

1 A bill to be entitled  
2 An act relating to environmental permitting; amending s.  
3 120.569, F.S.; authorizing the provision of certain  
4 notices under the Administrative Procedure Act via a link  
5 to a publicly available Internet website; providing that a  
6 nonapplicant who petitions to challenge an agency's  
7 issuance of a license or conceptual approval in certain  
8 circumstances has the burden of ultimate persuasion and  
9 the burden of going forward with evidence; amending s.  
10 120.60, F.S.; revising the period for an agency to approve  
11 or deny an application for a license; creating s.  
12 125.0112, F.S.; providing that the construction and  
13 operation of a biofuel processing facility or renewable  
14 energy generating facility and the cultivation of  
15 bioenergy by a local government is a valid and permitted  
16 land use; requiring expedited review of such facilities;  
17 providing that such facilities are eligible for the  
18 alternative state review process; amending s. 125.022,  
19 F.S.; prohibiting a county from requiring an applicant to  
20 obtain a permit or approval from another state or federal  
21 agency as a condition of approving a development permit;  
22 authorizing a county to attach certain disclaimers to the  
23 issuance of a development permit; creating s. 161.032,  
24 F.S.; requiring that the Department of Environmental  
25 Protection review an application for certain permits under  
26 the Beach and Shore Preservation Act and request  
27 additional information within a specified time; requiring  
28 that the department proceed to process the application if

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29 | the applicant believes that a request for additional  
30 | information is not authorized by law or rule; extending  
31 | the period for an applicant to timely submit additional  
32 | information, notwithstanding certain provisions of the  
33 | Administrative Procedure Act; amending s. 163.3184, F.S.;  
34 | redefining the term "affected person" for purposes of the  
35 | adoption process for a comprehensive plan or plan  
36 | amendments to include persons who can show that their  
37 | substantial interest will be affected by the plan or  
38 | amendment; amending s. 163.3215, F.S.; redefining the term  
39 | "aggrieved or adversely affected party" for purposes of  
40 | standing to enforce local comprehensive plans; deleting a  
41 | requirement that the adverse interest exceed in degree the  
42 | general interest shared by all persons; amending s.  
43 | 166.033, F.S.; prohibiting a municipality from requiring  
44 | an applicant to obtain a permit or approval from another  
45 | state or federal agency as a condition of approving a  
46 | development permit; authorizing a county to attach certain  
47 | disclaimers to the issuance of a development permit;  
48 | creating s. 166.0447, F.S.; providing that the  
49 | construction and operation of a biofuel processing  
50 | facility or renewable energy generating facility and the  
51 | cultivation of bioenergy is a valid and permitted land use  
52 | within the unincorporated area of a municipality;  
53 | prohibiting any requirement that the owner or operator of  
54 | such a facility obtain comprehensive plan amendments, use  
55 | permits, waivers, or variances, or pay any fee in excess  
56 | of a specified amount; amending s. 373.026, F.S.;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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57 requiring the Department of Environmental Protection to  
58 expand its use of Internet-based self-certification  
59 services for exemptions and permits issued by the  
60 department and water management districts; amending s.  
61 373.4141, F.S.; requiring that a request by the department  
62 or a water management district that an applicant provide  
63 additional information be accompanied by the signature of  
64 specified officials of the department or district;  
65 reducing the time within which the department or district  
66 must approve or deny a permit application; providing that  
67 an application for a permit that is required by a local  
68 government and that is not approved within a specified  
69 period is deemed approved by default; amending s.  
70 373.4144, F.S.; providing legislative intent with respect  
71 to the coordination of regulatory duties among specified  
72 state and federal agencies; requiring that the department  
73 report annually to the Legislature on efforts to expand  
74 the state programmatic general permit or regional general  
75 permits; providing for a voluntary state programmatic  
76 general permit for certain dredge and fill activities;  
77 amending s. 373.441, F.S.; requiring that certain counties  
78 or municipalities apply by a specified date to the  
79 department or water management district for authority to  
80 require certain permits; providing that following such  
81 delegation, the department or district may not regulate  
82 activities that are subject to the delegation; amending s.  
83 403.061, F.S., relating to the use of online self-  
84 certification; conforming provisions to changes made by

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85 | the act; creating s. 403.0874, F.S.; providing a short  
86 | title; providing legislative findings and intent with  
87 | respect to the consideration of the compliance history of  
88 | a permit applicant; providing for applicability;  
89 | specifying the period of compliance history to be  
90 | considered is issuing or renewing a permit; providing  
91 | criteria to be considered by the Department of  
92 | Environmental Protection; authorizing expedited review of  
93 | permit issuance, renewal, modification, and transfer;  
94 | providing for a reduced number of inspections; providing  
95 | for extended permit duration; authorizing the department  
96 | to make additional incentives available under certain  
97 | circumstances; providing for automatic permit renewal and  
98 | reduced or waived fees under certain circumstances;  
99 | requiring the department to adopt rules that are binding  
100 | on a water management district or local government that  
101 | has been delegated certain regulatory duties; amending ss.  
102 | 161.041 and 373.413, F.S.; specifying that s. 403.0874,  
103 | F.S., authorizing expedited permitting, applies to  
104 | provisions governing beaches and shores and surface water  
105 | management and storage; amending s. 403.087, F.S.;  
106 | revising conditions under which the department is  
107 | authorized to revoke a permit; amending s. 403.412, F.S.;  
108 | eliminating a provision limiting a requirement for  
109 | demonstrating injury in order to seek relief under the  
110 | Environmental Protection Act; amending s. 403.814, F.S.;  
111 | providing for issuance of general permits for the  
112 | construction, alteration, and maintenance of certain

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113 surface water management systems without the action of the  
114 department or a water management district; specifying  
115 conditions for the general permits; amending s. 380.06,  
116 F.S.; exempting a proposed solid mineral mine or a  
117 proposed addition or expansion of an existing solid  
118 mineral mine from provisions governing developments of  
119 regional impact; providing certain exceptions; amending  
120 ss. 380.0657 and 403.973, F.S.; authorizing expedited  
121 permitting for certain inland multimodal facilities and  
122 for commercial or industrial development projects that  
123 individually or collectively will create a minimum number  
124 of jobs; providing for a project-specific memorandum of  
125 agreement to apply to a project subject to expedited  
126 permitting; providing for review and certification of a  
127 business as eligible for expedited permitting by the  
128 Secretary of Environmental Protection rather than by the  
129 Office of Tourism, Trade, and Economic Development;  
130 amending s. 163.3180, F.S.; providing an exemption to the  
131 level-of-service standards adopted under the Strategic  
132 Intermodal System for certain inland multimodal  
133 facilities; specifying project criteria; amending s.  
134 373.4137, F.S., relating to transportation projects;  
135 revising legislative findings with respect to the options  
136 for mitigation; revising certain requirements for  
137 determining the habitat impacts of transportation  
138 projects; providing for the release of certain mitigation  
139 funds held for the benefit of a water management district  
140 if a project is excluded from a mitigation plan; revising

141 the procedure for excluding a project from a mitigation  
 142 plan; providing an effective date.

