Senate Committee on Natural Resources

CONSERVATION LANDS

CS/CS/SB 908 — Florida Forever Program

by Fiscal Policy Committee; Natural Resources Committee; and Senators Latvala, Laurent, Carlton, Saunders, Kirkpatrick and Cowin

This bill authorizes the issuance of up to $300 million in bonds in FY 2000-2001 and thereafter with debt service paid from documentary stamp tax revenues; total debt service may not exceed $300 million for all bonds issued. The amount of debt service for the first fiscal year in which bonds are issued may not exceed $30 million. The amount of debt service is limited to an additional $30 million in each fiscal year in which bonds are issued. Funds will be distributed as follows:

- 35 percent ($105 million) for water management district (WMD) projects. Over the life of the program, at least 50 percent of the funds must be used for land acquisition. Projects will be selected and approved by WMD governing boards from a 5-year work plan.

- 35 percent ($105 million) for Conservation and Recreation Lands (CARL)-type projects. Up to 10 percent of the funds may be used for capital project expenditures. Projects will be prioritized and recommended by the Acquisition and Restoration Council but must be approved by the Board of Trustees of the Internal Improvement Trust Fund (Trustees).

- 24 percent ($72 million) for the Florida Communities Trust (FCT). 8 percent ($5.76 million) of the FCT funding will be used for the Florida Recreation Development Assistance Program (FRDAP). 30 percent of the FCT funding ($21.6 million) will be used in SMSAs with one-half of that amount being used in built-up areas, while at least 5 percent ($3.6 million) must be used for recreational trails.

- 1.5 percent ($4.5 million) each for the Division of Recreation and Parks, Fish and Wildlife Conservation Commission (FWCC), and Division of Forestry for the acquisition of additions and inholdings.

- 1.5 percent ($4.5 million) for the Greenways and Trails Program.

The distribution of documentary stamp tax proceeds has been revised, effective July 1, 2001, in order to address other needs. The revised distributions will provide increased management capability for the FWCC; approximately $5.4 million annually for lake restoration by the FWCC; approximately $30 million to the Aquatic Plant Control Trust Fund with 20 percent of that amount to be used for upland nonnative plant control; and approximately $5.4 million to address water quality impacts of nonpoint sources of pollution.

Beginning July 1, 2001, documentary stamp tax proceeds may not be used by the WMDs and the DEP for land acquisition, as the Florida Forever Program is to become the state's primary source of acquisition funding.

The bill creates the Acquisition and Restoration Council (ARC) composed of 5 members of the Land Acquisition and Management Advisory Council and 4 members appointed by the Governor. The ARC will review management plans and recommend CARL-type projects to the trustees for the trustees' approval.

Also created is the Florida Forever Advisory Council comprised of 7 members appointed by the Governor and two non-voting legislators, which will advise the trustees and the Legislature and develop recommended specific goals, performance measures, and selection processes. The recommendations will be presented to the 2001 Legislature for approval or modification. Other reports are required every two years that will provide recommendations for adjusting goals and funding distribution. An appropriation of $300,000 is provided.

Other major features include:

- Provisions governing the disposition of conservation and other lands are revised to incorporate recent constitutional changes for an extraordinary vote, open the process to requests from the public, and expedite the process.

- Payments-in-lieu of taxes provisions are simplified, include more local governments, and include all counties with populations of 150,000 or less in which the total tax losses exceed 0.01 percent of the county's total taxable value.

- Water resource and water supply development projects are permitted only if minimum flows and levels have been established for those waters, if any, which may reasonably be expected to experience significant harm to water resources as a result of the project, and the project is consistent with the regional water supply plan and with specified strategies pursuant to s. 373.0421, F.S., and permitting requirements are met.

- Alternate uses of lands for water resource development and supply development projects, stormwater management projects, linear facilities, and sustainable agricultural and forestry are authorized if the trustees determine that specified criteria are met.

- Provisions are included authorizing the management of lands slated for acquisition by private parties through contractual arrangements funded by documentary stamp tax proceeds.

- Provisions from the Preservation 2000 Act encouraging less than fee acquisitions are continued in the new program.

- The Florida Greenways and Trails program is revised to include waterways, the Florida Greenways and Trails Council is created, and the Florida Greenways Coordinating Council and Florida Recreational Trails Council are abolished.

