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576-03822-17

Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on the Environment and Natural  
Resources)

A bill to be entitled

An act relating to contaminated site cleanup; amending  
s. 376.3071, F.S.; providing an exception to prompt  
payment requirements to subcontractors and suppliers;  
amending s. 376.30713, F.S.; revising legislative  
findings; specifying that applicants for advanced  
cleanup of certain individual sites are not subject to  
application period limitations and need not pay a  
certain cost-sharing commitment; requiring  
applications by such applicants to be accepted on a  
first-come, first-served basis; providing that such  
applications are not subject to certain ranking  
provisions; specifying application requirements;  
providing construction; increasing the amount per year  
that the Department of Environmental Protection may  
use for advanced cleanup work; specifying expenditure  
limitations; revising duties of property owners and  
responsible parties with respect to voluntary cost-  
share agreements; amending s. 376.3078, F.S.;  
providing a statement of public interest; authorizing  
site assessments in advance of site priority ranking  
under certain circumstances; specifying criteria for  
sites to be eligible for such assessments; specifying  
what must be demonstrated through such assessments;  
specifying criteria for the assignment of assessment  
tasks; specifying funding limitations; specifying the



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27 prioritization of requests; amending s. 220.1845,  
28 F.S.; increasing the total amount of an authorization  
29 for tax credits; amending s. 376.30781, F.S.;  
30 increasing the total amount of tax credits the  
31 department is responsible for allocating; providing an  
32 effective date.

33  
34 Be It Enacted by the Legislature of the State of Florida:

35  
36 Section 1. Paragraph (h) of subsection (6) of section  
37 376.3071, Florida Statutes, is amended to read:

38 376.3071 Inland Protection Trust Fund; creation; purposes;  
39 funding.—

40 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

41 (h) The contractor, or the person to whom ~~which~~ the  
42 contractor has assigned its right to payment pursuant to  
43 paragraph (e), shall make prompt payment to subcontractors and  
44 suppliers for their costs associated with an approved contract  
45 pursuant to s. 287.0585, except that the contractor, or the  
46 person to whom the contractor has assigned its right to payment  
47 pursuant to paragraph (e), may remit payments to subcontractors  
48 and suppliers within 30 working days after the contractor's  
49 receipt of payment by the department before the penalties  
50 required by s. 287.0585(1) are applicable.

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

54 376.30713 Advanced cleanup.—

55 (1) In addition to the legislative findings provided in s.



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56 376.3071, the Legislature finds and declares:

57 (a) That the inability to conduct site rehabilitation in  
58 advance of a site's priority ranking pursuant to s.  
59 376.3071(5) (a) may substantially impede or prohibit property  
60 redevelopment, property transactions, or the proper completion  
61 of public works projects.

62 (c) It is in the public interest and of substantial  
63 economic benefit to the state to provide an opportunity for site  
64 rehabilitation to be conducted on a limited basis at  
65 contaminated sites, in advance of the site's priority ranking,  
66 to encourage redevelopment and facilitate property transactions  
67 or public works projects.

68 (2) The department may approve an application for advanced  
69 cleanup at eligible sites, including applications submitted  
70 pursuant to paragraph (c), notwithstanding the site's priority  
71 ranking established pursuant to s. 376.3071(5) (a), pursuant to  
72 this section. Only the facility owner or operator or the person  
73 otherwise responsible for site rehabilitation qualifies as an  
74 applicant under this section.

75 (a) Advanced cleanup applications may be submitted between  
76 May 1 and June 30 and between November 1 and December 31 of each  
77 fiscal year. Applications submitted between May 1 and June 30  
78 shall be for the fiscal year beginning July 1. An application  
79 must consist of:

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



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

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

92 (II) For an aggregate application relying on a demonstrated  
93 cost savings to the department, the applicant shall, in  
94 conjunction with the proposed agency term contractor, establish  
95 and provide in the application the percentage of cost savings in  
96 the aggregate that is being provided to the department for  
97 cleanup of the sites under the application compared to the cost  
98 of cleanup of those same sites using the current rates provided  
99 to the department by the proposed agency term contractor.

100 b. Applications for the cleanup of individual sites may be  
101 submitted in one of two formats to meet the cost-share  
102 requirement:

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

107 (II) For an individual application relying on a  
108 demonstrated cost savings to the department, the applicant  
109 shall, in conjunction with the proposed agency term contractor,  
110 establish and provide in the application a 25-percent cost  
111 savings to the department for cleanup of the site under the  
112 application compared to the cost of cleanup of the same site  
113 using the current rates provided to the department by the



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114 proposed agency term contractor.

115       2. A nonrefundable review fee of \$250 to cover the  
116 administrative costs associated with the department's review of  
117 the application.

118       3. A limited contamination assessment report.

119       4. A proposed course of action.

120       5. A department site access agreement, or similar  
121 agreements approved by the department that do not violate state  
122 law, entered into with the property owner or owners, as  
123 applicable, and evidence of authorization from such owner or  
124 owners for petroleum site rehabilitation program tasks  
125 consistent with the proposed course of action where the  
126 applicant is not the property owner for any of the sites  
127 contained in the application.

