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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/01/2022	.	
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The Committee on Appropriations (Burgess) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 86 - 185  
and insert:  
governmental entities seeking to meet an assigned basin  
management action plan allocation or reasonable assurance plan  
or for the purpose of achieving net improvement pursuant to s.  
373.414(1)(b)3. after the governmental entity has provided  
reasonable assurance of meeting department rules for design and  
construction of all onsite stormwater management, or for the



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11 purpose of providing offsite stormwater treatment pursuant to s.  
12 311.106 or s. 373.413(6) or meeting environmental resource  
13 permit rules adopted pursuant to this part.

14 (c) A water quality enhancement area must be used to  
15 address contributions of one or more pollutants or other  
16 constituents in the watershed, basin, sub-basin, targeted  
17 restoration area, waterbody, or section of waterbody, as  
18 determined by the department, in which the water quality  
19 enhancement area is located which do not meet applicable state  
20 water quality criteria.

21 (d) A water quality enhancement area must be employed to  
22 use, create, or improve natural systems in order to improve  
23 water quality.

24 (e) A governmental entity may use a water quality  
25 enhancement area for its own water quality needs. However, a  
26 governmental entity may not act as a sponsor to construct,  
27 operate, manage, or maintain a water quality enhancement area or  
28 market enhancement credits to third parties.

29 (f) A local government may not require a permit or  
30 otherwise impose regulations governing the operation of a water  
31 quality enhancement area.

32 (g) This section does not eliminate the obligation of an  
33 applicant for a water quality enhancement area permit or an  
34 applicant proposing to use enhancement credits to comply with  
35 all requirements of this part pertaining to adverse impacts to  
36 water quality in receiving waters and adjacent lands or  
37 wetlands.

38 (4) WATER QUALITY ENHANCEMENT AREA PERMIT.-

39 (a) To obtain a water quality enhancement area permit, the



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40 applicant must provide reasonable assurances that the proposed  
41 water quality enhancement area will be used to:

42 1. Meet the requirements for issuance of an environmental  
43 resource permit;

44 2. Benefit water quality in the watershed in which the  
45 water quality enhancement area is located;

46 3. Meet defined performance or success criteria for the  
47 reduction of one or more pollutants or other constituents that  
48 prevent receiving waters from meeting applicable state water  
49 quality criteria;

50 4. Ensure long-term pollutant reduction through effective  
51 operation and maintenance in perpetuity by designation of a  
52 responsible long-term maintenance entity supported by an  
53 endowment or other long-term financial assurance sufficient to  
54 assure perpetual operation and maintenance;

55 5. Demonstrate sufficient legal or equitable interest in  
56 the property to ensure access to and perpetual protection and  
57 management of the land within the water quality enhancement  
58 area; and

59 6. Provide for permanent preservation of the water quality  
60 enhancement area which meets the requirements of s. 704.06.

61 (b) The water quality enhancement area permit must provide  
62 for the assessment, valuation, and award of credits based on  
63 units of pollutant removed.

64 (c) The department shall base its determination of the  
65 award of enhancement credits on standard numerical models or  
66 analytical tools that establish the water quality enhancement  
67 area's ability to remove pollutants or constituents.

68 1. Where a basin management action plan exists for the



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69 watershed in which the water quality enhancement area is  
70 located, the applicant must use the same numerical models or  
71 analytical tools used for that basin management action plan in  
72 the water quality enhancement area permit application.

73 2. If a basin management action plan does not exist for the  
74 watershed in which the water quality enhancement area is  
75 located, the applicant, with the approval of the department, may  
76 submit as part of the water quality enhancement area permit  
77 application model parameters and results used in a numerical  
78 model or analytical tool used by the department to develop a  
79 basin management action plan for a watershed with similar  
80 physical characteristics and pollutants as that where the  
81 proposed water quality enhancement area is to be located.

82 3. If the department determines that its numerical model or  
83 analytical tool used for a basin management action plan is not  
84 appropriate for the proposed water quality enhancement area, the  
85 applicant must use a standard numerical model or analytical tool  
86 for the proposed water quality enhancement area.

87 4. To assist the department in evaluating and determining  
88 enhancement credits, a water quality enhancement area permit  
89 application must include the numerical model or analytical tool  
90 results used to establish the water quality enhancement area's  
91 efficacy. Supporting information must include, but need not be  
92 limited to:

93 a. Rainfall data over the longest period of record  
94 available, collected from the closest site to the proposed water  
95 quality enhancement area, preferably within the same drainage  
96 basin.

97 b. Anticipated average annual water quality and quantity



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98 inflows to the proposed water quality enhancement area, based on  
99 published local data collected over a period of record which  
100 most closely matches the rainfall data under this paragraph.

101 c. Site-specific conditions affecting the anticipated  
102 performance of the proposed water quality enhancement area,  
103 including the proposed treatment type and the anticipated  
104 associated reduction rates, as demonstrated by the performance  
105 of other areas where the treatment type has been established and  
106 operating over a minimum of two consecutive wet and dry seasons.

107 d. Data provided pursuant to sub-subparagraphs a. and b.  
108 must be from monitoring stations the department deems sufficient  
109 to determine flows and local water quality conditions.

110 (d) The issuance of a water quality enhancement area permit  
111 under this section does not preclude the responsibility of an  
112 applicant to obtain other applicable federal, state, and local  
113 permits for the construction activities associated with the  
114 water quality enhancement area.

115 (5) WATER QUALITY ENHANCEMENT SERVICE AREA.—The department  
116 shall establish a water quality enhancement service area for  
117 each water quality enhancement area. Enhancement credits may be  
118 withdrawn and used only to address adverse impacts in the  
119 enhancement service area. The boundaries of the enhancement  
120 service area shall depend upon the geographic area where the  
121 enhancement area could reasonably be expected to address adverse  
122 impacts. Enhancement service areas may overlap, and enhancement  
123 service areas for two or more enhancement areas may be approved  
124 for a regional watershed.

125  
126 ===== T I T L E A M E N D M E N T =====



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127 And the title is amended as follows:  
128       Delete line 6  
129 and insert:  
130       quality enhancement areas and permits; requiring the  
131       Department of Environmental Protection to establish  
132       water quality enhancement service areas; providing  
133       requirements for the boundaries of such areas;  
134       requiring