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1                   A bill to be entitled  
2     An act relating to stormwater treatment; amending s.  
3     311.106, F.S.; prohibiting certain stormwater  
4     treatment and net improvement activities; prohibiting  
5     certain water quality enhancement areas from conveying  
6     enhancement credits to provide stormwater treatment or  
7     achieve net improvement; amending s. 373.403, F.S.;  
8     defining terms; amending s. 373.413, F.S.; defining  
9     the term "regional stormwater management system";  
10    requiring that the Department of Environmental  
11    Protection or a water management district require an  
12    applicant to provide certain documentation of adequate  
13    financial responsibility in order to meet certain  
14    requirements; providing requirements for such  
15    financial responsibility; providing construction;  
16    requiring an environmental resource permit authorizing  
17    a regional stormwater management system to establish  
18    and include a specified graphic depiction; authorizing  
19    certain environmental resource permit applicants to  
20    purchase and use pollution reduction allocations from  
21    a regional stormwater management system to meet  
22    certain performance criteria; requiring the department  
23    or water management district to use a specified  
24    identifier to establish the drainage area; providing  
25    an exception; amending s. 373.4134, F.S.; revising  
26    legislative findings; deleting the definition of the  
27    term "enhancement credit"; authorizing water quality  
28    enhancement credits to be used by governmental  
29    entities to meet environmental resource permit

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30 stormwater treatment performance standards or achieve  
31 net improvement, pursuant to specified provisions;  
32 providing that the use of enhancement credits from a  
33 water quality enhancement area constitutes  
34 compensating stormwater treatment under the  
35 environmental resource permitting program; requiring  
36 the boundaries of the enhancement service area to  
37 include a certain type of sub-basin; prohibiting the  
38 term "credit" from being used to refer to pollutant  
39 reduction under certain circumstances; requiring the  
40 department to adopt rules by a specified date;  
41 requiring the department to take certain action  
42 pending the adoption of certain rules; requiring the  
43 department to issue a provisional permit under certain  
44 circumstances; authorizing enhancement credits to be  
45 used from certain water quality enhancement areas;  
46 providing construction; authorizing the department to  
47 modify permits after the adoption of rules; requiring  
48 the department and water management districts to  
49 recognize any enhancement credit used from a water  
50 quality enhancement area established pursuant to a  
51 provisional permit; amending s. 373.414, F.S.;  
52 clarifying the types of mitigation measures for  
53 compensating stormwater treatment which the department  
54 or a water management district governing board must  
55 consider under certain circumstances; making technical  
56 changes; reenacting s. 373.4136(6)(d), F.S., relating  
57 to establishment and operation of mitigation banks, to  
58 incorporate the amendment made to s. 373.414, F.S., in

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59 a reference thereto; providing an effective date.

60  
61 Be It Enacted by the Legislature of the State of Florida:

62  
63 Section 1. Section 311.106, Florida Statutes, is amended to  
64 read:

65 311.106 Seaport stormwater permitting and mitigation.—

66 (1) A seaport listed in s. 403.021(9)(b) is authorized to  
67 provide for onsite or offsite stormwater treatment for water  
68 quality impacts caused by a proposed port activity that requires  
69 a permit and that causes or contributes to pollution from  
70 stormwater runoff. Offsite stormwater treatment may occur  
71 outside of the established boundaries of the port, but must be  
72 within the same drainage basin in which the port activity  
73 occurs. A port offsite stormwater treatment project must be  
74 constructed and maintained by the seaport or by the seaport in  
75 conjunction with an adjacent local government. In order to limit  
76 stormwater treatment from individual parcels within a port, a  
77 seaport may provide for a regional stormwater treatment facility  
78 that must be constructed and maintained by the seaport or by the  
79 seaport in conjunction with an adjacent local government.

