

1 A bill to be entitled
2 An act relating to water protection; amending
3 s. 403.8532, F.S.; authorizing the Department
4 of Environmental Protection to make loans to
5 certain public water systems; authorizing use
6 of certain federal Safe Drinking Water Act
7 funds for specified purposes; providing loan
8 criteria, requirements, and limitations;
9 providing for department rules; requiring an
10 annual report; providing for audits; providing
11 for loan service fees; providing for
12 disposition of funds; providing for default;
13 providing penalties for delinquent payments or
14 noncompliance with loan terms and conditions;
15 amending s. 403.860, F.S.; authorizing
16 administrative penalties for failure of a
17 public water system to comply with the Florida
18 Safe Drinking Water Act; providing for rules
19 and procedures; creating s. 403.8615, F.S.;
20 requiring certain new water systems to
21 demonstrate specified technical, managerial,
22 and financial capabilities; creating s.
23 403.865, F.S.; providing legislative findings
24 and intent relating to operation of water and
25 wastewater treatment facilities by qualified
26 personnel; creating s. 403.866, F.S.; providing
27 definitions; creating s. 403.867, F.S.;
28 requiring such operators to be licensed by the
29 department; creating s. 403.868, F.S.;
30 authorizing a utility to have more stringent
31 requirements; creating s. 403.869, F.S.;

1 authorizing department rules; creating s.
 2 403.87, F.S.; authorizing appointment of a
 3 technical advisory council for water and
 4 domestic wastewater operator certification;
 5 creating s. 403.871, F.S.; providing for
 6 application and examination, reexamination,
 7 licensure, renewal, and recordmaking and
 8 recordkeeping fees; providing for disposition
 9 thereof; creating s. 403.872, F.S.; specifying
 10 requirements for licensure; creating s.
 11 403.873, F.S.; providing for biennial license
 12 renewal; creating s. 403.874, F.S.; providing
 13 for inactive status and reactivation of
 14 inactive licenses; creating s. 403.875, F.S.;
 15 specifying prohibited acts; providing a
 16 penalty; creating s. 403.876, F.S.; requiring
 17 the department to establish grounds for
 18 disciplinary actions; providing for an
 19 administrative fine; providing for transfer of
 20 powers and duties relating to regulation of
 21 operators of water treatment plants and
 22 domestic wastewater treatment plants from the
 23 Department of Business and Professional
 24 Regulation to the Department of Environmental
 25 Protection; providing for continuation of
 26 certain rules; providing a grandfather
 27 provision for operators certified prior to the
 28 transfer; amending s. 403.087, F.S.; increasing
 29 the maximum term for issuance of permits for
 30 stationary water pollution sources; specifying
 31 conditions for renewing operation permits for

1 domestic wastewater treatment facilities for an
 2 extended term at the same fee; requiring the
 3 department to keep certain records; amending s.
 4 403.0871, F.S.; correcting cross references;
 5 amending s. 403.0872; clarifying air pollution
 6 fee deadline; repealing ss. 468.540, 468.541,
 7 468.542, 468.543, 468.544, 468.545, 468.546,
 8 468.547, 468.548, 468.549, 468.550, 468.551,
 9 and 468.552, F.S., relating to water and
 10 wastewater treatment plant operator
 11 certification by the Department of Business and
 12 Professional Regulation; providing an
 13 appropriation; amending s. 367.021, F.S.;
 14 defining "environmental compliance costs;
 15 amending s. 367.022, F.S.; providing regulatory
 16 exemptions for nonpotable irrigation water,
 17 under certain circumstances; amending s.
 18 367.081, F.S.; providing for recovery of
 19 environmental compliance costs; amending s.
 20 367.171, F.S.; providing application of the
 21 act; amending s. 367.022; deregulating bulk
 22 supplies of water for sale for resale; amending
 23 s. 193.625, F.S. to allow high-water recharge
 24 assessments when lands will be used primarily
 25 for bona fide high-water recharge purposes for
 26 a period of at least 5 years; amending s.
 27 403.1835, F.S.; expanding the sewage treatment
 28 facilities revolving loan program to provide
 29 loans to local governmental agencies for
 30 construction of stormwater management systems;
 31 defining "stormwater management system";

1 providing additional responsibilities of local
2 governments under the program; providing
3 priority for certain stormwater management
4 system projects; providing for funding;
5 providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

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9 Section 1. Section 403.8532, Florida Statutes, is
10 amended to read:

11 403.8532 Drinking water state revolving loan fund;
12 use; rules.--

13 (1) The purpose of this section is to assist in
14 implementing the legislative declarations of public policy
15 contained in ss. 403.021 and 403.851 by establishing
16 infrastructure financing, technical assistance, and source
17 water protection programs to assist public drinking water
18 systems in achieving and maintaining compliance with the
19 Florida Safe Drinking Water Act and the federal Safe Drinking
20 Water Act, as amended, and to conserve and protect the quality
21 of waters of the state.

22 (2) For purposes of this section, the term:

23 (a) "Financially disadvantaged community" means the
24 service area of a project to be served by a public water
25 system that meets criteria established by department rule and
26 in accordance with federal guidance.

27 (b) "Local governmental agency" means any
28 municipality, county, district, or authority, or any agency
29 thereof, or a combination of two or more of the foregoing
30 acting jointly in connection with a project, having
31 jurisdiction over a public water system.

1 (c) "Public water system" means all facilities,
2 including land, necessary for the treatment and distribution
3 of water for human consumption and includes public water
4 systems as defined in s. 403.852 and as otherwise defined in
5 the federal Safe Drinking Water Act, as amended. Such systems
6 may be publicly owned, privately owned, investor-owned, or
7 cooperatively held.

