

By the Committees on General Government Appropriations,
Environmental Protection, Water & Resource Management and
Representatives Alexander, Betancourt, K. Smith, Boyd, Cantens
and Casey

1 A bill to be entitled
2 An act relating to water resources; amending s.
3 403.0882, F.S.; reorganizing and clarifying the
4 section; providing findings and declaration;
5 providing definitions; directing the Department
6 of Environmental Protection to initiate
7 rulemaking, by a specified date, to address
8 facilities that discharge demineralization
9 concentrate; creating a technical advisory
10 committee to assist in rule development;
11 providing permitting requirements relating to
12 failure of toxicity tests due to naturally
13 occurring constituents; providing requirements
14 for discharge of demineralization concentrate
15 from small water utility businesses; providing
16 additional rulemaking authority; amending s.
17 403.061, F.S.; providing an exemption allowing
18 demineralization concentrate mixing zones in
19 Outstanding Florida Waters if specific
20 requirements are met; creating s. 403.065,
21 F.S.; providing findings and declarations;
22 providing for classification and permitting of
23 aquifer storage and recovery wells; providing a
24 zone of discharge for aquifer storage and
25 recovery wells meeting specific criteria;
26 providing monitoring requirements for aquifer
27 storage and recovery wells; requiring an
28 aquifer exemption for aquifer storage and
29 recovery wells not exceeding primary drinking
30 water standards other than total coliform
31 bacteria or sodium; requiring the department to

1 make a reasonable effort to issue or deny
2 permits within 90 days; providing the
3 department with rulemaking authority to
4 implement this section; amending s. 287.042,
5 F.S.; adding the water management districts to
6 the agencies that can require bid protesters to
7 file a bond; amending s. 197.432, F.S.;
8 conforming cross references; amending s.
9 197.502, F.S.; authorizing local governments to
10 file tax deed applications in a specified
11 manner; amending s. 197.522, F.S.; conforming a
12 cross reference; amending s. 199.1055, F.S.;
13 broadening the contaminated site rehabilitation
14 tax credit against the intangible personal
15 property tax to include in the preapproved
16 advanced cleanup program petroleum-contaminated
17 sites and other contaminated sites at which
18 cleanup is undertaken pursuant to a voluntary
19 rehabilitation agreement with the Department of
20 Environmental Protection under certain
21 circumstances; amending s. 212.08, F.S.;
22 providing an exemption from the sales and use
23 tax for building materials used in the
24 rehabilitation of real property located in a
25 designated brownfield area; providing an
26 exemption from the sales and use tax for
27 business property purchased for use by
28 businesses located in a designated brownfield
29 area; amending s. 212.096, F.S.; providing for
30 a brownfield area jobs credit against the sales
31 and use tax; amending s. 220.181, F.S.;

1 providing for a designated brownfield area jobs
2 credit against the corporate income tax;
3 amending s. 220.182, F.S.; providing for a
4 designated brownfield area property tax credit
5 against the corporate income tax; amending s.
6 220.183, F.S.; providing a partial credit
7 against the corporate income tax for community
8 contributions that benefit designated
9 brownfield areas; amending s. 220.1845, F.S.;
10 broadening the contaminated site rehabilitation
11 tax credit against the corporate income tax to
12 include in the preapproved advanced cleanup
13 program petroleum-contaminated sites and other
14 contaminated sites at which cleanup is
15 undertaken pursuant to a voluntary
16 rehabilitation agreement with the Department of
17 Environmental Protection under certain
18 circumstances; amending s. 290.007, F.S.;
19 providing for state incentives in designated
20 brownfield areas; creating s. 376.30702, F.S.;
21 creating the Florida State-Owned-Lands Cleanup
22 Program; providing intent; directing the
23 Department of Environmental Protection to use
24 existing site priority ranking and cleanup
25 criteria; amending s. 376.30781, F.S.;
26 broadening the partial tax credits for the
27 rehabilitation of certain contaminated sites;
28 clarifying provisions regarding the filing for
29 the tax credits; amending s. 376.84, F.S.;
30 authorizing entities approved by the local
31 government for the purpose of redeveloping

1 brownfield areas to use tax increment
2 financing; authorizing levy of special
3 assessments under certain circumstances;
4 amending s. 376.86, F.S.; increasing the limits
5 of the state loan guaranty in brownfield areas;
6 creating s. 376.876, F.S.; providing for a
7 Brownfield Redevelopment Grants Program in the
8 Department of Environmental Protection;
9 specifying the uses of grant funds; requiring
10 matching funds; authorizing the department to
11 adopt rules; repealing s. 211.3103(9), F.S.,
12 relating to requirements for a county that
13 accepts real property of mined or reclaimed
14 land from phosphate mining companies to forfeit
15 a portion of its share of severance tax equal
16 to the value of property donated; amending s.
17 288.047, F.S.; requiring Enterprise Florida,
18 Inc., to set aside each fiscal year a certain
19 amount of the appropriation for the Quick
20 Response Training Program for businesses
21 located in a brownfield area; amending s.
22 288.107, F.S.; redefining the term "eligible
23 business"; providing for bonus refunds for
24 businesses that can demonstrate a fixed capital
25 investment in certain mixed use activities in
26 the brownfield area; providing a limitation;
27 amending s. 288.905, F.S.; requiring Enterprise
28 Florida, Inc., to develop comprehensive
29 marketing strategies for redevelopment of
30 brownfield areas; amending s. 376.301, F.S.;
31 redefining the terms "antagonistic effects,"

1 "discharge," "institutional controls," "natural
2 attenuation," and "site rehabilitation" and
3 defining the term "risk reduction"; creating s.
4 376.30701, F.S.; extending application of
5 risk-based corrective action principles to all
6 contaminated sites resulting from a discharge
7 of pollutants or hazardous substances;
8 providing for contamination cleanup criteria
9 that incorporates risk-based corrective actions
10 to be adopted by rule; providing clarification
11 that cleanup criteria do not apply to offsite
12 relocation or treatment; providing the
13 conditions under which further rehabilitation
14 may be required; providing contaminated site
15 mapping requirements; providing for a
16 contaminated site registry; amending s.
17 376.3078, F.S.; modifying drycleaning facility
18 site rehabilitation criteria; amending s.
19 376.79, F.S.; defining the terms "contaminant"
20 and "risk reduction"; redefining the terms
21 "natural attenuation," "institutional control,"
22 and "source removal"; amending s. 376.80, F.S.;
23 allowing local governments or persons
24 responsible for brownfield area rehabilitation
25 and redevelopment to use an existing advisory
26 committee; deleting the requirement that the
27 advisory committee must review and provide
28 recommendations to the local government with
29 jurisdiction on the proposed brownfield site
30 rehabilitation agreement; providing that the
31 person responsible for site rehabilitation must

1 notify the advisory committee of the intent to
2 rehabilitate and redevelop the site before
3 executing the brownfield site rehabilitation
4 agreement; requiring the person responsible for
5 site rehabilitation to hold a meeting or attend
6 a regularly scheduled meeting of the advisory
7 committee to inform the advisory committee of
8 the outcome of the environmental assessment;
9 requiring the person responsible for site
10 rehabilitation to enter into a brownfield site
11 rehabilitation agreement only if actual
12 contamination exists; clarifying provisions
13 relating to the required comprehensive general
14 liability and comprehensive automobile
15 liability insurance; amending s. 376.81, F.S.;
16 providing direction regarding the risk-based
17 corrective action rule; requiring the
18 department to establish alternative cleanup
19 levels under certain circumstances; amending s.
20 376.82, F.S.; providing immunity for liability
21 regarding contaminated site remediation under
22 certain circumstances; creating s. 376.88,
23 F.S.; providing for the Brownfield Program
24 Review Advisory Council; providing duties and
25 responsibilities; amending s. 403.973, F.S.;
26 providing that projects located in a designated
27 brownfield area are eligible for the expedited
28 permitting process; amending s. 190.012, F.S.;
29 authorizing community development districts to
30 fund certain environmental costs under certain
31 circumstances; amending ss. 712.01 and 712.03,

1 F.S.; modifying definition of "covenant and
2 restriction"; prohibiting subsequent property
3 owners from removing certain deed restrictions
4 under other provisions of the Marketable Record
5 Title Act; repealing s. 211.3103(9), F.S.,
6 relating to certain requirements for counties
7 accepting donations of reclaimed land;
8 repealing s. 258.398, F.S., 1997, relating to
9 designation of Lake Weir as an aquatic
10 preserve; amending s. 373.083, F.S.;
11 authorizing water management district governing
12 boards to delegate certain activities to the
13 executive director or other staff; directing
14 the governing boards to establish the scope and
15 terms of any delegated activity; providing for
16 an appeals process to the governing board;
17 amending s. 373.323, F.S.; providing additional
18 licensure requirements for water well
19 contractors; amending s. 373.324, F.S.;
20 providing a continuing education requirement
21 for license renewal; providing for rules;
22 amending s. 373.406, F.S.; authorizing a water
23 management district or the Department of
24 Environmental Protection to provide exemptions
25 from pt. IV of ch. 373, F.S., relating to
26 management and storage of surface waters, by
27 rule; ratifying and affirming certain
28 previously adopted rules; amending s. 403.088,
29 F.S.; creating a process by which water
30 pollution operation permittees must notify the
31 Department of Environmental Protection of any

1 noncompliance action that may endanger public
2 health or the environment; providing rulemaking
3 authority; directing the department to notify
4 permittees of the existing emergency management
5 communications process; amending s. 403.813,
6 F.S.; prohibiting the department and the Board
7 of Trustees of the Internal Improvement Trust
8 Fund from limiting the number of vessels that
9 can use single-family residential docks;
10 providing exceptions; amending s. 403.852,
11 F.S.; revising definitions relating to the
12 "Florida Safe Drinking Water Act"; providing
13 for transient noncommunity water systems;
14 amending ss. 403.853, 403.8532, and 803.854,
15 F.S.; revising provisions relating to drinking
16 water regulation, community water system loan
17 funding, and waiver of disinfection and
18 certified operator requirements for certain
19 noncommunity water systems; amending ss.
20 403.865, 403.866, 403.867, 403.872, 403.875,
21 and 403.88, F.S.; expanding provisions relating
22 to water and wastewater facilities personnel to
23 include "water distribution systems," as
24 required by federal law; providing for a
25 navigational access channel in Santa Rosa
26 County; requiring certain mitigation, disposal,
27 water protection, and inspection plans;
28 requiring reports; providing responsibility for
29 costs; providing for an expedited process for
30 state dredge and fill permits; providing for
31

1 project criteria; providing an effective date.

2

3 Be It Enacted by the Legislature of the State of Florida:

4

5 Section 1. Section 403.0882, Florida Statutes, is
6 amended to read:

7 (Substantial rewording of section. See

8 s. 403.0882, F.S., for present text.)

9 403.0882 Discharge of demineralization concentrate.--

10 (1) The Legislature finds and declares that it is in
11 the public interest to conserve and protect water resources;
12 provide adequate water supplies and provide for natural
13 systems; and promote brackish water demineralization as an
14 alternative to ground and surface water withdrawals of
15 freshwater, by removing institutional barriers to
16 demineralization and through conducting research, including
17 demonstration projects, to advance water and water byproduct
18 treatment technology, sound waste byproduct disposal methods,
19 and regional solutions to water resources issues. In order to
20 promote the state objective of alternative water supply
21 development, including the use of demineralization
22 technologies, and encourage the conservation and protection of
23 Florida's natural resources, the concentrate resulting from
24 demineralization shall be classified as potable water
25 byproduct regardless of flow quantity and shall be
26 appropriately treated, and discharged or reused.

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

28 (a) "Demineralization concentrate" means the
29 concentrated byproduct water, brine, or reject water produced
30 by ion exchange or membrane separation technologies, such as
31 reverse osmosis, membrane softening, ultra-filtration,

1 membrane filtration, electro dialysis, and electro dialysis
2 reversal, used for desalination, softening, or reducing total
3 dissolved solids during water treatment for public water
4 supply purposes.
5 (b) "Small water utility business" means any facility
6 that distributes potable water to two or more customers with a
7 concentrate discharge of less than 50,000 gallons per day.
8 (3) The department shall initiate rulemaking no later
9 than October 1, 2000, to address facilities that discharge
10 demineralization concentrate. The department shall convene a
11 technical advisory committee to assist in the development of
12 the rules, which shall include one representative each from
13 the demineralization industry, local government, water and
14 wastewater utilities, the engineering profession, business,
15 and environmental organizations. The technical advisory
16 committee shall also include one member representing the five
17 water management districts and one representative from the
18 Florida Marine Research Institute with expertise in sea
19 grasses. In convening the technical advisory committee,
20 consideration shall be given to geographical balance. The
21 rules shall address, at a minimum:
22 (a) Permit application forms for concentrate disposal.
23 (b) Specific options and requirements for
24 demineralization concentrate disposal, including a
25 standardized list of effluent and monitoring parameters, which
26 may be adjusted or expanded by the department as necessary to
27 protect water quality.
28 (c) Specific requirements and accepted methods for
29 evaluating mixing of effluent in receiving waters.
30 (d) Specific toxicity provisions.
31

1 (4)(a) For facilities that discharge demineralization
2 concentrate, the failure of whole effluent toxicity tests
3 predominately due to the presence of constituents naturally
4 occurring in the source water, limited to calcium, potassium,
5 sodium, magnesium, chloride, bromide, and other constituents
6 designated by the department, shall not be the basis for
7 denial of a permit, denial of a permit renewal, revocation of
8 a permit, or other enforcement action by the department, as
9 long as the volume of water necessary to achieve water quality
10 standards is available within a distance not in excess of two
11 times the natural water depth at the point of discharge under
12 all flow conditions.

13 (b) In the event failure of whole effluent toxicity
14 tests is due predominately to the presence of the naturally
15 occurring constituents identified in paragraph (a), or
16 designated by the department pursuant to paragraph (a), the
17 department shall issue a permit for the demineralization
18 concentrate discharge, if:

19 1. The volume of water necessary to achieve water
20 quality standards is available within a distance not in excess
21 of two times the natural water depth at the point of discharge
22 under all flow conditions; and

23 2. All other permitting requirements are met.

24
25 A variance for toxicity under the circumstance described in
26 this paragraph shall not be required.

27 (c) Facilities that fail to meet the requirements of
28 this subsection may be permitted in accordance with department
29 rule, including all applicable moderating provisions such as
30 variances, exemptions, and mixing zones.

31

1 (5) Blending of demineralization concentrate with
2 reclaimed water shall be allowed in accordance with the
3 department's reuse rules.

4 (6) This subsection applies only to small water
5 utility businesses.

6 (a) The discharge of demineralization concentrate from
7 small water utility businesses shall be presumed to be
8 allowable and permittable in all waters in the state, if:

9 1. The discharge meets the effluent limitations in s.
10 403.086(4), except that high-level disinfection shall not be
11 required unless the presence of fecal coliforms in the source
12 water will result in the discharge not meeting applicable
13 water quality standards;

14 2. The discharge of demineralization concentrate
15 achieves a minimum of 4-to-1 dilution within a distance not in
16 excess of two times the natural water depth at the point of
17 discharge under all flow conditions; and

18 3. The point of discharge is located at a reasonably
19 accessible point that minimizes water quality impacts to the
20 greatest extent possible.

21 (b) The presumption in paragraph (a) that the
22 discharge of demineralization concentrate from a small water
23 utility is allowable and permittable may be overcome only by a
24 demonstration that one or more of the following conditions is
25 present:

26 1. The discharge will be made directly into an
27 Outstanding Florida Water, except as provided in chapter
28 90-262, Laws of Florida.

29 2. The discharge will be made directly to Class I or
30 Class II waters.

31

1 3. The discharge will be made to a water body having a
2 total maximum daily load established by the department and the
3 discharge will cause or contribute to a violation of the
4 established load.

5 4. The discharge fails to meet the requirements of the
6 antidegradation policy contained in the department rules.

7 5. The discharge will be made to a sole-source
8 aquifer.

9 6. The discharge fails to meet applicable surface
10 water and groundwater quality standards.

11 7. The results of any toxicity test performed by the
12 applicant under paragraph (d) or by the department indicate
13 the discharge does not meet toxicity requirements at the
14 boundary of the mixing zone under subparagraph (a)2.

15 (c) If one or more of the conditions in paragraph (b)
16 has been demonstrated, the department may:

17 1. Require more stringent effluent limitations;

18 2. Require relocation of the discharge point or a
19 change in the method of discharge;

20 3. Limit the duration or volume of the discharge; or

21 4. Prohibit the discharge if there is no alternative
22 that meets the conditions of subparagraphs 1.-3.

23 (d) For facilities owned by small water utility
24 businesses, the department shall not:

25 1. Require such businesses to perform toxicity testing
26 at other than the time of permit application, permit renewal,
27 or any requested permit modification, unless the initial
28 toxicity test or any subsequent toxicity test performed by the
29 department does not meet toxicity requirements.

30 2. Require such businesses to obtain a
31 water-quality-based effluent limitation determination.

1 (7) The department may adopt additional rules for the
2 regulation of demineralization and to implement the provisions
3 of this section and s. 403.061(11)(b).

4 Section 2. Paragraph (b) of subsection (11) of section
5 403.061, Florida Statutes, is amended to read:

6 403.061 Department; powers and duties.--The department
7 shall have the power and the duty to control and prohibit
8 pollution of air and water in accordance with the law and
9 rules adopted and promulgated by it and, for this purpose, to:

10 (11) Establish ambient air quality and water quality
11 standards for the state as a whole or for any part thereof,
12 and also standards for the abatement of excessive and
13 unnecessary noise. The department is authorized to establish
14 reasonable zones of mixing for discharges into waters.

15 (b) No mixing zone for point source discharges shall
16 be permitted in Outstanding Florida Waters except for:

17 1. Sources which have received permits from the
18 department prior to April 1, 1982, or the date of designation,
19 whichever is later.†

20 2. Blowdown from new power plants certified pursuant
21 to the Florida Electrical Power Plant Siting Act.†~~and~~

22 3. Discharges of water necessary for water management
23 purposes which have been approved by the governing board of a
24 water management district and, if required by law, by the
25 secretary.

26 4. The discharge of demineralization concentrate which
27 has been determined permittable under s. 403.0882 and which
28 meets the specific provisions of s. 403.0882(4)(a) and (b), if
29 the proposed discharge is clearly in the public interest.

30 Section 3. Section 403.065, Florida Statutes, is
31 created to read:

1 403.065 Aquifer storage and recovery wells.--
2 (1) The Legislature finds and declares that it is in
3 the public interest to conserve and protect water resources,
4 provide adequate water supplies, provide for natural systems,
5 and promote quality aquifer storage and recovery projects by
6 removing inappropriate institutional barriers.
7 (2) Aquifer storage and recovery wells shall be
8 classified and permitted according to department rules,
9 consistent with the federal Safe Drinking Water Act. Such
10 wells shall be constructed to prevent violation of state
11 groundwater quality standards at the point of discharge,
12 except as specifically provided in this section.
13 (3) Aquifer storage and recovery wells shall be
14 allowed a zone of discharge for sodium and secondary drinking
15 water standards, provided the requirements of paragraphs
16 (4)(b), (c), and (d) and subsection (6) are met.
17 (4) Aquifer storage and recovery wells used to inject
18 water from a surface water or groundwater source shall be
19 allowed a zone of discharge for total coliform bacteria when
20 the applicant for the aquifer storage and recovery well permit
21 demonstrates, through a risk-based analysis, the following:
22 (a) The native groundwater within the proposed zone of
23 discharge contains no less than 1,500 milligrams per liter
24 total dissolved solids.
25 (b) The native groundwater within the proposed zone of
26 discharge is not currently being used as a public or private
27 drinking water supply, nor can any person other than the
28 permit applicant be reasonably expected to withdraw water from
29 the zone of discharge in the future for such use.
30 (c) The presence of the stored water shall not cause
31 any person other than the permit applicant to treat its source

1 water in any way that would not have been required in the
2 absence of the aquifer storage and recovery well.

3 (d) The department has approved a monitoring plan that
4 specifies the number and location of monitor wells, monitoring
5 parameters, and frequency of monitoring.

6 (e) Total coliform bacteria is the only primary
7 drinking water standard other than sodium that will not be met
8 prior to injection.

9 (f) The permit applicant demonstrates that biological
10 contaminants will experience die-off such that primary
11 drinking water standards will be met at the edge of the zone
12 of discharge and that those contaminants will not pose an
13 adverse risk to human health.

14 (g) The permit applicant documents the environmental
15 benefits to be derived from the storage, recovery, and future
16 use of the injected water.

17 (h) The use of the recovered water is consistent with
18 its intended primary purpose.

