

By the Committees on General Government Appropriations;
Environmental Preservation; and Senator Haridopolos

601-1896-05

1 A bill to be entitled
2 An act relating to underground petroleum
3 storage tanks; amending s. 376.3071, F.S.;
4 directing the Department of Environmental
5 Protection to encumber petroleum remediation
6 funds uniformly throughout the state's fiscal
7 year; providing for a prioritization within a
8 priority scoring range; providing that limited
9 source removal projects approved outside the
10 established priority order may be funded from
11 the Inland Protection Trust Fund; providing a
12 priority order for these projects; limiting the
13 use of the funds to certain specified purposes;
14 limiting the amount of money allocated to such
15 projects each fiscal year; providing for the
16 repeal of the law on a specified date; amending
17 s. 376.30713, F.S.; providing that the
18 preapproved advanced cleanup provisions may
19 apply to certain discharges under the petroleum
20 cleanup participation program; amending s.
21 376.3075, F.S.; authorizing the Inland
22 Protection Financing Corporation to borrow
23 money and issue bonds to pay for large-scale
24 cleanups that are eligible for state funding;
25 requiring submission of a plan by the Inland
26 Protection Financing Corporation prior to the
27 issuance of certain debt; requiring the
28 department to obtain legislative authorization
29 for certain debt-financed cleanup projects and
30 payments; extending the termination date of the
31 corporation; creating s. 376.30715, F.S.;

1 providing that certain contaminated sites
2 acquired prior to July 1, 1990, are eligible
3 for state financial cleanup assistance;
4 providing an effective date.
5

6 WHEREAS, all of Florida's underground petroleum storage
7 tank systems must be upgraded prior to January 1, 2010, and

8 WHEREAS, it is in the state's best interest to
9 encourage early replacement of such systems, and

10 WHEREAS, it is in the state's best interest to provide
11 financial assistance for limited source removal at the time of
12 the system's replacement, and

13 WHEREAS, it is in the state's best interest to provide
14 for a method of payment for large-scale cleanups in the future
15 so as to minimize the impact on other cleanups that are
16 underway, NOW, THEREFORE,

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

19
20 Section 1. Subsections (4) and (5) of section
21 376.3071, Florida Statutes, are amended, and subsection (14)
22 is added to that section, to read:

23 376.3071 Inland Protection Trust Fund; creation;
24 purposes; funding.--

25 (4) USES.--Whenever, in its determination, incidents
26 of inland contamination related to the storage of petroleum or
27 petroleum products may pose a threat to the environment or the
28 public health, safety, or welfare, the department shall
29 obligate moneys available in the fund to provide for:

30 (a) Prompt investigation and assessment of
31 contamination sites.

1 (b) Expeditious restoration or replacement of potable
2 water supplies as provided in s. 376.30(3)(c)1.

3 (c) Rehabilitation of contamination sites, which shall
4 consist of cleanup of affected soil, groundwater, and inland
5 surface waters, using the most cost-effective alternative that
6 is technologically feasible and reliable and that provides
7 adequate protection of the public health, safety, and welfare
8 and minimizes environmental damage, in accordance with the
9 site selection and cleanup criteria established by the
10 department under subsection (5), except that nothing herein
11 shall be construed to authorize the department to obligate
12 funds for payment of costs which may be associated with, but
13 are not integral to, site rehabilitation, such as the cost for
14 retrofitting or replacing petroleum storage systems.

15 (d) Maintenance and monitoring of contamination sites.

16 (e) Inspection and supervision of activities described
17 in this subsection.

18 (f) Payment of expenses incurred by the department in
19 its efforts to obtain from responsible parties the payment or
20 recovery of reasonable costs resulting from the activities
21 described in this subsection.

22 (g) Payment of any other reasonable costs of
23 administration, including those administrative costs incurred
24 by the Department of Health in providing field and laboratory
25 services, toxicological risk assessment, and other assistance
26 to the department in the investigation of drinking water
27 contamination complaints and costs associated with public
28 information and education activities.

29 (h) Establishment and implementation of the compliance
30 verification program as authorized in s. 376.303(1)(a),
31 including contracting with local governments or state agencies

1 | to provide for the administration of such program through
2 | locally administered programs, to minimize the potential for
3 | further contamination sites.

4 | (i) Funding of the provisions of ss. 376.305(6) and
5 | 376.3072.

