

By the Committee on Natural Resources

312-2001-98

1 A bill to be entitled
2 An act relating to water quality; directing the
3 Department of Health to conduct a study to
4 identify the role of onsite sewage treatment
5 and disposal systems on water quality;
6 providing for a report; requiring the
7 Department of Environmental Protection to adopt
8 rules for determining which waters are
9 nutrient-impaired; providing criteria for
10 rulemaking; amending s. 403.1835, F.S.;
11 providing a priority for funding from the
12 sewage treatment facilities revolving loan
13 program for facilities located within the
14 geographic area encompassed by a plan adopted
15 pursuant to s. 373.456, F.S.; providing that
16 the sewage treatment facilities revolving loan
17 program is to be self-perpetuating; authorizing
18 the Department of Environmental Protection to
19 sell or pledge loans from the Sewage Treatment
20 Revolving Loan Fund, with approval from the
21 Board of Administration; providing for the
22 employment of experts; providing for the use
23 and deposit of proceeds from the sale of loans;
24 amending s. 403.804, F.S.; providing for
25 calculating maximum load for certain
26 constituents for a specific watercourse and
27 water body; requiring the Secretary of
28 Environmental Protection to approve the maximum
29 load calculation after notice of agency action
30 pursuant to ch. 120, F.S., and limiting the
31 point of entry for a challenge to the

1 calculation; authorizing the department to
2 adopt rules establishing procedures for
3 pollutant trading in areas where a maximum load
4 calculation has been approved; creating s.
5 514.095, F.S.; authorizing the Department of
6 Health to adopt rules for bacteriological
7 sampling of beach waters and issue health
8 advisories; providing an effective date.

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

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12 Section 1. The research review and advisory committee
13 established pursuant to section 381.0065(4)(n), Florida
14 Statutes, shall undertake a study to identify the role of
15 onsite sewage treatment and disposal systems in causing water
16 quality problems. The study will identify areas of the state
17 which have impaired water quality and need corrective actions
18 to avoid further deterioration in water quality conditions.
19 The Department of Health's Technical Review and Advisory
20 Committee shall approve the parameters of the study and
21 provide advice on the scope of the study, with input from the
22 Department of Environmental Protection and the Department of
23 Health. The departments shall provide the necessary staff and
24 support for the study. A final report and recommendations for
25 corrective actions and implementing legislation shall be
26 submitted to the Governor, President of the Senate, and
27 Speaker of the House of Representatives by January 15, 1999.

28 Section 2. Section 403.0863, Florida Statutes, is
29 created to read:

30 403.0863 Determination of nutrient-impaired
31 waters.--The Department of Environmental Protection shall

1 adopt by rule procedures for determining which waters are
2 nutrient-impaired. For purposes of this chapter, nutrient
3 impairment shall be established using the following criteria,
4 at a minimum:

5 (1) Excessive levels of chlorophyll-a as determined by
6 methods established in department rule;

7 (2) Excessive algal growth potential as determined by
8 methods established in department rule;

9 (3) Nutrient concentrations at levels that cause an
10 imbalance in natural populations of aquatic flora or fauna; or

11 (4) A high trophic state index, as determined by
12 methods established in department rule, which is indicative of
13 eutrophic conditions.

14 Section 3. Subsections (1), (3), (7), (9), and (10) of
15 section 403.1835, Florida Statutes, are amended to read:

16 403.1835 Sewage treatment facilities revolving loan
17 program.--

18 (1) The purpose of this section is to assist in
19 implementing the legislative declaration of public policy as
20 contained in s. 403.021 by establishing a self-perpetuating
21 loan program to accelerate construction of sewage treatment
22 facilities by local governmental agencies and to assist local
23 governmental agencies.

24 (3) The department is authorized to make loans and
25 grants to local governmental agencies to assist them in
26 planning, designing, and constructing sewage treatment
27 facilities and stormwater management systems.

28 (a) The department is authorized to make loans, to
29 provide loan guarantees, to purchase loan insurance, and to
30 refinance local debt through the issue of new loans for
31 projects approved by the department. Local governmental

1 agencies are authorized to borrow funds made available
2 pursuant to this section and may pledge any revenue available
3 to them to repay any funds borrowed. The department shall
4 administer loans to local governmental agencies so that at
5 least 15 percent of each annual allocation for loans is
6 reserved for small communities.

