

By Senator Bennett

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1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 s. 125.022, F.S.; prohibiting a county from requiring
4 an applicant to obtain a permit or approval from any
5 state or federal agency as a condition of processing a
6 development permit under certain conditions;
7 authorizing a county to attach certain disclaimers to
8 the issuance of a development permit; creating s.
9 161.032, F.S.; requiring that the Department of
10 Environmental Protection review an application for
11 certain permits under the Beach and Shore Preservation
12 Act and request additional information within a
13 specified time; requiring that the department proceed
14 to process the application if the applicant believes
15 that a request for additional information is not
16 authorized by law or rule; extending the period for an
17 applicant to timely submit additional information,
18 notwithstanding certain provisions of the
19 Administrative Procedure Act; authorizing the
20 department to issue such permits in advance of the
21 issuance of certain authorizations as provided for in
22 the Endangered Species Act under certain conditions;
23 amending s. 161.041, F.S.; prohibiting the department
24 from requiring certain sediment quality specifications
25 or turbidity standards as a permit condition;
26 providing legislative intent with respect to
27 permitting for beach renourishment projects; directing
28 the department to amend specified rules relating to
29 permitting for such projects; amending s. 163.3180,

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F.S.; providing an exemption to the level-of-service standards adopted under the Strategic Intermodal System for certain inland multimodal facilities; specifying project criteria; amending s. 166.033, F.S.; prohibiting a municipality from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of processing a development permit under certain conditions; authorizing a municipality to attach certain disclaimers to the issuance of a development permit; amending s. 218.075, F.S.; providing for the reduction or waiver of permit processing fees relating to projects that serve a public purpose for certain entities created by special act, local ordinance, or interlocal agreement; amending s. 258.397, F.S.; providing an exemption from a showing of extreme hardship relating to the sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve for certain municipal applicants; providing for additional dredging and filling activities in the preserve; amending s. 373.026, F.S.; requiring the department to expand its use of Internet-based self-certification services for exemptions and permits issued by the department and water management districts; amending s. 373.4141, F.S.; reducing the time within which a permit must be approved, denied, or subject to notice of proposed agency action; prohibiting a state agency or an agency of the state from requiring additional permits or

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59 approval from a local, state, or federal agency
60 without explicit authority; amending s. 373.4144,
61 F.S.; providing legislative intent with respect to the
62 coordination of regulatory duties among specified
63 state and federal agencies; encouraging expanded use
64 of the state programmatic general permit or regional
65 general permits; providing for a voluntary state
66 programmatic general permit for certain dredge and
67 fill activities; amending s. 373.441, F.S.; requiring
68 that certain counties or municipalities apply by a
69 specified date to the department or water management
70 district for authority to require certain permits;
71 providing that following such delegation, the
72 department or district may not regulate activities
73 that are subject to the delegation; clarifying the
74 authority of local governments to adopt pollution
75 control programs under certain conditions; providing
76 applicability with respect to solid mineral mining;
77 amending s. 376.3071, F.S.; exempting program
78 deductibles, copayments, and certain assessment report
79 requirements from expenditures under the low-scored
80 site initiative; amending s. 376.30715, F.S.;
81 providing that the transfer of a contaminated site
82 from an owner to a child of the owner or corporate
83 entity does not disqualify the site from the innocent
84 victim petroleum storage system restoration financial
85 assistance program; authorizing certain applicants to
86 reapply for financial assistance; amending s.
87 380.0657, F.S.; authorizing expedited permitting for

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88 certain inland multimodal facilities that individually
89 or collectively will create a minimum number of jobs;
90 amending s. 403.061, F.S.; requiring the department to
91 establish reasonable zones of mixing for discharges
92 into specified waters; providing that exceedance of
93 certain groundwater standards does not create
94 liability for site cleanup; providing that exceedance
95 of soil cleanup target levels is not a basis for
96 enforcement or cleanup; amending s. 403.087, F.S.;
97 revising conditions under which the department is
98 authorized to revoke permits for sources of air and
99 water pollution; amending s. 403.1838, F.S.; revising
100 the definition of the term "financially disadvantaged
101 small community" for the purposes of the Small
102 Community Sewer Construction Assistance Act; amending
103 s. 403.7045, F.S.; providing conditions under which
104 sludge from an industrial waste treatment works is not
105 solid waste; amending s. 403.707, F.S.; exempting the
106 disposal of solid waste monitored by certain
107 groundwater monitoring plans from specific
108 authorization; extending the duration of all permits
109 issued to solid waste management facilities that meet
110 specified criteria; providing an exception; providing
111 for prorated permit fees; providing applicability;
112 amending s. 403.814, F.S.; providing for issuance of
113 general permits for the construction, alteration, and
114 maintenance of certain surface water management
115 systems without the action of the department or a
116 water management district; specifying conditions for

