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Proposed Committee Substitute by the Committee on Environmental
Preservation and Conservation

A bill to be entitled

An act relating to environmental permitting; amending
s. 120.569, F.S.; providing that a nonapplicant who
petitions to challenge an agency's issuance of a
license or conceptual approval in certain
circumstances has the burden of ultimate persuasion
and the burden of going forward with evidence;
amending s. 125;022, F.S.; prohibiting a county from
requiring an applicant to obtain a permit or approval
from another state or federal agency as a condition of
approving a development permit under certain
conditions; authorizing a county to attach certain
disclaimers to the issuance of a development permit;
creating s. 161.032, F.S.; requiring that the
Department of Environmental Protection review an
application for certain permits under the Beach and
Shore Preservation Act and request additional
information within a specified time; requiring that
the department proceed to process the application if
the applicant believes that a request for additional
information is not authorized by law or rule;
extending the period for an applicant to timely submit
additional information, notwithstanding certain
provisions of the Administrative Procedure Act;
amending s. 166.033, F.S.; prohibiting a municipality
from requiring an applicant to obtain a permit or
approval from another state or federal agency as a



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28 condition of approving a development permit under
29 certain conditions; authorizing a county to attach
30 certain disclaimers to the issuance of a development
31 permit; amending s. 258.397, F.S.; specifying
32 additional uses and activities in the Biscayne Bay
33 Aquatic Preserve; amending s. 373.026, F.S.; requiring
34 the Department of Environmental Protection to expand
35 its use of Internet-based self-certification services
36 for exemptions and permits issued by the department
37 and water management districts; amending s. 373.4141,
38 F.S.; requiring that a request by the department or a
39 water management district that an applicant provide
40 additional information be accompanied by the signature
41 of specified officials of the department or district;
42 reducing the time within which the department or
43 district must approve or deny a permit application;
44 amending s. 373.4144, F.S.; providing legislative
45 intent with respect to the coordination of regulatory
46 duties among specified state and federal agencies;
47 requiring that the department report annually to the
48 Legislature on efforts to expand the state
49 programmatic general permit or regional general
50 permits; providing for a voluntary state programmatic
51 general permit for certain dredge and fill activities;
52 amending s. 373.441, F.S.; requiring that certain
53 counties or municipalities apply by a specified date
54 to the department or water management district for
55 authority to require certain permits; providing that
56 following such delegation, the department or district



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57 may not regulate activities that are subject to the
58 delegation; clarifying the authority of local
59 governments to adopt pollution control programs under
60 certain conditions; amending s. 376.30715, F.S.;

61 providing that the transfer of a contaminated site
62 from an owner to a child or corporate entity does not
63 disqualify the site from the innocent victim petroleum
64 storage system restoration financial assistance
65 program; authorizing certain applicants to reapply for
66 financial assistance; amending s. 403.061, F.S.;

67 requiring the Department of Environmental Protection
68 to establish reasonable zones of mixing for discharges
69 into specified waters; providing that certain
70 discharges do not create liability for site cleanup;

71 providing that exceedance of soil cleanup target
72 levels is not a basis for enforcement or cleanup;

73 creating s. 403.0874, F.S.; providing a short title;

74 providing legislative findings and intent with respect
75 to the consideration of the compliance history of a
76 permit applicant; providing for applicability;

77 specifying the period of compliance history to be
78 considered is issuing or renewing a permit; providing
79 criteria to be considered by the Department of
80 Environmental Protection; authorizing expedited review
81 of permit issuance, renewal, modification, and
82 transfer; providing for a reduced number of
83 inspections; providing for extended permit duration;

84 authorizing the department to make additional
85 incentives available under certain circumstances;



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86 providing for automatic permit renewal and reduced or
87 waived fees under certain circumstances; requiring the
88 department to adopt rules that are binding on a water
89 management district or local government that has been
90 delegated certain regulatory duties; amending ss.
91 161.041 and 373.413, F.S.; specifying that s.
92 403.0874, F.S., authorizing expedited permitting,
93 applies to provisions governing beaches and shores and
94 surface water management and storage; amending s.
95 403.087, F.S.; revising conditions under which the
96 department is authorized to revoke a permit; amending
97 s. 403.1838, F.S.; revising the term "financially
98 disadvantaged small community"; amending s. 403.7045,
99 F.S.; specifying that sludge from industrial waste
100 treatment works is not solid wastes; amending s.
101 403.707, F.S.; revising provisions relating to
102 disposal by persons of solid waste resulting from
103 their own activities on their property; clarifying
104 what constitutes "addressed by a groundwater
105 monitoring plan" with regard to certain effects on
106 groundwater and surface waters; authorizing the
107 disposal of solid waste over a zone of discharge;
108 providing that exceedance of soil cleanup target
109 levels is not a basis for enforcement or cleanup;
110 extending the duration of all permits issued to solid
111 waste management facilities; providing applicability;
112 providing that certain disposal of solid waste does
113 not create liability for site cleanup; amending s.
114 403.814, F.S.; providing for issuance of general



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115 permits for the construction, alteration, and
116 maintenance of certain surface water management
117 systems without the action of the department or a
118 water management district; specifying conditions for
119 the general permits; amending s. 380.06, F.S.;
120 exempting a proposed solid mineral mine or a proposed
121 addition or expansion of an existing solid mineral
122 mine from provisions governing developments of
123 regional impact; providing certain exceptions;
124 amending ss. 380.0657 and 403.973, F.S.; authorizing
125 expedited permitting for certain inland multimodal
126 facilities and for commercial or industrial
127 development projects that individually or collectively
128 will create a minimum number of jobs; providing for a
129 project-specific memorandum of agreement to apply to a
130 project subject to expedited permitting; providing for
131 review and certification of a business as eligible for
132 expedited permitting by the Secretary of Environmental
133 Protection rather than by the Office of Tourism,
134 Trade, and Economic Development; amending s.163.3180,
135 F.S.; providing an exemption to the level-of-service
136 standards adopted under the Strategic Intermodal
137 System for certain inland multimodal facilities;
138 specifying project criteria; amending s. 373.4137,
139 F.S., relating to transportation projects; revising
140 legislative findings with respect to the options for
141 mitigation; revising certain requirements for
142 determining the habitat impacts of transportation
143 projects; requiring water management districts to



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144 purchase credits from public or private mitigation
145 banks under certain conditions; providing for the
146 release of certain mitigation funds held for the
147 benefit of a water management district if a project is
148 excluded from a mitigation plan; revising the
149 procedure for excluding a project from a mitigation
150 plan; amending s. 373.41492, F.S.; imposing a
151 mitigation fee for mining activities within the Miami-
152 Dade County Lake Belt Area; authorizing the use of
153 proceeds from the water treatment plant upgrade fee to
154 pay for specified mitigation projects; requiring
155 proceeds from the water treatment plant upgrade fee to
156 be transferred by the Department of Revenue to the
157 South Florida Water Management District and deposited
158 into the Lake Belt Mitigation Trust Fund for a
159 specified period of time; providing, after that
160 period, for the proceeds of the water treatment plant
161 upgrade fee to return to being transferred by the
162 Department of Revenue to a trust fund established by
163 Miami-Dade County for specified purposes; conforming a
164 term; amending s. 526.203, F.S.; authorizing the sale
165 of unblended fuels for certain uses; revising rules of
166 the Department of Environmental Protection relating to
167 the uniform mitigation assessment method for
168 activities in surface waters and wetlands; directing
169 the Department of Environmental Protection to make
170 additional changes to conform; providing for
171 reassessment of mitigation banks under certain
172 conditions; amending s. 373.4136, F.S.; clarifying the



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173 use of the uniform mitigation assessment method for
174 mitigation credits for the establishment and operation
175 of mitigation banks; providing for fuel tank system
176 deadlines and exemption; amending s. 373.414, F.S.;
177 revising uniform mitigation assessment method
178 implementation; amending s. 218.075, F.S; revising
179 requirements regarding reducing or waiving permit
180 processing fees; providing an effective date.

181

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

183

184 Section 1. Paragraph (p) is added to subsection (2) of
185 section 120.569, Florida Statutes, to read:

186 120.569 Decisions which affect substantial interests.—

187 (2)

188 (p) For any proceeding arising under chapter 373, chapter
189 378, or chapter 403, if a nonapplicant petitions as a third
190 party to challenge an agency's issuance of a license, permit, or
191 conceptual approval, the order of presentation in the proceeding
192 shall be for the permit applicant to present a prima facie case
193 demonstrating entitlement to the license, permit, or conceptual
194 approval, followed by the agency. This demonstration may be made
195 by simply entering into evidence the application and relevant
196 material submitted to the agency in support of the application,
197 and the agency's staff report or notice of intent to approve the
198 permit, license, or conceptual approval. Subsequent to the
199 presentation of the applicant's prima facie case and any direct
200 evidence submitted by the agency, the petitioner initiating the
201 action challenging the issuance of the license, permit, or



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202 conceptual approval has the ultimate burden of persuasion and
203 has the burden of going forward to prove its case in opposition
204 to the license, permit, or conceptual approval through the
205 presentation of competent and substantial evidence. The permit
206 applicant and agency may on rebuttal present any evidence
207 relevant to demonstrating that the application meets the
208 conditions for issuance. Notwithstanding subsection (1), this
209 paragraph applies to proceedings under s. 120.574.

210 Section 2. Section 125.022, Florida Statutes, is amended to
211 read:

212 125.022 Development permits.—When a county denies an
213 application for a development permit, the county shall give
214 written notice to the applicant. The notice must include a
215 citation to the applicable portions of an ordinance, rule,
216 statute, or other legal authority for the denial of the permit.
217 As used in this section, the term “development permit” has the
218 same meaning as in s. 163.3164. A county may not require as a
219 condition of processing a development permit that an applicant
220 obtain a permit or approval from any other state or federal
221 agency unless the agency has issued a notice of intent to deny
222 the federal or state permit before the county action on the
223 local development permit. Issuance of a development permit by a
224 county does not in any way create any rights on the part of the
225 applicant to obtain a permit from another state or federal
226 agency and does not create any liability on the part of the
227 county for issuance of the permit if the applicant fails to
228 fulfill its legal obligations to obtain requisite approvals or
229 fulfill the obligations imposed by another state or a federal
230 agency. A county may attach such a disclaimer to the issuance of



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231 a development permit, and may include a permit condition that
232 all other applicable state or federal permits be obtained before
233 commencement of the development. This section does not prohibit
234 a county from providing information to an applicant regarding
235 what other state or federal permits may apply.

