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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/12/2011	.	
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The Committee on Agriculture (Montford) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 317 and 318  
insert:

Section 7. Section 403.08853, Florida Statutes, is created  
to read:

403.08853 National Pollutant Discharge Elimination System  
permits for water management districts and local governments.-

(1) Whenever any National Pollutant Discharge Elimination  
System permit issued pursuant to s. 403.0885 or any associated  
administrative order issued pursuant to s. 403.088 directly or  
indirectly causes a local government or water management



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13 district to incur costs in excess of \$10 million to comply with  
14 one or more water-quality-based effluent limitations, the  
15 department, in consultation with the affected local government  
16 or water management district, shall conduct a use attainability  
17 analysis consistent with 40 C.F.R. s. 131.10(g). The \$10 million  
18 threshold for this requirement is met if any National Pollutant  
19 Discharge Elimination System permit or associated administrative  
20 order, together with other National Pollutant Discharge  
21 Elimination System permits or administrative orders for  
22 discharges to the same water body, directly or indirectly cause  
23 compliance costs to exceed this threshold through application of  
24 related effluent limitations for the same water quality  
25 parameter.

26 (2) The department and the water management district or  
27 local government shall present the results of the use  
28 attainability analysis at one or more public hearings before the  
29 Environmental Regulation Commission. Based on the results of the  
30 use attainability analysis and information received from the  
31 public, the Environmental Regulation Commission shall adopt  
32 appropriate relief mechanisms, including, without limitation, a  
33 temporary variance or subcategorization of use, if it determines  
34 that attainment of the designated use is not feasible based on  
35 any of the factors set forth in 40 C.F.R. s. 131.10(g).

36 (3) Ten days before the adoption of any relief mechanism by  
37 the Environmental Regulation Commission, the department shall  
38 submit any such relief mechanism and supporting information to  
39 the United States Environmental Protection Agency for review  
40 pursuant to 33 U.S.C. s. 1313(c).  
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42 ===== T I T L E A M E N D M E N T =====

43 And the title is amended as follows:

44       Between lines 29 and 30

45 insert:

46       creating s. 403.08853, F.S.; requiring that the  
47       Department of Environmental Protection conduct a use  
48       attainability analysis if a permit issued under the  
49       National Pollutant Discharge Elimination System causes  
50       a water management district or local government to  
51       incur costs in excess of a specified amount; requiring  
52       that the results of the analysis be presented at a  
53       public hearing before the Environmental Regulation  
54       Commission; requiring that the commission adopt relief  
55       mechanisms under certain circumstances; requiring that  
56       the department submit certain information to the  
57       United States Environmental Protection Agency before  
58       the adoption of any relief mechanism;