1983

Session Law 83-310

Florida Senate & House of Representatives

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House NR
Bill filing (new), 1983. HR 9641

Senate NR
Bill filing (new) with for 1983.

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### Committee Records

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### Senate/House Journals

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### Other Documentation

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### COMMITTEE RECORDS

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At a Special Session of the Legislature, convened by proclamation of His Excellency, Bob Graham, Governor of Florida.
without examination, providing that certain persons be qualified to take the examination, amending s 468 324, Florida Statutes, repealing the cap on renewal fees and penalties and providing for establishment by the board, providing for continuing education requirements, amending s 468 326(2) and (3), Florida Statutes, establishing the board’s authority over disciplinary actions, providing that certain persons may make certain applications for licenses, repealing s 468 327, Florida Statutes, 1982 Supplement, relating to department rulemaking authority, repealing s 468 3245, Florida Statutes, 1982 Supplement, relating to apprenticeship programs, amending s 471 003(1) and (2)(1), Florida Statutes, 1982 Supplement, and s 471 031(1)(b), Florida Statutes, prohibiting unregistered engineers from holding themselves out as being registered, changing the types of construction projects upon which certain electrical, plumbing, air-conditioning, or mechanical contractors may work without being registered engineers; amending s 472 005(1), Florida Statutes, and s 472 007(1), Florida Statutes, 1982 Supplement, renaming the Board of Land Surveyors, amending s 472 013(2) and (4), Florida Statutes, changing examination prerequisites for applicants for land surveyor licenses, amending s 472 033(1)(h), Florida Statutes, expanding certain grounds for disciplinary action against land surveyors, amending s 473 033(1), Florida Statutes, expanding the membership of the Board of Accountancy; amending s 473 313, Florida Statutes, revising provisions relating to inactive status of accountants licenses, providing a restriction upon the duration of inactive status, providing exceptions, amending s 475 125, Florida Statutes, 1982 Supplement, providing for the refund of application and license fees for real estate brokers and salesmen, amending s 475 171(1) and (2). Florida Statutes, prohibiting unregistered engineers from holding themselves out as being registered engineers, changing education requirements, amending s 475 175, Florida Statutes, 1982 Supplement, requiring educational institutions and real estate schools to notify the Real Estate Commission of persons satisfactorily completing certain education requirements, amending s 475 181(2), Florida Statutes, 1982 Supplement, and adding a subsection, providing for the expiration of licensure applications and certifications; amending s 475 23, Florida Statutes, 1982 Supplement, clarifying provisions relating to the expiration of real estate sales licenses, amending s 475 25(1), Florida Statutes, 1982 Supplement, expanding the application of provisions relating to inactive status of accountants licenses, amending certain grounds therefore, amending s 475 451(2), (6), and (8), Florida Statutes, 1982 Supplement, changing licensure requirements for real estate school operators, administrators and instructors, amending s 475 483(1)(b), Florida Statutes, 1982 Supplement, providing an exception to notice requirements for claims against the Real Estate Recovery Fund, amending s 475 484(1), (3), and (4), Florida Statutes, 1982 Supplement, increasing amount limits for authorized payments from the Real Estate Recovery Fund, amending s 476 154(1), Florida Statutes, deleting provisions relating to restoration of licenses of retired contractors, adding a subsection to s 476 155, Florida Statutes, requiring the board to adopt rules regarding examination, registration and license requirements for certain persons from becoming licensed contractors, amending s 476 210, Florida Statutes, requiring barber services to be performed in registered barbershops, providing exceptions, creating s 477 0135, Florida Statutes, exempting certain persons from licensure as cosmetologists, amending s 477 019(1)(b), Florida Statutes, relating to the suspension of a license, the effect of the Regulatory Sunset Act, providing severability, establishing the Board of Cosmetology pursuant to training required to qualify for licensure, creating s 477 0211, Florida Statutes, authorizing continuing education requirements for cosmetologists, amending s 477 022(1) and (3), Florida Statutes, 1982 Supplement, changing cosmetology examination requirements, creating s 477 0265, Florida Statutes, prohibiting certain acts and providing penalties, amending s 477 028(1). Florida Statutes, authorizing disciplinary actions against continuing education providers, amending s 477 029, Florida Statutes, prohibiting violations of provisions relating to continuing education and increasing the types of disciplinary actions; creating s 477 030, Florida Statutes, requiring cosmetology services to be performed in licensed salons, providing exceptions, amending s 480 033(3), Florida Statutes, expanding the definition of “massage”, amending s 480 041(4), Florida Statutes, 1982 Supplement, clarifying license renewal requirements for masseurs, amending s 480 046(1), Florida Statutes, relating to disciplinary action by the Board of Massage, amending ss 481 207 and 481 307, Florida Statutes, increasing certain fees for architects and landscape architects, adding a subsection to s 481 309, Florida Statutes, providing examination requirements for landscape architecture licenses, amending s 484 007(1)(e), Florida Statutes, revising provisions relating to examination of opticians, amending s 484 0026(1), Florida Statutes, revising provisions relating to examination of opticians; amending s 486 091, Florida Statutes, providing alternative disciplinary actions against physical therapists, amending s 489 115(1), Florida Statutes, restricting the effect of certification of construction contractors, amending s 489 119(5), Florida Statutes, 1982 Supplement, requiring the use of the registration or certification number of contractors in all advertising and requiring local verification of state licensure of construction contractors, amending s 489 129(1), Florida Statutes, relating to disciplinary action against such contractors, amending s 489 505(1), Florida Statutes, making a technical correction amending s 489 505(2)(2), Florida Statutes, amending s 489 533(1), Florida Statutes, adding a paragraph to s 489 533(1), Florida Statutes, adding a ground for disciplinary action against electrical contractors, amending s 490 006(1)(b) and (2), Florida Statutes, changing qualifications for licensure of psychologists by examination, changing qualifications for social workers, marriage and family therapists, mental health counselors, and school psychologists, amending s 490.0142(2)(c), Florida Statutes, 1982 Supplement, changing the exemption for licensure as psychologists for certain employees of educational institutions, requiring the Department of Professional Regulation to make certain studies and to report to the Legislature, adding subsection (3) to s 501 122, Florida Statutes, providing a restriction upon the use of laser devices, providing a penalty; amending s 458 321, 458 009, 460 409, 461 008, 463 006, 466 015, 468 1725, 470 016, 471 019, 472 019, 474 212, 475 185(1), 481 217, 481 310, 484 009, and 490 008, Florida Statutes, amending s 475 183, Florida Statutes, 1982 Supplement, and creating s 475 185. Florida Statutes, relating to regulation of medical practitioners, osteopathic physicians, chiropractic physicians, podiatrists, optometrists, dentists and dental hygienists, nursing home administrators, funeral directors and embalmers, engineers, land surveyors, veterinarians, real estate brokers and salesmen, architects, landscape architects, optometrists, psychologists, barbers, cosmetologists and cosmetology instructors, and masseurs, to modify regulations, provisions enabling said professionals to place their licenses in an inactive status, correcting a cross reference, providing for relative uniformity, providing for application and fees, limiting inactive status to 4 years, unless renewed, providing for automatic expiration of license upon failure to renew or reactivate, modifying continuing education requirements, grandfathering in current licensees whose licenses have been placed in inactive status, repealing s 476 154(3)(c), (d), (e), (f), and (g), relating to placement of barbers’ licenses in an inactive status, s 477 019(5), Florida Statutes, relating to placement of medical practitioners’ licenses in an inactive status, amending s 477 0211, Florida Statutes, relating to placement of licenses of psychologists, social workers, marriage and family therapists, mental health counselors, and school psychologists in an inactive status, amending s 485 02, Florida Statutes, relating to renewal of licenses for members of the United States Armed Forces, providing for the regulation of the business of installation or repair of alarm systems, providing definitions; creating an Alarm Business Licensing Board within the Department of Professional Regulation, providing qualifications and procedures for renewal of licenses, providing the effect on the regulatory authority of local governments, providing penalties, providing for review and repeal in accordance with the Regulatory Sunset Act, providing severability, establishing a residential planned development study committee, providing for membership and duties of the committee, requiring the committee to prepare a report, providing for future review and repeal, providing effective dates.

