

**Pre-Session Briefing Paper  
For the Florida Native Plant Society  
2020 Legislative Session**

The following report provides a snapshot of the 2020 Florida Legislative Session. It was prepared to identify bills of greatest relevance to the mission of the Florida Native Plant Society as of early February, 2020, and to provide a preliminary analysis of whether they merit support by FNPS. The reviews begin on page 2. The position FNPS takes on any of the bills listed is subject to change based on how they may be amended during the course of the session. There may be other bills not currently listed that we may determine are relevant to our mission. For additional and updated information, please visit <https://www.fnps.org/what-we-do/policy> to search for more recent reports and dispatches from Tallahassee during the January – March Session.

**General Overview**

Teacher pay will likely dominate much of Legislative discussions in 2020, as the Governor and Senate President Bill Galvano are both in favor, but House Speaker Jose Oliva is not. The outcome of that argument may very well determine what and how much else gets passed in the upcoming Session. January 14, 2020 is opening day, and legislative committees have been meeting since September.

Regulatory reform is high on the priority list for Gov. Ron DeSantis. He has long been an advocate of deregulation and sounded hopeful the Legislature would tackle the issue in the upcoming 2020 Session. Calling on the Legislature to “remove barriers for success,” DeSantis said Florida should roll back what he views as a very oppressive occupational licensing regime and other permitting requirements.

Sen. Rob Bradley, who chairs Senate Appropriations, wants criminal justice reform to be achieved at long last, since he will be termed-out after the 2020 Session. Repealing the state’s minimum mandatory sentencing law for judges is a major component of such reform, since that law removed judge’s discretion to weigh all the factors and circumstances in cases. Bradley has filed a bill to steer low-level drug offenders (who make up 15% of the overcrowded Florida prison population) away from prison and into alternative punishment/rehabilitation programs.

Home rule battles are also one of the leading issues for this coming year. In the 2019 Legislative Session, it was plastic straw bans and e-scooters. In the lead-up to the 2020 Legislative Session, it seems like a ban on sunscreen bans will be a hot topic.

The issue brings in more parties than the typical state-vs-local fights. Dermatologists, environmental groups, local governments, and businesses are all approaching the issue from different angles. Environmentalists point to some scientific studies that show chemicals in some

types of sunscreen damages coral. Key West passed a sunscreen ban that goes into effect next year, and it's not happy with Tallahassee's preemption effort.

Since 2020 is a Presidential Election year, the conventional wisdom is that the Florida Legislature is not likely to pass a great number of bills. Leadership will be careful to pass a responsible budget they can campaign on, and avoid some of the partisan rancor their Washington counterparts are engaged in.

### **Budget**

Gov. Ron DeSantis has called for a \$91.4 billion budget, the largest budget proposal by a Florida governor, and a \$400 million increase over the current spending plan. DeSantis wants Florida lawmakers to approve a \$602 million plan that would set a minimum salary of \$47,500 for public-school teachers. Some of the money to set a minimum salary for teachers would come from eliminating the Best and Brightest teacher bonus program.

DeSantis recommends \$480.5 million in cuts and the elimination of 144 jobs in a state government workforce of more than 97,000 employees. Almost all those positions targeted for elimination are currently vacant. The lost positions will be made up by new hires in the Department of Corrections and the Department of Veterans Affairs, which will open two hospitals next fiscal year.

The governor wants to spend \$100 million on the Florida Forever land buying program. His environmental plan includes an additional \$322 million for Everglades restoration projects, \$200 million for targeted water quality programs to combat blue-green algae, \$50 million for springs restoration and \$50 million for beach renourishment. The Florida Senate has proposed \$125 million in spending for Florida Forever, while the House has offered just \$25 million.

Still another \$6 million is targeted to help coastal communities become more resilient as climate change contributes to rising sea levels and changing habitats.

The Legislature's Office of Economic and Demographic Research says lasting effects from hurricanes and a global economic slowdown will hamper economic growth in Florida. For now, tourism continues to buoy the economy as gas and travel prices are down while nationwide earnings are up. But domestic tourism, which makes up the lion's share of the state's visits, is expected to recede in a year. The number of domestic tourists in the 2018-2019 fiscal year grew 8% instead of the predicted 6.6%. However, the next fiscal year's growth estimates from EDR have fallen to 2.5% from the 4.4% growth as they thought in July.