143

144 Be It Enacted by the Legislature of the State of Florida:

145

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

149 120.569 Decisions which affect substantial interests.—

150 (1) The provisions of this section apply in all  
 151 proceedings in which the substantial interests of a party are  
 152 determined by an agency, unless the parties are proceeding under  
 153 s. 120.573 or s. 120.574. Unless waived by all parties, s.  
 154 120.57(1) applies whenever the proceeding involves a disputed  
 155 issue of material fact. Unless otherwise agreed, s. 120.57(2)  
 156 applies in all other cases. If a disputed issue of material fact  
 157 arises during a proceeding under s. 120.57(2), ~~then,~~ unless  
 158 waived by all parties, the proceeding under s. 120.57(2) shall  
 159 be terminated and a proceeding under s. 120.57(1) shall be  
 160 conducted. Parties shall be notified of any order, including a  
 161 final order. Unless waived, a copy of the order shall be  
 162 delivered or mailed to each party or the party's attorney of  
 163 record at the address of record. Each notice shall inform the  
 164 recipient of any administrative hearing or judicial review that  
 165 is available under this section, s. 120.57, or s. 120.68; shall  
 166 indicate the procedure which must be followed to obtain the  
 167 hearing or judicial review; and shall state the time limits that  
 168 ~~which~~ apply. Notwithstanding any other provision of law, notice

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169 of the procedure to obtain an administrative hearing or judicial  
170 review, including any items required by the uniform rules  
171 adopted pursuant to s. 120.54(5), may be provided via a link to  
172 a publicly available Internet website.

173 (2)

174 (p) For any proceeding arising under chapter 373, chapter  
175 378, or chapter 403, if a nonapplicant petitions as a third  
176 party to challenge an agency's issuance of a license or  
177 conceptual approval, the petitioner initiating the action has  
178 the burden of ultimate persuasion and, in the first instance,  
179 has the burden of going forward with the evidence.

180 Notwithstanding subsection (1), this paragraph applies to  
181 proceedings under s. 120.574.

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

185 120.60 Licensing.—

186 (1) Upon receipt of a license application, an agency shall  
187 examine the application and, within 30 days after such receipt,  
188 notify the applicant of any apparent errors or omissions and  
189 request any additional information the agency is permitted by  
190 law to require. An agency may not deny a license for failure to  
191 correct an error or omission or to supply additional information  
192 unless the agency timely notified the applicant within this 30-  
193 day period. The agency may establish by rule the time period for  
194 submitting any additional information requested by the agency.  
195 For good cause shown, the agency shall grant a request for an  
196 extension of time for submitting the additional information. If

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197 the applicant believes the agency's request for additional  
198 information is not authorized by law or rule, the agency, at the  
199 applicant's request, shall proceed to process the application.  
200 An application is complete upon receipt of all requested  
201 information and correction of any error or omission for which  
202 the applicant was timely notified or when the time for such  
203 notification has expired. An application for a license must be  
204 approved or denied within 60 ~~90~~ days after receipt of a  
205 completed application unless a shorter period of time for agency  
206 action is provided by law. The 60-day ~~90-day~~ time period is  
207 tolled by the initiation of a proceeding under ss. 120.569 and  
208 120.57. Any application for a license which is not approved or  
209 denied within the 60-day ~~90-day~~ or shorter time period, within  
210 15 days after conclusion of a public hearing held on the  
211 application, or within 45 days after a recommended order is  
212 submitted to the agency and the parties, whichever action and  
213 timeframe is latest and applicable, is considered approved  
214 unless the recommended order recommends that the agency deny the  
215 license. Subject to the satisfactory completion of an  
216 examination if required as a prerequisite to licensure, any  
217 license that is considered approved shall be issued and may  
218 include such reasonable conditions as are authorized by law. Any  
219 applicant for licensure seeking to claim licensure by default  
220 under this subsection shall notify the agency clerk of the  
221 licensing agency, in writing, of the intent to rely upon the  
222 default license provision of this subsection, and may not take  
223 any action based upon the default license until after receipt of  
224 such notice by the agency clerk.



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225 Section 3. Section 125.0112, Florida Statutes, is created  
 226 to read:

227 125.0112 Biofuels and renewable energy.—The construction  
 228 and operation of a biofuel processing facility or a renewable  
 229 energy generating facility, as defined in s. 366.91(2)(d), and  
 230 the cultivation and production of bioenergy, as defined pursuant  
 231 to s. 163.3177, shall be considered by a local government to be  
 232 a valid industrial, agricultural, and silvicultural use  
 233 permitted within those land use categories in the local  
 234 comprehensive land use plan. If the local comprehensive plan  
 235 does not specifically allow for the construction of a biofuel  
 236 processing facility or renewable energy facility, the local  
 237 government shall establish a specific review process that may  
 238 include expediting local review of any necessary comprehensive  
 239 plan amendment, zoning change, use permit, waiver, variance, or  
 240 special exemption. Local expedited review of a proposed biofuel  
 241 processing facility or a renewable energy facility does not  
 242 obligate a local government to approve such proposed use. A  
 243 comprehensive plan amendment necessary to accommodate a biofuel  
 244 processing facility or renewable energy facility shall, if  
 245 approved by the local government, be eligible for the  
 246 alternative state review process in s. 163.32465. The  
 247 construction and operation of a facility and related  
 248 improvements on a portion of a property under this section does  
 249 not affect the remainder of the property's classification as  
 250 agricultural under s. 193.461.

251 Section 4. Section 125.022, Florida Statutes, is amended  
 252 to read:

253           125.022 Development permits.—When a county denies an  
 254 application for a development permit, the county shall give  
 255 written notice to the applicant. The notice must include a  
 256 citation to the applicable portions of an ordinance, rule,  
 257 statute, or other legal authority for the denial of the permit.  
 258 As used in this section, the term "development permit" has the  
 259 same meaning as in s. 163.3164. A county may not require as a  
 260 condition of approval for a development permit that an applicant  
 261 obtain a permit or approval from any other state or federal  
 262 agency. Issuance of a development permit by a county does not in  
 263 any way create any rights on the part of the applicant to obtain  
 264 a permit from another state or federal agency and does not  
 265 create any liability on the part of the county for issuance of  
 266 the permit if the applicant fails to fulfill its legal  
 267 obligations to obtain requisite approvals or fulfill the  
 268 obligations imposed by another state or a federal agency. A  
 269 county may attach such a disclaimer to the issuance of a  
 270 development permit, and may include a permit condition that all  
 271 other applicable state or federal permits be obtained before  
 272 commencement of the development. This section does not prohibit  
 273 a county from providing information to an applicant regarding  
 274 what other state or federal permits may apply.

275           Section 5. Section 161.032, Florida Statutes, is created  
 276 to read:

277           161.032 Application review; request for additional  
 278 information.—

279           (1) Within 30 days after receipt of an application for a  
 280 permit under this part, the department shall review the

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281 application and shall request submission of any additional  
282 information the department is permitted by law to require. If  
283 the applicant believes that a request for additional information  
284 is not authorized by law or rule, the applicant may request a  
285 hearing pursuant to s. 120.57. Within 30 days after receipt of  
286 such additional information, the department shall review such  
287 additional information and may request only that information  
288 needed to clarify such additional information or to answer new  
289 questions raised by or directly related to such additional  
290 information. If the applicant believes that the request for such  
291 additional information by the department is not authorized by  
292 law or rule, the department, at the applicant's request, shall  
293 proceed to process the permit application.

