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Proposed Committee Substitute by the Committee on Community
Affairs

1 A bill to be entitled
2 An act relating to regulatory reform; creating s.
3 282.801, F.S.; providing legislative findings and
4 intent; requiring the Office of Tourism, Trade, and
5 Economic Development in the Executive Office of the
6 Governor to design and construct the E-SHOP FLORIDA
7 Internet website; requiring specified state agencies
8 and water management districts to appoint
9 representatives to participate in the development of
10 the policies, procedures, and standards for permitting
11 and licensing; providing requirements for the website;
12 providing definitions; requiring the website to
13 provide access to permits, licenses, and approvals
14 issued by specified state agencies and water
15 management districts; requiring each state agency that
16 issues permits, licenses, or approvals to develop a
17 protocol to allow participation in the E-SHOP FLORIDA
18 system; directing certain state agencies to develop
19 online licensing and permitting if feasible;
20 authorizing such agencies to competitively procure and
21 contract for necessary services; providing
22 application-review requirements for applications
23 submitted through the E-SHOP FLORIDA system; requiring
24 each state agency and water management district that
25 participates in the E-SHOP FLORIDA system to maintain
26 certain records; requiring a report to the
27 Legislature; authorizing a reduction in permit fees



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28 under certain conditions; amending ss. 373.036,
29 373.4135, and 373.4136, F.S.; conforming cross-
30 references; amending s. 373.414, F.S.; providing that
31 a permit application that is signed by certain
32 registered professionals is presumed to be in
33 compliance with permitting requirements; providing the
34 burden of proof that is required in proving
35 noncompliance; authorizing the Department of
36 Environmental Protection or the water management
37 district to forward a complaint against a registered
38 professional to the regulatory board; prohibiting a
39 registered professional who is sanctioned from
40 preparing and signing permit applications; repealing
41 s. 288.109, F.S., relating to the One-Stop Permitting
42 System; providing an effective date.

43

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

45

46 Section 1. Section 282.801, Florida Statutes, is created to
47 read:

48 282.801 E-Shop Florida.-

49 (1) LEGISLATIVE FINDINGS AND INTENT.-It is the
50 Legislature's intent that this section establish a user-
51 friendly, consolidated, statewide system that allows individuals
52 and businesses to commence, develop, or expand business
53 activities that contribute to the betterment of a market economy
54 in this state. The Legislature further intends that this system
55 simplify licensing and permitting by providing a central point
56 of collection for data and fees so that individuals and



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57 businesses can comply with state government requirements in one
58 easy process. The Legislature finds that the development of an
59 Internet website to be designated E-SHOP FLORIDA supports this
60 objective. The E-SHOP FLORIDA Internet website shall be designed
61 to foster the creation and maintenance of compact and responsive
62 state licensing and permitting systems that allow individuals,
63 as well as new and existing businesses, to efficiently obtain
64 state government approvals without duplication of effort,
65 multiple applications, redundant reviews, protracted delays, or
66 unnecessary expense.

67 (2) REQUEST FOR PROPOSALS.-

68 (a) By October 1, 2010, the Office of Tourism, Trade, and
69 Economic Development in the Executive Office of the Governor
70 shall issue a request for proposals for the development of the
71 E-SHOP FLORIDA Internet website. The site shall provide
72 individuals and businesses with information relating to permits,
73 licenses, and approvals, including, but not limited to, guidance
74 on the types of permits, licenses, or approvals required by a
75 state agency or a water management district, and points of
76 contact concerning particular types of permits, licenses, or
77 approvals. The Office of Tourism, Trade, and Economic
78 Development shall design and construct the Internet site and may
79 competitively procure and contract for services to develop the
80 site.

81 (b) Each state agency and water management district
82 designated in subsection (5) shall appoint representatives who
83 are authorized to commit resources and speak on behalf of the
84 agency or the district as participants in the development of
85 statewide policies, procedures, and standards for permitting and



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86 licensing activities.

