



Committee:

**SELECT COMMITTEE ON FLORIDA'S
INLAND WATERS**

Senator Constantine, Chair
Senator Lawson, Vice Chair

Meeting Packet

Thursday, March 11, 2010

8:30—9:30 a.m.

James E. "Jim" King, Jr., Committee Room, 401 Senate Office Building

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
SELECT COMMITTEE ON FLORIDA'S INLAND WATERS
Senator Constantine, Chair
Senator Lawson, Vice Chair

MEETING DATE: Thursday, March 11, 2010
TIME: 8:30—9:30 a.m.
PLACE: James E. "Jim" King, Jr., Committee Room, 401 Senate Office Building

MEMBERS: Senator Constantine, Chair; Senator Lawson, Vice Chair; Senators Baker, Bullard, Dean, Dockery, Garcia, Justice, and Oelrich

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Presentation by staff of the draft report on the Senate Select Committee on Florida's Inland Waters

Report on the Florida Senate Select Committee on Florida's Inlands Waters

Background

At first glance, Florida seems flush with water. The state receives an average of over 54 inches of rainfall a year.¹ 2009 was no exception with most areas receiving near average levels. Florida also has 7,700 lakes, 50,000 miles of rivers and streams and over 700 springs. In fact, the concentration of springs found in Florida does not occur anywhere else in the world. However, as Florida's grows, so does the need for clean water. Florida's population nearly doubled since 1980, to an estimated 18 million residents today, and is expected to double again by 2060. As Floridians, we rely on water for the food we eat, the energy we consume, the places we use for recreation and the development that spurs our economic growth.

Against this backdrop, on October 7, 2009, Senate President Jeff Atwater created the Senate Select Committee on Florida's Inland Waters. In so doing, he recognized the importance that Florida's surface and groundwaters have on the state. The task set before the committee was to travel the state and listen and learn from constituents. To that end, six meetings were scheduled:

- December 16, 2009 – Ocala, Florida;
- January 8, 2010 – Palm Beach Gardens, Florida;
- January 25, 2010 – Lake Mary, Florida;
- February 2, 2010 – Wakulla Springs, Florida;
- February 12, 2010 – Palatka, Florida; and
- February 22, 2010 – Punta Gorda, Florida.

In conjunction with the public hearings, the members of the committee and staff were invited on several site visits. Tours on both Silver Springs and Wakulla Springs illustrated the effect that nutrient loading has on the native flora and fauna of these systems. Silver Springs, so named for the silvery sand once clearly visible through the clear blue waters, is becoming choked with green algae that covers most of the eel grass and other submerged plant life. Consequently, species that once thrived in the pristine habitat are either significantly diminished or displaced by nonnative species. For example, channel catfish in Silver Springs are being supplanted by nonnative catfish species that feed on the algae. In Wakulla Springs, the Limpkin, listed as a species of special concern, has disappeared. Another site visit to Jonathan Dickinson State Park and the Loxahatchee river demonstrated the effect salt water intrusion has on the ecological balance of the river. Mangroves, which thrive in brackish water, have encroached miles up the river and replaced cypress stands, which require fresh water.

Members of the committee and staff were given a bus tour of Ocala to view the various projects the city has completed to upgrade its stormwater management systems. Ocala is in both the Silver Springs and Rainbow Springs watersheds. The projects were primarily designed to reduce nutrient loading to surface and groundwaters that contribute to the springs. Much of the expense

¹DEP website. <<http://www.dep.state.fl.us/Drought/faq.htm#01>> Last visited Feb. 26, 2010.

has been borne by residents of the city. Another stop on the Ocala bus tour was Kinsman Stud Farm, owned by the Steinbrenner family. The farm's manager adheres to best-management practices for all operational facets of the farm. He explained that adhering to these practices results in both good stewardship of the land and making a profit.

