

By the Committee on Environmental Preservation and Conservation;  
and Senator Hays

592-02359-16

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1                                   A bill to be entitled  
2           An act relating to environmental control; amending s.  
3           373.227, F.S.; prohibiting water management districts  
4           from modifying or reducing consumptive use permit  
5           allocations if actual water use is less than permitted  
6           water use due to water conservation measures or  
7           specified circumstances; requiring water management  
8           districts to adopt rules providing water conservation  
9           incentives, including permit extensions; amending s.  
10          373.323, F.S.; revising eligibility requirements for  
11          taking the water well contractor licensure  
12          examination; amending s. 373.467, F.S.; revising  
13          membership qualifications for the Harris Chain of  
14          Lakes Restoration Council; authorizing the Lake County  
15          legislative delegation to waive such membership  
16          qualifications for good cause; providing that  
17          resignation or removal of a council member results in  
18          a council vacancy; amending s. 373.705, F.S.;  
19          requiring water management districts to promote  
20          expanded cost-share criteria for additional  
21          conservation practices; amending s. 378.209, F.S.;  
22          exempting certain constructed clay settling areas from  
23          reclamation rate and financial responsibility  
24          requirements under certain conditions; amending s.  
25          403.061, F.S.; requiring the Department of  
26          Environmental Protection to adopt by rule a specific  
27          surface water classification to protect surface waters  
28          used for treated potable water supply; providing  
29          criteria for such rule; authorizing the  
30          reclassification of surface waters used for treated  
31          potable water supply notwithstanding such rule;

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32 amending s. 403.067, F.S.; authorizing the use of land  
33 set-asides and land use modifications, including  
34 constructed wetlands or other water quality  
35 improvement projects, in water quality credit trading;  
36 amending s. 403.201, F.S.; providing applicability of  
37 prohibited variances concerning discharges of waste  
38 into waters of the state and hazardous waste  
39 management; amending s. 403.709, F.S.; making  
40 technical changes; deleting a scheduled repeal date;  
41 amending s. 403.713, F.S.; authorizing local  
42 governments to implement a flow control ordinance only  
43 upon ownership and utilization of a resource recovery  
44 facility and a proven need of flow control for the  
45 facility; excluding landfill gas-to-energy systems and  
46 facilities from being classified as resource recovery  
47 facilities under certain circumstances; amending s.  
48 403.861, F.S.; requiring the department to add treated  
49 potable water supply as a designated use of a surface  
50 water segment under certain circumstances; reenacting  
51 s. 373.414(17), F.S., relating to variances for  
52 activities in surface waters and wetlands, to  
53 incorporate the amendment made by the act to s.  
54 403.201, F.S., in a reference thereto; providing an  
55 appropriation; providing an effective date.

56  
57 Be It Enacted by the Legislature of the State of Florida:  
58

59 Section 1. Present subsection (5) of section 373.227,  
60 Florida Statutes, is renumbered as subsection (7), and new

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61 subsections (5) and (6) are added to that section, to read:

62 373.227 Water conservation; legislative findings and  
63 intent; objectives; comprehensive statewide water conservation  
64 program requirements.-

65 (5) To incentivize water conservation, if actual water use  
66 is less than permitted water use due to documented  
67 implementation of water conservation measures beyond those  
68 required in a consumptive use permit, including, but not limited  
69 to, those measures identified in best management practices  
70 pursuant to s. 570.93, the permitted allocation may not be  
71 modified solely due to such water conservation during the term  
72 of the permit. To promote water conservation and the  
73 implementation of measures that produce significant water  
74 savings beyond those required in a consumptive use permit, each  
75 water management district shall adopt rules providing water  
76 conservation incentives, which may include limited permit  
77 extensions.

78 (6) For consumptive use permits for agricultural  
79 irrigation, if actual water use is less than permitted water use  
80 due to weather events, crop diseases, nursery stock  
81 availability, market conditions, or changes in crop type, a  
82 district may not, as a result, reduce permitted allocation  
83 amounts during the term of the permit.