6 | (j) Activities related to removal and replacement of
7 | petroleum storage systems, exclusive of costs of any tank,
8 | piping, dispensing unit, or related hardware, if soil removal
9 | is preapproved as a component of site rehabilitation and
10 | requires removal of the tank where remediation is conducted
11 | under s. 376.30711 or if such activities were justified in an
12 | approved remedial action plan performed pursuant to subsection
13 | (12).

14 | (k) Activities related to reimbursement application
15 | preparation and activities related to reimbursement
16 | application examination by a certified public accountant
17 | pursuant to subsection (12).

18 | (l) Reasonable costs of restoring property as nearly
19 | as practicable to the conditions which existed prior to
20 | activities associated with contamination assessment or
21 | remedial action taken under s. 376.303(4).

22 | (m) Repayment of loans to the fund.

23 | (n) Expenditure of sums from the fund to cover
24 | ineligible sites or costs as set forth in subsection (13), if
25 | the department in its discretion deems it necessary to do so.
26 | In such cases, the department may seek recovery and
27 | reimbursement of costs in the same manner and in accordance
28 | with the same procedures as are established for recovery and
29 | reimbursement of sums otherwise owed to or expended from the
30 | fund.

31 |

1 (o) Payment of amounts payable under any service
2 contract entered into by the department pursuant to s.
3 376.3075, subject to annual appropriation by the Legislature.

4

(p) Petroleum remediation pursuant to s. 376.30711
5 throughout a state fiscal year. The department shall establish
6 a process to uniformly encumber appropriated funds throughout
7 a state fiscal year and shall allow for emergencies and
8 imminent threats to human health and the environment as
9 provided in paragraph (5)(a). This paragraph does not apply to
10 appropriations associated with the free product recovery
11 initiative of paragraph (5)(c) or the preapproved advanced
12 cleanup program of s. 376.30713.

13
14 The Inland Protection Trust Fund may only be used to fund the
15 activities in ss. 376.30-376.319 except ss. 376.3078 and
16 376.3079. Amounts on deposit in the Inland Protection Trust
17 Fund in each fiscal year shall first be applied or allocated
18 for the payment of amounts payable by the department pursuant
19 to paragraph (o) under a service contract entered into by the
20 department pursuant to s. 376.3075 and appropriated in each
21 year by the Legislature prior to making or providing for other
22 disbursements from the fund. Nothing in this subsection shall
23 authorize the use of the Inland Protection Trust Fund for
24 cleanup of contamination caused primarily by a discharge of
25 solvents as defined in s. 206.9925(6), or polychlorinated
26 biphenyls when their presence causes them to be hazardous
27 wastes, except solvent contamination which is the result of
28 chemical or physical breakdown of petroleum products and is
29 otherwise eligible. Facilities used primarily for the storage
30 of motor or diesel fuels as defined in ss. 206.01 and 206.86
31

1 shall be presumed not to be excluded from eligibility pursuant
2 to this section.

3 (5) SITE SELECTION AND CLEANUP CRITERIA.--

4 (a) The department shall adopt rules to establish
5 priorities based upon a scoring system for state-conducted
6 cleanup at petroleum contamination sites based upon factors
7 that include, but need not be limited to:

8 1. The degree to which human health, safety, or
9 welfare may be affected by exposure to the contamination;

10 2. The size of the population or area affected by the
11 contamination;

12 3. The present and future uses of the affected aquifer
13 or surface waters, with particular consideration as to the
14 probability that the contamination is substantially affecting,
15 or will migrate to and substantially affect, a known public or
16 private source of potable water; and

17 4. The effect of the contamination on the environment.
18

19 Moneys in the fund shall then be obligated for activities
20 described in paragraphs (4)(a)-(e) at individual sites in
21 accordance with such established criteria. However, nothing
22 in this paragraph shall be construed to restrict the
23 department from modifying the priority status of a
24 rehabilitation site where conditions warrant, taking into
25 consideration the actual distance between the contamination
26 site and groundwater or surface water receptors or other
27 factors that affect the risk of exposure to petroleum
28 products' chemicals of concern. The department may use the
29 effective date of a department final order granting
30 eligibility pursuant to subsections (9) and (13) and ss.
31

1 376.305(6) and 376.3072 to establish a prioritization system
2 within a particular priority scoring range.

