

By the Committee on Natural Resources; and Senator Brown-Waite

312-1224-02

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 an exemption from permitting requirements for
8 specified types of floating vessel platforms or
9 floating boat lifts; providing that such
10 structures are also exempt from certain
11 requirements relating to use or occupancy of
12 lands owned by the Board of Trustees of the
13 Internal Improvement Trust Fund; requiring the
14 Department of Environmental Protection to adopt
15 a rule creating a general permit for certain
16 floating vessel platforms by a specified date;
17 limiting local government regulation of
18 floating vessel platforms and floating boat
19 lifts; providing requirements for a report to
20 the Governor and the Legislature; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:
24

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

27 403.813 Permits issued at district centers;
28 exceptions.--

29 (2) A ~~No~~ permit is not required under this chapter,
30 chapter 373, chapter 61-691, Laws of Florida, or chapter 25214
31 or chapter 25270, 1949, Laws of Florida, ~~shall be required~~ for

1 activities associated with the following types of projects;
2 however, except as otherwise provided in this subsection,
3 nothing in this subsection relieves an applicant from any
4 requirement to obtain permission to use or occupy lands owned
5 by the Board of Trustees of the Internal Improvement Trust
6 Fund or any water management district in its governmental or
7 proprietary capacity or from complying with applicable local
8 pollution control programs authorized under this chapter or
9 other requirements of county and municipal governments:
10 (a) The installation of overhead transmission lines,
11 with support structures which are not constructed in waters of
12 the state and which do not create a navigational hazard.
13 (b) The installation and repair of mooring pilings and
14 dolphins associated with private docking facilities or piers
15 and the installation of private docks, piers and recreational
16 docking facilities, or piers and recreational docking
17 facilities of local governmental entities when the local
18 governmental entity's activities will not take place in any
19 manatee habitat, any of which docks:
20 1. Has 500 square feet or less of over-water surface
21 area for a dock which is located in an area designated as
22 Outstanding Florida Waters or 1,000 square feet or less of
23 over-water surface area for a dock which is located in an area
24 which is not designated as Outstanding Florida Waters;
25 2. Is constructed on or held in place by pilings or is
26 a floating dock which is constructed so as not to involve
27 filling or dredging other than that necessary to install the
28 pilings;
29 3. Shall not substantially impede the flow of water or
30 create a navigational hazard;
31

1 4. Is used for recreational, noncommercial activities
2 associated with the mooring or storage of boats and boat
3 paraphernalia; and

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

9
10 Nothing in this paragraph shall prohibit the department from
11 taking appropriate enforcement action pursuant to this chapter
12 to abate or prohibit any activity otherwise exempt from
13 permitting pursuant to this paragraph if the department can
14 demonstrate that the exempted activity has caused water
15 pollution in violation of this chapter.

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

28 (d) The replacement or repair of existing docks and
29 piers, except that no fill material is to be used and provided
30 that the replacement or repaired dock or pier is in the same
31

1 location and of the same configuration and dimensions as the
2 dock or pier being replaced or repaired.

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

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

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

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

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

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

1 (j) The construction and maintenance of swales.

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

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

14 (m) The installation of subaqueous transmission and
15 distribution lines laid on, or embedded in, the bottoms of
16 waters in the state, except in Class I and Class II waters and
17 aquatic preserves, provided no dredging or filling is
18 necessary.

19 (n) The replacement or repair of subaqueous
20 transmission and distribution lines laid on, or embedded in,
21 the bottoms of waters of the state.

22 (o) The construction of private seawalls in wetlands
23 or other surface waters where such construction is between and
24 adjoins at both ends existing seawalls; follows a continuous
25 and uniform seawall construction line with the existing
26 seawalls; is no more than 150 feet in length; and does not
27 violate existing water quality standards, impede navigation,
28 or affect flood control. However, in estuaries and lagoons the
29 construction of vertical seawalls is limited to the
30 circumstances and purposes stated in s. 373.414(5)(b)1.-4.
31 This paragraph does not affect the permitting requirements of

1 chapter 161, and department rules must clearly indicate that
2 this exception does not constitute an exception from the
3 permitting requirements of chapter 161.

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

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

21 1. Comply with all regulations or ordinances
22 applicable to stormwater management and adopted by a city or
23 county;

24 2. Are not part of a larger common plan of development
25 or sale; and

26 3. Discharge into a stormwater discharge facility
27 exempted or permitted by the department under this chapter
28 which has sufficient capacity and treatment capability as
29 specified in this chapter and is owned, maintained, or
30 operated by a city, county, special district with drainage
31 responsibility, or water management district; however, this

1 exemption does not authorize discharge to a facility without
2 the facility owner's prior written consent.

