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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 addressed 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 address 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 standard under s. 373.414(1)(b)3. to ensure significant reductions 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) "Governmental entity" means any political subdivision
60 of the state, including any state agency, department, county,
61 municipality, special district, school district, utility
62 authority, or other authority or instrumentality, agency, unit,
63 or department thereof.

64 (c) "Natural system" means an ecological system supporting
65 aquatic and wetland-dependent natural resources, including fish
66 and aquatic and wetland-dependent wildlife habitats.

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

72 (e) "Water quality enhancement area permit" means an
73 environmental resource permit issued for a water quality
74 enhancement area which authorizes the construction, operation,
75 management, and maintenance of an enhancement area and the

76 | purchase and sale of enhancement credits.

77 | (3) WATER QUALITY ENHANCEMENT AREAS.-

78 | (a) The construction, operation, management, and
 79 | maintenance of a water quality enhancement area must be approved
 80 | through the environmental resource permitting process.

81 | (b) Water quality enhancement credits may be sold only to
 82 | governmental entities seeking to meet an assigned basin
 83 | management action plan allocation or reasonable assurance plan
 84 | or for the purpose of achieving net improvement under s.
 85 | 373.414(1)(b)3. after the governmental entity has provided
 86 | reasonable assurance of meeting department rules for design and
 87 | construction of all onsite stormwater management.

88 | (c) A water quality enhancement area must be used to
 89 | address contributions of one or more pollutants or other
 90 | constituents in the watershed, basin, sub-basin, targeted
 91 | restoration area, waterbody, or section of waterbody, as
 92 | determined by the department, in which the water quality
 93 | enhancement area is located that do not meet applicable state
 94 | water quality criteria.

95 | (d) A water quality enhancement area must be used to
 96 | create, improve, or use natural systems to improve water
 97 | quality.

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

101 operate, manage, or maintain a water quality enhancement area or
 102 market enhancement credits to third parties.

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

106 (g) This section does not eliminate the obligation of an
 107 applicant for a water quality enhancement area permit or an
 108 applicant proposing to use enhancement credits to comply with
 109 all requirements of this part pertaining to adverse impacts to
 110 water quality in receiving waters and adjacent lands or
 111 wetlands.

112 (4) WATER QUALITY ENHANCEMENT AREA PERMIT.-

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

116 1. Meet the requirements for issuance of an environmental
 117 resource permit;

118 2. Benefit water quality in the watershed in which the
 119 water quality enhancement area is located;

120 3. Meet defined performance or success criteria for the
 121 reduction of one or more pollutants or other constituents that
 122 prevent receiving waters from meeting applicable state water
 123 quality criteria;

124 4. Ensure long-term pollutant reduction through effective
 125 operation and maintenance in perpetuity by designation of a

126 responsible long-term maintenance entity supported by an
127 endowment or other long-term financial assurance sufficient to
128 ensure perpetual operation and maintenance;

129 5. Demonstrate sufficient legal or equitable interest in
130 the property to ensure access and perpetual protection and
131 management of the land within the water quality enhancement
132 area; and

133 6. Provide for permanent preservation of the water quality
134 enhancement area that meets the requirements of s. 704.06.

135 (b) The water quality enhancement area permit must provide
136 for the assessment, valuation, and award of credits based on
137 units of pollutants removed.

138 (c) The department shall base its determination of the
139 award of enhancement credits on standard numerical models or
140 analytical tools that establish the ability of the water quality
141 enhancement area to remove pollutants or constituents.

142 1. If a basin management action plan exists for the
143 watershed in which the water quality enhancement area is
144 located, the applicant must use the same numerical models or
145 analytical tools used for that basin management action plan in
146 the water quality enhancement area permit application.

147 2. If a basin management action plan does not exist for
148 the watershed in which the water quality enhancement area is
149 located, the applicant, with the approval of the department, may
150 submit as part of the water quality enhancement area permit

151 application model parameters and results used in a numerical
152 model or analytical tool used by the department to develop a
153 basin management action plan for a watershed with similar
154 physical characteristics and pollutants as the watershed in
155 which the proposed water quality enhancement area is to be
156 located.

157 3. If the department determines that its numerical model
158 or analytical tool used for a basin management action plan is
159 not appropriate for the proposed water quality enhancement area,
160 the applicant must use a standard numerical model or analytical
161 tool for the proposed water quality enhancement area.

162 4. To assist the department in evaluating and determining
163 enhancement credits, a water quality enhancement area permit
164 application must include the numerical model or analytical tool
165 results used to establish the efficacy of the water quality
166 enhancement area. Supporting information must include, but need
167 not be limited to:

168 a. Rainfall data over the longest period of record
169 available collected from the closest site to the proposed water
170 quality enhancement area, preferably within the same drainage
171 basin.

172 b. Anticipated average annual water quality and quantity
173 inflows to the proposed water quality enhancement area, based on
174 published local data collected over a period of record that most

175 closely matches the rainfall data collected under this
176 paragraph.

177 c. Site-specific conditions affecting the anticipated
178 performance of the proposed water quality enhancement area,
179 including the proposed treatment type and the anticipated
180 associated reduction rates, as demonstrated by the performance
181 of other areas where the treatment type has been established and
182 operating over a minimum of two consecutive wet and dry seasons.