3 (b) It is the intent of the Legislature to protect the
4 health of all people under actual circumstances of exposure.
5 The secretary shall establish criteria by rule for the purpose
6 of determining, on a site-specific basis, the rehabilitation
7 program tasks that comprise a site rehabilitation program and
8 the level at which a rehabilitation program task and a site
9 rehabilitation program may be deemed completed. In
10 establishing the rule, the department shall incorporate, to
11 the maximum extent feasible, risk-based corrective action
12 principles to achieve protection of human health and safety
13 and the environment in a cost-effective manner as provided in
14 this subsection. Criteria for determining what constitutes a
15 rehabilitation program task or completion of site
16 rehabilitation program tasks and site rehabilitation programs
17 shall be based upon the factors set forth in paragraph (a) and
18 the following additional factors:

19 1. The current exposure and potential risk of exposure
20 to humans and the environment including multiple pathways of
21 exposure.

22 2. The appropriate point of compliance with cleanup
23 target levels for petroleum products' chemicals of concern.
24 The point of compliance shall be at the source of the
25 petroleum contamination. However, the department is
26 authorized to temporarily move the point of compliance to the
27 boundary of the property, or to the edge of the plume when the
28 plume is within the property boundary, while cleanup,
29 including cleanup through natural attenuation processes in
30 conjunction with appropriate monitoring, is proceeding. The
31 department also is authorized, pursuant to criteria provided

1 | for in this paragraph, to temporarily extend the point of
2 | compliance beyond the property boundary with appropriate
3 | monitoring, if such extension is needed to facilitate natural
4 | attenuation or to address the current conditions of the plume,
5 | provided human health, public safety, and the environment are
6 | adequately protected. Temporary extension of the point of
7 | compliance beyond the property boundary, as provided in this
8 | subparagraph, shall include notice to local governments and
9 | owners of any property into which the point of compliance is
10 | allowed to extend.

11 | 3. The appropriate site-specific cleanup goal. The
12 | site-specific cleanup goal shall be that all petroleum
13 | contamination sites ultimately achieve the applicable cleanup
14 | target levels provided in this paragraph. However, the
15 | department is authorized to allow concentrations of the
16 | petroleum products' chemicals of concern to temporarily exceed
17 | the applicable cleanup target levels while cleanup, including
18 | cleanup through natural attenuation processes in conjunction
19 | with appropriate monitoring, is proceeding, provided human
20 | health, public safety, and the environment are adequately
21 | protected.

22 | 4. The appropriateness of using institutional or
23 | engineering controls. Site rehabilitation programs may
24 | include the use of institutional or engineering controls to
25 | eliminate the potential exposure to petroleum products'
26 | chemicals of concern to humans or the environment. Use of
27 | such controls must be preapproved by the department and
28 | institutional controls shall not be acquired with funds from
29 | the Inland Protection Trust Fund. When institutional or
30 | engineering controls are implemented to control exposure, the
31 | removal of such controls must have prior department approval

1 and must be accompanied immediately by the resumption of
2 active cleanup, or other approved controls, unless cleanup
3 target levels pursuant to this paragraph have been achieved.

4 5. The additive effects of the petroleum products'
5 chemicals of concern. The synergistic effects of petroleum
6 products' chemicals of concern shall also be considered when
7 the scientific data becomes available.

8 6. Individual site characteristics which shall
9 include, but not be limited to, the current and projected use
10 of the affected groundwater in the vicinity of the site,
11 current and projected land uses of the area affected by the
12 contamination, the exposed population, the degree and extent
13 of contamination, the rate of contaminant migration, the
14 apparent or potential rate of contaminant degradation through
15 natural attenuation processes, the location of the plume, and
16 the potential for further migration in relation to site
17 property boundaries.

18 7. Applicable state water quality standards.

19 a. Cleanup target levels for petroleum products'
20 chemicals of concern found in groundwater shall be the
21 applicable state water quality standards. Where such standards
22 do not exist, the cleanup target levels for groundwater shall
23 be based on the minimum criteria specified in department rule.
24 The department shall consider the following, as appropriate,
25 in establishing the applicable minimum criteria: calculations
26 using a lifetime cancer risk level of 1.0E-6; a hazard index
27 of 1 or less; the best achievable detection limit; the
28 naturally occurring background concentration; or nuisance,
29 organoleptic, and aesthetic considerations.

