

Bill No. CS for CS for CS for SB 1406, 2nd Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

11 Representative(s) Albright offered the following:

Amendment (with title amendment)

14 Remove from the bill: Everything after the enacting clause
15
16 and insert in lieu thereof:

17 Section 1. Paragraph (b) of subsection (2) and
18 paragraph (b) of subsection (3) of section 206.9935, Florida
19 Statutes, is amended to read:

20 206.9935 Taxes imposed.--

21 (2) TAX FOR WATER QUALITY.--

22 (a)1. There is hereby levied an excise tax for the
23 privilege of producing in, importing into, or causing to be
24 imported into this state pollutants for sale, use, or
25 otherwise.

26 2. The tax shall be imposed only once on each barrel
27 or other unit of pollutant, other than petroleum products,
28 when first produced in or imported into this state. The tax on
29 pollutants first imported into or produced in this state shall
30 be imposed when the product is first sold or first removed
31 from storage. The tax shall be paid and remitted by any

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1 person who is licensed by the department to engage in the
2 production or importation of motor fuel, diesel fuel, aviation
3 fuel, or other pollutants.

4 3. The tax shall be imposed on petroleum products and
5 remitted to the department in the same manner as the motor
6 fuel tax imposed pursuant to s. 206.41.

7 (b) The excise tax shall be the applicable rate as
8 specified in subparagraph 1. per barrel or per unit of
9 pollutant, or equivalent measure as established by the
10 department, produced in or imported into the state. If the
11 unobligated balance of the Water Quality Assurance Trust Fund
12 is or falls below \$3 million, the tax shall be increased to
13 the applicable rates specified in subparagraph 2. and shall
14 remain at said rates until the unobligated balance in the fund
15 exceeds \$5 million, at which time the tax shall be imposed at
16 the rates specified in subparagraph 1. If the unobligated
17 balance of the fund exceeds \$12 million, the levy of the tax
18 shall be discontinued until the unobligated balance of the
19 fund falls below \$5 million, at which time the tax shall be
20 imposed at the rates specified in subparagraph 1. Changes in
21 the tax rates pursuant to this paragraph shall take effect on
22 the first day of the month after 30 days' notification to the
23 Department of Revenue when the unobligated balance of the fund
24 falls below or exceeds a limit set pursuant to this paragraph.
25 The unobligated balance of the Water Quality Assurance Trust
26 Fund as it relates to determination of the applicable excise
27 tax rate shall exclude the unobligated balances of funds of
28 the Dry Cleaning, Operator Certification, and nonagricultural
29 nonpoint source programs, and other required reservations of
30 fund balance. The unobligated balance in the Water Quality
31 Assurance Trust Fund is based upon the current unreserved fund

1 balance, projected revenues, authorized legislative
2 appropriations, and funding for the department's base budget
3 for the subsequent fiscal year. Determination of the
4 unobligated balance of the Water Quality Assurance Trust Fund
5 shall be performed annually subsequent to the annual
6 legislative appropriations becoming law.

7 1. As provided in this paragraph, the tax shall be
8 2.36 cents per gallon of solvents, 1 cent per gallon of motor
9 oil or other lubricants, and 2 cents per barrel of petroleum
10 products, pesticides, ammonia, and chlorine.

11 2. As provided in this paragraph, the tax shall be 5.9
12 cents per gallon of solvents, 2.5 cents per gallon of motor
13 oil or other lubricants, 2 cents per barrel of ammonia, and 5
14 cents per barrel of petroleum products, pesticides, and
15 chlorine. ingestion.

16 (3) TAX FOR INLAND PROTECTION.--

17 (a)1. There is hereby levied an excise tax for the
18 privilege of producing in, importing into, or causing to be
19 imported into this state pollutants for sale, use, or
20 otherwise.

21 2. The tax shall be imposed only once on each barrel
22 of pollutant produced in or imported into this state in the
23 same manner as the motor fuel tax imposed pursuant to s.
24 206.41. The tax shall be paid or remitted by any person who
25 is licensed by the department to engage in the production or
26 importation of motor fuel, diesel fuel, aviation fuel, or
27 other pollutants.

28 (b)1. The excise tax per barrel of pollutant, or
29 equivalent measure as established by the department, produced
30 in or imported into this state shall be:

31 a. Thirty cents if the unobligated balance of the fund

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1 is between \$100 million and \$150 million.

2 b. Sixty cents if the unobligated balance of the fund
3 is above \$50 million, but below \$100 million.

4 c. Eighty cents if the unobligated balance of the fund
5 is \$50 million or less.

6 2. Any change in the tax rate shall be effective for a
7 minimum of 6 months, unless the unobligated balance of the
8 fund requires that a higher rate be levied.

9 3. If the unobligated balance of the fund exceeds \$150
10 million, the tax shall be discontinued until such time as the
11 unobligated balance of the fund reaches \$100 million.

12 4. The Secretary of Environmental Protection shall
13 immediately notify the Department of Revenue when the
14 unobligated balance of the fund falls below or exceeds an
15 amount set herein. Changes in the tax rates pursuant to this
16 subsection shall take effect on the first day of the month
17 after 30 days' notification to the Department of Revenue by
18 the Secretary of Environmental Protection when the unobligated
19 balance of the fund falls below or exceeds a limit set
20 pursuant to this subsection. The unobligated balance of the
21 Inland Protection Trust Fund as it relates to determination of
22 the applicable excise tax rate shall exclude any required
23 reservations of fund balance. The unobligated balance of the
24 Inland Protection Trust Fund is based upon the current
25 unreserved fund balance, projected revenues, authorized
26 legislative appropriations, and funding for the department's
27 base budget for the subsequent fiscal year. Determination of
28 the unobligated balance of the Inland Protection Trust Fund
29 shall be performed annually subsequent to the annual
30 legislative appropriations becoming law.

31 (c) This subsection shall be reviewed by the

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1 Legislature during the 1998 regular legislative session.

2 Section 2. Paragraph (f) of subsection (6) of section
3 212.20, Florida Statutes, is amended to read:

4 212.20 Funds collected, disposition; additional powers
5 of department; operational expense; refund of taxes
6 adjudicated unconstitutionally collected.--

7 (6) Distribution of all proceeds under this chapter
8 shall be as follows:

9 (f) The proceeds of all other taxes and fees imposed
10 pursuant to this chapter shall be distributed as follows:

11 1. In any fiscal year, the greater of \$500 million,
12 minus an amount equal to 4.6 percent of the proceeds of the
13 taxes collected pursuant to chapter 201, or 5 percent of all
14 other taxes and fees imposed pursuant to this chapter shall be
15 deposited in monthly installments into the General Revenue
16 Fund.

17 2. Two-tenths of one percent shall be transferred to
18 the Solid Waste Management Trust Fund.

19 3. After the distribution under subparagraphs 1. and
20 2., 9.653 percent of the amount remitted by a sales tax dealer
21 located within a participating county pursuant to s. 218.61
22 shall be transferred into the Local Government Half-cent Sales
23 Tax Clearing Trust Fund.

24 4. After the distribution under subparagraphs 1., 2.,
25 and 3., 0.054 percent shall be transferred to the Local
26 Government Half-cent Sales Tax Clearing Trust Fund and
27 distributed pursuant to s. 218.65.

28 5. Of the remaining proceeds:

29 a. Beginning July 1, 1992, \$166,667 shall be
30 distributed monthly by the department to each applicant that
31 has been certified as a "facility for a new professional

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1 sports franchise" or a "facility for a retained professional
2 sports franchise" pursuant to s. 288.1162 and \$41,667 shall be
3 distributed monthly by the department to each applicant that
4 has been certified as a "new spring training franchise
5 facility" pursuant to s. 288.1162. Distributions shall begin
6 60 days following such certification and shall continue for 30
7 years. Nothing contained herein shall be construed to allow an
8 applicant certified pursuant to s. 288.1162 to receive more in
9 distributions than actually expended by the applicant for the
10 public purposes provided for in s. 288.1162(7). However, a
11 certified applicant shall receive distributions up to the
12 maximum amount allowable and undistributed under this section
13 for additional renovations and improvements to the facility
14 for the franchise without additional certification.

15 b. Beginning 30 days after notice by the Office of
16 Tourism, Trade, and Economic Development to the Department of
17 Revenue that an applicant has been certified as the
18 professional golf hall of fame pursuant to s. 288.1168 and is
19 open to the public, \$166,667 shall be distributed monthly, for
20 up to 300 months, to the applicant.

21 c. Beginning 30 days after notice by the Department of
22 Commerce to the Department of Revenue that the applicant has
23 been certified as the International Game Fish Association
24 World Center facility pursuant to s. 288.1169, and the
25 facility is open to the public, \$83,333 shall be distributed
26 monthly, for up to 180 months, to the applicant. This
27 distribution is subject to reduction pursuant to s. 288.1169.

28 d. Beginning 30 days after notice by the Office of
29 Tourism, Trade, and Economic Development to the Department of
30 Revenue that an applicant has been certified as a business
31 located and operated in an enterprise zone or designated

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1 brownfield area pursuant to s. 376.80, an amount equal to the
2 tax rebate calculated pursuant to s. 290.007(9) shall be
3 distributed, on a monthly basis and within a 12 month period,
4 to the certified business by the Department of Revenue.

5 6. All other proceeds shall remain with the General
6 Revenue Fund.

7 Section 3. Subsections (4) and (7) of section 252.87,
8 Florida Statutes, are amended to read:

9 252.87 Supplemental state reporting requirements.--

10 (4) Each employer that owns or operates a facility in
11 this state at which hazardous materials are present in
12 quantities at or above the thresholds established under ss.
13 311(b) and 312(b) of EPCRA shall comply with the reporting
14 requirements of ss. 311 and 312 of EPCRA. Such employer shall
15 also be responsible for notifying the department, the local
16 emergency planning committee and the local fire department in
17 writing within 30 days if there is a discontinuance or
18 abandonment of the employer's business activities that could
19 affect any stored hazardous materials.

20 (7) The department shall avoid duplicative reporting
21 requirements by utilizing the reporting requirements of other
22 state agencies that regulate hazardous materials to the extent
23 feasible and shall ~~only~~ request the ~~necessary~~ information
24 authorized required under EPCRA ~~or required to implement the~~
25 ~~fee provisions of this part.~~ With the advice and consent of
26 the State Emergency Response Commission for Hazardous
27 Materials, the department may require by rule that the maximum
28 daily amount entry on the chemical inventory report required
29 under s. 312 of EPCRA provide for reporting in estimated
30 actual amounts. The department may also require by rule an
31 entry for the Federal Employer Identification Number on this

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1 report. To the extent feasible, the department shall
2 encourage and accept required information in a form initiated
3 through electronic data interchange and shall describe by rule
4 the format, manner of execution, and method of electronic
5 transmission necessary for using such form.To the extent
6 feasible, the Department of Insurance, the Department of
7 Agriculture and Consumer Services, the Department of
8 Environmental Protection, the Public Service Commission, the
9 Department of Revenue, the Department of Labor and Employment
10 Security, and other state agencies which regulate hazardous
11 materials shall coordinate with the department in order to
12 avoid duplicative requirements contained in each agency's
13 respective reporting or registration forms. The other state
14 agencies that inspect facilities storing hazardous materials
15 and suppliers and distributors of covered substances shall
16 assist the department in informing the facility owner or
17 operator of the requirements of this part. The department
18 shall provide the other state agencies with the necessary
19 information and materials to inform the owners and operators
20 of the requirements of this part to ensure that the budgets of
21 these agencies are not adversely affected.

22 Section 4. Subsection (5) of section 288.047, Florida
23 Statutes, is amended to read:

24 288.047 Quick-response training for economic
25 development.--

26 (5) For the first 6 months of each fiscal year,
27 Enterprise Florida, Inc., shall set aside 30 percent of the
28 amount appropriated for the Quick-Response Training Program by
29 the Legislature to fund instructional programs for businesses
30 located in an enterprise zone or brownfield area ~~to instruct~~
31 ~~residents of an enterprise zone~~. Any unencumbered funds

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1 remaining undisbursed from this set-aside at the end of the
2 6-month period may be used to provide funding for any program
3 qualifying for funding pursuant to this section.