19 (i) The storage of water shall not endanger drinking
20 water sources, as defined in the federal Safe Drinking Water
21 Act, 42 U.S.C. ss. 300h.

22 (5) The department may allow a zone of discharge for
23 sodium, total coliform bacteria, and secondary drinking water
24 standards if the total dissolved solids concentration of the
25 native groundwater within the proposed zone of discharge is
26 less than 1,500 milligrams per liter and if the requirements
27 of paragraphs (4)(b)-(i) are satisfied, and:

28 (a) The applicant for the aquifer storage and recovery
29 well permit demonstrates that no person, other than the permit
30 applicant, may in the future withdraw water from the zone of
31 discharge for use as a public or private drinking water supply

1 because of legal restrictions imposed by a water management
2 district, state agency, local government, or other
3 governmental entity having jurisdiction over water supply or
4 well construction.

5 (b) The permit applicant provides written notice,
6 including specific information about the proposed aquifer
7 storage and recovery project, to each landowner whose property
8 overlies the zone of discharge.

9 (6) A zone of discharge for aquifer storage and
10 recovery wells shall not intersect or include any part of a
11 500-foot radius surrounding any well that uses the injection
12 zone to supply drinking water.

13 (7) The department shall specify in the permit for the
14 aquifer storage and recovery well the vertical and lateral
15 limits of the approved zone of discharge. The zone of
16 discharge limits shall be based on hydrogeological conditions,
17 for which the permit applicant shall provide calculations or
18 the results of modeling that include, but are not limited to,
19 reasonable assumptions about the expected volume of water to
20 be stored and recovered and reasonable assumptions regarding
21 aquifer thickness and porosity. Compliance with the primary
22 drinking water standard for total coliform bacteria, sodium,
23 and the secondary drinking water standards shall be required
24 at the edge of the zone of discharge.

25 (8) After the aquifer storage and recovery well is in
26 operation, groundwater monitoring must demonstrate that
27 biological die-off is occurring, no exceedances of the primary
28 drinking water standards have occurred outside of the zone of
29 discharge, and there is no adverse risk to human health from
30 the injection activity. Failure of the applicant to make this
31

1 demonstration shall result in revocation of the zone of
2 discharge.
3 (9) If drinking water supply wells are present in the
4 injection zone within 2.5 miles of the edge of the zone of
5 discharge, additional monitor wells may be required to detect
6 the possible movement of injected fluids in the direction of
7 the drinking water wells.
8 (10) Monitor wells shall be sampled at least monthly
9 for the parameters specified in the permit for the aquifer
10 storage and recovery well. The department may modify the
11 monitoring requirements if necessary to provide reasonable
12 assurance that underground sources of drinking water are
13 adequately protected.
14 (11) An aquifer exemption shall be obtained prior to
15 injection if the injection fluid exceeds any primary drinking
16 water standard maximum contaminant level other than total
17 coliform bacteria or sodium, or if the presence of any
18 contaminant in the injection fluid may adversely affect the
19 health of persons.
20 (12) The department shall make a reasonable effort to
21 issue or deny a permit within 90 days after determining the
22 permit application to be complete. In accordance with s.
23 403.0876(2)(b), the failure of the department to issue or deny
24 an underground injection control permit for an aquifer storage
25 and recovery well within the 90-day time period shall not
26 result in the automatic issuance or denial of the permit and
27 shall not prevent the inclusion of specific permit conditions
28 which are necessary to ensure compliance with applicable
29 statutes and rules.
30
31

1 (13) The department may adopt rules for the regulation
2 of aquifer storage and recovery wells to implement the
3 provisions of this section.

4 Section 4. Paragraph (c) of subsection (2) of section
5 287.042, Florida Statutes, is amended to read:

6 287.042 Powers, duties, and functions.--The department
7 shall have the following powers, duties, and functions:

8 (2)

9 (c) Any person who files an action protesting a
10 decision or intended decision pertaining to contracts
11 administered by the department, a water management district,
12 or a state agency pursuant to s. 120.57(3)(b) shall post with
13 the department, the water management district, or the state
14 agency at the time of filing the formal written protest a bond
15 payable to the department, water management district, or state
16 agency in an amount equal to 1 percent of the department's,
17 the water management district's, or the state agency's
18 estimate of the total volume of the contract or \$5,000,
19 whichever is less, which bond shall be conditioned upon the
20 payment of all costs which may be adjudged against him or her
21 in the administrative hearing in which the action is brought
22 and in any subsequent appellate court proceeding. For protests
23 of decisions or intended decisions of the department
24 pertaining to agencies' requests for approval of exceptional
25 purchases, the bond shall be in an amount equal to 1 percent
26 of the requesting agency's estimate of the contract amount for
27 the exceptional purchase requested or \$5,000, whichever is
28 less. In lieu of a bond, the department, water management
29 district, or state agency may, in either case, accept a
30 cashier's check or money order in the amount of the bond. If,
31 after completion of the administrative hearing process and any

1 appellate court proceedings, the water management district or
2 agency prevails, it shall recover all costs and charges which
3 shall be included in the final order or judgment, excluding
4 attorney's fees. This section shall not apply to protests
5 filed by the Minority Business Advocacy and Assistance Office.
6 Upon payment of such costs and charges by the person
7 protesting the award, the bond, cashier's check, or money
8 order shall be returned to him or her. If the person
9 protesting the award prevails, he or she shall recover from
10 the agency or water management district all costs and charges
11 which shall be included in the final order of judgment,
12 excluding attorney's fees.

13 Section 5. Subsection (4) of section 197.432, Florida
14 Statutes, is amended to read:

15 197.432 Sale of tax certificates for unpaid taxes.--

16 (4) A tax certificate representing less than \$100 in
17 delinquent taxes on property that has been granted a homestead
18 exemption for the year in which the delinquent taxes were
19 assessed may not be sold at public auction but shall be issued
20 by the tax collector to the county at the maximum rate of
21 interest allowed by this chapter. The provisions of s.
22 197.502(4)(3) shall not be invoked as long as the homestead
23 exemption is granted to the person who received the homestead
24 exemption for the year in which the tax certificate was
25 issued. However, when all such tax certificates and accrued
26 interest thereon represent an amount of \$100 or more, the
27 provisions of s. 197.502(4)(3) shall be invoked.

28 Section 6. Present subsections (2), (3), (4), (5),
29 (6), (7), (8), (9), (10), and (11) of section 197.502, Florida
30 Statutes, are renumbered as subsections (3), (4), (5), (6),
31

1 (7), (8), (9), (10), (11), and (12), respectively, and a new
2 subsection (2) is added to said section to read:

3 197.502 Application for obtaining tax deed by holder
4 of tax sale certificate; fees.--

5 (2) When a tax certificate that is 2 years old or
6 older exists against a parcel that is located within a
7 designated brownfield area under s. 376.80, the municipality
8 or county may file a tax deed application in the same manner
9 in which an application on a county-held tax certificate is
10 filed and processed under chapter 197.

11 Section 7. Paragraph (a) of subsection (1) of section
12 197.522, Florida Statutes, is amended to read:

13 197.522 Notice to owner when application for tax deed
14 is made.--

15 (1)(a) The clerk of the circuit court shall notify, by
16 certified mail with return receipt requested or by registered
17 mail if the notice is to be sent outside the continental
18 United States, the persons listed in the tax collector's
19 statement pursuant to s. 197.502(5)~~(4)~~ that an application for
20 a tax deed has been made. Such notice shall be mailed at
21 least 20 days prior to the date of sale. If no address is
22 listed in the tax collector's statement, then no notice shall
23 be required.

24 Section 8. Subsection (1) of section 199.1055, Florida
25 Statutes, is amended to read:

26 199.1055 Contaminated site rehabilitation tax
27 credit.--

28 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

29 (a) A credit in the amount of 35 percent of the costs
30 of voluntary cleanup activity that is integral to site
31 rehabilitation at the following sites is allowed against any

1 tax due for a taxable year under s. 199.032, less any credit
2 allowed by s. 220.68 for that year:

3 1. A drycleaning-solvent-contaminated site eligible
4 for state-funded site rehabilitation under s. 376.3078(3);

5 2. A drycleaning-solvent-contaminated site at which
6 cleanup is undertaken by the real property owner pursuant to
7 s. 376.3078(11), if the real property owner is not also, and
8 has never been, the owner or operator of the drycleaning
9 facility where the contamination exists; ~~or~~

10 3. A brownfield site in a designated brownfield area
11 under s. 376.80; or-

12 4. Any other contaminated site at which cleanup is
13 undertaken by a person pursuant to a voluntary cleanup
14 agreement approved by the Department of Environmental
15 Protection, if the person did not cause or contribute to the
16 contamination at the site.

17 (b) For all applications received by the Department of
18 Environmental Protection by January 15, if, as of the
19 following March 1, the credits granted under paragraph (a) do
20 not exhaust the annual maximum allowable credits under
21 paragraph (g), any remaining credits may be granted for
22 petroleum-contaminated sites at which site rehabilitation is
23 being conducted pursuant to the preapproved advanced cleanup
24 program authorized in s. 376.30713, but tax credits may be
25 granted only for 35 percent of the amount of the cost-share
26 percentage of site rehabilitation costs paid for with private
27 funding. Tax credit applications submitted for preapproved
28 advanced cleanup sites shall not be included in the
29 carryforward provision of s. 376.30781(9), which otherwise
30 allows applications that do not receive credits due to an
31 exhaustion of the annual tax credit authorization to be

1 carried forward in the same order for the next year's annual
2 tax credit allocation, if any, based on the prior year
3 application.

4 (c)~~(b)~~ A taxpayer, or multiple taxpayers working
5 jointly to clean up a single site, may not receive more than
6 \$250,000 per year in tax credits for each site voluntarily
7 rehabilitated. Multiple taxpayers shall receive tax credits in
8 the same proportion as their contribution to payment of
9 cleanup costs. Subject to the same conditions and limitations
10 as provided in this section, a municipality or county which
11 voluntarily rehabilitates a site may receive not more than
12 \$250,000 per year in tax credits which it can subsequently
13 transfer subject to the provisions in paragraph(h)~~(g)~~.

14 (d)~~(c)~~ If the credit granted under this section is not
15 fully used in any one year because of insufficient tax
16 liability on the part of the taxpayer, the unused amount may
17 be carried forward for a period not to exceed 5 years.

18 (e)~~(d)~~ A taxpayer that receives a credit under s.
19 220.1845 is ineligible to receive credit under this section in
20 a given tax year.

21 (f)~~(e)~~ A taxpayer that receives state-funded site
22 rehabilitation pursuant to s. 376.3078(3) for rehabilitation
23 of a drycleaning-solvent-contaminated site is ineligible to
24 receive credit under this section for costs incurred by the
25 taxpayer in conjunction with the rehabilitation of that site
26 during the same time period that state-administered site
27 rehabilitation was underway.

28 (g)~~(f)~~ The total amount of the tax credits which may
29 be granted under this section and s. 220.1845 is \$2 million
30 annually.

31

1 (h)~~(g)~~1. Tax credits that may be available under this
2 section to an entity eligible under s. 376.30781 may be
3 transferred after a merger or acquisition to the surviving or
4 acquiring entity and used in the same manner with the same
5 limitations.

6 2. The entity or its surviving or acquiring entity as
7 described in subparagraph 1., may transfer any unused credit
8 in whole or in units of no less than 25 percent of the
9 remaining credit. The entity acquiring such credit may use it
10 in the same manner and with the same limitation as described
11 in this section. Such transferred credits may not be
12 transferred again although they may succeed to a surviving or
13 acquiring entity subject to the same conditions and
14 limitations as described in this section.

15 3. In the event the credit provided for under this
16 section is reduced either as a result of a determination by
17 the Department of Environmental Protection or an examination
18 or audit by the Department of Revenue, such tax deficiency
19 shall be recovered from the first entity, or the surviving or
20 acquiring entity, to have claimed such credit up to the amount
21 of credit taken. Any subsequent deficiencies shall be
22 assessed against any entity acquiring and claiming such
23 credit, or in the case of multiple succeeding entities in the
24 order of credit succession.

25 (i)~~(h)~~ In order to encourage completion of site
26 rehabilitation at contaminated sites being voluntarily cleaned
27 up and eligible for a tax credit under this section, the
28 taxpayer may claim an additional 10 percent of the total
29 cleanup costs, not to exceed \$50,000, in the final year of
30 cleanup as evidenced by the Department of Environmental
31 Protection issuing a "No Further Action" order for that site.

1 Section 9. Paragraphs (g) and (h) of subsection (5) of
2 section 212.08, Florida Statutes, are amended to read:

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

9 (5) EXEMPTIONS; ACCOUNT OF USE.--

10 (g) Building materials used in the rehabilitation of
11 real property located in an enterprise zone or designated
12 brownfield area.--

13 1. Beginning July 1, 1995, building materials used in
14 the rehabilitation of real property located in an enterprise
15 zone, and, after July 1, 1997, in a designated brownfield area
16 under s. 376.80, shall be exempt from the tax imposed by this
17 chapter upon an affirmative showing to the satisfaction of the
18 department that the items have been used for the
19 rehabilitation of real property located in an enterprise zone
20 or designated brownfield area. Except as provided in
21 subparagraph 2., this exemption inures to the owner, lessee,
22 or lessor of the rehabilitated real property located in an
23 enterprise zone or designated brownfield area only through a
24 refund of previously paid taxes. To receive a refund pursuant
25 to this paragraph, the owner, lessee, or lessor of the
26 rehabilitated real property located in an enterprise zone or
27 designated brownfield area must file an application under oath
28 with the governing body or enterprise zone development agency
29 having jurisdiction over the enterprise zone or designated
30 brownfield area where the business is located, as applicable,
31 which includes:

- 1 a. The name and address of the person claiming the
2 refund.
- 3 b. An address and assessment roll parcel number of the
4 rehabilitated real property in an enterprise zone or
5 designated brownfield area for which a refund of previously
6 paid taxes is being sought.
- 7 c. A description of the improvements made to
8 accomplish the rehabilitation of the real property.
- 9 d. A copy of the building permit issued for the
10 rehabilitation of the real property.
- 11 e. A sworn statement, under the penalty of perjury,
12 from the general contractor licensed in this state with whom
13 the applicant contracted to make the improvements necessary to
14 accomplish the rehabilitation of the real property, which
15 statement lists the building materials used in the
16 rehabilitation of the real property, the actual cost of the
17 building materials, and the amount of sales tax paid in this
18 state on the building materials. In the event that a general
19 contractor has not been used, the applicant shall provide this
20 information in a sworn statement, under the penalty of
21 perjury. Copies of the invoices which evidence the purchase of
22 the building materials used in such rehabilitation and the
23 payment of sales tax on the building materials shall be
24 attached to the sworn statement provided by the general
25 contractor or by the applicant. Unless the actual cost of
26 building materials used in the rehabilitation of real property
27 and the payment of sales taxes due thereon is documented by a
28 general contractor or by the applicant in this manner, the
29 cost of such building materials shall be an amount equal to 40
30 percent of the increase in assessed value for ad valorem tax
31 purposes.

1 f. The identifying number assigned pursuant to s.
2 290.0065 to the enterprise zone or designated brownfield area
3 in which the rehabilitated real property is located.
4 g. A certification by the local building inspector
5 that the improvements necessary to accomplish the
6 rehabilitation of the real property are substantially
7 completed.
8 h. Whether the business is a small business as defined
9 by s. 288.703(1).
10 i. If applicable, the name and address of each
11 permanent employee of the business, including, for each
12 employee who is a resident of an enterprise zone or designated
13 brownfield area, the identifying number assigned pursuant to
14 s. 290.0065 to the enterprise zone in which the employee
15 resides.
16 2. This exemption inures to a city, county, or other
17 governmental agency through a refund of previously paid taxes
18 if the building materials used in the rehabilitation of real
19 property located in an enterprise zone or designated
20 brownfield area are paid for from the funds of a community
21 development block grant or similar grant or loan program. To
22 receive a refund pursuant to this paragraph, a city, county,
23 or other governmental agency must file an application which
24 includes the same information required to be provided in
25 subparagraph 1. by an owner, lessee, or lessor of
26 rehabilitated real property. In addition, the application must
27 include a sworn statement signed by the chief executive
28 officer of the city, county, or other governmental agency
29 seeking a refund which states that the building materials for
30 which a refund is sought were paid for from the funds of a
31

1 community development block grant or similar grant or loan
2 program.

3 3. Within 10 working days after receipt of an
4 application, the governing body or enterprise zone development
5 agency having jurisdiction over the enterprise zone or
6 designated brownfield area shall review the application to
7 determine if it contains all the information required pursuant
8 to subparagraph 1. or subparagraph 2. and meets the criteria
9 set out in this paragraph. The governing body or agency shall
10 certify all applications that contain the information required
11 pursuant to subparagraph 1. or subparagraph 2. and meet the
12 criteria set out in this paragraph as eligible to receive a
13 refund. If applicable, the governing body or agency shall also
14 certify if 20 percent of the employees of the business are
15 residents of an enterprise zone or designated brownfield area,
16 excluding temporary and part-time employees. The certification
17 shall be in writing, and a copy of the certification shall be
18 transmitted to the executive director of the Department of
19 Revenue. The applicant shall be responsible for forwarding a
20 certified application to the department within the time
21 specified in subparagraph 4.

22 4. An application for a refund pursuant to this
23 paragraph must be submitted to the department within 6 months
24 after the rehabilitation of the property is deemed to be
25 substantially completed by the local building inspector.

26 5. The provisions of s. 212.095 do not apply to any
27 refund application made pursuant to this paragraph. No more
28 than one exemption through a refund of previously paid taxes
29 for the rehabilitation of real property shall be permitted for
30 any one parcel of real property. No refund shall be granted
31 pursuant to this paragraph unless the amount to be refunded

1 exceeds \$500. No refund granted pursuant to this paragraph
2 shall exceed the lesser of 97 percent of the Florida sales or
3 use tax paid on the cost of the building materials used in the
4 rehabilitation of the real property as determined pursuant to
5 sub-subparagraph 1.e. or \$5,000, or, if no less than 20
6 percent of the employees of the business are residents of an
7 enterprise zone or designated brownfield area, excluding
8 temporary and part-time employees, the amount of refund
9 granted pursuant to this paragraph shall not exceed the lesser
10 of 97 percent of the sales tax paid on the cost of such
11 building materials or \$10,000. A refund approved pursuant to
12 this paragraph shall be made within 30 days of formal approval
13 by the department of the application for the refund.

14 6. The department shall adopt rules governing the
15 manner and form of refund applications and may establish
16 guidelines as to the requisites for an affirmative showing of
17 qualification for exemption under this paragraph.

18 7. The department shall deduct an amount equal to 10
19 percent of each refund granted under the provisions of this
20 paragraph from the amount transferred into the Local
21 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
22 s. 212.20 for the county area in which the rehabilitated real
23 property is located and shall transfer that amount to the
24 General Revenue Fund.

25 8. For the purposes of the exemption provided in this
26 paragraph:

27 a. "Building materials" means tangible personal
28 property that ~~which~~ becomes a component part of improvements
29 to real property.

30 b. "Real property" has the same meaning as provided in
31 s. 192.001(12).

1 c. "Rehabilitation of real property" means the
2 reconstruction, renovation, restoration, rehabilitation,
3 construction, or expansion of improvements to real property.

4 d. "Substantially completed" has the same meaning as
5 provided in s. 192.042(1).

6 9. The provisions of this paragraph shall expire and
7 be void on December 31, 2005.

8 (h) Business property used in an enterprise zone or
9 designated brownfield area.--

10 1. Beginning July 1, 1995, business property purchased
11 for use by businesses located in an enterprise zone ~~that which~~
12 is subsequently used in an enterprise zone or, after July 1,
13 1997, in a designated brownfield area under s. 376.80, shall
14 be exempt from the tax imposed by this chapter. This exemption
15 inures to the business only through a refund of previously
16 paid taxes. A refund shall be authorized upon an affirmative
17 showing by the taxpayer to the satisfaction of the department
18 that the requirements of this paragraph have been met.

19 2. To receive a refund, the business must file under
20 oath with the governing body or enterprise zone development
21 agency having jurisdiction over the enterprise zone or
22 designated brownfield area where the business is located, as
23 applicable, an application which includes:

24 a. The name and address of the business claiming the
25 refund.

26 b. The identifying number assigned pursuant to s.
27 290.0065 to the enterprise zone or designated brownfield area
28 in which the business is located.

29 c. A specific description of the property for which a
30 refund is sought, including its serial number or other
31 permanent identification number.

1 d. The location of the property.

2 e. The sales invoice or other proof of purchase of the
3 property, showing the amount of sales tax paid, the date of
4 purchase, and the name and address of the sales tax dealer
5 from whom the property was purchased.

