

**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 Environmental Preservation and Conservation Committee

BILL: CS/SB 2394

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Saunders

SUBJECT: Florida Springs Protection Act

DATE: March 28, 2008      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	Fav/CS
2.			CA	
3.			HR	
4.			GA	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The committee substitute (CS) creates the Florida Springs Protection Act, provides legislative intent on the importance of springs in the state, and establishes definitions. The CS establishes a pilot program for Silver Springs and Rainbow Spring in Marion County and directs the Department of Environmental Protection (department) to establish total maximum daily loads (TMDL) and develop basin management action plans (BMAP) by dates certain. The CS establishes treatment levels for wastewater disposal within areas specified in the pilot program, requires landowners to connect to a wastewater utility, when available, unless meeting specific provisions as determined by the Department of Health, and requires the Department of Agriculture and Consumer Services to adopt best management practices within the areas specified in the pilot program.

Additionally, the CS requires that local governments, within the areas specified in the pilot program, develop and adopt a springs protection element in their comprehensive plans as part of their normal comprehensive planning process.

Finally, the CS requires that the department, the Department of Agriculture and Consumer Services, the St. Johns River Water Management District, and the Southwest Florida Water

Management District assess nitrogen loading on lands owned or managed by each respective agency located with the areas specific in the pilot program and develop and implement management plans to reduce nutrient impacts to springs.

The CS amends sections 163.3177 and 403.1835, Florida Statutes.

The CS creates sections 369.401, 369.402, 369.403, 369.404, 369.405, 369.406, and 369.407, Florida Statutes.

## II. Present Situation:

Florida has more than 700 recognized springs; 33 first magnitude springs with a flow of more than 100 cubic feet per second that discharge more than 64 million gallons of water per day; 191 second magnitude springs with an average flow of 10 to 100 cubic feet per second that discharge from 6.46 to more than 64 million gallons of water per day; 151 third magnitude springs with a flow of 1 to 10 cubic feet per second that discharge 600,000 to 6.46 million gallons of water per day.<sup>1</sup> Spring discharges, primarily from the Floridan Aquifer, are used to determine ground water quality and the degree of human impact on the spring's watershed. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to ground water chemistry.

The Florida Springs Task Force was created in 1999 to recommend strategies for protecting and restoring Florida's springs. The multi-agency task force produced a report in November of 2000 entitled "*Florida's Springs, Strategies for Protection and Restoration*" which was the basis of the Florida Springs Initiative within the Department of Environmental Protection. The report identified management strategies such as coordinated land use planning and ordinances that protect spring recharge basins, funding and implementing best management practices, and the acquisition of spring recharge basins to protect springs from land use practices that reduce water quality and quantity. The report also identified regulation strategies to protect spring flow, and a funding mechanism for implementing the strategies contained in the report. The report suggested the creation of a Springs Protection and Restoration Trust Fund funded by a 25-cent increase in automobile tags.

Under the Florida Springs Initiative, the Legislature has provided at least \$2.5 million each year since 2001 to support projects for springs restoration, research and protection.

## III. Effect of Proposed Changes:

**Section 1:** Creates Part IV of Chapter 369, F.S., as follows:

- Section 369.401, F.S., provides a short title:
- Section 369.402, F.S., establishes the following legislative findings:
  - Florida's springs are valuable resources that provide recreational and tourism opportunities, and provide great financial benefit to local economies.
  - Florida's springs provide critical habitat for endangered or threatened species of plants and animals.

