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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/13/2008	.	
	.	
	.	

1 The Committee on Environmental Preservation and Conservation
 2 (Saunders) recommended the following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. Section 20.255, Florida Statutes, is reenacted
 8 and amended to read:

9 20.255 Department of Environmental Protection.--There is
 10 created a Department of Environmental Protection.

11 (1) The head of the Department of Environmental Protection
 12 shall be a secretary, who shall be appointed by the Governor,
 13 with the concurrence of three or more members of the Cabinet.
 14 The secretary shall be confirmed by the Florida Senate. The
 15 secretary shall serve at the pleasure of the Governor.

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16 (2) (a) There shall be three deputy secretaries who are to
17 be appointed by and shall serve at the pleasure of the
18 secretary. The secretary may assign any deputy secretary the
19 responsibility to supervise, coordinate, and formulate policy
20 for any division, office, or district. The following special
21 offices are established and headed by managers, each of whom is
22 to be appointed by and serve at the pleasure of the secretary:

- 23 1. Office of Chief of Staff,
- 24 2. Office of General Counsel,
- 25 3. Office of Inspector General,
- 26 4. Office of External Affairs,
- 27 5. Office of Legislative ~~and Government~~ Affairs, ~~and~~
- 28 6. Office of Intergovernmental Programs, and
- 29 ~~7.6.~~ Office of Greenways and Trails.

30 (b) There shall be six administrative districts involved
31 in regulatory matters of waste management, water resource
32 management, wetlands, and air resources, which shall be headed
33 by managers, each of whom is to be appointed by and serve at the
34 pleasure of the secretary. Divisions of the department may have
35 one assistant or two deputy division directors, as required to
36 facilitate effective operation.

37
38 The managers of all divisions and offices specifically named in
39 this section and the directors of the six administrative
40 districts are exempt from part II of chapter 110 and are
41 included in the Senior Management Service in accordance with s.
42 110.205(2)(j).



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43 (3) The following divisions of the Department of
44 Environmental Protection are established:

45 (a) Division of Administrative Services.

46 (b) Division of Air Resource Management.

47 (c) Division of Water Resource Management.

48 (d) Division of Law Enforcement.

49 (e) Division of Environmental Assessment and Restoration
50 ~~Resource Assessment and Management.~~

51 (f) Division of Waste Management.

52 (g) Division of Recreation and Parks.

53 (h) Division of State Lands, the director of which is to
54 be appointed by the secretary of the department, subject to
55 confirmation by the Governor and Cabinet sitting as the Board of
56 Trustees of the Internal Improvement Trust Fund.

57
58 In order to ensure statewide and intradepartmental consistency,
59 the department's divisions shall direct the district offices and
60 bureaus on matters of interpretation and applicability of the
61 department's rules and programs.

62 (4) Law enforcement officers of the Department of
63 Environmental Protection who meet the provisions of s. 943.13
64 are constituted law enforcement officers of this state with full
65 power to investigate and arrest for any violation of the laws of
66 this state, and the rules of the department and the Board of
67 Trustees of the Internal Improvement Trust Fund. The general
68 laws applicable to investigations, searches, and arrests by
69 peace officers of this state apply to such law enforcement
70 officers.



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71 (5) Records and documents of the Department of
72 Environmental Protection shall be retained by the department as
73 specified in record retention schedules established under the
74 general provisions of chapters 119 and 257. Further, the
75 department is authorized to:

76 (a) Destroy, or otherwise dispose of, those records and
77 documents in conformity with the approved retention schedules.

78 (b) Photograph, microphotograph, or reproduce such records
79 and documents on film, as authorized and directed by the
80 approved retention schedules, whereby each page will be exposed
81 in exact conformity with the original records and documents
82 retained in compliance with the provisions of this section.
83 Photographs or microphotographs in the form of film or print of
84 any records, made in compliance with the provisions of this
85 section, shall have the same force and effect as the originals
86 thereof would have and shall be treated as originals for the
87 purpose of their admissibility in evidence. Duly certified or
88 authenticated reproductions of such photographs or
89 microphotographs shall be admitted in evidence equally with the
90 original photographs or microphotographs. The impression of the
91 seal of the Department of Environmental Protection on a
92 certificate made by the department and signed by the Secretary
93 of Environmental Protection entitles the certificate to be
94 received in all courts and in all proceedings in this state and
95 is prima facie evidence of all factual matters set forth in the
96 certificate. A certificate may relate to one or more records as
97 set forth in the certificate or in a schedule attached to the
98 certificate.

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99 (6) The Department of Environmental Protection may require
100 that bond be given by any employee of the department, payable to
101 the Governor of the state and the Governor's successor in
102 office, for the use and benefit of those whom it concerns, in
103 such penal sums and with such good and sufficient surety or
104 sureties as are approved by the department, conditioned upon the
105 faithful performance of the duties of the employee.

