

Bill No. SB 2510

Barcode 504154

CHAMBER ACTION

Senate

House

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Comm: RCS  
04/25/2006 11:56 AM

.  
. .  
. .  
. .  
. .  
. .

The Committee on Environmental Preservation (Siplin)  
recommended the following amendment:

**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 permit  
conditions and requirements and the environmental laws of this  
state is a factor that should be considered by the agency when  
the agency is considering whether to issue a new permit or  
reissue a permit to an applicant, based upon compliance  
incentives under this section.

(b) Permit applicants with a history of compliance

Bill No. SB 2510

Barcode 504154

1 with applicable permit conditions and requirements and the  
 2 environmental laws of this state should be eligible for new  
 3 permits at a new site, longer duration permits, expedited  
 4 permit reviews, short-form permit renewals, and other  
 5 incentives to reward and encourage such 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 agency 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.--For purposes of this section:

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. However, the term "applicant" does not  
 19 include a subsidiary of or an affiliate of any entity with a  
 20 history of non-compliance for any regulated activity.

21 (c) "Environmental laws" means any state or federal  
 22 law that regulates activities for the purpose of protecting  
 23 the environment, or for the purpose of protecting the public  
 24 health from pollution or contaminants, but does not include  
 25 any law that regulates activities for the purpose of zoning,  
 26 growth management, or land use. The term includes, but is not  
 27 limited to, chapter 161, part IV of chapter 373, and chapter  
 28 403.

29 (d) "Regulated activity" means any activity,  
 30 including, but not limited to, the construction or operation  
 31 of a facility, installation, system, or project, for which a

Bill No. SB 2510

Barcode 504154

1 permit or certification is required by law.

2 (e) "Site" means a single parcel, or multiple  
3 contiguous or adjacent parcels, of land on which the applicant  
4 proposes to conduct, or has conducted, a regulated activity.

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

13 (a) Level 1 incentives criteria; application for a new  
14 permit; rulemaking.--

15 1. An applicant shall be entitled to incentives if the  
16 activity is a new regulated activity and the applicant  
17 conducted a similar regulated activity under an agency permit  
18 for at least 4 of the 5 years at a different site in this  
19 state preceding submittal of the permit application. However,  
20 an applicant shall not be entitled to incentives under this  
21 paragraph if the applicant has a relevant compliance history  
22 for a similar regulated activity that includes any violation  
23 that resulted in enforcement action. If the applicant has  
24 alleged violations at a different site that may result in  
25 enforcement action and the alleged violations may result in  
26 the potential for harm to human health or the environment, the  
27 applicant shall not be entitled to incentives under this  
28 paragraph. However, when pending alleged violations that  
29 eliminate an applicant from receiving incentives under this  
30 paragraph are disposed of and the applicant was found not to  
31 have committed the alleged violation, incentives shall be

Bill No. SB 2510

Barcode 504154

1 available to the applicant. Alleged minor violations shall not  
2 be considered under this paragraph.

3 2. Level 1 incentives shall include:

4 a. Expedited permit review.--The processing time  
5 following receipt of a completed application shall be 75 days  
6 for the issuance of agency action.

7 b. Extended permits.--Permits may be extended for  
8 seven years provided the applicant has conducted a similar  
9 regulated activity at a site for 5 years.

10 3. Within 6 months after the effective date of this  
11 section, the agency shall initiate rulemaking to implement  
12 Level 1 incentives. The rule shall specify what incentives  
13 will be made available, how applicants may qualify for  
14 incentives, and how extended permits may be transferred. Until  
15 an implementing rule is adopted, Level 1 incentives shall not  
16 be available to permit applicants under this section.

17 (b) Level 2 incentives criteria; application for  
18 permit renewal; rulemaking.--

19 1. An applicant for a renewal of a permit shall be  
20 entitled to incentives pursuant to this paragraph if the  
21 applicant conducted a regulated activity at the site in this  
22 state for at least 4 of the last 5 years preceding submittal  
23 of an application for renewal. An applicant shall not be  
24 entitled to incentives under this paragraph if the applicant  
25 has a relevant compliance history at the site that includes  
26 any violation that resulted in enforcement action. If the  
27 applicant has alleged violations at the site that may result  
28 in enforcement action and the alleged violations may result in  
29 the potential for harm to human health or the environment, the  
30 applicant shall not be entitled to incentives under this  
31 paragraph. However, when pending alleged violations that