- Several Provisions relating to the FCT are revised and its governing board is expanded to include a former elected official of a metropolitan municipal government.

- A process is provided whereby the owners of certain stilt-houses may continue their existing leases or be granted 20-year leases.

If approved by the Governor, except as otherwise provided in the bill, these provisions take effect July 1, 1999.
Vote: Senate 40-0; House 118-1

SB 906 — Florida Forever Trust Fund

by Senators Latvala, Laurent, Carlton, Saunders and Kirkpatrick

This bill creates the Florida Forever Trust Fund to carry out the provisions of ss. 259.032, 259.105, and 375.031, F.S. The Department of Environmental Protection will administer the fund. Proceeds from the sale of bonds, except proceeds of refunding bonds, issued under s. 215.618, F.S., and payable from moneys transferred to the Land Acquisition Trust Fund under s. 201.15(1)(a), F.S., shall be deposited into the fund. The fund shall not exceed $3 billion and is to be distributed according to the provisions of s. 259.105(3), F.S., and recipients shall spend the funds within 90 days after the department initiates the transfer. The bond resolution adopted by the governing board of the Division of Bond Finance of the State Board of Administration may contain additional provisions governing disbursement of the bond proceeds.

The Department of Environmental Protection is required to administer and expend the fund in a manner that ensures compliance with the applicable provisions of the United States Internal Revenue Code for proceeds from bonds issued under s. 215.618, F.S., and payable from moneys transferred to the Land Acquisition Trust Fund under s. 201.15(1)(a), F.S., issued on the basis that the interest thereon will be excluded from gross income for federal income tax purposes. The department must also administer the use of the fund in a manner that implements strategies to maximize any available benefits, that are not inconsistent with the purposes of s. 259.105(3), F.S., under the applicable provisions of the United States Internal Revenue Code or its regulations.

If approved by the Governor, these provisions take effect when SB 908 becomes law.
Vote: Senate 39-0; House 119-0

HB 325 — Lake Belt Mitigation Trust Fund

by Reps. Villalobos and others (SB 2240 by Senator Diaz-Balart)

This bill reenacts and amends s. 373.41495, F.S., which created the Lake Belt Mitigation Trust Fund. Proceeds of the mitigation fee imposed by s. 373.41492, F.S., less the Department of Revenue's administrative costs not exceeding three percent, will be deposited into the Lake Belt Mitigation Trust Fund. The South Florida Water Management District will administer the trust fund for the purpose of implementing the Lake Belt Mitigation Plan pursuant to s. 373.41492, F.S.

If approved by the Governor, these provisions take effect July 1, 1999, if HB 329 or similar legislation becomes law.
Vote: Senate 40-0; House 112-0

HB 329 — Limerock Mining; Miami-Dade County Lake Belt Plan

by Reps. Villalobos and others (CS/CS/SB 2238 by Fiscal Resources Committee; Comprehensive Planning, Local & Military Affairs Committee; and Senators Diaz-Balart, Kirkpatrick, Horne and Dyer)

Section 373.4149, F.S., is amended to provide that the Dade County Lake Belt Plan is redesignated as the Miami-Dade County Lake Belt Plan. The Miami-Dade County Lake Belt Area is redefined as that area bounded by the Florida Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west, and the Tamiami Trail to the south. Also, certain other specified areas are included and certain specified areas are excluded.

The identification of the Miami-Dade County Lake Belt Area shall not preempt local land use jurisdiction or the use of land for other purposes by private land owners. When amending local comprehensive plans, or implementing zoning regulations, development

regulations, or other local regulations, Miami-Dade County shall strongly consider limestone mining activities and ancillary operations, such as lake excavation, including use of explosives, rock processing, cement, concrete and asphalt products manufacturing, and ancillary activities, within the rock mining supported and allowable areas of the Miami-Dade County Lake Plan; provided, however, that limerock mining activities are consistent with wellfield protection. Rezonings or amendments to local comprehensive plans concerning properties within 1 mile of the Miami-Dade lake Belt Area are to be compatible with limestone mining activities. Certain rezonings, variances, or local comprehensive plan amendments are not allowed until there is no active mining within 2 miles of the property. Residential development that complies with current regulations is not precluded.

