectives; providing a deadline by which each local government must adopt a private property rights element; requiring the state land planning agency to approve the private property rights element adopted by each local government if it is substantially in a specified form, etc. Effective Date: 7/1/2018 10/16/2017 SENATE Referred to Community Affairs; Environmental Preservation and Conservation; Rules	
SB 370	Land Acquisition Trust Fund	Bradley
	Land Acquisition Trust Fund; Requiring a specified annual appropriation to the Florida Forever Trust Fund; prohibiting moneys from the Land Acquisition Trust Fund from being used for specified costs, etc. APPROPRIATION: \$100,000,000.00 Effective Date: 7/1/2018 2/1/2018 HOUSE In Messages	
SB 380	Criminal History Records in Applications for Public Employment and Admission to Public Postsecondary Educational Institutions	Clemens (J)
	Criminal History Records in Applications for Public Employment and Admission to Public Postsecondary Educational Institutions; Prohibiting a public employer from inquiring into or considering an applicant's criminal history on an initial employment application unless required to do so by law; prohibiting public postsecondary educational institutions from inquiring into or considering the criminal history of an applicant seeking admission, etc. Effective Date: 7/1/2018 11/3/2017 SENATE Withdrawn from further consideration	
SB 388	Anchoring Limitation Areas	Farmer
	Anchoring Limitation Areas; Revising the anchoring limitation areas within the state to include additional specified areas, etc. Effective Date: 7/1/2018 10/25/2017 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Rules	
HB 409	Tax on Commercial Real Property	Ahern
	Tax on Commercial Real Property: Provides certain exemptions from tax imposed on rental or license fees charged for use of commercial real property; provides for future repeal of tax. Effective Date: July 1, 2018 12/18/2017 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 12/20/17, 1:30 pm, 117 K (No Votes Will Be Taken)	
SB 432	Community Redevelopment Agencies	Lee (T)
	Community Redevelopment Agencies; Prohibiting a person from lobbying a community redevelopment agency until he or she has registered as a lobbyist with that agency; authorizing community redevelopment agencies to adopt rules to govern the registration of lobbyists; requiring ethics training for community redevelopment agency commissioners, etc. Effective Date: 7/1/2018 11/8/2017 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development	
HB 469	Salvage of Pleasure Vessels	Harrison
	Salvage of Pleasure Vessels: Requires salvors of pleasure vessels to provide specified verbal & written notice; provides exception; provides remedies for violations. Effective Date: July 1, 2018 2/19/2018 HOUSE Now in Judiciary Committee	
SB 516	Duty to Provide Emergency Assistance	Mayfield
	Duty to Provide Emergency Assistance; Requiring a person at the scene of an emergency to provide reasonable assistance to an endangered person; providing a criminal penalty; providing immunity from liability for providing reasonable assistance, etc. Effective Date: 10/1/2018 1/25/2018 Bill to be Discussed During the Office of EDR's Criminal Justice Impact Conference, 01/29/18, 3:00 pm, 117 K (No Votes Will Be Taken)	
HB 525	High-Speed Passenger Rail	Grall
	High-Speed Passenger Rail: Requires railroad company operating high-speed passenger rail system to be responsible for certain maintenance, improvement, & upgrade costs; specifies that governmental entity is not responsible for such costs unless it consents in writing. Effective Date: July 1, 2018 11/15/2017 HOUSE Now in Transportation & Infrastructure Subcommittee	

<u>SB 542</u>	Public Financing of Construction Projects	Rodriguez (J)
	Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study and having such study published and approved by the Department of Environmental Protection; requiring the department to publish such studies on its website, subject to certain conditions, etc. Effective Date: 7/1/2018 11/2/2017 SENATE Referred to Environmental Preservation and Conservation; Governmental Oversight and Accountability; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations	
<u>SB 544</u>	Procurement Procedures	Brandes
	Procurement Procedures; Specifying the applicability of procedures for the resolution of protests arising from the contract solicitation or award process for certain procurements by specified transportation, expressway, and bridge authorities, etc.; Effective Date: 7/1/2018 12/5/2017 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development	
