

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Kreegel offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 4128 and 4129, insert:

5 Section 51. Subsections (1), (2), and (3) of section
6 220.1845, Florida Statutes, are renumbered as subsections (2),
7 (3), and (4), respectively, and a new subsection (1) is added to
8 that section to read:

9 220.1845 Contaminated site rehabilitation tax credit.—

10 (1) APPLICATION FOR TAX CREDIT.—A site rehabilitation
11 application must be received by the Division of Waste Management
12 of the Department of Environmental Protection by January 31 of
13 the year after the calendar year for which site rehabilitation
14 costs are being claimed in a tax credit application. All site
15 rehabilitation costs claimed must have been for work conducted
16 between January 1 and December 31 of the year for which the

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17 application is being submitted. All payment requests must have
18 been received and all costs must have been paid prior to
19 submittal of the tax credit application, but no later than
20 January 31 of the year after the calendar year for which site
21 rehabilitation costs are being claimed.

22 Section 52. Paragraph (a) of subsection (5), paragraph (c)
23 of subsection (6), and subsections (9) and (10) of section
24 376.30781, Florida Statutes, are amended to read:

25 376.30781 Tax credits for rehabilitation of drycleaning-
26 solvent-contaminated sites and brownfield sites in designated
27 brownfield areas; application process; rulemaking authority;
28 revocation authority.-

29 (5) To claim the credit for site rehabilitation or solid
30 waste removal, each tax credit applicant must apply to the
31 Department of Environmental Protection for an allocation of the
32 \$2 million annual credit by filing a tax credit application with
33 the Division of Waste Management on a form developed by the
34 Department of Environmental Protection in cooperation with the
35 Department of Revenue. The form shall include an affidavit from
36 each tax credit applicant certifying that all information
37 contained in the application, including all records of costs
38 incurred and claimed in the tax credit application, are true and
39 correct. If the application is submitted pursuant to
40 subparagraph (3)(a)2., the form must include an affidavit signed
41 by the real property owner stating that it is not, and has never
42 been, the owner or operator of the drycleaning facility where
43 the contamination exists. Approval of tax credits must be
44 accomplished on a first-come, first-served basis based upon the
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45 date and time complete applications are received by the Division
46 of Waste Management, subject to the limitations of subsection
47 (14). To be eligible for a tax credit, the tax credit applicant
48 must:

49 (a) For site rehabilitation tax credits, have entered into
50 a voluntary cleanup agreement with the Department of
51 Environmental Protection for a drycleaning-solvent-contaminated
52 site or a Brownfield Site Rehabilitation Agreement, as
53 applicable, and have paid all deductibles pursuant to s.
54 376.3078(3)(e) for eligible drycleaning-solvent-cleanup program
55 sites, as applicable. A site rehabilitation tax credit applicant
56 must submit only a single completed application per site for
57 each calendar year's site rehabilitation costs. A site
58 rehabilitation application must be received by the Division of
59 Waste Management of the Department of Environmental Protection
60 by January 31 of the year after the calendar year for which site
61 rehabilitation costs are being claimed in a tax credit
62 application. All site rehabilitation costs claimed must have
63 been for work conducted between January 1 and December 31 of the
64 year for which the application is being submitted. All payment
65 requests must have been received and all costs must have been
66 paid prior to submittal of the tax credit application, but no
67 later than January 31 of the year after the calendar year for
68 which site rehabilitation costs are being claimed.

69 (6) To obtain the tax credit certificate, the tax credit
70 applicant must provide all pertinent information requested on
71 the tax credit application form, including, at a minimum, the
72 name and address of the tax credit applicant and the address and
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73 tracking identification number of the eligible site. Along with
74 the tax credit application form, the tax credit applicant must
75 submit the following:

