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LEGISLATIVE ACTION

Senate

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House

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Senator Truenow moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

311.106 Seaport stormwater permitting and mitigation.—

(1) A seaport listed in s. 403.021(9) (b) is authorized to  
provide for onsite or offsite stormwater treatment for water  
quality impacts caused by a proposed port activity that requires  
a permit and that causes or contributes to pollution from



12 stormwater runoff. Offsite stormwater treatment may occur  
13 outside of the established boundaries of the port, but must be  
14 within the same drainage basin in which the port activity  
15 occurs. A port offsite stormwater treatment project must be  
16 constructed and maintained by the seaport or by the seaport in  
17 conjunction with an adjacent local government. In order to limit  
18 stormwater treatment from individual parcels within a port, a  
19 seaport may provide for a regional stormwater treatment facility  
20 that must be constructed and maintained by the seaport or by the  
21 seaport in conjunction with an adjacent local government.

22 (2) For a proposed port activity with water quality impacts  
23 that causes or contributes to pollution from stormwater runoff  
24 from a seaport not listed in s. 403.021(9)(b), and not including  
25 ports in Citrus or Putnam Counties, a regional stormwater  
26 management system, as defined in s. 373.413(7)(a), operated by a  
27 non-local governmental entity independently or under contract  
28 with a seaport or local government, may not provide stormwater  
29 treatment or achieve net improvement under s. 373.414(1)(b)3.

30 For a proposed port activity with water quality impacts that  
31 causes or contributes to pollution from stormwater runoff from a  
32 seaport not listed in s. 403.021(9)(b), and not including ports  
33 in Citrus or Putnam Counties, a water quality enhancement area  
34 as defined in s. 373.4134 and operated by a non-local  
35 governmental entity independently or under contract with a  
36 seaport or local government may not convey enhancement credits  
37 to provide stormwater treatment or achieve net improvement under  
38 s. 373.414(1)(b)3.

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



41 373.403 Definitions.—When appearing in this part or in any  
42 rule, regulation, or order adopted pursuant thereto, the  
43 following terms mean:

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

46 (24) "Enhancement credit" means a standard unit of measure  
47 that represents a quantity of pollutant removed by a water  
48 quality enhancement area.

49 (25) "Pollutant reduction allocation" means a standard unit  
50 of measure that represents a quantity of pollutant removed by a  
51 regional stormwater management system for purposes of providing  
52 compensating stormwater treatment under the environmental  
53 resource permitting program.

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

56 373.413 Permits for construction or alteration.—

57 (7) REGIONAL STORMWATER MANAGEMENT SYSTEMS.—

58 (a) A "regional stormwater management system" is a method  
59 of compensating stormwater treatment that creates pollution  
60 reduction allocations and is designed, constructed, operated,  
61 and maintained to collect, convey, store, absorb, inhibit,  
62 treat, or harvest stormwater to prevent or reduce flooding,  
63 overdrainage, environmental degradation and water pollution or  
64 otherwise affect the quantity and quality of discharges within  
65 the drainage area served by the regional system which is the  
66 land or development that is served by or contributes stormwater  
67 to the regional system.

68 (b) As part of meeting the requirement to demonstrate that  
69 an applicant for an environmental resource permit for a regional



70 stormwater management system has the financial, legal, and  
71 administrative capability of ensuring such regional stormwater  
72 management system will be undertaken according to the terms and  
73 conditions of an issued permit, the department or a water  
74 management district shall require such applicant to provide  
75 documentation of adequate financial responsibility. This  
76 financial responsibility may consist of performance bonds,  
77 letters of credit, insurance policies, trust agreements, or  
78 similar, ensuring completion of construction; the amount of  
79 which shall be based on cost estimates of completing the  
80 construction; and an endowment or other long-term financial  
81 assurance mechanism sufficient to ensure operation and  
82 maintenance for the entire period the regional stormwater  
83 management system is anticipated to be relied upon to provide  
84 stormwater treatment, attenuation, or regulatory pollutant load  
85 reduction allocations, the amount of which shall be based on  
86 cost estimates of such long-term operation and maintenance. The  
87 cost estimates and associated financial responsibility  
88 mechanisms shall be updated every 5 years to reflect current  
89 costs. This section shall not be construed to impose additional  
90 financial responsibility requirements on stormwater management  
91 systems that are not regional stormwater management systems.

