

By Senator Albritton

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1 A bill to be entitled
2 An act relating to environmental resource management;
3 amending s. 403.067, F.S.; providing that basin
4 management action plan management strategies may
5 include certain water quality improvement elements;
6 requiring the Department of Environmental Protection,
7 in coordination with the Department of Agriculture and
8 Consumer Services, to develop and implement a
9 cooperative agricultural regional water quality
10 improvement element; providing guidelines for the
11 element; providing requirements for participation in
12 the element; requiring the Department of Environmental
13 Protection, in coordination with the Department of
14 Health or water management districts, to develop and
15 implement a cooperative urban, suburban, commercial,
16 or institutional water quality improvement element;
17 providing guidelines for the element; requiring the
18 Department of Environmental Protection to work with
19 the Department of Agriculture and Consumer Services
20 and producers to improve certain data and technology
21 resources; requiring the Institute of Food and
22 Agriculture Sciences of the University of Florida, in
23 cooperation with the Department of Agriculture and
24 Consumer Services, to develop a research plan and a
25 legislative budget request; providing requirements for
26 the plan; establishing a nutrient reduction cost-share
27 program within the Department of Environmental
28 Protection; providing requirements for the program,
29 subject to legislative appropriation; providing

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30 priorities for funding allocations; authorizing the
31 department to waive a local match requirement under
32 certain circumstances; requiring an annual report to
33 the Governor and the Legislature; amending s. 403.412,
34 F.S.; prohibiting local governments from recognizing,
35 granting, conveying, or extending legal rights or
36 legal standing to animals or the natural environment
37 under certain circumstances; providing construction;
38 providing an effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Paragraph (a) of subsection (7) of section
43 403.067, Florida Statutes, is amended, paragraphs (e), (f), and
44 (g) are added to that subsection, and subsection (14) is added
45 to that section, to read:

46 403.067 Establishment and implementation of total maximum
47 daily loads.—

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

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

51 1. In developing and implementing the total maximum daily
52 load for a water body, the department, or the department in
53 conjunction with a water management district, may develop a
54 basin management action plan that addresses some or all of the
55 watersheds and basins tributary to the water body. Such plan
56 must integrate the appropriate management strategies available
57 to the state through existing water quality protection programs
58 to achieve the total maximum daily loads and may provide for

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59 phased implementation of these management strategies to promote
60 timely, technically cost-effective actions as provided for in s.
61 403.151. The plan must establish a schedule for implementing the
62 management strategies, establish a basis for evaluating the
63 plan's effectiveness, and identify feasible funding strategies
64 for implementing the plan's management strategies. The
65 management strategies may include regional treatment systems or
66 other public works, where appropriate, and voluntary trading of
67 water quality credits to achieve the needed pollutant load
68 reductions. In addition to the interim measures, best management
69 practices, or other measures required in paragraph (c),
70 management strategies may include a cooperative agricultural
71 regional water quality improvement element, as set forth in
72 paragraph (e), or a cooperative urban, suburban, commercial, or
73 institutional regional water quality improvement element, as set
74 forth in paragraph (f).

75 2. A basin management action plan must equitably allocate,
76 pursuant to paragraph (6) (b), pollutant reductions to individual
77 basins, as a whole to all basins, or to each identified point
78 source or category of nonpoint sources, as appropriate. For
79 nonpoint sources for which best management practices have been
80 adopted, the initial requirement specified by the plan must be
81 those practices developed pursuant to paragraph (c). Where
82 appropriate, the plan may take into account the benefits of
83 pollutant load reduction achieved by point or nonpoint sources
84 that have implemented management strategies to reduce pollutant
85 loads, including best management practices, before the
86 development of the basin management action plan. The plan must
87 also identify the mechanisms that will address potential future

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88 increases in pollutant loading.

89 3. The basin management action planning process is intended
90 to involve the broadest possible range of interested parties,
91 with the objective of encouraging the greatest amount of
92 cooperation and consensus possible. In developing a basin
93 management action plan, the department shall assure that key
94 stakeholders, including, but not limited to, applicable local
95 governments, water management districts, the Department of
96 Agriculture and Consumer Services, other appropriate state
97 agencies, local soil and water conservation districts,
98 environmental groups, regulated interests, and affected
99 pollution sources, are invited to participate in the process.
100 The department shall hold at least one public meeting in the
101 vicinity of the watershed or basin to discuss and receive
102 comments during the planning process and shall otherwise
103 encourage public participation to the greatest practicable
104 extent. Notice of the public meeting must be published in a
105 newspaper of general circulation in each county in which the
106 watershed or basin lies not less than 5 days nor more than 15
107 days before the public meeting. A basin management action plan
108 does not supplant or otherwise alter any assessment made under
109 subsection (3) or subsection (4) or any calculation or initial
110 allocation.

