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LEGISLATIVE ACTION

Senate

House

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Floor: WD

05/06/2011 09:55 AM

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Senator Bennett moved the following:

**Senate Amendment (with title amendment)**

Between lines 121 and 122

insert:

Section 4. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—When a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the same meaning as in s. 163.3164. A county may not require as a



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14 condition of processing a development permit that an applicant  
15 obtain a permit or approval from any other state or federal  
16 agency unless the agency has issued a notice of intent to deny  
17 the federal or state permit before the county action on the  
18 local development permit. Issuance of a development permit by a  
19 county does not in any way create any rights on the part of the  
20 applicant to obtain a permit from another state or federal  
21 agency and does not create any liability on the part of the  
22 county for issuance of the permit if the applicant fails to  
23 fulfill its legal obligations to obtain requisite approvals or  
24 fulfill the obligations imposed by another state or a federal  
25 agency. A county may attach such a disclaimer to the issuance of  
26 a development permit, and may include a permit condition that  
27 all other applicable state or federal permits be obtained before  
28 commencement of the development. This section does not prohibit  
29 a county from providing information to an applicant regarding  
30 what other state or federal permits may apply.

31 Section 5. Subsections (5) and (6), are added to section  
32 161.041, Florida Statutes, to read:

33 161.041 Permits required.—

34 (5) The department may not require as a permit condition  
35 sediment quality specifications or turbidity standards more  
36 stringent than those provided for in this chapter, chapter 373,  
37 or the Florida Administrative Code. The department may not issue  
38 guidelines that are enforceable as standards without going  
39 through the rulemaking process pursuant to chapter 120.

40 (6) As an incentive for permit applicants, it is the  
41 Legislature's intent to simplify the permitting for periodic  
42 maintenance of beach renourishment projects previously permitted



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43 and restored under the joint coastal permit process pursuant to  
44 this section or part IV of chapter 373. The department shall  
45 amend chapters 62B-41 and 62B-49 of the Florida Administrative  
46 Code to streamline the permitting process, as necessary, for  
47 periodic maintenance projects.

48 Section 6. Paragraph (c) of subsection (6) of section  
49 373.4135, Florida Statutes, is amended to read:

50 373.4135 Mitigation banks and offsite regional mitigation.—

51 (6) An environmental creation, preservation, enhancement,  
52 or restoration project, including regional offsite mitigation  
53 areas, for which money is donated or paid as mitigation, that is  
54 sponsored by the department, a water management district, or a  
55 local government and provides mitigation for five or more  
56 applicants for permits under this part, or for 35 or more acres  
57 of adverse impacts, shall be established and operated under a  
58 memorandum of agreement. The memorandum of agreement shall be  
59 between the governmental entity proposing the mitigation project  
60 and the department or water management district, as appropriate.  
61 Such memorandum of agreement need not be adopted by rule. For  
62 the purposes of this subsection, one creation, preservation,  
63 enhancement, or restoration project shall mean one or more  
64 parcels of land with similar ecological communities that are  
65 intended to be created, preserved, enhanced, or restored under a  
66 common scheme.

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

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

71 2. A timeline for obtaining any required environmental



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72 resource permit.

73 3. The environmental success criteria that the project must  
74 achieve.

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

77 5. An assessment of the project in accordance with s.  
78 373.4136(4) ~~(a)-(i)~~, until the adoption of the uniform wetland  
79 mitigation assessment method pursuant to s. 373.414(18).

80 6. A designation of the entity responsible for the  
81 successful completion of the mitigation work.

82 7. A definition of the geographic area where the project  
83 may be used as mitigation established using the criteria of s.  
84 373.4136(6).

85 8. Full cost accounting of the project, including annual  
86 review and adjustment.

87 9. Provision and a timetable for the acquisition of any  
88 lands necessary for the project.

89 10. Provision for preservation of the site.

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

92 12. Provision for termination of the agreement and  
93 cessation of use of the project as mitigation if any material  
94 contingency of the agreement has failed to occur.

95 Section 7. Subsection (4) of section 373.4136, Florida  
96 Statutes, is amended to read:

97 373.4136 Establishment and operation of mitigation banks.—

98 (4) MITIGATION CREDITS.—After evaluating the information  
99 submitted by the applicant for a mitigation bank permit and  
100 assessing the proposed mitigation bank pursuant to the criteria



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101 in this section, the department or water management district  
102 shall award a number of mitigation credits to a proposed  
103 mitigation bank or phase of such mitigation bank. An entity  
104 establishing and operating a mitigation bank may apply to modify  
105 the mitigation bank permit to seek the award of additional  
106 mitigation credits if the mitigation bank results in an  
107 additional increase in ecological value over the value  
108 contemplated at the time of the original permit issuance, or the  
109 most recent modification thereto involving the number of credits  
110 awarded. The number of credits awarded shall be based on the  
111 degree of improvement in ecological value expected to result  
112 from the establishment and operation of the mitigation bank as  
113 determined using the uniform mitigation assessment method  
114 adopted pursuant to s. 373.414(18). ~~a functional assessment~~  
115 ~~methodology. In determining the degree of improvement in~~  
116 ~~ecological value, each of the following factors, at a minimum,~~  
117 ~~shall be evaluated:~~

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

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

122 ~~(c) The proximity of the mitigation bank to areas with~~  
123 ~~regionally significant ecological resources or habitats, such as~~  
124 ~~national or state parks, Outstanding National Resource Waters~~  
125 ~~and associated watersheds, Outstanding Florida Waters and~~  
126 ~~associated watersheds, and lands acquired through governmental~~  
127 ~~or nonprofit land acquisition programs for environmental~~  
128 ~~conservation; and the extent to which the mitigation bank~~  
129 ~~establishes corridors for fish, wildlife, or listed species to~~



