

By the Committee on Natural Resources

312-1791-99

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 conforming references; extending the expiration
10 date for the interim permitting authority of
11 the Department of Environmental Protection in
12 the Northwest Florida Water Management District
13 pending adoption of rules; directing the
14 Northwest Florida Water Management District and
15 the Department of Environmental Protection to
16 develop a plan to implement a permitting
17 program under part IV of chapter 373, F.S.,
18 which is substantially equivalent to that in
19 the rest of the state by January 1, 2002;
20 requiring submittal of the plan to the Governor
21 and the Legislature; authorizing the department
22 and the Northwest Florida Water Management
23 District to adopt rules implementing part IV of
24 chapter 373, F.S., by January 1, 2002; amending
25 s. 86, ch. 93-213, Laws of Florida; forgiving
26 the repayment of a loan; amending ss. 252.937,
27 378.901, 403.021, F.S.; conforming a statutory
28 cross-reference; providing an effective date.
29
30 Be It Enacted by the Legislature of the State of Florida:
31

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

3 20.255 Department of Environmental Protection.--There
4 is created a Department of Environmental Protection.

5 (2) There shall be two deputy secretaries and an
6 executive coordinator for ecosystem management who are to be
7 appointed by and shall serve at the pleasure of the secretary.
8 The secretary may assign either deputy secretary the
9 responsibility to supervise, coordinate, and formulate policy
10 for any division, office, or district. The following special
11 offices are established and headed by managers, each of whom
12 is to be appointed by and serve at the pleasure of the
13 secretary: Office of General Counsel, Office of Inspector
14 General, Office of Communication, the latter including public
15 information, legislative liaison, cabinet liaison and special
16 projects, Office of Water Policy, Office of Intergovernmental
17 Programs, Office of Ecosystem Planning and Coordination,
18 Office of Environmental Education, and Office of Greenways and
19 Trails, ~~and an Office of the Youth Corps~~. The executive
20 coordinator for ecosystem management shall coordinate policy
21 within the department to assure the implementation of the
22 ecosystem management provisions of chapter 93-213, Laws of
23 Florida. The executive coordinator for ecosystem management
24 shall supervise only the Office of Water Policy, the Office of
25 Intergovernmental Programs, the Office of Ecosystem Planning
26 and Coordination, and the Office of Environmental Education.
27 The executive coordinator for ecosystem management may also be
28 delegated authority by the secretary to act on behalf of the
29 secretary; this authority may include the responsibility to
30 oversee the inland navigation districts. The other special
31 offices not supervised by the executive coordinator for

1 ecosystem management shall report to the secretary; however,
2 the secretary may assign them, for daily coordination
3 purposes, to report through a senior manager other than the
4 secretary. There shall be six administrative districts
5 involved in regulatory matters of waste management, water
6 facilities, wetlands, and air resources, which shall be headed
7 by managers, each of whom is to be appointed by and serve at
8 the pleasure of the secretary. Divisions of the department may
9 have one assistant or two deputy division directors, as
10 required to facilitate effective operation. The managers of
11 all divisions and offices specifically named in this section
12 and the directors of the six administrative districts are
13 exempt from part II of chapter 110 and are included in the
14 Senior Management Service in accordance with s. 110.205(2)(i).
15 No other deputy secretaries or senior management positions at
16 or above the division level, except those established in
17 chapter 110, may be created without specific legislative
18 authority.

19 (6) The following divisions of the Department of
20 Environmental Protection are established:
21 (a) Division of Administrative and Technical Services.
22 (b) Division of Air Resource Management.
23 (c) Division of Water Resource Management ~~Facilities~~.
24 (d) Division of Law Enforcement.
25 (e) Division of Marine Resources.
26 (f) Division of Waste Management.
27 (g) Division of Recreation and Parks.
28 (h) Division of State Lands, the director of which is
29 to be appointed by the secretary of the department, subject to
30 confirmation by the Governor and Cabinet sitting as the Board
31 of Trustees of the Internal Improvement Trust Fund.

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

2
3 In order to ensure statewide and intradepartmental
4 consistency, the department's divisions shall direct the
5 district offices and bureaus on matters of interpretation and
6 applicability of the department's rules and programs.

7 Section 2. Section 373.4145, Florida Statutes, is
8 amended to read:

9 373.4145 Interim Part IV permitting program for the
10 Northwest Florida Water Management District.--

11 (1) Within the geographical jurisdiction of the
12 Northwest Florida Water Management District, the permitting
13 authority of the department under this part shall consist
14 solely of the following, notwithstanding the rule adoption
15 deadline in s. 373.414(9):

16 (a) Chapter 62-25 ~~17-25~~, Florida Administrative Code,
17 shall remain in full force and effect, and shall be
18 implemented by the department. Notwithstanding the provisions
19 of this section, chapter 62-25 ~~17-25~~, Florida Administrative
20 Code, may be amended by the department as necessary to comply
21 with any requirements of state or federal laws or regulations,
22 or any condition imposed by a federal program, or as a
23 requirement for receipt of federal grant funds.