87 (3) INTERNET SITE REQUIREMENTS.—

88 (a) The Office of Tourism, Trade, and Economic Development
89 shall develop the E-SHOP FLORIDA Internet site to be capable of
90 allowing an applicant for a permit, license, or approval issued
91 by a state agency or water management district listed in
92 subsection (5) to complete and submit a common application to
93 the agency and water management district. The Internet site must
94 also be capable of allowing an applicant to submit payment for
95 the required permit, license, or approval to the appropriate
96 agency or water management district, and must provide payment
97 options. The office may competitively procure and contract for
98 the services required to implement the capabilities in as timely
99 a manner as possible.

100 (b) The E-SHOP FLORIDA website must be searchable by
101 activity, state agency name, water management district name, or
102 keyword. Permits, licenses, and approvals by regulated activity
103 shall be listed alphabetically, and each alphabetical listing
104 shall provide a link to a site that provides the permitting
105 agency or district name, the activities that are regulated, the
106 statutes governing the activities, agency or district rules,
107 contact information of the agency or district, a list of forms
108 required, fee information, and the period of issuance of the
109 permit, license, or approval.

110 (4) DEFINITION.—As used in this section, the term “permit”
111 or “license” means any state permit, license, or approval
112 necessary for the physical location or expansion of a business
113 including, but not limited to:

114 (a) Wetland or environmental resource permits;



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- 115 (b) Surface water management and improvement permits;
116 (c) Stormwater management permits or stormwater system
117 construction and operation permits;
118 (d) Transportation concurrency approvals;
119 (e) Consumptive use permits;
120 (f) Wastewater treatment permits or wastewater facility
121 construction, operation, and management permits;
122 (g) Dock permits;
123 (h) Professional licenses;
124 (i) Business licenses; and
125 (j) Taxpayer identification numbers.
126 (5) ACCESS TO E-SHOP FLORIDA.—
127 (a) By July 1, 2010, the E-SHOP FLORIDA website must
128 provide access to permits, licenses, and approvals issued by the
129 following state agencies and water management districts:
130 1. Department of Environmental Protection, including
131 district regulatory offices;
132 2. Department of Community Affairs;
133 3. Department of Transportation, including district
134 offices;
135 4. Department of Business and Professional Regulation;
136 5. Department of Revenue;
137 6. Northwest Florida Water Management District;
138 7. St. Johns River Water Management District;
139 8. Southwest Florida Water Management District;
140 9. Suwannee River Water Management District; and
141 10. South Florida Water Management District.
142 (b) By July 1, 2011, each state agency that issues permits,
143 licenses, or approvals shall develop a protocol to allow



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144 participation in the E-SHOP FLORIDA system.

145 (6) ONLINE PERMITTING SYSTEMS.—To the extent feasible, each
146 state agency that does not have online licensing or permitting
147 shall develop and implement an online permitting system that
148 will integrate with the E-SHOP FLORIDA system. Such agencies may
149 competitively procure and contract for the services necessary to
150 develop an online permitting system capable of integrating with
151 the E-SHOP FLORIDA system.

152 (7) APPLICATION REVIEW.—The provisions of s. 120.60(1)
153 apply to an application for a permit, license, or approval made
154 through the E-SHOP FLORIDA system, except that:

155 (a) The approval period for a state agency to approve or
156 deny a completed application shall be 60 days after the date of
157 receipt of a completed application.

158 (b)1. For permits or licenses issued by a water management
159 district, a completed application that does not require approval
160 by the district governing board must be approved or denied
161 within 60 days after receipt of the completed application.

162 2. Applications that must be approved or denied by the
163 district governing board shall be approved or denied at the next
164 regularly scheduled meeting of the governing board within 60
165 days after receipt of the completed application.

166 (c) The period for approval or denial of a completed
167 application for a permit issued under a federal delegation of
168 authority or a federally approved permitting program may extend
169 beyond 60 days. However, the agency or district having delegated
170 authority or approval to issue a permit under federal authority
171 shall make a good faith effort to approve or deny a completed
172 application within 60 days after receipt.



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173 (8) MAINTAINING RECORDS.—Each state agency or water
174 management district required to participate in the E-SHOP
175 FLORIDA system shall maintain a record of the time required for
176 each agency or district to process each application filed under
177 the system. The records must be compiled into a report to be
178 submitted to the President of the Senate and the Speaker of the
179 House of Representatives by January 15 of each year beginning in
180 2011.