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130 ~~those resources or habitats.~~

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

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

135 ~~(f) The extent to which the mitigation bank provides~~  
136 ~~habitat for fish and wildlife, especially habitat for species~~  
137 ~~listed as threatened, endangered, or of special concern, or~~  
138 ~~provides habitats that are unique for that mitigation service~~  
139 ~~area.~~

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

143 ~~(h) The extent to which lands to be preserved would be~~  
144 ~~adversely affected if they were not preserved.~~

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

147 Section 8. Subsection (18) of section 373.414, Florida  
148 Statutes, is amended to read:

149 373.414 Additional criteria for activities in surface  
150 waters and wetlands.—

151 (18) The department, in coordination with ~~and~~ each water  
152 management district responsible for implementation of the  
153 environmental resource permitting program, shall develop a  
154 uniform mitigation assessment method for wetlands and other  
155 surface waters. ~~The department shall adopt the uniform~~  
156 ~~mitigation assessment method by rule no later than July 31,~~  
157 ~~2002.~~ The rule shall provide an exclusive, uniform, and  
158 consistent process for determining the amount of mitigation



159 required to offset impacts to wetlands and other surface waters,  
160 and, once effective, shall supersede all rules, ordinances, and  
161 variance procedures from ordinances that determine the amount of  
162 mitigation needed to offset such impacts. Except when evaluating  
163 mitigation bank applications, which must meet the criteria of s.  
164 373.4136(1), the rule shall be applied only after determining  
165 that the mitigation is appropriate to offset the values and  
166 functions of wetlands and surface waters to be adversely  
167 impacted by the proposed activity. Once the department adopts  
168 the uniform mitigation assessment method by rule, the uniform  
169 mitigation assessment method shall be binding on the department,  
170 the water management districts, local governments, and any other  
171 governmental agencies and shall be the sole means to determine  
172 the amount of mitigation needed to offset adverse impacts to  
173 wetlands and other surface waters and to award and deduct  
174 mitigation bank credits. A water management district and any  
175 other governmental agency subject to chapter 120 may apply the  
176 uniform mitigation assessment method without the need to adopt  
177 it pursuant to s. 120.54. It shall be a goal of the department  
178 and water management districts that the uniform mitigation  
179 assessment method developed be practicable for use within the  
180 timeframes provided in the permitting process and result in a  
181 consistent process for determining mitigation requirements. It  
182 shall be recognized that any such method shall require the  
183 application of reasonable scientific judgment. The uniform  
184 mitigation assessment method must determine the value of  
185 functions provided by wetlands and other surface waters  
186 considering the current conditions of these areas, utilization  
187 by fish and wildlife, location, uniqueness, and hydrologic



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188 ~~connection, and, when applied to mitigation banks, the factors~~  
189 ~~listed in s. 373.4136(4).~~ The uniform mitigation assessment  
190 method shall also account for the expected time-lag associated  
191 with offsetting impacts and the degree of risk associated with  
192 the proposed mitigation. The uniform mitigation assessment  
193 method shall account for different ecological communities in  
194 different areas of the state. In developing the uniform  
195 mitigation assessment method, the department and water  
196 management districts shall consult with approved local programs  
197 under s. 403.182 which have an established mitigation program  
198 for wetlands or other surface waters. The department and water  
199 management districts shall consider the recommendations  
200 submitted by such approved local programs, including any  
201 recommendations relating to the adoption by the department and  
202 water management districts of any uniform mitigation methodology  
203 that has been adopted and used by an approved local program in  
204 its established mitigation program for wetlands or other surface  
205 waters. Environmental resource permitting rules may establish  
206 categories of permits or thresholds for minor impacts under  
207 which the use of the uniform mitigation assessment method will  
208 not be required. The application of the uniform mitigation  
209 assessment method is not subject to s. 70.001. In the event the  
210 rule establishing the uniform mitigation assessment method is  
211 deemed to be invalid, the applicable rules related to  
212 establishing needed mitigation in existence prior to the  
213 adoption of the uniform mitigation assessment method, including  
214 those adopted by a county which is an approved local program  
215 under s. 403.182, and the method described in paragraph (b) for  
216 existing mitigation banks, shall be authorized for use by the





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217 department, water management districts, local governments, and  
218 other state agencies.

219 (a) In developing the uniform mitigation assessment method,  
220 the department shall seek input from the United States Army  
221 Corps of Engineers in order to promote consistency in the  
222 mitigation assessment methods used by the state and federal  
223 permitting programs.

224 (b) An entity which has received a mitigation bank permit  
225 prior to the adoption of the uniform mitigation assessment  
226 method shall have impact sites assessed, for the purpose of  
227 deducting bank credits, using the credit assessment method,  
228 including any functional assessment methodology, which was in  
229 place when the bank was permitted; unless the entity elects to  
230 have its credits redetermined, and thereafter have its credits  
231 deducted, using the uniform mitigation assessment method.

232 (c) The department shall ensure statewide coordination and  
233 consistency in the interpretation and application of the uniform  
234 mitigation assessment method rule by providing programmatic  
235 training and guidance to staff of the department, water  
236 management districts, and local governments. To ensure that the  
237 uniform mitigation assessment method rule is interpreted and  
238 applied uniformly, the department's interpretation, guidance,  
239 and approach to applying the uniform mitigation assessment  
240 method rule shall govern.

241 (d) Applicants shall submit the information needed to  
242 perform the assessment required under the uniform mitigation  
243 assessment method rule and may submit the qualitative  
244 characterization and quantitative assessment for each assessment  
245 area specified by the rule. The reviewing agency shall review



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246 that information and notify the applicant of any inadequacy in  
247 the information or application of the assessment method.