—was taken up out of order and by two-thirds vote read the second time by title

On motion by Senator Langley, further consideration of SB 31-B was deferred

On motion by Senator Neal, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives have passed as amended HB 47-B and requests the concurrence of the Senate

Allen Morris, Clerk

June 16, 1983
June 16, 1983

JOURNAL OF THE SENATE

39

By the Committee on Appropriations—

HB 47-B—A bill to be entitled An act relating to water resources, amending s 373.026, Florida Statutes, expanding duties of the Department of Environmental Regulation with respect to collecting and monitoring data relating to water resources, creating s 403.063, Florida Statutes, requiring the department to establish a groundwater quality management network and providing criteria therefor, requiring regional and local governments to sample and test groundwater as directed by the department, requiring the department to develop a program of inspecting package sewage treatment facilities, amending s 403.855, Florida Statutes, expanding duties of the department relating to imminent hazards in water supplies, adding subsections to s 373.201, Florida Statutes, providing definitions, amending s 173.206, Florida Statutes, expanding the authority of the department to plug hazardous artesian wells creating s 373.207, Florida Statutes, requiring water management districts to adopt plans for plugging abandoned artesian wells providing for review of plans by the department, creating s 487.0615, Florida Statutes, establishing the Pesticide Review Council, providing for membership, providing powers and responsibilities, providing for rulemaking petition, providing reimbursement to council members, setting forth penalties for violations of the Pesticide Review Council, establishing the department of agriculture and consumer services, and the Department of Environmental Regulation, providing for future review and repeal of s 487.0615 and 487.043, Florida Statutes, creating an agricultural policy for the state, adding subsections to s 570.44, Florida Statutes, adding a fourth bureau to the Division of Inspection and providing for certain positions, repealing s 487.061, Florida Statutes, 1982 Supplement, abolishing the Pesticide Technical Council, providing an appropriation to the Pesticide Review Council, amending s 576.114(4)(b), Florida Statutes, and adding paragraphs (d) and (g) to subsection (5) of said section, increasing limits on the balance in the Florida Coastal Protection Trust Fund and providing for additional disbursements from the fund, amending s 208.001, Florida Statutes, increasing the tax on the generation of hazardous wastes, amending s 403.702(2)(c), Florida Statutes, providing legislative intent, adding subsections to s 401.704, Florida Statutes, providing additional powers and duties of the Department of Environmental Regulation, amending s 403.722(9) and (10), Florida Statutes, 1982 Supplement, specifying certain requirements in certain permitting processes, creating s 403.7225, Florida Statutes, providing for the preparation of local hazardous waste management assessments, providing duties of the counties, regional planning councils, and the department relating to such assessments, creating the Local Government Hazardous Waste Management Program and providing for the allocation of funds, amending s 403.723, Florida Statutes, requiring counties to complete a hazardous waste needs assessment and to choose a site for a hazardous waste storage facility, providing duties of the Governor and Cabinet, requiring counties to notify small quantity generators of their responsibilities annually, requiring such generators to disclose certain information to the county, providing for verification of such generators' management practices, providing penalties, requiring counties to fund the department on the assessment and notification programs in the department, amending s 403.703(18), Florida Statutes, redefining the "closure" of a resource recovery and management facility; amending s 403.704(4)(b), Florida Statutes, changing procedures for the review of department rules stricter than those of the United States Environmental Protection Agency relating to resource recovery and management; amending s 401.7045(1)(a), Florida Statutes 1982 Supplement, correcting a reference amending s 403.707(1) and (2), Florida Statutes, 1982 Supplement and adding a subsection, requiring resource recovery and management facilities to be self-sufficient and to be permitted to charge exceptions from certain permit requirements, restricting the permitting of certain new sanitary landfills, creating s 403.726, Florida Statutes, establishing Amenity Days for the purging of small quantities of hazardous wastes, amending s 403.727(3) and (4), Florida Statutes, 1982 Supplement, providing for a new subsection relating to hazardous waste, setting forth penalties for violations of provisions relating to hazardous waste, imposing liability upon specified persons for costs and damages caused by the release or threatened release of hazardous substances, restricting the ability of government agencies to interpose a defense of sovereign immunity and other defences in such liability actions, s 501.082, Florida Statutes, requiring specified governmental agencies and institutions of the State University System to notify the department regarding hazardous materials and management practices, requiring written details of the management and spill control plans for certain purpose hazardous waste facility by the state, providing for adoption of siting criteria by the department, providing for adoption of a site designation by the Environmental Regulation Commission, directing the commission to contract for construction and operation of the facility; requiring permitting of the facility, authorizing the issuance of state bonds, prohibiting hazardous waste landfills and the issuance of permits therefor, providing for emergency temporary