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1                   A bill to be entitled  
2           An act relating to pollution; creating s. 403.076,  
3           F.S.; providing a short title; creating s. 403.077,  
4           F.S.; defining the term "reportable pollution  
5           release"; requiring an owner or operator of an  
6           installation at which a reportable pollution release  
7           occurred to provide certain information to the  
8           department within 24 hours after the discovery of the  
9           release; authorizing multiple parties to submit one  
10          notification under certain circumstances; authorizing  
11          the owner or operator to amend notices; requiring the  
12          owner or operator to make additional notice upon  
13          discovery of the release migrating outside of  
14          installation boundaries; requiring the department to  
15          publish such information in a specified manner;  
16          requiring the department to establish an electronic  
17          mailing list; requiring the department to provide a  
18          reporting form and e-mail address for such notice;  
19          specifying that providing a notice does not constitute  
20          an admission of liability or harm; specifying  
21          penalties for violations; requiring the department to  
22          adopt rules; creating s. 403.078, F.S.; specifying  
23          that the act does not alter certain emergency  
24          responsibilities pursuant to ch. 252, F.S.; amending  
25          s. 403.161, F.S.; specifying penalties; amending s.  
26          14.2016, F.S.; creating the State Watch Office within  
27          the Division of Emergency Management; specifying the  
28          purpose of the office; amending s. 376.3071, F.S.;  
29          providing an exception to prompt payment requirements

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30 to subcontractors and suppliers; amending s.  
31 376.30713, F.S.; revising legislative findings;  
32 specifying that applicants for advanced cleanup of  
33 certain individual sites are not subject to  
34 application period limitations and need not pay a  
35 certain cost-sharing commitment; requiring  
36 applications by such applicants to be accepted on a  
37 first-come, first-served basis; providing that such  
38 applications are not subject to certain ranking  
39 provisions; specifying application requirements;  
40 providing construction; increasing the amount per year  
41 that the Department of Environmental Protection may  
42 use for advanced cleanup work; specifying expenditure  
43 limitations; revising duties of property owners and  
44 responsible parties with respect to voluntary cost-  
45 share agreements; amending s. 376.3078, F.S.;  
46 providing a statement of public interest; authorizing  
47 site assessments in advance of site priority ranking  
48 under certain circumstances; specifying criteria for  
49 sites to be eligible for such assessments; specifying  
50 what must be demonstrated through such assessments;  
51 specifying criteria for the assignment of assessment  
52 tasks; specifying funding limitations; specifying the  
53 prioritization of requests; requiring the department  
54 to evaluate the potential for using a specified trust  
55 fund for a specified purpose; requiring the department  
56 to issue a request for information regarding the  
57 potential for damage to underground petroleum systems  
58 and to compile a report; requiring the report to be

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59 submitted to the Legislature and the Governor;  
60 providing an appropriation; providing an expiration  
61 date; providing an effective date.

62  
63 Be It Enacted by the Legislature of the State of Florida:

64  
65 Section 1. Section 403.076, Florida Statutes, is created to  
66 read:

67 403.076 Short title.—Sections 403.076-403.078 may be cited  
68 as the “Public Notice of Pollution Act.”

69 Section 2. Section 403.077, Florida Statutes, is created to  
70 read:

71 403.077 Public notification of pollution.—

72 (1) DEFINITION.—As used in this section, the term  
73 “reportable pollution release” means the release or discharge of  
74 a substance from an installation to the air, land, or waters of  
75 the state which is discovered by the owner or operator of the  
76 installation, which is not authorized by law, and which is  
77 reportable to the State Watch Office within the Division of  
78 Emergency Management pursuant to any department rule, permit,  
79 order, or variance.

