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LEGISLATIVE ACTION

Senate	.	House
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Senator Constantine moved the following:

Senate Amendment (with title amendment)

Delete lines 1376 - 1738

and insert:

Section 21. Section 373.486, Florida Statutes, is created to read:

373.486 Registered Professional Certification.-

(1) A permit applicant for a qualifying stormwater treatment system may submit a certification by a registered professional engineer that the plans and calculations signed and sealed by that engineer meet one or more identified permitting criteria applicable to the system. A qualifying stormwater treatment system shall be a system not located in wetlands or



955866

14 other surface waters serving a project, which is not part of a
15 larger common plan of development, with no more than ten acres
16 total land area and with less than two acres impervious surface.
17 It shall be rebuttably presumed that this certification provides
18 reasonable assurance of compliance with the specific rule
19 criteria identified in the certification, once the application
20 is determined complete by the department or water management
21 district.

22 (2) The term "registered professional engineer" as used in
23 this section shall mean a professional engineer licensed under
24 chapter 471, with the skills, background, knowledge, education
25 and experience to design stormwater treatment systems.

26 (3) If the applicant or a third party challenges the
27 department's or water management district's notice of intended
28 agency action under s. 120.569 or s. 403.412(5), the agency or
29 third party shall have the burden of proof, by a preponderance
30 of the evidence, to establish that the applicant has failed to
31 provide reasonable assurance of compliance with the permitting
32 criteria certified.

33 (4) This section shall not apply to any application where
34 the applicant has requested that the department or water
35 management district process the application pursuant to s.
36 373.4141 or other similar provision of law.

37 (5) By January 31, 2012, the Department, in coordination
38 with the water management districts, shall provide a report on
39 the implementation of this section to the Governor, President of
40 the Senate and Speaker of the House. The report shall include an
41 analysis of the frequency of use of engineering certification
42 under this section, improvements to the permitting process



955866

43 achieved, and any recommendations for amendments.

44 (6) This section shall expire on July 1, 2012.

45 Section 22. Subsection (7) of section 403.9325, Florida
46 Statutes, is amended to read:

47 403.9325 Definitions.—For the purposes of ss. 403.9321-
48 403.9333, the term:

49 (7) "Riparian mangrove fringe" means mangroves growing
50 along the shoreline on private property, property owned by a
51 governmental entity, or sovereign submerged land, the depth of
52 which does not exceed 50 feet as measured waterward from the
53 trunk of the most landward mangrove tree in a direction
54 perpendicular to the shoreline to the trunk of the most
55 waterward mangrove tree. Riparian mangrove fringe does not
56 include mangroves on uninhabited islands, or public lands that
57 have been set aside for conservation or preservation, or
58 mangroves on lands that have been set aside as mitigation, if
59 the permit, enforcement instrument, or conservation easement
60 establishing the mitigation area did not include provisions for
61 the trimming of mangroves.

62 Section 23. Subsection (5) of section 403.9329, Florida
63 Statutes, is amended to read:

64 403.9329 Professional mangrove trimmers.—

65 (5) A professional mangrove trimmer status granted under
66 ss. 403.9321-403.9333 or by the department may be revoked by the
67 department for any person who is responsible for any violations
68 of ss. 403.9321-403.9333 or any adopted mangrove rules.

69 Section 24. Subsection (3) is added to section 403.9331,
70 Florida Statutes, to read:

71 403.9331 Applicability; rules and policies.—



955866

72 (3) Pursuant to s. 403.9323(2), the provisions of ss.
73 403.9321-403.9333 do not allow the trimming of mangroves on
74 uninhabited islands that are publicly owned or on lands that are
75 set aside for conservation and preservation or mitigation,
76 except where necessary to protect the public health, safety, and
77 welfare or to enhance public use of, or access to, conservation
78 areas in accordance with approved management plans.

79 Section 25. Subsection (9) is added to section 712.03,
80 Florida Statutes, to read:

81 712.03 Exceptions to marketability.—Such marketable record
82 title shall not affect or extinguish the following rights:

83 (9) Any right, title, or interest held by the Board of
84 Trustees of the Internal Improvement Trust Fund, any water
85 management district created under chapter 373, or the Federal
86 Government.

