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Section 1. Section 373.4134, Florida Statutes, is created to read:

373.4134 Water quality enhancement areas.-

(1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds that:

(a) Water quality will be improved and adverse water quality impacts of activities regulated under this part may be offset by the construction, operation, maintenance, and long-term management of water quality enhancement areas that provide offsite compensatory treatment.

(b) An expansion of existing authority for regional treatment to include offsite compensatory treatment in water quality enhancement areas to make enhancement credits available for purchase by governmental entities to offset impacts regulated under this part is needed.

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

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

(e) Water quality enhancement areas that provide water

51 quality enhancement credits to governmental entities seeking
52 permits under this part and governmental entities seeking to
53 meet an assigned basin management action plan allocation or
54 reasonable assurance plan under s. 403.067 are considered an
55 appropriate and permittable option.

56 (2) DEFINITIONS.-As used in this section, the term:

57 (a) "Enhancement credit" means a standard unit of measure
58 that represents a quantity of pollutant removed.

59 (b) "Enhancement service area" means the geographic area
60 in which the water quality enhancement area can reasonably be
61 expected to offset adverse water quality impacts.

62 (c) "Governmental entity" means any political subdivision,
63 including any state agency, department, agency of the state,
64 county, municipality, special district, school district, utility
65 authority, or other authority or any instrumentality, agency,
66 unit, or department thereof.

67 (d) "Planning unit" means the total maximum daily load
68 planning unit that is an individual tributary basin or a group
69 of smaller adjacent tributary basins with similar
70 characteristics.

71 (e) "Water quality enhancement area" means a natural
72 system constructed, operated, managed, and maintained under a
73 permit issued under this section for the purpose of providing
74 offsite, compensatory regional treatment within an identified
75 enhancement service area for which enhancement credits may be

76 provided.

77 (f) "Water quality enhancement area permit" means a permit
 78 issued for a water quality enhancement area which authorizes the
 79 construction, operation, management, and maintenance of a water
 80 quality enhancement area and the purchase and sale of
 81 enhancement credits.

82 (3) WATER QUALITY ENHANCEMENT AREAS.-

83 (a) The construction, operation, management, and
 84 maintenance of a water quality enhancement area must be approved
 85 through the environmental resource permitting process.
 86 Department rules pertaining to environmental resource permits
 87 apply to water quality enhancement areas and enhancement
 88 credits.

89 (b) Water quality enhancement credits may only be sold to
 90 governmental entities.

91 (c) A water quality enhancement area must address the
 92 contributions of pollutants for those parameters in an
 93 enhancement service area that does not meet state water quality
 94 standards.

95 (d) A water quality enhancement area must use, create, or
 96 improve natural systems in order to improve water quality.

97 (e) A governmental entity may use a water quality
 98 enhancement area for its own water quality needs. However, a
 99 governmental entity may not act as a sponsor to construct,
 100 operate, manage, or maintain a water quality enhancement area or

101 market enhancement credits to third parties.

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

105 (4) WATER QUALITY ENHANCEMENT AREA PERMIT.-

106 (a) To obtain a water quality enhancement area permit, the
107 applicant must provide reasonable assurances that the proposed
108 water quality enhancement area will:

109 1. Meet the requirements for issuance of an environmental
110 resource permit.

111 2. Benefit water quality in the enhancement service area.

112 3. Achieve defined performance or success criteria for the
113 reduction of pollutants or other constituents that prevent
114 receiving waters from meeting state water quality standards.

115 4. Ensure long-term pollutant reduction through effective
116 operation and maintenance in perpetuity by designation of a
117 responsible long-term maintenance entity supported by an
118 endowment or other long-term financial assurance sufficient to
119 ensure perpetual operation and maintenance.

120 5. Demonstrate sufficient legal or equitable interest in
121 the property to ensure access and perpetual protection and
122 management of the land within the water quality enhancement
123 area.

124 6. Provide for permanent preservation of the water quality
125 enhancement area under s. 704.06.