6 f. Whether the business is a small business as defined
7 by s. 288.703(1).

8 g. If applicable, the name and address of each
9 permanent employee of the business, including, for each
10 employee who is a resident of an enterprise zone or designated
11 brownfield area, the identifying number assigned pursuant to
12 s. 290.0065 to the enterprise zone or designated brownfield
13 area in which the employee resides.

14 3. Within 10 working days after receipt of an
15 application, the governing body or enterprise zone development
16 agency having jurisdiction over the enterprise zone or
17 designated brownfield area shall review the application to
18 determine if it contains all the information required pursuant
19 to subparagraph 2. and meets the criteria set out in this
20 paragraph. The governing body or agency shall certify all
21 applications that contain the information required pursuant to
22 subparagraph 2. and meet the criteria set out in this
23 paragraph as eligible to receive a refund. If applicable, the
24 governing body or agency shall also certify if 20 percent of
25 the employees of the business are residents of an enterprise
26 zone or designated brownfield area, excluding temporary and
27 part-time employees. The certification shall be in writing,
28 and a copy of the certification shall be transmitted to the
29 executive director of the Department of Revenue. The business
30 shall be responsible for forwarding a certified application to
31 the department within the time specified in subparagraph 4.

1 4. An application for a refund pursuant to this
2 paragraph must be submitted to the department within 6 months
3 after the business property is purchased.

4 5. The provisions of s. 212.095 do not apply to any
5 refund application made pursuant to this paragraph. The amount
6 refunded on purchases of business property under this
7 paragraph shall be the lesser of 97 percent of the sales tax
8 paid on such business property or \$5,000, or, if no less than
9 20 percent of the employees of the business are residents of
10 an enterprise zone or designated brownfield area, excluding
11 temporary and part-time employees, the amount refunded on
12 purchases of business property under this paragraph shall be
13 the lesser of 97 percent of the sales tax paid on such
14 business property or \$10,000. A refund approved pursuant to
15 this paragraph shall be made within 30 days of formal approval
16 by the department of the application for the refund. No refund
17 shall be granted under this paragraph unless the amount to be
18 refunded exceeds \$100 in sales tax paid on purchases made
19 within a 60-day time period.

20 6. The department shall adopt rules governing the
21 manner and form of refund applications and may establish
22 guidelines as to the requisites for an affirmative showing of
23 qualification for exemption under this paragraph.

24 7. If the department determines that the business
25 property is used outside an enterprise zone or designated
26 brownfield area within 3 years from the date of purchase, the
27 amount of taxes refunded to the business purchasing such
28 business property shall immediately be due and payable to the
29 department by the business, together with the appropriate
30 interest and penalty, computed from the date of purchase, in
31

1 the manner provided by this chapter. Notwithstanding this
2 subparagraph, business property used exclusively in:
3 a. Licensed commercial fishing vessels,
4 b. Fishing guide boats, or
5 c. Ecotourism guide boats
6
7 that leave and return to a fixed location within an area
8 designated under s. 370.28 are eligible for the exemption
9 provided under this paragraph if all requirements of this
10 paragraph are met. Such vessels and boats must be owned by a
11 business that is eligible to receive the exemption provided
12 under this paragraph. This exemption does not apply to the
13 purchase of a vessel or boat.
14 8. The department shall deduct an amount equal to 10
15 percent of each refund granted under the provisions of this
16 paragraph from the amount transferred into the Local
17 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
18 s. 212.20 for the county area in which the business property
19 is located and shall transfer that amount to the General
20 Revenue Fund.
21 9. For the purposes of this exemption, "business
22 property" means new or used property defined as "recovery
23 property" in s. 168(c) of the Internal Revenue Code of 1954,
24 as amended, except:
25 a. Property classified as 3-year property under s.
26 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;
27 b. Industrial machinery and equipment as defined in
28 sub-subparagraph (b)6.a. and eligible for exemption under
29 paragraph (b); and
30 c. Building materials as defined in sub-subparagraph
31 (g)8.a.

1 10. The provisions of this paragraph shall expire and
2 be void on December 31, 2005.

3 Section 10. Section 212.096, Florida Statutes, is
4 amended to read:

5 212.096 Sales, rental, storage, use tax; brownfield
6 area and enterprise zone jobs credit against sales tax.--

7 (1) For the purposes of the credit provided in this
8 section:

9 (a) "Eligible business" means any sole proprietorship,
10 firm, partnership, corporation, bank, savings association,
11 estate, trust, business trust, receiver, syndicate, or other
12 group or combination, or successor business, located in an
13 enterprise zone or a brownfield area designated under s.
14 376.80. An eligible business does not include any business
15 which has claimed the credit permitted under s. 220.181 for
16 any new business employee first beginning employment with the
17 business after July 1, 1995.

18 (b) "Month" means either a calendar month or the time
19 period from any day of any month to the corresponding day of
20 the next succeeding month or, if there is no corresponding day
21 in the next succeeding month, the last day of the succeeding
22 month.

23 (c) "New employee" means a person residing in an
24 enterprise zone or a designated brownfield area, a qualified
25 Job Training Partnership Act classroom training participant,
26 or a WAGES Program participant who begins employment with an
27 eligible business after July 1, 1995, and who has not been
28 previously employed within the preceding 12 months by the
29 eligible business, or a successor eligible business, claiming
30 the credit allowed by this section.

31

1 A person shall be deemed to be employed if the person performs
2 duties in connection with the operations of the business on a
3 regular, full-time basis, provided the person is performing
4 such duties for an average of at least 36 hours per week each
5 month, or a part-time basis, provided the person is performing
6 such duties for an average of at least 20 hours per week each
7 month throughout the year. The person must be performing such
8 duties at a business site located in the enterprise zone or
9 designated brownfield area.

10 (2)(a) It is the legislative intent to encourage the
11 provision of meaningful employment opportunities that ~~which~~
12 will improve the quality of life of those employed and to
13 encourage economic expansion of enterprise zones or designated
14 brownfield areas and the state. Therefore, beginning July 1,
15 1995, upon an affirmative showing by a business to the
16 satisfaction of the department that the requirements of this
17 section have been met, the business shall be allowed a credit
18 against the tax remitted under this chapter.

19 (b) The credit shall be computed as follows:

20 1. Ten percent of the monthly wages paid in this state
21 to each new employee whose wages do not exceed \$1,500 a month.
22 If no less than 20 percent of the employees of the business
23 are residents of an enterprise zone or a designated brownfield
24 area, excluding temporary and part-time employees, the credit
25 shall be computed as 15 percent of the monthly wages paid in
26 this state to each new employee;

27 2. Five percent of the first \$1,500 of actual monthly
28 wages paid in this state for each new employee whose wages
29 exceed \$1,500 a month; or

30
31

1 3. Fifteen percent of the first \$1,500 of actual
2 monthly wages paid in this state for each new employee who is
3 a WAGES Program participant pursuant to chapter 414.

4
5 For purposes of this paragraph, monthly wages shall be
6 computed as one-twelfth of the expected annual wages paid to
7 such employee. The amount paid as wages to a new employee is
8 the compensation paid to such employee that is subject to
9 unemployment tax. The credit shall be allowed for up to 12
10 consecutive months, beginning with the first tax return due
11 pursuant to s. 212.11 after approval by the department.

12 (3) In order to claim this credit, an eligible
13 business must file under oath with the governing body or
14 enterprise zone development agency having jurisdiction over
15 the enterprise zone or designated brownfield area where the
16 business is located, as applicable, a statement which
17 includes:

18 (a) For each new employee for whom this credit is
19 claimed, the employee's name and place of residence, including
20 the identifying number assigned pursuant to s. 290.0065 to the
21 enterprise zone or designated brownfield area in which the
22 employee resides if the new employee is a person residing in
23 an enterprise zone, and, if applicable, documentation that the
24 employee is a qualified Job Training Partnership Act classroom
25 training participant or a WAGES Program participant.

26 (b) If applicable, the name and address of each
27 permanent employee of the business, including, for each
28 employee who is a resident of an enterprise zone or a
29 designated brownfield area, the identifying number assigned
30 pursuant to s. 290.0065 to the enterprise zone or designated
31 brownfield area in which the employee resides.

- 1 (c) The name and address of the eligible business.
- 2 (d) The starting salary or hourly wages paid to the
3 new employee.
- 4 (e) The identifying number assigned pursuant to s.
5 290.0065 to the enterprise zone or designated brownfield area
6 in which the business is located.
- 7 (f) Whether the business is a small business as
8 defined by s. 288.703(1).
- 9 (g) Within 10 working days after receipt of an
10 application, the governing body or enterprise zone development
11 agency having jurisdiction over the enterprise zone or
12 designated brownfield area shall review the application to
13 determine if it contains all the information required pursuant
14 to this subsection and meets the criteria set out in this
15 section. The governing body or agency shall certify all
16 applications that contain the information required pursuant to
17 this subsection and meet the criteria set out in this section
18 as eligible to receive a credit. If applicable, the governing
19 body or agency shall also certify if 20 percent of the
20 employees of the business are residents of an enterprise zone
21 or designated brownfield area, excluding temporary and
22 part-time employees. The certification shall be in writing,
23 and a copy of the certification shall be transmitted to the
24 executive director of the Department of Revenue. The business
25 shall be responsible for forwarding a certified application to
26 the department within the time specified in paragraph (h).
- 27 (h) All applications for a credit pursuant to this
28 section must be submitted to the department within 4 months
29 after the new employee is hired.
- 30 (4) In the event the application is insufficient to
31 support the credit authorized in this section, the department

1 shall deny the credit and notify the business of that fact.
2 The business may reapply for this credit.
3 (5) The credit provided in this section does not
4 apply:
5 (a) For any new employee who is an owner, partner, or
6 stockholder of an eligible business.
7 (b) For any new employee who is employed for any
8 period less than 3 full calendar months.
9 (6) The credit provided in this section shall not be
10 allowed for any month in which the tax due for such period or
11 the tax return required pursuant to s. 212.11 for such period
12 is delinquent.
13 (7) In the event an eligible business has a credit
14 larger than the amount owed the state on the tax return for
15 the time period in which the credit is claimed, the amount of
16 the credit for that time period shall be the amount owed the
17 state on that tax return.
18 (8) Any business which has claimed this credit shall
19 not be allowed any credit under the provisions of s. 220.181
20 for any new employee beginning employment after July 1, 1995.
21 (9) It shall be the responsibility of each business to
22 affirmatively demonstrate to the satisfaction of the
23 department that it meets the requirements of this section.
24 (10) Any person who fraudulently claims this credit is
25 liable for repayment of the credit plus a mandatory penalty of
26 100 percent of the credit plus interest at the rate provided
27 in this chapter, and such person is guilty of a misdemeanor of
28 the second degree, punishable as provided in s. 775.082 or s.
29 775.083.
30
31

1 (11) The provisions of this section, except for
2 subsection (10), shall expire and be void on December 31,
3 2005.

4 Section 11. Section 220.181, Florida Statutes, is
5 amended to read:

6 220.181 Enterprise zone or designated brownfield area
7 jobs credit.--

8 (1)(a) ~~Beginning July 1, 1995,~~ There shall be allowed
9 a credit against the tax imposed by this chapter to any
10 business located in an enterprise zone or a brownfield area
11 designated under s. 376.80 which employs one or more new
12 employees. The credit shall be computed as follows:

13 1. Ten percent of the actual monthly wages paid in
14 this state to each new employee whose wages do not exceed
15 \$1,500 a month. If no less than 20 percent of the employees of
16 the business are residents of an enterprise zone or a
17 brownfield area designated under s. 376.80, excluding
18 temporary and part-time employees, the credit shall be
19 computed as 15 percent of the actual monthly wages paid in
20 this state to each new employee, for a period of up to 12
21 consecutive months;

22 2. Five percent of the first \$1,500 of actual monthly
23 wages paid in this state for each new employee whose wages
24 exceed \$1,500 a month; or

25 3. Fifteen percent of the first \$1,500 of actual
26 monthly wages paid in this state for each new employee who is
27 a WAGES Program participant pursuant to chapter 414.

28 (b) This credit applies only with respect to wages
29 subject to unemployment tax and does not apply for any new
30 employee who is employed for any period less than 3 full
31 months.

1 (c) If this credit is not fully used in any one year,
2 the unused amount may be carried forward for a period not to
3 exceed 5 years. The carryover credit may be used in a
4 subsequent year when the tax imposed by this chapter for such
5 year exceeds the credit for such year after applying the other
6 credits and unused credit carryovers in the order provided in
7 s. 220.02(10).

8 (2) When filing for an enterprise zone jobs credit or
9 a brownfield area jobs credit, a business must file under oath
10 with the governing body or enterprise zone development agency
11 having jurisdiction over the enterprise zone or the designated
12 brownfield area where the business is located, as applicable,
13 a statement which includes:

14 (a) For each new employee for whom this credit is
15 claimed, the employee's name and place of residence during the
16 taxable year, including the identifying number assigned
17 pursuant to s. 290.0065 to the enterprise zone, or to the
18 brownfield area designated under s. 376.80, in which the new
19 employee resides if the new employee is a person residing in
20 an enterprise zone or a designated brownfield area, and, if
21 applicable, documentation that the employee is a qualified Job
22 Training Partnership Act classroom training participant or a
23 WAGES Program participant.

24 (b) If applicable, the name and address of each
25 permanent employee of the business, including, for each
26 employee who is a resident of an enterprise zone or a
27 designated brownfield area, the identifying number assigned
28 pursuant to s. 290.0065 to the enterprise zone or designated
29 brownfield area in which the employee resides.

30 (c) The name and address of the business.

31

1 (d) The identifying number assigned pursuant to s.
2 290.0065 to the enterprise zone or designated brownfield area
3 in which the eligible business is located.

4 (e) The salary or hourly wages paid to each new
5 employee claimed.

6 (f) Whether the business is a small business as
7 defined by s. 288.703(1).

8 (3) Within 10 working days after receipt of an
9 application, the governing body or enterprise zone development
10 agency having jurisdiction over the enterprise zone or
11 designated brownfield area shall review the application to
12 determine if it contains all the information required pursuant
13 to subsection (2) and meets the criteria set out in this
14 section. The governing body or agency shall certify all
15 applications that contain the information required pursuant to
16 subsection (2) and meet the criteria set out in this section
17 as eligible to receive a credit. If applicable, the governing
18 body or agency shall also certify if 20 percent of the
19 employees of the business are residents of an enterprise zone
20 or designated brownfield area, excluding temporary and
21 part-time employees. The certification shall be in writing,
22 and a copy of the certification shall be transmitted to the
23 executive director of the Department of Revenue. The business
24 shall be responsible for forwarding a certified application to
25 the department.

26 (4) It shall be the responsibility of the taxpayer to
27 affirmatively demonstrate to the satisfaction of the
28 department that it meets the requirements of this act.

29 (5) For the purpose of this section, the term "month"
30 means either a calendar month or the time period from any day
31 of any month to the corresponding day of the next succeeding

1 month or, if there is no corresponding day in the next
2 succeeding month, the last day of the succeeding month.
3 (6) No business which files an amended return for a
4 taxable year shall be allowed any amount of credit or credit
5 carryforward pursuant to this section in excess of the amount
6 claimed by such business on its original return for the
7 taxable year. The provisions of this subsection do not apply
8 to increases in the amount of credit claimed under this
9 section on an amended return due to the use of any credit
10 amount previously carried forward for the taxable year on the
11 original return or any eligible prior year under paragraph
12 (1)(c).

13 (7) Any business which has claimed this credit shall
14 not be allowed any credit under the provision of s. 212.096
15 for any new employee beginning employment after July 1, 1995.
16 The provisions of this subsection shall not apply when a
17 corporation converts to an S corporation for purposes of
18 compliance with the Internal Revenue Code of 1986, as amended;
19 however, no corporation shall be allowed the benefit of this
20 credit and the credit under s. 212.096 either for the same new
21 employee or for the same taxable year. In addition, such a
22 corporation shall not be allowed any credit under s. 212.096
23 until it has filed notice of its intent to change its status
24 for tax purposes and until its final return under this chapter
25 for the taxable year prior to such change has been filed.

26 (8)(a) Any person who fraudulently claims this credit
27 is liable for repayment of the credit, plus a mandatory
28 penalty in the amount of 200 percent of the credit, plus
29 interest at the rate provided in s. 220.807, and commits a
30 felony of the third degree, punishable as provided in s.
31 775.082, s. 775.083, or s. 775.084.

1 (b) Any person who makes an underpayment of tax as a
2 result of a grossly overstated claim for this credit is guilty
3 of a felony of the third degree, punishable as provided in s.
4 775.082, s. 775.083, or s. 775.084. For purposes of this
5 paragraph, a grossly overstated claim means a claim in an
6 amount in excess of 100 percent of the amount of credit
7 allowable under this section.

8 (9) The provisions of this section, except paragraph
9 (1)(c) and subsection (8), shall expire and be void on June
10 30, 2005, and no business shall be allowed to begin claiming
11 such enterprise zone jobs credit after that date; however, the
12 expiration of this section shall not affect the operation of
13 any credit for which a business has qualified under this
14 section prior to June 30, 2005, or any carryforward of unused
15 credit amounts as provided in paragraph (1)(c).

16 Section 12. Section 220.182, Florida Statutes, is
17 amended to read:

18 220.182 Enterprise zone and brownfield area property
19 tax credit.--

20 (1)(a) ~~Beginning July 1, 1995,~~ There shall be allowed
21 a credit against the tax imposed by this chapter to any
22 business which establishes a new business as defined in s.
23 220.03(1)(p)2., expands an existing business as defined in s.
24 220.03(1)(k)2., or rebuilds an existing business as defined in
25 s. 220.03(1)(u) in this state. The credit shall be computed
26 annually as ad valorem taxes paid in this state, in the case
27 of a new business; the additional ad valorem tax paid in this
28 state resulting from assessments on additional real or
29 tangible personal property acquired to facilitate the
30 expansion of an existing business; or the ad valorem taxes
31 paid in this state resulting from assessments on property

1 replaced or restored, in the case of a rebuilt business,
2 including pollution and waste control facilities, or any part
3 thereof, and including one or more buildings or other
4 structures, machinery, fixtures, and equipment.

5 (b) If the credit granted pursuant to this section is
6 not fully used in any one year, the unused amount may be
7 carried forward for a period not to exceed 5 years. The
8 carryover credit may be used in a subsequent year when the tax
9 imposed by this chapter for such year exceeds the credit for
10 such year under this section after applying the other credits
11 and unused credit carryovers in the order provided in s.
12 220.02(10). The amount of credit taken under this section in
13 any one year, however, shall not exceed \$25,000, or, if no
14 less than 20 percent of the employees of the business are
15 residents of an enterprise zone or a brownfield area
16 designated under s. 376.80, excluding temporary employees, the
17 amount shall not exceed \$50,000.

18 (2) To be eligible to receive an expanded enterprise
19 zone or a designated brownfield area property tax credit of up
20 to \$50,000, the business must provide a statement, under oath,
21 on the form prescribed by the department for claiming the
22 credit authorized by this section, that no less than 20
23 percent of its employees, excluding temporary and part-time
24 employees, are residents of an enterprise zone or a designated
25 brownfield area. It shall be a condition precedent to the
26 granting of each annual tax credit that such employment
27 requirements be fulfilled throughout each year during the
28 5-year period of the credit. The statement shall set forth the
29 name and place of residence of each permanent employee on the
30 last day of business of the tax year for which the credit is
31 claimed or, if the employee is no longer employed or eligible

1 for the credit on that date, the last calendar day of the last
2 full calendar month the employee was employed or eligible for
3 the credit at the relevant site.

4 (3) The credit shall be available to a new business
5 for a period not to exceed the year in which ad valorem taxes
6 are first levied against the business and the 4 years
7 immediately thereafter. The credit shall be available to an
8 expanded existing business for a period not to exceed the year
9 in which ad valorem taxes are first levied on additional real
10 or tangible personal property acquired to facilitate the
11 expansion or rebuilding and the 4 years immediately
12 thereafter. No business shall be entitled to claim the credit
13 authorized by this section, except any amount attributable to
14 the carryover of a previously earned credit, for more than 5
15 consecutive years.

16 (4) To be eligible for an enterprise zone or a
17 designated brownfield area property tax credit, a new,
18 expanded, or rebuilt business shall file a notice with the
19 property appraiser of the county in which the business
20 property is located or to be located. The notice shall be
21 filed no later than April 1 of the year in which new or
22 additional real or tangible personal property acquired to
23 facilitate such new, expanded, or rebuilt facility is first
24 subject to assessment. The notice shall be made on a form
25 prescribed by the department and shall include separate
26 descriptions of:

27 (a) Real and tangible personal property owned or
28 leased by the business prior to expansion, if any.