76 (c) Proof that the documentation submitted pursuant to
77 paragraph (b) has been reviewed and verified by an independent
78 certified public accountant in accordance with standards
79 established by the American Institute of Certified Public
80 Accountants. Specifically, a certified public accountant's
81 report must be submitted and the certified public accountant
82 must attest to the accuracy and validity of the costs claimed
83 ~~incurred and paid during the time period covered~~ in the
84 application by conducting an independent review of the data
85 presented by the tax credit applicant. Accuracy and validity of
86 costs incurred and paid shall be determined after the level of
87 effort is certified by an appropriate professional registered in
88 this state in each contributing technical discipline. The
89 certified public accountant's report must also attest that the
90 costs included in the application form are not duplicated within
91 the application, that all payment requests were received and all
92 costs were paid prior to submittal of the tax credit
93 application, and, for site rehabilitation tax credits, that all
94 costs claimed are for work conducted between January 1 and
95 December 31 of the year for which the application is being
96 submitted. A copy of the accountant's report shall be submitted
97 to the Department of Environmental Protection in addition to the
98 accountant's certification form in the tax credit application;
99 and

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100 (9) On or before May 1, the Department of Environmental
101 Protection shall inform each tax credit applicant that is
102 subject to the January 31 annual application deadline of the
103 applicant's eligibility status and the amount of any tax credit
104 due. The department shall provide each eligible tax credit
105 applicant with a tax credit certificate that must be submitted
106 with its tax return to the Department of Revenue to claim the
107 tax credit or be transferred pursuant to s. 220.1845(2)(g) ~~s.~~
108 ~~220.1845(1)(g)~~. The May 1 deadline for annual site
109 rehabilitation tax credit certificate awards shall not apply to
110 any tax credit application for which the department has issued a
111 notice of deficiency pursuant to subsection (8). The department
112 shall respond within 90 days after receiving a response from the
113 tax credit applicant to such a notice of deficiency. Credits may
114 not result in the payment of refunds if total credits exceed the
115 amount of tax owed.

116 (10) For solid waste removal, new health care facility or
117 health care provider, and affordable housing tax credit
118 applications, the Department of Environmental Protection shall
119 inform the applicant of the department's determination within 90
120 days after the application is deemed complete. Each eligible tax
121 credit applicant shall be informed of the amount of its tax
122 credit and provided with a tax credit certificate that must be
123 submitted with its tax return to the Department of Revenue to
124 claim the tax credit or be transferred pursuant to s.
125 220.1845(2)(g) ~~s. 220.1845(1)(g)~~. Credits may not result in the
126 payment of refunds if total credits exceed the amount of tax
127 owed.

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128 Section 53. Section 376.85, Florida Statutes, is amended
129 to read:

130 376.85 Annual report.—The Department of Environmental
131 Protection shall prepare and submit ~~an annual report~~ to the
132 President of the Senate and the Speaker of the House of
133 Representatives by August 1 of each year a report that includes
134 ~~Legislature, beginning in December 1998, which shall include,~~
135 but is ~~be~~ limited to, the number, size, and locations of
136 brownfield sites: that have been remediated under the provisions
137 of this act, + that are currently under rehabilitation pursuant
138 to a negotiated site rehabilitation agreement with the
139 department or a delegated local program, + where alternative
140 cleanup target levels have been established pursuant to s.
141 376.81(1)(g)3. + and ~~r~~ where engineering and institutional
142 control strategies are being employed as conditions of a "no
143 further action order" to maintain the protections provided in s.
144 376.81(1)(g)1. and 2.

145 Section 54. Section 403.973, Florida Statutes, is amended
146 to read:

147 403.973 Expedited permitting; amendments to comprehensive
148 plans ~~plan amendments~~.—

149 (1) It is the intent of the Legislature to encourage and
150 facilitate the location and expansion of those types of economic
151 development projects which offer job creation and high wages,
152 strengthen and diversify the state's economy, and have been
153 thoughtfully planned to take into consideration the protection
154 of the state's environment. It is also the intent of the

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155 Legislature to provide for an expedited permitting and
156 comprehensive plan amendment process for such projects.

157 (2) As used in this section, the term:

158 (a) "Duly noticed" means publication in a newspaper of
159 general circulation in the municipality or county with
160 jurisdiction. The notice shall appear on at least 2 separate
161 days, one of which shall be at least 7 days before the meeting.
162 The notice shall state the date, time, and place of the meeting
163 scheduled to discuss or enact the memorandum of agreement, and
164 the places within the municipality or county where such proposed
165 memorandum of agreement may be inspected by the public. The
166 notice must be one-eighth of a page in size and must be
167 published in a portion of the paper other than the legal notices
168 section. The notice shall also advise that interested parties
169 may appear at the meeting and be heard with respect to the
170 memorandum of agreement.

