

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;
 23 providing for a study of ozonation and other
 24 alternative processes for disinfecting water;
 25 requiring a report; amending s. 193.625, F.S.
 26 to allow high-water recharge assessments when
 27 lands will be used primarily for bona fide
 28 high-water recharge purposes for a period of at
 29 least 5 years; amending s. 403.1835, F.S.;
 30 expanding the sewage treatment facilities
 31 revolving loan program to provide loans to

1 local governmental agencies for construction of
2 stormwater management systems; defining
3 "stormwater management system"; providing
4 additional responsibilities of local
5 governments under the program; providing
6 priority for certain stormwater management
7 system projects; providing for funding;
8 providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

12 Section 1. Section 403.8532, Florida Statutes, is
13 amended to read:

14 403.8532 Drinking water state revolving loan fund;
15 use; rules.--

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

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

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

30 (b) "Local governmental agency" means any
31 municipality, county, district, or authority, or any agency

1 thereof, or a combination of two or more of the foregoing
2 acting jointly in connection with a project, having
3 jurisdiction over a public water system.

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

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

13 (3) The department is authorized to make loans to
14 community water systems, nonprofit noncommunity water systems,
15 and nonprofit nontransient noncommunity water systems to
16 assist them in planning, designing, and constructing public
17 water systems, unless such public water systems are for-profit
18 privately owned or investor-owned systems that regularly serve
19 1,500 service connections or more within a single certified or
20 franchised area. However, a for-profit privately owned or
21 investor-owned public water system that regularly serves 1,500
22 service connections or more within a single certified or
23 franchised area may qualify for a loan only if the proposed
24 project will result in the consolidation of two or more public
25 water systems. The department is authorized to provide loan
26 guarantees, to purchase loan insurance, and to refinance local
27 debt through the issue of new loans for projects approved by
28 the department. Public water systems are authorized to borrow
29 funds made available pursuant to this section and may pledge
30 any revenues or other adequate security available to them to
31 repay any funds borrowed. The department shall administer

1 loans so that amounts credited to the Drinking Water Revolving
2 Loan Trust Fund in any fiscal year are reserved for the
3 following purposes:

4 (a) At least 15 percent to qualifying small public
5 water systems.

6 (b) Up to 15 percent to qualifying financially
7 disadvantaged communities.

8 (c) However, if an insufficient number of the projects
9 for which funds are reserved under this paragraph have been
10 submitted to the department at the time the funding priority
11 list authorized under this section is adopted, the reservation
12 of these funds shall no longer apply. The department may
13 award the unreserved funds as otherwise provided in this
14 section.

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

20 (a) Program administration.

21 (b) Technical assistance.

22 (c) Source water protection program development and
23 implementation, including wellhead and aquifer protection
24 programs, programs to alleviate water quality and water supply
25 problems associated with saltwater intrusion, programs to
26 identify, monitor and assess source waters, and contaminant
27 source inventories.

28 (d) Capacity development and financial assessment
29 program development and administration.

30 (e) The costs of establishing and administering an
31 operator certification program for drinking water treatment

1 plant operators, to the extent such costs cannot be paid for
2 from fees.

3
4 This subsection does not limit the department's ability to
5 apply for and receive other funds made available for specific
6 purposes under the federal Safe Drinking Water Act, as
7 amended.

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

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

16 (b) The department shall establish by rule the
17 criteria for determining whether a public water system serves
18 a financially disadvantaged community. Such criteria shall be
19 based on the median household income of the service population
20 or other reliably documented measures of disadvantaged status.

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

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

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

4 (a) Set forth a priority system for loans based on
5 public health considerations, compliance with state and
6 federal requirements relating to public drinking water
7 systems, and affordability. The priority system shall give
8 special consideration to the following:

9 1. Projects that provide for the development of
10 alternative drinking water supply projects and management
11 techniques in areas where existing source waters are limited
12 or threatened by saltwater intrusion, excessive drawdowns,
13 contamination, or other problems;

14 2. Projects that provide for a dependable, sustainable
15 supply of drinking water and that are not otherwise
16 financially feasible; and

17 3. Projects that contribute to the sustainability of
18 regional water sources.

19 (b) Establish the requirements for the award and
20 repayment of financial assistance.

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

23 (d) Require each project receiving financial
24 assistance to be cost-effective, environmentally sound,
25 implementable, and self-supporting.

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

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

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

3 (a) Provide a repayment schedule.

4 (b) Submit evidence of the permissibility or
5 implementability of the project proposed for financial
6 assistance.

7 (c) Submit plans and specifications, biddable contract
8 documents, or other documentation of appropriate procurement
9 of goods and services.

