

By the Committee on Natural Resources and Senator Brown-Waite

312-1793-01

1 A bill to be entitled
2 An act relating to environmental control;
3 amending s. 403.813, F.S.; providing an
4 exemption from permitting requirements for the
5 removal of organic detrital material from
6 certain freshwater rivers or lakes; providing
7 exemption from permits for certain floating
8 vessel platforms; requiring the Department of
9 Environmental Protection to adopt a general
10 permit by rule for floating vessel platforms
11 after January 1, 2002, which meet certain
12 conditions; providing an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:
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16 Section 1. Subsection (2) of section 403.813, Florida
17 Statutes, is amended to read:

18 403.813 Permits issued at district centers;
19 exceptions.--

20 (2) No permit under this chapter, chapter 373, chapter
21 61-691, Laws of Florida, or chapter 25214 or chapter 25270,
22 1949, Laws of Florida, shall be required for activities
23 associated with the following types of projects; however,
24 except as otherwise provided in this subsection, nothing in
25 this subsection relieves an applicant from any requirement to
26 obtain permission to use or occupy lands owned by the Board of
27 Trustees of the Internal Improvement Trust Fund or any water
28 management district in its governmental or proprietary
29 capacity or from complying with applicable local pollution
30 control programs authorized under this chapter or other
31 requirements of county and municipal governments:

1 (a) The installation of overhead transmission lines,
2 with support structures which are not constructed in waters of
3 the state and which do not create a navigational hazard.

4 (b) The installation and repair of mooring pilings and
5 dolphins associated with private docking facilities or piers
6 and the installation of private docks, piers and recreational
7 docking facilities, or piers and recreational docking
8 facilities of local governmental entities when the local
9 governmental entity's activities will not take place in any
10 manatee habitat, any of which docks:

11 1. Has 500 square feet or less of over-water surface
12 area for a dock which is located in an area designated as
13 Outstanding Florida Waters or 1,000 square feet or less of
14 over-water surface area for a dock which is located in an area
15 which is not designated as Outstanding Florida Waters;

16 2. Is constructed on or held in place by pilings or is
17 a floating dock which is constructed so as not to involve
18 filling or dredging other than that necessary to install the
19 pilings;

20 3. Shall not substantially impede the flow of water or
21 create a navigational hazard;

22 4. Is used for recreational, noncommercial activities
23 associated with the mooring or storage of boats and boat
24 paraphernalia; and

25 5. Is the sole dock constructed pursuant to this
26 exemption as measured along the shoreline for a distance of 65
27 feet, unless the parcel of land or individual lot as platted
28 is less than 65 feet in length along the shoreline, in which
29 case there may be one exempt dock allowed per parcel or lot.

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1 Nothing in this paragraph shall prohibit the department from
2 taking appropriate enforcement action pursuant to this chapter
3 to abate or prohibit any activity otherwise exempt from
4 permitting pursuant to this paragraph if the department can
5 demonstrate that the exempted activity has caused water
6 pollution in violation of this chapter.

7 (c) The installation and maintenance to design
8 specifications of boat ramps on artificial bodies of water
9 where navigational access to the proposed ramp exists or the
10 installation of boat ramps open to the public in any waters of
11 the state where navigational access to the proposed ramp
12 exists and where the construction of the proposed ramp will be
13 less than 30 feet wide and will involve the removal of less
14 than 25 cubic yards of material from the waters of the state,
15 and the maintenance to design specifications of such ramps;
16 however, the material to be removed shall be placed upon a
17 self-contained upland site so as to prevent the escape of the
18 spoil material into the waters of the state.

19 (d) The replacement or repair of existing docks and
20 piers, except that no fill material is to be used and provided
21 that the replacement or repaired dock or pier is in the same
22 location and of the same configuration and dimensions as the
23 dock or pier being replaced or repaired.

24 (e) The restoration of seawalls at their previous
25 locations or upland of, or within 1 foot waterward of, their
26 previous locations. However, this shall not affect the
27 permitting requirements of chapter 161, and department rules
28 shall clearly indicate that this exception does not constitute
29 an exception from the permitting requirements of chapter 161.