181 (9) REDUCTION IN FEES.—A state agency or a water management
182 district required to participate in the E-SHOP FLORIDA system
183 may reduce a permit fee by 25 percent for applicants that submit
184 an application over the Internet which does not require the
185 agency or the district to request additional information from
186 the applicant.

187 Section 2. Paragraph (b) of subsection (7) of section
188 373.036, Florida Statutes, is amended to read:

189 373.036 Florida water plan; district water management
190 plans.—

191 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.—

192 (b) The consolidated annual report shall contain the
193 following elements, as appropriate to that water management
194 district:

195 1. A district water management plan annual report or the
196 annual work plan report allowed in subparagraph (2)(e)4.

197 2. The department-approved minimum flows and levels annual
198 priority list and schedule required by s. 373.042(2).

199 3. The annual 5-year capital improvements plan required by
200 s. 373.536(6)(a)3.

201 4. The alternative water supplies annual report required by



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202 s. 373.1961(3)(n).

203 5. The final annual 5-year water resource development work
204 program required by s. 373.536(6)(a)4.

205 6. The Florida Forever Water Management District Work Plan
206 annual report required by s. 373.199(7).

207 7. The mitigation donation annual report required by s.
208 373.414(1)(c)2. ~~s. 373.414(1)(b)2.~~

209 Section 3. Paragraph (e) of subsection (6) and subsection
210 (7) of section 373.4135, Florida Statutes, are amended to read:

211 373.4135 Mitigation banks and offsite regional mitigation.-

212 (6) An environmental creation, preservation, enhancement,
213 or restoration project, including regional offsite mitigation
214 areas, for which money is donated or paid as mitigation, that is
215 sponsored by the department, a water management district, or a
216 local government and provides mitigation for five or more
217 applicants for permits under this part, or for 35 or more acres
218 of adverse impacts, shall be established and operated under a
219 memorandum of agreement. The memorandum of agreement shall be
220 between the governmental entity proposing the mitigation project
221 and the department or water management district, as appropriate.
222 Such memorandum of agreement need not be adopted by rule. For
223 the purposes of this subsection, one creation, preservation,
224 enhancement, or restoration project shall mean one or more
225 parcels of land with similar ecological communities that are
226 intended to be created, preserved, enhanced, or restored under a
227 common scheme.

228 (e) Projects governed by this subsection, except for
229 projects established pursuant to subsection (7), shall be
230 subject to the provisions of s. 373.414(1)(c)1. ~~s.~~



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231 ~~373.414(1)(b)1.~~

232 (7) The department, water management districts, and local
233 governments may elect to establish and manage mitigation sites,
234 including regional offsite mitigation areas, or contract with
235 permitted mitigation banks, to provide mitigation options for
236 private single-family lots or homeowners. The department, water
237 management districts, and local governments shall provide a
238 written notice of their election under this subsection by United
239 States mail to those individuals who have requested, in writing,
240 to receive such notice. The use of mitigation options
241 established under this subsection are not subject to the full-
242 cost-accounting provision of s. 373.414(1)(c)1. ~~s.~~

243 ~~373.414(1)(b)1.~~ To use a mitigation option established under
244 this subsection, the applicant for a permit under this part must
245 be a private, single-family lot or homeowner, and the land upon
246 which the adverse impact is located must be intended for use as
247 a single-family residence by the current owner. The applicant
248 must not be a corporation, partnership, or other business
249 entity. However, the provisions of this subsection shall not
250 apply to other entities that establish offsite regional
251 mitigation as defined in this section and s. 373.403.

252 Section 4. Paragraph (d) of subsection (6) of section
253 373.4136, Florida Statutes, is amended to read:

254 373.4136 Establishment and operation of mitigation banks.-

255 (6) MITIGATION SERVICE AREA.-The department or water
256 management district shall establish a mitigation service area
257 for each mitigation bank permit. The department or water
258 management district shall notify and consider comments received
259 on the proposed mitigation service area from each local



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260 government within the proposed mitigation service area. Except
261 as provided herein, mitigation credits may be withdrawn and used
262 only to offset adverse impacts in the mitigation service area.
263 The boundaries of the mitigation service area shall depend upon
264 the geographic area where the mitigation bank could reasonably
265 be expected to offset adverse impacts. Mitigation service areas
266 may overlap, and mitigation service areas for two or more
267 mitigation banks may be approved for a regional watershed.

