

## CHAMBER ACTION

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1 The State Resources Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5  
6 A bill to be entitled

7 An act relating to environmental permitting; reenacting  
8 and amending s. 373.4145, F.S.; requiring the Northwest  
9 Florida Water Management District and the Department of  
10 Environmental Protection to jointly develop rules for the  
11 regulation of certain activities related to stormwater  
12 management systems and the management and storage of  
13 surface waters; requiring the district and the department  
14 to streamline federal and state wetland permitting  
15 programs and to implement such measures; requiring certain  
16 exemptions and provisions for rules relating to certain  
17 dwellings; requiring the department and district to  
18 incorporate certain exemptions and general permits in  
19 joint rules; exempting certain activities and structures  
20 from permitting requirements; requiring the department and  
21 the district to enter into an operating agreement for the  
22 implementation of certain provisions; requiring the  
23 district to be responsible for the regulation and local

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24 | delegation of certain activities; providing for continuing  
 25 | operation of certain earlier law; repealing certain  
 26 | provisions upon the adoption of rules; providing effect  
 27 | for failure to fund in any given fiscal year; requiring  
 28 | the department to negotiate with local governments in the  
 29 | district by a certain date for delegation of  
 30 | responsibility for certain permitting; requiring the  
 31 | department to report to the Legislature by a certain date;  
 32 | providing an appropriation for operational expenses of the  
 33 | district; repealing s. 4 of ch. 2005-273, Laws of Florida,  
 34 | and s. 32 of ch. 2005-71, Laws of Florida, which specified  
 35 | dates certain for the repeal of certain provisions  
 36 | relating to permitting in the district; providing an  
 37 | effective date.

38 |  
 39 | Be It Enacted by the Legislature of the State of Florida:

40 |  
 41 | Section 1. Section 373.4145, Florida Statutes, is  
 42 | reenacted and amended to read:

43 | 373.4145 ~~Interim~~ Part IV permitting program within the  
 44 | geographical jurisdiction of ~~for~~ the Northwest Florida Water  
 45 | Management District.--

46 | (1) Within the geographical jurisdiction of the Northwest  
 47 | Florida Water Management District, taking into consideration the  
 48 | differing physical and natural characteristics of the area, the  
 49 | department and the district shall ~~the permitting authority of~~  
 50 | ~~the department under this part shall consist solely of the~~

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51 ~~following, notwithstanding the rule adoption deadline in s.~~  
52 ~~373.414(9):~~

53 (a) Jointly develop rules to regulate the construction,  
54 operation, alteration, maintenance, abandonment, and removal of  
55 stormwater management systems. The department shall initiate the  
56 rulemaking process within 60 days after the effective date of  
57 this act and shall implement the rules no sooner than January 1,  
58 2007; the district may implement the rules without adoption  
59 pursuant to s. 120.54. Until the stormwater management system  
60 rules take effect, chapter 62-25 ~~17-25~~, Florida Administrative  
61 Code, shall remain in full force and effect, and shall be  
62 implemented by the department. Notwithstanding the provisions of  
63 this section, chapter 62-25 ~~17-25~~, Florida Administrative Code,  
64 may be amended by the department as necessary to comply with any  
65 requirements of state or federal laws or regulations, or any  
66 condition imposed by a federal program, or as a requirement for  
67 receipt of federal grant funds. The intent of the rules created  
68 under this paragraph is to update existing stormwater rules, to  
69 improve water quality and flood protection, and to apply the  
70 least restrictive measures and criteria adopted in other water  
71 management district rules.