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the general permits; amending s. 403.853, F.S.;
providing for the department, or a local county health
department designated by the department, to perform
sanitary surveys for certain transient noncommunity
water systems; amending s. 403.973, F.S.; authorizing
expedited permitting for certain commercial or
industrial development projects that individually or
collectively will create a minimum number of jobs;
providing for a project-specific memorandum of
agreement to apply to a project subject to expedited
permitting; clarifying the authority of the department
to enter final orders for the issuance of certain
licenses; revising criteria for the review of certain
sites; amending s. 526.203, F.S.; authorizing the sale
of unblended fuels for certain uses; revising the
deadline for completion of the installation of fuel
tank upgrades to secondary containment systems for
specified properties; providing an effective date.

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

Section 1. Section 125.022, Florida Statutes, is amended to
read:

125.022 Development permits.—When a county denies an
application for a development permit, the county shall give
written notice to the applicant. The notice must include a
citation to the applicable portions of an ordinance, rule,
statute, or other legal authority for the denial of the permit.
As used in this section, the term "development permit" has the

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146 same meaning as in s. 163.3164. A county may not require as a
147 condition of processing a development permit that an applicant
148 obtain a permit or approval from any state or federal agency
149 unless the agency has issued a notice of intent to deny the
150 federal or state permit before the county action on the local
151 development permit. Issuance of a development permit by a county
152 does not in any way create any rights on the part of the
153 applicant to obtain a permit from a state or federal agency and
154 does not create any liability on the part of the county for
155 issuance of the permit if the applicant fails to fulfill its
156 legal obligations to obtain requisite approvals or fulfill the
157 obligations imposed by a state or federal agency. A county may
158 attach such a disclaimer to the issuance of a development
159 permit, and may include a permit condition that all other
160 applicable state or federal permits be obtained before
161 commencement of the development. This section does not prohibit
162 a county from providing information to an applicant regarding
163 what other state or federal permits may apply.

164 Section 2. Section 161.032, Florida Statutes, is created to
165 read:

166 161.032 Application review; request for additional
167 information.—

168 (1) Within 30 days after receipt of an application for a
169 permit under this part, the department shall review the
170 application and shall request submission of any additional
171 information the department is permitted by law to require. If
172 the applicant believes that a request for additional information
173 is not authorized by law or rule, the applicant may request a
174 hearing pursuant to s. 120.57. Within 30 days after receipt of

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175 such additional information, the department shall review the
176 additional information and may request only that information
177 needed to clarify the additional information or to answer new
178 questions raised by or directly related to the additional
179 information. If the applicant believes that the request for
180 additional information by the department is not authorized by
181 law or rule, the department, at the applicant's request, shall
182 proceed to process the permit application.

183 (2) Notwithstanding s. 120.60, an applicant for a permit
184 under this part has 90 days after the date of a timely request
185 for additional information to submit the information. If an
186 applicant requires more than 90 days in order to respond to a
187 request for additional information, the applicant must notify
188 the agency processing the permit application in writing of the
189 circumstances, at which time the application shall be held in
190 active status for no more than one additional period of up to 90
191 days. Additional extensions may be granted for good cause shown
192 by the applicant. A showing that the applicant is making a
193 diligent effort to obtain the requested additional information
194 constitutes good cause. Failure of an applicant to provide the
195 timely requested information by the applicable deadline shall
196 result in denial of the application without prejudice.

197 (3) Notwithstanding any other provision of law, the
198 department may issue a permit pursuant to this part in advance
199 of the issuance of any incidental take authorization as provided
200 for in the Endangered Species Act and its implementing
201 regulations if the permit and authorization include a condition
202 that authorized activities may not begin until the incidental
203 take authorization is issued.

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Section 3. Subsections (5) and (6) are added to section 161.041, Florida Statutes, to read:

161.041 Permits required.—

(5) The department may not require as a permit condition sediment quality specifications or turbidity standards more stringent than those provided for in this chapter, chapter 373, or the Florida Administrative Code. The department may not issue guidelines that are enforceable as standards without going through the rulemaking process pursuant to chapter 120.