29 (b) Net new or additional real and tangible personal
30 property acquired to facilitate the new, expanded, or rebuilt
31 facility.

1 (5) When filing for an enterprise zone or a designated
2 brownfield area property tax credit as a new business, a
3 business shall include a copy of its receipt indicating
4 payment of ad valorem taxes for the current year.

5 (6) When filing for an enterprise zone or a designated
6 brownfield area property tax credit as an expanded or rebuilt
7 business, a business shall include copies of its receipts
8 indicating payment of ad valorem taxes for the current year
9 for prior existing property and for expansion-related or
10 rebuilt property.

11 (7) The receipts described in subsections (5) and (6)
12 shall indicate the assessed value of the property, the
13 property taxes paid, a brief description of the property, and
14 an indication, if applicable, that the property was separately
15 assessed as expansion-related or rebuilt property.

16 (8) The department has authority to adopt rules
17 pursuant to ss. 120.536(1) and 120.54 to implement the
18 provisions of this act.

19 (9) It shall be the responsibility of the taxpayer to
20 affirmatively demonstrate to the satisfaction of the
21 department that he or she meets the requirements of this act.

22 (10) When filing for an enterprise zone or a
23 designated brownfield area property tax credit as an expansion
24 of an existing business or as a new business, it shall be a
25 condition precedent to the granting of each annual tax credit
26 that there have been, throughout each year during the 5-year
27 period, no fewer than five more employees than in the year
28 preceding the initial granting of the credit.

29 (11) To apply for an enterprise zone or a designated
30 brownfield area property tax credit, a new, expanded, or
31 rebuilt business must file under oath with the governing body

1 or enterprise zone development agency having jurisdiction over
2 the enterprise zone or the designated brownfield area where
3 the business is located, as applicable, an application
4 prescribed by the department for claiming the credit
5 authorized by this section. Within 10 working days after
6 receipt of an application, the governing body or enterprise
7 zone development agency shall review the application to
8 determine if it contains all the information required pursuant
9 to this section and meets the criteria set out in this
10 section. The governing body or agency shall certify all
11 applications that contain the information required pursuant to
12 this section and meet the criteria set out in this section as
13 eligible to receive a credit. If applicable, the governing
14 body or agency shall also certify if 20 percent of the
15 employees of the business are residents of an enterprise zone
16 or a designated brownfield area, excluding temporary and
17 part-time employees. The certification shall be in writing,
18 and a copy of the certification shall be transmitted to the
19 executive director of the Department of Revenue. The business
20 shall be responsible for forwarding all certified applications
21 to the department.

22 (12) When filing for an enterprise zone or a
23 designated brownfield area property tax credit, a business
24 shall include the identifying number assigned pursuant to s.
25 290.0065 to the enterprise zone in which the business is
26 located.

27 (13) When filing for an enterprise zone or a
28 designated brownfield area property tax credit, a business
29 shall indicate whether the business is a small business as
30 defined by s. 288.703(1).
31

1 (14) The provisions of this section shall expire and
2 be void on June 30, 2005, and no business shall be allowed to
3 begin claiming such enterprise zone or designated brownfield
4 area property tax credit after that date; however, the
5 expiration of this section shall not affect the operation of
6 any credit for which a business has qualified under this
7 section prior to June 30, 2005, or any carryforward of unused
8 credit amounts as provided in paragraph (1)(b).

9 Section 13. Subsections (1) and (2) and paragraph (d)
10 of subsection (4) of section 220.183, Florida Statutes, are
11 amended to read:

12 220.183 Community contribution tax credit.--

13 (1) LEGISLATIVE FINDINGS.--The Legislature finds that:

14 (a) There exist in the counties and municipalities
15 conditions of blight evidenced by extensive deterioration of
16 public and private facilities, abandonment of sound
17 structures, and high unemployment which conditions impede the
18 conservation and development of healthy, safe, and
19 economically viable communities.

20 (b) Deterioration of housing and industrial,
21 commercial, and public facilities contributes to the decline
22 of neighborhoods and communities and leads to the loss of
23 their historic character and the sense of community which this
24 inspires; reduces the value of property comprising the tax
25 base of local communities; discourages private investment; and
26 requires a disproportionate expenditure of public funds for
27 the social services, unemployment benefits, and police
28 protection required to combat the social and economic problems
29 found in slum communities.

30 (c) In order to ultimately restore social and economic
31 viability to enterprise zones and brownfield areas designated

1 under s. 376.80, it is necessary to renovate or construct new
2 housing, water and sewer infrastructure, and transportation
3 facilities and to specifically provide mechanisms to attract
4 and encourage private economic activity.

5 (d) The various local governments and other
6 redevelopment organizations now undertaking physical
7 revitalization projects are limited by tightly constrained
8 budgets and inadequate resources.

9 (e) In order to significantly improve revitalization
10 efforts by local governments and community development
11 organizations and to retain as much of the historic character
12 of our communities as possible, it is necessary to provide
13 additional resources, and the participation of private
14 enterprise in revitalization efforts is an effective means for
15 accomplishing that goal.

16 (2) POLICY AND PURPOSE.--It is the policy of this
17 state to encourage the participation of private corporations
18 in revitalization projects undertaken by public redevelopment
19 organizations. The purpose of this section is to provide to
20 the greatest extent possible an incentive for such
21 participation by granting partial state income tax credits to
22 corporations that contribute resources to public redevelopment
23 organizations for the revitalization of enterprise zones and
24 brownfield areas designated under s. 376.80 for the benefit of
25 low-income and moderate-income persons or to preserve existing
26 historically significant properties within enterprise zones or
27 brownfield areas designated under s. 376.80 ~~to the greatest~~
28 ~~extent possible~~. The Legislature thus declares this a public
29 purpose for which public money may be borrowed, expended,
30 loaned, and granted.

31 (4) ELIGIBILITY REQUIREMENTS.--

1 (d) The project shall be located in an area designated
2 as an enterprise zone pursuant to s. 290.0065 or a brownfield
3 area designated under s. 376.80. Any project designed to
4 construct or rehabilitate low-income housing is exempt from
5 the area requirement of this paragraph.

6 Section 14. Subsection (1) of section 220.1845,
7 Florida Statutes, is amended to read:

8 220.1845 Contaminated site rehabilitation tax
9 credit.--

10 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

11 (a) A credit in the amount of 35 percent of the costs
12 of voluntary cleanup activity that is integral to site
13 rehabilitation at the following sites is allowed against any
14 tax due for a taxable year under this chapter:

15 1. A drycleaning-solvent-contaminated site eligible
16 for state-funded site rehabilitation under s. 376.3078(3);

17 2. A drycleaning-solvent-contaminated site at which
18 cleanup is undertaken by the real property owner pursuant to
19 s. 376.3078(11), if the real property owner is not also, and
20 has never been, the owner or operator of the drycleaning
21 facility where the contamination exists; ~~or~~

22 3. A brownfield site in a designated brownfield area
23 under s. 376.80; ~~or~~

24 4. Any other contaminated site at which cleanup is
25 undertaken by a person pursuant to a voluntary cleanup
26 agreement approved by the Department of Environmental
27 Protection, if the person did not cause or contribute to the
28 contamination at the site.

29 (b) For all applications received by the Department of
30 Environmental Protection by January 15, if, as of the
31 following March 1, the credits granted under paragraph (a) do

1 not exhaust the annual maximum allowable credits under
2 paragraph (h), any remaining credits may be granted for
3 petroleum-contaminated sites at which site rehabilitation is
4 being conducted pursuant to the preapproved advanced cleanup
5 program authorized in s. 376.30713, but tax credits may be
6 granted only for 35 percent of the amount of the cost-share
7 percentage of site rehabilitation costs paid for with private
8 funding. Tax credit applications submitted for preapproved
9 advanced cleanup sites shall not be included in the
10 carryforward provision of s. 376.30781(9), which otherwise
11 allows applications that do not receive credits due to an
12 exhaustion of the annual tax credit authorization to be
13 carried forward in the same order for the next year's annual
14 tax credit allocation, if any, based on the prior year
15 application.

16 (c)~~(b)~~ A taxpayer, or multiple taxpayers working
17 jointly to clean up a single site, may not receive more than
18 \$250,000 per year in tax credits for each site voluntarily
19 rehabilitated. Multiple taxpayers shall receive tax credits in
20 the same proportion as their contribution to payment of
21 cleanup costs. Subject to the same conditions and limitations
22 as provided in this section, a municipality or county which
23 voluntarily rehabilitates a site may receive not more than
24 \$250,000 per year in tax credits which it can subsequently
25 transfer subject to the provisions in paragraph (i)~~(h)~~.

26 (d)~~(e)~~ If the credit granted under this section is not
27 fully used in any one year because of insufficient tax
28 liability on the part of the corporation, the unused amount
29 may be carried forward for a period not to exceed 5 years. The
30 carryover credit may be used in a subsequent year when the tax
31 imposed by this chapter for that year exceeds the credit for

1 which the corporation is eligible in that year under this
2 section after applying the other credits and unused carryovers
3 in the order provided by s. 220.02(10).

4 (e)~~(d)~~ A taxpayer that files a consolidated return in
5 this state as a member of an affiliated group under s.
6 220.131(1) may be allowed the credit on a consolidated return
7 basis up to the amount of tax imposed upon and paid by the
8 taxpayer that incurred the rehabilitation costs.

9 (f)~~(e)~~ A taxpayer that receives credit under s.
10 199.1055 is ineligible to receive credit under this section in
11 a given tax year.

12 (g)~~(f)~~ A taxpayer that receives state-funded site
13 rehabilitation under s. 376.3078(3) for rehabilitation of a
14 drycleaning-solvent-contaminated site is ineligible to receive
15 credit under this section for costs incurred by the taxpayer
16 in conjunction with the rehabilitation of that site during the
17 same time period that state-administered site rehabilitation
18 was underway.

19 (h)~~(g)~~ The total amount of the tax credits which may
20 be granted under this section and s. 199.1055 is \$2 million
21 annually.

22 (i)~~(h)~~1. Tax credits that may be available under this
23 section to an entity eligible under s. 376.30781 may be
24 transferred after a merger or acquisition to the surviving or
25 acquiring entity and used in the same manner and with the same
26 limitations.

27 2. The entity or its surviving or acquiring entity as
28 described in subparagraph 1., may transfer any unused credit
29 in whole or in units of no less than 25 percent of the
30 remaining credit. The entity acquiring such credit may use it
31 in the same manner and with the same limitation as described

1 in this section. Such transferred credits may not be
2 transferred again although they may succeed to a surviving or
3 acquiring entity subject to the same conditions and
4 limitations as described in this section.

5 3. In the event the credit provided for under this
6 section is reduced either as a result of a determination by
7 the Department of Environmental Protection or an examination
8 or audit by the Department of Revenue, such tax deficiency
9 shall be recovered from the first entity, or the surviving or
10 acquiring entity, to have claimed such credit up to the amount
11 of credit taken. Any subsequent deficiencies shall be
12 assessed against any entity acquiring and claiming such
13 credit, or in the case of multiple succeeding entities in the
14 order of credit succession.

15 ~~(j)(i)~~ In order to encourage completion of site
16 rehabilitation at contaminated sites being voluntarily cleaned
17 up and eligible for a tax credit under this section, the
18 taxpayer may claim an additional 10 percent of the total
19 cleanup costs, not to exceed \$50,000, in the final year of
20 cleanup as evidenced by the Department of Environmental
21 Protection issuing a "No Further Action" order for that site.

22 Section 15. Section 290.007, Florida Statutes, is
23 amended to read:

24 290.007 State incentives available in enterprise zones
25 and brownfield areas.--The following incentives are provided
26 by the state to encourage the revitalization of enterprise
27 zones and brownfield areas designated under s. 376.80:

28 (1) The enterprise zone jobs credit and the designated
29 brownfield area jobs credit provided in s. 220.181.

30 (2) The enterprise zone or designated brownfield area
31 property tax credit provided in s. 220.182.

1 (3) The community contribution tax credits provided in
2 ss. 220.183 and 624.5105.

3 (4) The sales tax exemption for building materials
4 used in the rehabilitation of real property in enterprise
5 zones or designated brownfield areas provided in s.
6 212.08(5)(g).

7 (5) The sales tax exemption for business equipment
8 used in an enterprise zone or a designated brownfield area
9 provided in s. 212.08(5)(h).

10 (6) The sales tax exemption for electrical energy used
11 in an enterprise zone or a designated brownfield area provided
12 in s. 212.08(15).

13 (7) The enterprise zone jobs credit and the designated
14 brownfield area jobs credit against the sales tax provided in
15 s. 212.096.

16 (8) Notwithstanding any law to the contrary, the
17 Public Service Commission may allow public utilities and
18 telecommunications companies to grant discounts of up to 50
19 percent on tariffed rates for services to small businesses
20 located in an enterprise zone designated pursuant to s.
21 290.0065 or a brownfield area designated under s. 376.80. Such
22 discounts may be granted for a period not to exceed 5 years.
23 For purposes of this subsection, "public utility" has the same
24 meaning as in s. 366.02(1) and "telecommunications company"
25 has the same meaning as in s. 364.02(~~12~~)(7).

26 Section 16. Section 376.30702, Florida Statutes, is
27 created to read:

28 376.30702 State-Owned-Lands Cleanup Program.--

29 (1) FINDINGS; INTENT.--In addition to the legislative
30 findings set forth in s. 376.30, the Legislature finds and
31 declares that:

1 (a) Significant quantities of pollutants or hazardous
2 substances have been discharged in the past on state-owned
3 lands. Generally, these discharges have occurred as part of
4 the normal operation of facilities that existed on the
5 property. Many of these discharges occurred prior to the state
6 acquiring title to the property, or the discharges resulted
7 from the acts of tenants or lessees of the state-owned lands.

8 (b) These discharges of pollutants and hazardous
9 substances on state-owned lands may pose a significant threat
10 to the quality of the groundwaters and inland surface waters
11 of this state.

12 (c) Where contamination of the groundwater or surface
13 water has occurred, remedial measures have often been delayed
14 for long periods while determinations as to liability and the
15 extent of liability have been made, and such delays have
16 resulted in the continuation and intensification of the threat
17 to the public health, safety, and welfare; in greater damage
18 to the environment; and in potentially higher costs to contain
19 and remove the contamination.

20 (d) Adequate financial resources must be readily
21 available to provide for the expeditious supply of safe and
22 reliable alternative sources of potable water to affected
23 persons and to provide a means for investigation and
24 rehabilitation without delay of contaminated sites on
25 state-owned lands.

26 (e) Site rehabilitation at contaminated sites on
27 state-owned lands should be based on the actual risk that
28 contamination may pose to the environment and public health,
29 taking into account current and future land and water use and
30 the degree to which contamination may spread and place the
31 public or the environment at risk.

1 (2) CREATION; PURPOSES OF PROGRAM.--
2 (a) There is created the Florida State-Owned-Lands
3 Cleanup Program to be administered by the department. To
4 encourage detection, reporting, and cleanup of contamination
5 on state-owned lands, the department shall, within the
6 guidelines established in this section, implement a cleanup
7 program to provide state-funded and state-managed site
8 rehabilitation for all state-owned property contaminated by
9 discharges of pollutants or hazardous substances that are
10 reported to the department. It is not the intent of this
11 program to provide funding for environmental compliance for
12 ongoing operations on state-owned lands.
13 (b) Continuation of this program is subject to an
14 annual appropriation from the Legislature. Continued state
15 funding will not be considered an entitlement or a vested
16 right under this section. The department shall not obligate
17 funds in excess of the annual appropriation for this program.
18 (c) Whenever, in its determination, incidents of
19 contamination on state-owned lands caused by pollutants or
20 hazardous substances may pose a threat to the environment or
21 the public health, safety, or welfare, the department shall
22 obligate moneys available under this section to provide for:
23 1. Prompt investigation and assessment of the
24 contaminated site.
25 2. Expeditious treatment, restoration, or replacement
26 of potable water supplies as provided in s. 376.30(3)(c)1.
27 3. Rehabilitation of contaminated sites, which shall
28 consist of rehabilitation of affected soil, groundwater,
29 sediment and surface waters, using the most cost-effective
30 alternative that is technologically feasible and reliable and
31 that provides adequate protection of the public health,

1 safety, and welfare and minimizes environmental damage, in
2 accordance with the rehabilitation criteria established by the
3 department under s. 376.30701, except that nothing in this
4 subsection may be construed to authorize the department to
5 obligate funds for payment of costs that may be associated
6 with, but are not integral to, site rehabilitation.

7 4. Maintenance and monitoring of contaminated sites.

8 5. Inspection and supervision of activities described
9 in this subsection.

10 6. Payment of expenses incurred by the department in
11 its efforts to obtain from responsible parties the payment or
12 recovery of reasonable costs resulting from the activities
13 described in this subsection.

14 7. Payment of any other reasonable costs of
15 administration, including those administrative costs incurred
16 by the Department of Health in providing field and laboratory
17 services, toxicological risk assessment, and other assistance
18 to the department in the investigation of drinking water
19 contamination complaints and costs associated with public
20 information and education activities.

21 8. Reasonable costs of restoring property as nearly as
22 practicable to the conditions that existed prior to activities
23 associated with contamination assessment or remedial action.

24 (3) SITE PRIORITY RANKING AND CLEANUP CRITERIA.--

25 (a) The department shall determine the priority ranking
26 of all known contaminated sites on state-owned lands using the
27 criteria listed in s. 376.3078(7) and (8), except for s.
28 376.3078(7)(e). In applying s. 376.3078(8)(h), the department
29 shall consider all pollutants and hazardous substances. It is
30 the intent of the Legislature that site rehabilitation be
31 conducted first at those sites that pose the greatest threat

1 to human health and the environment, within the availability
2 of funds appropriated annually for this program. However,
3 nothing in this subsection shall be construed to restrict the
4 department from modifying the priority status of a
5 rehabilitation site where conditions warrant, taking into
6 consideration the actual distance between the contamination
7 site and groundwater or surface water receptors or other
8 factors that affect the risk of exposure to pollutants and
9 hazardous substances, or where the United States Environmental
10 Protection Agency is requiring that the state or a local
11 government undertake site rehabilitation at a contaminated
12 site that is state-owned in advance of the site's priority
13 ranking under this subsection.

14 (b) The department shall conduct site rehabilitation
15 at contaminated sites being cleaned up under this program
16 using the cleanup criteria established in s. 376.30701 and
17 chapter 62-777, Florida Administrative Code, as that chapter
18 may hereafter be amended.

19 (c) It is recognized that restoration of groundwater
20 resources contaminated with pollutants or hazardous substances
21 may not be achievable using currently available technology. In
22 situations where the use of available technology is not
23 expected to achieve water quality standards, the department
24 may use innovative technology that has been field-tested and
25 that has engineering and cost data available.

26 (d) This subsection may not be construed to restrict
27 the department from temporarily postponing completion of any
28 site rehabilitation activities at a contaminated site on
29 state-owned lands for which funds are being expended under
30 this section whenever the postponement is deemed necessary in
31 order to make funds available for rehabilitation of another

1 contamination site on state-owned lands having a higher
2 priority status.

3 (e) Regardless of a site's priority ranking, the
4 department is authorized to temporarily postpone site
5 rehabilitation at a contaminated site on state-owned lands for
6 which federal funding may be available pursuant to the
7 Formerly Used Defense Sites Program. The department, at its
8 discretion, may proceed with state-funded cleanup of such
9 sites if the likelihood of timely federal response is low.

10 Section 17. Section 376.30781, Florida Statutes, is
11 amended to read:

12 376.30781 Partial tax credits for rehabilitation of
13 contaminated ~~drycleaning-solvent-contaminated sites and~~
14 ~~brownfield sites in designated brownfield areas~~; application
15 process; rulemaking authority; revocation authority.--

16 (1) The Legislature finds that:

17 (a) To facilitate property transactions and economic
18 growth and development, it is in the interest of the state to
19 encourage the voluntary cleanup, at the earliest possible
20 time, of contaminated ~~drycleaning-solvent-contaminated sites~~
21 ~~and brownfield sites in designated brownfield areas~~.

22 (b) It is the intent of the Legislature to encourage
23 the voluntary cleanup of contaminated
24 ~~drycleaning-solvent-contaminated sites and brownfield sites in~~
25 ~~designated brownfield areas~~ by providing a partial tax credit
26 for the restoration of such property in specified
27 circumstances.

