

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: CS/HB 1457	COMPANION BILL: CS/SB 848 (Truenow)
TITLE: Stormwater Treatment	LINKED BILLS: None
SPONSOR(S): Gonzalez Pittman and Overdorf	RELATED BILLS: None

Committee References

[Natural Resources & Disasters](#)

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[State Affairs](#)

SUMMARY

Effect of the Bill:

The bill creates several provisions regarding stormwater treatment. The bill, in part:

- Defines “compensating stormwater treatment” as a method of stormwater treatment for discharges from multiple parcels, defines “regional stormwater management system” (RSMS) as a certain method of compensating stormwater treatment, and specifies the use of an enhancement credit constitutes compensating stormwater treatment under the environmental resource permitting (ERP) program.
- Specifies that an “enhancement credit” is a standard unit of measure that represents a quantity of pollutant removed by a WQEA, while a “pollutant reduction allocation” is a standard unit of measure removed by a RSMS to provide compensating stormwater treatment under the ERP Program.
- Requires RSMS ERP applicants to provide certain documentation of adequate financial responsibility.
- Adds compensating stormwater treatment to the mitigation measures that ERP applicants may use to comply with water quality standards.
- Prohibits certain RSMS and certain WQEA from providing stormwater treatment or achieving net improvement for proposed port activities of certain seaports.
- Requires the Department of Environmental Protection (DEP) to file rules related to WQEA permits for adoption by October 1, 2026, as well as requires DEP to accept, review, and take final agency action on applications for WQEA provisional permits while such rule adopting is pending.

Fiscal or Economic Impact:

The bill may have an indeterminate positive economic impact on private entities that provide compensating stormwater treatment.

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ANALYSIS

EFFECT OF THE BILL:

Regional Stormwater Management Systems

The bill provides that as part of meeting the requirement to demonstrate that an applicant for an [environmental resource permit](#) (ERP) for a regional stormwater management system (RSMS)¹ has the financial, legal, and administrative capability of ensuring such RSMS will be undertaken according to the ERP’s terms and conditions, the Department of Environmental Protection (DEP) or a water management district must require such applicant to provide documentation showing adequate financial responsibility. Such documentation may consist of performance bonds, letters of credit, insurance policies, or trust agreements ensuring completion of construction, the amount of which must be based on cost estimates of completing the construction, and an endowment or other

¹ The bill defines a “regional stormwater management system” as a method of compensating stormwater treatment that creates pollution reduction allocations and is designed, constructed, operated, and maintained to collect, convey, store, absorb, inhibit, treat, or harvest stormwater to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution, or otherwise affect the quantity and quality of discharges within the area served by the regional system, which is the land or development that is served by or contributes stormwater to the regional system.

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long-term financial assurance mechanism sufficient to ensure operation and maintenance for the entire period the RSMS is anticipated to be relied upon to provide [stormwater treatment](#), attenuation, or regulatory pollutant load reduction allocations,² the amounts of which must be based on cost-estimates of such long-term operation and maintenance. Such cost estimates and financial responsibility mechanisms must be updated every five years to reflect current costs. The bill provides these provisions may not be construed to impose additional financial responsibility requirements on stormwater management systems that are not RSMS. (Section [3](#))

The bill also requires an ERP authorizing a RSMS to establish and include a graphic depicting the drainage area to be served by the RSMS. DEP or the water management district must use Hydrologic Unit Code³ 12 subbasin, as set forth in the United States Geological Survey, to establish the drainage area, unless the applicant provides justification demonstrating that a proposed off-site area outside of the Hydrologic Unit Code 12 subbasin would provide the same degree of compensating stormwater treatment for a common downstream receiving waters without causing or contributing to any localized adverse impacts to downstream waters through water quality monitoring or modeling. The bill allows ERP applicants located within the drainage area to purchase and use pollution reduction allocations from a RSMS to meet stormwater treatment performance criteria. (Section [3](#))

For a proposed port activity that causes or contributes to pollution from stormwater runoff from a [seaport](#) not listed in [s. 403.021\(9\)\(b\), F.S.](#),⁴ the bill prohibits a RSMS operated by a non-local governmental entity, either independently or under contract with a seaport or local government, from providing stormwater treatment or achieving net improvement. (Section [1](#))

