

By the Committees on General Government Appropriations,
Natural Resources & Environmental Protection and
Representatives Argenziano and Spratt

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 individual
11 residential property owners for the removal of
12 organic detrital material from certain
13 freshwater rivers or lakes and the associated
14 removal and replanting of aquatic vegetation
15 for environmental enhancement; providing an
16 exemption from permitting requirements for
17 specified types of floating vessel platforms or
18 floating boat lifts; providing that such
19 structures are also exempt from certain
20 requirements relating to use or occupancy of
21 lands owned by the Board of Trustees of the
22 Internal Improvement Trust Fund; requiring the
23 Department of Environmental Protection to adopt
24 a rule creating a general permit for certain
25 floating vessel platforms by a specified date;
26 limiting local government regulation of
27 floating vessel platforms and floating boat
28 lifts; requiring a report; providing an
29 effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

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

3 403.813 Permits issued at district centers;
4 exceptions.--

5 (2) No permit under this chapter, chapter 373, chapter
6 61-691, Laws of Florida, or chapter 25214 or chapter 25270,
7 1949, Laws of Florida, shall be required for activities
8 associated with the following types of projects; however,
9 except as otherwise provided in this subsection,nothing in
10 this subsection relieves an applicant from any requirement to
11 obtain permission to use or occupy lands owned by the Board of
12 Trustees of the Internal Improvement Trust Fund or any water
13 management district in its governmental or proprietary
14 capacity or from complying with applicable local pollution
15 control programs authorized under this chapter or other
16 requirements of county and municipal governments:

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

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

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

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

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

7 4. Is used for recreational, noncommercial activities
8 associated with the mooring or storage of boats and boat
9 paraphernalia; and

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

15
16 Nothing in this paragraph shall prohibit the department from
17 taking appropriate enforcement action pursuant to this chapter
18 to abate or prohibit any activity otherwise exempt from
19 permitting pursuant to this paragraph if the department can
20 demonstrate that the exempted activity has caused water
21 pollution in violation of this chapter.

22 (c) The installation and maintenance to design
23 specifications of boat ramps on artificial bodies of water
24 where navigational access to the proposed ramp exists or the
25 installation of boat ramps open to the public in any waters of
26 the state where navigational access to the proposed ramp
27 exists and where the construction of the proposed ramp will be
28 less than 30 feet wide and will involve the removal of less
29 than 25 cubic yards of material from the waters of the state,
30 and the maintenance to design specifications of such ramps;
31 however, the material to be removed shall be placed upon a

1 self-contained upland site so as to prevent the escape of the
2 spoil material into the waters of the state.

3 (d) The replacement or repair of existing docks and
4 piers, except that no fill material is to be used and provided
5 that the replacement or repaired dock or pier is in the same
6 location and of the same configuration and dimensions as the
7 dock or pier being replaced or repaired.

8 (e) The restoration of seawalls at their previous
9 locations or upland of, or within 1 foot waterward of, their
10 previous locations. However, this shall not affect the
11 permitting requirements of chapter 161, and department rules
12 shall clearly indicate that this exception does not constitute
13 an exception from the permitting requirements of chapter 161.

14 (f) The performance of maintenance dredging of
15 existing manmade canals, channels, intake and discharge
16 structures, and previously dredged portions of natural water
17 bodies within drainage rights-of-way or drainage easements
18 which have been recorded in the public records of the county,
19 where the spoil material is to be removed and deposited on a
20 self-contained, upland spoil site which will prevent the
21 escape of the spoil material into the waters of the state,
22 provided that no more dredging is to be performed than is
23 necessary to restore the canals, channels, and intake and
24 discharge structures, and previously dredged portions of
25 natural water bodies, to original design specifications or
26 configurations, provided that the work is conducted in
27 compliance with s. 370.12(2)(d), provided that no significant
28 impacts occur to previously undisturbed natural areas, and
29 provided that control devices and best management practices
30 for erosion and sediment control are utilized to prevent bank
31 erosion and scouring and to prevent turbidity, dredged

