

1 A bill to be entitled
2 An act relating to water resources; amending s. 373.227,
3 F.S.; revising provisions of the comprehensive statewide
4 water conservation program to provide for a Conserve
5 Florida Clearinghouse and a Conserve Florida Clearinghouse
6 Guide to assist public water supply utilities in
7 developing goal-based water conservation plans to meet
8 water conservation requirements for obtaining consumptive
9 use permits; encouraging water management districts and
10 public water supply utilities to use the guide for water
11 conservation plans, reports, evaluations, and assessments;
12 revising requirements for goal-based water conservation
13 plans submitted by public water supply utilities as part
14 of consumptive use permit applications; deleting an
15 obsolete provision requiring the Department of
16 Environmental Protection to submit a report on the program
17 to the Governor, the Legislature, and substantive
18 legislative committees by a specified date; amending s.
19 298.66, F.S.; revising provisions prohibiting the
20 obstruction of certain drainage works; amending s.
21 373.0361, F.S.; providing for the inclusion of wastewater
22 utilities, reuse utilities, and the department in the
23 regional water supply planning process; amending s.
24 373.079, F.S.; revising provisions relating to the
25 authority of a water management district governing board
26 to employ an executive director, an inspector general,
27 professional persons, and personnel; revising provisions
28 authorizing a water management district governing board to

29 | delegate certain authority to the executive director;
30 | requiring the governing board to provide a process for
31 | referring certain denials to the board for final action;
32 | amending s. 373.083, F.S.; revising provisions authorizing
33 | a water management district governing board to delegate
34 | certain authority to the executive director; deleting a
35 | provision prohibiting governing board members from
36 | intervening in the review of certain applications;
37 | amending s. 373.085, F.S.; requiring water management
38 | districts and governmental agencies to encourage public-
39 | private partnerships for procurement of materials for
40 | infrastructure and restoration work projects; amending s.
41 | 373.118, F.S.; authorizing a water management district
42 | governing board to delegate certain authority to the
43 | executive director; requiring a water management district
44 | governing board to provide a process for referring
45 | application and petition denials to the board for final
46 | action; exempting such delegations from rulemaking under
47 | ch. 120; amending s. 373.236, F.S.; reducing the frequency
48 | of compliance reports during the term of a consumptive use
49 | permit; providing an exception; amending s. 373.250, F.S.;
50 | requiring water management districts, in consultation with
51 | the department, to adopt rules relating to reclaimed water
52 | feasibility evaluations for consumptive use permit
53 | applicants; providing rule requirements; encouraging reuse
54 | utilities and water management districts to periodically
55 | coordinate and share information relating to reclaimed
56 | water; requiring water management districts to initiate

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57 | certain rulemaking by a specified date; amending s.
58 | 373.4135, F.S.; revising legislative intent relating to
59 | rules of the department and water management districts
60 | with respect to mitigation banks and offsite regional
61 | mitigation; providing for specified entities to
62 | voluntarily establish and operate certain mitigation
63 | projects; providing that memoranda of agreement for such
64 | projects are exempt from certain rule adoption; providing
65 | an effective date.

66 |
67 | Be It Enacted by the Legislature of the State of Florida:

68 |
69 | Section 1. Section 373.227, Florida Statutes, is amended
70 | to read:

71 | 373.227 Water conservation; legislative findings;
72 | legislative intent; objectives; comprehensive statewide water
73 | conservation program requirements.—

74 | (1) The Legislature recognizes that the proper
75 | conservation of water is an important means of achieving the
76 | economical and efficient utilization of water necessary, in
77 | part, to constitute a reasonable-beneficial use. The overall
78 | water conservation goal of the state is to prevent and reduce
79 | wasteful, uneconomical, impractical, or unreasonable use of
80 | water resources. The Legislature finds that the social,
81 | economic, and cultural conditions of the state relating to the
82 | use of public water supply vary by service area and that public
83 | water supply utilities must have the flexibility to tailor water
84 | conservation measures to best suit their individual

85 | circumstances. The Legislature encourages the use of efficient,
86 | effective, and affordable water conservation measures. Where
87 | water is provided by a public water supply utility, the
88 | Legislature intends that a variety of conservation measures be
89 | made available and used to encourage efficient water use. To
90 | achieve these conservation objectives, the state should
91 | emphasize goal-based, accountable, tailored, and measurable
92 | water conservation programs for public water supply. For
93 | purposes of this section, the term "public water supply utility"
94 | includes both publicly owned and privately owned public water
95 | supply utilities that sell potable water on a retail basis to
96 | end users.

