

By Senator Constantine

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1 A bill to be entitled
2 An act relating to environmental protection; amending
3 s. 253.034, F.S.; establishing a date by which land
4 management plans for conservation lands must contain
5 certain outcomes, goals, and elements; amending s.
6 253.111, F.S.; deleting a 40-day timeframe for a board
7 of county commissioners to decide whether to acquire
8 county land being sold by the Board of Trustees of the
9 Internal Improvement Trust Fund; amending s. 259.035,
10 F.S.; increasing the maximum number of terms of
11 appointed members of the Acquisition and Restoration
12 Council; clarifying that vacancies in the unexpired
13 term of appointed members shall be filled in the same
14 manner as the original appointment; requiring a
15 majority vote of the council for certain decisions;
16 amending s. 259.037, F.S.; establishing certain dates
17 by which agencies managing certain lands must submit
18 certain reports and lists to the Land Management
19 Uniform Accounting Council; amending s. 259.105, F.S.;
20 providing that the certain proceeds from the Florida
21 Forever Trust Fund shall be spent on certain capital
22 projects within a year after acquisition rather than
23 only at the time of acquisition; requiring a majority
24 vote of the Acquisition and Restoration Council for
25 certain decisions; amending s. 253.12, F.S.;
26 clarifying that title to certain sovereignty lands
27 which were judicially adjudicated are excluded from
28 automatically becoming private property; amending s.
29 373.427, F.S.; increasing the amount of time for

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30 filing a petition for an administrative hearing on an
31 application to use board of trustees-owned submerged
32 lands; amending s. 403.0876, F.S.; providing that the
33 Department of Environmental Protection's failure to
34 approve or deny certain air construction permits
35 within 90 days does not automatically result in
36 approval or denial; amending s. 403.121, F.S.;

37 excluding certain air pollution violations from
38 certain departmental actions; clarifying when a
39 respondent in an administrative action is the
40 prevailing party; revising the penalties that may be
41 assessed for violations involving drinking water
42 contamination, wastewater, dredge, fill, or
43 stormwater, mangrove trimming or alterations, solid
44 waste, air emission, and waste cleanup; increasing
45 fines relating to public water system requirements;
46 revising provisions relating to a limit on the amount
47 of a fine for a particular violation by certain
48 violators; amending ss. 712.03 and 712.04, F.S.;

49 providing an exception from an entitlement to
50 marketable record title to interests held by
51 governmental entities; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Paragraphs (a) and (c) of subsection (5) of
56 section 253.034, Florida Statutes, are amended to read:

57 253.034 State-owned lands; uses.—

58 (5) Each manager of conservation lands shall submit to the

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59 Division of State Lands a land management plan at least every 10
60 years in a form and manner prescribed by rule by the board and
61 in accordance with the provisions of s. 259.032. Each manager of
62 conservation lands shall also update a land management plan
63 whenever the manager proposes to add new facilities or make
64 substantive land use or management changes that were not
65 addressed in the approved plan, or within 1 year of the addition
66 of significant new lands. Each manager of nonconservation lands
67 shall submit to the Division of State Lands a land use plan at
68 least every 10 years in a form and manner prescribed by rule by
69 the board. The division shall review each plan for compliance
70 with the requirements of this subsection and the requirements of
71 the rules established by the board pursuant to this section. All
72 land use plans, whether for single-use or multiple-use
73 properties, shall include an analysis of the property to
74 determine if any significant natural or cultural resources are
75 located on the property. Such resources include archaeological
76 and historic sites, state and federally listed plant and animal
77 species, and imperiled natural communities and unique natural
78 features. If such resources occur on the property, the manager
79 shall consult with the Division of State Lands and other
80 appropriate agencies to develop management strategies to protect
81 such resources. Land use plans shall also provide for the
82 control of invasive nonnative plants and conservation of soil
83 and water resources, including a description of how the manager
84 plans to control and prevent soil erosion and soil or water
85 contamination. Land use plans submitted by a manager shall
86 include reference to appropriate statutory authority for such
87 use or uses and shall conform to the appropriate policies and

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88 guidelines of the state land management plan. Plans for managed
89 areas larger than 1,000 acres shall contain an analysis of the
90 multiple-use potential of the property, which analysis shall
91 include the potential of the property to generate revenues to
92 enhance the management of the property. Additionally, the plan
93 shall contain an analysis of the potential use of private land
94 managers to facilitate the restoration or management of these
95 lands. In those cases where a newly acquired property has a
96 valid conservation plan that was developed by a soil and
97 conservation district, such plan shall be used to guide
98 management of the property until a formal land use plan is
99 completed.

100 (a) State lands shall be managed to ensure the conservation
101 of the state's plant and animal species and ~~to ensure~~ the
102 accessibility of state lands for the benefit and enjoyment of
103 all people of the state, both present and future. Effective July
104 1, 2009, each land management plan must ~~shall~~ provide a desired
105 outcome, describe both short-term and long-term management
106 goals, and include measurable objectives for achieving these ~~to~~
107 ~~achieve these~~ goals. Short-term goals must ~~shall~~ be achievable
108 within a 2-year planning period, and long-term goals must ~~shall~~
109 be achievable within a 10-year planning period. These short-term
110 and long-term management goals shall be the basis for all
111 subsequent land management activities.

