

By the Committee on Environmental Protection and  
Representatives Mackey and Burroughs

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 agreements between the Department of  
8           Environmental Protection, or other specified  
9           state regulatory agencies, and regulated  
10          entities; providing conditions and  
11          requirements; providing incentives; authorizing  
12          ecosystem management advisory teams; providing  
13          that an ecosystem management agreement may be  
14          treated as a final agency action and constitute  
15          satisfaction of the variance or waiver under  
16          ch. 120, F.S.; providing that no rules will be  
17          required to implement the act; providing an  
18          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 which improve the integration between land use planning and  
24 regulation, and which achieve positive environmental results  
25 in an efficient and cost-effective manner.

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

28 403.0751 Definitions.--In construing ss.  
29 403.075-403.0752:

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

1           (2) "Ecosystem management area" means either:  
2           (a) Any ecosystem management area as described by the  
3 department or any part of such area as may be proposed for an  
4 ecosystem management agreement pursuant to s. 403.0752; or  
5           (b) Any activity or group of related activities which  
6 may include one or more activities conducted by or regulated  
7 by the department, in a defined geographic area where  
8 coordinated management of environmental impacts or functions  
9 is proposed for an ecosystem management agreement pursuant to  
10 s. 403.0752.

11           Section 3. Section 403.0752, Florida Statutes, is  
12 created to read:

13           403.0752 Ecosystem management agreements.--

14           (1) The secretary of the department is authorized to  
15 enter into agreements regarding any environmental impacts with  
16 regulated entities to better coordinate the legal requirements  
17 and timelines applicable to a regulated activity, which may  
18 include permit processing, project construction, operations  
19 monitoring, enforcement actions, proprietary approvals, and  
20 compliance with development orders and regional and local  
21 comprehensive plans. Entering into such agreements shall be  
22 voluntary for both the regulated entity and the department.  
23 Ecosystem management agreements executed as final agency  
24 action shall be binding upon the parties, and may be enforced  
25 as an order of the department.

26           (2) Ecosystem management agreements may be entered  
27 into by the department and regulated entities where  
28 implementation of the agreement is found by the department to  
29 have a net ecosystem benefit to the subject ecosystem more  
30 favorable than operation under standard regulations, where  
31 entry into the agreement will not interfere with the

1 department's obligations under any federally delegated or  
2 approved program, where implementation of the agreement will  
3 result in a reduction in overall risks to human health and the  
4 environment compared to activities conducted in the absence of  
5 the agreement, and where the regulated entity or entities have  
6 certified to the department that they have in place internal  
7 environmental management systems or alternate internal  
8 controls sufficient to the implementation of the agreement.

9 (3) Ecosystem management agreements may include  
10 incentives for participation and implementation by a regulated  
11 entity, including, but not limited to, any or all of the  
12 following:

13 (a) Coordinated regulatory contact per facility.

14 (b) Permitting process flexibility.

15 (c) Expedited permit processing.

16 (d) Alternate monitoring and reporting requirements.

17 (e) Coordinated permitting and inspections.

18 (f) Cooperative inspections which provide opportunity  
19 for informal resolution of compliance issues prior to  
20 initiation of an enforcement action.

21 (g) Alternative means of environmental protection  
22 which provide for equivalent or reduced overall risk to human  
23 health and the environment, and which are available under  
24 existing law such as variances, waivers, or other relief  
25 mechanisms.

26 (4) The secretary of the department, the Secretary of  
27 Community Affairs, the Secretary of Transportation, the  
28 Commissioner of Agriculture, the executive director of the  
29 Game and Fresh Water Fish Commission, and the executive  
30 directors of the water management districts are authorized to  
31 enter into such agreements with regulated entities and other

1 governmental agencies as are necessary to effectuate the  
2 provisions of this section. Local governments shall be  
3 encouraged to enter into these agreements.

4 (5) The secretary of the department may form ecosystem  
5 management advisory teams for consultation and participation  
6 in the preparation of an ecosystem management agreement. Such  
7 teams shall include at least the state, regional, and local  
8 government entities with regulatory authority over the  
9 activities to be subject to the ecosystem management  
10 agreement. Such teams may also include representatives of the  
11 following groups, entities, and agencies: other participating  
12 or advisory government agencies, which may include regional  
13 planning councils; private landowners; public landowners and  
14 managers; public and private utilities; corporations; and  
15 environmental interests. Team members shall be selected in a  
16 manner that ensures adequate representation of the diverse  
17 interests and perspectives within the designated ecosystem.  
18 Participation by any department of state government is at the  
19 discretion of that agency.

20 (6)(a) The parties to an ecosystem management  
21 agreement may elect to treat the execution of the agreement as  
22 final agency action for purposes of s. 120.60, unless such  
23 treatment conflicts with the requirements of any federally  
24 delegated or approved program. If such election is made:

25 1. Notice of intent to enter into the agreement shall  
26 be published by the regulated entity in a newspaper of general  
27 circulation in each county where the ecosystem management area  
28 is located. The notice shall specifically identify any  
29 standards, rules, or other legal or regulatory requirements  
30 proposed to be subject to variance or waiver under the  
31 agreement. The notice shall include the opportunity to

1 request a hearing on the agreement under the provisions of s.  
2 120.569 or s. 120.57.

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

5 3. Any permits, licenses, or approvals consistent with  
6 the terms of the agreement which are granted by an agency that  
7 is a party to the agreement shall not be considered final  
8 agency action.

9 4. Any substantial modification or amendment to the  
10 agreement shall be subject to the same processes as the  
11 original agreement.

12 (b) The parties to an ecosystem management agreement  
13 may elect not to treat the execution of the agreement as final  
14 agency action for purposes of s. 120.60. Such agreements  
15 shall be considered advisory in nature, and are not binding on  
16 any party to the agreement. If such election is made, any  
17 permits, licenses, or approvals issued by an agency shall be  
18 subject to the provisions of chapter 120.

19 (c) Waivers and variances available under applicable  
20 statutes and rules may be granted as a part of an ecosystem  
21 management agreement executed as a final agency action. The  
22 execution of an ecosystem management agreement shall  
23 constitute satisfaction of the variance or waiver procedural  
24 requirements found at s. 120.542 to the extent necessary for  
25 implementation of the agreement.

26 (d) A person who requests an ecosystem management  
27 agreement and as a part of that request seeks a permit,  
28 variance, or waiver that is subject to a statutory application  
29 review time limit, waives his or her right to a default  
30 permit, variance, or waiver. However, the applicant may  
31 reactivate that right by providing notice to the agency. The

1 agency shall grant or deny the permit, variance, or waiver  
2 application within the statutory time requirements upon  
3 receipt of such notice.

4 (7) Implementation of this section by the department  
5 shall be consistent with federally delegated programs and  
6 federal law.

7 Section 4. No rules shall be required for  
8 implementation of this act.

9 Section 5. This act shall take effect upon becoming a  
10 law.

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