92 (c) An environmental resource permit authorizing a regional  
93 stormwater management system shall establish and include a  
94 graphic depicting the drainage area to be served by such system.  
95 Environmental resource permit applicants located within the  
96 drainage area may purchase and use pollution reduction  
97 allocations from a regional stormwater management system to meet  
98 stormwater treatment performance criteria. The department or



99 water management district shall use Hydrologic Unit Code 12 (HUC  
100 12) subbasin as set forth by the United States Geological Survey  
101 to establish the drainage area, unless the regional stormwater  
102 management system applicant provides justification demonstrating  
103 the proposed off-site area outside of the HUC 12 would provide  
104 the same degree of compensating treatment for a common  
105 downstream receiving waterbody without causing or contributing  
106 to any localized adverse impact to any downstream waters,  
107 through modeling, other evaluations, or a combination thereof.

108 Section 4. Present paragraphs (d) through (g) of subsection  
109 (3) of section 373.4134, Florida Statutes, are redesignated as  
110 paragraphs (e) through (h), respectively, a new paragraph (d) is  
111 added to that subsection, and paragraph (e) of subsection (1),  
112 paragraph (b) of subsection (2), paragraph (b) of subsection  
113 (3), subsection (5), paragraph (e) of subsection (7), and  
114 subsection (9) of that section are amended, to read:

115 373.4134 Water quality enhancement areas.—

116 (1) LEGISLATIVE FINDINGS AND INTENT.— The Legislature finds  
117 that:

118 (e) Water quality enhancement areas that provide water  
119 quality enhancement credits to applicants seeking permits under  
120 ss. 373.403-373.443 and to governmental entities seeking to meet  
121 an assigned basin management action plan allocation or  
122 reasonable assurance plan under s. 403.067 are considered an  
123 appropriate and permissible option. The use of an enhancement  
124 credit as specified herein transfers the legal responsibility  
125 for complying with the applicable regulatory water quality  
126 treatment requirement from the purchaser and user of such  
127 enhancement credit to the generator of such enhancement credit.



128 (2) DEFINITIONS.—As used in this section, the term:  
129 ~~(b) “Enhancement credit” means a standard unit of measure~~  
130 ~~that represents a quantity of pollutant removed.~~  
131 (3) WATER QUALITY ENHANCEMENT AREAS.—  
132 (b) Water quality enhancement credits may be sold to and  
133 used by governmental entities seeking to meet an assigned basin  
134 management action plan allocation or reasonable assurance plan  
135 or to permit applicants to meet environmental resource permit  
136 stormwater treatment performance standards or to achieve for the  
137 purpose of achieving net improvement or meeting environmental  
138 resource permit performance standards under s. 373.414(1)(b)3.  
139 ~~after reasonable assurances have been provided for the design~~  
140 ~~and construction of all onsite stormwater management, as~~  
141 ~~required by law.~~  
142 (d) The use of enhancement credits from a water quality  
143 enhancement area constitutes compensating stormwater treatment  
144 under the environmental resource permitting program.  
145 (5) WATER QUALITY ENHANCEMENT SERVICE AREA.—The department  
146 shall establish a water quality enhancement service area for  
147 each water quality enhancement area. Enhancement credits may be  
148 withdrawn and used only to address adverse impacts in the  
149 enhancement service area. The boundaries of the enhancement  
150 service area shall depend upon the geographic area in which the  
151 water quality enhancement area could reasonably be expected to  
152 address adverse impacts and must, at a minimum, consist of a  
153 Hydrologic Unit Code 8 (HUC 8) subbasin as set forth by the  
154 United States Geological Survey. Enhancement service areas may  
155 overlap, and enhancement service areas for two or more water  
156 quality enhancement areas may be approved for a regional



157 watershed.

