

By Senator Latvala

19-725B-00

1 A bill to be entitled
2 An act relating to brownfield economic
3 redevelopment; amending s. 288.047, F.S.;
4 requiring Enterprise Florida, Inc., to set
5 aside each fiscal year a certain amount of the
6 appropriation for the Quick Response Training
7 Program for businesses located in a brownfield
8 area; amending s. 288.107, F.S.; redefining the
9 term "eligible business"; providing for bonus
10 refunds for businesses that can demonstrate a
11 fixed capital investment in certain mixed use
12 activities in the brownfield area; amending s.
13 288.905, F.S.; requiring Enterprise Florida,
14 Inc., to develop comprehensive marketing
15 strategies for redevelopment of brownfield
16 areas; amending s. 376.301, F.S.; redefining
17 the terms "antagonistic effects," "discharge,"
18 "institutional controls," and "site
19 rehabilitation"; creating s. 376.30701, F.S.;
20 extending application of risk-based corrective
21 action principles to all contaminated sites
22 resulting from a discharge of pollutants or
23 hazardous substances; providing for
24 contamination cleanup criteria that
25 incorporates risk-based corrective actions to
26 be adopted by rule; providing clarification
27 that cleanup criteria do not apply to offsite
28 relocation or treatment; providing the
29 conditions under which further rehabilitation
30 may be required; amending s. 376.3078, F.S.;
31 providing for rehabilitation criteria; amending

1 s. 376.79, F.S.; defining the term
2 "contaminant"; redefining the terms "natural
3 attenuation" and "source removal"; amending s.
4 376.80, F.S.; allowing local governments or
5 persons responsible for brownfield area
6 rehabilitation and redevelopment to use an
7 existing advisory committee; deleting the
8 requirement that the advisory committee must
9 review and provide recommendations to the local
10 government with jurisdiction on the proposed
11 brownfield site rehabilitation agreement;
12 providing that the person responsible for site
13 rehabilitation must notify the advisory
14 committee of the intent to rehabilitate and
15 redevelop the site before executing the
16 brownfield site rehabilitation agreement;
17 requiring the person responsible for site
18 rehabilitation to hold a meeting or attend a
19 regularly scheduled meeting of the advisory
20 committee to inform the advisory committee of
21 the outcome of the environmental assessment;
22 requiring the person responsible for site
23 rehabilitation to enter into a brownfield site
24 rehabilitation agreement only if actual
25 contamination exists; clarifying that the
26 provisions relating to the required
27 comprehensive general liability and
28 comprehensive automobile liability insurance;
29 allowing the use of risk-based corrective
30 actions at certain sites; amending s. 376.81,
31 F.S.; providing direction regarding the

1 risk-based corrective action rule; requiring
2 the department to establish alternative cleanup
3 levels under certain circumstances; amending s.
4 376.82, F.S.; providing immunity for liability
5 regarding contaminated site remediation under
6 certain circumstances; creating s. 376.88,
7 F.S.; providing for the Brownfield Program
8 Review Advisory Council; providing duties and
9 responsibilities; amending s. 403.973, F.S.;
10 providing that projects located in a designated
11 brownfield area are eligible for the expedited
12 permitting process; amending s. 190.012, F.S.;
13 authorizing community development districts to
14 fund certain environmental costs under certain
15 circumstances; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsection (5) of section 288.047, Florida
20 Statutes, is amended to read:

21 288.047 Quick-response training for economic
22 development.--

23 (5) For the first 6 months of each fiscal year,
24 Enterprise Florida, Inc., shall set aside 30 percent of the
25 amount appropriated for the Quick-Response Training Program by
26 the Legislature to fund instructional programs for businesses
27 located in an enterprise zone or brownfield area ~~to instruct~~
28 ~~residents of an enterprise zone~~. Any unencumbered funds
29 remaining undisbursed from this set-aside at the end of the
30 6-month period may be used to provide funding for any program
31 qualifying for funding pursuant to this section.

1 Section 2. Section 288.107, Florida Statutes, is
2 amended to read:

3 288.107 Brownfield redevelopment bonus refunds.--

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

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

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

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

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

22 (e) "Eligible business" means a qualified target
23 industry business as defined in s. 288.106(2)(o) or other
24 business that can demonstrate a fixed capital investment of at
25 least \$2 million in mixed-use business activities, including
26 multi-unit housing, commercial, retail, and industrial in
27 brownfield areas and which pays wages that are within 20
28 percent of the average of all private-sector wages in the
29 county in which the business is located.