3 (r) The removal of aquatic plants, the removal of
4 tussocks, the associated replanting of indigenous aquatic
5 plants, and ~~or~~ the associated removal from lakes of organic
6 detrital material when such planting or removal is performed
7 and authorized by permit or exemption granted under s. 369.20
8 or s. 369.25, provided that if:

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

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

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

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

30
31

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

3 (s) Notwithstanding any provision to the contrary in
4 this subsection, a permit or other authorization under chapter
5 253, chapter 369, chapter 373, or chapter 403 is not required
6 for an individual residential property owner for the removal
7 of organic detrital material from freshwater rivers or lakes
8 that have a natural sand or rocky substrate and that are not
9 Aquatic Preserves or for the associated removal and replanting
10 of aquatic vegetation for the purpose of environmental
11 enhancement, providing that:

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

16 2. No filling or peat mining is allowed.

17 3. No removal of native wetland trees, including, but
18 not limited to, ash, bay, cypress, gum, maple, or tupelo,
19 occurs.

20 4. When removing organic detrital material, no portion
21 of the underlying natural mineral substrate or rocky substrate
22 is removed.

23 5. Organic detrital material and plant material
24 removed is deposited in an upland site in a manner that will
25 not cause water-quality violations.

26 6. All activities are conducted in such a manner, and
27 with appropriate turbidity controls, so as to prevent any
28 water-quality violations outside the immediate work area.

29 7. Replanting with a variety of aquatic plants native
30 to the state shall occur in a minimum of 25 percent of the
31 preexisting vegetated areas where organic detrital material is

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

24 8. No activity occurs any farther than 100 feet
25 waterward of the ordinary high water line, and all activities
26 must be designed and conducted in a manner that will not
27 unreasonably restrict or infringe upon the riparian rights of
28 adjacent upland riparian owners.

29 9. The person seeking this exemption notifies the
30 applicable department district office in writing at least 30
31 days before commencing work and allows the department to

1 conduct a preconstruction site inspection. Notice must
2 include an organic-detrital-material removal and disposal plan
3 and, if applicable, a vegetation-removal and revegetation
4 plan.

5 10. The department is provided written certification
6 of compliance with the terms and conditions of this paragraph
7 within 30 days after completion of any activity occurring
8 under this exemption.

9 (t) Floating vessel platforms or floating boat lifts
10 if such structures:

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

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

21 3. Are not used for any commercial purpose or for
22 mooring vessels that remain in the water when not in use and
23 do not substantially impede the flow of water, create a
24 navigational hazard, or unreasonably infringe upon the
25 riparian rights of adjacent property owners, as defined in s.
26 253.141;

27 4. Are constructed and used so as to minimize adverse
28 impacts to submerged lands, wetlands, shellfish areas, aquatic
29 plant and animal species, and other biological communities,
30 including locating such structures in areas where no

31

1 seagrasses exist if such areas are present adjacent to the
2 dock; and

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

9
10 Structures exempt under this paragraph are also exempt from
11 any requirement to obtain permission to use or occupy lands
12 owned by the Board of Trustees of the Internal Improvement
13 Trust Fund and shall not be subject to regulation by any local
14 government which is more stringent than the regulation
15 provided under this part. The exemption provided by this
16 paragraph is in addition to the exemption provided in
17 paragraph (b). By January 1, 2003, the department shall adopt
18 a rule creating a general permit for those floating vessel
19 platforms that do not qualify for the exemptions provided in
20 this paragraph but do not cause significant adverse impacts to
21 occur individually or cumulatively. The issuance of a general
22 permit shall also constitute permission to use or occupy lands
23 owned by the Board of Trustees of the Internal Improvement
24 Trust Fund. Upon the adoption of the rule creating the
25 general permit, a local government may not impose a regulation
26 on floating vessel platforms covered by the general permit
27 which is more stringent than the regulation provided under
28 such permit.

29 Section 2. The Department of Environmental Protection
30 and the Fish and Wildlife Conservation Commission shall
31 jointly prepare a report evaluating the effects of

1 implementing the exemption provisions of section
2 403.813(2)(s), Florida Statutes, on the overall water quality
3 and aquatic and fishery habitat of waterbodies where the
4 statutory exemptions have been used. The report must be
5 submitted to the Governor and the Legislature by November 1,
6 2004. The report shall also make recommendations for improving
7 the implementation of these provisions.

8 Section 3. This act shall take effect July 1, 2002.

9
10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 508

13 The committee substitute clarifies that the permit exemption
14 only applies to residential property owners and not to
15 developers or others who may own vast stretches of lakefront
16 or river front property. The committee substitute also
17 clarifies that any muck removal activities must be designed
18 and conducted in a manner that will not unreasonably restrict
19 or infringe upon the riparian rights of adjacent upland
20 riparian owners.

21 The committee substitute also provides an exemption from
22 permitting requirements for certain types of floating vessel
23 platforms or floating boat lifts and provides that such
24 structures are also exempt from certain requirements relating
25 to use or occupancy of lands owned by the Board of Trustees of
26 the Internal Improvement Trust Fund. The Department of
27 Environmental Protection must adopt certain rules relating to
28 floating vessel platforms and floating boat lifts.

29 The Department of Environmental Protection and the Fish and
30 Wildlife Conservation Commission are required to jointly
31 prepare a report evaluating the effects of implementing the
muck removal exemption on overall water quality and aquatic
and fishery habitat of waterbodies where the exemptions have
been utilized. The report is to be submitted to the Governor
and the Legislature by November 1, 2004.