

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: State Affairs Committee
2 Representative Truenow offered the following:

3
4 **Amendment (with title amendment)**

5 Remove lines 39-248 and insert:

6 quality enhancement areas to make credits available for purchase
7 by governmental entities to address impacts regulated under this
8 part is needed.

9 (c) The construction, operation, maintenance, and long-
10 term management of water quality enhancement areas pursuant to
11 this section will improve the certainty and long-term viability
12 of water quality treatment systems.

13 (d) Water quality enhancement areas are a valuable tool to
14 assist governmental entities in satisfying the net improvement
15 performance standard under s. 373.414(1)(b)3. to ensure
16 significant reductions of pollutant loadings.

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17 (e) Water quality enhancement areas that provide water
18 quality enhancement credits to governmental entities seeking
19 permits under this part and governmental entities seeking to
20 meet an assigned basin management action plan allocation or
21 reasonable assurance plan under s. 403.067 are considered an
22 appropriate and permissible option.

23 (2) DEFINITIONS.—As used in this section, the term:

24 (a) "Enhancement credit" means a standard unit of measure
25 which represents a quantity of pollutant removed.

26 (b) "Governmental entity" means any political subdivision
27 of the state, including any state agency, department, agency of
28 the state, county, municipality, special district, school
29 district, utility authority, or other authority or
30 instrumentality, agency, unit, or department thereof.

31 (c) "Natural system" means an ecological system supporting
32 aquatic and wetland-dependent natural resources, including fish
33 and aquatic and wetland-dependent wildlife habitats.

34 (d) "Water quality enhancement area" means a natural
35 system constructed, operated, managed, and maintained for the
36 purpose of providing offsite regional treatment for which
37 enhancement credits may be provided pursuant to a water quality
38 enhancement area permit issued under this section.

39 (e) "Water quality enhancement area permit" means an
40 environmental resource permit issued for a water quality
41 enhancement area which authorizes the construction, operation,

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42 management, and maintenance of an enhancement area and the
43 purchase and sale of enhancement credits.

44 (3) WATER QUALITY ENHANCEMENT AREAS.—

45 (a) The construction, operation, management, and
46 maintenance of a water quality enhancement area must be approved
47 through the environmental resource permitting process.

48 (b) Water quality enhancement credits may be sold only to
49 governmental entities.

50 (c) A water quality enhancement area must be used to
51 address contributions of one or more pollutants or other
52 constituents in the watershed in which the water quality
53 enhancement area is located that do not meet applicable state
54 water quality criteria.

55 (d) A water quality enhancement area must be employed to
56 use, create, or improve natural systems in order to improve
57 water quality.

58 (e) A governmental entity may use a water quality
59 enhancement area for its own water quality needs. However, a
60 governmental entity may not act as a sponsor to construct,
61 operate, manage, or maintain a water quality enhancement area or
62 market enhancement credits to third parties.

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

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66 (g) This section does not eliminate the obligation of an
67 applicant for a water quality enhancement area permit or an
68 applicant proposing to use enhancement credits to comply with
69 all requirements of this part pertaining to adverse impacts to
70 water quality in receiving waters and adjacent lands or
71 wetlands.

72 (4) WATER QUALITY ENHANCEMENT AREA PERMIT.—

73 (a) To obtain a water quality enhancement area permit, the
74 applicant must provide reasonable assurances that the proposed
75 water quality enhancement area will be used to:

76 1. Meet the requirements for issuance of an environmental
77 resource permit;

78 2. Benefit water quality in the watershed that the water
79 quality enhancement area is located;

80 3. Meet defined performance or success criteria for the
81 reduction of one or more pollutants or other constituents that
82 prevent receiving waters from meeting applicable state water
83 quality criteria;

84 4. Ensure long-term pollutant reduction through effective
85 operation and maintenance in perpetuity by designation of a
86 responsible long-term maintenance entity supported by an
87 endowment or other long-term financial assurance sufficient to
88 assure perpetual operation and maintenance;

89 5. Demonstrate sufficient legal or equitable interest in
90 the property to ensure access and perpetual protection and

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91 management of the land within the water quality enhancement
92 area; and

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

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

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

102 1. Where a basin management action plan exists for the
103 watershed in which the water quality enhancement area is
104 located, the applicant must use the same numerical models or
105 analytical tools used for that basin management action plan in
106 the water quality enhancement area permit application.