294 (2) Notwithstanding s. 120.60, an applicant for a permit  
295 under this part has 90 days after the date of a timely request  
296 for additional information to submit such information. If an  
297 applicant requires more than 90 days in order to respond to a  
298 request for additional information, the applicant must notify  
299 the agency processing the permit application in writing of the  
300 circumstances, at which time the application shall be held in  
301 active status for no more than one additional period of up to 90  
302 days. Additional extensions may be granted for good cause shown  
303 by the applicant. A showing that the applicant is making a  
304 diligent effort to obtain the requested additional information  
305 constitutes good cause. Failure of an applicant to provide the  
306 timely requested information by the applicable deadline shall  
307 result in denial of the application without prejudice.

308 Section 6. Paragraph (a) of subsection (1) of section

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309 163.3184, Florida Statutes, is amended to read:

310 163.3184 Process for adoption of comprehensive plan or  
311 plan amendment.—

312 (1) DEFINITIONS.—As used in this section, the term:

313 (a) "Affected person" includes the affected local  
314 government; persons owning property, residing, or owning or  
315 operating a business within the boundaries of the local  
316 government whose plan is the subject of the review and who can  
317 demonstrate that their substantial interest will be affected by  
318 the plan or plan amendment; owners of real property abutting  
319 real property that is the subject of a proposed change to a  
320 future land use map; and adjoining local governments that can  
321 demonstrate that the plan or plan amendment will produce  
322 substantial impacts on the increased need for publicly funded  
323 infrastructure or substantial impacts on areas designated for  
324 protection or special treatment within their jurisdiction. Each  
325 person, other than an adjoining local government, in order to  
326 qualify under this definition, shall also have submitted oral or  
327 written comments, recommendations, or objections to the local  
328 government during the period of time beginning with the  
329 transmittal hearing for the plan or plan amendment and ending  
330 with the adoption of the plan or plan amendment.

331 Section 7. Subsection (2) of section 163.3215, Florida  
332 Statutes, is amended to read:

333 163.3215 Standing to enforce local comprehensive plans  
334 through development orders.—

335 (2) As used in this section, the term "aggrieved or  
336 adversely affected party" means any person or local government

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337 | that can demonstrate that their substantial interest will be  
338 | affected by a development order ~~will suffer an adverse effect to~~  
339 | ~~an interest protected or furthered by the local government~~  
340 | ~~comprehensive plan, including interests related to health and~~  
341 | ~~safety, police and fire protection service systems, densities or~~  
342 | ~~intensities of development, transportation facilities, health~~  
343 | ~~care facilities, equipment or services, and environmental or~~  
344 | ~~natural resources. The alleged adverse interest may be shared in~~  
345 | ~~common with other members of the community at large but must~~  
346 | ~~exceed in degree the general interest in community good shared~~  
347 | ~~by all persons.~~ The term includes the owner, developer, or  
348 | applicant for a development order.

349 | Section 8. Section 166.033, Florida Statutes, is amended  
350 | to read:

351 | 166.033 Development permits.—When a municipality denies an  
352 | application for a development permit, the municipality shall  
353 | give written notice to the applicant. The notice must include a  
354 | citation to the applicable portions of an ordinance, rule,  
355 | statute, or other legal authority for the denial of the permit.  
356 | As used in this section, the term "development permit" has the  
357 | same meaning as in s. 163.3164. A municipality may not require  
358 | as a condition of approval for a development permit that an  
359 | applicant obtain a permit or approval from any other state or  
360 | federal agency. Issuance of a development permit by a  
361 | municipality does not in any way create any right on the part of  
362 | an applicant to obtain a permit from another state or federal  
363 | agency and does not create any liability on the part of the  
364 | municipality for issuance of the permit if the applicant fails

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365 to fulfill its legal obligations to obtain requisite approvals  
366 or fulfill the obligations imposed by another state or federal  
367 agency. A municipality may attach such a disclaimer to the  
368 issuance of development permits and may include a permit  
369 condition that all other applicable state or federal permits be  
370 obtained before commencement of the development. This section  
371 does not prohibit a municipality from providing information to  
372 an applicant regarding what other state or federal permits may  
373 apply.

374 Section 9. Section 166.0447, Florida Statutes, is created  
375 to read:

376 166.0447 Biofuels and renewable energy.—The construction  
377 and operation of a biofuel processing facility or a renewable  
378 energy generating facility, as defined in s. 366.91(2)(d), and  
379 the cultivation and production of bioenergy, as defined pursuant  
380 to s. 163.3177, are each a valid industrial, agricultural, and  
381 silvicultural use permitted within those land use categories in  
382 the local comprehensive land use plan and for purposes of any  
383 local zoning regulation within an unincorporated area of a  
384 municipality. Such comprehensive land use plans and local zoning  
385 regulations may not require the owner or operator of a biofuel  
386 processing facility or a renewable energy generating facility to  
387 obtain any comprehensive plan amendment, rezoning, special  
388 exemption, use permit, waiver, or variance, or to pay any  
389 special fee in excess of \$1,000 to operate in an area zoned for  
390 or categorized as industrial, agricultural, or silvicultural  
391 use. This section does not exempt biofuel processing facilities  
392 and renewable energy generating facilities from complying with

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393 building code requirements. The construction and operation of a  
 394 facility and related improvements on a portion of a property  
 395 pursuant to this section does not affect the remainder of that  
 396 property's classification as agricultural pursuant to s.  
 397 193.461.

398 Section 10. Subsection (10) is added to section 373.026,  
 399 Florida Statutes, to read:

400 373.026 General powers and duties of the department.—The  
 401 department, or its successor agency, shall be responsible for  
 402 the administration of this chapter at the state level. However,  
 403 it is the policy of the state that, to the greatest extent  
 404 possible, the department may enter into interagency or  
 405 interlocal agreements with any other state agency, any water  
 406 management district, or any local government conducting programs  
 407 related to or materially affecting the water resources of the  
 408 state. All such agreements shall be subject to the provisions of  
 409 s. 373.046. In addition to its other powers and duties, the  
 410 department shall, to the greatest extent possible:

411 (10) Expand the use of Internet-based self-certification  
 412 services for appropriate exemptions and general permits issued  
 413 by the department and the water management districts, if such  
 414 expansion is economically feasible. In addition to expanding the  
 415 use of Internet-based self-certification services for  
 416 appropriate exemptions and general permits, the department and  
 417 water management districts shall identify and develop general  
 418 permits for activities currently requiring individual review  
 419 which could be expedited through the use of professional  
 420 certification.

421 Section 11. Section 373.4141, Florida Statutes, is amended  
 422 to read:

423 373.4141 Permits; processing.—

424 (1) Within 30 days after receipt of an application for a  
 425 permit under this part, the department or the water management  
 426 district shall review the application and shall request  
 427 submittal of all additional information the department or the  
 428 water management district is permitted by law to require. If the  
 429 applicant believes any request for additional information is not  
 430 authorized by law or rule, the applicant may request a hearing  
 431 pursuant to s. 120.57. Within 30 days after receipt of such  
 432 additional information, the department or water management  
 433 district shall review it and may request only that information  
 434 needed to clarify such additional information or to answer new  
 435 questions raised by or directly related to such additional  
 436 information. If the applicant believes the request of the  
 437 department or water management district for such additional  
 438 information is not authorized by law or rule, the department or  
 439 water management district, at the applicant's request, shall  
 440 proceed to process the permit application. In order to ensure  
 441 the proper scope and necessity for the information requested, a  
 442 second request for additional information, if any, must be  
 443 signed by the supervisor of the project manager. A third request  
 444 for additional information, if any, must be signed by the  
 445 division director who oversees the program area. A fourth  
 446 request for additional information, if any, must be signed by  
 447 the assistant secretary of the department or the assistant  
 448 executive director of the district. Any additional request for



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449 information must be signed by the secretary of the department or  
450 the executive director of the district.