Beginning October 1, 1999, before the sale, lease, or the issuance of a development order, including the approval of a change in land use designation or zoning, for any real property located inside the Miami-Dade Lake Belt Area or within 2 miles of the boundary of the Miami-Dade Lake Belt Area, the entity holding title to the real property is required to submit a written affidavit of disclosure to Miami-Dade County in a form suitable for recording that contains certain specified information.

The membership of the Miami-Dade County Lake Belt Plan Implementation Committee is increased by adding four representatives of the nonmining private landowners instead of one.

Currently, the Implementation Committee must develop Phase II of the Lake Belt Plan which must include certain specified information. This bill adds the requirement that the committee must consider the feasibility of a common mitigation plan for nonrock mining uses, including a nonrock mining mitigation fee. Any mitigation fee shall be for the limited purpose of offsetting the loss of wetland functions and values and not as a revenue source for other purposes. The committee must also analyze the hydrological impacts resulting from the future mining included in the Lake Belt Plan and recommend appropriate mitigation measures, if needed, to be incorporated into the Lake Belt Mitigation Plan.

Section 373.41492, F.S., is created to provide for implementation of the Miami-Dade County Lake Belt Mitigation Plan. The committee substitute provides a legislative finding that wetlands impacts resulting from rock mining within the Lake Belt Area can best be offset by the Lake Belt Mitigation Plan. The bill provides for a mitigation fee of 5 cents per ton of limerock or sand sold from within the Lake Belt Area. Beginning October 1, 1999, the fee would be applied to limerock or sand in raw, processed, and manufactured form including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. Proceeds of the fee, less administrative costs, are to be used exclusively for the purpose of conducting mitigation activities that offset the loss of the value and functions of wetlands as a result of mining in the Lake Belt Area.

The Department of Revenue (DOR) would be responsible for administering, enforcing, and collecting the fee. Mitigation fees must be reported to the DOR in a manner it prescribes. Proceeds of the fee, less administrative costs retained by the DOR, must be transferred to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund. The DOR may retain up to 3 percent of the total revenues collected for administrative costs that are reasonably attributable to the mitigation fee. The bill also provides for an annual increase in the mitigation fee beginning January 1, 2001. The annual increase will be 2 percent plus a cost growth index derived from several U.S. Department of Labor price indices.

The proceeds of the fee are to be used for mitigation activities that are consistent with the Lake Belt Mitigation Plan and may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credits from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Lake Belt Area. Expenditures must be approved by an interagency committee consisting of representatives of the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Game and Fresh Water Fish Commission. The limerock industry is allowed to select a representative to serve as a nonvoting member of the committee. At its discretion, the committee may add additional members representing federal regulatory, environmental, and fish and wildlife agencies. No sooner than January 31, 2010, and no more frequently than every 10 years thereafter, the interagency committee is required to submit to the Legislature a report recommending any necessary adjustments to the mitigation fee to ensure that the revenue generated reflects the actual costs of the mitigation.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 115-0

MARINE RESOURCE PROTECTION

CS/CS/SB 864 — Fish and Wildlife Conservation Commission

by Fiscal Policy Committee and Natural Resources Committee

This legislation was developed in response to an amendment to the State Constitution known as Revision 5 which was approved by voters in November 1998. This legislation was necessary to provide the details for implementation of the new Fish and Wildlife Conservation Commission. This bill creates s. 20.331, F.S., to establish the Fish and Wildlife Conservation Commission (FWCC). The commission shall appoint an executive director subject to Senate confirmation. The Game and Fresh Water Fish Commission and the Marine Fisheries Commission are transferred to the FWCC using a type two transfer. The Bureau of Environmental Law Enforcement, the Bureau of Administrative Support, and the Office of Enforcement Planning and Policy Coordination within the Division of Law Enforcement at the Department of Environmental Protection (DEP) are transferred to the FWCC. However, the Bureau of Emergency Response, the Office of Environmental Investigations, the Florida Park Patrol, and any sworn positions classified as Investigator I or Investigator II positions shall remain within a Division of Law Enforcement at DEP. No boating safety related matters shall remain with DEP.

