



Agriculture & Natural Resources Subcommittee

**Tuesday, March 15, 2011
12:30 PM
Reed Hall**

Action Packet

**Dean Cannon
Speaker**

**Steve Crisafulli
Chair**

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

Summary:

Agriculture & Natural Resources Subcommittee

Tuesday March 15, 2011 12:30 pm

HB 125	Favorable With Committee Substitute	Yeas: 14	Nays: 0
HB 389	Favorable With Committee Substitute	Yeas: 15	Nays: 0
HB 949	Favorable With Committee Substitute	Yeas: 15	Nays: 0
HB 991	Favorable With Committee Substitute	Yeas: 10	Nays: 5
PCS for HB 239	Favorable	Yeas: 12	Nays: 3
Motion to Temporarily Postponed HB 991	Failed	Yeas: 5	Nays: 10

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Steve Crisafulli (Chair)	X		
Jim Boyd	X		
Jason Brodeur	X		
Dwight Bullard	X		
Rachel V. Burgin	X		
Matthew Caldwell	X		
Luis Garcia, Jr.	X		
Richard Glorioso	X		
Tom Goodson	X		
Steven Perman	X		
Ray Pilon	X		
Elizabeth Porter	X		
Michelle Rehwinkel Vasilinda	X		
Franklin Sands	X		
Jimmie Smith	X		
Totals:	15	0	0

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

HB 125 : Sexual Activities Involving Animals

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Jason Brodeur	X				
Dwight Bullard	X				
Rachel V. Burgin	X				
Matthew Caldwell	X				
Luis Garcia, Jr.	X				
Richard Glorioso			X		
Tom Goodson	X				
Steven Perman	X				
Ray Pilon	X				
Elizabeth Porter	X				
Michelle Rehwinkel Vasilinda	X				
Franklin Sands	X				
Jimmie Smith	X				
Steve Crisafulli (Chair)	X				
Total Yeas: 14		Total Nays: 0			

Appearances:

Sexual Activities Involving Animals
 PatMixon, Governmental Consultant (Lobbyist) - Waive In Support
 Florida Veterinary Medical Association
 119 E. Park Ave.
 Tallahassee FL 32301
 Phone: (850)222-2591

Sexual Activities Involving Animals
 Jennifer Hobgood, Florida State Director (Lobbyist) - Waive In Support
 Humane Society of the United States, The
 1624 Metropolitan Cir Ste B
 Tallahassee FL 32308
 Phone: (850)386-3435

Sexual Activities Involving Animals
 Doama Ferguson, Attorney (Lobbyist) - Waive In Opposition
 Florida Association of Counties
 PO Box 549 119 S. Monroe St
 Tallahassee FL 32308
 Phone: (850)681-6788

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 125 (2011)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative(s) Kiar offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 828.02, Florida Statutes, is amended to
8 read:

9 828.02 Definitions.—

10 (1) In this chapter, and in every law of the state relating to
11 or in any way affecting animals, the word "animal" shall be held
12 to include every living dumb creature; the words "torture,"
13 "torment," and "cruelty" shall be held to include every act,
14 omission, or neglect whereby unnecessary or unjustifiable pain
15 or suffering is caused, except when done in the interest of
16 medical science, permitted, or allowed to continue when there is
17 reasonable remedy or relief; and the words "owner" and "person"
18 shall be held to include corporations, and the knowledge and

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 125 (2011)

Amendment No.

19 acts of agents and employees of corporations in regard to
20 animals transported, owned, employed by or in the custody of a
21 corporation, shall be held to be the knowledge and act of such
22 corporation.

23 (2) "Sexual conduct" means any touching or fondling by a person,
24 either directly or through clothing, of the sex organs or anus
25 of an animal or any transfer or transmission of semen by the
26 person upon any part of the animal for the purpose of sexual
27 gratification or arousal of the person.

28 (3) "Sexual contact" means any contact, however slight, between
29 the mouth, sex organ, or anus of a person and the sex organ or
30 anus of an animal, or any penetration, however slight, of any
31 part of the body of the person into the sex organ or anus of an
32 animal, or any penetration of the sex organ or anus of the
33 person into the mouth of the animal, for the purpose of sexual
34 gratification or sexual arousal of the person.

35 Section 2. Subsections (5)-(8) are added to section
36 828.12, Florida Statutes, to read:

37 828.12 Cruelty to animals.-

38 (5) A person may not:

39 (a) Knowingly engage in any sexual conduct or sexual
40 contact with an animal;

41 (b) Knowingly cause, aid, or abet another person to engage
42 in any sexual conduct or sexual contact with an animal;

43 (c) Knowingly permit any sexual conduct or sexual contact
44 with an animal to be conducted on any premises under his or her
45 charge or control; or

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 125 (2011)

Amendment No.

46 (d) Knowingly organize, promote, conduct, advertise, aid,
47 abet, participate in as an observer, or perform any service in
48 the furtherance of an act involving any sexual conduct or sexual
49 contact with an animal for a commercial or recreational purpose.

50 (6) A person who violates subsection (5) commits a
51 misdemeanor of the first degree, punishable as provided in s.
52 775.082 or s. 775.083.

53 (7) Subsection (5) does not apply to accepted animal
54 husbandry practices, conformation judging practices, or accepted
55 veterinary medical practices.

56 (8) For the purposes of subsection (5), the term "animal"
57 means any living or dead dumb creature.

58 Section 3. This act shall take effect October 1, 2011.

59
60
61
62
63
64
65
66
67
68
69
70
71
72

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

Remove the entire title and insert:

An act relating to animal cruelty; amending s. 828.02,
F.S.; providing definitions; creating s. 828.126, F.S.;
prohibiting knowing sexual conduct or sexual contact with
an animal; prohibiting specified related activities;
providing penalties; providing that the act does not apply
to certain husbandry, conformation judging, and veterinary
practices; providing a definition; providing an effective
date.

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

HB 389 : Surface Water Improvement and Management Plans and Programs

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Jason Brodeur	X				
Dwight Bullard	X				
Rachel V. Burgin	X				
Matthew Caldwell	X				
Luis Garcia, Jr.	X				
Richard Glorioso	X				
Tom Goodson	X				
Steven Perman	X				
Ray Pilon	X				
Elizabeth Porter	X				
Michelle Rehwinkel Vasilinda	X				
Franklin Sands	X				
Jimmie Smith	X				
Steve Crisafulli (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

Surface Water Improvement and Management Plans and Programs

Karen Peterson (Lobbyist) - Waive In Support
 Florida Redevelopment Association
 PO Box 1757 306 East College Ave.
 Tallahassee FL 32302-1757
 Phone: (850)212-7485

Surface Water Improvement and Management Plans and Programs

Matt Vail, Deputy Director OCA DEP (Lobbyist) (State Employee) - Waive In Support
 Florida Department of Environmental Protection
 3800 Commonwealth Blvd
 Tallahassee FL 32399-300
 Phone: 850-445-9782

Surface Water Improvement and Management Plans and Programs

Colleen Thayer, Legislative Affairs (Lobbyist) (State Employee) - Waive In Support
 Southwest Florida Water Management District
 6760 Fruitville Rd.
 Sarasota FL 34604-6899
 Phone: (941)737-2754

Surface Water Improvement and Management Plans and Programs

Stephen James, Legislative Staff Attorney (Lobbyist) - Waive In Support
 Florida Association of Counties
 100 S Monroe St Ste 105
 Tallahassee FL 32302
 Phone: 850-922-4300

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

Surface Water Improvement and Management Plans and Programs

C. Scott Dubbey, Associate Director, Legislative Affairs (Lobbyist) - Waive In Support

Florida League of Cities

301 S. Bronough Street, Suite 300

Tallahassee FL 32301

Phone: 850-222-9684

Surface Water Improvement and Management Plans and Programs

Kurt Spitzer (Lobbyist) - Waive In Support

Florida Stormwater Association

PO Box 867 719 E. Park

Tallahassee FL 32302

Phone: (850)561-0904

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative(s) Glorioso offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 373.4131, Florida Statutes, is created to
 8 read:

9 373.4131. Urban Redevelopment Projects. -

10 (1) A city or county that has created a community
 11 redevelopment area or an urban infill and redevelopment area
 12 pursuant to chapter 163 may adopt a stormwater adaptive
 13 management plan that addresses the quantity and quality of
 14 stormwater discharges for the redevelopment or infill area and
 15 obtain a conceptual permit from the water management district or
 16 department. Urban redevelopment projects that meet the criteria
 17 established in the conceptual permit will qualify as a Noticed
 18 General Permit that shall authorize construction and operation
 19 for the duration authorized in the conceptual permit.

Amendment No. 1

20 (2) The conceptual permit established in subsection (1)
21 must allow for the rate and volume of stormwater discharge for
22 stormwater management systems of urban redevelopment projects
23 located within a community redevelopment area created under part
24 III of chapter 163 or an urban infill and redevelopment area
25 designated under s. 163.2517 to continue up to the maximum rate
26 and volume of stormwater discharge within the area as of the
27 date the plan was adopted.

28 (3) The conceptual permit must also allow for stormwater
29 discharges for stormwater management systems of urban
30 redevelopment projects located within a community redevelopment
31 area created under part III of chapter 163 or an urban infill
32 and redevelopment area designated under s. 163.2517 that
33 demonstrate a net improvement of the quality of the discharged
34 water that existed as of the date the plan was adopted for any
35 applicable pollutants of concern in the receiving water body.
36 Stormwater discharges that demonstrate such net improvement
37 shall be presumed not to cause or contribute to violations of
38 water quality criteria.

39 (4) The conceptual permit established by a water
40 management district, in consultation with the Department of
41 Environmental Protection, pursuant to this section may not
42 prescribe additional or more stringent limitations concerning
43 the quantity and quality of stormwater discharges from
44 stormwater management systems than provided in this section.

Amendment No. 1

45 (5) A conceptual permit issued pursuant to this section
46 shall be for a duration of 20 years, unless a shorter duration
47 is requested by the applicant.

48 Section 2.. This act shall take effect July 1, 2011.

49

50

51

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

52

Remove the entire title and insert:

53

An act relating to urban redevelopment projects; creating s.

54

373.4131, F.S.; providing that a city or county that has created

55

a community redevelopment area or an urban infill and

56

redevelopment area may adopt stormwater adaptive management

57

plans and obtain a conceptual permit; provides that urban

58

redevelopment projects that meet the criteria of the conceptual

59

permit will qualify as a Noticed General Permit; requires the

60

conceptual permit to allow for the rate and volume of stormwater

61

discharge for stormwater management systems of urban

62

redevelopment projects to continue up to the maximum rate and

63

volume of discharge within the areas as of the date the plan was

64

adopted; requires the conceptual permit to allow for stormwater

65

discharges fof urban redevelopment projects to demonstrate a net

66

improvement of the quality of the discharged water that existed

67

as of the date the plan was adopted for pollutants of concern;

68

provides the conceptual permit may not prescribe additional or

69

more stringent limitations than provided in this section;

70

provides conceptual permits may be issued for a duration of 20

71

years; provides an effective date.

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

HB 949 : Pest Control

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Jason Brodeur	X				
Dwight Bullard	X				
Rachel V. Burgin	X				
Matthew Caldwell	X				
Luis Garcia, Jr.	X				
Richard Glorioso	X				
Tom Goodson	X				
Steven Perman	X				
Ray Pilon	X				
Elizabeth Porter	X				
Michelle Rehwinkel Vasilinda	X				
Franklin Sands	X				
Jimmie Smith	X				
Steve Crisafulli (Chair)	X				
Total Yeas: 15		Total Nays: 0			

Appearances:

Pet Control

Julie Wraithmell, Director of Wildlife conservation (Lobbyist) - Information Only
 Audubon of Florida
 2507 Callaway Rd Ste 103 308 N. Monroe St.
 Tallahassee FL 32301
 Phone: (850)339-5009

Pet Control

Jennifer Hobgood, Florida State Director - Information Only
 Humane Society of the United States, The
 1624 Metropolitan Cir Ste B
 Tallahassee FL 32308
 Phone: (850)386-3435

Pet Control

Matthew Farrar (Lobbyist) - Proponent
 Florida Pest Management Association
 2910 Kerry Forst Pkwy D4-368
 Tallahassee FL 32309
 Phone: (850)832-1763

Pet Control

Leslie Dughi (Lobbyist) - Waive In Support
 ServiceMaster Company, The
 101 E. College Avenue
 Tallahassee FL 32301

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 949 (2011)

Amendment No. /

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input checked="" type="checkbox"/> (Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/> (Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/> (Y/N)
FAILED TO ADOPT	<input type="checkbox"/> (Y/N)
WITHDRAWN	<input type="checkbox"/> (Y/N)
OTHER	<input type="checkbox"/>

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative Smith offered the following:

Amendment

4
5
6 Remove line 100 and insert:
7 business licensees for whom it solicits business are owned in
8 common by a

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 949 (2011)

Amendment No. **2**

COMMITTEE/SUBCOMMITTEE/ACTION

ADOPTED	<input checked="" type="checkbox"/> (Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/> (Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/> (Y/N)
FAILED TO ADOPT	<input type="checkbox"/> (Y/N)
WITHDRAWN	<input type="checkbox"/> (Y/N)
OTHER	<input type="checkbox"/>

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative Smith offered the following:

4
5 **Amendment**

6 Remove line 169 and insert:

7 (c) Supervision of an uncertified person using non-chemical
8 methods to control rodents.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 949 (2011)

Amendment No. **3**

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input checked="" type="checkbox"/> (Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/> (Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/> (Y/N)
FAILED TO ADOPT	<input type="checkbox"/> (Y/N)
WITHDRAWN	<input type="checkbox"/> (Y/N)
OTHER	<input type="checkbox"/>