30 (f) "Jobs" means full-time equivalent positions,
31 consistent with the use of such terms by the Department of

1 Labor and Employment Security for the purpose of unemployment
2 compensation tax, resulting directly from a project in this
3 state. This number does not include temporary construction
4 jobs involved with the construction of facilities for the
5 project and which are not associated with the implementation
6 of the site rehabilitation as provided in s. 376.80.

7 (g) "Office" means the Office of Tourism, Trade, and
8 Economic Development.

9 (h) "Project" means the creation of a new business or
10 the expansion of an existing business as defined in s.
11 288.106.

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

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

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

28 (b) The completion of a fixed capital investment of at
29 least \$2 million in mixed-use business activities, including
30 multi-unit housing, commercial, retail, and industrial in
31 brownfield areas and which pay wages that are within 20

1 percent of the average of all private-sector wages in the
2 county in which the business is located.

3 ~~(c)(b)~~ That the designation as a brownfield will
4 diversify and strengthen the economy of the area surrounding
5 the site.

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

9 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS
10 REFUNDS.--

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

28 (b) To be considered to receive an eligible brownfield
29 redevelopment bonus refund payment, the business meeting the
30 requirements of paragraph (a) must submit a claim once each
31 fiscal year on a claim form approved by the office which

1 indicates the location of the brownfield, the address of the
2 business facility's brownfield location, the name of the
3 brownfield in which it is located, the number of jobs created,
4 and the average wage of the jobs created by the business
5 within the brownfield as defined in s. 288.106 or other
6 eligible business as defined in paragraph (1)(e) and the
7 administrative rules and policies for that section.

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

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

18 (e) An eligible business that fraudulently claims a
19 refund under this section:

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

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

26 (f) The office shall review all applications submitted
27 under s. 288.106 or other similar application forms for other
28 eligible businesses as defined in paragraph (1)(e) which
29 indicate that the proposed project will be located in a
30 brownfield and determine, with the assistance of the

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1 Department of Environmental Protection, that the project
2 location is within a brownfield as provided in this act.

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

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

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

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

8 (5) ADMINISTRATION.--

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

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

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

25 288.905 Duties of the board of directors of Enterprise
26 Florida, Inc.--

27 (3)

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

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

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

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

22 Section 4. Subsections (3), (12), (21), and (40) of
23 section 376.301, Florida Statutes, are amended to read:

24 376.301 Definitions of terms used in ss.
25 376.30-376.319, 376.70, and 376.75.--When used in ss.
26 376.30-376.319, 376.70, and 376.75, unless the context clearly
27 requires otherwise, the term:

28 (3) "Antagonistic effects" means a scientific
29 principle that the toxicity that occurs as a result of
30 exposure is less than the sum of the toxicities of the
31 individual chemicals to which the individual is exposed.

1 (12) "Discharge" includes, but is not limited to, any
2 spilling, leaking, seeping, pouring, misapplying, emitting,
3 emptying, releasing, or dumping of any pollutant or hazardous
4 substance which occurs and which affects lands and the surface
5 and ground waters of the state not regulated by ss.
6 376.011-376.21.

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

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

22 Section 5. Section 376.30701, Florida Statutes, is
23 created to read:

24 376.30701 Application of risk-based corrective action
25 principles to contaminated sites; applicability; legislative
26 intent; rulemaking authority; contamination cleanup criteria;
27 limitations; reopeners.--

28 (1) APPLICABILITY.--

29 (a) This section applies to all contaminated sites
30 resulting from a discharge of pollutants or hazardous
31 substances, to the extent the sites are not subject to

1 risk-based correction action cleanup criteria established for
2 the Petroleum, Brownfields, and Drycleaning Programs.

3 (b) This section applies to a variety of cleanup
4 scenarios including, but not limited to, site rehabilitation
5 being conducted voluntarily under the department's enforcement
6 authority or as a state-managed cleanup by the department.

7 (c) Except at sites subject to the Resource
8 Conservation and Recovery Act, as amended, this section does
9 not apply retroactively to contaminated sites at which site
10 rehabilitation has been initiated as of July 1, 2000, unless
11 the person responsible for site rehabilitation elects to make
12 it applicable.