7 (b) The department may administer the resulting
8 portfolio of loans, including the authority to sell or pledge
9 the loans, or any portion of the loans, with approval of the
10 Governor, the Treasurer, and the Comptroller, sitting as the
11 State Board of Administration, to ensure compliance with
12 subsection (1). The department may hire experts to assist the
13 department in the administration of the portfolio of loans.
14 Any such hiring shall occur through requests for proposal.

15 (c)~~(b)~~ The department may make grants to financially
16 disadvantaged small communities, as defined in s. 403.1838,
17 using funds made available from grant allocations on loans
18 authorized under subsection (4). The grants must be
19 administered in accordance with s. 403.1838.

20 (d)~~(c)~~ The department may make grants to local
21 government agencies as authorized under the Federal Water
22 Pollution Control Act, or as a result of other federal action.
23 The grants must be administered in accordance with this
24 section and applicable federal requirements.

25 (7) Eligible projects must be given priority according
26 to the extent each project is intended to remove, mitigate, or
27 prevent adverse effects on surface or ground water quality and
28 public health. However, preference must be given to eligible
29 projects that protect the public health, that ~~or~~ are required
30 by law to eliminate sewage treatment facility discharges into
31 specific bodies of water, or that are located within the

1 geographic area encompassed by any surfacewater improvement
2 and management plan adopted pursuant to s. 373.456.

3 (9) Funds for the loans and grants authorized under
4 this section must be managed as follows:

5 (a) A nonlapsing trust fund with revolving loan
6 provisions to be known as the "Sewage Treatment Revolving Loan
7 Fund" is hereby established in the State Treasury to be used
8 as a revolving fund by the department to carry out the purpose
9 of this section. Any funds therein which are not needed on an
10 immediate basis for loans may be invested pursuant to s.
11 215.49. The cost of administering the program shall be paid
12 from federal funds, and from reasonable service fees that may
13 be imposed upon loans, and from proceeds from the sale of
14 loans as permitted by federal law so as to enhance program
15 perpetuity. Grants awarded by the Federal Government,
16 proceeds from the sale of loans, state matching funds, and
17 investment earnings thereon shall be deposited into the fund.
18 All moneys available in the fund, including investment
19 earnings on such amounts, are hereby designated to carry out
20 the purpose of this section. Principal and interest payments
21 with respect to loans held by the fund shall be deposited into
22 this fund. ~~The principal and interest of all loans repaid and~~
23 ~~investment earnings shall be deposited into this fund.~~

24 (b) Revenues from the loan grant allocations
25 authorized under subsection (4), federal appropriations, state
26 matching funds for grants authorized by federal statute or
27 other federal action, and service fees, and all earnings
28 thereon, shall be deposited into the department's Grants and
29 Donations Trust Fund. Service fees and all earnings thereon
30 must be used solely for program administration. The loan grant
31 allocation revenues and earnings thereon must be used solely

1 for the purpose of making grants to financially disadvantaged
2 small communities. Federal appropriations and state matching
3 funds for grants authorized by federal statute or other
4 federal action, and earnings thereon, must be used solely for
5 the purposes authorized. All deposits into the department's
6 Grants and Donations Trust Fund under this section, and
7 earnings thereon, must be accounted for separately from all
8 other moneys deposited into the fund.

9 (10)(a) Because the Legislature has experienced
10 revenue shortfalls in recent years and has been unable to
11 provide enough funds to fully match available federal funds to
12 help capitalize the Sewage Treatment Revolving Loan Fund, it
13 is necessary for innovative approaches to be considered to
14 help capitalize the revolving loan fund. The department shall
15 evaluate potential innovative approaches that can generate
16 funds to match available federal funds. The department may
17 adopt approaches that will help ensure the continuing
18 viability of the Sewage Treatment Revolving Loan Fund.The
19 department shall consider, among other possible alternatives,
20 the option of implementing by rule a program to allow local
21 governments to offer funds voluntarily to the state for use as
22 a match to available federal funds to capitalize the state
23 sewage treatment revolving loan fund.

24 (b) The department may adopt rules necessary to
25 administer this section.

26 Section 4. Subsection (4) is added to section 403.804,
27 Florida Statutes to read:

28 403.804 Environmental Regulation Commission; powers
29 and duties.--

30 (4)(a) Where the commission has approved in a
31 department rule a numeric or narrative water quality standard

1 for a particular constituent, the department, a water
2 management district, or a local program having delegated
3 authority under s. 403.182 may apply the standard by
4 calculating the constituent's maximum load for a specific
5 watercourse or water body and, where such maximum load is
6 calculated, shall implement the maximum load calculation
7 through its permitting programs.