80 (2) OWNER AND OPERATOR RESPONSIBILITIES.—

81 (a) In the event of a reportable pollution release, an  
82 owner or operator of the installation at which the reportable  
83 pollution release occurs must provide to the department  
84 information reported to the State Watch Office within the  
85 Division of Emergency Management pursuant to any department  
86 rule, permit, order, or variance, within 24 hours after the  
87 owner’s or operator’s discovery of such reportable pollution

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88 release.

89 (b) If multiple parties are subject to the notification  
90 requirements based on a single reportable pollution release, a  
91 single notification made by one party in accordance with this  
92 section constitutes compliance on behalf of all parties subject  
93 to the requirement. However, if the notification is not made in  
94 accordance with this section, the department may pursue  
95 enforcement against all parties subject to the requirement.

96 (c) If, after providing notice pursuant to paragraph (a),  
97 the owner or operator of the installation determines that a  
98 reportable pollution release did not occur or that an amendment  
99 to the notice is warranted, the owner or operator may submit a  
100 letter to the department documenting such determination.

101 (d) If, after providing notice pursuant to paragraph (a),  
102 the installation owner or operator discovers that a reportable  
103 pollution release has migrated outside the property boundaries  
104 of the installation, the owner or operator must provide an  
105 additional notice to the department that the release has  
106 migrated outside the property boundaries within 24 hours after  
107 its discovery of the migration outside of the property  
108 boundaries.

109 (3) DEPARTMENT RESPONSIBILITIES.—

110 (a) The department shall publish on a website accessible to  
111 the public all notices submitted by an owner or operator  
112 pursuant to subsection (2) within 24 hours after receipt.

113 (b) The department shall create an electronic mailing list  
114 for such notices and allow the public, including local  
115 governments, health departments, news media, and other  
116 interested persons, to subscribe to and receive periodic direct

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117 announcement of any notices submitted pursuant to subsection  
118 (2). The department shall establish regional electronic mailing  
119 lists, such as by county or district boundaries, to allow  
120 subscribers to determine the notices they wish to receive by  
121 geographic area.

122 (c) The department shall establish an e-mail address and an  
123 online form as options for owners and operators to provide the  
124 notice specified in subsection (2). The online form may not  
125 require the submission of information in addition to what is  
126 required for submission pursuant to paragraph (2) (a).

127 (d) The department shall adopt rules necessary to implement  
128 the requirements of this subsection.

129 (4) ADMISSION OF LIABILITY OR HARM.—Providing notice under  
130 subsection (2) does not constitute an admission of liability or  
131 harm.

132 (5) VIOLATIONS.—Failure to provide the notification  
133 required by subsection (2) shall subject the owner or operator  
134 to the civil penalties specified in s. 403.121.

135 Section 3. Section 403.078, Florida Statutes, is created to  
136 read:

137 403.078 Effect on other law.—The Public Notice of Pollution  
138 Act does not alter or affect the emergency management  
139 responsibilities of the Governor, the Division of Emergency  
140 Management, or the governing body of any political subdivision  
141 of the state pursuant to chapter 252.

142 Section 4. Paragraph (e) is added to subsection (1) of  
143 section 403.161, Florida Statutes, to read:

144 403.161 Prohibitions, violation, penalty, intent.—

145 (1) It shall be a violation of this chapter, and it shall

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146 be prohibited for any person:

147 (e) To fail to provide required notice pursuant to s.  
148 403.077.

149 Section 5. Section 14.2016, Florida Statutes, is amended to  
150 read:

151 14.2016 Division of Emergency Management.—

152 (1) The Division of Emergency Management is established  
153 within the Executive Office of the Governor. The division shall  
154 be a separate budget entity, as provided in the General  
155 Appropriations Act and shall prepare and submit a budget request  
156 in accordance with chapter 216. The division shall be  
157 responsible for all professional, technical, and administrative  
158 support functions necessary to carry out its responsibilities  
159 under part I of chapter 252. The director of the division shall  
160 be appointed by and serve at the pleasure of the Governor and  
161 shall be the head of the division for all purposes. The division  
162 shall administer programs to rapidly apply all available aid to  
163 communities stricken by an emergency as defined in s. 252.34  
164 and, for this purpose, shall provide liaison with federal  
165 agencies and other public and private agencies.