This bill also transfers the Office of Fisheries Management and Assistance Services within the Division of Marine Resources at DEP to the FWCC. A Division of Marine Fisheries is established in the FWCC. The Florida Marine Research Institute is transferred to the Office of the Executive Director at the FWCC and established as a separate budget entity. The Bureau of Protected Species Management is assigned as a bureau to the Office of Environmental Services at the FWCC. The Bureau of Marine Resource Regulation and Development is transferred from DEP to the newly created Division of Aquaculture within the Department of Agriculture and Consumer Services (DACS).

Section 20.255, F.S., is amended to revise the administrative makeup of DEP. The bill also places a limitation on the total recurring budget of the FWCC for FY 2000-2001, not to exceed 95 percent of the budget appropriated for FY 1999-2000. A transition advisory working group, containing members from the FWCC, DEP, and DACS, will resolve issues relating to the use of facilities and equipment and determine appropriate general administrative personnel to be moved from the DEP to the FWCC.

Further, this bill requires the FWCC to provide a report to the President of the Senate and the Speaker of the House of Representatives by December 1, 1999, on the implementation of adequate due process procedures related to the FWCC's performance of its constitutional and statutory duties. It also enumerates specific statutory duties of the FWCC that must have rules adopted pursuant to ch. 120, F.S. It provides a specified time for comments submitted by the FWCC to a permitting agency. The FWCC and DEP are

required to develop a memorandum of agreement detailing certain shared responsibilities such as law enforcement, emergency response, and marine research.

This bill contains statutory provisions for the FWCC to have full constitutional rulemaking authority over marine life and listed species as defined in s. 372.072(3), F.S., except for the following:

(a) Endangered or threatened marine species for which rulemaking shall be done pursuant to ch. 120, F.S..

(b) The authority to regulate fishing gear in residential, manmade saltwater canals which is retained by the Legislature and specifically not delegated to the FWCC.

(c) Marine aquaculture products produced by an individual certified under s. 597.004, F.S. This exception does not apply to snook, prohibited and restricted marine species identified by rule of the FWCC, and rulemaking authority granted pursuant to s. 370.027(4).

This bill also provides that employees transferred between agencies as a result of organizational changes in this bill will retain accrued annual leave, sick leave, and compensatory leave. Finally, this bill makes numerous technical and conforming changes to various statutes, amending references to the Game and Fresh Water Fish Commission and the Marine Fisheries Commission which are abolished on July 1, 1999.

If approved by the Governor, these provisions take effect July 1, 1999.
Vote: Senate 39-0; House 118-0

SB 934 — Coastal Zone Protection Act

by Senator Brown-Waite

This bill eliminates the 5-year cumulative total provision from the definition of "substantial improvement" in the Coastal Zone Protection Act of 1985 (ss. 161.52 - 161.58, F.S.). The effect of this bill is to impose less restrictive requirements to determine when "substantial improvements" have been made to existing coastal structures which do not meet elevation and other building code requirements. Stricter building code requirements are not imposed unless a single improvement or repair equals or exceeds 50 percent of a structure's market value.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 118-0

CS/SB 2038 — Red Tide Research and Mitigation

by Natural Resources Committee and Senator Carlton

The bill establishes a Harmful-Algal-Bloom Task Force for determining research, monitoring, control and mitigation strategies for red tide and other harmful algal blooms in Florida waters. The Florida Marine Research Institute shall appoint scientists, engineers, economists, citizen-group members, and members of government to the task force. The task force is to determine research and monitoring priorities and control and mitigation strategies and make recommendations to the Fish and Wildlife Conservation Commission by October 1, 1999, for using funds as provided in this act.

Once it has issued the report, the task force may be continued at the pleasure of the Florida Marine Research Institute.

The Florida Marine Research Institute shall implement a program designed to increase the knowledge of factors that control harmful algal blooms, including red tide, and to gain knowledge to be used for the early detection of factors precipitating harmful algal blooms for accurate prediction of the extent and seriousness of harmful algal blooms and for undertaking successful efforts to control and mitigate the effects of harmful algal blooms.

It is the intent of the Legislature that this program enhance and address areas that are not adequately covered in the cooperative federal-state program known as Ecology and Oceanography of Harmful Algal Blooms (ECOHAB-Florida), which includes the University of South Florida, Mote Marine Laboratory, and the Florida Marine Research Institute.

