

Bill No. SB 1182

Barcode 191958

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation (Argenziano) recommended the following **substitute for amendment** (932892):

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 403.0874, Florida Statutes, is created to read:

403.0874 Incentive-based Permitting Program.--

(1) SHORT TITLE.--This section may be cited as the "Florida Incentive-based Permitting Act."

(2) LEGISLATIVE FINDINGS; PUBLIC PURPOSE.--

(a) The Legislature finds and declares that a permit applicant's history of compliance with applicable conditions and requirements of a permit and the environmental laws of this state is a factor that should be considered by the department when the department is considering whether to issue or reissue a permit to an applicant, based upon compliance incentives under this section.

(b) Permit applicants having a history of compliance

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1 with applicable conditions and requirements of a permit and
2 the environmental laws of this state should be eligible for
3 longer permits, expedited permit reviews, short-form permit
4 renewals, and other incentives to reward and encourage such
5 applicants.

6 (c) The agency is encouraged to work with permittees
7 and permit applicants to encourage compliance and avoid
8 burdensome and expensive consequences of noncompliance.

9 (d) It is therefore declared to be the purpose of this
10 section to provide the department with clear and specific
11 authority to consider the compliance history of a permit
12 applicant who has applied for an incentive-based permit.

13 (3) DEFINITIONS.--As used in this section, the term:

14 (a) "Agency" means the Department of Environmental
15 Protection.

16 (b) "Applicant" means the proposed permittee or
17 transferee, owner, or operator of a regulated activity seeking
18 an agency permit.

19 (c) "Environmental laws" means any state or federal
20 law that regulates activities for the purpose of protecting
21 the environment, or for the purpose of protecting the public
22 health from pollution or contaminants, but does not include
23 any law that regulates activities for the purpose of zoning,
24 growth management, or land use. The term includes, but is not
25 limited to, chapter 161, part IV of chapter 373, and this
26 chapter.

27 (d) "Regulated activity" means any activity,
28 including, but not limited to, the construction or operation
29 of a facility, installation, system, or project, for which a
30 permit or certification is required under an agency law.

31 (e) "Site" means a single parcel, or multiple

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1 contiguous or adjacent parcels, of land on which the applicant
2 proposes to conduct, or has conducted, a regulated activity.

3 (4) COMPLIANCE INCENTIVES.--In order to obtain
4 compliance incentives, the applicant may affirmatively request
5 such incentives as part of the permit application. Unless
6 otherwise prohibited by state or federal law, agency rule, or
7 federal regulation, and if the applicant meets all other
8 applicable criteria for the issuance of a permit, any
9 applicant who meets the criteria set forth in this subsection
10 is entitled to the following incentives:

11 (a) Level I.--

12 1. An applicant may be entitled to incentives pursuant
13 to this paragraph at a site if the applicant conducted the
14 regulated activity for at least 4 of the 5 years preceding
15 submittal of the permit application or, if the activity is a
16 new regulated activity, the applicant conducted a similar
17 regulated activity under an agency permit for at least 4 of
18 the 5 years at a different site in this state preceding
19 submittal of the permit application. However, an applicant is
20 not entitled to incentives under this paragraph if the
21 applicant has a relevant compliance history at the subject
22 site which includes any violation that resulted in enforcement
23 action and the violation resulted in the potential for harm to
24 human health or the environment. Alleged violations may not be
25 considered unless a consent order or other settlement has been
26 entered into or the violation has been adjudicated.

27 2. Level 1 incentives include the renewal of a permit
28 for 5 years and, after notice and an opportunity for public
29 comment, the automatic renewal for one additional 5-year term
30 without agency action unless the agency determines, based on
31 information submitted by the applicant or resulting from

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1 public comments or its own records, that the applicant has
2 committed violations during the relevant review period which
3 disqualify the applicant from receiving the automatic or
4 expedited renewal.

5 a. The processing time following receipt of a
6 completed application may be 45 days for the issuance of
7 agency action.

8 b. Renewal of a permit not involving substantial
9 construction or expansion may be made upon a shortened
10 application form specifying only the changes in the regulated
11 activity or a certification by the applicant that no changes
12 in the regulated activity are proposed if that is the case. An
13 applicant for short-form renewal shall complete and submit the
14 prescribed compliance form with the application and remains
15 subject to the compliance-history review of this section. All
16 other procedural requirements for a renewal application remain
17 unchanged. This sub-subparagraph supplements any expedited
18 review process provided in agency rules.

