

By the Committee on Natural Resources

312-624B-98

1                                   A bill to be entitled  
2           An act relating to water quality; amending s.  
3           373.453, F.S.; specifying priority  
4           consideration for surfacewater improvement and  
5           management plans; amending s. 381.0065, F.S.;  
6           providing requirements to be imposed in areas  
7           determined to be nutrient-impaired to improve  
8           water quality; amending s. 403.061, F.S.;  
9           authorizing the Department of Environmental  
10          Protection to adopt rules for stricter  
11          permitting and enforcement requirements in  
12          nutrient-impaired coastal waters; creating s.  
13          403.0863, F.S.; providing special requirements  
14          in nutrient-impaired coastal waters and  
15          surfacewater improvement and management areas;  
16          providing criteria for establishing by rule  
17          procedures for determining that coastal waters  
18          are nutrient-impaired; amending s. 403.1835,  
19          F.S.; providing a priority for funding from the  
20          sewage treatment facilities revolving loan  
21          program for facilities located within the  
22          geographic area encompassed by a plan adopted  
23          pursuant to s. 373.456, F.S.; amending s.  
24          403.804, F.S.; providing for calculating  
25          maximum load for certain constituents for a  
26          specific watercourse and water body; requiring  
27          the Secretary of Environmental Protection to  
28          approve the maximum load calculation after  
29          notice of agency action pursuant to ch. 120,  
30          F.S., and limiting the point of entry for a  
31          challenge to the calculation; authorizing the

1 department to adopt rules establishing  
2 procedures for pollutant trading in areas where  
3 a maximum load calculation has been approved;  
4 creating s. 514.095, F.S.; authorizing the  
5 Department of Health to adopt rules for  
6 bacteriological sampling of beach waters and  
7 issue health advisories; providing an effective  
8 date.

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

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12 Section 1. Subsection (1) of section 373.453, Florida  
13 Statutes, is amended to read:

14 373.453 Surface water improvement and management plans  
15 and programs.--

16 (1)(a) Each water management district, in cooperation  
17 with the department, the Department of Agriculture and  
18 Consumer Services, the Department of Community Affairs, the  
19 Game and Fresh Water Fish Commission, and local governments  
20 shall prepare and maintain a list which shall prioritize water  
21 bodies of regional or statewide significance within each water  
22 management district. The list shall be reviewed and updated  
23 every 3 years. The list shall be based on criteria adopted by  
24 rule of the department and shall assign priorities to the  
25 water bodies based on their need for protection and  
26 restoration.

27 (b) Criteria developed by the department shall  
28 include, but need not be limited to, consideration of  
29 violations of water quality standards occurring in the water  
30 body, the amounts of nutrients entering the water body and the  
31 water body's trophic state, the existence of or need for a

1 continuous aquatic weed control program in the water body, the  
2 biological condition of the water body, reduced fish and  
3 wildlife values, and threats to agricultural and urban water  
4 supplies and public recreational opportunities.

5 (c) In developing their respective priority lists,  
6 water management districts shall give consideration to the  
7 following priority areas:

8 1. The South Florida Water Management District shall  
9 give priority to the restoration needs of Lake Okeechobee,  
10 Biscayne Bay, and the Indian River Lagoon system and their  
11 tributaries.

12 2. The Southwest Florida Water Management District  
13 shall give priority to the restoration needs of Tampa Bay and  
14 its tributaries.

15 3. The St. Johns River Water Management District shall  
16 give priority to the restoration needs of Lake Apopka, the  
17 Lower St. Johns River, and the Indian River Lagoon system and  
18 their tributaries.

19 4. All water management districts shall give priority  
20 to nutrient-impaired waters as established pursuant to s.  
21 403.0863.

