



LEGISLATIVE ACTION

Senate

House

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The Committee on Rules (Truenow) recommended the following:

1 **Senate Amendment (with title amendment)**

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3 Delete everything after the enacting clause
4 and insert:

5 Section 1. Subsection (7) is added to section 373.413,
6 Florida Statutes, to read:

7 373.413 Permits for construction or alteration.—

8 (7) REGIONAL STORMWATER MANAGEMENT SYSTEMS.—

9 (a) A “regional stormwater management system” is a method
10 of compensating stormwater treatment that creates pollution
11 reduction allocations and is designed, constructed, operated and



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12 maintained to collect, convey, store, absorb, inhibit, treat, or
13 harvest stormwater to prevent or reduce flooding, overdrainage,
14 environmental degradation and water pollution or otherwise
15 affect the quantity and quality of discharges within the
16 drainage area served by the regional system which is the land or
17 development that is served by or contributes stormwater to the
18 regional system.

19 (b) As part of meeting the requirement to demonstrate that
20 an applicant for an environmental resource permit for a regional
21 stormwater management system has the financial, legal, and
22 administrative capability of ensuring such regional stormwater
23 management system will be undertaken according to the terms and
24 conditions of an issued permit, the department or a water
25 management district shall require such applicant to provide
26 documentation of adequate financial responsibility. This
27 financial responsibility may consist of performance bonds,
28 letters of credit, insurance policies, trust agreements, or
29 similar, ensuring completion of construction; the amount of
30 which shall be based on cost estimates of completing the
31 construction; and an endowment or other long-term financial
32 assurance mechanism sufficient to ensure operation and
33 maintenance for the entire period the regional stormwater
34 management system is anticipated to be relied upon to provide
35 stormwater treatment, attenuation, or regulatory pollutant load
36 reduction allocations, the amount of which shall be based on
37 cost estimates of such long-term operation and maintenance. The
38 cost estimates and associated financial responsibility
39 mechanisms shall be updated every five years to reflect current
40 costs. This section shall not be construed to impose additional



41 financial responsibility requirements on stormwater management
42 systems that are not regional stormwater management systems.

43 (c) An environmental resource permit authorizing a regional
44 stormwater management system shall establish and include a
45 graphic depicting the drainage area to be served by such system.
46 Environmental resource permit applicants located within the
47 drainage area may purchase and use pollution reduction
48 allocations from a regional stormwater management system to meet
49 stormwater treatment performance criteria. The department or
50 water management district shall use Hydrologic Unit Code 12 (HUC
51 12) subbasin as set forth by the United States Geological Survey
52 to establish the drainage area, unless the regional stormwater
53 management system applicant provides justification demonstrating
54 the proposed off-site area outside of the HUC 12 would provide
55 the same degree of compensating treatment for a common
56 downstream receiving waterbody without causing or contributing
57 to any localized adverse impact to any downstream waters,
58 through water quality monitoring, modeling, or a combination
59 thereof.

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

62 373.403 Definitions.—When appearing in this part or in any
63 rule, regulation, or order adopted pursuant thereto, the
64 following terms mean:

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

67 (24) "Enhancement credit" means a standard unit of measure
68 that represents a quantity of pollutant removed by a water
69 quality enhancement area.



70 (25) "Pollutant reduction allocation" means a standard unit
71 of measure that represents a quantity of pollutant removed by a
72 regional stormwater management system for purposes of providing
73 compensating stormwater treatment under the environmental
74 resource permitting program.

75 Section 3. Present paragraphs (d) through (g) of subsection
76 (3) of section 373.4134, Florida Statutes, are redesignated as
77 paragraphs (e) through (h), respectively, a new paragraph (d) is
78 added to that subsection, and paragraph (e) of subsection (1),
79 paragraph (b) of subsection (2), paragraph (b) of subsection
80 (3), paragraph (e) of subsection (7), and subsection (9) of that
81 section are amended, to read:

82 373.4134 Water quality enhancement areas.—

83 (1) LEGISLATIVE FINDINGS AND INTENT.— The Legislature finds
84 that:

85 (e) Water quality enhancement areas that provide water
86 quality enhancement credits to applicants seeking permits under
87 ss. 373.403-373.443 and to governmental entities seeking to meet
88 an assigned basin management action plan allocation or
89 reasonable assurance plan under s. 403.067 are considered an
90 appropriate and permittable option. The use of an enhancement
91 credit as specified herein transfers the legal responsibility
92 for complying with the applicable regulatory water quality
93 treatment requirement from the purchaser and user of such
94 enhancement credit to the generator of such enhancement credit.

