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1 A bill to be entitled
2 An act relating to environmental resource permitting;
3 creating s. 373.4131, F.S.; requiring the Department
4 of Environmental Protection, in coordination with the
5 water management districts, to adopt statewide
6 environmental resource permitting rules for activities
7 relating to the management and storage of surface
8 waters; providing rule requirements; preserving an
9 exemption from causes of action under the "Bert J.
10 Harris, Jr., Private Property Rights Protection Act";
11 providing an exemption from the rulemaking provisions
12 of ch. 120, F.S., for implementation of the rules by
13 water management districts and delegated local
14 programs; requiring counties, municipalities, and
15 delegated local programs to amend ordinances and
16 regulations within a specified timeframe to conform
17 with the rules; providing for applicability, effect,
18 and repeal of specified rules; authorizing water
19 management districts to adopt and retain specified
20 rules; authorizing the department to incorporate
21 certain rules; providing a presumption of compliance
22 for specified design, construction, operation, and
23 maintenance of certain stormwater management systems;
24 providing exemptions for specified stormwater
25 management systems and permitted activities; requiring
26 the department to conduct or oversee staff assessment
27 and training; reenacting s. 70.001(12), F.S., relating
28 the "Bert J. Harris, Jr., Private Property Rights

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

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29 Protection Act," for purposes of a cross-reference in
 30 s. 373.4131, F.S.; providing an effective date.

31

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

33

34 Section 1. Section 373.4131, Florida Statutes, is created
 35 to read:

36 373.4131 Statewide environmental resource permitting
 37 rules.-

38 (1) (a) No later than October 1, 2012, the department shall
 39 initiate rulemaking to adopt, in coordination with the water
 40 management districts, statewide environmental resource
 41 permitting rules governing the construction, alteration,
 42 operation, maintenance, repair, abandonment, and removal of any
 43 stormwater management system, dam, impoundment, reservoir,
 44 appurtenant work, works, or any combination thereof, under this
 45 part.

46 (b) The rules shall provide for statewide, consistent
 47 regulation of activities under this part and shall include, at a
 48 minimum:

- 49 1. Criteria and thresholds for requiring permits.
 50 2. Types of permits.
 51 3. Procedures governing the review of applications and
 52 notices, duration and modification of permits, operational
 53 requirements, transfers of permits, provisions for emergencies,
 54 and provisions for abandonment and removal of systems.

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55 4. Exemptions and general permits that do not allow
56 significant adverse impacts to occur individually or
57 cumulatively.

58 5. Conditions for issuance.

59 6. General permit conditions, including monitoring,
60 inspection, and reporting requirements.

61 7. Standardized fee categories for activities under this
62 part to promote consistency. The department and water management
63 districts may amend fee rules to reflect the standardized fee
64 categories but are not required to adopt identical fees for
65 those categories.

66 8. Application, notice, and reporting forms. To the
67 maximum extent practicable, the department and water management
68 districts shall provide for electronic submittal of forms and
69 notices.

70 9. An applicant's handbook that, at a minimum, contains
71 general program information, application and review procedures,
72 a specific discussion of how environmental criteria are
73 evaluated, and discussion of stormwater quality and quantity
74 criteria.

75 (c) The rules shall rely primarily on the rules of the
76 department and water management districts in effect immediately
77 prior to the effective date of this section, except that the
78 department may:

79 1. Reconcile differences and conflicts to achieve a
80 consistent statewide approach.

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81 2. Account for different physical or natural
82 characteristics, including special basin considerations, of
83 individual water management districts.

84 3. Implement additional permit streamlining measures.

85 (d) The application of the rules shall continue to be
86 governed by the first sentence of s. 70.001(12).

87 (2)(a) Upon adoption of the rules, the water management
88 districts and local governments delegated local pollution
89 control program authority under s. 373.441 shall implement the
90 rules without the need for further rulemaking pursuant to s.
91 120.54. The rules adopted by the department pursuant to this
92 section shall also be considered the rules of the water
93 management districts and local governments delegated local
94 pollution control program authority under s. 373.441. The
95 districts and local governments shall have substantive
96 jurisdiction to implement and interpret rules adopted by the
97 department under this part, consistent with any guidance from
98 the department, in any license or final order pursuant to s.
99 120.60 or s. 120.57(1)(1).

