

1 A bill to be entitled

2 An act relating to environmental regulation; amending  
3 s. 163.3162, F.S.; specifying the authority of  
4 counties to enforce certain wetlands, springs  
5 protection, and stormwater ordinances, regulations,  
6 and rules; amending s. 163.3177, F.S.; providing vote  
7 requirements for adoption of certain elements of local  
8 government comprehensive plans and plan amendments;  
9 amending s. 163.3194, F.S.; prohibiting local  
10 governments from rescinding certain comprehensive plan  
11 amendments; amending s. 373.236, F.S.; authorizing  
12 consumptive use permit durations for certain projects  
13 and developments; authorizing multiple commencement  
14 dates for certain consumptive use permits; amending s.  
15 373.308, F.S.; requiring delegated local governments  
16 to follow certain criteria and standards for well  
17 construction; preempting certain well construction  
18 permitting regulations; amending s. 373.4136, F.S.;  
19 providing that proof of insurance meets a certain  
20 mitigation bank permit requirement; directing the  
21 Department of Environmental Protection and water  
22 managements districts to adopt specified rules;  
23 amending s. 373.709, F.S.; requiring certain criteria  
24 to be incorporated into regional water supply plans;  
25 creating s. 403.0874, F.S.; providing conditions under  
26 which the department required to establish certain

27 greenhouse gas performance standards, repeal certain  
 28 rules, and submit rule revisions to the United States  
 29 Environmental Protection Agency for approval;  
 30 prohibiting the state from proposing or submitting  
 31 certain plans; amending s. 403.709, F.S.; establishing  
 32 a solid waste landfill closure account within the  
 33 Solid Waste Management Trust Fund for specified  
 34 purposes; providing for the deposit of certain funds  
 35 into the account; providing an effective date.

36  
 37 Be It Enacted by the Legislature of the State of Florida:

38  
 39 Section 1. Paragraph (i) of subsection (3) of section  
 40 163.3162, Florida Statutes, is amended to read:

41 163.3162 Agricultural Lands and Practices.—

42 (3) DUPLICATION OF REGULATION.—Except as otherwise  
 43 provided in this section and s. 487.051(2), and notwithstanding  
 44 any other law, including any provision of chapter 125 or this  
 45 chapter:

46 (i) This subsection does not limit a county's powers to:

47 1. Enforce wetlands, springs protection, or stormwater  
 48 ordinances, regulations, or rules adopted before July 1, 2003,  
 49 excluding any modification, readoption, or amendment approved on  
 50 or after July 1, 2003.

51 2. Enforce wetlands, springs protection, or stormwater  
 52 ordinances, regulations, or rules pertaining to the Wekiva River

53 Protection Area.

54 3. Enforce ordinances, regulations, or rules as directed  
 55 by law or implemented consistent with the requirements of a  
 56 program operated under a delegation agreement from a state  
 57 agency or water management district.

58  
 59 As used in this paragraph, the term "wetlands" has the same  
 60 meaning as defined in s. 373.019.

61 Section 2. Paragraph (f) of subsection (1) of section  
 62 163.3177, Florida Statutes, is amended to read:

63 163.3177 Required and optional elements of comprehensive  
 64 plan; studies and surveys.—

65 (1) The comprehensive plan shall provide the principles,  
 66 guidelines, standards, and strategies for the orderly and  
 67 balanced future economic, social, physical, environmental, and  
 68 fiscal development of the area that reflects community  
 69 commitments to implement the plan and its elements. These  
 70 principles and strategies shall guide future decisions in a  
 71 consistent manner and shall contain programs and activities to  
 72 ensure comprehensive plans are implemented. The sections of the  
 73 comprehensive plan containing the principles and strategies,  
 74 generally provided as goals, objectives, and policies, shall  
 75 describe how the local government's programs, activities, and  
 76 land development regulations will be initiated, modified, or  
 77 continued to implement the comprehensive plan in a consistent  
 78 manner. It is not the intent of this part to require the

79 inclusion of implementing regulations in the comprehensive plan  
80 but rather to require identification of those programs,  
81 activities, and land development regulations that will be part  
82 of the strategy for implementing the comprehensive plan and the  
83 principles that describe how the programs, activities, and land  
84 development regulations will be carried out. The plan shall  
85 establish meaningful and predictable standards for the use and  
86 development of land and provide meaningful guidelines for the  
87 content of more detailed land development and use regulations.