permits, creating s 678.121, Florida Statutes, providing immunity from liability for persons who assist in cleaning up any discharge of hazardous materials, providing exceptions; providing responsibilities of the department, repealing s 403.729, Florida Statutes, abolishing the State Hazardous Waste Policy Advisory Council, repealing s 403.810, Florida Statutes, creating the Pesticide Reimbursement Program, providing funding, authorizing an excess tax upon registrants operating disposal facilities under certain circumstances providing for suspension of the tax in certain years, providing for collection, providing for administration adding subsections 253 and 255.2, Florida Statutes, authorizing certain deductions from the Water Quality Assurance Trust Fund, creating s 403.165, Florida Statutes, creating the Environmental Short-Term Emergency Response to provide for pollution abatement procedures amending s 381.272, Florida Statutes, 1982 Supplement, providing for the regulation of on-site rather than individual sewage disposal systems, changing the types of subdivisions which may use certain systems, restricting the location of such systems providing for equal application of restrictions and rules changing the circumstances in which variances may be granted and the procedures therefor, prohibiting certain uses of organic chemical solvents, prohibiting issuance of permits in certain areas authorizing temporary permits for experimental systems, deleting provisions relating to organic waste composting systems; providing for a special rule in certain cases, creating s 381.273, Florida Statutes, amending the Department of Health and Rehabilitating Services to collect fees for regulating such systems and for certain research, increasing fees to fund the accelerated soil survey program in the Department of Agriculture and Consumer Services, providing appropriations, amending s 403.1821-1834, Florida Statutes, providing specific positions, repealing s 403.816, Florida Statutes, providing a short title, providing definitions, specifying eligible uses of the State Water Pollution Trust Fund, providing for the Department of Environmental Regulation to make rules with respect to project priorities and standards for future transfers of funds to the State Water Pollution Trust Fund from the State Water Quality Construction Assurance Trust Fund, providing for restrictions on the use of grant money, providing for transfer of funds from the State Water Pollution Control Trust Fund to the Small Community Sewer Construction Assistance Trust Fund, providing for contributions to local governmental projects, providing for certain authorizations to transfer the funds to local governmental projects, requiring projects to be self-sufficient with respect to operation, maintenance, and replacement costs, providing funding priorities, amending s 403.1832, Florida Statutes, designating the department as the state agency to contract with the federal government on certain activities, amending s 403.804(3), Florida Statutes, providing duties of the Environmental Regulation Commission; creating ss 403.1836-1839, Florida Statutes, creating the Small Community Sewer Construction Assistance Trust Fund in the department, providing for future transfers of funds from the fund, providing duties of the department regarding such grants repealing s 403.1827, 403.1828, 403.1830, 403.1831, 403.1833, Florida Statutes, relating to administering federal grants for water pollution control and sewage treatment, adding a subsection to s 212.02, Florida Statutes, 1982 Supplement, as amended, providing a definition, amending s 212.111(1), Florida Statutes, changing sales tax collection procedures, amending s 212.121, Florida Statutes, and repealing subsection 56, providing a penalty, transferring certain funds from general revenue to the State Water Pollution Control Trust Fund and providing uses therefor amending s 403.802, Florida Statutes, providing legislative policy, amending s 403.803, Florida Statutes, providing definitions, amending s 403.805, Florida Statutes, authorizing the Secretary of the Department of Environmental Regulation to delegate certain powers and duties to the water management districts, amending s 403.807, Florida Statutes, providing powers and duties of the Division of Environmental Programs of the department, amending s 403.808, Florida Statutes, providing duties of the Division of Environmental Permittting of the department, adding subsections to s 403.061, Florida Statutes, authorizing the Department of Environmental Regulation to adopt rules protecting certain shellfish harvesting waters and regulating certain storage tanks and piping systems, amending ss 403.809, Florida Statutes, providing for the Governor's Management and Spill Contingency Plan for certain projects for which a permit is required, amending s 373.016(2), Florida Statutes providing legislative policy, amending s 373.026(1), Florida Statutes, providing for powers and duties of the department, amending s
373.106, Florida Statutes, granting the water management districts exclusive authority to issue certain permits, amending s. 373.114, Florida Statutes, providing for review by the department of certain water management district rules, providing procedures for such review, amending s. 373.116(1), Florida Statutes, providing for filing certain permit applications with the districts, amending s. 373.303(6), Florida Statutes, modifying the definition of "well," repealing s. 373.303(9), Florida Statutes, eliminating the exemption of sand-point wells from well regulations, amending s. 373.308(1) and (2), Florida Statutes, and adding a new subsection (3), requiring the department to authorize water management districts to exercise certain powers, amending s. 373.322, Florida Statutes, providing for water well contractor's licenses to be issued by the water management districts, amending s. 373.333, Florida Statutes, providing for enforcement, providing effective dates.