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

455 (b) A permit required by a local government for an  
456 activity that also requires a state permit under this part shall  
457 be approved or denied within 60 days after receipt of the  
458 original application. An application for a local permit which is  
459 not approved or denied within 60 days is deemed approved by  
460 default.

461 (3) Processing of applications for permits for affordable  
462 housing projects shall be expedited to a greater degree than  
463 other projects.

464 Section 12. Section 373.4144, Florida Statutes, is amended  
465 to read:

466 373.4144 Federal environmental permitting.—

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

468 (a) Facilitate coordination and a more efficient process  
469 of implementing regulatory duties and functions between the  
470 Department of Environmental Protection, the water management  
471 districts, the United States Army Corps of Engineers, the United  
472 States Fish and Wildlife Service, the National Marine Fisheries  
473 Service, the United States Environmental Protection Agency, the  
474 Fish and Wildlife Conservation Commission, and other relevant  
475 federal and state agencies.

476 (b) Authorize the Department of Environmental Protection

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477 to obtain issuance by the United States Army Corps of Engineers,  
478 pursuant to state and federal law and as set forth in this  
479 section, of an expanded state programmatic general permit, or a  
480 series of regional general permits, for categories of activities  
481 in waters of the United States governed by the Clean Water Act  
482 and in navigable waters under the Rivers and Harbors Act of 1899  
483 which are similar in nature, which will cause only minimal  
484 adverse environmental effects when performed separately, and  
485 which will have only minimal cumulative adverse effects on the  
486 environment.

487 (c) Use the mechanism of such a state general permit or  
488 such regional general permits to eliminate overlapping federal  
489 regulations and state rules that seek to protect the same  
490 resource and to avoid duplication of permitting between the  
491 United States Army Corps of Engineers and the department for  
492 minor work located in waters of the United States, including  
493 navigable waters, thus eliminating, in appropriate cases, the  
494 need for a separate individual approval from the United States  
495 Army Corps of Engineers while ensuring the most stringent  
496 protection of wetland resources.

497 (d) Direct the department not to seek issuance of or take  
498 any action pursuant to any such permit or permits unless such  
499 conditions are at least as protective of the environment and  
500 natural resources as existing state law under this part and  
501 federal law under the Clean Water Act and the Rivers and Harbors  
502 Act of 1899. ~~The department is directed to develop, on or before~~  
503 ~~October 1, 2005, a mechanism or plan to consolidate, to the~~  
504 ~~maximum extent practicable, the federal and state wetland~~

505 ~~permitting programs. It is the intent of the Legislature that~~  
 506 ~~all dredge and fill activities impacting 10 acres or less of~~  
 507 ~~wetlands or waters, including navigable waters, be processed by~~  
 508 ~~the state as part of the environmental resource permitting~~  
 509 ~~program implemented by the department and the water management~~  
 510 ~~districts. The resulting mechanism or plan shall analyze and~~  
 511 ~~propose the development of an expanded state programmatic~~  
 512 ~~general permit program in conjunction with the United States~~  
 513 ~~Army Corps of Engineers pursuant to s. 404 of the Clean Water~~  
 514 ~~Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.,~~  
 515 ~~and s. 10 of the Rivers and Harbors Act of 1899. Alternatively,~~  
 516 ~~or in combination with an expanded state programmatic general~~  
 517 ~~permit, the mechanism or plan may propose the creation of a~~  
 518 ~~series of regional general permits issued by the United States~~  
 519 ~~Army Corps of Engineers pursuant to the referenced statutes. All~~  
 520 ~~of the regional general permits must be administered by the~~  
 521 ~~department or the water management districts or their designees.~~

522       (2) In order to effectuate efficient wetland permitting  
 523 and avoid duplication, the department and water management  
 524 districts are authorized to implement a voluntary state  
 525 programmatic general permit for all dredge and fill activities  
 526 impacting 3 acres or less of wetlands or other surface waters,  
 527 including navigable waters, subject to agreement with the United  
 528 States Army Corps of Engineers, if the general permit is at  
 529 least as protective of the environment and natural resources as  
 530 existing state law under this part and federal law under the  
 531 Clean Water Act and the Rivers and Harbors Act of 1899. The  
 532 ~~department is directed to file with the Speaker of the House of~~

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533 ~~Representatives and the President of the Senate a report~~  
534 ~~proposing any required federal and state statutory changes that~~  
535 ~~would be necessary to accomplish the directives listed in this~~  
536 ~~section and to coordinate with the Florida Congressional~~  
537 ~~Delegation on any necessary changes to federal law to implement~~  
538 ~~the directives.~~

539 (3) Nothing in this section shall be construed to preclude  
540 the department from pursuing a series of regional general  
541 permits for construction activities in wetlands or surface  
542 waters or complete assumption of federal permitting programs  
543 regulating the discharge of dredged or fill material pursuant to  
544 s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended,  
545 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors  
546 Act of 1899, so long as the assumption encompasses all dredge  
547 and fill activities in, on, or over jurisdictional wetlands or  
548 waters, including navigable waters, within the state.

549 Section 13. Present subsections (3), (4), and (5) of  
550 section 373.441, Florida Statutes, are renumbered as subsections  
551 (5), (6), and (7), respectively, and new subsections (3) and (4)  
552 are added to that section, to read:

553 373.441 Role of counties, municipalities, and local  
554 pollution control programs in permit processing; delegation.—

555 (3) A county having a population of 75,000 or more or a  
556 municipality that has local pollution control programs serving  
557 populations of more than 50,000 must apply for delegation of  
558 authority on or before June 1, 2012. A county, municipality, or  
559 local pollution control programs that fails to apply for  
560 delegation of authority may not require permits that in part or

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561 in full are substantially similar to the requirements needed to  
562 obtain an environmental resource permit.

563 (4) Upon delegation to a qualified local government, the  
564 department and water management district may not regulate the  
565 activities subject to the delegation within that jurisdiction  
566 unless regulation is required pursuant to the terms of the  
567 delegation agreement.

568 Section 14. Subsection (41) of section 403.061, Florida  
569 Statutes, is amended to read:

570 403.061 Department; powers and duties.—The department  
571 shall have the power and the duty to control and prohibit  
572 pollution of air and water in accordance with the law and rules  
573 adopted and promulgated by it and, for this purpose, to:

574 (41) Expand the use of online self-certification for  
575 appropriate exemptions and general permits issued by the  
576 department or the water management districts if such expansion  
577 is economically feasible. ~~Notwithstanding any other provision of~~  
578 ~~law,~~ A local government may not specify the method or form for  
579 documenting that a project qualifies for an exemption or meets  
580 the requirements for a permit under chapter 161, chapter 253,  
581 chapter 373, or this chapter. This limitation of local  
582 government authority extends to Internet-based department  
583 programs that provide for self-certification.