112 (c) Effective July 1, 2009, the land management plan must,
113 ~~shall~~ at a minimum, contain the following elements:

- 114 1. A physical description of the land.
- 115 2. A quantitative data description of the land which
116 includes an inventory of forest and other natural resources;

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117 exotic and invasive plants; hydrological features;
118 infrastructure, including recreational facilities; and other
119 significant land, cultural, or historical features. The
120 inventory must ~~shall~~ reflect the number of acres for each
121 resource and feature, as ~~when~~ appropriate. The inventory shall
122 be of such detail that objective measures and benchmarks can be
123 established for each tract of land and monitored during the
124 lifetime of the plan. All quantitative data collected must ~~shall~~
125 be aggregated, standardized, collected, and presented in an
126 electronic format to allow for uniform management reporting and
127 analysis. The information collected by the Department of
128 Environmental Protection pursuant to s. 253.0325(2) shall be
129 available to the land manager and his or her assignee.

130 3. A detailed description of each short-term and long-term
131 land management goal, the associated measurable objectives, and
132 the related activities that are to be performed to meet the land
133 management objectives. Each land management objective must be
134 addressed by the land management plan, and where practicable,
135 may not ~~no land management objective shall~~ be performed to the
136 detriment of ~~the~~ other land management objectives.

137 4. A schedule of land management activities which contains
138 short-term and long-term land management goals and ~~the~~ related
139 measurable objective and activities. The schedule must ~~shall~~
140 include ~~for each activity~~ a timeline for completing each
141 activity completion, quantitative measures, and detailed expense
142 and manpower budgets. The schedule must ~~shall~~ provide a
143 management tool that facilitates the development of performance
144 measures.

145 5. A summary budget for the scheduled land management

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146 activities of the land management plan. For state lands
147 containing or anticipated to contain imperiled species habitat,
148 the summary budget must ~~shall~~ include any fees anticipated from
149 public or private entities for projects to offset adverse
150 impacts to imperiled species or such habitat, which ~~fees~~ shall
151 be used solely to restore, manage, enhance, repopulate, or
152 acquire imperiled species habitat. The summary budget must ~~shall~~
153 be prepared in a ~~such~~ manner that ~~it~~ facilitates computing an
154 aggregate of land management costs for all state-managed lands
155 using the categories described in s. 259.037(3).

156 Section 2. Subsection (2) of section 253.111, Florida
157 Statutes, is amended to read:

158 253.111 Notice to board of county commissioners before
159 sale.—The Board of Trustees of the Internal Improvement Trust
160 Fund of the state may not sell any land to which they hold title
161 unless and until they afford an opportunity to the county in
162 which such land is situated to receive such land on the
163 following terms and conditions:

164 (2) The board of county commissioners of the county in
165 which such land is situated shall, ~~within 40 days after receipt~~
166 ~~of such notification from the board,~~ determine by resolution
167 whether ~~or not~~ it proposes to acquire such land.

168 Section 3. Subsections (1), (2), and (5) of section
169 259.035, Florida Statutes, are amended to read:

170 259.035 Acquisition and Restoration Council.—

171 (1) There is created the Acquisition and Restoration
172 Council—

173 ~~(a) The council shall be~~ composed of eleven voting members,
174 of which six members shall be appointed pursuant to paragraphs

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175 ~~(a), (b), and (c) four of whom shall be appointed by the~~
176 ~~Governor. The appointed members shall be appointed Of these four~~
177 ~~appointees, three shall be from scientific disciplines related~~
178 ~~to land, water, or environmental sciences and the fourth shall~~
179 ~~have at least 5 years of experience in managing lands for both~~
180 ~~active and passive types of recreation. They shall serve 4-year~~
181 ~~terms, except that, initially, to provide for staggered terms,~~
182 ~~two of the appointees shall serve 2-year terms. All subsequent~~
183 ~~appointments shall be for 4-year staggered terms. An No~~
184 ~~appointee may not shall serve more than two terms 6 years. A~~
185 ~~vacancy shall be filled for the remainder of an unexpired term~~
186 ~~in the same manner as the original appointment. The Governor may~~
187 ~~at any time fill a vacancy for the unexpired term of a member~~
188 ~~appointed under this paragraph.~~

189 (a) Four members shall be appointed by the Governor. Of
190 these, three members shall be from scientific disciplines
191 related to land, water, or environmental sciences and the fourth
192 member must have at least 5 years of experience in managing
193 lands for both active and passive types of recreation.

194 (b) One member shall be appointed by the Commissioner of
195 Agriculture from a discipline related to agriculture including
196 silviculture.

197 (c) One member shall be appointed by the Fish and Wildlife
198 Conservation Commission from a discipline related to wildlife
199 management or wildlife ecology.

