

By the Committee on Water & Resource Management and
Representative Gay

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; directing the
7 Department of Environmental Protection to
8 establish a priority system for projects;
9 providing for the use of the Wastewater
10 Treatment and Stormwater Management Revolving
11 Loan Trust Fund; granting rulemaking authority
12 to the department; creating s. 403.1837, F.S.;
13 creating the Florida Water Pollution Control
14 Financing Corporation; providing for its
15 membership and powers; authorizing the issuance
16 of bonds and other obligations; providing for
17 tax exemptions; authorizing the corporation to
18 contract with the State Board of Administration
19 for services; providing specific requirements
20 for Monroe County Projects funded under the
21 Wastewater Treatment and Stormwater Management
22 Revolving Loan Trust Fund; repealing s.
23 403.1836, F.S., relating to the Wastewater
24 Treatment and Stormwater Management Revolving
25 Loan Trust Fund; providing an appropriation;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Section 403.1835, Florida Statutes, is
31 amended to read:

1 403.1835 Water pollution control financial assistance
2 ~~Sewage treatment facilities revolving loan program.--~~
3 (1) The purpose of this section is to assist in
4 implementing the legislative declaration of public policy as
5 contained in s. 403.021 by establishing a self-perpetuating
6 ~~loan~~ program to accelerate the implementation of water
7 pollution control projects ~~construction of sewage treatment~~
8 ~~facilities by local governmental agencies and to assist local~~
9 ~~governmental agencies. Projects and activities that may be~~
10 funded are those eligible under s. 603 of the Federal Water
11 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500,
12 as amended, including, but not limited to, planning, design,
13 construction, and implementation of wastewater management
14 systems, stormwater management systems, nonpoint source
15 pollution management systems, and estuary conservation and
16 management.
17 (2) For the purposes of this section, the term:
18 (a) "Local governmental agencies" means local
19 governmental agencies as defined in s. 403.1822(3).
20 **~~(b)~~** ~~"Sewage treatment facilities" means all facilities~~
21 ~~necessary, including land, for the collection, treatment, or~~
22 ~~disposal of domestic wastewater.~~
23 **~~(b)(c)~~** "Bonds" means ~~state~~ bonds, certificates, or
24 other obligations of indebtedness issued by the Florida Water
25 Pollution Control Financing Corporation under ~~Division of Bond~~
26 ~~Finance of the State Board of Administration pursuant to this~~
27 section and s. 403.1837 ~~the State Bond Act.~~
28 **~~(c)~~** "Corporation" means the Florida Water Pollution
29 Control Financing Corporation.
30 (3) ~~The department is authorized to make loans and~~
31 ~~grants to local governmental agencies to assist them in~~

1 ~~planning, designing, and constructing sewage treatment~~
2 ~~facilities and stormwater management systems. The department~~
3 ~~may administer the resulting portfolio of loans, including the~~
4 ~~authority to sell or pledge the loans, or any portion of the~~
5 ~~loans, with the approval of the Governor, the Treasurer, and~~
6 ~~the Comptroller, acting as the State Board of Administration,~~
7 ~~to ensure compliance with subsection (1).~~

8 (a) The department may ~~is authorized to~~ make grants
9 and loans, to provide loan guarantees, ~~to~~ purchase loan
10 insurance, and ~~to~~ refinance local debt through the issue of
11 new loans for projects approved by the department. This
12 financial assistance must be administered in accordance with
13 this section and applicable federal authorities. The
14 department may administer the resulting portfolio of loans,
15 including the authority to sell or pledge the loans or any
16 portion of the loans, as provided in this section and s.
17 403.1837, to fulfill the public purpose set forth in
18 subsection (1).

19 (a) The department may make loans to local government
20 agencies, which agencies may pledge any revenue available to
21 them to repay any funds borrowed.

