

By Representative Mackey

1 A bill to be entitled
2 An act relating to ecosystem management;
3 creating s. 403.075, F.S.; providing
4 legislative findings; creating s. 403.0751,
5 F.S.; providing definitions; creating s.
6 403.0752, F.S.; authorizing ecosystem
7 management unit agreements between the
8 Department of Environmental Protection, or
9 other specified state regulatory agencies, and
10 regulated entities; providing conditions and
11 requirements; providing incentives; authorizing
12 certain interagency transfer of regulatory
13 authority and resources; authorizing ecosystem
14 management unit advisory teams; providing that
15 an ecosystem management unit agreement may be
16 treated as a final agency action and constitute
17 a variance or waiver under ch. 120, F.S.;
18 providing an effective date.

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

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22 Section 1. Section 403.075, Florida Statutes, is
23 created to read:

24 403.075 Legislative findings.--In addition to the
25 declarations contained in s. 403.021, the Legislature finds
26 that:

27 (1) Ecosystem management is a concept that includes
28 coordinating the planning activities of state and other
29 governmental units, land management, environmental permitting
30 and regulatory programs, and voluntary programs, together with
31 the needs of the business community, private landowners, and

1 the general public, as partners in a streamlined and effective
2 program for the protection of the environment. It is
3 particularly in the interest of persons residing and doing
4 business within the boundaries of a particular ecosystem to
5 share in the responsibility of ecosystem restoration or
6 maintenance. The proper stewardship of an ecosystem by its
7 affected residents will, in general, enhance the economic and
8 social welfare of all Floridians by maintaining the natural
9 beauty and functions of that ecosystem, which will, in turn,
10 contribute to the beauty and function of larger inclusive
11 ecosystems and add immeasurably to the quality of life and the
12 economy of all Florida counties dependent on those ecosystems,
13 thus serving a public purpose.

14 (2) Most ecosystems are subject to multiple
15 governmental jurisdictions. Therefore, there is a need for a
16 unified and stable mechanism to plan for restoration and
17 continued long-term maintenance of ecosystems.

18 (3) It is in the public interest and serves a public
19 purpose that the Department of Environmental Protection take a
20 leading role among the agencies of the state in developing and
21 implementing comprehensive ecosystem management solutions, in
22 cooperation with both public and private regulated entities,
23 that achieve positive environmental results in an efficient
24 and cost-effective manner.

25 Section 2. Section 403.0751, Florida Statutes, is
26 created to read:

27 403.0751 Definitions.--In construing ss.
28 403.075-403.0752:

29 (1) "Department" means the Department of Environmental
30 Protection, unless otherwise indicated.

31 (2) "Ecosystem management unit" means either:

1 (a) Any of the 24 ecosystem management areas as
2 designated by the Department of Environmental Protection and
3 identified in a department publication entitled Ecosystem
4 Management Implementation Strategy, Volume II - Appendices, by
5 the Ecosystem Management Implementation Strategy Committee and
6 the Department of Environmental Protection, September 1995, or
7 any part of such areas as may be proposed for an ecosystem
8 management unit agreement pursuant to s. 403.0752; or

9 (b) Any activity or group of related activities, which
10 may include one or more activities conducted by or regulated
11 by the department, in a defined geographic area where
12 coordinated management of environmental impacts or functions
13 is proposed for an ecosystem management unit agreement
14 pursuant to s. 403.0752.

15 Section 3. Section 403.0752, Florida Statutes, is
16 created to read:

17 403.0752 Ecosystem management unit agreements.--

18 (1) The secretary of the department is authorized to
19 enter into agreements with regulated entities within ecosystem
20 management units covering the permitting, operation, and
21 management of the environmental impacts of the regulated
22 entity. Such agreements shall be voluntary for both the
23 regulated entity and the department. Ecosystem management
24 unit agreements shall be binding upon the parties, and may be
25 enforced as an order of the department.

26 (2) Ecosystem management unit agreements may be
27 entered into by the department and regulated entities where
28 implementation of such agreements are found by the department
29 to have a net environmental impact on the subject ecosystem
30 more favorable than operation under standard regulations,
31 where implementation of the agreement will result in a

1 reduction in overall risk to human health and the environment
2 compared to activities conducted in the absence of the
3 agreement, and where the regulated entity or entities have
4 been determined by the department to have in place internal
5 environmental management systems that include:
6 (a) Environmental policy based on continuous
7 environmental improvement.
8 (b) Periodic facility environmental impact
9 evaluations.
10 (c) Employee training and involvement in environmental
11 management and improvement.
12 (d) System performance monitoring with provision for
13 corrective action.
14 (e) Management review of environmental systems.
15 (3) Ecosystem management unit agreements may include
16 incentives for participation and implementation by a regulated
17 entity, including, but not limited to, any or all of the
18 following:
19 (a) Single regulatory contact per facility.
20 (b) Permitting flexibility for pollution prevention
21 projects.
22 (c) Permit, permit renewal, and operating fee
23 reductions.
24 (d) Expedited permit processing.
25 (e) Extended permit terms.
26 (f) Reduced monitoring and reporting requirements.
27 (g) Coordinated permitting and inspections.
28 (h) Cooperative inspections which provide opportunity
29 for informal resolution of compliance issues prior to
30 enforcement action being initiated.
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1 (i) Alternative means of environmental protection
2 which provide for equivalent or reduced overall risk to human
3 health and the environment.