248 (e) When conducting qualitative characterization of  
249 artificial wetlands and other surface waters, such as borrow  
250 pits, ditches, and canals, under the uniform mitigation  
251 assessment method rule, the native community type to which it is  
252 most analogous in function shall be used as a reference. For  
253 wetlands or other surface waters that have been altered from  
254 their native community type, the historic community type at that  
255 location shall be used as a reference, unless the alteration has  
256 been of such a degree and extent that a different native  
257 community type is now present and self-sustaining.

258 (f) When conducting qualitative characterization of upland  
259 mitigation assessment areas, the characterization shall include  
260 functions that the upland assessment area provides to the fish  
261 and wildlife of the associated wetland or other surface waters.  
262 These functions shall be considered and accounted for when  
263 scoring the upland assessment area for preservation,  
264 enhancement, or restoration.

265 (g) The term "preservation mitigation," as used in the  
266 uniform mitigation assessment method, means the protection of  
267 important wetland, other surface water, or upland ecosystems  
268 predominantly in their existing condition and absent  
269 restoration, creation, or enhancement from adverse impacts by  
270 placing a conservation easement or other comparable land use  
271 restriction over the property or by donation of fee simple  
272 interest in the property. Preservation may include a management  
273 plan for perpetual protection of the area. The preservation  
274 adjustment factor set forth in rule 62-345.500(3), Florida



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275 Administrative Code, shall only apply to preservation  
276 mitigation.

277 (h) When assessing a preservation mitigation assessment  
278 area under the uniform mitigation assessment method, the  
279 following apply:

280 1. The term "without preservation" means the reasonably  
281 anticipated loss of functions and values provided by the  
282 assessment area, assuming the area is not preserved.

283 2. Each of the considerations of the preservation  
284 adjustment factor specified in rule 62-345.500(3)(a), Florida  
285 Administrative Code, shall be equally weighted and scored on a  
286 scale from 0, no value, to 0.2, optimal value. In addition, the  
287 minimum preservation adjustment factor shall be 0.2.

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

293 (j) When a mitigation plan for creation, restoration, or  
294 enhancement includes a preservation mechanism, such as a  
295 conservation easement, the "with mitigation" assessment of that  
296 creation, restoration, or enhancement shall consider, and the  
297 scores shall reflect, the benefits of that preservation  
298 mechanism, and the benefits of that preservation mechanism may  
299 not be scored separately.

300 (k) Any entity holding a mitigation bank permit that was  
301 evaluated under the uniform mitigation assessment method before  
302 the effective date of paragraphs (c)-(j) may submit a permit  
303 modification request to the relevant permitting agency to have



304 such mitigation bank reassessed pursuant to the provisions set  
305 forth in this section, and the relevant permitting agency shall  
306 reassess such mitigation bank, if such request is filed with  
307 that agency no later than September 30, 2011.

308 Section 9. Section 373.4141, Florida Statutes, is amended  
309 to read:

310 373.4141 Permits; processing.-

311 (1) Within 30 days after receipt of an application for a  
312 permit under this part, the department or the water management  
313 district shall review the application and shall request  
314 submittal of all additional information the department or the  
315 water management district is permitted by law to require. If the  
316 applicant believes any request for additional information is not  
317 authorized by law or rule, the applicant may request a hearing  
318 pursuant to s. 120.57. Within 30 days after receipt of such  
319 additional information, the department or water management  
320 district shall review it and may request only that information  
321 needed to clarify such additional information or to answer new  
322 questions raised by or directly related to such additional  
323 information. If the applicant believes the request of the  
324 department or water management district for such additional  
325 information is not authorized by law or rule, the department or  
326 water management district, at the applicant's request, shall  
327 proceed to process the permit application.

328 (2) A permit shall be approved, ~~or~~ subject to a  
329 notice of proposed agency action within 60 ~~90~~ days after receipt  
330 of the original application, the last item of timely requested  
331 additional material, or the applicant's written request to begin  
332 processing the permit application.



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333 (3) Processing of applications for permits for affordable  
334 housing projects shall be expedited to a greater degree than  
335 other projects.

336 (4) A state agency or an agency of the state may not  
337 require as a condition of approval for a permit or as an item to  
338 complete a pending permit application that an applicant obtain a  
339 permit or approval from any other local, state, or federal  
340 agency without explicit statutory authority to require such  
341 permit or approval.

342 Section 10. Subsection (11) of section 403.061, Florida  
343 Statutes, is amended to read:

344 403.061 Department; powers and duties.—The department shall  
345 have the power and the duty to control and prohibit pollution of  
346 air and water in accordance with the law and rules adopted and  
347 promulgated by it and, for this purpose, to:

348 (11) Establish ambient air quality and water quality  
349 standards for the state as a whole or for any part thereof, and  
350 also standards for the abatement of excessive and unnecessary  
351 noise. The department is authorized to establish reasonable  
352 zones of mixing for discharges into waters. For existing  
353 installations as defined by rule 62-520.200(10), Florida  
354 Administrative Code, effective July 12, 2009, zones of discharge  
355 to groundwater are authorized to a facility's or owner's  
356 property boundary and extending to the base of a specifically  
357 designated aquifer or aquifers. Exceedance of primary and  
358 secondary groundwater standards that occur within a zone of  
359 discharge does not create liability pursuant to this chapter or  
360 chapter 376 for site cleanup, and the exceedance of soil cleanup  
361 target levels is not a basis for enforcement or site cleanup.



