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1
2 An act relating to brownfields; amending s. 376.303,
3 F.S.; deleting a provision requiring certain property
4 owners to provide information regarding institutional
5 controls to the local government for mapping purposes;
6 deleting local government requirements for such
7 mapping; requiring that sites issued a site
8 rehabilitation completion order without institutional
9 controls be removed from the registry of all
10 contaminated sites located in a brownfield area;
11 amending s. 376.30781, F.S.; revising the conditions
12 under which an applicant who has rehabilitated a
13 contaminated site may submit and claim certain tax
14 credits; specifying a timeframe within which such tax
15 credit application must be submitted; revising the
16 criteria for determining applicants who are
17 redeveloping brownfield sites who may be eligible for
18 certain tax credits; deleting the definition of the
19 term "monetary compensation"; revising the date by
20 which the Department of Environmental Protection must
21 issue annual site rehabilitation tax credit
22 certificate awards; revising the amount of time the
23 department has to respond to a tax credit applicant
24 regarding a certain notice; amending s. 376.78, F.S.;
25 conforming provisions to changes made by the act;

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26 amending s. 376.79, F.S.; revising and providing
27 definitions; amending s. 376.81, F.S.; providing
28 legislative findings; prohibiting the department or a
29 delegated local pollution control program from denying
30 a specified status or refusing to issue a specified
31 order for certain brownfield sites that are only a
32 portion of larger contaminated sites; providing
33 applicability; amending s. 376.82, F.S.; revising the
34 persons and sites eligible for participation in the
35 brownfield program; revising requirements for such
36 participation; requiring that completion of the
37 performance of remediation obligations at the
38 brownfield site be evidenced by a site rehabilitation
39 completion order; revising the information necessary
40 from the United States Environmental Protection Agency
41 and the department for a person's participation in the
42 program; specifying that certain brownfield sites are
43 eligible to participate in the brownfield program
44 under certain circumstances; amending ss. 196.1995 and
45 288.1175, F.S.; conforming cross-references;
46 reenacting s. 1004.53(1), F.S., relating to the Center
47 for Brownfield Rehabilitation Assistance, to
48 incorporate the amendment made to s. 376.79, F.S., in
49 a reference thereto; providing an effective date.

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51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Subsections (5) and (6) of section 376.303,
54 Florida Statutes, are amended to read:

55 376.303 Powers and duties of the Department of
56 Environmental Protection.—

57 (5) ~~MAPPING.—If an institutional control is implemented at~~
58 ~~any contaminated site in a brownfield area designated pursuant~~
59 ~~to s. 376.80, the property owner must provide information~~
60 ~~regarding the institutional control to the local government for~~
61 ~~mapping purposes. The local government must then note the~~
62 ~~existence of the institutional control on any relevant local~~
63 ~~land use and zoning maps with a cross-reference to the~~
64 ~~department's site registry developed pursuant to subsection (6).~~
65 ~~If the type of institutional control used requires recording~~
66 ~~with the local government, then the map notation shall also~~
67 ~~provide a cross-reference to the book and page number where~~
68 ~~recorded. When a local government is provided with evidence that~~
69 ~~the department has subsequently issued a no further action order~~
70 ~~without institutional controls for a site currently noted on~~
71 ~~such maps, the local government shall remove the notation.~~

72 ~~(6)~~ REGISTRY.—The department shall prepare and maintain a
73 registry of all contaminated sites located in a brownfield area
74 designated pursuant to s. 376.80, which are subject to
75 institutional and engineering controls, in order to provide a

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76 mechanism for the public and local governments to monitor the
77 status of these controls, monitor the department's short-term
78 and long-term protection of human health and the environment in
79 relation to these sites, and evaluate economic revitalization
80 efforts in these areas. At a minimum, the registry must ~~shall~~
81 include the type of institutional or engineering controls
82 employed at a particular site, types of contaminants and
83 affected media, land use limitations, and the county in which
84 the site is located. Sites listed on the registry at which the
85 department has subsequently issued a site rehabilitation
86 completion ~~no further action~~ order without institutional
87 controls must ~~shall~~ be removed from the registry. The department
88 shall make the registry available to the public and local
89 governments within 1 year after the effective date of this act.
90 The department shall provide local governments with actual
91 notice when the registry becomes available. Local zoning and
92 planning offices shall post information on how to access the
93 registry in public view.