171 (b) "Jobs" means permanent, full-time equivalent positions
172 not including construction jobs.

173 (c) "Office" means the Office of Tourism, Trade, and
174 Economic Development.

175 (d) "Permit applications" means state permits and
176 licenses, and at the option of a participating local government,
177 local development permits or orders.

178 (e) "Secretary" means the Secretary of Environmental
179 Protection or his or her designee.

180 (3) (a) The secretary ~~Governor, through the office,~~ shall
181 direct the creation of regional permit action teams, for the

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182 purpose of expediting review of permit applications and local
183 comprehensive plan amendments submitted by:

184 1. Businesses creating at least 50 ~~100~~ jobs; ~~or~~

185 2. Businesses creating at least 25 ~~50~~ jobs if the project
186 is located in an enterprise zone, or in a county having a
187 population of fewer ~~less~~ than 75,000 or in a county having a
188 population of fewer ~~less~~ than 125,000 ~~100,000~~ which is
189 contiguous to a county having a population of fewer ~~less~~ than
190 75,000, as determined by the most recent decennial census,
191 residing in incorporated and unincorporated areas of the
192 county. ~~or~~

193 (b) On a case-by-case basis and at the request of a county
194 or municipal government, the office may certify as eligible for
195 expedited review a project not meeting the minimum job creation
196 thresholds but creating a minimum of 10 jobs. The recommendation
197 from the governing body of the county or municipality in which
198 the project may be located is required in order for the office
199 to certify that any project is eligible for expedited review
200 under this paragraph. When considering projects that do not meet
201 the minimum job creation thresholds but that are recommended by
202 the governing body in which the project may be located, the
203 office shall consider economic impact factors that include, but
204 are not limited to:

205 1. The proposed wage and skill levels relative to those
206 existing in the area in which the project may be located;

207 2. The project's potential to diversify and strengthen the
208 area's economy;

209 3. The amount of capital investment; and

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210 4. The number of jobs that will be made available for
211 persons served by the welfare transition program.

212 (c) At the request of a county or municipal government,
213 the office or a Quick Permitting County may certify projects
214 located in counties where the ratio of new jobs per participant
215 in the welfare transition program, as determined by Workforce
216 Florida, Inc., is less than one or otherwise critical, as
217 eligible for the expedited permitting process. Such projects
218 must meet the numerical job creation criteria of this
219 subsection, but the jobs created by the project do not have to
220 be high-wage jobs that diversify the state's economy.

221 (d) Projects located in a designated brownfield area are
222 eligible for the expedited permitting process.

223 (e) Projects that are part of the state-of-the-art
224 biomedical research institution and campus to be established in
225 this state by the grantee under s. 288.955 are eligible for the
226 expedited permitting process, if the projects are designated as
227 part of the institution or campus by the board of county
228 commissioners of the county in which the institution and campus
229 are established.

230 (f) Projects resulting in the production of biofuels
231 cultivated on lands that are 1,000 acres or more or in the
232 construction of a biofuel or biodiesel processing facility or a
233 facility generating renewable energy, as defined in s.
234 366.91(2)(d), are eligible for the expedited permitting process.

235 (4) The regional teams shall be established through the
236 execution of memoranda of agreement developed by the applicant
237 and the secretary, with input solicited from ~~between~~ the office

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238 and the respective heads of ~~the Department of Environmental~~
239 ~~Protection,~~ the Department of Community Affairs, the Department
240 of Transportation and its district offices, the Department of
241 Agriculture and Consumer Services, the Fish and Wildlife
242 Conservation Commission, appropriate regional planning councils,
243 appropriate water management districts, and voluntarily
244 participating municipalities and counties. The memoranda of
245 agreement should also accommodate participation in this
246 expedited process by other local governments and federal
247 agencies as circumstances warrant.

248 (5) In order to facilitate local government's option to
249 participate in this expedited review process, the secretary
250 ~~office~~ shall, in cooperation with local governments and
251 participating state agencies, create a standard form memorandum
252 of agreement. A local government shall hold a duly noticed
253 public workshop to review and explain to the public the
254 expedited permitting process and the terms and conditions of the
255 standard form memorandum of agreement.