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative Smith offered the following:

4
5 **Amendment**

6 Remove line 181 and insert:
7 no less than \$500,000 ~~\$50,000~~ in the aggregate and \$250,000

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

HB 991 : Environmental Permitting

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Jim Boyd	X				
Jason Brodeur	X				
Dwight Bullard		X			
Rachel V. Burgin	X				
Matthew Caldwell	X				
Luis Garcia, Jr.		X			
Richard Glorioso	X				
Tom Goodson	X				
Steven Perman		X			
Ray Pilon	X				
Elizabeth Porter	X				
Michelle Rehwinkel Vasilinda		X			
Franklin Sands		X			
Jimmie Smith	X				
Steve Crisafulli (Chair)	X				
Total Yeas: 10		Total Nays: 5			

Appearances:

Environmental Permitting

Jon Steverson (Lobbyist) (State Employee) - Opponent
 Florida Department of Environmental Protection
 3900 Commonwealth Blvd.
 Tallahassee FL 32399-300
 Phone: (850)245-2140

Environmental Permitting

C. Scott Durbey, Associate Director, Legislative Affairs (Lobbyist) - Opponent
 Florida League of Cities
 301 S. Bronough Street, Suite 300
 Tallahassee FL 32301
 Phone: 850-222-9684

Environmental Permitting

Michael Slayton, Department Executive Director (Lobbyist) - Opponent
 St. Johns River Water Management District
 525 Community College Pkwy
 Palm Bay FL 32909
 Phone: (321)508-0801

Kurt Spitzer (Lobbyist) - Opponent

Florida Stormwater Association
 PO Box 867 719 E. Park
 Tallahassee FL 32301
 Phone: (850)561-0904

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

Environmental Permitting

Keyna Cory, President (Lobbyist) - Waive In Support
National Solid Wastes Management Association (NSWMA)
P. O. Box 1347
Tallahassee FL 32302
Phone: (850)681-1065

Environmental Permitting

Keyna Cory, President (Lobbyist) - Proponent
National Solid Wastes Management Association (NSWMA)
P. O. Box 1347
Tallahassee FL 32302
Phone: (850)681-1065

Environmental Permitting

Leticia Adams, Director of Infrastructure & Governance Policy (Lobbyist) - Waive In Support
Florida Chamber of Commerce
136 S. Bro. Street
Tallahassee FL 32301
Phone: (850)544-6866

Environmental Permitting

Brandon Wagner, Intergovernmental Relations (Lobbyist) - Opponent
Hillsborough County Board of County Commissioners
601 E Kennedy Blvd 26th Floor PO Box 1110
Tampa FL 33601
Phone: (813)276-2640

Environmental Permitting

Matthew Farrar (Lobbyist) - Waive In Support
2910 Kerry Forst Pkwy D4-368
Tallahassee FL 32309
Phone: 850-832-1763

Environmental Permitting

Philip Leary, Gov. Aff. Director (Lobbyist) - Waive In Support
Florida Ground Water Association
1821 Care Dir.
Palatka FL
Phone: (386)937-7829

Environmental Permitting

Nancy Stephens, Executive Director (Lobbyist) - Waive In Support
Manufacturers Association of Florida
1625 Summit Lake Dr Ste 300
Tallahassee FL 32317
Phone: (850)402-2954

Environmental Permitting

Eric Draper, Executive Director (Lobbyist) - Opponent
Audubon of Florida
308 N Monore Street
Tallahassee FL 32311
Phone: (850)224-7546

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

Environmental Permitting

Stephen James, Legislative Staff Attorney (Lobbyist) - Proponent

Florida Association of Counties

100 S Monroe St Ste 105

Tallahassee FL

Phone: 850-922-4300

Environmental Permitting

Lori Killinger (Lobbyist) - Waive In Support

Mitigation Banking Alliance of Florida

2600 Centennial PL

Tallahassee FL 32308

Phone: (850)222-5702

Environmental Permitting

Keith Hetrick, OF Counsel (Lobbyist) - Waive In Support

Florida Home Builders Association

215 S. Monroe Street

Tallahassee FL 32301

Phone: (850)251-1838

Environmental Permitting

David Cullen (Lobbyist) - Information Only

Sierra Club

820 E. Call Street

Tallahassee FL 32301

Phone: (941)323-2404

Environmental Permitting

Mary Jean Yon (Lobbyist) - Information Only

Audubon of Florida

3324 Charteston Rd.

Tallahassee FL 32309

Phone: 850-519-7859

Environmental Permitting

Chuck Lettlejohn (Lobbyist) - Waive In Support

Florida Engineering Society

310 EWest College Ave.

Tallahassee FL 32301

Phone: 850-228-7203

Environmental Permitting

Frank Matthews, Attorney (Lobbyist) - Proponent

Association of Florida Community Developers, Inc

P. O. Box 6526

Tallahassee FL 32301-1422

Phone: (850)222-7500

Environmental Permitting

Lane Stephens, Gov't Consultant (Lobbyist) - Waive In Support

Nestle Waters N.A.

338 N. 8th St.

Quincy FL 32351

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee

3 Representative Patronis offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (1) of section 120.569, Florida
8 Statutes, is amended, and paragraph (p) is added to subsection
9 (2) of that section, to read:

10 120.569 Decisions which affect substantial interests.—

11 (1) The provisions of this section apply in all
12 proceedings in which the substantial interests of a party are
13 determined by an agency, unless the parties are proceeding under
14 s. 120.573 or s. 120.574. Unless waived by all parties, s.
15 120.57(1) applies whenever the proceeding involves a disputed
16 issue of material fact. Unless otherwise agreed, s. 120.57(2)
17 applies in all other cases. If a disputed issue of material fact
18 arises during a proceeding under s. 120.57(2), ~~then~~, unless
19 waived by all parties, the proceeding under s. 120.57(2) shall

Amendment No. 1

20 be terminated and a proceeding under s. 120.57(1) shall be
21 conducted. Parties shall be notified of any order, including a
22 final order. Unless waived, a copy of the order shall be
23 delivered or mailed to each party or the party's attorney of
24 record at the address of record. Each notice shall inform the
25 recipient of any administrative hearing or judicial review that
26 is available under this section, s. 120.57, or s. 120.68; shall
27 indicate the procedure which must be followed to obtain the
28 hearing or judicial review; and shall state the time limits that
29 which apply. Notwithstanding any other provision of law, notice
30 of the procedure to obtain an administrative hearing or judicial
31 review, including any items required by the uniform rules
32 adopted pursuant to s. 120.54(5), may be provided via a link to
33 a publicly available Internet website.

34 (2)

35 (p) For any proceeding arising under chapter 373, chapter
36 378, or chapter 403, if a nonapplicant petitions as a third
37 party to challenge an agency's issuance of a license or
38 conceptual approval, the petitioner initiating the action has
39 the burden of ultimate persuasion and, in the first instance,
40 has the burden of going forward with the evidence.
41 Notwithstanding subsection (1), this paragraph applies to
42 proceedings under s. 120.574.

43 Section 2. Subsection (1) of section 120.60, Florida
44 Statutes, as amended by chapter 2010-279, Laws of Florida, is
45 amended to read:

46 120.60 Licensing.—

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

47 (1) Upon receipt of a license application, an agency shall
48 examine the application and, within 30 days after such receipt,
49 notify the applicant of any apparent errors or omissions and
50 request any additional information the agency is permitted by
51 law to require. An agency may not deny a license for failure to
52 correct an error or omission or to supply additional information
53 unless the agency timely notified the applicant within this 30-
54 day period. The agency may establish by rule the time period for
55 submitting any additional information requested by the agency.
56 For good cause shown, the agency shall grant a request for an
57 extension of time for submitting the additional information. If
58 the applicant believes the agency's request for additional
59 information is not authorized by law or rule, the agency, at the
60 applicant's request, shall proceed to process the application.
61 An application is complete upon receipt of all requested
62 information and correction of any error or omission for which
63 the applicant was timely notified or when the time for such
64 notification has expired. An application for a license must be
65 approved or denied within 60 ~~90~~ days after receipt of a
66 completed application unless a shorter period of time for agency
67 action is provided by law. The 60-day ~~90-day~~ time period is
68 tolled by the initiation of a proceeding under ss. 120.569 and
69 120.57. Any application for a license which is not approved or
70 denied within the 60-day ~~90-day~~ or shorter time period, within
71 15 days after conclusion of a public hearing held on the
72 application, or within 45 days after a recommended order is
73 submitted to the agency and the parties, whichever action and
74 timeframe is latest and applicable, is considered approved

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

75 unless the recommended order recommends that the agency deny the
76 license. Subject to the satisfactory completion of an
77 examination if required as a prerequisite to licensure, any
78 license that is considered approved shall be issued and may
79 include such reasonable conditions as are authorized by law. Any
80 applicant for licensure seeking to claim licensure by default
81 under this subsection shall notify the agency clerk of the
82 licensing agency, in writing, of the intent to rely upon the
83 default license provision of this subsection, and may not take
84 any action based upon the default license until after receipt of
85 such notice by the agency clerk.

86 Section 3. Section 125.0112, Florida Statutes, is created
87 to read:

88 125.0112 Biofuels and renewable energy.—The construction
89 and operation of a biofuel processing facility or a renewable
90 energy generating facility, as defined in s. 366.91(2)(d), and
91 the cultivation and production of bioenergy, as defined pursuant
92 to s. 163.3177, shall be considered by a local government to be
93 a valid industrial, agricultural, and silvicultural use
94 permitted within those land use categories in the local
95 comprehensive land use plan. If the local comprehensive plan
96 does not specifically allow for the construction of a biofuel
97 processing facility or renewable energy facility, the local
98 government shall establish a specific review process that may
99 include expediting local review of any necessary comprehensive
100 plan amendment, zoning change, use permit, waiver, variance, or
101 special exemption. Local expedited review of a proposed biofuel
102 processing facility or a renewable energy facility does not

Amendment No. 1

103 obligate a local government to approve such proposed use. A
104 comprehensive plan amendment necessary to accommodate a biofuel
105 processing facility or renewable energy facility shall, if
106 approved by the local government, be eligible for the
107 alternative state review process in s. 163.32465. The
108 construction and operation of a facility and related
109 improvements on a portion of a property under this section does
110 not affect the remainder of the property's classification as
111 agricultural under s. 193.461.

112 Section 4. Section 125.022, Florida Statutes, is amended
113 to read:

114 125.022 Development permits.—When a county denies an
115 application for a development permit, the county shall give
116 written notice to the applicant. The notice must include a
117 citation to the applicable portions of an ordinance, rule,
118 statute, or other legal authority for the denial of the permit.
119 As used in this section, the term "development permit" has the
120 same meaning as in s. 163.3164. A county may not require as a
121 condition of approval for a development permit that an applicant
122 obtain a permit or approval from any other state or federal
123 agency. Issuance of a development permit by a county does not in
124 any way create any rights on the part of the applicant to obtain
125 a permit from another state or federal agency and does not
126 create any liability on the part of the county for issuance of
127 the permit if the applicant fails to fulfill its legal
128 obligations to obtain requisite approvals or fulfill the
129 obligations imposed by another state or a federal agency. A
130 county may attach such a disclaimer to the issuance of a

Amendment No. 1

131 development permit, and may include a permit condition that all
132 other applicable state or federal permits be obtained before
133 commencement of the development. This section does not prohibit
134 a county from providing information to an applicant regarding
135 what other state or federal permits may apply.

136 Section 5. Section 161.032, Florida Statutes, is created
137 to read:

138 161.032 Application review; request for additional
139 information.—

140 (1) Within 30 days after receipt of an application for a
141 permit under this part, the department shall review the
142 application and shall request submission of any additional
143 information the department is permitted by law to require. If
144 the applicant believes that a request for additional information
145 is not authorized by law or rule, the applicant may request a
146 hearing pursuant to s. 120.57. Within 30 days after receipt of
147 such additional information, the department shall review such
148 additional information and may request only that information
149 needed to clarify such additional information or to answer new
150 questions raised by or directly related to such additional
151 information. If the applicant believes that the request for such
152 additional information by the department is not authorized by
153 law or rule, the department, at the applicant's request, shall
154 proceed to process the permit application.

155 (2) Notwithstanding s. 120.60, an applicant for a permit
156 under this part has 90 days after the date of a timely request
157 for additional information to submit such information. If an
158 applicant requires more than 90 days in order to respond to a

Amendment No. 1

159 request for additional information, the applicant must notify
160 the agency processing the permit application in writing of the
161 circumstances, at which time the application shall be held in
162 active status for no more than one additional period of up to 90
163 days. Additional extensions may be granted for good cause shown
164 by the applicant. A showing that the applicant is making a
165 diligent effort to obtain the requested additional information
166 constitutes good cause. Failure of an applicant to provide the
167 timely requested information by the applicable deadline shall
168 result in denial of the application without prejudice.

169 Section 6. Section 166.033, Florida Statutes, is amended
170 to read:

171 166.033 Development permits.—When a municipality denies an
172 application for a development permit, the municipality shall
173 give written notice to the applicant. The notice must include a
174 citation to the applicable portions of an ordinance, rule,
175 statute, or other legal authority for the denial of the permit.
176 As used in this section, the term "development permit" has the
177 same meaning as in s. 163.3164. A municipality may not require
178 as a condition of approval for a development permit that an
179 applicant obtain a permit or approval from any other state or
180 federal agency. Issuance of a development permit by a
181 municipality does not in any way create any right on the part of
182 an applicant to obtain a permit from another state or federal
183 agency and does not create any liability on the part of the
184 municipality for issuance of the permit if the applicant fails
185 to fulfill its legal obligations to obtain requisite approvals
186 or fulfill the obligations imposed by another state or federal

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

187 agency. A municipality may attach such a disclaimer to the
188 issuance of development permits and may include a permit
189 condition that all other applicable state or federal permits be
190 obtained before commencement of the development. This section
191 does not prohibit a municipality from providing information to
192 an applicant regarding what other state or federal permits may
193 apply.