30 b. Where surface waters are exposed to petroleum
31 contaminated groundwater, the cleanup target levels for the

1 | petroleum products' chemicals of concern shall be based on the
2 | surface water standards as established by department rule.
3 | The point of measuring compliance with the surface water
4 | standards shall be in the groundwater immediately adjacent to
5 | the surface water body.

6 | 8. Whether deviation from state water quality
7 | standards or from established criteria is appropriate. The
8 | department may issue a "No Further Action Order" based upon
9 | the degree to which the desired cleanup target level is
10 | achievable and can be reasonably and cost-effectively
11 | implemented within available technologies or engineering and
12 | institutional control strategies. Where a state water quality
13 | standard is applicable, a deviation may not result in the
14 | application of cleanup target levels more stringent than said
15 | standard. In determining whether it is appropriate to
16 | establish alternate cleanup target levels at a site, the
17 | department may consider the effectiveness of source removal
18 | that has been completed at the site and the practical
19 | likelihood of: the use of low yield or poor quality
20 | groundwater; the use of groundwater near marine surface water
21 | bodies; the current and projected use of the affected
22 | groundwater in the vicinity of the site; or the use of
23 | groundwater in the immediate vicinity of the storage tank
24 | area, where it has been demonstrated that the groundwater
25 | contamination is not migrating away from such localized
26 | source; provided human health, public safety, and the
27 | environment are adequately protected.

28 | 9. Appropriate cleanup target levels for soils.

29 | a. In establishing soil cleanup target levels for
30 | human exposure to petroleum products' chemicals of concern
31 | found in soils from the land surface to 2 feet below land

1 surface, the department shall consider the following, as
2 appropriate: calculations using a lifetime cancer risk level
3 of 1.0E-6; a hazard index of 1 or less; the best achievable
4 detection limit; or the naturally occurring background
5 concentration.

6 b. Leachability-based soil target levels shall be
7 based on protection of the groundwater cleanup target levels
8 or the alternate cleanup target levels for groundwater
9 established pursuant to this paragraph, as appropriate.

10 Source removal and other cost-effective alternatives that are
11 technologically feasible shall be considered in achieving the
12 leachability soil target levels established by the department.
13 The leachability goals shall not be applicable if the
14 department determines, based upon individual site
15 characteristics, that petroleum products' chemicals of concern
16 will not leach into the groundwater at levels which pose a
17 threat to human health and safety or the environment.

18
19 However, nothing in this paragraph shall be construed to
20 restrict the department from temporarily postponing completion
21 of any site rehabilitation program for which funds are being
22 expended whenever such postponement is deemed necessary in
23 order to make funds available for rehabilitation of a
24 contamination site with a higher priority status.

25 (c) The department shall require source removal, if
26 warranted and cost-effective, at each site eligible for
27 restoration funding from the Inland Protection Trust Fund.

28 1. Funding for free product recovery may be provided
29 in advance of the order established by the priority ranking
30 system under ~~pursuant to~~ paragraph (a) for site cleanup
31 activities. However, a separate prioritization for free

1 product recovery shall be established consistent with ~~the~~
2 ~~provisions of~~ paragraph (a). No more than \$5 million shall be
3 encumbered from the Inland Protection Trust Fund in any fiscal
4 year for free product recovery conducted in advance of the
5 priority order under ~~pursuant to~~ paragraph (a) established for
6 site cleanup activities.

7 2. Funding for limited interim soil-source removals
8 for sites that will become inaccessible for future remediation
9 due to road infrastructure and right-of-way restrictions
10 resulting from a pending Department of Transportation road
11 construction project or for secondary containment upgrading of
12 underground storage tanks required under Chapter 62-761,
13 Florida Administrative Code, may be provided in advance of the
14 order established by the priority ranking system under
15 paragraph (a) for site cleanup activities. The department
16 shall provide written guidance on the limited source removal
17 information and technical evaluation necessary to justify a
18 request for a limited source removal in advance of the
19 priority order pursuant to paragraph (a) established for site
20 cleanup activities. Prioritization for limited source removal
21 projects associated with a secondary containment upgrade in
22 any fiscal year shall be determined on a first-come,
23 first-served basis according to the approval date issued under
24 s. 376.30711 for the limited source removal. Funding for
25 limited source removals associated with secondary containment
26 upgrades shall be limited to 10 sites in each fiscal year for
27 each facility owner and any related person. The limited source
28 removal for secondary containment upgrades shall be completed
29 no later than 6 months after the department issues its
30 approval of the project and the approval automatically expires
31 at the end of the 6 months. Funding for Department of