106 (7) There is created as a part of the Department of
107 Environmental Protection an Environmental Regulation Commission.
108 The commission shall be composed of seven residents of this
109 state appointed by the Governor, subject to confirmation by the
110 Senate. In making appointments, the Governor shall provide
111 reasonable representation from all sections of the state.
112 Membership shall be representative of agriculture, the
113 development industry, local government, the environmental
114 community, lay citizens, and members of the scientific and
115 technical community who have substantial expertise in the areas
116 of the fate and transport of water pollutants, toxicology,
117 epidemiology, geology, biology, environmental sciences, or
118 engineering. The Governor shall appoint the chair, and the vice
119 chair shall be elected from among the membership. All
120 appointments shall be for 4-year terms. The Governor may at any
121 time fill a vacancy for the unexpired term. The members of the
122 commission shall serve without compensation, but shall be paid
123 travel and per diem as provided in s. 112.061 while in the
124 performance of their official duties. Administrative, personnel,
125 and other support services necessary for the commission shall be
126 furnished by the department. The commission may employ



127 independent counsel and contract for the services of outside
128 technical consultants.

129 (8) The department is the agency of state government
130 responsible for collecting and analyzing information concerning
131 energy resources in this state; for coordinating the energy
132 conservation programs of state agencies; and for coordinating
133 the development, review, and implementation of the state's
134 energy policy.

135 Section 2. Subsection (12) is added to section 211.3103,
136 Florida Statutes, to read:

137 211.3103 Levy of tax on severance of phosphate rock; rate,
138 basis, and distribution of tax.--

139 (12) Beginning July 1, 2008, there is hereby levied a
140 surcharge of \$0.85 per ton severed. The surcharge shall be
141 deposited into the Nonmandatory Land Reclamation Trust Fund and
142 shall be exempt from the distribution formula provided in this
143 section. Revenues derived from the surcharge shall be exempt
144 from the General Revenue service charge. Use of the revenues
145 generated from the surcharge shall be used to augment funds
146 appropriated for the reclamation of Piney Point and Mulberry and
147 other approved reclamation efforts. The surcharge authorized by
148 this subsection shall no longer be levied after July 1, 2013.

149 Section 3. Section 373.228, Florida Statutes, is amended
150 to read:

151 373.228 Landscape irrigation design.--

152 (1) The Legislature finds that multiple areas throughout
153 the state have been identified by water management districts as
154 water resource caution areas, which indicates that in the near



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155 future water demand in those areas will exceed the current
156 available water supply and that conservation is one of the
157 mechanisms by which future water demand will be met.

158 (2) The Legislature finds that landscape irrigation
159 comprises a significant portion of water use and that the
160 current typical landscape irrigation system and xeriscape
161 designs offer significant potential water conservation benefits.

162 (3) It is the intent of the Legislature to improve
163 landscape irrigation water use efficiency by ensuring that
164 landscape irrigation systems meet or exceed minimum design
165 criteria.

166 (4) The water management districts shall work with the
167 Florida Nurserymen and Growers Association, the Florida Chapter
168 of the American Society of Landscape Architects, the Florida
169 Irrigation Society, the Department of Agriculture and Consumer
170 Services, the Institute of Food and Agricultural Sciences, the
171 Department of Environmental Protection, the Department of
172 Transportation, the Florida League of Cities, the Florida
173 Association of Counties, and the Florida Association of
174 Community Developers to develop landscape irrigation and
175 xeriscape design standards for new construction which
176 incorporate a landscape irrigation system and develop
177 scientifically based model guidelines for urban, commercial, and
178 residential landscape irrigation, including drip irrigation, for
179 plants, trees, sod, and other landscaping. The landscape and
180 irrigation design standards shall be based on the irrigation
181 code defined in the Florida Building Code, Plumbing Volume,
182 Appendix F. Local governments shall use the standards and



183 guidelines when developing landscape irrigation and xeriscape
184 ordinances. By January 1, 2011 ~~Every 5 years~~, the agencies and
185 entities specified in this subsection shall review the standards
186 and guidelines to determine whether new research findings
187 require a change or modification of the standards and
188 guidelines.

189 Section 4. Section 376.75, Florida Statutes, is amended to
190 read:

191 376.75 Tax on production or importation of
192 perchloroethylene.--

193 (1) Beginning October 1, 1994, a tax of \$5 per gallon is
194 levied on the sale of perchloroethylene (tetrachloroethylene) in
195 this state to a drycleaning facility located in this state or
196 the import of perchloroethylene into this state by a drycleaning
197 facility. A drycleaning facility must be registered with the
198 Department of Environmental Protection and must show proof of
199 such registration prior to purchasing any drycleaning solvents.
200 This tax is not subject to sales and use tax pursuant to chapter
201 212.

202 (2) Any person producing in, importing into, or causing to
203 be imported into, or selling in, this state perchloroethylene
204 must register with the Department of Revenue and become licensed
205 for the purposes of remitting the tax pursuant to, or providing
206 information required by, this section. Such person must register
207 as a seller of perchloroethylene, a user of perchloroethylene in
208 drycleaning facilities, or a user of perchloroethylene for
209 purposes other than drycleaning. Persons operating at more than
210 one location are only required to have a single registration.



