

1
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. 367.022, F.S.;
14 providing regulatory exemptions for nonpotable
15 irrigation water, under certain circumstances;
16 deregulating bulk supplies of water for sale or
17 resale; amending s. 193.625, F.S.; allowing
18 high-water recharge assessments when lands will
19 be used primarily for bona fide high-water
20 recharge purposes for a period of at least 5
21 years; amending s. 403.1835, F.S.; expanding
22 the sewage treatment facilities revolving loan
23 program to provide loans to local governmental
24 agencies for construction of stormwater
25 management systems; defining "stormwater
26 management system"; providing additional
27 responsibilities of local governments under the
28 program; providing priority for certain
29 stormwater management system projects;
30 providing for funding; providing an effective
31 date.

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

2

3 Section 1. Section 403.8532, Florida Statutes, is
4 amended to read:

5 403.8532 Drinking water state revolving loan fund;
6 use; rules.--

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

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

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

21 (b) "Local governmental agency" means any
22 municipality, county, district, or authority, or any agency
23 thereof, or a combination of two or more of the foregoing
24 acting jointly in connection with a project, having
25 jurisdiction over a public water system.

26 (c) "Public water system" means all facilities,
27 including land, necessary for the treatment and distribution
28 of water for human consumption and includes public water
29 systems as defined in s. 403.852 and as otherwise defined in
30 the federal Safe Drinking Water Act, as amended. Such systems

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1 may be publicly owned, privately owned, investor-owned, or
2 cooperatively held.

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

5 (3) The department is authorized to make loans to
6 community water systems, nonprofit noncommunity water systems,
7 and nonprofit nontransient noncommunity water systems to
8 assist them in planning, designing, and constructing public
9 water systems, unless such public water systems are for-profit
10 privately owned or investor-owned systems that regularly serve
11 1,500 service connections or more within a single certified or
12 franchised area. However, a for-profit privately owned or
13 investor-owned public water system that regularly serves 1,500
14 service connections or more within a single certified or
15 franchised area may qualify for a loan only if the proposed
16 project will result in the consolidation of two or more public
17 water systems. The department is authorized to provide loan
18 guarantees, to purchase loan insurance, and to refinance local
19 debt through the issue of new loans for projects approved by
20 the department. Public water systems are authorized to borrow
21 funds made available pursuant to this section and may pledge
22 any revenues or other adequate security available to them to
23 repay any funds borrowed. The department shall administer
24 loans so that amounts credited to the Drinking Water Revolving
25 Loan Trust Fund in any fiscal year are reserved for the
26 following purposes:

27 (a) At least 15 percent to qualifying small public
28 water systems.

29 (b) Up to 15 percent to qualifying financially
30 disadvantaged communities.

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1 (c) However, if an insufficient number of the projects
2 for which funds are reserved under this paragraph have been
3 submitted to the department at the time the funding priority
4 list authorized under this section is adopted, the reservation
5 of these funds shall no longer apply. The department may
6 award the unreserved funds as otherwise provided in this
7 section.

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

13 (a) Program administration.

14 (b) Technical assistance.

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

21 (d) Capacity development and financial assessment
22 program development and administration.

23 (e) The costs of establishing and administering an
24 operator certification program for drinking water treatment
25 plant operators, to the extent such costs cannot be paid for
26 from fees.

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

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

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

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

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

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

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

26 (a) Set forth a priority system for loans based on
27 public health considerations, compliance with state and
28 federal requirements relating to public drinking water
29 systems, and affordability. The priority system shall give
30 special consideration to the following:

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

6 2. Projects that provide for a dependable, sustainable
7 supply of drinking water and that are not otherwise
8 financially feasible; and

9 3. Projects that contribute to the sustainability of
10 regional water sources.

11 (b) Establish the requirements for the award and
12 repayment of financial assistance.

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

15 (d) Require each project receiving financial
16 assistance to be cost-effective, environmentally sound,
17 implementable, and self-supporting.

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

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

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

26 (a) Provide a repayment schedule.