94 Section 2. Paragraphs (c), (d), and (e) of subsection (3)
95 and subsection (9) of section 376.30781, Florida Statutes, are
96 amended to read:

97 376.30781 Tax credits for rehabilitation of drycleaning-
98 solvent-contaminated sites and brownfield sites in designated
99 brownfield areas; application process; rulemaking authority;
100 revocation authority.—

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101 (3)

102 (c) In order to encourage completion of site
103 rehabilitation at contaminated sites that are being voluntarily
104 cleaned up and that are eligible for a tax credit under this
105 section, the tax credit applicant may claim an additional 25
106 percent of the total site rehabilitation costs, not to exceed
107 \$500,000, if the Department of Environmental Protection has
108 approved the applicant's annual site rehabilitation application
109 and has issued a site rehabilitation completion ~~in the final~~
110 ~~year of cleanup as evidenced by the Department of Environmental~~
111 ~~Protection issuing a "No Further Action" order for that site.~~
112 The tax credit applicant must submit the claim for the
113 additional 25 percent within 2 years after receipt of the site
114 rehabilitation completion order for that site.

115 (d) In order to encourage the construction of housing that
116 meets the definition of affordable provided in s. 420.0004, an
117 applicant for the tax credit may claim an additional 25 percent
118 of the total site rehabilitation costs that are eligible for tax
119 credits under this section, not to exceed \$500,000. To receive
120 this additional tax credit, the applicant must provide a
121 certification letter from the Florida Housing Finance
122 Corporation, the local housing authority, or other governmental
123 agency that is a party to the use agreement indicating that the
124 construction on the brownfield site has received a certificate
125 of occupancy and the brownfield site has a properly recorded

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instrument that limits the use of the property to housing.
Notwithstanding that only one application may be submitted each
year for each site, an application for the additional credit
provided for in this paragraph must ~~shall~~ be submitted after all
requirements to obtain the additional tax credit have been met.

(e) In order to encourage the redevelopment of a
brownfield site, as defined in the brownfield site
rehabilitation agreement, that is hindered by the presence of
solid waste, as defined in s. 403.703, costs related to solid
waste removal may also be claimed under this section. A tax
credit applicant, or multiple tax credit applicants working
jointly to clean up a single brownfield site, may also claim
costs to address the solid waste removal as defined in this
paragraph in accordance with department rules. Multiple tax
credit applicants shall be granted tax credits in the same
proportion as each applicant's contribution to payment of solid
waste removal costs. These costs are eligible for a tax credit
provided that the applicant meets the eligibility requirements
of s. 376.82(1) and that ~~submits an affidavit stating that,~~
~~after consultation with appropriate local government officials~~
~~and the department, to the best of the applicant's knowledge~~
~~based upon such consultation and available historical records,~~
the brownfield site was never operated as a permitted solid
waste disposal area as regulated pursuant to s. 403.704 ~~or was~~
~~never operated for monetary compensation, and the applicant~~

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151 ~~submits all other documentation and certifications required by~~
152 ~~this section.~~ In this section, where reference is made to "site
153 rehabilitation," the department shall instead consider whether
154 the costs claimed are for solid waste removal. Tax credit
155 applications claiming costs pursuant to this paragraph are ~~shall~~
156 not ~~be~~ subject to the calendar-year limitation and January 31
157 annual application deadline, and the department shall accept a
158 one-time application filed subsequent to the completion by the
159 tax credit applicant of the applicable requirements listed in
160 this subsection. A tax credit applicant may claim 50 percent of
161 the costs for solid waste removal, not to exceed \$500,000, after
162 the applicant has determined solid waste removal is completed
163 for the brownfield site. A solid waste removal tax credit
164 application may be filed only once per brownfield site. For the
165 purposes of this section, the term:

166 1. "Solid waste disposal area" means a landfill, dump, or
167 other area where solid waste has been disposed.

168 2. ~~"Monetary compensation" means the fees that were~~
169 ~~charged or the assessments that were levied for the disposal of~~
170 ~~solid waste at a solid waste disposal area.~~

171 3. "Solid waste removal" means removal of solid waste from
172 the land surface or excavation of solid waste from below the
173 land surface and removal of the solid waste from the brownfield
174 site. The term also includes:

175 a. Transportation of solid waste to a licensed or exempt

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176 solid waste management facility or to a temporary storage area.

177 b. Sorting or screening of solid waste prior to removal
178 from the site.

179 c. Deposition of solid waste at a permitted or exempt
180 solid waste management facility, whether the solid waste is
181 disposed of or recycled.