24 (b) Rules adopted pursuant to the authority of ss.
25 403.91-403.929, 1984 Supplement to the Florida Statutes 1983,
26 as amended, in effect prior to July 1, 1994, shall remain in
27 full force and effect, and shall be implemented by the
28 department. However, the department is authorized to
29 establish additional exemptions and general permits for
30 dredging and filling, if such exemptions or general permits do
31 not allow significant adverse impacts to occur individually or

1 cumulatively. However, for the purpose of chapter 62-312
2 ~~17-312~~, Florida Administrative Code, the landward extent of
3 surface waters of the state identified in rule 62-312.030(2)
4 ~~17-312.030(2)~~, Florida Administrative Code, shall be
5 determined in accordance with the methodology in rules
6 62-340.100 ~~17-340.100~~ through 62-340.600 ~~17-340.600~~, Florida
7 Administrative Code, as ratified in s. 373.4211, upon the
8 effective date of such ratified methodology. In implementing
9 s. 373.421(2), the department shall determine the extent of
10 those surface waters and wetlands within the regulatory
11 authority of the department as described in this paragraph. At
12 the request of the petitioner, the department shall also
13 determine the extent of surface waters and wetlands which can
14 be delineated by the methodology ratified in s. 373.4211, but
15 which are not subject to the regulatory authority of the
16 department as described in this paragraph.

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

21 (2) The authority of the Northwest Florida Water
22 Management District to implement this part or to implement any
23 authority pursuant to delegation by the department shall not
24 be affected by this section. The rule adoption deadline in s.
25 373.414(9) shall not apply to said district.

26 (3) The division of permitting responsibilities in s.
27 373.046(4) shall not apply within the geographical
28 jurisdiction of the Northwest Florida Water Management
29 District.

30 (4) If the United States Environmental Protection
31 Agency approves an assumption of the federal program to

1 regulate the discharge of dredged or fill material by the
2 department or the water management districts, or both,
3 pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500,
4 as amended, 33 U.S.C. ss. 1251 et seq.; the United States Army
5 Corps of Engineers issues one or more state programmatic
6 general permits under the referenced statutes; or the United
7 States Environmental Protection Agency or the United States
8 Corps of Engineers approves any other delegation of regulatory
9 authority under the referenced statutes, then the department
10 may implement any permitting authority granted in this part
11 within the Northwest Florida Water Management District which
12 is prescribed as a condition of granting such assumption,
13 general permit, or delegation.

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

19 (a) Activities permitted under the rules adopted
20 pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida
21 Statutes 1983, as amended, or which were exempted from
22 regulation under such rules, prior to July 1, 1994, and which
23 were permitted under chapter 17-25, Florida Administrative
24 Code, or exempt from chapter 17-25, Florida Administrative
25 Code, prior to July 1, 1994, provided:

26 1. An activity authorized by such permits is conducted
27 in accordance with the plans, terms, and conditions of such
28 permits.

29 2. An activity exempted from the permitting
30 requirements of the rules adopted pursuant to ss.

31

1 403.91-403.929, 1984 Supplement to the Florida Statutes 1983,
2 as amended, or chapter 17-25, Florida Administrative Code, is:

3 a. Commenced prior to July 1, 1994, and completed by
4 July 1, 1999;

5 b. Conducted in accordance with a plan depicting the
6 activity which has been submitted to and approved for
7 construction by the department, the appropriate local
8 government, the United States Army Corps of Engineers, or the
9 Northwest Florida Water Management District; and

10 c. Conducted in accordance with the terms of the
11 exemption.

12 (b) An activity within the boundaries of a valid
13 jurisdictional declaratory statement issued pursuant to s.
14 403.914, 1984 Supplement to the Florida Statutes 1983, as
15 amended, or the rules adopted thereunder, in response to a
16 petition received prior to June 1, 1994.

17 (c) Any modification of a permitted or exempt activity
18 as described in paragraph (a) which does not constitute a
19 substantial modification or which lessens the environmental
20 impact of such permitted or exempt activity. For the purposes
21 of this section, a substantial modification is one which is
22 reasonably expected to lead to substantially different
23 environmental impacts.

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

29 (6) Subsections (1), (2), (3), and (4) shall be
30 repealed upon the effective date of rules adopted under
31 paragraph (7)(c) effective July 1, 1999.

1 (7)(a) The department and the Northwest Florida Water
2 Management District are directed to develop a plan to
3 implement all or a portion of the Management and Storage of
4 Surface Water program under part IV by January 1, 2002. The
5 plan shall include recommendations for: developing rules under
6 part IV that are substantially equivalent to those in effect
7 in the rest of the state; dividing permitting responsibilities
8 between the department and the Northwest Florida Water
9 Management District; funding and staffing; applying the
10 unified wetlands delineation methodology to isolated wetlands;
11 implementing federal wetlands permitting programs; addressing
12 the implications of s. 70.001; and suggesting any legislation
13 needed to implement the plan.