158 (7) ENHANCEMENT CREDITS.—

159 (e) Reductions in pollutant loading required under any  
160 state regulatory program are not eligible to be considered as  
161 enhancement credits. In addition, the term "credit" shall not be  
162 used to refer to pollutant reduction achieved through  
163 compensating stormwater treatment to meet environmental resource  
164 permitting stormwater performance standards or as a mitigation  
165 measure to achieve net improvement under s. 373.414(1)(b)3.  
166 outside of enhancement credits generated from a water quality  
167 enhancement area.

168 (9) RULES.—The department shall adopt rules to implement  
169 this section which shall be filed for adoption no later than  
170 October 1, 2026. This section may not be implemented until the  
171 department adopts such rules. Pending the adoption of rules to  
172 implement this section, the department shall accept, review and  
173 take final agency action on applications for water quality  
174 enhancement area provisional permits. The department shall issue  
175 a water quality enhancement provisional permit in response to a  
176 submitted application if the applicant provides reasonable  
177 assurance of meeting the statutory criteria in this section.  
178 Enhancement credits may be used from a water quality enhancement  
179 area established under a provisional permit as provided in this  
180 section subject to compliance with s. 373.4134 and the terms of  
181 the provisional permit. Notwithstanding any other provision of  
182 law or rule, the department or a water management district  
183 reviewing an environmental resource permit application that  
184 seeks to satisfy stormwater treatment performance standards or  
185 achieve net improvement under s. 373.414(1)(b)3. shall allow the



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186 use of enhancement credits from a water quality enhancement area  
187 with a provisional permit pursuant to the terms of such  
188 provisional permit. After the department adopts rules to  
189 implement this section, the department may modify a water  
190 quality enhancement area provisional permit to conform such  
191 permit to such rules. Any enhancement credits used from a water  
192 quality enhancement area established under a provisional permit  
193 shall continue to be recognized by the department and water  
194 management districts without change regardless of whether the  
195 provisional permit is subsequently modified to conform to the  
196 adopted rules.

197 Section 5. Paragraph (b) of subsection (1) of section  
198 373.414, Florida Statutes, is amended to read:

199 373.414 Additional criteria for activities in surface  
200 waters and wetlands.—

201 (1) As part of an applicant's demonstration that an  
202 activity regulated under this part will not be harmful to the  
203 water resources or will not be inconsistent with the overall  
204 objectives of the district, the governing board or the  
205 department shall require the applicant to provide reasonable  
206 assurance that state water quality standards applicable to  
207 waters as defined in s. 403.031 will not be violated and  
208 reasonable assurance that such activity in, on, or over surface  
209 waters or wetlands, as delineated in s. 373.421(1), is not  
210 contrary to the public interest. However, if such an activity  
211 significantly degrades or is within an Outstanding Florida  
212 Water, as provided by department rule, the applicant must  
213 provide reasonable assurance that the proposed activity will be  
214 clearly in the public interest.



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215 (b) If the applicant is unable to otherwise meet the  
216 criteria set forth in this subsection, the governing board or  
217 the department, in deciding to grant or deny a permit, must  
218 consider measures proposed by or acceptable to the applicant to  
219 mitigate adverse effects that may be caused by the regulated  
220 activity. Such measures may include, but are not limited to,  
221 onsite mitigation, offsite mitigation, offsite regional  
222 mitigation, and the purchase of mitigation credits from  
223 mitigation banks permitted under s. 373.4136. It is the  
224 responsibility of the applicant to choose the form of  
225 mitigation. The mitigation must offset the adverse effects  
226 caused by the regulated activity.

227 1. The department or water management districts may accept  
228 the donation of money as mitigation only where the donation is  
229 specified for use in a duly noticed environmental creation,  
230 preservation, enhancement, or restoration project, endorsed by  
231 the department or the governing board of the water management  
232 district, which offsets the impacts of the activity permitted  
233 under this part. However, this subsection does not apply to  
234 projects undertaken pursuant to s. 373.4137 or chapter 378.  
235 Where a permit is required under this part to implement any  
236 project endorsed by the department or a water management  
237 district, all necessary permits must be ~~have been~~ issued before  
238 ~~prior to~~ the acceptance of any cash donation. After the  
239 effective date of this act, when money is donated to either the  
240 department or a water management district to offset impacts  
241 authorized by a permit under this part, the department or the  
242 water management district shall accept only a donation that  
243 represents the full cost to the department or water management



