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HB 1309, Engrossed 1

2021 Legislature

1
2 An act relating to environmental regulation; ratifying
3 specified rules relating to biosolids for the sole and
4 exclusive purpose of satisfying any condition on
5 effectiveness pursuant to s. 120.541(3), F.S., which
6 requires ratification of any rule exceeding the
7 specified thresholds for likely adverse impact or
8 increase in regulatory costs; exempting the rules from
9 certain review and approval by the Environmental
10 Regulation Commission; providing applicability;
11 ratifying specified rules relating to the Central
12 Florida Water Initiative, for the sole and exclusive
13 purpose of satisfying any condition on effectiveness
14 pursuant to s. 120.541(3), F.S., which requires
15 ratification of any rule exceeding any specified
16 thresholds for likely adverse impact or increase in
17 regulatory costs; providing applicability; amending s.
18 373.0465, F.S.; requiring the department, in
19 consultation with specified water management
20 districts, to adopt rules that include an annual
21 drought allocation for supplemental irrigation for
22 agricultural uses and a process for examining an
23 agricultural user's supplemental irrigation needs as
24 weighed against certain factors; providing for the
25 applicability of specified rules to areas with certain

ENROLLED

HB 1309, Engrossed 1

2021 Legislature

26 existing recovery strategies; creating s. 373.0466,
 27 F.S.; establishing, subject to appropriation, a
 28 Central Florida Water Initiative Grant Program within
 29 the department; requiring the department, in
 30 cooperation with the relevant water management
 31 districts, to distribute appropriated funds for
 32 certain projects that benefit the Central Florida
 33 Water Initiative Area; amending s. 403.8532, F.S.;
 34 requiring the department to give funding priority to
 35 certain projects relating to the Central Florida Water
 36 Initiative; providing a declaration of important state
 37 interest; providing an effective date.

38

39 Be It Enacted by the Legislature of the State of Florida:

40

41 Section 1. (1) The following rules are ratified for the
 42 sole and exclusive purpose of satisfying any condition on the
 43 effectiveness imposed under s. 120.541(3), Florida Statutes:
 44 Rules 62-640.100, 62-640.200, 62-640.210, 62-640.300, 62-
 45 640.400, 62-640.500, 62-640.600, 62-640.650, 62-640.700, 62-
 46 640.800, 62-640.850, 62-640.880, Florida Administrative Code,
 47 entitled Scope, Intent, Purpose, and Applicability; Definitions;
 48 General Technical Guidance and Forms; General Requirements;
 49 Prohibitions; Nutrient Management Plan (NMP); Pathogen Reduction
 50 and Vector Attraction Reduction; Monitoring, Record Keeping,

ENROLLED

HB 1309, Engrossed 1

2021 Legislature

51 Reporting, and Notification; Requirements for Land Application
52 of Class AA, A, and B Biosolids; Additional Requirements for
53 Land Application at Reclamation Sites; Distribution and
54 Marketing of Class AA Biosolids; and Additional Requirements
55 Related to Biosolids Treatment Facilities, respectively, as
56 published on December 3, 2020, in the Florida Administrative
57 Register, Vol. 46, No. 234, pages 5281-5297.

58 (2) The rules in subsection (1) proposed by the Department
59 of Environmental Protection pursuant to s. 403.0855(2), Florida
60 Statutes, are exempt from review and approval by the
61 Environmental Regulation Commission under s. 403.804(1), Florida
62 Statutes.

63 (3) This act serves no other purpose and shall not be
64 codified in the Florida Statutes. After this act becomes law,
65 its enactment and effective dates shall be noted in the Florida
66 Administrative Code, the Florida Administrative Register, or
67 both, as appropriate. This act does not alter rulemaking
68 authority delegated by prior law, does not constitute
69 legislative preemption of or exception to any provision of law
70 governing adoption or enforcement of the rule cited, and is
71 intended to preserve the status of any cited rule as a rule
72 under chapter 120, Florida Statutes. This act does not cure any
73 rulemaking defect or preempt any challenge based on a lack of
74 authority or a violation of the legal requirements governing the
75 adoption of any rule cited.

ENROLLED

HB 1309, Engrossed 1

2021 Legislature

76 Section 2. (1) The following rule is ratified for the
 77 sole and exclusive purpose of satisfying any condition on
 78 effectiveness imposed under s. 120.541(3), Florida Statutes:
 79 Rules 62-41.300, 62-41.301, 62.41.302, 62-41.303, 62-41.304, and
 80 62-41.305, Florida Administrative Code, titled "Central Florida
 81 Water Initiative Area," as published on November 19, 2020, in
 82 the Florida Administrative Register, Vol. 46, No. 226, pages
 83 5019-5025; February 9, 2021, in the Florida Administrative
 84 Register, Vol. 47, No. 26, pages 733-734; and March 26, 2021, in
 85 the Florida Administrative Register, Vol. 47, No. 59, pages
 86 1506-1507.

87 (2) This section serves no other purpose and shall not be
 88 codified in the Florida Statutes. After this act becomes a law,
 89 its enactment and effective dates shall be noted in the Florida
 90 Administrative Code or the Florida Administrative Register, or
 91 both, as appropriate. This section does not constitute
 92 legislative preemption of or exception to any provision of law
 93 governing adoption or enforcement of the rule cited, and is
 94 intended to preserve the status of any cited rule as a rule
 95 under chapter 120, Florida Statutes. This section does not cure
 96 any rulemaking defect or preempt any challenge based on a
 97 violation of the legal requirements governing the adoption of
 98 any rule cited.