(6) As an incentive for permit applicants, it is the Legislature's intent to simplify the permitting for periodic maintenance of beach renourishment projects previously permitted and restored under the joint coastal permit process pursuant to this section or part IV of chapter 373. The department shall amend chapters 62B-41 and 62B-49 of the Florida Administrative Code to streamline the permitting process, as necessary, for periodic maintenance projects.

Section 4. Subsection (7) is added to section 163.3180, Florida Statutes, to read:

163.3180 Concurrence.—

(7) There shall be a limited exemption from the Strategic Intermodal System adopted level-of-service standards for new or redevelopment projects consistent with the local comprehensive plan as inland multimodal facilities receiving or sending cargo for distribution and providing cargo storage, consolidation, repackaging, and transfer of goods, and which may, if developed as proposed, include other intermodal terminals, related transportation facilities, warehousing and distribution facilities, and associated office space, light industrial,

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manufacturing, and assembly uses. The limited exemption applies if the project meets all of the following criteria:

(a) The project will not cause the adopted level-of-service standards for the Strategic Intermodal System facilities to be exceeded by more than 150 percent within the first 5 years of the project's development.

(b) The project, upon completion, would result in the creation of at least 50 full-time jobs.

(c) The project is compatible with existing and planned adjacent land uses.

(d) The project is consistent with local and regional economic development goals or plans.

(e) The project is proximate to regionally significant road and rail transportation facilities.

(f) The project is proximate to a community having an unemployment rate, as of the date of the development order application, which is 10 percent or more above the statewide reported average.

(g) The local government has a plan, developed in consultation with the Department of Transportation, for mitigating any impacts to the strategic intermodal system.

Section 5. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the

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same meaning as in s. 163.3164. A municipality may not require as a condition of processing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a notice of intent to deny the federal or state permit before the municipal action on the local development permit. Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency. A municipality may attach such a disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 6. Section 218.075, Florida Statutes, is amended to read:

218.075 Reduction or waiver of permit processing fees.—
Notwithstanding any other provision of law, the Department of Environmental Protection and the water management districts shall reduce or waive permit processing fees for counties with a population of 50,000 or less on April 1, 1994, until such counties exceed a population of 75,000 and municipalities with a population of 25,000 or less, or for an entity created by special act, local ordinance, or interlocal agreement of such counties or municipalities, or for any county or municipality

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not included within a metropolitan statistical area. Fee reductions or waivers shall be approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

(1) Per capita taxable value is less than the statewide average for the current fiscal year;

(2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;

(3) Any condition specified in s. 218.503(1) which results in the county or municipality being in a state of financial emergency;

(4) Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality or a third party under contract with a county or municipality or an entity created by special act, local ordinance, or interlocal agreement and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee shall not exceed \$100.

Section 7. Paragraphs (a) and (b) of subsection (3) of

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section 258.397, Florida Statutes, are amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) ~~No further~~ Sale, transfer, or lease of sovereignty submerged lands in the preserve may not ~~shall~~ be approved or consummated by the board of trustees, except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest. A municipal applicant proposing a project under paragraph (b) is exempt from showing extreme hardship.

(b) ~~No further~~ Dredging or filling of submerged lands of the preserve may not ~~shall~~ be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects or for such minimum dredging and spoiling as may be constituted as a public necessity or for preservation of the bay according to the expressed intent of this section.

2. Such other alteration of physical conditions, including the placement of riprap, as may be necessary to enhance the quality and utility of the preserve.

3. Such minimum dredging and filling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels and access roads. Such projects may ~~only~~ be authorized only upon a specific finding by

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the board of trustees that there is assurance that the project will be constructed and operated in a manner that will not adversely affect the water quality and utility of the preserve. This subparagraph does ~~shall~~ not authorize the connection of upland canals to the waters of the preserve.

4. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, islands, and spoil banks, the dredging of which would enhance the aesthetic and environmental quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

5. Such dredging and filling as is necessary for the creation of public waterfront promenades.

Any dredging or filling under this subsection or improvements under subsection (5) may ~~shall~~ be approved only after public notice as provided by s. 253.115.

Section 8. Subsection (10) is added to section 373.026, Florida Statutes, to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the

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department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if such expansion is economically feasible. In addition to expanding the use of Internet-based self-certification services for appropriate exemptions and general permits, the department and water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 9. Subsection (2) of section 373.4141, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

373.4141 Permits; processing.—

(2) A permit shall be approved, ~~or~~ denied, or subject to a notice of proposed agency action within 60 ~~90~~ days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

(4) A state agency or an agency of the state may not require as a condition of approval for a permit or as an item to complete a pending permit application that an applicant obtain a permit or approval from any other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 10. Section 373.4144, Florida Statutes, is amended to read:

373.4144 Federal environmental permitting.—

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(1) It is the intent of the Legislature to:

(a) Facilitate coordination and a more efficient process of implementing regulatory duties and functions between the Department of Environmental Protection, the water management districts, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies.