28 (2)(a) A credit in the amount of 35 percent of the
29 costs of voluntary cleanup activity that is integral to site
30 rehabilitation at the following sites is allowed pursuant to
31 ss. 199.1055 and 220.1845:

- 1 1. A drycleaning-solvent-contaminated site eligible
2 for state-funded site rehabilitation under s. 376.3078(3);
3 2. A drycleaning-solvent-contaminated site at which
4 cleanup is undertaken by the real property owner pursuant to
5 s. 376.3078(11), if the real property owner is not also, and
6 has never been, the owner or operator of the drycleaning
7 facility where the contamination exists; ~~or~~
8 3. A brownfield site in a designated brownfield area
9 under s. 376.80; or-
10 4. Any other contaminated site at which cleanup is
11 undertaken by a person pursuant to a voluntary cleanup
12 agreement approved by the Department of Environmental
13 Protection, if the person did not cause or contribute to the
14 contamination at the site.
15 (b) For all applications received by the Department of
16 Environmental Protection by January 15, if, as of the
17 following March 1, the credits granted under paragraph (a) do
18 not exhaust the annual maximum allowable credits under
19 subsection (3), any remaining credits may be granted for
20 petroleum-contaminated sites at which site rehabilitation is
21 being conducted pursuant to the preapproved advanced cleanup
22 program authorized in s. 376.30713, but tax credits may be
23 granted only for 35 percent of the amount of the cost-share
24 percentage of site rehabilitation costs paid for with private
25 funding. Tax credit applications submitted for preapproved
26 advanced cleanup sites shall not be included in the
27 carryforward provision of subsection (9), which otherwise
28 allows applications that do not receive credits due to an
29 exhaustion of the annual tax credit authorization to be
30 carried forward in the same order for the next year's annual
31

1 tax credit allocation, if any, based on the prior year
2 application.

3 (c)~~(b)~~ A taxpayer, or multiple taxpayers working
4 jointly to clean up a single site, may not receive more than
5 \$250,000 per year in tax credits for each site voluntarily
6 rehabilitated. Multiple taxpayers shall receive tax credits in
7 the same proportion as their contribution to payment of
8 cleanup costs. Tax credits are available only for site
9 rehabilitation conducted during the calendar tax year for in
10 which the tax credit application is submitted.

11 (d)~~(c)~~ In order to encourage completion of site
12 rehabilitation at contaminated sites that are being
13 voluntarily cleaned up and that are eligible for a tax credit
14 under this section, the tax credit applicant may claim an
15 additional 10 percent of the total cleanup costs, not to
16 exceed \$50,000, in the final year of cleanup as evidenced by
17 the Department of Environmental Protection issuing a "no
18 further action" order for that site.

19 (3) The Department of Environmental Protection shall
20 be responsible for allocating the tax credits provided for in
21 ss. 199.1055 and 220.1845, not to exceed a total of \$2 million
22 in tax credits annually.

23 (4) To claim the credit for site rehabilitation
24 conducted during the current calendar year, each applicant
25 must apply to the Department of Environmental Protection for
26 an allocation of the \$2 million annual credit by January 15 of
27 the following year ~~December 31~~ on a form developed by the
28 Department of Environmental Protection in cooperation with the
29 Department of Revenue. The form shall include an affidavit
30 from each applicant certifying that all information contained
31 in the application, including all records of costs incurred

1 and claimed in the tax credit application, are true and
2 correct. If the application is submitted pursuant to
3 subparagraph (2)(a)2., the form must include an affidavit
4 signed by the real property owner stating that it is not, and
5 has never been, the owner or operator of the drycleaning
6 facility where the contamination exists. If the application is
7 submitted under subparagraph (2)(a)4., the form must include
8 an affidavit signed by the person agreeing to conduct
9 voluntary cleanup stating that he or she did not cause or
10 contribute to the contamination at the site. Approval of
11 partial tax credits must be accomplished on a first-come,
12 first-served basis based upon the date complete applications
13 are received by the Division of Waste Management. An applicant
14 shall submit only one complete application per site for each
15 calendar year's site rehabilitation costs. Placeholder
16 applications may not be accepted and will not secure a place
17 in the first-come, first-served application line per year. To
18 be eligible for a tax credit the applicant must:
19 (a) Have entered into a voluntary cleanup agreement
20 with the Department of Environmental Protection for a
21 contaminated drycleaning-solvent-contaminated site or into a
22 Brownfield Site Rehabilitation Agreement, as applicable; and
23 (b) Have paid all deductibles pursuant to s.
24 376.3078(3)(d) for eligible drycleaning-solvent-cleanup
25 program sites.
26 (5) To obtain the tax credit certificate, an applicant
27 must annually file an application for certification, which
28 must be received by the Department of Environmental
29 Protection's Division of Waste Management ~~Protection~~ by
30 January 15 of the year following the calendar year for which
31 site rehabilitation costs are being claimed in a tax credit

1 application ~~December 31~~. The applicant must provide all
2 pertinent information requested on the tax credit application
3 form, including, at a minimum, the name and address of the
4 applicant and the address and tracking identification number
5 of the eligible site. Along with the application form, the
6 applicant must submit the following:

7 (a) A nonrefundable review fee of \$250 made payable to
8 the Water Quality Assurance Trust Fund to cover the
9 administrative costs associated with the department's review
10 of the tax credit application;

11 (b) Copies of contracts and documentation of contract
12 negotiations, accounts, invoices, sales tickets, or other
13 payment records from purchases, sales, leases, or other
14 transactions involving actual costs incurred for that tax year
15 related to site rehabilitation, as that term is defined in ss.
16 376.301 and 376.79;

17 (c) Proof that the documentation submitted pursuant to
18 paragraph (b) has been reviewed and verified by an independent
19 certified public accountant in accordance with standards
20 established by the American Institute of Certified Public
21 Accountants. Specifically, the certified public accountant
22 must attest to the accuracy and validity of the costs incurred
23 and paid by conducting an independent review of the data
24 presented by the applicant. Accuracy and validity of costs
25 incurred and paid would be determined once the level of effort
26 was certified by an appropriate professional registered in
27 this state in each contributing technical discipline. The
28 certified public accountant's report would also attest that
29 the costs included in the application form are not duplicated
30 within the application. A copy of the accountant's report
31

1 shall be submitted to the Department of Environmental
2 Protection with the tax credit application; and
3 (d) A certification form stating that site
4 rehabilitation activities associated with the documentation
5 submitted pursuant to paragraph (b) have been conducted under
6 the observation of, and related technical documents have been
7 signed and sealed by, an appropriate professional registered
8 in this state in each contributing technical discipline. The
9 certification form shall be signed and sealed by the
10 appropriate registered professionals stating that the costs
11 incurred were integral, necessary, and required for site
12 rehabilitation, as that term is defined in ss. 376.301 and
13 376.79.

14 (6) The certified public accountant and appropriate
15 registered professionals submitting forms as part of a tax
16 credit application must verify such forms. Verification must
17 be accomplished as provided in s. 92.525(1)(b) and subject to
18 the provisions of s. 92.525(3).

19 (7) The Department of Environmental Protection shall
20 review the tax credit application and any supplemental
21 documentation that the applicant may submit before the annual
22 application deadline in order to have the application
23 considered complete ~~submitted by each applicant~~, for the
24 purpose of verifying that the applicant has met the qualifying
25 criteria in subsections (2) and (4) and has submitted all
26 required documentation listed in subsection (5). Upon
27 verification that the applicant has met these requirements,
28 the department shall issue a written decision granting
29 eligibility for partial tax credits (a tax credit certificate)
30 in the amount of 35 percent of the total costs claimed,
31 subject to the \$250,000 limitation, for the calendar ~~tax~~ year

1 for ~~in~~ which the tax credit application is submitted based on
2 the report of the certified public accountant and the
3 certifications from the appropriate registered technical
4 professionals.

5 (8) On or before March 1, the Department of
6 Environmental Protection shall inform each eligible applicant
7 for sites listed in paragraph (2)(a) of the amount of its
8 partial tax credit and provide each eligible applicant with a
9 tax credit certificate that must be submitted with its tax
10 return to the Department of Revenue to claim the tax credit.
11 Credits will not result in the payment of refunds if total
12 credits exceed the amount of tax owed.

13 (9) Except for applicants for sites listed in
14 paragraph (2)(b), if an applicant does not receive a tax
15 credit allocation due to an exhaustion of the \$2 million
16 annual tax credit authorization, such application will then be
17 included in the same first-come, first-served order in the
18 next year's annual tax credit allocation, if any, based on the
19 prior year application.

20 (10) The Department of Environmental Protection may
21 adopt rules to prescribe the necessary forms required to claim
22 tax credits under this section and to provide the
23 administrative guidelines and procedures required to
24 administer this section. ~~Prior to the adoption of rules~~
25 ~~regulating the tax credit application, the department shall,~~
26 ~~by September 1, 1998, establish reasonable interim application~~
27 ~~requirements and forms.~~

28 (11) The Department of Environmental Protection may
29 revoke or modify any written decision granting eligibility for
30 partial tax credits under this section if it is discovered
31 that the tax credit applicant submitted any false statement,

1 representation, or certification in any application, record,
2 report, plan, or other document filed in an attempt to receive
3 partial tax credits under this section. The Department of
4 Environmental Protection shall immediately notify the
5 Department of Revenue of any revoked or modified orders
6 affecting previously granted partial tax credits.
7 Additionally, the taxpayer must notify the Department of
8 Revenue of any change in its tax credit claimed.

9 (12) An owner, operator, or real property owner who
10 receives state-funded site rehabilitation under s. 376.3078(3)
11 for rehabilitation of a drycleaning-solvent-contaminated site
12 is ineligible to receive a tax credit under s. 199.1055 or s.
13 220.1845 for costs incurred by the taxpayer in conjunction
14 with the rehabilitation of that site during the same time
15 period that state-administered site rehabilitation was
16 underway.

17 (13) Any person who receives partial state-funded site
18 rehabilitation under the preapproved advanced cleanup program
19 authorized in s. 376.30713(4) is ineligible to receive tax
20 credits under s. 199.1055 or s. 220.1845 for the portion of
21 site rehabilitation costs paid for by the state.

22 (14) Regardless of the effective date of this statute,
23 the Legislature intends to allow tax credit applications filed
24 under subparagraph (2)(a)4. and paragraph (2)(b) to include
25 site rehabilitation costs for the entire 2000 calendar year,
26 rather than only those costs incurred and paid from July 1,
27 2000, forward.

28 Section 18. Section 376.84, Florida Statutes, is
29 amended to read:

30 376.84 Brownfield redevelopment economic
31 incentives.--It is the intent of the Legislature that

1 brownfield redevelopment activities be viewed as opportunities
2 to significantly improve the utilization, general condition,
3 and appearance of these sites. Alternative ~~Different~~ standards
4 than those in place for new development, as allowed under
5 current state and local laws, should be used to the fullest
6 extent to encourage the redevelopment of a brownfield. State
7 and local governments are encouraged to offer redevelopment
8 incentives for this purpose, as an ongoing public investment
9 in infrastructure and services, to help eliminate the public
10 health and environmental hazards, and to promote the creation
11 of jobs in these areas. These ~~Such~~ incentives may include
12 financial, regulatory, and technical assistance to persons and
13 businesses involved in the redevelopment of the brownfield
14 pursuant to this act.

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

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

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

23 (c) Safe neighborhood improvement districts as
24 provided in ss. 163.501-163.523.

25 (d) Waiver, reduction, or limitation by line of
26 business with respect to occupational license taxes pursuant
27 to chapter 205.

28 (e) Tax exemption for historic properties as provided
29 in s. 196.1997.

30
31

- 1 (f) Residential electricity exemption of up to the
2 first 500 kilowatts of use may be exempted from the municipal
3 public service tax pursuant to s. 166.231.
- 4 (g) Minority business enterprise programs as provided
5 in s. 287.0943.
- 6 (h) Electric and gas tax exemption as provided in s.
7 166.231(6).
- 8 (i) Economic development tax abatement as provided in
9 s. 196.1995.
- 10 (j) Grants, including community development block
11 grants.
- 12 (k) Pledging of revenues to secure bonds.
- 13 (l) Low-interest revolving loans and zero-interest
14 loan pools.
- 15 (m) Local grant programs for facade, storefront,
16 signage, and other business improvements.
- 17 (n) Governmental coordination of loan programs with
18 lenders, such as microloans, business reserve fund loans,
19 letter of credit enhancements, gap financing, land lease and
20 sublease loans, and private equity.
- 21 (o) Payment schedules over time for payment of fees,
22 within criteria, and marginal cost pricing.
- 23 (2) Regulatory incentives may include, but not be
24 limited to:
- 25 (a) Cities' absorption of developers' concurrency
26 needs.
- 27 (b) Developers' performance of certain analyses.
- 28 (c) Exemptions and lessening of state and local review
29 requirements.
- 30 (d) Water and sewer regulatory incentives.
- 31

- 1 (e) Waiver of transportation impact fees and permit
2 fees.
- 3 (f) Zoning incentives to reduce review requirements
4 for redevelopment changes in use and occupancy; establishment
5 of code criteria for specific uses; and institution of credits
6 for previous use within the area.
- 7 (g) Flexibility in parking standards and buffer zone
8 standards.
- 9 (h) Environmental management through specific code
10 criteria and conditions allowed by current law.
- 11 (i) Maintenance standards and activities by ordinance
12 and otherwise, and increased security and crime prevention
13 measures available through special assessments.
- 14 (j) Traffic-calming measures.
- 15 (k) Historic preservation ordinances, loan programs,
16 and review and permitting procedures.
- 17 (1) One-stop permitting and streamlined development
18 and permitting process.
- 19 (3) Technical assistance incentives may include, but
20 not be limited to:
- 21 (a) Expedited development applications.
- 22 (b) Formal and informal information on business
23 incentives and financial programs.
- 24 (c) Site design assistance.
- 25 (d) Marketing and promotion of projects or areas.
- 26 (4) A local government having a designated brownfield
27 area under s. 376.80 and a brownfield site rehabilitation
28 agreement under s. 376.80(5) may issue revenue bonds under s.
29 163.385 and employ tax increment financing under s. 163.387
30 for the purpose of financing the implementation of the
31 brownfield site rehabilitation agreement and the local

1 government's approved plan for revitalizing the brownfield
2 area, except that in a charter county such incentive shall be
3 employed consistent with the provisions of s. 163.410.

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

10 Section 19. Subsection (1) of section 376.86, Florida
11 Statutes, is amended to read:

12 376.86 Brownfield Areas Loan Guarantee Program.--

13 (1) The Brownfield Areas Loan Guarantee Council is
14 created to review and approve or deny by a majority vote of
15 its membership, the situations and circumstances for
16 participation in partnerships by agreements with local
17 governments, financial institutions, and others associated
18 with the redevelopment of brownfield areas pursuant to the
19 Brownfields Redevelopment Act for a limited state guaranty of
20 up to 4 ~~5~~ years of loan guarantees or loan loss reserves
21 issued pursuant to law. The limited state loan guaranty
22 applies only to 20 ~~10~~ percent of the primary ~~lenders'~~ lenders
23 loans for redevelopment projects in brownfield areas. A
24 limited state guaranty of private loans or a loan loss reserve
25 is authorized for lenders licensed to operate in the state
26 upon a determination by the council that such an arrangement
27 is ~~would be~~ in the public interest and that the likelihood of
28 the success of the loan is great.

29 Section 20. Section 376.876, Florida Statutes, is
30 created to read:

31 376.876 Brownfield Redevelopment Grants Program.--

1 (1) The Department of Environmental Protection shall
2 administer a program to make grants to local governments that
3 have designated brownfield areas under s. 376.80 and need
4 financial assistance for site assessment and cleanup
5 activities to make the redevelopment project financially
6 feasible. The grants may not be used for general
7 administrative costs incurred by a local government for
8 oversight and administration of a brownfield area
9 redevelopment program, but instead the state grants must be
10 used for actual site assessment and cleanup activities,
11 including integrally related engineering design, soil removal,
12 and soil treatment, and customary nonadministrative activities
13 undertaken in the remediation of contamination at a designated
14 brownfield site. The department shall take into consideration
15 the following factors when reviewing each applicant's grant
16 proposal:

17 (a) The level of unemployment and poverty in the
18 census tract in the brownfield area and in which the project
19 site is located;

20 (b) The likelihood that the proposed response action
21 will be adequate to clean up the property in accordance with
22 the requirements of all applicable laws;

23 (c) The presence of community benefits associated with
24 the project, including, without limitation, the creation or
25 revitalization of open space;

26 (d) The proximity of the project site to existing
27 transportation and utility infrastructure appropriate to
28 support the proposed reuse of the project site;

29 (e) Whether the project site is located in an area
30 that has received pilot project funding for redevelopment of
31

1 brownfield areas from the United States Environmental
2 Protection Agency;
3 (f) Whether the local government in which the project
4 site is located has made available substantial funds in
5 furtherance of remediation and redevelopment of the designated
6 brownfield area; and
7 (g) Whether the local government having the designated
8 brownfield area has completed any projects in the brownfield
9 area.
10 (2) While grants must be applied for by municipalities
11 or counties, the local governments may by agreement allow the
12 grant funds to be used by local redevelopment authorities,
13 economic development authorities, community redevelopment
14 agencies, or other similar entities approved by the municipal
15 or county governing body that has designated the brownfield
16 area under s. 376.80 and has jurisdiction over the location
17 where the redevelopment grant funds will be used.
18 (3) Each grant requires a 20-percent match from the
19 applicant in either cash or in-kind services. A single grant
20 may not be larger than \$300,000 during each state fiscal year.
21 Of each grant, no more than \$100,000 may be used for site
22 assessment activities. The remainder of the grant amount is to
23 be used for cleanup activities at a brownfield site. In the
24 first fiscal year in which the Legislature provides an
25 appropriation for this grant program, the department shall
26 administer the funds to assure that at least one-half of the
27 amount available is awarded to local governments that can
28 demonstrate compliance with paragraphs (1)(e), (f), and (g).
29 (4) The department may adopt rules to administer the
30 grant program authorized by this section relating to
31 application forms, timeframes for submission of applications,

1 notification of grant awards, and grant agreement documents
2 required.

3 Section 21. Subsection (9) of section 211.3103,
4 Florida Statutes, is repealed.

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

7 288.047 Quick-response training for economic
8 development.--

9 (5) For the first 6 months of each fiscal year,
10 Enterprise Florida, Inc., shall set aside 30 percent of the
11 amount appropriated for the Quick-Response Training Program by
12 the Legislature to fund instructional programs for businesses
13 located in an enterprise zone or brownfield area ~~to instruct~~
14 ~~residents of an enterprise zone.~~ Any unencumbered funds
15 remaining undisbursed from this set-aside at the end of the
16 6-month period may be used to provide funding for any program
17 qualifying for funding pursuant to this section.

18 Section 23. Section 288.107, Florida Statutes, is
19 amended to read:

20 288.107 Brownfield redevelopment bonus refunds.--

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

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

24 (b) "Brownfield sites" means sites that are generally
25 abandoned, idled, or underused industrial and commercial
26 properties where expansion or redevelopment is complicated by
27 actual or perceived environmental contamination.

28 (c) "Brownfield area" means a contiguous area of one
29 or more brownfield sites, some of which may not be
30 contaminated, and which has been designated by a local
31 government by resolution. Such areas may include all or

1 portions of community redevelopment areas, enterprise zones,
2 empowerment zones, other such designated economically deprived
3 communities and areas, and
4 Environmental-Protection-Agency-designated brownfield pilot
5 projects.

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

8 (e) "Eligible business" means a qualified target
9 industry business as defined in s. 288.106(2)(o) or other
10 business that can demonstrate a fixed capital investment of at
11 least \$2 million in mixed-use business activities, including
12 multi-unit housing, commercial, retail, and industrial in
13 brownfield areas and which pays wages that are at least 80
14 percent of the average of all private-sector wages in the
15 county in which the business is located.

16 (f) "Jobs" means full-time equivalent positions,
17 consistent with the use of such terms by the Department of
18 Labor and Employment Security for the purpose of unemployment
19 compensation tax, resulting directly from a project in this
20 state. This number does not include temporary construction
21 jobs involved with the construction of facilities for the
22 project and which are not associated with the implementation
23 of the site rehabilitation as provided in s. 376.80.

24 (g) "Office" means the Office of Tourism, Trade, and
25 Economic Development.

26 (h) "Project" means the creation of a new business or
27 the expansion of an existing business as defined in s.
28 288.106.

29 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.--There
30 shall be allowed from the account a bonus refund of \$2,500 to
31 any qualified target industry business or other eligible

1 business as defined in paragraph (1)(e) for each new Florida
2 job created in a brownfield which is claimed on the qualified
3 target industry business's annual refund claim authorized in
4 s. 288.106(6) or other similar annual claim procedure for
5 other eligible business as defined in paragraph (1)(e) and
6 approved by the office as specified in the final order issued
7 by the director.