4 Section 5. Section 288.107, Florida Statutes, is
5 amended to read:

6 288.107 Brownfield redevelopment bonus refunds.--

7 (1) DEFINITIONS.--As used in this section:

8 (a) "Account" means the Economic Development
9 Incentives Account as authorized in s. 288.095.

10 (b) "Brownfield sites" means sites that are generally
11 abandoned, idled, or underused industrial and commercial
12 properties where expansion or redevelopment is complicated by
13 actual or perceived environmental contamination.

14 (c) "Brownfield area" means a contiguous area of one
15 or more brownfield sites, some of which may not be
16 contaminated, and which has been designated by a local
17 government by resolution. Such areas may include all or
18 portions of community redevelopment areas, enterprise zones,
19 empowerment zones, other such designated economically deprived
20 communities and areas, and
21 Environmental-Protection-Agency-designated brownfield pilot
22 projects.

23 (d) "Director" means the director of the Office of
24 Tourism, Trade, and Economic Development.

25 (e) "Eligible business" means a qualified target
26 industry business as defined in s. 288.106(2)(o) or other
27 business that can demonstrate a fixed capital investment of at
28 least \$2 million in mixed-use business activities, including
29 multiunit housing, commercial, retail, and industrial in
30 brownfield areas and which pays wages that are at least 80
31 percent of the average of all private sector wages in the

1 county in which the business is located.

2 (f) "Jobs" means full-time equivalent positions,
3 consistent with the use of such terms by the Department of
4 Labor and Employment Security for the purpose of unemployment
5 compensation tax, resulting directly from a project in this
6 state. This number does not include temporary construction
7 jobs involved with the construction of facilities for the
8 project and which are not associated with the implementation
9 of the site rehabilitation as provided in s. 376.80.

10 (g) "Office" means the Office of Tourism, Trade, and
11 Economic Development.

12 (h) "Project" means the creation of a new business or
13 the expansion of an existing business as defined in s.
14 288.106.

15 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.--There
16 shall be allowed from the account a bonus refund of \$2,500 to
17 any qualified target industry business or other eligible
18 business as defined in paragraph (1)(e)for each new Florida
19 job created in a brownfield which is claimed on the qualified
20 target industry business's annual refund claim authorized in
21 s. 288.106(6) or other similar annual claim procedure for
22 other eligible business as defined in paragraph (1)(e)and
23 approved by the office as specified in the final order issued
24 by the director.

25 (3) CRITERIA.--The minimum criteria for participation
26 in the brownfield redevelopment bonus refund are:

27 (a) The creation of at least 10 new full-time
28 permanent jobs. Such jobs shall not include construction or
29 site rehabilitation jobs associated with the implementation of
30 a brownfield site agreement as described in s. 376.80(5).

31 (b) The completion of a fixed capital investment of at

1 least \$2 million in mixed-use business activities, including
2 multiunit housing, commercial, retail, and industrial in
3 brownfield areas and which pay wages that are at least 80
4 percent of the average of all private sector wages in the
5 county in which the business is located.

6 (c)~~(b)~~ That the designation as a brownfield will
7 diversify and strengthen the economy of the area surrounding
8 the site.

9 (d)~~(c)~~ That the designation as a brownfield will
10 promote capital investment in the area beyond that
11 contemplated for the rehabilitation of the site.

12 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS
13 REFUNDS.--

14 (a) To be eligible to receive a bonus refund for new
15 Florida jobs created in a brownfield, a business must have
16 been certified as a qualified target industry business under
17 s. 288.106 or eligible business as defined in paragraph (1)(e)
18 and must have indicated on the qualified target industry tax
19 refund application form submitted in accordance with s.
20 288.106(4) or other similar agreement for other eligible
21 business as defined in paragraph (1)(e) that the project for
22 which the application is submitted is or will be located in a
23 brownfield and that the business is applying for certification
24 as a qualified brownfield business under this section, and
25 must have signed a qualified target industry tax refund
26 agreement with the office which indicates that the business
27 has been certified as a qualified target industry business
28 located in a brownfield and specifies the schedule of
29 brownfield redevelopment bonus refunds that the business may
30 be eligible to receive in each fiscal year.

31 (b) To be considered to receive an eligible brownfield

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1 redevelopment bonus refund payment, the business meeting the
2 requirements of paragraph (a) must submit a claim once each
3 fiscal year on a claim form approved by the office which
4 indicates the location of the brownfield, the address of the
5 business facility's brownfield location, the name of the
6 brownfield in which it is located, the number of jobs created,
7 and the average wage of the jobs created by the business
8 within the brownfield as defined in s. 288.106 or other
9 eligible business as defined in paragraph (1)(e) and the
10 administrative rules and policies for that section.

11 (c) The bonus refunds shall be available on the same
12 schedule as the qualified target industry tax refund payments
13 scheduled in the qualified target industry tax refund
14 agreement authorized in s. 288.106 or other similar agreement
15 for other eligible businesses as defined in paragraph (1)(e).

16 (d) After entering into a tax refund agreement as
17 provided in s. 288.106 or other similar agreement for other
18 eligible businesses as defined in paragraph (1)(e), an
19 eligible business may receive brownfield redevelopment bonus
20 refunds from the account pursuant to s. 288.106(3)(c).

21 (e) An eligible business that fraudulently claims a
22 refund under this section:

23 1. Is liable for repayment of the amount of the refund
24 to the account, plus a mandatory penalty in the amount of 200
25 percent of the tax refund, which shall be deposited into the
26 General Revenue Fund.

27 2. Commits a felony of the third degree, punishable as
28 provided in s. 775.082, s. 775.083, or s. 775.084.

29 (f) The office shall review all applications submitted
30 under s. 288.106 or other similar application forms for other
31 eligible businesses as defined in paragraph (1)(e) which

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1 indicate that the proposed project will be located in a
2 brownfield and determine, with the assistance of the
3 Department of Environmental Protection, that the project
4 location is within a brownfield as provided in this act.

5 (g) The office shall approve all claims for a
6 brownfield redevelopment bonus refund payment that are found
7 to meet the requirements of paragraphs (b) and (d).

8 (h) The director, with such assistance as may be
9 required from the office and the Department of Environmental
10 Protection, shall specify by written final order the amount of
11 the brownfield redevelopment bonus refund that is authorized
12 for the qualified target industry business for the fiscal year
13 within 30 days after the date that the claim for the annual
14 tax refund is received by the office.

15 (i) The total amount of the bonus refunds approved by
16 the director under this section in any fiscal year must not
17 exceed the total amount appropriated to the Economic
18 Development Incentives Account for this purpose for the fiscal
19 year. In the event that the Legislature does not appropriate
20 an amount sufficient to satisfy projections by the office for
21 brownfield redevelopment bonus refunds under this section in a
22 fiscal year, the office shall, not later than July 15 of such
23 year, determine the proportion of each brownfield
24 redevelopment bonus refund claim which shall be paid by
25 dividing the amount appropriated for tax refunds for the
26 fiscal year by the projected total of brownfield redevelopment
27 bonus refund claims for the fiscal year. The amount of each
28 claim for a brownfield redevelopment bonus tax refund shall be
29 multiplied by the resulting quotient. If, after the payment
30 of all such refund claims, funds remain in the Economic
31 Development Incentives Account for brownfield redevelopment

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1 tax refunds, the office shall recalculate the proportion for
2 each refund claim and adjust the amount of each claim
3 accordingly.

4 (j) Upon approval of the brownfield redevelopment
5 bonus refund, payment shall be made for the amount specified
6 in the final order. If the final order is appealed, payment
7 may not be made for a refund to the qualified target industry
8 business until the conclusion of all appeals of that order.

9 (5) ADMINISTRATION.--

10 (a) The office is authorized to verify information
11 provided in any claim submitted for tax credits under this
12 section with regard to employment and wage levels or the
13 payment of the taxes to the appropriate agency or authority,
14 including the Department of Revenue, the Department of Labor
15 and Employment Security, or any local government or authority.

16 (b) To facilitate the process of monitoring and
17 auditing applications made under this program, the office may
18 provide a list of qualified target industry businesses to the
19 Department of Revenue, to the Department of Labor and
20 Employment Security, to the Department of Environmental
21 Protection, or to any local government authority. The office
22 may request the assistance of those entities with respect to
23 monitoring the payment of the taxes listed in s. 288.106(3).

24 Section 6. Paragraph (b) of subsection (3) of section
25 288.905, Florida Statutes, is amended to read:

26 288.905 Duties of the board of directors of Enterprise
27 Florida, Inc.--

28 (3)

29 (b)1. The strategic plan required under this section
30 shall include specific provisions for the stimulation of
31 economic development and job creation in rural areas and

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1 midsize cities and counties of the state.

2 2. Enterprise Florida, Inc., shall involve local
3 governments, local and regional economic development
4 organizations, and other local, state, and federal economic,
5 international, and workforce development entities, both public
6 and private, in developing and carrying out policies,
7 strategies, and programs, seeking to partner and collaborate
8 to produce enhanced public benefit at a lesser cost.

9 3. Enterprise Florida, Inc., shall involve rural,
10 urban, small-business, and minority-business development
11 agencies and organizations, both public and private, in
12 developing and carrying out policies, strategies, and
13 programs.

14 4. Enterprise Florida, Inc., shall develop a
15 comprehensive marketing plan for redevelopment of brownfield
16 areas designated pursuant to s. 376.80. The plan must include,
17 but is not limited to, strategies to distribute information
18 about current designated brownfield areas and the available
19 economic incentives for redevelopment of brownfield areas.
20 Such strategies are to be used in the promotion of business
21 formation, expansion, recruitment, retention, and workforce
22 development programs.

23 Section 7. Subsection (9) of section 290.007, Florida
24 Statutes, is added to said section to read:

25 290.007 State incentives available in enterprise
26 zones.--The following incentives are provided by the state to
27 encourage the revitalization of enterprise zones:

28 (9) The tax rebate pursuant to s. 212.20 for a person
29 or entity who establishes a new business or expands an
30 existing business in an enterprise zone or designated
31 brownfield area as provided in this subsection.

- 1 (a) As used in this section, the term:
- 2 1. "New business" means a business entity as defined
- 3 in s. 220.03(1)(e) authorized to do business in this state
- 4 operating a professional sports franchise that exists within
- 5 the National League or American League of Major League
- 6 Baseball or the National Football League in a county having a
- 7 population of at least 1.5 million people which generates
- 8 taxes imposed under chapter 212 from the use and operation of
- 9 the business and which commences operations from property
- 10 located in an enterprise zone or brownfield area after it is
- 11 designated as such.
- 12 2. "Expanded business" means any business entity as
- 13 defined in s. 220.03(1)(e) authorized to do business in this
- 14 state operating a professional sports franchise that exists
- 15 within the National League or American League of Major League
- 16 Baseball or the National Football League in a county having a
- 17 population of at least 1.5 million people which generates
- 18 taxes imposed under chapter 212 from the use and operation of
- 19 the business and which expands by or through additions to real
- 20 and personal property within an enterprise zone or brownfield
- 21 area after it is designated as such.
- 22 (b) The Office of Tourism, Trade, and Economic
- 23 Development is responsible for certifying an applicant as a
- 24 new business or expanded business in an enterprise zone or
- 25 designated brownfield area. Each applicant shall file an
- 26 application with the Office of Tourism, Trade, and Economic
- 27 Development on a form prescribed by the Office of Tourism,
- 28 Trade, and Economic Development which provides:
- 29 1. Evidence that the new or expanded business is
- 30 located in an enterprise zone or designated brownfield area;
- 31 2. An economic analysis showing that the amount of the

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1 revenues generated or to be generated by the taxes imposed
2 under chapter 212 from the use and operation of the business
3 will equal or exceed \$1 million annually;

4 3. In the case of an expanded business, evidence
5 indicating the amount of taxes imposed under chapter 212 with
6 respect to the use and operation of the business during the 12
7 consecutive months before the commencement of expansion; and

8 4. A sworn statement, under the penalty of perjury,
9 from the applicant or, if applicable, the applicant's general
10 contractor licensed in this state to make the improvements
11 necessary to accomplish the construction, reconstruction,
12 renovation, expansion, or rehabilitation of property where a
13 new or expanded business is located and operated, which states
14 the actual cost of the construction, reconstruction,
15 renovation, expansion, or rehabilitation of the property and
16 of the applicant's share of cleanup costs if in a brownfield
17 area.