200 ~~(d)-(b)~~ The five remaining members appointees shall be
201 composed of the Secretary of Environmental Protection, the
202 director of the Division of Forestry of the Department of
203 Agriculture and Consumer Services, the executive director of the

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204 Fish and Wildlife Conservation Commission, the director of the
205 Division of Historical Resources of the Department of State, and
206 the secretary of the Department of Community Affairs, or their
207 respective designees.

208 ~~(c) One member shall be appointed by the Commissioner of~~
209 ~~Agriculture with a discipline related to agriculture including~~
210 ~~silviculture. One member shall be appointed by the Fish and~~
211 ~~Wildlife Conservation Commission with a discipline related to~~
212 ~~wildlife management or wildlife ecology.~~

213 (e)~~(d)~~ The Governor shall appoint the chair of the council,
214 and a vice chair shall be elected from among the members.

215 (f)~~(e)~~ The council shall hold periodic meetings at the
216 request of the chair.

217 (g)~~(f)~~ The Department of Environmental Protection shall
218 provide primary staff support to the council and shall ensure
219 that council meetings are electronically recorded. Such
220 recording must ~~shall~~ be preserved pursuant to chapters 119 and
221 257.

222 (h)~~(g)~~ The board of trustees may ~~has authority to~~ adopt
223 rules ~~pursuant to administer ss. 120.536(1) and 120.54 to~~
224 ~~implement the provisions of this section.~~

225 (2) The six appointed ~~four~~ members of the council ~~appointed~~
226 ~~pursuant to paragraph (a) and the two members of the council~~
227 ~~appointed pursuant to paragraph (c)~~ shall receive reimbursement
228 for expenses and per diem for travel, to attend council
229 meetings, ~~as allowed state officers and employees while in the~~
230 ~~performance of their duties,~~ pursuant to s. 112.061.

231 (5) A majority vote ~~An affirmative vote of five members of~~
232 the council is required ~~in order~~ to change a project boundary or

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233 to place a proposed project on a list developed pursuant to
234 subsection (4). Any member of the council who by family or a
235 business relationship has a connection with all or a portion of
236 any proposed project shall declare the interest before voting on
237 its inclusion on a list.

238 Section 4. Paragraph (b) of subsection (3) and subsection
239 (6) of section 259.037, Florida Statutes, are amended to read:

240 259.037 Land Management Uniform Accounting Council.—

241 (3)

242 (b) Beginning July 1, 2009, each reporting agency shall
243 also:

244 1. Include a report of the available public use
245 opportunities for each management unit of state land, the total
246 management cost for public access and public use, and the cost
247 associated with each use option.

248 2. List the acres of land requiring minimal management
249 effort, moderate management effort, and significant management
250 effort pursuant to s. 259.032(11)(c). For each category created
251 in paragraph (a), the reporting agency shall include the amount
252 of funds requested, the amount of funds received, and the amount
253 of funds expended for land management.

254 3. List acres managed and cost of management for each park,
255 preserve, forest, reserve, or management area.

256 4. List acres managed, cost of management, and lead manager
257 for each state lands management unit for which secondary
258 management activities were provided.

259 5. Include a report of the estimated calculable financial
260 benefits to the public for the ecosystem services provided by
261 conservation lands, based on the best readily available

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262 information or science that provides a standard measurement
263 methodology to be consistently applied by the land managing
264 agencies. Such information may include, but need not be limited
265 to, the value of natural lands for protecting the quality and
266 quantity of drinking water through natural water filtration and
267 recharge, contributions to protecting and improving air quality,
268 benefits to agriculture through increased soil productivity and
269 preservation of biodiversity, and savings to property and lives
270 through flood control.

271 (6) Beginning July 1, 2010 ~~Biennially~~, each reporting
272 agency shall biennially ~~also~~ submit an operational report for
273 each management area ~~along~~ with the ~~an approved~~ management plan
274 that was approved by the board of trustees pursuant to ss.
275 253.034(5) and 259.032(10). The report should assess ~~the~~
276 progress toward achieving short-term and long-term management
277 goals of the approved management plan, including all land
278 management activities, and identify any deficiencies in
279 management and corrective actions to address identified
280 deficiencies as appropriate. This report shall be submitted to
281 the Acquisition and Restoration Council and the division for
282 inclusion in its annual report required pursuant to s. 259.036.

283 Section 5. Paragraphs (b), (e), (f), (g), and (h) of
284 subsection (3) and subsection (13) of section 259.105, Florida
285 Statutes, are amended to read:

286 259.105 The Florida Forever Act.—

287 (3) Less the costs of issuing and the costs of funding
288 reserve accounts and other costs associated with bonds, the
289 proceeds of cash payments or bonds issued pursuant to this
290 section shall be deposited into the Florida Forever Trust Fund

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291 created by s. 259.1051. The proceeds shall be distributed by the
292 Department of Environmental Protection in the following manner:

293 (b) Thirty-five percent to the Department of Environmental
294 Protection for the acquisition of lands and capital project
295 expenditures described in this section. Of the proceeds
296 distributed ~~pursuant to this paragraph~~, it is the intent of the
297 Legislature that ~~an~~ increased priority be given to those
298 acquisitions which achieve a combination of conservation goals,
299 including protecting Florida's water resources and natural
300 groundwater recharge. At a minimum, 3 percent, and no more than
301 10 percent, of the funds allocated pursuant to this paragraph
302 shall be spent on capital project expenditures identified in the
303 management prospectus prepared pursuant to s. 259.032(9)(d)
304 during the time of acquisition, or in the management plan
305 prepared pursuant to s. 259.032(10) within 1 year after
306 acquisition. Such capital projects must ~~which~~ meet land
307 management planning activities necessary for public access.