(b) Authorize the Department of Environmental Protection to obtain issuance by the United States Army Corps of Engineers, pursuant to state and federal law and as set forth in this section, of an expanded state programmatic general permit, or a series of regional general permits, for categories of activities in waters of the United States governed by the Clean Water Act and in navigable waters under the Rivers and Harbors Act of 1899 which are similar in nature, which will cause only minimal adverse environmental effects when performed separately, and which will have only minimal cumulative adverse effects on the environment.

(c) Use the mechanism of such a state general permit or such regional general permits to eliminate overlapping federal regulations and state rules that seek to protect the same resource and to avoid duplication of permitting between the United States Army Corps of Engineers and the department for minor work located in waters of the United States, including navigable waters, thus eliminating, in appropriate cases, the need for a separate individual approval from the United States Army Corps of Engineers while ensuring the most stringent

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436 protection of wetland resources.

437 (d) Direct the department not to seek issuance of or take
438 any action pursuant to any such permit or permits unless such
439 conditions are at least as protective of the environment and
440 natural resources as existing state law under this part and
441 federal law under the Clean Water Act and the Rivers and Harbors
442 Act of 1899. ~~The department is directed to develop, on or before~~
443 ~~October 1, 2005, a mechanism or plan to consolidate, to the~~
444 ~~maximum extent practicable, the federal and state wetland~~
445 ~~permitting programs. It is the intent of the Legislature that~~
446 ~~all dredge and fill activities impacting 10 acres or less of~~
447 ~~wetlands or waters, including navigable waters, be processed by~~
448 ~~the state as part of the environmental resource permitting~~
449 ~~program implemented by the department and the water management~~
450 ~~districts. The resulting mechanism or plan shall analyze and~~
451 ~~propose the development of an expanded state programmatic~~
452 ~~general permit program in conjunction with the United States~~
453 ~~Army Corps of Engineers pursuant to s. 404 of the Clean Water~~
454 ~~Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.,~~
455 ~~and s. 10 of the Rivers and Harbors Act of 1899. Alternatively,~~
456 ~~or in combination with an expanded state programmatic general~~
457 ~~permit, the mechanism or plan may propose the creation of a~~
458 ~~series of regional general permits issued by the United States~~
459 ~~Army Corps of Engineers pursuant to the referenced statutes. All~~
460 ~~of the regional general permits must be administered by the~~
461 ~~department or the water management districts or their designees.~~
462 (2) In order to effectuate efficient wetland permitting and
463 avoid duplication, the department and water management districts
464 are authorized to implement a voluntary state programmatic

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general permit for all dredge and fill activities impacting 3
acres or less of wetlands or other surface waters, including
navigable waters, subject to agreement with the United States
Army Corps of Engineers, if the general permit is at least as
protective of the environment and natural resources as existing
state law under this part and federal law under the Clean Water
Act and the Rivers and Harbors Act of 1899. ~~The department is~~
~~directed to file with the Speaker of the House of~~
~~Representatives and the President of the Senate a report~~
~~proposing any required federal and state statutory changes that~~
~~would be necessary to accomplish the directives listed in this~~
~~section and to coordinate with the Florida Congressional~~
~~Delegation on any necessary changes to federal law to implement~~
~~the directives.~~

(3) ~~Nothing in~~ This section may not ~~shall~~ be construed to
preclude the department from pursuing a series of regional
general permits for construction activities in wetlands or
surface waters or complete assumption of federal permitting
programs regulating the discharge of dredged or fill material
pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500,
as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers
and Harbors Act of 1899, so long as the assumption encompasses
all dredge and fill activities in, on, or over jurisdictional
wetlands or waters, including navigable waters, within the
state.

Section 11. Present subsections (3), (4), and (5) of
section 373.441, Florida Statutes, are renumbered as subsections
(7), (8), and (9), respectively, and new subsections (3), (4),
(5), and (6) are added to that section to read:

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373.441 Role of counties, municipalities, and local
pollution control programs in permit processing; delegation.—

(3) A county or municipality having a population of 400,000
or more that implements a local pollution control program
regulating all or a portion of the wetlands or surface waters
throughout its geographic boundary must apply for delegation of
state environmental resource permitting authority on or before
January 1, 2014. If such a county or municipality fails to
receive delegation of all or a portion of state environmental
resource permitting authority within 2 years after submitting
its application for delegation or by January 1, 2016, at the
latest, it may not require permits that in part or in full are
substantially similar to the requirements needed to obtain an
environmental resource permit. A county or municipality that has
received delegation before January 1, 2014, does not need to
reapply.