87 Section 26. Section 712.04, Florida Statutes, is amended to
88 read:

89 712.04 Interests extinguished by marketable record title.—
90 Subject to the matters stated in s. 712.03, a ~~such~~ marketable
91 record title is ~~shall be~~ free and clear of all estates,
92 interests, claims, or charges whatsoever, the existence of which
93 depends upon any act, title transaction, event or omission that
94 occurred before ~~prior to~~ the effective date of the root of
95 title. Except as provided in s. 712.03, all such estates,
96 interests, claims, or charges, however denominated, whether such
97 estates, interests, claims, or charges are or appear to be held
98 or asserted by a person sui juris or under a disability, whether
99 such person is within or without the state, ~~whether such person~~
100 ~~is~~ natural or corporate, or ~~is~~ private or governmental, are



955866

101 hereby declared to be null and void. However, ~~except that~~ this
102 chapter does ~~shall not be deemed to~~ affect any right, title, or
103 interest of the United States, Florida, or any of its officers,
104 boards, commissions, or other agencies reserved in the patent or
105 deed by which the United States, Florida, or any of its agencies
106 parted with title.

107 Section 27. Subsection (14) of section 403.503, Florida
108 Statutes, is amended to read:

109 403.503 Definitions relating to Florida Electrical Power
110 Plant Siting Act.—As used in this act:

111 (14) "Electrical power plant" means, for the purpose of
112 certification, any steam, wind or solar electrical generating
113 facility using any process or fuel, including nuclear materials,
114 except that this term does not include any steam, wind or solar
115 electrical generating facility of less than 75 megawatts in
116 capacity unless the applicant for such a facility elects to
117 apply for certification under this act. This term also includes
118 the site; all associated facilities that will be owned by the
119 applicant that are physically connected to the site; all
120 associated facilities that are indirectly connected to the site
121 by other proposed associated facilities that will be owned by
122 the applicant; and associated transmission lines that will be
123 owned by the applicant which connect the electrical power plant
124 to an existing transmission network or rights-of-way to which
125 the applicant intends to connect. At the applicant's option,
126 this term may include any offsite associated facilities that
127 will not be owned by the applicant; offsite associated
128 facilities that are owned by the applicant but that are not
129 directly connected to the site; any proposed terminal or



955866

130 intermediate substations or substation expansions connected to
131 the associated transmission line; or new transmission lines,
132 upgrades, or improvements of an existing transmission line on
133 any portion of the applicant's electrical transmission system
134 necessary to support the generation injected into the system
135 from the proposed electrical power plant.

136 Section 28. Subsection (1) of section 403.506, Florida
137 Statutes, is amended to read:

138 403.506 Applicability, thresholds, and certification.—

139 (1) The provisions of this act shall apply to any
140 electrical power plant as defined herein, except that the
141 provisions of this act shall not apply to any electrical power
142 plant, including its associated facilities, of less than 75
143 megawatts in gross capacity, or to any electrical power plant of
144 any gross capacity which exclusively uses wind or solar energy
145 as its sole fuel source ~~including its associated facilities~~,
146 unless the applicant has elected to apply for certification of
147 such electrical power plant under this act. The provisions of
148 this act shall not apply to capacity expansions of 75 megawatts
149 or less, in the aggregate, of an existing exothermic reaction
150 cogeneration electrical generating facility that was exempt from
151 this act when it was originally built; however, this exemption
152 shall not apply if the unit uses oil or natural gas for purposes
153 other than unit startup. No construction of any new electrical
154 power plant or expansion in steam generating capacity as
155 measured by an increase in the maximum electrical generator
156 rating of any existing electrical power plant may be undertaken
157 after October 1, 1973, without first obtaining certification in
158 the manner as herein provided, except that this act shall not



955866

159 apply to any such electrical power plant which is presently
160 operating or under construction or which has, upon the effective
161 date of chapter 73-33, Laws of Florida, applied for a permit or
162 certification under requirements in force prior to the effective
163 date of such act.