128  
129 The limited contamination assessment report must be sufficient  
130 to support the proposed course of action and to estimate the  
131 cost of the proposed course of action. Costs incurred related to  
132 conducting the limited contamination assessment report are not  
133 refundable from the Inland Protection Trust Fund. Site  
134 eligibility under this subsection or any other provision of this  
135 section is not an entitlement to advanced cleanup or continued  
136 restoration funding. The applicant shall certify to the  
137 department that the applicant has the prerequisite authority to  
138 enter into an advanced cleanup contract with the department. The  
139 certification must be submitted with the application.

140       (b) The department shall rank the applications based on the  
141 percentage of cost-sharing commitment proposed by the applicant,  
142 with the highest ranking given to the applicant who proposes the



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143 highest percentage of cost sharing. If the department receives  
144 applications that propose identical cost-sharing commitments and  
145 that exceed the funds available to commit to all such proposals  
146 during the advanced cleanup application period, the department  
147 shall proceed to rerank those applicants. Those applicants  
148 submitting identical cost-sharing proposals that exceed funding  
149 availability must be so notified by the department and offered  
150 the opportunity to raise their individual cost-share  
151 commitments, in a period specified in the notice. At the close  
152 of the period, the department shall proceed to rerank the  
153 applications pursuant to this paragraph.

154 (c) Applications for the advanced cleanup of individual  
155 sites scheduled for redevelopment are not subject to the  
156 application period limitations or the requirement to pay 25  
157 percent of the total cleanup cost specified in paragraph (a) or  
158 to the cost-sharing commitment specified in paragraph (1)(d).  
159 Applications must be accepted on a first-come, first-served  
160 basis and are not subject to the ranking provisions of paragraph  
161 (b). Applications for the advanced cleanup of individual sites  
162 scheduled for redevelopment must include:

163 1. A nonrefundable review fee of \$250 to cover the  
164 administrative costs associated with the department's review of  
165 the application.

166 2. A limited contamination assessment report. The report  
167 must be sufficient to support the proposed course of action and  
168 to estimate the cost of the proposed course of action. Costs  
169 incurred related to conducting and preparing the report are not  
170 refundable from the Inland Protection Trust Fund.

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



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172       4. If the applicant is not the property owner for any of  
173 the sites contained in the application, a department site access  
174 agreement, or a similar agreement approved by the department and  
175 not in violation of state law, entered into with the property  
176 owner or owners, as applicable, and evidence of authorization  
177 from such owner or owners for petroleum site rehabilitation  
178 program tasks consistent with the proposed course of action.

179       5. A certification to the department stating that the  
180 applicant has the prerequisite authority to enter into an  
181 advanced cleanup contract with the department. The advanced  
182 cleanup contract must include redevelopment and site  
183 rehabilitation milestones.

184       6. Documentation, in the form of a letter from the local  
185 government having jurisdiction over the area where the site is  
186 located, which states that the local government is in agreement  
187 with or approves the proposed redevelopment and that the  
188 proposed redevelopment complies with applicable law and  
189 requirements for such redevelopment.

190       7. A demonstrated reasonable assurance that the applicant  
191 has sufficient financial resources to implement and complete the  
192 redevelopment project.

193  
194 Site eligibility under this section is not an entitlement to  
195 advanced cleanup funding or continued restoration funding.

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



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

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

209        (c) A property owner or responsible party may enter into a  
210 voluntary cost-share agreement in which the property owner or  
211 responsible party commits to bundle multiple sites and lists the  
212 facilities that will be included in those future bundles. The  
213 facilities listed are not subject to agency term contractor  
214 assignment pursuant to department rule. The department must  
215 reserve ~~reserves~~ the right to terminate or amend the voluntary  
216 cost-share agreement for any identified site under the voluntary  
217 cost-share agreement if the property owner or responsible party  
218 fails to submit an application to bundle any site, not already  
219 covered by an advance cleanup contract, under such voluntary  
220 cost-share agreement within three a subsequent open application  
221 periods or 18 months, whichever period is shorter, ~~period~~ during  
222 which it is eligible to participate. The property owner or  
223 responsible party must agree to conduct limited site assessments  
224 on the identified sites within 12 months after the execution of  
225 the voluntary cost-share agreement. For the purposes of this  
226 section, the term "facility" includes, but is not limited to,  
227 multiple site facilities such as airports, port facilities, and  
228 terminal facilities even though such enterprises may be treated  
229 as separate facilities for other purposes under this chapter.





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230 Section 3. Subsection (14) is added to section 376.3078,  
231 Florida Statutes, to read:

232 376.3078 Drycleaning facility restoration; funds; uses;  
233 liability; recovery of expenditures.—

234 (14) ADVANCED SITE ASSESSMENT.—It is in the public  
235 interest, and of substantial environmental and economic benefit  
236 to the state, to provide an opportunity to conduct site  
237 assessment on a limited basis at contaminated sites in advance  
238 of the ranking of the sites on the priority list as specified in  
239 subsection (8).

