

By the Committee on Natural Resources

312-355D-99

1 A bill to be entitled
 2 An act relating to the Department of
 3 Environmental Protection; amending s. 20.255,
 4 F.S.; deleting the Office of the Youth Corps;
 5 renaming the Division of Water Facilities as
 6 the Division of Resource Management; deleting
 7 the Division of Environmental Resource
 8 Permitting; amending s. 373.4145, F.S.;
 9 extending the expiration date for the interim
 10 permitting authority of the Department of
 11 Environmental Protection in the Northwest
 12 Florida Water Management District; amending s.
 13 86, ch. 93-213, Laws of Florida; forgiving the
 14 repayment of a loan; amending ss. 252.937,
 15 378.901, 403.021, F.S.; conforming a statutory
 16 cross-reference; providing an effective date.

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

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 20 Section 1. Subsections (2) and (6), of section 20.255,
 21 Florida Statutes, 1998 Supplement, are amended to read:

22 20.255 Department of Environmental Protection.--There
 23 is created a Department of Environmental Protection.

24 (2) There shall be two deputy secretaries and an
 25 executive coordinator for ecosystem management who are to be
 26 appointed by and shall serve at the pleasure of the secretary.
 27 The secretary may assign either deputy secretary the
 28 responsibility to supervise, coordinate, and formulate policy
 29 for any division, office, or district. The following special
 30 offices are established and headed by managers, each of whom
 31 is to be appointed by and serve at the pleasure of the

1 secretary: Office of General Counsel, Office of Inspector
2 General, Office of Communication, the latter including public
3 information, legislative liaison, cabinet liaison and special
4 projects, Office of Water Policy, Office of Intergovernmental
5 Programs, Office of Ecosystem Planning and Coordination,
6 Office of Environmental Education, and Office of Greenways and
7 Trails, ~~and an Office of the Youth Corps~~. The executive
8 coordinator for ecosystem management shall coordinate policy
9 within the department to assure the implementation of the
10 ecosystem management provisions of chapter 93-213, Laws of
11 Florida. The executive coordinator for ecosystem management
12 shall supervise only the Office of Water Policy, the Office of
13 Intergovernmental Programs, the Office of Ecosystem Planning
14 and Coordination, and the Office of Environmental Education.
15 The executive coordinator for ecosystem management may also be
16 delegated authority by the secretary to act on behalf of the
17 secretary; this authority may include the responsibility to
18 oversee the inland navigation districts. The other special
19 offices not supervised by the executive coordinator for
20 ecosystem management shall report to the secretary; however,
21 the secretary may assign them, for daily coordination
22 purposes, to report through a senior manager other than the
23 secretary. There shall be six administrative districts
24 involved in regulatory matters of waste management, water
25 facilities, wetlands, and air resources, which shall be headed
26 by managers, each of whom is to be appointed by and serve at
27 the pleasure of the secretary. Divisions of the department may
28 have one assistant or two deputy division directors, as
29 required to facilitate effective operation. The managers of
30 all divisions and offices specifically named in this section
31 and the directors of the six administrative districts are

1 exempt from part II of chapter 110 and are included in the
2 Senior Management Service in accordance with s. 110.205(2)(i).
3 No other deputy secretaries or senior management positions at
4 or above the division level, except those established in
5 chapter 110, may be created without specific legislative
6 authority.

7 (6) The following divisions of the Department of
8 Environmental Protection are established:

- 9 (a) Division of Administrative and Technical Services.
10 (b) Division of Air Resource Management.
11 (c) Division of Water Resource Management ~~Facilities~~.
12 (d) Division of Law Enforcement.
13 (e) Division of Marine Resources.
14 (f) Division of Waste Management.
15 (g) Division of Recreation and Parks.
16 (h) Division of State Lands, the director of which is
17 to be appointed by the secretary of the department, subject to
18 confirmation by the Governor and Cabinet sitting as the Board
19 of Trustees of the Internal Improvement Trust Fund.

20 ~~(i) Division of Environmental Resource Permitting.~~

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22 In order to ensure statewide and intradepartmental
23 consistency, the department's divisions shall direct the
24 district offices and bureaus on matters of interpretation and
25 applicability of the department's rules and programs.

26 Section 2. Section 373.4145, Florida Statutes, is
27 amended to read:

28 373.4145 Interim Part IV permitting program for the
29 Northwest Florida Water Management District.--

30 (1) Within the geographical jurisdiction of the
31 Northwest Florida Water Management District, the permitting

1 authority of the department under this part shall consist
2 solely of the following, notwithstanding the rule adoption
3 deadline in s. 373.414(9):

4 (a) Chapter 62-25 ~~17-25~~, Florida Administrative Code,
5 shall remain in full force and effect, and shall be
6 implemented by the department. Notwithstanding the provisions
7 of this section, chapter 62-25 ~~17-25~~, Florida Administrative
8 Code, may be amended by the department as necessary to comply
9 with any requirements of state or federal laws or regulations,
10 or any condition imposed by a federal program, or as a
11 requirement for receipt of federal grant funds.

