

By Senator Saunders

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1 A bill to be entitled
2 An act relating to petroleum cleanup; amending s.
3 376.30713, F.S.; eliminating obsolete provisions that
4 require the Department of Environmental Protection to
5 report on preapproved advanced cleanup projects; providing
6 an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Section 376.30713, Florida Statutes, is amended
11 to read:

12 376.30713 Preapproved advanced cleanup.--

13 (1) In addition to the legislative findings provided in s.
14 376.30711, the Legislature finds and declares:

15 (a) That the inability to conduct site rehabilitation in
16 advance of a site's priority ranking pursuant to s.
17 376.3071(5)(a) may substantially impede or prohibit property
18 transactions or the proper completion of public works projects.

19 (b) While the first priority of the state is to provide for
20 protection of the water resources of the state, human health, and
21 the environment, the viability of commerce is of equal importance
22 to the state.

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

28 (d) It is appropriate for persons responsible for site
29 rehabilitation to share the costs associated with managing and

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30 conducting preapproved advanced cleanup, to facilitate the
31 opportunity for preapproved advanced cleanup, and to mitigate the
32 additional costs that will be incurred by the state in conducting
33 site rehabilitation in advance of the site's priority ranking.
34 Such cost sharing will result in more contaminated sites being
35 cleaned up and greater environmental benefits to the state. The
36 provisions of this section shall only be available for sites
37 eligible for restoration funding under EDI, ATRP, or PLIRP. This
38 section is available for discharges eligible for restoration
39 funding under the petroleum cleanup participation program for the
40 state's cost share of site rehabilitation. Applications shall
41 include a cost-sharing commitment for this section in addition to
42 the 25-percent-copayment requirement of the petroleum cleanup
43 participation program. This section is not available for any
44 discharge under a petroleum cleanup participation program where
45 the 25-percent-copayment requirement of the petroleum cleanup
46 participation program has been reduced or eliminated pursuant to
47 s. 376.3071(13)(c).

48 (2) The department is authorized to approve an application
49 for preapproved advanced cleanup at eligible sites, prior to
50 funding based on the site's priority ranking established pursuant
51 to s. 376.3071(5)(a), in accordance with the provisions of this
52 section. Persons who qualify as an applicant under the
53 provisions of this section shall only include the facility owner
54 or operator or the person otherwise responsible for site
55 rehabilitation.

56 (a) Preapproved advanced cleanup applications may be
57 submitted between May 1 and June 30 and between November 1 and
58 December 31 of each fiscal year. Applications submitted between

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59 | May 1 and June 30 shall be for the fiscal year beginning July 1.

60 | An application shall consist of:

61 | 1. A commitment to pay no less than 25 percent of the total
62 | cleanup cost deemed recoverable under the provisions of this
63 | section along with proof of the ability to pay the cost share.

64 | 2. A nonrefundable review fee of \$250 to cover the
65 | administrative costs associated with the department's review of
66 | the application.

67 | 3. A limited contamination assessment report.

68 | 4. A proposed course of action.

69 |

70 | The limited contamination assessment report shall be sufficient
71 | to support the proposed course of action and to estimate the cost
72 | of the proposed course of action. Any costs incurred related to
73 | conducting the limited contamination assessment report are not
74 | refundable from the Inland Protection Trust Fund. Site
75 | eligibility under this subsection, or any other provision of this
76 | section, shall not constitute an entitlement to preapproved
77 | advanced cleanup or continued restoration funding. The applicant
78 | shall certify to the department that the applicant has the
79 | prerequisite authority to enter into a preapproved advanced
80 | cleanup contract with the department. This certification shall
81 | be submitted with the application.

82 | (b) The department shall rank the applications based on the
83 | percentage of cost-sharing commitment proposed by the applicant,
84 | with the highest ranking given to the applicant that proposes the
85 | highest percentage of cost sharing. If the department receives
86 | applications that propose identical cost-sharing commitments and
87 | which exceed the funds available to commit to all such proposals

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88 during the preapproved advanced cleanup application period, the
89 department shall proceed to rerank those applicants. Those
90 applicants submitting identical cost-sharing proposals which
91 exceed funding availability shall be so notified by the
92 department and shall be offered the opportunity to raise their
93 individual cost-share commitments, in a period of time specified
94 in the notice. At the close of the period, the department shall
95 proceed to rerank the applications in accordance with this
96 paragraph.

97 (3) (a) Based on the ranking established under paragraph
98 (2) (b) and the funding limitations provided in subsection (4),
99 the department shall commence negotiation with such applicants.
100 If the department and the applicant agree on the course of
101 action, the department may enter into a contract with the
102 applicant. The department is authorized to negotiate the terms
103 and conditions of the contract.

104 (b) Preapproved advanced cleanup shall be conducted under
105 the provisions of ss. 376.3071(5) (b) and 376.30711. If the terms
106 of the preapproved advanced cleanup contract are not fulfilled,
107 the applicant forfeits any right to future payment for any site
108 rehabilitation work conducted under the contract.

109 (c) The department's decision not to enter into a
110 preapproved advanced cleanup contract with the applicant shall
111 not be subject to the provisions of chapter 120. If the
112 department is not able to complete negotiation of the course of
113 action and the terms of the contract within 60 days after
114 commencing negotiations, the department shall terminate
115 negotiations with that applicant.

116 (4) The department is authorized to enter into contract for

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117 a total of up to \$10 million of preapproved advanced cleanup work
118 in each fiscal year. However, no facility shall be preapproved
119 for more than \$500,000 of cleanup activity in each fiscal year.
120 For the purposes of this section the term "facility" shall
121 include, but not be limited to, multiple site facilities such as
122 airports, port facilities, and terminal facilities even though
123 such enterprises may be treated as separate facilities for other
124 purposes under this chapter.

125 ~~(5) By December 31, 1998, the department shall submit a~~
126 ~~report to the Governor, the President of the Senate, and the~~
127 ~~Speaker of the House of Representatives on the progress and level~~
128 ~~of activity under the provisions of this section. The report~~
129 ~~shall include the following information:~~

130 ~~(a) A list of sites under a preapproved advanced cleanup~~
131 ~~contract, to be identified by the facility number.~~

132 ~~(b) The total number of preapproved advanced cleanup~~
133 ~~applications submitted to the department.~~

134 ~~(c) The priority ranking scores of each participating site.~~

135 ~~(d) The total amount of contract work authorized and~~
136 ~~conducted for each site and the percentage and amount of cost~~
137 ~~share.~~

138 ~~(e) The total revenues received under the provisions of~~
139 ~~this section.~~

140 ~~(f) The annual costs of administering the provisions of~~
141 ~~this section.~~

142 ~~(g) The recommended annual budget for the provisions of~~
143 ~~this section.~~

144 (5)(6) All funds collected by the department pursuant to
145 this section shall be deposited into the Inland Protection Trust

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146 Fund to be used as provided in this section.

147 Section 2. This act shall take effect upon becoming a law.