13 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP
14 CRITERIA.--It is the intent of the Legislature to protect the
15 health of all people under actual circumstances of exposure.
16 The secretary of the department shall establish criteria by
17 rule for the purpose of determining, on a site-specific basis,
18 the rehabilitation program tasks that comprise a site
19 rehabilitation program, including a voluntary site
20 rehabilitation program, and the level at which a
21 rehabilitation program task and a site rehabilitation program
22 may be deemed completed. In establishing these rules, the
23 department shall incorporate, to the maximum extent feasible,
24 risk-based corrective action principles to achieve protection
25 of human health and safety and the environment in a
26 cost-effective manner as provided in this subsection. These
27 rules must also include protocols for the use of natural
28 attenuation and the issuance of "no further action" letters.
29 The criteria for determining what constitutes a rehabilitation
30 program task or completion of a site rehabilitation program

31

1 task or site rehabilitation program, including a voluntary
2 site rehabilitation program, must:

3 (a) Consider the current exposure and potential risk
4 of exposure to humans and the environment, including multiple
5 pathways of exposure. The physical, chemical, and biological
6 characteristics of each contaminant must be considered in
7 order to determine the feasibility of risk-based corrective
8 action assessment.

9 (b) Establish the point of compliance at the source of
10 the contamination. However, the department may temporarily
11 move the point of compliance to the boundary of the property,
12 or to the edge of the plume when the plume is within the
13 property boundary, while cleanup, including cleanup through
14 natural attenuation processes in conjunction with appropriate
15 monitoring, is proceeding. The department also may, pursuant
16 to criteria provided for in this section, temporarily extend
17 the point of compliance beyond the property boundary with
18 appropriate monitoring, if such extension is needed to
19 facilitate natural attenuation or to address the current
20 conditions of the plume, provided human health, public safety,
21 and the environment are protected. When temporarily extending
22 the point of compliance beyond the property boundary, it
23 cannot be extended further than the lateral extent of the
24 plume, if known, at the time of execution of the voluntary
25 cleanup agreement, if required, or the lateral extent of the
26 plume as defined at the time of site assessment. Temporary
27 extension of the point of compliance beyond the property
28 boundary, as provided in this paragraph, must include actual
29 notice by the person responsible for site rehabilitation to
30 local governments and the owners of any property into which
31 the point of compliance is allowed to extend and constructive

1 notice to residents and business tenants of the property into
2 which the point of compliance is allowed to extend. Persons
3 receiving notice pursuant to this paragraph shall have the
4 opportunity to comment within 30 days of receipt of the
5 notice.

6 (c) Ensure that the site-specific cleanup goal is that
7 all contaminated sites being cleaned up under this section
8 ultimately achieve the applicable cleanup target levels
9 provided in this subsection. In the circumstances provided
10 below, and after constructive notice and opportunity to
11 comment within 30 days from receipt of the notice to local
12 government, to owners of any property into which the point of
13 compliance is allowed to extend, and to residents on any
14 property into which the point of compliance is allowed to
15 extend, the department may allow concentrations of
16 contaminants to temporarily exceed the applicable cleanup
17 target levels while cleanup, including cleanup through natural
18 attenuation processes in conjunction with appropriate
19 monitoring, is proceeding, if human health, public safety, and
20 the environment are protected.

21 (d) Allow the use of institutional or engineering
22 controls at contaminated sites being cleaned up under this
23 section, where appropriate, to eliminate or control the
24 potential exposure to contaminants of humans or the
25 environment. The use of controls must be preapproved by the
26 department and only after constructive notice and opportunity
27 to comment within 30 days from receipt of notice is provided
28 to local governments, to owners of any property into which the
29 point of compliance is allowed to extend, and to residents on
30 any property into which the point of compliance is allowed to
31 extend. When institutional or engineering controls are

1 implemented to control exposure, the removal of the controls
2 must have prior department approval and must be accompanied by
3 the resumption of active cleanup, or other approved controls,
4 unless cleanup target levels under this section have been
5 achieved.

6 (e) Consider the additive effects of contaminants.
7 The synergistic and antagonistic effects must also be
8 considered when the scientific data become available.

9 (f) Take into consideration individual site
10 characteristics, which shall include, but not be limited to,
11 the current and projected use of the affected groundwater and
12 surface water in the vicinity of the site, current and
13 projected land uses of the area affected by the contamination,
14 the exposed population, the degree and extent of
15 contamination, the rate of contaminant migration, the apparent
16 or potential rate of contaminant degradation through natural
17 attenuation processes, the location of the plume, and the
18 potential for further migration in relation to site property
19 boundaries.

