

HB 4089

2011

1 A bill to be entitled
2 An act relating to soil and water conservation; repealing
3 s. 582.01, F.S., relating to definitions; repealing s.
4 582.055, F.S., relating to powers, duties, and rulemaking
5 authority of the Department of Agriculture and Consumer
6 Services regarding soil and water conservation; repealing
7 s. 582.06, F.S., relating to the creation, powers and
8 duties, meetings, procedures, recordkeeping, and
9 compensation of members of the Soil and Water Conservation
10 Council; repealing s. 582.08, F.S., relating to additional
11 powers of the Department of Agriculture and Consumer
12 Services regarding soil and water conservation districts
13 and district supervisors; repealing s. 582.09, F.S.,
14 relating to soil and water conservation district
15 employees; repealing s. 582.10, F.S., relating to creation
16 of soil and water conservation districts; repealing ss.
17 582.11, 582.12, 582.13, and 582.14, F.S., relating to
18 public hearings and referendum regarding creation of soil
19 and water conservation districts; repealing s. 582.15,
20 F.S., relating to organization of soil and water
21 conservation districts; repealing ss. 582.16 and 582.17,
22 F.S., relating to establishment, addition, and removal of
23 soil and water conservation district territory; repealing
24 s. 582.18, F.S., relating election of supervisors for soil
25 and water conservation districts; repealing s. 582.19,
26 F.S., relating to qualifications and tenure of soil and
27 water conservation district supervisors; repealing s.
28 582.20, F.S., relating to powers of soil and water

Page 1 of 16

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb4089-00

29 | conservation districts and district supervisors; repealing
 30 | ss. 582.21, 582.22, and 582.23, F.S., relating to powers
 31 | and duties of water conservation district supervisors
 32 | regarding land use regulation and district operations;
 33 | repealing ss. 582.24, 582.25, and 582.26, F.S., relating
 34 | to boards of adjustment for soil and water conservation
 35 | districts; repealing s. 582.28, F.S., relating to
 36 | cooperation between soil and water conservation districts;
 37 | repealing s. 582.29, F.S., relating to cooperation between
 38 | state agencies and soil and water conservation districts;
 39 | repealing ss. 582.30, 582.31, and 582.32, F.S., relating
 40 | to discontinuance of soil and water conservation
 41 | districts; repealing ss. 582.331, 582.34, and 582.39,
 42 | F.S., relating to establishment of watershed improvement
 43 | districts within soil and water conservation districts;
 44 | repealing ss. 582.35, 582.36, and 582.37, F.S., relating
 45 | to public hearings and referendum regarding determination
 46 | of need for and creation of watershed improvement
 47 | districts; repealing s. 582.38, F.S., relating to
 48 | organization and taxing authority of watershed improvement
 49 | districts; repealing s. 582.40, F.S., relating to
 50 | watershed improvement district boundary and name changes;
 51 | repealing ss. 582.41 and 582.42, F.S., relating to the
 52 | board of directors, officers, agents, and employees of
 53 | watershed improvement districts; repealing ss. 582.43 and
 54 | 582.44, F.S., relating to status and general powers of
 55 | watershed improvement districts, including levy of taxes;
 56 | repealing ss. 582.45 and 582.46, F.S., relating to fiscal

57 powers of watershed improvement district governing bodies;
 58 repealing s. 582.47, F.S., relating to coordination
 59 between watershed improvement districts and flood control
 60 districts; repealing ss. 582.48 and 582.49, F.S., relating
 61 to discontinuance of watershed improvement districts;
 62 amending ss. 259.032, 259.036, 373.1391, 373.1401,
 63 373.591, 403.067, and 570.076, F.S.; conforming cross-
 64 references; providing an effective date.

65
 66 Be It Enacted by the Legislature of the State of Florida:

67
 68 Section 1. Sections 582.01, 582.055, 582.06, 582.08,
 69 582.09, 582.10, 582.11, 582.12, 582.13, 582.14, 582.15, 582.16,
 70 582.17, 582.18, 582.19, 582.20, 582.21, 582.22, 582.23, 582.24,
 71 582.25, 582.26, 582.28, 582.29, 582.30, 582.31, 582.32, 582.331,
 72 582.34, 582.35, 582.36, 582.37, 582.38, 582.39, 582.40, 582.41,
 73 582.42, 582.43, 582.44, 582.45, 582.46, 582.47, 582.48, and
 74 582.49, Florida Statutes, are repealed.

