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LEGISLATIVE ACTION

Senate

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House

Senators Bennett, Smith, Garcia, and Siplin 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



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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



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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 Section 18. Paragraphs (a) and (b) of subsection (3) of
851 section 258.397, Florida Statutes, are amended to read:

852 258.397 Biscayne Bay Aquatic Preserve.—

853 (3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the
854 Internal Improvement Trust Fund is authorized and directed to



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855 maintain the aquatic preserve hereby created pursuant and
856 subject to the following provisions:

857 (a) No further sale, transfer, or lease of sovereignty
858 submerged lands in the preserve shall be approved or consummated
859 by the board of trustees, except upon a showing of extreme
860 hardship on the part of the applicant and a determination by the
861 board of trustees that such sale, transfer, or lease is in the
862 public interest. A municipal applicant proposing a project under
863 paragraph (b) is exempt from showing extreme hardship.

864 (b) No further dredging or filling of submerged lands of
865 the preserve shall be approved or tolerated by the board of
866 trustees except:

867 1. Such minimum dredging and spoiling as may be authorized
868 for public navigation projects or for such minimum dredging and
869 spoiling as may be constituted as a public necessity or for
870 preservation of the bay according to the expressed intent of
871 this section.

872 2. Such other alteration of physical conditions, including
873 the placement of riprap, as may be necessary to enhance the
874 quality and utility of the preserve.

875 3. Such minimum dredging and filling as may be authorized
876 for the creation and maintenance of marinas, piers, and docks
877 and their attendant navigation channels and access roads. Such
878 projects may only be authorized upon a specific finding by the
879 board of trustees that there is assurance that the project will
880 be constructed and operated in a manner that will not adversely
881 affect the water quality and utility of the preserve. This
882 subparagraph shall not authorize the connection of upland canals
883 to the waters of the preserve.



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884 4. Such dredging as is necessary for the purpose of
885 eliminating conditions hazardous to the public health or for the
886 purpose of eliminating stagnant waters, islands, and spoil
887 banks, the dredging of which would enhance the aesthetic and
888 environmental quality and utility of the preserve and be clearly
889 in the public interest as determined by the board of trustees.

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

892
893 Any dredging or filling under this subsection or improvements
894 under subsection (5) shall be approved only after public notice
895 as provided by s. 253.115.

896
897
898 ===== T I T L E A M E N D M E N T =====

899 And the title is amended as follows:

900 Delete line 25

901 and insert:

902 permit;amending s. 125.022, F.S.; prohibiting a county
903 from requiring an applicant to obtain a permit or
904 approval from another state or federal agency as a
905 condition of processing a development permit under
906 certain conditions; authorizing a county to attach
907 certain disclaimers to the issuance of a development
908 permit; amending s. 161.041, F.S.; prohibiting the
909 Department of Environmental Protection from requiring
910 certain sediment quality specifications or turbidity
911 standards as a permit condition; providing legislative
912 intent with respect to permitting for beach



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913 renourishment projects; directing the department to
914 amend specified rules relating to permitting for such
915 projects; amending s. 373.4135, F.S.; conforming a
916 cross-reference; amending s. 373.4136, F.S.;
917 clarifying the use of the uniform mitigation
918 assessment method for mitigation credits for the
919 establishment and operation of mitigation banks;
920 amending s. 373.414, F.S.; revising provisions for the
921 uniform mitigation assessment method rule for wetlands
922 and other surface waters; providing requirements for
923 the interpretation and application of the uniform
924 mitigation assessment method rule; providing an
925 exception; defining the terms "preservation
926 mitigation" and "without preservation" for the
927 purposes of certain assessments pursuant to the rule;
928 providing for reassessment of mitigation banks under
929 certain conditions; amending s. 373.4141, F.S.;
930 providing a limitation for the request of additional
931 information from an applicant by the department;
932 providing that failure of an applicant to respond to
933 such a request within a specified time period
934 constitutes withdrawal of the application; reducing
935 the time within which a permit must be approved,
936 denied, or subject to notice of proposed agency
937 action; prohibiting a state agency or an agency of the
938 state from requiring additional permits or approval
939 from a local, state, or federal agency without
940 explicit authority; amending s. 403.061, F.S.;
941 requiring the Department of Environmental Protection



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942 to establish reasonable zones of mixing for
943 discharging into specified water; providing that
944 exceedance of certain groundwater standards does not
945 create liability for site cleanup; providing that
946 exceedance of soil cleanup target levels is not a
947 basis for enforcement or cleanup; amending s.
948 373.41492, F.S.; authorizing the use of proceeds from
949 the water treatment plant upgrade fee to pay for
950 specified mitigation projects; requiring proceeds from
951 the water treatment plant upgrade fee to be
952 transferred by the Department of Revenue to the South
953 Florida Water Management District and deposited into
954 the Lake Belt Mitigation Trust Fund until specified
955 criteria is met; providing, after such criteria is
956 met, for the proceeds of the water treatment plant
957 upgrade fee to return to being transferred by the
958 Department of Revenue to a trust fund established by
959 Miami-Dade County for specified purposes; conforming a
960 term; amending s. 403.706, F.S.; providing for
961 recycling credit for byproducts of renewable energy
962 production; amending s. 403.707, F.S.; exempting the
963 disposal of solid waste monitored by certain
964 groundwater monitoring plans from specific
965 authorization; extending the duration of all permits
966 issued to solid waste management facilities that meet
967 specified criteria; providing an exception; providing
968 for prorated permit fees; providing applicability;
969 amending s. 403.853, F.S.; providing for the Department
970 of Health, or a local county health department



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971 designated by the department, to perform sanitary
972 surveys for a transient noncommunity water system
973 using groundwater as a source of supply and serving
974 religious institutions or businesses; amending s.
975 403.973; authorizing expedited permitting for certain
976 commercial or industrial development projects that
977 individually or collectively will create a minimum
978 number of jobs; providing for a project specific
979 memorandum of agreement to apply to a project subject
980 to expedited permitting; clarifying the authority of
981 the Department of Environmental Protection to enter
982 final orders; revising criteria for the review of
983 certain sites; amending s. 526.203, F.S.; authorizing
984 the sale of unblended fuels for certain uses; revising
985 the deadline for completion of the installation of
986 fuel tank upgrades to secondary containment systems
987 for specified properties; amending s. 258.397, F.S.;
988 providing an exemption from a showing of extreme
989 hardship relating to the sale, transfer, or lease of
990 sovereignty submerged lands in the Biscayne Bay
991 Aquatic Preserve for certain municipal applicants;
992 providing for additional dredging and filling
993 activities in the preserve; providing an effective
994 date.