The last of the site visits occurred in conjunction with the Punta Gorda public hearing. The members and staff were invited to tour two reservoirs serving Tampa and other areas in southwest Florida and a Zephyrhills water bottling plant. The two large reservoirs highlighted funds spent for alternative water supply projects. The bottling plant tour detailed the need for clean spring water to meet the quality standards required by consumers.

During the six meetings, the committee heard from hundreds of constituents from around the state. While local communities often have distinct needs, several themes emerged.

The overwhelming consensus from all public hearings was the need to increase water conservation measures and curtail wasteful uses. Suggestions ranged from issuing rebates for water efficient appliances and toilets to banning certain types of lawn grasses. The committee heard testimony from several people who were prohibited by their homeowners' associations from implementing Florida-friendly landscaping on their properties. The homeowners' associations involved were aware of the law but chose to disregard it. Others suggested that Florida reexamine cistern use for non-potable applications and make updates to building codes as necessary. The committee also heard from numerous current and former water managers. They said that municipal water utilities have a disincentive to undertake large conservation projects, such as upgrading leaking pipes, because conservation negatively affects their bottom lines. The capital outlay for the project cannot be recouped because the end result is they sell less water.

Another large contingent of speakers expressed concerns over the condition of Florida's springs. Many of them have lived in Florida their entire lives and are fourth, fifth and sixth generation Floridians. They recounted times spent in their youth fishing and swimming in clear blue springs that are now either dried up or overgrown with algae. Most of those that spoke about protecting Florida's remaining springs spoke of controlling the flow of nutrients from agriculture operations, leaching septic tanks, stormwater runoff and effluent spray fields used by domestic wastewater facilities.

During the meetings in 2010, speakers and presenters consistently voiced strong opposition to the U.S. Environmental Protection Agency's (EPA) proposed numeric nutrient criteria rule for Florida. The rule results from the EPA's settling of a federal lawsuit by the Florida Wildlife Federation. The plaintiffs alleged Florida's narrative standard did not meet the requirements of the federal Clean Water Act.² In compliance with the settlement, the EPA released its proposed rule for lakes and flowing waters in mid-January. The EPA estimates it will cost between \$102 to \$130 million per year to implement the Department of Environmental Protection's (DEP) proposed nutrient criteria rules and up to \$10.1 million more to meet the EPA's enhanced nutrient criteria.

² Florida's narrative standard states, "in no case shall nutrient concentrations of body of water be altered so as to cause an imbalance in natural populations of flora or fauna." Chapter 62-302.530, Florida Administrative Code.

For those speakers living north of the I-4 Corridor, there is strong opposition to shipping water from North Florida to South Florida. Residents north of the corridor wholly support the local sources first policy. The policy gives residents of those particular areas control over their water resources. Only one speaker from south of the corridor mentioned the policy. The speaker did not want to pipe water from north to south. Instead, she advocated stopping wasteful uses in South Florida and capturing the vast quantities that are lost to tide.

People are generally apprehensive about the EPA's numeric nutrient criteria that are poised for final rule implementation in October 2010. "Draconian," "arbitrary," "unconstitutional," and "technically impossible" are just some of the words that speakers, from farmers to water utility managers, used to describe the proposed rule. Many farmers testified that they will go out of business because they will no longer be able to compete with farmers from the other 49 states who do not have to adhere to the EPA's criteria. In response to the EPA's proposed numeric nutrient criteria, and in an effort to maintain control over the state's water resources, the DEP has initiated rulemaking to adopt quantitative nutrient water quality standards.

There were several other common themes. First, there is general opposition to a statewide water authority or water czar. Speakers on this topic expressed interest in keeping decision making as close to the region as possible. Second, on the issue of septic tanks, there is widespread support for creating an inspection program. In fact, not one speaker spoke against requiring inspections and most spoke highly of the idea. Third, speakers from several meetings asked the Legislature to hold agriculture and private users more accountable for the water they withdraw from the aquifer. And finally, there is broad support among the public to restore funding for programs such as Florida Forever and alternative water supply projects. Everyone who spoke to these matters advocated either maintaining or increasing funding to these programs.