84 Section 2. Paragraph (b) of subsection (3) of section  
85 373.323, Florida Statutes, is amended to read:

86 373.323 Licensure of water well contractors; application,  
87 qualifications, and examinations; equipment identification.-

88 (3) An applicant who meets the following requirements shall  
89 be entitled to take the water well contractor licensure

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90 examination:

91 (b) Has at least 2 years of experience in constructing,  
92 repairing, or abandoning water wells. Satisfactory proof of such  
93 experience shall be demonstrated by providing:

94 1. Evidence of the length of time the applicant has been  
95 engaged in the business of the construction, repair, or  
96 abandonment of water wells as a major activity, as attested to  
97 by a letter from a water well contractor or ~~and~~ a letter from a  
98 water well inspector employed by a governmental agency.

99 2. A list of at least 10 water wells that the applicant has  
100 constructed, repaired, or abandoned within the preceding 5  
101 years. Of these wells, at least seven must have been  
102 constructed, as defined in s. 373.303(2), by the applicant. The  
103 list shall also include:

104 a. The name and address of the owner or owners of each  
105 well.

106 b. The location, primary use, and approximate depth and  
107 diameter of each well that the applicant has constructed,  
108 repaired, or abandoned.

109 c. The approximate date the construction, repair, or  
110 abandonment of each well was completed.

111 Section 3. Paragraph (a) of subsection (1) and subsection  
112 (3) of section 373.467, Florida Statutes, are amended to read:

113 373.467 The Harris Chain of Lakes Restoration Council.—  
114 There is created within the St. Johns River Water Management  
115 District, with assistance from the Fish and Wildlife  
116 Conservation Commission and the Lake County Water Authority, the  
117 Harris Chain of Lakes Restoration Council.

118 (1) (a) The council shall consist of nine voting members,

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119 which shall include~~+~~ a representative of waterfront property  
120 owners, a representative of the sport fishing industry, a person  
121 with experience in an environmental science or regulation  
122 ~~engineer~~, a person with training in biology or another  
123 scientific discipline, ~~a person with training as an attorney, a~~  
124 ~~physician, a person with training as an engineer~~, and two  
125 residents of the county who are ~~de~~ not required to meet any  
126 additional ~~of the other~~ qualifications for membership enumerated  
127 in this paragraph, each to be appointed by the Lake County  
128 legislative delegation. The Lake County legislative delegation  
129 may waive the qualifications for membership on a case-by-case  
130 basis if good cause is shown. ~~A~~ ~~Ne~~ person serving on the council  
131 may not be appointed to a council, board, or commission of any  
132 council advisory group agency. The council members shall serve  
133 as advisors to the governing board of the St. Johns River Water  
134 Management District. The council is subject to the provisions of  
135 chapters 119 and 120.

136 (3) The council shall meet at the call of its chair, at the  
137 request of six of its members, or at the request of the chair of  
138 the governing board of the St. Johns River Water Management  
139 District. Resignation by a council member, or removal of a  
140 council member for failure to attend three consecutive meetings  
141 without an excuse approved by the chair, shall result in a  
142 vacancy on the council.

143 Section 4. Subsection (5) is added to section 373.705,  
144 Florida Statutes, to read:

145 373.705 Water resource development; water supply  
146 development.—

147 (5) The water management districts shall promote expanded

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148 cost-share criteria for additional conservation practices, such  
149 as soil and moisture sensors and other irrigation improvements,  
150 water-saving equipment, water-saving household fixtures, and  
151 software technologies that can achieve verifiable water  
152 conservation by providing water use information to utility  
153 customers.

154 Section 5. Subsection (4) is added to section 378.209,  
155 Florida Statutes, to read:

156 378.209 Timing of reclamation.—

157 (4) If the beneficial use of a constructed clay settling  
158 area has been extended, the rate of reclamation requirements in  
159 paragraphs (1) (a)-(e) and the requirements of s. 378.208 shall  
160 become applicable for such area when the beneficial use of such  
161 area is completed.