182 (9) On or before June ~~May~~ 1, the Department of
183 Environmental Protection shall inform each tax credit applicant
184 ~~that is~~ subject to the January 31 annual application deadline of
185 the applicant's eligibility status and the amount of any tax
186 credit due. The department shall provide each eligible tax
187 credit applicant with a tax credit certificate that must be
188 submitted with its tax return to the Department of Revenue to
189 claim the tax credit or be transferred pursuant to s.
190 220.1845(2)(g). The June ~~May~~ 1 deadline for annual site
191 rehabilitation tax credit certificate awards does ~~shall~~ not
192 apply to any tax credit application for which the department has
193 issued a notice of deficiency pursuant to subsection (8). The
194 department shall respond within 120 ~~90~~ days after receiving a
195 response from the tax credit applicant to such a notice of
196 deficiency. Credits may not result in the payment of refunds if
197 total credits exceed the amount of tax owed.

198 Section 3. Subsection (1) of section 376.78, Florida
199 Statutes, is amended to read:

200 376.78 Legislative intent.—The Legislature finds and

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declares the following:

(1) The reduction of public health and environmental hazards on ~~existing commercial and industrial~~ sites proposed to be rehabilitated and redeveloped is vital to their use and reuse as sources of employment, housing, recreation, and open space areas. The reuse of such sites ~~industrial land~~ is an important component of sound land use policy for productive urban purposes which will help prevent the premature development of farmland, open space areas, and natural areas, and reduce public costs for installing new water, sewer, and highway infrastructure.

Section 4. Present subsections (6) through (21) of section 376.79, Florida Statutes, are redesignated as subsections (7) through (22), respectively, a new subsection (6) is added to that section, and subsections (4) and (5) of that section are amended, to read:

376.79 Definitions relating to Brownfields Redevelopment Act.—As used in ss. 376.77–376.85, the term:

(4) "Brownfield ~~sites~~" means any real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination and which has not yet been entered into a brownfield site rehabilitation agreement pursuant to s. 376.80(5).

(5) "Brownfield area" means a contiguous area of one or more brownfields ~~brownfield sites~~, some of which may not be contaminated, and which has been designated by a local

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government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and United States Environmental Protection Agency-designated brownfield pilot projects.

(6) "Brownfield site" means the real property identified in a brownfield site rehabilitation agreement executed by the person responsible for brownfield site rehabilitation of the property and the department or a delegated local pollution control program, as applicable.

Section 5. Present subsection (3) of section 376.81, Florida Statutes, is redesignated as subsection (4), a new subsection (3) is added to that section, and present subsection (3) of that section is amended, to read:

376.81 Brownfield site and brownfield areas contamination cleanup criteria.—

(3)(a) The Legislature finds that rehabilitation and redevelopment of a potential brownfield site that is a portion of a larger contaminated site are significantly complicated when multiple parties may own, lease, or operate different portions of the contaminated site. The Legislature further finds that delaying a person's ability to achieve a "No Further Action" status for a potential brownfield site until such time as the owners, lessees, or operators of all other portions of the larger historical contaminated site have completed site

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251 rehabilitation on their respective portions is not in the public
252 interest, as such delay disincentivizes rehabilitation and
253 redevelopment of the potential brownfield site by imposing
254 unnecessary legal burdens, technical obstacles, and financial
255 costs.

256 (b) Therefore, the Legislature finds that it is in the
257 public interest to remove any such barriers to the
258 rehabilitation and redevelopment of property by providing a
259 clear path to obtaining a "No Further Action" status in cases
260 where a potential brownfield site is only a portion of a larger
261 contaminated site.

262 (c) If the person responsible for a brownfield site
263 rehabilitation demonstrates compliance with the applicable
264 contamination cleanup criteria described in subsection (1), and
265 the brownfield site is only a portion of a larger contaminated
266 site, the department or any delegated local pollution control
267 program under s. 376.80(9) may not:

268 1. Deny a "No Further Action" status for the brownfield
269 site; or

270 2. Refuse to issue a site rehabilitation completion order
271 for the brownfield site, regardless of whether it has
272 engineering and institutional controls. This subparagraph
273 applies even where similar contamination exists elsewhere on the
274 contaminated site which was the result of similar or related
275 activities or operations that occurred both on the contaminated

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276 site and the brownfield site, provided that all soil and
277 groundwater contamination emanating from the brownfield site is
278 adequately addressed pursuant to chapter 62-780, Florida
279 Administrative Code.

280 (d) This subsection applies to all brownfield sites,
281 irrespective of the effective date of the brownfield site
282 rehabilitation agreement.

283 (4)-(3) The cleanup criteria described in this section
284 govern only site rehabilitation activities occurring at the
285 brownfield ~~contaminated~~ site. Removal of contaminated media from
286 a site for offsite relocation or treatment must be in accordance
287 with all applicable federal, state, and local laws and
288 regulations.

