

By Representative Argenziano

1 A bill to be entitled
2 An act relating to environmental control;
3 amending s. 403.813, F.S.; revising the
4 exemption from permitting requirements for the
5 specified removal of aquatic plants, the
6 removal of tussocks, the associated replanting
7 of indigenous aquatic plants, and the
8 associated removal from lakes of organic
9 detrital material; providing an exemption from
10 permitting requirements for the removal of
11 organic detrital material from certain
12 freshwater rivers or lakes and the associated
13 removal and replanting of aquatic vegetation
14 for environmental enhancement; providing an
15 effective date.

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

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19 Section 1. Subsection (2) of section 403.813, Florida
20 Statutes, is amended to read:

21 403.813 Permits issued at district centers;
22 exceptions.--

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

1 capacity or from complying with applicable local pollution
2 control programs authorized under this chapter or other
3 requirements of county and municipal governments:

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

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

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

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

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

25 4. Is used for recreational, noncommercial activities
26 associated with the mooring or storage of boats and boat
27 paraphernalia; and

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

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

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

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

27 (e) The restoration of seawalls at their previous
28 locations or upland of, or within 1 foot waterward of, their
29 previous locations. However, this shall not affect the
30 permitting requirements of chapter 161, and department rules

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1 shall clearly indicate that this exception does not constitute
2 an exception from the permitting requirements of chapter 161.

3 (f) The performance of maintenance dredging of
4 existing manmade canals, channels, intake and discharge
5 structures, and previously dredged portions of natural water
6 bodies within drainage rights-of-way or drainage easements
7 which have been recorded in the public records of the county,
8 where the spoil material is to be removed and deposited on a
9 self-contained, upland spoil site which will prevent the
10 escape of the spoil material into the waters of the state,
11 provided that no more dredging is to be performed than is
12 necessary to restore the canals, channels, and intake and
13 discharge structures, and previously dredged portions of
14 natural water bodies, to original design specifications or
15 configurations, provided that the work is conducted in
16 compliance with s. 370.12(2)(d), provided that no significant
17 impacts occur to previously undisturbed natural areas, and
18 provided that control devices and best management practices
19 for erosion and sediment control are utilized to prevent bank
20 erosion and scouring and to prevent turbidity, dredged
21 material, and toxic or deleterious substances from discharging
22 into adjacent waters during maintenance dredging. Further, for
23 maintenance dredging of previously dredged portions of natural
24 water bodies within recorded drainage rights-of-way or
25 drainage easements, an entity that seeks an exemption must
26 notify the department or water management district, as
27 applicable, at least 30 days prior to dredging and provide
28 documentation of original design specifications or
29 configurations where such exist. This exemption applies to all
30 canals and previously dredged portions of natural water bodies
31 within recorded drainage rights-of-way or drainage easements

1 constructed prior to April 3, 1970, and to those canals and
2 previously dredged portions of natural water bodies
3 constructed on or after April 3, 1970, pursuant to all
4 necessary state permits. This exemption does not apply to the
5 removal of a natural or manmade barrier separating a canal or
6 canal system from adjacent waters. When no previous permit
7 has been issued by the Board of Trustees of the Internal
8 Improvement Trust Fund or the United States Army Corps of
9 Engineers for construction or maintenance dredging of the
10 existing manmade canal or intake or discharge structure, such
11 maintenance dredging shall be limited to a depth of no more
12 than 5 feet below mean low water. The Board of Trustees of the
13 Internal Improvement Trust Fund may fix and recover from the
14 permittee an amount equal to the difference between the fair
15 market value and the actual cost of the maintenance dredging
16 for material removed during such maintenance dredging.
17 However, no charge shall be exacted by the state for material
18 removed during such maintenance dredging by a public port
19 authority. The removing party may subsequently sell such
20 material; however, proceeds from such sale that exceed the
21 costs of maintenance dredging shall be remitted to the state
22 and deposited in the Internal Improvement Trust Fund.

23 (g) The maintenance of existing insect control
24 structures, dikes, and irrigation and drainage ditches,
25 provided that spoil material is deposited on a self-contained,
26 upland spoil site which will prevent the escape of the spoil
27 material into waters of the state. In the case of insect
28 control structures, if the cost of using a self-contained
29 upland spoil site is so excessive, as determined by the
30 Department of Health, pursuant to s. 403.088(1), that it will
31 inhibit proposed insect control, then-existing spoil sites or

1 dikes may be used, upon notification to the department. In
2 the case of insect control where upland spoil sites are not
3 used pursuant to this exemption, turbidity control devices
4 shall be used to confine the spoil material discharge to that
5 area previously disturbed when the receiving body of water is
6 used as a potable water supply, is designated as shellfish
7 harvesting waters, or functions as a habitat for commercially
8 or recreationally important shellfish or finfish. In all
9 cases, no more dredging is to be performed than is necessary
10 to restore the dike or irrigation or drainage ditch to its
11 original design specifications.

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

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

26 (j) The construction and maintenance of swales.

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

30 (l) The replacement or repair of existing open-trestle
31 foot bridges and vehicular bridges that are 100 feet or less

1 in length and two lanes or less in width, provided that no
2 more dredging or filling of submerged lands is performed other
3 than that which is necessary to replace or repair pilings and
4 that the structure to be replaced or repaired is the same
5 length, the same configuration, and in the same location as
6 the original bridge. No debris from the original bridge shall
7 be allowed to remain in the waters of the state.