256 (6) The local government shall hold a duly noticed public
257 hearing to execute a memorandum of agreement for each qualified
258 project. Notwithstanding any other provision of law, and at the
259 option of the local government, the workshop provided for in
260 subsection (5) may be conducted on the same date as the public
261 hearing held under this subsection. The memorandum of agreement
262 that a local government signs shall include a provision
263 identifying necessary local government procedures and time
264 limits that will be modified to allow for the local government
265 decision on the project within 90 days. The memorandum of

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266 agreement applies to projects, on a case-by-case basis, that
267 qualify for special review and approval as specified in this
268 section. The memorandum of agreement must make it clear that
269 this expedited permitting and review process does not modify,
270 qualify, or otherwise alter existing local government
271 nonprocedural standards for permit applications, unless
272 expressly authorized by law.

273 ~~(7) At the option of the participating local government,~~
274 Appeals of local government comprehensive plan approvals ~~its~~
275 ~~final approval~~ for a project shall ~~may~~ be pursuant to the
276 summary hearing provisions of s. 120.574, pursuant to subsection
277 (14), and consolidated with the challenge of any applicable
278 state agency actions ~~or pursuant to other appellate processes~~
279 ~~available to the local government. The local government's~~
280 ~~decision to enter into a summary hearing must be made as~~
281 ~~provided in s. 120.574 or in the memorandum of agreement.~~

282 (8) Each memorandum of agreement shall include a process
283 for final agency action on permit applications and local
284 comprehensive plan amendment approvals within 90 days after
285 receipt of a completed application, unless the applicant agrees
286 to a longer time period or the secretary ~~office~~ determines that
287 unforeseen or uncontrollable circumstances preclude final agency
288 action within the 90-day timeframe. Permit applications governed
289 by federally delegated or approved permitting programs whose
290 requirements would prohibit or be inconsistent with the 90-day
291 timeframe are exempt from this provision, but must be processed
292 by the agency with federally delegated or approved program
293 responsibility as expeditiously as possible.

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294 (9) The secretary ~~office~~ shall inform the Legislature by
295 October 1 of each year which agencies have not entered into or
296 implemented an agreement and identify any barriers to achieving
297 success of the program.

298 (10) The memoranda of agreement may provide for the waiver
299 or modification of procedural rules prescribing forms, fees,
300 procedures, or time limits for the review or processing of
301 permit applications under the jurisdiction of those agencies
302 that are party to the memoranda of agreement. Notwithstanding
303 any other provision of law to the contrary, a memorandum of
304 agreement must to the extent feasible provide for proceedings
305 and hearings otherwise held separately by the parties to the
306 memorandum of agreement to be combined into one proceeding or
307 held jointly and at one location. Such waivers or modifications
308 shall not be available for permit applications governed by
309 federally delegated or approved permitting programs, the
310 requirements of which would prohibit, or be inconsistent with,
311 such a waiver or modification.

312 (11) The standard form for memoranda of agreement shall
313 include guidelines to be used in working with state, regional,
314 and local permitting authorities. Guidelines may include, but
315 are not limited to, the following:

316 (a) A central contact point for filing permit applications
317 and local comprehensive plan amendments and for obtaining
318 information on permit and local comprehensive plan amendment
319 requirements;

320 (b) Identification of the individual or individuals within
321 each respective agency who will be responsible for processing

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322 the expedited permit application or local comprehensive plan
323 amendment for that agency;

324 (c) A mandatory preapplication review process to reduce
325 permitting conflicts by providing guidance to applicants
326 regarding the permits needed from each agency and governmental
327 entity, site planning and development, site suitability and
328 limitations, facility design, and steps the applicant can take
329 to ensure expeditious permit application and local comprehensive
330 plan amendment review. As a part of this process, the first
331 interagency meeting to discuss a project shall be held within 14
332 days after the secretary's ~~office's~~ determination that the
333 project is eligible for expedited review. Subsequent interagency
334 meetings may be scheduled to accommodate the needs of
335 participating local governments that are unable to meet public
336 notice requirements for executing a memorandum of agreement
337 within this timeframe. This accommodation may not exceed 45 days
338 from the secretary's ~~office's~~ determination that the project is
339 eligible for expedited review;