236 Section 3. Section 161.032, Florida Statutes, is created to
237 read:

238 161.032 Application review; request for additional
239 information.—

240 (1) Within 30 days after receipt of an application for a
241 permit under this part, the department shall review the
242 application and shall request submission of any additional
243 information the department is permitted by law to require. If
244 the applicant believes that a request for additional information
245 is not authorized by law or rule, the applicant may request a
246 hearing pursuant to s. 120.57. Within 30 days after receipt of
247 such additional information, the department shall review such
248 additional information and may request only that information
249 needed to clarify such additional information or to answer new
250 questions raised by or directly related to such additional
251 information. If the applicant believes that the request for such
252 additional information by the department is not authorized by
253 law or rule, the department, at the applicant's request, shall
254 proceed to process the permit application.

255 (2) Notwithstanding s. 120.60, an applicant for a permit
256 under this part has 90 days after the date of a timely request
257 for additional information to submit such information. If an
258 applicant requires more than 90 days in order to respond to a
259 request for additional information, the applicant must notify



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260 the agency processing the permit application in writing of the
261 circumstances, at which time the application shall be held in
262 active status for no more than one additional period of up to 90
263 days. Additional extensions may be granted for good cause shown
264 by the applicant. A showing that the applicant is making a
265 diligent effort to obtain the requested additional information
266 constitutes good cause. Failure of an applicant to provide the
267 timely requested information by the applicable deadline shall
268 result in denial of the application without prejudice.

269 (3) Notwithstanding any other provision of law, the
270 department is authorized to issue permits pursuant to this part
271 in advance of the issuance of any incidental take authorization
272 as provided for in the Endangered Species Act and its
273 implementing regulations if the permits and authorizations
274 include a condition requiring that authorized activities shall
275 not commence until such incidental take authorization is issued.

276 Section 4. Subsections (5), (6), and (7) are added to
277 section 161.041, Florida Statutes, to read:

278 161.041 Permits required.-

279 (5) The provisions of s. 403.0874, relating to the
280 incentive-based permitting program, apply to all permits issued
281 under this chapter.

282 (6) The department may not require as a permit condition
283 sediment quality specifications or turbidity standards more
284 stringent than those provided for in this chapter, chapter 373,
285 or the Florida Administrative Code. The department may not issue
286 guidelines that are enforceable as standards without going
287 through the rulemaking process pursuant to chapter 120.

288 (7) As an incentive for permit applicants, it is the



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289 Legislature's intent to simplify the permitting for periodic
290 maintenance of beach renourishment projects previously permitted
291 and restored under the Joint Coastal Permit process pursuant to
292 this section or part IV of chapter 373. The department shall
293 amend chapters 62B-41 and 62B-49, Florida Administrative Code,
294 as necessary, to streamline the permitting process for periodic
295 maintenance projects.

296 Section 5. Subsection (10) of section 163.3180, Florida
297 Statutes, is amended to read:

298 163.3180 Concurrency.—

299 (10) (a) Except in transportation concurrency exception
300 areas, with regard to roadway facilities on the Strategic
301 Intermodal System designated in accordance with s. 339.63, local
302 governments shall adopt the level-of-service standard
303 established by the Department of Transportation by rule.
304 However, if the Office of Tourism, Trade, and Economic
305 Development concurs in writing with the local government that
306 the proposed development is for a qualified job creation project
307 under s. 288.0656 or s. 403.973, the affected local government,
308 after consulting with the Department of Transportation, may
309 provide for a waiver of transportation concurrency for the
310 project. For all other roads on the State Highway System, local
311 governments shall establish an adequate level-of-service
312 standard that need not be consistent with any level-of-service
313 standard established by the Department of Transportation. In
314 establishing adequate level-of-service standards for any
315 arterial roads, or collector roads as appropriate, which
316 traverse multiple jurisdictions, local governments shall
317 consider compatibility with the roadway facility's adopted



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318 level-of-service standards in adjacent jurisdictions. Each local
319 government within a county shall use a professionally accepted
320 methodology for measuring impacts on transportation facilities
321 for the purposes of implementing its concurrency management
322 system. Counties are encouraged to coordinate with adjacent
323 counties, and local governments within a county are encouraged
324 to coordinate, for the purpose of using common methodologies for
325 measuring impacts on transportation facilities for the purpose
326 of implementing their concurrency management systems.

327 (b) There shall be a limited exemption from the Strategic
328 Intermodal System adopted level-of-service standards for new or
329 redevelopment projects consistent with the local comprehensive
330 plan as inland multimodal facilities receiving or sending cargo
331 for distribution and providing cargo storage, consolidation,
332 repackaging, and transfer of goods, and which may, if developed
333 as proposed, include other intermodal terminals, related
334 transportation facilities, warehousing and distribution
335 facilities, and associated office space, light industrial,
336 manufacturing, and assembly uses. The limited exemption applies
337 if the project meets all of the following criteria:

338 1. The project will not cause the adopted level-of-service
339 standards for the Strategic Intermodal System facilities to be
340 exceeded by more than 150 percent within the first 5 years of
341 the project's development.

342 2. The project, upon completion, would result in the
343 creation of at least 50 full-time jobs.

344 3. The project is compatible with existing and planned
345 adjacent land uses.

346 4. The project is consistent with local and regional



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347 economic development goals or plans.

348 5. The project is proximate to regionally significant road
349 and rail transportation facilities.

350 6. The project is proximate to a community having an
351 unemployment rate, as of the date of the development order
352 application, which is 10 percent or more above the statewide
353 reported average.

354 Section 6. Section 166.033, Florida Statutes, is amended to
355 read:

356 166.033 Development permits.—When a municipality denies an
357 application for a development permit, the municipality shall
358 give written notice to the applicant. The notice must include a
359 citation to the applicable portions of an ordinance, rule,
360 statute, or other legal authority for the denial of the permit.
361 As used in this section, the term “development permit” has the
362 same meaning as in s. 163.3164. A municipality may not require
363 as a condition of processing a development permit, that an
364 applicant obtain a permit or approval from any other state or
365 federal agency unless the agency has issued a notice of intent
366 to deny the federal or state permit before the municipal action
367 on the local development permit. Issuance of a development
368 permit by a municipality does not in any way create any right on
369 the part of an applicant to obtain a permit from another state
370 or federal agency and does not create any liability on the part
371 of the municipality for issuance of the permit if the applicant
372 fails to fulfill its legal obligations to obtain requisite
373 approvals or fulfill the obligations imposed by another state or
374 federal agency. A municipality may attach such a disclaimer to
375 the issuance of development permits and may include a permit



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376 condition that all other applicable state or federal permits be
377 obtained before commencement of the development. This section
378 does not prohibit a municipality from providing information to
379 an applicant regarding what other state or federal permits may
380 apply.

381 Section 7. Paragraphs (a) and (b) of subsection (3) of
382 section 258.397, Florida Statutes, are amended to read:

383 258.397 Biscayne Bay Aquatic Preserve.—

384 (3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the
385 Internal Improvement Trust Fund is authorized and directed to
386 maintain the aquatic preserve hereby created pursuant and
387 subject to the following provisions:

388 (a) No further sale, transfer, or lease of sovereignty
389 submerged lands in the preserve shall be approved or consummated
390 by the board of trustees, except upon a showing of extreme
391 hardship on the part of the applicant and a determination by the
392 board of trustees that such sale, transfer, or lease is in the
393 public interest. A municipal applicant proposing a project under
394 this subsection is exempt from showing extreme hardship.

395 (b) No further dredging or filling of submerged lands of
396 the preserve shall be approved or tolerated by the board of
397 trustees except:

398 1. Such minimum dredging and spoiling as may be authorized
399 for public navigation projects or for such minimum dredging and
400 spoiling as may be constituted as a public necessity or for
401 preservation of the bay according to the expressed intent of
402 this section.

403 2. Such other alteration of physical conditions, including
404 the placement of riprap, as may be necessary to enhance the



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405 quality and utility of the preserve.

406 3. Such minimum dredging and filling as may be authorized
407 for the creation and maintenance of marinas, piers, and docks
408 and their attendant navigation channels and access roads. Such
409 projects may only be authorized upon a specific finding by the
410 board of trustees that there is assurance that the project will
411 be constructed and operated in a manner that will not adversely
412 affect the water quality and utility of the preserve. This
413 subparagraph shall not authorize the connection of upland canals
414 to the waters of the preserve.

415 4. Such dredging as is necessary for the purpose of
416 eliminating conditions hazardous to the public health or for the
417 purpose of eliminating stagnant waters, islands, and spoil
418 banks, the dredging of which would enhance the aesthetic and
419 environmental quality and utility of the preserve and be clearly
420 in the public interest as determined by the board of trustees.

421 5. Such dredging and filling as is necessary for the
422 creation of public waterfront promenades.

423
424 Any dredging or filling under this subsection or
425 improvements under subsection (5) shall be approved only after
426 public notice as provided by s. 253.115.

427 Section 8. Subsection (10) is added to section 373.026,
428 Florida Statutes, to read:

429 373.026 General powers and duties of the department.—The
430 department, or its successor agency, shall be responsible for
431 the administration of this chapter at the state level. However,
432 it is the policy of the state that, to the greatest extent
433 possible, the department may enter into interagency or



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434 interlocal agreements with any other state agency, any water
435 management district, or any local government conducting programs
436 related to or materially affecting the water resources of the
437 state. All such agreements shall be subject to the provisions of
438 s. 373.046. In addition to its other powers and duties, the
439 department shall, to the greatest extent possible:

440 (10) Expand the use of Internet-based self-certification
441 services for appropriate exemptions and general permits issued
442 by the department and the water management districts, if such
443 expansion is economically feasible. In addition to expanding the
444 use of Internet-based self-certification services for
445 appropriate exemptions and general permits, the department and
446 water management districts shall identify and develop general
447 permits for appropriate activities currently requiring
448 individual review that could be expedited through the use of
449 applicable professional certification.

450 Section 9. Subsection (6) is added to section 373.413,
451 Florida Statutes, to read:

452 373.413 Permits for construction or alteration.—

453 (6) The provisions of s. 403.0874, relating to the
454 incentive-based permitting program, apply to permits issued
455 under this section.