—was read the first time by title. On motions by Senator Neal the rules were waived and by two-thirds vote HB 47-B was placed on the special order calendar and by unanimous consent taken up instanter.

On motion by Senator Neal, by two-thirds vote HB 47-B was read the second time by title.

Senator Neal moved the following amendment:

Amendment 1—On page 9, line 25, strike everything after the enacting clause and insert.

PART I
DEPARTMENT OF ENVIRONMENTAL REGULATION
DATA COLLECTION
Section 1 Section 373.026, Florida Statutes, is amended to read

373.026 General powers and duties of the department—The Department of Environmental Regulation, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, water management district, or local government conducting programs related to or materially affecting the water resources of the state. All such interagency agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible, authorize:

1. To conduct, independently or in cooperation with other agencies, topographic surveys, research, and investigations into all aspects of water use and water quality.

2. To be the central repository for all scientific and factual information relating to water resources generated by local governments, water management districts and state agencies and that end to collect, acquire, and maintain such information to public and private users within the state and to assist in the acquisition of scientific and factual data from the United States Geological Survey. All local governments, water management districts and state agencies are directed to cooperate with the department or its agents in making available to it for this purpose such scientific and factual data as they may have, generate or possess, as the department deems necessary. The department is authorized to prescribe the form and ensure quality control for all data collected or submitted. Additionally, the department shall annually publish a bibliography of all water resource investigations conducted in the state, the first such bibliography to be published no later than July 1, 1984. The department is additionally directed to establish priorities for the development of a computerized groundwater data base upon the following principles:

(a) Regions deemed prone to groundwater contamination due to present land-use.

(b) Regions that have an identifiable direct connection with any confined aquifer utilized as a drinking water aquifer.

(c) Any region dependent on a single source aquifer for potable water as defined in the Department of Environmental Regulation Rule 17-3 Florida Administrative Code. To collect, compile, and analyze, for use and guidance in administering the state resource in -of that state, scientific and factual data from the United States Geological Survey or an state agency. State agencies directed to cooperate with the department or its agents in making available to it for this purpose such scientific and factual data as they may have.

3. To cooperate with other state agencies, water management districts, and regional, county, or other local governmental organizations or agencies created for the purpose of utilizing and conserving the waters in this state, to assist such organizations and agencies in coordinating the use of such facilities, and to participate in an exchange of ideas, knowledge, and data with such organizations and agencies. For this purpose the department may maintain an advisory staff of experts.

4. To prepare and provide for dissemination to the public of current and useful information relating to the water resources of the state.

5. To identify by continuing study those areas of the state where saltwater intrusion is a threat to freshwater resources and report its findings to the water management districts, boards of county commissioners and public concerned.