### **Filed Bills of Interest to FNPS**

**Please Note: FNPS positions of support or concern for each of these bills is noted below the analysis; however, this is a snapshot in time of the language and status of each bill and is subject to change based on legislative action.**

## Land Conservation

### SB 332 - Land Acquisition Trust Fund by Sen. Stewart (HB 849 by Rep. Altman)

This bill would create a statutory distribution from the Land Acquisition Trust Fund requiring \$100 million to be appropriated annually to the Florida Forever Trust Fund. Funds appropriated into the Florida Forever Trust Fund are required to be distributed in accordance with the Florida Forever Act. The bill also specifies that the Land Acquisition Trust Fund may not be used to fund any costs within the budget entities that provide administrative support for the four state entities receiving these funds. This is the antidote to our collective lack of funding and mis-directed funding resulting from the Legislature's interpretation of Constitutional Amendment 1 in 2014. The distribution in this bill must be allocated as follows:

- Division of State Lands - \$35 million, of which \$5 million is dedicated for land acquisition within the Florida Keys Area of Critical State Concern.
- Water Management Districts - \$30 million.
- Florida Communities Trust - \$21 million.
- Rural and Family Lands Protection Program - \$3.5 million.
- Stan Mayfield Working Waterfronts - \$2.5 million.
- Florida Recreation Development Assistance Program - \$2 million.
- Division of Recreation and Parks - \$1.5 million.
- Office of Greenways and Trails - \$1.5 million.
- Florida Forest Service - \$1.5 million.
- Fish and Wildlife Conservation Commission - \$1.5 million.

The bill would impose spending limits by requiring that moneys distributed from the Land Acquisition Trust Fund could not be used for Executive Direction and Support Services and the Technology and Information Services within the DEP, DACS, FWC and the Dept. of State. That would eliminate the use of funds for purchase of vehicles, computers, insurance and other administrative funding. The bill unanimously passed its first committee stop in the Senate Environment and Natural Resources committee in November, but it is not expected to pass the House.

**FNPS Position:** Support. This bill and all efforts to fund the Florida Forever land conservation program are central to our mission to protect and restore native plants and natural areas. This bill would guarantee at least \$100 million every year to purchase and restore critical natural areas.

### SB 7024 - Florida Forever by Sen. Montford (Committee on Environment & Natural Resources)

This bill, which may help generate Florida Forever funding as well as attention to North Florida lands already on the Florida Forever list, revises the Legislative findings and declarations section of the Florida Forever Act to include as one of its benefits for land purchases, the connection of wildlife habitat with a wildlife crossing. The bill also adds a new subsection requiring the DEP and the Florida Communities Trust to consult with the land managing agencies, DOT,

Emergency Management, Department of Economic Opportunities and the WMDs to coordinate on projects related to conservation lands and coastal areas subject to flooding as a result of sea-level rise to maximize the benefits of their projects with Florida Forever acquisitions.

The trickiest part of the bill is in the new allocation formula, which earmarks *at least* \$10 million for purchase of lands or easements in areas that were impacted by a designated hurricane within a 5-year window. Under this bill, conservation *and non-conservation* lands will also now have the authority to use as one of the Florida Forever goals the purchase of wildlife crossings.

**FNPS Position: Some concern.** While we wholeheartedly support all efforts to inspire funding for Florida Forever and protect some of the large forest and coastal tracts that have been badly impacted by storms, we believe funding for roadway wildlife crossings should continue to be paid by the Dept. of Transportation, who designs and builds roadways through natural habitat.

SB 286 - Tax Credit for Carbon Farming by Sen. Rodriguez (HB 1069 by Rep. Joseph)

This bill seeks to increase environmental and agricultural benefits to Florida's farmers and residents through carbon farming. Such benefits include increased yields, soil health, improved water quality, and reductions in greenhouse gasses. "Carbon farming" means implementing a land management strategy to reduce, sequester, and mitigate greenhouse gas emissions on land to support a farm operation and quantifying those greenhouse gas benefits using tools provided by the United States Department of Agriculture. The idea is to encourage farmers to sequester and mitigate carbon by establishing a carbon farming tax credit to reward and incentivize farmers to maintain or adopt practices that help maximize this state's carbon sequestration potential. (Carbon sequestration means the long-term storage of carbon in plants, soils, geologic formations, and the ocean.)

