

By the Committee on Community Affairs; and Senators Bennett and Gaetz

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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
28 under certain conditions; amending ss. 373.036,
29 373.4135, and 373.4136, F.S.; conforming cross-

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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; amending s.
41 403.814, F.S.; directing the Department of
42 Environmental Protection and the water management
43 districts to expand the use of Internet-based self-
44 certification; requiring the department and the
45 districts to identify general permits for which
46 expedited review may be implemented through the use of
47 professional certifications; providing for a report;
48 repealing s. 288.109, F.S., relating to the One-Stop
49 Permitting System; providing an effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Section 282.801, Florida Statutes, is created to
54 read:

55 282.801 E-Shop Florida.—

56 (1) LEGISLATIVE FINDINGS AND INTENT.—It is the
57 Legislature's intent that this section establish a user-
58 friendly, consolidated, statewide system that allows individuals

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59 and businesses to commence, develop, or expand business
60 activities that contribute to the betterment of a market economy
61 in this state. The Legislature further intends that this system
62 simplify licensing and permitting by providing a central point
63 of collection for data and fees so that individuals and
64 businesses can comply with state government requirements in one
65 easy process. The Legislature finds that the development of an
66 Internet website to be designated E-SHOP FLORIDA supports this
67 objective. The E-SHOP FLORIDA Internet website shall be designed
68 to foster the creation and maintenance of compact and responsive
69 state licensing and permitting systems that allow individuals,
70 as well as new and existing businesses, to efficiently obtain
71 state government approvals without duplication of effort,
72 multiple applications, redundant reviews, protracted delays, or
73 unnecessary expense.

74 (2) REQUEST FOR PROPOSALS.-

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

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88 (b) Each state agency and water management district
89 designated in subsection (5) shall appoint representatives who
90 are authorized to commit resources and speak on behalf of the
91 agency or the district as participants in the development of
92 statewide policies, procedures, and standards for permitting and
93 licensing activities.

94 (3) INTERNET SITE REQUIREMENTS.—

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

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

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

- 121 (a) Wetland or environmental resource permits;
122 (b) Surface water management and improvement permits;
123 (c) Stormwater management permits or stormwater system
124 construction and operation permits;
125 (d) Transportation concurrency approvals;
126 (e) Consumptive use permits;
127 (f) Wastewater treatment permits or wastewater facility
128 construction, operation, and management permits;
129 (g) Dock permits;
130 (h) Professional licenses;
131 (i) Business licenses; and
132 (j) Taxpayer identification numbers.

133 (5) ACCESS TO E-SHOP FLORIDA.—

134 (a) By July 1, 2010, the E-SHOP FLORIDA website must
135 provide access to permits, licenses, and approvals issued by the
136 following state agencies and water management districts:

- 137 1. Department of Environmental Protection, including
138 district regulatory offices;
139 2. Department of Community Affairs;
140 3. Department of Transportation, including district
141 offices;
142 4. Department of Business and Professional Regulation;
143 5. Department of Revenue;
144 6. Northwest Florida Water Management District;
145 7. St. Johns River Water Management District;

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146 8. Southwest Florida Water Management District;

147 9. Suwannee River Water Management District; and

148 10. South Florida Water Management District.

149 (b) By July 1, 2011, each state agency that issues permits,
150 licenses, or approvals shall develop a protocol to allow
151 participation in the E-SHOP FLORIDA system.

152 (6) ONLINE PERMITTING SYSTEMS.—To the extent feasible, each
153 state agency that does not have online licensing or permitting
154 shall develop and implement an online permitting system that
155 will integrate with the E-SHOP FLORIDA system. Such agencies may
156 competitively procure and contract for the services necessary to
157 develop an online permitting system capable of integrating with
158 the E-SHOP FLORIDA system.

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

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

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

169 2. Applications that must be approved or denied by the
170 district governing board shall be approved or denied at the next
171 regularly scheduled meeting of the governing board within 60
172 days after receipt of the completed application.

173 (c) The period for approval or denial of a completed
174 application for a permit issued under a federal delegation of

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175 authority or a federally approved permitting program may extend
176 beyond 60 days. However, the agency or district having delegated
177 authority or approval to issue a permit under federal authority
178 shall make a good faith effort to approve or deny a completed
179 application within 60 days after receipt.