1 material, and toxic or deleterious substances from discharging
2 into adjacent waters during maintenance dredging. Further, for
3 maintenance dredging of previously dredged portions of natural
4 water bodies within recorded drainage rights-of-way or
5 drainage easements, an entity that seeks an exemption must
6 notify the department or water management district, as
7 applicable, at least 30 days prior to dredging and provide
8 documentation of original design specifications or
9 configurations where such exist. This exemption applies to all
10 canals and previously dredged portions of natural water bodies
11 within recorded drainage rights-of-way or drainage easements
12 constructed prior to April 3, 1970, and to those canals and
13 previously dredged portions of natural water bodies
14 constructed on or after April 3, 1970, pursuant to all
15 necessary state permits. This exemption does not apply to the
16 removal of a natural or manmade barrier separating a canal or
17 canal system from adjacent waters. When no previous permit
18 has been issued by the Board of Trustees of the Internal
19 Improvement Trust Fund or the United States Army Corps of
20 Engineers for construction or maintenance dredging of the
21 existing manmade canal or intake or discharge structure, such
22 maintenance dredging shall be limited to a depth of no more
23 than 5 feet below mean low water. The Board of Trustees of the
24 Internal Improvement Trust Fund may fix and recover from the
25 permittee an amount equal to the difference between the fair
26 market value and the actual cost of the maintenance dredging
27 for material removed during such maintenance dredging.
28 However, no charge shall be exacted by the state for material
29 removed during such maintenance dredging by a public port
30 authority. The removing party may subsequently sell such
31 material; however, proceeds from such sale that exceed the

1 costs of maintenance dredging shall be remitted to the state
2 and deposited in the Internal Improvement Trust Fund.

3 (g) The maintenance of existing insect control
4 structures, dikes, and irrigation and drainage ditches,
5 provided that spoil material is deposited on a self-contained,
6 upland spoil site which will prevent the escape of the spoil
7 material into waters of the state. In the case of insect
8 control structures, if the cost of using a self-contained
9 upland spoil site is so excessive, as determined by the
10 Department of Health, pursuant to s. 403.088(1), that it will
11 inhibit proposed insect control, then-existing spoil sites or
12 dikes may be used, upon notification to the department. In
13 the case of insect control where upland spoil sites are not
14 used pursuant to this exemption, turbidity control devices
15 shall be used to confine the spoil material discharge to that
16 area previously disturbed when the receiving body of water is
17 used as a potable water supply, is designated as shellfish
18 harvesting waters, or functions as a habitat for commercially
19 or recreationally important shellfish or finfish. In all
20 cases, no more dredging is to be performed than is necessary
21 to restore the dike or irrigation or drainage ditch to its
22 original design specifications.

23 (h) The repair or replacement of existing functional
24 pipes or culverts the purpose of which is the discharge or
25 conveyance of stormwater. In all cases, the invert elevation,
26 the diameter, and the length of the culvert shall not be
27 changed. However, the material used for the culvert may be
28 different from the original.

29 (i) The construction of private docks and seawalls in
30 artificially created waterways where such construction will
31 not violate existing water quality standards, impede

1 navigation, or affect flood control. This exemption does not
2 apply to the construction of vertical seawalls in estuaries or
3 lagoons unless the proposed construction is within an existing
4 manmade canal where the shoreline is currently occupied in
5 whole or part by vertical seawalls.

6 (j) The construction and maintenance of swales.

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

10 (l) The replacement or repair of existing open-trestle
11 foot bridges and vehicular bridges that are 100 feet or less
12 in length and two lanes or less in width, provided that no
13 more dredging or filling of submerged lands is performed other
14 than that which is necessary to replace or repair pilings and
15 that the structure to be replaced or repaired is the same
16 length, the same configuration, and in the same location as
17 the original bridge. No debris from the original bridge shall
18 be allowed to remain in the waters of the state.

19 (m) The installation of subaqueous transmission and
20 distribution lines laid on, or embedded in, the bottoms of
21 waters in the state, except in Class I and Class II waters and
22 aquatic preserves, provided no dredging or filling is
23 necessary.

24 (n) The replacement or repair of subaqueous
25 transmission and distribution lines laid on, or embedded in,
26 the bottoms of waters of the state.

27 (o) The construction of private seawalls in wetlands
28 or other surface waters where such construction is between and
29 adjoins at both ends existing seawalls; follows a continuous
30 and uniform seawall construction line with the existing
31 seawalls; is no more than 150 feet in length; and does not

1 violate existing water quality standards, impede navigation,
2 or affect flood control. However, in estuaries and lagoons the
3 construction of vertical seawalls is limited to the
4 circumstances and purposes stated in s. 373.414(5)(b)1.-4.
5 This paragraph does not affect the permitting requirements of
6 chapter 161, and department rules must clearly indicate that
7 this exception does not constitute an exception from the
8 permitting requirements of chapter 161.

