

By Senator Bennett

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1 A bill to be entitled
2 An act relating to stormwater management systems;
3 creating s. 373.4131, F.S.; requiring the Department
4 of Environmental Protection, in coordination with the
5 water management districts, to develop a statewide
6 stormwater quality treatment rule by a certain date;
7 providing legislative intent; providing definitions;
8 providing rule requirements; exempting agency action
9 taken pursuant to the rule from the dispute-resolution
10 procedures of ch. 70, F.S.; specifying the
11 relationship of the rule to rules already adopted;
12 providing an effective date.

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

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16 Section 1. Section 373.4131, Florida Statutes, is created
17 to read:

18 373.4131 Stormwater quality treatment requirements.-

19 (1) The Legislature finds that high nutrient levels are a
20 major cause of water quality impairment in the state's waters
21 and that revisions to existing rules regarding stormwater
22 quality treatment requirements are necessary to prevent further
23 degradation of the state's waters.

24 (2) As used in this section, the term:

25 (a) "Nutrient" means total nitrogen and total phosphorus.

26 (b) "Redevelopment" means construction of a surface water
27 management system on sites having existing commercial,
28 industrial, institutional, or multifamily land uses where the
29 existing impervious surface will be removed as part of the

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30 proposed activity.

31 (c) "Stormwater quality treatment requirements" means the
32 minimum level of stormwater treatment and design criteria for
33 the construction, operation, and maintenance of stormwater
34 management systems.

35 (3) The department, in coordination with the water
36 management districts, shall develop a uniform statewide
37 stormwater quality treatment rule for stormwater management
38 systems other than those serving agriculture and silviculture.
39 The rule must provide for geographic differences in physical and
40 natural characteristics, such as rainfall patterns, topography,
41 soil type, and vegetation. The department shall adopt the rule
42 by July 1, 2011. The water management districts and any
43 delegated local program under this part shall implement the rule
44 without having to adopt it pursuant to s. 120.54. However, the
45 department and water management districts may adopt, amend, or
46 retain rules establishing more stringent stormwater quality
47 treatment requirements for special basins in order to address
48 further differences in physical or natural characteristics,
49 including legacy pollutants from past activities; rules designed
50 to implement a basin management action plan for a total maximum
51 daily load; rules established pursuant to s. 373.4592, s.
52 373.4595, s. 373.461, or s. 403.067; or rules designed to
53 protect Class I, Class II, or shellfish harvesting waters.

54 (a) Except as otherwise provided in this section, the rule
55 adopted pursuant to this section supersedes any rule of the
56 department, a water management district, or a delegated local
57 program under this part establishing less stringent stormwater
58 quality treatment requirements for stormwater management

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59 systems, other than those serving agriculture and silviculture.

60 (b) Existing stormwater quality treatment rules that are
61 superseded by the rule adopted under this section may be
62 repealed without further rulemaking pursuant to s. 120.54 by
63 publication of a notice of repeal in the Florida Administrative
64 Weekly and subsequent filing of a list of the rules repealed
65 with the Department of State.

66 (c) Until the rule adopted pursuant to this section becomes
67 effective, existing stormwater quality treatment rules adopted
68 under this part are deemed authorized under this part and remain
69 in full force and effect.

70 (d) Agency action taken pursuant to the rule adopted under
71 this section is exempt from chapter 70.

72 (4) The rule must establish the minimum level of stormwater
73 quality treatment necessary in order to not cause or contribute
74 to water quality violations and must include:

75 (a) For discharges to non-Outstanding Florida Waters, an 85
76 percent average annual reduction of postdevelopment nutrient
77 load or treatment such that postdevelopment nutrient loads are
78 less than or equal to the estimated nutrient loads from the
79 natural vegetative community type associated with the site's
80 natural soils, whichever is less stringent;

81 (b) For discharges to waters not meeting state water
82 quality standards, including waters designated on the
83 department's list of verified impaired waters established under
84 s. 403.067 and discharges to Outstanding Florida Waters,
85 treatment such that the postdevelopment nutrient loads are less
86 than or equal to the estimated nutrient loads from the natural
87 vegetative community type associated with the site's natural

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88 soils; and

89 (c) Such additional requirements as necessary to ensure
90 that discharges of pollutants, other than nutrients, from
91 stormwater systems meet the applicable water quality standards
92 in the receiving water body.

93 (5) The rule must provide design criteria for the
94 construction, operation, and maintenance of stormwater systems
95 necessary to meet the level of stormwater quality treatment
96 established under subsection (4). Compliance with the design
97 criteria creates a presumption that stormwater discharged from
98 the system will not cause or contribute to violations of water
99 quality standards in receiving waters.

100 (6) Notwithstanding subsection (4), the rule may establish
101 alternative stormwater quality treatment requirements for the
102 redevelopment of sites totaling 2 acres or less and the
103 retrofitting of existing stormwater management systems if such
104 treatment results in a net reduction in the discharge of
105 nutrients and other pollutants to the receiving waters. The
106 alternative treatment requirements for redevelopment of sites
107 totaling 2 acres or less must be based upon a feasibility
108 assessment of stormwater best management practices that
109 considers factors such as site size, availability of regional
110 stormwater treatment systems, and physical site characteristics.

111 (7) The rule may establish requirements that ensure
112 financial responsibility for the construction, operation, and
113 long-term management of the stormwater management system.

114 (8) Notwithstanding the stormwater quality treatment
115 requirements in subsection (4), within 2 years after the
116 adoption of any numeric nutrient water quality criteria pursuant

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117 to chapter 403, the department, in coordination with the water
118 management districts, shall develop and adopt such amendments to
119 the rule as are necessary to ensure that water quality standards
120 are maintained.

121 (9) Subsequent to the adoption of the rule under this
122 section, the following circumstances continue to be governed by
123 the stormwater quality treatment rules adopted by the
124 department, water management districts, and any delegated local
125 program under this part in effect before the effective date of
126 the rule adopted pursuant to this section, unless the applicant
127 elects to have an application reviewed under the rule adopted
128 under this section:

129 (a) The operation and maintenance of stormwater management
130 systems legally in existence before the effective date of the
131 rule adopted under this section if the terms and conditions of
132 the permit, exemption, or other authorization for such systems
133 continue to be met; or

134 (b) The activities approved in a permit issued under this
135 part and the review of activities proposed in applications
136 received and completed before the effective date of the rule
137 adopted under this section. This paragraph also applies to any
138 modification of the plans, terms, and conditions of the permit,
139 including new activities, within the geographical area to which
140 the permit applies. However, this paragraph does not apply to a
141 modification that would extend the permitted time limit for
142 construction beyond 2 additional years, or to any modification
143 that is reasonably expected to lead to additional or
144 substantially different stormwater quality impacts. This
145 paragraph also applies to modifications that lessen or do not

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146 increase stormwater quality impacts.

147 (10) This section does not diminish the jurisdiction or
148 authority granted to the water management districts or the
149 department pursuant to this part before the effective date of
150 this section. The provisions of this section are supplemental to
151 the existing jurisdiction and authority under this part.

152 Section 2. This act shall take effect upon becoming a law.