1 Transportation and secondary containment upgrade source
2 removals may not exceed \$50,000 for a single facility unless
3 the department makes a determination that it is cost-effective
4 and environmentally beneficial to exceed this amount, but in
5 no event shall the department authorize costs in excess of
6 \$100,000 for a single facility. Department funding for limited
7 interim soil-source removals associated with Department of
8 Transportation projects and secondary containment upgrades
9 shall be limited to supplemental soil assessment, soil
10 screening, soil removal, backfill material, treatment or
11 disposal of the contaminated soil, dewatering related to the
12 contaminated soil removal in an amount of up to 10 percent of
13 the total interim soil-source removal project costs,
14 treatment, and disposal of the contaminated groundwater and
15 preparation of the source removal report. No other costs
16 associated with the facility upgrade may be paid with
17 department funds. No more than \$1 million for Department of
18 Transportation limited source removal projects and \$10 million
19 for secondary containment upgrade limited source removal
20 projects conducted in advance of the priority order
21 established under paragraph (a) for site cleanup activities
22 shall be encumbered from the Inland Protection Trust Fund in
23 any fiscal year. This subparagraph is repealed effective June
24 30, 2008.

25 3. Once free product removal and other source removal
26 identified in this paragraph are completed at a site, and
27 notwithstanding the order established by the priority ranking
28 system under paragraph (a) for site cleanup activities ~~is~~
29 complete, the department ~~may~~ ~~shall~~ reevaluate the site to
30 determine the degree of active cleanup needed to continue site
31 rehabilitation. Further, the department shall determine if

1 | the reevaluated site qualifies for natural attenuation
2 | monitoring ~~only~~ or if no further action ~~is required to~~
3 | ~~rehabilitate the site~~. If additional site rehabilitation is
4 | necessary to reach no further action status, the site
5 | rehabilitation shall be conducted in the order established by
6 | the priority ranking system under paragraph (a) and the
7 | department is encouraged to utilize natural attenuation and
8 | monitoring where site conditions warrant.

9 | (14) Prior to the department entering into a service
10 | contract with the Inland Protection Financing Corporation
11 | which includes payments by the department to support any
12 | existing or planned note, bond, certificate of indebtedness,
13 | or other obligation or evidence of indebtedness of the
14 | corporation pursuant to s. 376.3075, the Legislature, by law,
15 | must specifically approve the cleanup project to be financed
16 | and must authorize the department to enter into such a
17 | contract.

18 | Section 2. Subsection (1) of section 376.30713,
19 | Florida Statutes, is amended to read:

20 | 376.30713 Preapproved advanced cleanup.--

21 | (1) In addition to the legislative findings provided
22 | in s. 376.30711, the Legislature finds and declares:

23 | (a) That the inability to conduct site rehabilitation
24 | in advance of a site's priority ranking pursuant to s.
25 | 376.3071(5)(a) may substantially impede or prohibit property
26 | transactions or the proper completion of public works
27 | projects.

28 | (b) While the first priority of the state is to
29 | provide for protection of the water resources of the state,
30 | human health, and the environment, the viability of commerce
31 | is of equal importance to the state.

1 (c) It is in the public interest and of substantial
2 economic benefit to the state to provide an opportunity for
3 site rehabilitation to be conducted on a limited basis at
4 contaminated sites, in advance of the site's priority ranking,
5 to facilitate property transactions or public works projects.

6 (d) It is appropriate for persons responsible for site
7 rehabilitation to share the costs associated with managing and
8 conducting preapproved advanced cleanup, to facilitate the
9 opportunity for preapproved advanced cleanup, and to mitigate
10 the additional costs that will be incurred by the state in
11 conducting site rehabilitation in advance of the site's
12 priority ranking. Such cost sharing will result in more
13 contaminated sites being cleaned up and greater environmental
14 benefits to the state. The provisions of this section shall
15 only be available for sites eligible for restoration funding
16 under EDI, ATRP, or PLIRP. This section is available for
17 discharges eligible for restoration funding under the
18 petroleum cleanup participation program for the state's cost
19 share of site rehabilitation. Applications shall include a
20 cost-sharing commitment for this section in addition to the
21 25-percent-copayment requirement of the petroleum cleanup
22 participation program. This section is not available for any
23 discharge under a petroleum cleanup participation program
24 where the 25-percent-copayment requirement of the petroleum
25 cleanup participation program has been reduced or eliminated
26 pursuant to s. 376.3071(13)(c).