(4) The department is responsible for all delegations of
state environmental resource permitting authority to local
governments. The department must grant or deny an application
for delegation submitted by a county or municipality that meets
the criteria in subsection (3) within 2 years after the receipt
of the application. If an application for delegation is denied,
any available legal challenge to such denial shall toll the
preemption deadline until resolution of the legal challenge.
Upon delegation to a qualified local government, the department
and water management district may not regulate the activities
subject to the delegation within that jurisdiction.

(5) This section does not prohibit or limit a local
government that meets the criteria in subsection (3) from

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regulating wetlands or surface waters after January 1, 2014, if the local government receives delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for delegation.

(6) Notwithstanding subsections (3), (4), and (5), this section does not apply to environmental resource permitting or reclamation applications for solid mineral mining and does not prohibit the application of local government regulations to any new solid mineral mine or any proposed addition to, change to, or expansion of an existing solid mineral mine.

Section 12. Paragraph (b) of subsection (11) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(11)

(b) *Low-scored site initiative.*—Notwithstanding s. 376.30711, any site with a priority ranking score of 10 points or less may voluntarily participate in the low-scored site initiative, whether or not the site is eligible for state restoration funding.

1. To participate in the low-scored site initiative, the responsible party or property owner must affirmatively demonstrate that the following conditions are met:

a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 10 points or less.

b. No excessively contaminated soil, as defined by department rule, exists onsite as a result of a release of petroleum products.

c. A minimum of 6 months of groundwater monitoring

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indicates that the plume is shrinking or stable.

d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.

e. The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.

f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.

2. Upon affirmative demonstration of the conditions under subparagraph 1., the department shall issue a determination of "No Further Action." Such determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to human health or the environment. If no contamination is detected, the department may issue a site rehabilitation completion order.

3. Sites that are eligible for state restoration funding may receive payment of preapproved costs for the low-scored site initiative as follows:

a. A responsible party or property owner may submit an assessment plan designed to affirmatively demonstrate that the site meets the conditions under subparagraph 1. Notwithstanding the priority ranking score of the site, the department may preapprove the cost of the assessment pursuant to s. 376.30711, including 6 months of groundwater monitoring, not to exceed

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581 \$30,000 for each site. The department may not pay the costs
582 associated with the establishment of institutional or
583 engineering controls.

584 b. The assessment work shall be completed no later than 6
585 months after the department issues its approval.

586 c. No more than \$10 million for the low-scored site
587 initiative may ~~shall~~ be encumbered from the Inland Protection
588 Trust Fund in any fiscal year. Funds shall be made available on
589 a first-come, first-served basis and shall be limited to 10
590 sites in each fiscal year for each responsible party or property
591 owner.

592 d. Program deductibles, copayments, and the limited
593 contamination assessment report requirements under paragraph
594 (13) (c) do not apply to expenditures under this paragraph.

595 Section 13. Section 376.30715, Florida Statutes, is amended
596 to read:

597 376.30715 Innocent victim petroleum storage system
598 restoration.—A contaminated site acquired by the current owner
599 prior to July 1, 1990, which has ceased operating as a petroleum
600 storage or retail business prior to January 1, 1985, is eligible
601 for financial assistance pursuant to s. 376.305(6),
602 notwithstanding s. 376.305(6) (a). For purposes of this section,
603 the term "acquired" means the acquisition of title to the
604 property; however, a subsequent transfer of the property to a
605 spouse or child of the owner, a surviving spouse or child of the
606 owner in trust or free of trust, ~~or~~ a revocable trust created
607 for the benefit of the settlor, or a corporate entity created by
608 the owner to hold title to the site does not disqualify the site
609 from financial assistance pursuant to s. 376.305(6) and

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610 applicants previously denied coverage may reapply. Eligible
611 sites shall be ranked in accordance with s. 376.3071(5).

612 Section 14. Subsection (1) of section 380.0657, Florida
613 Statutes, is amended to read:

614 380.0657 Expedited permitting process for economic
615 development projects.—

616 (1) The Department of Environmental Protection and, as
617 appropriate, the water management districts created under
618 chapter 373 shall adopt programs to expedite the processing of
619 wetland resource and environmental resource permits for economic
620 development projects that have been identified by a municipality
621 or county as meeting the definition of target industry
622 businesses under s. 288.106, or any inland multimodal facility
623 receiving or sending cargo to or from Florida ports, with the
624 exception of those projects requiring approval by the Board of
625 Trustees of the Internal Improvement Trust Fund.