Compensating Stormwater Treatment

The bill adds compensating stormwater treatment⁵ to the [mitigation measures](#) that environmental resource permit (ERP) applicants may use to comply with water quality standards. (Section [5](#))

The bill provides that the use of enhancement credits constitutes compensating stormwater treatment under an ERP. (Section [4](#))

Enhancement Credits

The bill specifies water quality enhancement credits⁶ may be sold to and *used* by permit applicants to meet ERP stormwater treatment performance standards or to achieve net water quality improvement. The bill provides that the use of an enhancement credit transfers the legal responsibility for compliance with water quality treatment requirements from the purchaser and user of such enhancement credit to the generator of the enhancement credit. The bill specifies that the term “credit” does not refer to pollutant reduction⁷ achieved through compensating stormwater treatment to meet ERP stormwater performance standards or as a mitigation measure to achieve net water quality improvement outside of the credits generated from a [water quality enhancement area](#) (WQEA). (Section [4](#))

² The bill defines “pollutant reduction allocation” as a standard unit of measure that represents a quantity of pollutant removed by a RSMS for purposes of providing compensating stormwater treatment under the ERP program.

³ Hydrologic unit codes (HUCs) are a cataloging unit assigned to a geographic area representing a surface watershed drainage basin. Each unit is assigned a two- to 12-digit number that uniquely identifies each of the six levels of classification within six two-digit fields. Eight-digit HUCs are used for large watersheds known as subbasins; 10-digit HUCs divide the large subbasins into watersheds; and 12-digit HUCs divide watersheds into sub-watersheds that capture local tributary systems. *See* U.S. Geological Survey, [Hydrologic Unit Codes \(HUCs\) Explained](#) last visited Feb. 9, 2026); U.S. Environmental Protection Agency, EnviroAtlas, [Hydrologic Unit Codes: HUC 4, HUC 8, and HUC 12](#) (last visited Feb. 9, 2026).

⁴ The following ports are listed in [s. 403.021\(9\)\(b\), F.S.](#): Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

⁵ The bill defines “compensating stormwater treatment” as a method of stormwater treatment for discharges from multiple parcels.

⁶ The bill defines “enhancement credit” as a standard unit of measure that represents a quantity of pollutant removed by a water quality enhancement area.

⁷ *Supra* note 2.

For a proposed port activity with water quality impacts that causes or contributes to pollution from stormwater runoff from a seaport not listed in [s. 403.021\(9\)\(b\), F.S.](#),⁸ the bill prohibits a WQEA operated by a non-local governmental entity, either independently or under contract with a seaport or local government, from conveying enhancement credits to provide stormwater treatment or achieve net improvement.

Water Quality Enhancement Area Permits

Current law requires DEP to adopt rules to implement water quality enhancement areas. The bill requires DEP to file the rules for adoption by October 1, 2026. Pending the adoption of such rules, the bill requires DEP to accept, review, and take final agency action on applications for WQEA provisional permits, and specifies DEP must issue such provisional permit if the applicant provides reasonable assurance of meeting statutory criteria.

The bill provides that after DEP adopts such rules, DEP may modify an issued WQEA provisional permit to conform such permit to the adopted rules; however, any enhancement credit used from a WQEA established under a provisional permit must continue to be recognized by DEP and water management districts without change, regardless of whether the provisional permit is subsequently modified to conform to the adopted rules. (Section [4](#))

Notwithstanding any other provision of rule or law, the bill requires that in reviewing an ERP application, DEP or the water management district allow the use of enhancement credits from a WQEA with a provisional permit. (Section [4](#))

Effective Date

The effective date of the bill is July 1, 2026. (Section [7](#))

RULEMAKING:

DEP is currently engaged in rulemaking for WQEAs and may need to update its ongoing rulemaking due to the bill's provisions. The bill requires DEP to file such rules for adoption by October 1, 2026.