27 Section 3. Section 376.3075, Florida Statutes, is
28 amended to read:

29 376.3075 Inland Protection Financing Corporation.--

30 (1) There is hereby created a nonprofit public benefit
31 corporation to be known as the "Inland Protection Financing

1 Corporation" for the purpose of financing the rehabilitation
2 of petroleum contamination sites pursuant to ss.
3 376.30-376.319 and the payment, purchase, and settlement of
4 reimbursement obligations of the department pursuant to s.
5 376.3071(12), existing as of December 31, 1996. Such
6 reimbursement obligations are referred to in this section as
7 existing reimbursement obligations. The corporation shall
8 terminate on July 1, 2025 ~~2011~~.

9 (2) The corporation shall be governed by a board of
10 directors consisting of the Governor or the Governor's
11 designee, the Chief Financial Officer or the Chief Financial
12 Officer's designee, the chair of the Florida Black Business
13 Investment Board, and the secretary of the Department of
14 Environmental Protection. The executive director of the State
15 Board of Administration shall be the chief executive officer
16 of the corporation and shall direct and supervise the
17 administrative affairs of the corporation and shall control,
18 direct, and supervise the operation of the corporation. The
19 corporation shall also have such other officers as may be
20 determined by the board of directors.

21 (3) The corporation shall have all the powers of a
22 corporate body under the laws of the state to the extent not
23 inconsistent with or restricted by the provisions of this
24 section, including, but not limited to, the power to:

25 (a) Adopt, amend, and repeal bylaws not inconsistent
26 with this section.

27 (b) Sue and be sued.

28 (c) Adopt and use a common seal.

29 (d) Acquire, purchase, hold, lease, and convey such
30 real and personal property as may be proper or expedient to
31

1 carry out the purposes of the corporation and this section,
2 and to sell, lease, or otherwise dispose of such property.

3 (e) Elect or appoint and employ such officers, agents,
4 and employees as the corporation deems advisable to operate
5 and manage the affairs of the corporation, which officers,
6 agents, and employees may be officers or employees of the
7 department and the state agencies represented on the board of
8 directors of the corporation.

9 (f)1. Borrow money and issue notes, bonds,
10 certificates of indebtedness, or other obligations or
11 evidences of indebtedness necessary to pay the backlog or to
12 reimburse moneys from the Inland Protection Trust Fund used
13 pursuant to subsection (6) and to pay for large-scale
14 cleanups, such as ports, airports, and terminal facilities,
15 which are eligible for state funding.

16 2. No action shall be taken pursuant to this
17 paragraph, consistent with subsection (5), or to s.
18 376.3071(14) prior to the Inland Protection Financing
19 Corporation submitting a detailed financing plan to the
20 Governor, the President of the Senate, and the Speaker of the
21 House of Representatives. The plan must address the need for
22 action to be taken pursuant to this paragraph to protect the
23 health, safety, and welfare of the people of the state; the
24 ability of the corporation to limit the impact on the Inland
25 Protection Trust Fund of all outstanding notes, bonds,
26 certificates of indebtedness, or other obligations or
27 evidences of indebtedness to less than \$10 million in any
28 state fiscal year; and the ability of the corporation to limit
29 its total outstanding debt to no more than \$100 million.

30 (g) Make and execute any and all contracts, trust
31 agreements, and other instruments and agreements necessary or

1 convenient to accomplish the purposes of the corporation and
2 this section.

3 (h) Select, retain, and employ professionals,
4 contractors, or agents, which may include the Florida State
5 Board of Administration's Division of Bond Finance, as shall
6 be necessary or convenient to enable or assist the corporation
7 in carrying out the purposes of the corporation and this
8 section.

9 (i) Do any act or thing necessary or convenient to
10 carry out the purposes of the corporation and this section and
11 the powers provided in this section.