194 Section 7. Section 166.0447, Florida Statutes, is created
195 to read:

196 166.0447 Biofuels and renewable energy.—The construction
197 and operation of a biofuel processing facility or a renewable
198 energy generating facility, as defined in s. 366.91(2)(d), and
199 the cultivation and production of bioenergy, as defined pursuant
200 to s. 163.3177, are each a valid industrial, agricultural, and
201 silvicultural use permitted within those land use categories in
202 the local comprehensive land use plan and for purposes of any
203 local zoning regulation within an unincorporated area of a
204 municipality. Such comprehensive land use plans and local zoning
205 regulations may not require the owner or operator of a biofuel
206 processing facility or a renewable energy generating facility to
207 obtain any comprehensive plan amendment, rezoning, special
208 exemption, use permit, waiver, or variance, or to pay any
209 special fee in excess of \$1,000 to operate in an area zoned for
210 or categorized as industrial, agricultural, or silvicultural
211 use. This section does not exempt biofuel processing facilities
212 and renewable energy generating facilities from complying with
213 building code requirements. The construction and operation of a
214 facility and related improvements on a portion of a property

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

215 pursuant to this section does not affect the remainder of that
216 property's classification as agricultural pursuant to s.
217 193.461.

218 Section 8. Subsection (10) is added to section 373.026,
219 Florida Statutes, to read:

220 373.026 General powers and duties of the department.—The
221 department, or its successor agency, shall be responsible for
222 the administration of this chapter at the state level. However,
223 it is the policy of the state that, to the greatest extent
224 possible, the department may enter into interagency or
225 interlocal agreements with any other state agency, any water
226 management district, or any local government conducting programs
227 related to or materially affecting the water resources of the
228 state. All such agreements shall be subject to the provisions of
229 s. 373.046. In addition to its other powers and duties, the
230 department shall, to the greatest extent possible:

231 (10) Expand the use of Internet-based self-certification
232 services for appropriate exemptions and general permits issued
233 by the department and the water management districts, if such
234 expansion is economically feasible. In addition to expanding the
235 use of Internet-based self-certification services for
236 appropriate exemptions and general permits, the department and
237 water management districts shall identify and develop general
238 permits for activities currently requiring individual review
239 which could be expedited through the use of professional
240 certification.

241 Section 9. Section 373.4141, Florida Statutes, is amended
242 to read:

Amendment No. 1

243 373.4141 Permits; processing.—

244 (1) Within 30 days after receipt of an application for a
245 permit under this part, the department or the water management
246 district shall review the application and shall request
247 submittal of all additional information the department or the
248 water management district is permitted by law to require. If the
249 applicant believes any request for additional information is not
250 authorized by law or rule, the applicant may request a hearing
251 pursuant to s. 120.57. Within 30 days after receipt of such
252 additional information, the department or water management
253 district shall review it and may request only that information
254 needed to clarify such additional information or to answer new
255 questions raised by or directly related to such additional
256 information. If the applicant believes the request of the
257 department or water management district for such additional
258 information is not authorized by law or rule, the department or
259 water management district, at the applicant's request, shall
260 proceed to process the permit application. In order to ensure
261 the proper scope and necessity for the information requested, a
262 second request for additional information, if any, must be
263 signed by the supervisor of the project manager. A third request
264 for additional information, if any, must be signed by the
265 division director who oversees the program area. A fourth
266 request for additional information, if any, must be signed by
267 the assistant secretary of the department or the assistant
268 executive director of the district. Any additional request for
269 information must be signed by the secretary of the department or
270 the executive director of the district.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

271 (2) A permit shall be approved or denied within 60 ~~90~~ days
272 after receipt of the original application, the last item of
273 timely requested additional material, or the applicant's written
274 request to begin processing the permit application.

275 (3) Processing of applications for permits for affordable
276 housing projects shall be expedited to a greater degree than
277 other projects.

278 Section 10. Section 373.4144, Florida Statutes, is amended
279 to read:

280 373.4144 Federal environmental permitting.—

281 (1) It is the intent of the Legislature to:

282 (a) Facilitate coordination and a more efficient process
283 of implementing regulatory duties and functions between the
284 Department of Environmental Protection, the water management
285 districts, the United States Army Corps of Engineers, the United
286 States Fish and Wildlife Service, the National Marine Fisheries
287 Service, the United States Environmental Protection Agency, the
288 Fish and Wildlife Conservation Commission, and other relevant
289 federal and state agencies.

290 (b) Authorize the Department of Environmental Protection
291 to obtain issuance by the United States Army Corps of Engineers,
292 pursuant to state and federal law and as set forth in this
293 section, of an expanded state programmatic general permit, or a
294 series of regional general permits, for categories of activities
295 in waters of the United States governed by the Clean Water Act
296 and in navigable waters under the Rivers and Harbors Act of 1899
297 which are similar in nature, which will cause only minimal
298 adverse environmental effects when performed separately, and

Amendment No. 1

299 which will have only minimal cumulative adverse effects on the
300 environment.

301 (c) Use the mechanism of such a state general permit or
302 such regional general permits to eliminate overlapping federal
303 regulations and state rules that seek to protect the same
304 resource and to avoid duplication of permitting between the
305 United States Army Corps of Engineers and the department for
306 minor work located in waters of the United States, including
307 navigable waters, thus eliminating, in appropriate cases, the
308 need for a separate individual approval from the United States
309 Army Corps of Engineers while ensuring the most stringent
310 protection of wetland resources.

311 (d) Direct the department not to seek issuance of or take
312 any action pursuant to any such permit or permits unless such
313 conditions are at least as protective of the environment and
314 natural resources as existing state law under this part and
315 federal law under the Clean Water Act and the Rivers and Harbors
316 Act of 1899. The department is directed to develop, on or before
317 October 1, 2005, a mechanism or plan to consolidate, to the
318 maximum extent practicable, the federal and state wetland
319 permitting programs. It is the intent of the Legislature that
320 all dredge and fill activities impacting 10 acres or less of
321 wetlands or waters, including navigable waters, be processed by
322 the state as part of the environmental resource permitting
323 program implemented by the department and the water management
324 districts. The resulting mechanism or plan shall analyze and
325 propose the development of an expanded state programmatic
326 general permit program in conjunction with the United States

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

327 ~~Army Corps of Engineers pursuant to s. 404 of the Clean Water~~
328 ~~Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.,~~
329 ~~and s. 10 of the Rivers and Harbors Act of 1899. Alternatively,~~
330 ~~or in combination with an expanded state programmatic general~~
331 ~~permit, the mechanism or plan may propose the creation of a~~
332 ~~series of regional general permits issued by the United States~~
333 ~~Army Corps of Engineers pursuant to the referenced statutes. All~~
334 ~~of the regional general permits must be administered by the~~
335 ~~department or the water management districts or their designees.~~

336 (2) In order to effectuate efficient wetland permitting
337 and avoid duplication, the department and water management
338 districts are authorized to implement a voluntary state
339 programmatic general permit for all dredge and fill activities
340 impacting 3 acres or less of wetlands or other surface waters,
341 including navigable waters, subject to agreement with the United
342 States Army Corps of Engineers, if the general permit is at
343 least as protective of the environment and natural resources as
344 existing state law under this part and federal law under the
345 Clean Water Act and the Rivers and Harbors Act of 1899. The
346 ~~department is directed to file with the Speaker of the House of~~
347 ~~Representatives and the President of the Senate a report~~
348 ~~proposing any required federal and state statutory changes that~~
349 ~~would be necessary to accomplish the directives listed in this~~
350 ~~section and to coordinate with the Florida Congressional~~
351 ~~Delegation on any necessary changes to federal law to implement~~
352 ~~the directives.~~

353 (3) Nothing in this section shall be construed to preclude
354 the department from pursuing a series of regional general

Amendment No. 1

355 permits for construction activities in wetlands or surface
356 waters or complete assumption of federal permitting programs
357 regulating the discharge of dredged or fill material pursuant to
358 s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended,
359 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors
360 Act of 1899, so long as the assumption encompasses all dredge
361 and fill activities in, on, or over jurisdictional wetlands or
362 waters, including navigable waters, within the state.

363 Section 11. Present subsections (3), (4), and (5) of
364 section 373.441, Florida Statutes, are renumbered as subsections
365 (6), (7), and (8), respectively, and new subsections (3), (4),
366 and (5) are added to that section, to read:

367 373.441 Role of counties, municipalities, and local
368 pollution control programs in permit processing; delegation.—

369 (3) A county having a population of 75,000 or more or a
370 municipality having a population of more than 50,000 that
371 implements a local pollution control program regulating wetlands
372 or surface waters throughout its geographic boundary must apply
373 for delegation of state environmental resource permitting
374 authority on or before June 1, 2012. A county, municipality, or
375 local pollution control program that fails to apply for
376 delegation of authority may not require permits that in part or
377 in full are substantially similar to the requirements needed to
378 obtain an environmental resource permit.

379 (4) Upon delegation to a qualified local government, the
380 department and water management district may not regulate the
381 activities subject to the delegation within that jurisdiction

Amendment No. 1

382 unless regulation is required pursuant to the terms of the
383 delegation agreement.

384 (5) This section does not prohibit or limit a local
385 government from adopting a pollution control program regulating
386 wetlands or surface waters after June 1, 2012, if the local
387 government applies for delegation of state environmental
388 resource permitting authority within 1 year after adopting such
389 a program.

390 Section 12. Section 376.30715, Florida Statutes, is
391 amended to read:

392 376.30715 Innocent victim petroleum storage system
393 restoration.—A contaminated site acquired by the current owner
394 prior to July 1, 1990, which has ceased operating as a petroleum
395 storage or retail business prior to January 1, 1985, is eligible
396 for financial assistance pursuant to s. 376.305(6),
397 notwithstanding s. 376.305(6) (a). For purposes of this section,
398 the term "acquired" means the acquisition of title to the
399 property; however, a subsequent transfer of the property to a
400 spouse or child, a surviving spouse or child in trust or free of
401 trust, ~~or~~ a revocable trust created for the benefit of the
402 settlor, or a corporate entity created by the owner to hold
403 title to the site does not disqualify the site from financial
404 assistance pursuant to s. 376.305(6) and applicants previously
405 denied coverage may reapply. Eligible sites shall be ranked in
406 accordance with s. 376.3071(5).

407 Section 13. Section 403.0874, Florida Statutes, is created
408 to read:

409 403.0874 Incentive-based permitting program.—

Amendment No. 1

410 (1) SHORT TITLE.—This section may be cited as the "Florida
411 Incentive-based Permitting Act."

412 (2) FINDINGS AND INTENT.—The Legislature finds and
413 declares that the department should consider compliance history
414 when deciding whether to issue, renew, amend, or modify a permit
415 by evaluating an applicant's site-specific and program-specific
416 relevant aggregate compliance history. Persons having a history
417 of complying with applicable permits or state environmental laws
418 and rules are eligible for permitting benefits, including, but
419 not limited to, expedited permit application reviews, longer-
420 duration permit periods, decreased announced compliance
421 inspections, and other similar regulatory and compliance
422 incentives to encourage and reward such persons for their
423 environmental performance.

424 (3) APPLICABILITY.—

425 (a) This section applies to all persons and regulated
426 activities that are subject to the permitting requirements of
427 chapter 161, chapter 373, or this chapter, and all other
428 applicable state or federal laws that govern activities for the
429 purpose of protecting the environment or the public health from
430 pollution or contamination.

431 (b) Notwithstanding paragraph (a), this section does not
432 apply to certain permit actions or environmental permitting laws
433 such as:

434 1. Environmental permitting or authorization laws that
435 regulate activities for the purpose of zoning, growth
436 management, or land use; or

Amendment No. 1

437 2. Any federal law or program delegated or assumed by the
438 state to the extent that implementation of this section, or any
439 part of this section, would jeopardize the ability of the state
440 to retain such delegation or assumption.

441 (c) As used in this section, a the term "regulated
442 activity" means any activity, including, but not limited to, the
443 construction or operation of a facility, installation, system,
444 or project, for which a permit, certification, or authorization
445 is required under chapter 161, chapter 373, or this chapter.

446 (4) COMPLIANCE HISTORY.—The compliance history period
447 shall be the 5 years before the date any permit or renewal
448 application is received by the department. Any person is
449 entitled to the incentives under paragraph (5)(a) if:

450 (a)1. The applicant has conducted the regulated activity
451 at the same site for which the permit or renewal is sought for
452 at least 4 of the 5 years before the date the permit application
453 is received by the department; or

454 2. The applicant has conducted the same regulated activity
455 at a different site within the state for at least 4 of the 5
456 years before the date the permit or renewal application is
457 received by the department; and

458 (b) In the 5 years before the date the permit or renewal
459 application is received by the department or water management
460 district, the applicant has not been subject to a formal
461 administrative or civil judgment or criminal conviction whereby
462 an administrative law judge or civil or criminal court found the
463 applicant knowingly violated the applicable law or rule and the
464 violation was the proximate cause that resulted in significant

Amendment No. 1

465 harm to human health or the environment. Administrative
466 settlement or consent orders, whether formal or informal, are
467 not judgments for purposes of this section unless entered into
468 as a result of significant harm to human health or the
469 environment.