<u>SB 550</u>	Gulf of Mexico Range Complex	Broxson
	Gulf of Mexico Range Complex; Supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line, etc. 2/8/2018 SENATE Read Second Time; Adopted	
<u>HB 559</u>	Florida Black Bears	Olszewski
	Florida Black Bears: Prohibits FWCC from allowing recreational hunting of certain Florida black bears; provides penalty for certain harvesting of saw palmetto berries; authorizes FWCC to designate certain habitats; prohibits prescribed burns in such habitats during specified times. Effective Date: July 1, 2018 11/15/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee	
<u>SB 572</u>	High-speed Passenger Rail	Mayfield
	High-speed Passenger Rail; Designating the "Florida High-Speed Passenger Rail Safety Act"; providing powers and duties of the Florida Department of Transportation; requiring the Florida Division of Emergency Management to offer, under certain circumstances, the local communities and local emergency services located along the rail corridor training specifically designed to help them respond to an accident involving rail passengers or hazardous materials; requiring a railroad company operating a high-speed passenger rail system to be solely responsible for certain maintenance, improvement, and upgrade costs, etc. Effective Date: 7/1/2018 1/23/2018 SENATE Workshopped by Community Affairs	
<u>HB 585</u>	Tourist Development Tax	Fine
	Tourist Development Tax: Authorizes counties imposing a tourist development tax to use tax revenues for specified purposes; provides criteria. Effective Date: July 1, 2018 2/14/2018 HOUSE Engrossed Text (E1) Filed	
<u>SB 620</u>	Disaster Preparedness Tax Exemption	Passidomo
	Disaster Preparedness Tax Exemption; Providing a sales and use tax exemption for certain tangible personal property related to disaster preparedness during a specified period, etc. APPROPRIATION: \$70,072.00 Effective Date: Upon becoming a law 1/18/2018 SENATE Now in Appropriations	
<u>SB 632</u>	Vessel Registration	Montford
	Vessel Registration; Authorizing the Department of Highway Safety and Motor Vehicles to issue an electronic certificate of registration for a vessel, to collect electronic mail addresses, and to use electronic mail for certain purposes; authorizing a vessel operator to present such electronic certificate for inspection under certain circumstances; providing that the person displaying the device assumes the liability for any resulting damage to the device, etc. Effective Date: 10/1/18 2/19/2018 SENATE On Committee agenda - Appropriations, 02/22/18, 2:00 pm, 412 K	
<u>SB 658</u>	Tourist Development Tax	Brandes
	Tourist Development Tax; Authorizing counties imposing the tax to use the tax revenues, under certain circumstances, for specified purposes and costs relating to public facilities, etc. Effective Date: 7/1/2018 2/7/2018 SENATE Now in Appropriations	
<u>SB 664</u>	Salvage of Pleasure Vessels	Young
	Salvage of Pleasure Vessels; Designating the "Florida Salvage of Pleasure Vessels Act"; requiring salvors of pleasure vessels to provide a specified written disclosure statement and salvage work estimate; requiring such salvors to obtain customer permission before exceeding the written estimate by more than a specified amount; requiring salvors to post specified signage on their vessels, etc. Effective Date: This act shall take effect July 1, 2018 2/19/2018 SENATE On Committee agenda - Rules, 02/22/18, 10:00 am, 110 S	
<u>SB 726</u>	Smoking Marijuana for Medical Use	Farmer
	Smoking Marijuana for Medical Use; Redefining terms to authorize the production, processing, transportation, sale, possession, and administration of marijuana in a form for smoking for medical use, etc. Effective Date: 7/1/2018 11/15/2017 SENATE Referred to Health Policy; Appropriations; Rules	

<u>SB 740</u>	Department of Agriculture and Consumer Services Department of Agriculture and Consumer Services; Transferring authority to issue licenses for oyster harvesting in Apalachicola Bay from the department to the City of Apalachicola; revising permitting requirements and operating standards for water vending machines; revising the circumstances under which liquefied petroleum gas bulk delivery vehicles must be registered with the department; repealing provisions relating to packet vegetable and flower seed; creating the "Government Impostor and Deceptive Advertisements Act", etc. Effective Date: 7/1/2018 2/19/2018 SENATE On Committee agenda - Appropriations, 02/22/18, 2:00 pm, 412 K	Stargel
