

By Senator Smith

29-01186-10

20101602__

1 A bill to be entitled
2 An act relating to public K-12 school siting; amending
3 s. 1013.365, F.S.; prohibiting a K-12 school from
4 being moved into an existing structure on or adjacent
5 to a known contaminated site; revising a district
6 school board's duties to include the taking of a
7 leasehold interest in property for the building or
8 location of a school; requiring that a district school
9 board contact the Department of Environmental
10 Protection to obtain information about contaminated
11 sites on or adjacent to a proposed K-12 school site;
12 requiring that a district school board report the
13 results of an environmental audit to the Department of
14 Environmental Protection which confirms the presence
15 of contaminants or pollution on or adjacent to the
16 proposed K-12 school site at concentrations that pose
17 a threat to human health or the environment; revising
18 a district school board's duties regarding school
19 construction site rehabilitation; requiring that the
20 district school board meet soil cleanup target levels
21 for residential use or use the appropriate engineering
22 and institutional controls and obtain the appropriate
23 certification before initiating school construction;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsections (3), (4), and (5) of section
29 1013.365, Florida Statutes, are amended to read:

29-01186-10

20101602__

30 1013.365 Schools on contaminated site prohibited.—

31 (3) K-12 SCHOOL SITING LIMITATIONS; PROHIBITIONS.—No K-12
32 school shall be built or moved into an existing structure on or
33 adjacent to a known contaminated site unless steps have been
34 taken to ensure that children attending the school or playing on
35 school property will not be exposed to contaminants in the air,
36 water, or soil at levels that present a threat to human health
37 or the environment.

38 (4) DUTIES OF DISTRICT SCHOOL BOARD.—Before taking title to
39 real property or taking any other interest in the property,
40 including a leasehold interest, upon which a K-12 school may be
41 built or initiating action to locate a K-12 school on real
42 property already owned by the school district, the district
43 school board shall conduct appropriate due diligence including
44 all appropriate inquiry into the previous ownership and use of
45 the property consistent with good commercial or customary
46 practice in an effort to determine the existence of any
47 potential air, water, or soil contamination that may exist on or
48 adjacent to the proposed K-12 school site. The district school
49 board shall ~~is encouraged to~~ contact the Department of
50 Environmental Protection to obtain any information about
51 contaminated sites on or adjacent to a proposed K-12 school
52 site. Any evidence of a discharge of pollutants or hazardous
53 substances on or adjacent to a proposed K-12 school site shall
54 prompt the district school board to conduct further
55 investigation using at least a Phase II Environmental Audit, in
56 accordance with standards established by the American Society
57 for Testing and Materials (ASTM), that includes air, water, and
58 soil sampling. If the results of the environmental audit confirm

29-01186-10

20101602

59 the presence of contaminants or pollution on or adjacent to the
60 proposed K-12 school site at concentrations that pose a threat
61 to human health or the environment, ~~then~~ the district school
62 board shall report such results to the Department of
63 Environmental Protection and conduct appropriate site
64 rehabilitation in accordance with the provisions of subsection
65 (5) before initiating K-12 school construction at the site.

66 (5) CORRECTIVE ACTION.—The Department of Environmental
67 Protection may use risk-based corrective action cleanup criteria
68 as described in ss. 376.30701, 376.3071, 376.3078, and 376.81,
69 and the rules adopted thereunder, and the contaminant cleanup
70 target levels in chapter 62-777, Florida Administrative Code, in
71 reviewing and approving site rehabilitation conducted by
72 district school boards pursuant to this section. Before
73 initiating school construction at a site, the district school
74 board must meet the soil cleanup target levels for residential
75 use listed in chapter 62-777, Florida Administrative Code, or
76 use the appropriate engineering and institutional controls in
77 order to prevent direct exposure to any soil contamination on
78 the proposed school site. The district school board must also
79 obtain a certification from a Florida-licensed professional
80 engineer or professional geologist stating that students or
81 staff at the proposed school will not be exposed to any air,
82 water, or soil contamination remaining on the school site or
83 adjacent properties at levels exceeding the acceptable risk
84 pursuant to this subsection.

85 Section 2. This act shall take effect July 1, 2010.