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

28 (c) The department shall administer financial
29 assistance so that at least 15 percent of the funding made
30 available each year under this section is reserved for use by
31 small communities during the year it is reserved.~~Local~~

1 ~~governmental agencies are authorized to borrow funds made~~
2 ~~available pursuant to this section and may pledge any revenue~~
3 ~~available to them to repay any funds borrowed. The department~~
4 ~~shall administer loans to local governmental agencies so that~~
5 ~~at least 15 percent of each annual allocation for loans is~~
6 ~~reserved for small communities.~~

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

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

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

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

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1 ~~(b)~~ The department shall prepare an annual report
2 detailing the amount of grants, amount loaned, interest
3 earned, grant allocations, and loans outstanding at the end of
4 each fiscal year.

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

7 (a) Submit evidence of credit worthiness, loan
8 security, and a loan ~~Provide a~~ repayment schedule in support
9 of a request for a loan.

10 (b) Submit plans and specifications and evidence of
11 permissibility in support of a request for funding of
12 construction or other activities requiring a permit from the
13 department for sewage treatment facilities and stormwater
14 management systems.

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

20 (d) Provide assurance that the subject facilities,
21 systems, or activities ~~facility~~ will be properly operated and
22 maintained.

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

28 (f) Provide assurance that ~~annual~~ financial
29 information ~~audit reports, and a separate project audit~~
30 ~~prepared by an independent certified public accountant upon~~
31

1 ~~project completion, will be provided as required by~~ submitted
2 ~~to the department.~~

3 (g) Provide assurance that a project audit prepared by
4 an independent certified public accountant upon project
5 completion will be submitted to the department in support of a
6 request for a grant.

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

13 (7) Eligible projects must be given priority according
14 to the extent each project is intended to remove, mitigate, or
15 prevent adverse effects on surface or ground water quality and
16 public health. The relative costs of achieving environmental
17 and public health benefits must be taken into consideration
18 during the department's assignment of project priorities. The
19 department shall adopt a priority system by rule. In
20 developing the priority system, the department shall give
21 priority to projects that:

22 (a) Eliminate public health hazards;
23 (b) Enable compliance with laws requiring the
24 elimination of discharges to specific water bodies;
25 (c) Assist in the implementation of total maximum
26 daily loads adopted under s. 403.067;
27 (d) Enable compliance with other pollution control
28 requirements, including, but not limited to, toxics control,
29 wastewater residuals management, and reduction of nutrients
30 and bacteria;
31

1 (e) Assist in the implementation of surface water
2 improvement and management plans approved under s. 373.456 and
3 pollutant load reduction goals developed under state water
4 policy;

5 (f) Promote reclaimed water reuse;

6 (g) Eliminate failing onsite sewage treatment and
7 disposal systems or those that are causing environmental
8 damage; or

9 (h) Reduce pollutants to and otherwise promote the
10 restoration of Florida's surface and ground waters.~~However,~~
11 ~~preference must be given to eligible projects that protect the~~
12 ~~public health or are required by law to eliminate sewage~~
13 ~~treatment facility discharges into specific bodies of water.~~

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

29 (b) If a loan recipient, other than a local government
30 agency, defaults under the terms of a loan, the department may
31 pursue any remedy available to it at law or in equity. The

1 department may impose a penalty in an amount not to exceed an
2 interest rate of 18 percent per annum on any amount due in
3 addition to charging the cost to handle and process the debt.
4 Penalty interest accrues on any amount due and payable
5 beginning on the 30th day following the date upon which the
6 amount is due.

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

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

29 1. The department may obligate moneys available in the
30 Wastewater Treatment and Stormwater Management Revolving Loan
31 Trust Fund for payment of amounts payable under any service

1 contract entered into by the department under s. 403.1837,
2 subject to annual appropriation by the Legislature. Amounts on
3 deposit in the trust fund in each fiscal year shall first be
4 applied or allocated for the payment of amounts payable by the
5 department under this subparagraph and appropriated each year
6 by the Legislature before making or providing for other
7 disbursement from the trust fund.

8 2. The State Board of Administration shall invest and
9 reinvest moneys in the trust fund in accordance with ss.
10 215.44-215.53. Costs and fees of the State Board of
11 Administration for providing those investment services shall
12 be deducted from the earnings accruing to the trust fund.