18 (c) The Office of Tourism, Trade, and Economic
19 Development shall certify an applicant within 90 days of its
20 submission of a complete application. The Office of Tourism,
21 Trade, and Economic Development may adopt rules pursuant to
22 ss. 120.536(1) and 120.54 to administer this section.

23 (d) An applicant certified as a new or expanded
24 business in an enterprise zone or designated brownfield area
25 may use funds provided pursuant to s. 212.20(6)(f)5.d. only
26 for the public purpose of paying for the construction,
27 reconstruction, renovation, expansion, or rehabilitation of
28 the premises from which the business is located and operated
29 or for the reimbursement of such costs and for the cleanup
30 costs incurred in a brownfield area which have not otherwise
31 been reimbursed to the applicant, directly or indirectly, by

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1 operation of another provision of law.

2 (e) The amount of the tax rebate under s. 212.20 to be
3 provided to a business certified pursuant to this section
4 shall be computed annually as follows:

5 1. In the case of a new business in an enterprise zone
6 or designated brownfield area, an amount equal to 75 percent
7 of the taxes imposed under chapter 212 generated each year
8 from the business; and

9 2. In the case of an expanded business in an
10 enterprise zone or designated brownfield area, an amount equal
11 to 75 percent of the additional taxes imposed under chapter
12 212 generated each year from the business in excess of the
13 taxes imposed under chapter 212 generated from the business
14 during the 12 months before the commencement of expansion of
15 the business.

16
17 In no event shall the total amount of the tax rebate provided
18 under s. 212.20(6)(f)5.d. to a business certified hereunder
19 exceed 75 percent of the cost of construction, reconstruction,
20 renovation, expansion, or rehabilitation of the property where
21 the business is located and operated and the cost of cleanup
22 of contamination of property in a brownfield area, as set
23 forth in the application submitted to the Office of Tourism,
24 Trade, and Economic Development pursuant to this section.

25 Section 8. Subsection (6) of section 376.051, Florida
26 Statutes, is added to said section to read:

27 376.051 Powers and duties of the Department of
28 Environmental Protection.--

29 (6) The department is specifically authorized to
30 utilize risk-based cleanup criteria as described in ss.
31 376.3071, 376.3078, and 376.81 in conducting cleanups on lands

1 owned by the state university system.

2 Section 9. Section 376.301, Florida Statutes, is
3 amended to read:

4 376.301 Definitions of terms used in ss.
5 376.30-376.319, 376.70, and 376.75.--When used in ss.
6 376.30-376.319, 376.70, and 376.75, unless the context clearly
7 requires otherwise, the term:

8 (1) "Aboveground hazardous substance tank" means any
9 stationary aboveground storage tank and onsite integral piping
10 that contains hazardous substances which are liquid at
11 standard temperature and pressure and has an individual
12 storage capacity greater than 110 gallons.

13 (2) "Additive effects" means a scientific principle
14 that the toxicity that occurs as a result of exposure is the
15 sum of the toxicities of the individual chemicals to which the
16 individual is exposed.

17 (3) "Antagonistic effects" means a scientific
18 principle that the toxicity that occurs as a result of
19 exposure is less than the sum of the toxicities of the
20 individual chemicals to which the individual is exposed.

21 (4) "Backlog" means reimbursement obligations incurred
22 pursuant to s. 376.3071(12), prior to March 29, 1995, or
23 authorized for reimbursement under the provisions of s.
24 376.3071(12), pursuant to chapter 95-2, Laws of Florida.
25 Claims within the backlog are subject to adjustment, where
26 appropriate.

27 (5) "Barrel" means 42 U.S. gallons at 60 degrees
28 Fahrenheit.

29 (6) "Bulk product facility" means a waterfront
30 location with at least one aboveground tank with a capacity
31 greater than 30,000 gallons which is used for the storage of

1 pollutants.

2 (7) "Cattle-dipping vat" means any structure,
3 excavation, or other facility constructed by any person, or
4 the site where such structure, excavation, or other facility
5 once existed, for the purpose of treating cattle or other
6 livestock with a chemical solution pursuant to or in
7 compliance with any local, state, or federal governmental
8 program for the prevention, suppression, control, or
9 eradication of any dangerous, contagious, or infectious
10 diseases.

11 (8) "Compression vessel" means any stationary
12 container, tank, or onsite integral piping system, or
13 combination thereof, which has a capacity of greater than 110
14 gallons, that is primarily used to store pollutants or
15 hazardous substances above atmospheric pressure or at a
16 reduced temperature in order to lower the vapor pressure of
17 the contents. Manifold compression vessels that function as a
18 single vessel shall be considered as one vessel.

19 (9) "Contaminant" means any physical, chemical,
20 biological, or radiological substance present in any medium
21 which may result in adverse effects to human health or the
22 environment or which creates an adverse nuisance,
23 organoleptic, or aesthetic condition in groundwater.

24 (10) "Contaminated site" means any contiguous land,
25 sediment, surface water, or groundwater areas that contain
26 contaminants that may be harmful to human health or the
27 environment.

28 (11) "Department" means the Department of
29 Environmental Protection.

30 (12) "Discharge" includes, but is not limited to, any
31 spilling, leaking, seeping, pouring, misapplying, emitting,

1 emptying, releasing, or dumping of any pollutant or hazardous
2 substance which occurs and which affects lands and the surface
3 and ground waters of the state not regulated by ss.
4 376.011-376.21.

5 (13) "Drycleaning facility" means a commercial
6 establishment that operates or has at some time in the past
7 operated for the primary purpose of drycleaning clothing and
8 other fabrics utilizing a process that involves any use of
9 drycleaning solvents. The term "drycleaning facility" includes
10 laundry facilities that use drycleaning solvents as part of
11 their cleaning process. The term does not include a facility
12 that operates or has at some time in the past operated as a
13 uniform rental company or a linen supply company regardless of
14 whether the facility operates as or was previously operated as
15 a drycleaning facility.

16 (14) "Drycleaning solvents" means any and all
17 nonaqueous solvents used in the cleaning of clothing and other
18 fabrics and includes perchloroethylene (also known as
19 tetrachloroethylene) and petroleum-based solvents, and their
20 breakdown products. For purposes of this definition,
21 "drycleaning solvents" only includes those drycleaning
22 solvents originating from use at a drycleaning facility or by
23 a wholesale supply facility.

24 (15) "Dry drop-off facility" means any commercial
25 retail store that receives from customers clothing and other
26 fabrics for drycleaning or laundering at an offsite
27 drycleaning facility and that does not clean the clothing or
28 fabrics at the store utilizing drycleaning solvents.

29 (16) "Engineering controls" means modifications to a
30 site to reduce or eliminate the potential for exposure to
31 petroleum products' chemicals of concern, drycleaning

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1 solvents, or other contaminants. Such modifications may
2 include, but are not limited to, physical or hydraulic control
3 measures, capping, point of use treatments, or slurry walls.

4 (17) "Wholesale supply facility" means a commercial
5 establishment that supplies drycleaning solvents to
6 drycleaning facilities.

7 (18) "Facility" means a nonresidential location
8 containing, or which contained, any underground stationary
9 tank or tanks which contain hazardous substances or pollutants
10 and have individual storage capacities greater than 110
11 gallons, or any aboveground stationary tank or tanks which
12 contain pollutants which are liquids at standard ambient
13 temperature and pressure and have individual storage
14 capacities greater than 550 gallons. This subsection shall not
15 apply to facilities covered by chapter 377, or containers
16 storing solid or gaseous pollutants, and agricultural tanks
17 having storage capacities of less than 550 gallons.

18 (19) "Flow-through process tank" means an aboveground
19 tank that contains hazardous substances or specified mineral
20 acids as defined in s. 376.321 and that forms an integral part
21 of a production process through which there is a steady,
22 variable, recurring, or intermittent flow of materials during
23 the operation of the process. Flow-through process tanks
24 include, but are not limited to, seal tanks, vapor recovery
25 units, surge tanks, blend tanks, feed tanks, check and delay
26 tanks, batch tanks, oil-water separators, or tanks in which
27 mechanical, physical, or chemical change of a material is
28 accomplished.

29 (20) "Hazardous substances" means those substances
30 defined as hazardous substances in the Comprehensive
31 Environmental Response, Compensation and Liability Act of

1 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the
2 Superfund Amendments and Reauthorization Act of 1986.

3 (21) "Institutional controls" means the restriction on
4 use or access to a site to eliminate or minimize exposure to
5 petroleum products' chemicals of concern, drycleaning
6 solvents, or other contaminants. Such restrictions may
7 include, but are not limited to, deed restrictions,
8 restrictive covenants, or conservation easements ~~use~~
9 ~~restrictions, or restrictive zoning.~~

10 (22) "Laundering on a wash, dry, and fold basis" means
11 the service provided by the owner or operator of a
12 coin-operated laundry to its customers whereby an employee of
13 the laundry washes, dries, and folds laundry for its
14 customers.

15 (23) "Marine fueling facility" means a commercial or
16 recreational coastal facility, excluding a bulk product
17 facility, providing fuel to vessels.

18 (24) "Natural attenuation" means a verifiable ~~an~~
19 approach to site rehabilitation that allows natural processes
20 to contain the spread of contamination and reduce the
21 concentrations of contaminants in contaminated groundwater and
22 soil. Natural attenuation processes may include the following:
23 sorption, biodegradation, chemical reactions with subsurface
24 materials, diffusion, dispersion, and volatilization.

25 (25) "Operator" means any person operating a facility,
26 whether by lease, contract, or other form of agreement.

27 (26) "Owner" means any person owning a facility.

28 (27) "Person" means any individual, partner, joint
29 venture, or corporation; any group of the foregoing, organized
30 or united for a business purpose; or any governmental entity.

31 (28) "Person in charge" means the person on the scene

1 who is in direct, responsible charge of a facility from which
2 pollutants are discharged, when the discharge occurs.

3 (29) "Person responsible for conducting site
4 rehabilitation" means the site owner, operator, or the person
5 designated by the site owner or operator on the reimbursement
6 application. Mortgage holders and trust holders may be
7 eligible to participate in the reimbursement program pursuant
8 to s. 376.3071(12).

9 (30) "Petroleum" includes:

10 (a) Oil, including crude petroleum oil and other
11 hydrocarbons, regardless of gravity, which are produced at the
12 well in liquid form by ordinary methods and which are not the
13 result of condensation of gas after it leaves the reservoir;
14 and

15 (b) All natural gas, including casinghead gas, and all
16 other hydrocarbons not defined as oil in paragraph (a).

17 (31) "Petroleum product" means any liquid fuel
18 commodity made from petroleum, including, but not limited to,
19 all forms of fuel known or sold as diesel fuel, kerosene, all
20 forms of fuel known or sold as gasoline, and fuels containing
21 a mixture of gasoline and other products, excluding liquefied
22 petroleum gas and American Society for Testing and Materials
23 (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual
24 oils, intermediate fuel oils (IFO) used for marine bunkering
25 with a viscosity of 30 and higher, asphalt oils, and
26 petrochemical feedstocks.

27 (32) "Petroleum products' chemicals of concern" means
28 the constituents of petroleum products, including, but not
29 limited to, xylene, benzene, toluene, ethylbenzene,
30 naphthalene, and similar chemicals, and constituents in
31 petroleum products, including, but not limited to, methyl

1 tert-butyl ether (MTBE), lead, and similar chemicals found in
2 additives, provided the chemicals of concern are present as a
3 result of a discharge of petroleum products.