6. To conduct, either independently or in cooperation with any person or governmental agency, a program of studies, research, and experimentation and evaluation in the field of weather modification.

7. To exercise general supervisory authority over all water management districts. The department may exercise any power herein authorized to be exercised by a water management district. The department shall review, and may rescind or modify, any policy, rule, regulation, or order of a water management district, except those policies, rules, or regulations which involve only the internal management of the district, to ensure compliance with the provisions and purposes of this chapter. Such review may be initiated at any time either by the department or by an interested person aggrieved by such policy, rule, regulation or order by filing a request for such review with the department and serving a copy on the water management district. Such request for review is not a precondition to the effectiveness of such policy, rule regulation, or order, or to the seeking of judicial review as otherwise provided.

8.(a) To provide such coordination, cooperation, or approval necessary to the effectuation of any plan or project of the Federal Government in connection with or concerning the waters in the state. Unless otherwise provided by state or federal law, the department shall, subject to confirmation by the Legislature, have the power to approve or disapprove such federal plans or projects on behalf of the state.

(b) The department subject to confirmation by the Legislature shall act on behalf of the state in the negotiation and consummation of any agreement or compact with another state or other states concerning waters of the state.

9.(a) To hold annually a conference on water resources developmental programs. Each agency, commission, district, municipality, or political subdivision of the state responsible for a specific water resources developmental program requiring federal assistance shall present at such conference its programs and projects and the needs thereof. Notice of the time and place of the annual conference on water resources developmental programs shall be extended by mail at least 30 days prior to the date of said conference to any person who has filed a written request for notification with the department. Adequate opportunities shall be afforded for participation at the conference by interested members of the general public.

(b) Upon termination of the water conference the department shall select those projects for presentation in the Florida program of public works which in the opinion of the department, and of the people of the state as required for the proper development, use, conservation and protection of the waters of the state and state resources affected thereby. Thereafter the department shall present to the appropriate committees and agencies of the Federal Government a program of public works for Florida requesting authorization for funds for each project.

PART II
GROUNDWATER MONITORING
Section 2 Section 403.063, Florida Statutes, is amended to read

403.063 Groundwater quality monitoring—

1. The department, in cooperation with other state agencies, water management districts, and local governments, shall establish a groundwater quality monitoring network designed to detect or predict contamination of the state's groundwater resources.

2. The department may, by rule, determine the priority of sites to be monitored within such groundwater quality monitoring network based upon the following criteria.
Section 37. Responsibilities of the department. — Nothing in this act shall be construed to limit or remove any present powers and responsibilities of the Department of Environmental Regulation with regard to hazardous waste management.

Section 38. Section 403.729, Florida Statutes, as created by chapter 80-302, Laws of Florida, is hereby repealed.

Section 39. There is hereby appropriated from the Site Restoration Trust Fund $1 million to the Department of Environmental Regulation for the purpose of funding local hazardous waste management assessments, regional hazardous waste management assessments, and storage area or site selections pursuant to this act. The amount of $750,000 of this appropriation shall be distributed equally between the Tampa Bay Regional Planning Council, the South Florida Regional Planning Council, the Northeast Florida Regional Planning Council, and the East Central Florida Regional Planning Council. The amount of $250,000 shall be retained by the department for the purpose of developing guidelines for the local and regional hazardous waste assessments and for the purpose of providing contingency funds for regions which demonstrate that their funding needs are greater than the original appropriation.

Section 40. There is hereby appropriated from the Site Restoration Trust Fund $900,000 for the purpose of funding Amnesty Days as described in this act.

PART VII

POLUTANT SPILL PREVENTION AND CONTROL

PART I

Section 41. Part I of chapter 376, Florida Statutes, shall consist of sections 376.011, 376.021, 376.031, 376.041, 376.051, 376.061, 376.071, 376.081, 376.091, 376.111, 376.121, 376.131, 376.141, 376.151, 376.161, 376.171, 376.181, 376.191, 376.201, 376.205, and 376.21, Florida Statutes, and is 376.011, Florida Statutes, is amended to read:

376.011 Short title.—Part I of this chapter shall be known as the "Pollutant Spill Prevention and Control Act."

Section 42. Subsection (b) is added to section 376.051 to read:

376.051 Powers and duties of the department—

(a) Within 120 days of the effective date of this subsection, the department shall adopt rules providing for the coordination of the respective duties of the Department of Environmental Regulation and the Department of Natural Resources with respect to the implementation of part I of this chapter. Such rules shall specifically establish procedures that determine which of the two agencies should respond in the case of specific types of pollutant spill incidents, and establish minimum criteria for response times. The rules shall also specify criteria and procedures for the expenditure of Coastal Protection Trust Fund moneys for pollution incidents that require action by the Department of Environmental Regulation.

Section 43. Part II of chapter 376 Florida Statutes consisting of sections 376.30, 376.32, 376.35, 376.40, 376.45, 376.50, 376.53, 376.60, 376.65, 376.70, 376.75, 376.80, 376.85, and 376.90, Florida Statutes, is created to read:

PART II

376.30 Legislative intent—

(a) The Legislature finds and declares that the preservation of groundwater is a matter of the highest urgency and priority, and that such use can only be served effectively by maintaining the quality of inland waters as close to a pristine condition as possible, taking into account multiple use accommodations necessary to provide the broadest possible promotion of public and private interests.

