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2013 Legislature

1
2 An act relating to environmental regulation; amending
3 s. 20.255, F.S.; authorizing the Department of
4 Environmental Protection to adopt rules requiring or
5 incentivizing the electronic submission of certain
6 forms, documents, fees, and reports; amending ss.
7 125.022 and 166.033, F.S.; providing requirements for
8 the review of development permit applications by
9 counties and municipalities; amending s. 211.3103,
10 F.S.; revising the definition of "phosphate-related
11 expenses" to include maintenance and restoration of
12 certain lands; amending s. 253.0345, F.S.; revising
13 provisions for the duration of leases and letters of
14 consent issued by the Board of Trustees of the
15 Internal Improvement Trust Fund for special events;
16 providing conditions for fees relating to such leases
17 and letters of consent; creating s. 253.0346, F.S.;
18 defining the term "first-come, first-served basis";
19 providing conditions for the discount and waiver of
20 lease fees and surcharges for certain marinas,
21 boatyards, and marine retailers; providing
22 applicability; amending s. 253.0347, F.S.; providing
23 exemptions from lease fees for certain lessees;
24 amending s. 373.118, F.S.; deleting provisions
25 requiring the department to adopt general permits for
26 public marina facilities; deleting certain
27 requirements under general permits for public marina
28 facilities and mooring fields; limiting the number of



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29 | vessels for mooring fields authorized under such
30 | permits; providing for the department to issue certain
31 | leases; amending s. 373.233, F.S.; clarifying
32 | conditions for competing consumptive use of water
33 | applications; amending s. 373.236, F.S.; prohibiting
34 | water management districts from reducing certain
35 | allocations as a result of seawater desalination plant
36 | activities; providing an exception; amending s.
37 | 373.246, F.S.; authorizing the department or governing
38 | board to notify permittees by electronic mail of
39 | permit changes under certain conditions; amending s.
40 | 373.308, F.S.; providing that issuance of well permits
41 | is the sole responsibility of water management
42 | districts, delegated local governments, and local
43 | county health departments; prohibiting certain
44 | counties and other government entities from imposing
45 | requirements and fees and establishing programs for
46 | installation and abandonment of groundwater wells;
47 | amending s. 373.323, F.S.; providing that licenses
48 | issued by water management districts are the only
49 | water well contractor licenses required for
50 | construction, repair, or abandonment of water wells;
51 | authorizing licensed water well contractors to install
52 | equipment for all water systems; amending s. 373.406,
53 | F.S.; exempting specified ponds, ditches, and wetlands
54 | from surface water management and storage
55 | requirements; amending s. 376.30713, F.S.; increasing
56 | the amount of funding for preapproved advanced cleanup



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57 | work contracts; increasing the amount of funding a
58 | facility is eligible for in each fiscal year; amending
59 | s. 376.313, F.S.; holding harmless a person who
60 | discharges pollution pursuant to ch. 403, F.S.;
61 | amending s. 403.061, F.S.; authorizing the department
62 | to adopt rules requiring or incentivizing the
63 | electronic submission of certain forms, documents,
64 | fees, and reports; amending s. 403.0872, F.S.;
65 | extending the payment deadline of permit fees for
66 | major sources of air pollution and conforming the date
67 | for related notice by the department; revising
68 | provisions for the calculation of such annual fees;
69 | amending s. 403.088, F.S.; revising conditions for
70 | denial of water pollution operation permit
71 | applications; amending s. 403.7046, F.S.; prohibiting
72 | local governments from using information contained in
73 | recovered materials dealer registration applications
74 | for specified purposes; providing that a recovered
75 | materials dealer may seek injunctive relief and
76 | damages for certain violations; amending s. 403.813,
77 | F.S.; revising conditions under which certain permits
78 | are not required for seawall restoration projects;
79 | creating s. 403.8141, F.S.; requiring the Department
80 | of Environmental Protection to establish general
81 | permits for special events; providing permit
82 | requirements; amending s. 403.973, F.S.; authorizing
83 | expedited permitting for natural gas pipelines,
84 | subject to specified certification; providing that



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85 | natural gas pipelines are subject to certain
 86 | requirements; providing that natural gas pipelines are
 87 | eligible for certain review; providing for legislative
 88 | ratification and approval of specified leases approved
 89 | by the Board of Trustees of the Internal Improvement
 90 | Trust Fund; providing legislative findings with
 91 | respect to such leases; providing an effective date.

92 |

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

94 |

95 | Section 1. Subsection (8) is added to section 20.255,
 96 | Florida Statutes, to read:

97 | 20.255 Department of Environmental Protection.—There is
 98 | created a Department of Environmental Protection.

99 | (8) The department may adopt rules requiring or
 100 | incentivizing electronic submission of forms, documents, fees,
 101 | or reports required under chapter 161, chapter 253, chapter 373,
 102 | chapter 376, chapter 377, or chapter 403. The rules must
 103 | reasonably accommodate technological or financial hardship and
 104 | must provide procedures for obtaining an exemption due to such a
 105 | hardship.