626 Section 15. Subsection (11) of section 403.061, Florida
627 Statutes, is amended to read:

628 403.061 Department; powers and duties.—The department shall
629 have the power and the duty to control and prohibit pollution of
630 air and water in accordance with the law and rules adopted and
631 promulgated by it and, for this purpose, to:

632 (11) Establish ambient air quality and water quality
633 standards for the state as a whole or for any part thereof, and
634 also standards for the abatement of excessive and unnecessary
635 noise. The department is authorized to establish reasonable
636 zones of mixing for discharges into waters. For existing
637 installations as defined by rule 62-520.200(10), Florida
638 Administrative Code, effective July 12, 2009, zones of discharge

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to groundwater are authorized to a facility's or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to this chapter or chapter 376 for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup.

(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) ~~No~~ Mixing zones ~~zone~~ for point source discharges are not ~~shall be~~ permitted in Outstanding Florida Waters except for:

1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;

3. Discharges of water necessary for water management

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purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary; and

4. The discharge of demineralization concentrate which has been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.

~~Nothing in~~ This act may not be ~~shall~~ be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

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

Section 16. Subsection (7) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(7) A permit issued pursuant to this section does ~~shall~~ not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder

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has:

(a) ~~Has~~ Submitted false or inaccurate information in the
~~his or her~~ application for the permit;

(b) ~~Has~~ Violated law, department orders, rules, ~~or~~
~~regulations~~, or ~~permit~~ conditions;

(c) ~~Has~~ Failed to submit operational reports or other
information required by department rule which directly relate to
the permit and has refused to correct or cure such violations
when requested to do so ~~or regulation~~; or

(d) ~~Has~~ Refused lawful inspection under s. 403.091 at the
facility authorized by the permit.

Section 17. Subsection (2) of section 403.1838, Florida
Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance
Act.—

(2) The department shall use funds specifically
appropriated to award grants under this section to assist
financially disadvantaged small communities with their needs for
adequate sewer facilities. For purposes of this section, the
term "financially disadvantaged small community" means a
municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer
~~less~~, according to the latest decennial census and a per capita
annual income less than the state per capita annual income as
determined by the United States Department of Commerce.

Section 18. Paragraph (f) of subsection (1) of section
403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other
acts.—

(1) The following wastes or activities shall not be

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regulated pursuant to this act:

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year.

2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused.

3. The industrial byproducts are not hazardous wastes as defined under s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment works that meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703(32).

Section 19. Subsections (2) and (3) of section 403.707, Florida Statutes, are amended to read:

403.707 Permits.—

(2) Except as provided in s. 403.722(6), a permit under this section is not required for the following, ~~if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations, or orders:~~

(a) Disposal by persons of solid waste resulting from their own activities on their own property, if such waste is ordinary

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household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations. Disposal of materials that could create a public nuisance or adversely affect the environment or public health, such as white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners' ~~homeowners~~ or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, if the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department under this chapter or rules adopted pursuant to this chapter; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. If a facility has a permit authorizing disposal activity, new areas where solid waste is being disposed of which are monitored by an existing or modified groundwater monitoring plan are not required to be specifically authorized in a permit or other certification.

(d) Disposal by persons of solid waste resulting from their own activities on their own property, if such disposal occurred

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prior to October 1, 1988.

(e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning if a public nuisance or any condition adversely affecting the environment or the public health is not created by the open burning and state or federal ambient air quality standards are not violated.

(f) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining any other required permits, and does not affect a person's responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(g) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3)(a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(b) Any permit issued to a solid waste management facility that is designed with a leachate control system that meets department requirements shall be issued for a term of 20 years unless the applicant requests a lesser permit term. Existing permit fees for qualifying solid waste management facilities shall be prorated to the permit term authorized by this section. This paragraph applies to all qualifying solid waste management

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813 facilities that apply for an operating or construction permit or
814 renew an existing operating or construction permit on or after
815 July 1, 2012.

