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1                                   A bill to be entitled  
 2           An act relating to statewide environmental resource  
 3           permitting; creating s. 373.4131, F.S.; requiring the  
 4           Department of Environmental Protection, in  
 5           coordination with the water management districts, to  
 6           adopt statewide environmental resource permitting  
 7           rules for activities relating to the management and  
 8           storage of surface waters; providing rule  
 9           requirements; preserving an exemption from causes of  
 10          action under the "Bert J. Harris, Jr., Private  
 11          Property Rights Protection Act"; providing an  
 12          exemption from the rulemaking provisions of ch. 120,  
 13          F.S., for implementation of the rules by water  
 14          management districts and delegated local programs;  
 15          requiring counties, municipalities, and delegated  
 16          local programs to amend ordinances and regulations  
 17          within a specified timeframe to conform with the  
 18          rules; providing for applicability, effect, and repeal  
 19          of specified rules; authorizing water management  
 20          districts to adopt and retain specified rules;  
 21          authorizing the department to incorporate certain  
 22          rules; providing a presumption of compliance for  
 23          specified design, construction, operation, and  
 24          maintenance of certain stormwater management systems;  
 25          providing exemptions for specified stormwater  
 26          management systems and permitted activities; requiring  
 27          the department to conduct or oversee staff assessment  
 28          and training; reenacting s. 70.001(12), F.S., relating

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29 the "Bert J. Harris, Jr., Private Property Rights  
 30 Protection Act," for purposes of a cross-reference in  
 31 s. 373.4131, F.S.; providing an effective date.  
 32

33 Be It Enacted by the Legislature of the State of Florida:  
 34

35 Section 1. Section 373.4131, Florida Statutes, is created  
 36 to read:

37 373.4131 Statewide environmental resource permitting  
 38 rules.—

39 (1) (a) No later than October 1, 2012, the department shall  
 40 initiate rulemaking to adopt, in coordination with the water  
 41 management districts, statewide environmental resource  
 42 permitting rules governing the construction, alteration,  
 43 operation, maintenance, repair, abandonment, and removal of any  
 44 stormwater management system, dam, impoundment, reservoir,  
 45 appurtenant work, works, or any combination thereof, under this  
 46 part.

47 (b) The rules shall provide for statewide, consistent  
 48 regulation of activities under this part and shall include, at a  
 49 minimum:

- 50 1. Criteria and thresholds for requiring permits.
- 51 2. Types of permits.
- 52 3. Procedures governing the review of applications and  
 53 notices, duration and modification of permits, operational  
 54 requirements, transfers of permits, provisions for emergencies,  
 55 and provisions for abandonment and removal of systems.

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56           4. Exemptions and general permits that do not allow  
 57 significant adverse impacts to occur individually or  
 58 cumulatively.

59           5. Conditions for issuance.

60           6. General permit conditions, including monitoring,  
 61 inspection, and reporting requirements.

62           7. Standardized fee categories for activities under this  
 63 part to promote consistency. The department and water management  
 64 districts may amend fee rules to reflect the standardized fee  
 65 categories but are not required to adopt identical fees for  
 66 those categories.

67           8. Application, notice, and reporting forms. To the  
 68 maximum extent practicable, the department and water management  
 69 districts shall provide for electronic submittal of forms and  
 70 notices.

71           9. An applicant's handbook that, at a minimum, contains  
 72 general program information, application and review procedures,  
 73 a specific discussion of how environmental criteria are  
 74 evaluated, and discussion of stormwater quality and quantity  
 75 criteria.

76           (c) The rules shall rely primarily on the rules of the  
 77 department and water management districts in effect immediately  
 78 prior to the effective date of this section, except that the  
 79 department may:

80           1. Reconcile differences and conflicts to achieve a  
 81 consistent statewide approach.

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82 2. Account for different physical or natural  
 83 characteristics, including special basin considerations, of  
 84 individual water management districts.

85 3. Implement additional permit streamlining measures.

86 (d) The application of the rules shall continue to be  
 87 governed by the first sentence of s. 70.001(12).

88 (2)(a) Upon adoption of the rules, the water management  
 89 districts and local governments delegated local pollution  
 90 control program authority under s. 373.441 shall implement the  
 91 rules without the need for further rulemaking pursuant to s.  
 92 120.54. The districts and local governments shall have  
 93 substantive jurisdiction to implement and interpret the rules,  
 94 consistent with any guidance from the department, in any license  
 95 or final order pursuant to s. 120.60 or s. 120.57(1)(1).

96 (b)1. A county, municipality, or local pollution control  
 97 program that has a delegation of local pollution control program  
 98 authority or proposes to be delegated such authority under s.  
 99 373.441 shall directly and without modification incorporate by  
 100 reference and use the rules adopted pursuant to this section  
 101 when reviewing and taking action on the department's behalf on a  
 102 delegated permitting, compliance, or enforcement matter under  
 103 this part.