106 | Section 2. Section 125.022, Florida Statutes, is amended
 107 | to read:

108 | 125.022 Development permits.—

109 | (1) When reviewing an application for a development permit
 110 | that is certified by a professional listed in s. 403.0877, a
 111 | county may not request additional information from the applicant
 112 | more than three times, unless the applicant waives the



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113 limitation in writing. Before a third request for additional
114 information, the applicant must be offered a meeting to attempt
115 to resolve outstanding issues. Except as provided in subsection
116 (4), if the applicant believes the request for additional
117 information is not authorized by ordinance, rule, statute, or
118 other legal authority, the county, at the applicant's request,
119 shall proceed to process the application for approval or denial.

120 (2) When a county denies an application for a development
121 permit, the county shall give written notice to the applicant.
122 The notice must include a citation to the applicable portions of
123 an ordinance, rule, statute, or other legal authority for the
124 denial of the permit.

125 (3) As used in this section, the term "development permit"
126 has the same meaning as in s. 163.3164, but does not include
127 building permits.

128 (4) For any development permit application filed with the
129 county after July 1, 2012, a county may not require as a
130 condition of processing or issuing a development permit that an
131 applicant obtain a permit or approval from any state or federal
132 agency unless the agency has issued a final agency action that
133 denies the federal or state permit before the county action on
134 the local development permit.

135 (5) Issuance of a development permit by a county does not
136 in any way create any rights on the part of the applicant to
137 obtain a permit from a state or federal agency and does not
138 create any liability on the part of the county for issuance of
139 the permit if the applicant fails to obtain requisite approvals
140 or fulfill the obligations imposed by a state or federal agency



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141 or undertakes actions that result in a violation of state or
142 federal law. A county may attach such a disclaimer to the
143 issuance of a development permit and may include a permit
144 condition that all other applicable state or federal permits be
145 obtained before commencement of the development.

146 (6) This section does not prohibit a county from providing
147 information to an applicant regarding what other state or
148 federal permits may apply.

149 Section 3. Section 166.033, Florida Statutes, is amended
150 to read:

151 166.033 Development permits.—

152 (1) When reviewing an application for a development permit
153 that is certified by a professional listed in s. 403.0877, a
154 municipality may not request additional information from the
155 applicant more than three times, unless the applicant waives the
156 limitation in writing. Before a third request for additional
157 information, the applicant must be offered a meeting to attempt
158 to resolve outstanding issues. Except as provided in subsection
159 (4), if the applicant believes the request for additional
160 information is not authorized by ordinance, rule, statute, or
161 other legal authority, the municipality, at the applicant's
162 request, shall proceed to process the application for approval
163 or denial.

164 (2) When a municipality denies an application for a
165 development permit, the municipality shall give written notice
166 to the applicant. The notice must include a citation to the
167 applicable portions of an ordinance, rule, statute, or other
168 legal authority for the denial of the permit.



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169 (3) As used in this section, the term "development permit"
170 has the same meaning as in s. 163.3164, but does not include
171 building permits.

172 (4) For any development permit application filed with the
173 municipality after July 1, 2012, a municipality may not require
174 as a condition of processing or issuing a development permit
175 that an applicant obtain a permit or approval from any state or
176 federal agency unless the agency has issued a final agency
177 action that denies the federal or state permit before the
178 municipal action on the local development permit.

179 (5) Issuance of a development permit by a municipality
180 does not in any way create any right on the part of an applicant
181 to obtain a permit from a state or federal agency and does not
182 create any liability on the part of the municipality for
183 issuance of the permit if the applicant fails to obtain
184 requisite approvals or fulfill the obligations imposed by a
185 state or federal agency or undertakes actions that result in a
186 violation of state or federal law. A municipality may attach
187 such a disclaimer to the issuance of development permits and may
188 include a permit condition that all other applicable state or
189 federal permits be obtained before commencement of the
190 development.

191 (6) This section does not prohibit a municipality from
192 providing information to an applicant regarding what other state
193 or federal permits may apply.

194 Section 4. Paragraph (c) of subsection (6) of section
195 211.3103, Florida Statutes is amended to read:



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196 | 211.3103 Levy of tax on severance of phosphate rock; rate,
197 | basis, and distribution of tax.—

198 | (6)

199 | (c) For purposes of this section, "phosphate-related
200 | expenses" means those expenses that provide for infrastructure
201 | or services in support of the phosphate industry, including
202 | environmental education, reclamation or restoration of phosphate
203 | lands, maintenance and restoration of reclaimed lands and county
204 | owned environmental lands which were formerly phosphate lands,
205 | community infrastructure on such reclaimed lands and county
206 | owned environmental lands which were formerly phosphate lands,
207 | and similar expenses directly related to support of the
208 | industry.

209 | Section 5. Section 253.0345, Florida Statutes, is amended
210 | to read:

211 | 253.0345 Special events; submerged land leases.—

212 | (1) The trustees may ~~are authorized to~~ issue leases or
213 | letters of consent ~~consents of use or leases~~ to riparian
214 | landowners, special and event promoters, and boat show owners to
215 | allow the installation of temporary structures, including docks,
216 | moorings, pilings, and access walkways, on sovereign submerged
217 | lands solely for the purpose of facilitating boat shows and
218 | displays in, or adjacent to, established marinas or government-
219 | owned ~~government-owned~~ upland property. Riparian owners of
220 | adjacent uplands who are not seeking a lease or letter of
221 | consent of use shall be notified by certified mail of any
222 | request for such a lease or letter of consent of use before
223 | ~~prior to~~ approval by the trustees. The trustees shall balance



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224 | the interests of any objecting riparian owners with the economic
 225 | interests of the public and the state as a factor in determining
 226 | whether ~~if~~ a lease or letter of consent ~~of use~~ should be
 227 | executed over the objection of adjacent riparian owners. This
 228 | section does ~~shall~~ not apply to structures for viewing motorboat
 229 | racing, high-speed motorboat contests, or high-speed displays in
 230 | waters where manatees are known to frequent.