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

The bill may have an indeterminate positive economic impact on private entities that provide compensating stormwater treatment under the bill's provisions.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Stormwater Treatment](#)

From 2020 through 2024, Florida received between 54 and 58 inches of rain annually, with the highest monthly rainfall occurring during the months of June through September.⁹ Stormwater runoff generated during rain events flows over land and impervious surfaces, such as paved streets, parking lots, driveways, sidewalks, and rooftops, picking up pollutants like trash, chemicals, oils, and sediment.¹⁰ This unfiltered water flows into lakes, rivers, and

⁸ The following ports are listed in [s. 403.021\(9\)\(b\), F.S.](#): Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

⁹ Florida State University, Climate Center, [Precipitation](#) (last visited Feb. 10, 2026). See also Southwest Florida Water Management District, [Rainfall Cycle](#) (last visited Feb. 10, 2026).

¹⁰ U.S. Environmental Protection Agency, [Urbanization and Stormwater Runoff](#) (last visited Feb. 10, 2026).

wetlands, gradually seeping into groundwater aquifers that supply the state's drinking water.¹¹ Polluted stormwater runoff is one of the greatest threats to clean water in the United States.¹²

Florida was the first state in the country to adopt a rule requiring the treatment of stormwater to a specified level of pollutant load reduction for all new development.¹³ Recent updates to Florida's stormwater rules, adopted in 2024:

- Created new minimum performance standards for stormwater systems;
- Required applicants to demonstrate through modeling and calculations based on local conditions and annual runoff volumes that their proposed stormwater treatment system is designed to discharge to the required treatment level; and
- Established new requirements for periodic inspections and the operation and maintenance of stormwater treatment systems.¹⁴

[Environmental Resource Permits](#)

Florida's Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows, including activities that generate stormwater runoff from upland construction, as well as dredging and filling in wetlands and other surface waters.¹⁵ Specifically, the ERP Program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and other works such as docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters.¹⁶

The Department of Environmental Protection (DEP) and Florida's five water management districts (WMDs) issue ERP permits.¹⁷ Either DEP or the relevant WMD reviews ERP applications to ensure the permit only authorizes activities not harmful to water resources.¹⁸ Current law requires that applicants provide reasonable assurance that the permitted activity will not violate state water quality standards and is not contrary to the public interest.¹⁹ However, if the proposed activity significantly degrades or is within an Outstanding Florida Water, the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.²⁰ To determine if the activity is not contrary to public interest, DEP or the WMD governing board must consider the current condition and relative value of functions being performed by areas affected by the proposed activity, as well as whether the activity will:

- Adversely affect the public health, safety, or welfare or the property of others;
- Adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
- Adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- Be temporary or permanent; and
- Adversely affect or enhance significant historical and archaeological resources.²¹

¹¹ South Florida Water Management District, [Your Impact on the Environment](#) (last visited Feb. 10, 2026).

¹² U.S. Environmental Protection Agency, [Soak Up the Rain: What's the Problem?](#) (last visited Feb. 10, 2026).

¹³ Department of Environmental Protection, [ERP Stormwater](#) (last visited Feb. 10, 2026). Florida adopted the original rule in 1981.

¹⁴ See ch. 2024-275, Laws of Fla.; Rule 62-330, F.A.C.

¹⁵ Department of Environmental Protection, [Environmental Resource Permitting Coordination, Assistance, Portals](#) (last visited Feb. 10, 2026).

¹⁶ Rule 2-330.010(2), F.A.C.

¹⁷ See MyFlorida, [Florida's Water Permitting Portal](#) (last visited Feb. 10, 2026) and Department of Environmental Protection, [Environmental Resource Permitting Coordination, Assistance, Portals](#) (last visited Feb. 10, 2026).

¹⁸ Southwest Florida Water Management District, [Environmental Resource Permit](#) (last visited Feb. 10, 2026).

¹⁹ [S. 373.414\(1\), F.S.](#)

²⁰ [S. 373.414\(1\), F.S.](#) The Outstanding Florida Water designation indicates a water is worthy of special protection because of its natural attributes; the designation is intended to protect existing good water quality. See Department of Environmental Protection, [Outstanding Florida Waters](#) (last visited Feb. 10, 2026).