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

21 1. Cleanup target levels for each contaminant found in
22 groundwater shall be the applicable state water quality
23 standards. Where such standards do not exist, the cleanup
24 target levels for groundwater shall be based on the minimum
25 criteria specified in department rule. The department shall
26 consider the following, as appropriate, in establishing the
27 applicable minimum criteria: calculations using a lifetime
28 cancer risk level of 1.0E-6; a hazard index of 1 or less; the
29 best achievable detection limit; the naturally occurring
30 background concentration; or nuisance, organoleptic, and
31 aesthetic considerations.

1 2. Where surface waters are exposed to contaminated
2 groundwater, the cleanup target levels for the contaminants
3 shall be based on the lower of the groundwater or surface
4 water standards as established by department rule. The point
5 of measuring compliance with the surface water standards shall
6 be in the groundwater immediately adjacent to the surface
7 water body.

8 3. The department 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 to the same degree as provided
13 in subparagraphs 1. and 2. Where a state water quality
14 standard is applicable, a deviation may not result in the
15 application of cleanup target levels more stringent than the
16 standard. In determining whether it is appropriate to
17 establish alternative cleanup target levels at a site, the
18 department must consider the effectiveness of source removal
19 that has been completed at the site and the practical
20 likelihood of the use of low yield or poor quality
21 groundwater, the use of groundwater near marine surface water
22 bodies, the current and projected use of the affected
23 groundwater in the vicinity of the site, or the use of
24 groundwater in the immediate vicinity of the contaminated
25 area, where it has been demonstrated that the groundwater
26 contamination is not migrating away from such localized
27 source, provided human health, public safety, and the
28 environment are protected.

29 (h) Provide for the department to issue a "no further
30 action order," with conditions where appropriate, when
31 alternative cleanup target levels established pursuant to

1 subparagraph (g)3. have been achieved, or when the person
2 responsible for site rehabilitation can demonstrate that the
3 cleanup target level is unachievable within available
4 technologies. Prior to issuing such an order, the department
5 shall consider the feasibility of an alternative site
6 rehabilitation technology in the area.

7 (i) Establish appropriate cleanup target levels for
8 soils.

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

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

1 3. The department may set alternative cleanup target
2 levels based upon the person responsible for site
3 rehabilitation using site-specific modeling and risk
4 assessment studies, that human health, public safety, and the
5 environment are protected.

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

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

23 (4) REOPENERS.--Upon completion of site rehabilitation
24 in compliance with subsection (2), additional site
25 rehabilitation is not required unless it is demonstrated:

26 (a) That fraud was committed in demonstrating site
27 conditions or completion of site rehabilitation;

28 (b) That new information confirms the existence of an
29 area of previously unknown contamination which exceeds the
30 site-specific rehabilitation levels established in accordance
31 with subsection (2), or which otherwise poses the threat of

1 real and substantial harm to public health, safety, or the
2 environment;

3 (c) That the remediation efforts failed to achieve the
4 site rehabilitation criteria established under this section;

5 (d) That the level of risk is increased beyond the
6 acceptable risk established under subsection (2) due to
7 substantial changes in exposure conditions, such as a change
8 in land use from nonresidential to residential use. Any person
9 who changes the land use of the site, thus causing the level
10 of risk to increase beyond the acceptable risk level, may be
11 required by the department to undertake additional remediation
12 measures to assure that human health, public safety, and the
13 environment are protected consistent with this section; or

14 (e) That a new discharge of pollutants or hazardous
15 substances or disposal of solid waste or hazardous waste
16 occurs at the site subsequent to the issuance of a "no further
17 action" letter or site rehabilitation completion order
18 associated with the original contamination being addressed
19 pursuant to this section.

20 Section 6. Paragraph (i) of subsection (4) of section
21 376.3078, Florida Statutes, is 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

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. The department may set alternative cleanup target
8 levels based upon the person responsible for site
9 rehabilitation demonstrating, using site-specific modeling and
10 risk assessment studies, that human health, public safety, and
11 the environment are protected.

12

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

23 Section 7. Section 376.79, Florida Statutes, is
24 amended to read:

25 376.79 Definitions.--As used in ss. 376.77-376.85, the
26 term:

27 (1) "Additive effects" means a scientific principle
28 that the toxicity that occurs as a result of exposure is the
29 sum of the toxicities of the individual chemicals to which the
30 individual is exposed.

31

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

5 (3) "Brownfield sites" means sites that are generally
6 abandoned, idled, or underused industrial and commercial
7 properties where expansion or redevelopment is complicated by
8 actual or perceived environmental contamination.