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

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

14 (b) The completion of a fixed capital investment of at
15 least \$2 million in mixed-use business activities, including
16 multi-unit housing, commercial, retail, and industrial in
17 brownfield areas and which pay wages that are at least 80
18 percent of the average of all private-sector wages in the
19 county in which the business is located.

20 (c)~~(b)~~ That the designation as a brownfield will
21 diversify and strengthen the economy of the area surrounding
22 the site.

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

26 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS
27 REFUNDS.--

28 (a) To be eligible to receive a bonus refund for new
29 Florida jobs created in a brownfield, a business must have
30 been certified as a qualified target industry business under
31 s. 288.106 or eligible business as defined in paragraph (1)(e)

1 and must have indicated on the qualified target industry tax
2 refund application form submitted in accordance with s.
3 288.106(4) or other similar agreement for other eligible
4 business as defined in paragraph (1)(e) that the project for
5 which the application is submitted is or will be located in a
6 brownfield and that the business is applying for certification
7 as a qualified brownfield business under this section, and
8 must have signed a qualified target industry tax refund
9 agreement with the office which indicates that the business
10 has been certified as a qualified target industry business
11 located in a brownfield and specifies the schedule of
12 brownfield redevelopment bonus refunds that the business may
13 be eligible to receive in each fiscal year.

14 (b) To be considered to receive an eligible brownfield
15 redevelopment bonus refund payment, the business meeting the
16 requirements of paragraph (a) must submit a claim once each
17 fiscal year on a claim form approved by the office which
18 indicates the location of the brownfield, the address of the
19 business facility's brownfield location, the name of the
20 brownfield in which it is located, the number of jobs created,
21 and the average wage of the jobs created by the business
22 within the brownfield as defined in s. 288.106 or other
23 eligible business as defined in paragraph (1)(e) and the
24 administrative rules and policies for that section.

25 (c) The bonus refunds shall be available on the same
26 schedule as the qualified target industry tax refund payments
27 scheduled in the qualified target industry tax refund
28 agreement authorized in s. 288.106 or other similar agreement
29 for other eligible businesses as defined in paragraph (1)(e).

30 (d) After entering into a tax refund agreement as
31 provided in s. 288.106 or other similar agreement for other

1 eligible businesses as defined in paragraph (1)(e), an
2 eligible business may receive brownfield redevelopment bonus
3 refunds from the account pursuant to s. 288.106(3)(c).

4 (e) An eligible business that fraudulently claims a
5 refund under this section:

6 1. Is liable for repayment of the amount of the refund
7 to the account, plus a mandatory penalty in the amount of 200
8 percent of the tax refund, which shall be deposited into the
9 General Revenue Fund.

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

12 (f) The office shall review all applications submitted
13 under s. 288.106 or other similar application forms for other
14 eligible businesses as defined in paragraph (1)(e) which
15 indicate that the proposed project will be located in a
16 brownfield and determine, with the assistance of the
17 Department of Environmental Protection, that the project
18 location is within a brownfield as provided in this act.

19 (g) The office may ~~shall~~ approve all claims for a
20 brownfield redevelopment bonus refund payment that are found
21 to meet the requirements of paragraphs (b) and (d).

22 (h) The director, with such assistance as may be
23 required from the office and the Department of Environmental
24 Protection, may ~~shall~~ specify by written final order the
25 amount of the brownfield redevelopment bonus refund that is
26 authorized for the qualified target industry business for the
27 fiscal year within 30 days after the date that the claim for
28 the annual tax refund is received by the office.

29 (i) The office may approve applications for
30 certification pursuant to this section, provided, however,
31 that the total of tax refund payments scheduled in all active

1 certifications for any fiscal year shall not exceed \$3
2 million.

3 (j)~~(i)~~ The total amount of the bonus refunds approved
4 by the director under this section in any fiscal year must not
5 exceed the total amount appropriated to the Economic
6 Development Incentives Account for this purpose for the fiscal
7 year. In the event that the Legislature does not appropriate
8 an amount sufficient to satisfy projections by the office for
9 brownfield redevelopment bonus refunds under this section in a
10 fiscal year, the office shall, not later than July 15 of such
11 year, determine the proportion of each brownfield
12 redevelopment bonus refund claim which shall be paid by
13 dividing the amount appropriated for tax refunds for the
14 fiscal year by the projected total of brownfield redevelopment
15 bonus refund claims for the fiscal year. The amount of each
16 claim for a brownfield redevelopment bonus tax refund shall be
17 multiplied by the resulting quotient. If, after the payment
18 of all such refund claims, funds remain in the Economic
19 Development Incentives Account for brownfield redevelopment
20 tax refunds, the office shall recalculate the proportion for
21 each refund claim and adjust the amount of each claim
22 accordingly.

23 (k)~~(j)~~ Upon approval of the brownfield redevelopment
24 bonus refund, payment shall be made for the amount specified
25 in the final order. If the final order is appealed, payment
26 may not be made for a refund to the qualified target industry
27 business until the conclusion of all appeals of that order.

28 (5) ADMINISTRATION.--

29 (a) The office is authorized to verify information
30 provided in any claim submitted for tax credits under this
31 section with regard to employment and wage levels or the

1 payment of the taxes to the appropriate agency or authority,
2 including the Department of Revenue, the Department of Labor
3 and Employment Security, or any local government or authority.

4 (b) To facilitate the process of monitoring and
5 auditing applications made under this program, the office may
6 provide a list of qualified target industry businesses to the
7 Department of Revenue, to the Department of Labor and
8 Employment Security, to the Department of Environmental
9 Protection, or to any local government authority. The office
10 may request the assistance of those entities with respect to
11 monitoring the payment of the taxes listed in s. 288.106(3).

12 Section 24. Paragraph (b) of subsection (3) of section
13 288.905, Florida Statutes, is amended to read:

14 288.905 Duties of the board of directors of Enterprise
15 Florida, Inc.--

16 (3)

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

21 2. Enterprise Florida, Inc., shall involve local
22 governments, local and regional economic development
23 organizations, and other local, state, and federal economic,
24 international, and workforce development entities, both public
25 and private, in developing and carrying out policies,
26 strategies, and programs, seeking to partner and collaborate
27 to produce enhanced public benefit at a lesser cost.

28 3. Enterprise Florida, Inc., shall involve rural,
29 urban, small-business, and minority-business development
30 agencies and organizations, both public and private, in
31

1 developing and carrying out policies, strategies, and
2 programs.
3 4. Enterprise Florida, Inc., shall develop a
4 comprehensive marketing plan for redevelopment of brownfield
5 areas designated pursuant to s. 376.80. The plan must include,
6 but is not limited to, strategies to distribute information
7 about current designated brownfield areas and the available
8 economic incentives for redevelopment of brownfield areas.
9 Such strategies are to be used in the promotion of business
10 formation, expansion, recruitment, retention, and workforce
11 development programs.

12 Section 25. Section 376.301, Florida Statutes, is
13 amended to read:

14 376.301 Definitions of terms used in ss.
15 376.30-376.319, 376.70, and 376.75.--When used in ss.
16 376.30-376.319, 376.70, and 376.75, unless the context clearly
17 requires otherwise, the term:

18 (1) "Aboveground hazardous substance tank" means any
19 stationary aboveground storage tank and onsite integral piping
20 that contains hazardous substances which are liquid at
21 standard temperature and pressure and has an individual
22 storage capacity greater than 110 gallons.

23 (2) "Additive effects" means a scientific principle
24 that the toxicity that occurs as a result of exposure is the
25 sum of the toxicities of the individual chemicals to which the
26 individual is exposed.

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

31

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

7 (5) "Barrel" means 42 U.S. gallons at 60 degrees
8 Fahrenheit.

9 (6) "Bulk product facility" means a waterfront
10 location with at least one aboveground tank with a capacity
11 greater than 30,000 gallons which is used for the storage of
12 pollutants.

13 (7) "Cattle-dipping vat" means any structure,
14 excavation, or other facility constructed by any person, or
15 the site where such structure, excavation, or other facility
16 once existed, for the purpose of treating cattle or other
17 livestock with a chemical solution pursuant to or in
18 compliance with any local, state, or federal governmental
19 program for the prevention, suppression, control, or
20 eradication of any dangerous, contagious, or infectious
21 diseases.

22 (8) "Compression vessel" means any stationary
23 container, tank, or onsite integral piping system, or
24 combination thereof, which has a capacity of greater than 110
25 gallons, that is primarily used to store pollutants or
26 hazardous substances above atmospheric pressure or at a
27 reduced temperature in order to lower the vapor pressure of
28 the contents. Manifold compression vessels that function as a
29 single vessel shall be considered as one vessel.

30 (9) "Contaminant" means any physical, chemical,
31 biological, or radiological substance present in any medium

1 which may result in adverse effects to human health or the
2 environment or which creates an adverse nuisance,
3 organoleptic, or aesthetic condition in groundwater.

4 (10) "Contaminated site" means any contiguous land,
5 sediment, surface water, or groundwater areas that contain
6 contaminants that may be harmful to human health or the
7 environment.

8 (11) "Department" means the Department of
9 Environmental Protection.

10 (12) "Discharge" includes, but is not limited to, any
11 spilling, leaking, seeping, pouring, misapplying, emitting,
12 emptying, releasing, or dumping of any pollutant or hazardous
13 substance which occurs and which affects lands and the surface
14 and ground waters of the state not regulated by ss.
15 376.011-376.21.

16 (13) "Drycleaning facility" means a commercial
17 establishment that operates or has at some time in the past
18 operated for the primary purpose of drycleaning clothing and
19 other fabrics utilizing a process that involves any use of
20 drycleaning solvents. The term "drycleaning facility" includes
21 laundry facilities that use drycleaning solvents as part of
22 their cleaning process. The term does not include a facility
23 that operates or has at some time in the past operated as a
24 uniform rental company or a linen supply company regardless of
25 whether the facility operates as or was previously operated as
26 a drycleaning facility.

27 (14) "Drycleaning solvents" means any and all
28 nonaqueous solvents used in the cleaning of clothing and other
29 fabrics and includes perchloroethylene (also known as
30 tetrachloroethylene) and petroleum-based solvents, and their
31 breakdown products. For purposes of this definition,

1 "drycleaning solvents" only includes those drycleaning
2 solvents originating from use at a drycleaning facility or by
3 a wholesale supply facility.

4 (15) "Dry drop-off facility" means any commercial
5 retail store that receives from customers clothing and other
6 fabrics for drycleaning or laundering at an offsite
7 drycleaning facility and that does not clean the clothing or
8 fabrics at the store utilizing drycleaning solvents.

9 (16) "Engineering controls" means modifications to a
10 site to reduce or eliminate the potential for exposure to
11 petroleum products' chemicals of concern, drycleaning
12 solvents, or other contaminants. Such modifications may
13 include, but are not limited to, physical or hydraulic control
14 measures, capping, point of use treatments, or slurry walls.

15 (17) "Wholesale supply facility" means a commercial
16 establishment that supplies drycleaning solvents to
17 drycleaning facilities.

18 (18) "Facility" means a nonresidential location
19 containing, or which contained, any underground stationary
20 tank or tanks which contain hazardous substances or pollutants
21 and have individual storage capacities greater than 110
22 gallons, or any aboveground stationary tank or tanks which
23 contain pollutants which are liquids at standard ambient
24 temperature and pressure and have individual storage
25 capacities greater than 550 gallons. This subsection shall not
26 apply to facilities covered by chapter 377, or containers
27 storing solid or gaseous pollutants, and agricultural tanks
28 having storage capacities of less than 550 gallons.

29 (19) "Flow-through process tank" means an aboveground
30 tank that contains hazardous substances or specified mineral
31 acids as defined in s. 376.321 and that forms an integral part

1 of a production process through which there is a steady,
2 variable, recurring, or intermittent flow of materials during
3 the operation of the process. Flow-through process tanks
4 include, but are not limited to, seal tanks, vapor recovery
5 units, surge tanks, blend tanks, feed tanks, check and delay
6 tanks, batch tanks, oil-water separators, or tanks in which
7 mechanical, physical, or chemical change of a material is
8 accomplished.

9 (20) "Hazardous substances" means those substances
10 defined as hazardous substances in the Comprehensive
11 Environmental Response, Compensation and Liability Act of
12 1980, Pub. L. No. 96-510, 94 Stat. 2767, as amended by the
13 Superfund Amendments and Reauthorization Act of 1986.

14 (21) "Institutional controls" means the restriction on
15 use or access to a site to eliminate or minimize exposure to
16 petroleum products' chemicals of concern, drycleaning
17 solvents, or other contaminants. Such restrictions may
18 include, but are not limited to, deed restrictions,
19 restrictive covenants, or conservation easements ~~use~~
20 ~~restrictions, or restrictive zoning.~~

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

26 (23) "Marine fueling facility" means a commercial or
27 recreational coastal facility, excluding a bulk product
28 facility, providing fuel to vessels.

29 (24) "Natural attenuation" means a verifiable ~~an~~
30 approach to site rehabilitation that allows natural processes
31 to contain the spread of contamination and reduce the

1 concentrations of contaminants in contaminated groundwater and
2 soil. Natural attenuation processes may include the following:
3 sorption, biodegradation, chemical reactions with subsurface
4 materials, diffusion, dispersion, and volatilization.

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

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

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

11 (28) "Person in charge" means the person on the scene
12 who is in direct, responsible charge of a facility from which
13 pollutants are discharged, when the discharge occurs.

14 (29) "Person responsible for conducting site
15 rehabilitation" means the site owner, operator, or the person
16 designated by the site owner or operator on the reimbursement
17 application. Mortgage holders and trust holders may be
18 eligible to participate in the reimbursement program pursuant
19 to s. 376.3071(12).

20 (30) "Petroleum" includes:

21 (a) Oil, including crude petroleum oil and other
22 hydrocarbons, regardless of gravity, which are produced at the
23 well in liquid form by ordinary methods and which are not the
24 result of condensation of gas after it leaves the reservoir;
25 and

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

28 (31) "Petroleum product" means any liquid fuel
29 commodity made from petroleum, including, but not limited to,
30 all forms of fuel known or sold as diesel fuel, kerosene, all
31 forms of fuel known or sold as gasoline, and fuels containing

1 a mixture of gasoline and other products, excluding liquefied
2 petroleum gas and American Society for Testing and Materials
3 (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual
4 oils, intermediate fuel oils (IFO) used for marine bunkering
5 with a viscosity of 30 and higher, asphalt oils, and
6 petrochemical feedstocks.

7 (32) "Petroleum products' chemicals of concern" means
8 the constituents of petroleum products, including, but not
9 limited to, xylene, benzene, toluene, ethylbenzene,
10 naphthalene, and similar chemicals, and constituents in
11 petroleum products, including, but not limited to, methyl
12 tert-butyl ether (MTBE), lead, and similar chemicals found in
13 additives, provided the chemicals of concern are present as a
14 result of a discharge of petroleum products.

15 (33) "Petroleum storage system" means a stationary
16 tank not covered under the provisions of chapter 377, together
17 with any onsite integral piping or dispensing system
18 associated therewith, which is used, or intended to be used,
19 for the storage or supply of any petroleum product. Petroleum
20 storage systems may also include oil/water separators, and
21 other pollution control devices installed at petroleum product
22 terminals as defined in this chapter and bulk product
23 facilities pursuant to, or required by, permits or best
24 management practices in an effort to control surface discharge
25 of pollutants. Nothing herein shall be construed to allow a
26 continuing discharge in violation of department rules.

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

30 (35) "Pollution" means the presence on the land or in
31 the waters of the state of pollutants in quantities which are

1 or may be potentially harmful or injurious to human health or
2 welfare, animal or plant life, or property or which may
3 unreasonably interfere with the enjoyment of life or property,
4 including outdoor recreation.

5 (36) "Real property owner" means the individual or
6 entity that is vested with ownership, dominion, or legal or
7 rightful title to the real property, or which has a ground
8 lease interest in the real property, on which a drycleaning
9 facility or wholesale supply facility is or has ever been
10 located.

11 (37) "Response action" means any activity, including
12 evaluation, planning, design, engineering, construction, and
13 ancillary services, which is carried out in response to any
14 discharge, release, or threatened release of a hazardous
15 substance, pollutant, or other contaminant from a facility or
16 site identified by the department under the provisions of ss.
17 376.30-376.319.

18 (38) "Response action contractor" means a person who
19 is carrying out any response action, including a person
20 retained or hired by such person to provide services relating
21 to a response action.

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

26 ~~(40)~~~~(39)~~ "Secretary" means the Secretary of
27 Environmental Protection.

28 ~~(41)~~~~(40)~~ "Site rehabilitation" means the assessment of
29 site contamination and the remediation activities that reduce
30 the levels of contaminants at a site through accepted
31 treatment methods to meet the cleanup target levels

1 established for that site. For purposes of sites subject to
2 the Resource Conservation and Recovery Act, as amended, the
3 term includes removal, decontamination, and corrective action
4 of releases of hazardous substances.

5 (42)~~(41)~~ "Source removal" means the removal of free
6 product, or the removal of contaminants from soil or sediment
7 that has been contaminated to the extent that leaching to
8 groundwater or surface water has occurred or is occurring.

9 (43)~~(42)~~ "Storage system" means a stationary tank not
10 covered under the provisions of chapter 377, together with any
11 onsite integral piping or dispensing system associated
12 therewith, which is or has been used for the storage or supply
13 of any petroleum product, pollutant, or hazardous substance as
14 defined herein, and which is registered with the Department of
15 Environmental Protection under this chapter or any rule
16 adopted pursuant hereto.

17 (44)~~(43)~~ "Synergistic effects" means a scientific
18 principle that the toxicity that occurs as a result of
19 exposure is more than the sum of the toxicities of the
20 individual chemicals to which the individual is exposed.

21 (45)~~(44)~~ "Terminal facility" means any structure,
22 group of structures, motor vehicle, rolling stock, pipeline,
23 equipment, or related appurtenances which are used or capable
24 of being used for one or more of the following purposes:
25 pumping, refining, drilling for, producing, storing, handling,
26 transferring, or processing pollutants, provided such
27 pollutants are transferred over, under, or across any water,
28 estuaries, tidal flats, beaches, or waterfront lands,
29 including, but not limited to, any such facility and related
30 appurtenances owned or operated by a public utility or a
31 governmental or quasi-governmental body. In the event of a

1 ship-to-ship transfer of pollutants, the vessel going to or
2 coming from the place of transfer and a terminal facility
3 shall also be considered a terminal facility. For the purposes
4 of ss. 376.30-376.319, the term "terminal facility" shall not
5 be construed to include spill response vessels engaged in
6 response activities related to removal of pollutants, or
7 temporary storage facilities created to temporarily store
8 recovered pollutants and matter, or waterfront facilities
9 owned and operated by governmental entities acting as agents
10 of public convenience for persons engaged in the drilling for
11 or pumping, storing, handling, transferring, processing, or
12 refining of pollutants. However, each person engaged in the
13 drilling for or pumping, storing, handling, transferring,
14 processing, or refining of pollutants through a waterfront
15 facility owned and operated by such a governmental entity
16 shall be construed as a terminal facility.

17 ~~(46)~~(45) "Transfer" or "transferred" includes
18 onloading, offloading, fueling, bunkering, lightering, removal
19 of waste pollutants, or other similar transfers, between
20 terminal facility and vessel or vessel and vessel.

21 Section 26. Section 376.30701, Florida Statutes, is
22 created to read:

23 376.30701 Application of risk-based corrective action
24 principles to contaminated sites; cleanup criteria; mapping;
25 site registry.--

26 (1) APPLICABILITY.--

27 (a) This section shall not create or establish any new
28 liability for site rehabilitation at contaminated sites. This
29 section is intended to describe a risk-based corrective action
30 process to be applied at sites where legal responsibility for
31 site rehabilitation exists pursuant to paragraph (1)(b), and

1 where the person responsible for site rehabilitation elects to
2 have the provisions of this section, and any rules adopted
3 pursuant thereto, apply.

4 (b) This section shall apply to all contaminated sites
5 resulting from a prohibited discharge, as defined in s.
6 376.302, of pollutants or hazardous substances, where legal
7 responsibility for site rehabilitation exists pursuant to
8 other provisions of chapter 376 or chapter 403, except for
9 those contaminated sites subject to the risk-based corrective
10 action cleanup criteria described for the petroleum,
11 brownfields, and drycleaning programs pursuant to ss.
12 376.3071, 376.81, and 376.3078, respectively.

13 (c) This section shall apply to a variety of site
14 rehabilitation scenarios, including, but not limited to, site
15 rehabilitation conducted voluntarily, conducted pursuant to
16 the department's enforcement authority, or conducted as a
17 state-managed cleanup by the department.

