

1 A bill to be entitled
 2 An act relating to stormwater management systems; creating
 3 s. 373.4131, F.S.; providing legislative findings;
 4 providing definitions; requiring the Department of
 5 Environmental Protection, in coordination with the water
 6 management districts, to develop a uniform statewide
 7 stormwater quality treatment rule; providing exemptions
 8 for specified stormwater management systems and permitted
 9 activities; requiring the department to adopt the rule by
 10 a specified date; providing an exemption from the
 11 rulemaking provisions of ch. 120 for implementation of the
 12 rule by water management districts and delegated local
 13 programs; providing requirements for developing, adopting,
 14 implementing, and amending the rule; authorizing the
 15 department and the water management districts to adopt,
 16 amend, and retain specified rules; providing an exemption
 17 from the dispute resolution provisions of ch. 70 for
 18 agency action taken pursuant to the rule; providing for
 19 applicability, effect, and repeal of specified rules;
 20 providing for construction; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

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 24 Section 1. Section 373.4131, Florida Statutes, is created
 25 to read:

26 373.4131 Stormwater quality treatment requirements.-

27 (1) The Legislature finds that high nutrient levels are a
 28 major cause of water quality impairment in the state's waters

29 and that revisions to existing rules regarding stormwater
 30 quality treatment requirements are necessary to prevent further
 31 degradation of the state's waters.

32 (2) As used in this section, the term:

33 (a) "Nutrient" means total nitrogen and total phosphorus.

34 (b) "Redevelopment" means construction of a surface water
 35 management system on sites having existing commercial,
 36 industrial, institutional, or multifamily land uses where the
 37 existing impervious surface will be removed as part of the
 38 proposed activity.

39 (c) "Stormwater quality treatment requirements" means the
 40 minimum level of stormwater treatment and design criteria for
 41 the construction, operation, and maintenance of stormwater
 42 management systems.

43 (3) The department, in coordination with the water
 44 management districts, shall develop a uniform statewide
 45 stormwater quality treatment rule for stormwater management
 46 systems other than those systems serving agriculture and
 47 silviculture. The rule must provide for geographic differences
 48 in physical and natural characteristics, such as rainfall
 49 patterns, topography, soil type, and vegetation. The department
 50 shall adopt the rule by July 1, 2011. The water management
 51 districts and any delegated local program under this part shall
 52 implement the rule without having to adopt it pursuant to s.
 53 120.54. However, the department and water management districts
 54 may adopt, amend, or retain rules establishing more stringent
 55 stormwater quality treatment requirements for special basins in
 56 order to address further differences in physical or natural

57 characteristics, including legacy pollutants from past
 58 activities; rules designed to implement a basin management
 59 action plan for a total maximum daily load; rules established
 60 pursuant to s. 373.4592, s. 373.4595, s. 373.461, or s. 403.067;
 61 or rules designed to protect Class I, Class II, or shellfish
 62 harvesting waters.

63 (a) Except as otherwise provided in this section, the rule
 64 adopted pursuant to this section supersedes any rule of the
 65 department, a water management district, or a delegated local
 66 program under this part establishing less stringent stormwater
 67 quality treatment requirements for stormwater management
 68 systems, other than those systems serving agriculture and
 69 silviculture.

70 (b) Existing stormwater quality treatment rules that are
 71 superseded by the rule adopted pursuant to this section may be
 72 repealed without further rulemaking pursuant to s. 120.54 by
 73 publication of a notice of repeal in the Florida Administrative
 74 Weekly and subsequent filing of a list of the rules repealed
 75 with the Department of State.

76 (c) Until the rule adopted pursuant to this section
 77 becomes effective, existing stormwater quality treatment rules
 78 adopted pursuant to this part are deemed authorized under this
 79 part and remain in full force and effect.

80 (d) Agency action taken in accordance with the rule
 81 adopted pursuant to this section is exempt from chapter 70.

