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LEGISLATIVE ACTION

Senate

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House

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Senator Truenow moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 311.106, Florida Statutes, is amended to
read:

311.106 Seaport stormwater permitting and mitigation.—

(1) A seaport listed in s. 403.021(9) (b) is authorized to
provide for onsite or offsite stormwater treatment for water
quality impacts caused by a proposed port activity that requires
a permit and that causes or contributes to pollution from



12 stormwater runoff. Offsite stormwater treatment may occur
13 outside of the established boundaries of the port, but must be
14 within the same drainage basin in which the port activity
15 occurs. A port offsite stormwater treatment project must be
16 constructed and maintained by the seaport or by the seaport in
17 conjunction with an adjacent local government. In order to limit
18 stormwater treatment from individual parcels within a port, a
19 seaport may provide for a regional stormwater treatment facility
20 that must be constructed and maintained by the seaport or by the
21 seaport in conjunction with an adjacent local government.

22 (2) For a proposed port activity with water quality impacts
23 that causes or contributes to pollution from stormwater runoff
24 from a seaport not listed in s. 403.021(9)(b), and not including
25 ports in Citrus or Putnam Counties, a regional stormwater
26 management system, as defined in s. 373.413(7)(a), operated by a
27 non-local governmental entity independently or under contract
28 with a seaport or local government, may not provide stormwater
29 treatment or achieve net improvement under s. 373.414(1)(b)3.

30 For a proposed port activity with water quality impacts that
31 causes or contributes to pollution from stormwater runoff from a
32 seaport not listed in s. 403.021(9)(b), and not including ports
33 in Citrus or Putnam Counties, a water quality enhancement area
34 as defined in s. 373.4134 and operated by a non-local
35 governmental entity independently or under contract with a
36 seaport or local government may not convey enhancement credits
37 to provide stormwater treatment or achieve net improvement under
38 s. 373.414(1)(b)3.

39 Section 2. Subsections (23), (24), and (25) are added to
40 section 373.403, Florida Statutes, to read:



41 373.403 Definitions.—When appearing in this part or in any
42 rule, regulation, or order adopted pursuant thereto, the
43 following terms mean:

44 (23) "Compensating stormwater treatment" means a method of
45 stormwater treatment for discharges from multiple parcels.

46 (24) "Enhancement credit" means a standard unit of measure
47 that represents a quantity of pollutant removed by a water
48 quality enhancement area.

49 (25) "Pollutant reduction allocation" means a standard unit
50 of measure that represents a quantity of pollutant removed by a
51 regional stormwater management system for purposes of providing
52 compensating stormwater treatment under the environmental
53 resource permitting program.

54 Section 3. Subsection (7) is added to section 373.413,
55 Florida Statutes, to read:

56 373.413 Permits for construction or alteration.—

57 (7) REGIONAL STORMWATER MANAGEMENT SYSTEMS.—

58 (a) A "regional stormwater management system" is a method
59 of compensating stormwater treatment that creates pollution
60 reduction allocations and is designed, constructed, operated,
61 and maintained to collect, convey, store, absorb, inhibit,
62 treat, or harvest stormwater to prevent or reduce flooding,
63 overdrainage, environmental degradation and water pollution or
64 otherwise affect the quantity and quality of discharges within
65 the drainage area served by the regional system which is the
66 land or development that is served by or contributes stormwater
67 to the regional system.

68 (b) As part of meeting the requirement to demonstrate that
69 an applicant for an environmental resource permit for a regional



70 stormwater management system has the financial, legal, and
71 administrative capability of ensuring such regional stormwater
72 management system will be undertaken according to the terms and
73 conditions of an issued permit, the department or a water
74 management district shall require such applicant to provide
75 documentation of adequate financial responsibility. This
76 financial responsibility may consist of performance bonds,
77 letters of credit, insurance policies, trust agreements, or
78 similar, ensuring completion of construction; the amount of
79 which shall be based on cost estimates of completing the
80 construction; and an endowment or other long-term financial
81 assurance mechanism sufficient to ensure operation and
82 maintenance for the entire period the regional stormwater
83 management system is anticipated to be relied upon to provide
84 stormwater treatment, attenuation, or regulatory pollutant load
85 reduction allocations, the amount of which shall be based on
86 cost estimates of such long-term operation and maintenance. The
87 cost estimates and associated financial responsibility
88 mechanisms shall be updated every 5 years to reflect current
89 costs. This section shall not be construed to impose additional
90 financial responsibility requirements on stormwater management
91 systems that are not regional stormwater management systems.