289 Section 6. Paragraphs (a) and (b) of subsection (1) and
290 paragraphs (e) and (g) of subsection (2) of section 376.82,
291 Florida Statutes, are amended to read:

292 376.82 Eligibility criteria and liability protection.—

293 (1) ELIGIBILITY.—

294 (a) All of the following persons are eligible to
295 participate in the brownfield program established in ss. 376.77-
296 376.85:

297 1. Notwithstanding subparagraph 2., a ~~any~~ person who has
298 not caused or contributed to the contamination of a brownfield
299 site on or after July 1, 1997.

300 2. A local governmental entity, including any other person

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301 who may be organized or united with the local governmental
302 entity for a business purpose, if such entity or person did not
303 cause or contribute to the contamination of a brownfield site on
304 or after July 1, 2025.

305 (b) A person eligible to participate in the brownfield
306 program pursuant to paragraph (a) is, ~~is eligible to participate~~
307 ~~in the brownfield program established in ss. 376.77-376.85,~~
308 subject to the following:

309 1.(a) Potential brownfield sites that are subject to an
310 ongoing formal judicial or administrative enforcement action or
311 corrective action pursuant to federal authority, including, but
312 not limited to, the Comprehensive Environmental Response
313 Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as
314 amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i,
315 as amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as
316 amended; or under an order from the United States Environmental
317 Protection Agency pursuant to s. 3008(h) of the Resource
318 Conservation and Recovery Act, as amended (42 U.S.C.A. s.
319 6928(h)); or that have obtained or are required to obtain a
320 permit for the operation of a hazardous waste treatment,
321 storage, or disposal facility; a postclosure permit; or a permit
322 pursuant to the federal Hazardous and Solid Waste Amendments of
323 1984, are not eligible for participation in the brownfield
324 program established in ss. 376.77-376.85 unless, pursuant to
325 paragraph (2)(g), ~~specific exemptions are secured by a~~

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~~memorandum of agreement with the United States Environmental Protection Agency~~ issues a letter stating it has no objection to such participation and the department issues a letter of concurrence pursuant to paragraph (2)(g). A brownfield site within an eligible brownfield area that subsequently becomes subject to formal judicial or administrative enforcement action or corrective action under such federal authority shall have its eligibility revoked unless, ~~specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency pursuant to paragraph (2)(g),~~ the United States Environmental Protection Agency issues a letter stating it has no objection to such participation and the department issues a letter of concurrence.

~~2.(b)~~ A person who is eligible to participate in the brownfield program pursuant to paragraph (a) ~~Persons who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, and who, before~~ prior to the department's approval of a brownfield site rehabilitation agreement, ~~is~~ are subject to ongoing corrective action or enforcement under state authority established in this chapter or chapter 403, including those persons subject to a pending consent order with the state, ~~is~~ are eligible for participation in a brownfield site rehabilitation agreement if:

~~a.1.~~ The proposed brownfield site is currently idle or underutilized as a result of the contamination, and

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351 participation in the brownfield program will immediately, after
352 cleanup or sooner, result in increased economic productivity at
353 the site, including at a minimum the creation of 10 new
354 permanent jobs, whether full-time or part-time, which are not
355 associated with implementation of the brownfield site
356 rehabilitation agreement. However, the job creation requirement
357 does not apply to the rehabilitation and redevelopment of a
358 brownfield site that will provide housing that is affordable as
359 defined in s. 420.0004; create recreational areas, conservation
360 areas, or parks; or be maintained for cultural or historical
361 preservation purposes; and

362 ~~b.2.~~ The person is complying in good faith with the terms
363 of an existing consent order or department-approved corrective
364 action plan, or responding in good faith to an enforcement
365 action, as evidenced by a determination issued by the department
366 or an approved local pollution control program.

367 (2) LIABILITY PROTECTION.—

368 (e) Completion of the performance of the remediation
369 obligations at the brownfield site shall be evidenced by a site
370 rehabilitation completion order ~~letter or a "no further action"~~
371 ~~letter~~ issued by the department or the approved local pollution
372 control program, which letter shall include the following
373 statement: "Based upon the information provided by (property
374 owner) concerning property located at (address), it is the
375 opinion of (the Florida Department of Environmental Protection

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376 or approved local pollution control program) that (party) has
377 successfully and satisfactorily implemented the approved
378 brownfield site rehabilitation agreement schedule and,
379 accordingly, no further action is required to assure that any
380 land use identified in the brownfield site rehabilitation
381 agreement is consistent with existing and proposed uses."