14 (b) The plan shall be presented by January 1, 2000, to
15 the Governor, the President of the Senate, the Speaker of the
16 House of Representatives, and to the chairs of the relevant
17 substantive and appropriations committees of the Legislature.

18 (c) The department and Northwest Florida Water
19 Management District are authorized to adopt rules implementing
20 all or a portion of the Management and Storage of Surface
21 Water program under part IV which are substantially equivalent
22 to those in effect in the rest of the state. Such rules shall
23 be effective no later than January 1, 2002.

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

26 252.937 Department powers and duties.--

27 (2) To ensure that this program is self-supporting,
28 the department shall provide administrative support, including
29 staff, facilities, materials, and services to implement this
30 part for specified stationary sources subject to s. 252.939
31 and shall provide necessary funding to local emergency

1 planning committees and county emergency management agencies
2 for work performed to implement this part. Each state agency
3 with regulatory, inspection, or technical assistance programs
4 for specified stationary sources subject to this part shall
5 enter into a memorandum of understanding with the department
6 which specifically outlines how each agency's staff,
7 facilities, materials, and services will be utilized to
8 support implementation. At a minimum, these agencies and
9 programs include: the Department of Environmental
10 Protection's Division of Air Resources Management and Division
11 of Water Resource Management ~~Facilities~~, and the Department of
12 Labor and Employment Security's Division of Safety. It is the
13 Legislature's intent to implement this part as efficiently and
14 economically as possible, using existing expertise and
15 resources, if available and appropriate.

16 Section 4. Paragraph (a) of subsection (1) of section
17 378.901, Florida Statutes, is amended to read:

18 378.901 Life-of-the-mine permit.--

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

20 (a) "Bureau" means the Bureau of Mine Reclamation of
21 the Division of Water Resource Management ~~Environmental~~
22 ~~Resource Permitting~~ of the Department of Environmental
23 Protection.

24 Section 5. Paragraph (a) of subsection (9) of section
25 403.021, Florida Statutes, is amended to read:

26 403.021 Legislative declaration; public policy.--

27 (9)

28 (a) The Legislature finds and declares that it is
29 essential to preserve and maintain authorized water depth in
30 the existing navigation channels, port harbors, turning
31 basins, and harbor berths of this state in order to provide

1 for the continued safe navigation of deepwater shipping
2 commerce. The department shall recognize that maintenance of
3 authorized water depths consistent with port master plans
4 developed pursuant to s. 163.3178(2)(k) is an ongoing,
5 continuous, beneficial, and necessary activity that is in the
6 public interest; and it shall develop a regulatory process
7 that shall enable the ports of this state to conduct such
8 activities in an environmentally sound, safe, expeditious, and
9 cost-efficient manner. It is the further intent of the
10 Legislature that the permitting and enforcement of dredging,
11 dredged-material management, and other related activities for
12 Florida's deepwater ports pursuant to this chapter and
13 chapters 161, 253, and 373 shall be consolidated within the
14 department's Division of Water Resource Management
15 ~~Environmental Resource Permitting~~ and, with the concurrence of
16 the affected deepwater port or ports, may be administered by a
17 district office of the department or delegated to an approved
18 local environmental program.

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

21 Section 86. The Department of Environmental Regulation
22 is authorized 54 career service positions for administering
23 the state NPDES program. Twenty-five career service positions
24 are authorized for startup of the program beginning July 1,
25 1993, and the remaining 29 career service positions beginning
26 January 1, 1994. The state NPDES program staffing shall start
27 July 1, 1993, with completion targeted for 6 months following
28 United States Environmental Protection Agency authorization to
29 administer the National Pollutant Discharge Elimination System
30 program. Implementation of positions is subject to review and
31 final approval by the secretary of the Department of

1 Environmental Regulation. The sum of \$3.2 million is hereby
2 appropriated from the Pollution Recovery Trust Fund to cover
3 program startup costs. ~~Such funds are to be repaid from a fund~~
4 ~~the Legislature deems appropriate, no later than July 1, 2000.~~

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

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 SB 1250

10 The committee substitute amends the provisions relating to an
11 expiration date for the interim permitting authority of the
12 Department of Environmental Protection in the Northwest
13 Florida Water Management District. Instead of extending the
14 expiration date by 5 years, the expiration date is extended
15 until the effective date of permitting rules to be adopted by
16 the department and the Northwest Florida Water Management
17 District. Requires the department and the water management
18 district to develop a plan to implement a permitting program
19 in this district and to submit the plan to the Governor and
20 the Legislature by a date certain. Requires that the rules be
21 substantially equivalent to those in effect for the rest of
22 the state.
23
24
25
26
27
28
29
30
31