

20092104e1

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           state land being sold by the Board of Trustees of the  
9           Internal Improvement Trust Fund; amending s. 253.7829,  
10          F.S.; conforming a cross-reference; amending s.  
11          253.783, F.S.; revising provisions relating to the  
12          disposition of surplus lands; authorizing the  
13          Department of Environmental Protection to extend the  
14          second right of refusal to the current owner of  
15          adjacent lands affected by acquired surplus lands  
16          under certain circumstances; authorizing the  
17          department to extend the third right of refusal to the  
18          original owner or the original owner's heirs of lands  
19          acquired by the Canal Authority of the State of  
20          Florida or the United States Army Corps of Engineers;  
21          authorizing the department to extend the fourth right  
22          of refusal to any person having a leasehold interest  
23          in the land from the canal authority; conforming  
24          cross-references; amending s. 259.035, F.S.;  
25          increasing the maximum number of terms of appointed  
26          members of the Acquisition and Restoration Council;  
27          clarifying that vacancies in the unexpired term of  
28          appointed members shall be filled in the same manner  
29          as the original appointment; requiring an affirmative

20092104e1

30 vote of six members of the council for certain  
31 decisions; amending s. 259.037, F.S.; establishing  
32 certain dates by which agencies managing certain lands  
33 must submit certain reports and lists to the Land  
34 Management Uniform Accounting Council; amending s.  
35 259.105, F.S.; requiring that certain proceeds from  
36 the Florida Forever Trust Fund be spent on capital  
37 projects within a year after acquisition rather than  
38 only at the time of acquisition; requiring an  
39 affirmative vote of six members of the Acquisition and  
40 Restoration Council for certain decisions; amending s.  
41 253.12, F.S.; clarifying that title to certain  
42 sovereignty lands which were judicially adjudicated  
43 are excluded from automatically becoming private  
44 property; repealing s. 288.1185, F.S., relating to the  
45 Recycling Markets Advisory Committee; amending s.  
46 373.0693, F.S.; providing conditions for serving on a  
47 basin board after a term expires; removing ex officio  
48 designation for board members serving on basin boards;  
49 revising the membership of certain basin boards;  
50 eliminating the Oklawaha River Basin Advisory Council;  
51 amending s. 373.427, F.S.; increasing the amount of  
52 time for filing a petition for an administrative  
53 hearing on an application to use board of trustees-  
54 owned submerged lands; amending s. 376.30702, F.S.;  
55 revising contamination notification provisions;  
56 requiring individuals responsible for site  
57 rehabilitation to provide notice of site  
58 rehabilitation to specified entities; revising

20092104e1

59 provisions relating to the content of such notice;  
60 requiring the Department of Environmental Protection  
61 to provide notice of site rehabilitation to specified  
62 entities and certain property owners; providing an  
63 exemption; requiring the department to verify  
64 compliance with notice requirements; authorizing the  
65 department to pursue enforcement measures for  
66 noncompliance with notice requirements; revising the  
67 department's contamination notification requirements  
68 for certain public schools; requiring the department  
69 to provide specified notice to private K-12 schools  
70 and child care facilities; requiring the department to  
71 provide specified notice to public schools within a  
72 specified area; providing notice requirements,  
73 including directives to extend such notice to certain  
74 other persons; requiring local governments to provide  
75 specified notice of site rehabilitation; requiring the  
76 department to recover notification costs from  
77 responsible parties; providing an exception; amending  
78 s. 403.0876, F.S.; providing that the Department of  
79 Environmental Protection's failure to approve or deny  
80 certain air construction permits within 90 days does  
81 not automatically result in approval or denial;  
82 amending s. 403.121, F.S.; excluding certain air  
83 pollution violations from certain departmental  
84 actions; clarifying when a respondent in an  
85 administrative action is the prevailing party;  
86 revising the penalties that may be assessed for  
87 violations involving drinking water contamination,

20092104e1

88 wastewater, dredge, fill, or stormwater, mangrove  
89 trimming or alterations, solid waste, air emission,  
90 and waste cleanup; increasing fines relating to public  
91 water system requirements; revising provisions  
92 relating to a limit on the amount of a fine for a  
93 particular violation by certain violators; amending  
94 ss. 403.7032 and 14.2015, F.S.; directing the  
95 Department of Environmental Protection and the Office  
96 of Tourism, Trade, and Economic Development to create  
97 the Recycling Business Assistance Center; providing  
98 requirements; authorizing the Office of Tourism,  
99 Trade, and Economic Development to consult with  
100 Enterprise Florida, Inc., and other state agency  
101 personnel; amending s. 403.707, F.S.; providing for  
102 inspections of waste-to-energy facilities by the  
103 Department of Environmental Protection; amending s.  
104 403.708, F.S.; authorizing the disposal of yard trash  
105 at a Class I landfill if the landfill has a system for  
106 collecting landfill gas and arranges for the reuse of  
107 the gas; amending s. 403.9323, F.S.; clarifying  
108 legislative intent with respect to the protection of  
109 mangroves; amending s. 403.9324, F.S.; authorizing the  
110 Department of Environmental Protection to adopt by  
111 rule certain exemptions and general permits under the  
112 Mangrove Trimming and Preservation Act; amending s.  
113 403.9325, F.S.; revising the definition of "riparian  
114 mangrove fringe"; amending s. 403.9329, F.S.;  
115 clarifying the department's authority to revoke a  
116 person's status as a professional mangrove trimmer;

20092104e1

117 amending s. 403.9331, F.S.; providing that the  
118 Mangrove Trimming and Preservation Act does not  
119 authorize trimming on uninhabited islands or lands  
120 that are publicly owned or set aside for conservation  
121 or mitigation except under specified circumstances;  
122 amending ss. 712.03 and 712.04, F.S.; providing an  
123 exception from an entitlement to marketable record  
124 title to interests held by governmental entities;  
125 amending s. 6, ch. 99-395, Laws of Florida; providing  
126 exceptions to requirements of the Department of  
127 Environmental Protection regarding minimum casing for  
128 injection wells used by facilities that have a  
129 specified design capacity; providing requirements for  
130 an injection well used as a backup to a primary  
131 injection well; creating s. 403.9335, F.S.; creating  
132 the "Florida Coral Reef Protection Act"; providing  
133 definitions; providing legislative intent; requiring  
134 responsible parties to notify the Department of  
135 Environmental Protection if their vessel runs aground  
136 or damages a coral reef; requiring the responsible  
137 party to remove the vessel; requiring the responsible  
138 party to cooperate with the department to assess the  
139 damage and restore the coral reef; authorizing the  
140 department to recover damages from the responsible  
141 party; authorizing the department to use a certain  
142 method to calculate compensation for damage of coral  
143 reefs; authorizing the department to assess civil  
144 penalties; authorizing the department to enter into  
145 delegation agreements; providing that moneys collected

20092104e1

146 from damages and civil penalties for injury to coral  
147 reefs be deposited in the Ecosystem Management and  
148 Restoration Trust Fund within the Department of  
149 Environmental Protection; providing requirements;  
150 authorizing the department to adopt rules; amending s.  
151 403.1651, F.S.; authorizing the department to enter  
152 into settlement agreements that require responsible  
153 parties to pay another government entity or nonprofit  
154 organization to fund projects consistent with the  
155 conservation or protection of coral reefs; repealing  
156 s. 253.04(3), F.S., relating to civil penalties for  
157 damage to coral reefs; repealing s. 380.0558, F.S.,  
158 relating to coral reef restoration; repealing s. 23,  
159 ch. 2008-150, Laws of Florida, relating to a provision  
160 prohibiting the Department of Environmental Protection  
161 from issuing a permit for certain Class I landfills;  
162 amending s. 403.503, F.S.; revising definitions;  
163 amending s. 403.506, F.S.; revising provisions of  
164 power plants using wind or solar energy; providing an  
165 effective date.

166  
167 Be It Enacted by the Legislature of the State of Florida:

168  
169 Section 1. Paragraphs (a) and (c) of subsection (5) of  
170 section 253.034, Florida Statutes, are amended to read:

171 253.034 State-owned lands; uses.—

172 (5) Each manager of conservation lands shall submit to the  
173 Division of State Lands a land management plan at least every 10  
174 years in a form and manner prescribed by rule by the board and

20092104e1

175 in accordance with the provisions of s. 259.032. Each manager of  
176 conservation lands shall also update a land management plan  
177 whenever the manager proposes to add new facilities or make  
178 substantive land use or management changes that were not  
179 addressed in the approved plan, or within 1 year of the addition  
180 of significant new lands. Each manager of nonconservation lands  
181 shall submit to the Division of State Lands a land use plan at  
182 least every 10 years in a form and manner prescribed by rule by  
183 the board. The division shall review each plan for compliance  
184 with the requirements of this subsection and the requirements of  
185 the rules established by the board pursuant to this section. All  
186 land use plans, whether for single-use or multiple-use  
187 properties, shall include an analysis of the property to  
188 determine if any significant natural or cultural resources are  
189 located on the property. Such resources include archaeological  
190 and historic sites, state and federally listed plant and animal  
191 species, and imperiled natural communities and unique natural  
192 features. If such resources occur on the property, the manager  
193 shall consult with the Division of State Lands and other  
194 appropriate agencies to develop management strategies to protect  
195 such resources. Land use plans shall also provide for the  
196 control of invasive nonnative plants and conservation of soil  
197 and water resources, including a description of how the manager  
198 plans to control and prevent soil erosion and soil or water  
199 contamination. Land use plans submitted by a manager shall  
200 include reference to appropriate statutory authority for such  
201 use or uses and shall conform to the appropriate policies and  
202 guidelines of the state land management plan. Plans for managed  
203 areas larger than 1,000 acres shall contain an analysis of the

20092104e1

204 multiple-use potential of the property, which analysis shall  
205 include the potential of the property to generate revenues to  
206 enhance the management of the property. Additionally, the plan  
207 shall contain an analysis of the potential use of private land  
208 managers to facilitate the restoration or management of these  
209 lands. In those cases where a newly acquired property has a  
210 valid conservation plan that was developed by a soil and  
211 conservation district, such plan shall be used to guide  
212 management of the property until a formal land use plan is  
213 completed.

214 (a) State lands shall be managed to ensure the conservation  
215 of the state's plant and animal species and ~~to ensure~~ the  
216 accessibility of state lands for the benefit and enjoyment of  
217 all people of the state, both present and future. Beginning July  
218 1, 2009, each newly developed or updated land management plan  
219 must ~~shall~~ provide a desired outcome, describe both short-term  
220 and long-term management goals, and include measurable  
221 objectives for achieving these ~~to achieve these~~ goals. Short-  
222 term goals must ~~shall~~ be achievable within a 2-year planning  
223 period, and long-term goals must ~~shall~~ be achievable within a  
224 10-year planning period. These short-term and long-term  
225 management goals shall be the basis for all subsequent land  
226 management activities.

227 (c) Beginning July 1, 2009, a newly developed or updated  
228 ~~the~~ land management plan must, ~~shall~~ at a minimum, contain the  
229 following elements:

- 230 1. A physical description of the land.
- 231 2. A quantitative data description of the land which  
232 includes an inventory of forest and other natural resources;

20092104e1

233 exotic and invasive plants; hydrological features;  
234 infrastructure, including recreational facilities; and other  
235 significant land, cultural, or historical features. The  
236 inventory must ~~shall~~ reflect the number of acres for each  
237 resource and feature, as ~~when~~ appropriate. The inventory shall  
238 be of such detail that objective measures and benchmarks can be  
239 established for each tract of land and monitored during the  
240 lifetime of the plan. All quantitative data collected must ~~shall~~  
241 be aggregated, standardized, collected, and presented in an  
242 electronic format to allow for uniform management reporting and  
243 analysis. The information collected by the Department of  
244 Environmental Protection pursuant to s. 253.0325(2) shall be  
245 available to the land manager and his or her assignee.