(b) The Legislature further finds and declares that:

(1) The transfer of pollutants within the jurisdiction of the state and state inland waters is a hazardous undertaking.

(2) Spills, discharges, and escapes of pollutants occurring as a result of procedures taken by private and government entities involving the storage of such products pose threats of great danger and damage to the environment of the state and citizens of the state and other interests deriving livelihood from the state, coco.

Such hazards occurred in the past, are occurring now, and present future threats of potentially catastrophic proportions, all of which are expressly declared to be immaterial to the paramount interests of the state as heretofore set forth, and

d) Such state interests outweigh any economic burdens imposed by the Legislature upon those engaged in storing pollutants as defined herein and related activities.

(3) The Legislature intends by the enactment of this part to exercise the police power of the state by conferring upon the department the power to:

(a) Deal with the hazards and threats of danger and damage posed by such transfers and related activities.

(b) Require the prompt containment and removal of product occasioned thereby, and

(c) Establish a fund to provide for the inspection and supervision of such activities and guarantee the prompt payment of reasonable damage claims resulting therefrom.

(4) The Legislature further finds and declare that the preservation of groundwater quality is of prime public interest and concern to the state in promoting its general welfare, preventing diseases, promoting health, and providing for the public safety and that the state's interest in such preservation outweighs any burdens of liability imposed by the Legislature upon those engaged in storing pollutants and related activities.

(5) The Legislature further declares that it is the intent of this part to support and complement applicable provisions of the Federal Water Pollution Control Act, as amended, specifically those provisions relating to the national contingency plan for removal of pollutants.

136.32 Definitions.—When used in this part, unless the context clearly requires otherwise:

(1) "Department" means the Department of Environmental Regulation.

(2) "Secretary" means the secretary of the Department of Environmental Regulation.

(3) "Barrel" means 42 U. S. gallons at 60 degrees Fahrenheit.

(4) "Discharge" shall include, but not be limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping of any pollutant which occurs and affects lands and the surface and groundwaters of the state not regulated by part I of chapter 376.

(5) "Fund" means the Florida Site Restoration Trust Fund.

(6) "Pollutants" shall include oil of any kind and in any form gasoline, pesticides ammonia, chlorine, and derivatives thereof, not including liquefied petroleum gas.

(7) "Pollution" means the presence on the land or in waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health and welfare, animal or plant life, or property which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(8) "Facility" means a location containing a stationary storage tank or tanks which contain pollutants and which have a storage capacity greater than 900 gallons and which are not covered by part I.

(9) "Owner" means any person owning a facility.

(10) "Operator" means any person operating a facility, whether by lease contract, or other form of agreement.

(11) "Person in charge" means the person on the scene who is in direct, responsible charge of a facility from which pollutants are discharged when the discharge occurs.

(12) "Person" means any individual, partner, joint venture, corporation, any group of the foregoing, organized or united for a business purpose, or any governmental entity.

376.35 Pollution prohibited.—Pollution prohibited pollution of waters and lands of the state prohibited. — The discharge of refined petroleum products upon any waters and lands of the state in the manner defined by this part is prohibited.
376.40 Powers and duties of the department — The department shall have the power and the duty to

(1) Establish rules to implement the intent of this part and to regulate underground and above ground facilities and their onsite integral piping systems not covered by part I, including but not limited to construction standards, permitting of tanks, maintenance and installation standards, and removal or disposal standards

(2) Provide for the development and implementation of criteria and plans to prevent and meet pollution occurrences of various degrees and kinds

(3) Establish requirements that any registrant covered by this act be subject to a complete and thorough inspection at reasonable times. Any registrant causing or permitting the discharge of a pollutant in violation of provisions of this part shall be fully and carefully monitored by the department to insure that such discharges shall not continue to occur

(4) Promulgate rules providing for registration certificates required under this part subject to such terms and conditions as are set forth in this part and as set forth in rules and regulations promulgated by the department as authorized herein

(5) It shall be the duty of the department to keep an accurate record of costs and expenses incurred for the removal of prohibited discharges and thereafter diligently to pursue the recovery of any sums so incurred from the person responsible or from the Government of the United States under any applicable federal act

(6) The department may bring an action on behalf of the state to enforce the liabilities imposed by this part. The provisions of ss 403 121, 403 131, 403 141, and 403 161 shall apply to enforcement under this part

(7) The powers and duties of the department under this part shall extend to the land mass of the state not described in part I

376.45 Operation without registration prohibited —

(1) No person shall operate or cause to be operated a facility without a current valid registration certificate

(2) Registration certificates shall be issued on an annual basis, subject to such terms and conditions as the department may determine are necessary to carry out the purposes of this part

(3) As a condition precedent to the issuance or renewal of a registration certificate, the department shall require satisfactory evidence that the applicant has implemented, or is in the process of implementing, state regulations for prevention, control, and abatement of pollution from any pollutant as defined herein

(4) The department shall require, in connection with the issuance of a facility registration certificate the payment of a reasonable fee for processing applications for registration certificates. This fee shall be in addition to other taxes imposed by this part. The fee shall be reasonably related to the administrative costs of verifying data submitted pursuant to obtaining the certificates and reasonable inspections. However, the fee shall not exceed $5 per facility per year. Such fees shall be deposited in the Florida Site Restoration Trust Fund which may be used by the department for personnel and equipment to administer this part. In the event the department contracts with another party to perform any duties under this part such fees deposited in the trust fund may be used to cover such reasonable expenses incurred by such party.