10 (d) Provide assurance that records will be kept using
11 accepted government accounting standards and that the
12 department and the Auditor General, or their agents will have
13 access to all records pertaining to the loan.

14 (e) Provide assurance that the public water system
15 will be properly operated and maintained in order to achieve
16 or maintain compliance with the requirements of the Florida
17 Safe Drinking Water Act and the federal Safe Drinking Water
18 Act, as amended.

19 (f) Document that the public water system will be
20 self-supporting.

21 (12) The department may conduct an audit of the loan
22 project upon completion, or may require that a separate
23 project audit, prepared by an independent certified public
24 accountant, be submitted.

25 (13) The department may require reasonable service
26 fees on loans made to public water systems to ensure that the
27 Drinking Water Revolving Loan Trust Fund will be operated in
28 perpetuity and to implement the purposes authorized under this
29 section. Service fees shall not be less than 2 percent nor
30 greater than 4 percent of the loan amount exclusive of the
31 service fee. Service fee revenues shall be deposited into the

1 department's Grants and Donations Trust Fund. The fee
2 revenues, and interest earnings thereon, shall be used
3 exclusively to carry out the purposes of this section.

4 (14) All moneys available for financial assistance
5 under this section shall be deposited in the Drinking Water
6 Revolving Loan Trust Fund exclusively to carry out the
7 purposes of this section. Any funds therein which are not
8 needed on an immediate basis for financial assistance shall be
9 invested pursuant to s. 215.49. State revolving fund
10 capitalization grants awarded by the Federal Government, state
11 matching funds, and investment earnings thereon shall be
12 deposited into the fund. The principal and interest of all
13 loans repaid and investment earnings thereon shall be
14 deposited into the fund.

15 (15)(a) If a local governmental agency defaults under
16 the terms of its loan agreement, the department shall so
17 certify to the Comptroller, who shall forward the amount
18 delinquent to the department from any unobligated funds due to
19 the local governmental agency under any revenue-sharing or
20 tax-sharing fund established by the state, except as otherwise
21 provided by the State Constitution. Certification of
22 delinquency shall not limit the department from pursuing other
23 remedies available for default on a loan, including
24 accelerating loan repayments, eliminating all or part of the
25 interest rate subsidy on the loan, and court appointment of a
26 receiver to manage the public water system.

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

31

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

7 (16) The department is authorized to terminate or
8 rescind a financial assistance agreement when the recipient
9 fails to comply with the terms and conditions of the
10 agreement.

11 ~~(1) If federal funds become available for a drinking~~
12 ~~water state revolving loan fund, the Department of~~
13 ~~Environmental Protection may use the funds to make grants and~~
14 ~~loans to the owners of public water systems, as defined in s.~~
15 ~~403.852(2), and as otherwise authorized by the law making the~~
16 ~~funds available. The department may adopt rules necessary to~~
17 ~~satisfy requirements to receive these federal funds and to~~
18 ~~carry out the provisions of this subsection. The rules shall~~
19 ~~include, but not be limited to, a priority system based on~~
20 ~~public health considerations, system type, and population~~
21 ~~served; requirements for proper system operation and~~
22 ~~maintenance; and, where applicable, consideration of ability~~
23 ~~to repay loans.~~

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

29 Section 2. Intended Use Plan.--

30 (1) The Florida Legislature recognizes that over 80
31 percent of the state's population lives in coastal areas and

1 is dependent on groundwater sources for drinking water
2 supplies. Further, the Legislature recognizes that saltwater
3 intrusion is an increased threat to healthful and safe
4 drinking water supplies.

5 (2) The Intended Use Plan required of the department
6 under the federal Safe Drinking Water Act, as amended, shall
7 provide, in general, to the maximum extent practicable, that
8 priority for the use of funds be given to projects that:

9 (a) Address the most serious risk to human health,
10 especially projects that would develop alternative water
11 supply in areas with saltwater intrusion problems;

12 (b) Are necessary to ensure compliance with the
13 requirements of the federal Safe Drinking Water Act, as
14 amended, including requirements for filtration; and

15 (c) Assist systems most in need on a per-household
16 basis according to affordability criteria established by the
17 Department of Environmental Protection by rule.

18 Section 3. Subsection (6) of section 403.860, Florida
19 Statutes, is renumbered as subsection (7), and a new
20 subsection (6) is added to said section to read:

21 403.860 Penalties and remedies.--

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

25 (a)1. Prior to the assessment of an administrative
26 penalty, the department shall provide the public water system
27 a reasonable amount of time to complete the corrective action
28 necessary to bring the system back into compliance.