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

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

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

371 3. The discharge does not cause a measurable increase in  
372 the degree of noncompliance with the standard at the boundary of  
373 the mixing zone; and

374 4. The discharge otherwise complies with the mixing zone  
375 provisions specified in department rules.

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

378 1. Sources that have received permits from the department  
379 prior to April 1, 1982, or the date of designation, whichever is  
380 later;

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

383 3. Discharges of water necessary for water management  
384 purposes which have been approved by the governing board of a  
385 water management district and, if required by law, by the  
386 secretary; and

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



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391 (c) The department, by rule, shall establish water quality  
392 criteria for wetlands which criteria give appropriate  
393 recognition to the water quality of such wetlands in their  
394 natural state.

395

396 Nothing in this act shall be construed to invalidate any  
397 existing department rule relating to mixing zones. The  
398 department shall cooperate with the Department of Highway Safety  
399 and Motor Vehicles in the development of regulations required by  
400 s. 316.272(1).

401

402 The department shall implement such programs in conjunction  
403 with its other powers and duties and shall place special  
404 emphasis on reducing and eliminating contamination that presents  
405 a threat to humans, animals or plants, or to the environment.

406 Section 11. Subsections (2) and (3), paragraph (a) of  
407 subsection (4), and paragraph (a) of subsection (6) of section  
408 373.41492, Florida Statutes, are amended to read:

409 373.41492 Miami-Dade County Lake Belt Mitigation Plan;  
410 mitigation for mining activities within the Miami-Dade County  
411 Lake Belt.—

412 (2) To provide for the mitigation of wetland resources lost  
413 to mining activities within the Miami-Dade County Lake Belt  
414 Plan, effective October 1, 1999, a mitigation fee is imposed on  
415 each ton of limerock and sand extracted by any person who  
416 engages in the business of extracting limerock or sand from  
417 within the Miami-Dade County Lake Belt Area and the east one-  
418 half of sections 24 and 25 and all of sections 35 and 36,  
419 Township 53 South, Range 39 East. The mitigation fee is imposed



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420 for each ton of limerock and sand sold from within the  
421 properties where the fee applies in raw, processed, or  
422 manufactured form, including, but not limited to, sized  
423 aggregate, asphalt, cement, concrete, and other limerock and  
424 concrete products. The mitigation fee imposed by this subsection  
425 for each ton of limerock and sand sold shall be 12 cents per ton  
426 beginning January 1, 2007; 18 cents per ton beginning January 1,  
427 2008; 24 cents per ton beginning January 1, 2009; and 45 cents  
428 per ton beginning close of business December 31, 2011. To pay  
429 for seepage mitigation projects, including hydrological  
430 structures, as authorized in an environmental resource permit  
431 issued by the department for mining activities within the Miami-  
432 Dade County Lake Belt Area, and to upgrade a water treatment  
433 plant that treats water coming from the Northwest Wellfield in  
434 Miami-Dade County, a water treatment plant upgrade fee is  
435 imposed within the same Lake Belt Area subject to the mitigation  
436 fee and upon the same kind of mined limerock and sand subject to  
437 the mitigation fee. The water treatment plant upgrade fee  
438 imposed by this subsection for each ton of limerock and sand  
439 sold shall be 15 cents per ton beginning on January 1, 2007, and  
440 the collection of this fee shall cease once the total amount of  
441 proceeds collected for this fee reaches the amount of the actual  
442 moneys necessary to design and construct the water treatment  
443 plant upgrade, as determined in an open, public solicitation  
444 process. Any limerock or sand that is used within the mine from  
445 which the limerock or sand is extracted is exempt from the fees.  
446 The amount of the mitigation fee and the water treatment plant  
447 upgrade fee imposed under this section must be stated separately  
448 on the invoice provided to the purchaser of the limerock or sand





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449 product from the limerock or sand miner, or its subsidiary or  
450 affiliate, for which the fee or fees apply. The limerock or sand  
451 miner, or its subsidiary or affiliate, who sells the limerock or  
452 sand product shall collect the mitigation fee and the water  
453 treatment plant upgrade fee and forward the proceeds of the fees  
454 to the Department of Revenue on or before the 20th day of the  
455 month following the calendar month in which the sale occurs. As  
456 used in this section, the term "proceeds of the fee" means all  
457 funds collected and received by the Department of Revenue under  
458 this section, including interest and penalties on delinquent  
459 fees. The amount deducted for administrative costs may not  
460 exceed 3 percent of the total revenues collected under this  
461 section and may equal only those administrative costs reasonably  
462 attributable to the fees.

463 (3) The mitigation fee and the water treatment plant  
464 upgrade fee imposed by this section must be reported to the  
465 Department of Revenue. Payment of the mitigation and the water  
466 treatment plant upgrade fees must be accompanied by a form  
467 prescribed by the Department of Revenue.

468 (a) The proceeds of the mitigation fee, less administrative  
469 costs, must be transferred by the Department of Revenue to the  
470 South Florida Water Management District and deposited into the  
471 Lake Belt Mitigation Trust Fund.

472 (b) Beginning January 1, 2012, the proceeds of the water  
473 treatment plant upgrade fee, less administrative costs, must be  
474 transferred by the Department of Revenue to the South Florida  
475 Water Management District and deposited into the Lake Belt  
476 Mitigation Trust Fund until either:

477 1. A total of \$20 million from the water treatment plant



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478 upgrade fee proceeds, less administrative costs, is deposited  
479 into the Lake Belt Mitigation Trust Fund; or

480 2. The quarterly pathogen sampling conducted as a condition  
481 of the permits issued by the department for rock mining  
482 activities in the Miami-Dade Lake Belt Area demonstrates that  
483 the water in any quarry lake in the vicinity of the Northwest  
484 Wellfield would be classified as being in Bin Two or higher as  
485 defined in the Environmental Protection Agency's Enhanced  
486 Surface Water Treatment Rule.