584  
585 The department shall implement such programs in conjunction with  
586 its other powers and duties and shall place special emphasis on  
587 reducing and eliminating contamination that presents a threat to  
588 humans, animals or plants, or to the environment.

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589 Section 15. Section 403.0874, Florida Statutes, is created  
590 to read:

591 403.0874 Incentive-based permitting program.—

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

594 (2) FINDINGS AND INTENT.—The Legislature finds and  
595 declares that the department should consider compliance history  
596 when deciding whether to issue, renew, amend, or modify a permit  
597 by evaluating an applicant's site-specific and program-specific  
598 relevant aggregate compliance history. Persons having a history  
599 of complying with applicable permits or state environmental laws  
600 and rules are eligible for permitting benefits, including, but  
601 not limited to, expedited permit application reviews, longer-  
602 duration permit periods, decreased announced compliance  
603 inspections, and other similar regulatory and compliance  
604 incentives to encourage and reward such persons for their  
605 environmental performance.

606 (3) APPLICABILITY.—

607 (a) This section applies to all persons and regulated  
608 activities that are subject to the permitting requirements of  
609 chapter 161, chapter 373, or this chapter, and all other  
610 applicable state or federal laws that govern activities for the  
611 purpose of protecting the environment or the public health from  
612 pollution or contamination.

613 (b) Notwithstanding paragraph (a), this section does not  
614 apply to certain permit actions or environmental permitting laws  
615 such as:

616 1. Environmental permitting or authorization laws that

617 regulate activities for the purpose of zoning, growth  
 618 management, or land use; or

619 2. Any federal law or program delegated or assumed by the  
 620 state to the extent that implementation of this section, or any  
 621 part of this section, would jeopardize the ability of the state  
 622 to retain such delegation or assumption.

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

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

632 (a)1. The applicant has conducted the regulated activity  
 633 at the same site for which the permit or renewal is sought for  
 634 at least 4 of the 5 years prior to the date the permit  
 635 application is received by the department; or

636 2. The applicant has conducted the same regulated activity  
 637 at a different site within the state for at least 4 of the 5  
 638 years prior to the date the permit or renewal application is  
 639 received by the department; and

640 (b) In the 5 years before the date the permit or renewal  
 641 application is received by the department or water management  
 642 district, the applicant has not been subject to a formal  
 643 administrative or civil judgment or criminal conviction whereby  
 644 an administrative law judge or civil or criminal court found the

645 applicant knowingly violated the applicable law or rule and the  
 646 violation was the proximate cause that resulted in significant  
 647 harm to human health or the environment. Administrative  
 648 settlement or consent orders, whether formal or informal, are  
 649 not judgments for purposes of this section unless entered into  
 650 as a result of significant harm to human health or the  
 651 environment.

652 (5) COMPLIANCE INCENTIVES.—

653 (a) An applicant shall request all applicable incentives  
 654 at the time of application submittal. Unless otherwise  
 655 prohibited by state or federal law, rule, or regulation, and if  
 656 the applicant meets all other applicable criteria for the  
 657 issuance of a permit or authorization, an applicant is entitled  
 658 to the following incentives:

659 1. Expedited reviews on permit actions, including, but not  
 660 limited to, initial permit issuance, renewal, modification, and  
 661 transfer, if applicable. Expedited review means, at a minimum,  
 662 that any request for additional information regarding a permit  
 663 application shall be issued no later than 15 days after the  
 664 application is filed, and final agency action shall be taken no  
 665 later than 45 days after the application is deemed complete;

666 2. Priority review of permit application;

667 3. Reduced number of routine compliance inspections;

668 4. No more than two requests for additional information  
 669 under s. 120.60; and

670 5. Longer permit period durations.

671 (b) The department shall identify and make available  
 672 additional incentives to persons who demonstrate during a 10-



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673 year compliance history period the implementation of activities  
674 or practices that resulted in:

675 1. Reductions in actual or permitted discharges or  
676 emissions;

677 2. Reductions in the impacts of regulated activities on  
678 public lands or natural resources;

679 3. Implementation of voluntary environmental performance  
680 programs, such as environmental management systems; and

681 4. In the 10 years before the date the renewal application  
682 is received by the department, the applicant having not been  
683 subject to a formal administrative or civil judgment or criminal  
684 conviction whereby an administrative law judge or civil or  
685 criminal court found the applicant knowingly violated the  
686 applicable law or rule and the violation was the proximate cause  
687 that resulted in significant harm to human health or the  
688 environment. Administrative settlement or consent orders,  
689 whether formal or informal, are not judgments for purposes of  
690 this section unless entered into as a result of significant harm  
691 to the human health or the environment.

692 (c) Any person meeting one of the criteria in subparagraph  
693 (b)1.-3., and the criteria in subparagraph (b)4., is entitled to  
694 the following incentives:

695 1. Automatic permit renewals if there are no substantial  
696 deviations or modifications in permitted activities or changed  
697 circumstances; and

698 2. Reduced or waived application fees.

699 (6) RULEMAKING.—The department shall implement rulemaking  
700 within 6 months after the effective date of this act. Such

701 rulemaking may identify additional incentives and programs not  
 702 expressly enumerated under this section, so long as each  
 703 incentive is consistent with the Legislature's purpose and  
 704 intent of this section. Any rule adopted by the department to  
 705 administer this section shall be deemed an invalid exercise of  
 706 delegated legislative authority if the department cannot  
 707 demonstrate how such rules will produce the compliance  
 708 incentives set forth in subsection (5). The department's rules  
 709 adopted under this section are binding on the water management  
 710 districts and any local government that has been delegated or  
 711 assumed a regulatory program to which this section applies.

712 Section 16. Subsection (5) is added to section 161.041,  
 713 Florida Statutes, to read:

714 161.041 Permits required.—

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

718 Section 17. Subsection (6) is added to section 373.413,  
 719 Florida Statutes, to read:

720 373.413 Permits for construction or alteration.—

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

724 Section 18. Subsection (7) of section 403.087, Florida  
 725 Statutes, is amended to read:

726 403.087 Permits; general issuance; denial; revocation;  
 727 prohibition; penalty.—

728 (7) A permit issued pursuant to this section shall not

729 | become a vested right in the permittee. The department may  
 730 | revoke any permit issued by it if it finds that the permitholder  
 731 | knowingly:

732 |       (a) ~~Has~~ Submitted false or inaccurate information in the  
 733 | ~~his or her~~ application for such permit;

734 |       (b) ~~Has~~ Violated law, department orders, rules, ~~or~~  
 735 | ~~regulations,~~ or ~~permit~~ conditions which directly relate to such  
 736 | permit and has refused to correct or cure such violations when  
 737 | requested to do so;

738 |       (c) ~~Has~~ Failed to submit operational reports or other  
 739 | information required by department rule which directly relate to  
 740 | such permit and has refused to correct or cure such violations  
 741 | when requested to do so ~~or regulation;~~ or

742 |       (d) ~~Has~~ Refused lawful inspection under s. 403.091 at the  
 743 | facility authorized by such permit.