72 (b) Jointly develop rules for the management and storage  
73 of surface waters under this part. The department shall initiate  
74 the rulemaking process within 60 days after the effective date  
75 of this act and shall implement the rules no sooner than January  
76 1, 2008; the district may implement the rules without adoption  
77 pursuant to s. 120.54. Until the rules for the management and  
78 storage of surface waters under this part take effect, rules

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79 | adopted pursuant to the authority of ss. 403.91-403.929, 1984  
 80 | Supplement to the Florida Statutes 1983, as amended, in effect  
 81 | prior to July 1, 1994, shall remain in full force and effect,  
 82 | and shall be implemented by the department. However, the  
 83 | department is authorized to establish additional exemptions and  
 84 | general permits for dredging and filling, if such exemptions or  
 85 | general permits do not allow significant adverse impacts to  
 86 | occur individually or cumulatively. However, for the purpose of  
 87 | chapter 62-312 ~~17-312~~, Florida Administrative Code, the landward  
 88 | extent of surface waters of the state identified in rule 62-  
 89 | 312.030(2) ~~17-312.030(2)~~, Florida Administrative Code, shall be  
 90 | determined in accordance with the methodology in rules 62-  
 91 | 340.100 through 62-340.600 ~~17-340.100 through 17-340.600~~,  
 92 | Florida Administrative Code, ~~as ratified in s. 373.4211, upon~~  
 93 | ~~the effective date of such ratified methodology.~~ In implementing  
 94 | s. 373.421(2), the department shall determine the extent of  
 95 | those surface waters and wetlands within the regulatory  
 96 | authority of the department as described in this paragraph. At  
 97 | the request of the petitioner, the department shall also  
 98 | determine the extent of surface waters and wetlands that ~~which~~  
 99 | can be delineated by the methodology ratified in s. 373.4211,  
 100 | but that ~~which~~ are not subject to the regulatory authority of  
 101 | the department as described in this paragraph. The intent of the  
 102 | rules created under this paragraph is to improve the management  
 103 | and storage of surface waters with minimal impact on property  
 104 | interests and to consider the rural nature, current development  
 105 | trends, and abundant natural resources of the district relative  
 106 | to the permitting thresholds and requirements.

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107 (c) Pursue streamlining of the federal and state wetland  
108 permitting programs pursuant to ss. 373.4143 and 373.4144.

109 (d) Implement, to the maximum extent possible,  
110 streamlining measures, including electronic permitting, field  
111 permitting, and certification programs for activities with  
112 minimal individual or cumulative impact, informal wetland  
113 determinations, and other similar measures.

114 (2)(e) The department may implement chapter 40A-4, Florida  
115 Administrative Code, in effect prior to July 1, 1994, pursuant  
116 to an interagency agreement with the Northwest Florida Water  
117 Management District adopted under s. 373.046(4).

118 (3) The rules adopted under subsection (1), as applicable,  
119 shall:

120 (a) Incorporate the exemptions in ss. 373.406 and  
121 403.813(2).

122 (b) Incorporate the provisions of rule 62-341.475(1)(f),  
123 Florida Administrative Code, applicable to single-family homes  
124 located entirely or partially within wholly owned, isolated  
125 wetlands.

126 (c) Exempt from the notice and permitting requirements of  
127 this part the construction or private use of a single-family  
128 dwelling unit, duplex, triplex, or quadruplex that:

129 1. Is not part of a larger common plan of development or  
130 sale proposed by the applicant.

131 2. Does not involve wetlands or other surface waters.

132 (d) Incorporate the exemptions and general permits that  
133 are effective under this part and have been enacted by rule by

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134 the department and other water management districts, including  
135 the general permits authorized by s. 403.814.

136 (e) Provide an exemption for the repair, stabilization, or  
137 paving of county maintained roads existing on or before January  
138 1, 2002, and the repair or replacement of bridges that are part  
139 of the roadway consistent with the provisions of s.  
140 403.813(2)(t), notwithstanding the provisions of s.  
141 403.813(2)(t)7. requiring adoption of a general permit  
142 applicable within the Northwest Florida Water Management  
143 District and the repeal of such exemption upon the adoption of a  
144 general permit.

145 (f) Exempt from rule criteria under paragraph (1)(b) an  
146 alteration of a wholly owned, artificial surface water created  
147 entirely from uplands that does not connect to surface waters of  
148 the state, except for those created for the purpose of providing  
149 mitigation under this part.

