

**Legislative Position Paper
HB 693
Springs Legislation**

HB 693, which would create Florida Springs Protection Act, would require delineation of “springsheds” and associated “protection zones” extending outwards from numerous spring systems in central and north Florida. This legislation would substantially limit development and waste disposal activities within the delineated areas through legislative prohibitions, tougher local government regulations, and enhanced requirements under the existing total maximum daily load (TMDL) program.

1. Legislative Intent

Section 369.403, F.S. would state that “Florida’s springs are a precious and fragile natural resource” that are linked to aesthetic values and “financial benefits to local economies.” The intent language would assert that “a spring is only as healthy as its springshed” (i.e., the groundwater and surface water basins that provide flow to the spring). Based on legislative recognition that a non-exclusive list of eleven specifically named spring systems have experienced problems with elevated nutrient concentrations and reduced flows, the proposed legislation would articulate the Legislature’s intention to enhance the protection of water quality and water quantity in numerous Florida springs through aggressive land development restrictions and fast-track, enhanced environmental regulation.

2. Delineation of Springsheds

Section 369.407 would require that within three years the Department of Environmental Protection (DEP) must issue proposed rules that “delineate springsheds and primary protection zones” for significant springs systems based on the “best available data” and “credible sources.” These two phrases appear intended to diminish the degree of scientific rigor required to delineate a springshed. Primary protection zones would represent the geographic areas in which pollutant discharging activities presumably could adversely affect spring systems. The draft language prescribes factors such as “proximity or connectivity to the spring,” “travel time,” and “proximity to Karst features” in delineating springsheds, but provides no specific guidance as to how these concepts are to be weighted or applied. The proposed legislation would authorize DEP to adopt simplified and less scientific “interim primary protection zones” prior to finalizing the more comprehensive and ostensibly scientific process.

3. Amendments to Comprehensive Plans

After the springsheds and associated protection zones are established, each local government would be required to recommend comprehensive plan amendments to ensure that the plan contains “goals, objectives, and policies that result in the protection of the quantity and quality” of each springshed within its jurisdiction. Each local government then would be expected to adopt measures to ensure that land uses within its jurisdiction

“do not diminish the quality of groundwater recharge within the springshed” and “do not reduce the groundwater recharge capability.”

4. TMDLs

The proposed legislation would establish special fast-track requirements for regulating springs under the existing TMDL program. It would establish a test for designating springs as impaired that requires significantly less scientific evidence compared to what is required under Florida’s TMDL regulations. Remarkably, the draft legislation states, “A spring may be designated as impaired if, in the judgment of the Department, it is likely to become impaired.” And significantly, Section 369.409(3) would provide that the TMDLs for springs shall be established under Subsection 403.067(7); this could be construed as eliminating the opportunity to consider various feasibility and attainability considerations, and APA protections, as established in Section 403.067(6).

5. Prohibitions

The proposed legislation would prohibit the following activities within primary protection zones:

- New industrial wastewater disposal systems.
- New landfills, including lined landfills.
- New rapid infiltration basins.

Many additional activities within springsheds and primary protection zones would require special use permits from local governments:

- New slow-rate land application systems, excluding the reuse of reclaimed water;
- New onsite sewage disposal systems at the density of greater than 1 per acres, except those that make use of advances, low nutrient output designs approved by the Florida Department of Health;
- New facilities for the transfer, storage or disposal of hazardous materials or waste, including SARA 302 facilities;
- Other land uses may be prohibited in the local comprehensive plan at the discretion of a local government, after considering existing land use patterns and the potential for damage to a particular spring.

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The FWEAUC’s Position

Existing regulatory programs are adequate to protect springs. All spring systems in Florida that verifiably are impaired by pollutant discharges already have been or soon will be listed by DEP as requiring TMDLs in accordance with existing law (§ 403.067, F.S.). Once listed, the TMDL process established by Section 403.067, F.S. (again, existing law) inexorably will result in pollutant loading calculations and allocations

designed to attain water quality standards. Existing law also sets forth a process for implementation of the pollutant allocations. This process includes development of basin management action plans (BMAPs) with participation by all stakeholders, including local governments. The Florida Springs Protection Act would short-circuit Florida's scientifically based TMDL process by, in effect, over-riding DEP's carefully considered impairment determinations based on unscientific information and imposing development moratoria within numerous basins.

DEP's current role as the lead agency charged with responsibility to develop ambient-based controls would become fragmented by legislatively mandated development prohibitions, land use restrictions, and local government permitting decisions. Significantly, the draft legislation would facilitate establishment of quickly developed and unscientific "interim primary protection zones" and eliminate the possibility of considering water quality standards attainability issues until after costly restrictions already are in place.

Unless this draft legislation is carefully reconsidered in light of DEP's current powers and duties under the TMDL program, the result could be very inconsistent outcomes on the state and local levels, and greater regulatory uncertainty.