80 (2) For a proposed port activity with water quality impacts  
81 that causes or contributes to pollution from stormwater runoff  
82 from a seaport not listed in s. 403.021(9)(b), and not including  
83 ports in Citrus or Putnam Counties, a regional stormwater  
84 management system, as defined in s. 373.413(7)(a), operated by a  
85 nonlocal governmental entity independently or under contract  
86 with a seaport or local government, may not provide stormwater  
87 treatment or achieve net improvement under s. 373.414(1)(b)3.

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88 For a proposed port activity with water quality impacts that  
89 causes or contributes to pollution from stormwater runoff from a  
90 seaport not listed in s. 403.021(9)(b), and not including ports  
91 in Citrus or Putnam Counties, a water quality enhancement area  
92 as defined in s. 373.4134 and operated by a nonlocal  
93 governmental entity independently or under contract with a  
94 seaport or local government may not convey enhancement credits  
95 to provide stormwater treatment or achieve net improvement under  
96 s. 373.414(1)(b)3.

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

99 373.403 Definitions.—When appearing in this part or in any  
100 rule, regulation, or order adopted pursuant thereto, the  
101 following terms mean:

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

104 (24) "Enhancement credit" means a standard unit of measure  
105 that represents a quantity of pollutant removed by a water  
106 quality enhancement area.

107 (25) "Pollutant reduction allocation" means a standard unit  
108 of measure that represents a quantity of pollutant removed by a  
109 regional stormwater management system for purposes of providing  
110 compensating stormwater treatment under the environmental  
111 resource permitting program.

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

114 373.413 Permits for construction or alteration.—

115 (7) REGIONAL STORMWATER MANAGEMENT SYSTEMS.—

116 (a) A "regional stormwater management system" is a method

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117 of compensating stormwater treatment that creates pollution  
118 reduction allocations and is designed, constructed, operated,  
119 and maintained to collect, convey, store, absorb, inhibit,  
120 treat, or harvest stormwater to prevent or reduce flooding,  
121 overdrainage, environmental degradation and water pollution or  
122 otherwise affect the quantity and quality of discharges within  
123 the drainage area served by the regional system which is the  
124 land or development that is served by or contributes stormwater  
125 to the regional system.

126 (b) As part of meeting the requirement to demonstrate that  
127 an applicant for an environmental resource permit for a regional  
128 stormwater management system has the financial, legal, and  
129 administrative capability of ensuring such regional stormwater  
130 management system will be undertaken according to the terms and  
131 conditions of an issued permit, the department or a water  
132 management district shall require such applicant to provide  
133 documentation of adequate financial responsibility. This  
134 financial responsibility may consist of performance bonds,  
135 letters of credit, insurance policies, trust agreements, or  
136 similar, ensuring completion of construction; the amount of  
137 which shall be based on cost estimates of completing the  
138 construction; and an endowment or other long-term financial  
139 assurance mechanism sufficient to ensure operation and  
140 maintenance for the entire period the regional stormwater  
141 management system is anticipated to be relied upon to provide  
142 stormwater treatment, attenuation, or regulatory pollutant load  
143 reduction allocations, the amount of which shall be based on  
144 cost estimates of such long-term operation and maintenance. The  
145 cost estimates and associated financial responsibility

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146 mechanisms shall be updated every 5 years to reflect current  
147 costs. This section shall not be construed to impose additional  
148 financial responsibility requirements on stormwater management  
149 systems that are not regional stormwater management systems.

150 (c) An environmental resource permit authorizing a regional  
151 stormwater management system shall establish and include a  
152 graphic depicting the drainage area to be served by such system.  
153 Environmental resource permit applicants located within the  
154 drainage area may purchase and use pollution reduction  
155 allocations from a regional stormwater management system to meet  
156 stormwater treatment performance criteria. The department or  
157 water management district shall use Hydrologic Unit Code 12 (HUC  
158 12) sub-basin as set forth by the United States Geological  
159 Survey to establish the drainage area, unless the regional  
160 stormwater management system applicant provides justification  
161 demonstrating the proposed off-site area outside of the HUC 12  
162 would provide the same degree of compensating treatment for a  
163 common downstream receiving waterbody without causing or  
164 contributing to any localized adverse impact to any downstream  
165 waters, through modeling, other evaluations, or a combination  
166 thereof.