4 (33) "Petroleum storage system" means a stationary
5 tank not covered under the provisions of chapter 377, together
6 with any onsite integral piping or dispensing system
7 associated therewith, which is used, or intended to be used,
8 for the storage or supply of any petroleum product. Petroleum
9 storage systems may also include oil/water separators, and
10 other pollution control devices installed at petroleum product
11 terminals as defined in this chapter and bulk product
12 facilities pursuant to, or required by, permits or best
13 management practices in an effort to control surface discharge
14 of pollutants. Nothing herein shall be construed to allow a
15 continuing discharge in violation of department rules.

16 (34) "Pollutants" includes any "product" as defined in
17 s. 377.19(11), pesticides, ammonia, chlorine, and derivatives
18 thereof, excluding liquefied petroleum gas.

19 (35) "Pollution" means the presence on the land or in
20 the waters of the state of pollutants in quantities which are
21 or may be potentially harmful or injurious to human health or
22 welfare, animal or plant life, or property or which may
23 unreasonably interfere with the enjoyment of life or property,
24 including outdoor recreation.

25 (36) "Real property owner" means the individual or
26 entity that is vested with ownership, dominion, or legal or
27 rightful title to the real property, or which has a ground
28 lease interest in the real property, on which a drycleaning
29 facility or wholesale supply facility is or has ever been
30 located.

31 (37) "Response action" means any activity, including

1 evaluation, planning, design, engineering, construction, and
2 ancillary services, which is carried out in response to any
3 discharge, release, or threatened release of a hazardous
4 substance, pollutant, or other contaminant from a facility or
5 site identified by the department under the provisions of ss.
6 376.30-376.319.

7 (38) "Response action contractor" means a person who
8 is carrying out any response action, including a person
9 retained or hired by such person to provide services relating
10 to a response action.

11 (39) "Risk reduction" means the lowering or
12 elimination of the level of risk posed to human health or the
13 environment through interim remedial actions, remedial action,
14 or institutional and, if appropriate, engineering controls.

15 (40)~~(39)~~ "Secretary" means the Secretary of
16 Environmental Protection.

17 (41)~~(40)~~ "Site rehabilitation" means the assessment of
18 site contamination and the remediation activities that reduce
19 the levels of contaminants at a site through accepted
20 treatment methods to meet the cleanup target levels
21 established for that site. For purposes of sites subject to
22 the Resource Conservation and Recovery Act, as amended, the
23 term includes removal, decontamination, and corrective action
24 of releases of hazardous substances.

25 (42)~~(41)~~ "Source removal" means the removal of free
26 product, or the removal of contaminants from soil or sediment
27 that has been contaminated to the extent that leaching to
28 groundwater or surface water has occurred or is occurring.

29 (43)~~(42)~~ "Storage system" means a stationary tank not
30 covered under the provisions of chapter 377, together with any
31 onsite integral piping or dispensing system associated

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1 therewith, which is or has been used for the storage or supply
2 of any petroleum product, pollutant, or hazardous substance as
3 defined herein, and which is registered with the Department of
4 Environmental Protection under this chapter or any rule
5 adopted pursuant hereto.

6 (44)~~(43)~~ "Synergistic effects" means a scientific
7 principle that the toxicity that occurs as a result of
8 exposure is more than the sum of the toxicities of the
9 individual chemicals to which the individual is exposed.

10 (45)~~(44)~~ "Terminal facility" means any structure,
11 group of structures, motor vehicle, rolling stock, pipeline,
12 equipment, or related appurtenances which are used or capable
13 of being used for one or more of the following purposes:
14 pumping, refining, drilling for, producing, storing, handling,
15 transferring, or processing pollutants, provided such
16 pollutants are transferred over, under, or across any water,
17 estuaries, tidal flats, beaches, or waterfront lands,
18 including, but not limited to, any such facility and related
19 appurtenances owned or operated by a public utility or a
20 governmental or quasi-governmental body. In the event of a
21 ship-to-ship transfer of pollutants, the vessel going to or
22 coming from the place of transfer and a terminal facility
23 shall also be considered a terminal facility. For the purposes
24 of ss. 376.30-376.319, the term "terminal facility" shall not
25 be construed to include spill response vessels engaged in
26 response activities related to removal of pollutants, or
27 temporary storage facilities created to temporarily store
28 recovered pollutants and matter, or waterfront facilities
29 owned and operated by governmental entities acting as agents
30 of public convenience for persons engaged in the drilling for
31 or pumping, storing, handling, transferring, processing, or

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1 refining of pollutants. However, each person engaged in the
2 drilling for or pumping, storing, handling, transferring,
3 processing, or refining of pollutants through a waterfront
4 facility owned and operated by such a governmental entity
5 shall be construed as a terminal facility.

6 ~~(46)~~(45) "Transfer" or "transferred" includes
7 onloading, offloading, fueling, bunkering, lightering, removal
8 of waste pollutants, or other similar transfers, between
9 terminal facility and vessel or vessel and vessel.

10 Section 10. Subsections (5) and (6) of section
11 376.303, Florida Statutes, are added to read:

12 (5) MAPPING.--If an institutional control is
13 implemented at any contaminated site in a brownfield area
14 designated pursuant to s. 376.80, the property owner must
15 provide information regarding the institutional control to the
16 local government for mapping purposes. The local government
17 must then note the existence of the institutional control on
18 any relevant local land use and zoning maps with a cross
19 reference to the department's site registry developed pursuant
20 to subsection (6). If the type of institutional control used
21 requires recording with the local government, then the map
22 notation shall also provide a cross reference to the book and
23 page number where recorded. When a local government is
24 provided with evidence that the department has subsequently
25 issued a no further action order without institutional
26 controls for a site currently noted on such maps, the local
27 government shall remove the notation.

28 (6) REGISTRY.--The department shall prepare and
29 maintain a registry of all contaminated sites located in a
30 brownfield area designated pursuant to s. 376.80, which are
31 subject to institutional and engineering controls, in order to

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1 provide a mechanism for the public and local governments to
2 monitor the status of these controls, monitor the department's
3 short-term and long-term protection of human health and the
4 environment in relation to these sites, and evaluate economic
5 revitalization efforts in these areas. At a minimum, the
6 registry shall include the type of institutional or
7 engineering controls employed at a particular site, types of
8 contaminants and affected media, land use limitations, and the
9 county in which the site is located. Sites listed on the
10 registry at which the department has subsequently issued a no
11 further action order without institutional controls shall be
12 removed from the registry. The department shall make the
13 registry available to the public and local governments within
14 1 year after the effective date of this act. The department
15 shall provide local governments with actual notice when the
16 registry becomes available. Local zoning and planning offices
17 shall post information on how to access the registry in public
18 view.

19 Section 11. Paragraph (i) of subsection (4) and
20 paragraph (a) of subsection (9) of section 376.3078, Florida
21 Statutes, are amended, to read:

22 376.3078 Drycleaning facility restoration; funds;
23 uses; liability; recovery of expenditures.--

24 (4) REHABILITATION CRITERIA.--It is the intent of the
25 Legislature to protect the health of all people under actual
26 circumstances of exposure. By July 1, 1999, the secretary of
27 the department shall establish criteria by rule for the
28 purpose of determining, on a site-specific basis, the
29 rehabilitation program tasks that comprise a site
30 rehabilitation program, including a voluntary site
31 rehabilitation program, and the level at which a

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1 rehabilitation program task and a site rehabilitation program
2 may be deemed completed. In establishing the rule, the
3 department shall incorporate, to the maximum extent feasible,
4 risk-based corrective action principles to achieve protection
5 of human health and safety and the environment in a
6 cost-effective manner as provided in this subsection. The
7 rule shall also include protocols for the use of natural
8 attenuation and the issuance of "no further action" letters.
9 The criteria for determining what constitutes a rehabilitation
10 program task or completion of a site rehabilitation program
11 task or site rehabilitation program, including a voluntary
12 site rehabilitation program, must:

13 (i) Establish appropriate cleanup target levels for
14 soils.

15 1. In establishing soil cleanup target levels for
16 human exposure to each contaminant found in soils from the
17 land surface to 2 feet below land surface, the department
18 shall consider the following, as appropriate: calculations
19 using a lifetime cancer risk level of 1.0E-6; a hazard index
20 of 1 or less; the best achievable detection limit; or the
21 naturally occurring background concentration. Institutional
22 controls or other methods shall be used to prevent human
23 exposure to contaminated soils more than 2 feet below the land
24 surface. Any removal of such institutional controls shall
25 require such contaminated soils to be remediated.

26 2. Leachability-based soil target levels shall be
27 based on protection of the groundwater cleanup target levels
28 or the alternate cleanup target levels for groundwater
29 established pursuant to this paragraph, as appropriate. Source
30 removal and other cost-effective alternatives that are
31 technologically feasible shall be considered in achieving the

1 leachability soil target levels established by the department.
2 The leachability goals shall not be applicable if the
3 department determines, based upon individual site
4 characteristics, that contaminants will not leach into the
5 groundwater at levels which pose a threat to human health,
6 public safety, and the environment.

7 3. Using risk-based corrective action principles, the
8 department shall approve ~~may set~~ alternative cleanup target
9 levels based upon the person responsible for site
10 rehabilitation demonstrating, using site-specific modeling and
11 risk assessment studies, that human health, public safety, and
12 the environment are protected.

13
14 The department shall require source removal, as a risk
15 reduction measure, if warranted and cost-effective. Once
16 source removal at a site is complete, the department shall
17 reevaluate the site to determine the degree of active cleanup
18 needed to continue. Further, the department shall determine
19 if the reevaluated site qualifies for monitoring only or if no
20 further action is required to rehabilitate the site. If
21 additional site rehabilitation is necessary to reach "no
22 further action" status, the department is encouraged to
23 utilize natural attenuation and monitoring where site
24 conditions warrant.

25 (9) REQUIREMENT FOR DRYCLEANING FACILITIES.--It is the
26 intent of the Legislature that the following drycleaning
27 solvent containment shall be required of the owners or
28 operators of drycleaning facilities, as follows:

29 (a) Owners or operators of drycleaning facilities
30 shall by January 1, 1997, install dikes or other containment
31 structures around each machine or item of equipment in which

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1 drycleaning solvents are used and around any area in which
2 solvents or waste-containing solvents are stored. Such dikes
3 or containment structures shall be capable of containing 110
4 percent of the capacity of each such machine and each such
5 storage area. To the extent practicable, each owner or
6 operator of a drycleaning facility shall seal or otherwise
7 render impervious those portions of all dikes' floor surfaces
8 upon which any drycleaning solvents may leak, spill, or
9 otherwise be released. A drycleaning facility that commenced
10 operating before January 1, 1996, and applied to the program
11 by December 30, 1997, is considered to have had secondary
12 containment timely installed for the purpose of determining
13 eligibility for state-funded site rehabilitation under this
14 section if the drycleaning facility meets the following
15 criteria:

16 1. Reported in the completed application that the
17 facility was not in compliance with paragraph (a) of this
18 subsection, and entered into a consent order with the
19 department to install secondary containment and installed the
20 required containment by April 15, 1999; or

21 2. Reported in the completed application that the
22 facility had installed secondary containment but stated in the
23 application that the date the facility installed secondary
24 containment was not known, and was requested by the department
25 subsequent to April 30, 1997, to apply for program eligibility
26 and did so apply within 90 days of the request, and installed
27 secondary containment by February 28, 1998.

28
29 The department shall reconsider the applications of facilities
30 that meet the criteria set forth in this paragraph and that
31 were previously determined to be ineligible due to failure to

1 comply with secondary containment requirements. The facilities
2 must meet all other eligibility requirements.

3 Section 12. Section 376.79, Florida Statutes, is
4 amended to read:

5 376.79 Definitions.--As used in ss. 376.77-376.85, the
6 term:

7 (1) "Additive effects" means a scientific principle
8 that the toxicity that occurs as a result of exposure is the
9 sum of the toxicities of the individual chemicals to which the
10 individual is exposed.

11 (2) "Antagonistic effects" means a scientific
12 principle that the toxicity that occurs as a result of
13 exposure is less than the sum of the toxicities of the
14 individual chemicals to which the individual is exposed.

15 (3) "Brownfield sites" means sites that are generally
16 abandoned, idled, or underused industrial and commercial
17 properties where expansion or redevelopment is complicated by
18 actual or perceived environmental contamination.