8 (b) Prior to implementation of the maximum load:

9 1. The department, a water management district, or a
10 local program having delegated authority under s. 403.182 must
11 have prepared a plan of study for the maximum load
12 calculation; and

13 2. The secretary of the department must have approved
14 the maximum load calculation after notice of proposed agency
15 action under chapter 120. The secretary's approval of the
16 maximum load calculation is the sole point of entry for a
17 challenge to the maximum load calculation for that watercourse
18 or water body.

19 (c) The department, a water management district, or a
20 local program having delegated authority under s. 403.182
21 shall consider the contributions of both point source and
22 nonpoint source pollutant loads in calculating and
23 implementing a maximum load. The department may, by rule,
24 establish procedures for pollutant trading in areas where a
25 maximum load calculation has been approved. Such procedures
26 may be implemented through permits or other authorizations,
27 must be legally binding, and must result in a higher level of
28 water quality protection than could be achieved in the absence
29 of pollutant trading.

30 (d) Rule adoption under chapter 120 is not required to
31 implement the maximum load calculation or to accomplish any

1 other provision of this subsection. This subsection does not
2 alter any applicable state water quality standards or restrict
3 the authority otherwise granted to the department or a water
4 management district under this chapter or chapter 373.

5 Section 5. Section 514.095, Florida Statutes, is
6 created to read:

7 514.095 Beach water sampling; health advisories.--The
8 department may adopt and enforce rules to protect the health,
9 safety, and welfare of persons using beach waters. The rules
10 shall establish health standards and prescribe procedures and
11 timeframes for bacteriological sampling of beach waters.
12 Beach waters include saltwater and brackish water. The
13 department may issue health advisories if beach water quality
14 fails to meet standards established by the department. The
15 authority to issue health advisories related to the
16 bacteriological sampling results of beach waters is preempted
17 to the state.

18 Section 6. This act shall take effect upon becoming a
19 law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1006

4 All the provisions of sections 1-4 have been deleted from the
5 committee substitute. Section 1 of the bill now requires the
6 research review and advisory committee established pursuant to
7 s. 381.0065(4)(n), F.S., to conduct a study to identify the
8 role of OSTDs in causing water quality problems. The study
9 will identify areas of the state which have impaired water
10 quality and need corrective actions to avoid further
11 deterioration in water quality conditions. The DOH's
12 Technical Review and Advisory Committee will approve the
13 parameters of the study, with input from the DEP and the DOH.
14 The departments will provide the necessary staff and support
15 for the study. A final report and recommendations for
16 corrective actions and implementing legislation must be
17 submitted to the Governor, President of the Senate, and
18 Speaker of the House by January 15, 1999.

19 Section 2 of the bill now creates s. 403.0863, F.S., and
20 requires the DEP to adopt, by rule, procedures for determining
21 which waters are nutrient-impaired. For these purposes,
22 nutrient impairment will be established using the following
23 criteria, at a minimum:

- 24 - Excessive levels of chlorophyll-a as determined by
25 methods established in department rule;
- 26 - Excessive algal growth potential as determined by methods
27 established in department rule;
- 28 - Nutrient concentrations at levels that cause an imbalance
29 in natural populations of aquatic flora or fauna; or
- 30 - A high tropic state index, as determined by methods
31 established in department rules, which is indicative of
eutrophic conditions.

32 Section 3 amends s. 403.1835, F.S., to provide intent that the
33 sewage treatment facilities revolving loan program be
34 self-perpetuating. The DEP is authorized to administer the
35 fund's portfolio of loans, including having the authority to
36 sell or pledge the loans, or any portion of the loans, with
37 approval of the Governor, the Treasurer, and the Comptroller,
38 sitting as the State Board of Administration, to ensure
39 compliance with s. 403.1835(1), F.S. The DEP may hire experts
40 to assist the department in the administration of the
41 portfolio of loans. Any such hiring must occur through
42 requests for proposal.

43 This section also includes projects located within the
44 geographic area encompassed by any SWIM plan adopted pursuant
45 to s. 373.456, F.S., with other types of projects receiving a
46 preference for loans.

47 This bill requires that the proceeds of any loans sold be
48 deposited into the fund and permits such moneys to be used for
49 administering the fund. Any principal and interest payments
50 with respect to loans held by the fund must be deposited into

1 | the fund.

2 | The DEP is also authorized to adopt approaches which will help
3 | ensure the continuing viability of the fund.

4 | The remaining provisions of the bill are unchanged.
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