308 (e) One and five-tenths percent to the Department of
309 Environmental Protection for the purchase of inholdings and
310 additions to state parks and for capital project expenditures as
311 described in this section. At a minimum, 1 percent, and no more
312 than 10 percent, of the funds allocated pursuant to this
313 paragraph shall be spent on capital project expenditures
314 identified in the management prospectus prepared pursuant to s.
315 259.032(9)(d) during the time of acquisition, or in the
316 management plan prepared pursuant to s. 259.032(10) within 1
317 year after acquisition. Such capital projects must ~~which~~ meet
318 land management planning activities necessary for public access.
319 For the purposes of this paragraph, the term "state park" means

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320 any real property in the state which is under the jurisdiction
321 of the Division of Recreation and Parks of the department, or
322 which may come under its jurisdiction.

323 (f) One and five-tenths percent to the Division of Forestry
324 of the Department of Agriculture and Consumer Services to fund
325 the acquisition of state forest inholdings and additions
326 pursuant to s. 589.07, the implementation of reforestation plans
327 or sustainable forestry management practices, and for capital
328 project expenditures as described in this section. At a minimum,
329 1 percent, and no more than 10 percent, of the funds allocated
330 for the acquisition of inholdings and additions pursuant to this
331 paragraph shall be spent on capital project expenditures
332 identified in the management prospectus prepared pursuant to s.
333 259.032(9)(d) during the time of acquisition, or in the
334 management plan prepared pursuant to s. 259.032(10) within 1
335 year after acquisition. Such capital projects must ~~which~~ meet
336 land management planning activities necessary for public access.

337 (g) One and five-tenths percent to the Fish and Wildlife
338 Conservation Commission to fund the acquisition of inholdings
339 and additions to lands managed by the commission which are
340 important to the conservation of fish and wildlife and for
341 capital project expenditures as described in this section. At a
342 minimum, 1 percent, and no more than 10 percent, of the funds
343 allocated pursuant to this paragraph shall be spent on capital
344 project expenditures identified in the management prospectus
345 prepared pursuant to s. 259.032(9)(d) during the time of
346 acquisition, or in the management plan prepared pursuant to s.
347 259.032(10) within 1 year after acquisition. Such capital
348 projects must ~~which~~ meet land management planning activities

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349 necessary for public access.

350 (h) One and five-tenths percent to the Department of
351 Environmental Protection for the Florida Greenways and Trails
352 Program, to acquire greenways and trails or greenways and trail
353 systems pursuant to chapter 260, including, but not limited to,
354 abandoned railroad rights-of-way and the Florida National Scenic
355 Trail and for capital project expenditures as described in this
356 section. At a minimum, 1 percent, and no more than 10 percent,
357 of the funds allocated pursuant to this paragraph shall be spent
358 on capital project expenditures identified in the management
359 prospectus prepared pursuant to s. 259.032(9)(d) during the time
360 of acquisition, or in the management plan prepared pursuant to
361 s. 259.032(10) within 1 year after acquisition. Such capital
362 projects must ~~which~~ meet land management planning activities
363 necessary for public access.

364 (13) A majority vote ~~An affirmative vote of five members~~ of
365 the Acquisition and Restoration Council is ~~shall be~~ required ~~in~~
366 ~~order~~ to place a proposed project on the list developed pursuant
367 to subsection (8). Any member of the council who by family or a
368 business relationship has a connection with any project proposed
369 to be ranked shall declare such interest before ~~prior to~~ voting
370 for a project's inclusion on the list.

371 Section 6. Subsection (10) of section 253.12, Florida
372 Statutes, is amended to read:

373 253.12 Title to tidal lands vested in state.—

374 (10) Subsection (9) does ~~shall~~ not ~~operate to~~ affect the
375 title to lands which have been judicially adjudicated or which
376 were the subject of litigation pending on January 1, 1993,
377 involving title to such lands. Further, the provisions of

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378 subsection (9) do ~~shall~~ not apply to spoil islands or ~~nor~~ to any
379 lands that ~~which~~ are included on an official acquisition list,
380 on July 1, 1993, of a state agency or water management district
381 for conservation, preservation, or recreation, ~~nor~~ to lands
382 maintained as state or local recreation areas or shore
383 protection structures, or to sovereignty lands that were filled
384 before July 1, 1975, by any governmental entity for a public
385 purpose or pursuant to proprietary authorization from the Board
386 of Trustees of the Internal Improvement Trust Fund.