19 (4) "Brownfield area" means a contiguous area of one
20 or more brownfield sites, some of which may not be
21 contaminated, and which has been designated by a local
22 government by resolution. Such areas may include all or
23 portions of community redevelopment areas, enterprise zones,
24 empowerment zones, other such designated economically deprived
25 communities and areas, and Environmental Protection
26 Agency-designated brownfield pilot projects.

27 (5) "Contaminant" means any physical, chemical,
28 biological, or radiological substance present in any medium
29 which may result in adverse effects to human health or the
30 environment or which creates an adverse nuisance,
31 organoleptic, or aesthetic condition in groundwater.

1 ~~(6)~~~~(5)~~ "Contaminated site" means any contiguous land,
2 surface water, or groundwater areas that contain contaminants
3 that may be harmful to human health or the environment.

4 ~~(7)~~~~(6)~~ "Department" means the Department of
5 Environmental Protection.

6 ~~(8)~~~~(7)~~ "Engineering controls" means modifications to a
7 site to reduce or eliminate the potential for exposure to
8 contaminants. Such modifications may include, but are not
9 limited to, physical or hydraulic control measures, capping,
10 point of use treatments, or slurry walls.

11 ~~(9)~~~~(8)~~ "Environmental justice" means the fair
12 treatment of all people of all races, cultures, and incomes
13 with respect to the development, implementation, and
14 enforcement of environmental laws, regulations, and policies.

15 ~~(10)~~~~(9)~~ "Institutional controls" means the restriction
16 on use of or access to a site to eliminate or minimize
17 exposure to contaminants. Such restrictions may include, but
18 are not limited to, deed restrictions, restrictive covenants,
19 or conservation easements ~~use restrictions, or restrictive~~
20 ~~zoning.~~

21 ~~(11)~~~~(10)~~ "Local pollution control program" means a
22 local pollution control program that has received delegated
23 authority from the Department of Environmental Protection
24 under ss. 376.80(11) and 403.182.

25 ~~(12)~~~~(11)~~ "Natural attenuation" means a verifiable
26 approach to site rehabilitation which allows natural processes
27 to contain the spread of contamination and reduce the
28 concentrations of contaminants in contaminated groundwater and
29 soil. Natural attenuation processes may include sorption,
30 biodegradation, chemical reactions with subsurface materials,
31 diffusion, dispersion, and volatilization. ~~the verifiable~~

1 ~~reduction of contaminants through natural processes, which may~~
2 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

3 (13)~~(12)~~ "Person responsible for brownfield site
4 rehabilitation" means the individual or entity that is
5 designated by the local government to enter into the
6 brownfield site rehabilitation agreement with the department
7 or an approved local pollution control program and enters into
8 an agreement with the local government for redevelopment of
9 the site.

10 (14)~~(13)~~ "Person" means any individual, partner, joint
11 venture, or corporation; any group of the foregoing, organized
12 or united for a business purpose; or any governmental entity.

13 (15) "Risk reduction" means the lowering or
14 elimination of the level of risk posed to human health or the
15 environment through interim remedial actions, remedial action,
16 or institutional, and if appropriate, engineering controls.

17 (16)~~(14)~~ "Secretary" means the secretary of the
18 Department of Environmental Protection.

19 (17)~~(15)~~ "Site rehabilitation" means the assessment of
20 site contamination and the remediation activities that reduce
21 the levels of contaminants at a site through accepted
22 treatment methods to meet the cleanup target levels
23 established for that site.

24 (18)~~(16)~~ "Source removal" means the removal of free
25 product, or the removal of contaminants from soil or sediment
26 that has been contaminated to the extent that leaching to
27 groundwater or surface water has occurred or is occurring.

28 (19)~~(17)~~ "Synergistic effects" means a scientific
29 principle that the toxicity that occurs as a result of
30 exposure is more than the sum of the toxicities of the
31 individual chemicals to which the individual is exposed.

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1 Section 13. Subsections (4) and (5) and paragraph (c)
2 of subsection (7) of section 376.80, Florida Statutes, are
3 amended to read:
4 376.80 Brownfield program administration process.--
5 (4) Local governments or persons responsible for
6 rehabilitation and redevelopment of brownfield areas must
7 establish an advisory committee or use an existing advisory
8 committee that has formally expressed its intent to address
9 redevelopment of the specific brownfield area for the purpose
10 of improving public participation and receiving public
11 comments on rehabilitation and redevelopment of the brownfield
12 area, future land use, local employment opportunities,
13 community safety, and environmental justice. Such advisory
14 committee should include residents within or adjacent to the
15 brownfield area, businesses operating within the brownfield
16 area, and others deemed appropriate. The person responsible
17 for brownfield site rehabilitation must notify the advisory
18 committee of the intent to rehabilitate and redevelop the site
19 before executing the brownfield site rehabilitation agreement,
20 and provide the committee with a copy of the draft plan for
21 site rehabilitation which addresses elements required by
22 subsection (5). This includes disclosing potential reuse of
23 the property as well as site rehabilitation activities, if
24 any, to be performed. The advisory committee shall review the
25 proposed redevelopment agreement required pursuant to
26 paragraph (5)(i) and provide comments, if appropriate, to the
27 board of the local government with jurisdiction over the
28 brownfield area. The advisory committee must receive a copy of
29 the executed brownfield site rehabilitation agreement. When
30 the person responsible for brownfield site rehabilitation
31 submits a site assessment report or the technical document

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1 containing the proposed course of action following site
2 assessment to the department or the local pollution control
3 program for review, the person responsible for brownfield site
4 rehabilitation must hold a meeting or attend a regularly
5 scheduled meeting to inform the advisory committee of the
6 findings and recommendations in the site assessment report or
7 the technical document containing the proposed course of
8 action following site assessment. ~~The advisory committee must~~
9 ~~review and provide recommendations to the board of the local~~
10 ~~government with jurisdiction on the proposed site~~
11 ~~rehabilitation agreement provided in subsection (5).~~

12 (5) The person responsible for brownfield site
13 rehabilitation must enter into a brownfield site
14 rehabilitation agreement with the department or an approved
15 local pollution control program if actual contamination exists
16 at the brownfield site. The brownfield site rehabilitation
17 agreement must include:

18 (a) A brownfield site rehabilitation schedule,
19 including milestones for completion of site rehabilitation
20 tasks and submittal of technical reports and rehabilitation
21 plans as agreed upon by the parties to the agreement;

22 (b) A commitment to conduct site rehabilitation
23 activities under the observation of professional engineers or
24 geologists who are registered in accordance with the
25 requirements of chapter 471 or chapter 492, respectively.
26 Submittals provided by the person responsible for brownfield
27 site rehabilitation must be signed and sealed by a
28 professional engineer registered under chapter 471, or a
29 professional geologist registered under chapter 492,
30 certifying that the submittal and associated work comply with
31 the law and rules of the department and those governing the

1 profession. In addition, upon completion of the approved
2 remedial action, the department shall require a professional
3 engineer registered under chapter 471 or a professional
4 geologist registered under chapter 492 to certify that the
5 corrective action was, to the best of his or her knowledge,
6 completed in substantial conformance with the plans and
7 specifications approved by the department;

8 (c) A commitment to conduct site rehabilitation in
9 accordance with an approved comprehensive quality assurance
10 plan under department rules;

11 (d) A commitment to conduct site rehabilitation
12 consistent with state, federal, and local laws and consistent
13 with the brownfield site contamination cleanup criteria in s.
14 376.81, including any applicable requirements for risk-based
15 corrective action;

16 (e) Timeframes for the department's review of
17 technical reports and plans submitted in accordance with the
18 agreement. The department shall make every effort to adhere
19 to established agency goals for reasonable timeframes for
20 review of such documents;

21 (f) A commitment to secure site access for the
22 department or approved local pollution control program to all
23 brownfield sites within the eligible brownfield area for
24 activities associated with site rehabilitation;

25 (g) Other provisions that the person responsible for
26 brownfield site rehabilitation and the department agree upon,
27 that are consistent with ss. 376.77-376.85, and that will
28 improve or enhance the brownfield site rehabilitation process;

29 (h) A commitment to consider appropriate pollution
30 prevention measures and to implement those that the person
31 responsible for brownfield site rehabilitation determines are

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1 reasonable and cost-effective, taking into account the
2 ultimate use or uses of the brownfield site. Such measures
3 may include improved inventory or production controls and
4 procedures for preventing loss, spills, and leaks of hazardous
5 waste and materials, and include goals for the reduction of
6 releases of toxic materials; and

7 (i) Certification that an agreement exists between the
8 person responsible for brownfield site rehabilitation and the
9 local government with jurisdiction over the brownfield area.
10 Such agreement shall contain terms for the redevelopment of
11 the brownfield area.

12 (7) The contractor must certify to the department that
13 the contractor:

14 (c) Maintains comprehensive general liability and
15 comprehensive automobile liability insurance with minimum
16 limits of at least \$1 million per claim ~~occurrence~~ and \$1
17 million annual aggregate, sufficient to protect it from claims
18 for damage for personal injury, including accidental death, as
19 well as claims for property damage which may arise from
20 performance of work under the program, designating the state
21 as an additional insured party.

22 Section 14. Section 376.81, Florida Statutes, is
23 amended to read:

24 376.81 Brownfield site and brownfield areas
25 contamination cleanup criteria.--

26 (1) It is the intent of the Legislature to protect the
27 health of all people under actual circumstances of exposure.
28 By July 1, 2001 ~~1998~~, the secretary of the department shall
29 establish criteria by rule for the purpose of determining, on
30 a site-specific basis, the rehabilitation program tasks that
31 comprise a site rehabilitation program and the level at which

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1 a rehabilitation program task and a site rehabilitation
2 program may be deemed completed. In establishing the rule,
3 the department shall apply ~~incorporate~~, to the maximum extent
4 feasible, a risk-based corrective action process principles to
5 achieve protection of human health and safety and the
6 environment in a cost-effective manner based on the principles
7 set forth as provided in this subsection. The rule must
8 prescribe a phased risk-based corrective action process that
9 is iterative and that tailors site rehabilitation tasks to
10 site-specific conditions and risks. The department and the
11 person responsible for brownfield site rehabilitation are
12 encouraged to establish decision points at which risk
13 management decisions will be made. The department shall
14 provide an early decision, when requested, regarding
15 applicable exposure factors and a risk management approach
16 based on the current and future land use at the site.The rule
17 shall also include protocols for the use of natural
18 attenuation, the use of institutional and engineering
19 controls,and the issuance of "no further action" letters. The
20 criteria for determining what constitutes a rehabilitation
21 program task or completion of a site rehabilitation program
22 task or site rehabilitation program must:

23 (a) Consider the current exposure and potential risk
24 of exposure to humans and the environment, including multiple
25 pathways of exposure. The physical, chemical, and biological
26 characteristics of each contaminant must be considered in
27 order to determine the feasibility of risk-based corrective
28 action assessment.

29 (b) Establish the point of compliance at the source of
30 the contamination. However, the department is authorized to
31 temporarily move the point of compliance to the boundary of

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1 the property, or to the edge of the plume when the plume is
2 within the property boundary, while cleanup, including cleanup
3 through natural attenuation processes in conjunction with
4 appropriate monitoring, is proceeding. The department also is
5 authorized, pursuant to criteria provided for in this section,
6 to temporarily extend the point of compliance beyond the
7 property boundary with appropriate monitoring, if such
8 extension is needed to facilitate natural attenuation or to
9 address the current conditions of the plume, provided human
10 health, public safety, and the environment are protected.
11 When temporarily extending the point of compliance beyond the
12 property boundary, it cannot be extended further than the
13 lateral extent of the plume at the time of execution of the
14 brownfield site rehabilitation agreement, if known, or the
15 lateral extent of the plume as defined at the time of site
16 assessment. Temporary extension of the point of compliance
17 beyond the property boundary, as provided in this paragraph,
18 must include actual notice by the person responsible for
19 brownfield site rehabilitation to local governments and the
20 owners of any property into which the point of compliance is
21 allowed to extend and constructive notice to residents and
22 business tenants of the property into which the point of
23 compliance is allowed to extend. Persons receiving notice
24 pursuant to this paragraph shall have the opportunity to
25 comment within 30 days of receipt of the notice.