166 (2) The State Watch Office is established within the  
167 Division of Emergency Management.

168 (a) The primary purpose of the office is to record,  
169 analyze, and share information with federal, state, and county  
170 entities for appropriate response to emergencies.

171 (b) The office is not a dispatch center, but a  
172 clearinghouse of information to be shared with other  
173 governmental entities that can independently act within their  
174 own authority and protocols.

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175 Section 6. Paragraph (h) of subsection (6) of section  
176 376.3071, Florida Statutes, is amended to read:

177 376.3071 Inland Protection Trust Fund; creation; purposes;  
178 funding.—

179 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

180 (h) The contractor, or the person to whom ~~which~~ the  
181 contractor has assigned its right to payment pursuant to  
182 paragraph (e), shall make prompt payment to subcontractors and  
183 suppliers for their costs associated with an approved contract  
184 pursuant to s. 287.0585, except that the contractor, or the  
185 person to whom the contractor has assigned its right to payment  
186 pursuant to paragraph (e), may remit payments to subcontractors  
187 and suppliers within 30 working days after the contractor's  
188 receipt of payment by the department before the penalties  
189 required by s. 287.0585(1) are applicable.

190 Section 7. Paragraphs (a) and (c) of subsection (1) and  
191 subsections (2) and (4) of section 376.30713, Florida Statutes,  
192 are amended to read:

193 376.30713 Advanced cleanup.—

194 (1) In addition to the legislative findings provided in s.  
195 376.3071, the Legislature finds and declares:

196 (a) That the inability to conduct site rehabilitation in  
197 advance of a site's priority ranking pursuant to s.  
198 376.3071(5) (a) may substantially impede or prohibit property  
199 redevelopment, property transactions, or the proper completion  
200 of public works projects.

201 (c) It is in the public interest and of substantial  
202 economic benefit to the state to provide an opportunity for site  
203 rehabilitation to be conducted on a limited basis at

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204 contaminated sites, in advance of the site's priority ranking,  
205 to encourage redevelopment and facilitate property transactions  
206 or public works projects.

207 (2) The department may approve an application for advanced  
208 cleanup at eligible sites, including applications submitted  
209 pursuant to paragraph (c), notwithstanding the site's priority  
210 ranking established pursuant to s. 376.3071(5) (a), pursuant to  
211 this section. Only the facility owner or operator or the person  
212 otherwise responsible for site rehabilitation qualifies as an  
213 applicant under this section.

214 (a) Advanced cleanup applications may be submitted between  
215 May 1 and June 30 and between November 1 and December 31 of each  
216 fiscal year. Applications submitted between May 1 and June 30  
217 shall be for the fiscal year beginning July 1. An application  
218 must consist of:

219 1. A commitment to pay 25 percent or more of the total  
220 cleanup cost deemed recoverable under this section along with  
221 proof of the ability to pay the cost share. The department shall  
222 determine whether the cost savings demonstration is acceptable.  
223 Such determination is not subject to chapter 120.

224 a. Applications for the aggregate cleanup of five or more  
225 sites may be submitted in one of two formats to meet the cost-  
226 share requirement:

227 (I) For an aggregate application proposing that the  
228 department enter into a performance-based contract, the  
229 applicant may use a commitment to pay, a demonstrated cost  
230 savings to the department, or both to meet the requirement.

231 (II) For an aggregate application relying on a demonstrated  
232 cost savings to the department, the applicant shall, in



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233 conjunction with the proposed agency term contractor, establish  
234 and provide in the application the percentage of cost savings in  
235 the aggregate that is being provided to the department for  
236 cleanup of the sites under the application compared to the cost  
237 of cleanup of those same sites using the current rates provided  
238 to the department by the proposed agency term contractor.