246 3. A detailed description of each short-term and long-term  
247 land management goal, the associated measurable objectives, and  
248 the related activities that are to be performed to meet the land  
249 management objectives. Each land management objective must be  
250 addressed by the land management plan, and where practicable,  
251 may not ~~no land management objective shall~~ be performed to the  
252 detriment of ~~the~~ other land management objectives.

253 4. A schedule of land management activities which contains  
254 short-term and long-term land management goals and ~~the~~ related  
255 measurable objective and activities. The schedule must ~~shall~~  
256 include ~~for each activity~~ a timeline for completing each  
257 activity completion, quantitative measures, and detailed expense  
258 and manpower budgets. The schedule must ~~shall~~ provide a  
259 management tool that facilitates the development of performance  
260 measures.

261 5. A summary budget for the scheduled land management

20092104e1

262 activities of the land management plan. For state lands  
263 containing or anticipated to contain imperiled species habitat,  
264 the summary budget must ~~shall~~ include any fees anticipated from  
265 public or private entities for projects to offset adverse  
266 impacts to imperiled species or such habitat, which ~~fees~~ shall  
267 be used solely to restore, manage, enhance, repopulate, or  
268 acquire imperiled species habitat. The summary budget must ~~shall~~  
269 be prepared in a ~~such~~ manner that ~~it~~ facilitates computing an  
270 aggregate of land management costs for all state-managed lands  
271 using the categories described in s. 259.037(3).

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

274 253.111 Notice to board of county commissioners before  
275 sale.—The Board of Trustees of the Internal Improvement Trust  
276 Fund of the state may not sell any land to which they hold title  
277 unless and until they afford an opportunity to the county in  
278 which such land is situated to receive such land on the  
279 following terms and conditions:

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

284 Section 3. Subsection (4) of section 253.7829, Florida  
285 Statutes, is amended to read:

286 253.7829 Management plan for retention or disposition of  
287 former Cross Florida Barge Canal lands; authority to manage  
288 lands until disposition.—

289 (4) The Board of Trustees of the Internal Improvement Trust  
290 Fund may authorize the sale or exchange of surplus lands within

20092104e1

291 the former Cross Florida Barge Canal project corridor and the  
292 acquisition of privately owned lands or easements over such  
293 privately owned lands within the project corridor necessary for  
294 purposes of completing a continuous corridor or for other  
295 management purposes provided by law. However, such acquisition  
296 shall be funded from the proceeds of any sale or exchange of  
297 surplus canal lands after repayment to the counties, as provided  
298 in s. 253.783(2)(f) ~~s. 253.783(2)(e)~~, or from other funds  
299 appropriated by the Legislature.

300 Section 4. Subsection (2) of section 253.783, Florida  
301 Statutes, is amended to read:

302 253.783 Additional powers and duties of the department;  
303 disposition of surplus lands; payments to counties.—

304 (2) It is declared to be in the public interest that the  
305 department shall do and is hereby authorized to do any and all  
306 things and incur and pay, for the public purposes described  
307 herein, any and all expenses necessary, convenient, and proper  
308 to:

309 (a) Offer any land declared to be surplus, at current  
310 appraised value, to the counties in which the surplus land lies,  
311 for acquisition for specific public purposes. Any county, at its  
312 option, may elect to acquire any lands so offered without  
313 monetary payment. The fair market value of any parcels so  
314 transferred shall be subtracted from the county's reimbursement  
315 under paragraph (f) ~~(e)~~. These offers will be made within 3  
316 calendar months after the date the management plan is adopted  
317 and will be valid for 180 days after the date of the offer.

318 (b) Extend the second right of refusal, at current  
319 appraised value, to the current owner of adjacent lands affected

20092104e1

320 ~~when original owner from whom~~ the Canal Authority of the State  
321 of Florida or the United States Army Corps of Engineers acquired  
322 the surplus land and when the department wants to pursue an  
323 exchange of surplus lands for privately owned lands for the  
324 purposes set forth in s. 253.7829(4).

325 (c) Extend the third right of refusal, at current appraised  
326 value, to the original owner from whom the Canal Authority of  
327 the State of Florida or the United States Army Corps of  
328 Engineers acquired the land or the original owner's heirs. These  
329 offers shall be made by public advertisement in not fewer than  
330 three newspapers of general circulation within the area of the  
331 canal route, one of which shall be a newspaper in the county in  
332 which the lands declared to be surplus are located. The public  
333 advertisements shall be run for a period of 14 days. These  
334 offers will be valid for 30 days after the ~~expiration date of~~  
335 ~~any offers made under paragraph (a), or 30 days after the date~~  
336 ~~publication begins, whichever is later.~~

337 ~~(d)-(e)~~ Extend the fourth ~~third~~ right of refusal, at current  
338 appraised value, to any person having a leasehold interest in  
339 the land from the canal authority. These offers shall be  
340 advertised as provided in paragraph (c) ~~(b)~~ and will be valid  
341 for 30 days after the expiration date of the offers made under  
342 paragraph (c) ~~(b)~~, or 30 days after the date publication begins,  
343 whichever is later.

344 ~~(e)-(d)~~ Offer surplus lands not purchased or transferred  
345 under paragraphs (a)-(d) ~~(a)-(e)~~ to the highest bidder at public  
346 sale. Such surplus lands and the public sale shall be described  
347 and advertised in a newspaper of general circulation within the  
348 county in which the lands are located not less than 14 calendar

20092104e1

349 days prior to the date on which the public sale is to be held.  
350 The current appraised value of such surplus lands will be the  
351 minimum acceptable bid.

352 (f)~~(e)~~ Refund to the counties of the Cross Florida Canal  
353 Navigation District moneys pursuant to this paragraph from the  
354 funds derived from the conveyance of lands of the project to the  
355 Federal Government or any agency thereof, pursuant to s.  
356 253.781, and from the sales of surplus lands pursuant to this  
357 section. Following federal deauthorization of the project, such  
358 refunds shall consist of the \$9,340,720 principal in ad valorem  
359 taxes contributed by the counties and the interest which had  
360 accrued on that amount from the time of payment to June 30,  
361 1985. In no event shall the counties be paid less than the  
362 aggregate sum of \$32 million in cash or the appraised values of  
363 the surplus lands. Such refunds shall be in proportion to the ad  
364 valorem tax share paid to the Cross Florida Canal Navigation  
365 District by the respective counties. Should the funds derived  
366 from the conveyance of lands of the project to the Federal  
367 Government for payment or from the sale of surplus land be  
368 inadequate to pay the total of the principal plus interest,  
369 first priority shall be given to repaying the principal and  
370 second priority shall be given to repaying the interest.  
371 Interest to be refunded to the counties shall be compounded  
372 annually at the following rates: 1937-1950, 4 percent; 1951-  
373 1960, 5 percent; 1961-1970, 6 percent; 1971-1975, 7 percent;  
374 1976-June 30, 1985, 8 percent. In computing interest, amounts  
375 already repaid to the counties shall not be subject to further  
376 assessments of interest. Any partial repayments provided to the  
377 counties under this act shall be considered as contributing to

20092104e1

378 the total repayment owed to the counties. Should the funds  
379 generated by conveyance to the Federal Government and sales of  
380 surplus lands be more than sufficient to repay said counties in  
381 accordance with this section, such excess funds may be used for  
382 the maintenance of the greenways corridor.

383 (g)~~(f)~~ Carry out the purposes of this act.

384 Section 5. Subsections (1), (2), and (5) of section  
385 259.035, Florida Statutes, are amended to read:

386 259.035 Acquisition and Restoration Council.—

387 (1) There is created the Acquisition and Restoration  
388 Council.—

389 ~~(a) The council shall be composed of eleven voting members,~~  
390 ~~of which six members shall be appointed pursuant to paragraphs~~  
391 ~~(a), (b), and (c) four of whom shall be appointed by the~~  
392 ~~Governor. The appointed members shall be appointed~~ Of these four  
393 ~~appointees, three shall be from scientific disciplines related~~  
394 ~~to land, water, or environmental sciences and the fourth shall~~  
395 ~~have at least 5 years of experience in managing lands for both~~  
396 ~~active and passive types of recreation. They shall serve 4-year~~  
397 ~~terms, except that, initially, to provide for staggered terms,~~  
398 ~~two of the appointees shall serve 2-year terms. All subsequent~~  
399 ~~appointments shall be for 4-year~~ staggered terms. An ~~No~~  
400 ~~appointee may not shall~~ serve more than two terms ~~6 years. A~~  
401 ~~vacancy shall be filled for the remainder of an unexpired term~~  
402 ~~in the same manner as the original appointment. The Governor may~~  
403 ~~at any time fill a vacancy for the unexpired term of a member~~  
404 ~~appointed under this paragraph.~~

405 (a) Four members shall be appointed by the Governor. Of  
406 these, three members shall be from scientific disciplines

20092104e1

407 related to land, water, or environmental sciences and the fourth  
408 member must have at least 5 years of experience in managing  
409 lands for both active and passive types of recreation.

410 (b) One member shall be appointed by the Commissioner of  
411 Agriculture from a discipline related to agriculture including  
412 silviculture.

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

416 (d)-(b) The five remaining members appointees shall be  
417 composed of the Secretary of Environmental Protection, the  
418 director of the Division of Forestry of the Department of  
419 Agriculture and Consumer Services, the executive director of the  
420 Fish and Wildlife Conservation Commission, the director of the  
421 Division of Historical Resources of the Department of State, and  
422 the secretary of the Department of Community Affairs, or their  
423 respective designees.

424 ~~(e) One member shall be appointed by the Commissioner of~~  
425 ~~Agriculture with a discipline related to agriculture including~~  
426 ~~silviculture. One member shall be appointed by the Fish and~~  
427 ~~Wildlife Conservation Commission with a discipline related to~~  
428 ~~wildlife management or wildlife ecology.~~

429 (e)-(d) The Governor shall appoint the chair of the council,  
430 and a vice chair shall be elected from among the members.

431 (f)-(e) The council shall hold periodic meetings at the  
432 request of the chair.

433 (g)-(f) The Department of Environmental Protection shall  
434 provide primary staff support to the council and shall ensure  
435 that council meetings are electronically recorded. Such

20092104e1

436 recording must ~~shall~~ be preserved pursuant to chapters 119 and  
437 257.

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

441 (2) The six appointed ~~four~~ members of the council ~~appointed~~  
442 ~~pursuant to paragraph (a) and the two members of the council~~  
443 ~~appointed pursuant to paragraph (c)~~ shall receive reimbursement  
444 for expenses and per diem for travel, to attend council  
445 meetings, ~~as allowed state officers and employees while in the~~  
446 ~~performance of their duties,~~ pursuant to s. 112.061.

447 (5) An affirmative vote of six ~~five~~ members of the council  
448 is required ~~in order~~ to change a project boundary or to place a  
449 proposed project on a list developed pursuant to subsection (4).  
450 Any member of the council who by family or a business  
451 relationship has a connection with all or a portion of any  
452 proposed project shall declare the interest before voting on its  
453 inclusion on a list.

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

456 259.037 Land Management Uniform Accounting Council.—

457 (3)

458 (b) Beginning July 1, 2009, each reporting agency shall  
459 also:

460 1. Include a report of the available public use  
461 opportunities for each management unit of state land, the total  
462 management cost for public access and public use, and the cost  
463 associated with each use option.

