

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative(s) Stansel offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause, and insert:

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

7 403.0874 Incentive-based Permitting Program.--

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

10 (2) LEGISLATIVE FINDINGS; PUBLIC PURPOSE.--

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

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18 (b) Permit applicants with a history of compliance with
19 applicable permit conditions and requirements and the
20 environmental laws of this state should be eligible for new
21 permits at a new site, longer duration permits, expedited permit
22 reviews, short-form permit renewals, and other incentives to
23 reward and encourage such applicants.

24 (c) The agency is encouraged to work with permittees and
25 permit applicants to encourage compliance and avoid burdensome
26 and expensive consequences of noncompliance.

27 (d) It is therefore declared to be the purpose of this
28 section to provide the agency with clear and specific authority
29 to consider the compliance history of a permit applicant who has
30 applied for an incentive-based permit.

31 (3) DEFINITIONS.--For purposes of this section:

32 (a) "Agency" means the Department of Environmental
33 Protection.

34 (b) "Applicant" means the proposed permittee or
35 transferee, owner, or operator of a regulated activity seeking
36 an agency permit.

37 (c) "Environmental laws" means any state or federal law
38 that regulates activities for the purpose of protecting the
39 environment, or for the purpose of protecting the public health
40 from pollution or contaminants, but does not include any law
41 that regulates activities for the purpose of zoning, growth
42 management, or land use. The term includes, but is not limited
43 to, chapter 161, part IV of chapter 373, and chapter 403.

44 (d) "Regulated activity" means any activity, including,
45 but not limited to, the construction or operation of a facility,

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46 installation, system, or project, for which a permit or
47 certification is required by law.

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

51 (4) COMPLIANCE INCENTIVES.--In order to obtain compliance
52 incentives, the applicant must affirmatively request such
53 incentives as part of the permit application. Unless otherwise
54 prohibited by state or federal law, agency rule, or federal
55 regulation, and provided the applicant meets all other
56 applicable criteria for the issuance of a permit, any applicant
57 who meets the criteria set forth in this subsection is entitled
58 to the following incentives:

59 (a) Level 1 incentives criteria; application for a new
60 permit; rulemaking.--

61 1. An applicant shall be entitled to incentives if the
62 activity is a new regulated activity and the applicant conducted
63 a similar regulated activity under an agency permit for at least
64 4 of the 5 years at a different sit in this state preceding
65 submittal of the permit application. However, an applicant shall
66 not be entitled to incentives under this paragraph if the
67 applicant has a relevant compliance history for a similar
68 regulated activity that includes any violation that resulted in
69 enforcement action. If the applicant has alleged violations at a
70 different site that may result in enforcement action and the
71 alleged violations may result in the potential for harm to human
72 health or the environment, the applicant shall not be entitled
73 to incentives under this paragraph. However, when pending
74 alleged violations that eliminate an applicant from receiving

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75 incentives under this paragraph are disposed of and the
76 applicant was found not to have committed the alleged violation,
77 incentives shall be available to the applicant. Alleged minor
78 violations shall not be considered under this paragraph.

79 2. Level 1 incentives shall include:

80 a. Expedited permit review.--The processing time following
81 receipt of a completed application shall be 60 days for the
82 issuance of the agency action.

83 b. Extended permits.--Permits may be extended for:

84 (I) Seven years, provided the applicant has conducted a
85 similar regulated activity at a site for 4 of the last 5 years;
86 or

87 (II) Ten years, provided the applicant has conducted a
88 similar regulated activity at a site for the last 5 years.

89 3. Within 6 months after the effective date of this
90 section, the agency shall initiate rulemaking to implement Level
91 1 incentives. The rule shall specify what incentives will be
92 made available, how applicants may qualify for incentives, and
93 how extended permits may be transferred. Until an implementing
94 rule is adopted, Level 1 incentives shall not be available to
95 permit applicants under this section.