167 Section 4. Present paragraphs (d) through (g) of subsection  
168 (3) of section 373.4134, Florida Statutes, are redesignated as  
169 paragraphs (e) through (h), respectively, a new paragraph (d) is  
170 added to that subsection, and paragraph (e) of subsection (1),  
171 paragraph (b) of subsection (2), paragraph (b) of subsection  
172 (3), subsection (5), paragraph (e) of subsection (7), and  
173 subsection (9) of that section are amended, to read:

174 373.4134 Water quality enhancement areas.—

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175 (1) LEGISLATIVE FINDINGS AND INTENT.— The Legislature finds  
176 that:

177 (e) Water quality enhancement areas that provide water  
178 quality enhancement credits to applicants seeking permits under  
179 ss. 373.403–373.443 and to governmental entities seeking to meet  
180 an assigned basin management action plan allocation or  
181 reasonable assurance plan under s. 403.067 are considered an  
182 appropriate and permissible option. The use of an enhancement  
183 credit as specified herein transfers the legal responsibility  
184 for complying with the applicable regulatory water quality  
185 treatment requirement from the purchaser and user of such  
186 enhancement credit to the generator of such enhancement credit.

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

188 ~~(b) “Enhancement credit” means a standard unit of measure~~  
189 ~~that represents a quantity of pollutant removed.~~

190 (3) WATER QUALITY ENHANCEMENT AREAS.—

191 (b) Water quality enhancement credits may be sold to and  
192 used by governmental entities ~~seeking~~ to meet an assigned basin  
193 management action plan allocation or reasonable assurance plan  
194 or to permit applicants to meet environmental resource permit  
195 stormwater treatment performance standards or to achieve for the  
196 ~~purpose of achieving net improvement or meeting environmental~~  
197 ~~resource permit performance standards~~ under s. 373.414(1)(b)3.  
198 ~~after reasonable assurances have been provided for the design~~  
199 ~~and construction of all onsite stormwater management, as~~  
200 ~~required by law.~~

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

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204 (5) WATER QUALITY ENHANCEMENT SERVICE AREA.—The department  
205 shall establish a water quality enhancement service area for  
206 each water quality enhancement area. Enhancement credits may be  
207 withdrawn and used only to address adverse impacts in the  
208 enhancement service area. The boundaries of the enhancement  
209 service area shall depend upon the geographic area in which the  
210 water quality enhancement area could reasonably be expected to  
211 address adverse impacts and must, at a minimum, consist of a  
212 Hydrologic Unit Code 8 (HUC 8) sub-basin as set forth by the  
213 United States Geological Survey. Enhancement service areas may  
214 overlap, and enhancement service areas for two or more water  
215 quality enhancement areas may be approved for a regional  
216 watershed.

217 (7) ENHANCEMENT CREDITS.—

218 (e) Reductions in pollutant loading required under any  
219 state regulatory program are not eligible to be considered as  
220 enhancement credits. In addition, the term "credit" shall not be  
221 used to refer to pollutant reduction achieved through  
222 compensating stormwater treatment to meet environmental resource  
223 permitting stormwater performance standards or as a mitigation  
224 measure to achieve net improvement under s. 373.414(1)(b)3.  
225 outside of enhancement credits generated from a water quality  
226 enhancement area.

227 (9) RULES.—The department shall adopt rules to implement  
228 this section which shall be filed for adoption no later than  
229 October 1, 2026. ~~This section may not be implemented until the~~  
230 ~~department adopts such rules.~~ Pending the adoption of rules to  
231 implement this section, the department shall accept, review and  
232 take final agency action on applications for water quality