744 |       Section 19. Subsection (5) of section 403.412, Florida  
 745 | Statutes, is amended to read:

746 |       403.412 Environmental Protection Act.—

747 |       (5) In any administrative, licensing, or other proceedings  
 748 | authorized by law for the protection of the air, water, or other  
 749 | natural resources of the state from pollution, impairment, or  
 750 | destruction, the Department of Legal Affairs, a political  
 751 | subdivision or municipality of the state, or a citizen of the  
 752 | state shall have standing to intervene as a party on the filing  
 753 | of a verified pleading asserting that the activity, conduct, or  
 754 | product to be licensed or permitted has or will have the effect  
 755 | of impairing, polluting, or otherwise injuring the air, water,  
 756 | or other natural resources of the state. As used in this section

757 and as it relates to citizens, the term "intervene" means to  
 758 join an ongoing s. 120.569 or s. 120.57 proceeding; this section  
 759 does not authorize a citizen to institute, initiate, petition  
 760 for, or request a proceeding under s. 120.569 or s. 120.57.  
 761 Nothing herein limits or prohibits a citizen whose substantial  
 762 interests will be determined or affected by a proposed agency  
 763 action from initiating a formal administrative proceeding under  
 764 s. 120.569 or s. 120.57. A citizen's substantial interests will  
 765 be considered to be determined or affected if the party  
 766 demonstrates it may suffer an injury in fact which is of  
 767 sufficient immediacy and is of the type and nature intended to  
 768 be protected by this chapter. ~~No demonstration of special injury~~  
 769 ~~different in kind from the general public at large is required.~~  
 770 A sufficient demonstration of a substantial interest may be made  
 771 by a petitioner who establishes that the proposed activity,  
 772 conduct, or product to be licensed or permitted affects the  
 773 petitioner's use or enjoyment of air, water, or natural  
 774 resources protected by this chapter.

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

777 403.814 General permits; delegation.—

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

- 783 (a) The total project area is less than 10 acres;
- 784 (b) The total project area involves less than 2 acres of

785 impervious surface;

786 (c) No activities will impact wetlands or other surface  
 787 waters;

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

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

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

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

797 380.06 Developments of regional impact.—

798 (24) STATUTORY EXEMPTIONS.—

799 (u) Any proposed solid mineral mine and any proposed  
 800 addition to, expansion of, or change to an existing solid  
 801 mineral mine is exempt from the provisions of this section.  
 802 Proposed changes to any previously approved solid mineral mine  
 803 development-of-regional-impact development orders having vested  
 804 rights is not subject to further review or approval as a  
 805 development of regional impact or notice of proposed change  
 806 review or approval pursuant to subsection (19), except for those  
 807 applications pending as of July 1, 2011, which shall be governed  
 808 by s. 380.115(2). Notwithstanding the foregoing, however,  
 809 pursuant to s. 380.115(1), previously approved solid mineral  
 810 mine development-of-regional-impact development orders shall  
 811 continue to enjoy vested rights and continue to be effective  
 812 unless rescinded by the developer.

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813  
814 If a use is exempt from review as a development of regional  
815 impact under paragraphs (a)-(s), but will be part of a larger  
816 project that is subject to review as a development of regional  
817 impact, the impact of the exempt use must be included in the  
818 review of the larger project, unless such exempt use involves a  
819 development of regional impact that includes a landowner,  
820 tenant, or user that has entered into a funding agreement with  
821 the Office of Tourism, Trade, and Economic Development under the  
822 Innovation Incentive Program and the agreement contemplates a  
823 state award of at least \$50 million.

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

826 380.0657 Expedited permitting process for economic  
827 development projects.—

828 (1) The Department of Environmental Protection and, as  
829 appropriate, the water management districts created under  
830 chapter 373 shall adopt programs to expedite the processing of  
831 wetland resource and environmental resource permits for economic  
832 development projects that have been identified by a municipality  
833 or county as meeting the definition of target industry  
834 businesses under s. 288.106, or any inland multimodal facility,  
835 receiving or sending cargo to or from Florida ports, with the  
836 exception of those projects requiring approval by the Board of  
837 Trustees of the Internal Improvement Trust Fund.

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

841 403.973 Expedited permitting; amendments to comprehensive  
842 plans.—

843 (3) (a) The secretary shall direct the creation of regional  
844 permit action teams for the purpose of expediting review of  
845 permit applications and local comprehensive plan amendments  
846 submitted by:

847 1. Businesses creating at least 50 jobs or a commercial or  
848 industrial development project that will be occupied by  
849 businesses that would individually or collectively create at  
850 least 50 jobs; or

851 2. Businesses creating at least 25 jobs if the project is  
852 located in an enterprise zone, or in a county having a  
853 population of fewer than 75,000 or in a county having a  
854 population of fewer than 125,000 which is contiguous to a county  
855 having a population of fewer than 75,000, as determined by the  
856 most recent decennial census, residing in incorporated and  
857 unincorporated areas of the county.

858 (4) The regional teams shall be established through the  
859 execution of a project-specific memoranda of agreement developed  
860 and executed by the applicant and the secretary, with input  
861 solicited from ~~the office and~~ the respective heads of the  
862 Department of Community Affairs, the Department of  
863 Transportation and its district offices, the Department of  
864 Agriculture and Consumer Services, the Fish and Wildlife  
865 Conservation Commission, appropriate regional planning councils,  
866 appropriate water management districts, and voluntarily  
867 participating municipalities and counties. The memoranda of  
868 agreement should also accommodate participation in this

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869 expedited process by other local governments and federal  
870 agencies as circumstances warrant.

871 (5) In order to facilitate local government's option to  
872 participate in this expedited review process, the secretary  
873 shall, in cooperation with local governments and participating  
874 state agencies, create a standard form memorandum of agreement.  
875 The standard form of the memorandum of agreement shall be used  
876 only if the local government participates in the expedited  
877 review process. In the absence of local government  
878 participation, only the project-specific memorandum of agreement  
879 executed pursuant to subsection (4) applies. A local government  
880 shall hold a duly noticed public workshop to review and explain  
881 to the public the expedited permitting process and the terms and  
882 conditions of the standard form memorandum of agreement.

883 (10) The memoranda of agreement may provide for the waiver  
884 or modification of procedural rules prescribing forms, fees,  
885 procedures, or time limits for the review or processing of  
886 permit applications under the jurisdiction of those agencies  
887 that are members of the regional permit action team ~~party to the~~  
888 ~~memoranda of agreement~~. Notwithstanding any other provision of  
889 law to the contrary, a memorandum of agreement must to the  
890 extent feasible provide for proceedings and hearings otherwise  
891 held separately ~~by the parties to the memorandum of agreement~~ to  
892 be combined into one proceeding or held jointly and at one  
893 location. Such waivers or modifications shall not be available  
894 for permit applications governed by federally delegated or  
895 approved permitting programs, the requirements of which would  
896 prohibit, or be inconsistent with, such a waiver or



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897 modification.