340 (d) The preparation of a single coordinated project
341 description form and checklist and an agreement by state and
342 regional agencies to reduce the burden on an applicant to
343 provide duplicate information to multiple agencies;

344 (e) Establishment of a process for the adoption and review
345 of any comprehensive plan amendment needed by any certified
346 project within 90 days after the submission of an application
347 for a comprehensive plan amendment. However, the memorandum of
348 agreement may not prevent affected persons as defined in s.
349 163.3184 from appealing or participating in this expedited plan
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350 amendment process and any review or appeals of decisions made
351 under this paragraph; and

352 (f) Additional incentives for an applicant who proposes a
353 project that provides a net ecosystem benefit.

354 (12) The applicant, the regional permit action team, and
355 participating local governments may agree to incorporate into a
356 single document the permits, licenses, and approvals that are
357 obtained through the expedited permit process. This consolidated
358 permit is subject to the summary hearing provisions set forth in
359 subsection (14).

360 (13) Notwithstanding any other provisions of law:

361 (a) Local comprehensive plan amendments for projects
362 qualified under this section are exempt from the twice-a-year
363 limits provision in s. 163.3187; and

364 (b) Projects qualified under this section are not subject
365 to interstate highway level-of-service standards adopted by the
366 Department of Transportation for concurrency purposes. The
367 memorandum of agreement specified in subsection (5) must include
368 a process by which the applicant will be assessed a fair share
369 of the cost of mitigating the project's significant traffic
370 impacts, as defined in chapter 380 and related rules. The
371 agreement must also specify whether the significant traffic
372 impacts on the interstate system will be mitigated through the
373 implementation of a project or payment of funds to the
374 Department of Transportation. Where funds are paid, the
375 Department of Transportation must include in the 5-year work
376 program transportation projects or project phases, in an amount

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377 equal to the funds received, to mitigate the traffic impacts
378 associated with the proposed project.

379 (14) (a) Challenges to state agency action in the expedited
380 permitting process for projects processed under this section are
381 subject to the summary hearing provisions of s. 120.574, except
382 that the administrative law judge's decision, as provided in s.
383 120.574(2) (f), shall be in the form of a recommended order and
384 shall not constitute the final action of the state agency. In
385 those proceedings where the action of only one agency of the
386 state other than the Department of Environmental Protection is
387 challenged, the agency of the state shall issue the final order
388 within 45 ~~10~~ working days after ~~of~~ receipt of the administrative
389 law judge's recommended order, and the recommended order shall
390 inform the parties of their right to file exceptions or
391 responses to the recommended order in accordance with the
392 uniform rules of procedure pursuant to s. 120.54. In those
393 proceedings where the actions of more than one agency of the
394 state are challenged, the Governor shall issue the final order
395 within 45 ~~10~~ working days after ~~of~~ receipt of the administrative
396 law judge's recommended order, and the recommended order shall
397 inform the parties of their right to file exceptions or
398 responses to the recommended order in accordance with the
399 uniform rules of procedure pursuant to s. 120.54. This paragraph
400 does not apply to the issuance of department licenses required
401 under any federally delegated or approved permit program. In
402 such instances, the department shall enter the final order. The
403 participating agencies of the state may opt at the preliminary
404 hearing conference to allow the administrative law judge's

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405 decision to constitute the final agency action. If a
406 participating local government agrees to participate in the
407 summary hearing provisions of s. 120.574 for purposes of review
408 of local government comprehensive plan amendments, s.
409 163.3184(9) and (10) apply.

410 (b) Projects identified in paragraph (3)(f) or challenges
411 to state agency action in the expedited permitting process for
412 establishment of a state-of-the-art biomedical research
413 institution and campus in this state by the grantee under s.
414 288.955 are subject to the same requirements as challenges
415 brought under paragraph (a), except that, notwithstanding s.
416 120.574, summary proceedings must be conducted within 30 days
417 after a party files the motion for summary hearing, regardless
418 of whether the parties agree to the summary proceeding.