88 (f) Board-enacted ~~All~~ mandatory and optional elements of  
89 the comprehensive plan and plan amendments shall be adopted by a  
90 simple majority vote of the local government and shall be based  
91 upon relevant and appropriate data and an analysis by the local  
92 government that may include, but not be limited to, surveys,  
93 studies, community goals and vision, and other data available at  
94 the time of adoption of the comprehensive plan or plan  
95 amendment. To be based on data means to react to it in an  
96 appropriate way and to the extent necessary indicated by the  
97 data available on that particular subject at the time of  
98 adoption of the plan or plan amendment at issue.

99 1. Surveys, studies, and data utilized in the preparation  
100 of the comprehensive plan may not be deemed a part of the  
101 comprehensive plan unless adopted as a part of it. Copies of  
102 such studies, surveys, data, and supporting documents for  
103 proposed plans and plan amendments shall be made available for  
104 public inspection, and copies of such plans shall be made

105 available to the public upon payment of reasonable charges for  
106 reproduction. Support data or summaries are not subject to the  
107 compliance review process, but the comprehensive plan must be  
108 clearly based on appropriate data. Support data or summaries may  
109 be used to aid in the determination of compliance and  
110 consistency.

111 2. Data must be taken from professionally accepted  
112 sources. The application of a methodology utilized in data  
113 collection or whether a particular methodology is professionally  
114 accepted may be evaluated. However, the evaluation may not  
115 include whether one accepted methodology is better than another.  
116 Original data collection by local governments is not required.  
117 However, local governments may use original data so long as  
118 methodologies are professionally accepted.

119 3. The comprehensive plan shall be based upon permanent  
120 and seasonal population estimates and projections, which shall  
121 either be those published by the Office of Economic and  
122 Demographic Research or generated by the local government based  
123 upon a professionally acceptable methodology. The plan must be  
124 based on at least the minimum amount of land required to  
125 accommodate the medium projections as published by the Office of  
126 Economic and Demographic Research for at least a 10-year  
127 planning period unless otherwise limited under s. 380.05,  
128 including related rules of the Administration Commission. Absent  
129 physical limitations on population growth, population  
130 projections for each municipality, and the unincorporated area

131 within a county must, at a minimum, be reflective of each area's  
 132 proportional share of the total county population and the total  
 133 county population growth.

134 Section 3. Subsection (5) of section 163.3194, Florida  
 135 Statutes, is amended to read:

136 163.3194 Legal status of comprehensive plan.—

137 (5) (a) The tax-exempt status of lands classified as  
 138 agricultural under s. 193.461 shall not be affected by any  
 139 comprehensive plan adopted under this act as long as the land  
 140 meets the criteria set forth in s. 193.461.

141 (b) A local government may not rescind a comprehensive  
 142 plan amendment that authorizes land uses other than agricultural  
 143 use if the land continues to be used primarily for bona fide  
 144 agricultural purposes and qualifies for an agricultural  
 145 classification under s. 193.461.

146 Section 4. Subsection (6) of section 373.236, Florida  
 147 Statutes, is amended, and subsection (8) is added to that  
 148 section, to read:

149 373.236 Duration of permits; compliance reports.—

150 (6) (a) The Legislature finds that the need for alternative  
 151 water supply development projects to meet anticipated public  
 152 water supply demands of the state is so important that it is  
 153 essential to encourage participation in and contribution to  
 154 these projects by private-rural-land owners who  
 155 characteristically have relatively modest near-term water  
 156 demands but substantially increasing demands after the 20-year

157 planning period in s. 373.709.