30 (f) The performance of maintenance dredging of
31 existing manmade canals, channels, intake and discharge

1 structures, and previously dredged portions of natural water
2 bodies within drainage rights-of-way or drainage easements
3 which have been recorded in the public records of the county,
4 where the spoil material is to be removed and deposited on a
5 self-contained, upland spoil site which will prevent the
6 escape of the spoil material into the waters of the state,
7 provided that no more dredging is to be performed than is
8 necessary to restore the canals, channels, and intake and
9 discharge structures, and previously dredged portions of
10 natural water bodies, to original design specifications or
11 configurations, provided that the work is conducted in
12 compliance with s. 370.12(2)(d), provided that no significant
13 impacts occur to previously undisturbed natural areas, and
14 provided that control devices and best management practices
15 for erosion and sediment control are utilized to prevent bank
16 erosion and scouring and to prevent turbidity, dredged
17 material, and toxic or deleterious substances from discharging
18 into adjacent waters during maintenance dredging. Further, for
19 maintenance dredging of previously dredged portions of natural
20 water bodies within recorded drainage rights-of-way or
21 drainage easements, an entity that seeks an exemption must
22 notify the department or water management district, as
23 applicable, at least 30 days prior to dredging and provide
24 documentation of original design specifications or
25 configurations where such exist. This exemption applies to all
26 canals and previously dredged portions of natural water bodies
27 within recorded drainage rights-of-way or drainage easements
28 constructed prior to April 3, 1970, and to those canals and
29 previously dredged portions of natural water bodies
30 constructed on or after April 3, 1970, pursuant to all
31 necessary state permits. This exemption does not apply to the

1 removal of a natural or manmade barrier separating a canal or
2 canal system from adjacent waters. When no previous permit
3 has been issued by the Board of Trustees of the Internal
4 Improvement Trust Fund or the United States Army Corps of
5 Engineers for construction or maintenance dredging of the
6 existing manmade canal or intake or discharge structure, such
7 maintenance dredging shall be limited to a depth of no more
8 than 5 feet below mean low water. The Board of Trustees of the
9 Internal Improvement Trust Fund may fix and recover from the
10 permittee an amount equal to the difference between the fair
11 market value and the actual cost of the maintenance dredging
12 for material removed during such maintenance dredging.

13 However, no charge shall be exacted by the state for material
14 removed during such maintenance dredging by a public port
15 authority. The removing party may subsequently sell such
16 material; however, proceeds from such sale that exceed the
17 costs of maintenance dredging shall be remitted to the state
18 and deposited in the Internal Improvement Trust Fund.

19 (g) The maintenance of existing insect control
20 structures, dikes, and irrigation and drainage ditches,
21 provided that spoil material is deposited on a self-contained,
22 upland spoil site which will prevent the escape of the spoil
23 material into waters of the state. In the case of insect
24 control structures, if the cost of using a self-contained
25 upland spoil site is so excessive, as determined by the
26 Department of Health, pursuant to s. 403.088(1), that it will
27 inhibit proposed insect control, then-existing spoil sites or
28 dikes may be used, upon notification to the department. In
29 the case of insect control where upland spoil sites are not
30 used pursuant to this exemption, turbidity control devices
31 shall be used to confine the spoil material discharge to that

1 area previously disturbed when the receiving body of water is
2 used as a potable water supply, is designated as shellfish
3 harvesting waters, or functions as a habitat for commercially
4 or recreationally important shellfish or finfish. In all
5 cases, no more dredging is to be performed than is necessary
6 to restore the dike or irrigation or drainage ditch to its
7 original design specifications.

8 (h) The repair or replacement of existing functional
9 pipes or culverts the purpose of which is the discharge or
10 conveyance of stormwater. In all cases, the invert elevation,
11 the diameter, and the length of the culvert shall not be
12 changed. However, the material used for the culvert may be
13 different from the original.

14 (i) The construction of private docks and seawalls in
15 artificially created waterways where such construction will
16 not violate existing water quality standards, impede
17 navigation, or affect flood control. This exemption does not
18 apply to the construction of vertical seawalls in estuaries or
19 lagoons unless the proposed construction is within an existing
20 manmade canal where the shoreline is currently occupied in
21 whole or part by vertical seawalls.

22 (j) The construction and maintenance of swales.

23 (k) The installation of aids to navigation and buoys
24 associated with such aids, provided the devices are marked
25 pursuant to s. 327.40.

26 (l) The replacement or repair of existing open-trestle
27 foot bridges and vehicular bridges that are 100 feet or less
28 in length and two lanes or less in width, provided that no
29 more dredging or filling of submerged lands is performed other
30 than that which is necessary to replace or repair pilings and
31 that the structure to be replaced or repaired is the same

1 length, the same configuration, and in the same location as
2 the original bridge. No debris from the original bridge shall
3 be allowed to remain in the waters of the state.

4 (m) The installation of subaqueous transmission and
5 distribution lines laid on, or embedded in, the bottoms of
6 waters in the state, except in Class I and Class II waters and
7 aquatic preserves, provided no dredging or filling is
8 necessary.

9 (n) The replacement or repair of subaqueous
10 transmission and distribution lines laid on, or embedded in,
11 the bottoms of waters of the state.