<u>SB 798</u>	Background Screening Background Screening; Prohibiting employers from excluding an applicant from an initial interview for employment under certain conditions; requiring the Department of Economic Opportunity to enforce the act, etc. Effective Date: 7/1/2018 11/17/2017 SENATE Referred to Commerce and Tourism; Criminal Justice; Rules	Braynon II
<u>SB 804</u>	Possession of Real Property Possession of Real Property; Authorizing a person with a superior right to possession of real property to recover possession by ejectment; providing that a person entitled to possession of real property has a cause of action to regain possession from another person who obtained possession of real property by forcible entry, unlawful entry, or unlawful detainer; requiring that the court determine the right of possession and damages, etc. Effective Date: 7/1/2018 2/15/2018 SENATE On Committee agenda - Community Affairs, 02/20/18, 1:30 pm, 301 S	Passidomo
<u>SB 902</u>	Tax on Commercial Real Property Tax on Commercial Real Property; Providing a specified exemption from the tax imposed on rental or license fees charged for the use of commercial real property; authorizing the Department of Revenue to review any lease, license, or other information for certain purposes; providing for the future repeal of provisions relating to the imposition of a tax on the rental or license fees charged for the use of commercial real property, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2018 12/18/2017 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 12/20/17, 1:30 pm, 117 K (No Votes Will Be Taken)	Perry
<u>HB 915</u>	Vessel Safety Inspection Decals Vessel Safety Inspection Decals: Authorizes FWCC to adopt specified rules for vessel safety inspection decals. Effective Date: July 1, 2018 1/18/2018 HOUSE Placed on Calendar, on 2nd reading	Henry
<u>HB 963</u>	Towing and Immobilizing Fees and Charges Towing and Immobilizing Fees and Charges: Establishes maximum rate that local governments may charge to immobilize vehicles or vessels; defines "immobilize"; prohibits local governments from enacting certain ordinances or rules that impose fees or charges on specified entities; provides exceptions; prohibits local governments from imposing charges on certain entities related to vehicles or vessels; provides exception; authorizes certain persons to place liens on vehicles or vessels to recover specified fees or charges. Effective Date: July 1, 2018 2/8/2018 HOUSE Placed on Calendar, on 2nd reading	Cortes (B)
<u>SB 992</u>	C-51 Reservoir Project C-51 Reservoir Project; Revising requirements related to the operation of water storage and use for Phase I and Phase II of the C-51 reservoir project if state funds are appropriated for such phases; authorizing the South Florida Water Management District to enter into certain capacity allocation agreements and to request a waiver for repayment of certain loans; authorizing the Department of Environmental Protection to waive such loan repayment under certain conditions, etc. Effective Date: 7/1/2018 2/16/2018 SENATE Now in Appropriations	Book
<u>SB 1132</u>	Vessel Safety Inspection Decals Vessel Safety Inspection Decals; Providing rulemaking authority to the Fish and Wildlife Conservation Commission regarding expiration and design of safety inspection decals, etc. Effective Date: 7/1/2018 2/19/2018 SENATE On Committee agenda - Appropriations, 02/22/18, 2:00 pm, 412 K - PCS	Hutson
<u>HB 1149</u>	Environmental Regulation Environmental Regulation: Provides examples of reclaimed water use that may create impact offset; revises required provisions of water resource implementation rule; requires DEP & water management districts to develop & enter into certain memorandum of agreement; requires counties & municipalities to address contamination of recyclable material in specified contracts; prohibits counties & municipalities from requiring certain collection & transport of contaminated recyclable material; requires specified provisions in contracts between residential recycling collectors & materials recovery facilities & counties & municipalities; provides that local government may not require further verification from department for certain projects; revises types of dock & pier replacements & repairs that are exempt from such verification & certain permitting requirements. Effective Date: upon becoming a law 2/6/2018 HOUSE Now in Government Accountability Committee	Payne
<u>HB 1151</u>	Developments of Regional Impact Developments of Regional Impact: Repeals, creates, & revises provisions for statewide guidelines, standards, & requirements for developments of regional impact relating to authorizations to develop; applications for approval of development; concurrent plan amendments; preapplication procedures; preliminary development agreements;	La Rosa