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211 The fee for registration is \$30. Failure to timely register is a
212 misdemeanor of the first degree, punishable as provided in s.
213 775.082 or s. 775.083.

214 (3) The tax imposed by this section is due on the 1st day
215 of the month succeeding the month of the sale and must be paid
216 on or before the 20th day of each month. Tax shall be reported
217 on forms and in the manner prescribed by the Department of
218 Revenue by rule.

219 (4) Any person subject to taxation under this section or
220 any person who sells tax-paid perchloroethylene, other than a
221 retail dealer, must separately state the amount of such tax paid
222 on any charge ticket, sales slip, invoice, or other tangible
223 evidence of the sale or must certify on the sales document that
224 the tax required pursuant to this section has been paid.

225 (5) All perchloroethylene imported, produced, or sold in
226 this state is presumed to be subject to the tax imposed by this
227 section. Any person who has purchased perchloroethylene for use
228 in such person's drycleaning facility in this state must
229 document that the tax imposed by this section has been paid or
230 must pay such tax directly to the Department of Revenue in
231 accordance with subsection (3).

232 (6) For purposes of this section, to demonstrate that
233 perchloroethylene is not sold or transferred to a drycleaning
234 facility for eventual use in a drycleaning facility in this
235 state, a person may rely on a certificate signed under penalty
236 of perjury by a transferee of the perchloroethylene stating that
237 the transferee does not own or operate a drycleaning facility or
238 the transferee will not use the perchloroethylene in a



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239 drycleaning facility in this state. Any producer, importer,
240 seller, or other transferor of perchloroethylene who is required
241 to register in accordance with subsection (2) but who does not
242 make any taxable sales or taxable transfers during a year shall
243 file with the Department of Revenue a form containing the
244 quantity of perchloroethylene sold or transferred, a statement
245 indicating that all sales were exempt from tax, and such other
246 information as the Department of Revenue may prescribe.

247 (7) The Department of Revenue may authorize a quarterly
248 return and payment when the tax remitted by the licensee for the
249 preceding quarter did not exceed \$100; may authorize a
250 semiannual return and payment when the tax remitted by the
251 licensee for the preceding 6 months did not exceed \$200; and may
252 authorize an annual return and payment when the tax remitted by
253 the licensee for the preceding 12 months did not exceed \$400.

254 (8) The tax imposed by this section shall be reported to
255 the Department of Revenue. The payment shall be accompanied by
256 such forms as the Department of Revenue prescribes. The proceeds
257 of the tax, after deducting the administrative costs incurred by
258 the Department of Revenue in administering, auditing,
259 collecting, distributing, and enforcing the tax, shall be
260 transferred by the Department of Revenue into the Water Quality
261 Assurance Trust Fund and shall be used as provided in s.
262 376.3078. For the purposes of this section, the proceeds of the
263 tax include all funds collected and received by the Department
264 of Revenue, including interest and penalties on delinquent
265 taxes.



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266 (9) (a) The Department of Revenue shall administer,
267 collect, and enforce the tax authorized under this section
268 pursuant to the same procedures used in the administration,
269 collection, and enforcement of the general state sales tax
270 imposed under chapter 212, except as provided in this section.
271 The provisions of chapter 212 regarding the authority to audit
272 and make assessments, the keeping of books and records, and
273 interest and penalties on delinquent taxes shall apply. The tax
274 shall not be included in the computation of estimated taxes
275 pursuant to s. 212.11, nor shall the dealer's credit for
276 collecting taxes or fees in s. 212.12 apply to the tax. The
277 provisions of s. 212.07(4) shall not apply to the tax imposed by
278 this section.

279 (b) The Department of Revenue, under the applicable rules
280 of the Public Employees Relations Commission, is authorized to
281 employ persons and incur other expenses for which funds are
282 appropriated by the Legislature. The Department of Revenue is
283 empowered to adopt such rules and shall prescribe and publish
284 such forms as may be necessary to effectuate the purposes of
285 this section.

286 (c) The Department of Revenue is authorized to establish
287 audit procedures and to assess delinquent taxes.

288 (10) The Legislature declares that the failure to promptly
289 implement the provisions of this section would present an
290 immediate threat to the welfare of the state. Therefore, the
291 executive director of the Department of Revenue is authorized to
292 adopt emergency rules pursuant to s. 120.54(4) to implement this
293 section. Notwithstanding any other provision of law, such

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294 emergency rules shall remain effective for 180 days from the
295 date of adoption. Other rules of the Department of Revenue
296 related to and in furtherance of the orderly implementation of
297 this section shall not be subject to a s. 120.56(2) rule
298 challenge or a s. 120.54(3)(c)2. drawout proceeding, but, once
299 adopted, shall be subject to a s. 120.56(3) invalidity
300 challenge. Such rules shall be adopted by the Governor and
301 Cabinet and shall become effective upon filing with the
302 Department of State, notwithstanding the provisions of s.
303 120.54(3)(e)6.