The bill also creates a financial disbursement program within the Florida Marine Research Institute to implement the provisions of this act. Under the program, the institute shall provide funding and technical assistance to government agencies, research universities, coastal local governments, and organizations with scientific and technical expertise for the purposes of harmful-algal-bloom research, economic impact study, monitoring, detection, control, and mitigation. The program may be funded from state, federal, and private contributions.

The bill appropriates $3 million from the Coastal Protection Trust Fund to the Florida Marine Research Institute for FY 1999-2000 to carry out the purposes of this act.

If approved by the Governor, these provisions take effect July 1, 1999.
Vote: Senate 39-0; House 114-0

WATER RESOURCE PROTECTION

CS/SB 2282 — Water Quality Standards

by Natural Resources Committee and Senator Laurent

The bill provides a process for restoring Florida's waters through the establishment of total maximum daily loads (TMDLs) for pollutants of impaired water bodies as required by the federal Clean Water Act.

Section 403.067, F.S., is created to provide for the establishment and implementation of total maximum daily loads. The Department of Environmental Protection (DEP) is to be the lead agency in administering and coordinating the implementation of this program and shall coordinate with local governments, water management districts, the Department of Agriculture and Consumer Services, local soil and water conservation districts, environmental groups, regulated interests, other appropriate state agencies and affected pollution sources in developing and executing the TMDL program. The DEP shall establish a priority ranking and schedule for analyzing such waters. The list, priority ranking, and schedule cannot be used in the administration or implementation of any regulatory program. The list, priority ranking, and schedule must be made available for public comment, but they are not subject to challenge under ch. 120, F.S., nor are they to be adopted by rule. The DEP must adopt by rule a methodology for determining those waters which are impaired. Such rules shall also set forth water quality analysis requirements, approved methodologies, data modeling, and other appropriate water quality assessment measures.

By February 1, 2000, the DEP is required to submit a report to the Governor, president of the Senate, and the Speaker of the House of Representative containing recommendations, including draft legislation, for any modifications to the process for allocating TMDLs. The recommendations must be developed by the DEP in cooperation with a technical advisory committee.

The TMDL calculations and allocations for each water body or segment on the list are to be adopted by rule. The DEP is required to hold at least one public workshop. The bill specifies the notice that is required for the workshop.

The DEP, in cooperation with the water management district and other interested parties, as appropriate, is to develop suitable interim measures, best management practices, or other measures necessary to achieve the pollution reduction target established by the DEP for nonagricultural nonpoint pollutant sources in allocations developed pursuant to the provisions of this bill.

For agricultural pollutant sources in allocations developed pursuant to this bill, the Department of Agriculture and Consumer Services shall develop and adopt suitable interim measures and best management practices by rule.

The DEP is authorized to adopt rules relating to delisting water bodies or segments from the list; administration of funds to implement the TMDL program; and procedures for pollutant trading among the pollutant sources to a water body or segment.

The Secretary of the DEP shall have the responsibility for final agency action regarding TMDL calculations and allocations.

The DEP, in coordination with the water management districts, soil and water conservation districts, and the Department of Agriculture and Consumer Services, is required to evaluate the effectiveness of the implementation of TMDLs for a period of 5 years from the effective date of this act. The DEP must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2005. The bill specifies what the report must contain.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0.

HB 1515 — National Pollutant Discharge Elimination System

by Reps. Constantine and others (CS/SB 1180 by Natural Resources Committee and Senators Bronson and Forman)

This bill (Chapter 99-11, L.O.F.) amends s. 403.088, F.S., to conform Florida law to federal requirements to allow the South Florida Water Management District to issue a National Pollutant Discharge Elimination System (NPDES) permit to operate a stormwater treatment area (STA) as part of the Everglades Construction Project to restore the Everglades. The bill allows a NPDES permit accompanied by an order establishing a compliance schedule to be issued without requiring compliance with the order. It also allows the interim construction, operation, and maintenance of an STA associated with the Everglades Construction Project during the pendency of an administrative challenge to its permit issuance, if it complies with all uncontested conditions of the proposed permit and all other conditions recommended by the administrative law judge. The bill also provides an expedited process for resolving administrative challenges to the issuance of such a permit.

