

By Senator Laurent

17-1146A-00

1 A bill to be entitled
2 An act relating to water pollution control;
3 amending s. 403.1835, F.S.; providing for a
4 method of financing water pollution control
5 projects eligible under specified federal law;
6 authorizing loans and grants; providing for the
7 use of the Wastewater Treatment and Stormwater
8 Management Revolving Loan Trust Fund; granting
9 rulemaking authority to the Department of
10 Environmental Protection; creating s. 403.1837,
11 F.S.; creating the Florida Water Pollution
12 Control Financing Corporation; providing for
13 its membership and powers; authorizing the
14 issuance of bonds and other obligations;
15 providing for tax exemptions; authorizing the
16 corporation to contract with the State Board of
17 Administration for services; granting
18 rulemaking authority to the Department of
19 Environmental Protection; repealing s.
20 403.1836, F.S., relating to the Wastewater
21 Treatment and Stormwater Management Revolving
22 Loan Trust Fund; providing an effective date.

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

25
26 Section 1. Section 403.1835, Florida Statutes, is
27 amended to read:
28 403.1835 Water pollution control financial assistance
29 ~~Sewage treatment facilities revolving loan program.--~~

30 (1) The purpose of this section is to assist in
31 implementing the legislative declaration of public policy as

1 contained in s. 403.021 by establishing a self-perpetuating
2 ~~loan~~ program to accelerate the implementation of water
3 pollution control projects ~~construction of sewage treatment~~
4 ~~facilities by local governmental agencies and to assist local~~
5 ~~governmental agencies.~~ Projects and activities that may be
6 funded are those eligible under s. 603 of the Federal Water
7 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500,
8 as amended; including, but not limited to, planning, design,
9 construction, and implementation of wastewater management
10 systems, stormwater management systems, nonpoint source
11 pollution management systems, and estuary conservation and
12 management.

13 (2) For the purposes of this section, the term:

14 (a) "Local governmental agencies" means local
15 governmental agencies as defined in s. 403.1822(3).

16 (b) ~~"Sewage treatment facilities" means all facilities~~
17 ~~necessary, including land, for the collection, treatment, or~~
18 ~~disposal of domestic wastewater.~~

19 (b)(c) "Bonds" means ~~state~~ bonds, certificates, or
20 other obligations of indebtedness issued by the Florida Water
21 Pollution Control Financing Corporation under Division of Bond
22 Finance of the State Board of Administration pursuant to this
23 section and s.403.1837 ~~the State Bond Act.~~

24 (c) "Corporation" means the Florida Water Pollution
25 Control Financing Corporation.

26 (3) ~~The department is authorized to make loans and~~
27 ~~grants to local governmental agencies to assist them in~~
28 ~~planning, designing, and constructing sewage treatment~~
29 ~~facilities and stormwater management systems. The department~~
30 ~~may administer the resulting portfolio of loans, including the~~
31 ~~authority to sell or pledge the loans, or any portion of the~~

1 ~~loans, with the approval of the Governor, the Treasurer, and~~
2 ~~the Comptroller, acting as the State Board of Administration,~~
3 ~~to ensure compliance with subsection (1).~~

4 ~~(a) The department may ~~is authorized to~~ make grants~~
5 ~~and loans, to provide loan guarantees, to purchase loan~~
6 ~~insurance, and to refinance local debt through the issue of~~
7 ~~new loans for projects approved by the department. This~~
8 ~~financial assistance must be administered in accordance with~~
9 ~~this section and applicable federal authorities. The~~
10 ~~department may administer the resulting portfolio of loans,~~
11 ~~including the authority to sell or pledge the loans or any~~
12 ~~portion of the loans, as provided in this section and s.~~
13 ~~403.1837, to fulfill the public purpose set forth in~~
14 ~~subsection (1).~~

15 (a) The department may make loans to local government
16 agencies, which agencies may pledge any revenue available to
17 them to repay any funds borrowed.

18 (b) The department may make loans, grants, and
19 deposits to other entities eligible to participate in the
20 financial assistance programs authorized under the Federal
21 Water Pollution Control Act, or as a result of other federal
22 action, which entities may pledge any revenue available to
23 them to repay any funds borrowed.

