

Bill No. CS for SB 338

Amendment No. ____ Barcode 661560

CHAMBER ACTION

Senate

House

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Senator Constantine moved the following amendment:

Senate Amendment (with title amendment)

On page 1, line 20,

insert:

Section 1. Subsection (3) of section 376.79, Florida Statutes, is amended to read:

376.79 Definitions relating to Brownfields Redevelopment Act.--As used in ss. 376.77-376.85, the term:

(3) "Brownfield sites" means real property, the expansion, redevelopment, or reuse of which may be ~~sites that are generally abandoned, idled, or underused industrial and commercial properties where expansion or redevelopment is~~ complicated by actual or perceived environmental contamination.

Section 2. Paragraph (b) of subsection (2), paragraph (c) of subsection (5), paragraph (b) of subsection (6) and subsection (7) of section 376.80, Florida Statutes, are amended to read:

376.80 Brownfield program administration process.--

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(2)

(b) A local government shall designate a brownfield area under the provisions of this act provided that:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site;

2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 10 new permanent jobs at the brownfield site, whether full-time or part-time, which are not associated with the implementation of the brownfield site rehabilitation agreement and are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment agreement required under paragraph (5)(i) or an agreement, between the person responsible for site rehabilitation and the local government with jurisdiction, which contains terms for the redevelopment of the brownfield site or brownfield area;

3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations;

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be made in a newspaper of general circulation in the area, at least 16 square inches in size, and the notice must be posted in the affected area; and

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1 5. The person proposing the area for designation has
2 provided reasonable assurance that he or she has sufficient
3 financial resources to implement and complete the
4 rehabilitation agreement and redevelopment plan.

5 (5) The person responsible for brownfield site
6 rehabilitation must enter into a brownfield site
7 rehabilitation agreement with the department or an approved
8 local pollution control program if actual contamination exists
9 at the brownfield site. The brownfield site rehabilitation
10 agreement must include:

11 (c) A commitment to conduct site rehabilitation in
12 accordance with department quality assurance rules ~~an approved~~
13 ~~comprehensive quality assurance plan under department rules;~~

14 (6) Any contractor performing site rehabilitation
15 program tasks must demonstrate to the department that the
16 contractor:

17 (b) Has obtained the necessary approvals for
18 conducting sample collection and analyses pursuant to approval
19 ~~for the comprehensive quality assurance plan prepared under~~
20 department rules.

21 (7) The contractor who is performing the majority of
22 the site rehabilitation program tasks pursuant to a brownfield
23 site rehabilitation agreement or supervising the performance
24 of such tasks by licensed subcontractors in accordance with
25 the provisions of s. 489.113(9) must certify to the department
26 that the contractor:

27 (a) Complies with applicable OSHA regulations.

28 (b) Maintains workers' compensation insurance for all
29 employees as required by the Florida Workers' Compensation
30 Law.

31 (c) Maintains comprehensive general liability coverage

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1 with limits of not less than \$1 million per occurrence and \$2
2 million general aggregate for bodily injury and property
3 damage and comprehensive automobile liability coverage
4 ~~insurance~~ with ~~minimum~~ limits of not less than \$2 at least \$1
5 million combined single limit. The contractor shall also
6 maintain pollution liability coverage with limits of not less
7 than \$3 million aggregate for personal injury or death, \$1
8 million per occurrence for personal injury or death, and \$1
9 million per occurrence for property damage. The contractor's
10 certificate of insurance shall name per claim and \$1 million
11 ~~annual aggregate, sufficient to protect it from claims for~~
12 ~~damage for personal injury, including accidental death, as~~
13 ~~well as claims for property damage which may arise from~~
14 ~~performance of work under the program, designating the state~~
15 ~~as an additional insured party.~~

16 (d) Maintains professional liability insurance of at
17 least \$1 million per claim ~~occurrence~~ and \$1 million annual
18 aggregate.

19 ~~(e) Has the capacity to perform or directly supervise~~
20 ~~the majority of the work at a site in accordance with s.~~
21 ~~489.113(9).~~

22 Section 3. Subsection (1) of section 376.82, Florida
23 Statutes, is amended, and paragraph (1) is added to subsection
24 (2) of said section, to read:

25 376.82 Eligibility criteria and liability
26 protection.--

27 (1) ELIGIBILITY.--Any person who has not caused or
28 contributed to the contamination of a brownfield site on or
29 after July 1, 1997, is eligible to participate in the
30 brownfield ~~rehabilitation~~ program established in ss.