456 Section 10. Subsections (1) and (2), paragraph (c) of
457 subsection (3), and subsection (4) of section 373.4137, Florida
458 Statutes, are amended to read:

459 Mitigation requirements for specified transportation
460 projects.—

461 (1) The Legislature finds that environmental mitigation for
462 the impact of transportation projects proposed by the Department



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463 of Transportation or a transportation authority established
464 pursuant to chapter 348 or chapter 349 can be more effectively
465 achieved by regional, long-range mitigation planning rather than
466 on a project-by-project basis. It is the intent of the
467 Legislature that mitigation to offset the adverse effects of
468 these transportation projects be funded by the Department of
469 Transportation and be carried out by the water management
470 districts, through including the use of privately owned
471 mitigation banks where available or, if a privately owned
472 mitigation bank is not available, through any other mitigation
473 options that satisfy state and federal requirements established
474 ~~pursuant to this part.~~

475 (2) Environmental impact inventories for transportation
476 projects proposed by the Department of Transportation or a
477 transportation authority established pursuant to chapter 348 or
478 chapter 349 shall be developed as follows:

479 (a) By July 1 of each year, the Department of
480 Transportation or a transportation authority established
481 pursuant to chapter 348 or chapter 349 which chooses to
482 participate in this program shall submit to the water management
483 districts a list copy of its projects in the adopted work
484 program and an environmental impact inventory of habitats
485 addressed in the rules adopted pursuant to this part and s. 404
486 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted
487 by its plan of construction for transportation projects in the
488 next 3 years of the tentative work program. The Department of
489 Transportation or a transportation authority established
490 pursuant to chapter 348 or chapter 349 may also include in its
491 environmental impact inventory the habitat impacts of any future



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492 transportation project. The Department of Transportation and
493 each transportation authority established pursuant to chapter
494 348 or chapter 349 may fund any mitigation activities for future
495 projects using current year funds.

496 (b) The environmental impact inventory shall include a
497 description of these habitat impacts, including their location,
498 acreage, and type; state water quality classification of
499 impacted wetlands and other surface waters; any other state or
500 regional designations for these habitats; and a list ~~survey~~ of
501 threatened species, endangered species, and species of special
502 concern affected by the proposed project.

503 (3)

504 (c) Except for current mitigation projects in the
505 monitoring and maintenance phase and except as allowed by
506 paragraph (d), the water management districts may request a
507 transfer of funds from an escrow account no sooner than 30 days
508 prior to the date the funds are needed to pay for activities
509 associated with development or implementation of the approved
510 mitigation plan described in subsection (4) for the current
511 fiscal year, including, but not limited to, design, engineering,
512 production, and staff support. Actual conceptual plan
513 preparation costs incurred before plan approval may be submitted
514 to the Department of Transportation or the appropriate
515 transportation authority each year with the plan. The conceptual
516 plan preparation costs of each water management district will be
517 paid from mitigation funds associated with the environmental
518 impact inventory for the current year. The amount transferred to
519 the escrow accounts each year by the Department of
520 Transportation and participating transportation authorities



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521 established pursuant to chapter 348 or chapter 349 shall
522 correspond to a cost per acre of \$75,000 multiplied by the
523 projected acres of impact identified in the environmental impact
524 inventory described in subsection (2). However, the \$75,000 cost
525 per acre does not constitute an admission against interest by
526 the state or its subdivisions nor is the cost admissible as
527 evidence of full compensation for any property acquired by
528 eminent domain or through inverse condemnation. Each July 1, the
529 cost per acre shall be adjusted by the percentage change in the
530 average of the Consumer Price Index issued by the United States
531 Department of Labor for the most recent 12-month period ending
532 September 30, compared to the base year average, which is the
533 average for the 12-month period ending September 30, 1996. Each
534 quarter, the projected acreage of impact shall be reconciled
535 with the acreage of impact of projects as permitted, including
536 permit modifications, pursuant to this part and s. 404 of the
537 Clean Water Act, 33 U.S.C.s. 1344. The subject year's transfer
538 of funds shall be adjusted accordingly to reflect the acreage of
539 impacts as permitted. The Department of Transportation and
540 participating transportation authorities established pursuant to
541 chapter 348 or chapter 349 are authorized to transfer such funds
542 from the escrow accounts to the water management districts to
543 carry out the mitigation programs. Environmental mitigation
544 funds that are identified or maintained in an escrow account for
545 the benefit of a water management district may be released if
546 the associated transportation project is excluded in whole or
547 part from the mitigation plan. For a mitigation project that is
548 in the maintenance and monitoring phase, the water management
549 district may request and receive a one-time payment based on the



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550 project's expected future maintenance and monitoring costs. Upon
551 disbursement of the final maintenance and monitoring payment,
552 the department or the participating transportation authorities'
553 obligation will be satisfied, the water management district will
554 have continuing responsibility for the mitigation project, and
555 the escrow account for the project established by the Department
556 of Transportation or the participating transportation authority
557 may be closed. Any interest earned on these disbursed funds
558 shall remain with the water management district and must be used
559 as authorized under this section.

560 (4) Prior to March 1 of each year, each water management
561 district, in consultation with the Department of Environmental
562 Protection, the United States Army Corps of Engineers, the
563 Department of Transportation, participating transportation
564 authorities established pursuant to chapter 348 or chapter 349,
565 and other appropriate federal, state, and local governments, and
566 other interested parties, including entities operating
567 mitigation banks, shall develop a plan for the primary purpose
568 of complying with the mitigation requirements adopted pursuant
569 to this part and 33 U.S.C. s. 1344. In developing such plans,
570 private mitigation banks shall be used when available, and, when
571 a mitigation bank is not available, the districts shall utilize
572 sound ecosystem management practices to address significant
573 water resource needs and shall focus on activities of the
574 Department of Environmental Protection and the water management
575 districts, such as surface water improvement and management
576 (SWIM) projects and lands identified for potential acquisition
577 for preservation, restoration or enhancement, and the control of
578 invasive and exotic plants in wetlands and other surface waters,



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579 to the extent that such activities comply with the mitigation
580 requirements adopted under this part and 33 U.S.C. s. 1344. In
581 determining the activities to be included in such plans, the
582 districts shall ~~also consider the purchase of~~ credits from
583 public or private mitigation banks permitted under s. 373.4136
584 and associated federal authorization and shall include such
585 purchase as a part of the mitigation plan when such purchase
586 would offset the impact of the transportation project, ~~provide~~
587 ~~equal benefits to the water resources than other mitigation~~
588 ~~options being considered, and provide the most cost effective~~
589 ~~mitigation option.~~ The mitigation plan shall be submitted to the
590 water management district governing board, or its designee, for
591 review and approval. At least 14 days prior to approval, the
592 water management district shall provide a copy of the draft
593 mitigation plan to any person who has requested a copy.

594 (a) For each transportation project with a funding request
595 for the next fiscal year, the mitigation plan must include a
596 brief explanation of why a mitigation bank was or was not chosen
597 as a mitigation option, including an estimation of identifiable
598 costs of the mitigation bank and nonbank options to the extent
599 practicable.

600 (b) Specific projects may be excluded from the mitigation
601 plan, in whole or in part, and shall not be subject to this
602 section upon the election agreement of the Department of
603 Transportation, ~~or~~ a transportation authority if applicable, or
604 ~~and~~ the appropriate water management district ~~that the inclusion~~
605 ~~of such projects would hamper the efficiency or timeliness of~~
606 ~~the mitigation planning and permitting process.~~ The water
607 ~~management district may choose to exclude a project in whole or~~



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608 ~~in part if the district is unable to identify mitigation that~~
609 ~~would offset impacts of the project.~~

610 Section 11. Section 373.4141, Florida Statutes, is amended
611 to read:

612 373.4141 Permits; processing.—

613 (1) Within 30 days after receipt of an application for a
614 permit under this part, the department or the water management
615 district shall review the application and shall request
616 submittal of all additional information the department or the
617 water management district is permitted by law to require. If the
618 applicant believes any request for additional information is not
619 authorized by law or rule, the applicant may request a hearing
620 pursuant to s. 120.57. Within 30 days after receipt of such
621 additional information, the department or water management
622 district shall review it and may request only that information
623 needed to clarify such additional information or to answer new
624 questions raised by or directly related to such additional
625 information. If the applicant believes the request of the
626 department or water management district for such additional
627 information is not authorized by law or rule, the department or
628 water management district, at the applicant's request, shall
629 proceed to process the permit application. The department or
630 water management district may request additional information no
631 more than twice, unless the applicant waives this limitation in
632 writing. If the applicant does not provide a written response to
633 the second request for additional information within 90 days, or
634 another time period mutually agreed upon between the applicant
635 and department or water management district, the application
636 shall be considered withdrawn.



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637 (2) A permit shall be subject to a notice of proposed
638 agency action approved or denied within 60 ~~90~~ days after receipt
639 of the original application, the last item of timely requested
640 additional material, or the applicant's written request to begin
641 processing the permit application.

642 (3) Processing of applications for permits for affordable
643 housing projects shall be expedited to a greater degree than
644 other projects.

645 (4) A state agency or agency of the state may not require
646 as a condition of approval for a permit or as an item to
647 complete a pending permit application that an applicant obtain a
648 permit or approval from any other local, state or federal agency
649 without explicit statutory authority to require such permit or
650 approval from another agency.

651 Section 12. Section 373.4144, Florida Statutes, is amended
652 to read:

653 373.4144 Federal environmental permitting.-

654 (1) It is the intent of the Legislature to:

655 (a) Facilitate coordination and a more efficient process of
656 implementing regulatory duties and functions between the
657 Department of Environmental Protection, the water management
658 districts, the United States Army Corps of Engineers, the United
659 States Fish and Wildlife Service, the National Marine Fisheries
660 Service, the United States Environmental Protection Agency, the
661 Fish and Wildlife Conservation Commission, and other relevant
662 federal and state agencies.

663 (b) Authorize the Department of Environmental Protection to
664 obtain issuance by the United States Army Corps of Engineers,
665 pursuant to state and federal law and as set forth in this



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666 section, of an expanded state programmatic general permit, or a
667 series of regional general permits, for categories of activities
668 in waters of the United States governed by the Clean Water Act
669 and in navigable waters under the Rivers and Harbors Act of 1899
670 which are similar in nature, which will cause only minimal
671 adverse environmental effects when performed separately, and
672 which will have only minimal cumulative adverse effects on the
673 environment.

674 (c) Use the mechanism of such a state general permit or
675 such regional general permits to eliminate overlapping federal
676 regulations and state rules that seek to protect the same
677 resource and to avoid duplication of permitting between the
678 United States Army Corps of Engineers and the department for
679 minor work located in waters of the United States, including
680 navigable waters, thus eliminating, in appropriate cases, the
681 need for a separate individual approval from the United States
682 Army Corps of Engineers while ensuring the most stringent
683 protection of wetland resources.