111 4. Each new or revised basin management action plan must
112 ~~shall~~ include:

113 a. The appropriate management strategies available through
114 existing water quality protection programs to achieve total
115 maximum daily loads, which may provide for phased implementation
116 to promote timely, cost-effective actions as provided for in s.

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117 403.151;

118 b. A description of best management practices adopted by
119 rule;

120 c. A list of projects in priority ranking with a planning-
121 level cost estimate and estimated date of completion for each
122 listed project;

123 d. The source and amount of financial assistance to be made
124 available by the department, a water management district, or
125 other entity for each listed project, if applicable; and

126 e. A planning-level estimate of each listed project's
127 expected load reduction, if applicable.

128 5. The department shall adopt all or any part of a basin
129 management action plan and any amendment to such plan by
130 secretarial order pursuant to chapter 120 to implement ~~the~~
131 ~~provisions of~~ this section.

132 6. The basin management action plan must include milestones
133 for implementation and water quality improvement, and an
134 associated water quality monitoring component sufficient to
135 evaluate whether reasonable progress in pollutant load
136 reductions is being achieved over time. An assessment of
137 progress toward these milestones shall be conducted every 5
138 years, and revisions to the plan shall be made as appropriate.
139 Revisions to the basin management action plan shall be made by
140 the department in cooperation with basin stakeholders. Revisions
141 to the management strategies required for nonpoint sources must
142 follow the procedures set forth in subparagraph (c)4. Revised
143 basin management action plans must be adopted pursuant to
144 subparagraph 5.

145 7. In accordance with procedures adopted by rule under

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146 paragraph (9)(c), basin management action plans, and other
147 pollution control programs under local, state, or federal
148 authority as provided in subsection (4), may allow point or
149 nonpoint sources that will achieve greater pollutant reductions
150 than required by an adopted total maximum daily load or
151 wasteload allocation to generate, register, and trade water
152 quality credits for the excess reductions to enable other
153 sources to achieve their allocation; however, the generation of
154 water quality credits does not remove the obligation of a source
155 or activity to meet applicable technology requirements or
156 adopted best management practices. Such plans must allow trading
157 between NPDES permittees, and trading that may or may not
158 involve NPDES permittees, where the generation or use of the
159 credits involves ~~involve~~ an entity or activity not subject to
160 department water discharge permits whose owner voluntarily
161 elects to obtain department authorization for the generation and
162 sale of credits.

163 8. The provisions of the department's rule relating to the
164 equitable abatement of pollutants into surface waters do not
165 apply to water bodies or water body segments for which a basin
166 management plan that takes into account future new or expanded
167 activities or discharges has been adopted under this section.

168 (e) Cooperative agricultural regional water quality
169 improvement element.—A basin management action plan may include
170 as an additional management strategy a cooperative agricultural
171 regional water quality improvement element.

172 1. The department, in coordination with the Department of
173 Agriculture and Consumer Services, shall develop the element and
174 implement it through a cost-sharing program. The element may

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175 include cost-effective, technically and financially practical
176 cooperative agricultural nutrient reduction projects that may be
177 implemented on private properties, subject to available funding.
178 The projects may include any of the following on lands of
179 willing sellers or willing participants, which, in combination
180 with state-sponsored regional projects and other management
181 strategies included in the basin management action plan, will
182 reduce the nutrient impacts from agricultural operations:

183 a. Land acquisition in fee or in conservation easements.
184 b. Site-specific water quality improvement or dispersed
185 water management projects.

186 2. To qualify for participation in the element, the
187 participant must have already implemented the interim measures,
188 best management practices, or other measures adopted by the
189 department pursuant to subparagraph (c)2.

190 3. The element may be included in the basin management
191 action plan as a part of the 5-year assessment under
192 subparagraph (a)6.

193 (f) Cooperative urban, suburban, commercial, or
194 institutional water quality improvement element.—The basin
195 management action plan may include as an additional management
196 strategy a cooperative urban, suburban, commercial, or
197 institutional regional water quality improvement element.

198 1. The department, in coordination with the Department of
199 Health or water management districts, shall develop the element
200 and implement it through a cost-sharing program. The element may
201 include cost-effective, technically and financially practical
202 cooperative urban, suburban, commercial, or institutional
203 regional nutrient reduction projects that may be implemented on

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204 properties, subject to available funding. The projects may
205 include those that reduce stormwater pollutant loading, which,
206 in combination with state-sponsored regional projects and other
207 management strategies included in the basin management action
208 plan, will reduce the nutrient impacts from urban, suburban,
209 commercial, or institutional operations.

210 2. The element may be included in the basin management
211 action plan as a part of the 5-year assessment under
212 subparagraph (a)6.

213 (g) Data collection and research.—

214 1. The department shall work with the Department of
215 Agriculture and Consumer Services to improve the accuracy of
216 data used to estimate agricultural land uses in basin management
217 action plans. The departments shall work with producers to
218 identify agricultural technologies that could be implemented,
219 subject to available funding, on properties where the
220 technologies are deemed technically and financially practical.