231 | (2) A lease or letter of consent for a ~~Any~~ special event
 232 | under ~~provided for in~~ subsection (1):

233 | (a) Shall be for a period not to exceed 45 30 days and a
 234 | duration not to exceed 10 consecutive years.

235 | (b) Shall include a lease fee, if applicable, based solely
 236 | on the period and actual size of the preemption and conditions
 237 | to allow reconfiguration of temporary structures within the
 238 | lease area with notice to the department of the configuration
 239 | and size of preemption within the lease area.

240 | (c) The lease or letter of consent ~~of use~~ may ~~also~~ contain
 241 | appropriate requirements for removal of the temporary
 242 | structures, including the posting of sufficient surety to
 243 | guarantee appropriate funds for removal of the structures should
 244 | the promoter or riparian owner fail to do so within the time
 245 | specified in the agreement.

246 | (3) ~~Nothing in~~ This section does not ~~shall be construed to~~
 247 | allow any lease or letter of consent ~~of use~~ that would result in
 248 | harm to the natural resources of the area as a result of the
 249 | structures or the activities of the special events agreed to.

250 | Section 6. Section 253.0346, Florida Statutes, is created
 251 | to read:



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252 | 253.0346 Lease of sovereignty submerged lands for marinas,
253 | boatyards, and marine retailers.—

254 | (1) For purposes of this section, the term "first-come,
255 | first-served basis" means the facility operates on state-owned
256 | submerged land for which:

257 | (a) There is not a club membership, stock ownership,
258 | equity interest, or other qualifying requirement.

259 | (b) Rental terms do not exceed 12 months and do not
260 | include automatic renewal rights or conditions.

261 | (2) For marinas that are open to the public on a first-
262 | come, first-served basis and for which at least 90 percent of
263 | the slips are open for rent to the public, a discount of 30
264 | percent on the annual lease fee shall apply if dockage rate
265 | sheet publications and dockage advertising clearly state that
266 | slips are open for rent to the public on a first-come, first-
267 | served basis.

268 | (3) For a facility designated by the department as a Clean
269 | Marina, Clean Boatyard, or Clean Marine Retailer under the Clean
270 | Marina Program:

271 | (a) A discount of 10 percent on the annual lease fee shall
272 | apply if the facility:

- 273 | 1. Actively maintains designation under the program.
274 | 2. Complies with the terms of the lease.
275 | 3. Does not change use during the term of the lease.

276 | (b) Extended-term lease surcharges shall be waived if the
277 | facility:

- 278 | 1. Actively maintains designation under the program.
279 | 2. Complies with the terms of the lease.



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280 3. Does not change use during the term of the lease.

281 4. Is available to the public on a first-come, first-
282 served basis.

283 (c) If the facility is in arrears on lease fees or fails
284 to comply with paragraph (b), the facility is not eligible for
285 the discount or waiver under this subsection until arrears have
286 been paid and compliance with the program has been met.

287 (4) This section applies to new leases or amendments to
288 leases effective after July 1, 2013.

289 Section 7. Paragraphs (e) and (f) are added to subsection
290 (2) of section 253.0347, Florida Statutes, to read:

291 253.0347 Lease of sovereignty submerged lands for private
292 residential docks and piers.—

293 (2)

294 (e) A lessee of sovereignty submerged lands for a private
295 residential single-family dock designed to moor up to four boats
296 is not required to pay lease fees for a preempted area equal to
297 or less than 10 times the riparian shoreline along sovereignty
298 submerged land on the affected waterbody or the square footage
299 authorized for a private residential single-family dock under
300 rules adopted by the Board of Trustees of the Internal
301 Improvement Trust Fund for the management of sovereignty
302 submerged lands, whichever is greater.

303 (f) A lessee of sovereignty submerged lands for a private
304 residential multifamily dock designed to moor boats up to the
305 number of units within the multifamily development is not
306 required to pay lease fees for a preempted area equal to or less
307 than 10 times the riparian shoreline along sovereignty submerged



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308 | land on the affected waterbody times the number of units with
 309 | docks in the private multifamily development.

310 | Section 8. Subsection (4) of section 373.118, Florida
 311 | Statutes, is amended to read:

312 | 373.118 General permits; delegation.—

313 | (4) The department shall adopt by rule one or more general
 314 | permits for local governments to construct, operate, and
 315 | maintain ~~public marina facilities,~~ public mooring fields, public
 316 | boat ramps, including associated courtesy docks, and associated
 317 | parking facilities located in uplands. Such general permits
 318 | adopted by rule shall include provisions to ensure compliance
 319 | with part IV of this chapter, subsection (1), and the criteria
 320 | necessary to include the general permits in a state programmatic
 321 | general permit issued by the United States Army Corps of
 322 | Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-
 323 | 500, as amended, 33 U.S.C. ss. 1251 et seq. A facility
 324 | authorized under such general permits is exempt from review as a
 325 | development of regional impact if the facility complies with the
 326 | comprehensive plan of the applicable local government. Such
 327 | facilities shall be consistent with the local government manatee
 328 | protection plan required pursuant to chapter 379 ~~and shall~~
 329 | ~~obtain Clean Marina Program status prior to opening for~~
 330 | ~~operation and maintain that status for the life of the facility.~~
 331 | ~~Marinas and mooring fields authorized under any such general~~
 332 | ~~permit shall not exceed an area of 50,000 square feet over~~
 333 | ~~wetlands and other surface waters.~~ Mooring fields authorized
 334 | under such general permits may not exceed 100 vessels. All
 335 | facilities permitted under this section shall be constructed,