75 Section 2. Subsection (7), paragraphs (e) and (f) of
 76 subsection (9), and paragraph (b) of subsection (10) of section
 77 259.032, Florida Statutes, are amended to read:

78 259.032 Conservation and Recreation Lands Trust Fund;
 79 purpose.—

80 (7) The board of trustees may enter into any contract
 81 necessary to accomplish the purposes of this section. The lead
 82 land managing agencies designated by the board of trustees also
 83 are directed by the Legislature to enter into contracts or
 84 interagency agreements with other governmental entities,

HB 4089

2011

85 ~~including local soil and water conservation districts,~~ or
86 private land managers who have the expertise to perform specific
87 management activities which a lead agency lacks, or which would
88 cost more to provide in-house. Such activities shall include,
89 but not be limited to, controlled burning, road and ditch
90 maintenance, mowing, and wildlife assessments.

91 (9) All lands managed under this chapter and s. 253.034
92 shall be:

93 (e) Concurrent with the approval of the acquisition
94 contract pursuant to s. 259.041(3)(c) for any interest in lands
95 except those lands being acquired under the provisions of s.
96 259.1052, the board of trustees shall designate an agency or
97 agencies to manage such lands. The board shall evaluate and
98 amend, as appropriate, the management policy statement for the
99 project as provided by s. 259.035, consistent with the purposes
100 for which the lands are acquired. ~~For any fee simple acquisition~~
101 ~~of a parcel which is or will be leased back for agricultural~~
102 ~~purposes, or any acquisition of a less-than-fee interest in land~~
103 ~~that is or will be used for agricultural purposes, the Board of~~
104 ~~Trustees of the Internal Improvement Trust Fund shall first~~
105 ~~consider having a soil and water conservation district, created~~
106 ~~pursuant to chapter 582, manage and monitor such interests.~~

107 (f) State agencies designated to manage lands acquired
108 under this chapter except those lands acquired under s. 259.1052
109 may contract with local governments ~~and soil and water~~
110 ~~conservation districts~~ to assist in management activities,
111 including the responsibility of being the lead land manager.
112 Such land management contracts may include a provision for the

HB 4089

2011

113 transfer of management funding to the local government ~~or soil~~
 114 ~~and water conservation district~~ from the Conservation and
 115 Recreation Lands Trust Fund in an amount adequate for the local
 116 government ~~or soil and water conservation district~~ to perform
 117 its contractual land management responsibilities and
 118 proportionate to its responsibilities, and which otherwise would
 119 have been expended by the state agency to manage the property.

120 (10)

121 (b) Individual management plans required by s. 253.034(5),
 122 for parcels over 160 acres, shall be developed with input from
 123 an advisory group. Members of this advisory group shall include,
 124 at a minimum, representatives of the lead land managing agency,
 125 comanaging entities, local private property owners, ~~the~~
 126 ~~appropriate soil and water conservation district,~~ a local
 127 conservation organization, and a local elected official. The
 128 advisory group shall conduct at least one public hearing within
 129 the county in which the parcel or project is located. For those
 130 parcels or projects that are within more than one county, at
 131 least one areawide public hearing shall be acceptable and the
 132 lead managing agency shall invite a local elected official from
 133 each county. The areawide public hearing shall be held in the
 134 county in which the core parcels are located. Notice of such
 135 public hearing shall be posted on the parcel or project
 136 designated for management, advertised in a paper of general
 137 circulation, and announced at a scheduled meeting of the local
 138 governing body before the actual public hearing. The management
 139 prospectus required pursuant to paragraph (9) (d) shall be
 140 available to the public for a period of 30 days prior to the

141 public hearing.

142

143 By July 1 of each year, each governmental agency and each
 144 private entity designated to manage lands shall report to the
 145 Secretary of Environmental Protection on the progress of
 146 funding, staffing, and resource management of every project for
 147 which the agency or entity is responsible.

148 Section 3. Paragraph (a) of subsection (1) of section
 149 259.036, Florida Statutes, is amended to read:

150 259.036 Management review teams.—

151 (1) To determine whether conservation, preservation, and
 152 recreation lands titled in the name of the Board of Trustees of
 153 the Internal Improvement Trust Fund are being managed for the
 154 purposes for which they were acquired and in accordance with a
 155 land management plan adopted pursuant to s. 259.032, the board
 156 of trustees, acting through the Department of Environmental
 157 Protection, shall cause periodic management reviews to be
 158 conducted as follows:

159 (a) The department shall establish a regional land
 160 management review team composed of the following members:

161 1. One individual who is from the county or local
 162 community in which the parcel or project is located and who is
 163 selected by the county commission in the county which is most
 164 impacted by the acquisition.

