

By Senator Bennett

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

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30 s. 582.20, F.S., relating to powers of soil and water
31 conservation districts and district supervisors;
32 repealing ss. 582.21, 582.22, and 582.23, F.S.,
33 relating to powers and duties of water conservation
34 district supervisors regarding land use regulation and
35 district operations; repealing ss. 582.24, 582.25, and
36 582.26, F.S., relating to boards of adjustment for
37 soil and water conservation districts; repealing s.
38 582.28, F.S., relating to cooperation between soil and
39 water conservation districts; repealing s. 582.29,
40 F.S., relating to cooperation between state agencies
41 and soil and water conservation districts; repealing
42 ss. 582.30, 582.31, and 582.32, F.S., relating to
43 discontinuance of soil and water conservation
44 districts; repealing ss. 582.331, 582.34, and 582.39,
45 F.S., relating to establishment of watershed
46 improvement districts within soil and water
47 conservation districts; repealing ss. 582.35, 582.36,
48 and 582.37, F.S., relating to public hearings and
49 referendum regarding determination of need for and
50 creation of watershed improvement districts; repealing
51 s. 582.38, F.S., relating to organization and taxing
52 authority of watershed improvement districts;
53 repealing s. 582.40, F.S., relating to watershed
54 improvement district boundary and name changes;
55 repealing ss. 582.41 and 582.42, F.S., relating to the
56 board of directors, officers, agents, and employees of
57 watershed improvement districts; repealing ss. 582.43
58 and 582.44, F.S., relating to status and general

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59 powers of watershed improvement districts, including
60 levy of taxes; repealing ss. 582.45 and 582.46, F.S.,
61 relating to fiscal powers of watershed improvement
62 district governing bodies; repealing s. 582.47, F.S.,
63 relating to coordination between watershed improvement
64 districts and flood control districts; repealing ss.
65 582.48 and 582.49, F.S., relating to discontinuance of
66 watershed improvement districts; amending ss. 259.032,
67 259.036, 373.1391, 373.1401, 373.591, 403.067, and
68 570.076, F.S.; conforming cross-references; providing
69 an effective date.

70

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

72

73 Section 1. Sections 582.01, 582.055, 582.06, 582.08,
74 582.09, 582.10, 582.11, 582.12, 582.13, 582.14, 582.15, 582.16,
75 582.17, 582.18, 582.19, 582.20, 582.21, 582.22, 582.23, 582.24,
76 582.25, 582.26, 582.28, 582.29, 582.30, 582.31, 582.32, 582.331,
77 582.34, 582.35, 582.36, 582.37, 582.38, 582.39, 582.40, 582.41,
78 582.42, 582.43, 582.44, 582.45, 582.46, 582.47, 582.48, and
79 582.49, Florida Statutes, are repealed.

80 Section 2. Subsection (7), paragraphs (e) and (f) of
81 subsection (9), and paragraph (b) of subsection (10) of section
82 259.032, Florida Statutes, are amended to read:

83 259.032 Conservation and Recreation Lands Trust Fund;
84 purpose.—

85 (7) The board of trustees may enter into any contract
86 necessary to accomplish the purposes of this section. The lead
87 land managing agencies designated by the board of trustees also

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88 are directed by the Legislature to enter into contracts or
89 interagency agreements with other governmental entities,
90 ~~including local soil and water conservation districts,~~ or
91 private land managers who have the expertise to perform specific
92 management activities which a lead agency lacks, or which would
93 cost more to provide in-house. Such activities shall include,
94 but not be limited to, controlled burning, road and ditch
95 maintenance, mowing, and wildlife assessments.

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

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

112 (f) State agencies designated to manage lands acquired
113 under this chapter except those lands acquired under s. 259.1052
114 may contract with local governments ~~and soil and water~~
115 ~~conservation districts~~ to assist in management activities,
116 including the responsibility of being the lead land manager.