244 district of undertaking the project that is intended to mitigate  
245 the adverse impacts. The full cost shall include all direct and  
246 indirect costs, as applicable, such as those for land  
247 acquisition, land restoration or enhancement, perpetual land  
248 management, and general overhead consisting of costs such as  
249 staff time, building, and vehicles. The department or the water  
250 management district may use a multiplier or percentage to add to  
251 other direct or indirect costs to estimate general overhead.  
252 Mitigation credit for such a donation may be given only to the  
253 extent that the donation covers the full cost to the agency of  
254 undertaking the project intended to mitigate the adverse  
255 impacts. However, nothing herein may be construed to prevent the  
256 department or a water management district from accepting a  
257 donation representing a portion of a larger project, provided  
258 that the donation covers the full cost of that portion and  
259 mitigation credit is given only for that portion. The department  
260 or water management district may deviate from the full cost  
261 requirements of this subparagraph to resolve a proceeding  
262 brought pursuant to chapter 70 or a claim for inverse  
263 condemnation. ~~Nothing in~~ This section may not be construed to  
264 require the owner of a private mitigation bank, permitted under  
265 s. 373.4136, to include the full cost of a mitigation credit in  
266 the price of the credit to a purchaser of such ~~said~~ credit.

267 2. The department and each water management district shall  
268 report by March 1 of each year, as part of the consolidated  
269 annual report required by s. 373.036(7), all cash donations  
270 accepted under subparagraph 1. during the preceding water  
271 management district fiscal year for wetland mitigation purposes.  
272 The report must exclude those contributions pursuant to s.



273 373.4137. The report must include a description of the endorsed  
274 mitigation projects and, except for projects governed by s.  
275 373.4135(6), must address, as applicable, success criteria,  
276 project implementation status and timeframe, monitoring, long-  
277 term management, provisions for preservation, and full cost  
278 accounting.

279 3. If the applicant is unable to meet water quality  
280 standards because existing ambient water quality does not meet  
281 standards, the governing board or the department must consider  
282 mitigation measures, such as compensating stormwater treatment  
283 as defined in s. 373.403(23), proposed by or acceptable to the  
284 applicant that cause net improvement of the water quality in the  
285 receiving body of water for those parameters which do not meet  
286 standards.

287 4. If mitigation requirements imposed by a local government  
288 for surface water and wetland impacts of an activity regulated  
289 under this part cannot be reconciled with mitigation  
290 requirements approved under a permit for the same activity  
291 issued under this part, including application of the uniform  
292 wetland mitigation assessment method adopted pursuant to  
293 subsection (18), the mitigation requirements for surface water  
294 and wetland impacts are controlled by the permit issued under  
295 this part.

296 Section 6. For the purpose of incorporating the amendment  
297 made by this act to section 373.414, Florida Statutes, in a  
298 reference thereto, paragraph (d) of subsection (6) of section  
299 373.4136, Florida Statutes, is reenacted to read:

300 373.4136 Establishment and operation of mitigation banks.—

301 (6) MITIGATION SERVICE AREA.—The department or water



302 management district shall establish a mitigation service area  
303 for each mitigation bank permit. The department or water  
304 management district shall notify and consider comments received  
305 on the proposed mitigation service area from each local  
306 government within the proposed mitigation service area. Except  
307 as provided in this section, mitigation credits may be withdrawn  
308 and used only to offset adverse impacts in the mitigation  
309 service area. The boundaries of the mitigation service area  
310 shall depend upon the geographic area where the mitigation bank  
311 could reasonably be expected to offset adverse impacts.  
312 Mitigation service areas may overlap, and mitigation service  
313 areas for two or more mitigation banks may be approved for a  
314 regional watershed.