**FNPS Position: Support.** FNPS recognizes the importance of reducing greenhouse gases and improving water quality, and this incentive bill would help agricultural operations become part of the solution by helping sequester carbon.

SB 1042 – Nature Coast Aquatic Preserve by Sen. Albritton (HB 1061 by Massullo)

Would create the Nature Coast Aquatic Preserve covering parts of coastal Citrus, Hernando and Pasco Counties that lie outside existing aquatic preserve boundaries by establishing a new aquatic preserve. It would afford greater protection to the superlative seagrasses and other coastal aquatic resources of the region. The identical House companion bill is sponsored by Rep Massullo of Citrus and Hernando Counties.

**FNPS Position: Support.** This legislation would expand the maritime protection of an important area off of Florida's Nature Coast, where there are still pristine waterways and seagrass beds supporting a myriad of aquatic life.

## Land Management

SB 822 - Drones by Sen. Albritton (HB 659 by Fischer)

The bill provides an exception to the prohibition on using a drone equipped with imaging devices to record an image of privately owned lands, for employees of the Fish and Wildlife Conservation Commission or of the Florida Forest Service for the purpose of managing and eradicating invasive exotic plants or animals on public lands. This is a curious provision, as the underlying statute refers almost entirely to private property, whereas this new provision seems to attempt to clarify authority for public land managers to drone-record public lands.

**FNPS Position:** Support. This bill would open areas of thick woodlands to inspection by agile drones to allow our land managing agencies better knowledge of occurrences of non-native invasive plant (and animal) species. This may be very helpful in locating and planning control of those invasives.

## Water

SB 1096 - Fees/Bottled Water Companies by Sen. Cruz

Democratic state Sen. Janet Cruz proposing legislation to require more oversight and fees on spring water usage, and Democratic state Rep. Anna Eskamani is calling for opposition to the proposed major new Nestlé Waters North America bottling plant in north-central Florida. The Cruz bill requires the Florida Department of Environmental Protection to monitor consumptive use permits filed by water bottling companies to ensure they are in compliance with state law. She also filed a linked bill, SB 1098 to assess a surcharge of 5 cents per gallon of water extracted to bottle. Proceeds from that fee would be put into the state's Water Protection and Sustainability Program Trust Fund, which has been unfunded since 2009.

Companies currently pay a one-time fee of \$115 in order to pump water from Florida's aquifer. Companies are not charged for the water itself, so its only costs are those of efforts to pump it out of the ground, and other operations. Cruz's SB 1098 would charge 5 cents a gallon for that. There are similar bills filed by other legislators from both Chambers, so the idea will definitely be discussed, even if not ultimately passed.

**FNPS Position: Support.** The declines in discharge observed in many Florida springs has led to declines in water quality, degraded environmental conditions and loss of biodiversity. This bill could help stem the tide of easy water access to our fragile aquifers and springs by bottlers. At the very least, the bill would make bottlers pay more equitable fees for accessing and profiting from our limited water resources.

## CS/SB 712 - Water Quality Improvements by Sen. Mayfield

This much-needed bill includes recommendations from the Blue-Green Algae Task Force. The major topics in this bill include onsite sewage treatment and disposal systems (OSTDSs, commonly referred to as septic systems), wastewater, stormwater, agriculture, and biosolids. The bill directs the Department of Environmental Protection (DEP) to make rules relating to most of these topics. New rules that cost at least \$1 million over the first 5 years of implementation require legislative ratification. Therefore, several of the bill's provisions may not be fully effectuated without additional legislation. Regarding OSTDSs, the bill:

- Transfers the regulation of OSTDSs from the Department of Health (DOH) to DEP.
- Directs DEP to adopt rules to locate OSTDSs by July 1, 2022:
  - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, non-potable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
  - Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.
- Creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within basin management action plans if DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the basin management action plans no later than July 1, 2025.