684 (d) Direct the department not to seek issuance of or take
685 any action pursuant to any such permit or permits unless such
686 conditions are at least as protective of the environment and
687 natural resources as existing state law under this part and
688 federal law under the Clean Water Act and the Rivers and Harbors
689 Act of 1899. ~~The department is directed to develop, on or before~~
690 ~~October 1, 2005, a mechanism or plan to consolidate, to the~~
691 ~~maximum extent practicable, the federal and state wetland~~
692 ~~permitting programs. It is the intent of the Legislature that~~
693 ~~all dredge and fill activities impacting 10 acres or less of~~
694 ~~wetlands or waters, including navigable waters, be processed by~~



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695 ~~the state as part of the environmental resource permitting~~
696 ~~program implemented by the department and the water management~~
697 ~~districts. The resulting mechanism or plan shall analyze and~~
698 ~~propose the development of an expanded state programmatic~~
699 ~~general permit program in conjunction with the United States~~
700 ~~Army Corps of Engineers pursuant to s. 404 of the Clean Water~~
701 ~~Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et~~
702 ~~seq., and s. 10 of the Rivers and Harbors Act of 1899.~~
703 ~~Alternatively, or in combination with an expanded state~~
704 ~~programmatic general permit, the mechanism or plan may propose~~
705 ~~the creation of a series of regional general permits issued by~~
706 ~~the United States Army Corps of Engineers pursuant to the~~
707 ~~referenced statutes. All of the regional general permits must be~~
708 ~~administered by the department or the water management districts~~
709 ~~or their designees.~~

710 (2) In order to effectuate efficient wetland permitting and
711 avoid duplication, the department and water management districts
712 are authorized to implement a voluntary state programmatic
713 general permit for all dredge and fill activities impacting 3
714 acres or less of wetlands or other surface waters, including
715 navigable waters, subject to agreement with the United States
716 Army Corps of Engineers, if the general permit is at least as
717 protective of the environment and natural resources as existing
718 state law under this part and federal law under the Clean Water
719 Act and the Rivers and Harbors Act of 1899. ~~The department is~~
720 ~~directed to file with the Speaker of the House of~~
721 ~~Representatives and the President of the Senate a report~~
722 ~~proposing any required federal and state statutory changes that~~
723 ~~would be necessary to accomplish the directives listed in this~~



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724 ~~section and to coordinate with the Florida Congressional~~
725 ~~Delegation on any necessary changes to federal law to implement~~
726 ~~the directives.~~

727 (3) Nothing in this section shall be construed to preclude
728 the department from pursuing a series of regional general
729 permits for construction activities in wetlands or surface
730 waters or complete assumption of federal permitting programs
731 regulating the discharge of dredged or fill material pursuant to
732 s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended,
733 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors
734 Act of 1899, so long as the assumption encompasses all dredge
735 and fill activities in, on, or over jurisdictional wetlands or
736 waters, including navigable waters, within the state.

737 Section 13. Subsections (2) and (3), paragraph (a) of
738 subsection (4), and paragraph (a) of subsection (6) of section
739 373.41492, Florida Statutes, are amended to read:

740 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
741 mitigation for mining activities within the Miami-Dade County
742 Lake Belt.-

743 (2) To provide for the mitigation of wetland resources lost
744 to mining activities within the Miami-Dade County Lake Belt
745 Plan, effective October 1, 1999, a mitigation fee is imposed on
746 each ton of limerock and sand extracted by any person who
747 engages in the business of extracting limerock or sand from
748 within the Miami-Dade County Lake Belt Area and the east one-
749 half of sections 24 and 25 and all of sections 35 and 36,
750 Township 53 South, Range 39 East. The mitigation fee is imposed
751 for each ton of limerock and sand sold from within the
752 properties where the fee applies in raw, processed, or



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753 manufactured form, including, but not limited to, sized
754 aggregate, asphalt, cement, concrete, and other limerock and
755 concrete products. The mitigation fee imposed by this subsection
756 for each ton of limerock and sand sold shall be 12 cents per ton
757 beginning January 1, 2007; 18 cents per ton beginning January 1,
758 2008; 24 cents per ton beginning January 1, 2009; and 45 cents
759 per ton beginning close of business December 31, 2011. To pay
760 for seepage mitigation projects, including hydrological
761 structures, as authorized in an environmental resource permit
762 issued by the department for mining activities within the Miami-
763 Dade County Lake Belt Area, and to upgrade a water treatment
764 plant that treats water coming from the Northwest Wellfield in
765 Miami-Dade County, a water treatment plant upgrade fee is
766 imposed within the same Lake Belt Area subject to the mitigation
767 fee and upon the same kind of mined limerock and sand subject to
768 the mitigation fee. The water treatment plant upgrade fee
769 imposed by this subsection for each ton of limerock and sand
770 sold shall be 15 cents per ton beginning on January 1, 2007, and
771 the collection of this fee shall cease once the total amount of
772 proceeds collected for this fee reaches the amount of the actual
773 moneys necessary to design and construct the water treatment
774 plant upgrade, as determined in an open, public solicitation
775 process. Any limerock or sand that is used within the mine from
776 which the limerock or sand is extracted is exempt from the fees.
777 The amount of the mitigation fee and the water treatment plant
778 upgrade fee imposed under this section must be stated separately
779 on the invoice provided to the purchaser of the limerock or sand
780 product from the limerock or sand miner, or its subsidiary or
781 affiliate, for which the fee or fees apply. The limerock or sand



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782 miner, or its subsidiary or affiliate, who sells the limerock or
783 sand product shall collect the mitigation fee and the water
784 treatment plant upgrade fee and forward the proceeds of the fees
785 to the Department of Revenue on or before the 20th day of the
786 month following the calendar month in which the sale occurs. As
787 used in this section, the term "proceeds of the fee" means all
788 funds collected and received by the Department of Revenue under
789 this section, including interest and penalties on delinquent
790 fees. The amount deducted for administrative costs may not
791 exceed 3 percent of the total revenues collected under this
792 section and may equal only those administrative costs reasonably
793 attributable to the fees.

794 (3) The mitigation fee and the water treatment plant
795 upgrade fee imposed by this section must be reported to the
796 Department of Revenue. Payment of the mitigation and the water
797 treatment plant upgrade fees must be accompanied by a form
798 prescribed by the Department of Revenue. The proceeds of the
799 mitigation fee, less administrative costs, must be transferred
800 by the Department of Revenue to the South Florida Water
801 Management District and deposited into the Lake Belt Mitigation
802 Trust Fund. Beginning January 1, 2012, and ending December 31,
803 2017, or upon issuance of water quality certification by the
804 department for mining activities within Phase II of the Miami-
805 Dade County Lake Belt Plan, whichever occurs sooner, the
806 proceeds of the water treatment plant upgrade fee, less
807 administrative costs, must be transferred by the Department of
808 Revenue to the South Florida Water Management District and
809 deposited into the Lake Belt Mitigation Trust Fund. Beginning
810 January 1, 2018, the proceeds of the water treatment plant



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811 upgrade fee, less administrative costs, must be transferred by
812 the Department of Revenue to a trust fund established by Miami-
813 Dade County, for the sole purpose authorized by paragraph
814 (6) (a). ~~As used in this section, the term "proceeds of the fee"~~
815 ~~means all funds collected and received by the Department of~~
816 ~~Revenue under this section, including interest and penalties on~~
817 ~~delinquent fees. The amount deducted for administrative costs~~
818 ~~may not exceed 3 percent of the total revenues collected under~~
819 ~~this section and may equal only those administrative costs~~
820 ~~reasonably attributable to the fees.~~

821 (4) (a) The Department of Revenue shall administer, collect,
822 and enforce the mitigation and water treatment plant upgrade
823 fees authorized under this section in accordance with the
824 procedures used to administer, collect, and enforce the general
825 sales tax imposed under chapter 212. The provisions of chapter
826 212 with respect to the authority of the Department of Revenue
827 to audit and make assessments, the keeping of books and records,
828 and the interest and penalties imposed on delinquent fees apply
829 to this section. The fees may not be included in computing
830 estimated taxes under s. 212.11, and the dealer's credit for
831 collecting taxes or fees provided for in s. 212.12 does not
832 apply to the fees imposed by this section.

833 (6) (a) The proceeds of the mitigation fee must be used to
834 conduct mitigation activities that are appropriate to offset the
835 loss of the value and functions of wetlands as a result of
836 mining activities and must be used in a manner consistent with
837 the recommendations contained in the reports submitted to the
838 Legislature by the Miami-Dade County Lake Belt Plan
839 Implementation Committee and adopted under s. 373.4149. Such



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840 mitigation may include the purchase, enhancement, restoration,
841 and management of wetlands and uplands, the purchase of
842 mitigation credit from a permitted mitigation bank, and any
843 structural modifications to the existing drainage system to
844 enhance the hydrology of the Miami-Dade County Lake Belt Area.
845 Funds may also be used to reimburse other funding sources,
846 including the Save Our Rivers Land Acquisition Program, the
847 Internal Improvement Trust Fund, the South Florida Water
848 Management District, and Miami-Dade County, for the purchase of
849 lands that were acquired in areas appropriate for mitigation due
850 to rock mining and to reimburse governmental agencies that
851 exchanged land under s. 373.4149 for mitigation due to rock
852 mining. The proceeds of the water treatment plant upgrade fee
853 that are deposited into the Lake Belt Mitigation Trust Fund
854 shall be used solely to pay for seepage mitigation projects,
855 including groundwater or surface water management structures, as
856 authorized in an environmental resource permit issued by the
857 department for mining activities within the Miami-Dade County
858 Lake Belt Area. The proceeds of the water treatment plant
859 upgrade fee that are transferred to a trust fund established by
860 Miami-Dade County shall be used to upgrade a water treatment
861 plant that treats water coming from the Northwest Wellfield in
862 Miami-Dade County. As used in this section, the terms "upgrade a
863 water treatment plant" or "water treatment plant upgrade" means
864 those works necessary to treat or filter a surface water source
865 or supply or both.

866 Section 14. Present subsections (3), (4), and (5) of
867 section 373.441, Florida Statutes, are renumbered as subsections
868 (6), (7), and (8), respectively, and new subsections (3), (4),



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869 and (5) are added to that section, to read:

870 373.441 Role of counties, municipalities, and local
871 pollution control programs in permit processing; delegation.—

872 (3) A county having a population of 200,000 or more or a
873 municipality having a population of 100,000 or more that
874 implements a local pollution control program regulating all or a
875 portion of the wetlands or surface waters throughout its
876 geographic boundary must apply for delegation of state
877 environmental resource permitting authority on or before June 1,
878 2012. Any such county or municipality that fails to receive
879 delegation of all or a portion of permitting authority within
880 one year, or by June 1, 2013, may not require permits that in
881 part or in full are substantially similar to the requirements
882 needed to obtain an environmental resource permit. Any county or
883 municipality that has already received delegation prior to June
884 1, 2012 need not reapply.

885 (4) The department shall be responsible for all delegations
886 of the environmental resource permitting program to local
887 governments. The department must grant or deny any application
888 for delegation submitted by a county or municipality meeting the
889 criteria in section (3) within one year after receipt of said
890 application. In the event an application for delegation is
891 denied, any available legal challenge to said denial shall toll
892 the one year preemption deadline until resolution of the legal
893 challenge. Upon delegation to a qualified local government, the
894 department and water management district may not regulate the
895 activities subject to the delegation within that jurisdiction
896 unless regulation is required pursuant to the terms of the
897 delegation agreement.