8 (d) "Small public water system" means a public water
9 system which regularly serves fewer than 10,000 people.

10 (3) The department is authorized to make loans to
11 community water systems, nonprofit noncommunity water systems,
12 and nonprofit nontransient noncommunity water systems to
13 assist them in planning, designing, and constructing public
14 water systems. The department is authorized to provide loan
15 guarantees, to purchase loan insurance, and to refinance local
16 debt through the issue of new loans for projects approved by
17 the department. Public water systems are authorized to borrow
18 funds made available pursuant to this section and may pledge
19 any revenues or other adequate security available to them to
20 repay any funds borrowed. The department shall administer
21 loans so that amounts credited to the Drinking Water Revolving
22 Loan Trust Fund in any fiscal year are reserved for the
23 following purposes:

24 (a) At least 15 percent to qualifying small public
25 water systems.

26 (b) Up to 15 percent to qualifying financially
27 disadvantaged communities.

28 (c) However, if an insufficient number of the projects
29 for which funds are reserved under this paragraph have been
30 submitted to the department at the time the funding priority
31 list authorized under this section is adopted, the reservation

1 of these funds shall no longer apply. The department may
2 award the unreserved funds as otherwise provided in this
3 section.

4 (4) The department is authorized, subject to
5 legislative appropriation authority and authorization of
6 positions, to use funds from the annual capitalization grant
7 for activities authorized under the federal Safe Drinking
8 Water Act, as amended, such as:

9 (a) Program administration.

10 (b) Technical assistance.

11 (c) Source water protection program development and
12 implementation, including wellhead and aquifer protection
13 programs, programs to alleviate water quality and water supply
14 problems associated with saltwater intrusion, programs to
15 identify, monitor and assess source waters, and contaminant
16 source inventories.

17 (d) Capacity development and financial assessment
18 program development and administration.

19 (e) The costs of establishing and administering an
20 operator certification program for drinking water treatment
21 plant operators, to the extent such costs cannot be paid for
22 from fees.

23
24 This subsection does not limit the department's ability to
25 apply for and receive other funds made available for specific
26 purposes under the federal Safe Drinking Water Act, as
27 amended.

28 (5) The term of loans made pursuant to this section
29 shall not exceed 30 years. The interest rate on such loans
30 shall be no greater than that paid on the last bonds sold
31 pursuant to s. 14, Art. VII of the State Constitution.

1 (6)(a) The department may provide financial assistance
2 to financially disadvantaged communities for the purpose of
3 planning, designing, and constructing public water systems.
4 Such assistance may include the forgiveness of loan principal.

5 (b) The department shall establish by rule the
6 criteria for determining whether a public water system serves
7 a financially disadvantaged community. Such criteria shall be
8 based on the median household income of the service population
9 or other reliably documented measures of disadvantaged status.

10 (7) To the extent not allowed by federal law, the
11 department shall not provide financial assistance for projects
12 primarily intended to serve future growth.

13 (8) In order to ensure that public moneys are managed
14 in an equitable, prudent, and cost-effective manner, the total
15 amount of money loaned to any public water system during a
16 fiscal year shall be no more than 25 percent of the total
17 funds available for making loans during that year. The minimum
18 amount of a loan shall be \$75,000.

19 (9) The department is authorized to make rules
20 necessary to carry out the purposes of this section and the
21 federal Safe Drinking Water Act, as amended. Such rules shall:

22 (a) Set forth a priority system for loans based on
23 public health considerations, compliance with state and
24 federal requirements relating to public drinking water
25 systems, and affordability.

26 (b) Establish the requirements for the award and
27 repayment of financial assistance.

28 (c) Require adequate security to ensure that each loan
29 recipient can meet its loan repayment requirements.

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1 (d) Require each project receiving financial
2 assistance to be cost-effective, environmentally sound,
3 implementable, and self-supporting.

4 (e) Implement other provisions of the federal Safe
5 Drinking Water Act, as amended.

6 (10) The department shall prepare a report at the end
7 of each fiscal year, detailing the financial assistance
8 provided under this section, service fees collected, interest
9 earned, and loans outstanding.

10 (11) Prior to approval of a loan, the local government
11 or public water system shall, at a minimum:

12 (a) Provide a repayment schedule.

13 (b) Submit evidence of the permissibility or
14 implementability of the project proposed for financial
15 assistance.

16 (c) Submit plans and specifications, biddable contract
17 documents, or other documentation of appropriate procurement
18 of goods and services.

19 (d) Provide assurance that records will be kept using
20 accepted government accounting standards and that the
21 department and the Auditor General, or their agents will have
22 access to all records pertaining to the loan.

23 (e) Provide assurance that the public water system
24 will be properly operated and maintained in order to achieve
25 or maintain compliance with the requirements of the Florida
26 Safe Drinking Water Act and the federal Safe Drinking Water
27 Act, as amended.

28 (f) Document that the public water system will be
29 self-supporting.

30 (12) The department may conduct an audit of the loan
31 project upon completion, or may require that a separate

1 project audit, prepared by an independent certified public
 2 accountant, be submitted.

3 (13) The department may require reasonable service
 4 fees on loans made to public water systems to ensure that the
 5 Drinking Water Revolving Loan Trust Fund will be operated in
 6 perpetuity and to implement the purposes authorized under this
 7 section. Service fees shall not be less than 2 percent nor
 8 greater than 4 percent of the loan amount exclusive of the
 9 service fee. Service fee revenues shall be deposited into the
 10 department's Grants and Donations Trust Fund. The fee
 11 revenues, and interest earnings thereon, shall be used
 12 exclusively to carry out the purposes of this section.