240 (a) A real property owner who is eligible for site  
241 rehabilitation at a facility that has been determined eligible  
242 for the drycleaning solvent cleanup program under this section  
243 may request an advanced site assessment, and the department may  
244 authorize the performance of a site assessment in advance of the  
245 ranking of the site on the priority list as specified in  
246 subsection (8), if the following criteria are met:

247 1. The site assessment information would provide new  
248 information that would be sufficient for the department to  
249 better evaluate the actual risk of the contamination, thereby  
250 reducing the risk to public health and the environment;

251 2. The property owner agrees:

252 a. To implement the appropriate institutional controls  
253 allowed by department rules adopted pursuant to subsection (4)  
254 at the time the property owner requests the advanced site  
255 assessment; and

256 b. To implement and maintain, upon completion of the  
257 cleanup, the required institutional controls, or a combination  
258 of institutional and engineering controls, when the site meets



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259 the site rehabilitation criteria for closure with controls in  
260 accordance with department rules adopted pursuant to subsection  
261 (4);

262 3. Current conditions at the site allow the site assessment  
263 to be conducted in a manner that will result in cost savings to  
264 the Water Quality Assurance Trust Fund;

265 4. There is sufficient money in the annual Water Quality  
266 Assurance Trust Fund appropriation for the drycleaning solvent  
267 cleanup program to pay for the site assessment; and

268 5. In accordance with subsection (3), access to the site is  
269 provided and the deductible is paid.

270 (b) A site may be assessed out of priority ranking order  
271 when, at the department's discretion, the site assessment will  
272 provide a cost savings to the program.

273 (c) An advanced site assessment must incorporate risk-based  
274 corrective action principles to achieve protection of human  
275 health and safety and the environment in a cost-effective  
276 manner, in accordance with subsection (4). The site assessment  
277 must also be sufficient to estimate the cost and determine the  
278 proposed course of action toward site cleanup. Advanced site  
279 assessment activities performed under this subsection shall be  
280 designed to affirmatively demonstrate that the site meets one of  
281 the following findings based on the following specified  
282 criteria:

283 1. Recommend remedial action to mitigate risks that, in the  
284 judgment of the department, are a threat to human health or  
285 where failure to prevent migration of drycleaning solvents would  
286 cause irreversible damage to the environment;

287 2. Recommend additional groundwater monitoring to support



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288 natural attenuation monitoring or long-term groundwater  
289 monitoring; or

290 3. Recommend "no further action," with or without  
291 institutional controls or institutional and engineering  
292 controls, for those sites that meet the "no further action"  
293 criteria department rules adopted pursuant to subsection (4).

294  
295 If the site does not meet one of the findings specified in  
296 subparagraphs 1.-3., the department shall notify the property  
297 owner in writing of this decision, and the site shall be  
298 returned to its priority ranking order in accordance with its  
299 score.

300 (d) Advanced site assessment program tasks shall be  
301 assigned by the drycleaning solvent cleanup program. In addition  
302 to the provisions in paragraph (a), the assignment of site  
303 assessment tasks shall be based on the department's  
304 determination of contractor logistics, geographical  
305 considerations, and other criteria that the department  
306 determines are necessary to achieve the most cost-effective  
307 approach.

308 (e) Available funding for advanced site assessments may not  
309 exceed 10 percent of the annual Water Quality Assurance Trust  
310 Fund appropriation for the drycleaning solvent cleanup program.

311 (f) The total funds committed to any one site may not  
312 exceed \$70,000.

313 (g) The department shall prioritize the requests for  
314 advanced site assessment, based on the date of receipt and the  
315 environmental and economic value to the state, until 10 percent  
316 of the annual Water Quality Assurance Trust Fund appropriation,



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317 as provided in paragraph (e), has been obligated.

318 Section 4. Paragraph (f) of subsection (2) of section  
319 220.1845, Florida Statutes, is amended to read:

320 220.1845 Contaminated site rehabilitation tax credit.—

321 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

322 (f) The total amount of the tax credits which may be  
323 granted under this section is \$21.6 million in the 2015-2016  
324 fiscal year, ~~and~~ \$5 million in the 2016-2017 fiscal year, and  
325 \$10 million annually thereafter.

326 Section 5. Subsection 4 of section 376.30781, Florida  
327 Statutes, is amended to read:

328 376.30781 Tax credits for rehabilitation of drycleaning-  
329 solvent-contaminated sites and brownfield sites in designated  
330 brownfield areas; application process; rulemaking authority;  
331 revocation authority.—

332 (4) The Department of Environmental Protection is  
333 responsible for allocating the tax credits provided for in s.  
334 220.1845, which may not exceed a total of \$21.6 million in tax  
335 credits in the 2015-2016 fiscal year, ~~and~~ \$5 million in tax  
336 credits in the 2016-2017 fiscal year, and \$10 million in tax  
337 credits annually thereafter.

338 Section 6. This act shall take effect July 1, 2017.