22 Section 2. Present paragraphs (l), (m), (n), (o), (p),  
23 and (q) of subsection (4) of section 381.0065, Florida  
24 Statutes, are redesignated as paragraphs (n), (o), (p), (q),  
25 (r), and (s), respectively, and new paragraphs (l) and (m) are  
26 added to that subsection to read:

27 381.0065 Onsite sewage treatment and disposal systems;  
28 regulation.--

29 (4) PERMITS; INSTALLATION; AND CONDITIONS.--A person  
30 may not construct, repair, modify, abandon, or operate an  
31 onsite sewage treatment and disposal system without first

1 obtaining a permit approved by the department. The department  
2 may issue permits to carry out this section. A construction  
3 permit is valid for 18 months from the issuance date and may  
4 be extended by the department for one 90-day period under  
5 rules adopted by the department. A repair permit is valid for  
6 90 days from the date of issuance. An operating permit is  
7 valid for 1 year from the date of issuance and must be renewed  
8 annually. If all information pertaining to the siting,  
9 location, and installation conditions or repair of an onsite  
10 sewage treatment and disposal system remains the same, a  
11 construction or repair permit for the onsite sewage treatment  
12 and disposal system may be transferred to another person, if  
13 the transferee files, within 60 days after the transfer of  
14 ownership, an amended application providing all corrected  
15 information and proof of ownership of the property. There is  
16 no fee associated with the processing of this supplemental  
17 information. A person may not contract to construct, modify,  
18 alter, repair, service, abandon, or maintain any portion of an  
19 onsite sewage treatment and disposal system without being  
20 registered under part III of chapter 489. A property owner  
21 who personally performs construction, maintenance, or repairs  
22 to a system serving his or her own owner-occupied  
23 single-family residence is exempt from registration  
24 requirements for performing such construction, maintenance, or  
25 repairs on that residence, but is subject to all permitting  
26 requirements.

27 (1) Within the geographic area encompassed by  
28 surfacewater improvement and management plan adopted pursuant  
29 to s. 373.456 and within 1 mile of any coastal waters the  
30 Department of Environmental Protection determines to be  
31 nutrient-impaired, including any river, stream, channel,

1 canal, bay, bayou, sound, or other water tributary thereto,  
2 the Department of Health and the appropriate local  
3 governmental entity must require:

4 1. The owner of an onsite sewage treatment and  
5 disposal system to connect to a centralized sewerage system  
6 where such a system is available, as provided under s.  
7 381.00655(1)(a);

8 2. That all new developments and subdivisions,  
9 regardless of size or density, be connected to a centralized  
10 sewerage system where such a system is available as defined in  
11 subsection (2);

12 3. Where a centralized sewerage system is not  
13 available, that all new onsite sewage treatment and disposal  
14 systems use the best available technology to ensure that  
15 effluent meets, at a minimum, advanced secondary treatment  
16 standards as determined by rule of the Department of Health;  
17 and

18 4. Where a centralized sewerage system is not  
19 available, upon the transfer or sale of any property with an  
20 onsite sewage treatment and disposal system, that the onsite  
21 sewage treatment and disposal system be inspected and repaired  
22 or upgraded, as necessary, to produce an effluent that meets,  
23 at a minimum, advanced secondary treatment standards as  
24 determined by rule of the Department of Health.

25 (m) In waters that the Department of Environmental  
26 Protection determines to be nutrient-impaired, the Department  
27 of Health must coordinate with county health departments and  
28 local governments in developing programs, including operating  
29 permits, to ensure that onsite sewage treatment and disposal  
30 systems currently in use do not degrade water quality. An

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1 operating permit must, at a minimum, require proper operation  
2 and maintenance of the system.