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

186 (d) The issuance of a water quality enhancement area
187 permit under this section does not preclude the responsibility
188 of an applicant to obtain other applicable federal, state, and
189 local permits for construction activities associated with the
190 water quality enhancement area.

191 (5) WATER QUALITY ENHANCEMENT SERVICE AREA.-The department
192 shall establish a water quality enhancement service area for
193 each water quality enhancement area. Enhancement credits may be
194 withdrawn and used only to address adverse impacts in the
195 enhancement service area. The boundaries of the enhancement
196 service area shall depend upon the geographic area in which the
197 water quality enhancement area could reasonably be expected to
198 address adverse impacts. Enhancement service areas may overlap,
199 and enhancement service areas for two or more water quality

200 enhancement areas may be approved for a regional watershed.

201 (6) MONITORING AND VERIFICATION.—

202 (a) An applicant for a water quality enhancement area
203 permit must propose a performance and success criteria
204 monitoring and verification plan, with protocols to be
205 implemented once the water quality enhancement area is
206 operational. The protocols must be appropriate for the water
207 quality enhancement area and sufficient to demonstrate that the
208 area is meeting defined performance or success criteria for the
209 reduction of pollutants or contaminants for which credits are
210 awarded by the department.

211 (b) If a permittee fails to comply with the conditions of
212 a water quality enhancement area permit, the department must
213 revoke the ability of the permittee to sell enhancement credits
214 until the water quality enhancement area complies with the
215 permit conditions.

216 (7) ENHANCEMENT CREDITS.—

217 (a) The department or water management district shall
218 authorize the sale and use of enhancement credits to
219 governmental entities to address adverse water quality impacts
220 of activities regulated under this part or to assist
221 governmental entities seeking to meet required nonpoint source
222 contribution reductions assigned in a basin management action
223 plan or reasonable assurance plan under s. 403.067.

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

228 (c) Water quality improvement projects using natural
 229 systems or land use modifications, including, but not limited
 230 to, constructed wetlands or minor impoundments that reduce
 231 pollutants to a receiving water body, may be used by an
 232 applicant to generate enhancement credits if approved by the
 233 department. Water quality enhancement areas may not be located
 234 on lands purchased for conservation pursuant to the Florida
 235 Forever Act or the Florida Preservation 2000 Act.

236 (d) The department shall provide for and maintain a ledger
 237 to track the award, release, and use of enhancement credits.

238 1. A water management district that authorizes applicants
 239 seeking permits under this part to use enhancement credits to
 240 address water quality impacts must report to the department the
 241 amount of enhancement credits used by the applicants.

242 2. The operator of a water quality enhancement area shall
 243 notify the department of the amount of enhancement credits sold
 244 or used within 30 days after the date the enhancement credit
 245 transaction is completed.

246 (e) Reductions in pollutant loading required under any
 247 state regulatory program are not eligible to be considered as
 248 enhancement credits.

249 (f) Enhancement credits may not be used by point source
250 dischargers to satisfy regulatory requirements other than those
251 necessary to obtain an environmental resource permit for
252 construction and operation of the surface water management
253 system of the site.

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

256 (h) Any landowner, discharger, or other responsible person
257 regulated under this part or s. 403.067 implementing applicable
258 management strategies specified in an adopted basin management
259 action plan or reasonable assurance plan may not be required by
260 any permit or other enforcement action to use enhancement
261 credits to reduce pollutant loads to achieve the pollutant
262 reductions established pursuant to s. 403.067.

263 (i) A local government may not deny the use of enhancement
264 credits due to the location of the water quality enhancement
265 area outside the jurisdiction of the local government.

266 (8) AUTHORITY.-The authority granted to the department
267 under this section is supplemental to the authority granted
268 under s. 403.067(8).

269 (9) RULES.-The department may adopt rules to implement
270 this section.

271 Section 2. Paragraph (b) of subsection (1) and paragraphs
272 (a), (b), and (d) of subsection (3) of section 403.892, Florida
273 Statutes, are amended, and subsection (6) is added to that

274 section, to read:

275 403.892 Incentives for the use of graywater technologies.—

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

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

278 381.0065(2)(f) ~~s. 381.0065(2)(e)~~.

279 (3) To qualify for the incentives under subsection (2),
 280 the developer or homebuilder must certify to the applicable
 281 governmental entity as part of its application for development
 282 approval or amendment of a development order that all of the
 283 following conditions are met:

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

288 (b) Each single-family residential home or residence will
 289 have its own residential graywater system ~~that is~~ dedicated for
 290 its use. Each residence forming part of a multifamily project
 291 will be serviced by its own residential graywater system
 292 dedicated for its use or by a master graywater collection and
 293 reuse system for the entire project.

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

296 (6) This section does not apply to multifamily projects
 297 more than five stories in height. Whether a dwelling is occupied
 298 by an owner is not an eligibility criterion for a developer or

299 homebuilder to receive the incentives authorized under this
300 section.

301 Section 3. The Department of Environmental Protection
302 shall adopt and modify rules adopted pursuant to ss. 373.4136
303 and 373.414, Florida Statutes, to ensure that required financial
304 assurances are equivalent and sufficient to provide for the
305 long-term management of mitigation permitted under ss. 373.4136
306 and 373.414, Florida Statutes. The department, in consultation
307 with the water management districts, shall include the
308 rulemaking required by this section in existing active
309 rulemaking, or shall complete rule development by June 30, 2023.

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

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