

By Senator Harris

24-818-98

1 A bill to be entitled
2 An act relating to inland navigation districts;
3 amending s. 374.976, F.S.; authorizing
4 districts to enter into cooperative agreements
5 with the Federal Government and participate
6 with the U.S. Army Corps of Engineers in
7 waterway maintenance projects and anchorage
8 management programs; authorizing districts to
9 enter into ecosystem management agreements with
10 the Department of Environmental Protection;
11 providing matching fund exceptions; amending s.
12 403.061, F.S.; providing a supplemental process
13 for the issuance of joint coastal permits and
14 environmental resource permits; providing an
15 effective date.

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

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19 Section 1. Subsections (1) and (3) of section 374.976,
20 Florida Statutes, are amended to read:

21 374.976 Authority to address impacts of waterway
22 development projects.--

23 (1) Each inland navigation district, except the
24 district created pursuant to s. 374.301, is empowered and
25 authorized to undertake programs intended to alleviate the
26 problems associated with its waterway or waterways, including,
27 but not limited to, the following:

28 (a) The district may act as a local interest sponsor
29 for any project designated as a "Section 107, River and Harbor
30 Act of 1960" project authorized and undertaken by the U.S.
31 Army Corps of Engineers and, in this regard, may comply with

1 any or all conditions imposed on local interests as part of
2 such project.

3 (b) It is the intent of the Legislature that the
4 district may sponsor or furnish assistance and support to
5 member counties and local governments within the district in
6 planning and carrying out beach renourishment and inlet
7 management projects. Such assistance and support, if
8 financial in nature, shall be contributed only after a finding
9 by the board that inlet management projects are a benefit to
10 public navigation in the district and that the beaches to be
11 nourished have been adversely impacted by navigation inlets,
12 navigation structures, navigation dredging, or a navigation
13 project. Such projects will be consistent with Department of
14 Environmental Protection approved inlet management plans and
15 the statewide beach management plan pursuant to s. 161.161.
16 Inlet management projects that are determined to be consistent
17 with Department of Environmental Protection approved inlet
18 management plans are declared to be a benefit to public
19 navigation.

20 (c) The district is authorized to aid and cooperate
21 with the Federal Government, state government, member
22 counties, and local governments within the district in
23 planning and carrying out public navigation, local and
24 regional anchorage management, public recreation, inlet
25 management, environmental education, and boating safety
26 projects, directly related to the waterways. The district is
27 also authorized to enter into cooperative agreements with the
28 U.S. Army Corps of Engineers, the state, and member counties,
29 and to covenant in any such cooperative agreement to pay part
30 of the costs of acquisition, planning, development,

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1 construction, reconstruction, extension, improvement,
2 operation, and maintenance of such projects.

3 (d) The district is authorized to enter into
4 cooperative agreements with navigation-related districts to
5 pay part of the costs of acquisition of spoil disposal sites.

6 (e) The district may enter into ecosystem management
7 agreements with the Department of Environmental Protection
8 under s. 403.075.

9 (3) Except as provided in subsection (2),all
10 financial assistance and support furnished by the Florida
11 Inland Navigation District and the West Coast Inland
12 Navigation District to member counties and local governments
13 within the districts shall require matching funds. Such
14 matching funds shall be clearly identified and enumerated as
15 to amount and source. Such financial assistance and support,
16 except as provided pursuant to paragraph (1)(a) and except for
17 a project approved in a county that is recovering from a state
18 of emergency declared under chapter 252, shall not exceed the
19 proportional share of ad valorem tax collections from each
20 county.

21 Section 2. Section 403.061, Florida Statutes, is
22 amended to read:

23 403.061 Department; powers and duties.--The department
24 shall have the power and the duty to control and prohibit
25 pollution of air and water in accordance with the law and
26 rules adopted and promulgated by it and, for this purpose, to:

27 (1) Approve and promulgate current and long-range
28 plans developed to provide for air and water quality control
29 and pollution abatement.

30 (2) Hire only such employees as may be necessary to
31 effectuate the responsibilities of the department.

1 (3) Utilize the facilities and personnel of other
2 state agencies, including the Department of Health ~~and~~
3 ~~Rehabilitative Services~~, and delegate to any such agency any
4 duties and functions as the department may deem necessary to
5 carry out the purposes of this act.