487 (c) Upon the earliest occurrence of the criteria under  
488 either subparagraph (b)1. or subparagraph (b)2., the proceeds of  
489 the water treatment plant upgrade fee, less administrative  
490 costs, must be transferred by the Department of Revenue to a  
491 trust fund established by Miami-Dade County, for the sole  
492 purpose authorized by paragraph (6) (a). As used in this section,  
493 the term "proceeds of the fee" means all funds collected and  
494 received by the Department of Revenue under this section,  
495 including interest and penalties on delinquent fees. The amount  
496 deducted for administrative costs may not exceed 3 percent of  
497 the total revenues collected under this section and may equal  
498 only those administrative costs reasonably attributable to the  
499 fees.

500 (4) (a) The Department of Revenue shall administer, collect,  
501 and enforce the mitigation and water treatment plant upgrade  
502 fees authorized under this section in accordance with the  
503 procedures used to administer, collect, and enforce the general  
504 sales tax imposed under chapter 212. The provisions of chapter  
505 212 with respect to the authority of the Department of Revenue  
506 to audit and make assessments, the keeping of books and records,



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507 and the interest and penalties imposed on delinquent fees apply  
508 to this section. The fees may not be included in computing  
509 estimated taxes under s. 212.11, and the dealer's credit for  
510 collecting taxes or fees provided for in s. 212.12 does not  
511 apply to the fees imposed by this section.

512 (6) (a) The proceeds of the mitigation fee must be used to  
513 conduct mitigation activities that are appropriate to offset the  
514 loss of the value and functions of wetlands as a result of  
515 mining activities and must be used in a manner consistent with  
516 the recommendations contained in the reports submitted to the  
517 Legislature by the Miami-Dade County Lake Belt Plan  
518 Implementation Committee and adopted under s. 373.4149. Such  
519 mitigation may include the purchase, enhancement, restoration,  
520 and management of wetlands and uplands, the purchase of  
521 mitigation credit from a permitted mitigation bank, and any  
522 structural modifications to the existing drainage system to  
523 enhance the hydrology of the Miami-Dade County Lake Belt Area.  
524 Funds may also be used to reimburse other funding sources,  
525 including the Save Our Rivers Land Acquisition Program, the  
526 Internal Improvement Trust Fund, the South Florida Water  
527 Management District, and Miami-Dade County, for the purchase of  
528 lands that were acquired in areas appropriate for mitigation due  
529 to rock mining and to reimburse governmental agencies that  
530 exchanged land under s. 373.4149 for mitigation due to rock  
531 mining. The proceeds of the water treatment plant upgrade fee  
532 that are deposited into the Lake Belt Mitigation Trust Fund  
533 shall be used solely to pay for seepage mitigation projects,  
534 including groundwater or surface water management structures, as  
535 authorized in an environmental resource permit issued by the



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536 department for mining activities within the Miami-Dade County  
537 Lake Belt Area. The proceeds of the water treatment plant  
538 upgrade fee that are transferred to a trust fund established by  
539 Miami-Dade County shall be used to upgrade a water treatment  
540 plant that treats water coming from the Northwest Wellfield in  
541 Miami-Dade County. As used in this section, the terms "upgrade a  
542 water treatment plant" or "water treatment plant upgrade" means  
543 those works necessary to treat or filter a surface water source  
544 or supply or both.

545 Section 12. Paragraph (a) of subsection (4) of section  
546 403.706, Florida Statutes, is amended to read:

547 403.706 Local government solid waste responsibilities.—

548 (4) (a) In order to promote the production of renewable  
549 energy from solid waste, each megawatt-hour produced by a  
550 renewable energy facility using solid waste as a fuel shall  
551 count as 1 ton of recycled material and shall be applied toward  
552 meeting the recycling goals set forth in this section. If a  
553 county creating renewable energy from solid waste implements and  
554 maintains a program to recycle at least 50 percent of municipal  
555 solid waste by a means other than creating renewable energy,  
556 that county shall count 2 tons of recycled material for each  
557 megawatt-hour produced. If waste originates from a county other  
558 than the county in which the renewable energy facility resides,  
559 the originating county shall receive such recycling credit. Any  
560 byproduct resulting from the creation of renewable energy that  
561 is recycled shall count towards the county recycling goals in  
562 accordance with method and criteria developed per Section  
563 403.706(2) (h), F.S. Any county that has a debt service payment  
564 related to its waste-to-energy facility shall receive 1 ton of



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565 ~~recycled materials credit for each ton of solid waste processed~~  
566 ~~at the facility. Any byproduct resulting from the creation of~~  
567 ~~renewable energy does not count as waste.~~

568 Section 13. Subsections (2) and (3) of section 403.707,  
569 Florida Statutes, are amended to read:

570 403.707 Permits.—

571 (2) Except as provided in s. 403.722(6), a permit under  
572 this section is not required for the following, ~~if the activity~~  
573 ~~does not create a public nuisance or any condition adversely~~  
574 ~~affecting the environment or public health and does not violate~~  
575 ~~other state or local laws, ordinances, rules, regulations, or~~  
576 ~~orders:~~

577 (a) Disposal by persons of solid waste resulting from their  
578 own activities on their own property, if such waste is ordinary  
579 household waste from their residential property or is rocks,  
580 soils, trees, tree remains, and other vegetative matter that  
581 normally result from land development operations. Disposal of  
582 materials that could create a public nuisance or adversely  
583 affect the environment or public health, such as white goods;  
584 automotive materials, such as batteries and tires; petroleum  
585 products; pesticides; solvents; or hazardous substances, is not  
586 covered under this exemption.