97 | (2) To implement the findings in subsection (1), the
98 | department, in cooperation with the water management districts
99 | and other stakeholders, shall develop a comprehensive statewide
100 | water conservation program for public water supply. The program
101 | should:

102 | (a) Encourage utilities to implement water conservation
103 | programs that are economically efficient, effective, affordable,
104 | and appropriate;

105 | (b) Allow no reduction in, and increase where possible,
106 | utility-specific water conservation effectiveness over current
107 | programs;

108 | (c) Be goal-based, accountable, measurable, and
109 | implemented collaboratively with water suppliers, water users,
110 | and water management agencies;

111 | (d) Include cost and benefit data on individual water
112 | conservation practices to assist in tailoring practices to be

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113 effective for the unique characteristics of particular utility
114 service areas, focusing upon cost-effective measures;

115 (e) Use standardized public water supply conservation
116 definitions and standardized quantitative and qualitative
117 performance measures for an overall system of assessing and
118 benchmarking the effectiveness of water conservation programs
119 and practices;

120 (f) Create a Conserve Florida Clearinghouse ~~or inventory~~
121 for water conservation programs and practices available to
122 public water supply utilities which will provide an integrated
123 statewide database for the collection, evaluation, and
124 dissemination of quantitative and qualitative information on
125 public water supply conservation programs and practices and
126 their effectiveness. The clearinghouse ~~or inventory~~ should have
127 technical assistance capabilities to aid in the design,
128 refinement, and implementation of water conservation programs
129 and practices. The clearinghouse ~~or inventory~~ shall also provide
130 for continual assessment of the effectiveness of water
131 conservation programs and practices;

132 (g) Develop a standardized water conservation planning
133 process for utilities; and

134 (h) Develop and maintain a Florida-specific Conserve
135 Florida Clearinghouse Guide ~~water conservation guidance document~~
136 containing a menu of affordable and effective water conservation
137 practices to assist public water supply utilities in the design
138 and implementation of goal-based, utility-specific water
139 conservation plans tailored for their individual service areas
140 as provided in subsection (5) ~~(4)~~.

141 (3) The Conserve Florida Clearinghouse Guide is recognized
142 as an appropriate tool to assist public water supply utilities
143 in developing goal-based water conservation plans to meet the
144 water conservation requirements for obtaining consumptive use
145 permits. Water management districts and public water supply
146 utilities are encouraged to use the guide in developing water
147 conservation plans, reporting on the implementation of water
148 conservation practices and measures included in consumptive use
149 permits, evaluating proposals for financial cost sharing of
150 water conservation activities, and assessing the effectiveness
151 of water conservation projects.

152 ~~(4)~~ (3) Regarding the use of water conservation or drought
153 rate structures as a conservation practice, a water management
154 district shall afford a public water supply utility wide
155 latitude in selecting a rate structure and shall limit its
156 review to whether the utility has provided reasonable assurance
157 that the rate structure contains a schedule of rates designed to
158 promote efficient use of water by providing economic incentives.
159 A water management district shall not fix or revise rates.

160 ~~(5)~~ (4) As part of an application for a consumptive use
161 permit, a public water supply utility may propose a goal-based
162 water conservation plan that is tailored to its individual
163 circumstances as a partial or entire alternative to the water
164 conservation requirements adopted by the appropriate water
165 management district. The public water supply utility is
166 encouraged, but not required, to use the Conserve Florida
167 Clearinghouse Guide in developing its goal-based water
168 conservation plan. The plan shall include a schedule for

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169 implementing the water conservation goal or goals. The plan must
170 include a means for measuring progress towards the water
171 conservation goal or goals ~~must be measurable.~~