29 (b)1. At the time of assessment of the administrative
30 penalty, the department shall give the public water system
31 notice setting forth the amount assessed, the specific

1 provision of law, rule, or order alleged to be violated, the
2 facts alleged to constitute the violation, the corrective
3 action needed to bring the party into compliance, and the
4 rights available under chapter 120 to challenge the
5 assessment. The assessment shall be final and effective,
6 unless an administrative hearing is requested within 20 days
7 after receipt of the written notice, and shall be enforceable
8 pursuant to s. 120.69.

9 2. The department shall adopt rules to implement the
10 provisions of this subsection. The rules shall establish
11 specific procedures for implementing the penalties and shall
12 identify assessment amounts. The rules shall authorize the
13 application of adjustment factors for the purpose of
14 increasing or decreasing the total amount assessed subsequent
15 to initial assessment. Such factors may include the lack or
16 degree of good faith to comply with the requirements, the lack
17 or degree of willfulness or negligence on the part of the
18 owner, the compliance history of the public water system, the
19 economic benefit derived by the failure to comply with the
20 requirements, and the ability to pay.

21 (b) The amount of the penalties assessed shall be as
22 follows:

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

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

28
29 However, the total amount of the penalty assessed on any
30 public water system may not exceed \$10,000 per violation.

31

1 Section 4. Section 403.8615, Florida Statutes, is
2 created to read:

3 403.8615 Determination of capability and capacity
4 development.--

5 (1) The department shall require all new community
6 water systems and new nontransient, noncommunity water systems
7 seeking to commence operations after October 1, 1999, to
8 demonstrate the technical, managerial, and financial
9 capabilities to comply with national primary drinking water
10 regulations as required by the federal Safe Drinking Water
11 Act, as amended. The department shall establish by rule,
12 consistent with any federal guidance on capacity development,
13 the criteria for determining technical, managerial, and
14 financial capabilities. At a minimum, such water systems
15 must:

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

19 (b) Demonstrate the capabilities to conduct required
20 monitoring and reporting programs and maintain appropriate
21 records of such monitoring.

22 (c) Demonstrate financial soundness through the
23 posting of a bond, creation of a reserve, documentation of an
24 unreserved revenue source, or other appropriate means
25 established by department rule.

26 (2) If the department determines that such a water
27 system can not demonstrate technical, managerial, or financial
28 capability, a permit may not be issued for that system
29 pursuant to s. 403.861(7) until the water system has been
30 determined to have the required capabilities.

31

1 Section 5. Section 403.865, Florida Statutes, is
2 created to read:

3 403.865 Purpose.--The Legislature finds that the
4 threat to the public health and the environment from the
5 operation of water and wastewater treatment plants mandates
6 that qualified personnel operate these facilities. It is the
7 legislative intent that any person who performs the duties of
8 an operator and who falls below minimum competency or who
9 otherwise presents a danger to the public be prohibited from
10 operating a plant or system in this state.

11 Section 6. Section 403.866, Florida Statutes, is
12 created to read:

13 403.866 Definitions.--As used in ss. 403.865-403.876,
14 the term:

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

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

23 (3) "Operator" means any person, including the owner,
24 who is in onsite charge of the actual operation, supervision,
25 and maintenance of a water treatment plant or domestic
26 wastewater treatment plant and includes the person in onsite
27 charge of a shift or period of operation during any part of
28 the day.

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

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

7 (6) "Water treatment plant" means those components of
8 a public water system used in collection, treatment, and
9 storage of water for human consumption, whether or not such
10 components are under the control of the operator of such
11 system.

12 Section 7. Section 403.867, Florida Statutes, is
13 created to read:

14 403.867 License required.--A person may not perform
15 the duties of an operator of a water treatment plant or a
16 domestic wastewater treatment plant unless he or she holds a
17 current operator's license issued by the department.

18 Section 8. Section 403.868, Florida Statutes, is
19 created to read:

20 403.868 Requirements by a utility.--A utility may have
21 more stringent requirements than set by law, including
22 certification requirements for water distribution systems and
23 domestic wastewater collection systems operations, except that
24 a utility may not require a licensed contractor, as defined in
25 s. 489.105(3) to have any additional license for work in water
26 distribution systems or domestic wastewater collection
27 systems.

28 Section 9. Section 403.869, Florida Statutes, is
29 created to read:

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1 403.869 Authority to adopt rules.--The department may
2 adopt rules necessary to carry out the provisions of ss.
3 403.865-403.876.

4 Section 10. Section 403.87, Florida Statutes, is
5 created to read:

6 403.87 Technical advisory council for water and
7 domestic wastewater operator certification.--Within 90 days of
8 the effective date of this act, the secretary of the
9 department shall appoint a technical advisory council as
10 necessary for the purposes of ss. 403.865-403.876. The
11 technical advisory council shall meet upon the request of the
12 chair, upon request of a majority of its members, or upon
13 request of the secretary. Members shall provide for their own
14 expenses. The council shall consist of not less than five
15 persons who, collectively, are expert in domestic wastewater
16 and drinking water treatment, facilities operation, public
17 health and environmental protection, including at least one
18 licensed wastewater treatment plant operator and one licensed
19 water treatment plant operator.