315 (d) If the provisions of s. 373.414(1)(b) and (8) are met  
316 and an insufficient number or type of credits from banks whose  
317 permitted service area overlays in whole or in part the regional  
318 watershed in which the impacts occur, the permit applicant is  
319 entitled to a one-time use of credits released from a mitigation  
320 bank outside the mitigation bank service area to offset impacts  
321 pursuant to s. 373.414(1)(b), as established by the procedure in  
322 paragraph (f). The department or water management district must  
323 have determined that the mitigation service area lacked the  
324 appropriate credit type. Priority must be given to mitigation  
325 banks whose permitted service area fully includes the impacted  
326 site. If the number of released credits within a mitigation  
327 service area only partially offsets the impacts associated with  
328 a proposed project in the mitigation service area, the permit  
329 applicant may only use out-of-service-area credits to account  
330 for the difference between the released credits available in the



331 mitigation bank service area and the credits required to offset  
332 the impacts associated with the proposed project. In  
333 implementing this subsection, the department and water  
334 management districts shall apply a proximity factor to determine  
335 adequate compensatory mitigation as follows:

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

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

343 3. A 1.2 multiplier shall be applied for use of in-kind and  
344 out-of-service-area credits located within a regional watershed  
345 immediately adjacent to the regional watershed overlain by a  
346 bank service area in which proposed impacts are located only  
347 after credit deficiency has been established by the procedure  
348 set forth in paragraph (f).

349 4. When in-kind credits are not available to offset impacts  
350 in the regional watershed immediately adjacent to the regional  
351 watershed overlain by a mitigation bank service area in which  
352 the proposed impacts are located, an additional 0.25 multiplier  
353 shall be applied for each additional regional watershed boundary  
354 crossed only after credit deficiency has been established by the  
355 procedure set forth in paragraph (f).

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

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



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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to stormwater treatment; amending s.  
311.106, F.S.; prohibiting certain stormwater  
treatment and net improvement activities; prohibiting  
certain water quality enhancement areas from conveying  
enhancement credits to provide stormwater treatment or  
achieve net improvement; amending s. 373.403, F.S.;  
defining terms; amending s. 373.413, F.S.; defining  
the term "regional stormwater management system";  
requiring that the Department of Environmental  
Protection or a water management district require an  
applicant to provide certain documentation of adequate  
financial responsibility in order to meet certain  
requirements; providing requirements for such  
financial responsibility; providing construction;  
requiring an environmental resource permit authorizing  
a regional stormwater management system to establish  
and include a specified graphic depiction; authorizing  
certain environmental resource permit applicants to  
purchase and use pollution reduction allocations from  
a regional stormwater management system to meet  
certain performance criteria; requiring the department  
or water management district to use a specified  
identifier to establish the drainage area; providing



389 an exception; amending s. 373.4134, F.S.; revising  
390 legislative findings; deleting the definition of the  
391 term "enhancement credit"; authorizing water quality  
392 enhancement credits to be used by governmental  
393 entities to meet environmental resource permit  
394 stormwater treatment performance standards or achieve  
395 net improvement, pursuant to specified provisions;  
396 providing that the use of enhancement credits from a  
397 water quality enhancement area constitutes  
398 compensating stormwater treatment under the  
399 environmental resource permitting program; requiring  
400 the boundaries of the enhancement service area to  
401 include of a certain type of subbasin; prohibiting the  
402 term "credit" from being used to refer to pollutant  
403 reduction under certain circumstances; requiring the  
404 department to adopt rules by a specified date;  
405 requiring the department to take certain action  
406 pending the adoption of certain rules; requiring the  
407 department to issue a provisional permit under certain  
408 circumstances; authorizing enhancement credits to be  
409 used from certain water quality enhancement areas;  
410 providing construction; authorizing the department to  
411 modify permits after the adoption of rules; requiring  
412 the department and water management districts to  
413 recognize any enhancement credit used from a water  
414 quality enhancement area established pursuant to a  
415 provisional permit; amending s. 373.414, F.S.;  
416 clarifying the types of mitigation measures for  
417 compensating stormwater treatment which the department



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418 or a water management district governing board must  
419 consider under certain circumstances; making technical  
420 changes; reenacting s. 373.4136(6)(d), F.S., relating  
421 to establishment and operation of mitigation banks, to  
422 incorporate the amendment made to s. 373.414, F.S., in  
423 a reference thereto; providing an effective date.