164 Section 29. Subsection (7) of section 6 of chapter 99-395,
165 Laws of Florida, is amended to read:

166 Section 6. Sewage requirements in Monroe County.—

167 (7) Class V injection wells, as defined by Department of
168 Environmental Protection or Department of Health rule, shall
169 meet the following requirements and shall otherwise comply with
170 Department of Environmental Protection or Department of Health
171 rules, as applicable:

172 (a) If the design capacity of the facility is less than
173 1,000,000 gallons per day, the injection well shall be at least
174 90 feet deep and cased to a minimum depth of 60 feet or to such
175 greater cased depth and total well depth as may be required by
176 Department of Environmental Protection rule.

177 (b) Except as provided in paragraph (c) for backup wells,
178 if the design capacity of the facility is equal to or greater
179 than 1,000,000 gallons per day, the injection well shall be
180 cased to a minimum depth of 2,000 feet or to such greater depth
181 as may be required by Department of Environmental Protection
182 rule.

183 (c) If the injection well is used as a backup to a primary
184 injection well, the following conditions apply:

185 1. The backup well may be used only when the primary
186 injection well is out of service because of equipment failure,
187 power failure, or the need for mechanical integrity testing or



955866

188 repair;

189 2. The backup well may not be used for a total of more than
190 500 hours during any 5-year period, unless specifically
191 authorized in writing by the Department of Environmental
192 Protection;

193 3. The backup well shall be at least 90 feet deep and cased
194 to a minimum depth of 60 feet, or to such greater cased depth
195 and total well depth as may be required by rule of the
196 Department of Environmental Protection; and

197 4. Fluid injected into the backup well shall meet the
198 requirements of subsections (5) and (6).

199 Section 30. Section 403.9335, Florida Statutes, is created
200 to read:

201 403.9335 Coral reef protection.—

202 (1) This section may be cited as the "Florida Coral Reef
203 Protection Act."

204 (2) This act applies to the sovereign submerged lands that
205 contain coral reefs as defined in this act off the coasts of
206 Broward, Martin, Miami-Dade, Monroe, and Palm Beach counties.

207 (3) As used in this section, the term:

208 (a) "Aggravating circumstances" means operating, anchoring,
209 or mooring a vessel in a reckless or wanton manner; under the
210 influence of drugs or alcohol; or otherwise with disregard for
211 boating regulations concerning speed, navigation, or safe
212 operation.

213 (b) "Coral" means species of the phylum *Cnidaria* found in
214 state waters including:

215 1. Class *Anthozoa*, including the subclass *Octocorallia*,
216 commonly known as gorgonians, soft corals, and telestaceans; and



955866

217 2. Orders *Scleractinia*, commonly known as stony corals;
218 *Stolonifera*, including, among others, the organisms commonly
219 known as organ-pipe corals; *Antipatharia*, commonly known as
220 black corals; and *Hydrozoa*, including the family *Millaporidae*
221 and family *Stylasteridae*, commonly known as hydrocoral.
222 (c) "Coral reefs" mean:
223 1. Limestone structures composed wholly or partially of
224 living corals, their skeletal remains, or both, and hosting
225 other coral, associated benthic invertebrates, and plants; or
226 2. Hard-bottom communities, also known as live bottom
227 habitat or colonized pavement, characterized by the presence of
228 coral and associated reef organisms or worm reefs created by the
229 *Phragmatopoma* species.
230 (d) "Damages" means moneys paid by any person or entity,
231 whether voluntarily or as a result of administrative or judicial
232 action, to the state as compensation, restitution, penalty,
233 civil penalty, or mitigation for causing injury to or
234 destruction of coral reefs.
235 (e) "Department" means the Department of Environmental
236 Protection.
237 (f) "Fund" means the Ecosystem Management and Restoration
238 Trust Fund.
239 (g) "Person" means any and all persons, natural or
240 artificial, foreign or domestic, including any individual, firm,
241 partnership, business, corporation, and company and the United
242 States and all political subdivisions, regions, districts,
243 municipalities, and public agencies thereof.
244 (h) "Responsible party" means the owner, operator, manager,
245 or insurer of any vessel.



955866

246 (4) The Legislature finds that coral reefs are valuable
247 natural resources that contribute ecologically, aesthetically,
248 and economically to the state. Therefore, the Legislature
249 declares it is in the best interest of the state to clarify the
250 department's powers and authority to protect coral reefs through
251 timely and efficient recovery of monetary damages resulting from
252 vessel groundings and anchoring-related injuries. It is the
253 intent of the Legislature that the department be recognized as
254 the state's lead trustee for coral reef resources located within
255 waters of the state or on sovereignty submerged lands unless
256 preempted by federal law. This section does not divest other
257 state agencies and political subdivisions of the state of their
258 interests in protecting coral reefs.