387 Section 7. Paragraph (c) of subsection (2) of section
388 373.427, Florida Statutes, is amended to read:

389 373.427 Concurrent permit review.-

390 (2) In addition to the provisions set forth in subsection
391 (1) and notwithstanding s. 120.60, the procedures established in
392 this subsection shall apply to concurrently reviewed
393 applications which request proprietary authorization to use
394 board of trustees-owned submerged lands for activities for which
395 there has been no delegation of authority to take final agency
396 action without action by the board of trustees.

397 (c) Any petition for an administrative hearing pursuant to
398 ss. 120.569 and 120.57 must be filed within 21 ~~14~~ days after ~~of~~
399 the notice of consolidated intent to grant or deny. Unless
400 waived by the applicant, within 60 days after the recommended
401 order is submitted, or at the next regularly scheduled meeting
402 for which notice may be properly given, whichever is latest, the
403 board of trustees shall determine what action to take on a ~~any~~
404 recommended order issued under ss. 120.569 and 120.57 on the
405 application to use board of trustees-owned submerged lands, and
406 shall direct the department or water management district on what

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407 action to take in the final order concerning the application ~~to~~
 408 ~~use board of trustees-owned submerged lands~~. The department or
 409 water management district shall determine what action to take on
 410 any recommended order issued under ss. 120.569 and 120.57
 411 regarding any concurrently processed permits, waivers,
 412 variances, or approvals required by this chapter or chapter 161.
 413 The department or water management district shall ~~then~~ take
 414 final agency action by entering a consolidated final order
 415 addressing each of the concurrently reviewed authorizations,
 416 permits, waivers, or approvals. Failure to satisfy these
 417 timeframes may ~~shall~~ not result in approval by default of the
 418 application to use board of trustees-owned submerged lands. Any
 419 provisions relating to authorization to use such ~~board of~~
 420 ~~trustees-owned submerged~~ lands shall be as directed by the board
 421 of trustees. Issuance of the consolidated final order within 45
 422 days after receipt of the direction of the board of trustees
 423 regarding the application to use board of trustees-owned
 424 submerged lands is deemed in compliance with the timeframes for
 425 issuance of final orders under s. 120.60. The final order is
 426 ~~shall be~~ subject to ~~the provisions of~~ s. 373.4275.

427 Section 8. Paragraph (c) of subsection (2) of section
 428 403.0876, Florida Statutes, is amended to read:

429 403.0876 Permits; processing.—

430 (2)

431 (c) The failure of the department to approve or deny an
 432 application for an air construction permit for which a federally
 433 delegated or approved program requires a public participation
 434 period of 30 days or longer, or for an operation permit for a
 435 major source of air pollution, as provided ~~defined~~ in s.

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436 403.0872, within the 90-day ~~time~~ period may ~~shall~~ not result in
437 the automatic approval or denial of the permit and may ~~shall~~ not
438 prevent the inclusion of specific permit conditions that ~~which~~
439 are necessary to ensure compliance with applicable statutes and
440 rules. If the department fails to approve or deny such ~~an~~
441 operation permit ~~for a major source of air pollution~~ within the
442 90-day period specified in this section or in s. 403.0872, as
443 applicable, the applicant or a party who participated in the
444 public comment process may petition for a writ of mandamus to
445 compel the department to act.

446 Section 9. Paragraphs (b) and (f) of subsection (2), and
447 subsections (3), (4), (5), and (9) of section 403.121, Florida
448 Statutes, are amended to read:

449 403.121 Enforcement; procedure; remedies.—The department
450 shall have the following judicial and administrative remedies
451 available to it for violations of this chapter, as specified in
452 s. 403.161(1).

453 (2) Administrative remedies:

454 (b) If the department has reason to believe a violation has
455 occurred, it may institute an administrative proceeding to order
456 the prevention, abatement, or control of the conditions creating
457 the violation or other appropriate corrective action. Except for
458 violations involving hazardous wastes, asbestos, major sources
459 of air pollution, or underground injection, the department shall
460 proceed administratively in all cases in which the department
461 seeks administrative penalties that do not exceed \$10,000 per
462 assessment as calculated in accordance with subsections (3),
463 (4), (5), (6), ~~and~~ (7), and (9). Pursuant to 42 U.S.C. s. 300g-
464 2, the administrative penalty assessed pursuant to subsection

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465 (3), subsection (4), or subsection (5) against a public water
466 system serving a population of more than 10,000 may ~~shall be~~ not
467 be less than \$1,000 per day per violation. The department may
468 ~~shall~~ not impose administrative penalties greater than ~~in excess~~
469 ~~of~~ \$10,000 in a notice of violation. The department may ~~shall~~
470 not have more than one notice of violation seeking
471 administrative penalties pending against the same party at the
472 same time unless the violations occurred at a different site or
473 the violations were discovered by the department after
474 ~~subsequent to~~ the filing of a previous notice of violation.