470 (5) COMPLIANCE INCENTIVES.—

471 (a) An applicant shall request all applicable incentives
472 at the time of application submittal. Unless otherwise
473 prohibited by state or federal law, rule, or regulation, and if
474 the applicant meets all other applicable criteria for the
475 issuance of a permit or authorization, an applicant is entitled
476 to the following incentives:

477 1. Expedited reviews on permit actions, including, but not
478 limited to, initial permit issuance, renewal, modification, and
479 transfer, if applicable. Expedited review means, at a minimum,
480 that any request for additional information regarding a permit
481 application shall be issued no later than 15 days after the
482 application is filed, and final agency action shall be taken no
483 later than 45 days after the application is deemed complete;

484 2. Priority review of permit application;

485 3. Reduced number of routine compliance inspections;

486 4. No more than two requests for additional information
487 under s. 120.60; and

488 5. Longer permit period durations.

489 (b) The department shall identify and make available
490 additional incentives to persons who demonstrate during a 10-
491 year compliance history period the implementation of activities
492 or practices that resulted in:

Amendment No. 1

- 493 1. Reductions in actual or permitted discharges or
494 emissions;
- 495 2. Reductions in the impacts of regulated activities on
496 public lands or natural resources;
- 497 3. Implementation of voluntary environmental performance
498 programs, such as environmental management systems; and
- 499 4. In the 10 years before the date the renewal application
500 is received by the department, the applicant having not been
501 subject to a formal administrative or civil judgment or criminal
502 conviction whereby an administrative law judge or civil or
503 criminal court found the applicant knowingly violated the
504 applicable law or rule and the violation was the proximate cause
505 that resulted in significant harm to human health or the
506 environment. Administrative settlement or consent orders,
507 whether formal or informal, are not judgments for purposes of
508 this section unless entered into as a result of significant harm
509 to the human health or the environment.
- 510 (c) Any person meeting one of the criteria in subparagraph
511 (b)1.-3., and the criteria in subparagraph (b)4., is entitled to
512 the following incentives:
- 513 1. Automatic permit renewals if there are no substantial
514 deviations or modifications in permitted activities or changed
515 circumstances; and
- 516 2. Reduced or waived application fees.
- 517 (6) RULEMAKING.—The department shall implement rulemaking
518 within 6 months after the effective date of this act. Such
519 rulemaking may identify additional incentives and programs not
520 expressly enumerated under this section, so long as each

Amendment No. 1

521 incentive is consistent with the Legislature's purpose and
522 intent of this section. Any rule adopted by the department to
523 administer this section shall be deemed an invalid exercise of
524 delegated legislative authority if the department cannot
525 demonstrate how such rules will produce the compliance
526 incentives set forth in subsection (5). The department's rules
527 adopted under this section are binding on the water management
528 districts and any local government that has been delegated or
529 assumed a regulatory program to which this section applies.

530 Section 14. Subsection (5) is added to section 161.041,
531 Florida Statutes, to read:

532 161.041 Permits required.—

533 (5) The provisions of s. 403.0874, relating to the
534 incentive-based permitting program, apply to all permits issued
535 under this chapter.

536 Section 15. Subsection (6) is added to section 373.413,
537 Florida Statutes, to read:

538 373.413 Permits for construction or alteration.—

539 (6) The provisions of s. 403.0874, relating to the
540 incentive-based permitting program, apply to permits issued
541 under this section.

542 Section 16. Subsection (11) of section 403.061, Florida
543 Statutes, is amended to read:

544 403.061 Department; powers and duties.—The department
545 shall have the power and the duty to control and prohibit
546 pollution of air and water in accordance with the law and rules
547 adopted and promulgated by it and, for this purpose, to:

Amendment No. 1

548 (11) Establish ambient air quality and water quality
549 standards for the state as a whole or for any part thereof, and
550 also standards for the abatement of excessive and unnecessary
551 noise. The department shall ~~is authorized to~~ establish
552 reasonable zones of mixing for discharges into waters where
553 assimilative capacity in the receiving water is available. Zones
554 of discharge to groundwater are authorized to a facility or
555 owner's property boundary and extending to the base of a
556 specifically designated aquifer or aquifers. Discharges that
557 occur within a zone of discharge or on land that is over a zone
558 of discharge do not create liability under this chapter or
559 chapter 376 for site cleanup and the exceedance of soil cleanup
560 target levels is not a basis for enforcement or site cleanup.

561 (a) When a receiving body of water fails to meet a water
562 quality standard for pollutants set forth in department rules, a
563 steam electric generating plant discharge of pollutants that is
564 existing or licensed under this chapter on July 1, 1984, may
565 nevertheless be granted a mixing zone, provided that:

566 1. The standard would not be met in the water body in the
567 absence of the discharge;

568 2. The discharge is in compliance with all applicable
569 technology-based effluent limitations;

570 3. The discharge does not cause a measurable increase in
571 the degree of noncompliance with the standard at the boundary of
572 the mixing zone; and

573 4. The discharge otherwise complies with the mixing zone
574 provisions specified in department rules.

Amendment No. 1

575 (b) No mixing zone for point source discharges shall be
576 permitted in Outstanding Florida Waters except for:

577 1. Sources that have received permits from the department
578 prior to April 1, 1982, or the date of designation, whichever is
579 later;

580 2. Blowdown from new power plants certified pursuant to
581 the Florida Electrical Power Plant Siting Act;

582 3. Discharges of water necessary for water management
583 purposes which have been approved by the governing board of a
584 water management district and, if required by law, by the
585 secretary; and

586 4. The discharge of demineralization concentrate which has
587 been determined permittable under s. 403.0882 and which meets
588 the specific provisions of s. 403.0882(4)(a) and (b), if the
589 proposed discharge is clearly in the public interest.

590 (c) The department, by rule, shall establish water quality
591 criteria for wetlands which criteria give appropriate
592 recognition to the water quality of such wetlands in their
593 natural state.

594

595 Nothing in this act shall be construed to invalidate any
596 existing department rule relating to mixing zones. The
597 department shall cooperate with the Department of Highway Safety
598 and Motor Vehicles in the development of regulations required by
599 s. 316.272(1).

600

601 The department shall implement such programs in conjunction with
602 its other powers and duties and shall place special emphasis on

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

603 reducing and eliminating contamination that presents a threat to
604 humans, animals or plants, or to the environment.

605 Section 17. Subsection (7) of section 403.087, Florida
606 Statutes, is amended to read:

607 403.087 Permits; general issuance; denial; revocation;
608 prohibition; penalty.—

609 (7) A permit issued pursuant to this section shall not
610 become a vested right in the permittee. The department may
611 revoke any permit issued by it if it finds that the permit holder
612 knowingly:

613 (a) ~~Has~~ Submitted false or inaccurate information in the
614 his or her application for such permit;

615 (b) ~~Has~~ Violated law, department orders, rules, ~~or~~
616 regulations, or permit conditions which directly relate to such
617 permit and has refused to correct or cure such violations when
618 requested to do so;

619 (c) ~~Has~~ Failed to submit operational reports or other
620 information required by department rule which directly relate to
621 such permit and has refused to correct or cure such violations
622 when requested to do so or regulation; or

623 (d) ~~Has~~ Refused lawful inspection under s. 403.091 at the
624 facility authorized by such permit.

625 Section 18. Subsection (32) of section 403.703, Florida
626 Statutes, is amended to read:

627 403.703 Definitions.—As used in this part, the term:

628 (32) "Solid waste" means sludge unregulated under the
629 federal Clean Water Act or Clean Air Act, sludge from a waste
630 treatment works, water supply treatment plant, or air pollution

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

631 control facility, or garbage, rubbish, refuse, special waste, or
632 other discarded material, including solid, liquid, semisolid, or
633 contained gaseous material resulting from domestic, industrial,
634 commercial, mining, agricultural, or governmental operations.
635 Recovered materials as defined in subsection (24) are not solid
636 waste. The term does not include sludge from a waste treatment
637 works if the sludge is not discarded.

638 Section 19. Subsections (2) and (3) of section 403.707,
639 Florida Statutes, are amended to read:

640 403.707 Permits.—

641 (2) Except as provided in s. 403.722(6), a permit under
642 this section is not required for the following, ~~if the activity~~
643 ~~does not create a public nuisance or any condition adversely~~
644 ~~affecting the environment or public health and does not violate~~
645 ~~other state or local laws, ordinances, rules, regulations, or~~
646 ~~orders:~~

647 (a) Disposal by persons of solid waste resulting from
648 their own activities on their own property, if such waste is
649 ordinary household waste from their residential property or is
650 rocks, soils, trees, tree remains, and other vegetative matter
651 that normally result from land development operations. Disposal
652 of materials that could create a public nuisance or adversely
653 affect the environment or public health, such as white goods;
654 automotive materials, such as batteries and tires; petroleum
655 products; pesticides; solvents; or hazardous substances, is not
656 covered under this exemption.

657 (b) Storage in containers by persons of solid waste
658 resulting from their own activities on their property, leased or

Amendment No. 1

659 rented property, or property subject to a homeowners or
660 maintenance association for which the person contributes
661 association assessments, if the solid waste in such containers
662 is collected at least once a week.

663 (c) Disposal by persons of solid waste resulting from
664 their own activities on their property, if:

665 1. The environmental effects of such disposal on
666 groundwater and surface waters are:

667 a.1. Addressed or authorized by a site certification order
668 issued under part II or a permit issued by the department under
669 this chapter or rules adopted pursuant to this chapter; or

670 b.2. Addressed or authorized by, or exempted from the
671 requirement to obtain, a groundwater monitoring plan approved by
672 the department. As used in this sub-subparagraph, "addressed by
673 a groundwater monitoring plan" means the plan is sufficient to
674 monitor groundwater or surface water for contaminants of
675 concerns associated with the solid waste being disposed. A
676 groundwater monitoring plan can be demonstrated to be sufficient
677 irrespective of whether the groundwater monitoring plan or
678 disposal is referenced in a department permit or other
679 authorization.

680 2. The disposal of solid waste takes place within an area
681 which is over a zone of discharge.

682
683 The disposal of solid waste pursuant to this paragraph does not
684 create liability under this chapter or chapter 376 for site
685 cleanup and the exceedance of soil cleanup target levels is not
686 a basis for enforcement or site cleanup.

Amendment No. 1

687 (d) Disposal by persons of solid waste resulting from
688 their own activities on their own property, if such disposal
689 occurred prior to October 1, 1988.

690 (e) Disposal of solid waste resulting from normal farming
691 operations as defined by department rule. Polyethylene
692 agricultural plastic, damaged, nonsalvageable, untreated wood
693 pallets, and packing material that cannot be feasibly recycled,
694 which are used in connection with agricultural operations
695 related to the growing, harvesting, or maintenance of crops, may
696 be disposed of by open burning if a public nuisance or any
697 condition adversely affecting the environment or the public
698 health is not created by the open burning and state or federal
699 ambient air quality standards are not violated.

700 (f) The use of clean debris as fill material in any area.
701 However, this paragraph does not exempt any person from
702 obtaining any other required permits, and does not affect a
703 person's responsibility to dispose of clean debris appropriately
704 if it is not to be used as fill material.

705 (g) Compost operations that produce less than 50 cubic
706 yards of compost per year when the compost produced is used on
707 the property where the compost operation is located.

708 (3) All applicable provisions of ss. 403.087 and 403.088,
709 relating to permits, apply to the control of solid waste
710 management facilities. Additionally, any permit issued to a
711 solid waste management facility shall be for 20 years. This
712 provision applies to all solid waste management facilities that
713 obtain an operating or construction permit or renew an existing
714 operating or construction permit on or after July 1, 2012.

Amendment No. 1

715 Section 20. Subsection (12) is added to section 403.814,
716 Florida Statutes, to read:

717 403.814 General permits; delegation.—

718 (12) A general permit shall be granted for the
719 construction, alteration, and maintenance of a surface water
720 management system serving a total project area of up to 10
721 acres. The construction of such a system may proceed without any
722 agency action by the department or water management district if:

723 (a) The total project area is less than 10 acres;

724 (b) The total project area involves less than 2 acres of
725 impervious surface;

726 (c) No activities will impact wetlands or other surface
727 waters;

728 (d) No activities are conducted in, on, or over wetlands
729 or other surface waters;

730 (e) Drainage facilities will not include pipes having
731 diameters greater than 24 inches, or the hydraulic equivalent,
732 and will not use pumps in any manner; and

733 (f) The project is not part of a larger common plan of
734 development or sale.

735 Section 21. Paragraph (u) is added to subsection (24) of
736 section 380.06, Florida Statutes, to read:

737 380.06 Developments of regional impact.—

738 (24) STATUTORY EXEMPTIONS.—

739 (u) Any proposed solid mineral mine and any proposed
740 addition to, expansion of, or change to an existing solid
741 mineral mine is exempt from the provisions of this section.

742 Proposed changes to any previously approved solid mineral mine

Amendment No. 1

743 development-of-regional-impact development orders having vested
744 rights is not subject to further review or approval as a
745 development of regional impact or notice of proposed change
746 review or approval pursuant to subsection (19), except for those
747 applications pending as of July 1, 2011, which shall be governed
748 by s. 380.115(2). Notwithstanding the foregoing, however,
749 pursuant to s. 380.115(1), previously approved solid mineral
750 mine development-of-regional-impact development orders shall
751 continue to enjoy vested rights and continue to be effective
752 unless rescinded by the developer.

753

754 If a use is exempt from review as a development of regional
755 impact under paragraphs (a)-(s), but will be part of a larger
756 project that is subject to review as a development of regional
757 impact, the impact of the exempt use must be included in the
758 review of the larger project, unless such exempt use involves a
759 development of regional impact that includes a landowner,
760 tenant, or user that has entered into a funding agreement with
761 the Office of Tourism, Trade, and Economic Development under the
762 Innovation Incentive Program and the agreement contemplates a
763 state award of at least \$50 million.