239 b. Applications for the cleanup of individual sites may be  
240 submitted in one of two formats to meet the cost-share  
241 requirement:

242 (I) For an individual application proposing that the  
243 department enter into a performance-based contract, the  
244 applicant may use a commitment to pay, a demonstrated cost  
245 savings to the department, or both to meet the requirement.

246 (II) For an individual application relying on a  
247 demonstrated cost savings to the department, the applicant  
248 shall, in conjunction with the proposed agency term contractor,  
249 establish and provide in the application a 25-percent cost  
250 savings to the department for cleanup of the site under the  
251 application compared to the cost of cleanup of the same site  
252 using the current rates provided to the department by the  
253 proposed agency term contractor.

254 2. A nonrefundable review fee of \$250 to cover the  
255 administrative costs associated with the department's review of  
256 the application.

257 3. A limited contamination assessment report.

258 4. A proposed course of action.

259 5. A department site access agreement, or similar  
260 agreements approved by the department that do not violate state  
261 law, entered into with the property owner or owners, as

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262 applicable, and evidence of authorization from such owner or  
263 owners for petroleum site rehabilitation program tasks  
264 consistent with the proposed course of action where the  
265 applicant is not the property owner for any of the sites  
266 contained in the application.

267  
268 The limited contamination assessment report must be sufficient  
269 to support the proposed course of action and to estimate the  
270 cost of the proposed course of action. Costs incurred related to  
271 conducting the limited contamination assessment report are not  
272 refundable from the Inland Protection Trust Fund. Site  
273 eligibility under this subsection or any other provision of this  
274 section is not an entitlement to advanced cleanup or continued  
275 restoration funding. The applicant shall certify to the  
276 department that the applicant has the prerequisite authority to  
277 enter into an advanced cleanup contract with the department. The  
278 certification must be submitted with the application.

279 (b) The department shall rank the applications based on the  
280 percentage of cost-sharing commitment proposed by the applicant,  
281 with the highest ranking given to the applicant who proposes the  
282 highest percentage of cost sharing. If the department receives  
283 applications that propose identical cost-sharing commitments and  
284 that exceed the funds available to commit to all such proposals  
285 during the advanced cleanup application period, the department  
286 shall proceed to rerank those applicants. Those applicants  
287 submitting identical cost-sharing proposals that exceed funding  
288 availability must be so notified by the department and offered  
289 the opportunity to raise their individual cost-share  
290 commitments, in a period specified in the notice. At the close

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291 of the period, the department shall proceed to rerank the  
292 applications pursuant to this paragraph.

293 (c) Applications for the advanced cleanup of individual  
294 sites scheduled for redevelopment are not subject to the  
295 application period limitations or the requirement to pay 25  
296 percent of the total cleanup cost specified in paragraph (a) or  
297 to the cost-sharing commitment specified in paragraph (1)(d).  
298 Applications must be accepted on a first-come, first-served  
299 basis and are not subject to the ranking provisions of paragraph  
300 (b). Applications for the advanced cleanup of individual sites  
301 scheduled for redevelopment must include:

302 1. A nonrefundable review fee of \$250 to cover the  
303 administrative costs associated with the department's review of  
304 the application.

305 2. A limited contamination assessment report. The report  
306 must be sufficient to support the proposed course of action and  
307 to estimate the cost of the proposed course of action. Costs  
308 incurred related to conducting and preparing the report are not  
309 refundable from the Inland Protection Trust Fund.

310 3. A proposed course of action for cleanup of the site.

311 4. If the applicant is not the property owner for any of  
312 the sites contained in the application, a department site access  
313 agreement, or a similar agreement approved by the department and  
314 not in violation of state law, entered into with the property  
315 owner or owners, as applicable, and evidence of authorization  
316 from such owner or owners for petroleum site rehabilitation  
317 program tasks consistent with the proposed course of action.