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233 enhancement area provisional permits. The department shall issue  
234 a water quality enhancement provisional permit in response to a  
235 submitted application if the applicant provides reasonable  
236 assurance of meeting the statutory criteria in this section.  
237 Enhancement credits may be used from a water quality enhancement  
238 area established under a provisional permit as provided in this  
239 section subject to compliance with s. 373.4134 and the terms of  
240 the provisional permit. Notwithstanding any other provision of  
241 law or rule, the department or a water management district  
242 reviewing an environmental resource permit application that  
243 seeks to satisfy stormwater treatment performance standards or  
244 achieve net improvement under s. 373.414(1)(b)3. shall allow the  
245 use of enhancement credits from a water quality enhancement area  
246 with a provisional permit pursuant to the terms of such  
247 provisional permit. After the department adopts rules to  
248 implement this section, the department may modify a water  
249 quality enhancement area provisional permit to conform such  
250 permit to such rules. Any enhancement credits used from a water  
251 quality enhancement area established under a provisional permit  
252 shall continue to be recognized by the department and water  
253 management districts without change regardless of whether the  
254 provisional permit is subsequently modified to conform to the  
255 adopted rules.

256 Section 5. Paragraph (b) of subsection (1) of section  
257 373.414, Florida Statutes, is amended to read:

258 373.414 Additional criteria for activities in surface  
259 waters and wetlands.—

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

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262 water resources or will not be inconsistent with the overall  
263 objectives of the district, the governing board or the  
264 department shall require the applicant to provide reasonable  
265 assurance that state water quality standards applicable to  
266 waters as defined in s. 403.031 will not be violated and  
267 reasonable assurance that such activity in, on, or over surface  
268 waters or wetlands, as delineated in s. 373.421(1), is not  
269 contrary to the public interest. However, if such an activity  
270 significantly degrades or is within an Outstanding Florida  
271 Water, as provided by department rule, the applicant must  
272 provide reasonable assurance that the proposed activity will be  
273 clearly in the public interest.

274 (b) If the applicant is unable to otherwise meet the  
275 criteria set forth in this subsection, the governing board or  
276 the department, in deciding to grant or deny a permit, must  
277 consider measures proposed by or acceptable to the applicant to  
278 mitigate adverse effects that may be caused by the regulated  
279 activity. Such measures may include, but are not limited to,  
280 onsite mitigation, offsite mitigation, offsite regional  
281 mitigation, and the purchase of mitigation credits from  
282 mitigation banks permitted under s. 373.4136. It is the  
283 responsibility of the applicant to choose the form of  
284 mitigation. The mitigation must offset the adverse effects  
285 caused by the regulated activity.

286 1. The department or water management districts may accept  
287 the donation of money as mitigation only where the donation is  
288 specified for use in a duly noticed environmental creation,  
289 preservation, enhancement, or restoration project, endorsed by  
290 the department or the governing board of the water management

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291 district, which offsets the impacts of the activity permitted  
292 under this part. However, this subsection does not apply to  
293 projects undertaken pursuant to s. 373.4137 or chapter 378.  
294 Where a permit is required under this part to implement any  
295 project endorsed by the department or a water management  
296 district, all necessary permits must be ~~have been~~ issued before  
297 ~~prior to~~ the acceptance of any cash donation. After the  
298 effective date of this act, when money is donated to either the  
299 department or a water management district to offset impacts  
300 authorized by a permit under this part, the department or the  
301 water management district shall accept only a donation that  
302 represents the full cost to the department or water management  
303 district of undertaking the project that is intended to mitigate  
304 the adverse impacts. The full cost shall include all direct and  
305 indirect costs, as applicable, such as those for land  
306 acquisition, land restoration or enhancement, perpetual land  
307 management, and general overhead consisting of costs such as  
308 staff time, building, and vehicles. The department or the water  
309 management district may use a multiplier or percentage to add to  
310 other direct or indirect costs to estimate general overhead.  
311 Mitigation credit for such a donation may be given only to the  
312 extent that the donation covers the full cost to the agency of  
313 undertaking the project intended to mitigate the adverse  
314 impacts. However, nothing herein may be construed to prevent the  
315 department or a water management district from accepting a  
316 donation representing a portion of a larger project, provided  
317 that the donation covers the full cost of that portion and  
318 mitigation credit is given only for that portion. The department  
319 or water management district may deviate from the full cost

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320 requirements of this subparagraph to resolve a proceeding  
321 brought pursuant to chapter 70 or a claim for inverse  
322 condemnation. ~~Nothing in~~ This section may not be construed to  
323 require the owner of a private mitigation bank, permitted under  
324 s. 373.4136, to include the full cost of a mitigation credit in  
325 the price of the credit to a purchaser of such ~~said~~ credit.