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336 maintained, and operated in perpetuity for the exclusive use of
 337 the general public. The department is authorized to have
 338 delegation of authority from the Board of Trustees of the
 339 Internal Improvement Trust Fund to issue leases for mooring
 340 fields that meet the requirements of such general permits. The
 341 department shall initiate the rulemaking process within 60 days
 342 after the effective date of this act.

343 Section 9. Subsection (1) of section 373.233, Florida
 344 Statutes, is amended to read:

345 373.233 Competing applications.—

346 (1) If two or more applications that ~~which~~ otherwise
 347 comply with the provisions of this part are pending for a
 348 quantity of water that is inadequate for both or all, or that
 349 ~~which~~ for any other reason are in conflict, and the water
 350 management district or department has deemed the applications
 351 complete, the water management district ~~governing board~~ or the
 352 department has ~~shall have~~ the right to approve or modify the
 353 application that ~~which~~ best serves the public interest.

354 Section 10. Subsection (4) of section 373.236, Florida
 355 Statutes, is amended to read:

356 373.236 Duration of permits; compliance reports.—

357 (4) Where necessary to maintain reasonable assurance that
 358 the conditions for issuance of a 20-year permit can continue to
 359 be met, the governing board or department, in addition to any
 360 conditions required pursuant to s. 373.219, may require a
 361 compliance report by the permittee every 10 years during the
 362 term of a permit. The Suwannee River Water Management District
 363 may require a compliance report by the permittee every 5 years



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364 through July 1, 2015, and thereafter every 10 years during the
 365 term of the permit. This report shall contain sufficient data to
 366 maintain reasonable assurance that the initial conditions for
 367 permit issuance are met. Following review of this report, the
 368 governing board or the department may modify the permit to
 369 ensure that the use meets the conditions for issuance. Permit
 370 modifications pursuant to this subsection shall not be subject
 371 to competing applications, provided there is no increase in the
 372 permitted allocation or permit duration, and no change in
 373 source, except for changes in source requested by the district.
 374 In order to promote the sustainability of natural systems
 375 through the diversification of water supplies through the
 376 development of seawater desalination plants, a water management
 377 district may not reduce an existing permitted allocation of
 378 water during the permit term as a result of planned future
 379 construction of, or additional water becoming available from, a
 380 new seawater desalination plant that does not receive funding
 381 from a water management district. Except as expressly provided
 382 in this subsection, this subsection does ~~shall~~ not alter ~~be~~
 383 ~~construed to limit~~ the existing authority of a water management
 384 ~~district the department or the governing board~~ to modify ~~or~~
 385 ~~revoke~~ a consumptive use permit pursuant to chapter 373.

386 Section 11. Subsection (6) of section 373.246, Florida
 387 Statutes, is amended to read:

388 373.246 Declaration of water shortage or emergency.—

389 (6) The governing board or the department shall notify
 390 each permittee in the district by electronic mail or regular
 391 mail of any change in the condition of his or her permit or any



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392 suspension of his or her permit or of any other restriction on
 393 the permittee's use of water for the duration of the water
 394 shortage.

395 Section 12. Subsection (1) of section 373.308, Florida
 396 Statutes, is amended to read:

397 373.308 Implementation of programs for regulating water
 398 wells.—

399 (1) The department shall authorize the governing board of
 400 a water management district to implement a program for the
 401 issuance of permits for the location, construction, repair, and
 402 abandonment of water wells. Upon authorization from the
 403 department, issuance of well permits will be the sole
 404 responsibility of the water management district, delegated local
 405 government, or local county health department. Other local
 406 governmental entities may not impose additional or duplicate
 407 requirements or fees or establish a separate program for the
 408 permitting of the location, abandonment, boring, or other
 409 activities reasonably associated with the installation and
 410 abandonment of a groundwater well.

411 Section 13. Subsections (1) and (10) of section 373.323,
 412 Florida Statutes, are amended to read:

413 373.323 Licensure of water well contractors; application,
 414 qualifications, and examinations; equipment identification.—

415 (1) Every person who wishes to engage in business as a
 416 water well contractor shall obtain from the water management
 417 district a license to conduct such business. Licensure under
 418 this part by a water management district shall be the only water
 419 well contractor license required for the construction, repair,



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420 or abandonment of water wells in the state or any political
 421 subdivision thereof.

422 (10) Water well contractors licensed under this section
 423 may install, repair, and modify pumps and tanks in accordance
 424 with the Florida Building Code, Plumbing; Section 612–Wells
 425 pumps and tanks used for private potable water systems. In
 426 addition, licensed water well contractors may install pumps,
 427 tanks, and water conditioning equipment for all water ~~well~~
 428 systems.