158 1. Therefore, Where such landowners make extraordinary  
159 contributions of lands or construction funding to enable the  
160 expeditious implementation of such projects, water management  
161 districts and the department may grant permits for such projects  
162 for a period of up to 50 years to municipalities, counties,  
163 special districts, regional water supply authorities,  
164 multijurisdictional water supply entities, and publicly or  
165 privately owned utilities, with the exception of any publicly or  
166 privately owned utilities created for or by a private landowner  
167 after April 1, 2008, which have entered into an agreement with  
168 the private landowner for the purpose of more efficiently  
169 pursuing alternative public water supply development projects  
170 identified in a district's regional water supply plan and  
171 meeting water demands of both the applicant and the landowner.

172 2. Where landowners, individually or collectively, make  
173 available lands to enable the expeditious development of  
174 projects involving dispersed surface water storage and release  
175 or surface water storage and recharge which provide water  
176 resource benefits and alternative water supply development, the  
177 water management districts and the department may grant permits  
178 for such projects for a period of up to 50 years.

179 (b) A permit under paragraph (a):

180 1. May authorize the uses of the individual project  
181 participants to begin on different dates.

182 2. May be granted only for that period for which there is

183 sufficient data to provide reasonable assurance that the  
 184 conditions for permit issuance will be met.

185 3. ~~Such a permit~~ Shall require a compliance report by the  
 186 permittee every 5 years during the term of the permit. The  
 187 report shall contain sufficient data to maintain reasonable  
 188 assurance that the conditions for permit issuance applicable at  
 189 the time of district review of the compliance report are met.  
 190 After review of the ~~this~~ report, the governing board or the  
 191 department may modify the permit to ensure that the use meets  
 192 the conditions for issuance.

193 (c) This subsection does not limit the existing authority  
 194 of the department or the governing board to modify or revoke a  
 195 consumptive use permit.

196 (8) Water management districts and the department may  
 197 grant a permit for a period of up to 30 years for a development  
 198 of regional impact that is approved pursuant to s. 380.06 and  
 199 located in a rural area of critical economic concern as defined  
 200 in s. 288.0656.

201 Section 5. Subsection (5) is added to section 373.308,  
 202 Florida Statutes, to read:

203 373.308 Implementation of programs for regulating water  
 204 wells.-

205 (5) Delegated local governments must follow well  
 206 construction criteria and applicable standards adopted by the  
 207 department or water management district, and such criteria and  
 208 standards shall preempt additional local government well

209 construction permitting regulations.

210 Section 6. Paragraph (i) of subsection (1) of section  
211 373.4136, Florida Statutes, is amended to read:

212 373.4136 Establishment and operation of mitigation banks.—

213 (1) MITIGATION BANK PERMITS.—The department and the water  
214 management districts may require permits to authorize the  
215 establishment and use of mitigation banks. A mitigation bank  
216 permit shall also constitute authorization to construct, alter,  
217 operate, maintain, abandon, or remove any surface water  
218 management system necessary to establish and operate the  
219 mitigation bank. To obtain a mitigation bank permit, the  
220 applicant must provide reasonable assurance that:

221 (i) It can meet the financial responsibility requirements  
222 prescribed for mitigation banks. The applicant may satisfy this  
223 condition by submitting proof of insurance in a form approved by  
224 the department or water management district.

225 Section 7. By January 1, 2015, the Department of  
226 Environmental Protection and each water management district  
227 shall adopt rules to implement the amendment to s.  
228 373.4136(1)(i), Florida Statutes.

229 Section 8. Subsection (9) of section 373.709, Florida  
230 Statutes, is renumbered as subsection (10), and a new subsection  
231 (9) is added to that section to read:

232 373.709 Regional water supply planning.—

233 (9) The water needs, water sources, water resource  
234 development projects, and water supply development projects

235 identified in a long-term master plan adopted pursuant to s.  
236 163.3245 or a master plan development order issued under s.  
237 380.06(21) shall be incorporated into a regional water supply  
238 plan adopted pursuant to this section and are exempt from the  
239 analyses required under subsection (2).