180 (8) MAINTAINING RECORDS.—Each state agency or water
181 management district required to participate in the E-SHOP
182 FLORIDA system shall maintain a record of the time required for
183 each agency or district to process each application filed under
184 the system. The records must be compiled into a report to be
185 submitted to the President of the Senate and the Speaker of the
186 House of Representatives by January 15 of each year beginning in
187 2011.

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

194 Section 2. Paragraph (b) of subsection (7) of section
195 373.036, Florida Statutes, is amended to read:

196 373.036 Florida water plan; district water management
197 plans.—

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

199 (b) The consolidated annual report shall contain the
200 following elements, as appropriate to that water management
201 district:

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

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

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

208 4. The alternative water supplies annual report required by
209 s. 373.1961(3)(n).

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

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

214 7. The mitigation donation annual report required by s.
215 373.414(1)(c)2. ~~s. 373.414(1)(b)2.~~

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

218 373.4135 Mitigation banks and offsite regional mitigation.-

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

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233 intended to be created, preserved, enhanced, or restored under a
234 common scheme.

235 (e) Projects governed by this subsection, except for
236 projects established pursuant to subsection (7), shall be
237 subject to the provisions of s. 373.414(1)(c)1. ~~s.~~
238 ~~373.414(1)(b)1.~~

239 (7) The department, water management districts, and local
240 governments may elect to establish and manage mitigation sites,
241 including regional offsite mitigation areas, or contract with
242 permitted mitigation banks, to provide mitigation options for
243 private single-family lots or homeowners. The department, water
244 management districts, and local governments shall provide a
245 written notice of their election under this subsection by United
246 States mail to those individuals who have requested, in writing,
247 to receive such notice. The use of mitigation options
248 established under this subsection are not subject to the full-
249 cost-accounting provision of s. 373.414(1)(c)1. ~~s.~~
250 ~~373.414(1)(b)1.~~ To use a mitigation option established under
251 this subsection, the applicant for a permit under this part must
252 be a private, single-family lot or homeowner, and the land upon
253 which the adverse impact is located must be intended for use as
254 a single-family residence by the current owner. The applicant
255 must not be a corporation, partnership, or other business
256 entity. However, the provisions of this subsection shall not
257 apply to other entities that establish offsite regional
258 mitigation as defined in this section and s. 373.403.

259 Section 4. Paragraph (d) of subsection (6) of section
260 373.4136, Florida Statutes, is amended to read:

261 373.4136 Establishment and operation of mitigation banks.-

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262 (6) MITIGATION SERVICE AREA.—The department or water
263 management district shall establish a mitigation service area
264 for each mitigation bank permit. The department or water
265 management district shall notify and consider comments received
266 on the proposed mitigation service area from each local
267 government within the proposed mitigation service area. Except
268 as provided herein, mitigation credits may be withdrawn and used
269 only to offset adverse impacts in the mitigation service area.
270 The boundaries of the mitigation service area shall depend upon
271 the geographic area where the mitigation bank could reasonably
272 be expected to offset adverse impacts. Mitigation service areas
273 may overlap, and mitigation service areas for two or more
274 mitigation banks may be approved for a regional watershed.

275 (d) If the requirements in s. 373.414(1)(c) ~~s.~~
276 ~~373.414(1)(b)~~ and (8) are met, the following projects or
277 activities regulated under this part shall be eligible to use a
278 mitigation bank, regardless of whether they are located within
279 the mitigation service area:

280 1. Projects with adverse impacts partially located within
281 the mitigation service area.

282 2. Linear projects, such as roadways, transmission lines,
283 distribution lines, pipelines, or railways.

284 3. Projects with total adverse impacts of less than 1 acre
285 in size.

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

288 373.414 Additional criteria for activities in surface
289 waters and wetlands.—

290 (1) As part of an applicant's demonstration that an

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291 activity regulated under this part will not be harmful to the
292 water resources or will not be inconsistent with the overall
293 objectives of the district, the governing board or the
294 department shall require the applicant to provide reasonable
295 assurance that state water quality standards applicable to
296 waters as defined in s. 403.031(13) will not be violated and
297 reasonable assurance that such activity in, on, or over surface
298 waters or wetlands, as delineated in s. 373.421(1), is not
299 contrary to the public interest. However, if such an activity
300 significantly degrades or is within an Outstanding Florida
301 Water, as provided by department rule, the applicant must
302 provide reasonable assurance that the proposed activity will be
303 clearly in the public interest.