6 (4) Secure necessary scientific, technical, research,
7 administrative, and operational services by interagency
8 agreement, by contract, or otherwise. All state agencies,
9 upon direction of the department, shall make these services
10 and facilities available.

11 (5) Accept state appropriations and loans and grants
12 from the Federal Government and from other sources, public or
13 private, which loans and grants shall not be expended for
14 other than the purposes of this act.

15 (6) Exercise general supervision of the administration
16 and enforcement of the laws, rules, and regulations pertaining
17 to air and water pollution.

18 (7) Adopt, modify, and repeal rules and regulations to
19 carry out the intent and purposes of this act. Any rule or
20 regulation adopted pursuant to this act shall be consistent
21 with the provisions of federal law, if any, relating to
22 control of emissions from motor vehicles, effluent
23 limitations, pretreatment requirements, or standards of
24 performance. No county, municipality, or political subdivision
25 shall adopt or enforce any local ordinance, special law, or
26 local regulation requiring the installation of Stage II vapor
27 recovery systems, as currently defined by department rule,
28 unless such county, municipality, or political subdivision is
29 or has been in the past designated by federal regulation as a
30 moderate, serious, or severe ozone nonattainment area. Rules
31 adopted pursuant to this act shall not require dischargers of

1 waste into waters of the state to improve natural background
2 conditions. Discharges from steam electric generating plants
3 existing or licensed under this chapter on July 1, 1984, shall
4 not be required to be treated to a greater extent than may be
5 necessary to assure that the quality of nonthermal components
6 of discharges from nonrecirculated cooling water systems is as
7 high as the quality of the makeup waters; that the quality of
8 nonthermal components of discharges from recirculated cooling
9 water systems is no lower than is allowed for blowdown from
10 such systems; or that the quality of noncooling system
11 discharges which receive makeup water from a receiving body of
12 water which does not meet applicable department water quality
13 standards is as high as the quality of the receiving body of
14 water. The department may not adopt standards more stringent
15 than federal regulations, except as provided in s. 403.804.

16 (8) Issue such orders as are necessary to effectuate
17 the control of air and water pollution and enforce the same by
18 all appropriate administrative and judicial proceedings.

19 (9) Adopt a comprehensive program for the prevention,
20 control, and abatement of pollution of the air and waters of
21 the state, and from time to time review and modify such
22 program as necessary.

23 (10) Develop a comprehensive program for the
24 prevention, abatement, and control of the pollution of the
25 waters of the state. In order to effect this purpose, a
26 grouping of the waters into classes may be made in accordance
27 with the present and future most beneficial uses. Such
28 classifications may from time to time be altered or modified.
29 However, before any such classification is made, or any
30 modification made thereto, public hearings shall be held by
31 the department.

1 (11) Establish ambient air quality and water quality
2 standards for the state as a whole or for any part thereof,
3 and also standards for the abatement of excessive and
4 unnecessary noise. The department is authorized to establish
5 reasonable zones of mixing for discharges into waters.

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

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

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

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

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

21 (b) No mixing zone for point source discharges shall
22 be permitted in Outstanding Florida Waters except for:

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

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

28 3. Discharges of water necessary for water management
29 purposes which have been approved by the governing board of a
30 water management district and, if required by law, by the
31 secretary.

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

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6 Nothing in this act shall be construed to invalidate any
7 existing department rule relating to mixing zones. The
8 department shall cooperate with the Department of Highway
9 Safety and Motor Vehicles in the development of regulations
10 required by s. 316.272(1).

11 (12)(a) Cause field studies to be made and samples to
12 be taken out of the air and from the waters of the state
13 periodically and in a logical geographic manner so as to
14 determine the levels of air quality of the air and water
15 quality of the waters of the state.

16 (b) Determine the source of the pollution whenever a
17 study is made or a sample collected which proves to be below
18 the air or water quality standard set for air or water.

19 (13) Require persons engaged in operations which may
20 result in pollution to file reports which may contain
21 information relating to locations, size of outlet, height of
22 outlet, rate and period of emission, and composition and
23 concentration of effluent and such other information as the
24 department shall prescribe to be filed relative to pollution.

25 (14) Establish a permit system whereby a permit may be
26 required for the operation, construction, or expansion of any
27 installation that may be a source of air or water pollution
28 and provide for the issuance and revocation of such permits
29 and for the posting of an appropriate bond to operate.