240 Section 9. Section 403.0874, Florida Statutes, is created  
241 to read:

242 403.0874 Implementation of federal greenhouse gas  
243 regulations.-

244 (1) If the United States Environmental Protection Agency  
245 adopts a final regulation under 42 U.S.C. s. 7411(d) requiring  
246 the state to develop an implementation plan establishing  
247 greenhouse gas performance standards for existing industrial  
248 sources, the department shall establish such performance  
249 standards based on a system of emission reduction that has been  
250 adequately demonstrated for each existing industrial source in  
251 the state that is subject to greenhouse gas performance  
252 standards. The department shall take into account the cost of  
253 achieving such reduction and any nonair quality health and  
254 environmental impact and energy requirements.

255 (2) In determining the applicable greenhouse gas  
256 performance standard for an existing source, the department  
257 shall consider whether to provide for the application of less  
258 stringent performance standards or longer compliance schedules  
259 than those provided in applicable rules or emission guidelines,  
260 taking into consideration:

261 (a) The unreasonable cost of control based on plant age,  
262 location, or basic process design.

263 (b) The physical difficulties with or impossibility of  
264 installing necessary control equipment.

265 (c) The impacts on electric reliability based on the  
266 availability of diversified sources of electric generation.

267 (d) The cost of applying the performance standard  
268 considering other environmentally beneficial projects undertaken  
269 at the source in the past 10 years.

270 (e) The expected remaining useful life of the source.

271 (f) The economic impacts of applying the performance  
272 standard, including any costs to the public or expected job  
273 losses.

274 (g) Any other factors specific to a facility or class of  
275 facilities that make application of a less stringent performance  
276 standard or final compliance time significantly more reasonable.

277 (3) The state may not propose or submit any plan  
278 establishing greenhouse gas performance standards for existing  
279 sources that is inconsistent with this section.

280 (4) If any federal greenhouse gas regulation is declared  
281 invalid, vacated, revoked, repealed, or withdrawn, the  
282 department shall:

283 (a) Publish notice of the repeal of any substantively  
284 identical department rule as soon as practicable, but no later  
285 than 60 days after receipt of the declaration. The repeal shall  
286 be effective upon publication of the notice.

287 (b) Revise applicable federally approved state  
288 implementation plan provisions as soon as practicable to reflect  
289 cessation of implementation of the applicable federal regulation  
290 and immediately submit such revisions for approval to the United  
291 States Environmental Protection Agency.

292 Section 10. Subsection (5) is added to section 403.709,  
293 Florida Statutes, to read:

294 403.709 Solid Waste Management Trust Fund; use of waste  
295 tire fees.—There is created the Solid Waste Management Trust  
296 Fund, to be administered by the department.

297 (5)(a) Notwithstanding subsection (1), a solid waste  
298 landfill closure account is established within the Solid Waste  
299 Management Trust Fund to provide funding for the closing and  
300 long-term care of solid waste management facilities. The  
301 department may use funds from the account to contract with a  
302 third party for the closing and long-term care of a solid waste  
303 management facility if:

304 1. The facility has or had a department permit to operate  
305 the facility.

306 2. The permittee provided proof of financial assurance for  
307 closure in the form of an insurance certificate.

308 3. The facility is deemed to be abandoned or was ordered  
309 to close by the department.

310 4. Closure is accomplished in substantial accordance with  
311 a closure plan approved by the department.

312 5. The department has written documentation that the

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313 insurance company issuing the closure insurance policy will  
314 provide or reimburse the funds required to complete closing and  
315 long-term care of the facility.

316 (b) The department shall deposit the funds received from  
317 the insurance company as reimbursement for the costs of closing  
318 or long-term care of the facility into the solid waste landfill  
319 closure account.

320 Section 11. This act shall take effect July 1, 2014.