165 2. One individual from the Division of Recreation and
 166 Parks of the department.

167 3. One individual from the Division of Forestry of the
 168 Department of Agriculture and Consumer Services.

HB 4089

2011

169 4. One individual from the Fish and Wildlife Conservation
170 Commission.

171 5. One individual from the department's district office in
172 which the parcel is located.

173 6. A private land manager mutually agreeable to the state
174 agency representatives.

175 ~~7. A member of the local soil and water conservation~~
176 ~~district board of supervisors.~~

177 7.8. A member of a conservation organization.

178 Section 4. Paragraph (d) of subsection (1) of section
179 373.1391, Florida Statutes, is amended to read:

180 373.1391 Management of real property.—

181 (1)

182 ~~(d) For any fee simple acquisition of a parcel which is or~~
183 ~~will be leased back for agricultural purposes, or for any~~
184 ~~acquisition of a less-than-fee interest in lands that is or will~~
185 ~~be used for agricultural purposes, the district governing board~~
186 ~~shall first consider having a soil and water conservation~~
187 ~~district created pursuant to chapter 582 manage and monitor such~~
188 ~~interest.~~

189 Section 5. Section 373.1401, Florida Statutes, is amended
190 to read:

191 373.1401 Management of lands of water management
192 districts. ~~In addition to provisions contained in s. 373.1391(1)~~
193 ~~for soil and water conservation districts,~~ The governing board
194 of each water management district may contract with a
195 nongovernmental person or entity, any federal or state agency, a
196 county, a municipality, or any other governmental entity, or

HB 4089

2011

197 environmental nonprofit organization to provide for the
 198 improvement, management, or maintenance of any real property
 199 owned by or under the control of the district.

200 Section 6. Section (1) of section 373.591, Florida
 201 Statutes, is amended to read:

202 373.591 Management review teams.—

203 (1) To determine whether conservation, preservation, and
 204 recreation lands titled in the names of the water management
 205 districts are being managed for the purposes for which they were
 206 acquired and in accordance with land management objectives, the
 207 water management districts shall establish land management
 208 review teams to conduct periodic management reviews. The land
 209 management review teams shall be composed of the following
 210 members:

211 (a) One individual from the county or local community in
 212 which the parcel is located.

213 (b) One employee of the water management district.

214 (c) A private land manager mutually agreeable to the
 215 governmental agency representatives.

216 ~~(d) A member of the local soil and water conservation~~
 217 ~~district board of supervisors.~~

218 (d)~~(e)~~ One individual from the Fish and Wildlife
 219 Conservation Commission.

220 (e)~~(f)~~ One individual from the Department of Environmental
 221 Protection.

222 (f)~~(g)~~ One individual representing a conservation
 223 organization.

224 (g)~~(h)~~ One individual from the Department of Agriculture

HB 4089

2011

225 and Consumer Services' Division of Forestry.

226 Section 7. Subsection (1), paragraph (a) of subsection
227 (3), paragraph (a) of subsection (6), and paragraph (a) of
228 subsection (7) of section 403.067, Florida Statutes, are amended
229 to read:

230 403.067 Establishment and implementation of total maximum
231 daily loads.—

232 (1) LEGISLATIVE FINDINGS AND INTENT.—In furtherance of
233 public policy established in s. 403.021, the Legislature
234 declares that the waters of the state are among its most basic
235 resources and that the development of a total maximum daily load
236 program for state waters as required by s. 303(d) of the Clean
237 Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. will
238 promote improvements in water quality throughout the state
239 through the coordinated control of point and nonpoint sources of
240 pollution. The Legislature finds that, while point and nonpoint
241 sources of pollution have been managed through numerous
242 programs, better coordination among these efforts and additional
243 management measures may be needed in order to achieve the
244 restoration of impaired water bodies. The scientifically based
245 total maximum daily load program is necessary to fairly and
246 equitably allocate pollution loads to both nonpoint and point
247 sources. Implementation of the allocation shall include
248 consideration of a cost-effective approach coordinated between
249 contributing point and nonpoint sources of pollution for
250 impaired water bodies or water body segments and may include the
251 opportunity to implement the allocation through nonregulatory
252 and incentive-based programs. The Legislature further declares

253 that the Department of Environmental Protection shall be the
 254 lead agency in administering this program and shall coordinate
 255 with local governments, water management districts, the
 256 Department of Agriculture and Consumer Services, ~~local soil and~~
 257 ~~water conservation districts,~~ environmental groups, regulated
 258 interests, other appropriate state agencies, and affected
 259 pollution sources in developing and executing the total maximum
 260 daily load program.