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898 (5) This section does not prohibit or limit a local
899 government meeting the criteria in subsection (3) from
900 regulating wetlands or surface waters after June 1, 2012, if the
901 local government receives delegation of all or a portion of
902 state environmental resource permitting authority within one
903 year after application. In the event an application for
904 delegation is denied, any available legal challenge to said
905 denial shall toll the one year preemption deadline until
906 resolution of the legal challenge.

907 (6) Notwithstanding subsections (3), (4), and (5) above,
908 none of the provisions in this section shall apply to
909 environmental resource permitting or reclamation applications
910 for solid mineral mining and nothing in this section shall
911 prohibit the application of local government regulations to any
912 new solid mineral mine, or to any proposed addition to,
913 expansion of, or change to an existing solid mineral mine.

914 ~~(7)~~~~(3)~~ Delegation of authority shall be approved if the
915 local government meets the requirements set forth in rule 62-
916 344, Florida Administrative Code. This section does not require
917 a local government to seek delegation of the environmental
918 resource permit program.

919 ~~(8)~~~~(4)~~ This section does not affect or modify land
920 development regulations adopted by a local government to
921 implement its comprehensive plan pursuant to chapter 163.

922 ~~(9)~~~~(5)~~ The department shall review environmental resource
923 permit applications for electrical distribution and transmission
924 lines and other facilities related to the production,
925 transmission, and distribution of electricity which are not
926 certified under ss. 403.52-403.5365, the Florida Electric



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927 Transmission Line Siting Act, regulated under this part.

928 Section 15. Section 376.30715, Florida Statutes, is amended
929 to read:

930 376.30715 Innocent victim petroleum storage system
931 restoration.—A contaminated site acquired by the current owner
932 prior to July 1, 1990, which has ceased operating as a petroleum
933 storage or retail business prior to January 1, 1985, is eligible
934 for financial assistance pursuant to s. 376.305(6),
935 notwithstanding s. 376.305(6) (a). For purposes of this section,
936 the term “acquired” means the acquisition of title to the
937 property; however, a subsequent transfer of the property to a
938 spouse or child of the owner, a surviving spouse or child of the
939 owner in trust or free of trust, ~~or~~ a revocable trust created
940 for the benefit of the settlor, or a corporate entity created by
941 the owner to hold title to the site does not disqualify the site
942 from financial assistance pursuant to s. 376.305(6) and
943 applicants previously denied coverage may reapply. Eligible
944 sites shall be ranked in accordance with s. 376.3071(5).

945 Section 16. Paragraph (u) is added to subsection (24) of
946 section 380.06, Florida Statutes, to read:

947 380.06 Developments of regional impact.—

948 (24) STATUTORY EXEMPTIONS.—

949 (u) Any proposed solid mineral mine and any proposed
950 addition to, expansion of, or change to an existing solid
951 mineral mine is exempt from the provisions of this section.
952 Proposed changes to any previously approved solid mineral mine
953 development-of-regional-impact development orders having vested
954 rights is not subject to further review or approval as a
955 development of regional impact or notice of proposed change



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956 review or approval pursuant to subsection (19), except for those
957 applications pending as of July 1, 2011, which shall be governed
958 by s. 380.115(2). Notwithstanding the foregoing, however,
959 pursuant to s. 380.115(1), previously approved solid mineral
960 mine development-of-regional-impact development orders shall
961 continue to enjoy vested rights and continue to be effective
962 unless rescinded by the developer. All local government
963 regulations of proposed solid mineral mines shall be applicable
964 to any new solid mineral mine or to any proposed addition to,
965 expansion of, or change to an existing solid mineral mine.
966

967 If a use is exempt from review as a development of regional
968 impact under paragraphs (a)-(s), but will be part of a larger
969 project that is subject to review as a development of regional
970 impact, the impact of the exempt use must be included in the
971 review of the larger project, unless such exempt use involves a
972 development of regional impact that includes a landowner,
973 tenant, or user that has entered into a funding agreement with
974 the Office of Tourism, Trade, and Economic Development under the
975 Innovation Incentive Program and the agreement contemplates a
976 state award of at least \$50 million.

977 Section 17. Subsection (2) of section 403.1838, Florida
978 Statutes, is amended to read:

979 403.1838 Small Community Sewer Construction Assistance
980 Act.—

981 (2) The department shall use funds specifically
982 appropriated to award grants under this section to assist
983 financially disadvantaged small communities with their needs for
984 adequate sewer facilities. For purposes of this section, the



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985 term "financially disadvantaged small community" means a
986 municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer
987 ~~less~~, according to the latest decennial census or ~~and~~ a per
988 capita annual income less than the state per capita annual
989 income as determined by the United States Department of
990 Commerce.

991 Section 18. Subsection (1) of section 380.0657, Florida
992 Statutes, is amended to read:

993 380.0657 Expedited permitting process for economic
994 development projects.—

995 (1) The Department of Environmental Protection and, as
996 appropriate, the water management districts created under
997 chapter 373 shall adopt programs to expedite the processing of
998 wetland resource and environmental resource permits for economic
999 development projects that have been identified by a municipality
1000 or county as meeting the definition of target industry
1001 businesses under s. 288.106, or any inland multimodal facility,
1002 receiving or sending cargo to or from Florida ports, with the
1003 exception of those projects requiring approval by the Board of
1004 Trustees of the Internal Improvement Trust Fund.

1005 Section 19. Subsection (11) of section 403.061, Florida
1006 Statutes, is amended to read:

1007 403.061 Department; powers and duties.—The department shall
1008 have the power and the duty to control and prohibit pollution of
1009 air and water in accordance with the law and rules adopted and
1010 promulgated by it and, for this purpose, to:

1011 (11) Establish ambient air quality and water quality
1012 standards for the state as a whole or for any part thereof, and
1013 also standards for the abatement of excessive and unnecessary



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1014 noise. The department is authorized to establish reasonable
1015 zones of mixing for discharges into waters. For existing
1016 installations as defined by rule 62-520.200(10), Florida
1017 Administrative Code, effective July 12, 2009, zones of discharge
1018 to groundwater are authorized to a facility or owner's property
1019 boundary and extending to the base of the uppermost aquifer or a
1020 specifically designated aquifer or aquifers. Exceedances of
1021 primary and secondary groundwater standards that occur within a
1022 zone of discharge shall not create liability pursuant to this
1023 chapter or chapter 376 for site clean-up, nor shall exceedances
1024 of soil cleanup target levels be a basis for enforcement or site
1025 clean-up.

1026 (a) When a receiving body of water fails to meet a water
1027 quality standard for pollutants set forth in department rules, a
1028 steam electric generating plant discharge of pollutants that is
1029 existing or licensed under this chapter on July 1, 1984, may
1030 nevertheless be granted a mixing zone, provided that:

1031 1. The standard would not be met in the water body in the
1032 absence of the discharge;

1033 2. The discharge is in compliance with all applicable
1034 technology-based effluent limitations;

1035 3. The discharge does not cause a measurable increase in
1036 the degree of noncompliance with the standard at the boundary of
1037 the mixing zone; and

1038 4. The discharge otherwise complies with the mixing zone
1039 provisions specified in department rules.

1040 (b) No mixing zone for point source discharges shall be
1041 permitted in Outstanding Florida Waters except for:

1042 1. Sources that have received permits from the department



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1043 prior to April 1, 1982, or the date of designation, whichever is
1044 later;

1045 2. Blowdown from new power plants certified pursuant to the
1046 Florida Electrical Power Plant Siting Act;

1047 3. Discharges of water necessary for water management
1048 purposes which have been approved by the governing board of a
1049 water management district and, if required by law, by the
1050 secretary; and

1051 4. The discharge of demineralization concentrate which has
1052 been determined permissible under s. 403.0882 and which meets
1053 the specific provisions of s. 403.0882(4)(a) and (b), if the
1054 proposed discharge is clearly in the public interest.

1055 (c) The department, by rule, shall establish water quality
1056 criteria for wetlands which criteria give appropriate
1057 recognition to the water quality of such wetlands in their
1058 natural state.

1059
1060 Nothing in this act shall be construed to invalidate any
1061 existing department rule relating to mixing zones. The
1062 department shall cooperate with the Department of Highway Safety
1063 and Motor Vehicles in the development of regulations required by
1064 s. 316.272(1). The department shall implement such programs in
1065 conjunction with its other powers and duties and shall place
1066 special emphasis on reducing and eliminating contamination that
1067 presents a threat to humans, animals or plants, or to the
1068 environment.

1069 Section 20. Subsection (7) of section 403.087, Florida
1070 Statutes, is amended to read:

1071 403.087 Permits; general issuance; denial; revocation;



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1072 prohibition; penalty.-

1073 (7) A permit issued pursuant to this section shall not
1074 become a vested right in the permittee. The department may
1075 revoke any permit issued by it if it finds that the permitholder
1076 has:

1077 (a) ~~Has~~ Submitted false or inaccurate information in the
1078 his or her application for such permit;

1079 (b) ~~Has~~ Violated law, department orders, rules, ~~or~~
1080 regulations, or permit conditions;

1081 (c) ~~Has~~ Failed to submit operational reports or other
1082 information required by department rule which directly relate to
1083 such permit and has refused to correct or cure such violations
1084 when requested to do so or regulation; or

1085 (d) ~~Has~~ Refused lawful inspection under s. 403.091 at the
1086 facility authorized by such permit.

1087 Section 21. Section 403.0874, Florida Statutes, is created
1088 to read:

1089 403.0874 Incentive-based permitting program.-

1090 (1) SHORT TITLE.-This section may be cited as the "Florida
1091 Incentive-based Permitting Act."

1092 (2) FINDINGS AND INTENT.-The Legislature finds and declares
1093 that the department should consider compliance history when
1094 deciding whether to issue, renew, amend, or modify a permit by
1095 evaluating an applicant's site-specific and program-specific
1096 relevant aggregate compliance history. Persons having a history
1097 of complying with applicable permits or state environmental laws
1098 and rules are eligible for permitting benefits, including, but
1099 not limited to, expedited permit application reviews, longer
1100 duration permit periods, decreased announced compliance



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1101 inspections, and other similar regulatory and compliance
1102 incentives to encourage and reward such persons for their
1103 environmental performance.

1104 (3) APPLICABILITY.—

1105 (a) This section applies to all persons and regulated
1106 activities that are subject to the permitting requirements of
1107 chapter 161, chapter 373, or this chapter, and all other
1108 applicable state or federal laws that govern activities for the
1109 purpose of protecting the environment or the public health from
1110 pollution or contamination.