764 Section 22. Subsection (1) of section 380.0657, Florida
765 Statutes, is amended to read:

766 380.0657 Expedited permitting process for economic
767 development projects.—

768 (1) The Department of Environmental Protection and, as
769 appropriate, the water management districts created under
770 chapter 373 shall adopt programs to expedite the processing of

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

771 wetland resource and environmental resource permits for economic
772 development projects that have been identified by a municipality
773 or county as meeting the definition of target industry
774 businesses under s. 288.106, or any inland multimodal facility,
775 receiving or sending cargo to or from Florida ports, with the
776 exception of those projects requiring approval by the Board of
777 Trustees of the Internal Improvement Trust Fund.

778 Section 23. Paragraph (a) of subsection (3) and
779 subsections (4), (5), (10), (11), (15), (17), and (18) of
780 section 403.973, Florida Statutes, are amended to read:

781 403.973 Expedited permitting; amendments to comprehensive
782 plans.—

783 (3) (a) The secretary shall direct the creation of regional
784 permit action teams for the purpose of expediting review of
785 permit applications and local comprehensive plan amendments
786 submitted by:

787 1. Businesses creating at least 50 jobs or a commercial or
788 industrial development project that will be occupied by
789 businesses that would individually or collectively create at
790 least 50 jobs; or

791 2. Businesses creating at least 25 jobs if the project is
792 located in an enterprise zone, or in a county having a
793 population of fewer than 75,000 or in a county having a
794 population of fewer than 125,000 which is contiguous to a county
795 having a population of fewer than 75,000, as determined by the
796 most recent decennial census, residing in incorporated and
797 unincorporated areas of the county.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

798 (4) The regional teams shall be established through the
799 execution of a project-specific memoranda of agreement developed
800 and executed by the applicant and the secretary, with input
801 solicited from ~~the office and~~ the respective heads of the
802 Department of Community Affairs, the Department of
803 Transportation and its district offices, the Department of
804 Agriculture and Consumer Services, the Fish and Wildlife
805 Conservation Commission, appropriate regional planning councils,
806 appropriate water management districts, and voluntarily
807 participating municipalities and counties. The memoranda of
808 agreement should also accommodate participation in this
809 expedited process by other local governments and federal
810 agencies as circumstances warrant.

811 (5) In order to facilitate local government's option to
812 participate in this expedited review process, the secretary
813 shall, in cooperation with local governments and participating
814 state agencies, create a standard form memorandum of agreement.
815 The standard form of the memorandum of agreement shall be used
816 only if the local government participates in the expedited
817 review process. In the absence of local government
818 participation, only the project-specific memorandum of agreement
819 executed pursuant to subsection (4) applies. A local government
820 shall hold a duly noticed public workshop to review and explain
821 to the public the expedited permitting process and the terms and
822 conditions of the standard form memorandum of agreement.

823 (10) The memoranda of agreement may provide for the waiver
824 or modification of procedural rules prescribing forms, fees,
825 procedures, or time limits for the review or processing of

Amendment No. 1

826 permit applications under the jurisdiction of those agencies
827 that are members of the regional permit action team party to the
828 memoranda of agreement. Notwithstanding any other provision of
829 law to the contrary, a memorandum of agreement must to the
830 extent feasible provide for proceedings and hearings otherwise
831 held separately by the parties to the memorandum of agreement to
832 be combined into one proceeding or held jointly and at one
833 location. Such waivers or modifications shall not be available
834 for permit applications governed by federally delegated or
835 approved permitting programs, the requirements of which would
836 prohibit, or be inconsistent with, such a waiver or
837 modification.

838 (11) The ~~standard form for~~ memoranda of agreement shall
839 include guidelines to be used in working with state, regional,
840 and local permitting authorities. Guidelines may include, but
841 are not limited to, the following:

842 (a) A central contact point for filing permit applications
843 and local comprehensive plan amendments and for obtaining
844 information on permit and local comprehensive plan amendment
845 requirements;

846 (b) Identification of the individual or individuals within
847 each respective agency who will be responsible for processing
848 the expedited permit application or local comprehensive plan
849 amendment for that agency;

850 (c) A mandatory preapplication review process to reduce
851 permitting conflicts by providing guidance to applicants
852 regarding the permits needed from each agency and governmental
853 entity, site planning and development, site suitability and

Amendment No. 1

854 limitations, facility design, and steps the applicant can take
855 to ensure expeditious permit application and local comprehensive
856 plan amendment review. As a part of this process, the first
857 interagency meeting to discuss a project shall be held within 14
858 days after the secretary's determination that the project is
859 eligible for expedited review. Subsequent interagency meetings
860 may be scheduled to accommodate the needs of participating local
861 governments that are unable to meet public notice requirements
862 for executing a memorandum of agreement within this timeframe.
863 This accommodation may not exceed 45 days from the secretary's
864 determination that the project is eligible for expedited review;

865 (d) The preparation of a single coordinated project
866 description form and checklist and an agreement by state and
867 regional agencies to reduce the burden on an applicant to
868 provide duplicate information to multiple agencies;

869 (e) Establishment of a process for the adoption and review
870 of any comprehensive plan amendment needed by any certified
871 project within 90 days after the submission of an application
872 for a comprehensive plan amendment. However, the memorandum of
873 agreement may not prevent affected persons as defined in s.
874 163.3184 from appealing or participating in this expedited plan
875 amendment process and any review or appeals of decisions made
876 under this paragraph; and

877 (f) Additional incentives for an applicant who proposes a
878 project that provides a net ecosystem benefit.

879 (15) The secretary office, working with the agencies
880 providing cooperative assistance and input regarding the
881 memoranda of agreement, shall review sites proposed for the

Amendment No. 1

882 location of facilities eligible for the Innovation Incentive
883 Program under s. 288.1089. Within 20 days after the request for
884 the review by the secretary office, the agencies shall provide
885 to the secretary office a statement as to each site's necessary
886 permits under local, state, and federal law and an
887 identification of significant permitting issues, which if
888 unresolved, may result in the denial of an agency permit or
889 approval or any significant delay caused by the permitting
890 process.

891 (17) The secretary office shall be responsible for
892 certifying a business as eligible for undergoing expedited
893 review under this section. Enterprise Florida, Inc., a county or
894 municipal government, or the Rural Economic Development
895 Initiative may recommend to the secretary Office of Tourism,
896 ~~Trade, and Economic Development~~ that a project meeting the
897 minimum job creation threshold undergo expedited review.

898 (18) The secretary office, working with the Rural Economic
899 Development Initiative and the regional permit action team
900 ~~agencies participating in the memoranda of agreement~~, shall
901 provide technical assistance in preparing permit applications
902 and local comprehensive plan amendments for counties having a
903 population of fewer than 75,000 residents, or counties having
904 fewer than 125,000 residents which are contiguous to counties
905 having fewer than 75,000 residents. Additional assistance may
906 include, but not be limited to, guidance in land development
907 regulations and permitting processes, working cooperatively with
908 state, regional, and local entities to identify areas within
909 these counties which may be suitable or adaptable for

Amendment No. 1

910 preclearance review of specified types of land uses and other
911 activities requiring permits.

912 Section 24. Subsection (10) of section 163.3180, Florida
913 Statutes, is amended to read:

914 163.3180 Concurrency.—

915 (10) (a) Except in transportation concurrency exception
916 areas, with regard to roadway facilities on the Strategic
917 Intermodal System designated in accordance with s. 339.63, local
918 governments shall adopt the level-of-service standard
919 established by the Department of Transportation by rule.
920 However, if the Office of Tourism, Trade, and Economic
921 Development concurs in writing with the local government that
922 the proposed development is for a qualified job creation project
923 under s. 288.0656 or s. 403.973, the affected local government,
924 after consulting with the Department of Transportation, may
925 provide for a waiver of transportation concurrency for the
926 project. For all other roads on the State Highway System, local
927 governments shall establish an adequate level-of-service
928 standard that need not be consistent with any level-of-service
929 standard established by the Department of Transportation. In
930 establishing adequate level-of-service standards for any
931 arterial roads, or collector roads as appropriate, which
932 traverse multiple jurisdictions, local governments shall
933 consider compatibility with the roadway facility's adopted
934 level-of-service standards in adjacent jurisdictions. Each local
935 government within a county shall use a professionally accepted
936 methodology for measuring impacts on transportation facilities
937 for the purposes of implementing its concurrency management

Amendment No. 1

938 system. Counties are encouraged to coordinate with adjacent
939 counties, and local governments within a county are encouraged
940 to coordinate, for the purpose of using common methodologies for
941 measuring impacts on transportation facilities for the purpose
942 of implementing their concurrency management systems.

943 (b) There shall be a limited exemption from the Strategic
944 Intermodal System adopted level-of-service standards for new or
945 redevelopment projects consistent with the local comprehensive
946 plan as inland multimodal facilities receiving or sending cargo
947 for distribution and providing cargo storage, consolidation,
948 repackaging, and transfer of goods, and which may, if developed
949 as proposed, include other intermodal terminals, related
950 transportation facilities, warehousing and distribution
951 facilities, and associated office space, light industrial,
952 manufacturing, and assembly uses. The limited exemption applies
953 if the project meets all of the following criteria:

954 1. The project will not cause the adopted level-of-service
955 standards for the Strategic Intermodal System facilities to be
956 exceeded by more than 150 percent within the first 5 years of
957 the project's development.

958 2. The project, upon completion, would result in the
959 creation of at least 50 full-time jobs.

960 3. The project is compatible with existing and planned
961 adjacent land uses.

962 4. The project is consistent with local and regional
963 economic development goals or plans.

964 5. The project is proximate to regionally significant road
965 and rail transportation facilities.

Amendment No. 1

966 6. The project is proximate to a community having an
967 unemployment rate, as of the date of the development order
968 application, which is 10 percent or more above the statewide
969 reported average.

970 Section 25. Subsections (1) and (2), paragraph (c) of
971 subsection (3), and subsection (4) of section 373.4137, Florida
972 Statutes, are amended to read:

973 373.4137 Mitigation requirements for specified
974 transportation projects.—

975 (1) The Legislature finds that environmental mitigation
976 for the impact of transportation projects proposed by the
977 Department of Transportation or a transportation authority
978 established pursuant to chapter 348 or chapter 349 can be more
979 effectively achieved by regional, long-range mitigation planning
980 rather than on a project-by-project basis. It is the intent of
981 the Legislature that mitigation to offset the adverse effects of
982 these transportation projects be funded by the Department of
983 Transportation and be carried out by the water management
984 districts, through including the use of privately owned
985 mitigation banks where available or, if a privately owned
986 mitigation bank is not available, through any other mitigation
987 options that satisfy state and federal requirements established
988 pursuant to this part.

989 (2) Environmental impact inventories for transportation
990 projects proposed by the Department of Transportation or a
991 transportation authority established pursuant to chapter 348 or
992 chapter 349 shall be developed as follows:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

993 (a) By July 1 of each year, the Department of
994 Transportation or a transportation authority established
995 pursuant to chapter 348 or chapter 349 which chooses to
996 participate in this program shall submit to the water management
997 districts a list ~~copy~~ of its projects in the adopted work
998 program and an environmental impact inventory of habitats
999 addressed in the rules adopted pursuant to this part and s. 404
1000 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted
1001 by its plan of construction for transportation projects in the
1002 next 3 years of the tentative work program. The Department of
1003 Transportation or a transportation authority established
1004 pursuant to chapter 348 or chapter 349 may also include in its
1005 environmental impact inventory the habitat impacts of any future
1006 transportation project. The Department of Transportation and
1007 each transportation authority established pursuant to chapter
1008 348 or chapter 349 may fund any mitigation activities for future
1009 projects using current year funds.

1010 (b) The environmental impact inventory shall include a
1011 description of these habitat impacts, including their location,
1012 acreage, and type; state water quality classification of
1013 impacted wetlands and other surface waters; any other state or
1014 regional designations for these habitats; and a list ~~survey~~ of
1015 threatened species, endangered species, and species of special
1016 concern affected by the proposed project.

1017 (3)

1018 (c) Except for current mitigation projects in the
1019 monitoring and maintenance phase and except as allowed by
1020 paragraph (d), the water management districts may request a

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1021 transfer of funds from an escrow account no sooner than 30 days
1022 prior to the date the funds are needed to pay for activities
1023 associated with development or implementation of the approved
1024 mitigation plan described in subsection (4) for the current
1025 fiscal year, including, but not limited to, design, engineering,
1026 production, and staff support. Actual conceptual plan
1027 preparation costs incurred before plan approval may be submitted
1028 to the Department of Transportation or the appropriate
1029 transportation authority each year with the plan. The conceptual
1030 plan preparation costs of each water management district will be
1031 paid from mitigation funds associated with the environmental
1032 impact inventory for the current year. The amount transferred to
1033 the escrow accounts each year by the Department of
1034 Transportation and participating transportation authorities
1035 established pursuant to chapter 348 or chapter 349 shall
1036 correspond to a cost per acre of \$75,000 multiplied by the
1037 projected acres of impact identified in the environmental impact
1038 inventory described in subsection (2). However, the \$75,000 cost
1039 per acre does not constitute an admission against interest by
1040 the state or its subdivisions nor is the cost admissible as
1041 evidence of full compensation for any property acquired by
1042 eminent domain or through inverse condemnation. Each July 1, the
1043 cost per acre shall be adjusted by the percentage change in the
1044 average of the Consumer Price Index issued by the United States
1045 Department of Labor for the most recent 12-month period ending
1046 September 30, compared to the base year average, which is the
1047 average for the 12-month period ending September 30, 1996. Each
1048 quarter, the projected acreage of impact shall be reconciled

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1049 with the acreage of impact of projects as permitted, including
1050 permit modifications, pursuant to this part and s. 404 of the
1051 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer
1052 of funds shall be adjusted accordingly to reflect the acreage of
1053 impacts as permitted. The Department of Transportation and
1054 participating transportation authorities established pursuant to
1055 chapter 348 or chapter 349 are authorized to transfer such funds
1056 from the escrow accounts to the water management districts to
1057 carry out the mitigation programs. Environmental mitigation
1058 funds that are identified or maintained in an escrow account for
1059 the benefit of a water management district may be released if
1060 the associated transportation project is excluded in whole or
1061 part from the mitigation plan. For a mitigation project that is
1062 in the maintenance and monitoring phase, the water management
1063 district may request and receive a one-time payment based on the
1064 project's expected future maintenance and monitoring costs. Upon
1065 disbursement of the final maintenance and monitoring payment,
1066 the department or the participating transportation authorities'
1067 obligation will be satisfied, the water management district will
1068 have continuing responsibility for the mitigation project, and
1069 the escrow account for the project established by the Department
1070 of Transportation or the participating transportation authority
1071 may be closed. Any interest earned on these disbursed funds
1072 shall remain with the water management district and must be used
1073 as authorized under this section.

