

CHAMBER ACTION

1 The Environmental Regulation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to environmental permitting programs;
7 creating s. 373.4143, F.S.; providing legislative intent;
8 creating s. 373.4144, F.S.; providing for the
9 consolidation of federal and state wetland permitting
10 programs; providing duties of the Department of
11 Environmental Protection; requiring a report to the
12 Legislature and coordination with the Florida
13 Congressional Delegation; amending s. 373.4145, F.S., and
14 reenacting subsections (1)-(4), to continue the interim
15 part IV permitting program for the Northwest Florida Water
16 Management District; providing for future repeal of such
17 interim program; providing an effective date.

18
19 WHEREAS, the Legislature recognizes that consolidation of
20 existing federal and state permitting associated with wetlands
21 and navigable waters is in the public interest by eliminating
22 unnecessary duplication and reducing subjective and potentially
23 inconsistent permitting decisions, and

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24 WHEREAS, the Legislature further recognizes that
 25 consolidation of federal and state wetland and navigable waters
 26 permitting would reduce the substantial costs to both public and
 27 private sectors, provide a more efficient delivery of government
 28 services, and avoid protracted processing delays while
 29 maintaining the federal and state protection afforded to
 30 Florida's natural resources, NOW, THEREFORE,

31

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

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

36 373.4143 Declaration of policy.--It is the policy of the
 37 Legislature that the state provide efficient government services
 38 by consolidating, to the maximum extent practicable, federal and
 39 state permitting associated with wetlands and navigable waters
 40 within the state.

41 Section 2. Section 373.4144, Florida Statutes, is created
 42 to read:

43 373.4144 Federal environmental permitting.--

44 (1) The department is directed to develop, on or before
 45 October 1, 2005, a mechanism or plan to consolidate, to the
 46 maximum extent practicable, the federal and state wetland
 47 permitting programs. It is the intent of the Legislature that
 48 all dredge and fill activities impacting 10 acres or less of
 49 wetlands or waters, including navigable waters, be processed by
 50 the state as part of the environmental resource permitting
 51 program implemented by the department and the water management

52 districts. The resulting mechanism or plan shall analyze and
 53 propose the development of an expanded state programmatic
 54 general permit program in conjunction with the United States
 55 Army Corps of Engineers pursuant to s. 404 of the Clean Water
 56 Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.,
 57 and s. 10 of the Rivers and Harbors Act of 1899. Alternatively,
 58 or in combination with an expanded state programmatic general
 59 permit, the mechanism or plan may propose the creation of a
 60 series of regional general permits issued by the United States
 61 Army Corps of Engineers pursuant to the referenced statutes. It
 62 is intended that the expansion of the state programmatic general
 63 permit program or the creation of a series of regional general
 64 permits provide the exclusive federal and state regulation of
 65 all dredge and fill activities impacting 10 acres or less of
 66 wetlands or waters, including navigable waters, within the
 67 state. All of the regional general permits must be administered
 68 by the department or the water management districts.

69 (2) The department is directed to file with the Speaker of
 70 the House of Representatives and the President of the Senate a
 71 report proposing any required federal and state statutory
 72 changes that would be necessary to accomplish the directives
 73 listed in this section and to coordinate with the Florida
 74 Congressional Delegation on any necessary changes to federal law
 75 to implement the directives.

76 (3) Nothing in this section shall be construed to preclude
 77 the department from pursuing complete assumption of federal
 78 permitting programs regulating the discharge of dredged or fill
 79 material pursuant to s. 404 of the Clean Water Act, Pub. L. No.

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80 | 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the
 81 | Rivers and Harbors Act of 1899, so long as the assumption
 82 | encompasses all dredge and fill activities in, on, or over
 83 | jurisdictional wetlands or waters, including navigable waters,
 84 | within the state.

85 | Section 3. Notwithstanding the repeal of subsections (1),
 86 | (2), (3), and (4) of section 373.4145, Florida Statutes,
 87 | scheduled for July 1, 2005, said subsections are reenacted, and
 88 | subsection (6) of said section is amended, to read:

89 | 373.4145 Interim part IV permitting program for the
 90 | Northwest Florida Water Management District.--

91 | (1) Within the geographical jurisdiction of the Northwest
 92 | Florida Water Management District, the permitting authority of
 93 | the department under this part shall consist solely of the
 94 | following, notwithstanding the rule adoption deadline in s.
 95 | 373.414(9):

96 | (a) Chapter 17-25, Florida Administrative Code, shall
 97 | remain in full force and effect, and shall be implemented by the
 98 | department. Notwithstanding the provisions of this section,
 99 | chapter 17-25, Florida Administrative Code, may be amended by
 100 | the department as necessary to comply with any requirements of
 101 | state or federal laws or regulations, or any condition imposed
 102 | by a federal program, or as a requirement for receipt of federal
 103 | grant funds.

104 | (b) Rules adopted pursuant to the authority of ss. 403.91-
 105 | 403.929, 1984 Supplement to the Florida Statutes 1983, as
 106 | amended, in effect prior to July 1, 1994, shall remain in full
 107 | force and effect, and shall be implemented by the department.

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108 | However, the department is authorized to establish additional
109 | exemptions and general permits for dredging and filling, if such
110 | exemptions or general permits do not allow significant adverse
111 | impacts to occur individually or cumulatively. However, for the
112 | purpose of chapter 17-312, Florida Administrative Code, the
113 | landward extent of surface waters of the state identified in
114 | rule 17-312.030(2), Florida Administrative Code, shall be
115 | determined in accordance with the methodology in rules 17-
116 | 340.100 through 17-340.600, Florida Administrative Code, as
117 | ratified in s. 373.4211, upon the effective date of such
118 | ratified methodology. In implementing s. 373.421(2), the
119 | department shall determine the extent of those surface waters
120 | and wetlands within the regulatory authority of the department
121 | as described in this paragraph. At the request of the
122 | petitioner, the department shall also determine the extent of
123 | surface waters and wetlands which can be delineated by the
124 | methodology ratified in s. 373.4211, but which are not subject
125 | to the regulatory authority of the department as described in
126 | this paragraph.

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

131 | (2) The authority of the Northwest Florida Water
132 | Management District to implement this part or to implement any
133 | authority pursuant to delegation by the department shall not be
134 | affected by this section. The rule adoption deadline in s.
135 | 373.414(9) shall not apply to said district.

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136 (3) The division of permitting responsibilities in s.
137 373.046(4) shall not apply within the geographical jurisdiction
138 of the Northwest Florida Water Management District.

139 (4) If the United States Environmental Protection Agency
140 approves an assumption of the federal program to regulate the
141 discharge of dredged or fill material by the department or the
142 water management districts, or both, pursuant to s. 404 of the
143 Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss.
144 1251 et seq.; the United States Army Corps of Engineers issues
145 one or more state programmatic general permits under the
146 referenced statutes; or the United States Environmental
147 Protection Agency or the United States Corps of Engineers
148 approves any other delegation of regulatory authority under the
149 referenced statutes, then the department may implement any
150 permitting authority granted in this part within the Northwest
151 Florida Water Management District which is prescribed as a
152 condition of granting such assumption, general permit, or
153 delegation.

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

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