18 (d) The cleanup criteria described in subsection (2)
19 are defined as calculations using a lifetime cancer risk of
20 1.0E-6, a hazard index of 1 or less, the best achievable
21 detection limit, background concentrations, or nuisance,
22 organoleptic, and aesthetic considerations.

23 (e) This section does not affect the goal of
24 expediency in emergency response actions to releases to soil
25 that result in soil contamination at levels above the soil
26 target cleanup levels. The need for uniformity in requirements
27 and accountability necessitates that emergency response
28 actions to releases be subject solely to the requirements of
29 the department, the Department of Community Affairs, and any
30 federal agencies with statewide enforcement authority that are
31 given jurisdiction over releases by federal law. The

1 risk-based corrective action process at these sites shall
2 allow department-recognized field screening techniques to be
3 used.
4 (f) The cleanup criteria described in this section are
5 not intended to impose cleanup criteria independent of the
6 risk-based corrective action process for site
7 rehabilitation. The cleanup criteria described in this
8 section shall apply only at contaminated sites at which
9 alternative cleanup target levels, in conjunction with
10 institutional controls, engineering controls, or natural
11 attenuation, are available and feasible.
12 (2) INTENT; RULEMAKING AUTHORITY; CLEANUP
13 CRITERIA.--It is the intent of the Legislature to protect the
14 health of all people under actual circumstances of exposure.
15 By July 1, 2001, the secretary of the department shall
16 establish criteria by rule for the purpose of determining, on
17 a site-specific basis, the rehabilitation program tasks that
18 comprise a site rehabilitation program, including a voluntary
19 site rehabilitation program, and the level at which a
20 rehabilitation program task and a site rehabilitation program
21 may be deemed completed. In establishing these rules, the
22 department shall apply, to the maximum extent feasible, a
23 risk-based corrective action process to achieve protection of
24 human health and safety and the environment in a
25 cost-effective manner based on the principles set forth in
26 this subsection. These rules shall prescribe a phased
27 risk-based corrective action process that is iterative and
28 that tailors site rehabilitation tasks to site-specific
29 conditions and risk. The cleanup criteria described in this
30 subsection shall be applied when deriving cleanup target
31 levels throughout each phase of the risk-based corrective

1 action process. The department and the person responsible for
2 site rehabilitation are encouraged to establish decision
3 points at which risk management decisions will be made. The
4 department shall provide an early decision, when requested,
5 regarding applicable exposure factors and a risk management
6 approach based on the current and future land use at the site.
7 These rules must also include protocols for the use of natural
8 attenuation, the use of institutional and engineering
9 controls, and the issuance of "no further action" letters. The
10 criteria for determining what constitutes a rehabilitation
11 program task or completion of a site rehabilitation program
12 task or site rehabilitation program, including a voluntary
13 site rehabilitation program, must:

14 (a) Consider the current exposure and potential risk
15 of exposure to humans and the environment, including multiple
16 pathways of exposure. The physical, chemical, and biological
17 characteristics of each contaminant must be considered in
18 order to determine the feasibility of risk-based corrective
19 action assessment.

20 (b) Establish the point of compliance at the source of
21 the contamination. However, the department is authorized to
22 temporarily move the point of compliance to the boundary of
23 the property, or to the edge of the plume when the plume is
24 within the property boundary, while cleanup, including cleanup
25 through natural attenuation processes in conjunction with
26 appropriate monitoring, is proceeding. The department also is
27 authorized, pursuant to criteria provided for in this section,
28 to temporarily extend the point of compliance beyond the
29 property boundary with appropriate monitoring, if such
30 extension is needed to facilitate natural attenuation or to
31 address the current conditions of the plume, provided that

1 human health, public safety, and the environment are
2 protected. When temporarily extending the point of compliance
3 beyond the property boundary, it cannot be extended further
4 than the lateral extent of the plume, if known, at the time of
5 execution of a cleanup agreement, if required, or the lateral
6 extent of the plume as defined at the time of site assessment.
7 Temporary extension of the point of compliance beyond the
8 property boundary, as provided in this paragraph, must include
9 actual notice by the person responsible for site
10 rehabilitation to local governments and the owners of any
11 property into which the point of compliance is allowed to
12 extend and constructive notice to residents and business
13 tenants of the property into which the point of compliance is
14 allowed to extend. Persons receiving notice pursuant to this
15 paragraph shall have the opportunity to comment within 30 days
16 of receipt of the notice.

17 (c) Ensure that the site-specific cleanup goal is that
18 all contaminated sites being cleaned up under this section
19 ultimately achieve the applicable cleanup target levels
20 provided in subsection (1). If human health, public safety,
21 and the environment are protected, and after constructive
22 notice and opportunity to comment within 30 days from receipt
23 of the notice to local government, to owners of any property
24 into which the point of compliance is allowed to extend, and
25 to residents on any property into which the point of
26 compliance is allowed to extend, the department may allow
27 concentrations of contaminants to temporarily exceed the
28 applicable cleanup target levels while cleanup, including
29 cleanup through natural attenuation processes in conjunction
30 with appropriate monitoring, is proceeding.

31

1 (d) Allow the use of institutional or engineering
2 controls at contaminated sites being cleaned up under this
3 section, where appropriate, to eliminate or control the
4 potential exposure to contaminants of humans or the
5 environment. The use of controls must be preapproved by the
6 department and only after constructive notice and opportunity
7 to comment within 30 days from receipt of notice is provided
8 to local governments, to owners of any property into which the
9 point of compliance is allowed to extend, and to residents on
10 any property into which the point of compliance is allowed to
11 extend. When institutional or engineering controls are
12 implemented to control exposure, the removal of the controls
13 must have prior department approval and must be accompanied by
14 the resumption of active cleanup, or other approved controls,
15 unless cleanup target levels under this section have been
16 achieved.

17 (e) Consider the additive effects of contaminants.
18 The synergistic and antagonistic effects must also be
19 considered when the scientific data become available.

20 (f) Take into consideration individual site
21 characteristics, which shall include, but not be limited to,
22 the current and projected use of the affected groundwater and
23 surface water in the vicinity of the site, current and
24 projected land uses of the area affected by the contamination,
25 the exposed population, the degree and extent of
26 contamination, the rate of contaminant migration, the apparent
27 or potential rate of contaminant degradation through natural
28 attenuation processes, the location of the plume, and the
29 potential for further migration in relation to site property
30 boundaries.

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

1 1. Cleanup target levels for each contaminant found in
2 groundwater shall be the applicable state water quality
3 standards. Where such standards do not exist, the cleanup
4 target levels for groundwater shall be based on the minimum
5 criteria specified in department rule. The department shall
6 apply the following, as appropriate, in establishing the
7 applicable cleanup target levels: calculations using a
8 lifetime cancer risk level of 1.0E-6; a hazard index of 1 or
9 less; the best achievable detection limit; and nuisance,
10 organoleptic, and aesthetic considerations. However, the
11 department shall not require site rehabilitation to achieve a
12 cleanup target level for any individual contaminant that is
13 more stringent than the site-specific, background
14 concentration, or the applicable standard for that
15 contaminant.

16 2. Where surface waters are exposed to contaminated
17 groundwater, the cleanup target levels for the contaminants
18 shall be based on the more protective of the groundwater or
19 surface water standards as established by department
20 rule. The determination of compliance with surface water
21 standards shall begin by measurement of the groundwater at the
22 nearest practicable location adjacent to the surface water
23 body. If surface water quality standards are exceeded,
24 groundwater modeling will be conducted to determine if the
25 applicable surface water quality standard is exceeded within
26 the receiving water body. The water quality modeling shall
27 include calculations of site-specific exposure assessments
28 based on plume dilution and spatial dimensional descriptions,
29 and a receiving water flow-weighted analysis of the dilution
30 of the contaminated groundwater under different receiving
31 water conditions.

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

- 1 a. The only cleanup target levels exceeded are the
2 groundwater cleanup target levels derived from nuisance,
3 organoleptic, or aesthetic considerations;
- 4 b. Concentrations of all contaminants meet the state
5 water quality standards or minimum criteria, based on
6 protection of human health, provided in subparagraph 1.;
- 7 c. All of the groundwater cleanup target levels
8 described in subparagraph 1. are met at the property boundary;
- 9 d. The person responsible for contaminated site
10 rehabilitation has demonstrated that the contaminants will not
11 migrate beyond the property boundary at concentrations
12 exceeding the groundwater cleanup target levels described in
13 subparagraph 1.
- 14 e. The property has access to and is using an offsite
15 water supply and no unplugged private wells are used for
16 domestic purposes; and
- 17 f. The real property owner provides written acceptance
18 of the "no further action" proposal to the department or the
19 local pollution control program.
- 20 (h) Provide for the department to issue a "no further
21 action order," with conditions including, but not limited to,
22 the use of institutional or engineering controls where
23 appropriate, when alternative cleanup target levels described
24 in subparagraph (g)3. have been achieved, or when the person
25 responsible for site rehabilitation can demonstrate that the
26 cleanup target level is unachievable within available
27 technologies. Prior to issuing such an order, the department
28 shall consider the feasibility of an alternative site
29 rehabilitation technology at the contaminated site.
- 30 (i) Establish appropriate cleanup target levels for
31 soils.

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

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

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

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

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

17 (3) LIMITATIONS.--The cleanup criteria described in
18 this section govern only site rehabilitation activities
19 occurring at the contaminated site. Removal of contaminated
20 media from a site for offsite relocation or treatment must be
21 in accordance with all applicable federal, state, and local
22 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 that exceeds the
30 site-specific rehabilitation levels described in accordance
31 with subsection (2), or that 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 (5) MAPPING.--Notwithstanding the exceptions in
21 paragraph (1)(b), if an institutional control is implemented
22 at any contaminated site, including sites in the petroleum,
23 brownfields, or drycleaning programs, the property owner must
24 provide information regarding the institutional control to the
25 local government for mapping purposes. The local government
26 must then note the existence of the institutional control on
27 any relevant local land use and zoning maps with a cross
28 reference to the department's site registry developed pursuant
29 to subsection (6). If the type of institutional control used
30 requires recording with the local government, then the map
31 notation shall also provide a cross reference to the book and

1 page number where recorded. When a local government is
2 provided with evidence that the department has subsequently
3 issued a "no further action order" without institutional
4 controls for a site currently noted on such maps, the local
5 government shall remove the notation.

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

27 Section 27. Paragraph (i) of subsection (4) of section
28 376.3078, Florida Statutes, is amended to read:

29 376.3078 Drycleaning facility restoration; funds;
30 uses; liability; recovery of expenditures.--

31

1 (4) REHABILITATION CRITERIA.--It is the intent of the
2 Legislature to protect the health of all people under actual
3 circumstances of exposure. By July 1, 1999, the secretary of
4 the department shall establish criteria by rule for the
5 purpose of determining, on a site-specific basis, the
6 rehabilitation program tasks that comprise a site
7 rehabilitation program, including a voluntary site
8 rehabilitation program, and the level at which a
9 rehabilitation program task and a site rehabilitation program
10 may be deemed completed. In establishing the rule, the
11 department shall incorporate, to the maximum extent feasible,
12 risk-based corrective action principles to achieve protection
13 of human health and safety and the environment in a
14 cost-effective manner as provided in this subsection. The
15 rule shall also include protocols for the use of natural
16 attenuation and the issuance of "no further action" letters.
17 The criteria for determining what constitutes a rehabilitation
18 program task or completion of a site rehabilitation program
19 task or site rehabilitation program, including a voluntary
20 site rehabilitation program, must:

21 (i) Establish appropriate cleanup target levels for
22 soils.

23 1. In establishing soil cleanup target levels for
24 human exposure to each contaminant found in soils from the
25 land surface to 2 feet below land surface, the department
26 shall consider the following, as appropriate: calculations
27 using a lifetime cancer risk level of 1.0E-6; a hazard index
28 of 1 or less; the best achievable detection limit; or the
29 naturally occurring background concentration. Institutional
30 controls or other methods shall be used to prevent human
31 exposure to contaminated soils more than 2 feet below the land

1 surface. Any removal of such institutional controls shall
2 require such contaminated soils to be remediated.

3 2. Leachability-based soil target levels shall be
4 based on protection of the groundwater cleanup target levels
5 or the alternate cleanup target levels for groundwater
6 established pursuant to this paragraph, as appropriate. Source
7 removal and other cost-effective alternatives that are
8 technologically feasible shall be considered in achieving the
9 leachability soil target levels established by the department.
10 The leachability goals shall not be applicable if the
11 department determines, based upon individual site
12 characteristics, that contaminants will not leach into the
13 groundwater at levels which pose a threat to human health,
14 public safety, and the environment.

15 3. The department may set alternative cleanup target
16 levels based upon the person responsible for site
17 rehabilitation demonstrating, using site-specific modeling and
18 risk assessment studies, that human health, public safety, and
19 the environment are protected.

20
21 The department shall require source removal, if warranted and
22 cost-effective. Once source removal at a site is complete,
23 the department shall reevaluate the site to determine the
24 degree of active cleanup needed to continue. Further, the
25 department shall determine if the reevaluated site qualifies
26 for monitoring only or if no further action is required to
27 rehabilitate the site. If additional site rehabilitation is
28 necessary to reach "no further action" status, the department
29 is encouraged to utilize natural attenuation and monitoring
30 where site conditions warrant.

31

1 Section 28. Section 376.79, Florida Statutes, is
2 amended to read:

3 376.79 Definitions.--As used in ss. 376.77-376.85, the
4 term:

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

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

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

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

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

30
31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Section 30. Section 376.81, Florida Statutes, is
23 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 standards shall be in the groundwater immediately adjacent to
2 the surface water body.

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

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

30
31

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

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

30 3. The department shall approve ~~may set~~ alternative
31 cleanup target levels in conjunction with institutional and

1 engineering controls, if needed,based upon an applicant's
2 demonstration, using site-specific data,modeling results,and
3 risk assessment studies, risk reduction techniques, or a
4 combination thereof,that human health, public safety, and the
5 environment are protected to the same degree as provided in
6 subparagraphs 1. and 2.

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

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

23 Section 31. Paragraph (k) is added to subsection (2)
24 of section 376.82, Florida Statutes, to read:

25 376.82 Eligibility criteria and liability
26 protection.--

27 (2) LIABILITY PROTECTION.--

28 (k) A person whose property becomes contaminated due
29 to geophysical or hydrologic reasons, including the migration
30 of contaminants onto their property from the operation of
31 facilities and activities on a nearby designated brownfield

1 area, and whose property has never been occupied by a business
2 that utilized or stored the contaminants or similar
3 constituents is not subject to administrative or judicial
4 action brought by or on behalf of another to compel the
5 rehabilitation of or the payment of the costs for the
6 rehabilitation of sites contaminated by materials that
7 migrated onto the property from the designated brownfield
8 area, if the person:

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

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

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

18 Section 32. Section 376.88, Florida Statutes, is
19 created to read:

20 376.88 Brownfield Program Review Advisory Council.--

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

26 (a) A representative of a city that participated in
27 the pilot grant program for brownfields sponsored by the
28 United States Environmental Protection Agency;

29 (b) A representative of a county that participated in
30 the pilot grant program for brownfields sponsored by the
31 United States Environmental Protection Agency;

- 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 the Department of Environmental
7 Protection or his or her designee;
- 8 (g) The secretary of the Department of Community
9 Affairs or his or her 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) The Brownfield Program Review Advisory Council
17 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) The initial term for service of the council shall
28 be 2 years from the date of the first meeting and may be
29 extended at the discretion of the Secretary of Environmental
30 Protection, or his or her designee, based upon the needs of
31 the brownfields program.

1 (4) Each member shall provide his or her own per diem
2 and expenses for travel while carrying out the business of the
3 council.

4 (5) The Secretary of the Department of Environmental
5 Protection or his or her designee shall appoint the council
6 members, serve as chairperson of the council, and convene the
7 council on at least a semiannual basis.

8 (6) The council shall submit a report to the
9 Legislature as often as needed to address issues requiring
10 legislative changes or appropriations.

11 Section 33. Paragraph (d) is added to subsection (3)
12 of section 403.973, Florida Statutes, to read:

13 403.973 Expedited permitting; comprehensive plan
14 amendments.--

15 (3)

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

18 Section 34. Subsection (1) of section 190.012, Florida
19 Statutes, is amended to read:

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

28 (1) To finance, fund, plan, establish, acquire,
29 construct or reconstruct, enlarge or extend, equip, operate,
30 and maintain systems, facilities, and basic infrastructures
31 for the following:

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

4 (b) Water supply, sewer, and wastewater management,
5 reclamation, and reuse or any combination thereof, and to
6 construct and operate connecting intercepting or outlet sewers
7 and sewer mains and pipes and water mains, conduits, or
8 pipelines in, along, and under any street, alley, highway, or
9 other public place or ways, and to dispose of any effluent,
10 residue, or other byproducts of such system or sewer system.

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

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

20 2. Buses, trolleys, transit shelters, ridesharing
21 facilities and services, parking improvements, and related
22 signage.

23 (e) Investigation and remediation costs associated
24 with the cleanup of actual or perceived environmental
25 contamination within the district under the supervision or
26 direction of a competent governmental authority unless the
27 covered costs benefit any person who is a landowner within the
28 district and who caused or contributed to the contamination.

29 (f)~~(e)~~ Conservation areas, mitigation areas, and
30 wildlife habitat, including the maintenance of any plant or
31

1 animal species, and any related interest in real or personal
2 property.

3 (g)~~(f)~~ Any other project within or without the
4 boundaries of a district when a local government issued a
5 development order pursuant to s. 380.06 or s. 380.061
6 approving or expressly requiring the construction or funding
7 of the project by the district, or when the project is the
8 subject of an agreement between the district and a
9 governmental entity and is consistent with the local
10 government comprehensive plan of the local government within
11 which the project is to be located.

12 Section 35. Section 712.01, Florida Statutes, is
13 amended to read:

14 712.01 Definitions.--As used in this law:

15 (1) The term "person" as used herein denotes singular
16 or plural, natural or corporate, private or governmental,
17 including the state and any political subdivision or agency
18 thereof as the context for the use thereof requires or denotes
19 and including any homeowners' association.

20 (2) "Root of title" means any title transaction
21 purporting to create or transfer the estate claimed by any
22 person and which is the last title transaction to have been
23 recorded at least 30 years prior to the time when
24 marketability is being determined. The effective date of the
25 root of title is the date on which it was recorded.

26 (3) "Title transaction" means any recorded instrument
27 or court proceeding which affects title to any estate or
28 interest in land and which describes the land sufficiently to
29 identify its location and boundaries.

30 (4) The term "homeowners' association" means a
31 homeowners' association as defined in s. 617.301(7), or an

1 association of parcel owners which is authorized to enforce
2 use restrictions that are imposed on the parcels.

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

7 (6) The term "covenant or restriction" means any
8 agreement or limitation contained in a document recorded in
9 the public records of the county in which a parcel is located
10 which subjects the parcel to any use restriction which may be
11 enforced by a homeowners' association or which authorizes a
12 homeowners' association to impose a charge or assessment
13 against the parcel or the owner of the parcel or which may be
14 enforced by the Department of Environmental Protection
15 pursuant to chapter 376 or chapter 403.

16 Section 36. Section 712.03, Florida Statutes, is
17 amended to read:

18 712.03 Exceptions to marketability.--Such marketable
19 record title shall not affect or extinguish the following
20 rights:

21 (1) Estates or interests, easements and use
22 restrictions disclosed by and defects inherent in the
23 muniments of title on which said estate is based beginning
24 with the root of title; provided, however, that a general
25 reference in any of such muniments to easements, use
26 restrictions or other interests created prior to the root of
27 title shall not be sufficient to preserve them unless specific
28 identification by reference to book and page of record or by
29 name of recorded plat be made therein to a recorded title
30 transaction which imposed, transferred or continued such
31

1 | easement, use restrictions or other interests; subject,
2 | however, to the provisions of subsection (5).
3 | (2) Estates, interests, claims, or charges, or any
4 | covenant or restriction, preserved by the filing of a proper
5 | notice in accordance with the provisions hereof.
6 | (3) Rights of any person in possession of the lands,
7 | so long as such person is in such possession.
8 | (4) Estates, interests, claims, or charges arising out
9 | of a title transaction which has been recorded subsequent to
10 | the effective date of the root of title.
11 | (5) Recorded or unrecorded easements or rights,
12 | interest or servitude in the nature of easements,
13 | rights-of-way and terminal facilities, including those of a
14 | public utility or of a governmental agency, so long as the
15 | same are used and the use of any part thereof shall except
16 | from the operation hereof the right to the entire use thereof.
17 | No notice need be filed in order to preserve the lien of any
18 | mortgage or deed of trust or any supplement thereto
19 | encumbering any such recorded or unrecorded easements, or
20 | rights, interest, or servitude in the nature of easements,
21 | rights-of-way, and terminal facilities. However, nothing
22 | herein shall be construed as preserving to the mortgagee or
23 | grantee of any such mortgage or deed of trust or any
24 | supplement thereto any greater rights than the rights of the
25 | mortgagor or grantor.
26 | (6) Rights of any person in whose name the land is
27 | assessed on the county tax rolls for such period of time as
28 | the land is so assessed and which rights are preserved for a
29 | period of 3 years after the land is last assessed in such
30 | person's name.
31 |

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

3 (8) A restriction or covenant recorded pursuant to
4 chapter 376 or chapter 403.