104 2. A county, municipality, or local pollution control  
 105 program that has a delegation of local pollution control program  
 106 authority under s. 373.441 must amend its local ordinances or  
 107 regulations to conform to the requirements of this section  
 108 within 12 months after the effective date of the rules adopted  
 109 pursuant to this section.

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110 3. The department and each local program with the  
 111 authority to implement or seeking to implement a delegation of  
 112 local pollution control program authority under s. 373.441 shall  
 113 identify and reconcile any duplicative permitting as part of the  
 114 delegation.

115 (c) Until the rules adopted pursuant to this section  
 116 become effective, existing rules adopted pursuant to this part  
 117 remain in full force and effect. Existing rules that are  
 118 superseded by the rules adopted pursuant to this section may be  
 119 repealed without further rulemaking pursuant to s. 120.54 by  
 120 publication of a notice of repeal in the Florida Administrative  
 121 Weekly and subsequent filing of a list of the rules repealed  
 122 with the Department of State.

123 (3) (a) After the adoption of rules pursuant to this  
 124 section, the water management districts, with department  
 125 oversight, may continue to adopt rules governing design and  
 126 performance standards for stormwater quality and quantity, and  
 127 the department may incorporate the design and performance  
 128 standards by reference for use within the geographic  
 129 jurisdiction of each district.

130 (b) If a stormwater management system is designed in  
 131 accordance with the stormwater treatment requirements and  
 132 criteria adopted by the department or a water management  
 133 district under this part, the system design is presumed not to  
 134 cause or contribute to violations of applicable state water  
 135 quality standards.

136 (c) If a stormwater management system is constructed,  
 137 operated, and maintained for stormwater treatment in accordance

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138 with a valid permit or exemption under this part, the stormwater  
 139 discharged from the system is presumed not to cause or  
 140 contribute to violations of applicable state water quality  
 141 standards.

142 (4) Notwithstanding the adoption of rules pursuant to this  
 143 section, the following activities shall continue to be governed  
 144 by the rules adopted by the department, the water management  
 145 districts, and delegated local programs under this part in  
 146 effect before the effective date of the rules adopted pursuant  
 147 to this section, unless the applicant elects review in  
 148 accordance with the rules adopted pursuant to this section:

149 (a) The operation and maintenance of any stormwater  
 150 management system, dam, impoundment, reservoir, appurtenant  
 151 work, works, or any combination thereof legally in existence  
 152 before the effective date of the rules adopted pursuant to this  
 153 section if the terms and conditions of the permit, exemption, or  
 154 other authorization for such activity continue to be met.

155 (b) The activities determined in writing by the  
 156 department, a water management district, or a local government  
 157 delegated local pollution control program authority under s.  
 158 373.441 to be exempt from the permitting requirements of this  
 159 part, including self-certifications submitted to the department,  
 160 a water management district, or a delegated local government  
 161 before the effective date of the rules adopted pursuant to this  
 162 section.

163 (c) The activities approved in a permit issued pursuant to  
 164 this part and the review of activities proposed in a permit  
 165 application that is complete before the effective date of the

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166 rules adopted pursuant to this section. This paragraph applies  
 167 to any modification of the plans, terms, and conditions of the  
 168 permit, including new activities, within the geographical area  
 169 to which the permit applies and to any modification that lessens  
 170 or does not increase impacts. However, this paragraph does not  
 171 apply to a modification that is reasonably expected to lead to  
 172 additional or substantially different impacts.

173 (5) To ensure consistent implementation and interpretation  
 174 of the rules adopted pursuant to this section, the department  
 175 shall conduct or oversee regular assessment and training of its  
 176 staff and the staffs of the water management districts and local  
 177 governments delegated local pollution control program authority  
 178 under s. 373.441.

179 Section 2. For the purpose of a cross-reference in section  
 180 373.4131, Florida Statutes, as created by this act, subsection  
 181 (12) of section 70.001, Florida Statutes, is reenacted to read:

182 70.001 Private property rights protection.—

183 (12) No cause of action exists under this section as to  
 184 the application of any law enacted on or before May 11, 1995, or  
 185 as to the application of any rule, regulation, or ordinance  
 186 adopted, or formally noticed for adoption, on or before that  
 187 date. A subsequent amendment to any such law, rule, regulation,  
 188 or ordinance gives rise to a cause of action under this section  
 189 only to the extent that the application of the amendatory  
 190 language imposes an inordinate burden apart from the law, rule,  
 191 regulation, or ordinance being amended.

192 Section 3. This act shall take effect July 1, 2012.