475 (f) In any administrative proceeding brought by the
476 department, the prevailing party shall recover all costs as
477 provided in ss. 57.041 and 57.071. The costs must be included in
478 the final order. The respondent is the prevailing party when a
479 final an order is entered which does not require the respondent
480 to perform any corrective actions or award any damages or
481 ~~awarding no~~ penalties to the department and such order has not
482 been reversed on appeal or the time for seeking judicial review
483 has expired. The respondent is ~~shall be~~ entitled to an award of
484 attorney's fees if the administrative law judge determines that
485 the notice of violation issued by the department seeking the
486 imposition of administrative penalties was not substantially
487 justified as defined in s. 57.111(3) ~~s. 57.111(3)(e)~~. An ~~No~~
488 award of attorney's fees as provided by this subsection may not
489 ~~shall~~ exceed \$15,000.

490 (3) Except for violations involving hazardous wastes,
491 asbestos, major sources of air pollution, or underground
492 injection, administrative penalties must be in accordance with
493 ~~calculated according to~~ the following schedule:

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494 (a) For a drinking water contamination violation, the
495 department shall assess:

496 1. A penalty of \$2,000 for a maximum containment level
497 ~~(MCL)~~ violation; plus \$1,000 if the violation is for a primary
498 inorganic, organic, or radiological maximum contaminant level or
499 ~~it is~~ a fecal coliform bacteria violation; plus \$1,000 if the
500 violation occurs at a community water system; and plus \$1,000 if
501 any maximum contaminant level is exceeded by more than 100
502 percent.

503 2. A penalty of \$4,000 for failure to maintain the required
504 minimum gauge pressure throughout the drinking water
505 distribution system.

506 3. A penalty of \$3,000 for failure to obtain a clearance
507 letter before ~~prior to~~ placing a drinking water system into
508 service if when the system would not have been eligible for
509 clearance, ~~the department shall assess a penalty of \$3,000. All~~
510 other failures to obtain a clearance letter before placing a
511 drinking water system into service shall result in a penalty of
512 \$1,500.

513 4. A penalty of \$4,000 for failure to properly complete a
514 required public notice of violations, exceedances, or failures
515 that may pose an acute risk to human health. All other failures
516 to properly complete a required public notice relating to
517 maximum containment level violations shall result in a penalty
518 of \$2,000.

519 5. A penalty of \$1,000 for failure to submit a consumer
520 confidence report to the department.

521 6. A penalty of \$2,000 for failure to provide or meet
522 licensed operator or staffing requirements at a drinking water

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523 facility.

524 (b) For wastewater violations, the department shall assess:

525 1. A penalty of \$5,000 for failure to obtain a required
526 wastewater permit before construction or modification, other
527 than a permit required for surface water discharge.

528 2. A penalty of \$4,000 for failure to obtain a permit to
529 construct a domestic wastewater collection or transmission
530 system.

531 3. A penalty of \$1,000 for failure to renew ~~obtain~~ a
532 required wastewater permit, other than a permit required for
533 surface water discharge, ~~the department shall assess a penalty~~
534 ~~of \$1,000.~~

535 4. For a domestic or industrial wastewater violation not
536 involving a surface water or groundwater quality violation, ~~the~~
537 ~~department shall assess~~ a penalty of \$2,000 for an unpermitted
538 or unauthorized discharge or effluent-limitation exceedance.

539 5. A penalty of \$5,000 for an unpermitted or unauthorized
540 discharge or effluent-limitation exceedance that resulted in a
541 surface water or groundwater quality violation, ~~the department~~
542 ~~shall assess a penalty of \$5,000.~~

543 6. A penalty of \$2,000 for failure to properly notify the
544 department of an unauthorized spill, discharge, or abnormal
545 event that may impact public health or the environment.

546 7. A penalty of \$2,000 for failure to provide or meet
547 requirements for licensed operators or staffing at a wastewater
548 facility.

549 (c) For a dredge, ~~and~~ fill, or stormwater violation, the
550 department shall assess:

551 1. A penalty of \$1,000 for unpermitted or unauthorized

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552 dredging, ~~or~~ filling, or unauthorized construction of a
553 stormwater management system against the person or persons
554 responsible; ~~for the illegal dredging or filling, or~~
555 ~~unauthorized construction of a stormwater management system~~ plus
556 \$2,000 if the dredging or filling occurs in an aquatic preserve,
557 Outstanding Florida Water, ~~conservation easement,~~ or Class I or
558 Class II surface water; ~~7~~ plus \$1,000 if the area dredged or
559 filled is greater than one-quarter acre but less than or equal
560 to one-half acre; ~~7~~ and plus \$1,000 if the area dredged or filled
561 is greater than one-half acre but less than or equal to one
562 acre; and plus \$3,000 if the person or persons responsible
563 previously applied for or obtained authorization from the
564 department to dredge or fill within wetlands or surface waters.

565 2. A penalty of \$10,000 for dredge, fill, or stormwater
566 management system violations occurring in a conservation
567 easement.

568 3. The administrative penalty schedule does ~~shall~~ not apply
569 to a dredge or ~~and~~ fill violation if the area dredged or filled
570 exceeds one acre. The department retains the authority to seek
571 the judicial imposition of civil penalties for all dredge and
572 fill violations involving more than one acre. ~~The department~~
573 ~~shall assess~~

574 4. A penalty of \$3,000 for the failure to complete required
575 mitigation, failure to record a required conservation easement,
576 or for a water quality violation resulting from dredging or
577 filling activities, stormwater construction activities, or
578 failure of a stormwater treatment facility.