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

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

22 ~~(6)(5)~~ "Contaminated site" means any contiguous land,
23 surface water, or groundwater areas that contain contaminants
24 that may be harmful to human health or the environment.

25 ~~(7)(6)~~ "Department" means the Department of
26 Environmental Protection.

27 ~~(8)(7)~~ "Engineering controls" means modifications to a
28 site to reduce or eliminate the potential for exposure to
29 contaminants. Such modifications may include, but are not
30 limited to, physical or hydraulic control measures, capping,
31 point of use treatments, or slurry walls.

1 ~~(9)~~~~(8)~~ "Environmental justice" means the fair
2 treatment of all people of all races, cultures, and incomes
3 with respect to the development, implementation, and
4 enforcement of environmental laws, regulations, and policies.

5 ~~(10)~~~~(9)~~ "Institutional controls" means the restriction
6 on use of or access to a site to eliminate or minimize
7 exposure to contaminants. Such restrictions may include, but
8 are not limited to, deed restrictions, use restrictions, or
9 restrictive zoning.

10 ~~(11)~~~~(10)~~ "Local pollution control program" means a
11 local pollution control program that has received delegated
12 authority from the Department of Environmental Protection
13 under ss. 376.80~~(12)~~~~376.80~~~~(11)~~ and 403.182.

14 ~~(12)~~~~(11)~~ "Natural attenuation" means a verifiable
15 approach to site rehabilitation which allows natural processes
16 to contain the spread of contamination and reduce the
17 concentrations of contaminants in contaminated groundwater and
18 soil. Natural attenuation processes may include sorption,
19 biodegradation, chemical reactions with subsurface materials,
20 diffusion, dispersion, and volatilization.~~the verifiable~~
21 ~~reduction of contaminants through natural processes, which may~~
22 ~~include diffusion, dispersion, adsorption, and biodegradation.~~

23 ~~(13)~~~~(12)~~ "Person responsible for brownfield site
24 rehabilitation" means the individual or entity that is
25 designated by the local government to enter into the
26 brownfield site rehabilitation agreement with the department
27 or an approved local pollution control program and enters into
28 an agreement with the local government for redevelopment of
29 the site.

30
31

1 ~~(14)~~~~(13)~~ "Person" means any individual, partner, joint
2 venture, or corporation; any group of the foregoing, organized
3 or united for a business purpose; or any governmental entity.

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

8 ~~(16)~~~~(14)~~ "Secretary" means the secretary of the
9 Department of Environmental Protection.

10 ~~(17)~~~~(15)~~ "Site rehabilitation" means the assessment of
11 site contamination and the remediation activities that reduce
12 the levels of contaminants at a site through accepted
13 treatment methods to meet the cleanup target levels
14 established for that site.

15 ~~(18)~~~~(16)~~ "Source removal" means the removal of free
16 product, or the removal of contaminants from soil or sediment
17 that has been contaminated to the extent that leaching to
18 groundwater or surface water has occurred or is occurring.

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

23 Section 8. Subsections (4) and (5) and paragraph (c)
24 of subsection (7) of section 376.80, Florida Statutes, are
25 amended, present subsections (11) and (12) of that section are
26 redesignated as subsections (12) and (13), respectively, and a
27 new subsection (11) is added to that section to read:

28 376.80 Brownfield program administration process.--

29 (4) Local governments or persons responsible for
30 rehabilitation and redevelopment of brownfield areas must
31 establish an advisory committee or use an existing advisory

1 committee that has formally expressed its intent to address
2 redevelopment of the specific brownfield area for the purpose
3 of improving public participation and receiving public
4 comments on rehabilitation and redevelopment of the brownfield
5 area, future land use, local employment opportunities,
6 community safety, and environmental justice. Such advisory
7 committee should include residents within or adjacent to the
8 brownfield area, businesses operating within the brownfield
9 area, and others deemed appropriate. The person responsible
10 for site rehabilitation must notify the advisory committee of
11 the intent to rehabilitate and redevelop the site before
12 executing the brownfield site rehabilitation agreement, and
13 provide the committee with a copy of the draft plan for site
14 rehabilitation which addresses elements required by subsection
15 (5). This includes disclosing potential reuse of the property
16 as well as environmental activities, if any, to be performed.
17 The advisory committee shall review and provide comments, if
18 appropriate, to the board of the local government with
19 jurisdiction over the brownfield on the draft plan for
20 redevelopment of the brownfield area. The advisory committee
21 must receive a copy of the executed brownfield site
22 rehabilitation agreement. When an environmental assessment or
23 remediation document is submitted to the department or the
24 local pollution control program for review, the person
25 responsible for site rehabilitation must hold a meeting or
26 attend the regularly scheduled meeting to inform the advisory
27 committee of responses planned to the assessment or
28 remediation document. ~~The advisory committee must review and~~
29 ~~provide recommendations to the board of the local government~~
30 ~~with jurisdiction on the proposed site rehabilitation~~
31 ~~agreement provided in subsection (5).~~

