

By the Committee on General Government Appropriations; and
 Senator Dockery

601-2055-05

1 A bill to be entitled
 2 An act relating to environmental permitting
 3 programs; creating s. 373.4143, F.S.; providing
 4 legislative intent; creating s. 373.4144, F.S.;
 5 providing for the consolidation of federal and
 6 state wetland permitting programs; providing
 7 duties of the Department of Environmental
 8 Protection; requiring a report to the
 9 Legislature and coordination with the Florida
 10 Congressional Delegation; amending s. 373.4145,
 11 F.S., and reenacting subsections (1)-(4) of
 12 that section, to continue the interim part IV
 13 permitting program for the Northwest Florida
 14 Water Management District; providing for the
 15 future repeal of the interim program; providing
 16 an effective date.
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 18 WHEREAS, the Legislature recognizes that consolidation
 19 of existing federal and state permitting associated with
 20 wetlands and navigable waters is in the public interest by
 21 eliminating unnecessary duplication and reducing subjective
 22 and potentially inconsistent permitting decisions, and
 23 WHEREAS, the Legislature further recognizes that
 24 consolidation of federal and state wetland and navigable
 25 waters permitting would reduce the substantial costs to both
 26 public and private sectors, provide a more efficient delivery
 27 of government services, and avoid protracted processing delays
 28 while maintaining the federal and state protection afforded to
 29 Florida's natural resources, NOW, THEREFORE,
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 31 Be It Enacted by the Legislature of the State of Florida:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 Section 1. Section 373.4143, Florida Statutes, is
2 created to read:

3 373.4143 Declaration of policy.--It is the policy of
4 the Legislature that the state provide efficient government
5 services by consolidating, to the maximum extent practicable,
6 federal and state permitting associated with wetlands and
7 navigable waters within the state.

8 Section 2. Section 373.4144, Florida Statutes, is
9 created to read:

10 373.4144 Federal environmental permitting.--

11 (1) The department is directed to develop, on or
12 before October 1, 2005, a mechanism or plan to consolidate, to
13 the maximum extent practicable, the federal and state wetland
14 permitting programs. It is the intent of the Legislature that
15 all dredge and fill activities impacting 10 acres or less of
16 wetlands or waters, including navigable waters, be processed
17 by the state as part of the environmental resource permitting
18 program implemented by the department and the water management
19 districts. The resulting mechanism or plan shall analyze and
20 propose the development of an expanded state programmatic
21 general permit program in conjunction with the United States
22 Army Corps of Engineers pursuant to s. 404 of the Clean Water
23 Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et
24 seq., and s. 10 of the Rivers and Harbors Act of 1899.
25 Alternatively, or in combination with an expanded state
26 programmatic general permit, the mechanism or plan may propose
27 the creation of a series of regional general permits issued by
28 the United States Army Corps of Engineers pursuant to the
29 referenced statutes. It is intended that the expansion of the
30 state programmatic general permit program or the creation of a
31 series of regional general permits provide the exclusive

1 federal and state regulation of all dredge and fill activities
2 impacting 10 acres or less of wetlands or waters, including
3 navigable waters, within the state. All of the regional
4 general permits must be administered by the department or the
5 water management districts.

6 (2) The department is directed to file with the
7 Speaker of the House of Representatives and the President of
8 the Senate a report proposing any required federal and state
9 statutory changes that would be necessary to accomplish the
10 directives listed in this section and to coordinate with the
11 Florida Congressional Delegation on any necessary changes to
12 federal law to implement the directives.

13 (3) Nothing in this section shall be construed to
14 preclude the department from pursuing complete assumption of
15 federal permitting programs regulating the discharge of
16 dredged or fill material pursuant to s. 404 of the Clean Water
17 Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et
18 seq., and s. 10 of the Rivers and Harbors Act of 1899, so long
19 as the assumption encompasses all dredge and fill activities
20 in, on, or over jurisdictional wetlands or waters, including
21 navigable waters, within the state.