579 5. For stormwater management systems serving less than 5
580 acres, ~~the department shall assess~~ a penalty of \$2,000 for the

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581 failure to properly or timely construct a stormwater management
582 system.

583 6. In addition to the penalties authorized in this
584 subsection, ~~the department shall assess~~ a penalty of \$5,000 per
585 violation against the contractor or agent of the owner or tenant
586 that conducts unpermitted or unauthorized dredging or filling.
587 For purposes of this paragraph, the preparation or signing of a
588 permit application by a person currently licensed under chapter
589 471 to practice as a professional engineer does ~~shall~~ not make
590 that person an agent of the owner or tenant.

591 (d) For mangrove trimming or alteration violations, the
592 department shall assess:

593 1. A penalty of \$5,000 per violation against any person who
594 violates ss. 403.9321-403.9333 ~~the contractor or agent of the~~
595 ~~owner or tenant that conducts mangrove trimming or alteration~~
596 ~~without a permit as required by s. 403.9328.~~ For purposes of
597 this paragraph, the preparation or signing of a permit
598 application by a person currently licensed under chapter 471 to
599 practice as a professional engineer does ~~shall~~ not make that
600 person an agent of the owner or tenant.

601 2. For second and subsequent violations of subparagraph 1.,
602 an additional penalty of \$100 for each mangrove illegally
603 trimmed and \$250 for each mangrove illegally altered, not to
604 exceed a total of \$10,000.

605 3. For second and subsequent violations of subparagraph 1.
606 by a professional mangrove trimmer, an additional penalty of
607 \$250 for each mangrove illegally trimmed or altered, not to
608 exceed a total of \$10,000.

609 (e) For solid waste violations, the department shall

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610 assess:

611 1. A penalty of \$2,000 for the unpermitted or unauthorized
612 disposal or storage of solid waste; plus \$1,000 if the solid
613 waste is Class I or Class III ~~(excluding yard trash)~~ or ~~if the~~
614 ~~solid waste~~ is construction and demolition debris in excess of
615 20 cubic yards;~~;~~ plus \$1,000 if the solid waste is disposed of
616 or stored in any natural or artificial body of water or within
617 500 feet of a potable water well; and; plus \$1,000 if the solid
618 waste contains PCB at a concentration of 50 parts per million or
619 greater; untreated biomedical waste; more than 1 cubic meter of
620 regulated friable asbestos material that ~~greater than 1 cubic~~
621 ~~meter which~~ is not wetted, bagged, and covered; more than 25
622 gallons of used oil ~~greater than 25 gallons~~; or 10 or more lead
623 acid batteries.

624 2. A penalty of \$5,000 for failure to timely implement
625 evaluation monitoring or corrective actions in response to
626 adverse impacts to water quality at permitted facilities. ~~The~~
627 ~~department shall assess~~

628 2. A penalty of \$3,000 for failure to properly maintain
629 leachate control; unauthorized burning; failure to have a
630 trained spotter or trained operator on duty as required by
631 department rule ~~at the working face when accepting waste~~;
632 failure to apply and maintain adequate initial, intermediate, or
633 final cover; failure to control or correct erosion resulting in
634 exposed waste; failure to implement a gas management system as
635 required by department rule; or failure to dispose of or process
636 unauthorized waste ~~failure to provide access control for three~~
637 ~~consecutive inspections.~~ ~~The department shall assess~~

638 3. A penalty of \$2,000 for failure to construct or maintain

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639 a required stormwater management system; failure to compact and
640 slope waste as required by department rule; or failure to
641 maintain a small working face as required by department rule.

642 4. A penalty of \$1,000 for failure to timely submit annual
643 updates required for financial assurance.

644 (f) For an air emission violation, the department shall
645 assess a penalty of \$1,000 for an unpermitted or unauthorized
646 air emission or an air-emission-permit exceedance; ~~plus \$1,000~~
647 ~~if the emission results in an air quality violation,~~ plus \$3,000
648 if the emission was from a major source and the source was major
649 for the pollutant in violation; and plus \$1,000 if the emission
650 was more than 150 percent of the allowable level.

651 (g) For storage tank system and petroleum contamination
652 violations, the department shall assess:

653 1. A penalty of \$5,000 for failure to empty a damaged
654 storage system as necessary to ensure that a release does not
655 occur until repairs to the storage system are completed; if when
656 a release has occurred from that storage tank system; for
657 failure to timely recover free product; for failure to submit a
658 complete site assessment report; or for failure to conduct
659 remediation or monitoring activities until a no-further-action
660 or site-rehabilitation completion order has been issued. ~~The~~
661 ~~department shall assess~~

662 2. A penalty of \$3,000 for failure to timely upgrade a
663 storage tank system or to timely assess or remediate petroleum
664 contamination. ~~The department shall assess~~

665 3. A penalty of \$2,000 for failure to conduct or maintain
666 required release detection; failure to timely investigate a
667 suspected release from a storage system; depositing motor fuel

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668 into an unregistered storage tank system; ~~failure to timely~~
669 ~~assess or remediate petroleum contamination;~~ or failure to
670 properly install a storage tank system. ~~The department shall~~
671 ~~assess~~

672 4. A penalty of \$1,000 for failure to properly operate,
673 maintain, repair, or close a storage tank system.