27 (b) Submit evidence of the permissibility or
28 implementability of the project proposed for financial
29 assistance.

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1 (c) Submit plans and specifications, biddable contract
2 documents, or other documentation of appropriate procurement
3 of goods and services.

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

8 (e) Provide assurance that the public water system
9 will be properly operated and maintained in order to achieve
10 or maintain compliance with the requirements of the Florida
11 Safe Drinking Water Act and the federal Safe Drinking Water
12 Act, as amended.

13 (f) Document that the public water system will be
14 self-supporting.

15 (12) The department may conduct an audit of the loan
16 project upon completion, or may require that a separate
17 project audit, prepared by an independent certified public
18 accountant, be submitted.

19 (13) The department may require reasonable service
20 fees on loans made to public water systems to ensure that the
21 Drinking Water Revolving Loan Trust Fund will be operated in
22 perpetuity and to implement the purposes authorized under this
23 section. Service fees shall not be less than 2 percent nor
24 greater than 4 percent of the loan amount exclusive of the
25 service fee. Service fee revenues shall be deposited into the
26 department's Grants and Donations Trust Fund. The fee
27 revenues, and interest earnings thereon, shall be used
28 exclusively to carry out the purposes of this section.

29 (14) All moneys available for financial assistance
30 under this section shall be deposited in the Drinking Water
31 Revolving Loan Trust Fund exclusively to carry out the

1 purposes of this section. Any funds therein which are not
2 needed on an immediate basis for financial assistance shall be
3 invested pursuant to s. 215.49. State revolving fund
4 capitalization grants awarded by the Federal Government, state
5 matching funds, and investment earnings thereon shall be
6 deposited into the fund. The principal and interest of all
7 loans repaid and investment earnings thereon shall be
8 deposited into the fund.

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

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

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

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1 (16) The department is authorized to terminate or
2 rescind a financial assistance agreement when the recipient
3 fails to comply with the terms and conditions of the
4 agreement.

5 ~~(1) If federal funds become available for a drinking~~
6 ~~water state revolving loan fund, the Department of~~
7 ~~Environmental Protection may use the funds to make grants and~~
8 ~~loans to the owners of public water systems, as defined in s.~~
9 ~~403.852(2), and as otherwise authorized by the law making the~~
10 ~~funds available. The department may adopt rules necessary to~~
11 ~~satisfy requirements to receive these federal funds and to~~
12 ~~carry out the provisions of this subsection. The rules shall~~
13 ~~include, but not be limited to, a priority system based on~~
14 ~~public health considerations, system type, and population~~
15 ~~served; requirements for proper system operation and~~
16 ~~maintenance; and, where applicable, consideration of ability~~
17 ~~to repay loans.~~

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

23 Section 2. Intended Use Plan.--

24 (1) The Florida Legislature recognizes that over 80
25 percent of the state's population lives in coastal areas and
26 is dependent on groundwater sources for drinking water
27 supplies. Further, the Legislature recognizes that saltwater
28 intrusion is an increased threat to healthful and safe
29 drinking water supplies.

30 (2) The Intended Use Plan required of the department
31 under the federal Safe Drinking Water Act, as amended, shall

1 provide, in general, to the maximum extent practicable, that
2 priority for the use of funds be given to projects that:
3 (a) Address the most serious risk to human health,
4 especially projects that would develop alternative water
5 supply in areas with saltwater intrusion problems;
6 (b) Are necessary to ensure compliance with the
7 requirements of the federal Safe Drinking Water Act, as
8 amended, including requirements for filtration; and
9 (c) Assist systems most in need on a per-household
10 basis according to affordability criteria established by the
11 Department of Environmental Protection by rule.

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

15 403.860 Penalties and remedies.--

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

19 (a)1. Prior to the assessment of an administrative
20 penalty, the department shall provide the public water system
21 a reasonable amount of time to complete the corrective action
22 necessary to bring the system back into compliance.

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

1 after receipt of the written notice, and shall be enforceable
2 pursuant to s. 120.69.