13 3. Under the provisions of s. 19(f)(3), Art. III of
14 the State Constitution, the Wastewater Treatment and
15 Stormwater Management Revolving Loan Trust Fund is exempt from
16 the termination provisions of s. 19(f)(2), Art. III of the
17 State Constitution.

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

1 earnings thereon, must be accounted for separately from all
2 other moneys deposited into the fund.

3 (10) The department may adopt rules regarding program
4 administration; project eligibilities and priorities,
5 including the development and management of project priority
6 lists; financial assistance application requirements
7 associated with planning, design, construction, and
8 implementation activities, including environmental and
9 engineering requirements; financial assistance agreement
10 conditions; disbursement and repayment provisions; auditing
11 provisions; program exceptions; the procedural relationship
12 between the department and the Florida Water Pollution Control
13 Financing Corporation under s. 403.1837; and other provisions
14 consistent with the purposes of this section.~~Because the~~
15 ~~Legislature has experienced revenue shortfalls in recent years~~
16 ~~and has been unable to provide enough funds to fully match~~
17 ~~available federal funds to help capitalize the Wastewater~~
18 ~~Treatment and Stormwater Management Revolving Loan Trust Fund,~~
19 ~~it is necessary for innovative approaches to be considered to~~
20 ~~help capitalize the revolving loan fund. The department shall~~
21 ~~evaluate potential innovative approaches that can generate~~
22 ~~funds to match available federal funds. The department may~~
23 ~~adopt approaches that will help ensure the continuing~~
24 ~~viability of the Wastewater Treatment and Stormwater~~
25 ~~Management Revolving Loan Trust Fund. The department shall~~
26 ~~consider, among other possible alternatives, the option of~~
27 ~~implementing by rule a program to allow local governments to~~
28 ~~offer funds voluntarily to the state for use as a match to~~
29 ~~available federal funds to capitalize the Wastewater Treatment~~
30 ~~and Stormwater Management Revolving Loan Trust Fund.~~
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1 Section 2. Section 403.1837, Florida Statutes, is
2 created to read:

3 403.1837 Florida Water Pollution Control Financing
4 Corporation.--

5 (1) The Florida Water Pollution Control Financing
6 Corporation is created as a nonprofit public-benefit
7 corporation for the purpose of financing the costs of water
8 pollution control projects and activities described in s.
9 403.1835. The projects and activities described in that
10 section are found to constitute a public governmental purpose,
11 to be necessary for the health, safety, and welfare of all
12 residents, and include legislatively approved fixed capital
13 outlay projects. The fulfillment of the purposes of the
14 corporation promotes the health, safety, and welfare of the
15 people of the state and serves essential governmental
16 functions and a paramount public purpose. The corporation
17 shall terminate upon fulfillment of the purposes of this
18 section.

19 (2) The corporation shall be governed by a board of
20 directors consisting of the Governor's Budget Director, the
21 Comptroller or the Comptroller's designee, the Treasurer or
22 the Treasurer's designee, and the Secretary of Environmental
23 Protection or the secretary's designee, until January 7, 2003,
24 at which time the board shall include the Chief Financial
25 Officer or the Chief Financial Officer's designee in place of
26 the Treasurer and Comptroller. The executive director of the
27 State Board of Administration shall be the chief executive
28 officer of the corporation and shall direct and supervise the
29 administrative affairs of the corporation and shall control,
30 direct, and supervise operation of the corporation. The
31

1 corporation shall have such other officers as may be
2 determined by the board of directors.
3 (3) The corporation shall have all the powers of a
4 corporate body under the laws of the state to the extent not
5 inconsistent with or restricted by this section, including,
6 but not limited to, the power to:
7 (a) Adopt, amend, and repeal bylaws not inconsistent
8 with this section.
9 (b) Sue and be sued.
10 (c) Adopt and use a common seal.
11 (d) Acquire, purchase, hold, lease, and convey any
12 real and personal property as may be proper or expedient to
13 carry out the purposes of the corporation and this section,
14 and to sell, lease, or otherwise dispose of that property.
15 (e) Elect or appoint and employ such officers, agents,
16 and employees as the corporation considers advisable to
17 operate and manage the affairs of the corporation, which
18 officers, agents, and employees may be officers or employees
19 of the department and the state agencies represented on the
20 board of directors of the corporation.
21 (f) Borrow money and issue notes, bonds, certificates
22 of indebtedness, or other obligations or evidences of
23 indebtedness described in s. 403.1835.
24 (g) Make and execute any contracts, trust agreements,
25 and other instruments and agreements necessary or convenient
26 to accomplish the purposes of the corporation and this
27 section.
28 (h) Select, retain, and employ professionals,
29 contractors, or agents, which may include the Division of Bond
30 Finance of the State Board of Administration, as is necessary
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1 or convenient to enable or assist the corporation in carrying
2 out its purposes and this section.