172 (6) If a public water supply utility elects to develop a
173 goal-based water conservation plan, the utility shall submit the
174 goal or goals and the plan to the appropriate water management
175 district. The plan must be designed to achieve the water
176 conservation goal or goals approved by the district in a cost-
177 effective manner, considering the utility's customers, service
178 area, and other individual circumstances of the utility. The
179 water management district shall review the goal or goals and
180 approve them if they are consistent with s. 373.223(1) and
181 approve the plan if it meets the requirements of this section.
182 ~~If the utility provides reasonable assurance that the plan will~~
183 ~~achieve effective water conservation at least as well as the~~
184 ~~water conservation requirements adopted by the appropriate water~~
185 ~~management district and is otherwise consistent with s. 373.223,~~
186 ~~the district must approve the plan which shall satisfy water~~
187 ~~conservation requirements imposed as a condition of obtaining a~~
188 ~~consumptive use permit. The conservation measures included in an~~
189 ~~approved goal-based water conservation plan may be reviewed~~
190 ~~periodically and updated as needed to ensure efficient water use~~
191 ~~for the duration of the permit. If the plan fails to meet the~~
192 ~~water conservation goal or goals by the timeframes specified in~~
193 ~~the permit, the public water supply utility shall revise the~~
194 ~~plan to address the deficiency or employ the water conservation~~
195 ~~requirements that would otherwise apply in the absence of an~~
196 ~~approved goal-based plan.~~

197 ~~(5) By December 1, 2005, the department shall submit a~~
 198 ~~written report to the President of the Senate, the Speaker of~~
 199 ~~the House of Representatives, and the appropriate substantive~~
 200 ~~committees of the Senate and the House of Representatives on the~~
 201 ~~progress made in implementing the comprehensive statewide water~~
 202 ~~conservation program for public water supply required by this~~
 203 ~~section. The report must include any statutory changes and~~
 204 ~~funding requests necessary for the continued development and~~
 205 ~~implementation of the program.~~

206 (1)~~(6)~~ The department or a water management district may
 207 adopt rules pursuant to ss. 120.536(1) and 120.54 to carry out
 208 the purposes of this section.

209 Section 2. Section 298.66, Florida Statutes, is amended to
 210 read:

211 298.66 Obstruction of drainage canals, etc., prohibited;
 212 damages; penalties.—

213 (1) ~~A No~~ person may not willfully, or otherwise, obstruct
 214 any public canal, drain, ditch, or watercourse or damage or
 215 destroy any public drainage works constructed in or maintained
 216 by any district.

217 (2)~~(1)~~ Any person who ~~shall~~ willfully obstructs ~~obstruct~~
 218 any public canal, drain, ditch or watercourse or damages or
 219 destroys ~~shall damage or destroy~~ any public drainage works
 220 constructed in or maintained by any district is, ~~shall be~~ liable
 221 to any person injured thereby for the full amount of the injury
 222 occasioned to any land or crops or other property by reason of
 223 such misconduct, and is ~~shall be~~ liable to the district
 224 constructing the drainage ~~said~~ work for double the cost of

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225 removing the ~~such~~ obstruction or repairing the ~~such~~ damage.

226 ~~(3)(2)~~ Any person who ~~Whoever shall~~ willfully, or
 227 otherwise, obstructs ~~obstruct~~ any public canal, drain, ditch, or
 228 watercourse, impedes or obstructs ~~impede or obstruct~~ the flow of
 229 water therein, or damages or destroys ~~shall damage or destroy~~
 230 any public drainage works constructed in or maintained by any
 231 district commits ~~shall be guilty of~~ a felony of the third
 232 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 233 775.084.

234 Section 3. Subsection (1) of section 373.0361, Florida
 235 Statutes, is amended to read:

236 373.0361 Regional water supply planning.—

237 (1) The governing board of each water management district
 238 shall conduct water supply planning for any water supply
 239 planning region within the district identified in the
 240 appropriate district water supply plan under s. 373.036, where
 241 it determines that existing sources of water are not adequate to
 242 supply water for all existing and future reasonable-beneficial
 243 uses and to sustain the water resources and related natural
 244 systems for the planning period. The planning must be conducted
 245 in an open public process, in coordination and cooperation with
 246 local governments, regional water supply authorities,
 247 government-owned and privately owned water and wastewater
 248 utilities, multijurisdictional water supply entities, self-
 249 suppliers, reuse utilities, the department, and other affected
 250 and interested parties. The districts shall actively engage in
 251 public education and outreach to all affected local entities and
 252 their officials, as well as members of the public, in the