259 (5) The responsible party who knows or should know that
260 their vessel has run aground, struck, or otherwise damaged coral
261 reefs must notify the department of such an event within 24
262 hours after its occurrence. Unless otherwise prohibited or
263 restricted by the United States Coast Guard, the responsible
264 party must remove or cause the removal of the grounded or
265 anchored vessel within 72 hours after the initial grounding or
266 anchoring absent extenuating circumstances such as weather, or
267 marine hazards that would prevent safe removal of the vessel.
268 The responsible party must remove or cause the removal of the
269 vessel or its anchor in a manner that avoids further damage to
270 coral reefs and shall consult with the department in
271 accomplishing this task. The responsible party must cooperate
272 with the department to undertake damage assessment and primary
273 restoration of the coral reef in a timely fashion.

274 (6) In any action or suit initiated pursuant to chapter 253



955866

275 on the behalf of the Board of Trustees of the Internal
276 Improvement Trust Fund, or under chapter 373 or this chapter for
277 damage to coral reefs, the department may recover all damages
278 from the responsible party, including, but not limited to:

279 (a) Compensation for the cost of replacing, restoring, or
280 acquiring the equivalent of the coral reef injured and the value
281 of the lost use and services of the coral reef pending its
282 restoration, replacement, or acquisition of the equivalent coral
283 reef, or the value of the coral reef if the coral reef cannot be
284 restored or replaced or if the equivalent cannot be acquired.

285 (b) The cost of damage assessments, including staff time.

286 (c) The cost of activities undertaken by or at the request
287 of the department to minimize or prevent further injury to coral
288 or coral reefs pending restoration, replacement, or acquisition
289 of an equivalent.

290 (d) The reasonable cost of monitoring the injured,
291 restored, or replaced coral reef for at least 10 years. Such
292 monitoring is not required for a single occurrence of damage to
293 a coral reef damage totaling less than or equal to 1 square
294 meter.

295 (e) The cost of enforcement actions undertaken in response
296 to the destruction or loss of or injury to a coral reef,
297 including court costs, attorney's fees, and expert witness fees.

298 (7) The department may use habitat equivalency analysis as
299 the method by which the compensation described in subsection (5)
300 is calculated. The parameters for calculation by this method may
301 be prescribed by rule adopted by the department.

302 (8) In addition to the compensation described in subsection
303 (5), the department may assess, per occurrence, civil penalties



955866

304 according the following schedule:

305 (a) For any anchoring of a vessel on a coral reef or for
306 any other damage to a coral reef totaling less than or equal to
307 an area of 1 square meter, \$150, provided that a responsible
308 party who has anchored a recreational vessel as defined in s.
309 327.02 which is lawfully registered or exempt from registration
310 pursuant to chapter 328 is issued, at least once, a warning
311 letter in lieu of penalty; with aggravating circumstances, an
312 additional \$150; occurring within a state park or aquatic
313 preserve, an additional \$150.

314 (b) For damage totaling more than an area of 1 square meter
315 but less than or equal to an area of 10 square meters, \$300 per
316 square meter; with aggravating circumstances, an additional \$300
317 per square meter; occurring within a state park or aquatic
318 preserve, an additional \$300 per square meter.

319 (c) For damage exceeding an area of 10 square meters,
320 \$1,000 per square meter; with aggravating circumstances, an
321 additional \$1,000 per square meter; occurring within a state
322 park or aquatic preserve, an additional \$1,000 per square meter.

323 (d) For a second violation, the total penalty may be
324 doubled.

325 (e) For a third violation, the total penalty may be
326 tripled.

327 (f) For any violation after a third violation, the total
328 penalty may be quadrupled.

329 (g) The total of penalties levied may not exceed \$250,000
330 per occurrence.

