

By Representative Wallace

1                                   A bill to be entitled  
2           An act relating to pollution control; amending  
3           s. 403.087, F.S.; increasing the term for which  
4           certain permits may be issued by the Department  
5           of Environmental Protection; providing for  
6           renewal of operation permits for domestic  
7           wastewater treatment facilities for up to a  
8           specified term under certain circumstances at  
9           the same fee; providing an exception; requiring  
10          the department to keep certain records;  
11          amending ss. 403.0871 and 403.0872, F.S.;  
12          conforming cross references; amending s.  
13          403.1835, F.S.; authorizing the department to  
14          administer certain loans under certain  
15          circumstances; providing additional  
16          administrative authority for funds in the  
17          Sewage Treatment Revolving Loan Fund; providing  
18          for sales of loans under certain circumstances;  
19          providing for disposition of loan sale  
20          proceeds; authorizing the department to adopt  
21          approaches to ensure viability of the fund;  
22          providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

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26           Section 1. Subsections (1) and (2) of section 403.087,  
27 Florida Statutes, are amended, subsections (3) through (8) of  
28 said section are renumbered as subsections (4) through (9),  
29 respectively, and a new subsection (3) is added to said  
30 section, to read:

31

1           403.087 Permits; general issuance; denial; revocation;  
2 prohibition; penalty.--

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

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

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

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

30           (b) The treatment facility is not operating under a  
31 temporary operating permit or a permit with an accompanying

1 administrative order and does not have any enforcement action  
2 pending against it by the Environmental Protection Agency, the  
3 department, or a local program approved 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 discharge  
10 monitoring reports required under department rule and is  
11 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.

18 (f) The department, or a local program approved under  
19 s. 403.182, has conducted during the preceding 12 months an  
20 inspection of the facility and has verified that the facility  
21 is not exceeding the permitted capacity and is in substantial  
22 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 2. 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 3. Paragraph (a) of subsection (11) of section  
12 403.0872, Florida Statutes, 1996 Supplement, is amended to  
13 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 1. For 1993 and 1994, the license fee factor is \$10.  
18 For 1995, the license fee factor is \$25. In succeeding years,  
19 the license fee factor is \$25 or another amount determined by  
20 department rule which ensures that the revenue provided by  
21 each year's operation license fees is sufficient to cover all  
22 reasonable direct and indirect costs of the major stationary  
23 source air-operation permit program established by this  
24 section. The license fee factor may be increased beyond \$25  
25 only if the secretary of the department affirmatively finds  
26 that a shortage of revenue for support of the major stationary  
27 source air-operation permit program will occur in the absence  
28 of a fee factor adjustment. The annual license fee factor may  
29 never exceed \$35. The department shall retain a nationally  
30 recognized accounting firm to conduct a study to determine the  
31 reasonable revenue requirements necessary to support the

1 development and administration of the major source  
2 air-operation permit program as prescribed in paragraph (b).  
3 The results of that determination must be considered in  
4 assessing whether a \$25-per-ton fee factor is sufficient to  
5 adequately fund the major source air-operation permit program.  
6 The results of the study must be presented to the Governor,  
7 the President of the Senate, the Speaker of the House of  
8 Representatives, and the Public Service Commission, including  
9 the Public Counsel's Office, by no later than October 31,  
10 1994.

11           2. For any source that operates for fewer hours during  
12 the calendar year than allowed under its permit, the annual  
13 fee calculation must be based upon actual hours of operation  
14 rather than allowable hours if the owner or operator of the  
15 source documents the source's actual hours of operation for  
16 the calendar year. For any source that has an emissions limit  
17 that is dependent upon the type of fuel burned, the annual fee  
18 calculation must be based on the emissions limit applicable  
19 during actual hours of operation.

20           3. For any source whose allowable emission limitation  
21 is specified by permit per units of material input or heat  
22 input or product output, the applicable input or production  
23 amount may be used to calculate the allowable emissions if the  
24 owner or operator of the source documents the actual input or  
25 production amount. If the input or production amount is not  
26 documented, the maximum allowable input or production amount  
27 specified in the permit must be used to calculate the  
28 allowable emissions.

29           4. For any new source that does not receive its first  
30 operation permit until after the beginning of a calendar year,  
31 the annual fee for the year must be reduced pro rata to

1 reflect the period during which the source was not allowed to  
2 operate.

3           5. For any source that emits less of any regulated air  
4 pollutant than allowed by permit condition, the annual fee  
5 calculation for such pollutant must be based upon actual  
6 emissions rather than allowable emissions if the owner or  
7 operator documents the source's actual emissions by means of  
8 data from a department-approved certified continuous emissions  
9 monitor or from an emissions monitoring method which has been  
10 approved by the United States Environmental Protection Agency  
11 under the regulations implementing 42 U.S.C. ss. 7651 et seq.,  
12 or from a method approved by the department for purposes of  
13 this section.