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<sup>1</sup> See Bulletin No. 66, *Springs of Florida*, Florida Geological Survey, <http://www.dep.state.fl.us/geology/geologictopics/springs/bulletin66.htm>

- The flow and water quality of Florida's springs are direct reflections of the state's aquifer system.
- Many springs are showing signs of ecological imbalance, increased nutrient loading, and lowered water flow.
- Groundwater is directly effected by land use practices through seepage from the land surface and conduits such as sinkholes.
- Groundwater and springs can be restored through good stewardship, effective planning strategies, best-management programs, and appropriate regulatory programs.
- Section 369.403, F.S., defines the following terms:
  - Cooperating Entities – Includes the department, the Department of Health, the Department of Agriculture and Consumer Services, the Department of Community Affairs, the appropriate water management district, and the local government or municipality having jurisdiction in the areas defined within the pilot program.
  - Department – Means the Department of Environmental Protection.
  - Estimated Sewage Flow – Is the quantity of domestic and commercial wastewater in gallons per day which is expected to be produced by an establishment or single-family as determined by Department of Health rule.
  - First Magnitude Spring – Is a spring that has a median discharge of greater than or equal to 100 cubic feet per second for the period of record, as determined by the department.
  - Spring – Is a point where groundwater is discharged onto the earth's surface, including under any surface water of the state, excluding seeps. The term includes a spring run.
  - Spring Protection Zone – The area within the springshed that is vulnerable to contamination and that comprises two zones based on travel time of groundwater and reduced natural attenuation of contaminants that affect the water quality surfacing at the spring and flowing as the spring run, as follows:
    - Primary Protection Zone – The area within the springshed that encompasses the 10-year travel time for water discharging from the spring; and
    - Secondary Protection Zone – The area within the springshed that encompasses the 100-year travel time for water discharging from the spring.
  - Spring Run – Is a body of flowing water that originates from a spring and whose primary source of water is from a spring or springs under average rainfall conditions.
  - Springshed – Those areas within the groundwater and surface water basins which contribute to the discharge of a spring.
  - Travel Time – The time required for groundwater to travel vertically from land surface to the aquifer, horizontally within the aquifer, or in a combination thereof, to the point at which it is discharged from the ground and contributes to the flow of a spring or spring run.
  - Usable Property – Is property exclusive of all paved areas and prepared road beds within public or private rights-of-way or easements and excludes surface water bodies.

- Section 369.404, F.S., directs the department to delineate springsheds and adopt springs protection zones for Rainbow Spring and Silver Springs in Marion County by secretarial order by July 1, 2009. All cooperating entities are directed to work with affected local governments in the development of springs protection zones.
- Section 369.405, F.S., directs the department to propose for adoption, for the springs referenced above, TMDLs by July 1, 2009 and BMAPs by December 31, 2010.
- Section 369.406, F.S., requires additional measures within springs protection zones developed as part of the pilot program as follows:
  - Domestic wastewater facilities regulated under Chapter 403, Florida Statutes, are subject to the following:
    - New or expanded surface water discharges are prohibited within a spring protection zone except as a backup to a wastewater reuse system. Such discharges are limited to no more than 30 percent of the permitted wastewater reuse capacity on an annual average basis and shall meet advanced wastewater treatment requirements pursuant to s. 403.086 (4), F.S.
    - Facilities having permitted capacities greater than or equal to 100,000 gallons per day shall meet an annual average effluent concentration that shall not exceed 3 milligrams per liter total nitrogen. However, facilities of this permitted capacity which are authorized to discharge prior to the adoption of the applicable spring protection zone shall meet the required effluent concentration no later than 4 years after adoption of the spring protection zone.
    - Facilities having permitted capacities less than 100,000 gallons per day shall meet an annual average effluent concentration that shall not exceed 10 milligrams per liter total nitrogen, and an annual average concentration that shall not exceed 3 milligrams per liter total nitrogen in groundwater monitoring compliance wells. However, facilities of this permitted capacity which are authorized to discharge prior to adoption of the applicable spring protection zone shall meet the required effluent and monitoring well concentrations no later than 4 years after adoption of the spring protection zone.
    - Land application of Class A or Class B wastewater residuals, as defined by department rule, within the primary protection zone is prohibited. This prohibition does not apply to Class AA residuals that are marketed and distributed as fertilizer products in accordance with department rule.
  - By December 31, 2009, the Department of Health, with the assistance of the affected local government, shall conduct an inventory of all onsite treatment and disposal systems (septic tanks) that are located with the areas defined in the pilot program.
  - Onsite sewage treatment and disposal systems in the areas defined in the pilot program shall meet the following requirements:
    - Systems installed after the date of adoption of the springs protection zones shall meet a targeted annual average groundwater concentration at the owner's property line of:
      - 3 milligrams per liter of total nitrogen in the primary protection zone; or