12 (o) The construction of private seawalls in wetlands
13 or other surface waters where such construction is between and
14 adjoins at both ends existing seawalls; follows a continuous
15 and uniform seawall construction line with the existing
16 seawalls; is no more than 150 feet in length; and does not
17 violate existing water quality standards, impede navigation,
18 or affect flood control. However, in estuaries and lagoons the
19 construction of vertical seawalls is limited to the
20 circumstances and purposes stated in s. 373.414(5)(b)1.-4.
21 This paragraph does not affect the permitting requirements of
22 chapter 161, and department rules must clearly indicate that
23 this exception does not constitute an exception from the
24 permitting requirements of chapter 161.

25 (p) The restoration of existing insect control
26 impoundment dikes which are less than 100 feet in length. Such
27 impoundments shall be connected to tidally influenced waters
28 for 6 months each year beginning September 1 and ending
29 February 28 if feasible or operated in accordance with an
30 impoundment management plan approved by the department. A
31 dike restoration may involve no more dredging than is

1 necessary to restore the dike to its original design
2 specifications. For the purposes of this paragraph,
3 restoration does not include maintenance of impoundment dikes
4 of operating insect control impoundments.

5 (q) The construction, operation, or maintenance of
6 stormwater management facilities which are designed to serve
7 single-family residential projects, including duplexes,
8 triplexes, and quadruplexes, if they are less than 10 acres
9 total land and have less than 2 acres of impervious surface
10 and if the facilities:

11 1. Comply with all regulations or ordinances
12 applicable to stormwater management and adopted by a city or
13 county;

14 2. Are not part of a larger common plan of development
15 or sale; and

16 3. Discharge into a stormwater discharge facility
17 exempted or permitted by the department under this chapter
18 which has sufficient capacity and treatment capability as
19 specified in this chapter and is owned, maintained, or
20 operated by a city, county, special district with drainage
21 responsibility, or water management district; however, this
22 exemption does not authorize discharge to a facility without
23 the facility owner's prior written consent.

24 (r) The removal of aquatic plants, the removal of
25 tussocks, the associated replanting of indigenous aquatic
26 plants, and ~~or~~ the associated removal from lakes of organic
27 detrital material when such planting or removal is performed
28 and authorized by permit or exemption granted under s. 369.20
29 or s. 369.25, provided that ~~if~~:

30 1. Organic detrital material that exists on the
31 surface of natural mineral substrate ~~soil~~ shall be allowed to

1 be removed to a depth of 3 feet or to the natural mineral
2 substrate soils, whichever is less; ~~and-~~

3 2. All ~~organic material removed removal~~ pursuant to
4 this ~~paragraph subsection~~ shall be deposited in an upland site
5 in a manner that will prevent the reintroduction of the
6 material into waters in the state except when spoil material
7 is permitted to be used to create wildlife islands in
8 freshwater bodies of the state when a governmental entity is
9 permitted pursuant to s. 369.20 ~~this section~~ to create such
10 islands as a part of a restoration or enhancement project; ~~and-~~

11 3. All activities are performed in a manner consistent
12 with state water quality standards; ~~and-~~

13 4. No activities under this exemption are conducted in
14 wetland areas, as defined by s. 373.019(22), which are
15 supported by a natural soil as shown in applicable U.S.
16 Department of Agriculture county soil surveys.

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18 The department may not adopt implementing rules for this
19 paragraph, notwithstanding any other provision of law.

20 (s) Notwithstanding any provision to the contrary in
21 this subsection, a permit or other authorization under chapter
22 253, chapter 369, chapter 373, or chapter 403 is not required
23 for the removal of organic detrital material from freshwater
24 rivers or lakes that have a natural sand or rocky substrate
25 and that are not Aquatic Preserves or for the associated
26 removal and replanting of aquatic vegetation for the purpose
27 of environmental enhancement, providing that:

28 1. Removal is conducted only in areas where the
29 organic detrital material is greater than 6 inches in depth.

30 2. No activities under this exemption are conducted in
31 wetland areas, as defined by s. 373.019(22), which are

1 supported by a natural soil as shown in applicable U.S.
2 Department of Agriculture county soil surveys.
3 3. No filling or peat mining is allowed.
4 4. No removal of native wetland trees, including but
5 not limited to ash, bay cypress, gum, maple, or tupelo,
6 occurs.
7 5. When removing organic detrital material, no portion
8 of the underlying natural mineral substrate or rocky substrate
9 is removed.
10 6. Organic detrital material and plant material
11 removed is deposited in an upland site in a manner that will
12 not cause water-quality violations.
13 7. All activities are conducted in such a manner, and
14 with appropriate turbidity controls as to prevent any
15 water-quality violations outside the immediate work area.
16 8. Replanting with a variety of aquatic plants native
17 to the state shall occur in a minimum of 25 percent of the
18 preexisting unvegetated and 50 percent of the preexisting
19 vegetated areas where organic detrital material is removed,
20 except for areas where the material is removed to bare rocky
21 substrate; however, an area may be maintained clear of
22 vegetation as an access corridor. The access corridor width
23 may not exceed 50 percent of the property owner's frontage or
24 50 feet, whichever is less, and may be a sufficient length
25 waterward to create a corridor to allow access for a boat or
26 swimmer to reach open water. Replanting must be at a minimum
27 density of 2 feet on center and be completed within 90 days
28 after removal of existing aquatic vegetation, except that
29 under dewatered conditions replanting must be completed within
30 90 days after reflooding. The area to be replanted must extend
31 waterward from the ordinary high water line to a point where