92 (c) An environmental resource permit authorizing a regional
93 stormwater management system shall establish and include a
94 graphic depicting the drainage area to be served by such system.
95 Environmental resource permit applicants located within the
96 drainage area may purchase and use pollution reduction
97 allocations from a regional stormwater management system to meet
98 stormwater treatment performance criteria. The department or



99 water management district shall use Hydrologic Unit Code 12 (HUC
100 12) subbasin as set forth by the United States Geological Survey
101 to establish the drainage area, unless the regional stormwater
102 management system applicant provides justification demonstrating
103 the proposed off-site area outside of the HUC 12 would provide
104 the same degree of compensating treatment for a common
105 downstream receiving waterbody without causing or contributing
106 to any localized adverse impact to any downstream waters,
107 through modeling, other evaluations, or a combination thereof.

108 Section 4. Present paragraphs (d) through (g) of subsection
109 (3) of section 373.4134, Florida Statutes, are redesignated as
110 paragraphs (e) through (h), respectively, a new paragraph (d) is
111 added to that subsection, and paragraph (e) of subsection (1),
112 paragraph (b) of subsection (2), paragraph (b) of subsection
113 (3), subsection (5), paragraph (e) of subsection (7), and
114 subsection (9) of that section are amended, to read:

115 373.4134 Water quality enhancement areas.—

116 (1) LEGISLATIVE FINDINGS AND INTENT.— The Legislature finds
117 that:

118 (e) Water quality enhancement areas that provide water
119 quality enhancement credits to applicants seeking permits under
120 ss. 373.403-373.443 and to governmental entities seeking to meet
121 an assigned basin management action plan allocation or
122 reasonable assurance plan under s. 403.067 are considered an
123 appropriate and permissible option. The use of an enhancement
124 credit as specified herein transfers the legal responsibility
125 for complying with the applicable regulatory water quality
126 treatment requirement from the purchaser and user of such
127 enhancement credit to the generator of such enhancement credit.



128 (2) DEFINITIONS.—As used in this section, the term:
129 ~~(b) “Enhancement credit” means a standard unit of measure~~
130 ~~that represents a quantity of pollutant removed.~~
131 (3) WATER QUALITY ENHANCEMENT AREAS.—
132 (b) Water quality enhancement credits may be sold to and
133 used by governmental entities seeking to meet an assigned basin
134 management action plan allocation or reasonable assurance plan
135 or to permit applicants to meet environmental resource permit
136 stormwater treatment performance standards or to achieve for the
137 purpose of achieving net improvement or meeting environmental
138 resource permit performance standards under s. 373.414(1)(b)3.
139 ~~after reasonable assurances have been provided for the design~~
140 ~~and construction of all onsite stormwater management, as~~
141 ~~required by law.~~
142 (d) The use of enhancement credits from a water quality
143 enhancement area constitutes compensating stormwater treatment
144 under the environmental resource permitting program.
145 (5) WATER QUALITY ENHANCEMENT SERVICE AREA.—The department
146 shall establish a water quality enhancement service area for
147 each water quality enhancement area. Enhancement credits may be
148 withdrawn and used only to address adverse impacts in the
149 enhancement service area. The boundaries of the enhancement
150 service area shall depend upon the geographic area in which the
151 water quality enhancement area could reasonably be expected to
152 address adverse impacts and must, at a minimum, consist of a
153 Hydrologic Unit Code 8 (HUC 8) subbasin as set forth by the
154 United States Geological Survey. Enhancement service areas may
155 overlap, and enhancement service areas for two or more water
156 quality enhancement areas may be approved for a regional



157 watershed.