(5) No later than October 1, 1984, the owner or operator of a facility with a storage capacity of 5,000 gallons or greater of pollutants shall obtain a registration certificate. Provided, however, all storage facilities, regardless of size, owned or operated by the state or any other political subdivision, shall be registered by July 1, 1984. All other facilities, not exempted by this part shall obtain a registration certificate no later than October 1, 1985. The department shall issue a registration certificate upon the showing that the registrant can provide proof of compliance with the department's rules

(6) Subsequent to the dates established in subsection (5) above, no person shall operate or cause to be operated any facility without a registration certificate issued by the department. No registration certificate shall be valid for more than 1 year unless revalidated by the department. Each applicant for a registration certificate shall pay the registration certificate application fee to the department, describing the barrel or other measurement capacity of the facility.

376.55 Removal of prohibited discharges —

(1) Any person discharging pollutants as prohibited by this part shall immediately undertake to contain, remove, and abate the discharge to the department's satisfaction. Notwithstanding the above requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department

(2) If the person causing a discharge, or the person in charge of facilities at which a discharge has taken place, fails to act, immediately the department may arrange for the removal of the pollutant, except that if the pollutant was discharged into or upon the navigable waters of the United States, the department shall act in accordance with the national contingency plan for removal of such pollutant as established pursuant to the Federal Water Pollution Control Act as amended and the costs of removal incurred by the department shall be paid in accordance with the applicable provisions of said law. Federal funds provided under said act shall be used to the maximum extent possible prior to the expenditure of state funds

(3) No action taken by any person to contain or remove a discharge, whether such action is taken voluntarily or at the request of the department or its designee, shall be construed as an admission of liability for the discharge

(4) No person who, voluntarily or at the request of the department or its designee, renders assistance in containing or removing pollutants shall be liable for any civil damages to third parties resulting solely from acts or omissions of such person in rendering such assistance, except for acts or omissions amounting to gross negligence or willful misconduct

(5) Nothing in this part shall affect the right of any person to render assistance in containing or removing any pollutant or any rights which that person may have against any third party, whose acts or omissions in any way have caused or contributed to the discharge of the pollutant

(6) Any person who renders assistance in containing or removing any pollutant may be eligible for reimbursement of the cost of containment or removal, provided prior approval for such reimbursement is granted by the department. The department may, upon petition and for good cause shown, waive the prior approval prerequisite

376.60 Florida Site Restoration Trust Fund —

(1) The purpose of this section is to provide a mechanism to have financial resources immediately available for cleanup and rehabilitation after a pollutant has been discharged, to prevent further damage by the pollutant, and to pay for damages. It is the legislative intent that this section be liberally construed to effect the purposes set forth such interpretation being especially imperative in light of the danger to the environment and resources

(2) Further it is the purpose of this section to provide a mechanism through which the State of Florida could immediately respond to short-term emergencies involving a threat to or an actual contamination of the groundwater. It is the intent of the Legislature that the department provide not only technical assistance when responding to these short-term emergencies but also financial resources to respond to emergencies which pose an immediate environmental or public health threat

(3) The Trust Fund shall be utilized to enable the department to respond on an emergency basis to incidents which threaten the environment or public health when otherwise responsible parties do not adequately respond. The department shall adopt rules for the purposes of this section

(4) Fund money shall be expended in a manner which is consistent with 42 U.S.C. 9606 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767, as it relates to cleanup of hazardous waste sites which resulted from contamination by pollutants, as defined herein and hazardous waste as defined by department rule

(5) The Florida Site Restoration Trust Fund is established, to be used by the department as a nonlapsing revolving fund for carrying out the purposes of this part and part VI relating to hazardous waste management. To this fund shall be credited all excise taxes, penalty judgments, and other fees and charges related to this part, and part VI relating to hazardous waste management. Charges against the fund shall be in accordance with this section
(6)(a) There is hereby levied, to be collected from and paid by each registrant, excluding municipalities, counties, the state and its political subdivisions, an excise tax upon each registrant for the privilege of operating a facility handling pollutants, the amount of which is to be determined by the department as measured by the volume transferred to or from the registrant.

(b) The excise tax shall be 2 cents per barrel coming to rest in Florida until the balance in the fund equals or exceeds $10 million. The fiscal year immediately following the year in which the balance in the fund equals or exceeds $10 million, no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to $3 million. The fiscal year immediately following the year in which the balance in the fund is less than or equal to $3 million, the excise tax shall be and shall remain 2 cents per barrel coming to rest in Florida until the fund again equals or exceeds $10 million. The fiscal year immediately following the year in which the fund again equals or exceeds $10 million, the excise tax and fund shall be controlled as when the fund first was or exceeded $10 million.