464 2. List the acres of land requiring minimal management

20092104e1

465 effort, moderate management effort, and significant management  
466 effort pursuant to s. 259.032(11)(c). For each category created  
467 in paragraph (a), the reporting agency shall include the amount  
468 of funds requested, the amount of funds received, and the amount  
469 of funds expended for land management.

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

472 4. List acres managed, cost of management, and lead manager  
473 for each state lands management unit for which secondary  
474 management activities were provided.

475 5. Include a report of the estimated calculable financial  
476 benefits to the public for the ecosystem services provided by  
477 conservation lands, based on the best readily available  
478 information or science that provides a standard measurement  
479 methodology to be consistently applied by the land managing  
480 agencies. Such information may include, but need not be limited  
481 to, the value of natural lands for protecting the quality and  
482 quantity of drinking water through natural water filtration and  
483 recharge, contributions to protecting and improving air quality,  
484 benefits to agriculture through increased soil productivity and  
485 preservation of biodiversity, and savings to property and lives  
486 through flood control.

487 (6) Beginning July 1, 2010 ~~Biennially~~, each reporting  
488 agency shall ~~also~~ submit an operational report every 5 years for  
489 each management area to which a new or updated ~~along with an~~  
490 ~~approved~~ management plan was approved by the board of trustees  
491 pursuant to ss. 253.034(5) and 259.032(10). The report should  
492 assess ~~the~~ progress toward achieving short-term and long-term  
493 management goals of the approved management plan, including all

20092104e1

494 land management activities, and identify any deficiencies in  
495 management and corrective actions to address identified  
496 deficiencies as appropriate. This report shall be submitted to  
497 the Acquisition and Restoration Council and the division for  
498 inclusion in its annual report required pursuant to s. 259.036.

499 Section 7. Paragraphs (b), (e), (f), (g), and (h) of  
500 subsection (3) and subsection (13) of section 259.105, Florida  
501 Statutes, are amended to read:

502 259.105 The Florida Forever Act.—

503 (3) Less the costs of issuing and the costs of funding  
504 reserve accounts and other costs associated with bonds, the  
505 proceeds of cash payments or bonds issued pursuant to this  
506 section shall be deposited into the Florida Forever Trust Fund  
507 created by s. 259.1051. The proceeds shall be distributed by the  
508 Department of Environmental Protection in the following manner:

509 (b) Thirty-five percent to the Department of Environmental  
510 Protection for the acquisition of lands and capital project  
511 expenditures described in this section. Of the proceeds  
512 distributed ~~pursuant to this paragraph~~, it is the intent of the  
513 Legislature that ~~an~~ increased priority be given to those  
514 acquisitions which achieve a combination of conservation goals,  
515 including protecting Florida's water resources and natural  
516 groundwater recharge. At a minimum, 3 percent, and no more than  
517 10 percent, of the funds allocated pursuant to this paragraph  
518 shall be spent on capital project expenditures identified in the  
519 management prospectus prepared pursuant to s. 259.032(9)(d)  
520 during the time of acquisition, or in the management plan  
521 prepared pursuant to s. 259.032(10). Such capital projects must  
522 ~~which~~ meet land management planning activities necessary for

20092104e1

523 public access.

524 (e) One and five-tenths percent to the Department of  
525 Environmental Protection for the purchase of inholdings and  
526 additions to state parks and for capital project expenditures as  
527 described in this section. At a minimum, 1 percent, and no more  
528 than 10 percent, of the funds allocated pursuant to this  
529 paragraph shall be spent on capital project expenditures  
530 identified in the management prospectus prepared pursuant to s.  
531 259.032(9)(d) during the time of acquisition, or in the  
532 management plan prepared pursuant to s. 259.032(10). Such  
533 capital projects must ~~which~~ meet land management planning  
534 activities necessary for public access. For the purposes of this  
535 paragraph, the term "state park" means any real property in the  
536 state which is under the jurisdiction of the Division of  
537 Recreation and Parks of the department, or which may come under  
538 its jurisdiction.

539 (f) One and five-tenths percent to the Division of Forestry  
540 of the Department of Agriculture and Consumer Services to fund  
541 the acquisition of state forest inholdings and additions  
542 pursuant to s. 589.07, the implementation of reforestation plans  
543 or sustainable forestry management practices, and for capital  
544 project expenditures as described in this section. At a minimum,  
545 1 percent, and no more than 10 percent, of the funds allocated  
546 for the acquisition of inholdings and additions pursuant to this  
547 paragraph shall be spent on capital project expenditures  
548 identified in the management prospectus prepared pursuant to s.  
549 259.032(9)(d) during the time of acquisition, or in the  
550 management plan prepared pursuant to s. 259.032(10). Such  
551 capital projects must ~~which~~ meet land management planning

20092104e1

552 activities necessary for public access.

553 (g) One and five-tenths percent to the Fish and Wildlife  
554 Conservation Commission to fund the acquisition of inholdings  
555 and additions to lands managed by the commission which are  
556 important to the conservation of fish and wildlife and for  
557 capital project expenditures as described in this section. At a  
558 minimum, 1 percent, and no more than 10 percent, of the funds  
559 allocated pursuant to this paragraph shall be spent on capital  
560 project expenditures identified in the management prospectus  
561 prepared pursuant to s. 259.032(9)(d) during the time of  
562 acquisition, or in the management plan prepared pursuant to s.  
563 259.032(10). Such capital projects must ~~which~~ meet land  
564 management planning activities necessary for public access.

565 (h) One and five-tenths percent to the Department of  
566 Environmental Protection for the Florida Greenways and Trails  
567 Program, to acquire greenways and trails or greenways and trail  
568 systems pursuant to chapter 260, including, but not limited to,  
569 abandoned railroad rights-of-way and the Florida National Scenic  
570 Trail and for capital project expenditures as described in this  
571 section. At a minimum, 1 percent, and no more than 10 percent,  
572 of the funds allocated pursuant to this paragraph shall be spent  
573 on capital project expenditures identified in the management  
574 prospectus prepared pursuant to s. 259.032(9)(d) during the time  
575 of acquisition, or in the management plan prepared pursuant to  
576 s. 259.032(10). Such capital projects must ~~which~~ meet land  
577 management planning activities necessary for public access.

578 (13) An affirmative vote of six ~~five~~ members of the  
579 Acquisition and Restoration Council is ~~shall be~~ required ~~in~~  
580 ~~order~~ to place a proposed project on the list developed pursuant

20092104e1

581 to subsection (8). Any member of the council who by family or a  
582 business relationship has a connection with any project proposed  
583 to be ranked shall declare such interest before ~~prior to~~ voting  
584 for a project's inclusion on the list.

585 Section 8. Subsection (10) of section 253.12, Florida  
586 Statutes, is amended to read:

587 253.12 Title to tidal lands vested in state.—

588 (10) Subsection (9) does ~~shall~~ not ~~operate to~~ affect the  
589 title to lands which have been judicially adjudicated or which  
590 were the subject of litigation pending on January 1, 1993,  
591 involving title to such lands. Further, the provisions of  
592 subsection (9) do ~~shall~~ not apply to spoil islands or ~~nor~~ to any  
593 lands that ~~which~~ are included on an official acquisition list,  
594 on July 1, 1993, of a state agency or water management district  
595 for conservation, preservation, or recreation, ~~nor~~ to lands  
596 maintained as state or local recreation areas or shore  
597 protection structures, or to sovereignty lands that were filled  
598 before July 1, 1975, by any governmental entity for a public  
599 purpose or pursuant to proprietary authorization from the Board  
600 of Trustees of the Internal Improvement Trust Fund.

601 Section 9. Section 288.1185, Florida Statutes, is repealed.

602 Section 10. Subsections (3), (6), and (7) and paragraph (a)  
603 of subsection (8) of section 373.0693, Florida Statutes, are  
604 amended to read:

605 373.0693 Basins; basin boards.—

606 (3) Each member of the various basin boards shall serve for  
607 a period of 3 years or until a successor is appointed, but not  
608 more than 180 days beyond the end of the expired term, except  
609 that the board membership of each new basin shall be divided

20092104e1

610 into three groups as equally as possible, with members in such  
611 groups to be appointed for 1, 2, and 3 years, respectively. Each  
612 basin board shall choose a vice chair and a secretary to serve  
613 for a period of 1 year. The term of office of a basin board  
614 member shall be construed to commence on March 2 preceding the  
615 date of appointment and to terminate March 1 of the year of the  
616 end of a term or may continue until a successor is appointed,  
617 but not more than 180 days beyond the end of the expired term.

618 (6) (a) Notwithstanding the provisions of any other general  
619 or special law to the contrary, a member of the governing board  
620 of the district residing in the basin or, if no member resides  
621 in the basin, a member of the governing board designated by the  
622 chair of the governing board shall be the ~~ex officio~~ chair of  
623 the basin board. The ~~ex officio~~ chair shall preside at all  
624 meetings of the basin board, except that the vice chair may  
625 preside in his or her absence. The ~~ex officio~~ chair ~~shall have~~  
626 ~~no official vote, except in case of a tie vote being cast by the~~  
627 ~~members, but~~ shall be the liaison officer of the district in all  
628 affairs in the basin and shall be kept informed of all such  
629 affairs.

630 (b) Basin boards within the Southwest Florida Water  
631 Management District shall meet regularly as determined by a  
632 majority vote of the basin board members. Subject to notice  
633 requirements of chapter 120, special meetings, both emergency  
634 and nonemergency, may be called either by the ~~ex officio~~ chair  
635 or the elected vice chair of the basin board or upon request of  
636 two basin board members. The district staff shall include on the  
637 agenda of any basin board meeting any item for discussion or  
638 action requested by a member of that basin board. The district

20092104e1

639 staff shall notify any basin board, as well as their respective  
640 counties, of any vacancies occurring in the district governing  
641 board or their respective basin boards.

642 (7) At 11:59 p.m. on December 31, 1976, the Manasota  
643 Watershed Basin of the Ridge and Lower Gulf Coast Water  
644 Management District, which is annexed to the Southwest Florida  
645 Water Management District by change of its boundaries pursuant  
646 to chapter 76-243, Laws of Florida, shall be formed into a  
647 subdistrict or basin of the Southwest Florida Water Management  
648 District, subject to the same provisions as the other basins in  
649 such district. Such subdistrict shall be designated initially as  
650 the Manasota Basin. The members of the governing board of the  
651 Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water  
652 Management District shall become members of the governing board  
653 of the Manasota Basin of the Southwest Florida Water Management  
654 District. Notwithstanding other provisions in this section,  
655 beginning on July 1, 2001, the membership of the Manasota Basin  
656 Board shall be comprised of two ~~three~~ members from Manatee  
657 County and two ~~three~~ members from Sarasota County. Matters  
658 relating to tie votes shall be resolved pursuant to subsection  
659 (6) by the ~~ex-officio~~ chair designated by the governing board to  
660 vote in case of a tie vote.