816 Section 20. Subsection (12) is added to section 403.814,
817 Florida Statutes, to read:

818 403.814 General permits; delegation.—

819 (12) A general permit shall be granted for the
820 construction, alteration, and maintenance of a surface water
821 management system serving a total project area of up to 10
822 acres. The construction of such a system may proceed without any
823 agency action by the department or water management district if:

824 (a) The total project area is less than 10 acres;

825 (b) The total project area involves less than 2 acres of
826 impervious surface;

827 (c) No activities will impact wetlands or other surface
828 waters;

829 (d) No activities are conducted in, on, or over wetlands or
830 other surface waters;

831 (e) Drainage facilities will not include pipes having
832 diameters greater than 24 inches, or the hydraulic equivalent,
833 and will not use pumps in any manner;

834 (f) The project is not part of a larger common plan,
835 development, or sale;

836 (g) The project does not:

837 1. Cause adverse water quantity or flooding impacts to
838 receiving water and adjacent lands;

839 2. Cause adverse impacts to existing surface water storage
840 and conveyance capabilities;

841 3. Cause a violation of state water quality standards; or

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842 4. Cause an adverse impact to the maintenance of surface or
843 ground water levels or surface water flows established pursuant
844 to s. 373.042 or a work of the district established pursuant to
845 s. 373.086; and

846 (h) The surface water management system design plans are
847 signed and sealed by a Florida registered professional who
848 attests that the system will perform and function as proposed
849 and has been designed in accordance with appropriate, generally
850 accepted performance standards and scientific principles.

851 Section 21. Subsection (6) of section 403.853, Florida
852 Statutes, is amended to read:

853 403.853 Drinking water standards.—

854 (6) Upon the request of the owner or operator of a
855 transient noncommunity water system using groundwater as a
856 source of supply and serving religious institutions or
857 businesses, other than restaurants or other public food service
858 establishments or religious institutions with school or day care
859 services, ~~and using groundwater as a source of supply,~~ the
860 department, or a local county health department designated by
861 the department, shall perform a sanitary survey of the facility.
862 Upon receipt of satisfactory survey results according to
863 department criteria, the department shall reduce the
864 requirements of such owner or operator from monitoring and
865 reporting on a quarterly basis to performing these functions on
866 an annual basis. Any revised monitoring and reporting schedule
867 approved by the department under this subsection shall apply
868 until such time as a violation of applicable state or federal
869 primary drinking water standards is determined by the system
870 owner or operator, by the department, or by an agency designated

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by the department, after a random or routine sanitary survey. Certified operators are not required for transient noncommunity water systems of the type and size covered by this subsection. Any reports required of such system shall be limited to the minimum as required by federal law. When not contrary to the provisions of federal law, the department may, upon request and by rule, waive additional provisions of state drinking water regulations for such systems.

Section 22. Paragraph (a) of subsection (3) and subsections (4), (5), (10), (11), (14), (15), and (18) of section 403.973, Florida Statutes, are amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)(a) The secretary shall direct the creation of regional permit action teams for the purpose of expediting review of permit applications and local comprehensive plan amendments submitted by:

1. Businesses creating at least 50 jobs or a commercial or industrial development project that will be occupied by businesses that would individually or collectively create at least 50 jobs; or

2. Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county having a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

(4) The regional teams shall be established through the

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900 execution of a project-specific memoranda of agreement developed
901 and executed by the applicant and the secretary, with input
902 solicited from ~~the Department of Economic Opportunity~~ and the
903 respective heads of the Department of Transportation and its
904 district offices, the Department of Agriculture and Consumer
905 Services, the Fish and Wildlife Conservation Commission,
906 appropriate regional planning councils, appropriate water
907 management districts, and voluntarily participating
908 municipalities and counties. The memoranda of agreement should
909 also accommodate participation in this expedited process by
910 other local governments and federal agencies as circumstances
911 warrant.

912 (5) In order to facilitate local government's option to
913 participate in this expedited review process, the secretary
914 shall, in cooperation with local governments and participating
915 state agencies, create a standard form memorandum of agreement.
916 The standard form of the memorandum of agreement shall be used
917 only if the local government participates in the expedited
918 review process. In the absence of local government
919 participation, only the project-specific memorandum of agreement
920 executed pursuant to subsection (4) applies. A local government
921 shall hold a duly noticed public workshop to review and explain
922 to the public the expedited permitting process and the terms and
923 conditions of the standard form memorandum of agreement.

924 (10) The memoranda of agreement may provide for the waiver
925 or modification of procedural rules prescribing forms, fees,
926 procedures, or time limits for the review or processing of
927 permit applications under the jurisdiction of those agencies
928 that are members of the regional permit action team ~~party to the~~

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929 ~~memoranda of agreement~~. Notwithstanding any other provision of
930 law to the contrary, a memorandum of agreement must to the
931 extent feasible provide for proceedings and hearings otherwise
932 held separately ~~by the parties to the memorandum of agreement~~ to
933 be combined into one proceeding or held jointly and at one
934 location. Such waivers or modifications are not authorized ~~shall~~
935 ~~not be available~~ for permit applications governed by federally
936 delegated or approved permitting programs, the requirements of
937 which would prohibit, or be inconsistent with, such a waiver or
938 modification.