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

902 (a) A central contact point for filing permit applications  
903 and local comprehensive plan amendments and for obtaining  
904 information on permit and local comprehensive plan amendment  
905 requirements;

906 (b) Identification of the individual or individuals within  
907 each respective agency who will be responsible for processing  
908 the expedited permit application or local comprehensive plan  
909 amendment for that agency;

910 (c) A mandatory preapplication review process to reduce  
911 permitting conflicts by providing guidance to applicants  
912 regarding the permits needed from each agency and governmental  
913 entity, site planning and development, site suitability and  
914 limitations, facility design, and steps the applicant can take  
915 to ensure expeditious permit application and local comprehensive  
916 plan amendment review. As a part of this process, the first  
917 interagency meeting to discuss a project shall be held within 14  
918 days after the secretary's determination that the project is  
919 eligible for expedited review. Subsequent interagency meetings  
920 may be scheduled to accommodate the needs of participating local  
921 governments that are unable to meet public notice requirements  
922 for executing a memorandum of agreement within this timeframe.  
923 This accommodation may not exceed 45 days from the secretary's  
924 determination that the project is eligible for expedited review;

925 (d) The preparation of a single coordinated project  
 926 description form and checklist and an agreement by state and  
 927 regional agencies to reduce the burden on an applicant to  
 928 provide duplicate information to multiple agencies;

929 (e) Establishment of a process for the adoption and review  
 930 of any comprehensive plan amendment needed by any certified  
 931 project within 90 days after the submission of an application  
 932 for a comprehensive plan amendment. However, the memorandum of  
 933 agreement may not prevent affected persons as defined in s.  
 934 163.3184 from appealing or participating in this expedited plan  
 935 amendment process and any review or appeals of decisions made  
 936 under this paragraph; and

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

939 (15) The secretary ~~office~~, working with the agencies  
 940 providing cooperative assistance and input regarding the  
 941 memoranda of agreement, shall review sites proposed for the  
 942 location of facilities eligible for the Innovation Incentive  
 943 Program under s. 288.1089. Within 20 days after the request for  
 944 the review by the secretary ~~office~~, the agencies shall provide  
 945 to the secretary ~~office~~ a statement as to each site's necessary  
 946 permits under local, state, and federal law and an  
 947 identification of significant permitting issues, which if  
 948 unresolved, may result in the denial of an agency permit or  
 949 approval or any significant delay caused by the permitting  
 950 process.

951 (17) The secretary ~~office~~ shall be responsible for  
 952 certifying a business as eligible for undergoing expedited

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953 | review under this section. Enterprise Florida, Inc., a county or  
 954 | municipal government, or the Rural Economic Development  
 955 | Initiative may recommend to the secretary ~~Office of Tourism,~~  
 956 | ~~Trade, and Economic Development~~ that a project meeting the  
 957 | minimum job creation threshold undergo expedited review.

958 |       (18) The secretary ~~office~~, working with the Rural Economic  
 959 | Development Initiative and the regional permit action team  
 960 | ~~agencies participating in the memoranda of agreement~~, shall  
 961 | provide technical assistance in preparing permit applications  
 962 | and local comprehensive plan amendments for counties having a  
 963 | population of fewer than 75,000 residents, or counties having  
 964 | fewer than 125,000 residents which are contiguous to counties  
 965 | having fewer than 75,000 residents. Additional assistance may  
 966 | include, but not be limited to, guidance in land development  
 967 | regulations and permitting processes, working cooperatively with  
 968 | state, regional, and local entities to identify areas within  
 969 | these counties which may be suitable or adaptable for  
 970 | preclearance review of specified types of land uses and other  
 971 | activities requiring permits.

972 |       Section 24. Subsection (10) of section 163.3180, Florida  
 973 | Statutes, is amended to read:

974 |       163.3180 Concurrency.—

975 |       (10) (a) Except in transportation concurrency exception  
 976 | areas, with regard to roadway facilities on the Strategic  
 977 | Intermodal System designated in accordance with s. 339.63, local  
 978 | governments shall adopt the level-of-service standard  
 979 | established by the Department of Transportation by rule.  
 980 | However, if the Office of Tourism, Trade, and Economic

981 Development concurs in writing with the local government that  
 982 the proposed development is for a qualified job creation project  
 983 under s. 288.0656 or s. 403.973, the affected local government,  
 984 after consulting with the Department of Transportation, may  
 985 provide for a waiver of transportation concurrency for the  
 986 project. For all other roads on the State Highway System, local  
 987 governments shall establish an adequate level-of-service  
 988 standard that need not be consistent with any level-of-service  
 989 standard established by the Department of Transportation. In  
 990 establishing adequate level-of-service standards for any  
 991 arterial roads, or collector roads as appropriate, which  
 992 traverse multiple jurisdictions, local governments shall  
 993 consider compatibility with the roadway facility's adopted  
 994 level-of-service standards in adjacent jurisdictions. Each local  
 995 government within a county shall use a professionally accepted  
 996 methodology for measuring impacts on transportation facilities  
 997 for the purposes of implementing its concurrency management  
 998 system. Counties are encouraged to coordinate with adjacent  
 999 counties, and local governments within a county are encouraged  
 1000 to coordinate, for the purpose of using common methodologies for  
 1001 measuring impacts on transportation facilities for the purpose  
 1002 of implementing their concurrency management systems.

1003 (b) There shall be a limited exemption from Strategic  
 1004 Intermodal System adopted level-of-service standards for new or  
 1005 redevelopment projects consistent with the local comprehensive  
 1006 plan as inland multimodal facilities receiving or sending cargo  
 1007 for distribution and providing cargo storage, consolidation,  
 1008 repackaging, and transfer of goods, and which may, if developed

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1009 as proposed, include other intermodal terminals, related  
1010 transportation facilities, warehousing and distribution  
1011 facilities, and associated office space, light industrial,  
1012 manufacturing, and assembly uses. The limited exemption applies  
1013 if the project meets all of the following criteria:

1014 1. The project will not cause the adopted level-of-service  
1015 standards for the Strategic Intermodal System facilities to be  
1016 exceeded by more than 150 percent within the first 5 years of  
1017 the project's development.

1018 2. The project, upon completion, would result in the  
1019 creation of at least 50 full-time jobs.

1020 3. The project is compatible with existing and planned  
1021 adjacent land uses.

1022 4. The project is consistent with local and regional  
1023 economic development goals or plans.

1024 5. The project is proximate to regionally significant road  
1025 and rail transportation facilities.

1026 6. The project is proximate to a community having an  
1027 unemployment rate, as of the date of the development order  
1028 application, which is 10 percent or more above the statewide  
1029 reported average.

1030 Section 25. Subsections (1) and (2), paragraph (c) of  
1031 subsection (3), and subsection (4) of section 373.4137, Florida  
1032 Statutes, are amended to read:

1033 373.4137 Mitigation requirements for specified  
1034 transportation projects.—

1035 (1) The Legislature finds that environmental mitigation  
1036 for the impact of transportation projects proposed by the

1037 Department of Transportation or a transportation authority  
 1038 established pursuant to chapter 348 or chapter 349 can be more  
 1039 effectively achieved by regional, long-range mitigation planning  
 1040 rather than on a project-by-project basis. It is the intent of  
 1041 the Legislature that mitigation to offset the adverse effects of  
 1042 these transportation projects be funded by the Department of  
 1043 Transportation and be carried out by the water management  
 1044 districts, including the use of mitigation banks and any other  
 1045 mitigation options that satisfy state and federal requirements,  
 1046 including, but not limited to, 33 U.S.C. s. 332.3(b) established  
 1047 ~~pursuant to this part.~~

1048 (2) Environmental impact inventories for transportation  
 1049 projects proposed by the Department of Transportation or a  
 1050 transportation authority established pursuant to chapter 348 or  
 1051 chapter 349 shall be developed as follows:

1052 (a) By July 1 of each year, the Department of  
 1053 Transportation or a transportation authority established  
 1054 pursuant to chapter 348 or chapter 349 which chooses to  
 1055 participate in this program shall submit to the water management  
 1056 districts a list ~~copy~~ of its projects in the adopted work  
 1057 program and an environmental impact inventory of habitats  
 1058 addressed in the rules adopted pursuant to this part and s. 404  
 1059 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted  
 1060 by its plan of construction for transportation projects in the  
 1061 next 3 years of the tentative work program. The Department of  
 1062 Transportation or a transportation authority established  
 1063 pursuant to chapter 348 or chapter 349 may also include in its  
 1064 environmental impact inventory the habitat impacts of any future

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1065 transportation project. The Department of Transportation and  
 1066 each transportation authority established pursuant to chapter  
 1067 348 or chapter 349 may fund any mitigation activities for future  
 1068 projects using current year funds.