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

15 (c) The amount of the penalties assessed shall be as
16 follows:

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

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

22
23 However, the total amount of the penalty assessed on any
24 public water system may not exceed \$10,000 per violation.

25 Section 4. Section 403.8615, Florida Statutes, is
26 created to read:

27 403.8615 Determination of capability and capacity
28 development.--

29 (1) The department shall require all new community
30 water systems and new nontransient, noncommunity water systems
31 seeking to commence operations after October 1, 1999, to

1 demonstrate the technical, managerial, and financial
2 capabilities to comply with national primary drinking water
3 regulations as required by the federal Safe Drinking Water
4 Act, as amended. The department shall establish by rule,
5 consistent with any federal guidance on capacity development,
6 the criteria for determining technical, managerial, and
7 financial capabilities. At a minimum, such water systems
8 must:

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

12 (b) Demonstrate the capabilities to conduct required
13 monitoring and reporting programs and maintain appropriate
14 records of such monitoring.

15 (c) Demonstrate financial soundness through the
16 posting of a bond, creation of a reserve, documentation of an
17 unreserved revenue source, or other appropriate means
18 established by department rule.

19 (2) If the department determines that such a water
20 system can not demonstrate technical, managerial, or financial
21 capability, a permit may not be issued for that system
22 pursuant to s. 403.861(7) until the water system has been
23 determined to have the required capabilities.

24 Section 5. Section 403.865, Florida Statutes, is
25 created to read:

26 403.865 Purpose.--The Legislature finds that the
27 threat to the public health and the environment from the
28 operation of water and wastewater treatment plants mandates
29 that qualified personnel operate these facilities. It is the
30 legislative intent that any person who performs the duties of
31 an operator and who falls below minimum competency or who

1 otherwise presents a danger to the public be prohibited from
2 operating a plant or system in this state.

3 Section 6. Section 403.866, Florida Statutes, is
4 created to read:

5 403.866 Definitions.--As used in ss. 403.865-403.876,
6 the term:

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

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

15 (3) "Operator" means any person, including the owner,
16 who is in onsite charge of the actual operation, supervision,
17 and maintenance of a water treatment plant or domestic
18 wastewater treatment plant and includes the person in onsite
19 charge of a shift or period of operation during any part of
20 the day.

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

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

29 (6) "Water treatment plant" means those components of
30 a public water system used in collection, treatment, and
31 storage of water for human consumption, whether or not such

1 components are under the control of the operator of such
2 system.

3 Section 7. Section 403.867, Florida Statutes, is
4 created to read:

5 403.867 License required.--A person may not perform
6 the duties of an operator of a water treatment plant or a
7 domestic wastewater treatment plant unless he or she holds a
8 current operator's license issued by the department.

9 Section 8. Section 403.868, Florida Statutes, is
10 created to read:

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

19 Section 9. Section 403.869, Florida Statutes, is
20 created to read:

21 403.869 Authority to adopt rules.--The department may
22 adopt rules necessary to carry out the provisions of ss.
23 403.865-403.876.

24 Section 10. Section 403.87, Florida Statutes, is
25 created to read:

26 403.87 Technical advisory council for water and
27 domestic wastewater operator certification.--Within 90 days of
28 the effective date of this act, the secretary of the
29 department shall appoint a technical advisory council as
30 necessary for the purposes of ss. 403.865-403.876. The
31 technical advisory council shall meet upon the request of the

1 chair, upon request of a majority of its members, or upon
2 request of the secretary. Members shall provide for their own
3 expenses. The council shall consist of not less than five
4 persons who, collectively, are expert in domestic wastewater
5 and drinking water treatment, facilities operation, public
6 health and environmental protection, including at least one
7 licensed wastewater treatment plant operator and one licensed
8 water treatment plant operator.