150 ~~(2) The authority of the Northwest Florida Water~~  
151 ~~Management District to implement this part or to implement any~~  
152 ~~authority pursuant to delegation by the department shall not be~~  
153 ~~affected by this section. The rule adoption deadline in s.~~  
154 ~~373.414(9) shall not apply to said district.~~

155 (4)(3) The department and the division of permitting  
156 responsibilities in s. 373.046(4) shall not apply within the  
157 geographical jurisdiction of the Northwest Florida Water  
158 Management District shall enter into an operating agreement  
159 under s. 373.046 to effectively implement this section and  
160 provide the district with the amount of responsibility under the  
161 agreement that resources allow, including, at a minimum, the

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162 responsibility for regulating silviculture and agriculture. The  
163 operating agreement shall encourage local delegation of the  
164 responsibilities under this section pursuant to s. 373.441.

165 (5) The provisions of s. 373.414(11)-(14) shall not apply  
166 to rules adopted under this section.

167 (6) The following activities shall continue to be governed  
168 by the provisions of s. 373.4145, Florida Statutes 1994:

169 (a) The operation and routine custodial maintenance of  
170 activities legally in existence before the effective date of the  
171 rules adopted under subsection (1), as long as the terms and  
172 conditions of the permit, exemption, or other authorization for  
173 such activities continue to be met.

174 (b) The activities approved in a permit issued pursuant to  
175 s. 373.4145, Florida Statutes 1994, and the review of activities  
176 proposed in applications received and completed before the  
177 effective date of the rules adopted under subsection (1), as  
178 applicable. This paragraph shall also apply to any modification  
179 of the plans, terms, and conditions of a permit issued pursuant  
180 to s. 373.4145, Florida Statutes 1994, that lessens the  
181 environmental impact, except that any such modification shall  
182 not extend the time limit for construction beyond 2 additional  
183 years.

184  
185 This subsection shall not apply to any activity that is altered,  
186 modified, expanded, abandoned, or removed after adoption of the  
187 applicable rules under subsection (1).

188 (7) Unless the petitioner elects to apply rule 62-340,  
189 Florida Administrative Code, to all wetlands, the delineation of

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190 the landward extent of wetlands and other surface waters for  
191 petitions filed under s. 373.421(2) prior to the effective date  
192 of the rules adopted under paragraph (1)(b) shall continue to be  
193 determined in accordance with rule 62-312.030(2), Florida  
194 Administrative Code, in effect July 1, 1994, and rules 62-  
195 340.100 through 62-340.600, Florida Administrative Code, as  
196 ratified in s. 373.4211.

197 ~~(4) If the United States Environmental Protection Agency~~  
198 ~~approves an assumption of the federal program to regulate the~~  
199 ~~discharge of dredged or fill material by the department or the~~  
200 ~~water management districts, or both, pursuant to s. 404 of the~~  
201 ~~Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss.~~  
202 ~~1251 et seq.; the United States Army Corps of Engineers issues~~  
203 ~~one or more state programmatic general permits under the~~  
204 ~~referenced statutes; or the United States Environmental~~  
205 ~~Protection Agency or the United States Corps of Engineers~~  
206 ~~approves any other delegation of regulatory authority under the~~  
207 ~~referenced statutes, then the department may implement any~~  
208 ~~permitting authority granted in this part within the Northwest~~  
209 ~~Florida Water Management District which is prescribed as a~~  
210 ~~condition of granting such assumption, general permit, or~~  
211 ~~delegation.~~

212 (8)(5) Within the geographical jurisdiction of the  
213 Northwest Florida Water Management District, the methodology for  
214 determining the landward extent of surface waters of the state  
215 under chapter 403 in effect prior to the effective date of the  
216 methodology ratified in s. 373.4211 shall apply to:



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217 (a) Activities permitted under the rules adopted pursuant  
218 to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes  
219 1983, as amended, or that ~~which~~ were exempted from regulation  
220 under such rules, prior to July 1, 1994, and that ~~which~~ were  
221 permitted under chapter 62-25 ~~17-25~~, Florida Administrative  
222 Code, or exempt from chapter 62-25 ~~17-25~~, Florida Administrative  
223 Code, prior to July 1, 1994, provided:

224 1. An activity authorized by such permits is conducted in  
225 accordance with the plans, terms, and conditions of such  
226 permits.