587 (b) Storage in containers by persons of solid waste  
588 resulting from their own activities on their property, leased or  
589 rented property, or property subject to a homeowners or  
590 maintenance association for which the person contributes  
591 association assessments, if the solid waste in such containers  
592 is collected at least once a week.

593 (c) Disposal by persons of solid waste resulting from their



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594 own activities on their property, if the environmental effects  
595 of such disposal on groundwater and surface waters are:

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

599 2. Addressed or authorized by, or exempted from the  
600 requirement to obtain, a groundwater monitoring plan approved by  
601 the department. If a facility has a permit authorizing disposal  
602 activity, new areas where solid waste is being disposed of that  
603 are monitored by an existing or modified groundwater monitoring  
604 plan are not required to be specifically authorized in a permit  
605 or other certification.

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

609 (e) Disposal of solid waste resulting from normal farming  
610 operations as defined by department rule. Polyethylene  
611 agricultural plastic, damaged, nonsalvageable, untreated wood  
612 pallets, and packing material that cannot be feasibly recycled,  
613 which are used in connection with agricultural operations  
614 related to the growing, harvesting, or maintenance of crops, may  
615 be disposed of by open burning if a public nuisance or any  
616 condition adversely affecting the environment or the public  
617 health is not created by the open burning and state or federal  
618 ambient air quality standards are not violated.

619 (f) The use of clean debris as fill material in any area.  
620 However, this paragraph does not exempt any person from  
621 obtaining any other required permits, and does not affect a  
622 person's responsibility to dispose of clean debris appropriately



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623 if it is not to be used as fill material.

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

627 (3)(a) All applicable provisions of ss. 403.087 and  
628 403.088, relating to permits, apply to the control of solid  
629 waste management facilities.

630 (b) Any permit issued to a solid waste management facility  
631 that is designed with a leachate control system that meets  
632 department requirements shall be issued for a term of 20 years  
633 unless the applicant requests a lesser permit term. Existing  
634 permit fees for qualifying solid waste management facilities  
635 shall be prorated to the permit term authorized by this section.  
636 This provision applies to all qualifying solid waste management  
637 facilities that apply for an operating or construction permit or  
638 renew an existing operating or construction permit on or after  
639 July 1, 2012.

640 Section 14. Subsection (6) of section 403.853, Florida  
641 Statutes, is amended to read:

642 403.853 Drinking water standards.—

643 (6) Upon the request of the owner or operator of a  
644 transient noncommunity water system using groundwater as a  
645 source of supply and serving religious institutions or  
646 businesses, other than restaurants or other public food service  
647 establishments or religious institutions with school or day care  
648 services, and using groundwater as a source of supply, the  
649 department, or a local county health department designated by  
650 the department, shall perform a sanitary survey of the facility.  
651 Upon receipt of satisfactory survey results according to



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652 department criteria, the department shall reduce the  
653 requirements of such owner or operator from monitoring and  
654 reporting on a quarterly basis to performing these functions on  
655 an annual basis. Any revised monitoring and reporting schedule  
656 approved by the department under this subsection shall apply  
657 until such time as a violation of applicable state or federal  
658 primary drinking water standards is determined by the system  
659 owner or operator, by the department, or by an agency designated  
660 by the department, after a random or routine sanitary survey.  
661 Certified operators are not required for transient noncommunity  
662 water systems of the type and size covered by this subsection.  
663 Any reports required of such system shall be limited to the  
664 minimum as required by federal law. When not contrary to the  
665 provisions of federal law, the department may, upon request and  
666 by rule, waive additional provisions of state drinking water  
667 regulations for such systems.

668 Section 15. Paragraph (a) of subsection (3) and subsections  
669 (4), (5), (10), (11), (14), (15), and (18) of section 403.973,  
670 Florida Statutes, are amended to read:

671 403.973 Expedited permitting; amendments to comprehensive  
672 plans.—

673 (3) (a) The secretary shall direct the creation of regional  
674 permit action teams for the purpose of expediting review of  
675 permit applications and local comprehensive plan amendments  
676 submitted by:

677 1. Businesses creating at least 50 jobs or a commercial or  
678 industrial development project that will be occupied by  
679 businesses that would individually or collectively create at  
680 least 50 jobs; or





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681           2. Businesses creating at least 25 jobs if the project is  
682 located in an enterprise zone, or in a county having a  
683 population of fewer than 75,000 or in a county having a  
684 population of fewer than 125,000 which is contiguous to a county  
685 having a population of fewer than 75,000, as determined by the  
686 most recent decennial census, residing in incorporated and  
687 unincorporated areas of the county.

688           (4) The regional teams shall be established through the  
689 execution of a project-specific memoranda of agreement developed  
690 and executed by the applicant and the secretary, with input  
691 solicited from ~~the office and~~ the respective heads of the  
692 Department of Community Affairs, the Department of  
693 Transportation and its district offices, the Department of  
694 Agriculture and Consumer Services, the Fish and Wildlife  
695 Conservation Commission, appropriate regional planning councils,  
696 appropriate water management districts, and voluntarily  
697 participating municipalities and counties. The memoranda of  
698 agreement should also accommodate participation in this  
699 expedited process by other local governments and federal  
700 agencies as circumstances warrant.