20 Section 11. Section 403.871, Florida Statutes, is
21 created to read:

22 403.871 Fees.--The department shall, by rule,
23 establish fees to be paid for application and examination,
24 reexamination, licensing and renewal, renewal of an inactive
25 license, reactivation of an inactive license, recordmaking,
26 and recordkeeping. The department shall establish fees
27 adequate to administer and implement ss. 403.865-403.876.

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

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

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

5 Section 12. Section 403.872, Florida Statutes, is
6 created to read:

7 403.872 Requirements for licensure.--

8 (1) Any person desiring to be licensed as a water
9 treatment plant operator or a domestic wastewater treatment
10 plant operator must apply to the department to take the
11 licensure examination.

12 (2) The department shall examine the qualifications of
13 any applicant who meets the criteria established by the
14 department for licensure, submits a completed application, and
15 remits the required fee.

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

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

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

27 Section 13. Section 403.873, Florida Statutes, is
28 created to read:

29 403.873 Renewal of license.--
30
31

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

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

6 Section 14. Section 403.874, Florida Statutes, is
7 created to read:

8 403.874 Inactive status.--

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

11 (2) The department shall adopt rules relating to
12 licenses that have become inactive and for the reactivation of
13 inactive licenses.

14 Section 15. Section 403.875, Florida Statutes, is
15 created to read:

16 403.875 Prohibitions; penalties.--

17 (1) A person may not:

18 (a) Perform the duties of an operator of a water
19 treatment plant or domestic wastewater treatment plant unless
20 he or she is licensed under ss. 403.865-403.876.

21 (b) Use the name or title "water treatment plant
22 operator" or "domestic wastewater treatment plant operator" or
23 any other words, letters, abbreviations, or insignia
24 indicating or implying that he or she is an operator, or
25 otherwise holds himself or herself out as an operator, unless
26 the person is the holder of a valid license issued under ss.
27 403.865-403.876.

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

29 (d) Knowingly give false or forged evidence to the
30 department.

31

1 (e) Use or attempt to use a license that has been
2 suspended, revoked, or placed on inactive or delinquent
3 status.

4 (f) Employ unlicensed persons to perform the duties of
5 an operator of a water treatment or domestic wastewater
6 treatment plant.

7 (g) Conceal information relative to any violation of
8 ss. 403.865-403.876.

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

12 Section 16. Section 403.876, Florida Statutes, is
13 created to read:

14 403.876 Grounds for disciplinary action.--

15 (1) The department shall establish, by rule, the
16 grounds for taking disciplinary action, including suspending
17 or revoking a valid license, placing a licensee on probation,
18 refusing to issue a license, refusing to renew a license, or
19 refusing to reactivate a license, and the imposition of an
20 administrative fine, not to exceed \$1,000 per count or
21 offense. The fines collected under this section shall be
22 deposited into the Water Quality Assurance Trust Fund.

23 (2) The department shall conduct disciplinary
24 proceedings in accordance with chapter 120.

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

28 Section 17. All powers, duties and functions, rules,
29 records, personnel, property, and unexpended balances of
30 appropriations, allocations, or other funds of the Department
31 of Business and Professional Regulation related to the

1 classification and regulation of operators of water treatment
 2 plants and domestic wastewater treatment plants are
 3 transferred by a type two transfer, as defined in s. 20.06(2),
 4 Florida Statutes, from the Department of Business and
 5 Professional Regulation to the Department of Environmental
 6 Protection. However, in no event shall the Department of
 7 Business and Professional Regulation transfer fewer than 6
 8 positions, along with sufficient supporting budget, to the
 9 Department of Environmental Protection. The 6 positions must
 10 be of paygrades at least equivalent to those positions
 11 transferred by the Department of Environmental Protection to
 12 the Department of Business and Professional Regulation when
 13 the operator certification program was transferred in 1992.
 14 The rules of the Department of Business and Professional
 15 Regulation that regulate plant operators remain in effect
 16 until the Department of Environmental Protection has adopted
 17 rules to supersede those of the Department of Professional and
 18 Business Regulation.

19 Section 18. Operators certified by the Department of
 20 Professional and Business Regulation as of the effective date
 21 of this act shall be deemed to be licensed by the Department
 22 of Environmental Protection until the expiration of the term
 23 of their certification.