318 5. A certification to the department stating that the  
319 applicant has the prerequisite authority to enter into an

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320 advanced cleanup contract with the department. The advanced  
321 cleanup contract must include redevelopment and site  
322 rehabilitation milestones.

323 6. Documentation, in the form of a letter from the local  
324 government having jurisdiction over the area where the site is  
325 located, which states that the local government is in agreement  
326 with or approves the proposed redevelopment and that the  
327 proposed redevelopment complies with applicable law and  
328 requirements for such redevelopment.

329 7. A demonstrated reasonable assurance that the applicant  
330 has sufficient financial resources to implement and complete the  
331 redevelopment project.

332  
333 Site eligibility under this section is not an entitlement to  
334 advanced cleanup funding or continued restoration funding.

335 (4) The department may enter into contracts for a total of  
336 up to \$30 ~~\$25~~ million of advanced cleanup work in each fiscal  
337 year. Up to \$5 million of these funds may be designated by the  
338 department for advanced cleanup of individual sites scheduled  
339 for redevelopment under paragraph (2) (c).

340 (a) However, A facility or an applicant who bundles  
341 multiple sites as specified in subparagraph (2) (a)1. may not be  
342 approved for more than \$5 million of cleanup activity in each  
343 fiscal year.

344 (b) A facility or an applicant applying for advanced  
345 cleanup of individual sites scheduled for redevelopment pursuant  
346 to paragraph (2) (c) may not be approved for more than \$1 million  
347 of cleanup activity in any one fiscal year.

348 (c) A property owner or responsible party may enter into a

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349 voluntary cost-share agreement in which the property owner or  
350 responsible party commits to bundle multiple sites and lists the  
351 facilities that will be included in those future bundles. The  
352 facilities listed are not subject to agency term contractor  
353 assignment pursuant to department rule. The department must  
354 reserve ~~reserves~~ the right to terminate or amend the voluntary  
355 cost-share agreement for any identified site under the voluntary  
356 cost-share agreement if the property owner or responsible party  
357 fails to submit an application to bundle any site, not already  
358 covered by an advance cleanup contract, under such voluntary  
359 cost-share agreement within three ~~a~~ subsequent open application  
360 periods or 18 months, whichever period is shorter, period during  
361 which it is eligible to participate. The property owner or  
362 responsible party must agree to conduct limited site assessments  
363 on the identified sites within 12 months after the execution of  
364 the voluntary cost-share agreement. For the purposes of this  
365 section, the term "facility" includes, but is not limited to,  
366 multiple site facilities such as airports, port facilities, and  
367 terminal facilities even though such enterprises may be treated  
368 as separate facilities for other purposes under this chapter.

369 Section 8. Subsection (14) is added to section 376.3078,  
370 Florida Statutes, to read:

371 376.3078 Drycleaning facility restoration; funds; uses;  
372 liability; recovery of expenditures.—

373 (14) ADVANCED SITE ASSESSMENT.—It is in the public  
374 interest, and of substantial environmental and economic benefit  
375 to the state, to provide an opportunity to conduct site  
376 assessment on a limited basis at contaminated sites in advance  
377 of the ranking of the sites on the priority list as specified in

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378 subsection (8).

379 (a) A real property owner who is eligible for site  
380 rehabilitation at a facility that has been determined eligible  
381 for the drycleaning solvent cleanup program under this section  
382 may request an advanced site assessment, and the department may  
383 authorize the performance of a site assessment in advance of the  
384 ranking of the site on the priority list as specified in  
385 subsection (8), if the following criteria are met:

386 1. The site assessment information would provide new  
387 information that would be sufficient for the department to  
388 better evaluate the actual risk of the contamination, thereby  
389 reducing the risk to public health and the environment;

390 2. The property owner agrees:

391 a. To implement the appropriate institutional controls  
392 allowed by department rules adopted pursuant to subsection (4)  
393 at the time the property owner requests the advanced site  
394 assessment; and