253 | planning process and in seeking input. During preparation, but
 254 | prior to completion of the regional water supply plan, the
 255 | district must conduct at least one public workshop to discuss
 256 | the technical data and modeling tools anticipated to be used to
 257 | support the regional water supply plan. The district shall also
 258 | hold several public meetings to communicate the status, overall
 259 | conceptual intent, and impacts of the plan on existing and
 260 | future reasonable-beneficial uses and related natural systems.
 261 | During the planning process, a local government may choose to
 262 | prepare its own water supply assessment to determine if existing
 263 | water sources are adequate to meet existing and projected
 264 | reasonable-beneficial needs of the local government while
 265 | sustaining water resources and related natural systems. The
 266 | local government shall submit such assessment, including the
 267 | data and methodology used, to the district. The district shall
 268 | consider the local government's assessment during the formation
 269 | of the plan. A determination by the governing board that
 270 | initiation of a regional water supply plan for a specific
 271 | planning region is not needed pursuant to this section shall be
 272 | subject to s. 120.569. The governing board shall reevaluate such
 273 | a determination at least once every 5 years and shall initiate a
 274 | regional water supply plan, if needed, pursuant to this
 275 | subsection.

276 | Section 4. Subsection (4) of section 373.079, Florida
 277 | Statutes, is amended to read:

278 | 373.079 Members of governing board; oath of office;
 279 | staff.—

280 | (4) ~~(a)~~ The governing board of the district shall ~~is~~

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281 ~~authorized to employ:~~

282 (a) An executive director, ombudsman, and such engineers,
283 other professional persons, and other personnel and assistants
284 as it deems necessary and under such terms and conditions as it
285 may determine and to terminate such employment. The appointment
286 of an executive director by the governing board is subject to
287 approval by the Governor and must be initially confirmed by the
288 ~~Florida~~ Senate. The governing board may delegate all or part of
289 its authority under this paragraph to the executive director.
290 However, the governing board shall delegate to the executive
291 director all of its authority to take final action on permit
292 applications under ~~part II or~~ part IV or petitions for variances
293 or waivers of permitting requirements under ~~part II or~~ part IV,
294 except for denials of such actions as provided in s. 373.083(5).
295 The executive director may execute such delegated authority
296 through designated staff members. Such delegations shall not be
297 subject to the rulemaking requirements of chapter 120. The
298 governing board must provide a process for referring a denial of
299 such application or petition to the governing board for the
300 purpose of taking final action. The executive director must be
301 confirmed by the Senate upon employment and must be confirmed or
302 reconfirmed by the Senate during the second regular session of
303 the Legislature following a gubernatorial election.

304 ~~(b) 1. The governing board of each water management~~
305 ~~district shall employ~~ An inspector general, who shall report
306 directly to the board. However, the governing boards of the
307 Suwannee River Water Management District and the Northwest
308 Florida Water Management District may jointly employ an

309 | inspector general, or provide for inspector general services by
 310 | interagency agreement with a state agency or water management
 311 | district inspector general.

312 | ~~2.~~ An inspector general must have the same qualifications
 313 | ~~prescribed~~ and perform the applicable duties of state agency
 314 | inspectors general as provided in s. 20.055.

315 | Section 5. Subsection (5) of section 373.083, Florida
 316 | Statutes, is amended to read:

317 | 373.083 General powers and duties of the governing board.—
 318 | In addition to other powers and duties allowed it by law, the
 319 | governing board is authorized to:

320 | (5) Execute any of the powers, duties, and functions
 321 | vested in the governing board through a member ~~or members~~
 322 | ~~thereof~~, the executive director, or other district staff as
 323 | designated by the governing board. The governing board may
 324 | establish the scope and terms of any delegation. However, if the
 325 | governing board delegates ~~shall delegate~~ to the executive
 326 | director ~~all of~~ its authority to take final action on permit
 327 | applications under part II ~~or part IV~~ or petitions for variances
 328 | or waivers of permitting requirements under part II ~~or part IV~~,
 329 | ~~and~~ the executive director may execute such delegated authority
 330 | through designated staff. Such delegations shall not be subject
 331 | to the rulemaking requirements of chapter 120. However, the
 332 | governing board must ~~shall~~ provide a process for referring a ~~any~~
 333 | denial of such application or petition to the governing board
 334 | for the purpose of taking ~~to take~~ final action. ~~Such process~~
 335 | ~~shall expressly prohibit any member of a governing board from~~
 336 | ~~intervening in any manner during the review of an application~~

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337 ~~prior to such application being referred to the governing board~~
338 ~~for final action.~~ The authority to delegate under ~~in~~ this
339 subsection is supplemental to any other provision of this
340 chapter granting authority to the governing board to delegate
341 specific powers, duties, or functions.

342 Section 6. Subsection (1) of section 373.085, Florida
343 Statutes, is amended to read:

344 373.085 Use of works or land by other districts or private
345 persons.—

346 (1) (a) In order to promote water quantity and water
347 resource development, projects that improve flood control, and
348 conservation of lands, the district and other governmental
349 agencies shall encourage public-private partnerships by
350 collaborating, when possible, with those partnerships when
351 procuring materials for infrastructure and restoration work
352 projects.

353 (b) The governing board has authority to prescribe the
354 manner in which local works provided by other districts or by
355 private persons will connect with and make use of the works or
356 land of the district, to issue permits therefor, and to cancel
357 the permits for noncompliance with the conditions thereof or for
358 other cause. It is unlawful to connect with or make use of the
359 works or land of the district without consent in writing from
360 its governing board, and the board has authority to prevent or,
361 if done, estop or terminate the same. The use of the works or
362 land of the district for access is governed by this section and
363 is not subject to the provisions of s. 704.01. However, any land
364 or works of the district which have historically been used for

365 public access to the ocean by means of the North New River Canal
 366 and its tributaries may not be closed for this purpose unless
 367 the district can demonstrate that significant harm to the
 368 resource would result from such public use.

369 Section 7. Subsection (5) is added to section 373.118,
 370 Florida Statutes, to read:

371 373.118 General permits; delegation.—

372 (5) To improve efficiency, the governing board may
 373 delegate its powers and duties pertaining to general permits to
 374 the executive director. The executive director may execute such
 375 delegated authority through designated staff. However, when
 376 delegating the authority to take final action on permit
 377 applications under part II or petitions for variances or waivers
 378 of permitting requirements under part II, the governing board
 379 must provide a process for referring a denial of such
 380 application or petition to the governing board for the purpose
 381 of taking final action. Such delegations shall not be subject to
 382 the rulemaking requirements of chapter 120.

383 Section 8. Subsection (4) of section 373.236, Florida
 384 Statutes, is amended to read:

385 373.236 Duration of permits; compliance reports.—

386 (4) Where necessary to maintain reasonable assurance that
 387 the conditions for issuance of a 20-year permit can continue to
 388 be met, the governing board or department, in addition to any
 389 conditions required pursuant to s. 373.219, may require a
 390 compliance report by the permittee every 10 ~~5~~ years during the
 391 term of a permit. The Suwannee River Water Management District
 392 may require a compliance report by the permittee every 5 years

393 through July 1, 2015, and thereafter every 10 years during the
394 term of the permit. This report shall contain sufficient data to
395 maintain reasonable assurance that the initial conditions for
396 permit issuance are met. Following review of this report, the
397 governing board or the department may modify the permit to
398 ensure that the use meets the conditions for issuance. Permit
399 modifications pursuant to this subsection shall not be subject
400 to competing applications, provided there is no increase in the
401 permitted allocation or permit duration, and no change in
402 source, except for changes in source requested by the district.
403 This subsection shall not be construed to limit the existing
404 authority of the department or the governing board to modify or
405 revoke a consumptive use permit.