158 (7) ENHANCEMENT CREDITS.—

159 (e) Reductions in pollutant loading required under any
160 state regulatory program are not eligible to be considered as
161 enhancement credits. In addition, the term "credit" shall not be
162 used to refer to pollutant reduction achieved through
163 compensating stormwater treatment to meet environmental resource
164 permitting stormwater performance standards or as a mitigation
165 measure to achieve net improvement under s. 373.414(1)(b)3.
166 outside of enhancement credits generated from a water quality
167 enhancement area.

168 (9) RULES.—The department shall adopt rules to implement
169 this section which shall be filed for adoption no later than
170 October 1, 2026. This section may not be implemented until the
171 department adopts such rules. Pending the adoption of rules to
172 implement this section, the department shall accept, review and
173 take final agency action on applications for water quality
174 enhancement area provisional permits. The department shall issue
175 a water quality enhancement provisional permit in response to a
176 submitted application if the applicant provides reasonable
177 assurance of meeting the statutory criteria in this section.
178 Enhancement credits may be used from a water quality enhancement
179 area established under a provisional permit as provided in this
180 section subject to compliance with s. 373.4134 and the terms of
181 the provisional permit. Notwithstanding any other provision of
182 law or rule, the department or a water management district
183 reviewing an environmental resource permit application that
184 seeks to satisfy stormwater treatment performance standards or
185 achieve net improvement under s. 373.414(1)(b)3. shall allow the



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186 use of enhancement credits from a water quality enhancement area
187 with a provisional permit pursuant to the terms of such
188 provisional permit. After the department adopts rules to
189 implement this section, the department may modify a water
190 quality enhancement area provisional permit to conform such
191 permit to such rules. Any enhancement credits used from a water
192 quality enhancement area established under a provisional permit
193 shall continue to be recognized by the department and water
194 management districts without change regardless of whether the
195 provisional permit is subsequently modified to conform to the
196 adopted rules.

197 Section 5. Paragraph (b) of subsection (1) of section
198 373.414, Florida Statutes, is amended to read:

199 373.414 Additional criteria for activities in surface
200 waters and wetlands.—

201 (1) As part of an applicant's demonstration that an
202 activity regulated under this part will not be harmful to the
203 water resources or will not be inconsistent with the overall
204 objectives of the district, the governing board or the
205 department shall require the applicant to provide reasonable
206 assurance that state water quality standards applicable to
207 waters as defined in s. 403.031 will not be violated and
208 reasonable assurance that such activity in, on, or over surface
209 waters or wetlands, as delineated in s. 373.421(1), is not
210 contrary to the public interest. However, if such an activity
211 significantly degrades or is within an Outstanding Florida
212 Water, as provided by department rule, the applicant must
213 provide reasonable assurance that the proposed activity will be
214 clearly in the public interest.



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215 (b) If the applicant is unable to otherwise meet the
216 criteria set forth in this subsection, the governing board or
217 the department, in deciding to grant or deny a permit, must
218 consider measures proposed by or acceptable to the applicant to
219 mitigate adverse effects that may be caused by the regulated
220 activity. Such measures may include, but are not limited to,
221 onsite mitigation, offsite mitigation, offsite regional
222 mitigation, and the purchase of mitigation credits from
223 mitigation banks permitted under s. 373.4136. It is the
224 responsibility of the applicant to choose the form of
225 mitigation. The mitigation must offset the adverse effects
226 caused by the regulated activity.

227 1. The department or water management districts may accept
228 the donation of money as mitigation only where the donation is
229 specified for use in a duly noticed environmental creation,
230 preservation, enhancement, or restoration project, endorsed by
231 the department or the governing board of the water management
232 district, which offsets the impacts of the activity permitted
233 under this part. However, this subsection does not apply to
234 projects undertaken pursuant to s. 373.4137 or chapter 378.
235 Where a permit is required under this part to implement any
236 project endorsed by the department or a water management
237 district, all necessary permits must be ~~have been~~ issued before
238 ~~prior to~~ the acceptance of any cash donation. After the
239 effective date of this act, when money is donated to either the
240 department or a water management district to offset impacts
241 authorized by a permit under this part, the department or the
242 water management district shall accept only a donation that
243 represents the full cost to the department or water management