9 Section 11. Section 403.871, Florida Statutes, is
10 created to read:

11 403.871 Fees.--The department shall, by rule,
12 establish fees to be paid for application and examination,
13 reexamination, licensing and renewal, renewal of an inactive
14 license, reactivation of an inactive license, recordmaking,
15 and recordkeeping. The department shall establish fees
16 adequate to administer and implement ss. 403.865-403.876.

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

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

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

25 Section 12. Section 403.872, Florida Statutes, is
26 created to read:

27 403.872 Requirements for licensure.--

28 (1) Any person desiring to be licensed as a water
29 treatment plant operator or a domestic wastewater treatment
30 plant operator must apply to the department to take the
31 licensure examination.

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

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

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

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

16 Section 13. Section 403.873, Florida Statutes, is
17 created to read:

18 403.873 Renewal of license.--

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

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

24 Section 14. Section 403.874, Florida Statutes, is
25 created to read:

26 403.874 Inactive status.--

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

29 (2) The department shall adopt rules relating to
30 licenses that have become inactive and for the reactivation of
31 inactive licenses.

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

3 403.875 Prohibitions; penalties.--

4 (1) A person may not:

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

8 (b) Use the name or title "water treatment plant
9 operator" or "domestic wastewater treatment plant operator" or
10 any other words, letters, abbreviations, or insignia
11 indicating or implying that he or she is an operator, or
12 otherwise holds himself or herself out as an operator, unless
13 the person is the holder of a valid license issued under ss.
14 403.865-403.876.

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

16 (d) Knowingly give false or forged evidence to the
17 department.

18 (e) Use or attempt to use a license that has been
19 suspended, revoked, or placed on inactive or delinquent
20 status.

21 (f) Employ unlicensed persons to perform the duties of
22 an operator of a water treatment or domestic wastewater
23 treatment plant.

24 (g) Conceal information relative to any violation of
25 ss. 403.865-403.876.

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

29 Section 16. Section 403.876, Florida Statutes, is
30 created to read:

31 403.876 Grounds for disciplinary action.--

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

9 (2) The department shall conduct disciplinary
10 proceedings in accordance with chapter 120.

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

14 Section 17. All powers, duties and functions, rules,
15 records, personnel, property, and unexpended balances of
16 appropriations, allocations, or other funds of the Department
17 of Business and Professional Regulation related to the
18 classification and regulation of operators of water treatment
19 plants and domestic wastewater treatment plants are
20 transferred by a type two transfer, as defined in s. 20.06(2),
21 Florida Statutes, from the Department of Business and
22 Professional Regulation to the Department of Environmental
23 Protection. The Department of Business and Professional
24 Regulation shall transfer to the Department of Environmental
25 Protection six positions, along with sufficient supporting
26 budget, as determined by the Department of Environmental
27 Protection. The rules of the Department of Business and
28 Professional Regulation that regulate plant operators remain
29 in effect until the Department of Environmental Protection has
30 adopted rules to supersede those of the Department of
31 Professional and Business Regulation.

1 Section 18. 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 19. Paragraph (g) is added to subsection (7)
7 of section 163.01, Florida Statutes, 1996 Supplement, to read:

8 163.01 Florida Interlocal Cooperation Act of 1969.--

9 (7)

10 (g)1. Notwithstanding any other provisions of this
11 section, any separate legal entity created under this section,
12 the membership of which is limited to municipalities and
13 counties of the state, may acquire, own, construct, improve,
14 operate, and manage public facilities relating to a
15 governmental function or purpose, including, but not limited
16 to, wastewater facilities, water or alternative water supply
17 facilities, and water reuse facilities, which may serve
18 populations within or outside of the members of the entity.
19 Notwithstanding s. 367.171(7), any separate legal entity
20 created under this paragraph is not subject to commission
21 jurisdiction and may not provide utility services within the
22 service area of an existing utility system unless it has
23 received the consent of the utility. The entity may finance or
24 refinance the acquisition, construction, expansion, and
25 improvement of the public facility through the issuance of its
26 bonds, notes, or other obligations under this section. The
27 entity has all the powers provided by the interlocal agreement
28 under which it is created or which are necessary to own,
29 operate, or manage the public facility, including, without
30 limitation, the power to establish rates, charges, and fees
31 for products or services provided by it, the power to levy