5 Section 37. Subsection (9) of section 211.3103,
6 Florida Statutes, is repealed.

7 Section 38. Section 258.398, Florida Statutes, 1997,
8 is repealed.

9 Section 39. Subsection (5) is added to section
10 373.083, Florida Statutes, to read:

11 373.083 General powers and duties of the governing
12 board.--In addition to other powers and duties allowed it by
13 law, the governing board is authorized to:

14 (5) Execute any of the powers, duties, and functions
15 vested in the governing board through a member or members
16 thereof, the executive director, or other district staff as
17 designated by the governing board. The governing board may
18 establish the scope and terms of any delegation. If the
19 governing board delegates the authority to take final action
20 on permit applications under part II or part IV, or petitions
21 for variances or waivers of permitting requirements under part
22 II or part IV, the governing board shall provide a process for
23 referring any denial of such application or petition to the
24 governing board to take final action. The authority in this
25 subsection is supplemental to any other provision of this
26 chapter granting authority to the governing board to delegate
27 specific powers, duties, or functions.

28 Section 40. Subsection (5) of section 373.323, Florida
29 Statutes, is amended, and subsection (10) is added to said
30 section, to read:

31

1 373.323 Licensure of water well contractors;
2 application, qualifications, and examinations; equipment
3 identification.--

4 (5) The water management district shall issue a water
5 well contracting license to any applicant who receives a
6 passing grade on the examination, has paid the initial
7 application fee, takes and completes to the satisfaction of
8 the department a minimum of 12 hours of approved course work,
9 and has complied with the requirements of this section. A
10 passing grade on the examination shall be as established by
11 the department by rule. A license issued by any water
12 management district shall be valid in every water management
13 district in the state.

14 (10) Water well contractors licensed under the
15 provisions of this section shall be able to install, repair,
16 and modify pumps and tanks in accordance with the Standard
17 Plumbing Code, Section 613--Well Pumps and Tanks Used for
18 Potable Water.

19 Section 41. Subsection (2) of section 373.324, Florida
20 Statutes, is amended, subsections (3), (4), and (5) are
21 renumbered as subsections (4), (5), and (6), respectively, and
22 a new subsection (3) is added to said section, to read:

23 373.324 License renewal.--

24 (2) The water management district shall renew a
25 license upon receipt of the renewal application, proof of
26 completion of 12 classroom hours of continuing education
27 annually,and renewal fee.

28 (3) The department shall prescribe by rule the method
29 for renewal of licenses, which shall include continuing
30 education requirements of not less than 12 classroom hours
31 annually.

1 Section 42. Subsection (6) of section 373.406, Florida
2 Statutes, is amended, and subsection (9) is added to said
3 section, to read:

4 373.406 Exemptions.--The following exemptions shall
5 apply:

6 (6) Any district or the department may exempt from
7 regulation under this part, either by rule or order, those
8 activities that the district or department determines will
9 have only minimal or insignificant individual or cumulative
10 adverse impacts on the water resources of the district. The
11 district and the department are also authorized to determine,
12 on a case-by-case basis, whether a specific activity should be
13 exempt ~~comes within this exemption~~. Requests to qualify for
14 this exemption shall be submitted in writing to the district
15 or department, and such activities shall not be commenced
16 without a written determination from the district or
17 department confirming that the activity qualifies for the
18 exemption.

19 (9) Any rule adopted by any district or the department
20 prior to October 3, 1995, creating an exemption from all or a
21 part of the requirements of this part or the rules adopted to
22 implement this part, including, but not limited to, rules
23 relating to the implementation of chapter 84-79, Laws of
24 Florida, is hereby ratified and affirmed. However, this
25 subsection shall not be construed to limit the authority of
26 the water management districts or the department to adopt
27 rules creating exemptions to implement other provisions of
28 this part.

29 Section 43. Subsection (5) is added to section
30 403.088, Florida Statutes, to read:

31

1 403.088 Water pollution operation permits;
2 conditions.--
3 (5) A person permitted under this section shall report
4 to the department, upon discovery, any noncompliance that may
5 endanger public health or the environment. Notification shall
6 be provided orally to the department immediately after
7 notification of appropriate local health and emergency
8 management authorities. A written report detailing the
9 noncompliance circumstances and actions taken to resolve the
10 noncompliance also shall be provided to the department within
11 5 days after discovery unless the department waives the
12 report. The department may adopt rules to:
13 (a) Specify the circumstances of noncompliance that
14 warrant notification, including, but not limited to, bypasses,
15 upsets, violations of permitted discharge limits, and
16 unauthorized discharges to surface or ground waters.
17 (b) Specify the information to be included in oral and
18 written notifications of noncompliance.
19 (c) Specify the persons to be notified of
20 noncompliance and the manner of notification, with
21 consideration given to use of the statewide emergency response
22 system.
23 (d) Specify any followup actions necessary to ensure
24 resolution of the noncompliance and prevention of future
25 noncompliance.
26 (e) Otherwise carry out the purposes of this
27 subsection.
28
29 Until such rules are implemented, the department shall notify
30 all affected permittees about the existing statewide toll-free
31 emergency management communications system and other

1 appropriate means of reporting the instances of noncompliance
2 identified in this subsection.

3 Section 44. Paragraph (b) of subsection (2) of section
4 403.813, Florida Statutes, is amended to read:

5 403.813 Permits issued at district centers;
6 exceptions.--

7 (2) No permit under this chapter, chapter 373, chapter
8 61-691, Laws of Florida, or chapter 25214 or chapter 25270,
9 1949, Laws of Florida, shall be required for activities
10 associated with the following types of projects; however,
11 nothing in this subsection relieves an applicant from any
12 requirement to obtain permission to use or occupy lands owned
13 by the Board of Trustees of the Internal Improvement Trust
14 Fund or any water management district in its governmental or
15 proprietary capacity or from complying with applicable local
16 pollution control programs authorized under this chapter or
17 other requirements of county and municipal governments:

18 (b) The installation and repair of mooring pilings and
19 dolphins associated with private docking facilities or piers
20 and the installation of private docks, piers and recreational
21 docking facilities, or piers and recreational docking
22 facilities of local governmental entities when the local
23 governmental entity's activities will not take place in any
24 manatee habitat, any of which docks:

25 1. Has 500 square feet or less of over-water surface
26 area for a dock which is located in an area designated as
27 Outstanding Florida Waters or 1,000 square feet or less of
28 over-water surface area for a dock which is located in an area
29 which is not designated as Outstanding Florida Waters;

30 2. Is constructed on or held in place by pilings or is
31 a floating dock which is constructed so as not to involve

1 filling or dredging other than that necessary to install the
2 pilings;
3 3. Shall not substantially impede the flow of water or
4 create a navigational hazard;
5 4. Is used for recreational, noncommercial activities
6 associated with the mooring or storage of boats and boat
7 paraphernalia; and
8 5. Is the sole dock constructed pursuant to this
9 exemption as measured along the shoreline for a distance of 65
10 feet, unless the parcel of land or individual lot as platted
11 is less than 65 feet in length along the shoreline, in which
12 case there may be one exempt dock allowed per parcel or lot.
13
14 Nothing in this paragraph shall prohibit the department from
15 taking appropriate enforcement action pursuant to this chapter
16 to abate or prohibit any activity otherwise exempt from
17 permitting pursuant to this paragraph if the department can
18 demonstrate that the exempted activity has caused water
19 pollution in violation of this chapter. With the exception of
20 regulations governing dock structures in aquatic preserves or
21 associated with undeveloped barrier islands or condominiums,
22 neither the department nor the Board of Trustees of the
23 Internal Improvement Trust Fund shall restrict the number of
24 vessels moored at private, single-family residential docks
25 exempted under the provisions of this paragraph.
26 Section 45. Subsections (2), (4), and (17) of section
27 403.852, Florida Statutes, are amended, and subsection (18) is
28 added to said section, to read:
29 403.852 Definitions; ss. 403.850-403.864.--As used in
30 ss. 403.850-403.864:
31

1 (2) "Public water system" means a ~~community,~~
2 ~~nontransient noncommunity, or noncommunity~~ system for the
3 provision to the public of ~~pip~~ed water for human consumption
4 through pipes or other constructed conveyances if, provided
5 ~~that~~ such system has at least 15 service connections or
6 regularly serves at least 25 individuals daily at least 60
7 days out of the year. A public water system is either a
8 community water system or a noncommunity water system.The
9 term "public water system" includes:

10 (a) Any collection, treatment, storage, and
11 distribution facility or facilities under control of the
12 operator of such system and used primarily in connection with
13 such system.

14 (b) Any collection or pretreatment storage facility or
15 facilities not under control of the operator of such system
16 but used primarily in connection with such system.

17 (4) "Noncommunity water system" means a public water
18 system ~~that for provision to the public of piped water for~~
19 ~~human consumption, which serves at least 25 individuals daily~~
20 ~~at least 60 days out of the year, but which is not a community~~
21 ~~water system, except that a water system for a wilderness~~
22 ~~educational camp is a noncommunity water system.~~ A
23 noncommunity water system is either a nontransient
24 noncommunity water system or a transient noncommunity water
25 system.

26 (17) "Nontransient noncommunity water system" means a
27 noncommunity public water system that ~~is not a community water~~
28 ~~system and that~~ regularly serves at least 25 of the same
29 persons over 6 months per year.

30 (18) "Transient noncommunity water system" means a
31 noncommunity water system that has at least 15 service

1 connections or regularly serves at least 25 persons daily at
2 least 60 days out of the year but that does not regularly
3 serve 25 or more of the same persons over 6 months per year.

4 Section 46. Subsections (1) and (6) of section
5 403.853, Florida Statutes, are amended to read:

6 403.853 Drinking water standards.--

7 (1) The department shall adopt and enforce:

8 (a)1. State primary drinking water regulations that
9 shall be no less stringent at any given time than the complete
10 interim or revised national primary drinking water regulations
11 in effect at such time; and

12 2. State secondary drinking water regulations
13 patterned after the national secondary drinking water
14 regulations.

15 (b) Primary and secondary drinking water regulations
16 for nontransient noncommunity water systems and transient
17 noncommunity water systems, which shall be no more stringent
18 than the corresponding national primary or secondary drinking
19 water regulations in effect at such time, except that
20 nontransient, noncommunity systems shall monitor and comply
21 with additional primary drinking water regulations as
22 determined by the department.

23 (6) Upon the request of the owner or operator of a
24 transient noncommunity water system serving businesses, other
25 than restaurants or other public food service establishments,
26 and using groundwater as a source of supply, the department,
27 or a local county health department designated by the
28 department, shall perform a sanitary survey of the facility.
29 Upon receipt of satisfactory survey results according to
30 department criteria, the department shall reduce the
31 requirements of such owner or operator from monitoring and

1 reporting on a quarterly basis to performing these functions
2 on an annual basis. Any revised monitoring and reporting
3 schedule approved by the department under this subsection
4 shall apply until such time as a violation of applicable state
5 or federal primary drinking water standards is determined by
6 the system owner or operator, by the department, or by an
7 agency designated by the department, after a random or routine
8 sanitary survey. Certified operators are not required for
9 transient noncommunity water systems of the type and size
10 covered by this subsection. Any reports required of such
11 system shall be limited to the minimum as required by federal
12 law. When not contrary to the provisions of federal law, the
13 department may, upon request and by rule, waive additional
14 provisions of state drinking water regulations for such
15 systems.

16 Section 47. Subsection (3) of section 403.8532,
17 Florida Statutes, is amended to read:

18 403.8532 Drinking water state revolving loan fund;
19 use; rules.--

20 (3) The department is authorized to make loans to
21 community water systems, nonprofit noncommunity water systems,
22 and nonprofit transient and nontransient noncommunity water
23 systems to assist them in planning, designing, and
24 constructing public water systems, unless such public water
25 systems are for-profit privately owned or investor-owned
26 systems that regularly serve 1,500 service connections or more
27 within a single certified or franchised area. However, a
28 for-profit privately owned or investor-owned public water
29 system that regularly serves 1,500 service connections or more
30 within a single certified or franchised area may qualify for a
31 loan only if the proposed project will result in the

1 consolidation of two or more public water systems. The
2 department is authorized to provide loan guarantees, to
3 purchase loan insurance, and to refinance local debt through
4 the issue of new loans for projects approved by the
5 department. Public water systems are authorized to borrow
6 funds made available pursuant to this section and may pledge
7 any revenues or other adequate security available to them to
8 repay any funds borrowed. The department shall administer
9 loans so that amounts credited to the Drinking Water Revolving
10 Loan Trust Fund in any fiscal year are reserved for the
11 following purposes:

12 (a) At least 15 percent to qualifying small public
13 water systems.

14 (b) Up to 15 percent to qualifying financially
15 disadvantaged communities.

16 (c) However, if an insufficient number of the projects
17 for which funds are reserved under this paragraph have been
18 submitted to the department at the time the funding priority
19 list authorized under this section is adopted, the reservation
20 of these funds shall no longer apply. The department may
21 award the unreserved funds as otherwise provided in this
22 section.

23 Section 48. Subsections (4), (5), and (8) of section
24 403.854, Florida Statutes, are amended to read:

25 403.854 Variances, exemptions, and waivers.--

26 (4)(a) The department shall, except upon a showing of
27 good cause, waive on a case-by-case basis any disinfection
28 ~~chlorination~~ requirement applicable to transient noncommunity
29 water systems using groundwater as a source of supply upon an
30 affirmative showing by the supplier of water that no hazard to
31

1 health will result. This showing shall be based upon the
2 following:

- 3 1. The completion of a satisfactory sanitary survey;
- 4 2. The history of the quality of water provided by the
5 system and monthly or quarterly monitoring tests for
6 bacteriological contamination;
- 7 3. Evaluation of the well and the site on which it is
8 located, including geology, depth of well, casing, grouting,
9 and other relevant factors which have an impact on the quality
10 of water supplied; and
- 11 4. The number of connections and size of the
12 distribution system.

13 (b) The department may as a condition of waiver
14 require a monitoring program of sufficient frequency to assure
15 that safe drinking water standards are being met.

16 (5) The department shall, except upon a showing of
17 good cause, waive on a case-by-case basis any requirement for
18 a certified operator for a transient nontransient noncommunity
19 or noncommunity water system using groundwater as a source of
20 supply having a design flow of less than 10,000 gallons per
21 day upon an affirmative showing by the supplier of water that
22 the system can be properly maintained without a certified
23 operator. The department shall consider:

- 24 (a) The results of a sanitary survey if deemed
25 necessary;
- 26 (b) The operation and maintenance records for the year
27 preceding an application for waiver;
- 28 (c) The adequacy of monitoring procedures for maximum
29 contaminant levels included in primary drinking water
30 regulations;

31

1 (d) The feasibility of the supplier of water becoming
2 a certified operator; and

3 (e) Any threat to public health that could result from
4 nonattendance of the system by a certified operator.

5 (8) Neither the department nor any of its employees
6 shall be held liable for money damages for any injury,
7 sickness, or death sustained by any person as a result of
8 drinking water from any transient noncommunity water system
9 granted a waiver under subsection (4) or subsection (5).

10 Section 49. Section 403.865, Florida Statutes, is
11 amended to read:

12 403.865 Water and wastewater facility personnel;
13 legislative purpose.--The Legislature finds that the threat to
14 the public health and the environment from the operation of
15 water and wastewater treatment plants and water distribution
16 systems mandates that qualified personnel operate these
17 facilities. It is the legislative intent that any person who
18 performs the duties of an operator and who falls below minimum
19 competency or who otherwise presents a danger to the public be
20 prohibited from operating a plant or system in this state.

21 Section 50. Subsections (3) and (5) of section
22 403.866, Florida Statutes, are amended to read:

23 403.866 Definitions; ss. 403.865-403.876.--As used in
24 ss. 403.865-403.876, the term:

25 (3) "Operator" means any person, including the owner,
26 who is in onsite charge of the actual operation, supervision,
27 and maintenance of a water treatment plant, water distribution
28 system, or domestic wastewater treatment plant and includes
29 the person in onsite charge of a shift or period of operation
30 during any part of the day.

31

1 (5) "Water distribution system" means those components
2 of a public water system used in conveying water for human
3 consumption from the water treatment plant to the consumer's
4 property, including pipes, tanks, pumps ~~pipelines, conduits,~~
5 ~~pumping stations,~~ and all other constructed conveyances
6 ~~structures, devices, appurtenances, and facilities used~~
7 ~~specifically for such purpose.~~

8 Section 51. Section 403.867, Florida Statutes, is
9 amended to read:

10 403.867 License required.--A person may not perform
11 the duties of an operator of a water treatment plant, water
12 distribution system, or a domestic wastewater treatment plant
13 unless he or she holds a current operator's license issued by
14 the department.

15 Section 52. Subsection (1) of section 403.872, Florida
16 Statutes, is amended to read:

17 403.872 Requirements for licensure.--

18 (1) Any person desiring to be licensed as a water
19 treatment plant operator, a water distributions system
20 operator, or a domestic wastewater treatment plant operator
21 must apply to the department to take the licensure
22 examination.

23 Section 53. Paragraphs (a), (b), and (f) of subsection
24 (1) of section 403.875, Florida Statutes, are amended to read:

25 403.875 Prohibitions; penalties.--

26 (1) A person may not:

27 (a) Perform the duties of an operator of a water
28 treatment plant, water distribution system, or domestic
29 wastewater treatment plant unless he or she is licensed under
30 ss. 403.865-403.876.

31

1 (b) Use the name or title "water treatment plant
2 operator," "water distribution system operator," or "domestic
3 wastewater treatment plant operator" or any other words,
4 letters, abbreviations, or insignia indicating or implying
5 that he or she is an operator, or otherwise holds himself or
6 herself out as an operator, unless the person is the holder of
7 a valid license issued under ss. 403.865-403.876.

8 (f) Employ unlicensed persons to perform the duties of
9 an operator of a water treatment or domestic wastewater
10 treatment plant or a water distribution system.

11 Section 54. Subsection (1) of section 403.88, Florida
12 Statutes, is amended to read:

13 403.88 Classification of water and wastewater
14 treatment facilities and facility operators.--

15 (1) The department shall classify water treatment
16 plants,~~and~~ wastewater treatment plants, and water
17 distribution systems by size, complexity, and level of
18 treatment necessary to render the wastewater or source water
19 suitable for its intended purpose in compliance with this
20 chapter and department rules.

21 Section 55. The Department of Environmental Protection
22 in cooperation with the Santa Rosa Shores Homeowners
23 Association shall develop a proposal for dredging of a single
24 access channel connected to the existing channels and canals
25 within Santa Rosa Shores, Santa Rosa County, and extending to
26 navigable depths in Santa Rosa Sound. The proposal shall
27 include a plan of mitigation for offsetting adverse impacts of
28 the dredging, a plan for disposing of dredged materials, a
29 plan for protecting water quality and sea grass habitat during
30 dredging, a plan for long-term maintenance of the channel, and
31 a plan for inspection and study of the project, with annual

1 progress reports to be prepared by the Santa Rosa Shores
2 Homeowners Association for submittal to the Department of
3 Environmental Protection. The Santa Rosa Shores Homeowners
4 Association shall be responsible for the payment of costs
5 involved with the project and for submitting all required
6 applications required to authorize the project. Santa Rosa
7 Shores Homeowners Association and the Department of
8 Environmental Protection may contract with the University of
9 West Florida to provide the necessary monitoring services and
10 reports. The Department of Environmental Protection shall
11 assist in expediting the processing of the required state
12 dredge and fill permit, and any associated authorizations
13 required from the Board of Trustees of the Internal
14 Improvement Trust Fund and the United States Army Corps of
15 Engineers. The Department of Environmental Protection shall
16 assist the Santa Rosa Shores Homeowners Association in
17 developing project criteria, including, but not limited to:
18 the length, width, and depth of the access channel; where and
19 how material is to be excavated and disposed; the method for
20 protecting water quality and sea grass habitat; long-term
21 maintenance of the channel as needed; mitigation design; and
22 design of the monitoring and reporting program.

23 Section 56. This act shall take effect upon becoming a
24 law.

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