3 Section 3. Subsection (34) of section 403.061, Florida  
4 Statutes, is amended to read:

5 403.061 Department; powers and duties.--The department  
6 shall have the power and the duty to control and prohibit  
7 pollution of air and water in accordance with the law and  
8 rules adopted and promulgated by it and, for this purpose, to:

9 (34) Adopt rules that ~~which~~ may include stricter  
10 permitting and enforcement provisions within Outstanding  
11 Florida Waters, nutrient-impaired coastal waters under s.  
12 403.0863, waters within the geographic area encompassed by a  
13 surfacewater improvement and management plan adopted pursuant  
14 to s. 373.456, aquatic preserves, areas of critical state  
15 concern, and areas subject to chapter 380 resource management  
16 plans adopted by rule by the Administration Commission, when  
17 the plans for an area include waters that are particularly  
18 identified as needing additional protection, which provisions  
19 are not inconsistent with the applicable rules adopted for the  
20 management of such areas by the department and the Governor  
21 and Cabinet.

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23 The department shall implement such programs in conjunction  
24 with its other powers and duties and shall place special  
25 emphasis on reducing and eliminating contamination that  
26 presents a threat to humans, animals or plants, or to the  
27 environment.

28 Section 4. Section 403.0863, Florida Statutes, is  
29 created to read:

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1           403.0863 Special requirements in nutrient-impaired  
2 coastal waters and surfacewater improvement and management  
3 areas.--

4           (1) For purposes of this section, the term "coastal  
5 waters" means predominantly marine waters as defined in  
6 department rule.

7           (2) The department shall implement and enforce the  
8 requirements in subsections (4)-(7) for:

9           (a) Any watercourse or water body within the  
10 geographic area encompassed by a surfacewater improvement and  
11 management plan adopted pursuant to s. 373.456; and

12           (b) Any coastal waters determined by the department to  
13 be nutrient-impaired and any river, stream, channel, canal,  
14 bay, bayou, sound, or other water tributary thereto.

15           (3) The department shall adopt by rule procedures for  
16 determining that coastal waters are nutrient-impaired. For  
17 purposes of this chapter, nutrient impairment shall be  
18 established using the following criteria, at a minimum:

19           (a) Excessive levels of chlorophyll a as determined by  
20 methods established in department rule;

21           (b) Excessive algal growth potential as determined by  
22 methods established in department rule;

23           (c) Nutrient concentrations at levels that cause an  
24 imbalance in natural populations of aquatic flora or fauna; or

25           (d) A high trophic state index, as determined by  
26 methods established in department rule, which is indicative of  
27 eutrophic conditions.

28           (4)(a) All new and expanded domestic wastewater  
29 facilities that discharge to any of the waters identified in  
30 subsection (2) must provide advanced waste treatment as  
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1 defined in s. 403.086(4), unless the facility discharges less  
2 than 50,000 gallons per day;

3 (b) All existing domestic wastewater facilities that  
4 discharge 50,000 gallons per day or more to any of the waters  
5 identified in subsection (2) must provide advanced waste  
6 treatment as defined in s. 403.086(4) no later than January 1,  
7 2004.

8 (5) The department may waive the requirement for  
9 advanced waste treatment in subsection (4) if the permit  
10 applicant conclusively demonstrates that the proposed  
11 discharge, by itself or in combination with other discharges,  
12 will not cause or contribute to nutrient impairment.

13 (6) If advanced waste treatment as required in  
14 subsection (4) will not prevent the discharge, by itself or in  
15 combination with other discharges, from resulting in a  
16 violation of state water quality standards, the department  
17 shall:

18 (a) Require more stringent or additional effluent  
19 limitations;

20 (b) Order the point or method of discharge changed;

21 (c) Limit the duration or volume of discharge; or

22 (d) Prohibit the discharge.

23 (7) Where a maximum load calculation under s. 403.804  
24 has been approved, the department may waive the requirement  
25 for advanced waste treatment in subsection (4) pursuant to s.  
26 403.804(4)(c).

27 Section 5. Subsection (7) of section 403.1835, Florida  
28 Statutes, is amended, to read:

29 403.1835 Sewage treatment facilities revolving loan  
30 program.--

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1           (7) Eligible projects must be given priority according  
2 to the extent each project is intended to remove, mitigate, or  
3 prevent adverse effects on surface or ground water quality and  
4 public health. However, preference must be given to eligible  
5 projects that protect the public health, that ~~or~~ are required  
6 by law to eliminate sewage treatment facility discharges into  
7 specific bodies of water, or that are located within the  
8 geographic area encompassed by any surfacewater improvement  
9 and management plan adopted pursuant to s. 373.456.