12 (b) Rules adopted pursuant to the authority of ss.
13 403.91-403.929, 1984 Supplement to the Florida Statutes 1983,
14 as amended, in effect prior to July 1, 1994, shall remain in
15 full force and effect, and shall be implemented by the
16 department. However, the department is authorized to
17 establish additional exemptions and general permits for
18 dredging and filling, if such exemptions or general permits do
19 not allow significant adverse impacts to occur individually or
20 cumulatively. However, for the purpose of chapter 62-312
21 ~~17-312~~, Florida Administrative Code, the landward extent of
22 surface waters of the state identified in rule 62-312.030(2)
23 ~~17-312.030(2)~~, Florida Administrative Code, shall be
24 determined in accordance with the methodology in rules
25 62-340.100 ~~17-340.100~~ through 62-340.600 ~~17-340.600~~, Florida
26 Administrative Code, as ratified in s. 373.4211, upon the
27 effective date of such ratified methodology. In implementing
28 s. 373.421(2), the department shall determine the extent of
29 those surface waters and wetlands within the regulatory
30 authority of the department as described in this paragraph. At
31 the request of the petitioner, the department shall also

1 determine the extent of surface waters and wetlands which can
2 be delineated by the methodology ratified in s. 373.4211, but
3 which are not subject to the regulatory authority of the
4 department as described in this paragraph.

5 (c) The department may implement chapter 40A-4,
6 Florida Administrative Code, in effect prior to July 1, 1994,
7 pursuant to an interagency agreement with the Northwest
8 Florida Water Management District adopted under s. 373.046(4).

9 (2) The authority of the Northwest Florida Water
10 Management District to implement this part or to implement any
11 authority pursuant to delegation by the department shall not
12 be affected by this section. The rule adoption deadline in s.
13 373.414(9) shall not apply to said district.

14 (3) The division of permitting responsibilities in s.
15 373.046(4) shall not apply within the geographical
16 jurisdiction of the Northwest Florida Water Management
17 District.

18 (4) If the United States Environmental Protection
19 Agency approves an assumption of the federal program to
20 regulate the discharge of dredged or fill material by the
21 department or the water management districts, or both,
22 pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500,
23 as amended, 33 U.S.C. ss. 1251 et seq.; the United States Army
24 Corps of Engineers issues one or more state programmatic
25 general permits under the referenced statutes; or the United
26 States Environmental Protection Agency or the United States
27 Corps of Engineers approves any other delegation of regulatory
28 authority under the referenced statutes, then the department
29 may implement any permitting authority granted in this part
30 within the Northwest Florida Water Management District which
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1 is prescribed as a condition of granting such assumption,
2 general permit, or delegation.

3 (5) Within the geographical jurisdiction of the
4 Northwest Florida Water Management District, the methodology
5 for determining the landward extent of surface waters of the
6 state under chapter 403 in effect prior to the effective date
7 of the methodology ratified in s. 373.4211 shall apply to:

8 (a) Activities permitted under the rules adopted
9 pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida
10 Statutes 1983, as amended, or which were exempted from
11 regulation under such rules, prior to July 1, 1994, and which
12 were permitted under chapter 17-25, Florida Administrative
13 Code, or exempt from chapter 17-25, Florida Administrative
14 Code, prior to July 1, 1994, provided:

15 1. An activity authorized by such permits is conducted
16 in accordance with the plans, terms, and conditions of such
17 permits.

18 2. An activity exempted from the permitting
19 requirements of the rules adopted pursuant to ss.
20 403.91-403.929, 1984 Supplement to the Florida Statutes 1983,
21 as amended, or chapter 17-25, Florida Administrative Code, is:

22 a. Commenced prior to July 1, 1994, and completed by
23 July 1, 1999;

24 b. Conducted in accordance with a plan depicting the
25 activity which has been submitted to and approved for
26 construction by the department, the appropriate local
27 government, the United States Army Corps of Engineers, or the
28 Northwest Florida Water Management District; and

29 c. Conducted in accordance with the terms of the
30 exemption.

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1 (b) An activity within the boundaries of a valid
2 jurisdictional declaratory statement issued pursuant to s.
3 403.914, 1984 Supplement to the Florida Statutes 1983, as
4 amended, or the rules adopted thereunder, in response to a
5 petition received prior to June 1, 1994.