99 Section 3. Paragraph (d) of subsection (2) of section
 100 373.0465, Florida Statutes, is amended to read:

ENROLLED

HB 1309, Engrossed 1

2021 Legislature

101 373.0465 Central Florida Water Initiative.—

102 (2)

103 (d) The department, in consultation with the St. Johns
 104 River Water Management District, the South Florida Water
 105 Management District, the Southwest Florida Water Management
 106 District, and the Department of Agriculture and Consumer
 107 Services, shall adopt uniform rules for application within the
 108 Central Florida Water Initiative Area that include:

109 1. A single, uniform definition of the term "harmful to
 110 the water resources" consistent with the term's usage in s.
 111 373.219;

112 2. A single method for calculating residential per capita
 113 water use;

114 3. A single process for permit reviews;

115 4. A single, consistent process, as appropriate, to set
 116 minimum flows and minimum water levels and water reservations;

117 5. A goal for residential per capita water use for each
 118 consumptive use permit; ~~and~~

119 6. An annual conservation goal for each consumptive use
 120 permit consistent with the regional water supply plan;

121 7. A drought allocation for supplemental irrigation for
 122 agricultural uses which is based on a 2-in-10-year rainfall
 123 condition or, if the applicant so requests, is based on a 5-in-
 124 10-year rainfall condition alone or combined with the 2-in-10-
 125 year condition. The applicable water management district may

ENROLLED

HB 1309, Engrossed 1

2021 Legislature

126 also condition, for information only purposes, consumptive use
127 permits to advise permittees that their annual use of water
128 should be less than the drought allocation in all years except
129 for the drought condition that is the basis for the allocation
130 or a more severe drought; and

131 8. A process for the applicable water management district
132 to annually examine an agricultural user's 5-year moving average
133 supplemental irrigation water use against the annual
134 supplemental irrigation needs in the 5-in-10-year rainfall
135 condition beginning no earlier than 5 years following the
136 effective date of the rules adopted under this section. If this
137 annual examination indicates that the agricultural user's 5-year
138 moving average use exceeds that needed in such rainfall
139 condition for reasons other than prolonged periods of below
140 average rainfall, the water management district may modify the
141 agricultural user's permit to include an annual supplemental
142 irrigation allocation based on both the amount of supplemental
143 irrigation required during a 2-in-10-year rainfall condition and
144 the amount of supplemental irrigation required during a 5-in-10-
145 year rainfall condition as provided in rules adopted pursuant to
146 this section. In such case, the supplemental irrigation
147 allocation based on the 5-in-10-year rainfall condition shall be
148 valid for only 5 years unless the agricultural user's 5-year
149 moving average use continues to exceed the amount of
150 supplemental irrigation needed during a 5-in-10-year rainfall

ENROLLED

HB 1309, Engrossed 1

2021 Legislature

151 condition for reasons other than prolonged periods of drought.

152
 153 Subparagraphs 7. and 8. may not be construed to limit the
 154 ability of the department or a water management district to
 155 establish different supplemental irrigation requirements as part
 156 of an existing or future recovery or prevention strategy adopted
 157 pursuant to s. 373.0363, s. 373.042, or s. 373.0421. The uniform
 158 rules must include existing recovery strategies within the
 159 Central Florida Water Initiative Area adopted before July 1,
 160 2016. The department may grant variances to the uniform rules if
 161 there are unique circumstances or hydrogeological factors that
 162 make application of the uniform rules unrealistic or
 163 impractical.

164 Section 4. Section 373.0466, Florida Statutes, is created
 165 to read:

166 373.0466 Central Florida Water Initiative Grant Program.—
 167 Subject to appropriation, a grant program for the Central
 168 Florida Water Initiative is established within the Department of
 169 Environmental Protection.

170 (1) The department, in cooperation with the relevant water
 171 management districts, shall provide grants for projects that
 172 benefit the Central Florida Water Initiative Area and that
 173 promote alternative water supplies and protect groundwater
 174 resources.

175 (2) In allocating such funds, priority must be given to

ENROLLED

HB 1309, Engrossed 1

2021 Legislature

176 projects that use reclaimed water, create new surface water
 177 storage, enhance natural systems, recharge groundwater, optimize
 178 beneficial uses of water, expand water conservation programs, or
 179 are able to demonstrate that a significant financial hardship
 180 exists as a result of complying with rules applicable to the
 181 Central Florida Water Initiative Area.

182 Section 5. Paragraph (a) of subsection (9) of section
 183 403.8532, Florida Statutes, is amended to read:

184 403.8532 Drinking water state revolving loan fund; use;
 185 rules.—

186 (9) The department may adopt rules regarding the
 187 procedural and contractual relationship between the department
 188 and the corporation under s. 403.1837 and to carry out the
 189 purposes of this section and the federal Safe Drinking Water
 190 Act, as amended. Such rules shall:

191 (a) Set forth a priority system for loans based on public
 192 health considerations, compliance with state and federal
 193 requirements relating to public drinking water systems, and
 194 affordability. The priority system must ~~shall~~ give special
 195 consideration to:

196 1. Projects that provide for the development of
 197 alternative drinking water supply projects and management
 198 techniques in areas where existing source waters are limited or
 199 threatened by saltwater intrusion, excessive drawdowns,
 200 contamination, or other problems;

ENROLLED

HB 1309, Engrossed 1

2021 Legislature

201 2. Projects that provide for a dependable, sustainable
202 supply of drinking water and that are not otherwise financially
203 feasible; ~~and~~

204 3. Projects that contribute to the sustainability of
205 regional water sources; and

206 4. Projects that implement water supply plans and develop
207 water sources as an alternative to continued reliance on the
208 Floridan Aquifer, pursuant to s. 373.0465.

209 Section 6. The Legislature determines and declares that
210 this act fulfills an important state interest.

211 Section 7. This act shall take effect upon becoming a law.