10           Section 6. Subsection (4) is added to section 403.804,  
11 Florida Statutes to read:

12           403.804 Environmental Regulation Commission; powers  
13 and duties.--

14           (4)(a) Where the commission has approved in a  
15 department rule a numeric or narrative water quality standard  
16 for a particular constituent, the department, a water  
17 management district, or a local program having delegated  
18 authority under s. 403.182 may apply the standard by  
19 calculating the constituent's maximum load for a specific  
20 watercourse or water body and, where such maximum load is  
21 calculated, shall implement the maximum load calculation  
22 through its permitting programs.

23           (b) Prior to implementation of the maximum load:

24           1. The department, a water management district, or a  
25 local program having delegated authority under s. 403.182 must  
26 have prepared a plan of study for the maximum load  
27 calculation; and

28           2. The secretary of the department must have approved  
29 the maximum load calculation after notice of proposed agency  
30 action under chapter 120. The secretary's approval of the  
31 maximum load calculation is the sole point of entry for a

1 challenge to the maximum load calculation for that watercourse  
2 or water body.

3 (c) The department, a water management district, or a  
4 local program having delegated authority under s. 403.182  
5 shall consider the contributions of both point source and  
6 nonpoint source pollutant loads in calculating and  
7 implementing a maximum load. The department may, by rule,  
8 establish procedures for pollutant trading in areas where a  
9 maximum load calculation has been approved. Such procedures  
10 may be implemented through permits or other authorizations,  
11 must be legally binding, and must result in a higher level of  
12 water quality protection than could be achieved in the absence  
13 of pollutant trading.

14 (d) Rule adoption under chapter 120 is not required to  
15 implement the maximum load calculation or to accomplish any  
16 other provision of this subsection. This subsection does not  
17 alter any applicable state water quality standards or restrict  
18 the authority otherwise granted to the department or a water  
19 management district under this chapter or chapter 373.

20 Section 7. Section 514.095, Florida Statutes, is  
21 created to read:

22 514.095 Beach water sampling; health advisories.--The  
23 department may adopt and enforce rules to protect the health,  
24 safety, and welfare of persons using beach waters. The rules  
25 shall establish health standards and prescribe procedures and  
26 timeframes for bacteriological sampling of beach waters.  
27 Beach waters include saltwater and brackish water. The  
28 department may issue health advisories if beach water quality  
29 fails to meet standards established by the department. The  
30 authority to issue health advisories related to the

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1 bacteriological sampling results of beach waters is preempted  
2 to the state.

3 Section 8. This act shall take effect upon becoming a  
4 law.

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7 SENATE SUMMARY

8 Directs the Department of Environmental Protection to  
9 adopt by rule procedures to determine that watersheds are  
10 nutrient-impaired. Provides that special requirements be  
11 imposed by the Department of Health and local governments  
12 for onsite sewage treatment disposal systems in  
13 nutrient-impaired areas and areas encompassed by  
14 surfacewater improvement and management plans. Provides  
15 that special requirements be imposed by the Department of  
16 Environmental Protection for domestic wastewater  
17 facilities in nutrient-impaired areas and areas  
18 encompassed by surfacewater improvement and management  
19 plans. Provides for calculating maximum load  
20 determinations for polluting constituents in water areas.  
21 Limits the point of entry for a challenge to the maximum  
22 load calculations. Authorizes the Department of  
23 Environmental Protection to adopt rules for pollutant  
24 trading in areas where a maximum load calculation has  
25 been approved. Authorizes the Department of Health to  
26 adopt rules for bacteriological sampling of beach waters  
27 and issue health advisories.  
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