Findings

1. While conservation cannot, by itself, solve Florida's impending water shortages, it is a critical component to alleviate these shortages. However, additional capacity must be developed from both traditional and new sources of water.
2. Many of Florida's watersheds are suffering from excess nutrient loading, primarily nitrogen and phosphorus. Protecting them is critical to maintain and improve water quality in both surface and groundwaters.
3. With the ample rain Florida gets, 1.7 billion gallons per day of fresh water are lost to tide through canals and other conveyances. This is enough water to supply the daily needs of 9 million people.
4. Preliminary studies have shown that using reclaimed water for irrigation may lead to increased nutrient loading to Florida's water bodies.
5. Since enactment of SB 444 in 2005, funding for alternative water projects has been

steadily reduced.³ Funding was completely removed for the 2009-2010 fiscal year.⁴

6. There is no enforcement mechanism in statute to incentivize homeowners' associations to adhere to the Florida-friendly landscaping provisions passed in 2009.⁵

Recommendations

Therefore, the Florida Senate Select Committee on Florida's Inland Waters recommends the following:

1. The definition of alternative water supply projects should be expanded to include projects that demonstrate quantifiable water conservation. Such projects would then be eligible for Water Protection and Sustainability Trust Fund funding. Projects might include repairing municipal delivery systems and upgrading agricultural irrigation systems.
2. Funding for alternative water supply projects, including conservation projects, should be restored, at a minimum, to its original funding level. In order to achieve this goal, an innovative, recurring source of funding must be found.
3. In light of recent EPA proposed rules for Florida's water bodies, the DEP should continue its rulemaking to adopt quantitative nutrient water quality standards and its discussion with the EPA in hopes that the implementation of those standards in conjunction with implementation of total maximum daily loads and basin management action plans may satisfy the requirements of the federal Clean Water Act.
4. The "local sources first" policy should be maintained in its current form and emphasis directed towards water conservation and alternative water supply projects instead.
5. Aquifer and water resource protection measures must be adopted that reduce nitrogen and phosphorus loading.
6. Implement a watershed approach for springs protection, where needed, using the Surface Water Improvement and Management Program as a basis for its development.
7. The Legislature should consider the creation of regional management entities to effectuate a septic tank inspection and maintenance program. Counties and municipalities should have authority over the regional management entities.
8. Ban the land application of class A and B residuals from domestic wastewater facilities and the land spreading of septage from septic tank pump outs. Ensure that class AA

³ SB 444, enacted in 2005, provided \$100 million per year to the Water Protection and Sustainability Trust Fund for alternative water supply projects. Funding has been reduced every year since its enactment.

⁴ FY 2005-06, 100 million; FY 2006-07, 60 million; FY 2007-08, 52 million; FY 2008-09, 7.7 million; FY 2009-10, unfunded.

⁵ SB 2080, enacted in 2009, required homeowners' associations to allow Florida-friendly landscaping.

residuals marketed as a fertilizer product are applied to the land at proper agronomic rates.

9. Require the DEP to study the effects that reclaimed water have on nutrient loading in Florida's water bodies and report its findings to the Legislature. If it is determined that using reclaimed water has negative effects, then the DEP must provide recommendations in its report that eliminate such effects.
10. Blue belt tax exemptions should be examined and expanded or other incentives given to compensate landowners in high-water recharge areas to hold more water on their land.
11. Utilize existing state water institutes and councils, such as the University of Florida's Water Institute, to provide their recommendations to the Legislature based on the best available science.
12. Direct the Florida Building Commission to evaluate and update existing building policies and codes, focusing on updating existing water conservation measures and including new measures. Examples of such measures are requiring ultra-low flush toilets (1.28 gallons/flush) or rainwater catchment devices for new construction.
13. Require the water management districts to negotiate disputes in good faith. When such negotiations do not reach an agreement, the districts shall submit to an alternative dispute resolution process, such as mediation or arbitration, before proceeding to court.