939 (11) The ~~standard form for~~ memoranda of agreement shall
940 include guidelines to be used in working with state, regional,
941 and local permitting authorities. Guidelines may include, but
942 are not limited to, the following:

943 (a) A central contact point for filing permit applications
944 and local comprehensive plan amendments and for obtaining
945 information on permit and local comprehensive plan amendment
946 requirements.†

947 (b) Identification of the individual or individuals within
948 each respective agency who will be responsible for processing
949 the expedited permit application or local comprehensive plan
950 amendment for that agency.†

951 (c) A mandatory preapplication review process to reduce
952 permitting conflicts by providing guidance to applicants
953 regarding the permits needed from each agency and governmental
954 entity, site planning and development, site suitability and
955 limitations, facility design, and steps the applicant can take
956 to ensure expeditious permit application and local comprehensive
957 plan amendment review. As a part of this process, the first

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interagency meeting to discuss a project shall be held within 14 days after the secretary's determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the secretary's determination that the project is eligible for expedited review..~~†~~

(d) The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies..~~†~~

(e) Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184 from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph..~~† and~~

(f) Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

(14) (a) Challenges to state agency action in the expedited permitting process for projects processed under this section are subject to the summary hearing provisions of s. 120.574, except that the administrative law judge's decision, as provided in s. 120.574(2)(f), shall be in the form of a recommended order and do not constitute the final action of the state agency. In those

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proceedings where the action of only one agency of the state other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. For This ~~paragraph does not apply to~~ the issuance of department licenses required under any federally delegated or approved permit program. In such instances, the department, and not the Governor, shall enter the final order. The participating agencies of the state may opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action.

(b) Projects identified in paragraph (3)(f) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days

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1016 after a party files the motion for summary hearing, regardless
1017 of whether the parties agree to the summary proceeding.

1018 (15) The Department of Economic Opportunity, working with
1019 the agencies providing cooperative assistance and input
1020 regarding the memoranda of agreement, shall review sites
1021 proposed for the location of facilities that the Department of
1022 Economic Opportunity has certified to be eligible for the
1023 Innovation Incentive Program under s. 288.1089. Within 20 days
1024 after the request for the review by the Department of Economic
1025 Opportunity, the agencies shall provide to the Department of
1026 Economic Opportunity a statement as to each site's necessary
1027 permits under local, state, and federal law and an
1028 identification of significant permitting issues, which if
1029 unresolved, may result in the denial of an agency permit or
1030 approval or any significant delay caused by the permitting
1031 process.

1032 (18) The Department of Economic Opportunity, working with
1033 the Rural Economic Development Initiative ~~and the agencies~~
1034 ~~participating in the memoranda of agreement~~, shall provide
1035 technical assistance in preparing permit applications and local
1036 comprehensive plan amendments for counties having a population
1037 of fewer than 75,000 residents, or counties having fewer than
1038 125,000 residents which are contiguous to counties having fewer
1039 than 75,000 residents. Additional assistance may include, but
1040 not be limited to, guidance in land development regulations and
1041 permitting processes, working cooperatively with state,
1042 regional, and local entities to identify areas within these
1043 counties which may be suitable or adaptable for preclearance
1044 review of specified types of land uses and other activities

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1045 requiring permits.

1046 Section 23. Subsection (5) is added to section 526.203,
1047 Florida Statutes, to read:

1048 526.203 Renewable fuel standard.—

1049 (5) SALE OF UNBLENDED FUELS.—This section does not prohibit
1050 the sale of unblended fuels for the uses exempted under
1051 subsection (3).

1052 Section 24. The installation of fuel tank upgrades to
1053 secondary containment systems shall be completed by the
1054 deadlines specified in rule 62-761.510, Florida Administrative
1055 Code, Table UST. However, notwithstanding any agreements to the
1056 contrary, any fuel service station that changed ownership
1057 interest through a bona fide sale of the property between
1058 January 1, 2009, and December 31, 2009, is not required to
1059 complete the upgrades described in rule 62-761.510, Florida
1060 Administrative Code, Table UST, until December 31, 2013.

1061 Section 25. This act shall take effect July 1, 2012.