1074 (4) Prior to March 1 of each year, each water management
1075 district, in consultation with the Department of Environmental
1076 Protection, the United States Army Corps of Engineers, the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1077 Department of Transportation, participating transportation
1078 authorities established pursuant to chapter 348 or chapter 349,
1079 and other appropriate federal, state, and local governments, and
1080 other interested parties, including entities operating
1081 mitigation banks, shall develop a plan for the primary purpose
1082 of complying with the mitigation requirements adopted pursuant
1083 to this part and 33 U.S.C. s. 1344. In developing such plans,
1084 the districts shall utilize sound ecosystem management practices
1085 to address significant water resource needs and shall focus on
1086 activities of the Department of Environmental Protection and the
1087 water management districts, such as surface water improvement
1088 and management (SWIM) projects and lands identified for
1089 potential acquisition for preservation, restoration or
1090 enhancement, and the control of invasive and exotic plants in
1091 wetlands and other surface waters, to the extent that such
1092 activities comply with the mitigation requirements adopted under
1093 this part and 33 U.S.C. s. 1344. In determining the activities
1094 to be included in such plans, the districts shall ~~also consider~~
1095 ~~the purchase of~~ credits from public or private mitigation banks
1096 permitted under s. 373.4136 and associated federal authorization
1097 and shall include such purchase as a part of the mitigation plan
1098 when such purchase would offset the impact of the transportation
1099 project, ~~provide equal benefits to the water resources than~~
1100 ~~other mitigation options being considered, and provide the most~~
1101 ~~cost-effective mitigation option.~~ The mitigation plan shall be
1102 submitted to the water management district governing board, or
1103 its designee, for review and approval. At least 14 days prior to
1104 approval, the water management district shall provide a copy of

Amendment No. 1

1105 the draft mitigation plan to any person who has requested a
1106 copy.

1107 (a) For each transportation project with a funding request
1108 for the next fiscal year, the mitigation plan must include a
1109 brief explanation of why a mitigation bank was or was not chosen
1110 as a mitigation option, including an estimation of identifiable
1111 costs of the mitigation bank and nonbank options to the extent
1112 practicable.

1113 (b) Specific projects may be excluded from the mitigation
1114 plan, in whole or in part, and shall not be subject to this
1115 section upon the election agreement of the Department of
1116 Transportation, ~~or~~ a transportation authority if applicable, or
1117 ~~and~~ the appropriate water management district ~~that the inclusion~~
1118 ~~of such projects would hamper the efficiency or timeliness of~~
1119 ~~the mitigation planning and permitting process. The water~~
1120 ~~management district may choose to exclude a project in whole or~~
1121 ~~in part if the district is unable to identify mitigation that~~
1122 ~~would offset impacts of the project.~~

1123 Section 26. Subsection (5) is added to section 526.203,
1124 Florida Statutes, to read:

1125 526.203 Renewable fuel standard.-

1126 (5) This section does not prohibit the sale of unblended
1127 fuels for the uses exempted under subsection (3).

1128 Section 27. The uniform mitigation assessment rules
1129 adopted by the Department of Environmental Protection in chapter
1130 62-345, Florida Administrative Code, as of January 1, 2011, to
1131 fulfill the mandate of s. 373.414(18), Florida Statutes, are
1132 changed as follows:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1133 (1) Rule 62-345.100(11), Florida Administrative Code, is
1134 added to read: "(11) The Department of Environmental Protection
1135 shall be responsible for ensuring statewide coordination and
1136 consistency in the application of this rule by providing
1137 training and guidance to other relevant state agencies, water
1138 management districts, and local governments. Not less than every
1139 two years, the Department of Environmental Protection shall
1140 coordinate with the water management districts to verify
1141 consistent application of the methodology. To ensure that this
1142 rule is interpreted and applied uniformly, any interpretation or
1143 application of this rule by any agency or local government that
1144 differs from the Department of Environmental Protection's
1145 interpretation or application of this rule is incorrect and
1146 invalid. The Department of Environmental Protection's
1147 interpretation, application, and implementation of this rule
1148 shall be the only acceptable method."

1149 (2) Rule 62-345.200(12), Florida Administrative Code, is
1150 changed to read: "(12) "Without preservation assessment" means
1151 a reasonably anticipated use of the assessment area, and the
1152 temporary or permanent effects of those uses on the assessment
1153 area, considering the protection provided by existing easements,
1154 regulations, and land use restrictions. Reasonably anticipated
1155 uses include those activities that have been previously
1156 implemented within the assessment area or adjacent to the
1157 assessment area, or are considered to be common uses in the
1158 region without the need for additional authorizations or zoning,
1159 land use code, or comprehensive plan changes."

Amendment No. 1

1160 (3) Rule 62-345.300(1), Florida Administrative Code, is
1161 changed to read: "(1) When an applicant proposes mitigation for
1162 impacts to wetlands and surface waters as part of an
1163 environmental resource permit or wetland resource permit
1164 application, the applicant will be responsible for preparing and
1165 submitting the necessary supporting information for the
1166 application of Rules 62-345.400-62-345.600, F.A.C., of this
1167 chapter and the reviewing agency will be responsible for
1168 verifying this information , contacting the applicant to address
1169 any insufficiencies or need for clarification, and approving the
1170 amount of mitigation necessary to offset the proposed impacts.
1171 When an applicant submits a mitigation bank or regional
1172 mitigation permit application, the applicant will be responsible
1173 for preparing and submitting the necessary supporting
1174 information for the application of Rules 62-345.400-.600,
1175 F.A.C., of this chapter and the reviewing agency will be
1176 responsible for verifying this information, contacting the
1177 applicant to address any insufficiencies or need for
1178 clarification, and approving the potential amount of mitigation
1179 to be provided by the bank or regional mitigation area. If an
1180 applicant submits either Part I or Part II or both, the
1181 reviewing agency shall notify the applicant of any inadequacy in
1182 the submittal or disagreement with the information provided.
1183 (4) Rule 62-345.300(3)(a), Florida Administrative Code, is
1184 changed to read: "(a) Conduct qualitative characterization of
1185 both the impact and mitigation assessment areas (Part I) that
1186 identifies the assessment area's native community type and the
1187 functions to fish and wildlife and their habitat, describes the

Amendment No. 1

1188 current condition and functions provided by the assessment area,
1189 and summarizes the project condition of the assessment area. The
1190 purpose of Part I is to provide a framework for comparison of
1191 the assessment area to the optimal condition and
1192 location/landscape setting of that native community type.
1193 Another purpose of this part is to note any relevant factors of
1194 the assessment area that are discovered by site inspectors,
1195 including use by listed species."

1196 (5) Rule 62-345.300(3)(c), Florida Administrative Code, is
1197 changed to read: "(c) Adjust the gain in ecological value from
1198 either upland or wetland preservation in accordance with
1199 subsection 62-345.500(3), F.A.C. when preservation is the only
1200 mitigation activity proposed (absent creation, restoration, or
1201 enhancement activities) at a specified assessment area."

1202 (6) The introductory paragraph of rule 62-345.400, Florida
1203 Administrative Code, is changed to read: "An impact or
1204 mitigation assessment area must be described with sufficient
1205 detail to provide a frame of reference for the type of community
1206 being evaluated and to identify the functions that will be
1207 evaluated. When an assessment area is an upland proposed as
1208 mitigation, functions must be related to the benefits provided
1209 by that upland to fish and wildlife of associated wetlands or
1210 other surface waters. Information for each assessment area must
1211 be sufficient to identify the functions beneficial to fish and
1212 wildlife and their habitat that are characteristic of the
1213 assessment area's native community type, based on currently
1214 available information, such as current and historic aerial
1215 photographs, topographic maps, geographic information system

Amendment No. 1

1216 data and maps, site visits, scientific articles, journals, other
1217 professional reports, field verification when needed, and
1218 reasonable scientific judgment. For wetlands and other surface
1219 waters, other than those created for mitigation, that have been
1220 created on sites where such did not exist before the creation,
1221 such as borrow pits, ditches, and canals, refer to the native
1222 community type or surface water body to which it is most
1223 analogous in function for the given landscape position. For
1224 altered natural communities or surface waterbodies, refer to the
1225 native community type or surface water body present in the
1226 earliest available aerial photography except that if the
1227 alteration has been of such a degree and extent that a clearly
1228 defined different native community type is now present and self-
1229 sustaining, in which case the native community type shall be
1230 identified as the one the present community most closely
1231 resembles. In determining the historic native community type,
1232 all currently available information shall be used to ensure the
1233 highest degree of accuracy. The information provided by the
1234 applicant for each assessment area must address the following,
1235 as applicable:"

1236 (7) Rule 62-345.500(1)(a), Florida Administrative Code, is
1237 changed to read: "(a) Current condition or, in the case of
1238 preservation only mitigation, without preservation - The current
1239 condition of an assessment area is scored using the information
1240 in this part to determine the degree to which the assessment
1241 area currently provides the relative value of functions
1242 identified in Part I for the native community type. In the case
1243 of preservation-only mitigation, the "without preservation"

Amendment No. 1

1244 assessment utilizes the information in this part to determine
1245 the degree to which the assessment area could provide the
1246 relative value of functions identified in Part I for the native
1247 community type assuming the area is not preserved. For
1248 assessment areas where previous impacts that affect the current
1249 condition are temporary in nature, consideration will be given
1250 to the inherent functions of these areas relative to seasonal
1251 hydrologic changes, and expected vegetation regeneration and
1252 projected habitat functions if the use of the area were to
1253 remain unchanged. When evaluating impacts to a previously
1254 permitted mitigation site that has not achieved its intended
1255 function, the reviewing agency shall consider the functions the
1256 mitigation site was intended to offset and any delay or
1257 reduction in offsetting those functions that may be caused by
1258 the project. Previous construction or alteration undertaken in
1259 violation of Part IV, Chapter 373, F.S., or Sections 403.91-
1260 .929, F.S. (1984 Supp.), as amended, or rule, order or permit
1261 adopted or issued thereunder, will not be considered as having
1262 diminished the condition and relative value of a wetland or
1263 surface water, when assigning a score under this part. When
1264 evaluating wetlands or other surface waters that are within an
1265 area that is subject to a recovery strategy pursuant to Chapter
1266 40D-80, F.A.C., impacts from water withdrawals will not be
1267 considered when assigning a score under this part."

1268 (8) Rule 62-345.500(1)(b), Florida Administrative Code, is
1269 changed to read: "(b) "With mitigation" or "with impact" - The
1270 "with mitigation" and "with impact" assessments are based on the
1271 reasonably expected outcome, which may represent an increase,

Amendment No. 1

1272 decrease, or no change in value relative to current conditions.

1273 For the "with impact" and "with mitigation" assessments, the

1274 evaluator will assume that all other necessary regulatory

1275 authorizations required for the proposed project have been

1276 obtained and that construction will be consistent with such

1277 authorizations. The "with mitigation" assessment will be scored

1278 only when reasonable assurance has been provided that the

1279 proposed plan can be conducted. When scoring the "with

1280 mitigation" assessment for assessment areas involving

1281 enhancement, restoration, or creation activities and that are

1282 proposed to be placed under a conservation easement or other

1283 similar land protection mechanism, the with mitigation score

1284 shall reflect the combined preservation and

1285 enhancement/restoration/creation value of the specified

1286 assessment area, and the Preservation Adjustment Factor shall

1287 not apply to these mitigation assessments."

1288 (9) Rule 62-345.500(2), Florida Administrative Code, is

1289 changed to read: "(2) Uplands function as the contributing

1290 watershed to wetlands and are necessary to maintain the

1291 ecological value of associated wetlands or other surface waters.

1292 Upland mitigation assessment areas shall be scored using the

1293 landscape support/location and community structure indicators

1294 listed in subsection 62-345.500(6), F.A.C. Scoring of these

1295 indicators for the upland assessment areas shall be based on the

1296 degree to which the relative value of functions of the upland

1297 assessment area provide benefits to the fish and wildlife of the

1298 associated wetlands or other surface waters, considering the

1299 native community type, current condition, and anticipated

Amendment No. 1

1300 ecological value of the uplands and associated wetlands and
1301 other surface waters.

1302 (a) For upland preservation, the without preservation
1303 assessment utilizes the information in this part to determine
1304 the degree to which the assessment area could provide the
1305 relative value of functions identified in Part I for the native
1306 community type (to include benefits to fish and wildlife of the
1307 associated wetlands or other surface waters) assuming the upland
1308 area is not preserved. The gain in ecological value is
1309 determined by the mathematical difference between the score of
1310 the upland assessment area with the proposed preservation
1311 measure and the upland assessment area without the proposed
1312 preservation measure. When the community structure is scored as
1313 "zero", then the location and landscape support shall also be
1314 "zero". However, an increase in the location and landscape
1315 support score can also occur when the community structure is
1316 scored other than "zero". The resulting delta is then multiplied
1317 by the preservation adjustment factor contained in subsection
1318 62-345.500(3), F.A.C.