96 (b) Level 2 incentives criteria; application for permit
97 renewal; rulemaking.--

98 1. An applicant for a renewal of a permit shall be
99 entitled to incentives pursuant to this paragraph if the
100 applicant conducted a regulated activity at the site in this
101 state for at least 4 of the last 5 years preceding submittal of
102 an application for renewal. An applicant shall not be entitled
103 to incentives under this paragraph if the applicant has a

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104 relevant compliance history at the site that includes any
105 violation that resulted in enforcement action. If the applicant
106 has alleged violations at the site that may result in
107 enforcement action and the alleged violations may result in the
108 potential for harm to human health or the environment, the
109 applicant shall not be entitled to incentives under this
110 paragraph. However, when pending alleged violations that
111 eliminate an applicant from receiving incentives under this
112 paragraph are disposed of and the applicant was found not to
113 have committed the alleged violation, incentives shall be
114 available to the applicant. Alleged minor violations shall not
115 be considered under this paragraph. In addition, an applicant
116 for the renewal of a permit shall be entitled to incentives
117 pursuant to this paragraph if the applicant takes any other
118 actions not otherwise required by law that at the site result
119 in:

120 a. Beneficial reductions in actual or permitted discharges
121 or emissions;

122 b. Beneficial reductions in the impacts of regulated
123 activities on public lands or natural resources;

124 c. Beneficial waste reduction or the reuse of waste
125 generated at the site;

126 d. Implementation of a voluntary environmental management
127 system; or

128 e. Other similar actions as determined by agency rule.

129 2. Level 2 incentives shall include:

130 a. Ten-year permits, provided the applicant has conducted
131 a regulated activity at the site for at least 5 years.

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132 b. Fewer routine inspections than other regulated
133 activities similarly situated.

134 c. Short form renewals of permits not involving
135 substantial modifications which may be made upon a shortened
136 application form specifying only the changes in the regulated
137 activity or a certification by the applicant that no changes in
138 the regulated activity are proposed if that is the case.

139 Applicants for short form renewals shall complete and submit the
140 prescribed compliance form with the application and shall remain
141 subject to the compliance history review of this section. All
142 other procedure requirements for renewal applications apply.
143 This provision shall supplement any expedited review process
144 provided by agency rules.

145 d. Expedited review of requests for permit modifications.

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

148 f. No more than two requests for additional information.

149 3. Within 6 months after the effective date of this
150 section, the agency shall initiate rulemaking to implement Level
151 2 incentives. The rule shall specify what incentives will be
152 made available, how applicants may qualify for incentives, and
153 how extended permits may be transferred. Until an implementing
154 rule is adopted, Level 2 incentives shall not be available to
155 permit applicants under this section.

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

158 161.041 Permits required.--

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159 (5) The Incentive-based Permitting Program provisions of
160 s. 403.0874 shall apply to all permits issued under this
161 chapter.

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

164 373.413 Permits for construction or alteration.--

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

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

169 403.087 Permits; general issuance; denial; revocation;
170 prohibition; penalty.--

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

175 (a) Has submitted material false or inaccurate information
176 in the his or her application for such permit;

177 (b) Has violated law, department orders, rules, or
178 regulations, or ~~permit~~ conditions directly related to such
179 permit;

180 (c) Has failed to submit operational reports or other
181 information required by department rule or regulation directly
182 related to such permit; or

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

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

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

189 Remove the entire title, and insert:

190 A bill to be entitled

191 An act relating to the Florida Incentive-based Permitting
192 Act; creating s. 403.0874, F.S.; providing a short title;
193 providing legislative findings; providing purposes;
194 providing definitions; providing for an Incentive-based
195 Permitting Program; providing compliance incentives for
196 certain environmental permitting activities; providing
197 requirements and limitations; providing for administration
198 by the Department of Environmental Protection; requiring
199 the department to adopt certain rules; amending ss.
200 161.041 and 373.413, F.S.; specifying application of
201 Incentive-based Permitting Program provisions; amending s.
202 403.087, F.S.; revising criteria for department permit
203 issuance to conform; providing an effective date.