429 Section 14. Subsections (13) and (14) are added to section
 430 373.406, Florida Statutes, to read:

431 373.406 Exemptions.—The following exemptions shall apply:

432 (13) Nothing in this part, or in any rule, regulation, or
 433 order adopted pursuant to this part, applies to construction,
 434 alteration, operation, or maintenance of any wholly owned,
 435 manmade excavated farm ponds, as defined in s. 403.927,
 436 constructed entirely in uplands. Alteration or maintenance may
 437 not involve any work to connect the farm pond to, or expand the
 438 farm pond into, other wetlands or other surface waters. This
 439 exemption does not apply to any farm pond that covers an area
 440 greater than 15 acres and has an average depth greater than 15
 441 feet, or is less than 50 feet from any wetlands.

442 (14) Nothing in this part, or in any rule, regulation, or
 443 order adopted pursuant to this part, may require a permit for
 444 activities affecting wetlands created solely by the unauthorized
 445 flooding or interference with the natural flow of surface water
 446 caused by an unaffiliated adjoining landowner. Requests to
 447 qualify for this exemption must be made within 7 years after the



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448 cause of such unauthorized flooding or unauthorized interference
 449 with the natural flow of surface water and must be submitted in
 450 writing to the district or department. Such activities may not
 451 begin without a written determination from the district or
 452 department confirming that the activity qualifies for the
 453 exemption. This exemption does not expand the jurisdiction of
 454 the department or the water management districts and does not
 455 apply to activities that discharge dredged or fill material into
 456 waters of the United States, including wetlands, subject to
 457 federal jurisdiction under s. 404 of the federal Clean Water
 458 Act, 33 U.S.C. s. 1344.

459 Section 15. Subsection (4) of section 376.30713, Florida
 460 Statutes, is amended to read:

461 376.30713 Preapproved advanced cleanup.—

462 (4) The department is authorized to enter into contracts
 463 ~~contract~~ for a total of up to \$15 ~~\$10~~ million of preapproved
 464 advanced cleanup work in each fiscal year. However, a ~~no~~
 465 facility may not ~~shall~~ be preapproved for more than \$5 million
 466 ~~\$500,000~~ of cleanup activity in each fiscal year. For the
 467 purposes of this section the term "facility" shall include, but
 468 not be limited to, multiple site facilities such as airports,
 469 port facilities, and terminal facilities even though such
 470 enterprises may be treated as separate facilities for other
 471 purposes under this chapter.

472 Section 16. Subsection (3) of section 376.313, Florida
 473 Statutes, is amended to read:

474 376.313 Nonexclusiveness of remedies and individual cause
 475 of action for damages under ss. 376.30-376.317.—



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476 (3) Except as provided in s. 376.3078(3) and (11), nothing
477 contained in ss. 376.30-376.317 prohibits any person from
478 bringing a cause of action in a court of competent jurisdiction
479 for all damages resulting from a discharge or other condition of
480 pollution covered by ss. 376.30-376.317 and which was not
481 authorized pursuant to chapter 403. Nothing in this chapter
482 shall prohibit or diminish a party's right to contribution from
483 other parties jointly or severally liable for a prohibited
484 discharge of pollutants or hazardous substances or other
485 pollution conditions. Except as otherwise provided in subsection
486 (4) or subsection (5), in any such suit, it is not necessary for
487 such person to plead or prove negligence in any form or manner.
488 Such person need only plead and prove the fact of the prohibited
489 discharge or other pollutive condition and that it has occurred.
490 The only defenses to such cause of action shall be those
491 specified in s. 376.308.

492 Section 17. Subsection (43) is added to section 403.061,
493 Florida Statutes, to read:

494 403.061 Department; powers and duties.—The department
495 shall have the power and the duty to control and prohibit
496 pollution of air and water in accordance with the law and rules
497 adopted and promulgated by it and, for this purpose, to:

498 (43) Adopt rules requiring or incentivizing the electronic
499 submission of forms, documents, fees, or reports required under
500 chapter 161, chapter 253, chapter 373, chapter 376, chapter 377,
501 or this chapter. The rules must reasonably accommodate
502 technological or financial hardship and provide procedures for
503 obtaining an exemption due to such hardship.



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

509 Section 18. Subsection (11) of section 403.0872, Florida
510 Statutes, is amended to read:

511 403.0872 Operation permits for major sources of air
512 pollution; annual operation license fee.—Provided that program
513 approval pursuant to 42 U.S.C. s. 7661a has been received from
514 the United States Environmental Protection Agency, beginning
515 January 2, 1995, each major source of air pollution, including
516 electrical power plants certified under s. 403.511, must obtain
517 from the department an operation permit for a major source of
518 air pollution under this section. This operation permit is the
519 only department operation permit for a major source of air
520 pollution required for such source; provided, at the applicant's
521 request, the department shall issue a separate acid rain permit
522 for a major source of air pollution that is an affected source
523 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits
524 for major sources of air pollution, except general permits
525 issued pursuant to s. 403.814, must be issued in accordance with
526 the procedures contained in this section and in accordance with
527 chapter 120; however, to the extent that chapter 120 is
528 inconsistent with the provisions of this section, the procedures
529 contained in this section prevail.

530 (11) Each major source of air pollution permitted to
531 operate in this state must pay between January 15 and April



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532 ~~March~~ 1 of each year, upon written notice from the department,
533 an annual operation license fee in an amount determined by
534 department rule. The annual operation license fee shall be
535 terminated immediately in the event the United States
536 Environmental Protection Agency imposes annual fees solely to
537 implement and administer the major source air-operation permit
538 program in Florida under 40 C.F.R. s. 70.10(d).