Bill No. SB 2510

Barcode 504154

1 eliminate an applicant from receiving incentives under this  
 2 paragraph are disposed of and the applicant was found not to  
 3 have committed the alleged violation, incentives shall be  
 4 available to the applicant. Alleged minor violations shall not  
 5 be considered under this paragraph. In addition, an applicant  
 6 for the renewal of a permit shall be entitled to incentives  
 7 pursuant to this paragraph if the applicant takes any other  
 8 actions not otherwise required by law that at the site result  
 9 in:

- 10       a. Beneficial reductions in actual or permitted  
 11 discharges or emissions;
- 12       b. Beneficial reductions in the impacts of regulated  
 13 activities on public lands or natural resources;
- 14       c. Beneficial waste reduction or the reuse of waste  
 15 generated at the site;
- 16       d. Implementation of a voluntary environmental  
 17 management system; or
- 18       e. Other similar actions as determined by agency rule.

19       2. Level 2 incentives shall include:

- 20       a. Ten-year permits, provided the applicant has  
 21 conducted a regulated activity at the site for at least 5  
 22 years.
- 23       b. Fewer routine inspections than other regulated  
 24 activities similarly situated.
- 25       c. Short form renewals of permits not involving  
 26 substantial modifications which may be made upon a shortened  
 27 application form specifying only the changes in the regulated  
 28 activity or a certification by the applicant that no changes  
 29 in the regulated activity are proposed if that is the case.  
 30 Applicants for short form renewals shall complete and submit  
 31 the prescribed compliance form with the application and shall

Bill No. SB 2510

Barcode 504154

1 remain subject to the compliance history review of this  
2 section. All other procedure requirements for renewal  
3 applications apply. This provision shall supplement any  
4 expedited review process provided by agency rules.

5 d. Expedited review of requests for permit  
6 modifications.

7 e. Agency recognition, program-specific incentives, or  
8 certifications in lieu of renewal permits.

9 f. No more than two requests for additional  
10 information.

11 3. Within 6 months after the effective date of this  
12 section, the agency shall initiate rulemaking to implement  
13 Level 2 incentives. The rule shall specify what incentives  
14 will be made available, how applicants may qualify for  
15 incentives, and how extended permits may be transferred. Until  
16 an implementing rule is adopted, Level 2 incentives shall not  
17 be available to permit applicants under this section.

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

20 161.041 Permits required.--

21 (5) The Incentive-based Permitting Program provisions  
22 of s. 403.0874 shall apply to all permits issued under this  
23 chapter.

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

26 373.413 Permits for construction or alteration.--

27 (6) The Incentive-based Permitting Program provisions  
28 of s. 403.0874 shall apply to permits issued under this  
29 section.

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

Bill No. SB 2510

Barcode 504154

1 403.087 Permits; general issuance; denial; revocation;  
2 prohibition; penalty.--

3 (7) A permit issued pursuant to this section shall not  
4 become a vested right in the permittee. The department may  
5 revoke any permit issued by it if it finds that the  
6 permitholder:

7 (a) Has submitted material false or inaccurate  
8 information in the ~~his or her~~ application for such permit;

9 (b) Has violated law, department orders, rules, or  
10 regulations, or ~~permit~~ conditions directly related to such  
11 permit;

12 (c) Has failed to submit operational reports or other  
13 information required by department rule or regulation directly  
14 related to such permit; or

15 (d) Has refused lawful inspection under s. 403.091 at  
16 the facility authorized by such permit.

17 (10) The incentive-based permitting program provisions  
18 of s. 403.0874 shall apply to permits issued under this  
19 chapter.

20 Section 5. This act shall take effect upon becoming a  
21 law.

22  
23

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

25 And the title is amended as follows:

26 Delete everything before the enacting clause

27

28 and insert:

29 A bill to be entitled

30 An act relating to the Florida Incentive-based

31 Permitting Act; creating s. 403.0874, F.S.;

Bill No. SB 2510

Barcode 504154

1 providing a short title; providing legislative  
2 findings; providing purposes; providing  
3 definitions; providing for an Incentive-based  
4 Permitting Program; providing compliance  
5 incentives for certain environmental permitting  
6 activities; providing requirements and  
7 limitations; providing for administration by  
8 the Department of Environmental Protection;  
9 requiring the department to adopt certain  
10 rules; amending ss. 161.041 and 373.413, F.S.;  
11 specifying application of Incentive-based  
12 Permitting Program provisions; amending s.  
13 403.087, F.S.; revising criteria for department  
14 permit issuance to conform; specifying  
15 applications of incentive-based permitting  
16 program provisions to certain permits;  
17 providing an effective date.

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31