162 Section 6. Subsection (29) of section 403.061, Florida  
163 Statutes, is amended to read:

164 403.061 Department; powers and duties.—The department shall  
165 have the power and the duty to control and prohibit pollution of  
166 air and water in accordance with the law and rules adopted and  
167 promulgated by it and, for this purpose, to:

168 (29) (a) Adopt by rule special criteria to protect Class II  
169 and Class III shellfish harvesting waters. Such rules may  
170 include special criteria for approving docking facilities that  
171 have 10 or fewer slips if the construction and operation of such  
172 facilities will not result in the closure of shellfish waters.

173 (b) Adopt by rule a specific surface water classification  
174 to protect surface waters used for treated potable water supply.  
175 These designated surface waters shall have the same water  
176 quality criteria protections as waters designated for fish

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177 consumption, recreation, and the propagation and maintenance of  
178 a healthy, well-balanced population of fish and wildlife, and  
179 shall be free from discharged substances at a concentration  
180 that, alone or in combination with other discharged substances,  
181 would require significant alteration of permitted treatment  
182 processes at the permitted treatment facility or that would  
183 otherwise prevent compliance with applicable state drinking  
184 water standards in the treated water. Notwithstanding this  
185 classification or the inclusion of treated water supply as a  
186 designated use of a surface water, a surface water used for  
187 treated potable water supply may be reclassified to the potable  
188 water supply classification.

189  
190 The department shall implement such programs in conjunction with  
191 its other powers and duties and shall place special emphasis on  
192 reducing and eliminating contamination that presents a threat to  
193 humans, animals or plants, or to the environment.

194 Section 7. Paragraph (i) is added to subsection (8) of  
195 section 403.067, Florida Statutes, to read:

196 403.067 Establishment and implementation of total maximum  
197 daily loads.—

198 (8) WATER QUALITY CREDIT TRADING.—

199 (i) Land set-asides and land use modifications not  
200 otherwise required by state law or a permit, including  
201 constructed wetlands or other water quality improvement  
202 projects, that reduce nutrient loads into nutrient impaired  
203 surface waters may be used under this subsection.

204 Section 8. Subsection (2) of section 403.201, Florida  
205 Statutes, is amended to read:

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206 403.201 Variances.—

207 (2) A ~~No~~ variance may not ~~shall~~ be granted from any  
208 provision or requirement concerning discharges of waste into  
209 waters of the state or hazardous waste management which would  
210 result in the provision or requirement being less stringent than  
211 a comparable federal provision or requirement, except as  
212 provided in s. 403.70715. However, this subsection does not  
213 prohibit the issuance of moderating provisions or requirements  
214 under state law, subject to any necessary approval by the United  
215 States Environmental Protection Agency.

216 Section 9. Subsection (5) of section 403.709, Florida  
217 Statutes, is amended to read:

218 403.709 Solid Waste Management Trust Fund; use of waste  
219 tire fees.—There is created the Solid Waste Management Trust  
220 Fund, to be administered by the department.

221 (5) (a) Notwithstanding subsection (1), a solid waste  
222 landfill closure account is established within the Solid Waste  
223 Management Trust Fund to provide funding for the closing and  
224 long-term care of solid waste management facilities. The  
225 department may use funds from the account to contract with a  
226 third party for the closing and long-term care of a solid waste  
227 management facility if:

228 1. The facility has or had a department permit to operate  
229 as a solid waste management ~~the~~ facility;

230 2. The permittee provided proof of financial assurance for  
231 closure in the form of an insurance certificate;

232 3. The department deemed the facility ~~is deemed~~ to be  
233 abandoned or ~~was~~ ordered the facility to close ~~by the~~  
234 ~~department~~;



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235 4. Closure is accomplished in substantial accordance with a  
236 closure plan approved by the department; and

237 5. The department has written documentation that the  
238 insurance company issuing the closure insurance policy will  
239 provide or reimburse the funds required to complete closing and  
240 long-term care of the facility.