22 Section 3. Notwithstanding the repeal of subsections
23 (1), (2), (3), and (4) of section 373.4145, Florida Statutes,
24 scheduled for July 1, 2005, those subsections are reenacted,
25 and subsection (6) of that section is amended, to read:

26 373.4145 Interim part IV permitting program for the
27 Northwest Florida Water Management District.--

28 (1) Within the geographical jurisdiction of the
29 Northwest Florida Water Management District, the permitting
30 authority of the department under this part shall consist
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1 solely of the following, notwithstanding the rule adoption
2 deadline in s. 373.414(9):

3 (a) Chapter 17-25, Florida Administrative Code, shall
4 remain in full force and effect, and shall be implemented by
5 the department. Notwithstanding the provisions of this
6 section, chapter 17-25, Florida Administrative Code, may be
7 amended by the department as necessary to comply with any
8 requirements of state or federal laws or regulations, or any
9 condition imposed by a federal program, or as a requirement
10 for receipt of federal grant funds.

11 (b) Rules adopted pursuant to the authority of ss.
12 403.91-403.929, 1984 Supplement to the Florida Statutes 1983,
13 as amended, in effect prior to July 1, 1994, shall remain in
14 full force and effect, and shall be implemented by the
15 department. However, the department is authorized to establish
16 additional exemptions and general permits for dredging and
17 filling, if such exemptions or general permits do not allow
18 significant adverse impacts to occur individually or
19 cumulatively. However, for the purpose of chapter 17-312,
20 Florida Administrative Code, the landward extent of surface
21 waters of the state identified in rule 17-312.030(2), Florida
22 Administrative Code, shall be determined in accordance with
23 the methodology in rules 17-340.100 through 17-340.600,
24 Florida Administrative Code, as ratified in s. 373.4211, upon
25 the effective date of such ratified methodology. In
26 implementing s. 373.421(2), the department shall determine the
27 extent of those surface waters and wetlands within the
28 regulatory authority of the department as described in this
29 paragraph. At the request of the petitioner, the department
30 shall also determine the extent of surface waters and wetlands
31 which can be delineated by the methodology ratified in s.

1 373.4211, but which are not subject to the regulatory
2 authority of the department as described in this paragraph.

3 (c) The department may implement chapter 40A-4,
4 Florida Administrative Code, in effect prior to July 1, 1994,
5 pursuant to an interagency agreement with the Northwest
6 Florida Water Management District adopted under s. 373.046(4).

7 (2) The authority of the Northwest Florida Water
8 Management District to implement this part or to implement any
9 authority pursuant to delegation by the department shall not
10 be affected by this section. The rule adoption deadline in s.
11 373.414(9) shall not apply to said district.

12 (3) The division of permitting responsibilities in s.
13 373.046(4) shall not apply within the geographical
14 jurisdiction of the Northwest Florida Water Management
15 District.

16 (4) If the United States Environmental Protection
17 Agency approves an assumption of the federal program to
18 regulate the discharge of dredged or fill material by the
19 department or the water management districts, or both,
20 pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500,
21 as amended, 33 U.S.C. ss. 1251 et seq.; the United States Army
22 Corps of Engineers issues one or more state programmatic
23 general permits under the referenced statutes; or the United
24 States Environmental Protection Agency or the United States
25 Corps of Engineers approves any other delegation of regulatory
26 authority under the referenced statutes, then the department
27 may implement any permitting authority granted in this part
28 within the Northwest Florida Water Management District which
29 is prescribed as a condition of granting such assumption,
30 general permit, or delegation.

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1 (6) Subsections (1), (2), (3), and (4) shall be
2 repealed effective July 1, 2010 ~~2005~~.

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

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 1730

9 The committee substitute extends the date by which
10 implementation of an Environmental Resource Permit program is
11 to be assumed by the Northwest Florida Water Management
12 District from July 1, 2005, to July 1, 2010.
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