30 (a) Notwithstanding any other provision of this
31 chapter, the department may authorize, by rule, the Department

1 of Transportation to perform any activity requiring a permit
2 from the department covered by this chapter, upon
3 certification by the Department of Transportation that it will
4 meet all requirements imposed by statute, rule, or standard
5 for environmental control and protection as such statute,
6 rule, or standard applies to a governmental program. To this
7 end, the department may accept such certification of
8 compliance for programs of the Department of Transportation,
9 may conduct investigations for compliance, and, if a violation
10 is found to exist, may take all necessary enforcement action
11 pertaining thereto, including, but not limited to, the
12 revocation of certification. The authorization shall be by
13 rule of the department, shall be limited to the maintenance,
14 repair, or replacement of existing structures, and shall be
15 conditioned upon compliance by the Department of
16 Transportation with specific guidelines or requirements which
17 are set forth in the formal acceptance and deemed necessary by
18 the department to assure future compliance with this chapter
19 and applicable department rules. The failure of the Department
20 of Transportation to comply with any provision of the written
21 acceptance shall constitute grounds for its revocation by the
22 department.

23 (b) The provisions of chapter 120 shall be accorded
24 any person when substantial interests will be affected by an
25 activity proposed to be conducted by the Department of
26 Transportation pursuant to its certification and the
27 acceptance of the department. If a proceeding is conducted
28 pursuant to ss. 120.569 and 120.57, the department may
29 intervene as a party. Should an administrative law judge of
30 the Division of Administrative Hearings of the Department of
31 Management Services submit a recommended order pursuant to ss.

1 120.569 and 120.57, the department shall issue a final
2 department order adopting, rejecting, or modifying the
3 recommended order pursuant to such action.

4 (15) Consult with any person proposing to construct,
5 install, or otherwise acquire a pollution control device or
6 system concerning the efficacy of such device or system, or
7 the pollution problem which may be related to the source,
8 device, or system. Nothing in any such consultation shall be
9 construed to relieve any person from compliance with this act,
10 rules and regulations of the department, or any other
11 provision of law.

12 (16) Encourage voluntary cooperation by persons and
13 affected groups to achieve the purposes of this act.

14 (17) Encourage local units of government to handle
15 pollution problems within their respective jurisdictions on a
16 cooperative basis and provide technical and consultative
17 assistance therefor.

18 (18) Encourage and conduct studies, investigations,
19 and research relating to pollution and its causes, effects,
20 prevention, abatement, and control.

21 (19) Make a continuing study of the effects of the
22 emission of air contaminants from motor vehicles on the
23 quality of the outdoor atmosphere of this state and the
24 several parts thereof and make recommendations to appropriate
25 public and private bodies with respect thereto.

26 (20) Collect and disseminate information and conduct
27 educational and training programs relating to pollution.

28 (21) Advise, consult, cooperate, and enter into
29 agreements with other agencies of the state, the Federal
30 Government, other states, interstate agencies, groups,
31 political subdivisions, and industries affected by the

1 provisions of this act, rules, or policies of the department.
2 However, the secretary of the department shall not enter into
3 any interstate agreement relating to the transport of ozone
4 precursor pollutants, nor modify its rules based upon a
5 recommendation from the Ozone Transport Assessment Group or
6 any other such organization that is not an official
7 subdivision of the United States Environmental Protection
8 Agency but which studies issues related to the transport of
9 ozone precursor pollutants, without prior review and specific
10 legislative approval.

11 (22) Adopt, modify, and repeal rules governing the
12 specifications, construction, and maintenance of industrial
13 reservoirs, dams, and containers which store or retain
14 industrial wastes of a deleterious nature.

15 (23) Adopt rules and regulations to ensure that no
16 detergents are sold in Florida after December 31, 1972, which
17 are reasonably found to have a harmful or deleterious effect
18 on human health or on the environment. Any regulations adopted
19 pursuant to this subsection shall apply statewide. Subsequent
20 to the promulgation of such rules and regulations, no county,
21 municipality, or other local political subdivision shall adopt
22 or enforce any local ordinance, special law, or local
23 regulation governing detergents which is less stringent than
24 state law or regulation. Regulations, ordinances, or special
25 acts adopted by a county or municipality governing detergents
26 shall be subject to approval by the department, except that
27 regulations, ordinances, or special acts adopted by any county
28 or municipality with a local pollution control program
29 approved pursuant to s. 403.182 shall be approved as an
30 element of the local pollution control program.