331 (9) To carry out the intent of this section, the department
332 may enter into delegation agreements with another state agency



955866

333 or any coastal county with coral reefs within its jurisdiction.
334 In deciding to execute such agreements, the department must
335 consider the ability of the potential delegee to adequately and
336 competently perform the duties required to fulfill the intent of
337 this section. When such agreements are executed by the parties
338 and incorporated in department rule, the delegee shall have all
339 rights accorded the department by this section. Nothing herein
340 shall be construed to require the department, another state
341 agency, or a coastal county to enter into such an agreement.

342 (10) Nothing in this section shall be construed to prevent
343 the department or other state agencies from entering into
344 agreements with federal authorities related to the
345 administration of the Florida Keys National Marine Sanctuary.

346 (11) All damages recovered by or on behalf of this state
347 for injury to, or destruction of, the coral reefs of the state
348 that would otherwise be deposited in the general revenue
349 accounts of the State Treasury or in the Internal Improvement
350 Trust Fund shall be deposited in the Ecosystem Management and
351 Restoration Trust Fund in the department and shall remain in
352 such account until expended by the department for the purposes
353 of this section. Moneys in the fund received from damages
354 recovered for injury to, or destruction of, coral reefs must be
355 expended only for the following purposes:

356 (a) To provide funds to the department for reasonable costs
357 incurred in obtaining payment of the damages for injury to, or
358 destruction of, coral reefs, including administrative costs and
359 costs of experts and consultants. Such funds may be provided in
360 advance of recovery of damages.

361 (b) To pay for restoration or rehabilitation of the injured



955866

362 or destroyed coral reefs or other natural resources by a state
363 agency or through a contract to any qualified person.

364 (c) To pay for alternative projects selected by the
365 department. Any such project shall be selected on the basis of
366 its anticipated benefits to the residents of this state who used
367 the injured or destroyed coral reefs or other natural resources
368 or will benefit from the alternative project.

369 (d) All claims for trust fund reimbursements under
370 paragraph (a) must be made within 90 days after payment of
371 damages is made to the state.

372 (e) Each private recipient of fund disbursements shall be
373 required to agree in advance that its accounts and records of
374 expenditures of such moneys are subject to audit at any time by
375 appropriate state officials and to submit a final written report
376 describing such expenditures within 90 days after the funds have
377 been expended.

378 (f) When payments are made to a state agency from the fund
379 for expenses compensable under this subsection, such
380 expenditures shall be considered as being for extraordinary
381 expenses, and no agency appropriation shall be reduced by any
382 amount as a result of such reimbursement.

383 (12) The department may adopt rules pursuant to ss. 120.536
384 and 120.54 to administer this section.

385 Section 31. Paragraph (b) of subsection (2) of section
386 403.1651, Florida Statutes, is amended to read:

387 403.1651 Ecosystem Management and Restoration Trust Fund.—

388 (2) The trust fund shall be used for the deposit of all
389 moneys recovered by the state:

390 (b) For injury to or destruction of coral reefs, which



955866

391 moneys would otherwise be deposited into the General Revenue
392 Fund or the Internal Improvement Trust Fund. The department may
393 enter into settlement agreements that require responsible
394 parties to pay a third party to fund projects related to the
395 restoration of a coral reef, to accomplish mitigation for injury
396 to a coral reef, or to support the activities of law enforcement
397 agencies related to coral reef injury response, investigation
398 and assessment. Participation of a law enforcement agency in the
399 receipt of funds through this mechanism shall be at the law
400 enforcement agency's discretion.

401 Section 32. Subsection (3) of section 253.04, Florida
402 Statutes, is repealed.

403 Section 33. Section 380.0558, Florida Statutes, is
404 repealed.

405 Section 34. Section 23 of chapter 2008-150, Laws of
406 Florida, is repealed.

407 Section 35. Subsection (6) of section 369.317, Florida
408 Statutes, is amended to read:

409 369.317 Wekiva Parkway.—

410 (6) The Orlando-Orange County Expressway Authority is
411 hereby granted the authority to act as a third-party acquisition
412 agent, pursuant to s. 259.041 on behalf of the Board of Trustees
413 or chapter 373 on behalf of the governing board of the St. Johns
414 River Water Management District, for the acquisition of all
415 necessary lands, property and all interests in property
416 identified herein, including fee simple or less-than-fee simple
417 interests. The lands subject to this authority are identified in
418 paragraph 10.a., State of Florida, Office of the Governor,
419 Executive Order 03-112 of July 1, 2003, and in Recommendation 16