13 (14) All moneys available for financial assistance
 14 under this section shall be deposited in the Drinking Water
 15 Revolving Loan Trust Fund exclusively to carry out the
 16 purposes of this section. Any funds therein which are not
 17 needed on an immediate basis for financial assistance shall be
 18 invested pursuant to s. 215.49. State revolving fund
 19 capitalization grants awarded by the Federal Government, state
 20 matching funds, and investment earnings thereon shall be
 21 deposited into the fund. The principal and interest of all
 22 loans repaid and investment earnings thereon shall be
 23 deposited into the fund.

24 (15)(a) If a local governmental agency defaults under
 25 the terms of its loan agreement, the department shall so
 26 certify to the Comptroller, who shall forward the amount
 27 delinquent to the department from any unobligated funds due to
 28 the local governmental agency under any revenue-sharing or
 29 tax-sharing fund established by the state, except as otherwise
 30 provided by the State Constitution. Certification of
 31 delinquency shall not limit the department from pursuing other

1 remedies available for default on a loan, including
2 accelerating loan repayments, eliminating all or part of the
3 interest rate subsidy on the loan, and court appointment of a
4 receiver to manage the public water system.

5 (b) If a public water system owned by a person other
6 than a local governmental agency defaults under the terms of
7 its loan agreement, the department may take all actions
8 available under law to remedy the default.

9 (c) The department may impose a penalty for delinquent
10 loan payments in the amount of 6 percent of the amount due, in
11 addition to charging the cost to handle and process the debt.
12 Penalty interest shall accrue on any amount due and payable
13 beginning on the 30th day following the date upon which
14 payment is due.

15 (16) The department is authorized to terminate or
16 rescind a financial assistance agreement when the recipient
17 fails to comply with the terms and conditions of the
18 agreement.

19 ~~(1) If federal funds become available for a drinking~~
20 ~~water state revolving loan fund, the Department of~~
21 ~~Environmental Protection may use the funds to make grants and~~
22 ~~loans to the owners of public water systems, as defined in s.~~
23 ~~403.852(2), and as otherwise authorized by the law making the~~
24 ~~funds available. The department may adopt rules necessary to~~
25 ~~satisfy requirements to receive these federal funds and to~~
26 ~~carry out the provisions of this subsection. The rules shall~~
27 ~~include, but not be limited to, a priority system based on~~
28 ~~public health considerations, system type, and population~~
29 ~~served; requirements for proper system operation and~~
30 ~~maintenance; and, where applicable, consideration of ability~~
31 ~~to repay loans.~~

1 ~~(2) The department shall, by January 1, 1995, report~~
2 ~~to the Legislature the status of any drinking water state~~
3 ~~revolving fund program authorized by federal law and shall~~
4 ~~include in the report recommendations as to appropriate and~~
5 ~~necessary statutory changes to govern its implementation.~~

6 Section 2. Subsection (6) of section 403.860, Florida
7 Statutes, is renumbered as subsection (7), and a new
8 subsection (6) is added to said section to read:

9 403.860 Penalties and remedies.--

10 (6) The department is authorized to assess
11 administrative penalties for failure to comply with the
12 requirements of the Florida Safe Drinking Water Act.

13 (a)1. Prior to the assessment of an administrative
14 penalty, the department shall provide the public water system
15 a reasonable amount of time to complete the corrective action
16 necessary to bring the system back into compliance.

17 (b)1. At the time of assessment of the administrative
18 penalty, the department shall give the public water system
19 notice setting forth the amount assessed, the specific
20 provision of law, rule, or order alleged to be violated, the
21 facts alleged to constitute the violation, the corrective
22 action needed to bring the party into compliance, and the
23 rights available under chapter 120 to challenge the
24 assessment. The assessment shall be final and effective,
25 unless an administrative hearing is requested within 20 days
26 after receipt of the written notice, and shall be enforceable
27 pursuant to s. 120.69.

28 2. The department shall adopt rules to implement the
29 provisions of this subsection. The rules shall establish
30 specific procedures for implementing the penalties and shall
31 identify assessment amounts. The rules shall authorize the

1 application of adjustment factors for the purpose of
2 increasing or decreasing the total amount assessed subsequent
3 to initial assessment. Such factors may include the lack or
4 degree of good faith to comply with the requirements, the lack
5 or degree of willfulness or negligence on the part of the
6 owner, the compliance history of the public water system, the
7 economic benefit derived by the failure to comply with the
8 requirements, and the ability to pay.

9 (b) The amount of the penalties assessed shall be as
10 follows:

11 1. In the case of a public water system serving a
12 population of more than 10,000, the penalty shall be not less
13 than \$1,000 per day per violation.

14 2. In the case of any other public water system, the
15 penalty shall be adequate to ensure compliance.

16
17 However, the total amount of the penalty assessed on any
18 public water system may not exceed \$10,000 per violation.

19 Section 3. Section 403.8615, Florida Statutes, is
20 created to read:

21 403.8615 Determination of capability and capacity
22 development.--

23 (1) The department shall require all new community
24 water systems and new nontransient, noncommunity water systems
25 seeking to commence operations after October 1, 1999, to
26 demonstrate the technical, managerial, and financial
27 capabilities to comply with national primary drinking water
28 regulations as required by the federal Safe Drinking Water
29 Act, as amended. The department shall establish by rule,
30 consistent with any federal guidance on capacity development,
31 the criteria for determining technical, managerial, and

1 financial capabilities. At a minimum, such water systems
2 must:

3 (a) Employ or contract for the services of a certified
4 operator, unless the department has waived this requirement
5 pursuant to s. 403.854(5).

6 (b) Demonstrate the capabilities to conduct required
7 monitoring and reporting programs and maintain appropriate
8 records of such monitoring.

9 (c) Demonstrate financial soundness through the
10 posting of a bond, creation of a reserve, documentation of an
11 unreserved revenue source, or other appropriate means
12 established by department rule.