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

13 (n) The replacement or repair of subaqueous
14 transmission and distribution lines laid on, or embedded in,
15 the bottoms of waters of the state.

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

29 (p) The restoration of existing insect control
30 impoundment dikes which are less than 100 feet in length. Such
31 impoundments shall be connected to tidally influenced waters

1 for 6 months each year beginning September 1 and ending
2 February 28 if feasible or operated in accordance with an
3 impoundment management plan approved by the department. A
4 dike restoration may involve no more dredging than is
5 necessary to restore the dike to its original design
6 specifications. For the purposes of this paragraph,
7 restoration does not include maintenance of impoundment dikes
8 of operating insect control impoundments.

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

15 1. Comply with all regulations or ordinances
16 applicable to stormwater management and adopted by a city or
17 county;

18 2. Are not part of a larger common plan of development
19 or sale; and

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

28 (r) The removal of aquatic plants, the removal of
29 tussocks, the associated replanting of indigenous aquatic
30 plants, and ~~or~~ the associated removal from lakes of organic
31 detrital material when such planting or removal is performed

1 and authorized by permit or exemption granted under s. 369.20
2 or s. 369.25, provided that if:

3 1. Organic detrital material that exists on the
4 surface of natural mineral substrate ~~soil~~ shall be allowed to
5 be removed to a depth of 3 feet or to the natural mineral
6 substrate soils, whichever is less;~~;~~

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

15 3. All activities are performed in a manner consistent
16 with state water quality standards; ~~and;~~

17 4. No activities under this exemption are conducted in
18 wetland areas, as defined by s. 373.019(22), which are
19 supported by a natural soil as shown in applicable United
20 States Department of Agriculture county soil surveys, except
21 when a governmental entity is permitted pursuant to s. 369.20
22 to conduct such activities as a part of a restoration or
23 enhancement project.

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

27 (s) Notwithstanding any provision of this subsection
28 to the contrary, a permit or other authorization under chapter
29 253, chapter 369, chapter 373, or chapter 403 is not required
30 for the removal of organic detrital material from freshwater
31 rivers or lakes that have a natural sand or rocky substrate

1 and that are not aquatic preserves or for the associated
2 removal and replanting of aquatic vegetation for the purpose
3 of environmental enhancement, provided that:

4 1. No activities under this exemption are conducted in
5 wetland areas, as defined by s. 373.019(22), which are
6 supported by a natural soil as shown in applicable United
7 States Department of Agriculture county soil surveys.

8 2. No filling or peat mining is allowed.

9 3. No removal of native wetland trees, including, but
10 not limited to, ash, bay cypress, gum, maple, or tupelo,
11 occurs.

12 4. When removing organic detrital material, no portion
13 of the underlying natural mineral substrate or rocky substrate
14 is removed.

15 5. Removed organic detrital material and removed plant
16 material is deposited in an upland site in a manner that will
17 not cause water-quality violations.

18 6. All activities are conducted in such a manner, and
19 with appropriate turbidity controls, as to prevent any water
20 quality violations outside the immediate work area.

21 7. Replanting with a variety of aquatic plants native
22 to the state shall occur in a minimum of 25 percent of the
23 preexisting vegetated areas, where organic detrital material
24 is removed, except for areas where the material is removed to
25 bare rocky substrate; however, an area may be maintained clear
26 of vegetation as an access corridor. The access corridor width
27 may not exceed 50 percent of the property owner's frontage or
28 50 feet, whichever is less, and may be a sufficient length
29 waterward to create a corridor to allow access for a boat or
30 swimmer to reach open water. Replanting must be at a minimum
31 density of 2 feet on center and be completed within 90 days

1 after removal of existing aquatic vegetation, except that
2 under dewatered conditions replanting must be completed within
3 90 days after reflooding. The area to be replanted must extend
4 waterward from the ordinary high-water line to a point where
5 normal water depth would be 3 feet or the preexisting
6 vegetation line, whichever is less. Individuals are required
7 to make a reasonable effort to maintain planting density for a
8 period of 6 months after replanting is complete and the
9 plants, including naturally recruited native aquatic plants,
10 must be allowed to expand and fill in the revegetation area.
11 Native aquatic plants to be used for revegetation must be
12 salvaged from the enhancement project site or obtained from an
13 aquatic plant nursery regulated by the Department of
14 Agriculture and Consumer Services. Plants that are not native
15 to the state may not be used for replanting.

16 8. No activity may occur any farther waterward of the
17 ordinary high-water line than 100 feet and all activities must
18 be designed and conducted in a manner that will not
19 unreasonably restrict or infringe upon the riparian rights of
20 the upland riparian owners.

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

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

1 Section 2. This act shall take effect July 1, 2002.

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HOUSE SUMMARY

With respect to ch. 403, F.S., relating to environmental control, revises the exemption from permitting requirements for the specified removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, and the associated removal from lakes of organic detrital material. Provides an exemption from permitting requirements for the removal of organic detrital material from certain freshwater rivers or lakes and the associated removal and replanting of aquatic vegetation for environmental enhancement.