539 (a) The annual fee must be assessed based upon the
540 source's previous year's emissions and must be calculated by
541 multiplying the applicable annual operation license fee factor
542 times the tons of each regulated air pollutant actually emitted,
543 as calculated in accordance with department's emissions
544 computation and reporting rules. The annual fee shall only apply
545 to those regulated pollutants, ~~(except carbon monoxide)~~ and
546 greenhouse gases, for which an allowable numeric emission
547 limiting standard is specified in ~~allowed to be emitted per hour~~
548 ~~by specific condition of the source's most recent construction~~
549 ~~or operation permit, times the annual hours of operation allowed~~
550 ~~by permit condition;~~ provided, however, that:

551 1. The license fee factor is \$25 or another amount
552 determined by department rule which ensures that the revenue
553 provided by each year's operation license fees is sufficient to
554 cover all reasonable direct and indirect costs of the major
555 stationary source air-operation permit program established by
556 this section. The license fee factor may be increased beyond \$25
557 only if the secretary of the department affirmatively finds that
558 a shortage of revenue for support of the major stationary source
559 air-operation permit program will occur in the absence of a fee



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560 factor adjustment. The annual license fee factor may never
561 exceed \$35.

562 ~~2. For any source that operates for fewer hours during the~~
563 ~~calendar year than allowed under its permit, the annual fee~~
564 ~~calculation must be based upon actual hours of operation rather~~
565 ~~than allowable hours if the owner or operator of the source~~
566 ~~documents the source's actual hours of operation for the~~
567 ~~calendar year. For any source that has an emissions limit that~~
568 ~~is dependent upon the type of fuel burned, the annual fee~~
569 ~~calculation must be based on the emissions limit applicable~~
570 ~~during actual hours of operation.~~

571 ~~3. For any source whose allowable emission limitation is~~
572 ~~specified by permit per units of material input or heat input or~~
573 ~~product output, the applicable input or production amount may be~~
574 ~~used to calculate the allowable emissions if the owner or~~
575 ~~operator of the source documents the actual input or production~~
576 ~~amount. If the input or production amount is not documented, the~~
577 ~~maximum allowable input or production amount specified in the~~
578 ~~permit must be used to calculate the allowable emissions.~~

579 ~~4. For any new source that does not receive its first~~
580 ~~operation permit until after the beginning of a calendar year,~~
581 ~~the annual fee for the year must be reduced pro rata to reflect~~
582 ~~the period during which the source was not allowed to operate.~~

583 ~~5. For any source that emits less of any regulated air~~
584 ~~pollutant than allowed by permit condition, the annual fee~~
585 ~~calculation for such pollutant must be based upon actual~~
586 ~~emissions rather than allowable emissions if the owner or~~
587 ~~operator documents the source's actual emissions by means of~~



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588 ~~data from a department-approved certified continuous emissions~~
589 ~~monitor or from an emissions monitoring method which has been~~
590 ~~approved by the United States Environmental Protection Agency~~
591 ~~under the regulations implementing 42 U.S.C. ss. 7651 et seq.,~~
592 ~~or from a method approved by the department for purposes of this~~
593 ~~section.~~

594 2.6. The amount of each regulated air pollutant in excess
595 of 4,000 tons per year ~~allowed to be~~ emitted by any source, or
596 group of sources belonging to the same Major Group as described
597 in the Standard Industrial Classification Manual, 1987, may not
598 be included in the calculation of the fee. Any source, or group
599 of sources, which does not emit any regulated air pollutant in
600 excess of 4,000 tons per year, is allowed a one-time credit not
601 to exceed 25 percent of the first annual licensing fee for the
602 prorated portion of existing air-operation permit application
603 fees remaining upon commencement of the annual licensing fees.

604 3.7. If the department has not received the fee by March 1
605 ~~February 15~~ of the calendar year, the permittee must be sent a
606 written warning of the consequences for failing to pay the fee
607 by April ~~March~~ 1. If the fee is not postmarked by April ~~March~~ 1
608 of the calendar year, the department shall impose, in addition
609 to the fee, a penalty of 50 percent of the amount of the fee,
610 plus interest on such amount computed in accordance with s.
611 220.807. The department may not impose such penalty or interest
612 on any amount underpaid, provided that the permittee has timely
613 remitted payment of at least 90 percent of the amount determined
614 to be due and remits full payment within 60 days after receipt
615 of notice of the amount underpaid. The department may waive the



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616 collection of underpayment and shall not be required to refund
617 overpayment of the fee, if the amount due is less than 1 percent
618 of the fee, up to \$50. The department may revoke any major air
619 pollution source operation permit if it finds that the
620 permitholder has failed to timely pay any required annual
621 operation license fee, penalty, or interest.

622 ~~4.8.~~ Notwithstanding the computational provisions of this
623 subsection, the annual operation license fee for any source
624 subject to this section shall not be less than \$250, except that
625 the annual operation license fee for sources permitted solely
626 through general permits issued under s. 403.814 shall not exceed
627 \$50 per year.