304 (11) If perchloroethylene on which tax has been paid is
305 exported from this state or acquired for purposes other than use
306 in a drycleaning facility in this state or for sale, resale, or
307 other transfer for such use, the person who paid the tax to the
308 Department of Revenue may apply for a refund or take a credit of
309 such tax paid. The person applying for the refund or credit must
310 refund such tax to the person who incurred the burden of the tax
311 before the claim to the state for refund or credit will be
312 approved.

313 (12) Any drycleaning facility which includes in the total
314 retail charge to a consumer of drycleaning services any portion
315 of the tax imposed pursuant to this section shall disclose on
316 the receipt for the amount charged for such services the amount
317 of such tax and a statement that the imposition of the tax was
318 requested by the Florida Dry Cleaners Coalition.

319 (13) The use of perchloroethylene by a drycleaning facility
320 is prohibited in this state after January 1, 2015.

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321 Section 5. Subsection (19) of section 403.031, Florida
322 Statutes, is amended to read:

323 403.031 Definitions.--In construing this chapter, or rules
324 and regulations adopted pursuant hereto, the following words,
325 phrases, or terms, unless the context otherwise indicates, have
326 the following meanings:

327 (19) "Regulated air pollutant" means any pollutant
328 regulated under the federal Clean Air Act.

329 ~~(a) Nitrogen oxides or any volatile organic compound;~~

330 ~~(b) Any pollutant regulated under 42 U.S.C. s. 7411 or s.~~
331 ~~7412; or~~

332 ~~(c) Any pollutant for which a national primary ambient air~~
333 ~~quality standard has been adopted.~~

334 Section 6. Subsection (1) of section 403.0872, Florida
335 Statutes, is amended to read:

336 403.0872 Operation permits for major sources of air
337 pollution; annual operation license fee.--Provided that program
338 approval pursuant to 42 U.S.C. s. 7661a has been received from
339 the United States Environmental Protection Agency, beginning
340 January 2, 1995, each major source of air pollution, including
341 electrical power plants certified under s. 403.511, must obtain
342 from the department an operation permit for a major source of
343 air pollution under this section. This ~~operation~~ permit is the
344 only department ~~operation~~ permit for a major source of air
345 pollution required for such source; however provided, at the
346 applicant's request, the department shall issue a separate acid
347 rain permit for a major source of air pollution that is an
348 affected source within the meaning of 42 U.S.C. s. 7651a(1).



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349 Operation permits for major sources of air pollution, except
350 general permits issued pursuant to s. 403.814, must be issued in
351 accordance with the procedures contained in this section and in
352 accordance with chapter 120; however, to the extent that chapter
353 120 is inconsistent with the provisions of this section, the
354 procedures contained in this section prevail.

355 (1) For purposes of this section, a major source of air
356 pollution means a stationary source of air pollution, or any
357 group of stationary sources within a contiguous area and under
358 common control, which emits any regulated air pollutant and
359 which is ~~any of the following~~:

360 (a) A major source within the meaning of 42 U.S.C. s.
361 7412(a)(1);

362 (b) A major stationary source or major emitting facility
363 within the meaning of 42 U.S.C. s. 7602(j) or 42 U.S.C.
364 subchapter I, part C or part D;

365 (c) An affected source within the meaning of 42 U.S.C. s.
366 7651a(1);

367 (d) An air pollution source subject to standards or
368 regulations under 42 U.S.C. s. 7411 or s. 7412; provided that a
369 source is not a major source solely because of its regulation
370 under 42 U.S.C. s. 7412(r); or

371 (e) A stationary air pollution source belonging to a
372 category designated as a 40 C.F.R. part 70 source by regulations
373 adopted by the administrator of the United States Environmental
374 Protection Agency under 42 U.S.C. ss. 7661 et seq. The
375 department shall exempt those facilities that are subject to
376 this section solely because they are subject to requirements

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377 under 42 U.S.C. s. s. 7411 or s. 7412 ~~7411~~ or solely because
378 they are subject to reporting requirements under 42 U.S.C. s.
379 7412 for as long as the exemption is available under federal
380 law.

381 Section 7. Section 373.109, Florida Statutes, is amended
382 to read:

383 373.109 Permit application fees.--When a water management
384 district governing board, the department, or a local government
385 implements a regulatory system under this chapter or one which
386 has been delegated pursuant to chapter 403, it may establish a
387 schedule of fees for filing applications for the required
388 permits. Such fees shall not exceed the cost to the district,
389 the department, or the local government for processing,
390 monitoring, and inspecting for compliance with the permit.

391 (1) The department shall initiate rulemaking no later than
392 July 1, 2008 to increase each application fee authorized under
393 part IV of this chapter and adopted by rule, except as provided
394 in (2) and (3), to ensure that such fees are increased to
395 reflect, at a minimum, any upward adjustment in the Consumer
396 Price Index compiled by the United States Department of Labor,
397 or similar inflation indicator, since the original fee was
398 established or most recently revised. The department shall
399 establish by rule the inflation index to be used for this
400 purpose. The department shall review the fees authorized under
401 part IV of this chapter at least once every five years and shall
402 adjust the fees upward, as necessary, to reflect changes in the
403 Consumer Price Index or similar inflation indicator. In the
404 event of deflation, the department shall consult with the



405 Executive Office of the Governor and Legislature to determine
406 whether downward fee adjustments are appropriate given then
407 current budget and appropriation considerations.

