



206672

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/07/2009	.	
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The Committee on Education Pre-K - 12 (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 376.30702, Florida Statutes, is amended
to read:

376.30702 Contamination notification.—

(1) FINDINGS; INTENT; APPLICABILITY.—The Legislature finds
and declares that when contamination is discovered by any person
as a result of site rehabilitation activities conducted pursuant



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12 to the risk-based corrective action provisions found in s.
13 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or
14 pursuant to an administrative or court order, it is in the
15 public's best interest that potentially affected persons be
16 notified of the existence of such contamination. Therefore,
17 persons discovering such contamination shall notify the
18 department and those identified in this section of the such
19 discovery in accordance with the requirements of this section,
20 ~~and the department shall be responsible for notifying the~~
21 ~~affected public.~~ The Legislature intends for ~~the provisions of~~
22 this section to govern the notice requirements for early
23 notification of the discovery of contamination.

24 (2) (a) INITIAL NOTICE OF CONTAMINATION ~~BEYOND PROPERTY~~
25 ~~BOUNDARIES.~~—If at any time during site rehabilitation conducted
26 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s.
27 376.30701, or an administrative or court order, the person
28 responsible for site rehabilitation, the person's authorized
29 agent, or another representative of the person discovers from
30 laboratory analytical results that comply with appropriate
31 quality assurance protocols specified in department rules that
32 contamination as defined in applicable department rules exists
33 in any groundwater, surface water, or soil ~~medium~~ beyond the
34 boundaries of the property at which site rehabilitation was
35 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,
36 or s. 376.30701, or which threatens a release of the
37 contamination beyond the boundaries of the property, the person
38 responsible for site rehabilitation shall give actual notice as
39 soon as possible, but no later than 10 days from such discovery,
40 to the Division of Waste Management at the department's



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41 Tallahassee office. The actual notice shall be provided on a
42 form adopted by department rule and mailed by certified mail,
43 return receipt requested.

44 1. The person responsible for site rehabilitation shall
45 simultaneously provide ~~mail~~ a copy of the ~~such~~ notice to:

46 a. The appropriate department district office; and

47 b. The appropriate county health department.

48 2. The department shall notify:

49 a. The mayor, the chair of the county commission, or the
50 comparable senior elected official representing the affected
51 area;

52 b. The city manager, the county administrator, or the
53 comparable senior elected official representing the affected
54 area;

55 c. The state senator and state representative representing
56 the affected area, both United States Senators, and the United
57 States Congressmen representing the affected areas; and

58 d. All real property owners, presidents and board members
59 of any condominium associations or sole owners of condominiums,
60 lessees, and tenants of record of the property at which site
61 rehabilitation is being conducted, if different from the person
62 responsible for site rehabilitation, and all real property
63 owners, lessees, and tenants of any properties within a 1,000-
64 foot radius of each sampling point at which contamination is
65 discovered and all known lessees and tenants of the source
66 property.

67
68 The department's notice requirement in subparagraph 2. for site
69 rehabilitation, pursuant to the risk-based corrective action



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70 provisions found in s. 376.3071, s. 376.3078, or s. 376.81, are
71 applicable only for any properties within a 250-foot radius of
72 each sampling point at which contamination is discovered.

73 (b) The notice shall include the following information:

74 1.(a) The location of the property at which site
75 rehabilitation was initiated pursuant to s. 376.3071(5), s.
76 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an administrative or
77 court order and contact information for the person responsible
78 for site rehabilitation, the person's authorized agent, or
79 another representative of the person.

80 2.(b) A listing of all record owners of any real property,
81 ~~other than the property at which site rehabilitation was~~
82 ~~initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~
83 ~~or s. 376.30701~~, at which contamination has been discovered; the
84 parcel identification number for any such real property; the
85 owner's address listed in the current county property tax office
86 records; and the owner's telephone number. ~~The requirements of~~
87 ~~this paragraph do not apply to the notice to known tenants and~~
88 ~~lessees of the source property.~~

89 3.(c) Separate tables for ~~by medium, such as~~ groundwater,
90 soil, or surface water which, ~~or sediment, that~~ list sampling
91 locations identified on the vicinity map as provided in
92 subparagraph 4.; sampling dates; names of contaminants detected
93 above cleanup target levels; their corresponding cleanup target
94 levels; the contaminant concentrations; and whether the cleanup
95 target level is based on health, nuisance, organoleptic, and ~~or~~
96 aesthetic concerns.