628 ~~5.9.~~ Notwithstanding the provisions of s.
629 403.087(6)(a)5.a., authorizing air pollution construction permit
630 fees, the department may not require such fees for changes or
631 additions to a major source of air pollution permitted pursuant
632 to this section, unless the activity triggers permitting
633 requirements under Title I, Part C or Part D, of the federal
634 Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and
635 administer such permits shall be considered direct and indirect
636 costs of the major stationary source air-operation permit
637 program under s. 403.0873. The department shall, however,
638 require fees pursuant to the provisions of s. 403.087(6)(a)5.a.
639 for the construction of a new major source of air pollution that
640 will be subject to the permitting requirements of this section
641 once constructed and for activities triggering permitting
642 requirements under Title I, Part C or Part D, of the federal
643 Clean Air Act, 42 U.S.C. ss. 7470-7514a.



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644 (b) Annual operation license fees collected by the
645 department must be sufficient to cover all reasonable direct and
646 indirect costs required to develop and administer the major
647 stationary source air-operation permit program, which shall
648 consist of the following elements to the extent that they are
649 reasonably related to the regulation of major stationary air
650 pollution sources, in accordance with United States
651 Environmental Protection Agency regulations and guidelines:

- 652 1. Reviewing and acting upon any application for such a
653 permit.
- 654 2. Implementing and enforcing the terms and conditions of
655 any such permit, excluding court costs or other costs associated
656 with any enforcement action.
- 657 3. Emissions and ambient monitoring.
- 658 4. Preparing generally applicable regulations or guidance.
- 659 5. Modeling, analyses, and demonstrations.
- 660 6. Preparing inventories and tracking emissions.
- 661 7. Implementing the Small Business Stationary Source
662 Technical and Environmental Compliance Assistance Program.
- 663 8. Any audits conducted under paragraph (c).

664 (c) An audit of the major stationary source air-operation
665 permit program must be conducted 2 years after the United States
666 Environmental Protection Agency has given full approval of the
667 program to ascertain whether the annual operation license fees
668 collected by the department are used solely to support any
669 reasonable direct and indirect costs as listed in paragraph (b).
670 A program audit must be performed biennially after the first
671 audit.



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672 Section 19. Paragraph (b) of subsection (2) of section
673 403.088, Florida Statutes, is amended to read:

674 403.088 Water pollution operation permits; conditions.—
675 (2)

676 (b)1. If the department finds that the proposed discharge
677 will reduce the quality of the receiving waters below the
678 classification established for them, it shall deny the
679 application and refuse to issue a permit. The department may not
680 use the results from a field procedure or laboratory method to
681 make such a finding or determine facility compliance unless the
682 field procedure or laboratory method has been adopted by rule or
683 noticed and approved by department order pursuant to department
684 rule. Field procedures and laboratory methods must satisfy the
685 quality assurance requirements of department rule and must
686 produce data of known and verifiable quality. The results of
687 field procedures and laboratory methods shall be evaluated for
688 sources of uncertainty to assure suitability for the intended
689 purposes as properly documented with each procedure or method.

690 2. If the department finds that the proposed discharge
691 will not reduce the quality of the receiving waters below the
692 classification established for them, it may issue an operation
693 permit if it finds that such degradation is necessary or
694 desirable under federal standards and under circumstances which
695 are clearly in the public interest.

696 Section 20. Paragraph (b) of subsection (3) of section
697 403.7046, Florida Statutes, is amended, and subsection (4) is
698 added to that section, to read:

699 403.7046 Regulation of recovered materials.—



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700 (3) Except as otherwise provided in this section or
701 pursuant to a special act in effect on or before January 1,
702 1993, a local government may not require a commercial
703 establishment that generates source-separated recovered
704 materials to sell or otherwise convey its recovered materials to
705 the local government or to a facility designated by the local
706 government, nor may the local government restrict such a
707 generator's right to sell or otherwise convey such recovered
708 materials to any properly certified recovered materials dealer
709 who has satisfied the requirements of this section. A local
710 government may not enact any ordinance that prevents such a
711 dealer from entering into a contract with a commercial
712 establishment to purchase, collect, transport, process, or
713 receive source-separated recovered materials.

714 (b) Before ~~Prior to~~ engaging in business within the
715 jurisdiction of the local government, a recovered materials
716 dealer must provide the local government with a copy of the
717 certification provided for in this section. In addition, the
718 local government may establish a registration process whereby a
719 recovered materials dealer must register with the local
720 government before ~~prior to~~ engaging in business within the
721 jurisdiction of the local government. Such registration process
722 is limited to requiring the dealer to register its name,
723 including the owner or operator of the dealer, and, if the
724 dealer is a business entity, its general or limited partners,
725 its corporate officers and directors, its permanent place of
726 business, evidence of its certification under this section, and
727 a certification that the recovered materials will be processed