²¹ [S. 373.414\(1\)\(a\), F.S.](#)

If an ERP applicant cannot meet applicable criteria, the permitting agency must consider measures to mitigate adverse effects of the regulated activity.²² Where existing ambient water quality prevents compliance with water quality standards, such mitigation must result in a net improvement in the receiving waterbody for the parameters that do not meet standards.²³ Mitigation options may include, but are not limited to, onsite or offsite mitigation, regional offsite mitigation, and the purchase of mitigation credits from mitigation banks.²⁴ It is the applicant's responsibility to choose the form of mitigation.²⁵

Water Quality Enhancement Areas

Water quality enhancement areas (WQEAs) are natural systems constructed, operated, managed, and maintained for the purpose of providing offsite regional treatment for which enhancement credits may be provided pursuant to a WQEA permit.²⁶ Governmental entities can use WQEA credits to comply with basin management action plans or reasonable assurance plans, while ERP applicants can use WQEA credits to achieve net water quality improvement or meet certain ERP requirements.²⁷

DEP must establish a service area for each WQEA, the boundaries of which will depend on the geographic areas where it can reasonably be expected to address adverse impacts.²⁸ Service areas may overlap, and DEP may approve service areas for two or more WQEAs for a regional watershed.²⁹ Enhancement credits can only be used to address adverse impacts within the service area.³⁰

WQEA permits must provide for the assessment, valuation, and award of credits based on units of pollutants removed, as determined by DEP using standard numerical models or analytical tools.³¹ To assist DEP in evaluating and determining credits, WQEA permit applications must provide supporting information, including historical rainfall data, anticipated water quality and quantity inflows, and site-specific conditions affecting the anticipated performance of the proposed WQEA.³²

Pollutant load reductions required under state regulatory programs are not eligible for consideration as credits, and credits may not be used by point source dischargers to meet regulatory requirements except those necessary to obtain an ERP for construction and operation of the site's surface water management system.³³

Mitigation Banking and Credits

Mitigation banking is a practice in which a public agency or private entity (banker) conducts an environmental enhancement and preservation projects to provide mitigation for unavoidable environmental impacts within a defined region referred to as a mitigation service area.³⁴ The bank is the site itself, and the currency sold by the

²² [S. 373.414\(1\)\(b\), F.S.](#)

²³ S. 373.414(1)(b)3., F.S.

²⁴ [S. 373.414\(1\)\(b\), F.S.](#)

²⁵ [S. 373.414\(1\)\(b\), F.S.](#)

²⁶ [S. 373.4134\(2\)\(e\), F.S.](#) A "natural system" is an ecological system supporting aquatic and wetland-dependent natural resources, including fish and aquatic and wetland-dependent wildlife habitats. *See* [s. 373.4134\(2\)\(d\), F.S.](#)

²⁷ *See* [s. 373.4134\(1\)\(d\), F.S.](#) and [s. 373.4134\(3\)\(b\), F.S.](#) Basin management action plans (BMAPs) and reasonable assurance plans (RAPs) re water quality improvement plans designed to reduce or eliminate pollutant loadings and restore specific water bodies to meet state water quality standards. *See* Department of Environmental Protection, [Basin Management Action Plans \(BMAPs\)](#) (last visited Feb. 10, 2026); Department of Environmental Protection, [Alternative Restoration Plans](#) (last visited Feb. 10, 2026); Rule 62-303.100(5), F.A.C; and Rule 62-303.600(2), F.A.C.

²⁸ [S. 373.4134\(5\), F.S.](#)

²⁹ *Id.*

³⁰ *Id.*

³¹ S. 373.4134(4)(b)-(c), F.S.

³² S. 373.4134(4)(c)4., F.S. The data provided in the application must come from DEP-approved monitoring stations.

³³ S. 373.4134(7)(e)-(f), F.S.