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117 Such land management contracts may include a provision for the
118 transfer of management funding to the local government ~~or soil~~
119 ~~and water conservation district~~ from the Conservation and
120 Recreation Lands Trust Fund in an amount adequate for the local
121 government ~~or soil and water conservation district~~ to perform
122 its contractual land management responsibilities and
123 proportionate to its responsibilities, and which otherwise would
124 have been expended by the state agency to manage the property.

125 (10)

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

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146 public hearing.

147

148 By July 1 of each year, each governmental agency and each
149 private entity designated to manage lands shall report to the
150 Secretary of Environmental Protection on the progress of
151 funding, staffing, and resource management of every project for
152 which the agency or entity is responsible.

153 Section 3. Paragraph (a) of subsection (1) of section
154 259.036, Florida Statutes, is amended to read:

155 259.036 Management review teams.—

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

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

166 1. One individual who is from the county or local community
167 in which the parcel or project is located and who is selected by
168 the county commission in the county which is most impacted by
169 the acquisition.

170 2. One individual from the Division of Recreation and Parks
171 of the department.

172 3. One individual from the Division of Forestry of the
173 Department of Agriculture and Consumer Services.

174 4. One individual from the Fish and Wildlife Conservation

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175 Commission.

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

178 6. A private land manager mutually agreeable to the state
179 agency representatives.

180 ~~7. A member of the local soil and water conservation~~
181 ~~district board of supervisors.~~

182 7.8. A member of a conservation organization.

183 Section 4. Paragraph (d) of subsection (1) of section
184 373.1391, Florida Statutes, is amended to read:

185 373.1391 Management of real property.-

186 (1)

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

194 Section 5. Section 373.1401, Florida Statutes, is amended
195 to read:

196 373.1401 Management of lands of water management
197 districts. ~~In addition to provisions contained in s. 373.1391(1)~~
198 ~~for soil and water conservation districts,~~ The governing board
199 of each water management district may contract with a
200 nongovernmental person or entity, any federal or state agency, a
201 county, a municipality, or any other governmental entity, or
202 environmental nonprofit organization to provide for the
203 improvement, management, or maintenance of any real property

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204 owned by or under the control of the district.

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

207 373.591 Management review teams.—

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

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

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

219 (c) A private land manager mutually agreeable to the
220 governmental agency representatives.

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

223 (d)~~(e)~~ One individual from the Fish and Wildlife
224 Conservation Commission.

225 (e)~~(f)~~ One individual from the Department of Environmental
226 Protection.

227 (f)~~(g)~~ One individual representing a conservation
228 organization.

229 (g)~~(h)~~ One individual from the Department of Agriculture
230 and Consumer Services' Division of Forestry.

231 Section 7. Subsection (1), paragraph (a) of subsection (3),
232 paragraph (a) of subsection (6), and paragraph (a) of subsection

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233 (7) of section 403.067, Florida Statutes, are amended to read:
234 403.067 Establishment and implementation of total maximum
235 daily loads.—

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

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262 interests, other appropriate state agencies, and affected
263 pollution sources in developing and executing the total maximum
264 daily load program.

265 (3) ASSESSMENT.—

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

277 (6) CALCULATION AND ALLOCATION.—

278 (a) Calculation of total maximum daily load.

279 1. Prior to developing a total maximum daily load
280 calculation for each water body or water body segment on the
281 list specified in subsection (4), the department shall
282 coordinate with applicable local governments, water management
283 districts, the Department of Agriculture and Consumer Services,
284 other appropriate state agencies, ~~local soil and water~~
285 ~~conservation districts~~, environmental groups, regulated
286 interests, and affected pollution sources to determine the
287 information required, accepted methods of data collection and
288 analysis, and quality control/quality assurance requirements.
289 The analysis may include mathematical water quality modeling
290 using approved procedures and methods.