24 (c) The department shall administer financial
25 assistance so that at least 15 percent of the funding made
26 available each year under this section is reserved for use by
27 small communities during the year it is reserved.~~Local~~
28 ~~governmental agencies are authorized to borrow funds made~~
29 ~~available pursuant to this section and may pledge any revenue~~
30 ~~available to them to repay any funds borrowed. The department~~
31 ~~shall administer loans to local governmental agencies so that~~

1 ~~at least 15 percent of each annual allocation for loans is~~
2 ~~reserved for small communities.~~

3 ~~(d)(b)~~ The department may make grants to financially
4 disadvantaged small communities, as defined in s. 403.1838,
5 using funds made available from grant allocations on loans
6 authorized under subsection (4). The grants must be
7 administered in accordance with s. 403.1838.

8 ~~(c)~~ ~~The department may make grants to local government~~
9 ~~agencies as authorized under the Federal Water Pollution~~
10 ~~Control Act, or as a result of other federal action. The~~
11 ~~grants must be administered in accordance with this section~~
12 ~~and applicable federal requirements.~~

13 (4) ~~The term of loans made pursuant to this section~~
14 ~~shall not exceed 30 years.~~The department may assess grant
15 allocations on the loans made under this section for the
16 purpose of making grants to financially disadvantaged small
17 communities. The combined rate of interest and grant
18 allocations on loans shall be no greater than the interest
19 rate paid on the last bonds sold pursuant to s. 14, Art. VII
20 of the State Constitution. ~~The grant allocations on a loan~~
21 ~~shall be equal to or less than the interest rate on the loan.~~

22 (5)(a) ~~The department has authority to adopt rules~~
23 ~~pursuant to ss. 120.536(1) and 120.54 to implement the~~
24 ~~provisions of this section, including rules to administer the~~
25 ~~state revolving fund authorized pursuant to the Federal Water~~
26 ~~Pollution Control Act, as amended.~~

27 ~~(b)~~ The department shall prepare an annual report
28 detailing the amount of grants, amount loaned, interest
29 earned, grant allocations, and loans outstanding at the end of
30 each fiscal year.

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1 (6) Prior to approval of financial assistance, the
2 applicant ~~a construction loan, the local government~~ shall:

3 (a) Submit evidence of credit worthiness, loan
4 security, and a loan ~~Provide a~~ repayment schedule in support
5 of a request for a loan.

6 (b) Submit plans and specifications and evidence of
7 permittability in support of a request for funding of
8 construction or other activities requiring a permit from the
9 department ~~for sewage treatment facilities and stormwater~~
10 ~~management systems.~~

11 (c) Provide assurance that records will be kept using
12 generally accepted ~~government~~ accounting principles ~~standards~~
13 and that the department, the Auditor General, or their agents
14 will have access to all records pertaining to the financial
15 assistance provided ~~loan.~~

16 (d) Provide assurance that the subject facilities,
17 systems, or activities ~~facility~~ will be properly operated and
18 maintained.

19 (e) Identify the revenues to be pledged and document
20 their sufficiency for loan repayment and pledged revenue
21 coverage in support of a request for a loan ~~Document that the~~
22 ~~revenues generated will be sufficient to ensure that the~~
23 ~~facilities will be self-supporting.~~

24 (f) Provide assurance that ~~annual~~ financial
25 information ~~audit reports, and a separate project audit~~
26 ~~prepared by an independent certified public accountant upon~~
27 ~~project completion,~~ will be provided as required by ~~submitted~~
28 to the department.

29 (g) Provide assurance that a project audit prepared by
30 an independent certified public accountant upon project
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1 completion will be submitted to the department in support of a
2 request for a grant.

3 (h)(g) Submit project planning documentation
4 demonstrating a cost comparison of alternative methods
5 ~~cost-effectiveness~~, environmental soundness, public
6 participation, and financial feasibility for any proposed
7 project or activity ~~the implementability of the proposed~~
8 ~~sewage treatment facilities and stormwater management systems.~~

9 (7) Eligible projects must be given priority according
10 to the extent each project is intended to remove, mitigate, or
11 prevent adverse effects on surface or ground water quality and
12 public health. The relative costs of achieving environmental
13 and public health benefits must be taken into consideration
14 during the department's assignment of project priorities.