24 Section 19. Subsections (1) and (2) of section
 25 403.087, Florida Statutes, are amended, present subsections
 26 (3) through (8) of that section are redesignated as
 27 subsections (4) through (9), respectively, and new subsection
 28 (3) is added to that section to read:

29 403.087 Permits; general issuance; denial; revocation;
 30 prohibition; penalty.--

31

1 (1) A ~~No~~ stationary installation that is ~~which will~~
 2 reasonably ~~be~~ expected to be a source of air or water
 3 pollution must not ~~shall~~ be operated, maintained, constructed,
 4 expanded, or modified without an appropriate and currently
 5 valid permit issued by the department, unless exempted by
 6 department rule. In no event shall a permit for a water
 7 pollution source be issued for a term of more than 10 5 years,
 8 ~~<U>nor and in no event~~ may an operation permit issued after July
 9 1, 1992, for a major source of air pollution have a fixed term
 10 of more than 5 years. However, upon expiration, a new permit
 11 may be issued by the department in accordance with this
 12 chapter act and the rules ~~and regulations~~ of the department.

13 (2) The department shall adopt, and may amend, or
 14 repeal, ~~rules, regulations, and standards~~ for the issuance,
 15 denial, modification, and revocation of permits under this
 16 section.

17 (3) A renewal of an operation permit for a domestic
 18 wastewater treatment facility other than a facility regulated
 19 under the National Pollutant Discharge Elimination System
 20 (NPDES) Program under s. 403.0885 must be issued upon request
 21 for a term of up to 10 years, for the same fee and under the
 22 same conditions as a 5-year permit, in order to provide the
 23 owner or operator with a financial incentive, if:

24 (a) The waters from the treatment facility are not
 25 discharged to Class 1 municipal injection wells or the
 26 treatment facility is not required to comply with the federal
 27 standards under the Underground Injection Control program
 28 under chapter 62-528 of the Florida Administrative Code;

29 (b) The treatment facility is not operating under a
 30 temporary operating permit or a permit with an accompanying
 31 administrative order and does not have any enforcement action

1 pending against it by the United States Environmental
2 Protection Agency, the department, or a local program approved
3 under s. 403.182;

4 (c) The treatment facility has operated under an
5 operation permit for 5 years and, for at least the preceding 2
6 years, has generally operated in conformance with the limits
7 of permitted flows and other conditions specified in the
8 permit;

9 (d) The department has reviewed the
10 discharge-monitoring reports required under department rule
11 and is satisfied that the reports are accurate;

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

18 (f) The department, or a local program approved under
19 s. 403.182, has conducted, in the preceding 12 months, an
20 inspection of the facility and has verified in writing to the
21 operator of the facility that it is not exceeding the
22 permitted capacity and is in substantial compliance.

23
24 The department shall keep records of the number of 10-year
25 permits applied for and the number and duration of permits
26 issued for longer than 5 years.

27 Section 20. Section 403.0871, Florida Statutes, 1996
28 Supplement, is amended to read:

29 403.0871 Florida Permit Fee Trust Fund.--There is
30 established within the department a nonlapsing trust fund to
31 be known as the "Florida Permit Fee Trust Fund." All funds

1 received from applicants for permits pursuant to ss. 161.041,
 2 161.053, 161.0535, 403.087(6)~~(5)~~, and 403.861(8) shall be
 3 deposited in the Florida Permit Fee Trust Fund and shall be
 4 used by the department with the advice and consent of the
 5 Legislature to supplement appropriations and other funds
 6 received by the department for the administration of its
 7 responsibilities under this chapter and chapter 161. In no
 8 case shall funds from the Florida Permit Fee Trust Fund be
 9 used for salary increases without the approval of the
 10 Legislature.

11 Section 21. Paragraphs (a)7. and (a)10. of subsection
 12 (11) of section 403.0872, Florida Statutes, 1996 Supplement,
 13 is amended to read:

14 403.0872 Operation permits for major sources of air
 15 pollution; annual operation license fee.--Provided that
 16 program approval pursuant to 42 U.S.C. s. 7661a has been
 17 received from the United States Environmental Protection
 18 Agency, beginning January 2, 1995, each major source of air
 19 pollution, including electrical power plants certified under
 20 s. 403.511, must obtain from the department an operation
 21 permit for a major source of air pollution under this section,
 22 which is the only department operation permit for a major
 23 source of air pollution required for such source. Operation
 24 permits for major sources of air pollution, except general
 25 permits issued pursuant to s. 403.814, must be issued in
 26 accordance with the following procedures and in accordance
 27 with chapter 120; however, to the extent that chapter 120 is
 28 inconsistent with the provisions of this section, the
 29 procedures contained in this section prevail:

30 (11) Commencing in 1993, each major source of air
 31 pollution permitted to operate in this state must pay between

1 January 15 and March 1 of each year, upon written notice from
 2 the department, an annual operation license fee in an amount
 3 determined by department rule. The annual operation license
 4 fee shall be terminated immediately in the event the United
 5 States Environmental Protection Agency imposes annual fees
 6 solely to implement and administer the major source
 7 air-operation permit program in Florida under 40 C.F.R. s.
 8 70.10(d).