13 (2) If the department determines that such a water
14 system can not demonstrate technical, managerial, or financial
15 capability, a permit may not be issued for that system
16 pursuant to s. 403.861(7) until the water system has been
17 determined to have the required capabilities.

18 Section 4. Section 403.865, Florida Statutes, is
19 created to read:

20 403.865 Purpose.--The Legislature finds that the
21 threat to the public health and the environment from the
22 operation of water and wastewater treatment plants mandates
23 that qualified personnel operate these facilities. It is the
24 legislative intent that any person who performs the duties of
25 an operator and who falls below minimum competency or who
26 otherwise presents a danger to the public be prohibited from
27 operating a plant or system in this state.

28 Section 5. Section 403.866, Florida Statutes, is
29 created to read:

30 403.866 Definitions.--As used in ss. 403.865-403.876,
31 the term:

1 (1) "Domestic wastewater collection system" means
2 pipelines or conduits, pumping stations, and force mains and
3 all other structures, devices, appurtenances, and facilities
4 used for collecting or conducting wastes to an ultimate point
5 for treatment or disposal.

6 (2) "Domestic wastewater treatment plant" means any
7 plant or other works used for the purpose of treating,
8 stabilizing, or holding domestic wastes.

9 (3) "Operator" means any person, including the owner,
10 who is in onsite charge of the actual operation, supervision,
11 and maintenance of a water treatment plant or domestic
12 wastewater treatment plant and includes the person in onsite
13 charge of a shift or period of operation during any part of
14 the day.

15 (4) "Public water system" has the same meaning as it
16 has in s. 403.852.

17 (5) "Water distribution system" means those components
18 of a public water system used in conveying water for human
19 consumption from the water plant to the consumer's property,
20 including pipelines, conduits, pumping stations, and all other
21 structures, devices, appurtenances, and facilities used
22 specifically for such purpose.

23 (6) "Water treatment plant" means those components of
24 a public water system used in collection, treatment, and
25 storage of water for human consumption, whether or not such
26 components are under the control of the operator of such
27 system.

28 Section 6. Section 403.867, Florida Statutes, is
29 created to read:

30 403.867 License required.--A person may not perform
31 the duties of an operator of a water treatment plant or a

1 domestic wastewater treatment plant unless he or she holds a
2 current operator's license issued by the department.

3 Section 7. Section 403.868, Florida Statutes, is
4 created to read:

5 403.868 Requirements by a utility.--A utility may have
6 more stringent requirements than set by law, including
7 certification requirements for water distribution systems and
8 domestic wastewater collection systems operations, except that
9 a utility may not require a licensed contractor, as defined in
10 s. 489.105(3) to have any additional license for work in water
11 distribution systems or domestic wastewater collection
12 systems.

13 Section 8. Section 403.869, Florida Statutes, is
14 created to read:

15 403.869 Authority to adopt rules.--The department may
16 adopt rules necessary to carry out the provisions of ss.
17 403.865-403.876.

18 Section 9. Section 403.87, Florida Statutes, is
19 created to read:

20 403.87 Technical advisory council for water and
21 domestic wastewater operator certification.--Within 90 days of
22 the effective date of this act, the secretary of the
23 department shall appoint a technical advisory council as
24 necessary for the purposes of ss. 403.865-403.876. The
25 technical advisory council shall meet upon the request of the
26 chair, upon request of a majority of its members, or upon
27 request of the secretary. Members shall provide for their own
28 expenses. The council shall consist of not less than five
29 persons who, collectively, are expert in domestic wastewater
30 and drinking water treatment, facilities operation, public
31 health and environmental protection, including at least one

1 licensed wastewater treatment plant operator and one licensed
2 water treatment plant operator.

3 Section 10. Section 403.871, Florida Statutes, is
4 created to read:

5 403.871 Fees.--The department shall, by rule,
6 establish fees to be paid for application and examination,
7 reexamination, licensing and renewal, renewal of an inactive
8 license, reactivation of an inactive license, recordmaking,
9 and recordkeeping. The department shall establish fees
10 adequate to administer and implement ss. 403.865-403.876.

11 (1) The application fee may not exceed \$100 and is not
12 refundable.

13 (2) The renewal fee may not exceed \$100 and is not
14 refundable.

15 (3) All fees collected under this section must be
16 deposited into the Water Quality Assurance Trust Fund. The
17 fees shall be used exclusively to implement the provisions of
18 ss. 403.865-403.876.

19 Section 11. Section 403.872, Florida Statutes, is
20 created to read:

21 403.872 Requirements for licensure.--

22 (1) Any person desiring to be licensed as a water
23 treatment plant operator or a domestic wastewater treatment
24 plant operator must apply to the department to take the
25 licensure examination.

26 (2) The department shall examine the qualifications of
27 any applicant who meets the criteria established by the
28 department for licensure, submits a completed application, and
29 remits the required fee.

30 (3) The department shall license as an operator any
31 applicant who has passed the examination under this section.

1 (4) The department shall establish, by rule, the
2 criteria for licensure, including, but not limited to, a
3 requirement of a high school diploma or its equivalent, a
4 training course approved by the department, and onsite
5 operational experience.

6 (5) The department may also include a requirement that
7 an operator must not be the subject of a disciplinary or
8 enforcement action in another state at the time of application
9 for licensure in this state.

10 Section 12. Section 403.873, Florida Statutes, is
11 created to read:

12 403.873 Renewal of license.--

13 (1) The department shall renew a license upon receipt
14 of the renewal application and fee and in accordance with the
15 other provisions of ss. 403.865-403.876.

16 (2) The department shall adopt rules establishing a
17 procedure for the biennial renewal of licenses.