268 (d) If the requirements in s. 373.414(1)(c) ~~s.~~
269 ~~373.414(1)(b)~~ and (8) are met, the following projects or
270 activities regulated under this part shall be eligible to use a
271 mitigation bank, regardless of whether they are located within
272 the mitigation service area:

273 1. Projects with adverse impacts partially located within
274 the mitigation service area.

275 2. Linear projects, such as roadways, transmission lines,
276 distribution lines, pipelines, or railways.

277 3. Projects with total adverse impacts of less than 1 acre
278 in size.

279 Section 5. Subsection (1) of section 373.414, Florida
280 Statutes, is amended to read:

281 373.414 Additional criteria for activities in surface
282 waters and wetlands.—

283 (1) As part of an applicant's demonstration that an
284 activity regulated under this part will not be harmful to the
285 water resources or will not be inconsistent with the overall
286 objectives of the district, the governing board or the
287 department shall require the applicant to provide reasonable
288 assurance that state water quality standards applicable to



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289 waters as defined in s. 403.031(13) will not be violated and
290 reasonable assurance that such activity in, on, or over surface
291 waters or wetlands, as delineated in s. 373.421(1), is not
292 contrary to the public interest. However, if such an activity
293 significantly degrades or is within an Outstanding Florida
294 Water, as provided by department rule, the applicant must
295 provide reasonable assurance that the proposed activity will be
296 clearly in the public interest.

297 (a) In determining whether an activity, which is in, on, or
298 over surface waters or wetlands, as delineated in s. 373.421(1),
299 and is regulated under this part, is not contrary to the public
300 interest or is clearly in the public interest, the governing
301 board or the department shall consider and balance the following
302 criteria:

303 1. Whether the activity will adversely affect the public
304 health, safety, or welfare or the property of others;

305 2. Whether the activity will adversely affect the
306 conservation of fish and wildlife, including endangered or
307 threatened species, or their habitats;

308 3. Whether the activity will adversely affect navigation or
309 the flow of water or cause harmful erosion or shoaling;

310 4. Whether the activity will adversely affect the fishing
311 or recreational values or marine productivity in the vicinity of
312 the activity;

313 5. Whether the activity will be of a temporary or permanent
314 nature;

315 6. Whether the activity will adversely affect or will
316 enhance significant historical and archaeological resources
317 under the provisions of s. 267.061; and



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318 7. The current condition and relative value of functions
319 being performed by areas affected by the proposed activity.

320 (b)1. A permit application prepared and signed by a
321 professional engineer licensed under chapter 471, a professional
322 landscape architect licensed under chapter 481, a professional
323 surveyor and mapper licensed under chapter 472, or a
324 professional geologist licensed under chapter 492, which is
325 determined to be completed by the governing board or the
326 department, is presumed to be in compliance with the provisions
327 of this section. If the governing board or the department denies
328 such application or if such application is challenged by a third
329 party, the governing board, the department, or the challenging
330 party bears the burden of proving noncompliance by a
331 preponderance of the evidence.

332 2. The department or a water management district may
333 forward to the appropriate professional regulatory board or the
334 Department of Business and Professional Regulation a complaint
335 against the registered professional specified in subparagraph 1.
336 if the department or district finds that a review under s.
337 455.227 is warranted. If the professional regulatory board or
338 the Department of Business and Professional Regulation sanctions
339 the registered professional pursuant to the complaint, the
340 registered professional is prohibited from preparing and signing
341 permit applications under this section. A registered
342 professional who is sanctioned three times by a professional
343 regulatory board or the Department of Business and Professional
344 Regulation, or both, is permanently prohibited from preparing
345 and signing permit applications under this section.