661 (8) (a) At 11:59 p.m. on June 30, 1988, the area transferred  
662 from the Southwest Florida Water Management District to the St.  
663 Johns River Water Management District by change of boundaries  
664 pursuant to chapter 76-243, Laws of Florida, shall cease to be a  
665 subdistrict or basin of the St. Johns River Water Management  
666 District known as the Oklawaha River Basin and said Oklawaha  
667 River Basin shall cease to exist. However, any recognition of an

20092104e1

668 Oklawaha River Basin or an Oklawaha River Hydrologic Basin for  
669 regulatory purposes shall be unaffected. The area formerly known  
670 as the Oklawaha River Basin shall continue to be part of the St.  
671 Johns River Water Management District. ~~There shall be~~  
672 ~~established by the governing board of the St. Johns River Water~~  
673 ~~Management District the Oklawaha River Basin Advisory Council to~~  
674 ~~receive public input and advise the St. Johns River Water~~  
675 ~~Management District's governing board on water management issues~~  
676 ~~affecting the Oklawaha River Basin. The Oklawaha River Basin~~  
677 ~~Advisory Council shall be appointed by action of the St. Johns~~  
678 ~~River Water Management District's governing board and shall~~  
679 ~~include one representative from each county which is wholly or~~  
680 ~~partly included in the Oklawaha River Basin. The St. Johns River~~  
681 ~~Water Management District's governing board member currently~~  
682 ~~serving pursuant to s. 373.073(2)(c)3. shall serve as chair of~~  
683 ~~the Oklawaha River Basin Advisory Council. Members of the~~  
684 ~~Oklawaha River Basin Advisory Council shall receive no~~  
685 ~~compensation for their services but are entitled to be~~  
686 ~~reimbursed for per diem and travel expenses as provided in s.~~  
687 ~~112.061.~~

688 Section 11. Paragraph (c) of subsection (2) of section  
689 373.427, Florida Statutes, is amended to read:

690 373.427 Concurrent permit review.—

691 (2) In addition to the provisions set forth in subsection  
692 (1) and notwithstanding s. 120.60, the procedures established in  
693 this subsection shall apply to concurrently reviewed  
694 applications which request proprietary authorization to use  
695 board of trustees-owned submerged lands for activities for which  
696 there has been no delegation of authority to take final agency

20092104e1

697 action without action by the board of trustees.

698 (c) Any petition for an administrative hearing pursuant to  
699 ss. 120.569 and 120.57 must be filed within 21 ~~14~~ days after ~~of~~  
700 the notice of consolidated intent to grant or deny. Unless  
701 waived by the applicant, within 60 days after the recommended  
702 order is submitted, or at the next regularly scheduled meeting  
703 for which notice may be properly given, whichever is latest, the  
704 board of trustees shall determine what action to take on a ~~any~~  
705 recommended order issued under ss. 120.569 and 120.57 on the  
706 application to use board of trustees-owned submerged lands, and  
707 shall direct the department or water management district on what  
708 action to take in the final order concerning the application ~~to~~  
709 ~~use board of trustees-owned submerged lands~~. The department or  
710 water management district shall determine what action to take on  
711 any recommended order issued under ss. 120.569 and 120.57  
712 regarding any concurrently processed permits, waivers,  
713 variances, or approvals required by this chapter or chapter 161.  
714 The department or water management district shall ~~then~~ take  
715 final agency action by entering a consolidated final order  
716 addressing each of the concurrently reviewed authorizations,  
717 permits, waivers, or approvals. Failure to satisfy these  
718 timeframes may ~~shall~~ not result in approval by default of the  
719 application to use board of trustees-owned submerged lands. Any  
720 provisions relating to authorization to use such ~~board of~~  
721 ~~trustees-owned submerged~~ lands shall be as directed by the board  
722 of trustees. Issuance of the consolidated final order within 45  
723 days after receipt of the direction of the board of trustees  
724 regarding the application to use board of trustees-owned  
725 submerged lands is deemed in compliance with the timeframes for

20092104e1

726 issuance of final orders under s. 120.60. The final order is  
727 ~~shall be~~ subject to the provisions of s. 373.4275.

728 Section 12. Section 376.30702, Florida Statutes, is amended  
729 to read:

730 376.30702 Contamination notification.—

731 (1) FINDINGS; INTENT; APPLICABILITY.—The Legislature finds  
732 and declares that when contamination is discovered by any person  
733 as a result of site rehabilitation activities conducted pursuant  
734 to the risk-based corrective action provisions found in s.  
735 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or  
736 pursuant to an administrative or court order, it is in the  
737 public's best interest that potentially affected persons be  
738 notified of the existence of such contamination. Therefore,  
739 persons discovering such contamination shall notify the  
740 department and those identified under this section of the ~~such~~  
741 discovery in accordance with the requirements of this section,  
742 ~~and the department shall be responsible for notifying the~~  
743 ~~affected public~~. The Legislature intends for the provisions of  
744 this section to govern the notice requirements for early  
745 notification of the discovery of contamination.

746 (2) (a) INITIAL NOTICE OF CONTAMINATION BEYOND PROPERTY  
747 BOUNDARIES.—If at any time during site rehabilitation conducted  
748 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, ~~or~~ s.  
749 376.30701, or an administrative or court order the person  
750 responsible for site rehabilitation, the person's authorized  
751 agent, or another representative of the person discovers from  
752 laboratory analytical results that comply with appropriate  
753 quality assurance protocols specified in department rules that  
754 contamination as defined in applicable department rules exists

20092104e1

755 in any groundwater, surface water, or soil ~~medium~~ beyond the  
756 boundaries of the property at which site rehabilitation was  
757 initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,  
758 ~~or~~ s. 376.30701, or an administrative or court order the person  
759 responsible for site rehabilitation shall give actual notice as  
760 soon as possible, but no later than 10 days from such discovery,  
761 to the Division of Waste Management at the department's  
762 Tallahassee office. The actual notice shall be provided on a  
763 form adopted by department rule and mailed by certified mail,  
764 return receipt requested. The person responsible for site  
765 rehabilitation shall simultaneously provide ~~mail~~ a copy of the  
766 ~~such~~ notice to the appropriate department district office, and  
767 the appropriate county health department, ~~and all known lessees~~  
768 ~~and tenants of the source property.~~

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

770 1. ~~(a)~~ The location of the property at which site  
771 rehabilitation was initiated pursuant to s. 376.3071(5), s.  
772 376.3078(4), s. 376.81, ~~or~~ s. 376.30701, or an administrative or  
773 court order and contact information for the person responsible  
774 for site rehabilitation, the person's authorized agent, or  
775 another representative of the person.

776 2. ~~(b)~~ A listing of all record owners of any real property, ~~7~~  
777 ~~other than the property at which site rehabilitation was~~  
778 ~~initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81,~~  
779 ~~or s. 376.30701,~~ at which contamination has been discovered; the  
780 parcel identification number for any such real property; the  
781 owner's address listed in the current county property tax office  
782 records; and the owner's telephone number. ~~The requirements of~~  
783 ~~this paragraph do not apply to the notice to known tenants and~~

20092104e1

784 ~~lessees of the source property.~~

785 3.(e) Separate tables for by medium, such as groundwater,  
786 soil, and surface water which, or sediment, that list sampling  
787 locations identified on the vicinity map as provided in  
788 subparagraph 4.; sampling dates; names of contaminants detected  
789 above cleanup target levels; their corresponding cleanup target  
790 levels; the contaminant concentrations; and whether the cleanup  
791 target level is based on health, nuisance, organoleptic, or  
792 aesthetic concerns.

793 4.(d) A vicinity map that shows each sampling location with  
794 corresponding laboratory analytical results pursuant to  
795 subparagraph 3. and the date on which the sample was collected  
796 and that identifies the property boundaries of the property at  
797 which site rehabilitation was initiated pursuant to s.  
798 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, or an  
799 administrative or court order and any the other properties at  
800 which contamination has been discovered during such site  
801 rehabilitation. If available, a contaminant plume map signed and  
802 sealed by a Florida-licensed professional engineer or geologist  
803 may be included with the vicinity map.

804 (3) DEPARTMENT'S NOTICE RESPONSIBILITIES.—

805 (a) After receiving the actual notice required under  
806 subsection (2), the department shall notify the following  
807 persons of such contamination:

808 1. The mayor, the chair of the county commission, or the  
809 comparable senior elected official representing the affected  
810 area.

811 2. The city manager, the county administrator, or the  
812 comparable senior administrative official representing the

20092104e1

813 affected area.

814 3. The school district superintendent representing the  
815 affected area.

816 4. The state senator, state representative, and United  
817 States Representative representing the affected area and both  
818 United States Senators.

819 5.a. All real property owners, presidents of any  
820 condominium associations or sole owners of condominiums,  
821 lessees, and tenants of record of the property at which site  
822 rehabilitation is being conducted, if different from the person  
823 responsible for site rehabilitation;

824 b. All real property owners, presidents of any condominium  
825 associations or sole owners of condominiums, lessees, and  
826 tenants of record of any properties within a 500-foot radius of  
827 each sampling point at which contamination is discovered, if  
828 site rehabilitation was initiated pursuant to s. 376.30701 or an  
829 administrative or court order; and

830 c. All real property owners, presidents of any condominium  
831 associations or sole owners of condominiums, lessees, and  
832 tenants of record of any properties within a 250-foot radius of  
833 each sampling point at which contamination is discovered or any  
834 properties identified on a contaminant plume map provided  
835 pursuant to subparagraph (2)(b)4., if site rehabilitation was  
836 initiated pursuant to s. 376.3071(5), s. 376.3078(4), or s.  
837 376.81 or at or in connection with a permitted solid waste  
838 management facility subject to a ground water monitoring plan.

839 (b)1. The notice provided to local government officials  
840 shall be mailed by certified mail, return receipt requested, and  
841 shall advise the local government of its responsibilities under

20092104e1

842 subsection (4).

843 2. The notice provided to real property owners, presidents  
844 of any condominium associations or sole owners of condominiums,  
845 lessees, and tenants of record may be delivered by certified  
846 mail, return receipt requested, first-class mail, hand delivery,  
847 or door-hanger.

848 (c) Within 30 days after receiving the actual notice  
849 required under pursuant to subsection (2), or within 30 days of  
850 the effective date of this act if the department already  
851 possesses information equivalent to that required by the notice,  
852 the department shall verify that the person responsible for site  
853 rehabilitation has complied with the notice requirements of this  
854 section send a copy of such notice, or an equivalent  
855 notification, to all record owners of any real property, other  
856 than the property at which site rehabilitation was initiated  
857 pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s.  
858 376.30701, at which contamination has been discovered. If the  
859 person responsible for site rehabilitation has not complied with  
860 the notice requirements of this section, the department may  
861 pursue enforcement as provided under this chapter and chapter  
862 403.

863 (d)1. If the property at which contamination has been  
864 discovered is the site of a school as defined in s. 1003.01, the  
865 department shall mail also send a copy of the notice to the  
866 superintendent chair of the school board of the school district  
867 in which the property is located and direct the superintendent  
868 said school board to provide actual notice annually to teachers  
869 and parents or guardians of students attending the school during  
870 the period of site rehabilitation.

20092104e1

871 2. If the property at which contamination has been  
872 discovered is the site of a private K-12 school or a child care  
873 facility as defined in s. 402.302, the department shall mail a  
874 copy of the notice to the governing board, principal, or owner  
875 of the school or child care facility and direct the governing  
876 board, principal, or owner to provide actual notice annually to  
877 teachers and parents or guardians of students or children  
878 attending the school or child care facility during the period of  
879 site rehabilitation.

880 3. After receiving the notice required under subsection  
881 (2), if any property within a 500-foot radius of the property at  
882 which contamination has been discovered during site  
883 rehabilitation pursuant to s. 376.30701 or an administrative or  
884 court order is the site of a school as defined in s. 1003.01,  
885 the department shall mail a copy of the notice to the  
886 superintendent of the school district in which the property is  
887 located and direct the superintendent to provide actual notice  
888 annually to the principal of the school.

889 4. After receiving the notice required under subsection  
890 (2), if any property within a 250-foot radius of the property at  
891 which contamination has been discovered during site  
892 rehabilitation pursuant to s. 376.3071(5), s. 376.3078(4), or s.  
893 376.81 or at or in connection with a permitted solid waste  
894 management facility subject to a ground water monitoring plan is  
895 the site of a school as defined in s. 1003.01, the department  
896 shall mail a copy of the notice to the superintendent of the  
897 school district in which the property is located and direct the  
898 superintendent to provide actual notice annually to the  
899 principal of the school.