These provisions became law upon approval by the Governor on March 25, 1999.
Vote: Senate 37-0; House 116-0

CS/CS/SB 1672 — Water Resources

by Fiscal Policy Committee; Natural Resources Committee; and Senator Laurent

This bill (Chapter 99-143, L.O.F.) provides a finding that the Comprehensive Review Study of the Central and Southern Florida Project (Restudy) is important for restoring the Everglades ecosystem and sustaining the environment, economy, and social well-being of South Florida. It is also the intent of the Legislature to facilitate and support the restudy through a process concurrent with Federal Government review and Congressional authorization. It is further the intent of the Legislature that all project components be implemented through the appropriate processes of ch. 373, F.S., and be consistent with the balanced policies and purposes of that chapter, specifically s. 373.016, F.S. Clarification is provided that the bill is not intended in any way to limit federal agencies or Congress in the exercise of their duties and responsibilities.

The bill authorizes the acquisition through state condemnation law, if necessary, of the Kissimmee River Project, Ten Mile Creek Project, Water Preserve Areas, and the C-111 Project and authorizes the South Florida Water Management District (district) to act as local sponsor of the Central and Southern Florida Project (project).

The district is also authorized to act as local sponsor for project components, which are defined as any structural or operational change, resulting from the restudy, to the Central and Southern Florida Project as it existed and was operated as of January 1, 1999. In the development of project components, the district must:

- Analyze and evaluate all needs to be met in a comprehensive manner and consider all applicable water resource issues, including water supply, water quality, flood protection, threatened and endangered species, and other natural system and habitat needs.

- Determine with reasonable certainty that all project components are feasible based upon standard engineering practices and technologies and are the most efficient and cost-effective of feasible alternatives or combination of alternatives, consistent with restudy purposes, implementation of project components, and operation of the project.

- Determine with reasonable certainty that all project components are consistent with applicable law and regulations, and can be permitted and operated as proposed.

- Consistent with ch. 373, F.S., as provided in the Water Resources Development Act of 1996, and federal law, provide reasonable assurances that the quantity of water available to existing legal users shall not be diminished by implementation of

project components so as to adversely impact existing legal users, that existing levels of service for flood protection will not be diminished outside the geographic area of the project component, and that water management practices will continue to adapt to meet the needs of the restored natural environment.

- Ensure that implementation of project components is coordinated with existing utilities and public infrastructure and that impacts to and relocation of existing utility or public infrastructure are minimized.

The Department of Environmental Protection (DEP) and the district are directed to expeditiously pursue implementation of project modifications previously authorized by Congress or the Legislature, including the Everglades Construction Project. Project components should complement and should not delay project modifications previously authorized.

The bill provides that final agency action with respect to any project component subject to department approval shall be taken by the DEP. Actions taken by the district as local sponsor for the project are not final agency actions. The bill also provides an expedited process for resolving administrative challenges.

The bill amends s. 373.06, F.S., to require the DEP to collaborate with the district in the restudy. Before any project component is submitted to Congress for authorization or receives an additional appropriation of state funds, the DEP must approve, or approve with amendments, each project component within 60 days following formal submittal of the project component to the DEP. Such approval must be based upon a determination of the district's compliance with s. 373.1501(5), F.S. Once a project component is approved, all requests for an additional appropriation of state funds needed to implement the project component shall be submitted to the DEP and such requests must be included in the DEP's annual request to the Governor. The Executive Office of the Governor must review all proposed expenditures for project components.

These provisions became law upon approval by the Governor on April 30, 1999.
Vote: Senate 39-0; House 116-0

HB 1993 — Onsite Sewage Treatment and Disposal Systems

by Rep. Alexander and others (CS/SB 2288 by Natural Resources Committee and Senator Laurent)

The bill defines the following terms: "mean annual flood line," "permanent nontidal surface water body," and "tidally influenced surface water body."

The bill deletes the requirement that an onsite sewage treatment and disposal system may not be within 75 feet of a surface water. However, the bill provides the following additional setback requirements:

- 75 feet from the mean high-water line of a tidally influenced surface water body.
- 75 feet from the mean annual flood line of a permanent nontidal surface water body.