- 10 milligrams per liter of total nitrogen in the secondary protection zone.
- The Department of Health shall develop and adopt by rule design standards for achieving the target annual average groundwater concentrations. The standards shall take into account the relationship between treatment level achieved by the onsite system and the area of usable property available for dilution.
- Compliance with Department of Health rule is presumed if one of the following conditions are met:
  - The lot associated with the establishment or a single family home is served by an onsite treatment and disposal system meeting the baseline system standards as set forth in Department of Health rule, and:
    - The lot is located wholly or partly within the secondary protection zone and the ratio of estimated sewage flow in gallons per day to usable property in acres is 400 to 1 or less; or
    - Any part of the lot is located within the primary protection zone and the ratio of estimated sewage flow in gallons per day to usable property in acres is 100 to 1 or less.
  - The lot associated with the establishment or a single family home is served by an onsite treatment and disposal system that is a performance-based treatment system meeting at least the advanced secondary treatment standards set forth in Department of Health rule, combined with a drip irrigation system.
- All lots, regardless of plat or record date, are subject to the onsite system requirements established in the bill.
- Every 5 years, all onsite systems identified within the areas defined in the pilot program shall be evaluated and, if necessary, pumped out at the owner's expense, by a state-licensed septic tank contractor or plumber. The contractor or plumber shall submit an application for approval to the Department of Health on an form and for a fee prescribed by rule, and the Department of Health shall approve the system for continued use or notify the owner of the requirement for repair or modification.
- Onsite systems that require repair or modification shall meet a 24-inch separation from the wet season water table and surface water setback requirements of s. 381.0065 (4), F.S.
- Owners of a publicly-owned or investor-owned sewerage system are required to notify all owners of onsite systems of the availability of central sewer facilities, for the purpose of connection to such facilities pursuant to s. 381.00655 (1), F.S., within 60 days following clearance from the department that the central sewer facilities are ready for use.
- Exemptions from mandatory hookup to central sewer facilities may be approved by the Department of Health provided that the onsite system utilizes performance based treatment technologies, including drip irrigation, and that such a connection is not required in the public interest due to water quality or public health considerations.
- All land application of septage in the primary or secondary protection zones is prohibited.

- The Department of Agriculture and Consumer Services shall adopt, by rule, equine, cow and calf, and forage grass best management practices designed to reduce nitrogen impacts on surface and groundwater.
- Section 369.407, F.S., provides rule making authority to the department, the Department of Health, and the Department of Agriculture and Consumer Services to administer the provisions established in the bill.

**Section 2:** Amends s. 163.3177, F.S., requiring local governments affected by the provisions in Part IV of Chapter 369, F.S., adopt a spring's protection element within their comprehensive plan by December 31, 2009 or within 18 months after the adoption of a springs protection zone. The spring's protection element shall:

- Ensure the protection of, and where necessary, restoration of water quality in springs;
- Address minimizing human impacts on springs through karst protection models during and after the development process;
- Ensure that future development follows low-impact design principles;
- Ensure that landscaping and fertilizer use are consistent with the Florida Friendly Landscaping Program;
- Ensure adequate open space;
- Provide for proper management of stormwater and wastewater to minimize impacts on the water quality of springs;

The department and the Department of Community Affairs shall make all information concerning best-management and use practices and principles available on their respective websites. Landscape design and irrigation systems must meet the standards established pursuant to s. 373.228 (4), F.S.

Failure of a local government to adopt a springs protection element by the time specified could result in a prohibition of any future plan amendments until the element is adopted.