97 4.(d) A vicinity map that shows each sampling location with
98 corresponding laboratory analytical results pursuant to



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99 subparagraph 3. and the date on which the sample was collected
100 and that identifies the property boundaries of the property at
101 which site rehabilitation was initiated pursuant to s.
102 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an
103 administrative or court order and any ~~the~~ other properties at
104 which contamination has been discovered during such site
105 rehabilitation.

106 (c) The notice provided to local government officials must
107 be mailed by certified mail, return receipt requested, and must
108 advise the local government of its responsibilities under
109 subsection (3). Copies of the notices and receipts shall be
110 provided to the department as proof of compliance with this
111 subsection.

112 (d) The notice provided to real property owners, lessees,
113 and tenants may be delivered by certified mail, return receipt
114 requested, by hand delivery, or by door-hanger.

115 (3) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—Within 30
116 days after receiving the actual notice required under subsection
117 (2), the local government shall mail a copy of the notice to the
118 president or comparable executive officer of each homeowners'
119 association or neighborhood association within the potentially
120 affected area as described in subsection (2).

121 (4) ~~(3)~~ DEPARTMENT'S NOTICE RESPONSIBILITIES.—

122 (a) Within 30 days after receiving the actual notice
123 required under pursuant to subsection (2), ~~or within 30 days of~~
124 ~~the effective date of this act if the department already~~
125 ~~possesses information equivalent to that required by the notice,~~
126 the department shall verify that the person responsible for site
127 rehabilitation has complied with the notice requirements of this



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128 ~~section send a copy of such notice, or an equivalent~~
129 ~~notification, to all record owners of any real property, other~~
130 ~~than the property at which site rehabilitation was initiated~~
131 ~~pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.~~
132 ~~376.30701, at which contamination has been discovered. If the~~
133 ~~person responsible for site rehabilitation has not complied with~~
134 ~~the notice requirements of this section, the department may~~
135 ~~pursue enforcement as provided under this chapter and chapter~~
136 ~~403.~~

137 (b) If the property at which contamination has been
138 discovered is the site of a school as defined in s. 1003.01, the
139 department shall mail also send a copy of the notice to the
140 superintendent chair of the school board of the school district
141 in which the property is located and direct the superintendent
142 said school board to provide actual notice annually to teachers
143 and parents or guardians of students attending the school during
144 the period of site rehabilitation.

145 (c) If the property at which contamination has been
146 discovered is the site of a private K-12 school or a child care
147 facility as defined in s. 402.302, the department shall mail a
148 copy of the notice to the governing board, principal, or owner
149 of the school or child care facility and direct the governing
150 board, principal, or owner to provide actual notice annually to
151 teachers and parents or guardians of students or children
152 attending the school or child care facility during the period of
153 site rehabilitation.

154 (d) If any property within a 1-mile radius of the property
155 at which contamination has been discovered is the site of a
156 school as defined in s. 1003.01, the department shall mail a



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157 copy of the notice to the superintendent of the school district
158 in which the property is located and direct the superintendent
159 to provide actual notice annually to the principal of the
160 school.

161 (e) If any property within a 250-foot radius of the
162 property at which site rehabilitation was initiated pursuant to
163 s. 376.3071, s. 376.3078 or s. 376.81, is the site of a school
164 as defined in s. 1003.01, the department shall mail a copy of
165 the notice to the superintendent of the school district in which
166 the property is located and direct the superintendent to provide
167 actual notice annually to the principal of the school.

168 (f) Along with the copy of the notice ~~or its equivalent,~~
169 the department shall include a letter identifying sources of
170 additional information about the contamination and a telephone
171 number to which further inquiries should be directed. The
172 department may collaborate with the Department of Health to
173 develop such sources of information and to establish procedures
174 for responding to public inquiries about health risks associated
175 with contaminated sites.

176 (5) ~~(4)~~ RULEMAKING AUTHORITY.—The department shall adopt
177 rules and forms pursuant to ss. 120.536(1) and 120.54 to
178 implement the requirements of this section and shall recover the
179 costs of postage, materials, and labor associated with
180 notification from the responsible party.