26 (c) Ensure that the site-specific cleanup goal is that
27 all contaminated brownfield sites and brownfield areas
28 ultimately achieve the applicable cleanup target levels
29 provided in this section. In the circumstances provided below,
30 and after constructive notice and opportunity to comment
31 within 30 days from receipt of the notice to local government,

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1 to owners of any property into which the point of compliance
2 is allowed to extend, and to residents on any property into
3 which the point of compliance is allowed to extend, the
4 department may allow concentrations of contaminants to
5 temporarily exceed the applicable cleanup target levels while
6 cleanup, including cleanup through natural attenuation
7 processes in conjunction with appropriate monitoring, is
8 proceeding, if human health, public safety, and the
9 environment are protected.

10 (d) Allow brownfield site and brownfield area
11 rehabilitation programs to include the use of institutional or
12 engineering controls, where appropriate, to eliminate or
13 control the potential exposure to contaminants of humans or
14 the environment. The use of controls must be preapproved by
15 the department and only after constructive notice and
16 opportunity to comment within 30 days from receipt of notice
17 is provided to local governments, to owners of any property
18 into which the point of compliance is allowed to extend, and
19 to residents on any property into which the point of
20 compliance is allowed to extend. When institutional or
21 engineering controls are implemented to control exposure, the
22 removal of the controls must have prior department approval
23 and must be accompanied by the resumption of active cleanup,
24 or other approved controls, unless cleanup target levels under
25 this section have been achieved.

26 (e) Consider the additive effects of contaminants.
27 The synergistic and antagonistic effects shall also be
28 considered when the scientific data become available.

29 (f) Take into consideration individual site
30 characteristics, which shall include, but not be limited to,
31 the current and projected use of the affected groundwater and

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1 surface water in the vicinity of the site, current and
2 projected land uses of the area affected by the contamination,
3 the exposed population, the degree and extent of
4 contamination, the rate of contaminant migration, the apparent
5 or potential rate of contaminant degradation through natural
6 attenuation processes, the location of the plume, and the
7 potential for further migration in relation to site property
8 boundaries.

9 (g) Apply state water quality standards as follows:

10 1. Cleanup target levels for each contaminant found in
11 groundwater shall be the applicable state water quality
12 standards. Where such standards do not exist, the cleanup
13 target levels for groundwater shall be based on the minimum
14 criteria specified in department rule. The department shall
15 apply ~~consider~~ the following, as appropriate, in establishing
16 the applicable cleanup target levels ~~minimum criteria~~:
17 calculations using a lifetime cancer risk level of 1.0E-6; a
18 hazard index of 1 or less; the best achievable detection
19 limit; and the naturally occurring background concentration;
20 ~~or~~ nuisance, organoleptic, and aesthetic considerations.
21 However, the department shall not require site rehabilitation
22 to achieve a cleanup target level for any individual
23 contaminant which is more stringent than the site-specific,
24 naturally occurring background concentration for that
25 contaminant.

26 2. Where surface waters are exposed to contaminated
27 groundwater, the cleanup target levels for the contaminants
28 shall be based on the more protective of the groundwater or
29 surface water standards as established by department rule.
30 The point of measuring compliance with the surface water
31 standards shall be in the groundwater immediately adjacent to

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1 the surface water body.

2 3. Using risk-based corrective action principles, the
3 department shall approve ~~may set~~ alternative cleanup target
4 levels in conjunction with institutional and engineering
5 controls, if needed, based upon an applicant's demonstration,
6 using site-specific data, modeling results, ~~and~~ risk
7 assessment studies, risk reduction techniques, or a
8 combination thereof, that human health, public safety, and the
9 environment are protected to the same degree as provided in
10 subparagraphs 1. and 2. Where a state water quality standard
11 is applicable, a deviation may not result in the application
12 of cleanup target levels more stringent than the standard. In
13 determining whether it is appropriate to establish alternative
14 cleanup target levels at a site, the department must consider
15 the effectiveness of source removal, if any, which ~~that~~ has
16 been completed at the site and the practical likelihood of the
17 use of low yield or poor quality groundwater, the use of
18 groundwater near marine surface water bodies, the current and
19 projected use of the affected groundwater in the vicinity of
20 the site, or the use of groundwater in the immediate vicinity
21 of the contaminated area, where it has been demonstrated that
22 the groundwater contamination is not migrating away from such
23 localized source, provided human health, public safety, and
24 the environment are protected. When using alternative cleanup
25 target levels at a brownfield site, institutional controls
26 shall not be required if:

27 a. The only cleanup target levels exceeded are the
28 groundwater cleanup target levels derived from nuisance,
29 organoleptic, or aesthetic considerations;

30 b. Concentrations of all contaminants meet the state
31 water quality standards or minimum criteria, based on

1 protection of human health, provided in subparagraph 1.;

2 c. All of the groundwater cleanup target levels
3 established pursuant to subparagraph 1. are met at the
4 property boundary;

5 d. The person responsible for brownfield site
6 rehabilitation has demonstrated that the contaminants will not
7 migrate beyond the property boundary at concentrations
8 exceeding the groundwater cleanup target levels established
9 pursuant to subparagraph 1.;

10 e. The property has access to and is using an offsite
11 water supply and no unplugged private wells are used for
12 domestic purposes; and

13 f. The real property owner provides written acceptance
14 of the "no further action" proposal to the department or the
15 local pollution control program.

16 (h) Provide for the department to issue a "no further
17 action order," with conditions, including, but not limited to,
18 the use of institutional or engineering controls where
19 appropriate, when alternative cleanup target levels
20 established pursuant to subparagraph (g)3. have been achieved,
21 or when the person responsible for brownfield site
22 rehabilitation can demonstrate that the cleanup target level
23 is unachievable within available technologies. Prior to
24 issuing such an order, the department shall consider the
25 feasibility of an alternative site rehabilitation technology
26 in the brownfield area.

27 (i) Establish appropriate cleanup target levels for
28 soils.

29 1. In establishing soil cleanup target levels for
30 human exposure to each contaminant found in soils from the
31 land surface to 2 feet below land surface, the department

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1 shall apply ~~consider~~ the following, as appropriate:
2 calculations using a lifetime cancer risk level of 1.0E-6; a
3 hazard index of 1 or less; and the best achievable detection
4 limit; ~~or the naturally occurring background concentration.~~
5 However, the department shall not require site rehabilitation
6 to achieve a cleanup target level for an individual
7 contaminant which is more stringent than the site-specific,
8 naturally occurring background concentration for that
9 contaminant. Institutional controls or other methods shall be
10 used to prevent human exposure to contaminated soils more than
11 2 feet below the land surface. Any removal of such
12 institutional controls shall require such contaminated soils
13 to be remediated.

14 2. Leachability-based soil target levels shall be
15 based on protection of the groundwater cleanup target levels
16 or the alternate cleanup target levels for groundwater
17 established pursuant to this paragraph, as appropriate. Source
18 removal and other cost-effective alternatives that are
19 technologically feasible shall be considered in achieving the
20 leachability soil target levels established by the department.
21 The leachability goals shall not be applicable if the
22 department determines, based upon individual site
23 characteristics, and in conjunction with institutional and
24 engineering controls, if needed, that contaminants will not
25 leach into the groundwater at levels that ~~which~~ pose a threat
26 to human health, public safety, and the environment.

27 3. Using risk-based corrective action principles, the
28 department shall approve ~~may set~~ alternative cleanup target
29 levels in conjunction with institutional and engineering
30 controls, if needed, based upon an applicant's demonstration,
31 using site-specific data, modeling results, ~~and~~ risk

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1 assessment studies, risk reduction techniques, or a
2 combination thereof,that human health, public safety, and the
3 environment are protected to the same degree as provided in
4 subparagraphs 1. and 2.

5 (2) The department shall require source removal, as a
6 risk reduction measure,if warranted and cost-effective. Once
7 source removal at a site is complete, the department shall
8 reevaluate the site to determine the degree of active cleanup
9 needed to continue. Further, the department shall determine
10 if the reevaluated site qualifies for monitoring only or if no
11 further action is required to rehabilitate the site. If
12 additional site rehabilitation is necessary to reach "no
13 further action" status, the department is encouraged to
14 utilize natural attenuation and monitoring where site
15 conditions warrant.

16 (3) The cleanup criteria described in this section
17 govern only site rehabilitation activities occurring at the
18 contaminated site. Removal of contaminated media from a site
19 for offsite relocation or treatment must be in accordance with
20 all applicable federal, state, and local laws and regulations.

21 Section 15. Paragraph (k) is added to subsection (2)
22 of section 376.82, Florida Statutes, to read:

23 376.82 Eligibility criteria and liability
24 protection.--

25 (2) LIABILITY PROTECTION.--

26 (k) A person whose property becomes contaminated due
27 to geophysical or hydrologic reasons, including the migration
28 of contaminants onto their property from the operation of
29 facilities and activities on a nearby designated brownfield
30 area, and whose property has never been occupied by a business
31 that utilized or stored the contaminants or similar

1 constituents is not subject to administrative or judicial
2 action brought by or on behalf of another to compel the
3 rehabilitation of or the payment of the costs for the
4 rehabilitation of sites contaminated by materials that
5 migrated onto the property from the designated brownfield
6 area, if the person:

7 1. Does not own and has never held an ownership
8 interest in, or shared in the profits of, activities in the
9 designated brownfield area operated at the source location;

10 2. Did not participate in the operation or management
11 of the activities in the designated brownfield area operated
12 at the source location; and

13 3. Did not cause, contribute to, or exacerbate the
14 release or threat of release of any hazardous substance
15 through any act or omission.

16 Section 16. Section 376.84, Florida Statutes, is
17 amended to read:

18 376.84 Brownfield redevelopment economic
19 incentives.--It is the intent of the Legislature that
20 brownfield redevelopment activities be viewed as opportunities
21 to significantly improve the utilization, general condition,
22 and appearance of these sites. Alternative ~~Different~~ standards
23 than those in place for new development, as allowed under
24 current state and local laws, should be used to the fullest
25 extent to encourage the redevelopment of a brownfield. State
26 and local governments are encouraged to offer redevelopment
27 incentives for this purpose, as an ongoing public investment
28 in infrastructure and services, to help eliminate the public
29 health and environmental hazards, and to promote the creation
30 of jobs in these areas. These ~~Such~~ incentives may include
31 financial, regulatory, and technical assistance to persons and

1 businesses involved in the redevelopment of the brownfield
2 pursuant to this act.

3 (1) Financial incentives and local incentives for
4 redevelopment may include, but not be limited to:

5 (a) Tax increment financing through community
6 redevelopment agencies, pursuant to part III of chapter 163,
7 or any other entities approved by the local government for the
8 purpose of redeveloping brownfield areas.

9 (b) Enterprise zone tax exemptions for businesses
10 pursuant to chapters 196 and 290.

11 (c) Safe neighborhood improvement districts as
12 provided in ss. 163.501-163.523.

13 (d) Waiver, reduction, or limitation by line of
14 business with respect to occupational license taxes pursuant
15 to chapter 205.

16 (e) Tax exemption for historic properties as provided
17 in s. 196.1997.

18 (f) Residential electricity exemption of up to the
19 first 500 kilowatts of use may be exempted from the municipal
20 public service tax pursuant to s. 166.231.

21 (g) Minority business enterprise programs as provided
22 in s. 287.0943.

23 (h) Electric and gas tax exemption as provided in s.
24 166.231(6).

25 (i) Economic development tax abatement as provided in
26 s. 196.1995.

27 (j) Grants, including community development block
28 grants.

29 (k) Pledging of revenues to secure bonds.

30 (l) Low-interest revolving loans and zero-interest
31 loan pools.