227 2. An activity exempted from the permitting requirements  
228 of the rules adopted pursuant to ss. 403.91-403.929, 1984  
229 Supplement to the Florida Statutes 1983, as amended, or chapter  
230 62-25 ~~17-25~~, Florida Administrative Code, is:

231 a. Commenced prior to July 1, 1994, and completed by July  
232 1, 1999;

233 b. Conducted in accordance with a plan depicting the  
234 activity that ~~which~~ has been submitted to and approved for  
235 construction by the department, the appropriate local  
236 government, the United States Army Corps of Engineers, or the  
237 Northwest Florida Water Management District; and

238 c. Conducted in accordance with the terms of the  
239 exemption.

240 (b) An activity within the boundaries of a valid  
241 jurisdictional declaratory statement issued pursuant to s.  
242 403.914, 1984 Supplement to the Florida Statutes 1983, as  
243 amended, or the rules adopted thereunder, in response to a  
244 petition received prior to June 1, 1994.

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245 (c) Any modification of a permitted or exempt activity as  
246 described in paragraph (a) that ~~which~~ does not constitute a  
247 substantial modification or that ~~which~~ lessens the environmental  
248 impact of such permitted or exempt activity. For the purposes of  
249 this section, a substantial modification is one that ~~which~~ is  
250 reasonably expected to lead to substantially different  
251 environmental impacts.

252 (d) Applications for activities permitted under the rules  
253 adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the  
254 1983 Florida Statutes, as amended, that ~~which~~ were pending on  
255 June 15, 1994, unless the application elects to have applied the  
256 delineation methodology ratified in s. 373.4211.

257 (9) Subsections (2) and (8) are repealed on the effective  
258 date of the rules adopted under subsection (1).

259 (10) If the Legislature in any given fiscal year fails to  
260 fund and staff the environmental resource permitting program  
261 established under this section, the environmental resource  
262 permitting program shall be suspended for that fiscal year and  
263 the rules and statutes governing development activity in the  
264 district shall revert to those in effect on April 1, 2006, until  
265 such time as funding and staffing levels are restored consistent  
266 with this section.

267 ~~(6) Subsections (1), (2), (3), and (4) shall be repealed~~  
268 ~~effective July 1, 2006.~~

269 Section 2. On or before October 1, 2006, the Department of  
270 Environmental Protection shall enter into negotiations with any  
271 local government within the Northwest Florida Water Management  
272 District that requests to be delegated the responsibilities

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273 | under this act pursuant to s. 373.441, Florida Statutes, in  
274 | order to minimize duplicative permitting programs and increase  
275 | governmental efficiency while maintaining environmental  
276 | standards. The department shall report to the President of the  
277 | Senate and the Speaker of the House of Representatives by March  
278 | 1, 2007, regarding progress made in the negotiation of  
279 | environmental permitting with any local government and  
280 | delegation of responsibilities thereto in accordance with this  
281 | section.

282 |       Section 3. The sum of \$2,740,000 is appropriated from the  
283 | General Revenue Fund to the Department of Environmental  
284 | Protection for the 2006-2007 fiscal year for the operational  
285 | expenditures of the Northwest Florida Water Management District  
286 | pursuant to s. 373.4145, Florida Statutes, as amended by this  
287 | act.

288 |       Section 4. Section 4 of chapter 2005-273, Laws of Florida,  
289 | and section 32 of chapter 2005-71, Laws of Florida, are  
290 | repealed.

291 |       Section 5. This act shall take effect July 1, 2006.