15 ~~However, preference must be given to eligible projects that~~
16 ~~protect the public health or are required by law to eliminate~~
17 ~~sewage treatment facility discharges into specific bodies of~~
18 ~~water.~~

19 (8)(a) If a local governmental agency becomes
20 delinquent on its loan, the department shall so certify to the
21 Comptroller who shall forward the amount delinquent to the
22 department from any unobligated funds due to the local
23 governmental agency under any revenue-sharing or tax-sharing
24 fund established by the state, except as otherwise provided by
25 the State Constitution. Certification of delinquency shall not
26 limit the department from pursuing other remedies available
27 for default on a loan. The department may impose a penalty for
28 delinquent loan payments in an the amount not to exceed an
29 interest rate of 18 6 percent per annum on ~~of~~ the amount due
30 in addition to charging the cost to handle and process the
31 debt. Penalty interest shall accrue on any amount due and

1 payable beginning on the 30th day following the date upon
2 which payment is due.

3 (b) If a loan recipient, other than a local government
4 agency, defaults under the terms of a loan, the department may
5 pursue any remedy available to it at law or in equity. The
6 department may impose a penalty in an amount not to exceed an
7 interest rate of 18 percent per annum on any amount due in
8 addition to charging the cost to handle and process the debt.
9 Penalty interest accrues on any amount due and payable
10 beginning on the 30th day following the date upon which the
11 amount is due.

12 (9) Funds for the loans and grants authorized under
13 this section must be managed as follows:

14 (a) A nonlapsing trust fund with revolving loan
15 provisions to be known as the "Wastewater Treatment and
16 Stormwater Management Revolving Loan Trust Fund" is
17 established in the State Treasury to be used as a revolving
18 fund by the department to carry out the purpose of this
19 section. Any funds therein which are not needed on an
20 immediate basis for grants or loans may be invested pursuant
21 to s. 215.49. The cost of administering the program shall be
22 paid from federal funds, from reasonable service fees that may
23 be imposed upon loans, and from proceeds from the sale of
24 loans or the issuance of bonds as permitted by federal law so
25 as to enhance program perpetuity. Grants awarded by the
26 Federal Government, state matching funds, and investment
27 earnings thereon shall be deposited into the trust fund.
28 Proceeds from the sale of loans or issuance of bonds must be
29 deposited into the trust fund. All moneys available in the
30 trust fund, including investment earnings, are hereby
31 designated to carry out the purpose of this section. The

1 principal and interest payments of all loans held by the trust
2 fund shall be deposited into this trust fund.

3 1. The department may obligate moneys available in the
4 Wastewater Treatment and Stormwater Management Revolving Loan
5 Trust Fund for payment of amounts payable under any service
6 contract entered into by the department under s. 403.1837,
7 subject to annual appropriation by the Legislature. Amounts on
8 deposit in the trust fund in each fiscal year shall first be
9 applied or allocated for the payment of amounts payable by the
10 department under this subparagraph and appropriated each year
11 by the Legislature before making or providing for other
12 disbursement from the trust fund.

13 2. The State Board of Administration shall invest and
14 reinvest moneys in the trust fund in accordance with ss.
15 215.44-215.53. Costs and fees of the State Board of
16 Administration for providing those investment services shall
17 be deducted from the earnings accruing to the trust fund.

18 3. Under the provisions of s. 19(f)(3), Art. III of
19 the State Constitution, the Wastewater Treatment and
20 Stormwater Management Revolving Loan Trust Fund is exempt from
21 the termination provisions of s. 19(f)(2), Art. III of the
22 State Constitution.

23 (b) Revenues from the loan grant allocations
24 authorized under subsection (4), federal appropriations, state
25 matching funds for grants authorized by federal statute or
26 other federal action, and service fees, and all earnings
27 thereon, shall be deposited into the department's Grants and
28 Donations Trust Fund. Service fees and all earnings thereon
29 must be used solely for program administration. The loan grant
30 allocation revenues and earnings thereon must be used solely
31 for the purpose of making grants to financially disadvantaged

1 small communities. Federal appropriations and state matching
2 funds for grants authorized by federal statute or other
3 federal action, and earnings thereon, must be used solely for
4 the purposes authorized. All deposits into the department's
5 Grants and Donations Trust Fund under this section, and
6 earnings thereon, must be accounted for separately from all
7 other moneys deposited into the fund.