701           (5) In order to facilitate local government's option to  
702 participate in this expedited review process, the secretary  
703 shall, in cooperation with local governments and participating  
704 state agencies, create a standard form memorandum of agreement.  
705 The standard form of the memorandum of agreement shall be used  
706 only if the local government participates in the expedited  
707 review process. In the absence of local government  
708 participation, only the project-specific memorandum of agreement  
709 executed pursuant to subsection (4) applies. A local government



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710 shall hold a duly noticed public workshop to review and explain  
711 to the public the expedited permitting process and the terms and  
712 conditions of the standard form memorandum of agreement.

713 (10) The memoranda of agreement may provide for the waiver  
714 or modification of procedural rules prescribing forms, fees,  
715 procedures, or time limits for the review or processing of  
716 permit applications under the jurisdiction of those agencies  
717 that are members of the regional permit action team ~~party to the~~  
718 ~~memoranda of agreement~~. Notwithstanding any other provision of  
719 law to the contrary, a memorandum of agreement must to the  
720 extent feasible provide for proceedings and hearings otherwise  
721 held separately ~~by the parties to the memorandum of agreement~~ to  
722 be combined into one proceeding or held jointly and at one  
723 location. Such waivers or modifications shall not be available  
724 for permit applications governed by federally delegated or  
725 approved permitting programs, the requirements of which would  
726 prohibit, or be inconsistent with, such a waiver or  
727 modification.

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

732 (a) A central contact point for filing permit applications  
733 and local comprehensive plan amendments and for obtaining  
734 information on permit and local comprehensive plan amendment  
735 requirements;

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



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739 amendment for that agency;

740 (c) A mandatory preapplication review process to reduce  
741 permitting conflicts by providing guidance to applicants  
742 regarding the permits needed from each agency and governmental  
743 entity, site planning and development, site suitability and  
744 limitations, facility design, and steps the applicant can take  
745 to ensure expeditious permit application and local comprehensive  
746 plan amendment review. As a part of this process, the first  
747 interagency meeting to discuss a project shall be held within 14  
748 days after the secretary's determination that the project is  
749 eligible for expedited review. Subsequent interagency meetings  
750 may be scheduled to accommodate the needs of participating local  
751 governments that are unable to meet public notice requirements  
752 for executing a memorandum of agreement within this timeframe.  
753 This accommodation may not exceed 45 days from the secretary's  
754 determination that the project is eligible for expedited review;

755 (d) The preparation of a single coordinated project  
756 description form and checklist and an agreement by state and  
757 regional agencies to reduce the burden on an applicant to  
758 provide duplicate information to multiple agencies;

759 (e) Establishment of a process for the adoption and review  
760 of any comprehensive plan amendment needed by any certified  
761 project within 90 days after the submission of an application  
762 for a comprehensive plan amendment. However, the memorandum of  
763 agreement may not prevent affected persons as defined in s.  
764 163.3184 from appealing or participating in this expedited plan  
765 amendment process and any review or appeals of decisions made  
766 under this paragraph; and

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



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768 project that provides a net ecosystem benefit.  
769 (14) (a) Challenges to state agency action in the expedited  
770 permitting process for projects processed under this section are  
771 subject to the summary hearing provisions of s. 120.574, except  
772 that the administrative law judge's decision, as provided in s.  
773 120.574(2) (f), shall be in the form of a recommended order and  
774 shall not constitute the final action of the state agency. In  
775 those proceedings where the action of only one agency of the  
776 state other than the Department of Environmental Protection is  
777 challenged, the agency of the state shall issue the final order  
778 within 45 working days after receipt of the administrative law  
779 judge's recommended order, and the recommended order shall  
780 inform the parties of their right to file exceptions or  
781 responses to the recommended order in accordance with the  
782 uniform rules of procedure pursuant to s. 120.54. In those  
783 proceedings where the actions of more than one agency of the  
784 state are challenged, the Governor shall issue the final order  
785 within 45 working days after receipt of the administrative law  
786 judge's recommended order, and the recommended order shall  
787 inform the parties of their right to file exceptions or  
788 responses to the recommended order in accordance with the  
789 uniform rules of procedure pursuant to s. 120.54. For This  
790 ~~paragraph does not apply to~~ the issuance of department licenses  
791 required under any federally delegated or approved permit  
792 program. In such instances, the department, and not the  
793 Governor, shall enter the final order. The participating  
794 agencies of the state may opt at the preliminary hearing  
795 conference to allow the administrative law judge's decision to  
796 constitute the final agency action. If a participating local



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797 government agrees to participate in the summary hearing  
798 provisions of s. 120.574 for purposes of review of local  
799 government comprehensive plan amendments, s. 163.3184(9) and  
800 (10) apply.

801 (b) Projects identified in paragraph (3)(f) or challenges  
802 to state agency action in the expedited permitting process for  
803 establishment of a state-of-the-art biomedical research  
804 institution and campus in this state by the grantee under s.  
805 288.955 are subject to the same requirements as challenges  
806 brought under paragraph (a), except that, notwithstanding s.  
807 120.574, summary proceedings must be conducted within 30 days  
808 after a party files the motion for summary hearing, regardless  
809 of whether the parties agree to the summary proceeding.

810 (15) The office, working with the agencies providing  
811 cooperative assistance and input regarding the memoranda of  
812 agreement, shall review sites proposed for the location of  
813 facilities that the office has certified to be eligible for the  
814 Innovation Incentive Program under s. 288.1089. Within 20 days  
815 after the request for the review by the office, the agencies  
816 shall provide to the office a statement as to each site's  
817 necessary permits under local, state, and federal law and an  
818 identification of significant permitting issues, which if  
819 unresolved, may result in the denial of an agency permit or  
820 approval or any significant delay caused by the permitting  
821 process.