406 Section 9. Paragraphs (c) and (d) are added to subsection
407 (3) of section 373.250, Florida Statutes, subsections (4) and
408 (5) of that section are renumbered as subsections (5) and (6),
409 respectively, and a new subsection (4) is added to that section,
410 to read:

411 373.250 Reuse of reclaimed water.—

412 (3) The water management district shall, in consultation
413 with the department, adopt rules to implement this section. Such
414 rules shall include, but not be limited to:

415 (c) Provisions to require permit applicants to provide, as
416 part of their reclaimed water feasibility evaluation for a
417 nonpotable use, written documentation from a reuse utility
418 addressing the availability of reclaimed water. This requirement
419 shall apply when the applicant's proposed use is within an area
420 that is or may be served with reclaimed water by a reuse utility

421 within a 5-year horizon, as established by the reuse utility and
422 provided to the district. If the applicable reuse utility fails
423 to respond or does not provide the information required under
424 paragraph (d) within 30 days after receipt of the request, the
425 applicant shall provide to the district a copy of the written
426 request and a statement that the utility failed to provide the
427 requested information. The district is not required to adopt, by
428 rule, the area where written documentation from a reuse utility
429 is required, but the district shall publish the area, and any
430 updates thereto, on the district's website. This paragraph may
431 not be construed to limit the ability of a district to require
432 the use of reclaimed water or to limit a utility's ability to
433 plan reclaimed water infrastructure.

434 (d) Provisions specifying the content of the documentation
435 required in paragraph (c), including sufficient information
436 regarding the availability and costs associated with the
437 connection to and the use of reclaimed water, to facilitate the
438 permit applicant's reclaimed water feasibility evaluation.

439 (4) Reuse utilities and the applicable water management
440 district or districts are encouraged to periodically coordinate
441 and share information concerning the status of reclaimed water
442 distribution system construction, the availability of reclaimed
443 water supplies, and existing consumptive use permits in areas
444 served by the reuse utility.

445 Section 10. The water management districts shall initiate
446 rulemaking no later than July 1, 2011, to implement the
447 requirements of s. 373.250(3)(c) and (d), Florida Statutes, as
448 created by this act.

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449 Section 11. Paragraph (b) of subsection (1) and subsection
450 (6) of section 373.4135, Florida Statutes, are amended to read:

451 373.4135 Mitigation banks and offsite regional
452 mitigation.—

453 (1) The Legislature finds that the adverse impacts of
454 activities regulated under this part may be offset by the
455 creation, maintenance, and use of mitigation banks and offsite
456 regional mitigation. Mitigation banks and offsite regional
457 mitigation can enhance the certainty of mitigation and provide
458 ecological value due to the improved likelihood of environmental
459 success associated with their proper construction, maintenance,
460 and management. Therefore, the department and the water
461 management districts are directed to participate in and
462 encourage the establishment of private and public mitigation
463 banks and offsite regional mitigation. Mitigation banks and
464 offsite regional mitigation should emphasize the restoration and
465 enhancement of degraded ecosystems and the preservation of
466 uplands and wetlands as intact ecosystems rather than alteration
467 of landscapes to create wetlands. This is best accomplished
468 through restoration of ecological communities that were
469 historically present.

470 (b) It is the further intent of the Legislature that the
471 rules of the department and the water management districts
472 consider mitigation banks and offsite regional mitigation to be
473 ~~considered~~ appropriate and a permittable mitigation; that the
474 rules of the department and the water management districts
475 regarding the use of mitigation banks be consistent with the
476 provisions of 33 C.F.R. s. 332.3(b), recognizing and not

477 superseding other specific mitigation provisions of this part,
 478 such as the provisions of s. 373.414(6), the provisions of
 479 chapter 378, and mitigation projects or programs set forth in
 480 existing permits, while also recognizing circumstances unique to
 481 activities within the state; and that such rules not require the
 482 user of a mitigation bank to demonstrate that onsite mitigation
 483 is not expected to have comparable long-term viability as a
 484 mitigation bank or to demonstrate that use of a mitigation bank
 485 would provide greater improvement in ecological value than
 486 onsite mitigation option under the conditions specified by the
 487 rules of the department and water management districts.