1 (5) The person responsible for brownfield site
2 rehabilitation must enter into a brownfield site
3 rehabilitation agreement with the department or an approved
4 local pollution control program if actual contamination exists
5 at the brownfield site. The brownfield site rehabilitation
6 agreement must include:

7 (a) A brownfield site rehabilitation schedule,
8 including milestones for completion of site rehabilitation
9 tasks and submittal of technical reports and rehabilitation
10 plans as agreed upon by the parties to the agreement;

11 (b) A commitment to conduct site rehabilitation
12 activities under the observation of professional engineers or
13 geologists who are registered in accordance with the
14 requirements of chapter 471 or chapter 492, respectively.
15 Submittals provided by the person responsible for brownfield
16 site rehabilitation must be signed and sealed by a
17 professional engineer registered under chapter 471, or a
18 professional geologist registered under chapter 492,
19 certifying that the submittal and associated work comply with
20 the law and rules of the department and those governing the
21 profession. In addition, upon completion of the approved
22 remedial action, the department shall require a professional
23 engineer registered under chapter 471 or a professional
24 geologist registered under chapter 492 to certify that the
25 corrective action was, to the best of his or her knowledge,
26 completed in substantial conformance with the plans and
27 specifications approved by the department;

28 (c) A commitment to conduct site rehabilitation in
29 accordance with an approved comprehensive quality assurance
30 plan under department rules;

31

1 (d) A commitment to conduct site rehabilitation
2 consistent with state, federal, and local laws and consistent
3 with the brownfield site contamination cleanup criteria in s.
4 376.81, including any applicable requirements for risk-based
5 corrective action;

6 (e) Timeframes for the department's review of
7 technical reports and plans submitted in accordance with the
8 agreement. The department shall make every effort to adhere
9 to established agency goals for reasonable timeframes for
10 review of such documents;

11 (f) A commitment to secure site access for the
12 department or approved local pollution control program to all
13 brownfield sites within the eligible brownfield area for
14 activities associated with site rehabilitation;

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

19 (h) A commitment to consider appropriate pollution
20 prevention measures and to implement those that the person
21 responsible for brownfield site rehabilitation determines are
22 reasonable and cost-effective, taking into account the
23 ultimate use or uses of the brownfield site. Such measures
24 may include improved inventory or production controls and
25 procedures for preventing loss, spills, and leaks of hazardous
26 waste and materials, and include goals for the reduction of
27 releases of toxic materials; and

28 (i) Certification that an agreement exists between the
29 person responsible for brownfield site rehabilitation and the
30 local government with jurisdiction over the brownfield area.

31

1 Such agreement shall contain terms for the redevelopment of
2 the brownfield area.

3 (7) The contractor must certify to the department that
4 the contractor:

5 (c) Maintains comprehensive general liability and
6 comprehensive automobile liability insurance with minimum
7 limits of at least \$1 million per claim ~~occurrence~~ and \$1
8 million annual aggregate, sufficient to protect it from claims
9 for damage for personal injury, including accidental death, as
10 well as claims for property damage which may arise from
11 performance of work under the program, designating the state
12 as an additional insured party.

13 (11) If a person does not qualify for the economic
14 incentives or the liability provisions and requests to utilize
15 the cleanup criteria and risk-based corrective action as
16 provided under chapter 62-785, Florida Administrative Code,
17 then the person must enter into a Site Rehabilitation
18 Agreement with the department or the approved local pollution
19 control program that establishes cleanup timeframes. Executing
20 a Site Rehabilitation Agreement only allows the use of the
21 cleanup criteria under chapter 62-785, Florida Administrative
22 Code, as well as establishing timeframes for site
23 rehabilitation. This agreement does not provide liability
24 protection to the person signing the agreement.