1069 (b) The environmental impact inventory shall include a  
 1070 description of these habitat impacts, including their location,  
 1071 acreage, and type; state water quality classification of  
 1072 impacted wetlands and other surface waters; any other state or  
 1073 regional designations for these habitats; and a list ~~survey~~ of  
 1074 threatened species, endangered species, and species of special  
 1075 concern affected by the proposed project.

1076 (3)

1077 (c) Except for current mitigation projects in the  
 1078 monitoring and maintenance phase and except as allowed by  
 1079 paragraph (d), the water management districts may request a  
 1080 transfer of funds from an escrow account no sooner than 30 days  
 1081 prior to the date the funds are needed to pay for activities  
 1082 associated with development or implementation of the approved  
 1083 mitigation plan described in subsection (4) for the current  
 1084 fiscal year, including, but not limited to, design, engineering,  
 1085 production, and staff support. Actual conceptual plan  
 1086 preparation costs incurred before plan approval may be submitted  
 1087 to the Department of Transportation or the appropriate  
 1088 transportation authority each year with the plan. The conceptual  
 1089 plan preparation costs of each water management district will be  
 1090 paid from mitigation funds associated with the environmental  
 1091 impact inventory for the current year. The amount transferred to  
 1092 the escrow accounts each year by the Department of

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1093 Transportation and participating transportation authorities  
1094 established pursuant to chapter 348 or chapter 349 shall  
1095 correspond to a cost per acre of \$75,000 multiplied by the  
1096 projected acres of impact identified in the environmental impact  
1097 inventory described in subsection (2). However, the \$75,000 cost  
1098 per acre does not constitute an admission against interest by  
1099 the state or its subdivisions nor is the cost admissible as  
1100 evidence of full compensation for any property acquired by  
1101 eminent domain or through inverse condemnation. Each July 1, the  
1102 cost per acre shall be adjusted by the percentage change in the  
1103 average of the Consumer Price Index issued by the United States  
1104 Department of Labor for the most recent 12-month period ending  
1105 September 30, compared to the base year average, which is the  
1106 average for the 12-month period ending September 30, 1996. Each  
1107 quarter, the projected acreage of impact shall be reconciled  
1108 with the acreage of impact of projects as permitted, including  
1109 permit modifications, pursuant to this part and s. 404 of the  
1110 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer  
1111 of funds shall be adjusted accordingly to reflect the acreage of  
1112 impacts as permitted. The Department of Transportation and  
1113 participating transportation authorities established pursuant to  
1114 chapter 348 or chapter 349 are authorized to transfer such funds  
1115 from the escrow accounts to the water management districts to  
1116 carry out the mitigation programs. Environmental mitigation  
1117 funds that are identified or maintained in an escrow account for  
1118 the benefit of a water management district may be released if  
1119 the associated transportation project is excluded in whole or  
1120 part from the mitigation plan. For a mitigation project that is



1121 in the maintenance and monitoring phase, the water management  
 1122 district may request and receive a one-time payment based on the  
 1123 project's expected future maintenance and monitoring costs. Upon  
 1124 disbursement of the final maintenance and monitoring payment,  
 1125 the department or the participating transportation authorities'  
 1126 obligation will be satisfied, the water management district will  
 1127 have continuing responsibility for the mitigation project, and  
 1128 the escrow account for the project established by the Department  
 1129 of Transportation or the participating transportation authority  
 1130 may be closed. Any interest earned on these disbursed funds  
 1131 shall remain with the water management district and must be used  
 1132 as authorized under this section.

1133 (4) Prior to March 1 of each year, each water management  
 1134 district, in consultation with the Department of Environmental  
 1135 Protection, the United States Army Corps of Engineers, the  
 1136 Department of Transportation, participating transportation  
 1137 authorities established pursuant to chapter 348 or chapter 349,  
 1138 and other appropriate federal, state, and local governments, and  
 1139 other interested parties, including entities operating  
 1140 mitigation banks, shall develop a plan for the primary purpose  
 1141 of complying with the mitigation requirements adopted pursuant  
 1142 to this part and 33 U.S.C. s. 1344. In developing such plans,  
 1143 the districts shall utilize sound ecosystem management practices  
 1144 to address significant water resource needs and shall focus on  
 1145 activities of the Department of Environmental Protection and the  
 1146 water management districts, such as surface water improvement  
 1147 and management (SWIM) projects and lands identified for  
 1148 potential acquisition for preservation, restoration or

1149 | enhancement, and the control of invasive and exotic plants in  
 1150 | wetlands and other surface waters, to the extent that such  
 1151 | activities comply with the mitigation requirements adopted under  
 1152 | this part and 33 U.S.C. s. 1344. In determining the activities  
 1153 | to be included in such plans, the districts shall also consider  
 1154 | the purchase of credits from public or private mitigation banks  
 1155 | permitted under s. 373.4136 and associated federal authorization  
 1156 | and shall include such purchase as a part of the mitigation plan  
 1157 | when such purchase would offset the impact of the transportation  
 1158 | project, provide equal benefits to the water resources than  
 1159 | other mitigation options being considered, and provide the most  
 1160 | cost-effective mitigation option. The mitigation plan shall be  
 1161 | submitted to the water management district governing board, or  
 1162 | its designee, for review and approval. At least 14 days prior to  
 1163 | approval, the water management district shall provide a copy of  
 1164 | the draft mitigation plan to any person who has requested a  
 1165 | copy.

1166 |         (a) For each transportation project with a funding request  
 1167 | for the next fiscal year, the mitigation plan must include a  
 1168 | brief explanation of why a mitigation bank was or was not chosen  
 1169 | as a mitigation option, including an estimation of identifiable  
 1170 | costs of the mitigation bank and nonbank options to the extent  
 1171 | practicable.

1172 |         (b) Specific projects may be excluded from the mitigation  
 1173 | plan, in whole or in part, and shall not be subject to this  
 1174 | section upon the election agreement of the Department of  
 1175 | Transportation, ~~or~~ a transportation authority if applicable, or  
 1176 | ~~and~~ the appropriate water management district ~~that the inclusion~~

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1177 ~~of such projects would hamper the efficiency or timeliness of~~  
1178 ~~the mitigation planning and permitting process. The water~~  
1179 ~~management district may choose to exclude a project in whole or~~  
1180 ~~in part if the district is unable to identify mitigation that~~  
1181 ~~would offset impacts of the project.~~

1182       Section 26. This act shall take effect upon becoming a  
1183 law.