244 district of undertaking the project that is intended to mitigate
245 the adverse impacts. The full cost shall include all direct and
246 indirect costs, as applicable, such as those for land
247 acquisition, land restoration or enhancement, perpetual land
248 management, and general overhead consisting of costs such as
249 staff time, building, and vehicles. The department or the water
250 management district may use a multiplier or percentage to add to
251 other direct or indirect costs to estimate general overhead.
252 Mitigation credit for such a donation may be given only to the
253 extent that the donation covers the full cost to the agency of
254 undertaking the project intended to mitigate the adverse
255 impacts. However, nothing herein may be construed to prevent the
256 department or a water management district from accepting a
257 donation representing a portion of a larger project, provided
258 that the donation covers the full cost of that portion and
259 mitigation credit is given only for that portion. The department
260 or water management district may deviate from the full cost
261 requirements of this subparagraph to resolve a proceeding
262 brought pursuant to chapter 70 or a claim for inverse
263 condemnation. ~~Nothing in~~ This section may not be construed to
264 require the owner of a private mitigation bank, permitted under
265 s. 373.4136, to include the full cost of a mitigation credit in
266 the price of the credit to a purchaser of such ~~said~~ credit.

267 2. The department and each water management district shall
268 report by March 1 of each year, as part of the consolidated
269 annual report required by s. 373.036(7), all cash donations
270 accepted under subparagraph 1. during the preceding water
271 management district fiscal year for wetland mitigation purposes.
272 The report must exclude those contributions pursuant to s.



273 373.4137. The report must include a description of the endorsed
274 mitigation projects and, except for projects governed by s.
275 373.4135(6), must address, as applicable, success criteria,
276 project implementation status and timeframe, monitoring, long-
277 term management, provisions for preservation, and full cost
278 accounting.

279 3. If the applicant is unable to meet water quality
280 standards because existing ambient water quality does not meet
281 standards, the governing board or the department must consider
282 mitigation measures, such as compensating stormwater treatment
283 as defined in s. 373.403(23), proposed by or acceptable to the
284 applicant that cause net improvement of the water quality in the
285 receiving body of water for those parameters which do not meet
286 standards.

287 4. If mitigation requirements imposed by a local government
288 for surface water and wetland impacts of an activity regulated
289 under this part cannot be reconciled with mitigation
290 requirements approved under a permit for the same activity
291 issued under this part, including application of the uniform
292 wetland mitigation assessment method adopted pursuant to
293 subsection (18), the mitigation requirements for surface water
294 and wetland impacts are controlled by the permit issued under
295 this part.

296 Section 6. For the purpose of incorporating the amendment
297 made by this act to section 373.414, Florida Statutes, in a
298 reference thereto, paragraph (d) of subsection (6) of section
299 373.4136, Florida Statutes, is reenacted to read:

300 373.4136 Establishment and operation of mitigation banks.—

301 (6) MITIGATION SERVICE AREA.—The department or water



302 management district shall establish a mitigation service area
303 for each mitigation bank permit. The department or water
304 management district shall notify and consider comments received
305 on the proposed mitigation service area from each local
306 government within the proposed mitigation service area. Except
307 as provided in this section, mitigation credits may be withdrawn
308 and used only to offset adverse impacts in the mitigation
309 service area. The boundaries of the mitigation service area
310 shall depend upon the geographic area where the mitigation bank
311 could reasonably be expected to offset adverse impacts.
312 Mitigation service areas may overlap, and mitigation service
313 areas for two or more mitigation banks may be approved for a
314 regional watershed.

315 (d) If the provisions of s. 373.414(1)(b) and (8) are met
316 and an insufficient number or type of credits from banks whose
317 permitted service area overlays in whole or in part the regional
318 watershed in which the impacts occur, the permit applicant is
319 entitled to a one-time use of credits released from a mitigation
320 bank outside the mitigation bank service area to offset impacts
321 pursuant to s. 373.414(1)(b), as established by the procedure in
322 paragraph (f). The department or water management district must
323 have determined that the mitigation service area lacked the
324 appropriate credit type. Priority must be given to mitigation
325 banks whose permitted service area fully includes the impacted
326 site. If the number of released credits within a mitigation
327 service area only partially offsets the impacts associated with
328 a proposed project in the mitigation service area, the permit
329 applicant may only use out-of-service-area credits to account
330 for the difference between the released credits available in the



331 mitigation bank service area and the credits required to offset
332 the impacts associated with the proposed project. In
333 implementing this subsection, the department and water
334 management districts shall apply a proximity factor to determine
335 adequate compensatory mitigation as follows:

336 1. A 1.0 multiplier shall be applied for use of in-kind
337 credits within the service area.