955866

420 of the Wekiva Basin Area Task Force created by Executive Order
421 2002-259, such lands otherwise known as Neighborhood Lakes, a
422 1,587+/- acre parcel located in Orange and Lake Counties within
423 Sections 27, 28, 33, and 34 of Township 19 South, Range 28 East,
424 and Sections 3, 4, 5, and 9 of Township 20 South, Range 28 East;
425 Seminole Woods/Swamp, a 5,353+/- acre parcel located in Lake
426 County within Section 37, Township 19 South, Range 28 East; New
427 Garden Coal; a 1,605+/- acre parcel in Lake County within
428 Sections 23, 25, 26, 35, and 36, Township 19 South, Range 28
429 East; Pine Plantation, a 617+/- acre tract consisting of eight
430 individual parcels within the Apopka City limits. The Department
431 of Transportation, the Department of Environmental Protection,
432 the St. Johns River Water Management District, and other land
433 acquisition entities shall participate and cooperate in
434 providing information and support to the third-party acquisition
435 agent. The land acquisition process authorized by this paragraph
436 shall begin no later than December 31, 2004. Acquisition of the
437 properties identified as Neighborhood Lakes, Pine Plantation,
438 and New Garden Coal, or approval as a mitigation bank shall be
439 concluded no later than December 31, 2010. Department of
440 Transportation and Orlando-Orange County Expressway Authority
441 funds expended to purchase an interest in those lands identified
442 in this subsection shall be eligible as environmental mitigation
443 for road construction related impacts in the Wekiva Study Area.
444 If any of the lands identified in this subsection are used as
445 environmental mitigation for road construction related impacts
446 incurred by the Department of Transportation or Orlando-Orange
447 County Expressway Authority, or for other impacts incurred by
448 other entities, within the Wekiva Study Area or within the



955866

449 Wekiva parkway alignment corridor, and if the mitigation offsets
450 these impacts, then the St. Johns River Water Management
451 District and the Department of Environmental Protection shall
452 consider the activity regulated under part IV of chapter 373 to
453 meet the cumulative impact requirements of s. 373.414(8)(a).

454 Section 36. Subsection (28) of section 403.061, Florida
455 Statutes, is created to read:

456 (28) Notwithstanding the rules established in s.
457 403.061(27), it is the Legislature's intent that all groundwater
458 discharges onto the surface of the earth that would be
459 classified as first or second magnitude, pursuant to the
460 classification provided in Bulletin No. 66, Version 1.1, dated
461 October 12, 2004, published for the Florida Geological Survey,
462 and any flowing bodies of water whose primary source of water is
463 from such discharges under average rainfall conditions are
464 hereby designated as Outstanding Florida Waters.

465 Section 37. Paragraph (d) of subsection (3) of Section
466 403.067, Florida Statutes, is created to read:

467 (d) Notwithstanding the assessment and listing requirements
468 of this subsection, the Legislature declares all discharges onto
469 the surface of the earth that would be classified as a first or
470 second magnitude, pursuant to the classification provided in
471 Bulletin No. 66, Version 1.1, dated October 12, 2004, and
472 published for the Florida Geological Survey, with a mean nitrate
473 concentration exceeding 0.5 milligrams per liter as measured at
474 the point at which groundwater discharges onto the surface of
475 the earth, are deemed impaired and the department must develop
476 total maximum daily loads for them.

477 Section 38. Section 403.9335, Florida Statutes, is created



955866

478 to read:

479 403.9335 Protection of urban and residential environments
480 and water.—

481 (1) The Legislature finds that the implementation of the
482 department's Model Ordinance for Florida-Friendly Fertilizer Use
483 on Urban Landscapes located in the Florida-Friendly Landscape
484 Guidance Models for Ordinances, Covenants, and Restrictions
485 (2009) manual, which was developed consistent with the
486 recommendations of the Florida Consumer Fertilizer Task Force,
487 in concert with the provisions of the Labeling Requirements for
488 Urban Turf Fertilizers found in chapter 5E-1 Florida
489 Administrative Code, will assist in protecting the quality of
490 Florida's surface water and groundwater resources. The
491 Legislature further finds that local circumstances, including
492 the varying types and conditions of water bodies, site-specific
493 soils and geology, and urban or rural densities and
494 characteristics, necessitates that additional or more stringent
495 fertilizer-management practices may be needed at the local
496 government level.