382 (g)1. The Legislature recognizes the benefits of promoting
383 the reuse of brownfield sites, even when subject to its
384 ~~limitations in addressing cleanup liability under~~ federal
385 pollution control programs, including those enumerated in
386 subparagraph (1)(b)1. In an effort to encourage such reuse
387 ~~secure federal liability protection~~ for persons willing to
388 undertake ~~remediation~~ responsibility for site rehabilitation at
389 a brownfield site, the department may, upon receipt of a letter
390 from shall attempt to negotiate a memorandum of agreement or
391 ~~similar document with~~ the United States Environmental Protection
392 Agency stating it has no objection to a site's participation
393 pursuant to subparagraph (1)(b)1. and upon a reasonable
394 demonstration by the person seeking to participate in the
395 brownfield program that he or she will conduct site
396 rehabilitation pursuant to s. 376.81, issue a letter of no
397 objection that states the person may participate in the
398 brownfield program. The department may not require, as a
399 condition of such letter of concurrence, that, whereby the
400 United States Environmental Protection Agency agree ~~agrees~~ to

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forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion order ~~or "No Further Action" determination~~ from the department or the approved local pollution control program or that are in the process of implementing a brownfield site rehabilitation agreement in accordance with this act. The letter of no objection from the United States Environmental Protection Agency and the letter of concurrence from the department must be added as attachments to the brownfield site rehabilitation agreement.

2. Proposed brownfield sites that are subject to ongoing formal judicial or administrative enforcement action or corrective action pursuant to an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended by 42 U.S.C. s. 6928(h), or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility, a postclosure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984 are eligible for participation in the brownfield program established in ss. 376.77-376.85, provided that the sites:

a. Obtain the necessary letters of no objection and concurrence pursuant to subparagraph (1)(b)1. and subparagraph 1.; or

b. Comply with the provisions of Section V of the

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Memorandum of Agreement between the department and the United States Environmental Protection Agency Region 4 covering Florida's Brownfield Program, dated November 28, 2005, as may be amended.

Section 7. Subsection (3) of section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.—

(3) The board of county commissioners or the governing authority of the municipality that calls a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions may vote to limit the effect of the referendum to authority to grant economic development tax exemptions for new businesses and expansions of existing businesses located in an enterprise zone or a brownfield area, as defined in s. 376.79 ~~s. 376.79(5)~~. If an area nominated to be an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, the board of county commissioners or the governing authority of the municipality may call such referendum prior to such designation; however, the authority to grant economic development ad valorem tax exemptions does not apply until such area is designated pursuant to s. 290.0065. The ballot question in such referendum shall be in substantially the following form and shall be used in lieu of the ballot question prescribed in subsection (2):

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Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions for new businesses and expansions of existing businesses that are located in an enterprise zone or a brownfield area and that are expected to create new, full-time jobs in the county (or municipality, or both)?

....Yes-For authority to grant exemptions.

....No-Against authority to grant exemptions.

Section 8. Paragraph (c) of subsection (5) of section 288.1175, Florida Statutes, is amended to read:

288.1175 Agriculture education and promotion facility.—

(5) The Department of Agriculture and Consumer Services shall competitively evaluate applications for funding of an agriculture education and promotion facility. If the number of applicants exceeds three, the Department of Agriculture and Consumer Services shall rank the applications based upon criteria developed by the Department of Agriculture and Consumer Services, with priority given in descending order to the following items:

(c) The location of the facility in a brownfield site as

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defined in s. 376.79 ~~s. 376.79(4)~~, a rural enterprise zone as defined in s. 290.004, an agriculturally depressed area as defined in s. 570.74, or a county that has lost its agricultural land to environmental restoration projects.

Section 9. For the purpose of incorporating the amendment made by this act to section 376.79, Florida Statutes, in a reference thereto, subsection (1) of section 1004.53, Florida Statutes, is reenacted to read:

1004.53 Interdisciplinary Center for Brownfield Rehabilitation Assistance.—The Center for Brownfield Rehabilitation Assistance in the Environmental Sciences and Policy Program is established in the College of Arts and Sciences at the University of South Florida with the collaboration of other related disciplines such as business administration, environmental science, and medicine. The center shall work in conjunction with other state universities. The Center for Brownfield Rehabilitation Assistance shall:

(1) Conduct research relating to problems and solutions associated with rehabilitation and restoration of brownfield areas as defined in s. 376.79. The research must include identifying innovative solutions to removing contamination from brownfield sites to reduce the threats to drinking water supplies and other potential public health threats from contaminated sites.

Section 10. This act shall take effect July 1, 2025.