18 Section 13. Section 403.874, Florida Statutes, is
19 created to read:

20 403.874 Inactive status.--

21 (1) The department shall reactivate an inactive
22 license upon receipt of the reactivation application and fee.

23 (2) The department shall adopt rules relating to
24 licenses that have become inactive and for the reactivation of
25 inactive licenses.

26 Section 14. Section 403.875, Florida Statutes, is
27 created to read:

28 403.875 Prohibitions; penalties.--

29 (1) A person may not:
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1 (a) Perform the duties of an operator of a water
2 treatment plant or domestic wastewater treatment plant unless
3 he or she is licensed under ss. 403.865-403.876.

4 (b) Use the name or title "water treatment plant
5 operator" or "domestic wastewater treatment plant operator" or
6 any other words, letters, abbreviations, or insignia
7 indicating or implying that he or she is an operator, or
8 otherwise holds himself or herself out as an operator, unless
9 the person is the holder of a valid license issued under ss.
10 403.865-403.876.

11 (c) Present as his or her own the license of another.

12 (d) Knowingly give false or forged evidence to the
13 department.

14 (e) Use or attempt to use a license that has been
15 suspended, revoked, or placed on inactive or delinquent
16 status.

17 (f) Employ unlicensed persons to perform the duties of
18 an operator of a water treatment or domestic wastewater
19 treatment plant.

20 (g) Conceal information relative to any violation of
21 ss. 403.865-403.876.

22 (2) Any person who violates any provision of this
23 section commits a misdemeanor of the first degree, punishable
24 as provided in s. 775.082 or s. 775.083.

25 Section 15. Section 403.876, Florida Statutes, is
26 created to read:

27 403.876 Grounds for disciplinary action.--

28 (1) The department shall establish, by rule, the
29 grounds for taking disciplinary action, including suspending
30 or revoking a valid license, placing a licensee on probation,
31 refusing to issue a license, refusing to renew a license, or

1 refusing to reactivate a license, and the imposition of an
2 administrative fine, not to exceed \$1,000 per count or
3 offense. The fines collected under this section shall be
4 deposited into the Water Quality Assurance Trust Fund.

5 (2) The department shall conduct disciplinary
6 proceedings in accordance with chapter 120.

7 (3) The department shall reissue the license of a
8 disciplined operator when that operator has complied with all
9 terms and conditions of the department's final order.

10 Section 16. All powers, duties and functions, rules,
11 records, personnel, property, and unexpended balances of
12 appropriations, allocations, or other funds of the Department
13 of Business and Professional Regulation related to the
14 classification and regulation of operators of water treatment
15 plants and domestic wastewater treatment plants are
16 transferred by a type two transfer, as defined in s. 20.06(2),
17 Florida Statutes, from the Department of Business and
18 Professional Regulation to the Department of Environmental
19 Protection. However, in no event shall the Department of
20 Business and Professional Regulation transfer fewer than 6
21 positions, along with sufficient supporting budget, to the
22 Department of Environmental Protection. The 6 positions must
23 be of paygrades at least equivalent to those positions
24 transferred by the Department of Environmental Protection to
25 the Department of Business and Professional Regulation when
26 the operator certification program was transferred in 1992.
27 The rules of the Department of Business and Professional
28 Regulation that regulate plant operators remain in effect
29 until the Department of Environmental Protection has adopted
30 rules to supersede those of the Department of Professional and
31 Business Regulation.

1 Section 17. Operators certified by the Department of
2 Professional and Business Regulation as of the effective date
3 of this act shall be deemed to be licensed by the Department
4 of Environmental Protection until the expiration of the term
5 of their certification.

6 Section 18. Subsections (1) and (2) of section
7 403.087, Florida Statutes, are amended, present subsections
8 (3) through (8) of that section are redesignated as
9 subsections (4) through (9), respectively, and new subsection
10 (3) is added to that section to read:

11 403.087 Permits; general issuance; denial; revocation;
12 prohibition; penalty.--

13 (1) A ~~No~~ stationary installation that is ~~which will~~
14 reasonably ~~be~~ expected to be a source of air or water
15 pollution must not ~~shall~~ be operated, maintained, constructed,
16 expanded, or modified without an appropriate and currently
17 valid permit issued by the department, unless exempted by
18 department rule. In no event shall a permit for a water
19 pollution source be issued for a term of more than 10 ~~5~~ years,
20 ~~<U>nor and in no event~~ may an operation permit issued after July
21 1, 1992, for a major source of air pollution have a fixed term
22 of more than 5 years. However, upon expiration, a new permit
23 may be issued by the department in accordance with this
24 chapter act and the rules ~~and regulations~~ of the department.

25 (2) The department shall adopt, and may amend, or
26 ~~repeal, rules, regulations, and standards~~ for the issuance,
27 denial, modification, and revocation of permits under this
28 section.

29 (3) A renewal of an operation permit for a domestic
30 wastewater treatment facility other than a facility regulated
31 under the National Pollutant Discharge Elimination System

1 (NPDES) Program under s. 403.0885 must be issued upon request
2 for a term of up to 10 years, for the same fee and under the
3 same conditions as a 5-year permit, in order to provide the
4 owner or operator with a financial incentive, if:

5 (a) The waters from the treatment facility are not
6 discharged to Class 1 municipal injection wells or the
7 treatment facility is not required to comply with the federal
8 standards under the Underground Injection Control program
9 under chapter 62-528 of the Florida Administrative Code;

10 (b) The treatment facility is not operating under a
11 temporary operating permit or a permit with an accompanying
12 administrative order and does not have any enforcement action
13 pending against it by the United States Environmental
14 Protection Agency, the department, or a local program approved
15 under s. 403.182;

16 (c) The treatment facility has operated under an
17 operation permit for 5 years and, for at least the preceding 2
18 years, has generally operated in conformance with the limits
19 of permitted flows and other conditions specified in the
20 permit;

21 (d) The department has reviewed the
22 discharge-monitoring reports required under department rule
23 and is satisfied that the reports are accurate;

24 (e) The treatment facility has generally met water
25 quality standards in the preceding 2 years, except for
26 violations attributable to events beyond the control of the
27 treatment plant or its operator, such as destruction of
28 equipment by fire, wind, or other abnormal events that could
29 not reasonably be expected to occur; and

30 (f) The department, or a local program approved under
31 s. 403.182, has conducted, in the preceding 12 months, an

1 inspection of the facility and has verified in writing to the
2 operator of the facility that it is not exceeding the
3 permitted capacity and is in substantial compliance.