497 (2) All county and municipal governments are encouraged to
498 adopt and enforce the provisions in the department's Model
499 Ordinance for Florida-Friendly Fertilizer Use on Urban
500 Landscapes as a mechanism for better protecting local surface
501 water and groundwater quality.

502 (3) Each county and municipal government located within the
503 watershed of a water body or water segment that is listed by the
504 department as impaired by nutrients pursuant to s. 403.067,
505 shall adopt, at a minimum, the provisions of the department's
506 Model Ordinance for Florida-Friendly Fertilizer Use on Urban



955866

507 Landscapes. A county or municipal government may adopt
508 additional or more stringent provisions than the model ordinance
509 if the following criteria are met:

510 (a) The county or municipal government has demonstrated, as
511 part of a comprehensive program to address nonpoint sources of
512 nutrient pollution which is science-based, economically and
513 technically feasible, that additional or more stringent
514 provisions to the model ordinance are necessary to adequately
515 address urban fertilizer contributions to nonpoint source
516 nutrient loading to a water body.

517 (b) The county or municipal government documents
518 consideration of all relevant scientific information including
519 input from the department, the Department of Agriculture and
520 Consumer Services and the University of Florida Institute of
521 Food and Agricultural Sciences, if provided, on the need for
522 additional or more stringent provisions to address fertilizer
523 use as a contributor to water quality degradation. All
524 documentation shall be made part of the public record prior to
525 adoption of the additional or more stringent criteria.

526 (4) Any county or municipal government that has adopted its
527 own fertilizer use ordinance before January 1, 2009 is exempt
528 from the provisions of this section. Ordinances adopted or
529 amended after January 1, 2009 shall adopt the provisions in the
530 most recent version of the model fertilizer ordinance and shall
531 be subject to the criteria described in subsections (1) and (2)
532 above.

533 (5) Nothing herein shall be construed to regulate the use
534 of fertilizer on farm operations as defined in s. 823.14 or on
535 lands classified as agricultural lands pursuant to s. 193.461.



955866

536 (6) The Legislature finds the provisions of this section
537 fulfill an important state interest.

538 Section 39. Section 403.9337, Florida Statutes, is created
539 to read:

540 403.9337 Urban turf fertilizers.-

541 (1) As used in this section, the term:

542 (a) "No-phosphate fertilizer" or "no-phosphorus fertilizer"
543 means fertilizer that contains less than 0.5 percent phosphate
544 by weight.

545 (b) "Urban turf" means noncropland planted, mowed, and
546 managed grasses, including, but not limited to, residential
547 lawns; turf on commercial property; filter strips; and turf on
548 property owned by federal, state, or local governments and other
549 public lands, including roadways, roadsides, parks, campsites,
550 recreation areas, school grounds, and other public grounds. The
551 term does not include pastures, hay production and grazing land,
552 turf grown on sod farms, or any other form of agricultural
553 production; golf courses or sports turf fields; or garden
554 fruits, flowers, or vegetables.

555 (c) "Soil test" means a test performed on soil planted or
556 sodded, or that will be planted or sodded, by a laboratory
557 approved by the Department of Agriculture and Consumer Services
558 and performed within the last 2 years to indicate if the level
559 of available phosphorus in the soil is sufficient to support
560 healthy turf growth.

561 (d) "Tissue test" means a test performed on plant tissue
562 growing in the soil planted or sodded, or that will be planted
563 or sodded, by a laboratory approved by the Department of
564 Agriculture and Consumer Services and performed within the last



955866

565 2 years to indicate if the level of available phosphorus in the
566 soil is sufficient to support healthy turf.

567 (2) Other than no-phosphate and no-phosphorus fertilizers,
568 fertilizer containing phosphorus may not be applied to urban
569 turf anywhere in this state on or after July 1, 2011, unless a
570 soil or tissue test that is conducted pursuant to a method
571 approved by the Department of Agriculture and Consumer Services
572 indicates:

573 (a) For turf that is being initially established by seed or
574 sod, the level of available phosphorus is insufficient to
575 establish new turf growth and a root system. However, during the
576 first year, a one-time application only of up to 1 pound of
577 phosphate per 1,000 square feet of area may be applied.