12 (4) The corporation is authorized to enter into one or
13 more service contracts with the department pursuant to which
14 the corporation shall provide services to the department in
15 connection with financing the functions and activities
16 provided for in ss. 376.30-376.319. The department may enter
17 into one or more such service contracts with the corporation
18 and to provide for payments under such contracts pursuant to
19 s. 376.3071(4)(o), subject to annual appropriation by the
20 Legislature. The proceeds from such service contracts may be
21 used for the costs and expenses of administration of the
22 corporation after payments as set forth in subsection (5).
23 Each service contract shall have a term not to exceed 10 years
24 and shall terminate no later than July 1, 2025 ~~2011~~. The
25 aggregate amount payable from the Inland Protection Trust Fund
26 under all such service contracts shall not exceed \$65 million
27 in any state fiscal year. Amounts annually appropriated and
28 applied to make payments under such service contracts shall
29 not include any funds derived from penalties or other payments
30 received from any property owner or private party, including
31 payments received from s. 376.3071(6)(b). In compliance with

1 provisions of s. 287.0641 and other applicable provisions of
2 law, the obligations of the department under such service
3 contracts shall not constitute a general obligation of the
4 state or a pledge of the faith and credit or taxing power of
5 the state nor shall such obligations be construed in any
6 manner as an obligation of the State Board of Administration
7 or entities for which it invests funds, other than the
8 department as provided in this section, but shall be payable
9 solely from amounts available in the Inland Protection Trust
10 Fund, subject to annual appropriation. In compliance with
11 this subsection and s. 287.0582, the service contract shall
12 expressly include the following statement: "The State of
13 Florida's performance and obligation to pay under this
14 contract is contingent upon an annual appropriation by the
15 Legislature."

16 (5) The corporation may issue and incur notes, bonds,
17 certificates of indebtedness, or other obligations or
18 evidences of indebtedness payable from and secured by amounts
19 payable to the corporation by the department under a service
20 contract entered into pursuant to subsection (4) for the
21 purpose of paying, purchasing, or settling existing
22 reimbursement obligations. The term of any such note, bond,
23 certificate of indebtedness, or other obligation or evidence
24 of indebtedness shall not have a financing term that exceeds 6
25 years, nor shall the total payments for principal and interest
26 on any such note, bond, certificate of indebtedness, or other
27 obligation or evidence of indebtedness exceed the original
28 amount of approved reimbursement claims to be paid, purchased,
29 or settled by the corporation by more than \$50 million. The
30 corporation may select its financing team and issue its
31 obligations through competitive bidding or negotiated

1 | contracts, whichever is most cost-effective. Any such
2 | indebtedness of the corporation shall not constitute a debt or
3 | obligation of the state or a pledge of the faith and credit or
4 | taxing power of the state, but shall be payable from and
5 | secured by payments made by the department under the service
6 | contract pursuant to s. 376.3071(4)(o).

7 | (6) Upon the issuance of debt obligations by the
8 | corporation pursuant to subsection (5) for the payment,
9 | purchase, or settlement of existing reimbursement obligations,
10 | amounts on deposit in the Inland Protection Trust Fund shall
11 | not be available for the payment, purchase, or settlement of
12 | existing reimbursement obligations to the extent proceeds of
13 | such debt obligations are available for the payment of such
14 | existing reimbursement obligations. If, after the initial
15 | issuance of debt obligations pursuant to subsection (5),
16 | amounts on deposit in the Inland Protection Trust Fund are
17 | used to pay existing reimbursement obligations, the
18 | corporation shall reimburse the Inland Protection Trust Fund
19 | for such payments from available proceeds of debt obligations
20 | issued pursuant to subsection (5). Payment, purchase, or
21 | settlement by the corporation of existing reimbursement
22 | obligations otherwise payable pursuant to s. 376.3071(12)
23 | shall satisfy the obligation of the department to make such
24 | payments. Any such existing reimbursement obligations
25 | purchased by the corporation shall be satisfied and
26 | extinguished upon purchase by the corporation.

27 | (7) The corporation shall pay, purchase, or settle
28 | existing reimbursement obligations as determined by the
29 | department. The department shall implement the repayment
30 | priorities and method and amount of payments pursuant to s.
31 | 376.3071(12). However, any claims for reimbursement pursuant

1 | to s. 376.3071(12) that the corporation is unable to pay
2 | because of the limitations contained in subsection (5) shall
3 | be paid by the department from the receipts of the Inland
4 | Protection Trust Fund.