20092104e1

900        (e) Along with the copy of the notice ~~or its equivalent~~,  
901 the department shall include a letter identifying sources of  
902 additional information about the contamination and a telephone  
903 number to which further inquiries should be directed. The  
904 department may collaborate with the Department of Health to  
905 develop such sources of information and to establish procedures  
906 for responding to public inquiries about health risks associated  
907 with contaminated sites.

908        (4) LOCAL GOVERNMENT'S NOTICE RESPONSIBILITIES.—Within 30  
909 days after receiving the actual notice required under subsection  
910 (3), the local government shall mail a copy of the notice to the  
911 president or comparable executive officer of each homeowners'  
912 association or neighborhood association within the potentially  
913 affected area as described in subsection (3).

914        (5) ~~(4)~~ RULEMAKING AUTHORITY; RECOVERY OF COSTS OF  
915 NOTIFICATION.—The department shall adopt rules and forms  
916 pursuant to ss. 120.536(1) and 120.54 to implement the  
917 requirements of this section and shall recover the costs of  
918 postage, materials, and labor associated with notification from  
919 the responsible party, except when site rehabilitation is  
920 eligible for state-funded cleanup pursuant to the risk-based  
921 corrective action provisions found in s. 376.3071(5) or s.  
922 376.3078(4).

923        Section 13. Paragraph (c) of subsection (2) of section  
924 403.0876, Florida Statutes, is amended to read:

925        403.0876 Permits; processing.—

926        (2)

927        (c) The failure of the department to approve or deny an  
928 application for an air construction permit for which a federally

20092104e1

929 delegated or approved program requires a public participation  
930 period of 30 days or longer, or for an operation permit for a  
931 major source of air pollution, as defined in s. 403.0872, within  
932 the 90-day ~~time~~ period shall not result in the automatic  
933 approval or denial of the permit and shall not prevent the  
934 inclusion of specific permit conditions that ~~which~~ are necessary  
935 to ensure compliance with applicable statutes and rules. If the  
936 department fails to approve or deny such ~~an operation~~ permit ~~for~~  
937 ~~a major source of air pollution~~ within the 90-day period  
938 specified in this section or in s. 403.0872, as applicable, the  
939 applicant or a party who participated in the public comment  
940 process may petition for a writ of mandamus to compel the  
941 department to act.

942 Section 14. Paragraphs (b) and (f) of subsection (2), and  
943 subsections (3), (4), (5), and (9) of section 403.121, Florida  
944 Statutes, are amended to read:

945 403.121 Enforcement; procedure; remedies.—The department  
946 shall have the following judicial and administrative remedies  
947 available to it for violations of this chapter, as specified in  
948 s. 403.161(1).

949 (2) Administrative remedies:

950 (b) If the department has reason to believe a violation has  
951 occurred, it may institute an administrative proceeding to order  
952 the prevention, abatement, or control of the conditions creating  
953 the violation or other appropriate corrective action. Except for  
954 violations involving hazardous wastes, asbestos, major sources  
955 of air pollution, or underground injection, the department shall  
956 proceed administratively in all cases in which the department  
957 seeks administrative penalties that do not exceed \$10,000 per

20092104e1

958 assessment as calculated in accordance with subsections (3),  
959 (4), (5), (6), ~~and (7)~~, and (9). Pursuant to 42 U.S.C. s. 300g-  
960 2, the administrative penalty assessed pursuant to subsection  
961 (3), subsection (4), or subsection (5) against a public water  
962 system serving a population of more than 10,000 may ~~shall be~~ not  
963 be less than \$1,000 per day per violation. The department may  
964 ~~shall~~ not impose administrative penalties greater than ~~in excess~~  
965 ~~of~~ \$10,000 in a notice of violation. The department may ~~shall~~  
966 not have more than one notice of violation seeking  
967 administrative penalties pending against the same party at the  
968 same time unless the violations occurred at a different site or  
969 the violations were discovered by the department after  
970 ~~subsequent to~~ the filing of a previous notice of violation.

971 (f) In any administrative proceeding brought by the  
972 department, the prevailing party shall recover all costs as  
973 provided in ss. 57.041 and 57.071. The costs must be included in  
974 the final order. The respondent is the prevailing party when a  
975 final ~~an~~ order is entered which does not require the respondent  
976 to perform any corrective actions or award any damages or  
977 ~~awarding no~~ penalties to the department and such order has not  
978 been reversed on appeal or the time for seeking judicial review  
979 has expired. The respondent is ~~shall be~~ entitled to an award of  
980 attorney's fees if the administrative law judge determines that  
981 the notice of violation issued by the department seeking the  
982 imposition of administrative penalties was not substantially  
983 justified as defined in s. 57.111(3) ~~s. 57.111(3)(e)~~. An ~~No~~  
984 award of attorney's fees as provided by this subsection may not  
985 ~~shall~~ exceed \$15,000.

986 (3) Except for violations involving hazardous wastes,

20092104e1

987 asbestos, major sources of air pollution, or underground  
988 injection, administrative penalties must be in accordance with  
989 ~~calculated according to~~ the following schedule:

990 (a) For ~~a~~ drinking water violations ~~contamination~~  
991 ~~violation~~, the department shall assess:

992 1. A penalty of \$2,000 for a maximum contaminant  
993 ~~containment level (MCL) violation~~; plus \$1,000 if the violation  
994 is for a primary inorganic, organic, or radiological maximum  
995 contaminant level or ~~it is~~ a fecal coliform bacteria violation;  
996 plus \$1,000 if the violation occurs at a community water system;  
997 and plus \$1,000 if any maximum contaminant level is exceeded by  
998 more than 100 percent.

999 2. A penalty of \$3,000 for failure to obtain a clearance  
1000 letter before ~~prior to~~ placing a drinking water system into  
1001 service if ~~when~~ the system would not have been eligible for  
1002 clearance, ~~the department shall assess a penalty of \$3,000. All~~  
1003 other failures to obtain a clearance letter before placing a  
1004 drinking water system into service shall result in a penalty of  
1005 \$1,500.

1006 3. A penalty of \$2,000 for failure to properly complete a  
1007 required public notice of violations, exceedances, or failures  
1008 that may pose an acute risk to human health, plus \$2,000 if the  
1009 violation occurs at a community water system. All other failures  
1010 to properly complete a required public notice relating to  
1011 maximum contaminant level violations shall result in a penalty  
1012 of \$1,000, plus \$1,000 if the violation occurs at a community  
1013 water system.

1014 4. A penalty of \$1,000 for failure to submit a consumer  
1015 confidence report.

20092104e1

1016 5. A penalty of \$1,000 for failure to provide or meet  
1017 licensed operator or staffing requirements at a drinking water  
1018 facility, plus \$1,000 if the violation occurs at a community  
1019 water system.

1020 (b) For wastewater violations, the department shall assess:

1021 1. A penalty of \$5,000 for failure to obtain a required  
1022 wastewater permit before construction or modification, other  
1023 than a permit required for surface water discharge.

1024 2. A penalty of \$4,000 for failure to obtain a permit to  
1025 construct a domestic wastewater collection or transmission  
1026 system.

1027 3. A penalty of \$1,000 for failure to ~~renew~~ obtain a  
1028 required wastewater permit, other than a permit required for  
1029 surface water discharge, ~~the department shall assess a penalty~~  
1030 ~~of \$1,000.~~

1031 4. For a domestic or industrial wastewater violation not  
1032 involving a surface water or groundwater quality violation, ~~the~~  
1033 ~~department shall assess~~ a penalty of \$2,000 for an unpermitted  
1034 or unauthorized discharge or effluent-limitation exceedance.

1035 5. A penalty of \$5,000 for an unpermitted or unauthorized  
1036 discharge or effluent-limitation exceedance that resulted in a  
1037 surface water or groundwater quality violation, ~~the department~~  
1038 ~~shall assess a penalty of \$5,000.~~

1039 6. A penalty of \$2,000 for failure to properly notify the  
1040 department of an unauthorized spill, discharge, or abnormal  
1041 event that may impact public health or the environment.

1042 7. A penalty of \$2,000 for failure to provide or meet  
1043 requirements for licensed operators or staffing at a wastewater  
1044 facility.

20092104e1

1045 (c) For a dredge, and fill, or stormwater violations, the  
1046 department shall assess:

1047 1. A penalty of \$1,000 for unpermitted or unauthorized  
1048 dredging, ~~or~~ filling, or unauthorized construction of a  
1049 stormwater management system against the person or persons  
1050 responsible; ~~for the illegal dredging or filling, or~~  
1051 ~~unauthorized construction of a stormwater management system~~ plus  
1052 \$2,000 if the dredging or filling occurs in an aquatic preserve,  
1053 Outstanding Florida Water, ~~conservation easement,~~ or Class I or  
1054 Class II surface water; plus \$1,000 if the area dredged or  
1055 filled is greater than one-quarter acre but less than or equal  
1056 to one-half acre; ~~and~~ plus \$1,000 if the area dredged or filled  
1057 is greater than one-half acre but less than or equal to one  
1058 acre; and plus \$3,000 if the person or persons responsible  
1059 previously applied for or obtained authorization from the  
1060 department to dredge or fill within wetlands or surface waters.

1061 2. A penalty of \$10,000 for dredge, fill, or stormwater  
1062 management system violations occurring in a conservation  
1063 easement.

1064 3. The administrative penalty schedule does ~~shall~~ not apply  
1065 to a dredge or ~~and~~ fill violation if the area dredged or filled  
1066 exceeds one acre. The department retains the authority to seek  
1067 the judicial imposition of civil penalties for all dredge and  
1068 fill violations involving more than one acre. ~~The department~~  
1069 ~~shall assess~~

1070 4. A penalty of \$3,000 for the failure to complete required  
1071 mitigation, failure to record a required conservation easement,  
1072 or for a water quality violation resulting from dredging or  
1073 filling activities, stormwater construction activities, or

20092104e1

1074 failure of a stormwater treatment facility.

1075 5. For stormwater management systems serving less than 5  
1076 acres, ~~the department shall assess~~ a penalty of \$2,000 for the  
1077 failure to properly or timely construct a stormwater management  
1078 system.

1079 6. In addition to the penalties authorized in this  
1080 subsection, ~~the department shall assess~~ a penalty of \$5,000 per  
1081 violation against the contractor or agent of the owner or tenant  
1082 that conducts unpermitted or unauthorized dredging or filling.  
1083 For purposes of this paragraph, the preparation or signing of a  
1084 permit application by a person currently licensed under chapter  
1085 471 to practice as a professional engineer does ~~shall~~ not make  
1086 that person an agent of the owner or tenant.

1087 (d) For mangrove trimming or alteration violations, the  
1088 department shall assess:

1089 1. A penalty of up to \$5,000 per violation against any  
1090 person who violates any provision of ss. 403.9321-403.9333 ~~the~~  
1091 ~~contractor or agent of the owner or tenant that conducts~~  
1092 ~~mangrove trimming or alteration without a permit as required by~~  
1093 ~~s. 403.9328.~~ However, for minor unauthorized trimming that  
1094 otherwise would have qualified for a general permit under s.  
1095 403.9327 or that has only minimal or insignificant individual or  
1096 cumulative adverse impacts on mangrove resources, the department  
1097 shall assess a penalty of up to \$1,000 for the first offense.  
1098 For purposes of this paragraph, the preparation or signing of a  
1099 permit application by a person currently licensed under chapter  
1100 471 to practice as a professional engineer does ~~shall~~ not  
1101 constitute a violation ~~make that person an agent of the owner or~~  
1102 ~~tenant.~~

20092104e1

1103 2. For major unauthorized trimming or a second or  
1104 subsequent violation of subparagraph 1., an additional penalty  
1105 of up to \$100 for each mangrove illegally trimmed and up to \$250  
1106 for each mangrove illegally altered, not to exceed a total of  
1107 \$10,000.

