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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
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The Committee on Community Affairs (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (43) is added to section 403.061,
Florida Statutes, to read:

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

(43) (a) Implement ss. 403.067 and 403.088 in flowing waters
consistent with the attainment and maintenance of:



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13 1. The narrative criterion for nutrients and any in-stream
14 numeric interpretation of the narrative water quality criterion
15 for nutrients adopted by the department in streams, canals, and
16 other conveyances; and

17 2. Nutrient water quality standards applicable to
18 downstream waters.

19 (b) The loading of nutrients to downstream waters from a
20 stream, canal, or other conveyance shall be limited to provide
21 for the attainment and maintenance of nutrient water quality
22 standards in the downstream waters.

23 1. If the downstream water does not have a total maximum
24 daily load adopted under s. 403.067 and has not been verified as
25 impaired by nutrient loadings, then the department shall
26 implement its authority in a manner that prevents impairment of
27 the downstream water due to loadings from the upstream water.

28 2. If the downstream water does not have a total maximum
29 daily load adopted under s. 403.067 but has been verified as
30 impaired by nutrient loadings, then the department shall adopt a
31 total maximum daily load under s. 403.067.

32 3. If the downstream water has a total maximum daily load
33 adopted under s. 403.067 that interprets the narrative water
34 quality criterion for nutrients, then allocations shall be set
35 for upstream water bodies in accordance with s. 403.067(6), and
36 if applicable, the basin management action plan established
37 under s. 403.067(7).

38 (c) Compliance with an allocation calculated under s.
39 403.067(6) or, if applicable, the basin management action plan
40 established under s. 403.067(7) for the downstream water shall
41 constitute reasonable assurance that a discharge does not cause



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42 or contribute to the violation of the downstream nutrient water
43 quality standards.

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

49 Section 2. The Department of Environmental Protection may
50 implement its adopted nutrient standards for streams, springs,
51 lakes, and estuaries consistent with the document entitled
52 "Implementation of Florida's Numeric Nutrient Standards," which
53 was proposed for adoption by the department in the Florida
54 Administrative Register, Vol. 39, No. 54, pages 1397-1398. This
55 document shall be subject to the provisions of rule 62-
56 302.531(9), Florida Administrative Code, and exempt from
57 ratification under s. 120.541(3), Florida Statutes.

58 Section 3. When the United States Environmental Protection
59 Agency withdraws all federal numeric nutrient criteria rules in
60 the State of Florida, and otherwise ceases all federal nutrient
61 rulemaking in the State of Florida, then rule 62-302.531(9),
62 Florida Administrative Code, shall stand repealed. Thereafter,
63 upon certification by the Secretary of Environmental Protection
64 filed with the Department of State, the rule shall be deleted
65 from the Florida Administrative Code.

66 Section 4. Any nutrient criteria rules for estuaries
67 adopted by the Department of Environmental Protection in 2013
68 are subject to the provisions of rule 62-302.531(9), Florida
69 Administrative Code, and exempt from ratification under s.
70 120.541(3), Florida Statutes.



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71 Section 5. The Department of Environmental Protection shall
72 establish by rule or final order the estuary specific numeric
73 interpretations of the narrative nutrient criterion for total
74 nitrogen, total phosphorus, and chlorophyll a for any estuaries
75 not already subject to the department's numeric nutrient
76 criteria, and establish chlorophyll a interpretations of the
77 narrative nutrient criterion for non-estuarine coastal waters by
78 December 1, 2014, subject to the provisions of chapter 120,
79 Florida Statutes. The water quality standard pursuant to s.
80 403.061(11), Florida Statutes, for total nitrogen, total
81 phosphorus, and chlorophyll a in estuaries, and chlorophyll a in
82 non-estuarine coastal waters, shall be the current conditions of
83 those unimpaired waters, accounting for climactic and hydrologic
84 cycles, until such time as a numeric interpretation of the
85 narrative water quality criterion for nutrients is established
86 by rule or final order. The Department of Environmental
87 Protection shall submit a report to the Governor, the President
88 of the Senate, and the Speaker of the House of Representatives
89 by August 1, 2013, conveying the status of establishing numeric
90 interpretations of the narrative nutrient criterion pursuant to
91 this section and including the department's calculation of the
92 numeric values that represent the current conditions of those
93 unimpaired waters as stated in this section for those estuaries
94 and non-estuarine coastal waters without numeric interpretations
95 of the narrative nutrient criterion established by rule or final
96 order as of the date of the report.

97 Section 6. This act shall take effect upon becoming a law.
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100 ===== T I T L E A M E N D M E N T =====

101 And the title is amended as follows:

102 Delete everything before the enacting clause
103 and insert:

104 A bill to be entitled

105 An act relating to numeric nutrient criteria; amending s.
106 403.061, F.S.; authorizing the Department of Environmental
107 Protection to implement specified provisions to control nutrient
108 load in state waters; authorizing the department to implement
109 specified nutrient standards; providing for deletion of a
110 specified rule from the Florida Administrative Code; providing
111 that specified nutrient criteria rules are subject to specified
112 provisions of the Florida Administrative Code; exempting such
113 nutrient criteria rules from ratification by Legislature under
114 s. 120.541(3), F.S.; directing the department to establish
115 numeric interpretations of the narrative nutrient criterion for
116 certain estuaries and waters, subject to specified provisions
117 and standards; directing the department to submit a specified
118 report to the Governor and Legislature; providing an effective
119 date.

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