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

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

30 (5) The corporation may issue and incur notes, bonds,
31 certificates of indebtedness, or other obligations or

1 evidences of indebtedness payable from and secured by amounts
2 payable to the corporation by the department under a service
3 contract entered into under subsection (4) for the purpose of
4 appropriating funds for projects and activities provided for
5 in subsection (1). The corporation may select a financing team
6 and issue obligations through competitive bidding or
7 negotiated contracts, whichever is most cost-effective. Any
8 such indebtedness of the corporation does not constitute a
9 debt or obligation of the state or a pledge of the faith and
10 credit or taxing power of the state, but is payable from and
11 secured by payments made by the department under the service
12 contract under subsection (4).

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

26 (7) The corporation shall validate any bonds issued
27 under this section, except refunding bonds which may be
28 validated at the option of the corporation, by proceedings
29 under chapter 75. The validation complaint must be filed only
30 in the Circuit Court for Leon County. The notice required
31 under s. 75.06 must be published in Leon County and the

1 complaint and order of the circuit court shall be served only
2 on the State Attorney for the Second Judicial Circuit.
3 Sections 75.04(2) and 75.06(2) do not apply to a validation
4 complaint filed as authorized in this subsection. The
5 validation of the first bonds issued under this section may be
6 appealed to the Supreme Court and the appeal shall be handled
7 on an expedited basis.

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

12 (9) The corporation is not a special district for
13 purposes of chapter 189 or a unit of local government for
14 purposes of part III of chapter 218. The provisions of
15 chapters 120 and 215, except the limitation on interest rates
16 provided by s. 215.84, which applies to obligations of the
17 corporation issued under this section, and part I of chapter
18 287, except ss. 287.0582 and 287.0641, do not apply to this
19 section, the corporation created in this section, the service
20 contracts entered into under this section, or debt obligations
21 issued by the corporation as provided in this section.

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

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

27 (12) The corporation may contract with the State Board
28 of Administration to serve as trustee with respect to debt
29 obligations issued by the corporation as provided by this
30 section and to hold, administer, and invest proceeds of those
31 debt obligations and other funds of the corporation and to

1 perform other services required by the corporation. The State
2 Board of Administration may perform these services and may
3 contract with others to provide all or a part of those
4 services and to recover the costs and expenses of providing
5 those services.

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

8 Section 3. Any projects for reclaimed water reuse in
9 Monroe County funded from the Wastewater Treatment and
10 Stormwater Management Revolving Loan Trust Fund under s.
11 403.1835, Florida Statutes, shall take into account water
12 balances and nutrient balances in order to prevent the runoff
13 of pollutants into surface waters.

14 Section 4. Section 403.1836, Florida Statutes, is
15 repealed.

16 Section 5. There is hereby appropriated from the
17 Wastewater Treatment and Stormwater Management Revolving Loan
18 Trust Fund in fiscal year 2000-2001 an amount not to exceed
19 \$100 million to carry out the purposes of s. 403.1837, Florida
20 Statutes, to allow the obligation of any proceeds secured
21 therefrom in the form of financial assistance agreements under
22 s. 403.1835, Florida Statutes, and to pay costs and expenses
23 incurred by the Department of Environmental Protection and the
24 Florida Water Pollution Control Financing Corporation in
25 administering and managing the financial assistance program,
26 establishing necessary reserves, and paying debt service on
27 any obligations incurred.

28 Section 6. This act shall take effect upon becoming a
29 law.

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