1319 (b) For upland enhancement or restoration, the current
1320 condition of an assessment area is scored using the information
1321 in this part to determine the degree to which the assessment
1322 area currently provides the relative value of functions
1323 identified in Part I for the native community type (to include
1324 benefits to fish and wildlife of the associated wetlands or
1325 other surface waters). The value provided shall be determined by
1326 the mathematical difference between the score of the upland

Amendment No. 1

1327 assessment area with the proposed restoration or enhancement
1328 measure and the current condition of the upland assessment area.

1329 (c) For uplands proposed to be converted to wetlands or
1330 other surface waters through creation or restoration measures,
1331 the upland areas shall be scored as "zero" in their current
1332 condition. Only the "with mitigation" assessment shall be scored
1333 in accordance with the indicators listed in subsection 62-
1334 345.500(6), F.A.C."

1335 (10) Rule 62-345.500(3), Florida Administrative Code, is
1336 changed to read: "(3)(a) When an assessment area's mitigation
1337 plan consists of preservation only (absent creation,
1338 restoration, or enhancement activities), the "with mitigation"
1339 assessment shall consider the potential of the assessment area
1340 to perform current functions in the long term, considering the
1341 protection mechanism proposed, and the "without preservation"
1342 assessment shall evaluate the assessment area's functions
1343 considering the reasonably anticipated use of the assessment
1344 area and the temporary or permanent effects of those uses in the
1345 assessment area considering the protection provided by existing
1346 easements, regulations, and land use restrictions. The gain in
1347 ecological value is determined by the mathematical difference
1348 between the Part II scores for the "with mitigation" and
1349 "without preservation" (the delta) multiplied by a preservation
1350 adjustment factor. The preservation adjustment factor shall be
1351 scored on a scale from 0.2 (minimum preservation value) to 1
1352 (optimal preservation value), on one-tenth increments. The score
1353 shall be calculated using the scoring method set forth in the

Amendment No. 1

1354 "Preservation Adjustment Factor Worksheet" for each of the
1355 following considerations:

1356 1. The extent to which proposed management activities
1357 within the preserve area promote natural ecological conditions
1358 such as fire patterns or the exclusion of invasive exotic
1359 species.

1360 2. The ecological and hydrological relationship between
1361 wetlands, other surface waters, and uplands to be preserved.

1362 3. The scarcity of the habitat provided by the proposed
1363 preservation area and the degree to which listed species use the
1364 area.

1365 4. The proximity of the area to be preserved to areas of
1366 national, state, or regional ecological significance, such as
1367 national or state parks, Outstanding Florida Waters, and other
1368 regionally significant ecological resources or habitats, such as
1369 lands acquired or to be acquired through governmental or non-
1370 profit land acquisition programs for environmental conservation,
1371 and whether the areas to be preserved include corridors between
1372 these habitats.

1373 5. The extent and likelihood of potential adverse impacts
1374 if the assessment area were not preserved.

1375 (b) Each of these considerations shall be scored on a
1376 relative scale of zero (0) to two-tenths (0.2) based on the
1377 value provided [optimal (0.2), low to moderate (0.1), and no
1378 value (0)] and summed together to calculate the preservation
1379 adjustment factor. The minimum value to be assigned to a
1380 specified assessment area will be 0.2. The preservation
1381 adjustment factor is multiplied by the mitigation delta assigned

Amendment No. 1

1382 to the preservation proposal to yield an adjusted mitigation
1383 delta for preservation."

1384 (11) Rule 62-345.500(6)(a), Florida Administrative Code,
1385 is changed to read: "(6) Three categories of indicators of
1386 wetland function (landscape support, water environment and
1387 community structure) listed below are to be scored to the extent
1388 that they affect the ecological value of the assessment area.
1389 Upland mitigation assessment areas shall be scored for landscape
1390 support/location and community structure only.

1391 (a) Landscape Support/Location - The value of functions
1392 provided by an assessment area to fish and wildlife are
1393 influenced by the landscape attributes of the assessment area
1394 and its relationship with surrounding areas. While the
1395 geographic location of the assessment area does not change, the
1396 ecological relationship between the assessment area and
1397 surrounding landscape may vary from the current condition to the
1398 "with impact" and "with mitigation" conditions. Additionally,
1399 the assessment area may be located within a regional corridor or
1400 in proximity to areas of national, state, or regional
1401 significance, and the "with mitigation" condition may serve to
1402 complement the regional ecological value identified for these
1403 areas. Many species that nest, feed, or find cover in a specific
1404 habitat or habitat type are also dependent in varying degrees
1405 upon other habitats, including upland, wetland, and other
1406 surface waters, that are present in the regional landscape. For
1407 example, many amphibian species require small isolated wetlands
1408 for breeding pools and for juvenile life stages, but may spend
1409 the remainder of their adult lives in uplands or other wetland

Amendment No. 1

1410 habitats. If these habitats are unavailable or poorly connected
1411 in the landscape or are degraded, then the value of functions
1412 provided by the assessment area to the fish and wildlife
1413 identified in Part I is reduced. The assessment area shall also
1414 be considered to the extent that fish and wildlife utilizing the
1415 area have the opportunity to access other habitats necessary to
1416 fulfill their life history requirements. The availability,
1417 connectivity, and quality of offsite habitats, and offsite land
1418 uses which might adversely impact fish and wildlife utilizing
1419 these habitats, are factors to be considered in assessing the
1420 landscape support of the assessment area. The location of the
1421 assessment area shall be considered relative to offsite and
1422 upstream hydrologic contributing areas and to downstream and
1423 other connected waters to the extent that the diversity and
1424 abundance of fish and wildlife and their habitats is affected in
1425 these areas. The opportunity for the assessment area to provide
1426 offsite water quantity and quality benefits to fish and wildlife
1427 and their habitats downstream and in connected waters is
1428 assessed based on the degree of hydrologic connectivity between
1429 these habitats and the extent to which offsite habitats are
1430 affected by discharges from the assessment area. It is
1431 recognized that isolated wetlands lack surface water connections
1432 to downstream waters and as a result, do not perform certain
1433 functions (e.g., detrital transport) to benefit downstream fish
1434 and wildlife; for such wetlands, this consideration does not
1435 apply.

1436 1. A score of (10) means the assessment area, in
1437 combination with the surrounding landscape, provides full

Amendment No. 1

1438 opportunity for the assessment area to perform beneficial
1439 functions at an optimal level. The score is based on reasonable
1440 scientific judgment and characterized by a predominance of the
1441 following, as applicable:

1442 a. Habitats outside the assessment area represent the full
1443 range of habitats needed to fulfill the life history
1444 requirements of all wildlife listed in Part I and are available
1445 in sufficient quantity to provide optimal support for these
1446 wildlife.

1447 b. Invasive exotic or other invasive plant species are not
1448 present in the proximity of the assessment area.

1449 c. Wildlife access to and from habitats outside the
1450 assessment area is not limited by distance to these habitats and
1451 is unobstructed by landscape barriers.

1452 d. Functions of the assessment area that benefit
1453 downstream fish and wildlife are not limited by distance or
1454 barriers that reduce the opportunity for the assessment area to
1455 provide these benefits.

1456 e. Land uses outside the assessment area have no adverse
1457 impacts on wildlife in the assessment area as listed in Part I.

1458 f. The opportunity for the assessment area to provide
1459 benefits to downstream or other hydrologically connected areas
1460 is not limited by hydrologic impediments or flow restrictions.

1461 g. Downstream or other hydrologically connected habitats
1462 are critically or solely dependent on discharges from the
1463 assessment area and could suffer severe adverse impacts if the
1464 quality or quantity of these discharges were altered.

Amendment No. 1

1465 h. For upland mitigation assessment areas, the uplands
1466 provide a full suite of ecological values so as to provide
1467 optimal protection and support of wetland functions.

1468 2. A score of (7) means that, compared to the optimal
1469 condition of the native community type, the opportunity for the
1470 assessment area to perform beneficial functions in combination
1471 with the surrounding landscape is limited to 70% of the optimal
1472 ecological value. The score is based on reasonable scientific
1473 judgment and characterized by a predominance of the following,
1474 as applicable:

1475 a. Habitats outside the assessment area are available in
1476 sufficient quantity and variety to provide optimal support for
1477 most, but not all, of the wildlife listed in Part I, or certain
1478 wildlife populations may be limited due to the reduced
1479 availability of habitats needed to fulfill their life history
1480 requirements.

1481 b. Some of the plant community composition in the
1482 proximity of the assessment area consists of invasive exotic or
1483 other invasive plant species, but cover is minimal and has
1484 minimal adverse effect on the functions provided by the
1485 assessment area.

1486 c. Wildlife access to and from habitats outside the
1487 assessment area is partially limited, either by distance or by
1488 the presence of barriers that impede wildlife movement.

1489 d. Functions of the assessment area that benefit fish and
1490 wildlife downstream are somewhat limited by distance or barriers
1491 that reduce the opportunity for the assessment area to provide
1492 these benefits.

Amendment No. 1

1493 e. Land uses outside the assessment area have minimal
1494 adverse impacts on fish and wildlife identified in Part I.

1495 f. The opportunity for the assessment area to provide
1496 benefits to downstream or other hydrologically connected areas
1497 is limited by hydrologic impediments or flow restrictions such
1498 that these benefits are provided with lesser frequency or lesser
1499 magnitude than would occur under optimal conditions.

1500 g. Downstream or other hydrologically connected habitats
1501 derive significant benefits from discharges from the assessment
1502 area and could suffer substantial adverse impacts if the quality
1503 or quantity of these discharges were altered.

1504 h. For upland mitigation assessment areas, the uplands
1505 provide significant, but suboptimal ecological values and
1506 protection of wetland functions.

1507 3. A score of (4) means that, compared to the optimal
1508 condition of the native community type, the opportunity for the
1509 assessment area to perform beneficial functions in combination
1510 with the surrounding landscape is limited to 40% of the optimal
1511 ecological value. The score is based on reasonable scientific
1512 judgment and characterized by a predominance of the following,
1513 as applicable:

1514 a. Availability of habitats outside the assessment area is
1515 fair, but fails to provide support for some species of wildlife
1516 listed in Part I, or provides minimal support for many of the
1517 species listed in Part I.

1518 b. The majority of the plant community composition in the
1519 proximity of the assessment area consists of invasive exotic or

Amendment No. 1

1520 other invasive plant species that adversely affect the functions
1521 provided by the assessment area.

1522 c. Wildlife access to and from habitats outside the
1523 assessment area is substantially limited, either by distance or
1524 by the presence of barriers which impede wildlife movement.

1525 d. Functions of the assessment area that benefit fish and
1526 wildlife downstream are limited by distance or barriers that
1527 substantially reduce the opportunity for the assessment area to
1528 provide these benefits.

1529 e. Land uses outside the assessment area have significant
1530 adverse impacts on fish and wildlife identified in Part I.

1531 f. The opportunity for the assessment area to provide
1532 benefits to downstream or other hydrologically connected areas
1533 is limited by hydrologic impediments or flow restrictions, such
1534 that these benefits are rarely provided or are provided at
1535 greatly reduced levels compared to optimal conditions.

1536 g. Downstream or other hydrologically connected habitats
1537 derive minimal benefits from discharges from the assessment area
1538 but could be adversely impacted if the quality or quantity of
1539 these discharges were altered.

1540 h. For upland mitigation assessment areas, the uplands
1541 provide minimal ecological values and protection of wetland
1542 functions.

1543 4. A score of (0) means that the assessment area, in
1544 combination with the surrounding landscape, provides no habitat
1545 support for wildlife utilizing the assessment area and no
1546 opportunity for the assessment area to provide benefits to fish
1547 and wildlife outside the assessment area. The score is based on

Amendment No. 1

1548 reasonable scientific judgment and characterized by a
1549 predominance of the following, as applicable:

1550 a. No habitats are available outside the assessment area
1551 to provide any support for the species of wildlife listed in
1552 Part I.

1553 b. The plant community composition in the proximity of the
1554 assessment area consists predominantly of invasive exotic or
1555 other invasive plant species such that little or no function is
1556 provided by the assessment area.

1557 c. Wildlife access to and from habitats outside the
1558 assessment area is precluded by barriers or distance.

1559 d. Functions of the assessment area that would be expected
1560 to benefit fish and wildlife downstream are not present.

1561 e. Land uses outside the assessment area have a severe
1562 adverse impact on wildlife in the assessment area as listed in
1563 Part I.

1564 f. There is negligible or no opportunity for the
1565 assessment area to provide benefits to downstream or other
1566 hydrologically connected areas due to hydrologic impediments or
1567 flow restrictions that preclude provision of these benefits.

1568 g. Discharges from the assessment area provide negligible
1569 or no benefits to downstream or hydrologically connected areas
1570 and these areas would likely be unaffected if the quantity or
1571 quality of these discharges were altered.

1572 h. For upland mitigation assessment areas, the uplands
1573 provide no ecological value or protection of wetland functions."

1574 (12) The Department of Environmental Protection is
1575 directed to make additional changes to the worksheet portions of

Amendment No. 1

1576 chapter 62-345, Florida Administrative Code, as needed to
1577 conform to the changes set forth in this section.

1578 (13) Any entity holding a mitigation bank permit may apply
1579 to the relevant agency to have such mitigation bank reassessed
1580 pursuant to the changes to chapter 62-345, Florida
1581 Administrative Code, set forth in this section, if such
1582 application is filed with that agency no later than September
1583 30, 2011.