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728 | at a recovered materials processing facility satisfying the
729 | requirements of this section. The local government may not use
730 | the information provided in the registration application to
731 | compete unfairly with the recovered materials dealer until 90
732 | days after receipt of the application. All counties, and
733 | municipalities whose population exceeds 35,000 according to the
734 | population estimates determined pursuant to s. 186.901, may
735 | establish a reporting process which shall be limited to the
736 | regulations, reporting format, and reporting frequency
737 | established by the department pursuant to this section, which
738 | shall, at a minimum, include requiring the dealer to identify
739 | the types and approximate amount of recovered materials
740 | collected, recycled, or reused during the reporting period; the
741 | approximate percentage of recovered materials reused, stored, or
742 | delivered to a recovered materials processing facility or
743 | disposed of in a solid waste disposal facility; and the
744 | locations where any recovered materials were disposed of as
745 | solid waste. Information reported under this subsection which,
746 | if disclosed, would reveal a trade secret, as defined in s.
747 | 812.081(1)(c), is confidential and exempt from the provisions of
748 | s. 24(a), Art. I of the State Constitution and s. 119.07(1). The
749 | local government may charge the dealer a registration fee
750 | commensurate with and no greater than the cost incurred by the
751 | local government in operating its registration program.
752 | Registration program costs are limited to those costs associated
753 | with the activities described in this paragraph. Any reporting
754 | or registration process established by a local government with
755 | regard to recovered materials shall be governed by the



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756 provisions of this section and department rules adopted
757 ~~promulgated~~ pursuant thereto.

758 (4) A recovered materials dealer or an association whose
759 members include recovered materials dealers may initiate an
760 action for injunctive relief or damages for alleged violations
761 of this section. The court may award to the prevailing party or
762 parties reasonable attorney fees and costs.

763 Section 21. Paragraph (e) of subsection (1) of section
764 403.813, Florida Statutes, is amended to read:

765 403.813 Permits issued at district centers; exceptions.—

766 (1) A permit is not required under this chapter, chapter
767 373, chapter 61-691, Laws of Florida, or chapter 25214 or
768 chapter 25270, 1949, Laws of Florida, for activities associated
769 with the following types of projects; however, except as
770 otherwise provided in this subsection, ~~nothing in~~ this
771 subsection does not relieve ~~relieves~~ an applicant from any
772 requirement to obtain permission to use or occupy lands owned by
773 the Board of Trustees of the Internal Improvement Trust Fund or
774 a any water management district in its governmental or
775 proprietary capacity or from complying with applicable local
776 pollution control programs authorized under this chapter or
777 other requirements of county and municipal governments:

778 (e) The restoration of seawalls at their previous
779 locations or upland of, or within 18 inches ~~1-foot~~ waterward of,
780 their previous locations. However, this shall not affect the
781 permitting requirements of chapter 161, and department rules
782 shall clearly indicate that this exception does not constitute
783 an exception from the permitting requirements of chapter 161.



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784 Section 22. Section 403.8141, Florida Statutes, is created
785 to read:

786 403.8141 Special event permits.—The department shall issue
787 permits for special events under s. 253.0345. The permits must
788 be for a period that runs concurrently with the lease or letter
789 of consent issued pursuant to s. 253.0345 and must allow for the
790 movement of temporary structures within the footprint of the
791 lease area.

792 Section 23. Paragraph (b) of subsection (14) and paragraph
793 (b) of subsection (19) of section 403.973, Florida Statutes, are
794 amended, and paragraph (g) is added to subsection (3) of that
795 section, to read:

796 403.973 Expedited permitting; amendments to comprehensive
797 plans.—

798 (3)

799 (g) Projects to construct interstate natural gas pipelines
800 subject to certification by the Federal Energy Regulatory
801 Commission are eligible for the expedited permitting process.

802 (14)

803 (b) Projects identified in paragraph (3)(f) or paragraph
804 (3)(g) or challenges to state agency action in the expedited
805 permitting process for establishment of a state-of-the-art
806 biomedical research institution and campus in this state by the
807 grantee under s. 288.955 are subject to the same requirements as
808 challenges brought under paragraph (a), except that,
809 notwithstanding s. 120.574, summary proceedings must be
810 conducted within 30 days after a party files the motion for
811 summary hearing, regardless of whether the parties agree to the



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812 summary proceeding.

813 (19) The following projects are ineligible for review
814 under this part:

815 (b) A project, the primary purpose of which is to:

816 1. Effect the final disposal of solid waste, biomedical
817 waste, or hazardous waste in this state.

818 2. Produce electrical power, unless the production of
819 electricity is incidental and not the primary function of the
820 project or the electrical power is derived from a fuel source
821 for renewable energy as defined in s. 366.91(2)(d).

822 3. Extract natural resources.

823 4. Produce oil.

824 5. Construct, maintain, or operate an oil, petroleum,
825 ~~natural gas,~~ or sewage pipeline.

826 Section 24. (1) The Legislature ratifies and approves the
827 actions of the Board of Trustees of the Internal Improvement
828 Trust Fund regarding lease numbers 1447, 1971S, 3420, 3433, and
829 3543, and lease numbers 3422 and 1935/1935-S as approved on
830 January 23, 2013, subject to the terms and conditions
831 established by the Board of Trustees as approved on January 23,
832 2013.

833 (2) The Legislature finds that the decision to authorize
834 the use of board of trustees-owned uplands and the use of those
835 lands as set forth in the leases is not contrary to the public
836 interest; that it is in the public interest to waive the
837 competitive bid process; that the leases are not standard
838 agricultural leases; and that such leases should be amended on
839 the terms and conditions as approved by the Board of Trustees.



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840 (3) Notwithstanding any other provision of law, the
841 Legislature finds that the lease amendments and extensions
842 approved by the Board of Trustees are necessary for Everglades
843 restoration purposes, are in the public interest, and provide
844 the greatest combination of benefits to the public.

845 Section 25. This act shall take effect July 1, 2013.