488 (6) An environmental creation, preservation, enhancement,
 489 or restoration project, including regional offsite mitigation
 490 areas, for which money is donated or paid as mitigation, that is
 491 sponsored by the department, a water management district, or a
 492 local government and provides mitigation for five or more
 493 applicants for permits under this part, or for 35 or more acres
 494 of adverse impacts, shall be established and operated under a
 495 memorandum of agreement. The memorandum of agreement shall be
 496 between the governmental entity proposing the mitigation project
 497 and the department or water management district, as appropriate.
 498 Such memorandum of agreement need not be adopted by rule. For
 499 the purposes of this subsection, one creation, preservation,
 500 enhancement, or restoration project shall mean one or more
 501 parcels of land with similar ecological communities that are
 502 intended to be created, preserved, enhanced, or restored under a
 503 common scheme. A not-for-profit private entity that undertakes a
 504 mitigation project as described in this subsection may

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505 voluntarily elect to establish and operate such mitigation
506 project under a memorandum of agreement with the department or
507 water management district. Such memorandum of agreement need not
508 be adopted by rule.

509 (a) For any ongoing creation, preservation, enhancement,
510 or restoration project and regional offsite mitigation area
511 sponsored by the department, a water management district, or a
512 local government, for which money was or is paid as mitigation,
513 that was begun prior to the effective date of this subsection
514 and has operated as of the effective date of this subsection, or
515 is anticipated to operate, in excess of the mitigation
516 thresholds provided in this subsection, the governmental entity
517 sponsoring such project shall submit a draft memorandum of
518 agreement to the water management district or department by
519 October 1, 2000. The governmental entity sponsoring such project
520 shall make reasonable efforts to obtain the final signed
521 memorandum of agreement within 1 year after such submittal. The
522 governmental entity sponsoring such project may continue to
523 receive moneys donated or paid toward the project as mitigation,
524 provided the requirements of this paragraph are met.

525 (b) The memorandum of agreement shall establish criteria
526 that each environmental creation, preservation, enhancement, or
527 restoration project must meet. These criteria must address the
528 elements listed in paragraph (c). The entity sponsoring such
529 project, or category of projects, shall submit documentation or
530 other evidence to the water management district or department
531 that the project meets, or individual projects within a category
532 meet, the specified criteria.

533 (c) At a minimum, the memorandum of agreement must address
534 the following for each project authorized:

535 1. A description of the work that will be conducted on the
536 site and a timeline for completion of such work.

537 2. A timeline for obtaining any required environmental
538 resource permit.

539 3. The environmental success criteria that the project
540 must achieve.

541 4. The monitoring and long-term management requirements
542 that must be undertaken for the project.

543 5. An assessment of the project in accordance with s.
544 373.4136(4)(a)-(i), until the adoption of the uniform wetland
545 mitigation assessment method pursuant to s. 373.414(18).

546 6. A designation of the entity responsible for the
547 successful completion of the mitigation work.

548 7. A definition of the geographic area where the project
549 may be used as mitigation established using the criteria of s.
550 373.4136(6).

551 8. Full cost accounting of the project, including annual
552 review and adjustment.

553 9. Provision and a timetable for the acquisition of any
554 lands necessary for the project.

555 10. Provision for preservation of the site.

556 11. Provision for application of all moneys received
557 solely to the project for which they were collected.

558 12. Provision for termination of the agreement and
559 cessation of use of the project as mitigation if any material
560 contingency of the agreement has failed to occur.

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561 (d) A single memorandum of understanding may authorize
562 more than one environmental creation, preservation, enhancement,
563 or restoration project, or category of projects, as long as the
564 elements listed in paragraph (c) are addressed for each project.

565 (e) Projects governed by this subsection, except for
566 projects established pursuant to subsection (7), shall be
567 subject to the provisions of s. 373.414(1)(b)1.

568 (f) The provisions of this subsection shall not apply to
569 mitigation areas established to implement the provisions of s.
570 373.4137.

571 (g) The provisions of this subsection shall not apply when
572 the department, water management district, or local government
573 establishes, or contracts with a private entity to establish, a
574 mitigation bank permitted under s. 373.4136. The provisions of
575 this subsection shall not apply to other entities that establish
576 offsite regional mitigation as defined in this section and s.
577 373.403.

578 Section 12. This act shall take effect July 1, 2010.