³⁴ Department of Environmental Protection, [Mitigation and Mitigation Banking](#) (last visited Feb. 10, 2026).

banker to the ERP applicant is a credit.³⁵ A mitigation bank can be established and operated in phases, if each phase independently meets the requirements for the establishment and operation of a mitigation bank.³⁶ Mitigation banks are authorized by a state permit, which is issued by either a WMD or DEP depending on the location of the bank and the activity it mitigates, and by the United States Army Corps of Engineers.³⁷

DEP or the relevant WMD determines the number of potential credits permitted for the bank and the credit required for the ERP.³⁸ The credits are awarded to the proposed mitigation bank, or a phase of such bank.³⁹ A banker may apply to modify the mitigation bank permit to obtain additional mitigation credits.⁴⁰ Once DEP or a WMD approves the total number of credits for a mitigation bank, the credits must be released in a schedule as prescribed in the mitigation banking permit.⁴¹ This release can include a portion of credits released for sale or use prior to a mitigation bank meeting all of the performance criteria specified in the mitigation bank permit.⁴² The release schedule for a specific mitigation bank or phase must be related to the actions required to implement the bank, such as site protection, site preparation, earthwork, removal of wastes, planting, removal or control of nuisance and exotic species, installation of structures, and annual monitoring and management requirements for success.⁴³

Seaport Stormwater Permitting and Mitigation

Current law allows seaports listed in [s. 403.021\(9\)\(b\), F.S.](#)⁴⁴ to provide onsite or offsite stormwater treatment for water quality impacts caused by proposed port activities that require a permit and that cause or contribute to pollution from stormwater runoff.⁴⁵ This offsite stormwater treatment may occur outside the established boundaries of the port, but must be in the same drainage basin in which the port activity occurs. Current law further requires that a port’s offsite stormwater treatment project be constructed and maintained by the seaport or by the seaport in conjunction with an adjacent local government.⁴⁶ A seaport or a seaport in conjunction with an adjacent local government may also construct and maintain a regional stormwater treatment facility.⁴⁷

RECENT LEGISLATION:

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2022	CS/CS/CS/HB 965 - Environmental Management	Truenow/ <i>Burgess</i>	Became law on June 28, 2022.
2024	CS/CS/CS/SB 1532 - Mitigation	Truenow/ <i>Brodeur</i>	Became law on May 7, 2024.

³⁵ A “Mitigation credit” is a standard unit of measure that represents the increase in ecological value resulting from restoration, enhancement, preservation, or creation activities. [S. 372.4136\(19\), F.S.](#)

³⁶ [S. 373.4136\(2\), F.S.](#)

³⁷ Department of Environmental Protection, [Mitigation and Mitigation Banking](#) (last visited Feb. 10, 2026).

³⁸ [S. 373.4136\(4\), F.S.](#)

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ [S. 373.4136\(5\), F.S.](#)

⁴² [S. 373.4136\(5\)\(a\), F.S.](#)

⁴³ [S. 373.4136\(5\)\(b\), F.S.](#)

⁴⁴ The following ports are listed in [s. 403.021\(9\)\(b\), F.S.](#): Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

⁴⁵ [S. 311.106\(b\), F.S.](#)

⁴⁶ *Id.*

⁴⁷ *Id.*

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Natural Resources & Disasters Subcommittee	15 Y, 1 N, As CS	2/12/2026	Skinner	Jones
<p>THE CHANGES ADOPTED BY THE COMMITTEE:</p> <ul style="list-style-type: none"> Removed provisions exempting compensating stormwater treatment from the statutory requirements of a WQEA if it meets certain criteria. Removed a provision that public landowners authorizing private entities to construct, modify, or operate stormwater management systems on public lands for offsite compensatory treatment must require the private entity to cease activities if the DEP or a water management district provides written notice that the use of public land is contrary to public interest. Revised the definition of “compensating stormwater treatment.” Included RSMS, as well as certain requirements for such systems, under the bill’s provisions. Specified that an “enhancement credit” is a standard unit of measure that represents a quantity of pollutant removed by a WQEA, while a “pollutant reduction allocation” is a standard unit of measure removed by a RSMS to provide compensating stormwater treatment under the ERP Program. Prohibited certain RSMS and certain WQEA from providing stormwater treatment or achieving net improvement for proposed port activities of certain seaports. Required DEP to file rules related to WQEA permits for adoption by October 1, 2026, as well as required DEP to accept, review, and take final agency action on applications for WQEA provisional permits while such rule adopting is pending. 				
State Affairs Committee				

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