408 (2) Notwithstanding s. 120.60(2), the fee for verification
409 that an activity is exempt from regulation under s. 403.813 or
410 part IV of this chapter shall be at least \$100 or as otherwise
411 established by department rule not to exceed \$500.

412 (3) The department shall charge a fee of at least \$100 and
413 not to exceed \$500 for conducting informal wetland boundary
414 determinations as a public service to applicants or potential
415 applicants for permits under part IV of this chapter. An
416 informal wetland boundary determination is not an application
417 for a permit and is not subject to the permit review timeframes
418 established in this chapter or chapter 120 nor does it
419 constitute final agency action.

420 (4)~~(1)~~ All moneys received under the provisions of this
421 section shall be allocated for the use of the water management
422 district, the department, or the local government, whichever
423 processed the permit, and shall be in addition to moneys
424 otherwise appropriated in any general appropriation act. All
425 moneys received by the department under the provisions of this
426 section shall be deposited in the Florida Permit Fee Trust Fund
427 established by s. 403.0871 and shall be used by the department
428 as provided therein. Moneys received by a water management
429 district or the department under the provisions of this section
430 shall be in addition to moneys otherwise appropriated in any
431 general appropriation act.



432 ~~(5)~~(2) The failure of any person to pay the fees
433 established hereunder constitutes grounds for revocation or
434 denial of the permit.

435 Section 8. Section 403.087, Florida Statutes, is amended
436 to read:

437 403.087 Permits; general issuance; denial; revocation;
438 prohibition; penalty.--

439 (1) A stationary installation that is reasonably expected
440 to be a source of air or water pollution must not be operated,
441 maintained, constructed, expanded, or modified without an
442 appropriate and currently valid permit issued by the department,
443 unless exempted by department rule. In no event shall a permit
444 for a water pollution source be issued for a term of more than
445 10 years, nor may an operation permit issued after July 1, 1992,
446 for a major source of air pollution have a fixed term of more
447 than 5 years. However, upon expiration, a new permit may be
448 issued by the department in accordance with this chapter and the
449 rules of the department.

450 (2) The department shall adopt, and may amend or repeal,
451 rules for the issuance, denial, modification, and revocation of
452 permits under this section.

453 (3) A renewal of an operation permit for a domestic
454 wastewater treatment facility other than a facility regulated
455 under the National Pollutant Discharge Elimination System
456 (NPDES) Program under s. 403.0885 must be issued upon request
457 for a term of up to 10 years, for the same fee and under the
458 same conditions as a 5-year permit, in order to provide the
459 owner or operator with a financial incentive, if:



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460 (a) The waters from the treatment facility are not
461 discharged to Class I municipal injection wells or the treatment
462 facility is not required to comply with the federal standards
463 under the Underground Injection Control Program under chapter
464 62-528 of the Florida Administrative Code;

465 (b) The treatment facility is not operating under a
466 temporary operating permit or a permit with an accompanying
467 administrative order and does not have any enforcement action
468 pending against it by the United States Environmental Protection
469 Agency, the department, or a local program approved under s.
470 403.182;

471 (c) The treatment facility has operated under an operation
472 permit for 5 years and, for at least the preceding 2 years, has
473 generally operated in conformance with the limits of permitted
474 flows and other conditions specified in the permit;

475 (d) The department has reviewed the discharge-monitoring
476 reports required under department rule and is satisfied that the
477 reports are accurate;

478 (e) The treatment facility has generally met water quality
479 standards in the preceding 2 years, except for violations
480 attributable to events beyond the control of the treatment plant
481 or its operator, such as destruction of equipment by fire, wind,
482 or other abnormal events that could not reasonably be expected
483 to occur; and

484 (f) The department, or a local program approved under s.
485 403.182, has conducted, in the preceding 12 months, an
486 inspection of the facility and has verified in writing to the



487 operator of the facility that it is not exceeding the permitted
488 capacity and is in substantial compliance.

489

490 The department shall keep records of the number of 10-year
491 permits applied for and the number and duration of permits
492 issued for longer than 5 years.

493 (4) The department shall issue permits on such conditions
494 as are necessary to effect the intent and purposes of this
495 section.

496 (5) The department shall issue permits to construct,
497 operate, maintain, expand, or modify an installation which may
498 reasonably be expected to be a source of pollution only when it
499 determines that the installation is provided or equipped with
500 pollution control facilities that will abate or prevent
501 pollution to the degree that will comply with the standards or
502 rules adopted by the department, except as provided in s.
503 403.088 or s. 403.0872. However, separate construction permits
504 shall not be required for installations permitted under s.
505 403.0885, except that the department may require an owner or
506 operator proposing to construct, expand, or modify such an
507 installation to submit for department review, as part of
508 application for permit or permit modification, engineering
509 plans, preliminary design reports, or other information 90 days
510 prior to commencing construction. The department may also
511 require the engineer of record or another registered
512 professional engineer, within 30 days after construction is
513 complete, to certify that the construction was completed in
514 accordance with the plans submitted to the department, noting



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515 minor deviations which were necessary because of site-specific
516 conditions.