8 (10) The department may adopt rules to administer this
9 section.~~Because the Legislature has experienced revenue~~
10 ~~shortfalls in recent years and has been unable to provide~~
11 ~~enough funds to fully match available federal funds to help~~
12 ~~capitalize the Wastewater Treatment and Stormwater Management~~
13 ~~Revolving Loan Trust Fund, it is necessary for innovative~~
14 ~~approaches to be considered to help capitalize the revolving~~
15 ~~loan fund. The department shall evaluate potential innovative~~
16 ~~approaches that can generate funds to match available federal~~
17 ~~funds. The department may adopt approaches that will help~~
18 ~~ensure the continuing viability of the Wastewater Treatment~~
19 ~~and Stormwater Management Revolving Loan Trust Fund. The~~
20 ~~department shall consider, among other possible alternatives,~~
21 ~~the option of implementing by rule a program to allow local~~
22 ~~governments to offer funds voluntarily to the state for use as~~
23 ~~a match to available federal funds to capitalize the~~
24 ~~Wastewater Treatment and Stormwater Management Revolving Loan~~
25 ~~Trust Fund.~~

26 Section 2. Section 403.1837, Florida Statutes, is
27 created to read:

28 403.1837 Florida Water Pollution Control Financing
29 Corporation.--

30 (1) The Florida Water Pollution Control Financing
31 Corporation is created as a nonprofit public-benefit

1 corporation for the purpose of financing the costs of water
2 pollution control projects and activities described in s.
3 403.1835. The projects and activities described in that
4 section are found to constitute a public governmental purpose,
5 be necessary for the health, safety, and welfare of all
6 residents, and include legislatively approved fixed capital
7 outlay projects. The fulfillment of the purposes of the
8 corporation promotes the health, safety, and welfare of the
9 people of the state and serves essential governmental
10 functions and a paramount public purpose. The corporation
11 shall terminate upon fulfillment of the purposes of this
12 section.

13 (2) The corporation shall be governed by a board of
14 directors consisting of the Governor's Budget Director, the
15 Comptroller or the Comptroller's designee, the Treasurer or
16 the Treasurer's designee, and the Secretary of Environmental
17 Protection or the secretary's designee, until January 7, 2003,
18 at which time the board shall include the Chief Financial
19 Officer or the Chief Financial Officer's designee in place of
20 the Treasurer and Comptroller. The executive director of the
21 State Board of Administration shall be the chief executive
22 officer of the corporation and shall direct and supervise the
23 administrative affairs of the corporation and shall control,
24 direct, and supervise operation of the corporation. The
25 corporation shall have such other officers as may be
26 determined by the board of directors.

27 (3) The corporation shall have all the powers of a
28 corporate body under the laws of the state to the extent not
29 inconsistent with or restricted by this section, including but
30 not limited to the power to:

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1 (a) Adopt, amend, and repeal bylaws not inconsistent
2 with this section.

3 (b) Sue and be sued.

4 (c) Adopt and use a common seal.

5 (d) Acquire, purchase, hold, lease, and convey any
6 real and personal property as may be proper or expedient to
7 carry out the purposes of the corporation and this section,
8 and to sell, lease, or otherwise dispose of that property.

9 (e) Elect or appoint and employ such officers, agents,
10 and employees as the corporation considers advisable to
11 operate and manage the affairs of the corporation, which
12 officers, agents, and employees may be officers or employees
13 of the department and the state agencies represented on the
14 board of directors of the corporation.

15 (f) Borrow money and issue notes, bonds, certificates
16 of indebtedness, or other obligations or evidences of
17 indebtedness described in s. 403.1835.

18 (g) Make and execute any contracts, trust agreements,
19 and other instruments and agreements necessary or convenient
20 to accomplish the purposes of the corporation and this
21 section.

22 (h) Select, retain, and employ professionals,
23 contractors, or agents, which may include the Division of Bond
24 Finance of the State Board of Administration, as is necessary
25 or convenient to enable or assist the corporation in carrying
26 out its purposes and this section.

27 (i) Do any act or thing necessary or convenient to
28 carry out the purposes of the corporation and this section.

29 (4) The corporation may enter into one or more service
30 contracts with the department under which the corporation
31 shall provide services to the department in connection with

1 financing the functions, projects, and activities provided for
2 in s. 403.1835. The department may enter into one or more
3 service contracts with the corporation and provide for
4 payments under those contracts pursuant to s. 403.1835(9),
5 subject to annual appropriation by the Legislature. The
6 proceeds from the service contracts may be used for the costs
7 and expenses of administration of the corporation after
8 payments as set forth in subsection (5). In compliance with s.
9 287.0641 and other applicable provisions of law, the
10 obligations of the department under the service contracts does
11 not constitute a general obligation of the state or a pledge
12 of the faith and credit or taxing power of the state, nor may
13 the obligations be construed in any manner as an obligation of
14 the State Board of Administration or entities for which it
15 invests funds, or the department except as provided in this
16 section as payable solely from amounts available under any
17 service contract between the corporation and the department,
18 subject to appropriation. In compliance with this subsection
19 and s. 287.0582, service contracts must expressly include the
20 following statement: "The State of Florida's performance and
21 obligation to pay under this contract is contingent upon an
22 annual appropriation by the Legislature."