31 376.77-376.85, subject to the following:

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1 (a) Potential brownfield sites that are subject to an
2 ongoing formal judicial or administrative enforcement action
3 or corrective action pursuant to federal authority, including,
4 but not limited to, the Comprehensive Environmental Response
5 Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as
6 amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i,
7 as amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as
8 amended; or under an order from the United States
9 Environmental Protection Agency pursuant to s. 3008(h) of the
10 Resource Conservation and Recovery Act, as amended (42
11 U.S.C.A. s. 6928(h)); or that have obtained or are required to
12 obtain a permit for the operation of a hazardous waste
13 treatment, storage, or disposal facility; a postclosure
14 permit; or a permit pursuant to the federal Hazardous and
15 Solid Waste Amendments of 1984, are not eligible for
16 participation unless specific exemptions are secured by a
17 memorandum of agreement with the United States Environmental
18 Protection Agency pursuant to paragraph (2)(g). A brownfield
19 site within an eligible brownfield area that subsequently
20 becomes subject to formal judicial or administrative
21 enforcement action or corrective action under such federal
22 authority shall have its eligibility revoked unless specific
23 exemptions are secured by a memorandum of agreement with the
24 United States Environmental Protection Agency pursuant to
25 paragraph (2)(g).

26 (b) Persons who have not caused or contributed to the
27 contamination of a brownfield site on or after July 1, 1997,
28 and who, prior to the department's approval of a brownfield
29 site rehabilitation agreement, are subject to ongoing
30 corrective action or enforcement under state authority
31 established in this chapter or chapter 403, including those

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1 persons subject to a pending consent order with the state, are
2 eligible for participation in a brownfield site rehabilitation
3 agreement ~~corrective action~~ if:

4 1. The proposed brownfield site is currently idle or
5 underutilized as a result of the contamination, and
6 participation in the brownfield program will immediately,
7 after cleanup or sooner, result in increased economic
8 productivity at the site, including at a minimum the creation
9 of 10 new permanent jobs, whether full-time or part-time,
10 which are not associated with implementation of the brownfield
11 site rehabilitation agreement ~~corrective action plan~~; and

12 2. The person is complying in good faith with the
13 terms of an existing consent order or department-approved
14 corrective action plan, or responding in good faith to an
15 enforcement action, as evidenced by a determination issued by
16 the department or an approved local pollution control program.

17 (c) Potential brownfield sites owned by the state or a
18 local government which contain contamination for which a
19 governmental entity is potentially responsible and which are
20 already designated as federal brownfield pilot projects or
21 have filed an application for designation to the United States
22 Environmental Protection Agency are eligible for participation
23 in a brownfield site rehabilitation agreement ~~corrective~~
24 ~~action~~.

25 (d) After July 1, 1997, petroleum and drycleaning
26 contamination sites shall not receive both restoration funding
27 assistance available for the discharge under this chapter and
28 any state assistance available under s. 288.107. Nothing in
29 this act shall affect the cleanup criteria, priority ranking,
30 and other rights and obligations inherent in petroleum
31 contamination and drycleaning contamination site

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1 rehabilitation under ss. 376.30-376.319, or the availability
2 of economic incentives otherwise provided for by law.

3 (2) LIABILITY PROTECTION.--

4 (1) When a property, including a brownfield site,
5 escheats to a county, the county is not subject to any
6 liability imposed by this chapter or chapter 403 for
7 preexisting soil or groundwater contamination due solely to
8 its ownership. However, this paragraph does not affect the
9 rights or liabilities of any past or future owners of the
10 escheated property and does not affect the liability of any
11 governmental entity for the results of its actions that create
12 or exacerbate a pollution source. The county and the
13 Department of Environmental Protection may enter into a
14 written agreement for the performance, funding, and
15 reimbursement of the investigative and remedial acts necessary
16 for a property that escheats to the county.

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19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 On page 1, line 3, delete that line

22

23 and insert:

24 amending s. 376.79, F.S.; revising the
25 definition of "brownfield sites"; amending s.
26 376.80, F.S.; revising a condition under which
27 a local government is required to designate a
28 brownfield area; revising a required component
29 of a brownfield site rehabilitation agreement;
30 revising a requirement of a contractor
31 performing site rehabilitation program tasks;

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1 revising contractor requirements that must be
2 certified to the Department of Environmental
3 Protection; revising and providing additional
4 insurance requirements; amending s. 376.82,
5 F.S.; revising terminology with respect to
6 eligibility to participate in the brownfield
7 rehabilitation program; authorizing a county
8 and the Department of Environmental Protection
9 to enter into a written agreement for the
10 performance, funding, and reimbursement of
11 investigative and remedial acts necessary for a
12 property that escheats to the county; amending
13 s. 376.86, F.S.; revising certain

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