conceptual agency reviews; local notice & regional reports; developments inside & outside areas of critical state concern; local government development orders; construction of mitigation facilities; impact fee & exaction credits; comprehensive development applications & master plan development orders; abandonment of developments; dense urban land area exemptions; Florida Quality Developments & Quality Developments Review Board; Administration Commission guidelines & standards; state land planning agency agreements; Florida Land & Water Adjudicatory Commission requirements; local government permit approvals & extensions, reviews & certifications; uniform reviews of developments by state land planning agency & regional planning agencies. Effective Date: upon becoming a law 2/13/2018 HOUSE Placed on Calendar, on 2nd reading

<u>SB 1188</u>	Strategic Intermodal System	Rouson
	Strategic Intermodal System; Specifying that the Strategic Intermodal System and the Emerging Strategic Intermodal System include existing or planned corridors that are managed lanes of transit, etc. Effective Date: 7/1/2018 2/13/2018 SENATE Now in Community Affairs	
<u>HB 1211</u>	Airboat Regulation	Abruzzo
	Airboat Regulation: Requires commercial airboat operator to have specified documents onboard; provides exception & penalty. Effective Date: upon becoming a law 2/5/2018 HOUSE Now in Government Accountability Committee	
<u>HB 1223</u>	Background Screening	McGhee
	Background Screening: Prohibits employers from excluding applicants from initial interviews for employment under certain conditions; provides applicability & exceptions; requires DEO to enforce act. Effective Date: July 1, 2018 1/12/2018 HOUSE Now in Careers & Competition Subcommittee	
<u>SB 1244</u>	Growth Management	Lee (T)
	Growth Management; Adding a minimum population standard as a criteria that must be met before qualified electors of an independent special district commence a certain municipal conversion proceeding; revising the statewide guidelines and standards for developments of regional impact; specifying that amendments to a development order for an approved development may not alter the dates before which a development would be subject to downzoning, unit density reduction, or intensity reduction, except under certain conditions; requiring local governments to file a notice of abandonment under certain conditions, etc. Effective Date: Upon becoming a law 2/9/2018 SENATE Now in Appropriations	
<u>HB 1277</u>	Strategic Intermodal System	Willhite
	Strategic Intermodal System: Specifies that Strategic Intermodal System & Emerging Strategic Intermodal System include existing or planned corridors that are managed lanes of transit. Effective Date: July 1, 2018 1/12/2018 HOUSE Now in Transportation & Infrastructure Subcommittee	
<u>SB 1308</u>	Environmental Regulation	Perry
	Environmental Regulation; Revising the required provisions of the water resource implementation rule; requiring the Department of Environmental Protection and the water management districts to develop and enter into a memorandum of agreement providing for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a consumptive use permit; requiring counties and municipalities to address contamination of recyclable material in specified contracts; prohibiting counties and municipalities from requiring the collection or transport of contaminated recyclable material by residential recycling collectors except under certain conditions, etc. Effective Date: Upon becoming a law 2/19/2018 SENATE On Committee agenda - Appropriations, 02/22/18, 2:00 pm, 412 K	
<u>HB 1353</u>	Land Acquisition Trust Fund	Beshears
	Land Acquisition Trust Fund: Requires specified annual appropriation to Florida Forever Trust Fund. Effective Date: July 1, 2018 1/12/2018 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee	
<u>SB 1402</u>	State Assumption of Federal Section 404 Dredge and Fill Permitting Authority	Simmons
	State Assumption of Federal Section 404 Dredge and Fill Permitting Authority; Defining the term "state assumed waters"; providing the Department of Environmental Protection with the power and authority to adopt rules to assume and implement the section 404 dredge and fill permitting program pursuant to the federal Clean Water Act; requiring the department to adopt rules to create an expedited permit review process, etc. Effective Date: Upon becoming a law 2/19/2018 SENATE On Committee agenda - Appropriations, 02/22/18, 2:00 pm, 412 K	