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

96 (b) "Enhancement credit" means a standard unit of measure
97 that represents a quantity of pollutant removed.

98 (3) WATER QUALITY ENHANCEMENT AREAS.—



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99 (b) Water quality enhancement credits may be sold to and
100 used by governmental entities seeking to meet an assigned basin
101 management action plan allocation or reasonable assurance plan
102 or to permit applicants to meet environmental resource permit
103 stormwater treatment performance standards or to achieve for the
104 purpose of achieving net improvement or meeting environmental
105 resource permit performance standards under s. 373.414(1)(b)3.
106 after reasonable assurances have been provided for the design
107 and construction of all onsite stormwater management, as
108 required by law.

109 (d) The use of enhancement credits from a water quality
110 enhancement area constitutes compensating stormwater treatment
111 under the environmental resource permitting program.

112 (7) ENHANCEMENT CREDITS.—

113 (e) Reductions in pollutant loading required under any
114 state regulatory program are not eligible to be considered as
115 enhancement credits. In addition, the term "credit" shall not be
116 used to refer to pollutant reduction achieved through
117 compensating stormwater treatment to meet environmental resource
118 permitting stormwater performance standards or as a mitigation
119 measure to achieve net improvement under s. 373.414(1)(b)3.
120 outside of enhancement credits generated from a water quality
121 enhancement area.

122 (9) RULES.—The department shall adopt rules to implement
123 this section which shall be filed for adoption no later than
124 October 1, 2026. This section may not be implemented until the
125 department adopts such rules. Pending the adoption of rules to
126 implement this section, the department shall accept, review and
127 take final agency action on applications for water quality



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128 enhancement area provisional permits. The department shall issue
129 a water quality enhancement provisional permit in response to a
130 submitted application if the applicant provides reasonable
131 assurance of meeting the statutory criteria in this section.
132 Enhancement credits may be used from a water quality enhancement
133 area established under a provisional permit as provided in this
134 section subject to compliance with s. 373.4134 and the terms of
135 the provisional permit. Notwithstanding any other provision of
136 law or rule, the department or a water management district
137 reviewing an environmental resource permit application that
138 seeks to satisfy stormwater treatment performance standards or
139 achieve net improvement under s. 373.414(1)(b)3. shall allow the
140 use of enhancement credits from a water quality enhancement area
141 with a provisional permit pursuant to the terms of such
142 provisional permit. After the department adopts rules to
143 implement this section, the department may modify a water
144 quality enhancement area provisional permit to conform such
145 permit to such rules. Any enhancement credits used from a water
146 quality enhancement area established under a provisional permit
147 shall continue to be recognized by the department and water
148 management districts without change regardless of whether the
149 provisional permit is subsequently modified to conform to the
150 adopted rules.

151 Section 4. Paragraph (b) of subsection (1) of section
152 373.414, Florida Statutes, is amended to read:

153 373.414 Additional criteria for activities in surface
154 waters and wetlands.—

155 (1) As part of an applicant's demonstration that an
156 activity regulated under this part will not be harmful to the



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157 water resources or will not be inconsistent with the overall
158 objectives of the district, the governing board or the
159 department shall require the applicant to provide reasonable
160 assurance that state water quality standards applicable to
161 waters as defined in s. 403.031 will not be violated and
162 reasonable assurance that such activity in, on, or over surface
163 waters or wetlands, as delineated in s. 373.421(1), is not
164 contrary to the public interest. However, if such an activity
165 significantly degrades or is within an Outstanding Florida
166 Water, as provided by department rule, the applicant must
167 provide reasonable assurance that the proposed activity will be
168 clearly in the public interest.

169 (b) If the applicant is unable to otherwise meet the
170 criteria set forth in this subsection, the governing board or
171 the department, in deciding to grant or deny a permit, must
172 consider measures proposed by or acceptable to the applicant to
173 mitigate adverse effects that may be caused by the regulated
174 activity. Such measures may include, but are not limited to,
175 onsite mitigation, offsite mitigation, offsite regional
176 mitigation, and the purchase of mitigation credits from
177 mitigation banks permitted under s. 373.4136. It is the
178 responsibility of the applicant to choose the form of
179 mitigation. The mitigation must offset the adverse effects
180 caused by the regulated activity.