25 Section 9. Section 376.81, Florida Statutes, is
26 amended to read:

27 376.81 Brownfield site and brownfield areas
28 contamination cleanup criteria.--

29 (1) It is the intent of the Legislature to protect the
30 health of all people under actual circumstances of exposure.
31 By July 1, 2001 ~~1998~~, the secretary of the department shall

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

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

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

29 (c) Ensure that the site-specific cleanup goal is that
30 all contaminated brownfield sites and brownfield areas
31 ultimately achieve the applicable cleanup target levels

1 provided in this section. In the circumstances provided below,
2 and after constructive notice and opportunity to comment
3 within 30 days from receipt of the notice to local government,
4 to owners of any property into which the point of compliance
5 is allowed to extend, and to residents on any property into
6 which the point of compliance is allowed to extend, the
7 department may allow concentrations of contaminants to
8 temporarily exceed the applicable cleanup target levels while
9 cleanup, including cleanup through natural attenuation
10 processes in conjunction with appropriate monitoring, is
11 proceeding, if human health, public safety, and the
12 environment are protected.

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

29 (e) Consider the additive effects of contaminants.
30 The synergistic and antagonistic effects shall also be
31 considered when the scientific data become available.

1 (f) Take into consideration individual site
2 characteristics, which shall include, but not be limited to,
3 the current and projected use of the affected groundwater and
4 surface water in the vicinity of the site, current and
5 projected land uses of the area affected by the contamination,
6 the exposed population, the degree and extent of
7 contamination, the rate of contaminant migration, the apparent
8 or potential rate of contaminant degradation through natural
9 attenuation processes, the location of the plume, and the
10 potential for further migration in relation to site property
11 boundaries.

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

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

29 2. Where surface waters are exposed to contaminated
30 groundwater, the cleanup target levels for the contaminants
31 shall be based on the more protective of the groundwater or

1 surface water standards as established by department rule.
2 The point of measuring compliance with the surface water
3 standards shall be in the groundwater immediately adjacent to
4 the surface water body.

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

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

1 b. Concentrations of all contaminants meet the state
2 water quality standards or minimum criteria, based on
3 protection of human health, provided in subparagraph 1.;

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

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

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

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

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

29 (i) Establish appropriate cleanup target levels for
30 soils.

31

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

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

29 3. The department shall approve ~~may set~~ alternative
30 cleanup target levels in conjunction with institutional and
31 engineering controls, if needed, based upon an applicant's

1 demonstration, using site-specific data, modeling results,~~and~~
2 risk assessment studies, risk reduction techniques, or a
3 combination thereof, that human health, public safety, and the
4 environment are protected to the same degree as provided in
5 subparagraphs 1. and 2.

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

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

22 Section 10. Paragraphs (a) and (d) of subsection (2)
23 of section 376.82, Florida Statutes, are amended and paragraph
24 (k) is added to that subsection to read:

25 376.82 Eligibility criteria and liability
26 protection.--

27 (2) LIABILITY PROTECTION.--

28 (a) Any person, including his or her successors and
29 assigns, who executes and implements to successful completion
30 a brownfield site rehabilitation agreement, or any person who
31 successfully satisfies the department or delegated program

1 that the contamination is remediated or exposure to
2 contamination is eliminated or controlled by the use of
3 institutional or engineering controls, as appropriate, shall
4 be relieved of further liability for remediation of the
5 contaminated site or sites to the state and to third parties
6 and of liability in contribution to any other party who has or
7 may incur cleanup liability for the contaminated site or
8 sites.

9 (d) The liability protection provided under this
10 section shall become effective upon execution of a brownfield
11 site rehabilitation agreement and shall remain effective,
12 provided the person responsible for brownfield site
13 rehabilitation complies with the terms of the site
14 rehabilitation agreement. The liability protection provided
15 under this section to a person who satisfactorily remediates a
16 contaminated site or eliminates or controls exposure to
17 contamination by the use of institutional controls or
18 engineering controls with institutional controls, as
19 appropriate, without benefit of a brownfield site
20 rehabilitation agreement is effective upon certification from
21 the department or delegated local program that no further
22 action is warranted. Any statute of limitations that would bar
23 the department from pursuing relief in accordance with its
24 existing authority is tolled from the time the agreement is
25 executed until site rehabilitation is completed or immunity is
26 revoked pursuant to s. 376.80(10).