1 special assessments, the power to sell all or a portion of its
2 facility, and the power to contract with a public or private
3 entity to manage and operate its facilities or to provide or
4 receive services or products. Except as may be limited by the
5 interlocal agreement under which the entity is created, all of
6 the privileges, benefits, powers, and terms of s. 125.01,
7 relating to counties, and s. 166.021, relating to
8 municipalities, are fully applicable to the entity. However,
9 neither the entity nor any of its members on behalf of the
10 entity may exercise the power of eminent domain over the
11 facilities or property of any existing water or wastewater
12 plant utility system, nor may the entity acquire title to any
13 water or wastewater plant utility facilities or property which
14 was acquired by the use of eminent domain after the effective
15 date of this act. Bonds, notes, and other obligations issued
16 by the entity are issued on behalf of the public agencies that
17 are members of the entity.

18 2. Any entity created under this section may also
19 issue bond anticipation notes in connection with the
20 authorization, issuance, and sale of bonds. The bonds may be
21 issued as serial bonds or as term bonds or both. Any entity
22 may issue capital appreciation bonds or variable rate bonds.
23 Any bonds, notes, or other obligations must be authorized by
24 resolution of the governing body of the entity and bear the
25 date or dates, mature at the time or times, not exceeding 40
26 years from their respective dates, bear interest at the rate
27 or rates, be payable at the time or times, be in the
28 denomination, be in the form, carry the registration
29 privileges, be executed in the manner, be payable from the
30 sources and in the medium or payment and at the place, and be
31 subject to the terms of redemption, including redemption prior

1 to maturity, as the resolution may provide. If any officer
2 whose signature, or a facsimile of whose signature, appears on
3 any bonds, notes, or other obligations ceases to be an officer
4 before the delivery of the bonds, notes, or other obligations,
5 the signature or facsimile is valid and sufficient for all
6 purposes as if he or she had remained in office until the
7 delivery. The bonds, notes, or other obligations may be sold
8 at public or private sale for such price as the governing body
9 of the entity shall determine. Pending preparation of the
10 definitive bonds, the entity may issue interim certificates,
11 which shall be exchanged for the definitive bonds. The bonds
12 may be secured by a form of credit enhancement, if any, as the
13 entity deems appropriate. The bonds may be secured by an
14 indenture of trust or trust agreement. In addition, the
15 governing body of the legal entity may delegate, to an
16 officer, official, or agent of the legal entity as the
17 governing body of the legal entity may select, the power to
18 determine the time; manner of sale, public or private;
19 maturities; rate of interest, which may be fixed or may vary
20 at the time and in accordance with a specified formula or
21 method of determination; and other terms and conditions as may
22 be deemed appropriate by the officer, official, or agent so
23 designated by the governing body of the legal entity. However,
24 the amount and maturity of the bonds, notes, or other
25 obligations and the interest rate of the bonds, notes or other
26 obligations must be within the limits prescribed by the
27 governing body of the legal entity and its resolution
28 delegating to an officer, official, or agent the power to
29 authorize the issuance and sale of the bonds, notes, or other
30 obligations.

31

1 3. Bonds, notes, or other obligations issued under
2 subparagraph 1. may be validated as provided in chapter 75.
3 The complaint in any action to validate the bonds, notes, or
4 other obligations must be filed only in the Circuit Court for
5 Leon County. The notice required to be published by s. 75.06
6 must be published in Leon County and in each county that is a
7 member of the entity issuing the bonds, notes, or other
8 obligations, or in which a member of the entity is located,
9 and the complaint and order of the circuit court must be
10 served only on the State Attorney of the Second Judicial
11 Circuit and on the state attorney of each circuit in each
12 county that is a member of the entity issuing the bonds,
13 notes, or other obligations or in which a member of the entity
14 is located. Section 75.04(2) does not apply to a complaint for
15 validation brought by the legal entity.