517 (6) (a) The department shall require a processing fee in an
518 amount sufficient, to the greatest extent possible, to cover the
519 costs of reviewing and acting upon any application for a permit
520 or request for site-specific alternative criteria or for an
521 exemption from water quality criteria and to cover the costs of
522 surveillance and other field services and related support
523 activities associated with any permit or plan approval issued
524 pursuant to this chapter. The department shall review the fees
525 authorized under this chapter at least once every five years and
526 shall adjust the fees upward, as necessary, within the fee caps
527 established below, to reflect changes in the Consumer Price
528 Index or similar inflation indicator. The department shall
529 establish by rule the inflation index to be used for this
530 purpose. In the event of deflation, the department shall
531 consult with the Executive Office of the Governor and
532 Legislature to determine whether downward fee adjustments are
533 appropriate given then current budget and appropriation
534 considerations. However, when an application is received
535 without the required fee, the department shall acknowledge
536 receipt of the application and shall immediately return the
537 unprocessed application to the applicant and shall take no
538 further action until the application is received with the
539 appropriate fee. The department shall adopt a schedule of fees
540 by rule, subject to the following limitations:

541 1. The fee for any of the following may not exceed
542 \$32,500:

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- 543 a. Hazardous waste, construction permit.
- 544 b. Hazardous waste, operation permit.
- 545 c. Hazardous waste, postclosure permit, or clean closure
546 plan approval.
- 547 d. Hazardous waste, corrective action permit.
- 548 2. The permit fee for a drinking water construction or
549 operation permit shall be at least \$500 and may not exceed
550 \$15,000.
- 551 3.2. The permit fee for a Class I injection well
552 construction permit may not exceed \$12,500.
- 553 4.3- The permit fee for any of the following permits may
554 not exceed \$10,000:
- 555 a. Solid waste, construction permit.
- 556 b. Solid waste, operation permit.
- 557 c. Class I injection well, operation permit.
- 558 5.4- The permit fee for any of the following permits may
559 not exceed \$7,500:
- 560 a. Air pollution, construction permit.
- 561 b. Solid waste, closure permit.
- 562 c. Drinking water, construction or operation permit, not
563 including the operation license fee required under s.
564 403.861(7).
- 565 d. Domestic waste residuals, construction or operation
566 permit.
- 567 e. Industrial waste, operation permit.
- 568 f. Industrial waste, construction permit.
- 569 6.5- The permit fee for any of the following permits may
570 not exceed \$5,000:

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- 571 a. Domestic waste, operation permit.
- 572 b. Domestic waste, construction permit.
- 573 ~~7.6.~~ The permit fee for any of the following permits may
574 not exceed \$4,000:
- 575 a. Wetlands resource management--(dredge and fill and
576 mangrove alteration), standard form permit.
- 577 b. Hazardous waste, research and development permit.
- 578 c. Air pollution, operation permit, for sources not
579 subject to s. 403.0872.
- 580 d. Class III injection well, construction, operation, or
581 abandonment permits.
- 582 8. The permit fee for a drinking water distribution
583 system permit shall be at least \$100 and may not exceed \$1,000.
- 584 ~~9.7.~~ The permit fee for Class V injection wells,
585 construction, operation, and abandonment permits may not exceed
586 \$750.
- 587 ~~10.8.~~ The permit fee for domestic waste, collection system
588 permits ~~any of the following permits~~ may not exceed \$500:
- 589 ~~a. Domestic waste, collection system permits.~~
- 590 ~~b. Wetlands resource management--(dredge and fill and~~
591 ~~mangrove alterations), short permit form.~~
- 592 ~~c. Drinking water, distribution system permit.~~
- 593 ~~11.9.~~ The permit fee for stormwater operation permits may
594 not exceed \$100.
- 595 ~~12.10.~~ The general permit fees for permits that require
596 certification by a registered professional engineer or
597 professional geologist may not exceed \$500. The general permit
598 fee for other permit types may not exceed \$100.

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599 ~~13.11.~~ The fee for a permit issued pursuant to s. 403.816
600 is \$5,000, and the fee for any modification of such permit
601 requested by the applicant is \$1,000.

602 ~~14.12.~~ The regulatory program and surveillance fees for
603 facilities permitted pursuant to s. 403.088 or s. 403.0885, or
604 for facilities permitted pursuant to s. 402 of the Clean Water
605 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the
606 department has been granted administrative authority, shall be
607 limited as follows:

608 a. The fees for domestic wastewater facilities shall not
609 exceed \$7,500 annually. The department shall establish a sliding
610 scale of fees based on the permitted capacity and shall ensure
611 smaller domestic waste dischargers do not bear an inordinate
612 share of costs of the program.

613 b. The annual fees for industrial waste facilities shall
614 not exceed \$11,500. The department shall establish a sliding
615 scale of fees based upon the volume, concentration, or nature of
616 the industrial waste discharge and shall ensure smaller
617 industrial waste dischargers do not bear an inordinate share of
618 costs of the program.