1111 (b) Notwithstanding paragraph (a), this section does not
1112 apply to certain permit actions or environmental permitting laws
1113 such as:

1114 1. Environmental permitting or authorization laws that
1115 regulate activities for the purpose of zoning, growth
1116 management, or land use; or

1117 2. Any federal law or program delegated or assumed by the
1118 state to the extent that implementation of this section, or any
1119 part of this section, would jeopardize the ability of the state
1120 to retain such delegation or assumption.

1121 (c) As used in this section, a the term "regulated
1122 activity" means any activity, including, but not limited to, the
1123 construction or operation of a facility, installation, system,
1124 or project, for which a permit, certification, or authorization
1125 is required under chapter 161, chapter 373, or this chapter.

1126 (4) COMPLIANCE HISTORY.—The compliance history period shall
1127 be the 10 years before the date any permit or renewal
1128 application is received by the department. Any person is
1129 entitled to the incentives under paragraph (5) (a) if:



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1130 (a)1. The applicant has conducted the regulated activity at
1131 the same site for which the permit or renewal is sought for at
1132 least 8 of the 10 years before the date the permit application
1133 is received by the department; or

1134 2. The applicant has conducted the same regulated activity
1135 at a different site within the state for at least 8 of the 10
1136 years before the date the permit or renewal application is
1137 received by the department; and

1138 (b) In the 10 years before the date the permit or renewal
1139 application is received by the department or water management
1140 district, the applicant has not been subject to a final
1141 administrative order or civil judgment or criminal conviction
1142 whereby an administrative law judge or civil or criminal court
1143 found the applicant violated the applicable law or rule, and has
1144 not been the subject of an administrative settlement or consent
1145 orders, whether formal or informal, that established a violation
1146 of an applicable law or rule; and

1147 (c) The applicant can demonstrate during a 10-year
1148 compliance history period the implementation of activities or
1149 practices that resulted in:

1150 1. Reductions in actual or permitted discharges or
1151 emissions;

1152 2. Reductions in the impacts of regulated activities on
1153 public lands or natural resources; and

1154 3. Implementation of voluntary environmental performance
1155 programs, such as environmental management systems.

1156 (5) COMPLIANCE INCENTIVES.—

1157 (a) An applicant shall request all applicable incentives at
1158 the time of application submittal. Unless otherwise prohibited



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1159 by state or federal law, rule, or regulation, and if the
1160 applicant meets all other applicable criteria for the issuance
1161 of a permit or authorization, an applicant is entitled to the
1162 following incentives:

1163 1. Expedited reviews on permit actions, including, but not
1164 limited to, initial permit issuance, renewal, modification, and
1165 transfer, if applicable. Expedited review means, at a minimum,
1166 that the initial request for additional information regarding a
1167 permit application shall be issued no later than 30 days after
1168 the application is filed, and final agency action shall be taken
1169 no later than 60 days after the application is deemed complete;

1170 2. Priority review of permit application;

1171 3. Reduced number of routine compliance inspections;

1172 4. No more than two requests for additional information
1173 under s. 120.60; and

1174 5. Longer permit period durations.

1175 (6) RULEMAKING.—The department may adopt additional
1176 incentives by rule. Such incentives shall be based on, and
1177 proportional to, actions taken by the applicant to reduce the
1178 applicant's impacts on human health and the environment beyond
1179 those actions required by law. The department's rules adopted
1180 under this section are binding on the water management districts
1181 and any local government that has been delegated or assumed a
1182 regulatory program to which this section applies.

1183 (7) SAVINGS PROVISION.—This section is not intended to
1184 affect an applicant's responsibility to provide reasonable
1185 assurance of compliance with applicable statutes and rules as a
1186 condition precedent to issuance of a permit, nor to limit
1187 factors the department, a water management district, or a



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1188 delegated program can consider in evaluating a permit
1189 application under existing law.

1190 Section 22. Paragraph (f) of subsection (1) of section
1191 403.7045, Florida Statutes, is amended to read:

1192 403.7045 Application of act and integration with other
1193 acts.—

1194 (1) The following wastes or activities shall not be
1195 regulated pursuant to this act:

1196 (f) Industrial byproducts, if:

1197 1. A majority of the industrial byproducts are demonstrated
1198 to be sold, used, or reused within 1 year.

1199 2. The industrial byproducts are not discharged, deposited,
1200 injected, dumped, spilled, leaked, or placed upon any land or
1201 water so that such industrial byproducts, or any constituent
1202 thereof, may enter other lands or be emitted into the air or
1203 discharged into any waters, including groundwaters, or otherwise
1204 enter the environment such that a threat of contamination in
1205 excess of applicable department standards and criteria or a
1206 significant threat to public health is caused.

1207 3. The industrial byproducts are not hazardous wastes as defined
1208 under s. 403.703 and rules adopted under this section.

1209

1210 Sludge from an industrial waste treatment works that meets the
1211 exemption requirements of this paragraph is not considered to be
1212 solid waste as defined in s. 403.703(32).

1213 Section 23. Subsections (2) and (3) of section 403.707,
1214 Florida Statutes, are amended to read:

1215 403.707 Permits.—

1216 (2) Except as provided in s. 403.722(6), a permit under



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1217 this section is not required for the following, ~~if the activity~~
1218 ~~does not create a public nuisance or any condition adversely~~
1219 ~~affecting the environment or public health and does not violate~~
1220 ~~other state or local laws, ordinances, rules, regulations, or~~
1221 ~~orders:~~

1222 (a) Disposal by persons of solid waste resulting from their
1223 own activities on their own property, if such waste is ordinary
1224 household waste from their residential property or is rocks,
1225 soils, trees, tree remains, and other vegetative matter that
1226 normally result from land development operations. Disposal of
1227 materials that could create a public nuisance or adversely
1228 affect the environment or public health, such as white goods;
1229 automotive materials, such as batteries and tires; petroleum
1230 products; pesticides; solvents; or hazardous substances, is not
1231 covered under this exemption.

1232 (b) Storage in containers by persons of solid waste
1233 resulting from their own activities on their property, leased or
1234 rented property, or property subject to a homeowners or
1235 maintenance association for which the person contributes
1236 association assessments, if the solid waste in such containers
1237 is collected at least once a week.

1238 (c) Disposal by persons of solid waste resulting from their
1239 own activities on their property, if the environmental effects
1240 of such disposal on groundwater and surface waters are:

1241 1. Addressed or authorized by a site certification order
1242 issued under part II or a permit issued by the department under
1243 this chapter or rules adopted pursuant to this chapter; or

1244 2. Addressed or authorized by, or exempted from the
1245 requirement to obtain, a groundwater monitoring plan approved by



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1246 the department. If the facility has a permit authorizing
1247 disposal activity, new areas where solid waste is disposed of
1248 that are being monitored by an existing or modified ground water
1249 monitoring plan are not required to be specifically authorized
1250 by permit or certification.

1251 (d) Disposal by persons of solid waste resulting from their
1252 own activities on their own property, if such disposal occurred
1253 prior to October 1, 1988.

1254 (e) Disposal of solid waste resulting from normal farming
1255 operations as defined by department rule. Polyethylene
1256 agricultural plastic, damaged, nonsalvageable, untreated wood
1257 pallets, and packing material that cannot be feasibly recycled,
1258 which are used in connection with agricultural operations
1259 related to the growing, harvesting, or maintenance of crops, may
1260 be disposed of by open burning if a public nuisance or any
1261 condition adversely affecting the environment or the public
1262 health is not created by the open burning and state or federal
1263 ambient air quality standards are not violated.

1264 (f) The use of clean debris as fill material in any area.
1265 However, this paragraph does not exempt any person from
1266 obtaining any other required permits, and does not affect a
1267 person's responsibility to dispose of clean debris appropriately
1268 if it is not to be used as fill material.

1269 (g) Compost operations that produce less than 50 cubic
1270 yards of compost per year when the compost produced is used on
1271 the property where the compost operation is located.

1272 (3) All applicable provisions of ss. 403.087 and 403.088,
1273 relating to permits, apply to the control of solid waste
1274 management facilities. Additionally, any permit issued to a



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1275 solid waste management facility that is designed with a leachate
1276 control system meeting department requirements shall be for a
1277 term of 20 years, or should the applicant request, a lesser
1278 number of years. Existing permit fees for qualifying solid waste
1279 management facilities shall be prorated to the permit term
1280 authorized by this section. This provision applies to all
1281 qualifying solid waste management facilities that apply for an
1282 operating or construction permit, or renew an existing operating
1283 or construction permit, on or after July 1, 2012.

1284 Section 24. Subsection (12) is added to section 403.814,
1285 Florida Statutes, to read:

1286 403.814 General permits; delegation.—

1287 (12) A general permit shall be granted for the
1288 construction, alteration, and maintenance of a surface water
1289 management system serving a total project area of up to 10
1290 acres. The construction of such a system may proceed without any
1291 agency action by the department or water management district if:

1292 (a) The total project area is less than 10 acres;

1293 (b) The total project area involves less than 2 acres of
1294 impervious surface;

1295 (c) No activities will impact wetlands or other surface
1296 waters;

1297 (d) No activities are conducted in, on, or over wetlands or
1298 other surface waters;

1299 (e) Drainage facilities will not include pipes having
1300 diameters greater than 24 inches, or the hydraulic equivalent,
1301 and will not use pumps in any manner;

1302 (f) The project is not part of a larger common plan of
1303 development or sale.



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- 1304 (g) The project does not:
1305 1. Cause adverse water quantity or flooding impacts to
1306 receiving water and adjacent lands;
1307 2. Cause adverse impacts to existing surface water storage
1308 and conveyance capabilities;
1309 3. Cause a violation of state water quality standards; and
1310 4. Cause an adverse impact to the maintenance of surface or
1311 ground water levels or surface water flows established pursuant
1312 to s. 373.042 or a work of the district established pursuant to
1313 s. 373.086; and

1314 (h) The surface water management system design plans must
1315 be signed and sealed by a Florida registered professional who
1316 shall attest that the system will perform and function as
1317 proposed and has been designed in accordance with appropriate,
1318 generally accepted performance standards and scientific
1319 principles.

1320 Section 25. Paragraph (a) of subsection (3) and subsections
1321 (4), (5), (10), (11), (14), (15), and (18) of section 403.973,
1322 Florida Statutes, are amended to read:

1323 403.973 Expedited permitting; amendments to comprehensive
1324 plans.—

1325 (3) (a) The secretary shall direct the creation of regional
1326 permit action teams for the purpose of expediting review of
1327 permit applications and local comprehensive plan amendments
1328 submitted by:

- 1329 1. Businesses creating at least 50 jobs or a commercial or
1330 industrial development project that will be occupied by
1331 businesses that would individually or collectively create at
1332 least 50 jobs; or



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1333 2. Businesses creating at least 25 jobs if the project is
1334 located in an enterprise zone, or in a county having a
1335 population of fewer than 75,000 or in a county having a
1336 population of fewer than 125,000 which is contiguous to a county
1337 having a population of fewer than 75,000, as determined by the
1338 most recent decennial census, residing in incorporated and
1339 unincorporated areas of the county.