395 b. To implement and maintain, upon completion of the  
396 cleanup, the required institutional controls, or a combination  
397 of institutional and engineering controls, when the site meets  
398 the site rehabilitation criteria for closure with controls in  
399 accordance with department rules adopted pursuant to subsection  
400 (4);

401 3. Current conditions at the site allow the site assessment  
402 to be conducted in a manner that will result in cost savings to  
403 the Water Quality Assurance Trust Fund;

404 4. There is sufficient money in the annual Water Quality  
405 Assurance Trust Fund appropriation for the drycleaning solvent  
406 cleanup program to pay for the site assessment; and

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407 5. In accordance with subsection (3), access to the site is  
408 provided and the deductible is paid.

409 (b) A site may be assessed out of priority ranking order  
410 when, at the department's discretion, the site assessment will  
411 provide a cost savings to the program.

412 (c) An advanced site assessment must incorporate risk-based  
413 corrective action principles to achieve protection of human  
414 health and safety and the environment in a cost-effective  
415 manner, in accordance with subsection (4). The site assessment  
416 must also be sufficient to estimate the cost and determine the  
417 proposed course of action toward site cleanup. Advanced site  
418 assessment activities performed under this subsection shall be  
419 designed to affirmatively demonstrate that the site meets one of  
420 the following findings based on the following specified  
421 criteria:

422 1. Recommend remedial action to mitigate risks that, in the  
423 judgment of the department, are a threat to human health or  
424 where failure to prevent migration of drycleaning solvents would  
425 cause irreversible damage to the environment;

426 2. Recommend additional groundwater monitoring to support  
427 natural attenuation monitoring or long-term groundwater  
428 monitoring; or

429 3. Recommend "no further action," with or without  
430 institutional controls or institutional and engineering  
431 controls, for those sites that meet the "no further action"  
432 criteria department rules adopted pursuant to subsection (4).

433  
434 If the site does not meet one of the findings specified in  
435 subparagraphs 1.-3., the department shall notify the property

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436 owner in writing of this decision, and the site shall be  
437 returned to its priority ranking order in accordance with its  
438 score.

439 (d) Advanced site assessment program tasks shall be  
440 assigned by the drycleaning solvent cleanup program. In addition  
441 to the provisions in paragraph (a), the assignment of site  
442 assessment tasks shall be based on the department's  
443 determination of contractor logistics, geographical  
444 considerations, and other criteria that the department  
445 determines are necessary to achieve the most cost-effective  
446 approach.

447 (e) Available funding for advanced site assessments may not  
448 exceed 10 percent of the annual Water Quality Assurance Trust  
449 Fund appropriation for the drycleaning solvent cleanup program.

450 (f) The total funds committed to any one site may not  
451 exceed \$70,000.

452 (g) The department shall prioritize the requests for  
453 advanced site assessment, based on the date of receipt and the  
454 environmental and economic value to the state, until 10 percent  
455 of the annual Water Quality Assurance Trust Fund appropriation,  
456 as provided in paragraph (e), has been obligated.

457 Section 9. (1) The Department of Environmental Protection  
458 shall evaluate the potential for using the Inland Protection  
459 Trust Fund to respond to the damage or potential damage to  
460 underground storage tank systems caused by ethanol or biodiesel.  
461 The department shall issue a request for information regarding  
462 the potential for damage to underground petroleum systems by  
463 ethanol or biodiesel and the potential costs of implementing and  
464 maintaining a program to address such damage. The department



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465 shall compile this information into a report, which shall be  
466 submitted to the President of the Senate, the Speaker of the  
467 House of Representatives, and the Governor by December 15, 2017.

468 (2) For the 2017-2018 fiscal year, the sum of \$25,000 in  
469 nonrecurring funds from the Inland Protection Trust Fund is  
470 provided to fund the program provided in subsection (1).

471 (3) This section expires December 30, 2017.

472 Section 10. This act shall take effect July 1, 2017.