619 c. The department may establish a fee, not to exceed the
620 amounts in subparagraphs 4. and 5., to cover additional costs of
621 review required for permit modification or construction
622 engineering plans.

623 (b) If substantially similar air pollution sources are to
624 be constructed or modified at the same facility, the applicant
625 may submit a single application and permit fee for construction
626 or modification of the sources at that facility. If



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627 substantially similar air pollution sources located at the same
628 facility do not constitute a major source of air pollution
629 subject to permitting under s. 403.0872, the applicant may
630 submit a single application and permit fee for the operation of
631 those sources. The department may develop, by rule, criteria for
632 determining what constitutes substantially similar sources.

633 (c) The fee schedule shall be adopted by rule. The amount
634 of each fee shall be reasonably related to the costs of
635 permitting, field services, and related support activities for
636 the particular permitting activity taking into consideration
637 consistently applied standard cost-accounting principles and
638 economies of scale. If the department requires, by rule or by
639 permit condition, that a permit be renewed more frequently than
640 once every 5 years, the permit fee shall be prorated based upon
641 the permit fee schedule in effect at the time of permit renewal.

642 (d) Nothing in this subsection authorizes the construction
643 or expansion of any stationary installation except to the extent
644 specifically authorized by department permit or rule.

645 (e) For all domestic waste collection system permits and
646 drinking water distribution system permits, the department shall
647 adopt a fee schedule, by rule, based on a sliding scale relating
648 to pipe diameter, length of the proposed main, or equivalent
649 dwelling units, or any combination of these factors. The
650 department shall require a separate permit application and fee
651 for each noncontiguous project within the system.

652 (7) A permit issued pursuant to this section shall not
653 become a vested right in the permittee. The department may

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654 revoke any permit issued by it if it finds that the
655 permitholder:

656 (a) Has submitted false or inaccurate information in his
657 or her application;

658 (b) Has violated law, department orders, rules, or
659 regulations, or permit conditions;

660 (c) Has failed to submit operational reports or other
661 information required by department rule or regulation; or

662 (d) Has refused lawful inspection under s. 403.091.

663 (8) The department shall not issue a permit to any person
664 for the purpose of engaging in, or attempting to engage in, any
665 activity relating to the extraction of solid minerals not exempt
666 pursuant to chapter 211 within any state or national park or
667 state or national forest when the activity will degrade the
668 ambient quality of the waters of the state or the ambient air
669 within those areas. In the event the Federal Government
670 prohibits the mining or leasing of solid minerals on federal
671 park or forest lands, then, and to the extent of such
672 prohibition, this act shall not apply to those federal lands.

673 (9) A violation of this section is punishable as provided
674 in this chapter.

675 Section 9. Subsections (7) and (8) of section 403.861,
676 Florida Statutes, are amended to read:

677 403.861 Department; powers and duties.--The department
678 shall have the power and the duty to carry out the provisions
679 and purposes of this act and, for this purpose, to:

680 (7) Issue permits for constructing, altering, extending,
681 or operating a public water system, based upon the size of the

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682 system, type of treatment provided by the system, or population
683 served by the system, including issuance of an annual operation
684 license.

685 (a) The department may issue a construction permit for a
686 public water system based upon review of a preliminary design
687 report or plans and specifications and a completed permit
688 application form and other required information as set forth in
689 department rule, including receipt of an appropriate fee.

690 ~~(8)~~ The department may require a fee in an amount
691 sufficient to cover the costs of viewing and acting upon any
692 application for the construction and operation of a public water
693 supply system and the costs of surveillance and other field
694 services associated with any permit issued, but the amount shall
695 be at least \$500 and may not exceed \$15,000 ~~in no case shall~~
696 ~~exceed \$7,500.~~ The fee schedule shall be adopted by rule based
697 on a sliding scale relating to the size, type of treatment, or
698 population served by the system that is proposed by the
699 applicant.

700 (b) Each public water system that operates in this state
701 shall submit annually to the department an operation license
702 fee, separate from and in addition to any permit application
703 fees required under (a), in an amount established by department
704 rule. The amount of each fee shall be reasonably related to the
705 size of the public water system, type of treatment, population
706 served, amount of source water used, or any combination of these
707 factors, but in no event may the fee be less than \$50 or greater
708 than \$7,500. Public water systems shall pay annual operation

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709 license fees at a time and in a manner prescribed by department
710 rule.

711 (8) The department shall initiate rulemaking no later than
712 July 1, 2008 to increase each drinking water permit application
713 fee authorized under s. 403.087(6) and this part and adopted by
714 rule to ensure that such fees are increased to reflect, at a
715 minimum, any upward adjustment in the Consumer Price Index
716 compiled by the United States Department of Labor, or similar
717 inflation indicator, since the original fee was established or
718 most recently revised. The department shall establish by rule
719 the inflation index to be used for this purpose. The department
720 shall review the drinking water permit application fees
721 authorized under s. 403.087(6) and this part at least once every
722 five years and shall adjust the fees upward, as necessary,
723 within the fee caps established below, to reflect changes in the
724 Consumer Price Index or similar inflation indicator. In the
725 event of deflation, the department shall consult with the
726 Executive Office of the Governor and Legislature to determine
727 whether downward fee adjustments are appropriate given then
728 current budget and appropriation considerations. The department
729 shall also review the drinking water operation license fees
730 established pursuant to (7) (b) at least once every five years to
731 adopt, as necessary, the same inflationary adjustments provided
732 for in this subsection.