82 (4) The rule must establish the minimum level of
 83 stormwater quality treatment necessary in order to not cause or
 84 contribute to water quality violations and must include:

85 (a) For discharges to non-Outstanding Florida Waters, an
86 85 percent average annual reduction of postdevelopment nutrient
87 load or treatment such that postdevelopment nutrient loads are
88 less than or equal to the estimated nutrient loads from the
89 natural vegetative community type associated with the site's
90 natural soils, whichever is less stringent;

91 (b) For discharges to waters not meeting state water
92 quality standards, including waters designated on the
93 department's list of verified impaired waters established under
94 s. 403.067 and discharges to Outstanding Florida Waters,
95 treatment such that the postdevelopment nutrient loads are less
96 than or equal to the estimated nutrient loads from the natural
97 vegetative community type associated with the site's natural
98 soils; and

99 (c) Such additional requirements as necessary to ensure
100 that discharges of pollutants, other than nutrients, from
101 stormwater systems meet the applicable water quality standards
102 in the receiving water body.

103 (5) The rule must provide design criteria for the
104 construction, operation, and maintenance of stormwater systems
105 necessary to meet the level of stormwater quality treatment
106 established under subsection (4). Compliance with the design
107 criteria creates a presumption that stormwater discharged from
108 the system will not cause or contribute to violations of water
109 quality standards in receiving waters.

110 (6) Notwithstanding subsection (4), the rule may establish
111 alternative stormwater quality treatment requirements for the
112 redevelopment of sites totaling 2 acres or less and the

113 retrofitting of existing stormwater management systems if such
 114 treatment results in a net reduction in the discharge of
 115 nutrients and other pollutants to the receiving waters. The
 116 alternative treatment requirements for redevelopment of sites
 117 totaling 2 acres or less must be based upon a feasibility
 118 assessment of stormwater best management practices that
 119 considers factors such as site size, availability of regional
 120 stormwater treatment systems, and physical site characteristics.

121 (7) The rule may establish requirements that ensure
 122 financial responsibility for the construction, operation, and
 123 long-term management of the stormwater management system.

124 (8) Notwithstanding the stormwater quality treatment
 125 requirements under subsection (4), within 2 years after the
 126 adoption of any numeric nutrient water quality criteria pursuant
 127 to chapter 403, the department, in coordination with the water
 128 management districts, shall develop and adopt such amendments to
 129 the rule as are necessary to ensure that water quality standards
 130 are maintained.

131 (9) Subsequent to the adoption of the rule pursuant to
 132 this section, the following circumstances continue to be
 133 governed by the stormwater quality treatment rules adopted by
 134 the department, the water management districts, and any
 135 delegated local program under this part in effect before the
 136 effective date of the rule adopted pursuant to this section,
 137 unless the applicant elects to have an application reviewed in
 138 accordance with the rule adopted pursuant to this section:

139 (a) The operation and maintenance of stormwater management
 140 systems legally in existence before the effective date of the

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141 rule adopted pursuant to this section if the terms and
142 conditions of the permit, exemption, or other authorization for
143 such systems continue to be met.

144 (b) The activities approved in a permit issued pursuant to
145 this part and the review of activities proposed in applications
146 received and completed before the effective date of the rule
147 adopted pursuant to this section. This paragraph also applies to
148 any modification of the plans, terms, and conditions of the
149 permit, including new activities, within the geographical area
150 to which the permit applies. However, this paragraph does not
151 apply to a modification that would extend the permitted time
152 limit for construction beyond 2 additional years or to any
153 modification that is reasonably expected to lead to additional
154 or substantially different stormwater quality impacts. This
155 paragraph also applies to modifications that lessen or do not
156 increase stormwater quality impacts.

157 (10) This section does not diminish the jurisdiction or
158 authority granted to the water management districts or the
159 department under this part before the effective date of this
160 section. The provisions of this section are supplemental to the
161 existing jurisdiction and authority under this part.

162 Section 2. This act shall take effect upon becoming a law.