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

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

315 (a) *Basin management action plans.*—

316 1. In developing and implementing the total maximum daily
317 load for a water body, the department, or the department in
318 conjunction with a water management district, may develop a
319 basin management action plan that addresses some or all of the

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

335 2. A basin management action plan must equitably allocate,
336 pursuant to paragraph (6) (b), pollutant reductions to individual
337 basins, as a whole to all basins, or to each identified point
338 source or category of nonpoint sources, as appropriate. For
339 nonpoint sources for which best management practices have been
340 adopted, the initial requirement specified by the plan must be
341 those practices developed pursuant to paragraph (c). Where
342 appropriate, the plan may take into account the benefits of
343 pollutant load reduction achieved by point or nonpoint sources
344 that have implemented management strategies to reduce pollutant
345 loads, including best management practices, prior to the
346 development of the basin management action plan. The plan must
347 also identify the mechanisms that will address potential future
348 increases in pollutant loading.

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349 3. The basin management action planning process is intended
350 to involve the broadest possible range of interested parties,
351 with the objective of encouraging the greatest amount of
352 cooperation and consensus possible. In developing a basin
353 management action plan, the department shall assure that key
354 stakeholders, including, but not limited to, applicable local
355 governments, water management districts, the Department of
356 Agriculture and Consumer Services, other appropriate state
357 agencies, ~~local soil and water conservation districts,~~
358 environmental groups, regulated interests, and affected
359 pollution sources, are invited to participate in the process.
360 The department shall hold at least one public meeting in the
361 vicinity of the watershed or basin to discuss and receive
362 comments during the planning process and shall otherwise
363 encourage public participation to the greatest practicable
364 extent. Notice of the public meeting must be published in a
365 newspaper of general circulation in each county in which the
366 watershed or basin lies not less than 5 days nor more than 15
367 days before the public meeting. A basin management action plan
368 shall not supplant or otherwise alter any assessment made under
369 subsection (3) or subsection (4) or any calculation or initial
370 allocation.

371 4. The department shall adopt all or any part of a basin
372 management action plan and any amendment to such plan by
373 secretarial order pursuant to chapter 120 to implement the
374 provisions of this section.

375 5. The basin management action plan must include milestones
376 for implementation and water quality improvement, and an
377 associated water quality monitoring component sufficient to

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378 evaluate whether reasonable progress in pollutant load
379 reductions is being achieved over time. An assessment of
380 progress toward these milestones shall be conducted every 5
381 years, and revisions to the plan shall be made as appropriate.
382 Revisions to the basin management action plan shall be made by
383 the department in cooperation with basin stakeholders. Revisions
384 to the management strategies required for nonpoint sources must
385 follow the procedures set forth in subparagraph (c)4. Revised
386 basin management action plans must be adopted pursuant to
387 subparagraph 4.

388 6. In accordance with procedures adopted by rule under
389 paragraph (9)(c), basin management action plans may allow point
390 or nonpoint sources that will achieve greater pollutant
391 reductions than required by an adopted total maximum load or
392 wasteload allocation to generate, register, and trade water
393 quality credits for the excess reductions to enable other
394 sources to achieve their allocation; however, the generation of
395 water quality credits does not remove the obligation of a source
396 or activity to meet applicable technology requirements or
397 adopted best management practices. Such plans must allow trading
398 between NPDES permittees, and trading that may or may not
399 involve NPDES permittees, where the generation or use of the
400 credits involve an entity or activity not subject to department
401 water discharge permits whose owner voluntarily elects to obtain
402 department authorization for the generation and sale of credits.

403 7. The provisions of the department's rule relating to the
404 equitable abatement of pollutants into surface waters shall not
405 be applied to water bodies or water body segments for which a
406 basin management plan that takes into account future new or

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407 expanded activities or discharges has been adopted under this
408 section.

409 Section 8. Subsections (3), (4), and (5) of section
410 570.076, Florida Statutes, are amended to read:

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

417 ~~(3) The Soil and Water Conservation Council created by s.~~
418 ~~582.06 may develop and recommend to the department for adoption~~
419 ~~additional criteria for receipt of an agricultural certification~~
420 ~~which may include, but not be limited to:~~

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

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

424 ~~(c) Completion of a curriculum of study that is related to~~
425 ~~environmental issues and regulation.~~

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

433 (4)~~(5)~~ The department may enter into agreements with third-
434 party providers to administer or implement all or part of the
435 program.

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