578 (b) For established turf, the level of available phosphorus
579 is insufficient to support healthy turf growth. However, no more
580 than 0.25 pound of phosphate per 1,000 square feet of area per
581 each application may be applied, not to exceed 0.5 pound of
582 phosphate per 1,000 square feet of area per year.

583 Section 40. Effective July 1, 2010, all of the powers,
584 duties, functions, records, personnel, and property; unexpended
585 balances of appropriations, allocations, and other funds;
586 administrative authority; administrative rules; pending issues;
587 and existing contracts of the Bureau of Onsite Sewage Programs
588 in the Department of Health, as authorized and governed by ss.
589 20.43, 20.435, 153.73, 153.54, 163.3180, 180.03, 381.006,
590 381.0061, 381.0064-381.0068, and 489.551-558, are transferred by
591 a type II transfer, pursuant to s. 20.06(2), to the Florida
592 Department of Environmental Protection. In addition all existing
593 powers, duties, functions, records, personnel, and property;



955866

594 unexpended balances of appropriations, allocations, and other
595 funds; administrative authority; administrative rules; pending
596 issues; and existing contracts associated with county health
597 departments' onsite sewage programs are transferred to the
598 Department of Environmental Protection. The Department of
599 Environmental Protection in cooperation with the Department of
600 Health must develop a plan to implement the type II transfer and
601 deliver the proposal to the Governor, the President of the
602 Senate and the Speaker of the House of Representatives by
603 January 15, 2010.

604 Section 41. (1) A task force is established to develop
605 legislative recommendations relating to stormwater management
606 system design in the state. The task force shall:

607 (a) Review the Joint Professional Engineers and Landscape
608 Architecture Committee Report conducted pursuant to s. 17,
609 chapter 88-347, Laws of Florida, and determine the current
610 validity of the report and the need to revise any of the
611 conclusions or recommendations.

612 (b) Determine how a licensed and registered professional
613 might demonstrate competency for stormwater management system
614 design.

615 (c) Determine how the Board of Professional Engineers and
616 the Board of Landscape Architecture might administer
617 certification tests or continuing education requirements for
618 stormwater management system design.

619 (d) Provide recommendations for grandfathering the rights
620 of licensed professionals who currently practice stormwater
621 management design in a manner that will allow them to continue
622 to practice without meeting any new requirements the task force



955866

623 recommends be placed on licensed professionals in the future.

624 (2) (a) The Board of Landscape Architecture, the Board of
625 Professional Engineers, the Florida Engineering Society, the
626 Florida Chapter of the American Society of Landscape Architects,
627 the Secretary of Environmental Protection, and the Secretary of
628 Transportation shall each appoint one member to the task force.

629 (b) Members of the task force may not be reimbursed for
630 travel, per diem, or any other costs associated with serving on
631 the task force.

632 (c) The task force shall meet a minimum of four times
633 either in person or via teleconference; however, a minimum of
634 two meetings shall be public hearings with testimony.

635 (d) The task force shall expire on November 1, 2009.

636 (3) The task force shall provide its findings and
637 legislative recommendations to the President of the Senate and
638 the Speaker of the House of Representatives by November 1, 2009.

639 Section 42. Except as otherwise expressly provided in this
640 act, this act shall take effect July 1, 2009.

641
642

643 ===== T I T L E A M E N D M E N T =====

644 And the title is amended as follows:

645 Delete lines 164 - 165

646 and insert:

647 power plants using wind or solar energy; creating 373.486,
648 F.S.; providing definitions; defining a registered professional
649 engineer; amending s. 369.317, F.S.; clarifying mitigation
650 requirements for the Wekiva Study Area; amending s. 403.061,
651 F.S.; designating Outstanding Florida Waters; amending s.



955866

652 403.067, F.S.; providing additional assessment criteria for
653 impaired waters; amending s. 403.9335, F.S.; providing
654 protection of urban and residential environments and water;
655 amending s. 403.9337, F.S.; providing definitions; providing for
656 a type II transfer of the Bureau of Onsite Sewage Programs from
657 the Department of Health to the Department of Environmental
658 Protection; establishing a stormwater management task force;
659 providing effective dates.

660