419 (15) The office, working with the agencies providing
420 cooperative assistance and input regarding ~~participating in~~ the
421 memoranda of agreement, shall review sites proposed for the
422 location of facilities eligible for the Innovation Incentive
423 Program under s. 288.1089. Within 20 days after the request for
424 the review by the office, the agencies shall provide to the
425 office a statement as to each site's necessary permits under
426 local, state, and federal law and an identification of
427 significant permitting issues, which if unresolved, may result
428 in the denial of an agency permit or approval or any significant
429 delay caused by the permitting process.

430 (16) This expedited permitting process shall not modify,
431 qualify, or otherwise alter existing agency nonprocedural
432 standards for permit applications or local comprehensive plan
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433 amendments, unless expressly authorized by law. If it is
434 determined that the applicant is not eligible to use this
435 process, the applicant may apply for permitting of the project
436 through the normal permitting processes.

437 (17) The office shall be responsible for certifying a
438 business as eligible for undergoing expedited review under this
439 section. Enterprise Florida, Inc., a county or municipal
440 government, or the Rural Economic Development Initiative may
441 recommend to the Office of Tourism, Trade, and Economic
442 Development that a project meeting the minimum job creation
443 threshold undergo expedited review.

444 (18) The office, working with the Rural Economic
445 Development Initiative and the agencies participating in the
446 memoranda of agreement, shall provide technical assistance in
447 preparing permit applications and local comprehensive plan
448 amendments for counties having a population of fewer ~~less~~ than
449 75,000 residents, or counties having fewer than 125,000 ~~100,000~~
450 residents which are contiguous to counties having fewer than
451 75,000 residents. Additional assistance may include, but not be
452 limited to, guidance in land development regulations and
453 permitting processes, working cooperatively with state,
454 regional, and local entities to identify areas within these
455 counties which may be suitable or adaptable for preclearance
456 review of specified types of land uses and other activities
457 requiring permits.

458 (19) The following projects are ineligible for review
459 under this part:

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460 (a) A project funded and operated by a local government,
461 as defined in s. 377.709, and located within that government's
462 jurisdiction.

463 (b) A project, the primary purpose of which is to:

464 1. Effect the final disposal of solid waste, biomedical
465 waste, or hazardous waste in this state.

466 2. Produce electrical power, unless the production of
467 electricity is incidental and not the primary function of the
468 project or the electrical power is derived from a fuel source
469 for renewable energy as defined in s. 366.91(2)(d).

470 3. Extract natural resources.

471 4. Produce oil.

472 5. Construct, maintain, or operate an oil, petroleum,
473 natural gas, or sewage pipeline.

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475 -----

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

476 Between lines 208 and 209, insert:
477 amending ss. 220.1845 and 376.30781, F.S.; providing
478 requirements for claiming certain site rehabilitation costs
479 in applications for contaminated site rehabilitation tax
480 credits; conforming cross-references; amending s. 376.85,
481 F.S.; revising requirements for the Department of
482 Environmental Protection's annual report to the Legislature
483 regarding site rehabilitation; amending s. 403.973, F.S.;
484 transferring certain authority over the expedited
485 permitting and comprehensive plan amendment process from
486 the Office of Tourism, Trade, and Economic Development to
487

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488 the Secretary of Environmental Protection; revising job-
489 creation criteria for businesses to qualify to submit
490 permit applications and local comprehensive plan amendments
491 for expedited review; providing that permit applications
492 and local comprehensive plan amendments for specified
493 renewable energy projects are eligible for the expedited
494 permitting process; providing for the establishment of
495 regional permit action teams through the execution of
496 memoranda of agreement developed by permit applicants and
497 the secretary; revising provisions relating to the
498 memoranda of agreement developed by the secretary;
499 providing for the appeal of local government comprehensive
500 plan approvals for projects and requiring such appeals to
501 be consolidated with challenges to state agency actions;
502 requiring recommended orders relating to challenges to
503 state agency actions pursuant to summary hearing provisions
504 to include certain information; extending the deadline for
505 issuance of final orders relating to such challenges;
506 providing for challenges to state agency action related to
507 expedited permitting for specified renewable energy
508 projects; revising provisions relating to the review of
509 sites proposed for the location of facilities eligible for
510 the Innovation Incentive Program; revising criteria for
511 counties eligible to receive technical assistance in
512 preparing permit applications and local comprehensive plan
513 amendments; specifying expedited review eligibility for
514 certain electrical power projects;

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