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1 (24)(a) Establish a permit system to provide for spoil
2 site approval, as may be requested and required by local
3 governmental agencies as defined in s. 403.1822(3), or
4 mosquito control districts as defined in s. 388.011(5), to
5 facilitate these agencies in providing spoil sites for the
6 deposit of spoil from maintenance dredging of navigation
7 channels, port harbors, turning basins, and harbor berths, as
8 part of a federal project, when the agency is acting as
9 sponsor of a contemplated dredge and fill operation involving
10 an established navigation channel, harbor, turning basin, or
11 harbor berth. A spoil site approval granted to the agency
12 shall be granted for a period of 10 to 25 years when such site
13 is not inconsistent with an adopted local governmental
14 comprehensive plan and the requirements of this chapter. The
15 department shall periodically review each permit to determine
16 compliance with the terms and conditions of the permit. Such
17 review shall be conducted at least once every 10 years.

18 (b) This subsection applies only to those maintenance
19 dredging operations permitted after July 1, 1980, where the
20 United States Army Corps of Engineers is the prime dredge and
21 fill agent and the local governmental agency is acting as
22 sponsor for the operation, and does not require the
23 redesignation of currently approved spoil sites under such
24 previous operations.

25 (25) Establish and administer a program for the
26 restoration and preservation of bodies of water within the
27 state. The department shall have the power to acquire lands,
28 to cooperate with other applicable state or local agencies to
29 enhance existing public access to such bodies of water, and to
30 adopt all rules necessary to accomplish this purpose.

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1 (26)(a) Develop standards and criteria for waters used
2 for deepwater shipping which standards and criteria consider
3 existing water quality; appropriate mixing zones and other
4 requirements for maintenance dredging in previously
5 constructed deepwater navigation channels, port harbors,
6 turning basins, or harbor berths; and appropriate mixing zones
7 for disposal of spoil material from dredging and, where
8 necessary, develop a separate classification for such waters.
9 Such classification, standards, and criteria shall recognize
10 that the present dedicated use of these waters is for
11 deepwater commercial navigation.

12 (b) The provisions of paragraph (a) apply only to the
13 port waters, spoil disposal sites, port harbors, navigation
14 channels, turning basins, and harbor berths used for deepwater
15 commercial navigation in the ports of Jacksonville, Tampa,
16 Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm
17 Beach, Port Manatee, Port St. Joe, Panama City, St.
18 Petersburg, Port Bartow, Florida Power Corporation's Crystal
19 River Canal, Boca Grande, Green Cove Springs, and Pensacola.

20 (27) Establish rules which provide for a special
21 category of water bodies within the state, to be referred to
22 as "Outstanding Florida Waters," which water bodies shall be
23 worthy of special protection because of their natural
24 attributes. Nothing in this subsection shall affect any
25 existing rule of the department.

26 (28) Perform any other act necessary to control and
27 prohibit air and water pollution, and to delegate any of its
28 responsibilities, authority, and powers, other than rulemaking
29 powers, to any state agency now or hereinafter established.

30 (29) Adopt by rule special criteria to protect Class
31 II shellfish harvesting waters. Rules previously adopted by

1 the department in rule 17-4.28(8)(a), Florida Administrative
2 Code, are hereby ratified and determined to be a valid
3 exercise of delegated legislative authority and shall remain
4 in effect unless amended by the Environmental Regulation
5 Commission.

6 (30) Establish requirements by rule that reasonably
7 protect the public health and welfare from electric and
8 magnetic fields associated with existing 230 kV or greater
9 electrical transmission lines, new 230 kV and greater
10 electrical transmission lines for which an application for
11 certification under the Transmission Line Siting Act, ss.
12 403.52-403.5365, is not filed, new or existing electrical
13 transmission or distribution lines with voltage less than 230
14 kV, and substation facilities. Notwithstanding any other
15 provision in this chapter or any other law of this state or
16 political subdivision thereof, the department shall have
17 exclusive jurisdiction in the regulation of electric and
18 magnetic fields associated with all electrical transmission
19 and distribution lines and substation facilities. However,
20 nothing herein shall be construed as superseding or repealing
21 the provisions of s. 403.523(1) and (10).