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- 1 (m) Local grant programs for facade, storefront,
2 signage, and other business improvements.
- 3 (n) Governmental coordination of loan programs with
4 lenders, such as microloans, business reserve fund loans,
5 letter of credit enhancements, gap financing, land lease and
6 sublease loans, and private equity.
- 7 (o) Payment schedules over time for payment of fees,
8 within criteria, and marginal cost pricing.
- 9 (p) The tax rebate established for certified
10 businesses located and operated in a designated brownfield
11 area under s. 290.007(9).
- 12 (2) Regulatory incentives may include, but not be
13 limited to:
 - 14 (a) Cities' absorption of developers' concurrency
15 needs.
 - 16 (b) Developers' performance of certain analyses.
 - 17 (c) Exemptions and lessening of state and local review
18 requirements.
 - 19 (d) Water and sewer regulatory incentives.
 - 20 (e) Waiver of transportation impact fees and permit
21 fees.
 - 22 (f) Zoning incentives to reduce review requirements
23 for redevelopment changes in use and occupancy; establishment
24 of code criteria for specific uses; and institution of credits
25 for previous use within the area.
 - 26 (g) Flexibility in parking standards and buffer zone
27 standards.
 - 28 (h) Environmental management through specific code
29 criteria and conditions allowed by current law.
 - 30 (i) Maintenance standards and activities by ordinance
31 and otherwise, and increased security and crime prevention

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1 measures available through special assessments.

2 (j) Traffic-calming measures.

3 (k) Historic preservation ordinances, loan programs,
4 and review and permitting procedures.

5 (l) One-stop permitting and streamlined development
6 and permitting process.

7 (3) Technical assistance incentives may include, but
8 not be limited to:

9 (a) Expedited development applications.

10 (b) Formal and informal information on business
11 incentives and financial programs.

12 (c) Site design assistance.

13 (d) Marketing and promotion of projects or areas.

14 (4) A local government having a designated brownfield
15 area under s. 376.80 and a brownfield site rehabilitation
16 agreement under subsection (5) of that section may issue
17 revenue bonds under s. 163.385 and employ tax increment
18 financing under s. 163.387 for the purpose of financing the
19 implementation of the brownfield site rehabilitation agreement
20 and the local government's approved plan for revitalizing the
21 brownfield area, except that in a charter county such
22 incentive shall be employed consistent with the provisions of
23 s. 163.410.

24 (5) A local government having a designated brownfield
25 area as described in subsection (4) may also exercise the
26 powers granted under s. 163.514 for community redevelopment
27 improvement districts, including the authority to levy special
28 assessments when such mechanisms will assist in revitalizing
29 the brownfield area.

30 Section 17. Paragraph (d) is added to subsection (3)
31 of section 403.973, Florida Statutes, to read:

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1 403.973 Expedited permitting; comprehensive plan
2 amendments.--

3 (3)

4 (d) Projects located in a designated brownfield area
5 are eligible for the expedited permitting process.

6 Section 18. Subsection (1) of section 190.012, Florida
7 Statutes, is amended to read:

8 190.012 Special powers; public improvements and
9 community facilities.--The district shall have, and the board
10 may exercise, subject to the regulatory jurisdiction and
11 permitting authority of all applicable governmental bodies,
12 agencies, and special districts having authority with respect
13 to any area included therein, any or all of the following
14 special powers relating to public improvements and community
15 facilities authorized by this act:

16 (1) To finance, fund, plan, establish, acquire,
17 construct or reconstruct, enlarge or extend, equip, operate,
18 and maintain systems, facilities, and basic infrastructures
19 for the following:

20 (a) Water management and control for the lands within
21 the district and to connect some or any of such facilities
22 with roads and bridges.

23 (b) Water supply, sewer, and wastewater management,
24 reclamation, and reuse or any combination thereof, and to
25 construct and operate connecting intercepting or outlet sewers
26 and sewer mains and pipes and water mains, conduits, or
27 pipelines in, along, and under any street, alley, highway, or
28 other public place or ways, and to dispose of any effluent,
29 residue, or other byproducts of such system or sewer system.

30 (c) Bridges or culverts that may be needed across any
31 drain, ditch, canal, floodway, holding basin, excavation,

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1 public highway, tract, grade, fill, or cut and roadways over
2 levees and embankments, and to construct any and all of such
3 works and improvements across, through, or over any public
4 right-of-way, highway, grade, fill, or cut.

5 (d)1. District roads equal to or exceeding the
6 specifications of the county in which such district roads are
7 located, and street lights.

8 2. Buses, trolleys, transit shelters, ridesharing
9 facilities and services, parking improvements, and related
10 signage.

11 (e) Investigation and remediation costs associated
12 with the cleanup of actual or perceived environmental
13 contamination within the district under the supervision or
14 direction of a competent governmental authority unless the
15 covered costs benefit any person who is a landowner within the
16 district and who caused or contributed to the contamination.

17 ~~(f)~~(e) Conservation areas, mitigation areas, and
18 wildlife habitat, including the maintenance of any plant or
19 animal species, and any related interest in real or personal
20 property.

21 ~~(g)~~(f) Any other project within or without the
22 boundaries of a district when a local government issued a
23 development order pursuant to s. 380.06 or s. 380.061
24 approving or expressly requiring the construction or funding
25 of the project by the district, or when the project is the
26 subject of an agreement between the district and a
27 governmental entity and is consistent with the local
28 government comprehensive plan of the local government within
29 which the project is to be located.

30 Section 19. Section 712.01, Florida Statutes, is
31 amended to read:

1 712.01 Definitions.--As used in this law:

2 (1) The term "person" as used herein denotes singular
3 or plural, natural or corporate, private or governmental,
4 including the state and any political subdivision or agency
5 thereof as the context for the use thereof requires or denotes
6 and including any homeowners' association.

7 (2) "Root of title" means any title transaction
8 purporting to create or transfer the estate claimed by any
9 person and which is the last title transaction to have been
10 recorded at least 30 years prior to the time when
11 marketability is being determined. The effective date of the
12 root of title is the date on which it was recorded.

13 (3) "Title transaction" means any recorded instrument
14 or court proceeding which affects title to any estate or
15 interest in land and which describes the land sufficiently to
16 identify its location and boundaries.

17 (4) The term "homeowners' association" means a
18 homeowners' association as defined in s. 617.301(7), or an
19 association of parcel owners which is authorized to enforce
20 use restrictions that are imposed on the parcels.

21 (5) The term "parcel" means real property which is
22 used for residential purposes that is subject to exclusive
23 ownership and which is subject to any covenant or restriction
24 of a homeowners' association.

25 (6) The term "covenant or restriction" means any
26 agreement or limitation contained in a document recorded in
27 the public records of the county in which a parcel is located
28 which subjects the parcel to any use restriction which may be
29 enforced by a homeowners' association or which authorizes a
30 homeowners' association to impose a charge or assessment
31 against the parcel or the owner of the parcel or which may be

1 enforced by the Florida Department of Environmental Protection
2 pursuant to chapter 376 or chapter 403.

3 Section 20. Section 712.03, Florida Statutes, is
4 amended to read:

5 712.03 Exceptions to marketability.--Such marketable
6 record title shall not affect or extinguish the following
7 rights:

8 (1) Estates or interests, easements and use
9 restrictions disclosed by and defects inherent in the
10 muniments of title on which said estate is based beginning
11 with the root of title; provided, however, that a general
12 reference in any of such muniments to easements, use
13 restrictions or other interests created prior to the root of
14 title shall not be sufficient to preserve them unless specific
15 identification by reference to book and page of record or by
16 name of recorded plat be made therein to a recorded title
17 transaction which imposed, transferred or continued such
18 easement, use restrictions or other interests; subject,
19 however, to the provisions of subsection (5).

20 (2) Estates, interests, claims, or charges, or any
21 covenant or restriction, preserved by the filing of a proper
22 notice in accordance with the provisions hereof.

23 (3) Rights of any person in possession of the lands,
24 so long as such person is in such possession.

25 (4) Estates, interests, claims, or charges arising out
26 of a title transaction which has been recorded subsequent to
27 the effective date of the root of title.

28 (5) Recorded or unrecorded easements or rights,
29 interest or servitude in the nature of easements,
30 rights-of-way and terminal facilities, including those of a
31 public utility or of a governmental agency, so long as the

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1 same are used and the use of any part thereof shall except
2 from the operation hereof the right to the entire use thereof.
3 No notice need be filed in order to preserve the lien of any
4 mortgage or deed of trust or any supplement thereto
5 encumbering any such recorded or unrecorded easements, or
6 rights, interest, or servitude in the nature of easements,
7 rights-of-way, and terminal facilities. However, nothing
8 herein shall be construed as preserving to the mortgagee or
9 grantee of any such mortgage or deed of trust or any
10 supplement thereto any greater rights than the rights of the
11 mortgagor or grantor.

12 (6) Rights of any person in whose name the land is
13 assessed on the county tax rolls for such period of time as
14 the land is so assessed and which rights are preserved for a
15 period of 3 years after the land is last assessed in such
16 person's name.

17 (7) State title to lands beneath navigable waters
18 acquired by virtue of sovereignty.

19 (8) A restriction or covenant recorded pursuant to
20 chapter 376 or chapter 403.

21 Section 21. Paragraph (j) of subsection (3) of section
22 163.2517, Florida Statutes, is amended to read:

23 163.2517 Designation of urban infill and redevelopment
24 area.--

25 (3) A local government seeking to designate a
26 geographic area within its jurisdiction as an urban infill and
27 redevelopment area shall prepare a plan that describes the
28 infill and redevelopment objectives of the local government
29 within the proposed area. In lieu of preparing a new plan, the
30 local government may demonstrate that an existing plan or
31 combination of plans associated with a community redevelopment

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1 area, Florida Main Street program, Front Porch Florida
2 Community, sustainable community, enterprise zone, or
3 neighborhood improvement district includes the factors listed
4 in paragraphs (a)-(n), including a collaborative and holistic
5 community participation process, or amend such existing plans
6 to include these factors. The plan shall demonstrate the local
7 government and community's commitment to comprehensively
8 address the urban problems within the urban infill and
9 redevelopment area and identify activities and programs to
10 accomplish locally identified goals such as code enforcement;
11 improved educational opportunities; reduction in crime;
12 neighborhood revitalization and preservation; provision of
13 infrastructure needs, including mass transit and multimodal
14 linkages; and mixed-use planning to promote multifunctional
15 redevelopment to improve both the residential and commercial
16 quality of life in the area. The plan shall also:

17 (j) Identify and adopt a package of financial and
18 local government incentives which the local government will
19 offer for new development, expansion of existing development,
20 and redevelopment within the urban infill and redevelopment
21 area. Examples of such incentives include:

- 22 1. Waiver of license and permit fees.
- 23 2. Exemption of sales made in the urban infill and
24 redevelopment area from ~~Waiver of~~ local option sales surtaxes
25 imposed pursuant to s. 212.054 ~~taxes~~.
- 26 3. Waiver of delinquent local taxes or fees to promote
27 the return of property to productive use.
- 28 4. Expedited permitting.
- 29 5. Lower transportation impact fees for development
30 which encourages more use of public transit, pedestrian, and
31 bicycle modes of transportation.

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1 6. Prioritization of infrastructure spending within
2 the urban infill and redevelopment area.

3 7. Local government absorption of developers'
4 concurrency costs.

5
6 In order to be authorized to recognize the exemption from
7 local option sales surtaxes pursuant to subparagraph 2., the
8 owner, lessee, or lessor of the new development, expanding
9 existing development, or redevelopment within the urban infill
10 and redevelopment area must file an application under oath
11 with the governing body having jurisdiction over the urban
12 infill and redevelopment area where the business is located.
13 The application must include the name and address of the
14 business claiming the exclusion from collecting local option
15 surtaxes; an address and assessment roll parcel number of the
16 urban infill and redevelopment area for which the exemption is
17 being sought; a description of the improvements made to
18 accomplish the new development, expanding development, or
19 redevelopment of the real property; a copy of the building
20 permit application or the building permit issued for the
21 development of the real property; a new application for a
22 certificate of registration with the Department of Revenue
23 with the address of the new development, expanding
24 development, or redevelopment; and the location of the
25 property. The local government must review and approve the
26 application and submit the completed application and
27 documentation along with a copy of the ordinance adopted
28 pursuant to subsection (5) to the Department of Revenue in
29 order for the business to become eligible to make sales exempt
30 from local option sales surtaxes in the urban infill and
31 redevelopment area.