107 2. If a basin management action plan does not exist for
108 the watershed in which the water quality enhancement area is
109 located, the applicant, with the approval of the department, may
110 submit as part of the water quality enhancement area permit
111 application model parameters and results used in a numerical
112 model or analytical tool used by the department to develop a
113 basin management action plan for a watershed with similar
114 physical characteristics and pollutants as that where the
115 proposed water quality enhancement area is to be located.

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116 3. If the department determines that its numerical model
117 or analytical tool used for a basin management action plan is
118 not appropriate for the proposed water quality enhancement area,
119 the applicant must use a standard numerical model or analytical
120 tool for the proposed water quality enhancement area.

121 4. To assist the department in evaluating and determining
122 enhancement credits, a water quality enhancement area permit
123 application must include the numerical model or analytical tool
124 results used to establish the water quality enhancement area's
125 efficacy. Supporting information must include, but need not be
126 limited to:

127 a. Rainfall data over the longest period of record
128 available, collected from the closest site to the proposed water
129 quality enhancement area, preferably within the same drainage
130 basin.

131 b. Anticipated average annual water quality and quantity
132 inflows to the proposed water quality enhancement area, based on
133 published local data collected over a period of record which
134 most closely matches the rainfall data under this paragraph.

135 c. Site-specific conditions affecting the anticipated
136 performance of the proposed water quality enhancement area,
137 including the proposed treatment type and the anticipated
138 associated reduction rates, as demonstrated by the performance
139 of other areas where the treatment type has been established and
140 operating over a minimum of two consecutive wet and dry seasons.

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

144 (d) The issuance of a water quality enhancement area
145 permit under this section does not preclude the responsibility
146 of an applicant to obtain other applicable federal, state, and
147 local permits for the construction activities associated with
148 the water quality enhancement area.

149 (5) MONITORING AND VERIFICATION.—

150 (a) An applicant for a water quality enhancement area
151 permit must propose a performance and success criteria
152 monitoring and verification plan, with protocols to be
153 implemented once the water quality enhancement area is
154 operational. The protocols must be appropriate for the water
155 quality enhancement area and sufficient to demonstrate that the
156 area is meeting defined performance or success criteria for the
157 reduction of pollutants or contaminants for which credits are
158 awarded by the department.

159 (b) If a permittee fails to comply with the conditions of
160 a water quality enhancement area permit, the department must
161 revoke the permittee's ability to sell enhancement credits until
162 the water quality enhancement area is compliant with the permit
163 conditions.

164 (6) ENHANCEMENT CREDITS.—

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165 (a) The department or water management district shall
166 authorize the sale and use of enhancement credits to
167 governmental entities to address adverse water quality impacts
168 of activities regulated under this part or to assist
169 governmental entities seeking to meet required nonpoint source
170 contribution reductions assigned in a basin management action
171 plan or reasonable assurance plan pursuant to s. 403.067.

172 (b) Before approving the use of enhancement credits, the
173 department or water management district must determine that the
174 enhancement credits used by an applicant seeking a permit under
175 this part are appropriate for a specific permit use.

176 (c) Water quality improvement projects using natural
177 systems or land use modifications, including, but not limited
178 to, constructed wetlands or minor impoundments that reduce
179 pollutants to a receiving water body, may be used by an
180 applicant to generate enhancement credits if approved by the
181 department. Water quality enhancement areas may not be located
182 on lands purchased for conservation pursuant to the Florida
183 Forever Act or the Florida Preservation 2000 Act.

184 (d) The department shall provide for and maintain a ledger
185 that tracks the award, release, and use of enhancement credits.