<u>SB 1612</u>	Airboat Regulation	Rader
	Airboat Regulation; Citing this act as "Ellie's Law"; requiring, by a specified date, a commercial airboat operator to have specified documents on board the airboat while carrying passengers for hire; providing a penalty for violation of airboat operation requirements, etc. Effective Date: Upon becoming a law 2/16/2018 SENATE Now in Appropriations	
<u>SB 1632</u>	Towing and Immobilization Fees and Charges	Mayfield
	Towing and Immobilization Fees and Charges; Expanding the application of certain provisions related to ordinances and rules imposing price controls to include the towing or immobilization of vessels; prohibiting counties and municipalities	

from imposing charges, costs, expenses, fines, fees, or penalties on registered owners, other legally authorized persons in control, or lienholders of vehicles or vessels under certain conditions, etc. Effective Date: 7/1/2018
 2/6/2018 SENATE Now in Rules

SB 1714	Economic Development and Tourism Promotion Accountability	Perry
Economic Development and Tourism Promotion Accountability; Authorizing the Auditor General to audit certain accounts and records; requiring the Auditor General to conduct certain audits and report to certain persons if certain violations are found; requiring the governing board of a county to review certain proposed contracts and certifications relating to potential conflicts of interest and mitigation plans, etc. Effective Date: 10/1/2018 2/1/2018 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development		
HB 3655	Pinellas County Orphan Vessel Grounding Restoration	Peters
Pinellas County Orphan Vessel Grounding Restoration: Provides an appropriation for the Pinellas County Orphan Vessel Grounding Restoration. APPROPRIATION: \$604,735.00 Effective Date: July 1, 2018 12/5/2017 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee		
HB 4359	Monroe County Mobile Vessel Pumpout Service	Raschein
Monroe County Mobile Vessel Pumpout Service: Provides an appropriation for the Monroe County Mobile Vessel Pumpout Service. APPROPRIATION: \$500,000.00 Effective Date: July 1, 2018 1/19/2018 HOUSE Now in Appropriations Committee		
HB 7009	Workers' Compensation	Commerce Committee
Workers' Compensation: Requires panel to annually adopt statewide workers' compensation schedules of maximum reimbursement allowances; extends timeframes in which employees may receive certain workers' compensation benefits & in which carrier must notify treating doctor of certain requirements; revises provisions relating to retainer agreements & awarding attorney fees. Effective Date: July 1, 2018 1/31/2018 SENATE Referred to Banking and Insurance; Appropriations; Rules		
HB 7043	State Assumption of Federal Section 404 Dredge and Fill Permitting Authority	Natural Resources & Public Lands Subcommittee
State Assumption of Federal Section 404 Dredge and Fill Permitting Authority: Provides DEP, upon approval of U.S. Environmental Protection Agency, with power & authority to adopt rules to assume & implement permitting program pursuant to federal Clean Water Act for dredge & fill activities in certain state waters; provides applicability of state laws, exemptions, & administrative procedures; provides permit requirements; provides for delegation of certain activities. Effective Date: upon becoming a law 2/15/2018 HOUSE Placed on Special Order Calendar, 2/20/2018		
HB 7063	Natural Resources	Government Accountability Committee
Natural Resources: Revises, creates, & repeals various provisions relating to acquisition, management, & disposition of conservation lands; beach management; water supply facilities, public water systems, & domestic wastewater systems; water resource development & capital improvement projects; state park passes; distribution & use of funds from Florida Forever Trust Fund & Land Acquisition Trust Fund; rural-lands-protection easement programs; reservoir projects; basin management action plans; beneficial uses & management of stormwater; LAKEWATCH Program; provides statement of important state interest. Effective Date: July 1, 2018 2/13/2018 HOUSE Now in Appropriations Committee		
NRPL2	State assumption of federal section 404 dredge and fill permitting authority	Natural Resources & Public Lands Subcommittee
PCB NRPL 18-02 -- State assumption of federal section 404 dredge and fill permitting authority. This act shall take effect upon becoming a law 1/18/2018 HOUSE Committee Bill Filed as H 7043		
WMC3	Taxation	Ways & Means Committee
PCB WMC 18-03 -- Taxation 2/19/2018 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/21/18, 1:30 pm, 117 K (No Votes Will Be Taken)		