Regarding agriculture, the bill:

- Requires the Department of Agriculture and Consumer Services (DACCS) to collect and provide to DEP fertilization and nutrient records from each agriculture producer enrolled in best management practices.
- Requires DACCS to perform onsite inspections of each agricultural producer that enrolls in a best management practice every two years.
- Authorizes DACCS and institutions of higher education with agricultural research programs to develop research plans and legislative budget requests relating to the evaluation and improvement of agricultural best management practices and agricultural nutrient reduction projects.

Regarding biosolids, the bill:

- Requires DEP to adopt rules for biosolids management.
- Exempts the biosolids rules from legislative ratification if they are adopted prior to the 2021 legislative session.

The bill also creates a real-time water quality monitoring program, subject to appropriation, within DEP.

**FNPS Position: Support.** Legislation like this is long past due, given our state’s delicate system of groundwater, rivers, springs and lakes competing with pollution and effluent from agricultural runoff and septic tanks. This bill finally provides some teeth and common sense to the regulatory programs that are meant to protect Florida’s water.

SB 640 - Indian River Lagoon State Matching Grant Program by Sen. Harrell (HB 153 by Fine)

SB 640 creates a grant program for state funding of certain projects that improve water quality and wastewater infrastructure in the Indian River Lagoon. The program makes projects dedicated to the conservation and management of the Indian River Lagoon eligible for state funding. The bill requires the Department of Environmental Protection (DEP) to coordinate with the appropriate water management districts to identify eligible projects. Each grant must require at least a 50 percent local match.

The IRL is home to more than 2,000 species of plants. Pollutants from human activities create turbid conditions, feed algal blooms, and lead to muck accumulation, all of which negatively impact the seagrass that provides habitat for much of the IRL’s marine life. The bill requires DEP to submit an annual report on the proposed projects and projects receiving state funding. Counties or municipalities must submit annual status reports to DEP and the appropriate water management district on each project receiving funding through the program.

**FNPS Position: Support.** The main reason Florida has been so reluctant to switch from septic tanks to municipal sewer systems is the amount of money it takes to make that infrastructure switch. This bill helps remedy that.

### Environmental Regulations

HB 73 - Environmental Regulation by Rep. Overdorf (CS/SB 326 Sen. Perry)

The bill amends the responsibilities and authority of local governments to provide facilities and programs for solid waste management and recycling. It defines a “residential recycling collector” as “a for-profit business entity that collects and transports residential recyclable material on behalf of a county or municipality.”

The states that after a contract is executed, a residential recycling collector is not required to collect or transport contaminated recycling material, except according to a contract consistent with certain requirements.

The bill also prohibits local governments from requiring a person claiming an exemption from environmental resource permitting requirements to provide further verification from the Department of Environmental Protection. The bill also changes the specific criteria for the replacement or This bill revises the ERP exception for the replacement or repair of existing docks and piers to allow for the repair or replacement if it is within five feet of the same

location and no larger than the existing dock or pier, and no additional aquatic resources are adversely and permanently impacted. The bill has been fast-tracked in both Chambers and only needs to get through one more committee before it heads to the Floor for a vote to become law.

**FNPS Position: Concern.** The bill provides recycling collectors the right to refuse collection of recyclable materials that are deemed contaminated under the contract. It also would expand the permit exception for the replacement or repair of existing docks and piers that could result in more docks being built or repaired beyond what is permitted now.

SB 1382 - Environmental Resource Management by Sen. Albritton (HB 63)

This bill makes a significant change to the section 403 laws, adding a new subsection in section 403.412, the Environmental Protection Act, stating: (9)(a) A local government regulation, ordinance, code, rule, comprehensive plan, or charter may not recognize, grant, convey, or extend legal standing or legal rights, as those terms are generally construed, to a plant, an animal, a body of water, or any other part of the natural environment which is not a person or a political subdivision, as defined in s. 1.01(8), unless otherwise specifically authorized by state law or the State Constitution.

(b) This subsection may not be interpreted or construed to do any of the following: 1. Limit the ability of the Department of Legal Affairs, any political subdivision of the state, or a resident of the state to maintain an action for injunctive relief as provided in this section. 2. Limit the ability of an aggrieved or adversely affected party to appeal and challenge the consistency of a development order with a comprehensive plan, as provided in s. 163.3215, or to file an action for injunctive relief to enforce the terms of a development agreement or to challenge compliance of the agreement with the Florida Local Government Development Agreement Act, as provided in s. 163.3243.