16 4. The accomplishment of the authorized purposes of a
17 legal entity created under this paragraph is in all respects
18 for the benefit of the people of the state, for the increase
19 of their commerce and prosperity, and for the improvement of
20 their health and living conditions. Since the legal entity
21 will perform essential governmental functions in accomplishing
22 its purposes, the legal entity is not required to pay any
23 taxes or assessments of any kind whatsoever upon any property
24 acquired or used by it for such purposes or upon any revenues
25 at any time received by it. The bonds, notes, and other
26 obligations of an entity, their transfer and the income
27 therefrom, including any profits made on the sale thereof, are
28 at all times free from taxation of any kind by the state or by
29 any political subdivision or other agency or instrumentality
30 thereof. The exemption granted in this subparagraph is not
31

1 applicable to any tax imposed by chapter 220 on interest,
2 income, or profits on debt obligations owned by corporations.

3 Section 20. Subsections (1) and (2) of section
4 403.087, Florida Statutes, are amended, present subsections
5 (3) through (8) of that section are redesignated as
6 subsections (4) through (9), respectively, and new subsection
7 (3) is added to that section to read:

8 403.087 Permits; general issuance; denial; revocation;
9 prohibition; penalty.--

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

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

26 (3) A renewal of an operation permit for a domestic
27 wastewater treatment facility other than a facility regulated
28 under the National Pollutant Discharge Elimination System
29 (NPDES) Program under s. 403.0885 must be issued upon request
30 for a term of up to 10 years, for the same fee and under the
31

1 same conditions as a 5-year permit, in order to provide the
2 owner or operator with a financial incentive, if:

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

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

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

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

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

28 (f) The department, or a local program approved under
29 s. 403.182, has conducted, in the preceding 12 months, an
30 inspection of the facility and has verified in writing to the
31

1 operator of the facility that it is not exceeding the
2 permitted capacity and is in substantial compliance.

3
4 The department shall keep records of the number of 10-year
5 permits applied for and the number and duration of permits
6 issued for longer than 5 years.

7 Section 21. Section 403.0871, Florida Statutes, 1996
8 Supplement, is amended to read:

9 403.0871 Florida Permit Fee Trust Fund.--There is
10 established within the department a nonlapsing trust fund to
11 be known as the "Florida Permit Fee Trust Fund." All funds
12 received from applicants for permits pursuant to ss. 161.041,
13 161.053, 161.0535, 403.087(6)~~(5)~~, and 403.861(8) shall be
14 deposited in the Florida Permit Fee Trust Fund and shall be
15 used by the department with the advice and consent of the
16 Legislature to supplement appropriations and other funds
17 received by the department for the administration of its
18 responsibilities under this chapter and chapter 161. In no
19 case shall funds from the Florida Permit Fee Trust Fund be
20 used for salary increases without the approval of the
21 Legislature.

22 Section 22. Paragraphs (a)7. and (a)10. of subsection
23 (11) of section 403.0872, Florida Statutes, 1996 Supplement,
24 is amended to read:

25 403.0872 Operation permits for major sources of air
26 pollution; annual operation license fee.--Provided that
27 program approval pursuant to 42 U.S.C. s. 7661a has been
28 received from the United States Environmental Protection
29 Agency, beginning January 2, 1995, each major source of air
30 pollution, including electrical power plants certified under
31 s. 403.511, must obtain from the department an operation

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

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

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

28 7. If the department has not received the fee by
29 February 15 of the calendar year, the permittee must be sent a
30 written warning of the consequences for failing to pay the fee
31 by March 1. If ~~the department has not received~~ the fee is not

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

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

1 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.
2 7470-7514a.

3 Section 23. Sections 468.540, 468.541, 468.542,
4 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, and
5 468.552, Florida Statutes, and sections 468.549, 468.550, and
6 468.551, Florida Statutes, as amended by chapter 94-119, Laws
7 of Florida, are hereby repealed.

