

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 for amendment or
12 termination; providing incentives; authorizing
13 ecosystem management advisory teams; providing
14 that an ecosystem management agreement may be
15 treated as a final agency action and constitute
16 satisfaction of the variance or waiver under
17 ch. 120, F.S.; requiring certain notice;
18 providing that no rules will be required to
19 implement the act; providing an effective date.
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21 Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

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

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

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

29 403.0751 Definitions.--In construing ss.

30 403.075-403.0752:

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

3 (2) "Ecosystem management area" means either:

4 (a) Any ecosystem management area as described by the
5 department or any part of such area as may be proposed for an
6 ecosystem management agreement pursuant to s. 403.0752; or

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

13 Section 3. Section 403.0752, Florida Statutes, is
14 created to read:

15 403.0752 Ecosystem management agreements.--

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

28 (2) Ecosystem management agreements may be entered
29 into by the department and regulated entities where
30 implementation of the agreement is found by the department to
31 have a net ecosystem benefit to the subject ecosystem more

1 favorable than operation under standard regulations, where
2 entry into the agreement will not interfere with the
3 department's obligations under any federally delegated or
4 approved program, where implementation of the agreement will
5 result in a reduction in overall risks to human health and the
6 environment compared to activities conducted in the absence of
7 the agreement, and where the regulated entity or entities have
8 certified to the department that they have in place internal
9 environmental management systems or alternate internal
10 controls sufficient to the implementation of the agreement.

11 (3) Ecosystem management agreements shall include
12 provision for any party to the agreement to amend or terminate
13 the agreement by written notice to the other parties, where
14 the party seeking to amend or terminate the agreement
15 demonstrates one or more of the following:

16 (a) There has been material change in conditions from
17 the original agreement such that the intended net ecosystem
18 benefit is not being, and may not reasonably be expected to
19 be, achieved through continuation of the agreement;

20 (b) Continuation of the agreement will result in
21 economic hardship or competitive disadvantage; or

22 (c) A party has violated the terms of the agreement.

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24 Termination of the agreement may not be effective until 90
25 days after delivery of written notice to all parties.

26 Termination by a governmental entity shall be subject to
27 administrative or judicial review as final agency action.

28 (4) Ecosystem management agreements may include
29 incentives for participation and implementation by a regulated
30 entity, including, but not limited to, any or all of the
31 following:

- 1 (a) Coordinated regulatory contact per facility.
2 (b) Permitting process flexibility.
3 (c) Expedited permit processing.
4 (d) Alternate monitoring and reporting requirements.
5 (e) Coordinated permitting and inspections.
6 (f) Cooperative inspections which provide opportunity
7 for informal resolution of compliance issues prior to
8 initiation of an enforcement action.
9 (g) Alternative means of environmental protection
10 which provide for equivalent or reduced overall risk to human
11 health and the environment, and which are available under
12 existing law such as variances, waivers, or other relief
13 mechanisms.
14 (5) The secretary of the department, the Secretary of
15 Community Affairs, the Secretary of Transportation, the
16 Commissioner of Agriculture, the executive director of the
17 Game and Fresh Water Fish Commission, and the executive
18 directors of the water management districts are authorized to
19 enter into such agreements with regulated entities and other
20 governmental agencies as are necessary to effectuate the
21 provisions of this section. Local governments shall be
22 encouraged to enter into these agreements.
23 (6) The secretary of the department may form ecosystem
24 management advisory teams for consultation and participation
25 in the preparation of an ecosystem management agreement. Such
26 teams shall include at least the state, regional, and local
27 government entities with regulatory authority over the
28 activities to be subject to the ecosystem management
29 agreement. Such teams may also include representatives of the
30 following groups, entities, and agencies: other participating
31 or advisory government agencies, which may include regional

1 planning councils; private landowners; public landowners and
2 managers; public and private utilities; corporations; and
3 environmental interests. Team members shall be selected in a
4 manner that ensures adequate representation of the diverse
5 interests and perspectives within the designated ecosystem.
6 Participation by any department of state government is at the
7 discretion of that agency.

8 (7)(a) The parties to an ecosystem management
9 agreement may elect to treat the execution of the agreement as
10 final agency action for purposes of s. 120.60, unless such
11 treatment conflicts with the requirements of any federally
12 delegated or approved program. If such election is made:

13 1. Notice of intent to enter into the agreement shall
14 be published by the regulated entity in a newspaper of general
15 circulation in each county where the ecosystem management area
16 is located. The notice shall specifically identify any
17 standards, rules, or other legal or regulatory requirements
18 proposed to be subject to variance or waiver under the
19 agreement. The notice shall include the opportunity to
20 request a hearing on the agreement under the provisions of s.
21 120.569 or s. 120.57.

22 2. Review of the agreement and review of the issuance
23 of any permits, licenses, approvals, variances, or waivers
24 contained in the agreement shall be limited to compliance with
25 subsection (2).

26 3. The subsequent issuance of any permit, license,
27 approval, variance, or waiver pursuant to the agreement, but
28 which is not contained in the agreement, may be reviewed under
29 the provisions of chapter 120 and applicable agency rules. In
30 any such review, any elements of the agreement pertaining to

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1 the conditions for such issuance shall be relevant and
2 applicable.

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

6 (b) An applicant for an ecosystem management agreement
7 being treated as final agency action shall publish and provide
8 proof of publication to the department, at the applicant's own
9 expense, a notice of its request to enter into the agreement
10 in a newspaper of general circulation in the county in which
11 the activity which is the subject of the agreement will be
12 located or take place. Actual mailed notice of the application
13 shall also be provided to property owners adjacent to the
14 activity which is the subject of the agreement and to any
15 other person whose interest is known to the department or the
16 applicant.

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

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

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1 (e) A person who requests an ecosystem management
2 agreement and as a part of that request seeks a permit,
3 variance, or waiver that is subject to a statutory application
4 review time limit, waives his or her right to a default
5 permit, variance, or waiver. However, the applicant may
6 reactivate that right by providing notice to the agency. The
7 agency shall grant or deny the permit, variance, or waiver
8 application within the statutory time requirements upon
9 receipt of such notice.

10 (8) Implementation of this section by the department
11 shall be consistent with federally delegated programs and
12 federal law.

13 Section 4. No rules shall be required for
14 implementation of this act.

15 Section 5. This act shall take effect upon becoming a
16 law.

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