5 | (8) The fulfillment of the purposes of the corporation
6 | promotes the health, safety, and general welfare of the people
7 | of the state and serves as essential governmental functions
8 | and a paramount public purpose.

9 | (9) The corporation is exempt from taxation and
10 | assessments of any nature whatsoever upon its income and any
11 | property, assets, or revenues acquired, received, or used in
12 | the furtherance of the purposes provided in this chapter. The
13 | obligations of the corporation incurred pursuant to subsection
14 | (5) and the interest and income thereon and all security
15 | agreements, letters of credit, liquidity facilities, or other
16 | obligations or instruments arising out of, entered into in
17 | connection therewith, or given to secure payment thereof are
18 | exempt from all taxation, provided such exemption does not
19 | apply to any tax imposed by chapter 220 on the interest,
20 | income, or profits on debt obligations owned by corporations.

21 | (10) The corporation shall validate obligations to be
22 | incurred pursuant to subsection (5) and the validity and
23 | enforceability of any service contracts providing for payments
24 | pledged to the payment thereof by proceedings under chapter
25 | 75. The validation complaint shall be filed only in the
26 | Circuit Court for Leon County. The notice required to be
27 | published by s. 75.06 shall be published in Leon County and
28 | the complaint and order of the circuit court shall be served
29 | only on the State Attorney for the Second Judicial Circuit.
30 | Sections 75.04(2) and 75.06(2) shall not apply to a complaint
31 | for validation filed as authorized in this subsection. The

1 validation of at least the first obligations incurred pursuant
2 to subsection (5) shall be appealed to the Supreme Court, to
3 be handled on an expedited basis.

4 (11) The corporation shall not be deemed to be a
5 special district for purposes of chapter 189 or a unit of
6 local government for purposes of part III of chapter 218. The
7 provisions of chapters 120 and 215, except the limitation on
8 interest rates provided by s. 215.84 which applies to
9 obligations of the corporation issued pursuant to this
10 section, and part I of chapter 287, except ss. 287.0582 and
11 287.0641, shall not apply to this section, the corporation
12 created hereby, the service contracts entered into pursuant to
13 this section, or to debt obligations issued by the corporation
14 as contemplated in this section.

15 (12) In no event shall any of the benefits or earnings
16 of the corporation inure to the benefit of any private person.

17 (13) Upon dissolution of the corporation, title to all
18 property owned by the corporation shall revert to the state.

19 (14) The corporation may contract with the State Board
20 of Administration to serve as trustee with respect to debt
21 obligations issued by the corporation as contemplated by this
22 section and to hold, administer, and invest proceeds of such
23 debt obligations and other funds of the corporation and to
24 perform other services required by the corporation. The State
25 Board of Administration may perform such services and may
26 contract with others to provide all or a part of such services
27 and to recover its and such other costs and expenses thereof.

28 Section 4. Section 376.30715, Florida Statutes, is
29 created to read:

30 376.30715 Innocent victim petroleum storage system
31 restoration.--A contaminated site acquired prior to July 1,

1 1990, which has ceased operating as a petroleum storage or
2 retail business prior to January 1, 1985, is eligible for
3 financial assistance pursuant to s. 376.305(6),
4 notwithstanding s. 376.305(6)(a). Eligible sites shall be
5 ranked in accordance with s. 376.3071(5).

6 Section 5. This act shall take effect July 1, 2005.

7
8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 1318

- 11 1. Requires the Inland Protection Financing Corporation to
12 submit a detailed financing plan to the Governor, the
13 President of the Senate, and the Speaker of the House of
14 Representatives prior to issuing debt. The Legislature
15 must specifically approve the cleanup project to be
16 financed prior to the Department of Environmental
17 Protection entering into a service contract with the
18 corporation. The impact to the Inland Protection Trust
19 Fund is limited to less than \$10 million in any state
20 fiscal year and the total amount of the debt is limited
21 to \$100 million.
- 22 2. Creates the Innocent Victim Petroleum Storage System
23 Restoration program for property owners with contaminated
24 sites that were acquired prior to July 1, 1990. In order
25 to be eligible for financial cleanup assistance, sites
26 must have ceased operating as a petroleum storage or
27 retail business prior to January 1, 1985.
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