8 Section 24. Subsections (11) and (12) are added to
9 section 367.022, Florida Statutes, 1996 Supplement, to read:
10 367.022 Exemptions.--The following are not subject to
11 regulation by the commission as a utility nor are they subject
12 to the provisions of this chapter, except as expressly
13 provided:

14 (11) Any person providing only nonpotable water for
15 irrigation purposes in a geographic area where potable water
16 service is available from a governmentally or privately owned
17 utility or a private well.

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

21 Section 25. Subsection (5) of section 193.625, Florida
22 Statutes, 1996 Supplement, is amended to read:

23 193.625 High-water recharge lands; classification and
24 assessment.--

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

30 (b) Counties that choose to have a high-water recharge
31 protection tax assessment program must adopt by ordinance a

1 formula for determining the assessment of properties
2 classified as high-water recharge property and a method of
3 contracting with property owners who wish to be involved in
4 the program.

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

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

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

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

27 Section 26. Subsections (3), (4), (6), and (9) of
28 section 403.1835, Florida Statutes, are amended to read:

29 403.1835 Sewage treatment facilities revolving loan
30 program.--

31

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

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

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

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

25 (4) The term of loans made pursuant to this section
26 shall not exceed 30 years. The department may assess grant
27 allocations on the loans for the purpose of making grants to
28 financially disadvantaged small communities.~~The combined rate~~
29 ~~of interest and grant allocations rate~~ on loans shall be no
30 greater than the interest rate ~~that~~ paid on the last bonds
31 sold pursuant to s. 14, Art. VII of the State Constitution.

1 The grant allocations on a loan shall be equal to or less than
2 the interest rate on the loan.

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

5 (a) Provide a repayment schedule.

6 (b) Submit plans and specifications and evidence of
7 permittability for sewage treatment facilities and stormwater
8 management systems.

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

13 (d) Provide assurance that the facility will be
14 properly operated and maintained.

15 (e) Document that the revenues generated will be
16 sufficient to ensure that the facilities will be
17 self-supporting.

18 (f) Provide assurance that annual financial audit
19 reports, and a separate project audit prepared by an
20 independent certified public accountant upon project
21 completion, will be submitted to the department.

22 (g) Submit project planning documentation
23 demonstrating cost-effectiveness, environmental soundness,
24 public participation, and the implementability of the proposed
25 sewage treatment facilities and stormwater management systems.

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

28 (a) A nonlapsing trust fund with revolving loan
29 provisions to be known as the "Sewage Treatment Revolving Loan
30 Fund" is hereby established in the State Treasury to be used
31 as a revolving fund by the department to carry out the purpose

1 of this section. Any funds therein which are not needed on an
2 immediate basis for loans may be invested pursuant to s.
3 215.49. The cost of administering the program shall, ~~to the~~
4 ~~extent possible,~~ be paid from federal funds and, ~~when federal~~
5 ~~funds become no longer available,~~ from reasonable service fees
6 that may be imposed upon loans so as to enhance program
7 perpetuity. Grants awarded by the Federal Government, state
8 matching funds, and investment earnings thereon to fund
9 ~~revolving loans for local governmental agencies' sewage~~
10 ~~treatment facilities~~ shall be deposited into the fund. All
11 moneys available in the fund are hereby designated to carry
12 out the purpose of this section. The principal and interest of
13 all loans repaid and investment earnings shall be deposited
14 into this fund.

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

31

1 Section 27. Beginning in fiscal year 1998-1999, the
2 Department of Environmental Protection shall make available up
3 to 10 percent of the annual revenue received in the Sewage
4 Treatment Revolving Loan Fund for loans to local governmental
5 agencies for constructing stormwater management systems
6 authorized pursuant to s. 403.1835, Florida Statutes. During
7 this period of time, if the department does not receive
8 requests for projects to use the funds available for
9 stormwater management systems, such funds shall be used for
10 constructing sewage treatment facilities and other activities
11 authorized by s. 403.1835, Florida Statutes.

12 Section 28. This act shall take effect July 1, 1997.
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