181 1. The department or water management districts may accept
182 the donation of money as mitigation only where the donation is
183 specified for use in a duly noticed environmental creation,
184 preservation, enhancement, or restoration project, endorsed by
185 the department or the governing board of the water management



186 district, which offsets the impacts of the activity permitted
187 under this part. However, this subsection does not apply to
188 projects undertaken pursuant to s. 373.4137 or chapter 378.
189 Where a permit is required under this part to implement any
190 project endorsed by the department or a water management
191 district, all necessary permits must be have been issued before
192 prior to the acceptance of any cash donation. After the
193 effective date of this act, when money is donated to either the
194 department or a water management district to offset impacts
195 authorized by a permit under this part, the department or the
196 water management district shall accept only a donation that
197 represents the full cost to the department or water management
198 district of undertaking the project that is intended to mitigate
199 the adverse impacts. The full cost shall include all direct and
200 indirect costs, as applicable, such as those for land
201 acquisition, land restoration or enhancement, perpetual land
202 management, and general overhead consisting of costs such as
203 staff time, building, and vehicles. The department or the water
204 management district may use a multiplier or percentage to add to
205 other direct or indirect costs to estimate general overhead.
206 Mitigation credit for such a donation may be given only to the
207 extent that the donation covers the full cost to the agency of
208 undertaking the project intended to mitigate the adverse
209 impacts. However, nothing herein may be construed to prevent the
210 department or a water management district from accepting a
211 donation representing a portion of a larger project, provided
212 that the donation covers the full cost of that portion and
213 mitigation credit is given only for that portion. The department
214 or water management district may deviate from the full cost



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215 requirements of this subparagraph to resolve a proceeding
216 brought pursuant to chapter 70 or a claim for inverse
217 condemnation. ~~Nothing in~~ This section may not be construed to
218 require the owner of a private mitigation bank, permitted under
219 s. 373.4136, to include the full cost of a mitigation credit in
220 the price of the credit to a purchaser of such said credit.

221 2. The department and each water management district shall
222 report by March 1 of each year, as part of the consolidated
223 annual report required by s. 373.036(7), all cash donations
224 accepted under subparagraph 1. during the preceding water
225 management district fiscal year for wetland mitigation purposes.
226 The report must exclude those contributions pursuant to s.
227 373.4137. The report must include a description of the endorsed
228 mitigation projects and, except for projects governed by s.
229 373.4135(6), must address, as applicable, success criteria,
230 project implementation status and timeframe, monitoring, long-
231 term management, provisions for preservation, and full cost
232 accounting.

233 3. If the applicant is unable to meet water quality
234 standards because existing ambient water quality does not meet
235 standards, the governing board or the department must consider
236 mitigation measures, such as compensating stormwater treatment
237 as defined in s. 373.403(23), proposed by or acceptable to the
238 applicant that cause net improvement of the water quality in the
239 receiving body of water for those parameters which do not meet
240 standards.

241 4. If mitigation requirements imposed by a local government
242 for surface water and wetland impacts of an activity regulated
243 under this part cannot be reconciled with mitigation



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244 requirements approved under a permit for the same activity
245 issued under this part, including application of the uniform
246 wetland mitigation assessment method adopted pursuant to
247 subsection (18), the mitigation requirements for surface water
248 and wetland impacts are controlled by the permit issued under
249 this part.

250 Section 5. For the purpose of incorporating the amendment
251 made by this act to section 373.414, Florida Statutes, in a
252 reference thereto, paragraph (d) of subsection (6) of section
253 373.4136, Florida Statutes, is reenacted to read:

254 373.4136 Establishment and operation of mitigation banks.—

255 (6) MITIGATION SERVICE AREA.—The department or water
256 management district shall establish a mitigation service area
257 for each mitigation bank permit. The department or water
258 management district shall notify and consider comments received
259 on the proposed mitigation service area from each local
260 government within the proposed mitigation service area. Except
261 as provided in this section, mitigation credits may be withdrawn
262 and used only to offset adverse impacts in the mitigation
263 service area. The boundaries of the mitigation service area
264 shall depend upon the geographic area where the mitigation bank
265 could reasonably be expected to offset adverse impacts.