261 (3) ASSESSMENT.—

262 (a) Based on the priority ranking and schedule for a
 263 particular listed water body or water body segment, the
 264 department shall conduct a total maximum daily load assessment
 265 of the basin in which the water body or water body segment is
 266 located using the methodology developed pursuant to paragraph
 267 (b). In conducting this assessment, the department shall
 268 coordinate with the local water management district, the
 269 Department of Agriculture and Consumer Services, other
 270 appropriate state agencies, ~~soil and water conservation~~
 271 ~~districts,~~ environmental groups, regulated interests, and other
 272 interested parties.

273 (6) CALCULATION AND ALLOCATION.—

274 (a) Calculation of total maximum daily load.

275 1. Prior to developing a total maximum daily load
 276 calculation for each water body or water body segment on the
 277 list specified in subsection (4), the department shall
 278 coordinate with applicable local governments, water management
 279 districts, the Department of Agriculture and Consumer Services,
 280 other appropriate state agencies, ~~local soil and water~~

HB 4089

2011

281 ~~conservation districts,~~ environmental groups, regulated
282 interests, and affected pollution sources to determine the
283 information required, accepted methods of data collection and
284 analysis, and quality control/quality assurance requirements.
285 The analysis may include mathematical water quality modeling
286 using approved procedures and methods.

287 2. The department shall develop total maximum daily load
288 calculations for each water body or water body segment on the
289 list described in subsection (4) according to the priority
290 ranking and schedule unless the impairment of such waters is due
291 solely to activities other than point and nonpoint sources of
292 pollution. For waters determined to be impaired due solely to
293 factors other than point and nonpoint sources of pollution, no
294 total maximum daily load will be required. A total maximum daily
295 load may be required for those waters that are impaired
296 predominantly due to activities other than point and nonpoint
297 sources. The total maximum daily load calculation shall
298 establish the amount of a pollutant that a water body or water
299 body segment may receive from all sources without exceeding
300 water quality standards, and shall account for seasonal
301 variations and include a margin of safety that takes into
302 account any lack of knowledge concerning the relationship
303 between effluent limitations and water quality. The total
304 maximum daily load may be based on a pollutant load reduction
305 goal developed by a water management district, provided that
306 such pollutant load reduction goal is promulgated by the
307 department in accordance with the procedural and substantive
308 requirements of this subsection.

HB 4089

2011

309 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
310 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

311 (a) Basin management action plans.—

312 1. In developing and implementing the total maximum daily
313 load for a water body, the department, or the department in
314 conjunction with a water management district, may develop a
315 basin management action plan that addresses some or all of the
316 watersheds and basins tributary to the water body. Such a plan
317 must integrate the appropriate management strategies available
318 to the state through existing water quality protection programs
319 to achieve the total maximum daily loads and may provide for
320 phased implementation of these management strategies to promote
321 timely, cost-effective actions as provided for in s. 403.151.
322 The plan must establish a schedule for implementing the
323 management strategies, establish a basis for evaluating the
324 plan's effectiveness, and identify feasible funding strategies
325 for implementing the plan's management strategies. The
326 management strategies may include regional treatment systems or
327 other public works, where appropriate, and, in the basin listed
328 in subsection (10) for which a basin management action plan has
329 been adopted, voluntary trading of water quality credits to
330 achieve the needed pollutant load reductions.

331 2. A basin management action plan must equitably allocate,
332 pursuant to paragraph (6) (b), pollutant reductions to individual
333 basins, as a whole to all basins, or to each identified point
334 source or category of nonpoint sources, as appropriate. For
335 nonpoint sources for which best management practices have been
336 adopted, the initial requirement specified by the plan must be

HB 4089

2011

337 those practices developed pursuant to paragraph (c). Where
338 appropriate, the plan may take into account the benefits of
339 pollutant load reduction achieved by point or nonpoint sources
340 that have implemented management strategies to reduce pollutant
341 loads, including best management practices, prior to the
342 development of the basin management action plan. The plan must
343 also identify the mechanisms that will address potential future
344 increases in pollutant loading.