Unless otherwise stated in the bill, no limitations shall be imposed by rule, relating to the distance between an onsite disposal system and any area that either permanently or temporarily has visible surface water.

Section 381.0066, F.S., currently allows an additional $5 fee to be added to each new system construction permit issued during fiscal years 1996-2002 to be used for onsite sewage treatment and disposal system research, demonstration, and training projects. This bill provides that $5 from any repair permits collected under this section must be used for funding the hands-on training center described in s. 381.0065(3)(I), F.S.

By February 1, 2000, the Department of Health is to report to the Legislature its findings from a scientific research project, applicable to Florida soils, on the appropriate setback of an onsite sewage treatment and disposal system to a seasonally inundated area so as to assure the system does not adversely affect public health or significantly degrade the groundwater or surface waters of the state.

This bill allows a local government within the Florida Keys Area of Critical State Concern to enact an ordinance requiring connection to a central sewage system within 30 days of notice of availability of services. It further provides the following more stringent sewage requirements in Monroe County.

- No new or expanded discharges shall be allowed into surface waters.
- Existing surface water discharges shall be eliminated before July 1, 2006.
- Existing sewage facilities that discharge to other than surface waters and existing onsite sewage treatment and disposal systems shall cease discharge or shall comply with advanced treatment requirements by July 1, 2010.
- All new or expanded discharges into other than surface waters and all onsite sewage treatment and disposal systems permitted after the effective date of the act must comply with advanced treatment requirements.

By January 1, 2003, the DEP and the Department of Health shall report to the Governor and the Legislature on the current state of sewage treatment technology and the status of research on the fate and transport of nutrients after injection. The report is also to provide an overall assessment of water quality in Monroe County and recommendations for change to the sewage collection, treatment, and disposal requirements in Monroe County.

By January 1, 2003, Monroe County and the Florida Keys Aqueduct Authority must report to the Governor and the Legislature on the implementation of charges, fees, and assessments related to sewage collection, treatment, and disposal in Monroe County, and on implementation of the Monroe County Wastewater Master Plan.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

CS/HB 2067 — Environmental Protection

by General Government Appropriations Committee; Water & Resource Management Committee; and Rep. Alexander and others (CS/SB 1250 by Natural Resources Committee)

The committee substitute provides that the interim permitting program in the NWFWMD pursuant to s. 373.4145, F.S., is extended until 2003. The Department of Environmental Protection and the Northwest Florida Water Management District are directed to begin developing a plan to fully comply with the Environmental Resource Permitting (ERP) provisions contained in part IV of ch. 373, F.S., beginning 2003. The plan is to also address the division of environmental resource permitting responsibilities between the department and the Northwest Florida Water Management District; the methodology of delineating wetlands in the Northwest Florida Water Management District; authority of the Northwest Florida Water Management District to implement federal permitting programs related to activities in surface waters and wetlands; and the ch. 70, F.S., implications of implementing the provisions of part IV of ch. 373, F.S., within the jurisdiction of the Northwest Florida Water Management District.

The department and the Northwest Florida Water Management District are to jointly prepare an interim report on their progress to the Governor and the Legislature by March 1, 2001.

Certain jurisdictional declaratory statements issued within the Northwest Florida Water Management District and valid on July 1, 1999, shall not expire until January 1, 2002.

If the Department of Environmental Protection or a water management district has made a payment in lieu of taxes to a governmental entity and subsequently suspended such payment, the department or the water management district shall reinstitute appropriate

payment and continue the payments in consecutive years until the governmental entity has received a total of 10 payments for each tax loss.

The prevailing party in actions at law and all appellate proceedings resulting therefrom under the provisions of ch. 373, F.S., may be awarded reasonable attorney's fees for services rendered.

This bill further provides a process for restoring Florida's waters through the establishment of total maximum daily loads (TMDLs) for pollutants of impaired water bodies as required by the federal Clean Water Act.