181 Section 2. Section 376.30717, Florida Statutes, is created
182 to read:

183 376.30717 Advisory board.—

184 (1) There is created the Petroleum Restoration Program
185 Advisory Board. The board shall report to the secretary and the



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186 Legislature regarding improvements to the Petroleum Restoration
187 Program which has a goal of reducing costs and increasing site
188 cleanups by 10 percent per year and achieving the restoration of
189 all sites in the program by the year 2025.

190 (2) The board shall consist of seven members.

191 (a) The President of the Senate and the Speaker of the
192 House of Representatives shall each appoint one member who
193 possesses knowledge, skill, and experience in the areas of
194 geology or insurance.

195 (b) The Secretary of Environmental Protection shall appoint
196 five members as follows:

197 1. Four members nominated by the Florida Petroleum
198 Marketers and Convenience Store Association; and

199 2. One member nominated by the Florida Petroleum Council.

200 (3) Each member of the board shall be appointed to a 3-year
201 term. At the outset, two members shall be appointed to an
202 initial term of 1 year, two members shall be appointed to an
203 initial term of 2 years, and three members shall be appointed to
204 an initial term of 3 years as determined by lot at the first
205 meeting of the board.

206 (a) If a vacancy on the board occurs before the expiration
207 of a term, a successor shall be appointed for the remainder of
208 the unexpired term.

209 (b) A member may not be appointed for more than two
210 consecutive terms.

211 (4) Board members may not be compensated for their services
212 and are not entitled to reimbursement for per diem and travel
213 expenses in accordance with s. 112.061.

214 (5) The board shall annually elect from among its members a



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215 chair and vice chair. The board shall meet at the chair's
216 discretion; however, at least four meetings must be held per
217 year. Official meetings of the board may be conducted via
218 teleconference.

219 (a) A majority of the members of the board constitute a
220 quorum, and action by a majority of a quorum is necessary for
221 the board to take any official action.

222 (b) All meetings of the board must be open and available to
223 the public in accordance s. 286.011.

224 (6) Semiannually, the secretary, or a designee, shall meet
225 with the board to review the status of the Petroleum Restoration
226 Program, the statutes or rules that hinder the program, the
227 funding strategies, the program-staffing strategies, site-
228 ranking strategies, and other strategies to improve the quality
229 and cost-effectiveness of the program.

230 (7) The board shall prepare an annual report on the
231 Petroleum Restoration Program which summarizes all areas
232 reviewed by the board. The areas of the board's review shall
233 include, but are not limited to:

234 (a) The department's Preapproval Standard Operating
235 Procedures Guidelines Manual, as well as proposed program rules
236 potentially impacting petroleum site owners, operators, or
237 environmental contractors and methods of improvement.

238 (b) Issues affecting the quality and cost of site
239 assessments and restoration.

240 (c) Program productivity and efficiency.

241 (d) The adequacy of supporting program policies, with the
242 goal of increasing the number of site-completion orders issued
243 by 10 percent annually.



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244 (8) The board shall submit its report to the secretary, the
245 President of the Senate, and the Speaker of the House of
246 Representatives by January 31 of each year.

247 Section 3. This act shall take effect July 1, 2009.

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

250 And the title is amended as follows:

251 Delete everything before the enacting clause

252 and insert:

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 A bill to be entitled

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 An act relating to environmental cleanup; amending s.

255

 376.30702, F.S.; revising contamination notification

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 provisions; requiring individuals responsible for site

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 rehabilitation to provide notice of site

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 rehabilitation to specified entities; revising

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 provisions relating to the content and delivery of

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 such notice; requiring local governments to provide

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 specified notice of site rehabilitation; requiring the

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 Department of Environmental Protection to verify

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 compliance with notice requirements; authorizing the

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 department to pursue enforcement measures for

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 noncompliance with notice requirements; requiring the

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 department to provide specified notice to certain

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 property owners; revising the department's

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 contamination notification requirements for certain

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 public schools; requiring the department to provide

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 specified notice to private K-12 schools and child

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 care facilities; requiring the department to provide

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 specified notice to public schools within a specified



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273 area; providing notice requirements; creating s.
274 376.30717, F.S.; creating the Petroleum Restoration
275 Program Advisory Board; providing for membership,
276 terms of service, appointment of a chair and vice
277 chair, reimbursement for expenses, and meetings;
278 requiring the board to review the Petroleum
279 Restoration Program; requiring an annual report to the
280 Secretary of Environmental Protection and the
281 Legislature; providing for the content of the report;
282 providing an effective date.