4
5 The department shall keep records of the number of 10-year
6 permits applied for and the number and duration of permits
7 issued for longer than 5 years.

8 Section 19. Section 403.0871, Florida Statutes, 1996
9 Supplement, is amended to read:

10 403.0871 Florida Permit Fee Trust Fund.--There is
11 established within the department a nonlapsing trust fund to
12 be known as the "Florida Permit Fee Trust Fund." All funds
13 received from applicants for permits pursuant to ss. 161.041,
14 161.053, 161.0535, 403.087~~(6)~~(5), and 403.861(8) shall be
15 deposited in the Florida Permit Fee Trust Fund and shall be
16 used by the department with the advice and consent of the
17 Legislature to supplement appropriations and other funds
18 received by the department for the administration of its
19 responsibilities under this chapter and chapter 161. In no
20 case shall funds from the Florida Permit Fee Trust Fund be
21 used for salary increases without the approval of the
22 Legislature.

23 Section 20. Paragraph (a)10. of subsection (11) of
24 section 403.0872, Florida Statutes, 1996 Supplement, is
25 amended to read:

26 403.0872 Operation permits for major sources of air
27 pollution; annual operation license fee.--Provided that
28 program approval pursuant to 42 U.S.C. s. 7661a has been
29 received from the United States Environmental Protection
30 Agency, beginning January 2, 1995, each major source of air
31 pollution, including electrical power plants certified under

1 s. 403.511, must obtain from the department an operation
2 permit for a major source of air pollution under this section,
3 which is the only department operation permit for a major
4 source of air pollution required for such source. Operation
5 permits for major sources of air pollution, except general
6 permits issued pursuant to s. 403.814, must be issued in
7 accordance with the following procedures and in accordance
8 with chapter 120; however, to the extent that chapter 120 is
9 inconsistent with the provisions of this section, the
10 procedures contained in this section prevail:

11 (11) Commencing in 1993, each major source of air
12 pollution permitted to operate in this state must pay between
13 January 15 and March 1 of each year, upon written notice from
14 the department, an annual operation license fee in an amount
15 determined by department rule. The annual operation license
16 fee shall be terminated immediately in the event the United
17 States Environmental Protection Agency imposes annual fees
18 solely to implement and administer the major source
19 air-operation permit program in Florida under 40 C.F.R. s.
20 70.10(d).

21 (a) The annual fee must be assessed based upon the
22 source's previous year's emissions and must be calculated by
23 multiplying the applicable annual operation license fee factor
24 times the tons of each regulated air pollutant (except carbon
25 monoxide) allowed to be emitted per hour by specific condition
26 of the source's most recent construction or operation permit,
27 times the annual hours of operation allowed by permit
28 condition; provided, however, that:

29 7. If the department has not received the fee by
30 February 15 of the calendar year, the permittee must be sent a
31 written warning of the consequences for failing to pay the fee

1 by March 1. If ~~the department has not received~~ the fee is not
2 postmarked by March 1 of the calendar year, commencing with
3 calendar year 1997, the department shall impose, in addition
4 to the fee, a penalty of 50 percent of the amount of the fee,
5 plus interest on such amount computed in accordance with s.
6 220.807. The department may not impose such penalty or
7 interest on any amount underpaid, provided that the permittee
8 has timely remitted payment of at least 90 percent of the
9 amount determined to be due and remits full payment within 60
10 days after receipt of notice of the amount underpaid. The
11 department may waive the collection of underpayment and shall
12 not be required to refund overpayment of the fee, if the
13 amount due is less than 1 percent of the fee, up to \$50. The
14 department may revoke any major air pollution source operation
15 permit if it finds that the permitholder has failed to timely
16 pay any required annual operation license fee, penalty, or
17 interest.

18 10. Notwithstanding the provisions of s.
19 403.087~~(6)~~(5)(a)4.a., authorizing air pollution construction
20 permit fees, the department may not require such fees for
21 changes or additions to a major source of air pollution
22 permitted pursuant to this section, unless the activity
23 triggers permitting requirements under Title I, Part C or Part
24 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.
25 Costs to issue and administer such permits shall be considered
26 direct and indirect costs of the major stationary source
27 air-operation permit program under s. 403.0873. The department
28 shall, however, require fees pursuant to the provisions of s.
29 403.087~~(6)~~(5)(a)4.a. for the construction of a new major
30 source of air pollution that will be subject to the permitting
31 requirements of this section once constructed and for

1 activities triggering permitting requirements under Title I,
2 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.
3 7470-7514a.

4 Section 21. Sections 468.540, 468.541, 468.542,
5 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, and
6 468.552, Florida Statutes, and sections 468.549, 468.550, and
7 468.551, Florida Statutes, as amended by chapter 94-119, Laws
8 of Florida, are hereby repealed.