9 (p) The restoration of existing insect control
10 impoundment dikes which are less than 100 feet in length. Such
11 impoundments shall be connected to tidally influenced waters
12 for 6 months each year beginning September 1 and ending
13 February 28 if feasible or operated in accordance with an
14 impoundment management plan approved by the department. A
15 dike restoration may involve no more dredging than is
16 necessary to restore the dike to its original design
17 specifications. For the purposes of this paragraph,
18 restoration does not include maintenance of impoundment dikes
19 of operating insect control impoundments.

20 (q) The construction, operation, or maintenance of
21 stormwater management facilities which are designed to serve
22 single-family residential projects, including duplexes,
23 triplexes, and quadruplexes, if they are less than 10 acres
24 total land and have less than 2 acres of impervious surface
25 and if the facilities:

26 1. Comply with all regulations or ordinances
27 applicable to stormwater management and adopted by a city or
28 county;

29 2. Are not part of a larger common plan of development
30 or sale; and

31

1 3. Discharge into a stormwater discharge facility
2 exempted or permitted by the department under this chapter
3 which has sufficient capacity and treatment capability as
4 specified in this chapter and is owned, maintained, or
5 operated by a city, county, special district with drainage
6 responsibility, or water management district; however, this
7 exemption does not authorize discharge to a facility without
8 the facility owner's prior written consent.

9 (r) The removal of aquatic plants, the removal of
10 tussocks, the associated replanting of indigenous aquatic
11 plants, and ~~or~~ the associated removal from lakes of organic
12 detrital material when such planting or removal is performed
13 and authorized by permit or exemption granted under s. 369.20
14 or s. 369.25, provided that ~~if~~:

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

19 2. All ~~organic~~ material removed ~~removal~~ pursuant to
20 this paragraph ~~subsection~~ shall be deposited in an upland site
21 in a manner that will prevent the reintroduction of the
22 material into waters in the state except when spoil material
23 is permitted to be used to create wildlife islands in
24 freshwater bodies of the state when a governmental entity is
25 permitted pursuant to s. 369.20 ~~this section~~ to create such
26 islands as a part of a restoration or enhancement project;~~-~~

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

29 4. No activities under this exemption are conducted in
30 wetland areas, as defined by s. 373.019(22), which are
31 supported by a natural soil as shown in applicable United

1 States Department of Agriculture county soil surveys, except
2 when a governmental entity is permitted pursuant to s. 369.20
3 to conduct such activities as a part of a restoration or
4 enhancement project.

5
6 The department may not adopt implementing rules for this
7 paragraph, notwithstanding any other provision of law.

8 (s) Notwithstanding any provision of this subsection
9 to the contrary, a permit or other authorization under chapter
10 253, chapter 369, chapter 373, or chapter 403 is not required
11 for an individual residential property owner for the removal
12 of organic detrital material from freshwater rivers or lakes
13 that have a natural sand or rocky substrate and that are not
14 aquatic preserves or for the associated removal and replanting
15 of aquatic vegetation for the purpose of environmental
16 enhancement, provided that:

17 1. 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.

21 2. No filling or peat mining is allowed.

22 3. No removal of native wetland trees, including, but
23 not limited to, ash, bay, cypress, gum, maple, or tupelo,
24 occurs.

25 4. When removing organic detrital material, no portion
26 of the underlying natural mineral substrate or rocky substrate
27 is removed.

28 5. Removed organic detrital material and removed plant
29 material is deposited in an upland site in a manner that will
30 not cause water quality violations.

31

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

4 7. Replanting with a variety of aquatic plants native
5 to the state shall occur in a minimum of 25 percent of the
6 preexisting vegetated areas, where organic detrital material
7 is removed, except for areas where the material is removed to
8 bare rocky substrate; however, an area may be maintained clear
9 of vegetation as an access corridor. The access corridor width
10 may not exceed 50 percent of the property owner's frontage or
11 50 feet, whichever is less, and may be a sufficient length
12 waterward to create a corridor to allow access for a boat or
13 swimmer to reach open water. Replanting must be at a minimum
14 density of 2 feet on center and be completed within 90 days
15 after removal of existing aquatic vegetation, except that
16 under dewatered conditions replanting must be completed within
17 90 days after reflooding. The area to be replanted must extend
18 waterward from the ordinary high water line to a point where
19 normal water depth would be 3 feet or the preexisting
20 vegetation line, whichever is less. Individuals are required
21 to make a reasonable effort to maintain planting density for a
22 period of 6 months after replanting is complete and the
23 plants, including naturally recruited native aquatic plants,
24 must be allowed to expand and fill in the revegetation area.
25 Native aquatic plants to be used for revegetation must be
26 salvaged from the enhancement project site or obtained from an
27 aquatic plant nursery regulated by the Department of
28 Agriculture and Consumer Services. Plants that are not native
29 to the state may not be used for replanting.