1108 3. For major unauthorized trimming or a second or  
1109 subsequent violation of subparagraph 1. by a professional  
1110 mangrove trimmer, an additional penalty of up to \$250 for each  
1111 mangrove illegally trimmed or altered, not to exceed a total of  
1112 \$10,000.

1113 (e) For solid waste violations, the department shall  
1114 assess:

1115 1. A penalty of \$2,000 for the unpermitted or unauthorized  
1116 disposal or storage of solid waste; plus \$1,000 if the solid  
1117 waste is Class I or Class III (~~excluding yard trash~~) or if the  
1118 ~~solid waste~~ is construction and demolition debris in excess of  
1119 20 cubic yards; ~~;~~ plus \$1,000 if the solid waste is disposed of  
1120 or stored in any natural or artificial body of water or within  
1121 500 feet of a potable water well; ~~and;~~ plus \$1,000 if the solid  
1122 waste contains PCB at a concentration of 50 parts per million or  
1123 greater; untreated biomedical waste; more than 1 cubic meter of  
1124 regulated friable asbestos material that ~~greater than 1 cubic~~  
1125 ~~meter which~~ is not wetted, bagged, and covered; more than 25  
1126 gallons of used oil ~~greater than 25 gallons~~; or 10 or more lead  
1127 acid batteries.

1128 2. A penalty of \$5,000 for failure to timely implement  
1129 evaluation monitoring or corrective actions in response to  
1130 adverse impacts to water quality at permitted facilities. ~~The~~  
1131 department shall assess

20092104e1

1132       3. A penalty of \$3,000 for failure to properly maintain  
1133 leachate control; unauthorized burning; failure to have a  
1134 trained spotter or trained operator on duty as required by  
1135 department rule ~~at the working face when accepting waste;~~  
1136 failure to apply and maintain adequate initial, intermediate, or  
1137 final cover; failure to control or correct erosion resulting in  
1138 exposed waste; failure to implement a gas management system as  
1139 required by department rule; processing or disposing of  
1140 unauthorized waste ~~failure to provide access control for three~~  
1141 ~~consecutive inspections. The department shall assess~~

1142       4. A penalty of \$2,000 for failure to construct or maintain  
1143 a required stormwater management system; failure to compact and  
1144 slope waste as required by department rule; or failure to  
1145 maintain a small working face as required by department rule.

1146       5. A penalty of \$1,000 for failure to timely submit annual  
1147 updates required for financial assurance.

1148       (f) For ~~an~~ air emission violations ~~violation~~, the  
1149 department shall assess a penalty of \$1,000 for an unpermitted  
1150 or unauthorized air emission or an air-emission-permit  
1151 ~~exceedance;~~ ~~plus \$1,000 if the emission results in an air~~  
1152 ~~quality violation;~~ plus \$3,000 if the emission was from a major  
1153 source and the source was major for the pollutant in violation;  
1154 and plus \$1,000 if the emission was more than 150 percent of the  
1155 allowable level.

1156       (g) For storage tank system and petroleum contamination  
1157 violations, the department shall assess:

1158       1. A penalty of \$5,000 for failure to empty a damaged  
1159 storage system as necessary to ensure that a release does not  
1160 occur until repairs to the storage system are completed; if ~~when~~

20092104e1

1161 a release has occurred from that storage tank system; for  
1162 failure to timely recover free product as required by department  
1163 rule; for failure to submit a site assessment report; or for  
1164 failure to conduct remediation or monitoring activities until a  
1165 no-further-action or site-rehabilitation completion order has  
1166 been issued. ~~The department shall assess~~

1167 2. A penalty of \$3,000 for failure to timely upgrade a  
1168 storage tank system or to timely assess or remediate petroleum  
1169 contamination as required by department rule. ~~The department~~  
1170 ~~shall assess~~

1171 3. A penalty of \$2,000 for failure to conduct or maintain  
1172 required release detection; failure to timely investigate a  
1173 suspected release from a storage system as required by  
1174 department rule; depositing motor fuel into an unregistered  
1175 storage tank system; failure to timely assess or remediate  
1176 petroleum contamination; or failure to properly install a  
1177 storage tank system. ~~The department shall assess~~

1178 4. A penalty of \$1,000 for failure to properly operate,  
1179 maintain, repair, or close a storage tank system.

1180 (h) For contaminated site rehabilitation violations, the  
1181 department shall assess:

1182 1. A penalty of \$5,000 for failure to submit a complete  
1183 site assessment report; for failure to provide notice of  
1184 contamination beyond property boundaries or complete a well  
1185 survey as required by department rules; for the use or injection  
1186 of substances or materials to surface water or groundwater for  
1187 remediation purposes without prior department approval; or for  
1188 operation of a remedial treatment system without prior approval  
1189 by the department.

20092104e1

1190           2. A penalty of \$3,000 for failure to timely assess or  
1191 remediate contamination as required by department rule.

1192           (4) In an administrative proceeding, in addition to any ~~the~~  
1193 penalties that may be assessed under subsection (3), or for  
1194 violations not otherwise listed in subsection (3), the  
1195 department shall assess administrative penalties according to  
1196 the following schedule:

1197           (a) For failure to satisfy financial responsibility  
1198 requirements or for violation of s. 377.371(1), \$5,000.

1199           (b) For failure to properly install, operate, maintain, or  
1200 use a required pollution control, collection, treatment, or  
1201 disposal system or device, or failure to use appropriate best-  
1202 management practices or erosion and sediment controls, \$4,000.

1203           (c) For failure to obtain a required permit or license  
1204 ~~before construction or modification~~, \$3,000 if the facility is  
1205 constructed, modified, or operated in compliance with applicable  
1206 requirements; or \$5,000 if the facility is constructed,  
1207 modified, or operated out of compliance with applicable  
1208 requirements.

1209           (d) For failure to conduct required monitoring or testing;  
1210 failure to conduct required release detection; or failure to  
1211 construct in compliance with a permit, \$2,000.

1212           (e) For failure to maintain required staff to respond to  
1213 emergencies; failure to conduct required training; failure to  
1214 prepare, maintain, or update required contingency plans; failure  
1215 to adequately respond to emergencies to bring an emergency  
1216 situation under control; or failure to submit required  
1217 notification to the department, \$1,000.

1218           (f) Except as provided in subsection (2) with respect to

20092104e1

1219 public water systems serving a population of more than 10,000,  
1220 for failure to prepare, submit, maintain, or use required  
1221 reports or other required documentation, \$1,000 ~~\$500~~.

1222 (5) Except as provided in subsection (2) with respect to  
1223 public water systems serving a population of more than 10,000,  
1224 for failure to comply with any other departmental regulatory  
1225 statute or rule requirement not otherwise identified in this  
1226 section, the department may assess a penalty of \$1,000 ~~\$500~~.

1227 (9) The administrative penalties assessed for any  
1228 particular violation may ~~shall~~ not exceed \$5,000 against any one  
1229 violator, unless the violator has a history of noncompliance,  
1230 the violator received economic benefit from ~~of~~ the violation ~~as~~  
1231 ~~described in subsection (8) exceeds \$5,000~~, or there are  
1232 multiday violations. The total administrative penalties may  
1233 ~~shall~~ not exceed \$10,000 per assessment for all violations  
1234 attributable to a specific person in the notice of violation.

1235 Section 15. Subsection (4) is added to section 403.7032,  
1236 Florida Statutes, to read:

1237 403.7032 Recycling.—

1238 (4) The Department of Environmental Protection, in  
1239 cooperation with the Office of Tourism, Trade, and Economic  
1240 Development, shall create the Recycling Business Assistance  
1241 Center by July 1, 2010. The purpose of the center shall be to  
1242 serve as the mechanism for coordination among state agencies and  
1243 the private sector to coordinate policy and overall strategic  
1244 planning for developing new markets and expanding and enhancing  
1245 existing markets for recyclable materials in this state, other  
1246 states, and foreign countries. The duties of the center must  
1247 include, at a minimum:

20092104e1

1248 (a) Identifying and developing new markets and expanding  
1249 and enhancing existing markets for recyclable materials;

1250 (b) Pursuing expanded end uses for recycled materials;

1251 (c) Targeting materials for concentrated market-development  
1252 efforts;

1253 (d) Developing proposals for new incentives for market  
1254 development, particularly focusing on targeted materials;

1255 (e) Providing guidance on issues such as permitting,  
1256 finance options for recycling market development, site location,  
1257 research and development, grant program criteria for recycled  
1258 materials markets, recycling markets education and information,  
1259 and minimum content;

1260 (f) Coordinating the efforts of various governmental  
1261 entities having market-development responsibilities in order to  
1262 optimize supply and demand for recyclable materials;

1263 (g) Evaluating source-reduced products as they relate to  
1264 state procurement policy. The evaluation shall include, but is  
1265 not limited to, the environmental and economic impact of source-  
1266 reduced product purchases to the state. For the purposes of this  
1267 subsection, the term "source-reduced" means any method, process,  
1268 product, or technology that significantly or substantially  
1269 reduces the volume or weight of a product while providing, at a  
1270 minimum, equivalent or generally similar performance and service  
1271 to and for the users of such materials;

1272 (h) Providing innovative solid waste management grants,  
1273 pursuant to s. 403.7095, to reduce the flow of solid waste to  
1274 disposal facilities and encourage the sustainable recovery of  
1275 materials from Florida's waste stream;

1276 (i) Providing below-market financing for companies that

20092104e1

1277 manufacture products from recycled materials or convert  
1278 recyclable materials into raw materials for use in  
1279 manufacturing, pursuant to the Florida Recycling Loan Program as  
1280 administered by the Florida First Capital Finance Corporation;

1281 (j) Maintaining a continuously updated online directory,  
1282 listing the public and private entities that collect, transport,  
1283 broker, process, or remanufacture recyclable materials in  
1284 Florida.

1285 (k) Providing information on the availability and benefits  
1286 of using recycled materials to private entities and industries  
1287 in the state; and

1288 (l) Distributing any materials prepared in implementing  
1289 this subsection to the public, private entities, industries,  
1290 governmental entities, or other organizations upon request.

1291 Section 16. Subsection (11) is added to section 14.2015,  
1292 Florida Statutes, to read:

1293 14.2015 Office of Tourism, Trade, and Economic Development;  
1294 creation; powers and duties.—

1295 (11) The Office of Tourism, Trade, and Economic  
1296 Development, in cooperation with the Department of Environmental  
1297 Protection, shall create the Recycling Business Assistance  
1298 Center by July 1, 2010, pursuant to the requirements of s.  
1299 403.7032(4). In carrying out its duties under this subsection,  
1300 the Office of Tourism, Trade, and Economic Development shall  
1301 consult with Enterprise Florida, Inc., and with state agency  
1302 personnel appointed to serve as economic development liaisons  
1303 under s. 288.021.

1304 Section 17. Present subsections (8) through (14) of section  
1305 403.707, Florida Statutes, are renumbered as subsections (9)

20092104e1

1306 through (15), respectively, and a new subsection (8) is added to  
1307 that section, to read:

1308 403.707 Permits.—

1309 (8) The department must conduct at least one inspection per  
1310 year of each waste-to-energy facility for the purposes of  
1311 determining compliance with permit conditions. The facility  
1312 shall be given only a 24-hour notice of the inspection required  
1313 in this subsection.