9 Section 22. Subsections (7) through (13) of section
10 367.021, Florida Statutes, are renumbered as subsections (8)
11 through (14), respectively, and a new subsection (7) is added
12 to said section to read:

13 367.021 Definitions.--As used in this chapter, the
14 following words or terms shall have the meanings indicated:

15 (7) "Environmental compliance costs" means all
16 reasonable expenses and a fair return on the prudent
17 investments incurred in complying with federal, state, or
18 local environmental laws, rules, regulations, orders,
19 ordinances, or resolutions, or other such requirements. The
20 commission shall be bound by the determinations, permitting,
21 and enforcement decisions of the United States Environmental
22 Protection Agency, the department of environmental protection,
23 or a water management district, or other entity with
24 jurisdiction, as to the need for, capacity of, and type of
25 facilities, including land and processes, required for
26 compliance, and the need for, capacity of, and type of
27 facilities, including land and processes, required as part of
28 any reuse system or project.

29 Section 23. Subsection (11) is added to section
30 367.022, Florida Statutes, 1996 Supplement, to read:

31

1 367.022 Exemptions.--The following are not subject to
2 regulation by the commission as a utility nor are they subject
3 to the provisions of this chapter, except as expressly
4 provided:

5 (11) Any person providing only non-potable water for
6 irrigation purposes in a geographic area where potable water
7 service is available from a governmentally or privately owned
8 utility or a private well.

9 Section 24. Subsection (2) of section 367.081, Florida
10 Statutes, is amended to read:

11 367.081 Rates; procedure for fixing and changing.--

12 (2)(a) The commission shall, either upon request or
13 upon its own motion, fix rates which are just, reasonable,
14 compensatory, and not unfairly discriminatory. In every such
15 proceeding, the commission shall consider the value and
16 quality of the service and the cost of providing the service,
17 which shall include, but not be limited to, debt interest; the
18 requirements of the utility for working capital; maintenance,
19 depreciation, tax, and operating expenses incurred in the
20 operation of all property used and useful in the public
21 service; and a fair return on the investment of the utility in
22 property used and useful in the public service. However, the
23 commission shall not allow the inclusion of
24 contributions-in-aid-of-construction in the rate base of any
25 utility during a rate proceeding; and accumulated depreciation
26 on such contributions-in-aid-of-construction shall not be used
27 to reduce the rate base, nor shall depreciation on such
28 contributed assets be considered a cost of providing utility
29 service. The commission shall also consider the investment of
30 the utility in land acquired or facilities constructed or to
31 be constructed in the public interest within a reasonable time

1 in the future, not to exceed, unless extended by the
 2 commission, 24 months from the end of the historical test
 3 period used to set final rates. Notwithstanding the foregoing,
 4 the commission shall approve rates for service that allow a
 5 utility to recover the full amount of environmental compliance
 6 costs from customers. Rates for service shall not include
 7 allowance for funds prudently invested or similar charges.

8 (b) In establishing initial rates for a utility, the
 9 commission may project the financial and operational data as
 10 set out in paragraph (a) to a point in time when the utility
 11 is expected to be operating at a reasonable level of capacity.

12 Section 25. Subsections (6) and (8) of section
 13 367.171, Florida Statutes, 1996 Supplement are amended to
 14 read:

15 (6) Any county in which utilities as herein defined
 16 were regulated by the commission on or after January 1, 1980,
 17 which subsequently cease to be so regulated, shall, within 90
 18 days of the cessation of commission regulation or the
 19 effective date of this act, adopt and follow as minimum
 20 standards of regulation the provisions of s. 367.021, s.
 21 367.081, except for paragraph (4)(a), and ss. 367.0817 and s-
 22 367.082, except that the word "commission" shall be read as
 23 "the governing body of such county" when the context implies
 24 or admits. The authorized rate of return shall be no less than
 25 the weighted cost of the capital of the utility, including
 26 debt and equity.

27 (8) Each county which is excluded from the provisions
 28 of this chapter shall regulate the rates of all utilities in
 29 that county which would otherwise be subject to regulation by
 30 the commission pursuant to ss. 367.021, s-367.081(1), (2),
 31 (3), and (6), and 367.0817. The county shall not regulate the

1 rates or charges of any system or facility which would
2 otherwise be exempt from commission regulation pursuant to s.
3 367.022(2). For this purpose the county or its agency shall
4 proceed as though the county or agency is the commission.

5 Section 26. Subsection (11) is added to section
6 367.022, Florida Statutes, 1996 Supplement, to read:

7 367.022 Exemptions.--The following are not subject to
8 regulation by the commission as a utility nor are they subject
9 to the provisions of this chapter, except as expressly
10 provided:

11 (11) The sale for resale of bulk supplies of water to
12 a governmental authority or to a utility regulated pursuant to
13 this chapter either by the commission or the county.

14 Section 27. The Department of Environmental
15 Protection's Division of Water Facilities is directed to
16 conduct a study on ozonation and other alternative processes
17 for disinfecting water, with an emphasis on incorporating such
18 processes in reuse of water in cooling systems. The
19 department shall use existing resources and any existing study
20 committee or task force to conduct this research on ozonation
21 and other alternative processes. The department shall submit
22 a report on its findings and recommendations to the Governor,
23 the President of the Senate and the Speaker of the House of
24 Representatives by December 15, 1998.

25 Section 28. Subsection (5) of section 193.625, F.S.,
26 1996 Supplement, is amended to read:

27 (5)(a) In years in which proper application for
28 high-water recharge assessment has been made and granted under
29 this section, for purposes of taxes levied by the county, the
30 assessment of the land must be based on the formula adopted by
31 the county as provided in paragraph (b).

1 (b) Counties that choose to have a high-water recharge
2 protection tax assessment program must adopt by ordinance a
3 formula for determining the assessment of properties
4 classified as high-water recharge property and a method of
5 contracting with property owners who wish to be involved in
6 the program.