22 (31) Adopt rules necessary to obtain approval from the
23 United States Environmental Protection Agency to administer
24 the Federal National Pollution Discharge Elimination System
25 (NPDES) permitting program in Florida under ss. 318, 402, and
26 405 of the Federal Clean Water Act, Pub. L. No. 92-500, as
27 amended. This authority shall be implemented consistent with
28 the provisions of part II, which shall be applicable to
29 facilities certified thereunder. The department shall
30 establish all rules, standards, and requirements that regulate
31 the discharge of pollutants into waters of the United States

1 as defined by and in a manner consistent with federal
2 regulations; provided, however, that the department may adopt
3 a standard that is stricter or more stringent than one set by
4 the United States Environmental Protection Agency if approved
5 by the Governor and Cabinet in accordance with the procedures
6 of s. 403.804(2).

7 (32) Coordinate the state's stormwater program.

8 (33) Establish and administer programs providing
9 appropriate incentives that have the following goals, in order
10 of importance:

11 (a) Preventing and reducing pollution at its source.

12 (b) Recycling contaminants that have the potential to
13 pollute.

14 (c) Treating and neutralizing contaminants that are
15 difficult to recycle.

16 (d) Disposing of contaminants only after other options
17 have been used to the greatest extent practicable.

18 (34) Adopt rules which may include stricter permitting
19 and enforcement provisions within Outstanding Florida Waters,
20 aquatic preserves, areas of critical state concern, and areas
21 subject to chapter 380 resource management plans adopted by
22 rule by the Administration Commission, when the plans for an
23 area include waters that are particularly identified as
24 needing additional protection, which provisions are not
25 inconsistent with the applicable rules adopted for the
26 management of such areas by the department and the Governor
27 and Cabinet.

28 (35) Exercise the duties, powers, and responsibilities
29 required of the state under the federal Clean Air Act, 42
30 U.S.C. ss. 7401 et seq. The department shall implement the
31 programs required under that act in conjunction with its other

1 powers and duties. Nothing in this subsection shall be
2 construed to repeal or supersede any of the department's
3 existing rules.

4 (36) Establish statewide standards for persons engaged
5 in determining visible air emissions and to require these
6 persons to obtain training to meet such standards.

7 (37) Enter into a memorandum of agreement with the
8 Florida Ports Council which provides a supplemental permitting
9 process for the issuance of a joint coastal permit pursuant to
10 s. 161.055 or environmental resource permit pursuant to part
11 IV of chapter 373, to a port listed in s. 311.09(1), for
12 maintenance dredging and the management of dredged materials
13 from maintenance dredging of all navigation channels, port
14 harbors, turning basins, and harbor berths. Such permit shall
15 be issued for a period of 5 years and shall be annually
16 extended for an additional year if the port is in compliance
17 with all permit conditions at the time of extension.

18 (38) Enter into a memorandum of agreement with the
19 Florida Ports Council which provides a supplemental permitting
20 process for the issuance of a conceptual joint coastal permit
21 pursuant to s. 161.055 or environmental resource permit
22 pursuant to part IV of chapter 373, to a port listed in s.
23 311.09(1), for dredging and the management of materials from
24 dredging and for other related activities necessary for
25 development, including the expansion of navigation channels,
26 port harbors, turning basins, harbor berths, and associated
27 facilities. Such permit shall be issued for a period of up to
28 15 years.

29 (39) Enter into interlocal agreements, under chapter
30 163, with the Florida Inland Navigation District, the West
31 Coast Inland Navigation District, or their successor agencies

1 to provide a supplemental process for issuing joint coastal
2 permits under s. 161.055 or environmental resource permits
3 under part IV of chapter 373, for regional waterway management
4 activities including, but not limited to, maintenance
5 dredging, spoil disposal, public recreation, inlet management,
6 beach nourishment, and environmental protection directly
7 related to public navigation and the construction,
8 maintenance, and operation of the state's inland waterways.

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

15 Section 3. This act shall take effect upon becoming a
16 law.

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19 SENATE SUMMARY

20 Authorizes inland navigation districts to enter into
21 cooperative agreements with the Federal Government and
22 participate with the U.S. Army Corps of Engineers in
23 waterway maintenance projects and anchorage management
24 programs. Authorizes districts to enter into ecosystem
25 management agreements with the Department of
26 Environmental Protection. Provides matching funds
27 exceptions to financial assistance provisions. Provides a
28 supplemental process for the issuance of joint coastal
29 permits and environmental resource permits.
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