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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2017	.	
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Appropriations Subcommittee on the Environment and Natural Resources (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 33 - 187

and insert:

Section 1. Paragraph (h) of subsection (6) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

(h) The contractor, or the person to whom ~~which~~ the



446680

11 contractor has assigned its right to payment pursuant to
12 paragraph (e), shall make prompt payment to subcontractors and
13 suppliers for their costs associated with an approved contract
14 pursuant to s. 287.0585, except that the contractor, or the
15 person to whom the contractor has assigned its right to payment
16 pursuant to paragraph (e), may remit payments to subcontractors
17 and suppliers within 30 working days after the contractor's
18 receipt of payment by the department before the penalties
19 required by s. 287.0585(1) are applicable.

20 Section 2. Paragraphs (a) and (c) of subsection (1) and
21 subsections (2) and (4) of section 376.30713, Florida Statutes,
22 are amended to read:

23 376.30713 Advanced cleanup.-

24 (1) In addition to the legislative findings provided in s.
25 376.3071, the Legislature finds and declares:

26 (a) That the inability to conduct site rehabilitation in
27 advance of a site's priority ranking pursuant to s.
28 376.3071(5)(a) may substantially impede or prohibit property
29 redevelopment, property transactions, or the proper completion
30 of public works projects.

31 (c) It is in the public interest and of substantial
32 economic benefit to the state to provide an opportunity for site
33 rehabilitation to be conducted on a limited basis at
34 contaminated sites, in advance of the site's priority ranking,
35 to encourage redevelopment and facilitate property transactions
36 or public works projects.

37 (2) The department may approve an application for advanced
38 cleanup at eligible sites, including applications submitted
39 pursuant to paragraph (c), notwithstanding the site's priority



446680

40 ranking established pursuant to s. 376.3071(5)(a), pursuant to
41 this section. Only the facility owner or operator or the person
42 otherwise responsible for site rehabilitation qualifies as an
43 applicant under this section.

44 (a) Advanced cleanup applications may be submitted between
45 May 1 and June 30 and between November 1 and December 31 of each
46 fiscal year. Applications submitted between May 1 and June 30
47 shall be for the fiscal year beginning July 1. An application
48 must consist of:

49 1. A commitment to pay 25 percent or more of the total
50 cleanup cost deemed recoverable under this section along with
51 proof of the ability to pay the cost share. The department shall
52 determine whether the cost savings demonstration is acceptable.
53 Such determination is not subject to chapter 120.

54 a. Applications for the aggregate cleanup of five or more
55 sites may be submitted in one of two formats to meet the cost-
56 share requirement:

57 (I) For an aggregate application proposing that the
58 department enter into a performance-based contract, the
59 applicant may use a commitment to pay, a demonstrated cost
60 savings to the department, or both to meet the requirement.

61 (II) For an aggregate application relying on a demonstrated
62 cost savings to the department, the applicant shall, in
63 conjunction with the proposed agency term contractor, establish
64 and provide in the application the percentage of cost savings in
65 the aggregate that is being provided to the department for
66 cleanup of the sites under the application compared to the cost
67 of cleanup of those same sites using the current rates provided
68 to the department by the proposed agency term contractor.



446680

69 b. Applications for the cleanup of individual sites may be
70 submitted in one of two formats to meet the cost-share
71 requirement:

72 (I) For an individual application proposing that the
73 department enter into a performance-based contract, the
74 applicant may use a commitment to pay, a demonstrated cost
75 savings to the department, or both to meet the requirement.

76 (II) For an individual application relying on a
77 demonstrated cost savings to the department, the applicant
78 shall, in conjunction with the proposed agency term contractor,
79 establish and provide in the application a 25-percent cost
80 savings to the department for cleanup of the site under the
81 application compared to the cost of cleanup of the same site
82 using the current rates provided to the department by the
83 proposed agency term contractor.

84 2. A nonrefundable review fee of \$250 to cover the
85 administrative costs associated with the department's review of
86 the application.

87 3. A limited contamination assessment report.

88 4. A proposed course of action.

89 5. A department site access agreement, or similar
90 agreements approved by the department that do not violate state
91 law, entered into with the property owner or owners, as
92 applicable, and evidence of authorization from such owner or
93 owners for petroleum site rehabilitation program tasks
94 consistent with the proposed course of action where the
95 applicant is not the property owner for any of the sites
96 contained in the application.

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446680

98 The limited contamination assessment report must be sufficient
99 to support the proposed course of action and to estimate the
100 cost of the proposed course of action. Costs incurred related to
101 conducting the limited contamination assessment report are not
102 refundable from the Inland Protection Trust Fund. Site
103 eligibility under this subsection or any other provision of this
104 section is not an entitlement to advanced cleanup or continued
105 restoration funding. The applicant shall certify to the
106 department that the applicant has the prerequisite authority to
107 enter into an advanced cleanup contract with the department. The
108 certification must be submitted with the application.