674 (h) For waste cleanup violations, the department shall
675 assess:

676 1. A penalty of \$5,000 for failure to timely assess or
677 remediate contamination; failure to provide notice of
678 contamination beyond property boundaries or complete an offsite
679 well survey; the use or injection of substances or materials to
680 surface water or groundwater for remediation purposes without
681 prior department approval; or for operation of a remedial
682 treatment system without prior approval by the department.

683 2. A penalty of \$3,000 for failure to timely submit a
684 complete site assessment report.

685 3. A penalty of \$500 for failure to timely submit any other
686 plans, reports, or other information required by a department
687 rule or order.

688 (4) In an administrative proceeding, in addition to ~~the~~ any
689 penalties that may be assessed under subsection (3), or for
690 violations not otherwise listed in subsection (3), the
691 department shall assess administrative penalties according to
692 the following schedule:

693 (a) For failure to satisfy financial responsibility
694 requirements or for violation of s. 377.371(1), \$5,000.

695 (b) For failure to properly install, operate, maintain, or
696 use a required pollution control, collection, treatment, or

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697 disposal system or device, or failure to use appropriate best-
698 management practices or erosion and sediment controls, \$4,000.

699 (c) For failure to obtain a required permit or license
700 ~~before construction or modification~~, \$3,000 if the facility is
701 constructed, modified, or operated in compliance with applicable
702 requirements; or \$5,000 if the facility is constructed,
703 modified, or operated out of compliance with applicable
704 requirements.

705 (d) For failure to conduct required monitoring or testing;
706 failure to conduct required release detection; or failure to
707 construct in compliance with a permit, \$2,000.

708 (e) For failure to maintain required staff to respond to
709 emergencies; failure to conduct required training; failure to
710 prepare, maintain, or update required contingency plans; failure
711 to adequately respond to emergencies to bring an emergency
712 situation under control; or failure to submit required
713 notification to the department, \$1,000.

714 (f) Except as provided in subsection (2) with respect to
715 public water systems serving a population of more than 10,000,
716 for failure to prepare, submit, maintain, or use required
717 reports or other required documentation, \$1,000 ~~\$500~~.

718 (5) Except as provided in subsection (2) with respect to
719 public water systems serving a population of more than 10,000,
720 for failure to comply with any other departmental regulatory
721 statute or rule requirement not otherwise identified in this
722 section, the department may assess a penalty of \$1,000 ~~\$500~~.

723 (9) The administrative penalties assessed for any
724 particular violation may ~~shall~~ not exceed \$5,000 against any one
725 violator, unless the violator has a history of noncompliance,

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726 the violator received economic benefit from ~~of~~ the violation ~~as~~
 727 ~~described in subsection (8) exceeds \$5,000~~, or there are
 728 multiday violations. The total administrative penalties may
 729 ~~shall~~ not exceed \$10,000 per assessment for all violations
 730 attributable to a specific person in the notice of violation.

731 Section 10. Subsection (9) is added to section 712.03,
 732 Florida Statutes, to read:

733 712.03 Exceptions to marketability.—Such marketable record
 734 title shall not affect or extinguish the following rights:

735 (9) Any right, title, or interest held by any governmental
 736 entity, including, but not limited to, the Federal Government,
 737 the state, any state agency, the Board of Trustees of the
 738 Internal Improvement Trust Fund, any water management district
 739 created pursuant to chapter 373, any county, any municipality,
 740 any school district, any special district, or any other
 741 political subdivision.

742 Section 11. Section 712.04, Florida Statutes, is amended to
 743 read:

744 712.04 Interests extinguished by marketable record title.—
 745 Subject to the matters stated in s. 712.03, a ~~such~~ marketable
 746 record title is ~~shall be~~ free and clear of all estates,
 747 interests, claims, or charges whatsoever, the existence of which
 748 depends upon any act, title transaction, event or omission that
 749 occurred before ~~prior to~~ the effective date of the root of
 750 title. All such estates, interests, claims, or charges, however
 751 denominated, whether such estates, interests, claims, or charges
 752 are or appear to be held or asserted by a person sui juris or
 753 under a disability, whether such person is within or without the
 754 state or, ~~whether such person~~ is natural or corporate, ~~or is~~

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755 ~~private or governmental,~~ are hereby declared to be null and
756 void, ~~except that this chapter shall not be deemed to affect any~~
757 ~~right, title, or interest of the United States, Florida, or any~~
758 ~~of its officers, boards, commissions, or other agencies reserved~~
759 ~~in the patent or deed by which the United States, Florida, or~~
760 ~~any of its agencies parted with title.~~

761 Section 12. This act shall take effect July 1, 2009.