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1 Section 22. Subsection (13) of section 212.08, Florida
2 Statutes, is amended to read:

3 212.08 Sales, rental, use, consumption, distribution,
4 and storage tax; specified exemptions.--The sale at retail,
5 the rental, the use, the consumption, the distribution, and
6 the storage to be used or consumed in this state of the
7 following are hereby specifically exempt from the tax imposed
8 by this chapter.

9 (13) No transactions shall be exempt from the tax
10 imposed by this chapter except those expressly exempted
11 herein. All laws granting tax exemptions, to the extent they
12 may be inconsistent or in conflict with this chapter,
13 including, but not limited to, the following designated laws,
14 shall yield to and be superseded by the provisions of this
15 subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31,
16 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14,
17 315.11, 348.65, 348.762, 349.13, 403.1834, 616.07, and 623.09,
18 and the following Laws of Florida, acts of the year indicated:
19 s. 31, chapter 30843, 1955; s. 19, chapter 30845, 1955; s. 12,
20 chapter 30927, 1955; s. 8, chapter 31179, 1955; s. 15, chapter
21 31263, 1955; s. 13, chapter 31343, 1955; s. 16, chapter
22 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-2261; s.
23 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11, chapter
24 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446; and
25 s. 10, chapter 67-1681. This subsection does not supersede the
26 authority of a local government to adopt financial and local
27 government incentives pursuant to s. 163.2517.

28 Section 23. Section 163.2523, Florida Statutes, is
29 amended to read:

30 163.2523 Grant program.--An Urban Infill and
31 Redevelopment Assistance Grant Program is created for local

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1 governments. A local government may allocate grant money to
2 special districts, including community redevelopment agencies,
3 and nonprofit community development organizations to implement
4 projects consistent with an adopted urban infill and
5 redevelopment plan or plan employed in lieu thereof. Thirty
6 percent of the general revenue appropriated for this program
7 shall be available for planning grants to be used by local
8 governments for the development of an urban infill and
9 redevelopment plan, including community participation
10 processes for the plan. Sixty percent of the general revenue
11 appropriated for this program shall be available for
12 fifty/fifty matching grants for implementing urban infill and
13 redevelopment projects that further the objectives set forth
14 in the local government's adopted urban infill and
15 redevelopment plan or plan employed in lieu thereof. The
16 remaining 10 percent of the revenue must be used for outright
17 grants for implementing projects requiring an expenditure of
18 under \$50,000. If the volume of fundable applications under
19 any of the allocations specified in this section does not
20 fully obligate the amount of the allocation, the Department of
21 Community Affairs may transfer the unused balance to the
22 category having the highest dollar value of applications
23 eligible but unfunded. However, in no event may the percentage
24 of dollars allocated to outright grants for implementing
25 projects exceed 20 percent in any given fiscal year. Projects
26 that provide employment opportunities to clients of the WAGES
27 program and projects within urban infill and redevelopment
28 areas that include a community redevelopment area, Florida
29 Main Street program, Front Porch Florida Community,
30 sustainable community, enterprise zone, federal enterprise
31 zone, enterprise community, or neighborhood improvement

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1 district must be given an elevated priority in the scoring of
2 competing grant applications. The Division of Housing and
3 Community Development of the Department of Community Affairs
4 shall administer the grant program. The Department of
5 Community Affairs shall adopt rules establishing grant review
6 criteria consistent with this section.

7 Section 24. Section 258.16, Florida Statutes, is
8 created to read:

9 258.16 Rodman Reservoir Recreation Area designated.--

10 (1) There is designated and established a state
11 recreation area to be known as Rodman Reservoir Recreation
12 Area, in Marion and Putman Counties, which shall include all
13 state-owned lands within the floodplain of the Oklawaha River
14 and those hereafter acquired by the state from Eureka Dam in
15 Marion County to Buckman Lock in Putnam County. Such lands
16 shall be deemed and held to be a state recreation area, under
17 the supervision of the Division of Recreation and Parks of the
18 Department of Environmental Protection, and the division is
19 charged with the duty of providing for the development of
20 multipurpose recreational opportunities at this recreation
21 area and the care, upkeep, maintenance, and beautification of
22 the Rodman Reservoir Recreation Area, including all those
23 dams, locks, and other structures transferred by the Federal
24 Government to the state. Such structures may be permanently
25 closed and filled with suitable materials if their continued
26 maintenance and operation is determined by the department not
27 to be cost-effective due to the overall condition of the
28 structures when they were transferred by the Federal
29 Government. The Department shall not adopt any rules or
30 regulations, nor utilize any existing rules or regulations,
31 prohibiting recreational opportunities, including, but not

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1 limited to hunting and fishing, in the Rodman Reservoir
2 Recreational Area. Any proposed action that would
3 substantially alter the recreation area as it existed on
4 January 1, 2000, shall be approved by the Legislature prior to
5 implementation.

6 (2) The Division of State Lands may acquire in the
7 name of the Board of Trustees of the Internal Improvement
8 Trust Fund any additional property adjacent or contiguous to
9 the Rodman Reservoir Recreation Area, from private owners or
10 from the United States Government, for improved management and
11 recreational opportunities.

12 (3) The Division of State Lands is directed to
13 identify, contact, and inform all property owners who entered
14 into easements located within the taking line of the Rodman
15 Reservoir of the designation of this area as a state
16 recreation area.

17 (4) By January 1, 2001, the Division of State Lands is
18 directed to submit a report to the Executive Office of the
19 Governor, the President of the Senate, and the Speaker of the
20 House of Representatives that:

21 (a) Identifies each entity that has an easement within
22 the taking line of the reservoir.

23 (b) Indicates whether the holder of the easement is
24 willing to sell the easement.

25 (c) Estimates the cost of acquiring the easements.

26 (d) Identifies any additional issues resulting from
27 this designation.

28 Section 25. Section 376.3195, Florida Statutes, is
29 repealed.

30 Section 26. Subsection (9) of section 211.3103,
31 Florida Statutes, is repealed.

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1 Section 27. In fiscal year 2000-2001, any unencumbered
2 funds remaining undisbursed on June 30, 2001, from the
3 Quick-Response Training Program, Brownfield Redevelopment
4 Bonus Refunds, and funds appropriated in the General
5 Appropriations Act for cleanup of state-owned lands, shall be
6 used for grants to fund assessment and remediation at
7 brownfield sites or areas designated pursuant to s. 376.80,
8 Florida Statutes, prior to April 1, 2000, that are United
9 States Environmental Protection Agency brownfield pilot
10 projects designated prior to July 1, 1997, at which site
11 assessment has been initiated as of April 1, 2000. Grants
12 shall be distributed to eligible pilot projects under this
13 part on a pro-rata basis in an amount not to exceed \$500,000
14 per pilot project.

15 Section 28. This act shall take effect July 1, 2000.
16
17

18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 On page 1, line 2 through page 6, line 4
21 remove from the title of the bill: all of said lines

22
23 and insert in lieu thereof:

24 An act relating to state regulation of lands;
25 amending s. 206.9935, F.S.; providing
26 requirements for determination of the rate;
27 amending s. 212.20, F.S.; providing for
28 distribution of funds; amending s. 252.87,
29 F.S.; revising reporting requirements under the
30 Hazardous Materials Emergency Response and
31 Community Right-to-Know Act; amending s.

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1 288.047, F.S.; requiring Enterprise Florida,
2 Inc., to set aside each fiscal year a certain
3 amount of the appropriation for the Quick
4 Response Training Program for businesses
5 located in a brownfield area; amending s.
6 288.107, F.S.; redefining the term "eligible
7 business"; providing for bonus refunds for
8 businesses that can demonstrate a fixed capital
9 investment in certain mixed use activities in
10 the brownfield area; amending s. 288.905, F.S.;
11 requiring Enterprise Florida, Inc., to develop
12 comprehensive marketing strategies for
13 redevelopment of brownfield areas; amending s.
14 290.007, F.S.; providing for state incentives
15 in designated brownfield areas; amending s.
16 376.051, F.S.; providing for the use of
17 risk-based cleanup criteria on state university
18 lands; amending s. 376.301, F.S.; redefining
19 the terms "antagonistic effects," "discharge,"
20 "institutional controls," "natural
21 attenuation," and "site rehabilitation" and
22 defining the term "risk reduction"; amending s.
23 376.303, F.S.; providing authority for mapping
24 and registering contamination within
25 brownfields; amending s. 376.3078, F.S.;
26 providing conditions with respect to
27 determination of eligibility of specified
28 drycleaning facilities for state-funded site
29 rehabilitation; providing for rehabilitation
30 criteria; amending s. 376.79, F.S.; defining
31 the terms "contaminant" and "risk reduction";

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1 redefining the terms "natural attenuation,"
2 "institutional control," and "source removal";
3 amending s. 376.80, F.S.; allowing local
4 governments or persons responsible for
5 brownfield area rehabilitation and
6 redevelopment to use an existing advisory
7 committee; deleting the requirement that the
8 advisory committee must review and provide
9 recommendations to the local government with
10 jurisdiction on the proposed brownfield site
11 rehabilitation agreement; providing that the
12 person responsible for site rehabilitation must
13 notify the advisory committee of the intent to
14 rehabilitate and redevelop the site before
15 executing the brownfield site rehabilitation
16 agreement; requiring the person responsible for
17 site rehabilitation to hold a meeting or attend
18 a regularly scheduled meeting of the advisory
19 committee to inform the advisory committee of
20 the outcome of the environmental assessment;
21 requiring the person responsible for site
22 rehabilitation to enter into a brownfield site
23 rehabilitation agreement only if actual
24 contamination exists; clarifying provisions
25 relating to the required comprehensive general
26 liability and comprehensive automobile
27 liability insurance; amending s. 376.81, F.S.;
28 providing direction regarding the risk-based
29 corrective action rule; requiring the
30 department to establish alternative cleanup
31 levels under certain circumstances; amending s.

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1 376.82, F.S.; providing immunity for liability
2 regarding contaminated site remediation under
3 certain circumstances; amending s. 376.84,
4 F.S.; authorizing entities approved by the
5 local government for the purpose of
6 redeveloping brownfield areas to use tax
7 increment financing; amending s. 403.973, F.S.;
8 providing that projects located in a designated
9 brownfield area are eligible for the expedited
10 permitting process; amending s. 190.012, F.S.;
11 authorizing community development districts to
12 fund certain environmental costs under certain
13 circumstances; amending ss. 712.01, 712.03,
14 F.S.; prohibiting subsequent property owners
15 from removing certain deed restrictions under
16 other provisions of the Marketable Record Title
17 Act; amending s. 163.2517, F.S.; revising the
18 financial incentives which a local government
19 may offer in an urban infill and redevelopment
20 area which relate to exemption from local
21 option sales surtaxes and waiver of delinquent
22 taxes or fees; providing that, in order to be
23 eligible for the exemption from collecting
24 local option sales surtaxes, a business must
25 submit an application under oath to the local
26 government, which must be approved and
27 submitted to the Department of Revenue;
28 amending s. 212.08, F.S.; specifying that the
29 authority of a local government to adopt
30 financial and local government incentives under
31 s. 163.2517, F.S., is not superseded by certain

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1 provisions relating to sales tax exemptions;
2 amending s. 163.2523, F.S.; authorizing
3 transfer of unused funds between grant
4 categories under the Urban Infill and
5 Redevelopment Assistance Grant Program;
6 creating s. 258.16, F.S.; designating and
7 establishing a state recreation area; providing
8 duties of the Division of Recreation and Parks
9 of the Department of Environmental Protection;
10 providing for closure of certain structures;
11 providing for approval by the Legislature of
12 actions which would substantially alter the
13 recreation area; authorizing the Division of
14 State Lands of the department to acquire
15 contiguous property; requiring the Division of
16 State Lands to notify certain easement holders
17 of the state recreation area designation;
18 requiring a report to the Governor and
19 Legislature; repealing s. 376.3195, F.S.;
20 providing for distribution of certain unspent
21 appropriations; providing an effective date.

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