822 (18) The office, working with the Rural Economic  
823 Development Initiative ~~and the agencies participating in the~~  
824 ~~memoranda of agreement~~, shall provide technical assistance in  
825 preparing permit applications and local comprehensive plan



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826 amendments for counties having a population of fewer than 75,000  
827 residents, or counties having fewer than 125,000 residents which  
828 are contiguous to counties having fewer than 75,000 residents.  
829 Additional assistance may include, but not be limited to,  
830 guidance in land development regulations and permitting  
831 processes, working cooperatively with state, regional, and local  
832 entities to identify areas within these counties which may be  
833 suitable or adaptable for preclearance review of specified types  
834 of land uses and other activities requiring permits.

835 Section 16. Subsection (5) is added to section 526.203,  
836 Florida Statutes, to read:

837 526.203 Renewable fuel standard.-

838 (5) SALE OF UNBLENDED FUELS.-This section does not prohibit  
839 the sale of unblended fuels for the uses exempted under  
840 subsection (3).

841 Section 17. The installation of fuel tank upgrades to  
842 secondary containment systems shall be completed by the  
843 deadlines specified in rule 62-761.510, Florida Administrative  
844 Code, Table UST. However, notwithstanding any agreements to the  
845 contrary, any fuel service station that changed ownership  
846 interest through a bona fide sale of the property between  
847 January 1, 2009, and December 31, 2009, is not required to  
848 complete the upgrades described in rule 62-761.510, Florida  
849 Administrative Code, Table UST, until December 31, 2012.

850  
851  
852 ===== T I T L E A M E N D M E N T =====

853 And the title is amended as follows:

854 Delete line 25



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855 and insert:  
856 permit;amending s. 125.022, F.S.; prohibiting a county  
857 from requiring an applicant to obtain a permit or  
858 approval from another state or federal agency as a  
859 condition of processing a development permit under  
860 certain conditions; authorizing a county to attach  
861 certain disclaimers to the issuance of a development  
862 permit; amending s. 161.041, F.S.; prohibiting the  
863 Department of Environmental Protection from requiring  
864 certain sediment quality specifications or turbidity  
865 standards as a permit condition; providing legislative  
866 intent with respect to permitting for beach  
867 renourishment projects; directing the department to  
868 amend specified rules relating to permitting for such  
869 projects; amending s. 373.4135, F.S.; conforming a  
870 cross-reference; amending s. 373.4136, F.S.;  
871 clarifying the use of the uniform mitigation  
872 assessment method for mitigation credits for the  
873 establishment and operation of mitigation banks;  
874 amending s. 373.414, F.S.; revising provisions for the  
875 uniform mitigation assessment method rule for wetlands  
876 and other surface waters; providing requirements for  
877 the interpretation and application of the uniform  
878 mitigation assessment method rule; providing an  
879 exception; defining the terms "preservation  
880 mitigation" and "without preservation" for the  
881 purposes of certain assessments pursuant to the rule;  
882 providing for reassessment of mitigation banks under  
883 certain conditions; amending s. 373.4141, F.S.;



884 providing a limitation for the request of additional  
885 information from an applicant by the department;  
886 providing that failure of an applicant to respond to  
887 such a request within a specified time period  
888 constitutes withdrawal of the application; reducing  
889 the time within which a permit must be approved,  
890 denied, or subject to notice of proposed agency  
891 action; prohibiting a state agency or an agency of the  
892 state from requiring additional permits or approval  
893 from a local, state, or federal agency without  
894 explicit authority; amending s. 403.061, F.S.;  
895 requiring the Department of Environmental Protection  
896 to establish reasonable zones of mixing for  
897 discharging into specified water; providing that  
898 exceedance of certain groundwater standards does not  
899 create liability for site cleanup; providing that  
900 exceedance of soil cleanup target levels is not a  
901 basis for enforcement or cleanup; amending s.  
902 373.41492, F.S.; authorizing the use of proceeds from  
903 the water treatment plant upgrade fee to pay for  
904 specified mitigation projects; requiring proceeds from  
905 the water treatment plant upgrade fee to be  
906 transferred by the Department of Revenue to the South  
907 Florida Water Management District and deposited into  
908 the Lake Belt Mitigation Trust Fund until specified  
909 criteria is met; providing, after such criteria is  
910 met, for the proceeds of the water treatment plant  
911 upgrade fee to return to being transferred by the  
912 Department of Revenue to a trust fund established by





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913 Miami-Dade County for specified purposes; conforming a  
914 term; amending s. 403.706, F.S.; providing for  
915 recycling credit for byproducts of renewable energy  
916 production; amending s. 403.707, F.S.; exempting the  
917 disposal of solid waste monitored by certain  
918 groundwater monitoring plans from specific  
919 authorization; extending the duration of all permits  
920 issued to solid waste management facilities that meet  
921 specified criteria; providing an exception; providing  
922 for prorated permit fees; providing applicability;  
923 amending s. 403.853, F.S.; providing for the Department  
924 of Health, or a local county health department  
925 designated by the department, to perform sanitary  
926 surveys for a transient noncommunity water system  
927 using groundwater as a source of supply and serving  
928 religious institutions or businesses; amending s.  
929 403.973; authorizing expedited permitting for certain  
930 commercial or industrial development projects that  
931 individually or collectively will create a minimum  
932 number of jobs; providing for a project specific  
933 memorandum of agreement to apply to a project subject  
934 to expedited permitting; clarifying the authority of  
935 the Department of Environmental Protection to enter  
936 final orders; revising criteria for the review of  
937 certain sites; amending s. 526.203, F.S.; authorizing  
938 the sale of unblended fuels for certain uses; revising  
939 the deadline for completion of the installation of  
940 fuel tank upgrades to secondary containment systems  
941 for specified properties; providing an effective date.