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

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

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

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

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

17 Section 11. Section 376.88, Florida Statutes, is
18 created to read:

19 376.88 Brownfield Program Review Advisory Council.--

20 (1) The Brownfield Program Review Advisory Council is
21 created to provide for continuous review of the progress in
22 the administration of Florida's Brownfield Program and to make
23 recommendations for its improvement. The council shall consist
24 of the following:

25 (a) A representative of a city that participated in
26 the pilot grant program for brownfields sponsored by the U.S.
27 Environmental Protection Agency;

28 (b) A representative of a county that participated in
29 the pilot grant program for brownfields sponsored by the U.S.
30 Environmental Protection Agency;

31

1 (c) A representative of a statewide business
2 organization;

3 (d) A representative of Enterprise Florida, Inc.;

4 (e) A representative of response action contractor
5 companies involved in activities at brownfield sites;

6 (f) The Secretary of Environmental Protection or his
7 or her designee;

8 (g) The Secretary of Community Affairs or his or her
9 designee;

10 (h) The Director of the Office of Tourism, Trade, and
11 Economic Development in the Executive Office of the Governor;

12 (i) A representative of a financial institution;

13 (j) A representative of the Sierra Club; and

14 (k) A representative of the Community Environmental
15 Health Advisory Board.

16 (2) Duties and responsibilities.--The Brownfield
17 Program Review Advisory Council shall:

18 (a) Perform a comprehensive review of activities
19 related to rehabilitation of brownfield areas;

20 (b) Determine and recommend any additional economic
21 incentives that should be available to help accelerate
22 rehabilitation activities; and

23 (c) Review the administrative processes for approving
24 and permitting rehabilitation activities by the Department of
25 Environmental Protection and local programs and make
26 recommendations for improvements in these processes.

27 (3) Each member shall provide their own per diem and
28 expenses for travel while carrying out the business of the
29 council.

30 (4) The Secretary of the Department of Environmental
31 Protection or his or her designee shall appoint the council

1 members, serve as chairperson of the council, and convene the
2 council on at least a quarterly basis.

3 (5) The council shall submit a report to the
4 Legislature as often as needed to address issues requiring
5 legislative changes or appropriations.

6 Section 12. Paragraph (d) is added to subsection (3)
7 of section 403.973, Florida Statutes, to read:

8 403.973 Expedited permitting; comprehensive plan
9 amendments.--

10 (3)

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

13 Section 13. Subsection (1) of section 190.012, Florida
14 Statutes, is amended to read:

15 190.012 Special powers; public improvements and
16 community facilities.--The district shall have, and the board
17 may exercise, subject to the regulatory jurisdiction and
18 permitting authority of all applicable governmental bodies,
19 agencies, and special districts having authority with respect
20 to any area included therein, any or all of the following
21 special powers relating to public improvements and community
22 facilities authorized by this act:

23 (1) To finance, fund, plan, establish, acquire,
24 construct or reconstruct, enlarge or extend, equip, operate,
25 and maintain systems, facilities, and basic infrastructures
26 for the following:

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

30 (b) Water supply, sewer, and wastewater management,
31 reclamation, and reuse or any combination thereof, and to

1 construct and operate connecting intercepting or outlet sewers
2 and sewer mains and pipes and water mains, conduits, or
3 pipelines in, along, and under any street, alley, highway, or
4 other public place or ways, and to dispose of any effluent,
5 residue, or other byproducts of such system or sewer system.

6 (c) Bridges or culverts that may be needed across any
7 drain, ditch, canal, floodway, holding basin, excavation,
8 public highway, tract, grade, fill, or cut and roadways over
9 levees and embankments, and to construct any and all of such
10 works and improvements across, through, or over any public
11 right-of-way, highway, grade, fill, or cut.

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

15 2. Buses, trolleys, transit shelters, ridesharing
16 facilities and services, parking improvements, and related
17 signage.

18 (e) Investigation and remediation costs associated
19 with the cleanup of actual or perceived environmental
20 contamination within the district under the supervision or
21 direction of a competent governmental authority unless the
22 covered costs benefit any person who is a landowner within the
23 district and who caused or contributed to the contamination.

24 (f)~~(e)~~ Conservation areas, mitigation areas, and
25 wildlife habitat, including the maintenance of any plant or
26 animal species, and any related interest in real or personal
27 property.

28 (g)~~(f)~~ Any other project within or without the
29 boundaries of a district when a local government issued a
30 development order pursuant to s. 380.06 or s. 380.061
31 approving or expressly requiring the construction or funding

1 of the project by the district, or when the project is the
2 subject of an agreement between the district and a
3 governmental entity and is consistent with the local
4 government comprehensive plan of the local government within
5 which the project is to be located.

6 Section 14. This act shall take effect July 1, 2000.

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9 SENATE SUMMARY

10 Provides regulatory and funding tools for economic
11 development in brownfield areas.

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