733 Section 10. Section 378.011, Florida Statutes, is
734 repealed.

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735 Section 11. Chapter 325, Florida Statutes, consisting of
736 ss. 325.2055, 325.221, 325.222, and 325.223, Florida Statutes,
737 is repealed.

738 Section 12. Section 403.08725, Florida Statutes, is
739 repealed.

740 Section 13. Paragraph (a) of subsection (3) of section
741 373.503, Florida Statutes, is amended to read:

742 373.503 Manner of taxation.--

743 (3)(a) The districts may levy ad valorem taxes on property
744 within the district solely for the purposes of this chapter and
745 of chapter 25270, 1949, Laws of Florida, as amended, and chapter
746 61-691, Laws of Florida, as amended. The authority to levy ad
747 valorem taxes as provided in this act shall commence with the
748 year 1977. However, the taxes levied for 1977 by the governing
749 boards pursuant to this section shall be prorated to ensure that
750 no such taxes will be levied for the first 4 days of the tax
751 year, which days will fall prior to the effective date of the
752 amendment to s. 9(b), Art. VII of the State Constitution, which
753 was approved March 9, 1976. When appropriate, taxes levied by
754 each governing board may be separated by the governing board
755 into a millage necessary for the purposes of the district and a
756 millage necessary for financing basin functions specified in s.
757 373.0695. Beginning with the taxing year 1977, and
758 notwithstanding the provisions of any other general or special
759 law to the contrary, the maximum total millage rate for district
760 and basin purposes shall be:

761 1. Northwest Florida Water Management District: .2 ~~0.05~~
762 mill.



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- 763 2. Suwannee River Water Management District: 0.75 mill.
- 764 3. St. Johns River Water Management District: 0.6 mill.
- 765 4. Southwest Florida Water Management District: 1.0 mill.
- 766 5. South Florida Water Management District: 0.80 mill.

767 Section 14. The amendment to paragraph (a) of subsection
 768 (3) of section 373.503, Florida Statutes, shall take effect on
 769 the effective date of the amendment to the State Constitution
 770 proposed in Senate Joint Resolution or similar legislation
 771 which was passed in the 2008 regular session of the Legislature
 772 and which is submitted to the electors of the state for their
 773 approval or rejection at the general election to be held in
 774 November 2008.

775 Section 15. This act shall take effect upon becoming a
 776 law.

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

778 And the title is amended as follows:

779 Delete everything before the enacting clause
 780 and insert:

781 A bill to be entitled
 782 An act relating to a review of the Department of Environmental
 783 Protection under the Florida Government Accountability Act;
 784 reenacting and amending s. 20.255, F.S.; relating to the
 785 establishment of the department; providing for the Office of
 786 Intergovernmental Programs; providing for the Division of
 787 Environmental Assessment and Restoration; authorizing the
 788 Environmental Regulation Commission to employ independent
 789 counsel and contract for outside technical consultants; amending

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790 s. 211.3103, F.S.; providing for a surcharge per ton of
791 phosphate severed for certain specified purposes;
792 amending s. 373.228, F.S.; providing that certain entities must
793 review the standards and guidelines for landscape irrigation and
794 xeriscape ordinances by a date certain; amending s. 376.75,
795 F.S.; requiring a drycleaning facility to be registered with the
796 department and show proof of registration prior to purchasing
797 perchloroethylene for drycleaning purposes; prohibiting the use
798 of perchloroethylene by a drycleaning facility after a certain
799 date; amending s. 403.031, F.S.; conforming the definition of
800 the term "regulated air pollutant" to changes made in the
801 federal Clean Air Act; amending s. 403.0872, F.S.; conforming
802 the requirements for air operation permits to changes made to
803 Title V of the Clean Air Act to delete certain minor sources
804 from the Title V permitting requirements; amending s. 373.109,
805 F.S.; requiring the department to initiate rulemaking by a date
806 certain to adjust permit fees; amending s. 403.087, F.S.;
807 providing minimums and maximums for certain fees; amending s.
808 403.861, F.S.; to provide for a public water system application
809 fee; repealing s. 378.011, F.S.; relating to the Land Use
810 Advisory Committee; repealing ch. 325, F.S., consisting of ss.
811 325.2055, 325.221, 325.222, and 325.223, F.S.; relating to motor
812 vehicle air conditioning refrigerants; repealing s. 403.08725,
813 F.S.; relating to citrus juice processing facilities; amending
814 s. 373.503, F.S.; increasing the millage rate for the Northwest
815 Florida Water Management district; providing that the increased
816 millage rate shall take effect upon passage of a constitutional
817 amendment; providing an effective date.

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