1314 Section 18. Paragraph (c) of subsection (12) of section  
1315 403.708, Florida Statutes, is amended to read:

1316 403.708 Prohibition; penalty.—

1317 (12) A person who knows or should know of the nature of the  
1318 following types of solid waste may not dispose of such solid  
1319 waste in landfills:

1320 (c) Yard trash in lined landfills classified by department  
1321 rule as Class I landfills unless the landfill uses an active gas  
1322 collection system to collect landfill gas generated at the  
1323 disposal facility and provides or arranges for a beneficial  
1324 reuse of the gas. Yard trash that is source separated from solid  
1325 waste may be accepted at a solid waste disposal area where  
1326 separate yard trash composting facilities are provided and  
1327 maintained. The department recognizes that incidental amounts of  
1328 yard trash may be disposed of in Class I landfills. In any  
1329 enforcement action taken pursuant to this paragraph, the  
1330 department shall consider the difficulty of removing incidental  
1331 amounts of yard trash from a mixed solid waste stream.

1332 Section 19. Subsection (3) of section 403.9323, Florida  
1333 Statutes, is amended to read:

1334 403.9323 Legislative intent.—

20092104e1

1335 (3) It is the intent of the Legislature to provide  
1336 waterfront property owners their riparian right of view, and  
1337 other rights of riparian property ownership as recognized by s.  
1338 253.141 and any other provision of law, by allowing mangrove  
1339 trimming in riparian mangrove fringes without prior government  
1340 approval when conducted in conformance with the provisions of  
1341 ss. 403.9321-403.9333 and the trimming ~~activities~~ will not  
1342 result in the removal, defoliation, or destruction of the  
1343 mangroves.

1344 Section 20. Present subsections (1) through (6) of section  
1345 403.9324, Florida Statutes, are redesignated as subsections (2)  
1346 through (7), respectively, a new subsection (1) is added to that  
1347 section, and present subsections (1) and (4) of that section are  
1348 amended, to read:

1349 403.9324 Mangrove protection rule; delegation of mangrove  
1350 protection to local governments.-

1351 (1) The department may adopt rules providing for exemptions  
1352 and general permits authorizing activities that have, singularly  
1353 or cumulatively, a minimal adverse effect on the water resources  
1354 of the state. This subsection does not grant the department the  
1355 authority to adopt rules for the exemptions and general permits  
1356 provided in ss. 403.9326 and 403.9327.

1357 (2)~~(1)~~ Sections 403.9321-403.9333 and any lawful  
1358 regulations adopted in accordance with this section by a local  
1359 government that receives a delegation of the department's  
1360 authority to administer and enforce the regulation of mangroves  
1361 as provided by this section shall be the sole regulations in  
1362 this state for the trimming and alteration of mangroves on  
1363 privately or publicly owned lands. All other state and local

20092104e1

1364 regulation of mangrove is as provided in subsection (4) ~~(3)~~.  
1365 (5)~~(4)~~ Within 45 days after receipt of a written request  
1366 for delegation from a local government, the department shall  
1367 grant or deny the request in writing. The request is deemed  
1368 approved if the department fails to respond within the 45-day  
1369 ~~time~~ period. In reviewing requests for delegation, the  
1370 department shall limit its review to whether the request  
1371 complies with the requirements of subsection (3) ~~(2)~~. The  
1372 department shall set forth in writing with specificity the  
1373 reasons for denial of a request for delegation. The department's  
1374 determination regarding delegation constitutes final agency  
1375 action and is subject to review under chapter 120.

1376 Section 21. Subsection (7) of section 403.9325, Florida  
1377 Statutes, is amended to read:

1378 403.9325 Definitions.—For the purposes of ss. 403.9321-  
1379 403.9333, the term:

1380 (7) "Riparian mangrove fringe" means mangroves growing  
1381 along the shoreline on private property, property owned by a  
1382 governmental entity, or sovereign submerged land, the depth of  
1383 which does not exceed 50 feet as measured waterward from the  
1384 trunk of the most landward mangrove tree in a direction  
1385 perpendicular to the shoreline to the trunk of the most  
1386 waterward mangrove tree. Riparian mangrove fringe does not  
1387 include mangroves on uninhabited natural islands, or public  
1388 lands that have been set aside for conservation or preservation,  
1389 or mangroves on lands that have been set aside as mitigation, if  
1390 the permit, enforcement instrument, or conservation easement  
1391 establishing the mitigation area did not include provisions for  
1392 the trimming of mangroves.

20092104e1

1393 Section 22. Subsection (5) of section 403.9329, Florida  
1394 Statutes, is amended to read:

1395 403.9329 Professional mangrove trimmers.—

1396 (5) A professional mangrove trimmer status granted under  
1397 ss. 403.9321-403.9333 or by the department may be revoked by the  
1398 department for any person who is responsible for any violations  
1399 of ss. 403.9321-403.9333 or any adopted mangrove rules.

1400 Section 23. Subsection (3) is added to section 403.9331,  
1401 Florida Statutes, to read:

1402 403.9331 Applicability; rules and policies.—

1403 (3) Pursuant to s. 403.9323(2), the provisions of ss.  
1404 403.9321-403.9333 do not allow the trimming of mangroves on  
1405 uninhabited natural islands that are publicly owned or on lands  
1406 that are set aside for conservation and preservation or  
1407 mitigation, except where necessary to protect the public health,  
1408 safety, and welfare or to enhance public use of, or access to,  
1409 conservation areas in accordance with approved management plans.

1410 Section 24. Subsection (9) is added to section 712.03,  
1411 Florida Statutes, to read:

1412 712.03 Exceptions to marketability.—Such marketable record  
1413 title shall not affect or extinguish the following rights:

1414 (9) Any right, title, or interest held by the Board of  
1415 Trustees of the Internal Improvement Trust Fund, any water  
1416 management district created under chapter 373, or the Federal  
1417 Government.

1418 Section 25. Section 712.04, Florida Statutes, is amended to  
1419 read:

1420 712.04 Interests extinguished by marketable record title.—  
1421 Subject to the matters stated in s. 712.03, a such marketable

20092104e1

1422 record title ~~is shall be~~ free and clear of all estates,  
1423 interests, claims, or charges whatsoever, the existence of which  
1424 depends upon any act, title transaction, event or omission that  
1425 occurred before ~~prior to~~ the effective date of the root of  
1426 title. Except as provided in s. 712.03, all such estates,  
1427 interests, claims, or charges, however denominated, whether such  
1428 estates, interests, claims, or charges are or appear to be held  
1429 or asserted by a person sui juris or under a disability, whether  
1430 such person is within or without the state, ~~whether such person~~  
1431 ~~is~~ natural or corporate, or ~~is~~ private or governmental, are  
1432 hereby declared to be null and void. However, ~~except that~~ this  
1433 chapter does ~~shall~~ not ~~be deemed to~~ affect any right, title, or  
1434 interest of the United States, Florida, or any of its officers,  
1435 boards, commissions, or other agencies reserved in the patent or  
1436 deed by which the United States, Florida, or any of its agencies  
1437 parted with title.

1438 Section 26. Subsection (14) of section 403.503, Florida  
1439 Statutes, is amended to read:

1440 403.503 Definitions relating to Florida Electrical Power  
1441 Plant Siting Act.—As used in this act:

1442 (14) "Electrical power plant" means, for the purpose of  
1443 certification, any steam, wind or solar electrical generating  
1444 facility using any process or fuel, including nuclear materials,  
1445 except that this term does not include any steam, wind or solar  
1446 electrical generating facility of less than 75 megawatts in  
1447 capacity unless the applicant for such a facility elects to  
1448 apply for certification under this act. This term also includes  
1449 the site; all associated facilities that will be owned by the  
1450 applicant that are physically connected to the site; all

20092104e1

1451 associated facilities that are indirectly connected to the site  
1452 by other proposed associated facilities that will be owned by  
1453 the applicant; and associated transmission lines that will be  
1454 owned by the applicant which connect the electrical power plant  
1455 to an existing transmission network or rights-of-way to which  
1456 the applicant intends to connect. At the applicant's option,  
1457 this term may include any offsite associated facilities that  
1458 will not be owned by the applicant; offsite associated  
1459 facilities that are owned by the applicant but that are not  
1460 directly connected to the site; any proposed terminal or  
1461 intermediate substations or substation expansions connected to  
1462 the associated transmission line; or new transmission lines,  
1463 upgrades, or improvements of an existing transmission line on  
1464 any portion of the applicant's electrical transmission system  
1465 necessary to support the generation injected into the system  
1466 from the proposed electrical power plant.

1467 Section 27. Subsection (1) of section 403.506, Florida  
1468 Statutes, is amended to read:

1469 403.506 Applicability, thresholds, and certification.—

1470 (1) The provisions of this act shall apply to any  
1471 electrical power plant as defined herein, except that the  
1472 provisions of this act shall not apply to any electrical power  
1473 plant, including its associated facilities, of less than 75  
1474 megawatts in gross capacity, or to any electrical power plant of  
1475 any gross capacity which exclusively uses wind or solar energy  
1476 as its sole fuel source ~~including its associated facilities~~,  
1477 unless the applicant has elected to apply for certification of  
1478 such electrical power plant under this act. The provisions of  
1479 this act shall not apply to capacity expansions of 75 megawatts

20092104e1

1480 or less, in the aggregate, of an existing exothermic reaction  
1481 cogeneration electrical generating facility that was exempt from  
1482 this act when it was originally built; however, this exemption  
1483 shall not apply if the unit uses oil or natural gas for purposes  
1484 other than unit startup. No construction of any new electrical  
1485 power plant or expansion in steam generating capacity as  
1486 measured by an increase in the maximum electrical generator  
1487 rating of any existing electrical power plant may be undertaken  
1488 after October 1, 1973, without first obtaining certification in  
1489 the manner as herein provided, except that this act shall not  
1490 apply to any such electrical power plant which is presently  
1491 operating or under construction or which has, upon the effective  
1492 date of chapter 73-33, Laws of Florida, applied for a permit or  
1493 certification under requirements in force prior to the effective  
1494 date of such act.

1495 Section 28. Subsection (7) of section 6 of chapter 99-395,  
1496 Laws of Florida, is amended to read:

1497 Section 6. Sewage requirements in Monroe County.—

1498 (7) Class V injection wells, as defined by Department of  
1499 Environmental Protection or Department of Health rule, shall  
1500 meet the following requirements and shall otherwise comply with  
1501 Department of Environmental Protection or Department of Health  
1502 rules, as applicable:

1503 (a) If the design capacity of the facility is less than  
1504 1,000,000 gallons per day, the injection well shall be at least  
1505 90 feet deep and cased to a minimum depth of 60 feet or to such  
1506 greater cased depth and total well depth as may be required by  
1507 Department of Environmental Protection rule.

1508 (b) Except as provided in paragraph (c) for backup wells,

20092104e1

1509 if the design capacity of the facility is equal to or greater  
1510 than 1,000,000 gallons per day, the injection well shall be  
1511 cased to a minimum depth of 2,000 feet or to such greater depth  
1512 as may be required by Department of Environmental Protection  
1513 rule.

1514 (c) If the injection well is used as a backup to a primary  
1515 injection well, the following conditions apply:

1516 1. The backup well may be used only when the primary  
1517 injection well is out of service because of equipment failure,  
1518 power failure, or the need for mechanical integrity testing or  
1519 repair;

1520 2. The backup well may not be used for a total of more than  
1521 500 hours during any 5-year period, unless specifically  
1522 authorized in writing by the Department of Environmental  
1523 Protection;

1524 3. The backup well shall be at least 90 feet deep and cased  
1525 to a minimum depth of 60 feet, or to such greater cased depth  
1526 and total well depth as may be required by rule of the  
1527 Department of Environmental Protection; and

1528 4. Fluid injected into the backup well shall meet the  
1529 requirements of subsections (5) and (6).