1340 (4) The regional teams shall be established through the
1341 execution of a project-specific memoranda of agreement developed
1342 and executed by the applicant and the secretary, with input
1343 solicited from ~~the office and~~ the respective heads of the
1344 Department of Community Affairs, the Department of
1345 Transportation and its district offices, the Department of
1346 Agriculture and Consumer Services, the Fish and Wildlife
1347 Conservation Commission, appropriate regional planning councils,
1348 appropriate water management districts, and voluntarily
1349 participating municipalities and counties. The memoranda of
1350 agreement should also accommodate participation in this
1351 expedited process by other local governments and federal
1352 agencies as circumstances warrant.

1353 (5) In order to facilitate local government's option to
1354 participate in this expedited review process, the secretary
1355 shall, in cooperation with local governments and participating
1356 state agencies, create a standard form memorandum of agreement.
1357 The standard form of the memorandum of agreement shall be used
1358 only if the local government participates in the expedited
1359 review process. In the absence of local government
1360 participation, only the project-specific memorandum of agreement
1361 executed pursuant to subsection (4) applies. A local government



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1362 shall hold a duly noticed public workshop to review and explain
1363 to the public the expedited permitting process and the terms and
1364 conditions of the standard form memorandum of agreement.

1365 (10) The memoranda of agreement may provide for the waiver
1366 or modification of procedural rules prescribing forms, fees,
1367 procedures, or time limits for the review or processing of
1368 permit applications under the jurisdiction of those agencies
1369 that are members of the regional permit action team ~~party to the~~
1370 ~~memoranda of agreement~~. Notwithstanding any other provision of
1371 law to the contrary, a memorandum of agreement must to the
1372 extent feasible provide for proceedings and hearings otherwise
1373 held separately ~~by the parties to the memorandum of agreement~~ to
1374 be combined into one proceeding or held jointly and at one
1375 location. Such waivers or modifications shall not be available
1376 for permit applications governed by federally delegated or
1377 approved permitting programs, the requirements of which would
1378 prohibit, or be inconsistent with, such a waiver or
1379 modification.

1380 (11) The ~~standard form for~~ memoranda of agreement shall
1381 include guidelines to be used in working with state, regional,
1382 and local permitting authorities. Guidelines may include, but
1383 are not limited to, the following:

1384 (a) A central contact point for filing permit applications
1385 and local comprehensive plan amendments and for obtaining
1386 information on permit and local comprehensive plan amendment
1387 requirements;

1388 (b) Identification of the individual or individuals within
1389 each respective agency who will be responsible for processing
1390 the expedited permit application or local comprehensive plan



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1391 amendment for that agency;

1392 (c) A mandatory preapplication review process to reduce
1393 permitting conflicts by providing guidance to applicants
1394 regarding the permits needed from each agency and governmental
1395 entity, site planning and development, site suitability and
1396 limitations, facility design, and steps the applicant can take
1397 to ensure expeditious permit application and local comprehensive
1398 plan amendment review. As a part of this process, the first
1399 interagency meeting to discuss a project shall be held within 14
1400 days after the secretary's determination that the project is
1401 eligible for expedited review. Subsequent interagency meetings
1402 may be scheduled to accommodate the needs of participating local
1403 governments that are unable to meet public notice requirements
1404 for executing a memorandum of agreement within this timeframe.
1405 This accommodation may not exceed 45 days from the secretary's
1406 determination that the project is eligible for expedited review;

1407 (d) The preparation of a single coordinated project
1408 description form and checklist and an agreement by state and
1409 regional agencies to reduce the burden on an applicant to
1410 provide duplicate information to multiple agencies;

1411 (e) Establishment of a process for the adoption and review
1412 of any comprehensive plan amendment needed by any certified
1413 project within 90 days after the submission of an application
1414 for a comprehensive plan amendment. However, the memorandum of
1415 agreement may not prevent affected persons as defined in s.
1416 163.3184 from appealing or participating in this expedited plan
1417 amendment process and any review or appeals of decisions made
1418 under this paragraph; and

1419 (f) Additional incentives for an applicant who proposes a



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1420 project that provides a net ecosystem benefit.

1421 (14) (a) Challenges to state agency action in the expedited
1422 permitting process for projects processed under this section are
1423 subject to the summary hearing provisions of s. 120.574, except
1424 that the administrative law judge's decision, as provided in s.
1425 120.574(2)(f), shall be in the form of a recommended order and
1426 shall not constitute the final action of the state agency. In
1427 those proceedings where the action of only one agency of the
1428 state other than the Department of Environmental Protection is
1429 challenged, the agency of the state shall issue the final order
1430 within 45 working days after receipt of the administrative law
1431 judge's recommended order, and the recommended order shall
1432 inform the parties of their right to file exceptions or
1433 responses to the recommended order in accordance with the
1434 uniform rules of procedure pursuant to s. 120.54. In those
1435 proceedings where the actions of more than one agency of the
1436 state are challenged, the Governor shall issue the final order
1437 within 45 working days after receipt of the administrative law
1438 judge's recommended order, and the recommended order shall
1439 inform the parties of their right to file exceptions or
1440 responses to the recommended order in accordance with the
1441 uniform rules of procedure pursuant to s. 120.54. For This
1442 ~~paragraph does not apply to~~ the issuance of department licenses
1443 required under any federally delegated or approved permit
1444 program. In such instances, the department, and not the
1445 Governor, shall enter the final order. The participating
1446 agencies of the state may opt at the preliminary hearing
1447 conference to allow the administrative law judge's decision to
1448 constitute the final agency action. If a participating local



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1449 government agrees to participate in the summary hearing
1450 provisions of s. 120.574 for purposes of review of local
1451 government comprehensive plan amendments, s. 163.3184(9) and
1452 (10) apply.

1453 (b) Projects identified in paragraph (3) (f) or challenges
1454 to state agency action in the expedited permitting process for
1455 establishment of a state-of-the-art biomedical research
1456 institution and campus in this state by the grantee under s.
1457 288.955 are subject to the same requirements as challenges
1458 brought under paragraph (a), except that, notwithstanding s.
1459 120.574, summary proceedings must be conducted within 30 days
1460 after a party files the motion for summary hearing, regardless
1461 of whether the parties agree to the summary proceeding.

1462 (15) The office, working with the agencies providing
1463 cooperative assistance and input regarding the memoranda of
1464 agreement, shall review sites proposed for the location of
1465 facilities that the office has certified to be eligible for the
1466 Innovation Incentive Program under s. 288.1089. Within 20 days
1467 after the request for the review by the office, the agencies
1468 shall provide to the office a statement as to each site's
1469 necessary permits under local, state, and federal law and an
1470 identification of significant permitting issues, which if
1471 unresolved, may result in the denial of an agency permit or
1472 approval or any significant delay caused by the permitting
1473 process.

1474 (18) The office, working with the Rural Economic
1475 Development Initiative ~~and the agencies participating in the~~
1476 ~~memoranda of agreement~~, shall provide technical assistance in
1477 preparing permit applications and local comprehensive plan



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1478 amendments for counties having a population of fewer than 75,000
1479 residents, or counties having fewer than 125,000 residents which
1480 are contiguous to counties having fewer than 75,000 residents.
1481 Additional assistance may include, but not be limited to,
1482 guidance in land development regulations and permitting
1483 processes, working cooperatively with state, regional, and local
1484 entities to identify areas within these counties which may be
1485 suitable or adaptable for preclearance review of specified types
1486 of land uses and other activities requiring permits.

1487 Section 26. Subsection (5) is added to section 526.203,
1488 Florida Statutes, to read:

1489 526.203 Renewable fuel standard.—

1490 (5) This section does not prohibit the sale of unblended
1491 fuels for the uses exempted under subsection (3).

1492 Section 27. The installation of fuel tank upgrades to
1493 secondary containment systems shall be completed by the
1494 deadlines specified in rule 62-761.510, Florida Administrative
1495 Code, Table UST. However, notwithstanding any agreements to the
1496 contrary, any fuel service station that changed ownership
1497 interest through a bona fide sale of the property between
1498 January 1, 2009, and December 31, 2009, is not required to
1499 complete the upgrades described in Rule 62-761.510, Florida
1500 Administrative Code, Table UST, until December 31, 2012.

1501 Section 28. Subsection (18) of section 373.414, Florida
1502 Statutes, is amended to read:

1503 373.414 Additional criteria for activities in surface
1504 waters and wetlands.—

1505 (18) The department in coordination with ~~and~~ each water
1506 management district responsible for implementation of the



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1507 environmental resource permitting program shall develop a
1508 uniform mitigation assessment method for wetlands and other
1509 surface waters. ~~The department shall adopt the uniform~~
1510 ~~mitigation assessment method by rule no later than July 31,~~
1511 ~~2002.~~ The rule shall provide an exclusive, uniform and
1512 consistent process for determining the amount of mitigation
1513 required to offset impacts to wetlands and other surface waters,
1514 and, once effective, shall supersede all rules, ordinances, and
1515 variance procedures from ordinances that determine the amount of
1516 mitigation needed to offset such impacts. Except when evaluating
1517 mitigation bank applications, which must meet the criteria of
1518 373.4136(1), the rule shall be applied only after determining
1519 that the mitigation is appropriate to offset the values and
1520 functions of wetlands and surface waters to be adversely
1521 impacted by the proposed activity. Once the department adopts
1522 the uniform mitigation assessment method by rule, the uniform
1523 mitigation assessment method shall be binding on the department,
1524 the water management districts, local governments, and any other
1525 governmental agencies and shall be the sole means to determine
1526 the amount of mitigation needed to offset adverse impacts to
1527 wetlands and other surface waters and to award and deduct
1528 mitigation bank credits. A water management district and any
1529 other governmental agency subject to chapter 120 may apply the
1530 uniform mitigation assessment method without the need to adopt
1531 it pursuant to s. 120.54. It shall be a goal of the department
1532 and water management districts that the uniform mitigation
1533 assessment method developed be practicable for use within the
1534 timeframes provided in the permitting process and result in a
1535 consistent process for determining mitigation requirements. It



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1536 shall be recognized that any such method shall require the
1537 application of reasonable scientific judgment. The uniform
1538 mitigation assessment method must determine the value of
1539 functions provided by wetlands and other surface waters
1540 considering the current conditions of these areas, utilization
1541 by fish and wildlife, location, uniqueness, and hydrologic
1542 connection, and, when applied to mitigation banks, the factors
1543 ~~listed in s. 373.4136(4)~~. The uniform mitigation assessment
1544 method shall also account for the expected time-lag associated
1545 with offsetting impacts and the degree of risk associated with
1546 the proposed mitigation. The uniform mitigation assessment
1547 method shall account for different ecological communities in
1548 different areas of the state. In developing the uniform
1549 mitigation assessment method, the department and water
1550 management districts shall consult with approved local programs
1551 under s. 403.182 which have an established mitigation program
1552 for wetlands or other surface waters. The department and water
1553 management districts shall consider the recommendations
1554 submitted by such approved local programs, including any
1555 recommendations relating to the adoption by the department and
1556 water management districts of any uniform mitigation methodology
1557 that has been adopted and used by an approved local program in
1558 its established mitigation program for wetlands or other surface
1559 waters. Environmental resource permitting rules may establish
1560 categories of permits or thresholds for minor impacts under
1561 which the use of the uniform mitigation assessment method will
1562 not be required. The application of the uniform mitigation
1563 assessment method is not subject to s. 70.001. In the event the
1564 rule establishing the uniform mitigation assessment method is



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1565 deemed to be invalid, the applicable rules related to
1566 establishing needed mitigation in existence prior to the
1567 adoption of the uniform mitigation assessment method, including
1568 those adopted by a county which is an approved local program
1569 under s. 403.182, and the method described in paragraph (b) for
1570 existing mitigation banks, shall be authorized for use by the
1571 department, water management districts, local governments, and
1572 other state agencies.