266 Mitigation service areas may overlap, and mitigation service
267 areas for two or more mitigation banks may be approved for a
268 regional watershed.

269 (d) If the provisions of s. 373.414(1)(b) and (8) are met
270 and an insufficient number or type of credits from banks whose
271 permitted service area overlays in whole or in part the regional
272 watershed in which the impacts occur, the permit applicant is



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273 entitled to a one-time use of credits released from a mitigation
274 bank outside the mitigation bank service area to offset impacts
275 pursuant to s. 373.414(1)(b), as established by the procedure in
276 paragraph (f). The department or water management district must
277 have determined that the mitigation service area lacked the
278 appropriate credit type. Priority must be given to mitigation
279 banks whose permitted service area fully includes the impacted
280 site. If the number of released credits within a mitigation
281 service area only partially offsets the impacts associated with
282 a proposed project in the mitigation service area, the permit
283 applicant may only use out-of-service-area credits to account
284 for the difference between the released credits available in the
285 mitigation bank service area and the credits required to offset
286 the impacts associated with the proposed project. In
287 implementing this subsection, the department and water
288 management districts shall apply a proximity factor to determine
289 adequate compensatory mitigation as follows:

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

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

297 3. A 1.2 multiplier shall be applied for use of in-kind and
298 out-of-service-area credits located within a regional watershed
299 immediately adjacent to the regional watershed overlain by a
300 bank service area in which proposed impacts are located only
301 after credit deficiency has been established by the procedure



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302 set forth in paragraph (f).

303 4. When in-kind credits are not available to offset impacts
304 in the regional watershed immediately adjacent to the regional
305 watershed overlain by a mitigation bank service area in which
306 the proposed impacts are located, an additional 0.25 multiplier
307 shall be applied for each additional regional watershed boundary
308 crossed only after credit deficiency has been established by the
309 procedure set forth in paragraph (f).

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

313 Section 6. This act shall take effect July 1, 2026.

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

317 And the title is amended as follows:

318 Delete everything before the enacting clause
319 and insert:

320 A bill to be entitled

321 An act relating to stormwater treatment; amending s.
322 373.413, F.S.; defining the term "regional stormwater
323 management system"; requiring that the Department of
324 Environmental Protection or a water management
325 district require an applicant to provide certain
326 documentation of adequate financial responsibility in
327 order to meet certain requirements; providing
328 requirements for such financial responsibility;
329 providing construction; requiring an environmental
330 resource permit authorizing a regional stormwater



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331 management system to establish and include a specified
332 graphic depiction; authorizing certain environmental
333 resource permit applicants to purchase and use
334 pollution reduction allocations from a regional
335 stormwater management system to meet certain
336 performance criteria; requiring the department or
337 water management district to use a specified
338 identifier to establish the drainage area; providing
339 an exception; amending s. 373.403, F.S.; defining
340 terms; amending s. 373.4134, F.S.; revising
341 legislative findings; deleting the definition of the
342 term "enhancement credit"; authorizing water quality
343 enhancement credits to be used by governmental
344 entities to meet environmental resource permit
345 stormwater treatment performance standards or achieve
346 net improvement, pursuant to specified provisions;
347 providing that the use of enhancement credits from a
348 water quality enhancement area constitutes
349 compensating stormwater treatment under the
350 environmental resource permitting program; prohibiting
351 the term "credit" from being used to refer to
352 pollutant reduction under certain circumstances;
353 requiring the department to adopt rules by a specified
354 date; requiring the department to take certain action
355 pending the adoption of certain rules; requiring the
356 department to issue a provisional permit under certain
357 circumstances; authorizing enhancement credits to be
358 used from certain water quality enhancement areas;
359 providing construction; authorizing the department to



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360 modify permits after the adoption of rules; requiring
361 the department and water management districts to
362 recognize any enhancement credit used from a water
363 quality enhancement area established pursuant to a
364 provisional permit; amending s. 373.414, F.S.;
365 clarifying the types of mitigation measures for
366 compensating stormwater treatment which the department
367 or a water management district governing board must
368 consider under certain circumstances; making technical
369 changes; reenacting s. 373.4136(6)(d), F.S., relating
370 to establishment and operation of mitigation banks, to
371 incorporate the amendment made to s. 373.414, F.S., in
372 a reference thereto; providing an effective date.