345 3. The basin management action planning process is
346 intended to involve the broadest possible range of interested
347 parties, with the objective of encouraging the greatest amount
348 of cooperation and consensus possible. In developing a basin
349 management action plan, the department shall assure that key
350 stakeholders, including, but not limited to, applicable local
351 governments, water management districts, the Department of
352 Agriculture and Consumer Services, other appropriate state
353 agencies, ~~local soil and water conservation districts,~~
354 environmental groups, regulated interests, and affected
355 pollution sources, are invited to participate in the process.
356 The department shall hold at least one public meeting in the
357 vicinity of the watershed or basin to discuss and receive
358 comments during the planning process and shall otherwise
359 encourage public participation to the greatest practicable
360 extent. Notice of the public meeting must be published in a
361 newspaper of general circulation in each county in which the
362 watershed or basin lies not less than 5 days nor more than 15
363 days before the public meeting. A basin management action plan
364 shall not supplant or otherwise alter any assessment made under

HB 4089

2011

365 subsection (3) or subsection (4) or any calculation or initial
366 allocation.

367 4. The department shall adopt all or any part of a basin
368 management action plan and any amendment to such plan by
369 secretarial order pursuant to chapter 120 to implement the
370 provisions of this section.

371 5. The basin management action plan must include
372 milestones for implementation and water quality improvement, and
373 an associated water quality monitoring component sufficient to
374 evaluate whether reasonable progress in pollutant load
375 reductions is being achieved over time. An assessment of
376 progress toward these milestones shall be conducted every 5
377 years, and revisions to the plan shall be made as appropriate.
378 Revisions to the basin management action plan shall be made by
379 the department in cooperation with basin stakeholders. Revisions
380 to the management strategies required for nonpoint sources must
381 follow the procedures set forth in subparagraph (c)4. Revised
382 basin management action plans must be adopted pursuant to
383 subparagraph 4.

384 6. In accordance with procedures adopted by rule under
385 paragraph (9)(c), basin management action plans may allow point
386 or nonpoint sources that will achieve greater pollutant
387 reductions than required by an adopted total maximum load or
388 wasteload allocation to generate, register, and trade water
389 quality credits for the excess reductions to enable other
390 sources to achieve their allocation; however, the generation of
391 water quality credits does not remove the obligation of a source
392 or activity to meet applicable technology requirements or

HB 4089

2011

393 adopted best management practices. Such plans must allow trading
 394 between NPDES permittees, and trading that may or may not
 395 involve NPDES permittees, where the generation or use of the
 396 credits involve an entity or activity not subject to department
 397 water discharge permits whose owner voluntarily elects to obtain
 398 department authorization for the generation and sale of credits.

399 7. The provisions of the department's rule relating to the
 400 equitable abatement of pollutants into surface waters shall not
 401 be applied to water bodies or water body segments for which a
 402 basin management plan that takes into account future new or
 403 expanded activities or discharges has been adopted under this
 404 section.

405 Section 8. Subsections (3), (4), and (5) of section
 406 570.076, Florida Statutes, are amended to read:

407 570.076 Environmental Stewardship Certification Program.—
 408 The department may, by rule, establish the Environmental
 409 Stewardship Certification Program consistent with this section.
 410 A rule adopted under this section must be developed in
 411 consultation with state universities, agricultural
 412 organizations, and other interested parties.

413 ~~(3) The Soil and Water Conservation Council created by s.~~
 414 ~~582.06 may develop and recommend to the department for adoption~~
 415 ~~additional criteria for receipt of an agricultural certification~~
 416 ~~which may include, but not be limited to:~~

417 ~~(a) Comprehensive management of all on-farm resources.~~

418 ~~(b) Promotion of environmental awareness and responsible~~
 419 ~~resource stewardship in agricultural or urban communities.~~

420 ~~(c) Completion of a curriculum of study that is related to~~

HB 4089

2011

421 ~~environmental issues and regulation.~~

422 (3)~~(4)~~ If needed, the department and the Institute of Food
423 and Agricultural Sciences at the University of Florida may
424 jointly develop a curriculum that provides instruction
425 concerning environmental issues pertinent to agricultural
426 certification and deliver such curriculum to, and certify its
427 completion by, any person seeking certification or to maintain
428 certification.

429 (4)~~(5)~~ The department may enter into agreements with
430 third-party providers to administer or implement all or part of
431 the program.

432 Section 9. This act shall take effect July 1, 2011.