23 (5) The corporation may issue and incur notes, bonds,
24 certificates of indebtedness, or other obligations or
25 evidences of indebtedness payable from and secured by amounts
26 payable to the corporation by the department under a service
27 contract entered into under subsection (4) for the purpose of
28 appropriating funds for projects and activities provided for
29 in subsection (1). The corporation may select a financing team
30 and issue obligations through competitive bidding or
31 negotiated contracts, whichever is most cost-effective. Any

1 such indebtedness of the corporation does not constitute a
2 debt or obligation of the state or a pledge of the faith and
3 credit or taxing power of the state, but is payable from and
4 secured by payments made by the department under the service
5 contract under subsection (4).

6 (6) The corporation is exempt from taxation and
7 assessments of any nature whatsoever upon its income and any
8 property, assets, or revenues acquired, received, or used in
9 the furtherance of the purposes provided in ss. 403.1835 and
10 403.1838. The obligations of the corporation incurred under
11 subsection (5) and the interest and income on the obligations
12 and all security agreements, letters of credit, liquidity
13 facilities, or other obligations or instruments arising out
14 of, entered into in connection with, or given to secure
15 payment of the obligations are exempt from all taxation,
16 however, the exemption does not apply to any tax imposed by
17 chapter 220 on the interest, income, or profits on debt
18 obligations owned by corporations.

19 (7) The corporation shall validate any bonds issued
20 under this section, except refunding bonds which may be
21 validated at the option of the corporation, by proceedings
22 under chapter 75. The validation complaint must be filed only
23 in the Circuit Court for Leon County. The notice required
24 under s. 75.06 must be published in Leon County and the
25 complaint and order of the circuit court shall be served only
26 on the State Attorney for the Second Judicial Circuit.
27 Sections 75.04(2) and 75.06(2) do not apply to a validation
28 complaint filed as authorized in this subsection. The
29 validation of the first bonds issued under this section may be
30 appealed to the Supreme Court and the appeal shall be handled
31 on an expedited basis.

1 (8) The corporation and the department shall not take
2 any action that will materially and adversely affect the
3 rights of holders of any obligations issued under this section
4 as long as the obligations are outstanding.

5 (9) The corporation is not a special district for
6 purposes of chapter 189 or a unit of local government for
7 purposes of part III of chapter 218. The provisions of
8 chapters 120 and 215, except the limitation on interest rates
9 provided by s. 215.84, which applies to obligations of the
10 corporation issued under this section, and part I of chapter
11 287, except ss. 287.0582 and 287.0641, do not apply to this
12 section, the corporation created in this section, the service
13 contracts entered into under this section, or debt obligations
14 issued by the corporation as provided in this section.

15 (10) The benefits or earnings of the corporation may
16 not inure to the benefit of any private person, except persons
17 receiving grants and loans under s. 403.1835.

18 (11) Upon dissolution of the corporation, title to all
19 property owned by the corporation reverts to the department.

20 (12) The corporation may contract with the State Board
21 of Administration to serve as trustee with respect to debt
22 obligations issued by the corporation as provided by this
23 section and to hold, administer, and invest proceeds of those
24 debt obligations and other funds of the corporation and to
25 perform other services required by the corporation. The State
26 Board of Administration may perform these services and may
27 contract with others to provide all or a part of those
28 services and to recover the costs and expenses of providing
29 those services.

30 (13) The Auditor General may conduct a financial audit
31 of the accounts and records of the corporation.

1 (14) The department may adopt rules to administer this
2 section.

3 Section 3. Section 403.1836, Florida Statutes, is
4 repealed.

5 Section 4. This act shall take effect upon becoming a
6 law.

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9 SENATE SUMMARY

10 Provides a program for financing specified water
11 pollution control projects through bonding by the Florida
12 Water Pollution Control Financing Corporation created by
13 this act and the use of the Wastewater Treatment and
14 Stormwater Management Revolving Loan Trust Fund. Provides
15 tax exemptions for the corporation. Authorizes rulemaking
16 by the Department of Environmental Protection.

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