109 (b) The department shall rank the applications based on the
110 percentage of cost-sharing commitment proposed by the applicant,
111 with the highest ranking given to the applicant who proposes the
112 highest percentage of cost sharing. If the department receives
113 applications that propose identical cost-sharing commitments and
114 that exceed the funds available to commit to all such proposals
115 during the advanced cleanup application period, the department
116 shall proceed to rerank those applicants. Those applicants
117 submitting identical cost-sharing proposals that exceed funding
118 availability must be so notified by the department and offered
119 the opportunity to raise their individual cost-share
120 commitments, in a period specified in the notice. At the close
121 of the period, the department shall proceed to rerank the
122 applications pursuant to this paragraph.

123 (c) Applications for the advanced cleanup of individual
124 sites scheduled for redevelopment are not subject to the
125 application period limitations or the requirement to pay 25
126 percent of the total cleanup cost specified in paragraph (a) or



446680

127 to the cost-sharing commitment specified in paragraph (1)(d).
128 Applications must be accepted on a first-come, first-served
129 basis and are not subject to the ranking provisions of paragraph
130 (b). Applications for the advanced cleanup of individual sites
131 scheduled for redevelopment must include:

132 1. A nonrefundable review fee of \$250 to cover the
133 administrative costs associated with the department's review of
134 the application.

135 2. A limited contamination assessment report. The report
136 must be sufficient to support the proposed course of action and
137 to estimate the cost of the proposed course of action. Costs
138 incurred related to conducting and preparing the report are not
139 refundable from the Inland Protection Trust Fund.

140 3. A proposed course of action for cleanup of the site.

141 4. If the applicant is not the property owner for any of
142 the sites contained in the application, a department site access
143 agreement, or a similar agreement approved by the department and
144 not in violation of state law, entered into with the property
145 owner or owners, as applicable, and evidence of authorization
146 from such owner or owners for petroleum site rehabilitation
147 program tasks consistent with the proposed course of action.

148 5. A certification to the department stating that the
149 applicant has the prerequisite authority to enter into an
150 advanced cleanup contract with the department. The advanced
151 cleanup contract must include redevelopment and site
152 rehabilitation milestones.

153 6. Documentation, in the form of a letter from the local
154 government having jurisdiction over the area where the site is
155 located, which states that the local government is in agreement



446680

156 with or approves the proposed redevelopment and that the
157 proposed redevelopment complies with applicable law and
158 requirements for such redevelopment.

159 7. A demonstrated reasonable assurance that the applicant
160 has sufficient financial resources to implement and complete the
161 redevelopment project.

162
163 Site eligibility under this section is not an entitlement to
164 advanced cleanup funding or continued restoration funding.

165 (4) The department may enter into contracts for a total of
166 up to \$30 ~~\$25~~ million of advanced cleanup work in each fiscal
167 year. Up to \$5 million of these funds may be designated by the
168 department for advanced cleanup of individual sites scheduled
169 for redevelopment under paragraph (2) (c).

170 (a) However, A facility or an applicant who bundles
171 multiple sites as specified in subparagraph (2) (a)1. may not be
172 approved for more than \$5 million of cleanup activity in each
173 fiscal year.

174 (b) A facility or an applicant applying for advanced
175 cleanup of individual sites scheduled for redevelopment pursuant
176 to paragraph (2) (c) may not be approved for more than \$1 million
177 of cleanup activity in any one fiscal year.

178 (c) A property owner or responsible party may enter into a
179 voluntary cost-share agreement in which the property owner or
180 responsible party commits to bundle multiple sites and lists the
181 facilities that will be included in those future bundles. The
182 facilities listed are not subject to agency term contractor
183 assignment pursuant to department rule. The department must
184 reserve ~~reserves~~ the right to terminate or amend the voluntary



446680

185 cost-share agreement for any identified site under the voluntary
186 cost-share agreement if the property owner or responsible party
187 fails to submit an application to bundle any site, not already
188 covered by an advance cleanup contract, under such voluntary
189 cost-share agreement within three ~~a~~ subsequent open application
190 periods or 18 months, whichever period is shorter, period during
191 which it is eligible to participate. The property owner or
192 responsible party must agree to conduct limited site assessments
193 on the identified sites within 12 months after the execution of
194 the voluntary cost-share agreement. For the purposes of this
195

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

197 And the title is amended as follows:

198 Delete lines 2 - 16

199 and insert:

200 An act relating to contaminated site cleanup; amending
201 s. 376.3071, F.S.; providing an exception to prompt
202 payment requirements to subcontractors and suppliers;
203 amending s. 376.30713, F.S.; revising legislative
204 findings; specifying that applicants for advanced
205 cleanup of certain individual sites are not subject to
206 application period limitations and need not pay a
207 certain cost-sharing commitment; requiring
208 applications by such applicants to be accepted on a
209 first-come, first-served basis; providing that such
210 applications are not subject to certain ranking
211 provisions; specifying application requirements;
212 providing construction; increasing the amount per year
213 that the Department of Environmental Protection may



446680

214 use for advanced cleanup work; specifying expenditure
215 limitations; revising duties of property owners and
216 responsible parties with respect to voluntary cost-
217 share agreements; amending s.