Section 403.067, F.S., is created to provide for the establishment and implementation of total maximum daily loads. The Department of Environmental Protection (DEP) is to be the lead agency in administering and coordinating the implementation of this program and shall coordinate with local governments, water management districts, the Department of Agriculture and Consumer Services, local soil and water conservation districts, environmental groups, regulated interests, other appropriate state agencies and affected pollution sources in developing and executing the TMDL program. The DEP shall establish a priority ranking and schedule for analyzing such waters. The list, priority ranking, and schedule cannot be used in the administration or implementation of any regulatory program. The list, priority ranking, and schedule must be made available for public comment, but they are not subject to challenge under ch. 120, F.S., nor are they to be adopted by rule. The DEP must adopt by rule a methodology for determining those waters which are impaired. Such rules shall also set forth water quality analysis requirements, approved methodologies, data modeling, and other appropriate water quality assessment measures.

By February 1, 2000, the DEP is required to submit a report to the Governor, President of the Senate, and the Speaker of the House of Representative containing recommendations, including draft legislation, for any modifications to the process for allocating TMDLs. The recommendations must be developed by the DEP in cooperation with a technical advisory committee.

The TMDL calculations and allocations for each water body or segment on the list are to be adopted by rule. The DEP is required to hold at least one public workshop. The bill specifies the notice that is required for the workshop.

The DEP, in cooperation with the water management district and other interested parties, as appropriate, is to develop suitable interim measures, best management practices, or other measures necessary to achieve the pollution reduction target established by the DEP for nonagricultural nonpoint pollutant sources in allocations developed pursuant to the provisions of this bill.

For agricultural pollutant sources in allocations developed pursuant to this bill, the Department of Agriculture and Consumer Services shall develop and adopt suitable interim measures and best management practices by rule.

The DEP is authorized to adopt rules relating to delisting water bodies or segments from the list; administration of funds to implement the TMDL program; and procedures for pollutant trading among the pollutant sources to a water body or segment.

The Secretary of the DEP shall have the responsibility for final agency action regarding TMDL calculations and allocations.

The DEP, in coordination with the water management districts, soil and water conservation districts, and the Department of Agriculture and Consumer Services, is required to evaluate the effectiveness of the implementation of TMDLs for a period of 5 years from the effective date of this act. The DEP must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2005. The bill specifies what the report must contain.

Authorization is given for the Secretary of DEP to reorganize the department within current statutory prescribed divisions and in compliance with s. 216.292, F.S., 1998 Supp.

The committee substitute deletes the 3-day nonresident freshwater fishing license. The license and permit fees established under ch. 372, F.S., must be reviewed by the Legislature during its regular session every 5 years beginning in 2000.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 112-1

HB 2151 — Petroleum Contamination Site Rehabilitation

by Environmental Protection Committee and Rep. Dockery (CS/SB 2536 by Natural Resources Committee and Senator Diaz-Balart)

This bill addresses certain glitches and other problems that have arisen since the passage of ch. 96-277, L.O.F. This bill allows the Department of Environmental Protection to provide funding for source removal activities. Funding for free product recovery may be provided in advance of the order established by the priority ranking system for site cleanup activities; however, a separate prioritization for free product recovery must be established consistent with the priority ranking system. No more than $5 million may be encumbered from the Inland Protection Trust Fund in any fiscal year for source removal activities conducted in advance of the priority order.

Under the Petroleum Cleanup Participation Program, sites for which a discharge occurred before January 1, 1995, are eligible for rehabilitation funding assistance on a 25-percent cost-sharing basis. This bill provides that if the DEP and the owner, operator, or person otherwise responsible for site rehabilitation are unable to complete negotiations of the cost-sharing agreement within 120 days after commencing negotiations, the DEP shall terminate the negotiation; the site becomes ineligible for state funding under this program; and all liability protections provided under this program are revoked.

Under the Petroleum Cleanup Participation Program, certain sites are excluded from participation in the program. This bill deletes the language that excludes any person who knowingly acquires title to contaminated property from participating in this program.

The DEP is required to select five sites eligible for state restoration funding assistance, each having a low priority ranking score, for an innovative technology pilot program.

Section 376.30714, F.S., is created to provide a mechanism for the DEP to distinguish between discharges that are eligible for state funding from those discharges reported after December 31, 1998, which are ineligible for state funding on the same site. Beginning January 1, 1999, the DEP may negotiate and enter into site-rehabilitation agreements with applicants at sites at which there is existing contamination and at which a new discharge occurs.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 113-0.