6 (c) Any modification of a permitted or exempt activity
7 as described in paragraph (a) which does not constitute a
8 substantial modification or which lessens the environmental
9 impact of such permitted or exempt activity. For the purposes
10 of this section, a substantial modification is one which is
11 reasonably expected to lead to substantially different
12 environmental impacts.

13 (d) Applications for activities permitted under the
14 rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement
15 to the 1983 Florida Statutes, as amended, which were pending
16 on June 15, 1994, unless the application elects to have
17 applied the delineation methodology ratified in s. 373.4211.

18 (6) Subsections (1), (2), (3), and (4) shall be
19 repealed effective July 1, 2004 ~~July 1, 1999~~.

20 Section 3. Subsection (2) of section 252.937, Florida
21 Statutes, 1998 Supplement, is amended to read:

22 252.937 Department powers and duties.--

23 (2) To ensure that this program is self-supporting,
24 the department shall provide administrative support, including
25 staff, facilities, materials, and services to implement this
26 part for specified stationary sources subject to s. 252.939
27 and shall provide necessary funding to local emergency
28 planning committees and county emergency management agencies
29 for work performed to implement this part. Each state agency
30 with regulatory, inspection, or technical assistance programs
31 for specified stationary sources subject to this part shall

1 enter into a memorandum of understanding with the department
2 which specifically outlines how each agency's staff,
3 facilities, materials, and services will be utilized to
4 support implementation. At a minimum, these agencies and
5 programs include: the Department of Environmental
6 Protection's Division of Air Resources Management and Division
7 of Water Resource Management ~~Facilities~~, and the Department of
8 Labor and Employment Security's Division of Safety. It is the
9 Legislature's intent to implement this part as efficiently and
10 economically as possible, using existing expertise and
11 resources, if available and appropriate.

12 Section 4. Paragraph (a) of subsection (1) of section
13 378.901, Florida Statutes, is amended to read:

14 378.901 Life-of-the-mine permit.--

15 (1) As used in this section, the term:

16 (a) "Bureau" means the Bureau of Mine Reclamation of
17 the Division of Water Resource Management ~~Environmental~~
18 ~~Resource Permitting~~ of the Department of Environmental
19 Protection.

20 Section 5. Paragraph (a) of subsection (9) of section
21 403.021, Florida Statutes, is amended to read:

22 403.021 Legislative declaration; public policy.--

23 (9)

24 (a) The Legislature finds and declares that it is
25 essential to preserve and maintain authorized water depth in
26 the existing navigation channels, port harbors, turning
27 basins, and harbor berths of this state in order to provide
28 for the continued safe navigation of deepwater shipping
29 commerce. The department shall recognize that maintenance of
30 authorized water depths consistent with port master plans
31 developed pursuant to s. 163.3178(2)(k) is an ongoing,

1 continuous, beneficial, and necessary activity that is in the
2 public interest; and it shall develop a regulatory process
3 that shall enable the ports of this state to conduct such
4 activities in an environmentally sound, safe, expeditious, and
5 cost-efficient manner. It is the further intent of the
6 Legislature that the permitting and enforcement of dredging,
7 dredged-material management, and other related activities for
8 Florida's deepwater ports pursuant to this chapter and
9 chapters 161, 253, and 373 shall be consolidated within the
10 department's Division of Water Resource Management
11 ~~Environmental Resource Permitting~~ and, with the concurrence of
12 the affected deepwater port or ports, may be administered by a
13 district office of the department or delegated to an approved
14 local environmental program.

15 Section 6. Section 86 of chapter 93-213, Laws of
16 Florida, is amended to read:

17 Section 86. The Department of Environmental Regulation
18 is authorized 54 career service positions for administering
19 the state NPDES program. Twenty-five career service positions
20 are authorized for startup of the program beginning July 1,
21 1993, and the remaining 29 career service positions beginning
22 January 1, 1994. The state NPDES program staffing shall start
23 July 1, 1993, with completion targeted for 6 months following
24 United States Environmental Protection Agency authorization to
25 administer the National Pollutant Discharge Elimination System
26 program. Implementation of positions is subject to review and
27 final approval by the secretary of the Department of
28 Environmental Regulation. The sum of \$3.2 million is hereby
29 appropriated from the Pollution Recovery Trust Fund to cover
30 program startup costs. ~~Such funds are to be repaid from a fund~~
31 ~~the Legislature deems appropriate, no later than July 1, 2000.~~

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Section 7. This act shall take effect July 1, 1999.

SENATE SUMMARY

Extends the expiration date for the interim permitting authority of the Department of Environmental Protection in the Northwest Florida Water Management District. Revises the organizational structure of the Department of Environmental Protection. Provides that an appropriation for start-up costs for the NPDES program does not have to be repaid.