7 (c) The contract must include a provision that the
8 land assessed as high-water recharge land will be used
9 primarily for bona fide high-water recharge purposes for a
10 period of at least 5 ~~10~~ years, as determined by the county,
11 from January 1 of the year in which the assessment is made.
12 Violation of the contract results in the property owner being
13 subject to the payment of the difference between the total
14 amount of taxes actually paid on the property and the amount
15 of taxes which would have been paid in each previous year the
16 contract was in effect if the high-water recharge assessment
17 had not been used.

18 (d) A municipality located in any county that adopts
19 an ordinance under paragraph (a) may adopt an ordinance
20 providing for the assessment of land located in the
21 incorporated areas in accordance with the county's ordinance.

22 (e) Property owners whose land lies within an area
23 determined to be a high-water recharge area must not be
24 required to have their land assessed according to the
25 high-water recharge classification.

26 (f) In years in which proper application for
27 high-water recharge assessment has not been made, the land
28 must be assessed under s. 193.011.

29 Section 29. This section shall take effect upon
30 becoming law.

31

1 Section 30. Subsections (1), (2), (3), (5), (6), and
2 (7) of section 403.1835, Florida Statutes, are amended to
3 read:

4 403.1835 Sewage treatment facilities and stormwater
5 management systems revolving loan program.--

6 (1) The purpose of this section is to assist in
7 implementing the legislative declaration of public policy as
8 contained in s. 403.021 by establishing a loan program to
9 accelerate construction of sewage treatment facilities and
10 stormwater management systems by local governmental agencies
11 and to assist local governmental agencies.

12 (2) For the purposes of this section, the term:

13 (a) "Local governmental agencies" means local
14 governmental agencies as defined in s. 403.1822(3).

15 (b) "Sewage treatment facilities" means all facilities
16 necessary, including land, for the collection, treatment, or
17 disposal of domestic wastewater.

18 (c) "Bonds" means state bonds, certificates, or other
19 obligations of indebtedness issued by the Division of Bond
20 Finance of the State Board of Administration pursuant to this
21 section and the State Bond Act.

22 (d) "Stormwater management system" means a system
23 which is designed and constructed or implemented to control
24 discharges which are necessitated by rainfall events,
25 incorporating methods to collect, convey, store, absorb,
26 inhibit, treat, use, or reuse water to prevent or reduce
27 environmental degradation and water pollution or otherwise
28 affect the quality of discharge from the system. The primary
29 purpose of the stormwater management system must be the
30 prevention or reduction of stormwater pollutants which
31 contribute to water quality problems.

1 (3) The department is authorized to make loans to
2 local governmental agencies to assist them in planning,
3 designing, and constructing sewage treatment facilities and
4 stormwater management systems. The department is authorized
5 to make loans ~~use the funds~~ to provide loan guarantees, to
6 purchase loan insurance, and to refinance local debt through
7 the issue of new loans for projects approved by the
8 department. Local governmental agencies are authorized to
9 borrow funds made available pursuant to this section and may
10 pledge any revenue available to them to repay any funds
11 borrowed. The department shall administer loans to local
12 governmental agencies so that at least 15 percent of each
13 annual allocation for loans is reserved for small communities.

14 (5)(a) The department is authorized to make rules
15 necessary to carry out the purpose of this section, including
16 rules to administer the state revolving fund authorized
17 pursuant to the Federal Water Pollution Control Act, as
18 amended, and rules to administer a loan program for stormwater
19 management systems.

20 (b) The department shall prepare an annual report
21 detailing the amount loaned, interest earned, and loans
22 outstanding at the end of each fiscal year.

23 (6) Prior to approval of a construction loan, the
24 local government shall:

25 (a) Provide a repayment schedule.

26 (b) Submit plans and specifications and evidence of
27 permittability for sewage treatment facilities or stormwater
28 management systems.

29 (c) Provide assurance that records will be kept using
30 accepted government accounting standards and that the

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1 department, the Auditor General, or their agents will have
2 access to all records pertaining to the loan.

3 (d) Provide assurance that the facility will be
4 properly operated and maintained.

5 (e) Document that the revenues generated will be
6 sufficient to ensure that the facilities will be
7 self-supporting.

8 (f) Provide assurance that annual financial audit
9 reports, and a separate project audit prepared by an
10 independent certified public accountant upon project
11 completion, will be submitted to the department.

12 (g) Submit project planning documentation
13 demonstrating cost-effectiveness, environmental soundness,
14 public participation, and implementability of the proposed
15 sewage treatment facilities or stormwater management systems.

16 (h) For loans made for the construction of stormwater
17 management systems, provide a copy of an ordinance enacting a
18 stormwater utility.

19 (7) Eligible projects must be given priority according
20 to the extent each project is intended to remove, mitigate, or
21 prevent adverse effects on surface or ground water quality and
22 public health. However, preference must be given to eligible
23 projects that protect the public health; ~~or~~ are required by
24 law to eliminate sewage treatment facility discharges into
25 specific bodies of water; or, for stormwater management
26 systems, are intended to comply with a pollutant load
27 reduction goal or total maximum daily load established for a
28 water body.

29 Section 31. Beginning in fiscal year 1998-1999, the
30 Department of Environmental Protection shall make available up
31 to 10 percent of the annual revenue received in the Sewage

1 Treatment Revolving Loan Fund for loans to local governmental
2 agencies for constructing stormwater management systems
3 authorized pursuant to s. 403.1835, Florida Statutes. During
4 this period of time, if the department does not receive
5 requests for projects to use the funds available for
6 stormwater management systems, such funds shall be used for
7 constructing sewage treatment facilities and other activities
8 authorized by s. 403.1835, Florida Statutes.

9 Section 32. This act shall take effect July 1, 1997.

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