241 (b) The department shall deposit the funds received from  
242 the insurance company as reimbursement for the costs of the  
243 closure ~~closing~~ or long-term care of the facility into the solid  
244 waste landfill closure account.

245 ~~(c) This subsection expires July 1, 2016.~~

246 Section 10. Subsection (2) of section 403.713, Florida  
247 Statutes, is amended, and subsection (3) is added to that  
248 section, to read:

249 403.713 Ownership and control of solid waste and recovered  
250 materials.—

251 (2) Any local government that ~~which~~ undertakes resource  
252 recovery from solid waste pursuant to general law or special act  
253 may institute a flow control ordinance for the purpose of  
254 ensuring that the resource recovery facility receives an  
255 adequate quantity of solid waste from solid waste generated  
256 within its jurisdiction. Such authority does ~~shall~~ not extend to  
257 recovered materials, whether separated at the point of  
258 generation or after collection, which ~~that~~ are intended to be  
259 held for purposes of recycling pursuant to the requirements of  
260 this part; however, the handling of such materials is ~~shall be~~  
261 subject to applicable state and local public health and safety  
262 laws. A flow control ordinance may be instituted under this  
263 section by a local government only after it owns, and actively

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264 uses, a resource recovery facility and the local government  
265 proves the necessity of instituting flow control to ensure  
266 sufficient materials for that resource recovery facility. A flow  
267 control ordinance also does not limit the ability of other  
268 entities and districts to contract for waste management  
269 services.

270 (3) For the purposes of exercising flow control authority  
271 under this section, a resource recovery facility does not  
272 include a landfill gas-to-energy system or facility.

273 Section 11. Subsection (21) is added to section 403.861,  
274 Florida Statutes, to read:

275 403.861 Department; powers and duties.—The department shall  
276 have the power and the duty to carry out the provisions and  
277 purposes of this act and, for this purpose, to:

278 (21) (a) Upon issuance of a construction permit to construct  
279 a new public water system drinking water treatment facility to  
280 provide potable water supply using a surface water that, at the  
281 time of the permit application, is not being used as a potable  
282 water supply, and the classification of which does not include  
283 potable water supply as a designated use, the department shall  
284 add treated potable water supply as a designated use of the  
285 surface water segment in accordance with s. 403.061(29) (b).

286 (b) For existing public water system drinking water  
287 treatment facilities that use a surface water as a treated  
288 potable water supply, which surface water classification does  
289 not include potable water supply as a designated use, the  
290 department shall add treated potable water supply as a  
291 designated use of the surface water segment in accordance with  
292 s. 403.061(29) (b).

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293 Section 12. For the purpose of incorporating the amendment  
294 made by this act to section 403.201, Florida Statutes, in a  
295 reference thereto, subsection (17) of section 373.414, Florida  
296 Statutes, is reenacted to read:

297 373.414 Additional criteria for activities in surface  
298 waters and wetlands.—

299 (17) The variance provisions of s. 403.201 are applicable  
300 to the provisions of this section or any rule adopted pursuant  
301 to this section. The governing boards and the department are  
302 authorized to review and take final agency action on petitions  
303 requesting such variances for those activities they regulate  
304 under this part and s. 373.4145.

305 Section 13. For the 2016-2017 fiscal year, the sum of  
306 \$2,339,764 in nonrecurring funds is appropriated to the  
307 Department of Environmental Protection from the Solid Waste  
308 Management Trust Fund in the Fixed Capital Outlay-Agency  
309 Managed-Closing and Long-Term Care of Solid Waste Management  
310 Facilities appropriation category for the closing and long-term  
311 care of solid waste management facilities.

312 Section 14. This act shall take effect upon becoming a law.