304 (a) In determining whether an activity, which is in, on, or
305 over surface waters or wetlands, as delineated in s. 373.421(1),
306 and is regulated under this part, is not contrary to the public
307 interest or is clearly in the public interest, the governing
308 board or the department shall consider and balance the following
309 criteria:

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

312 2. Whether the activity will adversely affect the
313 conservation of fish and wildlife, including endangered or
314 threatened species, or their habitats;

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

317 4. Whether the activity will adversely affect the fishing
318 or recreational values or marine productivity in the vicinity of
319 the activity;

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320 5. Whether the activity will be of a temporary or permanent
321 nature;

322 6. Whether the activity will adversely affect or will
323 enhance significant historical and archaeological resources
324 under the provisions of s. 267.061; and

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

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

339 2. The department or a water management district may
340 forward to the appropriate professional regulatory board or the
341 Department of Business and Professional Regulation a complaint
342 against the registered professional specified in subparagraph 1.
343 if the department or district finds that a review under s.
344 455.227 is warranted. If the professional regulatory board or
345 the Department of Business and Professional Regulation sanctions
346 the registered professional pursuant to the complaint, the
347 registered professional is prohibited from preparing and signing
348 permit applications under this section. A registered

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349 professional who is sanctioned three times by a professional
350 regulatory board or the Department of Business and Professional
351 Regulation, or both, is permanently prohibited from preparing
352 and signing permit applications under this section.

353 (c) ~~(b)~~ If the applicant is unable to otherwise meet the
354 criteria set forth in this subsection, the governing board or
355 the department, in deciding to grant or deny a permit, shall
356 consider measures proposed by or acceptable to the applicant to
357 mitigate adverse effects that may be caused by the regulated
358 activity. Such measures may include, but are not limited to,
359 onsite mitigation, offsite mitigation, offsite regional
360 mitigation, and the purchase of mitigation credits from
361 mitigation banks permitted under s. 373.4136. It shall be the
362 responsibility of the applicant to choose the form of
363 mitigation. The mitigation must offset the adverse effects
364 caused by the regulated activity.

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

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

405 2. The department and each water management district shall
406 report by March 1 of each year, as part of the consolidated

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407 annual report required by s. 373.036(7), all cash donations
408 accepted under subparagraph 1. during the preceding water
409 management district fiscal year for wetland mitigation purposes.
410 The report shall exclude those contributions pursuant to s.
411 373.4137. The report shall include a description of the endorsed
412 mitigation projects and, except for projects governed by s.
413 373.4135(6), shall address, as applicable, success criteria,
414 project implementation status and timeframe, monitoring, long-
415 term management, provisions for preservation, and full cost
416 accounting.

417 3. If the applicant is unable to meet water quality
418 standards because existing ambient water quality does not meet
419 standards, the governing board or the department shall consider
420 mitigation measures proposed by or acceptable to the applicant
421 that cause net improvement of the water quality in the receiving
422 body of water for those parameters which do not meet standards.

423 4. If mitigation requirements imposed by a local government
424 for surface water and wetland impacts of an activity regulated
425 under this part cannot be reconciled with mitigation
426 requirements approved under a permit for the same activity
427 issued under this part, including application of the uniform
428 wetland mitigation assessment method adopted pursuant to
429 subsection (18), the mitigation requirements for surface water
430 and wetland impacts shall be controlled by the permit issued
431 under this part.

432 (d)~~(e)~~ Where activities for a single project regulated
433 under this part occur in more than one local government
434 jurisdiction, and where permit conditions or regulatory
435 requirements are imposed by a local government for these

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436 activities which cannot be reconciled with those imposed by a
437 permit under this part for the same activities, the permit
438 conditions or regulatory requirements shall be controlled by the
439 permit issued under this part.

440 Section 6. Subsection (12) is added to section 403.814,
441 Florida Statutes, to read:

442 403.814 General permits; delegation.—

443 (12) The department and the water management districts
444 shall expand the use of Internet-based self-certification to be
445 used by applicants for appropriate exemptions and general
446 permits issued by the department and the districts. The
447 department and the districts shall identify and develop general
448 permits for activities for which review may be expedited through
449 the use of professional certification. Such activities include
450 specified stormwater treatment and stormwater management systems
451 not located in wetlands or other surface waters. The department
452 and the water management districts shall submit a progress
453 report on efforts to expand the use of Internet-based self-
454 certification and expedited review through the use of
455 professional certifications to the President of the Senate and
456 the Speaker of the House of Representatives by January 15, 2010.

457 Section 7. Section 288.109, Florida Statutes, is repealed.

458 Section 8. This act shall take effect July 1, 2009.