1584 Section 28. This act shall take effect upon becoming a
1585 law.

1586

1587

1588

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

1589

Remove the entire title and insert:

1590

A bill to be entitled

1591

An act relating to environmental permitting; amending s.

1592

120.569, F.S.; authorizing the provision of certain

1593

notices under the Administrative Procedure Act via a link

1594

to a publicly available Internet website; providing that a

1595

nonapplicant who petitions to challenge an agency's

1596

issuance of a license or conceptual approval in certain

1597

circumstances has the burden of ultimate persuasion and

1598

the burden of going forward with evidence; amending s.

1599

120.60, F.S.; revising the period for an agency to approve

1600

or deny an application for a license; creating s.

1601

125.0112, F.S.; providing that the construction and

1602

operation of a biofuel processing facility or renewable

1603

energy generating facility and the cultivation of

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1604 bioenergy by a local government is a valid and permitted
1605 land use; requiring expedited review of such facilities;
1606 providing that such facilities are eligible for the
1607 alternative state review process; amending s. 125.022,
1608 F.S.; prohibiting a county from requiring an applicant to
1609 obtain a permit or approval from another state or federal
1610 agency as a condition of approving a development permit;
1611 authorizing a county to attach certain disclaimers to the
1612 issuance of a development permit; creating s. 161.032,
1613 F.S.; requiring that the Department of Environmental
1614 Protection review an application for certain permits under
1615 the Beach and Shore Preservation Act and request
1616 additional information within a specified time; requiring
1617 that the department proceed to process the application if
1618 the applicant believes that a request for additional
1619 information is not authorized by law or rule; extending
1620 the period for an applicant to timely submit additional
1621 information, notwithstanding certain provisions of the
1622 Administrative Procedure Act; amending s. 166.033, F.S.;

1623 prohibiting a municipality from requiring an applicant to
1624 obtain a permit or approval from another state or federal
1625 agency as a condition of approving a development permit;
1626 authorizing a county to attach certain disclaimers to the
1627 issuance of a development permit; creating s. 166.0447,
1628 F.S.; providing that the construction and operation of a
1629 biofuel processing facility or renewable energy generating
1630 facility and the cultivation of bioenergy is a valid and
1631 permitted land use within the unincorporated area of a

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1632 municipality; prohibiting any requirement that the owner
1633 or operator of such a facility obtain comprehensive plan
1634 amendments, use permits, waivers, or variances, or pay any
1635 fee in excess of a specified amount; amending s. 373.026,
1636 F.S.; requiring the Department of Environmental Protection
1637 to expand its use of Internet-based self-certification
1638 services for exemptions and permits issued by the
1639 department and water management districts; amending s.
1640 373.4141, F.S.; requiring that a request by the department
1641 or a water management district that an applicant provide
1642 additional information be accompanied by the signature of
1643 specified officials of the department or district;
1644 reducing the time within which the department or district
1645 must approve or deny a permit application; amending s.
1646 373.4144, F.S.; providing legislative intent with respect
1647 to the coordination of regulatory duties among specified
1648 state and federal agencies; requiring that the department
1649 report annually to the Legislature on efforts to expand
1650 the state programmatic general permit or regional general
1651 permits; providing for a voluntary state programmatic
1652 general permit for certain dredge and fill activities;
1653 amending s. 373.441, F.S.; requiring that certain counties
1654 or municipalities apply by a specified date to the
1655 department or water management district for authority to
1656 require certain permits; providing that following such
1657 delegation, the department or district may not regulate
1658 activities that are subject to the delegation; clarifying
1659 the authority of local governments to adopt pollution

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1660 control programs under certain conditions; amending s.
1661 376.30715, F.S.; providing that the transfer of a
1662 contaminated site from an owner to a child or corporate
1663 entity does not disqualify the site from the innocent
1664 victim petroleum storage system restoration financial
1665 assistance program; authorizing certain applicants to
1666 reapply for financial assistance; amending s. 403.061,
1667 F.S.; requiring the Department of Environmental Protection
1668 to establish reasonable zones of mixing for discharges
1669 into specified waters; providing that certain discharges
1670 do not create liability for site cleanup; providing that
1671 exceedance of soil cleanup target levels is not a basis
1672 for enforcement or cleanup; creating s. 403.0874, F.S.;
1673 providing a short title; providing legislative findings
1674 and intent with respect to the consideration of the
1675 compliance history of a permit applicant; providing for
1676 applicability; specifying the period of compliance history
1677 to be considered is issuing or renewing a permit;
1678 providing criteria to be considered by the Department of
1679 Environmental Protection; authorizing expedited review of
1680 permit issuance, renewal, modification, and transfer;
1681 providing for a reduced number of inspections; providing
1682 for extended permit duration; authorizing the department
1683 to make additional incentives available under certain
1684 circumstances; providing for automatic permit renewal and
1685 reduced or waived fees under certain circumstances;
1686 requiring the department to adopt rules that are binding
1687 on a water management district or local government that

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1688 has been delegated certain regulatory duties; amending ss.
1689 161.041 and 373.413, F.S.; specifying that s. 403.0874,
1690 F.S., authorizing expedited permitting, applies to
1691 provisions governing beaches and shores and surface water
1692 management and storage; amending s. 403.087, F.S.;

1693 revising conditions under which the department is
1694 authorized to revoke a permit; amending s. 403.703, F.S.;

1695 revising the term "solid waste" to exclude sludge from a
1696 waste treatment works that is not discarded; amending s.
1697 403.707, F.S.; revising provisions relating to disposal by
1698 persons of solid waste resulting from their own activities
1699 on their property; clarifying what constitutes "addressed
1700 by a groundwater monitoring plan" with regard to certain
1701 effects on groundwater and surface waters; authorizing the
1702 disposal of solid waste over a zone of discharge;

1703 providing that exceedance of soil cleanup target levels is
1704 not a basis for enforcement or cleanup; extending the
1705 duration of all permits issued to solid waste management
1706 facilities; providing applicability; providing that
1707 certain disposal of solid waste does not create liability
1708 for site cleanup; amending s. 403.814, F.S.; providing for
1709 issuance of general permits for the construction,
1710 alteration, and maintenance of certain surface water
1711 management systems without the action of the department or
1712 a water management district; specifying conditions for the
1713 general permits; amending s. 380.06, F.S.; exempting a
1714 proposed solid mineral mine or a proposed addition or
1715 expansion of an existing solid mineral mine from

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1716 provisions governing developments of regional impact;
1717 providing certain exceptions; amending ss. 380.0657 and
1718 403.973, F.S.; authorizing expedited permitting for
1719 certain inland multimodal facilities and for commercial or
1720 industrial development projects that individually or
1721 collectively will create a minimum number of jobs;
1722 providing for a project-specific memorandum of agreement
1723 to apply to a project subject to expedited permitting;
1724 providing for review and certification of a business as
1725 eligible for expedited permitting by the Secretary of
1726 Environmental Protection rather than by the Office of
1727 Tourism, Trade, and Economic Development; amending s.
1728 163.3180, F.S.; providing an exemption to the level-of-
1729 service standards adopted under the Strategic Intermodal
1730 System for certain inland multimodal facilities;
1731 specifying project criteria; amending s. 373.4137, F.S.,
1732 relating to transportation projects; revising legislative
1733 findings with respect to the options for mitigation;
1734 revising certain requirements for determining the habitat
1735 impacts of transportation projects; requiring water
1736 management districts to purchase credits from public or
1737 private mitigation banks under certain conditions;
1738 providing for the release of certain mitigation funds held
1739 for the benefit of a water management district if a
1740 project is excluded from a mitigation plan; revising the
1741 procedure for excluding a project from a mitigation plan;
1742 amending s. 526.203, F.S.; authorizing the sale of
1743 unblended fuels for certain uses; revising rules of the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 1

1744 Department of Environmental Protection relating to the
1745 uniform mitigation assessment method for activities in
1746 surface waters and wetlands; directing the Department of
1747 Environmental Protection to make additional changes to
1748 conform; providing for reassessment of mitigation banks
1749 under certain conditions; providing an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	___	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative(s) Burgin offered the following:
4

5 **Amendment to Amendment (1) by Representative Patronis (with**
6 **title amendment)**

7 Remove line 92 and insert:
8 to s. 163.3177, except where biomass material derived from
9 municipal solid waste or landfill gases provides the renewable
10 energy for such facilities, shall be considered by a local
11 government to be

12 Remove line 123 and insert:
13 agency unless the agency has issued a notice of intent to deny
14 the federal or state permit prior to the county action on the
15 local development permit. Issuance of a development permit by a
16 county does not in

17 Remove line 180 and insert:
18 federal agency unless the agency has issued a notice of intent
19 to deny the federal or state permit prior to the municipal

Amendment No. 2

20 action on the local development permit. Issuance of a
21 development permit by a

22 Remove line 200 and insert:

23 to s. 163.3177, except where biomass material derived from
24 municipal solid waste or landfill gases provides the renewable
25 energy for such facilities, are each a valid industrial,
26 agricultural, and

27

28

29 **T I T L E A M E N D M E N T**

30 Remove line 1604 and insert:

31 bioenergy, by a local government, except where biomass material
32 derived from municipal solid waste or landfill gases provides
33 the renewable energy for such facilities, is a valid and
34 permitted

35 Remove line 1610 and insert:

36 agency, unless the agency has issued a notice of intent to deny
37 the federal or state permit prior to the county action on the
38 local development permit, as a condition of approving a
39 development permit;

40 Remove line 1625 and insert:

41 agency, unless the agency has issued a notice of intent to deny
42 the federal or state permit prior to the municipal action on the
43 local development permit, as a condition of approving a
44 development permit;

45 Remove line 1630 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 991 (2011)

Amendment No. 2

46 facility and the cultivation of bioenergy, except where biomass
47 material derived from municipal solid waste or landfill gases
48 provides the renewable energy for such facilities,

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

PCS for HB 239 : Numeric Nutrient Water Quality Criteria

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jim Boyd	X				
Jason Brodeur	X				
Dwight Bullard		X			
Rachel V. Burgin	X				
Matthew Caldwell	X				
Luis Garcia, Jr.		X			
Richard Glorioso	X				
Tom Goodson	X				
Steven Perman	X				
Ray Pilon	X				
Elizabeth Porter	X				
Michelle Rehwinkel Vasilinda		X			
Franklin Sands	X				
Jimmie Smith	X				
Steve Crisafulli (Chair)	X				
Total Yeas: 12		Total Nays: 3			

Appearances:

Numeric Nutrient Water Quality criteria
 Keyna Cory, Semopr Lobbist (Lobbyist) - Proponent
 Associated Industries of Florida
 P. O. Box 1347
 Tallahassee FL 32302
 Phone: (850)681-1065

Numeric Nutrient Water Quality Criteria
 Christopher Hansen (Lobbyist) - Waive In Support
 Florida Rural Water Association
 Gary robinson
 Tallahassee FL 32301
 Phone: (850)577-9090

Numeric Nutrient Water Quality Criteria
 Nancy Stephens, Executive Director (Lobbyist) - Waive In Support
 Manufacturers Association of Florida
 1625 Summit Lake Drice
 Tallahassee FL 32317
 Phone: 850-402-2945

Numeric Nutrient Water Quality Criteria
 David Childs (Lobbyist) - Waive In Support
 Florida Water Environment Association Utility Council
 119 S. Monroe St.
 Tallahassee FL 32301
 Phone: (850)222-7500

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

Numeric Nutrient Water Quality Criteria

Frank Matthews, Attorney (Lobbyist) - Proponent

Florida Electric Power Coordinating Group, Inc

P. O. Box 6526

Tallahassee FL 32301

Phone: (850)222-7500

Numeric Nutrient Water Quality Criteria

Benjamin Parks, Legislative Director (Lobbyist) - Waive In Support

Florida Farm Bureau Federation

315 S. Calhoun Street #850

Tallahassee FL 32301

Phone: (850)222-2557

Numeric Nutrient Water Quality Criteria

Leticia Adams, Director of Infrastructure & Governance Policy (Lobbyist) - Waive In Support

Florida Chamber of Commerce

136 S. Bronough Street

Tallahassee FL 32301

Phone: 850-544-6866

Numeric Nutrient Water Quality Criteria

David Cullen (Lobbyist) - Opponent

Sierra Club Florida

820 E. Call Street

Tallahassee FL 32301

Phone: 941-323-2404

Numeric Nutrient Water Quality Criteria

Keith Hetrick, OF Counsel (Lobbyist) - Waive In Support

Florida Home Builders Association

215 S. Monroe Street

Tallahassee FL 32301

Phone: (850)251-1838

Numeric Nutrient Water Quality Criteria

C. Scott Durbey, Associate Director, Legislative Affairs (Lobbyist) - Waive In Support

Florida League of Cities

301 S. Bronough Street, Suite 300

Tallahassee FL 32301

Phone: 850-222-4684

Numeric Nutrient Water Quality Criteria

Spratt, James, Director of Government Affairs (Lobbyist) - Waive In Support

Florida Association of Counties

100 S. Monroe St

Tallahassee FL

Phone: 850-922-4300

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

Numeric Nutrient Water Quality Criteria

Joe Bourassa - Proponent

The Little People

801 Lewis Drive

Daytona Beach FL 32117

Phone: 386-253-9017

Numeric Nutrient Water Quality Criteria

Jerry Brooks, Division Director (State Employee) - Information Only

Division of Environmental Protection

2600 Blair Stone Road

Tallahassee FL 32311

Phone: 850-245-8338

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

COMMITTEE MEETING REPORT
Agriculture & Natural Resources Subcommittee

3/15/2011 12:30:00PM

Location: Reed Hall (102 HOB)

Actionable Items

Motion to Temporarily Postponed HB 991

Failed

Committee meeting was reported out: Tuesday, March 15, 2011 5:24:30PM