338 2. A 1.0 multiplier shall be applied for use of in-kind and
339 out-of-service-area credits when the service area overlays part
340 of the same regional watershed as the proposed impacts only
341 after credit deficiency has been established by the procedure
342 set forth in paragraph (f).

343 3. A 1.2 multiplier shall be applied for use of in-kind and
344 out-of-service-area credits located within a regional watershed
345 immediately adjacent to the regional watershed overlain by a
346 bank service area in which proposed impacts are located only
347 after credit deficiency has been established by the procedure
348 set forth in paragraph (f).

349 4. When in-kind credits are not available to offset impacts
350 in the regional watershed immediately adjacent to the regional
351 watershed overlain by a mitigation bank service area in which
352 the proposed impacts are located, an additional 0.25 multiplier
353 shall be applied for each additional regional watershed boundary
354 crossed only after credit deficiency has been established by the
355 procedure set forth in paragraph (f).

356 5. An additional 0.50 multiplier shall be applied after any
357 multipliers required in subparagraphs 1.-4., if the mitigation
358 used to offset impacts entails out-of-kind replacement.

359 Section 7. This act shall take effect July 1, 2026.



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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to stormwater treatment; amending s.
311.106, F.S.; prohibiting certain stormwater
treatment and net improvement activities; prohibiting
certain water quality enhancement areas from conveying
enhancement credits to provide stormwater treatment or
achieve net improvement; amending s. 373.403, F.S.;
defining terms; amending s. 373.413, F.S.; defining
the term "regional stormwater management system";
requiring that the Department of Environmental
Protection or a water management district require an
applicant to provide certain documentation of adequate
financial responsibility in order to meet certain
requirements; providing requirements for such
financial responsibility; providing construction;
requiring an environmental resource permit authorizing
a regional stormwater management system to establish
and include a specified graphic depiction; authorizing
certain environmental resource permit applicants to
purchase and use pollution reduction allocations from
a regional stormwater management system to meet
certain performance criteria; requiring the department
or water management district to use a specified
identifier to establish the drainage area; providing



389 an exception; amending s. 373.4134, F.S.; revising
390 legislative findings; deleting the definition of the
391 term "enhancement credit"; authorizing water quality
392 enhancement credits to be used by governmental
393 entities to meet environmental resource permit
394 stormwater treatment performance standards or achieve
395 net improvement, pursuant to specified provisions;
396 providing that the use of enhancement credits from a
397 water quality enhancement area constitutes
398 compensating stormwater treatment under the
399 environmental resource permitting program; requiring
400 the boundaries of the enhancement service area to
401 include of a certain type of subbasin; prohibiting the
402 term "credit" from being used to refer to pollutant
403 reduction under certain circumstances; requiring the
404 department to adopt rules by a specified date;
405 requiring the department to take certain action
406 pending the adoption of certain rules; requiring the
407 department to issue a provisional permit under certain
408 circumstances; authorizing enhancement credits to be
409 used from certain water quality enhancement areas;
410 providing construction; authorizing the department to
411 modify permits after the adoption of rules; requiring
412 the department and water management districts to
413 recognize any enhancement credit used from a water
414 quality enhancement area established pursuant to a
415 provisional permit; amending s. 373.414, F.S.;
416 clarifying the types of mitigation measures for
417 compensating stormwater treatment which the department



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418 or a water management district governing board must
419 consider under certain circumstances; making technical
420 changes; reenacting s. 373.4136(6)(d), F.S., relating
421 to establishment and operation of mitigation banks, to
422 incorporate the amendment made to s. 373.414, F.S., in
423 a reference thereto; providing an effective date.