30 8. No activity may occur any farther waterward of the
31 ordinary high water line than 100 feet and all activities must

1 be designed and conducted in a manner that will not
2 unreasonably restrict or infringe upon the riparian rights of
3 adjacent upland riparian owners.

4 9. The person seeking the exemption notifies the
5 applicable department district office in writing at least 30
6 days before commencing work and allows the department to
7 conduct a preconstruction site inspection. Notice must
8 include a removal and disposal plan for organic detrital
9 material and, if applicable, a plan for vegetation removal and
10 revegetation.

11 10. The department is provided written certification
12 of compliance with the terms and conditions of this paragraph
13 within 30 days after completion of any activity occurring
14 under this exemption.

15 (t) Floating vessel platforms or floating boat lifts,
16 if such structures:

17 1. Float at all times in the water for the sole
18 purpose of supporting a vessel so that the vessel is out of
19 the water when not in use;

20 2. Are wholly contained within a boat slip previously
21 permitted under ss. 403.91-403.929, 1984 Supplement to the
22 Florida Statutes 1983, as amended, or part IV of chapter 373,
23 or, when associated with a dock that is exempt under this
24 subsection or a permitted dock with no defined boat slip, do
25 not exceed a combined total of 500 square feet, or 200 square
26 feet in an Outstanding Florida Water;

27 3. Are not used for any commercial purpose or for
28 mooring vessels that remain in the water when not in use, and
29 do not substantially impede the flow of water, create a
30 navigational hazard, or unreasonably infringe upon the
31

1 riparian rights of adjacent property owners, as defined in s.
2 253.141;

3 4. Are constructed and used so as to minimize adverse
4 impacts to submerged lands, wetlands, shellfish areas, aquatic
5 plant and animal species, and other biological communities,
6 including locating such structures in areas where no
7 seagrasses exist if such areas are present adjacent to the
8 dock; and

9 5. Are not constructed in areas specifically
10 prohibited for boat mooring under conditions of a permit
11 issued in accordance with ss. 403.91-403.929, 1984 Supplement
12 to the Florida Statutes 1983, as amended, or part IV of
13 chapter 373, or other form of authorization issued by a local
14 government.

15
16 Structures exempt under this paragraph are also exempt from
17 any requirement to obtain permission to use or occupy lands
18 owned by the Board of Trustees of the Internal Improvement
19 Trust Fund and shall not be subject to regulation by any local
20 government that is more stringent than the regulation provided
21 under this part. The exemption provided by this paragraph is
22 in addition to the exemption provided in paragraph (b). By
23 January 1, 2003, the department shall adopt a rule creating a
24 general permit for those floating vessel platforms that do not
25 qualify for the exemptions provided in this paragraph but do
26 not cause significant adverse impacts to occur individually or
27 cumulatively. The issuance of a general permit shall also
28 constitute permission to use or occupy lands owned by the
29 Board of Trustees of the Internal Improvement Trust Fund.
30 Upon the adoption of the rule creating the general permit, a
31 local government may not impose a regulation on floating

1 vessel platforms covered by the general permit that is more
2 stringent than the regulation provided under such permit.
3 Section 2. The Department of Environmental Protection
4 and the Fish and Wildlife Conservation Commission shall
5 jointly prepare a report evaluating the effects of
6 implementing the exemption provisions s. 403.813(2)(s),
7 Florida Statutes, as created by this act, on the overall water
8 quality and aquatic and fishery habitat of waterbodies where
9 the statutory exemptions have been utilized. The report shall
10 also make recommendations for improving the implementation of
11 these provisions. The report shall be submitted to the
12 Governor and the Legislature by November 1, 2004.

13 Section 3. This act shall take effect July 1, 2002.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31