14           6. The amount of each regulated air pollutant in  
15 excess of 4,000 tons per year allowed to be emitted by any  
16 source, or group of sources belonging to the same Major Group  
17 as described in the Standard Industrial Classification Manual,  
18 1987, may not be included in the calculation of the fee. Any  
19 source, or group of sources, which does not emit any regulated  
20 air pollutant in excess of 4,000 tons per year, is allowed a  
21 one-time credit not to exceed 25 percent of the first annual  
22 licensing fee for the prorated portion of existing  
23 air-operation permit application fees remaining upon  
24 commencement of the annual licensing fees.

25           7. If the department has not received the fee by  
26 February 15 of the calendar year, the permittee must be sent a  
27 written warning of the consequences for failing to pay the fee  
28 by March 1. If the department has not received the fee by  
29 March 1 of the calendar year, the department shall impose, in  
30 addition to the fee, a penalty of 50 percent of the amount of  
31 the fee, plus interest on such amount computed in accordance

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

13 8. During the years 1993 through 1999, inclusive, no  
14 fee shall be required to be paid under this section with  
15 respect to emissions from any unit which is an affected unit  
16 under 42 U.S.C. s. 7651c.

17 9. Notwithstanding the computational provisions of  
18 this subsection, the annual operation license fee for any  
19 source subject to this section shall not be less than \$250,  
20 except that the annual operation license fee for sources  
21 permitted solely through general permits issued under s.  
22 403.814 shall not exceed \$50 per year.

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



1 air-operation permit program under s. 403.0873. The department  
2 shall, however, require fees pursuant to the provisions of s.  
3 403.087~~(6)~~~~(5)~~(a)4.a. for the construction of a new major  
4 source of air pollution that will be subject to the permitting  
5 requirements of this section once constructed and for  
6 activities triggering permitting requirements under Title I,  
7 Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss.  
8 7470-7514a.

9 Section 4. Subsections (1), (3), (9), and (10) of  
10 section 403.1835, Florida Statutes, are amended to read:

11 403.1835 Sewage treatment facilities revolving loan  
12 program.--

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

19 (3) The department is authorized to make loans to  
20 local governmental agencies to assist them in planning,  
21 designing, and constructing sewage treatment facilities. The  
22 department may administer the resulting portfolio of loans,  
23 including the authority to sell or pledge the loans, or any  
24 portion of the loans, subject to the approval of the Governor,  
25 the Treasurer, and the Comptroller, sitting as the State Board  
26 of Administration, to ensure compliance with subsection (1).  
27 The department is authorized to use the funds to provide loan  
28 guarantees, to purchase loan insurance, and to refinance local  
29 debt through the issue of new loans for projects approved by  
30 the department. Local governmental agencies are authorized to  
31 borrow funds made available pursuant to this section and may

1 pledge any revenue available to them to repay any funds  
2 borrowed. The department shall administer loans to local  
3 governmental agencies so that at least 15 percent of each  
4 annual allocation for loans is reserved for small communities.  
5 (9) A nonlapsing trust fund with revolving loan  
6 provisions to be known as the "Sewage Treatment Revolving Loan  
7 Fund" is hereby established in the State Treasury to be used  
8 as a revolving fund by the department to carry out the purpose  
9 of this section. Any funds therein which are not needed on an  
10 immediate basis for loans may be invested pursuant to s.  
11 215.49. The cost of administering the program shall, to the  
12 extent possible, be paid from federal funds and, when federal  
13 funds become no longer available, from reasonable service fees  
14 that may be imposed upon loans and from proceeds from the sale  
15 of loans as permitted by federal law. Grants awarded by the  
16 Federal Government to fund revolving loans for local  
17 governmental agencies' sewage treatment facilities shall be  
18 deposited into the fund. Proceeds from sales of loans shall  
19 be deposited into the fund. All moneys available in the fund,  
20 including investment earnings on such amounts, are hereby  
21 designated to carry out the purpose of this section. ~~The~~  
22 Principal and interest payments with respect to ~~of all~~ loans  
23 held by the fund repaid and investment earnings shall be  
24 deposited into this fund.  
25 (10)(a) Because the Legislature has experienced  
26 revenue shortfalls in recent years and has been unable to  
27 provide enough funds to fully match available federal funds to  
28 help capitalize the Sewage Treatment Revolving Loan Fund, it  
29 is necessary for innovative approaches to be considered to  
30 help capitalize the revolving loan fund. The department shall  
31 evaluate potential innovative approaches that can generate

1 funds to match available federal funds. The department may  
2 adopt approaches which will help ensure the continuing  
3 viability of the Sewage Treatment Revolving Loan Fund. The  
4 department shall consider, among other possible alternatives,  
5 the option of implementing by rule a program to allow local  
6 governments to offer funds voluntarily to the state for use as  
7 a match to available federal funds to capitalize the state  
8 sewage treatment revolving loan fund.

9 (b) The department may adopt rules necessary to  
10 administer this section.

11 Section 5. This act shall take effect October 1, 1997.

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HOUSE SUMMARY

Increases from 5 years to 10 years the term of years for certain water pollution permits issued by the Department of Environmental Protection. Provides standards and an exception for renewal of wastewater treatment operation permits at the same fee. Provides additional administrative authority by the department over the Sewage Treatment Revolving Loan Fund. Provides for sales of loans and disposition of loan sale proceeds. See bill for details.