1 normal water depth would be 3 feet or the preexisting
2 vegetation line, whichever is less. Individuals are required
3 to make a reasonable effort to maintain planting density for a
4 period of 1 year after replanting is complete and the plants,
5 including naturally recruited native aquatic plants, must be
6 allowed to expand and fill-in the revegetation area. Native
7 aquatic plants to be used for revegetation must be salvaged
8 from the enhancement project site or obtained from an aquatic
9 plant nursery regulated by the Department of Agriculture and
10 Consumer Services. Plants that are not native to the state may
11 not be used for replanting.

12 9. No activity occurs any farther waterward of the
13 ordinary high water line than 100 feet; activities are limited
14 to a width of 100 feet or 50 percent of the width of the
15 upland parcel, whichever is less; and all activities must be
16 designed and conducted in a manner that will not unreasonably
17 restrict or infringe upon the riparian rights of the upland
18 riparian owners.

19 10. The person seeking this exemption notifies the
20 applicable department district office in writing at least 30
21 days before commencing work and allows the department to
22 conduct a preconstruction site inspection. Notice must
23 include an organic-detrital-material removal and disposal plan
24 and, if applicable, a vegetation-removal and revegetation
25 plan.

26 11. The department is provided written certification
27 of compliance with the terms and conditions of this paragraph
28 within 30 days after completion of any activity occurring
29 under this exemption.

30 (t) A floating vessel platform or floating boat lift
31 either of which floats at all times in the water for the sole

1 purpose of supporting a vessel so that the vessel is out of
2 the water when not in use, provided that:

3 1. Such structures are wholly contained within a boat
4 slip previously permitted under ss. 403.91-403.929, 1984
5 Supplement to the Florida Statutes 1983, as amended, or Part
6 IV of chapter 373, or, when associated with a dock that is
7 exempt under this subsection or a permitted dock with no
8 defined boat slip, such structures do not exceed a combined
9 total of 500 square feet, or 200 square feet in an Outstanding
10 Florida Water.

11 2. Such structures shall not be used for any
12 commercial purpose or for mooring additional vessels that
13 remain in the water when not in use, and shall not
14 substantially impede the flow of water, create a navigational
15 hazard, or unreasonably infringe upon the traditional, or
16 common law riparian rights of adjacent property owners, as
17 defined in s. 253.141; and

18 3. Such structures shall be constructed and used so as
19 to minimize adverse impacts to submerged lands, wetlands,
20 shellfish areas, aquatic plant and animal species, and other
21 biological communities.

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23 Structures that qualify for this exemption are relieved from
24 any requirement to obtain permission to use or occupy lands
25 owned by the Board of Trustees of the Internal Improvement
26 Trust Fund and shall not be subject to any more stringent
27 regulation by any local government. The exemption provided in
28 this paragraph shall be in addition to the exemption provided
29 in paragraph (b). By January 1, 2002, the department shall
30 adopt a general permit by rule for those floating vessel
31 platforms that do not qualify for the exemptions provided in

1 this paragraph, but do not cause significant adverse impacts
2 to occur individually or cumulatively. The issuance of such
3 general permit shall also constitute permission to use or
4 occupy lands owned by the Board of Trustees of the Internal
5 Improvement Trust Fund. Upon the adoption of the rule creating
6 such general permit, no local government shall impose a more
7 stringent regulation on floating vessel platforms covered by
8 such general permit.

9 Section 2. This act shall take effect July 1, 2001.

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 Senate Bill 2074

14 The committee substitute provides that no activities regarding
15 the removal of organic detrital matter may be conducted in
16 wetland areas which are supported by a natural soil as shown
in applicable U.S. Department of Agriculture county soil
surveys.

17 Once organic detrital material has been removed, replanting
18 must occur in a minimum of 25 percent of the preexisting
19 unvegetated and 50 percent of the preexisting vegetated areas
20 except for areas where the material is removed to bare rocky
substrate. An access corridor may be maintained clear of
vegetation under certain conditions.

21 The committee substitute also provides an exemption from
22 permitting for certain floating vessel platforms.
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