1573 (a) In developing the uniform mitigation assessment method,
1574 the department shall seek input from the United States Army
1575 Corps of Engineers in order to promote consistency in the
1576 mitigation assessment methods used by the state and federal
1577 permitting programs.

1578 (b) An entity which has received a mitigation bank permit
1579 prior to the adoption of the uniform mitigation assessment
1580 method shall have impact sites assessed, for the purpose of
1581 deducting bank credits, using the credit assessment method,
1582 including any functional assessment methodology, which was in
1583 place when the bank was permitted; unless the entity elects to
1584 have its credits redetermined, and thereafter have its credits
1585 deducted, using the uniform mitigation assessment method.

1586 (c) The department shall ensure statewide coordination and
1587 consistency in the interpretation and application of the uniform
1588 mitigation assessment method rule by providing programmatic
1589 training and guidance to staff of the department, water
1590 management districts, and local governments. To ensure that the
1591 uniform mitigation assessment method rule is interpreted and
1592 applied uniformly, the department's interpretation, guidance,
1593 and approach to applying the uniform mitigation assessment



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1594 method rule shall govern.

1595 (d) Applicants shall submit the information needed to
1596 perform the assessment required under the uniform mitigation
1597 assessment method rule, and may submit the qualitative
1598 characterization and quantitative assessment for each assessment
1599 area specified by the rule. The reviewing agency shall review
1600 that information and notify the applicant of any inadequacy in
1601 the information or application of the assessment method.

1602 (e) When conducting qualitative characterization of
1603 artificial wetlands and other surface waters, such as borrow
1604 pits, ditches, and canals under the uniform mitigation
1605 assessment method rule, the native community type to which it is
1606 most analogous in function shall be used as a reference. For
1607 wetlands or other surface waters that have been altered from
1608 their native community type, the historic community type at that
1609 location shall be used as a reference, unless the alteration has
1610 been of such a degree and extent that a different native
1611 community type is now present and self sustaining.

1612 (f) When conducting qualitative characterization of upland
1613 mitigation assessment areas, the characterization shall include
1614 functions that the upland assessment area provides to the fish
1615 and wildlife of the associated wetland or other surface waters.
1616 These functions shall be considered and accounted for when
1617 scoring the upland assessment area for preservation,
1618 enhancement, or restoration.

1619 (g) Preservation mitigation, as used in the uniform
1620 mitigation assessment method, means the protection of important
1621 wetland, other surface water or upland ecosystems (predominantly
1622 in their existing condition and absent restoration, creation or



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1623 enhancement) from adverse impacts by placing a conservation
1624 easement or other comparable land use restriction over the
1625 property or by donation of fee simple interest in the property.
1626 Preservation may include a management plan for perpetual
1627 protection of the area. The preservation adjustment factor set
1628 forth in rule 62-345.500(3), Florida Administrative Code, shall
1629 only apply to preservation mitigation.

1630 (h) When assessing a preservation mitigation assessment
1631 area under the uniform mitigation assessment method the
1632 following shall apply:

1633 1. "Without preservation" shall consider the reasonably
1634 anticipated loss of functions and values provided by the
1635 assessment area, assuming the area is not preserved.

1636 2. Each of the considerations of the preservation
1637 adjustment factor specified in Rule 62-345.500(3) (a), Florida
1638 Administrative Code shall be equally weighted and scored on a
1639 scale from 0 (no value) to 0.2 (optimal value). In addition, the
1640 minimum preservation adjustment factor shall be 0.2.

1641 (i) The location and landscape support scores, pursuant to
1642 rule 62-345.500, Florida Administrative Code, may change in the
1643 "with mitigation" or "with impact" condition in both upland and
1644 wetland assessment areas, regardless of the initial community
1645 structure or water environment scores.

1646 (j) When a mitigation plan for creation, restoration, or
1647 enhancement includes a preservation mechanism (such as a
1648 conservation easement), the "with mitigation" assessment of that
1649 creation, restoration, or enhancement shall consider, and the
1650 scores shall reflect, the benefits of that preservation
1651 mechanism, and the benefits of that preservation mechanism shall



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1652 not be scored separately.

1653 (k) Any entity holding a mitigation bank permit that was
1654 evaluated under the uniform mitigation assessment method prior
1655 to the effective date of paragraphs (c)-(j), may submit a permit
1656 modification request to the relevant permitting agency to have
1657 such mitigation bank reassessed pursuant to the provisions set
1658 forth in this section, and the relevant permitting agency shall
1659 reassess such mitigation bank, if such request is filed with
1660 that agency no later than September 30, 2011.

1661 Section 29. Subsection (4) of section 373.4136, Florida
1662 Statutes, is amended to read:

1663 373.4136 Establishment and operation of mitigation banks.-

1664 (4) MITIGATION CREDITS.—After evaluating the information
1665 submitted by the applicant for a mitigation bank permit and
1666 assessing the proposed mitigation bank pursuant to the criteria
1667 in this section, the department or water management district
1668 shall award a number of mitigation credits to a proposed
1669 mitigation bank or phase of such mitigation bank. An entity
1670 establishing and operating a mitigation bank may apply to modify
1671 the mitigation bank permit to seek the award of additional
1672 mitigation credits if the mitigation bank results in an
1673 additional increase in ecological value over the value
1674 contemplated at the time of the original permit issuance, or the
1675 most recent modification thereto involving the number of credits
1676 awarded. The number of credits awarded shall be based on the
1677 degree of improvement in ecological value expected to result
1678 from the establishment and operation of the mitigation bank as
1679 determined using the uniform mitigation assessment method
1680 adopted pursuant to s. 373.414(18). ~~a functional assessment~~



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1681 ~~methodology. In determining the degree of improvement in~~
1682 ~~ecological value, each of the following factors, at a minimum,~~
1683 ~~shall be evaluated:~~

1684 ~~(a) The extent to which target hydrologic regimes can be~~
1685 ~~achieved and maintained.~~

1686 ~~(b) The extent to which management activities promote~~
1687 ~~natural ecological conditions, such as natural fire patterns.~~

1688 ~~(c) The proximity of the mitigation bank to areas with~~
1689 ~~regionally significant ecological resources or habitats, such as~~
1690 ~~national or state parks, Outstanding National Resource Waters~~
1691 ~~and associated watersheds, Outstanding Florida Waters and~~
1692 ~~associated watersheds, and lands acquired through governmental~~
1693 ~~or nonprofit land acquisition programs for environmental~~
1694 ~~conservation; and the extent to which the mitigation bank~~
1695 ~~establishes corridors for fish, wildlife, or listed species to~~
1696 ~~those resources or habitats.~~

1697 ~~(d) The quality and quantity of wetland or upland~~
1698 ~~restoration, enhancement, preservation, or creation.~~

1699 ~~(e) The ecological and hydrological relationship between~~
1700 ~~wetlands and uplands in the mitigation bank.~~

1701 ~~(f) The extent to which the mitigation bank provides~~
1702 ~~habitat for fish and wildlife, especially habitat for species~~
1703 ~~listed as threatened, endangered, or of special concern, or~~
1704 ~~provides habitats that are unique for that mitigation service~~
1705 ~~area.~~

1706 ~~(g) The extent to which the lands that are to be preserved~~
1707 ~~are already protected by existing state, local, or federal~~
1708 ~~regulations or land use restrictions.~~

1709 ~~(h) The extent to which lands to be preserved would be~~



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1710 ~~adversely affected if they were not preserved.~~

1711 ~~(i) Any special designation or classification of the~~
1712 ~~affected waters and lands.~~

1713 Section 30. Section 218.075, Florida Statutes, is amended
1714 to read:

1715 218.075 Reduction or waiver of permit processing fees.—
1716 Notwithstanding any other provision of law, the Department of
1717 Environmental Protection and the water management districts
1718 shall reduce or waive permit processing fees for counties with a
1719 population of 50,000 or less on April 1, 1994, until such
1720 counties exceed a population of 75,000 and municipalities with a
1721 population of 25,000 or less, or an entity created by special
1722 act or local ordinance or interlocal agreement of such counties
1723 or municipalities or any county or municipality not included
1724 within a metropolitan statistical area. Fee reductions or
1725 waivers shall be approved on the basis of fiscal hardship or
1726 environmental need for a particular project or activity. The
1727 governing body must certify that the cost of the permit
1728 processing fee is a fiscal hardship due to one of the following
1729 factors:

1730 (1) Per capita taxable value is less than the statewide
1731 average for the current fiscal year;

1732 (2) Percentage of assessed property value that is exempt
1733 from ad valorem taxation is higher than the statewide average
1734 for the current fiscal year;

1735 (3) Any condition specified in s. 218.503(1) which results
1736 in the county or municipality being in a state of financial
1737 emergency;

1738 (4) Ad valorem operating millage rate for the current



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1739 fiscal year is greater than 8 mills; or

1740 (5) A financial condition that is documented in annual
1741 financial statements at the end of the current fiscal year and
1742 indicates an inability to pay the permit processing fee during
1743 that fiscal year. The permit applicant must be the governing
1744 body of a county or municipality or a third party under contract
1745 with a county or municipality or an entity created by special
1746 act or local ordinance or interlocal agreement and the project
1747 for which the fee reduction or waiver is sought must serve a
1748 public purpose. If a permit processing fee is reduced, the total
1749 fee shall not exceed \$100.

1750

1751 Section 31. This act shall take effect July 1, 2011.