326 2. The department and each water management district shall  
327 report by March 1 of each year, as part of the consolidated  
328 annual report required by s. 373.036(7), all cash donations  
329 accepted under subparagraph 1. during the preceding water  
330 management district fiscal year for wetland mitigation purposes.  
331 The report must exclude those contributions pursuant to s.  
332 373.4137. The report must include a description of the endorsed  
333 mitigation projects and, except for projects governed by s.  
334 373.4135(6), must address, as applicable, success criteria,  
335 project implementation status and timeframe, monitoring, long-  
336 term management, provisions for preservation, and full cost  
337 accounting.

338 3. If the applicant is unable to meet water quality  
339 standards because existing ambient water quality does not meet  
340 standards, the governing board or the department must consider  
341 mitigation measures, such as compensating stormwater treatment  
342 as defined in s. 373.403(23), proposed by or acceptable to the  
343 applicant that cause net improvement of the water quality in the  
344 receiving body of water for those parameters which do not meet  
345 standards.

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

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349 requirements approved under a permit for the same activity  
350 issued under this part, including application of the uniform  
351 wetland mitigation assessment method adopted pursuant to  
352 subsection (18), the mitigation requirements for surface water  
353 and wetland impacts are controlled by the permit issued under  
354 this part.

355 Section 6. For the purpose of incorporating the amendment  
356 made by this act to section 373.414, Florida Statutes, in a  
357 reference thereto, paragraph (d) of subsection (6) of section  
358 373.4136, Florida Statutes, is reenacted to read:

359 373.4136 Establishment and operation of mitigation banks.—

360 (6) MITIGATION SERVICE AREA.—The department or water  
361 management district shall establish a mitigation service area  
362 for each mitigation bank permit. The department or water  
363 management district shall notify and consider comments received  
364 on the proposed mitigation service area from each local  
365 government within the proposed mitigation service area. Except  
366 as provided in this section, mitigation credits may be withdrawn  
367 and used only to offset adverse impacts in the mitigation  
368 service area. The boundaries of the mitigation service area  
369 shall depend upon the geographic area where the mitigation bank  
370 could reasonably be expected to offset adverse impacts.  
371 Mitigation service areas may overlap, and mitigation service  
372 areas for two or more mitigation banks may be approved for a  
373 regional watershed.

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

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378 entitled to a one-time use of credits released from a mitigation  
379 bank outside the mitigation bank service area to offset impacts  
380 pursuant to s. 373.414(1)(b), as established by the procedure in  
381 paragraph (f). The department or water management district must  
382 have determined that the mitigation service area lacked the  
383 appropriate credit type. Priority must be given to mitigation  
384 banks whose permitted service area fully includes the impacted  
385 site. If the number of released credits within a mitigation  
386 service area only partially offsets the impacts associated with  
387 a proposed project in the mitigation service area, the permit  
388 applicant may only use out-of-service-area credits to account  
389 for the difference between the released credits available in the  
390 mitigation bank service area and the credits required to offset  
391 the impacts associated with the proposed project. In  
392 implementing this subsection, the department and water  
393 management districts shall apply a proximity factor to determine  
394 adequate compensatory mitigation as follows:

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

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

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

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407 set forth in paragraph (f).

408       4. When in-kind credits are not available to offset impacts  
409 in the regional watershed immediately adjacent to the regional  
410 watershed overlain by a mitigation bank service area in which  
411 the proposed impacts are located, an additional 0.25 multiplier  
412 shall be applied for each additional regional watershed boundary  
413 crossed only after credit deficiency has been established by the  
414 procedure set forth in paragraph (f).

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

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