9 (a) The annual fee must be assessed based upon the
 10 source's previous year's emissions and must be calculated by
 11 multiplying the applicable annual operation license fee factor
 12 times the tons of each regulated air pollutant (except carbon
 13 monoxide) allowed to be emitted per hour by specific condition
 14 of the source's most recent construction or operation permit,
 15 times the annual hours of operation allowed by permit
 16 condition; provided, however, that:

17 7. If the department has not received the fee by
 18 February 15 of the calendar year, the permittee must be sent a
 19 written warning of the consequences for failing to pay the fee
 20 by March 1. If ~~the department has not received the fee~~ is not
 21 postmarked by March 1 of the calendar year, commencing with
 22 calendar year 1997, the department shall impose, in addition
 23 to the fee, a penalty of 50 percent of the amount of the fee,
 24 plus interest on such amount computed in accordance with s.
 25 220.807. The department may not impose such penalty or
 26 interest on any amount underpaid, provided that the permittee
 27 has timely remitted payment of at least 90 percent of the
 28 amount determined to be due and remits full payment within 60
 29 days after receipt of notice of the amount underpaid. The
 30 department may waive the collection of underpayment and shall
 31 not be required to refund overpayment of the fee, if the

1 amount due is less than 1 percent of the fee, up to \$50. The
 2 department may revoke any major air pollution source operation
 3 permit if it finds that the permitholder has failed to timely
 4 pay any required annual operation license fee, penalty, or
 5 interest.

6 10. Notwithstanding the provisions of s.
 7 403.087~~(6)~~~~(5)~~(a)4.a., authorizing air pollution construction
 8 permit fees, the department may not require such fees for
 9 changes or additions to a major source of air pollution
 10 permitted pursuant to this section, unless the activity
 11 triggers permitting requirements under Title I, Part C or Part
 12 D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.
 13 Costs to issue and administer such permits shall be considered
 14 direct and indirect costs of the major stationary source
 15 air-operation permit program under s. 403.0873. The department
 16 shall, however, require fees pursuant to the provisions of s.
 17 403.087~~(6)~~~~(5)~~(a)4.a. for the construction of a new major
 18 source of air pollution that will be subject to the permitting
 19 requirements of this section once constructed and for
 20 activities triggering permitting requirements under Title I,
 21 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.
 22 7470-7514a.

23 Section 22. Sections 468.540, 468.541, 468.542,
 24 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, and
 25 468.552, Florida Statutes, and sections 468.549, 468.550, and
 26 468.551, Florida Statutes, as amended by chapter 94-119, Laws
 27 of Florida, are hereby repealed.

28 Section 23. Subsections (7) through (13) of section
 29 367.021, Florida Statutes, are renumbered as subsections (8)
 30 through (14), respectively, and a new subsection (7) is added
 31 to said section to read:

1 367.021 Definitions.--As used in this chapter, the
2 following words or terms shall have the meanings indicated:

3 (7) "Environmental compliance costs" means all
4 reasonable expenses and a fair return on the prudent
5 investments incurred in complying with federal, state, or
6 local environmental laws, rules, regulations, orders,
7 ordinances, or resolutions, or other such requirements. The
8 commission shall be bound by the determinations, permitting,
9 and enforcement decisions of the United States Environmental
10 Protection Agency, the department of environmental protection,
11 or a water management district, or other entity with
12 jurisdiction, as to the need for, capacity of, and type of
13 facilities, including land and processes, required for
14 compliance, and the need for, capacity of, and type of
15 facilities, including land and processes, required as part of
16 any reuse system or project.

17 Section 24. Subsection (11) is added to section
18 367.022, Florida Statutes, 1996 Supplement, to read:

19 367.022 Exemptions.--The following are not subject to
20 regulation by the commission as a utility nor are they subject
21 to the provisions of this chapter, except as expressly
22 provided:

23 (11) Any person providing only non-potable water for
24 irrigation purposes in a geographic area where potable water
25 service is available from a governmentally or privately owned
26 utility or a private well.