These provisions seem intended to upend the Endangered Species Act, among other provisions, and looks like it was created for the specific benefit of just one landowner.

**FNPS Position: Concern.** This bill's efforts to enhance the implementation of basin Management Action Plans (BMAPs) to help clean up agricultural pollution may fall short in its five-year compliance horizon, and adding the requirement that BMAP strategies involve technically and financially practical actions, rather than the most necessary and effective. Moreover, the concept of expressly prohibiting the recognition that nature has legal rights and legal standing in a court of law not only brings the ESA into question, but also has a chilling effect on those who would bring suit in court, where to have standing, a plaintiff must show that the challenged conduct has caused the plaintiff actual injury, rather than a polluted water body or ecosystem.

## Climate Change

HB 913 - Florida Climate and Resiliency Research Program by Rep. Diamond (SB 1232 by Sen. Rouson)

The Florida Climate and Resiliency Research Program, which is set up as an interagency program, gets established within the Department of Environmental Protection for the purpose of assisting the state in understanding, assessing, predicting, and responding to the effects of climate change. The program will prepare an assessment that analyzes, integrates, evaluates, and interprets the effects of climate change on the natural environment, land and water resources, biological diversity, agriculture, energy production and use, economic growth, employment, financial risk, disaster preparedness, human health and welfare, and transportation within the state, as well as current trends in climate change, both human-induced and natural, and projected major trends for the subsequent 25 to 100 years.

The program consists of 18 members, where three representatives will be selected from nongovernmental organizations who have expertise in public health, energy, planning, land management, or conservation. This committee is staffed by DEP and reports to the Governor and Legislature every four years to offer recommendations for Florida 's response to climate change.

**FNPS Position: Support.** The study and integration of the effects of climate change on the natural environment, land and water resources and biological diversity is central to our mission to promote the preservation of native plants and plant communities.

SB 7016 - Statewide Office of Resiliency by Committee on Infrastructure & Security (HB 1073 by Rep. Stevenson)

This good bill establishes the establishes the Statewide Office of Resiliency (SOR) inside the Governor's Office and creates the Statewide Sea-Level Rise Task Force for the purpose of recommending consensus projections of the anticipated sea-level rise and flooding impacts along this state's coastline.

The task force is directed to develop and recommend consensus baseline projections of the expected sea-level rise for planning horizons designated by the task force. The task force is authorized to designate technical advisory groups to inform its decision-making and to request the DEP to contract for services to assist in developing the recommended baseline projections. DEP will staff the Task Force, which will submit its recommended projections to the Environmental Regulation Commission (ERC) for adoption or rejection by January 1, 2021. The task force's projections will serve as the state's official estimate of sea-level rise and flooding impacts along the state's coastline for the purpose of developing future state projects, plans, and programs.

**FNPS Position: Support.** As stated above, any statewide effort to inform and recommend ways to reduce greenhouse gases, improve water quality and preserve Florida's native habitat is at the core of our mission.

SB 1360 - FL Endangered and Threatened Species by Sen. Rodriguez (HB 1067 by Rep. Hattersly)

SB 1360 revises the definitions of “endangered species” and “threatened species” in the Florida Endangered and Threatened Species Act to include the impact of climate change as a factor that may jeopardize the survival of certain species of fish and wildlife. The bill requires the Fish and Wildlife Conservation Commission (FWC) to continue to protect endangered or threatened fish and wildlife species as FWC determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973.

The bill also the Dept. of Agriculture and Consumer Services (DACS) to consider the impacts of climate change on plant species as part of its 4-year review of the Regulated Plant Index. The bill requires DACS to continue to protect endangered or threatened plant species as DACS determines, regardless of whether such species are declassified under the federal Endangered Species Act of 1973.

**FNPS Position: Support.** This forward-looking bill could be what saves a good number of Florida’s native plants and animals from extinction as the federal administration continues to remove protections for endangered species and their habitat. This bill would require Florida to continue to protect endangered or threatened fish and wildlife species, regardless of whether those species are declassified under the federal Endangered Species Act.