4 (4) The secretary of the department, the Secretary of
5 Community Affairs, the Secretary of Transportation, the
6 Commissioner of Agriculture, the executive director of the
7 Game and Fresh Water Fish Commission, and the executive
8 directors of the water management districts are authorized to
9 enter into such agreements with regulated entities and
10 governmental agencies as are necessary to effectuate the
11 provisions of this section. Such agencies may:

12 (a) Delegate or transfer permitting and regulatory
13 authority to any of the other agencies listed in this
14 subsection.

15 (b) Allocate permit or operation fees paid by the
16 regulated entity to the agency or office with primary
17 responsibility for implementation of the ecosystem management
18 unit agreement.

19 (c) Allocate personnel and other resources to the
20 implementation of the ecosystem management unit agreement.

21 (5) The secretary of the department may form ecosystem
22 management unit advisory teams for consultation and
23 participation in the preparation of an ecosystem management
24 unit agreement. Such teams shall include at least the state,
25 regional, and local government entities with regulatory
26 authority over the activities to be subject to the ecosystem
27 management unit agreement. Such teams may also include
28 individuals residing within the designated ecosystem who are
29 representative of the following groups, entities, and
30 agencies: state and federal agencies, local governments,
31 private landowners, public and private utilities,

1 corporations, environmental interests, any of the water
2 management districts with jurisdiction over the area to be
3 subject to the agreement, the Game and Fresh Water Fish
4 Commission, the Department of Community Affairs, the
5 Department of Transportation, and the Department of
6 Agriculture and Consumer Services. Team members shall be
7 selected in a manner that ensures adequate representation of
8 the diverse interests and perspectives within the designated
9 ecosystem. Each state agency listed in this subsection is
10 encouraged to provide a representative for each ecosystem
11 management team, as needed, but such participation by any
12 department of state government is at the discretion of that
13 agency.

14 (6)(a) The parties to an ecosystem management unit
15 agreement may elect to treat the execution of the agreement as
16 final agency action for purposes of s. 120.60. If such
17 election is made:

18 1. Notice of intent to enter into the agreement shall
19 be published by the regulated entity in a newspaper of general
20 circulation in each county where the ecosystem management unit
21 is located. The notice shall include the opportunity to
22 request a hearing on the agreement under the provision of s.
23 120.569 or s. 120.57.

24 2. Review of the agreement under such provisions shall
25 be limited to compliance with subsection (2).

26 3. Any permits, licenses, or approvals consistent with
27 the terms of the agreement which are granted by an agency that
28 is a party to the agreement shall not be considered final
29 agency action.

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1 4. Any substantial modification or amendment to the
2 agreement shall be subject to the same processes as the
3 original agreement.

4 (b) The parties to an ecosystem management unit
5 agreement may elect not to treat the execution of the
6 agreement as final agency action for purposes of s. 120.60.
7 If such election is made, any permits, licenses, or approvals
8 issued by an agency shall be subject to the provisions of
9 chapter 120.

10 (c) The existence of an ecosystem management unit
11 agreement shall constitute a variance or waiver under the
12 provisions of s. 120.542 to the extent necessary for
13 implementation of the agreement.

14 Section 4. This act shall take effect upon becoming a
15 law.

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18 HOUSE SUMMARY

19 Authorizes development of ecosystem management unit
20 agreements between a regulated entity operating within a
21 particular ecosystem and the Department of Environmental
22 Protection or other state regulatory agency with
23 jurisdiction, when the department determines such
24 agreement will have a favorable environmental impact and
25 the regulated entity has certain environmental management
26 capabilities. Provides that such agreement may include
27 regulatory incentives for the regulated entity.
28 Authorizes certain transfer of authority and resources
29 among the regulating state agencies. Authorizes the
30 Secretary of Environmental Protection to form advisory
31 teams for preparation of such agreements, and provides
certain selection criteria. Provides that an agreement
may be treated as final agency action under s. 120.60,
F.S., and provides alternative notice and review
procedures. Provides that the existence of an agreement
constitutes a variance or waiver to requirements under
the Administrative Procedure Act.