1530 Section 29. Section 403.9335, Florida Statutes, is created  
1531 to read:

1532 403.9335 Coral reef protection.—

1533 (1) This section may be cited as the "Florida Coral Reef  
1534 Protection Act."

1535 (2) This act applies to the sovereign submerged lands that  
1536 contain coral reefs as defined in this act off the coasts of  
1537 Broward, Martin, Miami-Dade, Monroe, and Palm Beach counties.

20092104e1

1538 (3) As used in this section, the term:

1539 (a) "Aggravating circumstances" means operating, anchoring,  
1540 or mooring a vessel in a reckless or wanton manner; under the  
1541 influence of drugs or alcohol; or otherwise with disregard for  
1542 boating regulations concerning speed, navigation, or safe  
1543 operation.

1544 (b) "Coral" means species of the phylum Cnidaria found in  
1545 state waters including:

1546 1. Class Anthozoa, including the subclass Octocorallia,  
1547 commonly known as gorgonians, soft corals, and telestaceans; and

1548 2. Orders Scleractinia, commonly known as stony corals;  
1549 Stolonifera, including, among others, the organisms commonly  
1550 known as organ-pipe corals; Antipatharia, commonly known as  
1551 black corals; and Hydrozoa, including the family Millaporidae  
1552 and family Stylasteridae, commonly known as hydrocoral.

1553 (c) "Coral reefs" mean:

1554 1. Limestone structures composed wholly or partially of  
1555 living corals, their skeletal remains, or both, and hosting  
1556 other coral, associated benthic invertebrates, and plants; or

1557 2. Hard-bottom communities, also known as live bottom  
1558 habitat or colonized pavement, characterized by the presence of  
1559 coral and associated reef organisms or worm reefs created by the  
1560 Phragmatopoma species.

1561 (d) "Damages" means moneys paid by any person or entity,  
1562 whether voluntarily or as a result of administrative or judicial  
1563 action, to the state as compensation, restitution, penalty,  
1564 civil penalty, or mitigation for causing injury to or  
1565 destruction of coral reefs.

1566 (e) "Department" means the Department of Environmental

20092104e1

1567 Protection.

1568 (f) "Fund" means the Ecosystem Management and Restoration  
1569 Trust Fund.

1570 (g) "Person" means any and all persons, natural or  
1571 artificial, foreign or domestic, including any individual, firm,  
1572 partnership, business, corporation, and company and the United  
1573 States and all political subdivisions, regions, districts,  
1574 municipalities, and public agencies thereof.

1575 (h) "Responsible party" means the owner, operator, manager,  
1576 or insurer of any vessel.

1577 (4) The Legislature finds that coral reefs are valuable  
1578 natural resources that contribute ecologically, aesthetically,  
1579 and economically to the state. Therefore, the Legislature  
1580 declares it is in the best interest of the state to clarify the  
1581 department's powers and authority to protect coral reefs through  
1582 timely and efficient recovery of monetary damages resulting from  
1583 vessel groundings and anchoring-related injuries. It is the  
1584 intent of the Legislature that the department be recognized as  
1585 the state's lead trustee for coral reef resources located within  
1586 waters of the state or on sovereignty submerged lands unless  
1587 preempted by federal law. This section does not divest other  
1588 state agencies and political subdivisions of the state of their  
1589 interests in protecting coral reefs.

1590 (5) The responsible party who knows or should know that  
1591 their vessel has run aground, struck, or otherwise damaged coral  
1592 reefs must notify the department of such an event within 24  
1593 hours after its occurrence. Unless otherwise prohibited or  
1594 restricted by the United States Coast Guard, the responsible  
1595 party must remove or cause the removal of the grounded or

20092104e1

1596 anchored vessel within 72 hours after the initial grounding or  
1597 anchoring absent extenuating circumstances such as weather, or  
1598 marine hazards that would prevent safe removal of the vessel.  
1599 The responsible party must remove or cause the removal of the  
1600 vessel or its anchor in a manner that avoids further damage to  
1601 coral reefs and shall consult with the department in  
1602 accomplishing this task. The responsible party must cooperate  
1603 with the department to undertake damage assessment and primary  
1604 restoration of the coral reef in a timely fashion.

1605 (6) In any action or suit initiated pursuant to chapter 253  
1606 on the behalf of the Board of Trustees of the Internal  
1607 Improvement Trust Fund, or under chapter 373 or this chapter for  
1608 damage to coral reefs, the department may recover all damages  
1609 from the responsible party, including, but not limited to:

1610 (a) Compensation for the cost of replacing, restoring, or  
1611 acquiring the equivalent of the coral reef injured and the value  
1612 of the lost use and services of the coral reef pending its  
1613 restoration, replacement, or acquisition of the equivalent coral  
1614 reef, or the value of the coral reef if the coral reef cannot be  
1615 restored or replaced or if the equivalent cannot be acquired.

1616 (b) The cost of damage assessments, including staff time.

1617 (c) The cost of activities undertaken by or at the request  
1618 of the department to minimize or prevent further injury to coral  
1619 or coral reefs pending restoration, replacement, or acquisition  
1620 of an equivalent.

1621 (d) The reasonable cost of monitoring the injured,  
1622 restored, or replaced coral reef for at least 10 years. Such  
1623 monitoring is not required for a single occurrence of damage to  
1624 a coral reef damage totaling less than or equal to 1 square

20092104e1

1625 meter.

1626 (e) The cost of enforcement actions undertaken in response  
1627 to the destruction or loss of or injury to a coral reef,  
1628 including court costs, attorney's fees, and expert witness fees.

1629 (7) The department may use habitat equivalency analysis as  
1630 the method by which the compensation described in subsection (5)  
1631 is calculated. The parameters for calculation by this method may  
1632 be prescribed by rule adopted by the department.

1633 (8) In addition to the compensation described in subsection  
1634 (5), the department may assess, per occurrence, civil penalties  
1635 according the following schedule:

1636 (a) For any anchoring of a vessel on a coral reef or for  
1637 any other damage to a coral reef totaling less than or equal to  
1638 an area of 1 square meter, \$150, provided that a responsible  
1639 party who has anchored a recreational vessel as defined in s.  
1640 327.02 which is lawfully registered or exempt from registration  
1641 pursuant to chapter 328 is issued, at least once, a warning  
1642 letter in lieu of penalty; with aggravating circumstances, an  
1643 additional \$150; occurring within a state park or aquatic  
1644 preserve, an additional \$150.

1645 (b) For damage totaling more than an area of 1 square meter  
1646 but less than or equal to an area of 10 square meters, \$300 per  
1647 square meter; with aggravating circumstances, an additional \$300  
1648 per square meter; occurring within a state park or aquatic  
1649 preserve, an additional \$300 per square meter.

1650 (c) For damage exceeding an area of 10 square meters,  
1651 \$1,000 per square meter; with aggravating circumstances, an  
1652 additional \$1,000 per square meter; occurring within a state  
1653 park or aquatic preserve, an additional \$1,000 per square meter.

20092104e1

1654 (d) For a second violation, the total penalty may be  
1655 doubled.

1656 (e) For a third violation, the total penalty may be  
1657 tripled.

1658 (f) For any violation after a third violation, the total  
1659 penalty may be quadrupled.

1660 (g) The total of penalties levied may not exceed \$250,000  
1661 per occurrence.

1662 (9) To carry out the intent of this section, the department  
1663 may enter into delegation agreements with another state agency  
1664 or any coastal county with coral reefs within its jurisdiction.  
1665 In deciding to execute such agreements, the department must  
1666 consider the ability of the potential delegee to adequately and  
1667 competently perform the duties required to fulfill the intent of  
1668 this section. When such agreements are executed by the parties  
1669 and incorporated in department rule, the delegee shall have all  
1670 rights accorded the department by this section. Nothing herein  
1671 shall be construed to require the department, another state  
1672 agency, or a coastal county to enter into such an agreement.

1673 (10) Nothing in this section shall be construed to prevent  
1674 the department or other state agencies from entering into  
1675 agreements with federal authorities related to the  
1676 administration of the Florida Keys National Marine Sanctuary.

1677 (11) All damages recovered by or on behalf of this state  
1678 for injury to, or destruction of, the coral reefs of the state  
1679 that would otherwise be deposited in the general revenue  
1680 accounts of the State Treasury or in the Internal Improvement  
1681 Trust Fund shall be deposited in the Ecosystem Management and  
1682 Restoration Trust Fund in the department and shall remain in

20092104e1

1683 such account until expended by the department for the purposes  
1684 of this section. Moneys in the fund received from damages  
1685 recovered for injury to, or destruction of, coral reefs must be  
1686 expended only for the following purposes:

1687 (a) To provide funds to the department for reasonable costs  
1688 incurred in obtaining payment of the damages for injury to, or  
1689 destruction of, coral reefs, including administrative costs and  
1690 costs of experts and consultants. Such funds may be provided in  
1691 advance of recovery of damages.

1692 (b) To pay for restoration or rehabilitation of the injured  
1693 or destroyed coral reefs or other natural resources by a state  
1694 agency or through a contract to any qualified person.

1695 (c) To pay for alternative projects selected by the  
1696 department. Any such project shall be selected on the basis of  
1697 its anticipated benefits to the residents of this state who used  
1698 the injured or destroyed coral reefs or other natural resources  
1699 or will benefit from the alternative project.

1700 (d) All claims for trust fund reimbursements under  
1701 paragraph (a) must be made within 90 days after payment of  
1702 damages is made to the state.

1703 (e) Each private recipient of fund disbursements shall be  
1704 required to agree in advance that its accounts and records of  
1705 expenditures of such moneys are subject to audit at any time by  
1706 appropriate state officials and to submit a final written report  
1707 describing such expenditures within 90 days after the funds have  
1708 been expended.

1709 (f) When payments are made to a state agency from the fund  
1710 for expenses compensable under this subsection, such  
1711 expenditures shall be considered as being for extraordinary

20092104e1

1712 expenses, and no agency appropriation shall be reduced by any  
1713 amount as a result of such reimbursement.

1714 (12) The department may adopt rules pursuant to ss. 120.536  
1715 and 120.54 to administer this section.

1716 Section 30. Paragraph (b) of subsection (2) of section  
1717 403.1651, Florida Statutes, is amended to read:

1718 403.1651 Ecosystem Management and Restoration Trust Fund.—

1719 (2) The trust fund shall be used for the deposit of all  
1720 moneys recovered by the state:

1721 (b) For injury to or destruction of coral reefs, which  
1722 moneys would otherwise be deposited into the General Revenue  
1723 Fund or the Internal Improvement Trust Fund. The department may  
1724 enter into settlement agreements that require responsible  
1725 parties to pay a third party to fund projects related to the  
1726 restoration of a coral reef, to accomplish mitigation for injury  
1727 to a coral reef, or to support the activities of law enforcement  
1728 agencies related to coral reef injury response, investigation  
1729 and assessment. Participation of a law enforcement agency in the  
1730 receipt of funds through this mechanism shall be at the law  
1731 enforcement agency's discretion.

1732 Section 31. Subsection (3) of section 253.04, Florida  
1733 Statutes, is repealed.

1734 Section 32. Section 380.0558, Florida Statutes, is  
1735 repealed.

1736 Section 33. Section 23 of chapter 2008-150, Laws of  
1737 Florida, is repealed.

1738 Section 34. This act shall take effect July 1, 2009.