346 (c) ~~(b)~~ If the applicant is unable to otherwise meet the



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347 criteria set forth in this subsection, the governing board or
348 the department, in deciding to grant or deny a permit, shall
349 consider measures proposed by or acceptable to the applicant to
350 mitigate adverse effects that may be caused by the regulated
351 activity. Such measures may include, but are not limited to,
352 onsite mitigation, offsite mitigation, offsite regional
353 mitigation, and the purchase of mitigation credits from
354 mitigation banks permitted under s. 373.4136. It shall be the
355 responsibility of the applicant to choose the form of
356 mitigation. The mitigation must offset the adverse effects
357 caused by the regulated activity.

358 1. The department or water management districts may accept
359 the donation of money as mitigation only where the donation is
360 specified for use in a duly noticed environmental creation,
361 preservation, enhancement, or restoration project, endorsed by
362 the department or the governing board of the water management
363 district, which offsets the impacts of the activity permitted
364 under this part. However, the provisions of this subsection
365 shall not apply to projects undertaken pursuant to s. 373.4137
366 or chapter 378. Where a permit is required under this part to
367 implement any project endorsed by the department or a water
368 management district, all necessary permits must have been issued
369 prior to the acceptance of any cash donation. After the
370 effective date of this act, when money is donated to either the
371 department or a water management district to offset impacts
372 authorized by a permit under this part, the department or the
373 water management district shall accept only a donation that
374 represents the full cost to the department or water management
375 district of undertaking the project that is intended to mitigate



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376 the adverse impacts. The full cost shall include all direct and
377 indirect costs, as applicable, such as those for land
378 acquisition, land restoration or enhancement, perpetual land
379 management, and general overhead consisting of costs such as
380 staff time, building, and vehicles. The department or the water
381 management district may use a multiplier or percentage to add to
382 other direct or indirect costs to estimate general overhead.
383 Mitigation credit for such a donation shall be given only to the
384 extent that the donation covers the full cost to the agency of
385 undertaking the project that is intended to mitigate the adverse
386 impacts. However, nothing herein shall be construed to prevent
387 the department or a water management district from accepting a
388 donation representing a portion of a larger project, provided
389 that the donation covers the full cost of that portion and
390 mitigation credit is given only for that portion. The department
391 or water management district may deviate from the full cost
392 requirements of this subparagraph to resolve a proceeding
393 brought pursuant to chapter 70 or a claim for inverse
394 condemnation. Nothing in this section shall be construed to
395 require the owner of a private mitigation bank, permitted under
396 s. 373.4136, to include the full cost of a mitigation credit in
397 the price of the credit to a purchaser of said credit.

398 2. The department and each water management district shall
399 report by March 1 of each year, as part of the consolidated
400 annual report required by s. 373.036(7), all cash donations
401 accepted under subparagraph 1. during the preceding water
402 management district fiscal year for wetland mitigation purposes.
403 The report shall exclude those contributions pursuant to s.
404 373.4137. The report shall include a description of the endorsed



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405 mitigation projects and, except for projects governed by s.
406 373.4135(6), shall address, as applicable, success criteria,
407 project implementation status and timeframe, monitoring, long-
408 term management, provisions for preservation, and full cost
409 accounting.

410 3. If the applicant is unable to meet water quality
411 standards because existing ambient water quality does not meet
412 standards, the governing board or the department shall consider
413 mitigation measures proposed by or acceptable to the applicant
414 that cause net improvement of the water quality in the receiving
415 body of water for those parameters which do not meet standards.

416 4. If mitigation requirements imposed by a local government
417 for surface water and wetland impacts of an activity regulated
418 under this part cannot be reconciled with mitigation
419 requirements approved under a permit for the same activity
420 issued under this part, including application of the uniform
421 wetland mitigation assessment method adopted pursuant to
422 subsection (18), the mitigation requirements for surface water
423 and wetland impacts shall be controlled by the permit issued
424 under this part.

425 (d)~~(e)~~ Where activities for a single project regulated
426 under this part occur in more than one local government
427 jurisdiction, and where permit conditions or regulatory
428 requirements are imposed by a local government for these
429 activities which cannot be reconciled with those imposed by a
430 permit under this part for the same activities, the permit
431 conditions or regulatory requirements shall be controlled by the
432 permit issued under this part.

433 Section 6. Section 288.109, Florida Statutes, is repealed.



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Section 7. This act shall take effect July 1, 2009.