**Section 3:** Amends s. 403.1835, F.S., to include the implementation of BMAP and spring's protection areas as eligible projects for priority pollution control financial assistance.

**Section 4:** Creates an unnumbered section directing the department, the Department of Agriculture and Consumer Services, the St. Johns River Water Management District, and the Southwest Florida Water Management District to assess nitrogen loading from lands owned or managed by each respective agency, located within a spring's protection zone established in the pilot program, and develop and implement management plans designed to reduce the adverse impacts to the springs by December 31, 2010.

**Section 5:** Creates an unnumbered section establishing the Florida Springs Stewardship Task Force, consisting of nine members to be appointed by August 1, 2008. Appointees are:

- One representative from the Department of Environmental Protection who will serve as chair.
- One representative from the Department of Agriculture and Consumer Services.
- One representative from the Department of Community Affairs.
- One representative from the water management district with the greatest number of first magnitude springs within its jurisdiction (Suwannee River Water Management District.)

- Two members appointed by the President of the Senate, one of whom shall be a representative of the development community, and one of whom shall be a representative of a local chamber of commerce.
- Two members appointed by the Speaker of the House of Representatives, one of whom shall be a locally elected county or municipal official, and one of whom shall be a representative of the environmental community.
- One member appointed by the Commissioner of Agriculture who shall be a representative of the agricultural community.

Task force members are to be appointed no later than August 1, 2008 and shall serve without compensation. Task force support and administration shall be supplied by the department.

Task force responsibilities include:

- Collection and inventory of all existing data identifying zones of influence for the remaining first magnitude springs and identifying land uses in these areas.
- Identify and compile a list of existing best management practices for identified land uses and other water pollutant controls.
- Identify any and all existing and reasonably expected funding sources available to implement best management practices that protect first magnitude springs.
- Propose a priority list of projects for funding.
- Receive public input and testimony regarding issues related to springs protection, restoration, and preservation.
- Propose a program of increased emphasis on education and outreach that encourages the implementation of best management practices for agricultural and nonagricultural land uses and other water pollutant controls, including specific provisions for cost-share assistance in implementing best management practices as well as recognition of agricultural and nonagricultural landowners who participate in the best management practices program.
- Submit a report summarizing the data collected, public input and testimony, and the findings and proposals of the task force to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2009.

All state agencies are directed, and all other agencies and local governments are requested to render assistance to the task force. The task force shall expire on January 31, 2009.

**Section 6:** The act shall take effect upon becoming law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This CS does not require cities or counties to expend funds or limit their authority to raise revenues or receive state-shared revenues as specified by s. 18, Art. VII, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is unknown how much of an impact there will be to the private sector. It is likely that certain landowners would have a financial impact in order to meet the onsite wastewater standards required in the CS. Development interests would likely see increased costs associated with meeting the requirements of the CS but would most likely pass those costs off to the consumers.

C. Government Sector Impact:

It is unknown what the overall impact to state agencies would be in implementing provisions in the CS. It is likely that rule making, TMDL, and BMAP efforts could be undertaken within current budgets. There will be some costs associated with the administration of the task force but it is anticipated that the department would complete such tasks within current budget. Staff has requested an analysis from the department.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environmental Preservation and Conservation Committee March 27, 2008**

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- One representative from the Department of Agriculture and Consumer Services.
- One representative from the Department of Community Affairs.
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- Propose a priority list of projects for the funding.
- Receive public input and testimony regarding issues related to springs protection, restoration, and preservation.
- Propose a program of increased emphasis on education and outreach that encourages the implementation of best management practices for agricultural and nonagricultural land uses and other water pollutant controls, including specific provisions for cost-share assistance in implementing best management practices as well as recognition of agricultural and nonagricultural landowners who participate in the best management practices program.
- Submit a report summarizing the data collected, public input and testimony, and the findings and proposals of the task force to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2009.

All state agencies are directed, and all other agencies and local governments are requested to render assistance to the task force. The task force shall expire on January 31, 2009.

#### B. Amendments:

None.