126 (b) The water quality enhancement area permit must provide
 127 for the assessment, valuation, and award of credits based on
 128 units of pollutants removed. To assist the department in
 129 determining enhancement credits, a water quality enhancement
 130 area application must include the following information:

131 1. Rainfall data over the longest period of record
 132 available collected from the closest site to the proposed water
 133 quality enhancement area, preferably within the same drainage
 134 basin.

135 2. Anticipated average annual water quality and quantity
 136 inflows to the proposed water quality enhancement area, based on
 137 published local data collected over a period of record that most
 138 closely matches the rainfall data under this paragraph.

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

145 4. Data from collection stations, approved in advance by
 146 the department, in sites that the department deems sufficient to
 147 determine flows and local water quality conditions.

148 (c) The issuance of a water quality enhancement area
 149 permit under this subsection does not preclude the
 150 responsibility of an applicant to obtain other applicable

151 federal, state, and local permits for construction activities
152 associated with the water quality enhancement area.

153 (5) ENHANCEMENT SERVICE AREA.-

154 (a) An enhancement service area shall be based on a basin
155 management action plan or reasonable assurance plan boundary
156 adopted by the department. If the department does not adopt a
157 basin management action plan or reasonable assurance plan
158 boundary, the enhancement service area shall be the planning
159 unit.

160 (b) A water quality enhancement area may only provide
161 enhancement credits in an enhancement service area, except for:

162 1. Projects with adverse impacts located partially within
163 the enhancement service area.

164 2. Linear projects, such as roadways, transmission lines,
165 distribution lines, pipelines, railways, or seaports listed in
166 s. 311.09(1).

167 (c) Once an enhancement service area has been established
168 by the department, the enhancement service area shall be
169 accepted by all water management districts and local
170 governments.

171 (6) ENHANCEMENT CREDITS.-

172 (a) The department or water management district shall
173 authorize the sale and use of enhancement credits to
174 governmental entities to offset adverse water quality impacts of
175 activities regulated under this part or to assist governmental

176 entities seeking to meet an assigned basin management action
177 plan allocation or reasonable assurance plan pursuant to s.
178 403.067.

179 (b) Water quality improvement projects using natural
180 systems or land use modifications, including, but not limited
181 to, constructed wetlands or minor impoundments that reduce
182 pollutants to a receiving water body may be used by an applicant
183 to generate enhancement credits if approved by the department.

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

186 1. The operator of a water quality enhancement area shall
187 notify the department of the amount of enhancement credits sold
188 or used within 30 days after the date the enhancement credit
189 transaction is completed.

190 2. A water management district that authorizes applicants
191 seeking permits under this part to use enhancement credits to
192 offset water quality impacts must report to the department the
193 amount of enhancement credits used by the applicant.

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

197 (e) 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 (f) Use of enhancement credits made available by a water
 203 quality enhancement area shall be voluntary.

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

211 (h) 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.

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) 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)(e)~~.

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

238 (6) This section does not apply to multifamily projects
 239 over five stories in height. Whether a dwelling is owner
 240 occupied is not an eligibility criterion for a developer or
 241 homebuilder to receive the incentives authorized under this
 242 section.

243 Section 3. The Department of Environmental Protection
 244 shall adopt and modify rules adopted pursuant to ss. 373.4136
 245 and 373.414, Florida Statutes, to ensure that required financial
 246 assurances are equivalent and sufficient to provide for the
 247 long-term management of mitigation permitted under ss. 373.4136
 248 and 373.414, Florida Statutes. The department, in consultation
 249 with the water management districts, shall include the

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250 rulemaking required by this section in existing active
251 rulemaking, or shall complete rule development by June 30, 2023.

252 Section 4. For the 2022-2023 fiscal year, nine full-time
253 equivalent positions with associated salary rate of 479,000 are
254 authorized and the sum of \$878,275 in recurring funds from the
255 General Revenue Fund are appropriated to the Department of
256 Environmental Protection for the purpose of implementing this
257 act.

258 Section 5. This act shall take effect July 1, 2022.