221 2. The Institute of Food and Agricultural Sciences of the
222 University of Florida, in cooperation with the Department of
223 Agriculture and Consumer Services, shall develop a research plan
224 and a legislative budget request to:

225 a. Evaluate and, where cost-effective and technically and
226 financially practical, suggest enhancements to the adopted best
227 management practices;

228 b. Develop new best management practices that are cost-
229 effective and technically and financially practical and that,
230 when proven, may be considered by the department for rule
231 adoption pursuant to paragraph (c).

232 c. Develop technically and financially practical

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233 agricultural nutrient reduction projects that would be
234 implemented with willing participants on a site-specific,
235 cooperative basis in addition to best management practices, and
236 that would be considered for inclusion in a basin management
237 action plan pursuant to paragraph (e).

238 3. The department, in cooperation with the Institute of
239 Food and Agricultural Sciences of the University of Florida and
240 the regulated entities, shall consider the adoption by rule of
241 best management practices for the management of nutrient impacts
242 from golf courses and other recreational areas.

243 (14) NUTRIENT REDUCTION COST-SHARE PROGRAM.—A nutrient
244 reduction cost-share program is established within the
245 department.

246 (a) Subject to legislative appropriation, the department
247 may provide funding for projects that will individually or
248 collectively reduce nutrient pollution under a basin management
249 action plan or an alternative restoration plan for the
250 following:

251 1. Projects to retrofit onsite sewage treatment and
252 disposal systems.

253 2. Projects to construct, upgrade, or expand facilities to
254 provide advanced waste treatment, as defined in s. 403.086(4).

255 3. Projects to connect onsite sewage treatment and disposal
256 systems to central sewer facilities.

257 4. Projects identified in the cooperative urban, suburban,
258 commercial, or institutional regional water quality improvement
259 element pursuant to paragraph (7) (f).

260 5. Projects identified in the cooperative agricultural
261 regional water quality improvement element pursuant to paragraph

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262 (7) (e).

263 6. Data collection and research activities identified in
264 paragraph (7) (f).

265 (b) In allocating funds for projects, the department shall
266 equally prioritize projects identified in subparagraphs (a)1.-4.
267 with projects identified in subparagraph (a)5. For projects
268 identified in subparagraphs (a)1.-4., priority must be given to
269 projects that subsidize the connection of onsite sewage
270 treatment and disposal systems to a wastewater treatment plant
271 or that subsidize inspections and assessments of onsite sewage
272 treatment and disposal systems. In determining such priorities,
273 the department shall consider the estimated reduction in
274 nutrient load per project, project readiness, the cost
275 effectiveness of the project, the overall environmental benefit
276 of a project, the location of a project within the plan area,
277 the availability of local matching funds, and the projected
278 water savings or quantity improvements associated with the
279 project.

280 (c) Each project described in subparagraphs (a)1.-3. must
281 require a minimum of a 50 percent local match of funds. However,
282 the department may waive, in whole or in part, this
283 consideration of the local contribution for proposed projects
284 within an area designated as a rural area of opportunity
285 pursuant to s. 288.0656.

286 (d) The department shall coordinate with the Department of
287 Agriculture and Consumer Services, the Institute of Food and
288 Agricultural Sciences of the University of Florida, and each
289 water management district, as necessary, in allocating funds
290 pursuant to this subsection.

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291 (e) Beginning January 1, 2021, and each January 1
292 thereafter, the department shall submit a report regarding the
293 projects funded pursuant to this section to the Governor, the
294 President of the Senate, and the Speaker of the House of
295 Representatives.

296 Section 2. Subsection (9) is added to section 403.412,
297 Florida Statutes, to read:

298 403.412 Environmental Protection Act.—

299 (9) (a) A local government regulation, ordinance, code,
300 rule, comprehensive plan, or charter may not recognize, grant,
301 convey, or extend legal standing or legal rights, as those terms
302 are generally construed, to a plant, an animal, a body of water,
303 or any other part of the natural environment which is not a
304 person or a political subdivision, as defined in s. 1.01(8),
305 unless otherwise specifically authorized by state law or the
306 State Constitution.

307 (b) This subsection may not be interpreted or construed to
308 do any of the following:

309 1. Limit the ability of the Department of Legal Affairs,
310 any political subdivision of the state, or a resident of the
311 state to maintain an action for injunctive relief as provided in
312 this section.

313 2. Limit the ability of an aggrieved or adversely affected
314 party to appeal and challenge the consistency of a development
315 order with a comprehensive plan, as provided in s. 163.3215, or
316 to file an action for injunctive relief to enforce the terms of
317 a development agreement or to challenge compliance of the
318 agreement with the Florida Local Government Development
319 Agreement Act, as provided in s. 163.3243.

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Section 3. This act shall take effect July 1, 2020.