100 (b)1. A county, municipality, or local pollution control
101 program that has a delegation of local pollution control program
102 authority or proposes to be delegated such authority under s.
103 373.441 shall without modification incorporate by reference and
104 use the rules adopted pursuant this section when reviewing and
105 taking action on the department's behalf on a delegated
106 permitting, compliance, or enforcement matter under this part.

107 2. A county, municipality, or local pollution control
108 program that has a delegation of local pollution control program

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109 authority under s. 373.441 must amend its local ordinances or
110 regulations to conform to the requirements of this section
111 within 12 months after the effective date of the rules adopted
112 pursuant to this section.

113 3. The department and each local program with the
114 authority to implement or seeking to implement a delegation of
115 local pollution control program authority under s. 373.441 shall
116 identify and reconcile any duplicative permitting as part of the
117 delegation.

118 (c) Until the rules adopted pursuant to this section
119 become effective, existing rules adopted pursuant to this part
120 remain in full force and effect. Existing rules that are
121 superseded by the rules adopted pursuant to this section may be
122 repealed without further rulemaking pursuant to s. 120.54 by
123 publication of a notice of repeal in the Florida Administrative
124 Weekly and subsequent filing of a list of the rules repealed
125 with the Department of State.

126 (3) (a) The water management districts, with department
127 oversight, may continue to adopt rules governing design and
128 performance standards for stormwater quality and quantity, and
129 the department may incorporate the design and performance
130 standards by reference for use within the geographic
131 jurisdiction of each district.

132 (b) If a stormwater management system is designed in
133 accordance with the stormwater treatment requirements and
134 criteria adopted by the department or a water management
135 district under this part, the system design is presumed not to

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136 cause or contribute to violations of applicable state water
137 quality standards.

138 (c) If a stormwater management system is constructed,
139 operated, and maintained for stormwater treatment in accordance
140 with a valid permit or exemption under this part, the stormwater
141 discharged from the system is presumed not to cause or
142 contribute to violations of applicable state water quality
143 standards.

144 (4) Notwithstanding the adoption of rules pursuant to this
145 section, the following activities shall continue to be governed
146 by the rules adopted by the department, the water management
147 districts, and delegated local programs under this part in
148 effect before the effective date of the rules adopted pursuant
149 to this section, unless the applicant elects review in
150 accordance with the rules adopted pursuant to this section:

151 (a) The operation and maintenance of any stormwater
152 management system, dam, impoundment, reservoir, appurtenant
153 work, works, or any combination thereof legally in existence
154 before the effective date of the rules adopted pursuant to this
155 section if the terms and conditions of the permit, exemption, or
156 other authorization for such activity continue to be met.

157 (b) The activities determined in writing by the
158 department, a water management district, or a local government
159 delegated local pollution control program authority under s.
160 373.441 to be exempt from the permitting requirements of this
161 part, including self-certifications submitted to the department,
162 a water management district, or a delegated local government

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163 before the effective date of the rules adopted pursuant to this
164 section.

165 (c) The activities approved in a permit issued pursuant to
166 this part and the review of activities proposed in a permit
167 application that is complete before the effective date of the
168 rules adopted pursuant to this section. This paragraph applies
169 to any modification of the plans, terms, and conditions of the
170 permit, including new activities, within the geographical area
171 to which the permit applies and to any modification that lessens
172 or does not increase impacts. However, this paragraph does not
173 apply to a modification that is reasonably expected to lead to
174 additional or substantially different impacts.

175 (5) To ensure consistent implementation and interpretation
176 of the rules adopted pursuant to this section, the department
177 shall conduct or oversee regular assessment and training of its
178 staff and the staffs of the water management districts and local
179 governments delegated local pollution control program authority
180 under s. 373.441.

181 Section 2. For the purpose of a cross-reference in section
182 373.4131, Florida Statutes, as created by this act, subsection
183 (12) of section 70.001, Florida Statutes, is reenacted to read:

184 70.001 Private property rights protection.—

185 (12) No cause of action exists under this section as to
186 the application of any law enacted on or before May 11, 1995, or
187 as to the application of any rule, regulation, or ordinance
188 adopted, or formally noticed for adoption, on or before that
189 date. A subsequent amendment to any such law, rule, regulation,
190 or ordinance gives rise to a cause of action under this section

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191 | only to the extent that the application of the amendatory
192 | language imposes an inordinate burden apart from the law, rule,
193 | regulation, or ordinance being amended.

194 | Section 3. This act shall take effect July 1, 2012.