19 c. Within 6 months after the effective date of this
20 section, the department may initiate rulemaking to implement
21 Level 1 incentives. The rule may specify what incentives will
22 be made available, how applicants may qualify for incentives,
23 and how extended permits may be transferred. Until an
24 implementing rule is adopted, Level 1 incentives are not
25 available to permit applicants under this section.

26 (b) Level 2.--

27 1. An applicant is entitled to incentives pursuant to
28 this paragraph if the applicant meets the requirements for
29 Level 1 and the applicant takes any other actions not
30 otherwise required by law which result in:

31 a. Reductions in actual or permitted discharges or

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1 emissions;

2 b. Reductions in the affects of regulated activities
3 on public lands or natural resources;

4 c. Waste reduction or reuse;

5 d. Implementation of a voluntary environmental
6 management system; or

7 e. Other similar actions as determined by department
8 rule.

9 2. Level 2 incentives may include all Level 1
10 incentives and may also include:

11 a. Ten-year permits, if the applicant has conducted a
12 regulated activity at the site for at least 5 years.

13 b. Fewer routine inspections than other regulated
14 activities similarly situated.

15 c. Expedited review of requests for permit
16 modifications.

17 d. Agency recognition, program-specific incentives, or
18 certifications in lieu of renewal permits.

19 e. No more than two requests for additional
20 information.

21 3. Within 6 months after the effective date of this
22 section, the department may initiate rulemaking to implement
23 Level 2 incentives. The rule may specify what incentives will
24 be made available, how applicants may qualify for incentives,
25 and how extended permits may be transferred. Until an
26 implementing rule is adopted, Level 2 incentives are not
27 available to permit applicants under this section.

28 Section 2. Subsection (5) is added to section 161.041,
29 Florida Statutes, to read:

30 161.041 Permits required.--

31 (5) The provisions of the Incentive-based Permitting

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1 Program of s. 403.0874 apply to all permits issued under this
2 chapter.

3 Section 3. Subsection (6) is added to section 373.413,
4 Florida Statutes, to read:

5 373.413 Permits for construction or alteration.--

6 (6) The provisions of the Incentive-based Permitting
7 Program of s. 403.0874 apply to permits issued under this
8 section.

9 Section 4. Subsection (7) of section 403.087, Florida
10 Statutes, is amended to read:

11 403.087 Permits; general issuance; denial; revocation;
12 prohibition; penalty.--

13 (7) A permit issued pursuant to this section shall not
14 become a vested right in the permittee. The department may
15 revoke any permit issued by it if it finds that the
16 permitholder knowingly:

17 (a) Has submitted false or inaccurate information in
18 the his or her application for the permit when true or
19 accurate information would have warranted denial of the
20 permit;

21 (b) Has violated law, department orders, rules, or
22 regulations, or ~~permit~~ conditions directly related to the
23 permit and has refused to correct or cure such violations when
24 requested to do so;

25 (c) Has failed to submit operational reports or other
26 information required by department rule or regulation directly
27 related to the permit and has refused to correct or cure such
28 violations when requested to do so; or

29 (d) Has refused lawful inspection under s. 403.091 at
30 the facility authorized by the permit.

31 Section 5. This act shall take effect upon becoming a

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1 law.

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

5 And the title is amended as follows:

6 Delete everything before the enacting clause

7

8 and insert:

9

A bill to be entitled

10 An act relating to incentive-based permitting;

11 creating s. 403.0874, F.S.; providing a short

12 title; providing legislative findings;

13 providing purposes; providing definitions;

14 providing for an Incentive-based Permitting

15 Program; providing compliance incentives for

16 certain environmental permitting activities;

17 providing requirements and limitations;

18 providing for administration by the Department

19 of Environmental Protection; requiring the

20 department to adopt certain rules; requiring

21 agency notification of formal enforcement

22 actions; providing notice requirements;

23 amending ss. 161.041 and 373.413, F.S.;

24 specifying application of the provisions of the

25 Incentive-based Permitting Program; amending s.

26 403.087, F.S.; revising criteria for permits

27 issued by the department, to conform; providing

28 an effective date.

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