27 Section 25. Subsection (2) of section 367.081, Florida
28 Statutes, is amended to read:

29 367.081 Rates; procedure for fixing and changing.--

30 (2)(a) The commission shall, either upon request or
31 upon its own motion, fix rates which are just, reasonable,

1 compensatory, and not unfairly discriminatory. In every such
2 proceeding, the commission shall consider the value and
3 quality of the service and the cost of providing the service,
4 which shall include, but not be limited to, debt interest; the
5 requirements of the utility for working capital; maintenance,
6 depreciation, tax, and operating expenses incurred in the
7 operation of all property used and useful in the public
8 service; and a fair return on the investment of the utility in
9 property used and useful in the public service. However, the
10 commission shall not allow the inclusion of
11 contributions-in-aid-of-construction in the rate base of any
12 utility during a rate proceeding; and accumulated depreciation
13 on such contributions-in-aid-of-construction shall not be used
14 to reduce the rate base, nor shall depreciation on such
15 contributed assets be considered a cost of providing utility
16 service. The commission shall also consider the investment of
17 the utility in land acquired or facilities constructed or to
18 be constructed in the public interest within a reasonable time
19 in the future, not to exceed, unless extended by the
20 commission, 24 months from the end of the historical test
21 period used to set final rates. Notwithstanding the foregoing,
22 the commission shall approve rates for service that allow a
23 utility to recover the full amount of environmental compliance
24 costs from customers. Rates for service shall not include
25 allowance for funds prudently invested or similar charges.

26 (b) In establishing initial rates for a utility, the
27 commission may project the financial and operational data as
28 set out in paragraph (a) to a point in time when the utility
29 is expected to be operating at a reasonable level of capacity.
30
31

1 Section 26. Subsections (6) and (8) of section
2 367.171, Florida Statutes, 1996 Supplement are amended to
3 read:

4 (6) Any county in which utilities as herein defined
5 were regulated by the commission on or after January 1, 1980,
6 which subsequently cease to be so regulated, shall, within 90
7 days of the cessation of commission regulation or the
8 effective date of this act, adopt and follow as minimum
9 standards of regulation the provisions of s. 367.021, s.
10 367.081, ~~except for paragraph (4)(a), and ss. 367.0817 and s-~~
11 367.082, except that the word "commission" shall be read as
12 "the governing body of such county" when the context implies
13 or admits. The authorized rate of return shall be no less than
14 the weighted cost of the capital of the utility, including
15 debt and equity.

16 (8) Each county which is excluded from the provisions
17 of this chapter shall regulate the rates of all utilities in
18 that county which would otherwise be subject to regulation by
19 the commission pursuant to ss. 367.021, ~~s-~~367.081(1), (2),
20 (3), and (6), and 367.0817. The county shall not regulate the
21 rates or charges of any system or facility which would
22 otherwise be exempt from commission regulation pursuant to s.
23 367.022(2). For this purpose the county or its agency shall
24 proceed as though the county or agency is the commission.

25 Section 27. Subsection (11) is added to section
26 367.022, Florida Statutes, 1996 Supplement, to read:

27 367.022 Exemptions.--The following are not subject to
28 regulation by the commission as a utility nor are they subject
29 to the provisions of this chapter, except as expressly
30 provided:

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

4 Section 28. The Department of Environmental
5 Protection's Division of Water Facilities is directed to
6 conduct a study on ozonation and other alternative processes
7 for disinfecting water, with an emphasis on incorporating such
8 processes in reuse of water in cooling systems. The
9 department shall use existing resources and any existing study
10 committee or task force to conduct this research on ozonation
11 and other alternative processes. The department shall submit
12 a report on its findings and recommendations to the Governor,
13 the President of the Senate and the Speaker of the House of
14 Representatives by December 15, 1998.

15 Section 29. Subsection (5) of section 193.625, F.S.,
16 1996 Supplement, is amended to read:

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

22 (b) Counties that choose to have a high-water recharge
23 protection tax assessment program must adopt by ordinance a
24 formula for determining the assessment of properties
25 classified as high-water recharge property and a method of
26 contracting with property owners who wish to be involved in
27 the program.

28 (c) The contract must include a provision that the
29 land assessed as high-water recharge land will be used
30 primarily for bona fide high-water recharge purposes for a
31 period of at least 5 ~~10~~ years, as determined by the county,

1 from January 1 of the year in which the assessment is made.
2 Violation of the contract results in the property owner being
3 subject to the payment of the difference between the total
4 amount of taxes actually paid on the property and the amount
5 of taxes which would have been paid in each previous year the
6 contract was in effect if the high-water recharge assessment
7 had not been used.

8 (d) A municipality located in any county that adopts
9 an ordinance under paragraph (a) may adopt an ordinance
10 providing for the assessment of land located in the
11 incorporated areas in accordance with the county's ordinance.

12 (e) Property owners whose land lies within an area
13 determined to be a high-water recharge area must not be
14 required to have their land assessed according to the
15 high-water recharge classification.