186 1. A water management district that authorizes applicants
187 seeking permits under this part to use enhancement credits to
188 address water quality impacts must report to the department the
189 amount of enhancement credits used by the applicants.

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190 2. The operator of a water quality enhancement area shall
191 notify the department of the amount of enhancement credits sold
192 or used within 30 days after the date the enhancement credit
193 transaction is completed.

194 (e) Reductions in pollutant loading required under any
195 state regulatory program are not eligible to be considered as
196 enhancement credits.

197 (f) Enhancement credits may not be used by point source
198 dischargers to satisfy regulatory requirements other than those
199 necessary to obtain an environmental resource permit for
200 construction and operation of the surface water management
201 system of the site.

202 (g) Use of enhancement credits made available by water
203 quality enhancement areas is voluntary.

204 (h) Any landowner, discharger, or other responsible person
205 regulated under this part or s. 403.067 implementing applicable
206 management strategies specified in an adopted basin management
207 action plan or reasonable assurance plan may not be required by
208 any permit or other enforcement action to use enhancement
209 credits to reduce pollutant loads to achieve the pollutant
210 reductions established pursuant to s. 403.067.

211 (i) A local government may not deny the use of enhancement
212 credits due to the location of the water quality enhancement
213 area outside the jurisdiction of the local government.

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214 (7) AUTHORITY.—The authority granted to the department
215 under this section is supplemental to the authority granted
216 under s. 403.067(8).

217 (8) RULES.—The department may adopt rules to implement
218 this section.

219 Section 2. Paragraph (b) of subsection (1) and paragraphs
220 (a), (b), and (d) of subsection (3) of section 403.892, Florida
221 Statutes, are amended, and subsection (6) is added to that
222 section, to read:

223 403.892 Incentives for the use of graywater technologies.—

224 (1) As used in this section, the term:

225 (b) "Graywater" has the same meaning as in s.

226 381.0065(2)(f) ~~s. 381.0065(2)(c)~~.

227 (3) To qualify for the incentives under subsection (2),
228 the developer or homebuilder must certify to the applicable
229 governmental entity as part of its application for development
230 approval or amendment of a development order that all of the
231 following conditions are met:

232 (a) The proposed or existing development has at least 25
233 single-family residential homes that are either detached or
234 multifamily dwellings. ~~This paragraph does not apply to~~
235 ~~multifamily projects over five stories in height.~~

236 (b) Each single-family residential home or residence will
237 have its own residential graywater system ~~that is~~ dedicated for
238 its use. Each residence forming part of a multifamily project

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239 will be serviced by either its own residential graywater system
240 dedicated for its use or a master graywater collection and reuse
241 system for the entire project.

242 (d) The required maintenance of the graywater system will
243 be the responsibility of the owner ~~residential homeowner~~.

244 (6) This section does not apply to multifamily projects
245 more than five stories in height. Whether a dwelling is occupied
246 by an owner is not an eligibility criterion for a developer or
247 homebuilder to receive the incentives authorized pursuant to
248 this section.

249 Section 3. The Department of Environmental Protection
250 shall adopt and modify rules adopted pursuant to ss. 373.4136
251 and 373.414, Florida Statutes, to ensure that required financial
252 assurances are equivalent and sufficient to provide for the
253 long-term management of mitigation permitted under ss. 373.4136
254 and 373.414, Florida Statutes. The department, in consultation

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257 **T I T L E A M E N D M E N T**

258 Remove lines 5-12 and insert:
259 enhancement areas and enhancement credits; providing
260 requirements for such water quality enhancement area
261 permits; directing the Department of Environmental
262 Protection and water management districts to authorize the
263 sale and use of enhancement credits for specified purposes;

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264 providing that the authority of the act is supplemental;
265 requiring applicants to propose performance and success
266 criteria monitoring and verification plans that meet
267 certain requirements; providing requirements for
268 enhancement credits; requiring the department to revoke a
269 permit under certain conditions;