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

19 Section 30. This section shall take effect upon
20 becoming law.

21 Section 31. Subsections (3), (4), (6), and (9) of
22 section 403.1835, Florida Statutes, are amended to read:

23 403.1835 Sewage treatment facilities revolving loan
24 program.--

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

29 (a) The department is authorized to make loans, ~~use~~
30 ~~the funds~~ to provide loan guarantees, to purchase loan
31 insurance, and to refinance local debt through the issue of

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

8 (b) The department may make grants to financially
9 disadvantaged small communities, as defined in s. 403.1838,
10 using funds made available from grant allocations on loans
11 authorized under subsection (4). The grants must be
12 administered in accordance with s. 403.1838.

13 (c) The department may make grants to local government
14 agencies as authorized under the Federal Water Pollution
15 Control Act, or as a result of other federal action. The
16 grants must be administered in accordance with this section
17 and applicable federal requirements.

18 (4) The term of loans made pursuant to this section
19 shall not exceed 30 years. The department may assess grant
20 allocations on the loans for the purpose of making grants to
21 financially disadvantaged small communities.The combined rate
22 of interest and grant allocations ~~rate~~ on loans shall be no
23 greater than the interest rate ~~that~~ paid on the last bonds
24 sold pursuant to s. 14, Art. VII of the State Constitution.
25 The grant allocations on a loan shall be equal to or less than
26 the interest rate on the loan.

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

29 (a) Provide a repayment schedule.
30
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1 (b) Submit plans and specifications and evidence of
2 permittability for sewage treatment facilities and stormwater
3 management systems.

4 (c) Provide assurance that records will be kept using
5 accepted government accounting standards and that the
6 department, the Auditor General, or their agents will have
7 access to all records pertaining to the loan.

8 (d) Provide assurance that the facility will be
9 properly operated and maintained.

10 (e) Document that the revenues generated will be
11 sufficient to ensure that the facilities will be
12 self-supporting.

13 (f) Provide assurance that annual financial audit
14 reports, and a separate project audit prepared by an
15 independent certified public accountant upon project
16 completion, will be submitted to the department.

17 (g) Submit project planning documentation
18 demonstrating cost-effectiveness, environmental soundness,
19 public participation, and the implementability of the proposed
20 sewage treatment facilities and stormwater management systems.

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

23 (a) A nonlapsing trust fund with revolving loan
24 provisions to be known as the "Sewage Treatment Revolving Loan
25 Fund" is hereby established in the State Treasury to be used
26 as a revolving fund by the department to carry out the purpose
27 of this section. Any funds therein which are not needed on an
28 immediate basis for loans may be invested pursuant to s.
29 215.49. The cost of administering the program shall, ~~to the~~
30 ~~extent possible,~~ be paid from federal funds and, ~~when federal~~
31 ~~funds become no longer available,~~ from reasonable service fees

1 that may be imposed upon loans so as to enhance program
 2 perpetuity. Grants awarded by the Federal Government, state
 3 matching funds, and investment earnings thereon to fund
 4 ~~revolving loans for local governmental agencies' sewage~~
 5 ~~treatment facilities~~ shall be deposited into the fund. All
 6 moneys available in the fund are hereby designated to carry
 7 out the purpose of this section. The principal and interest of
 8 all loans repaid and investment earnings shall be deposited
 9 into this fund.

10 (b) Revenues from the loan grant allocations
 11 authorized under subsection (4), federal appropriations, state
 12 matching funds for grants authorized by federal statute or
 13 other federal action, and service fees, and all earnings
 14 thereon, shall be deposited into the department's Grants and
 15 Donations Trust Fund. Service fees and all earnings thereon
 16 must be used solely for program administration. The loan grant
 17 allocation revenues and earnings thereon must be used solely
 18 for the purpose of making grants to financially disadvantaged
 19 small communities. Federal appropriations and state matching
 20 funds for grants authorized by federal statute or other
 21 federal action, and earnings thereon, must be used solely for
 22 the purposes authorized. All deposits into the department's
 23 Grants and Donations Trust Fund under this section, and
 24 earnings thereon, must be accounted for separately from all
 25 other moneys deposited into the fund.

26 Section 32. Beginning in fiscal year 1998-1999, the
 27 Department of Environmental Protection shall make available up
 28 to 10 percent of the annual revenue received in the Sewage
 29 Treatment Revolving Loan Fund for loans to local governmental
 30 agencies for constructing stormwater management systems
 31 authorized pursuant to s. 403.1835, Florida Statutes. During

1 this period of time, if the department does not receive
2 requests for projects to use the funds available for
3 stormwater management systems, such funds shall be used for
4 constructing sewage treatment facilities and other activities
5 authorized by s. 403.1835, Florida Statutes.

6 Section 33. This act shall take effect July 1, 1997.

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