2. The fund is unable to pay any proven claims against the fund at the end of the fiscal year. Notwithstanding any other provision of this section, the fiscal year following the year in which the fund is unable to pay any proven claims against the fund at the end of the fiscal year, the excise tax shall be and shall remain 5 cents per barrel until all outstanding proven claims have been paid and the fund again equals or exceeds $1 million. However, any facility with a refined petroleum product shall only be considered once for the purposes of this section, the excise tax on each barrel of the pollutant shall be imposed to effectuate the purposes of this section.

3. In the event that the excise tax is being levied simultaneously to replenish both the Coastal Protection Trust Fund and the Florida Site Restoration Trust Fund, both funds shall receive an equal distribution of the excise tax.

4. The fund has had appropriated to it by the Legislature, but not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax shall continue in effect until all such funds are repaid to the General Revenue Fund.

(c) The excise tax provided for in this section shall be collected monthly by the Department of Revenue on the basis of records certified to the Department of Revenue and Department of Environmental Regulation and shall be credited to the fund. However, for the purposes of this section, the excise tax on each barrel of the pollutant shall be imposed only once, at the first transfer of the specific pollutant. Each tax barrel of the refined petroleum product shall only be considered once for the purposes of this section. The excise tax shall be in addition to other taxes imposed upon or paid by the registrant. However, any facility with a storage capacity of 250 barrels or less shall report and pay the excise tax semiannually.

(d) For the three percent collection allowance, the same duties and privileges imposed by chapter 212 respecting the remission of tax, the making of returns, penalties and interest, the keeping of books, records, and accounts, and the compliance with the rules of the Department of Revenue in the administration of that chapter shall apply to and be binding on all registrants who are subject to this section, except for the provisions of section 212.121.

(e) The Department of Revenue shall maintain records indicating the amount of taxes collected. These records shall be confidential, as provided in section 213.072.

(f) The Department of Revenue shall promulgate rules, establish audit procedures for the audit of regnistrants under this section, assess for delinquencies, and prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(g) The Department of Revenue, according to the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

(h) Moneys in the fund also may be disbursed for administrative expenses of the department related to the enforcement of this part.

(i) Moneys in the fund not needed currently to meet the obligations of the department in the exercise of its responsibilities under this part shall be deposited with the Treasurer of the credit of the fund and may be borrowed provided the Treasurer shall certify that it is necessary for such purpose. Interest received on such investment shall be credited to the fund.

(9) The department shall recover to the use of the fund from the person or persons causing the discharge or from the Federal Government, jointly and severally, all sums owed or expended therefore, pursuant to sections 376.654, except that recoveries resulting from damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the General Revenue Fund and the Department of Legal Affairs for collection by the full amount of costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Requests for reimbursement to the fund for the above costs, if not paid within 30 days of demand, shall be turned over to the Department of Legal Affairs for collection.

376.65 Liabilities and defenses of facilities

1. Because it is the intent of this part to provide the means for rapid and effective cleanup and to minimize damages, when a discharge of pollutants occurs from an inland terminal facility, recovery costs of abatement and cleanup shall be limited to an amount not to exceed $8 million, from a local bulk plant facility, recovery costs of abatement and cleanup shall be limited to an amount not to exceed $2 million, from a retail facility, recovery costs of abatement and cleanup shall be limited to an amount not to exceed $1 million. From a local bulk plant facility, recovery costs of abatement and cleanup shall be limited to $1,500,000, but less than 5,000 gallons shall be limited to $500,000 and 5,000 gallons or more shall be limited to $1 million. However, the total amount of such awards does not exceed $1 million, and from an end-user facility, costs of cleanup shall be limited to $50,000,000. When the department can show that such discharge was the result of willful or gross negligence or willful misconduct within the privity or knowledge of the owner or operator, such owner or operator shall be liable to the fund for the full amount of such sums expended. In addition to the foregoing costs of cleanup, facilities shall be liable to the fund for all damages in accordance with the terms of subsections (2), (3) and (4) and sections 376.506 and 376.606.

(2) Any person claiming to have suffered damages as a result of a discharge of pollutants prohibited by section 376.35, may, within 150 days after the date of such discharge, apply to the department for reimbursement from the fund. The department shall give notice of the claim for damages to the person responsible for the discharge. It shall be the responsibility of the claimant to provide the department with the required documentation concerning the damages suffered as a direct result of the discharge. The department shall prescribe appropriate forms and details for such application, which application shall include a provision requiring the applicant to make a sworn verification of the damage claim to the best of his knowledge. The secretary of the department may, upon petition and for good cause shown, waive the 150-day limitation for filing damage claims.

(a) The secretary shall establish the amount of damage award and shall certify the amount of the award and the name of the claimant to the treasurer, who shall pay the award from the fund, subject to the provisions of subsection (5). If the claimant agrees with the established amount of damage, the settlement shall be binding upon both parties as to all issues and cannot be further attacked. The department shall refer to the person responsible for the discharge. If the total amount of such awards exceed the amount available to any claimant or claimants from the fund, such claimant or claimants shall have the right to a pro rata share of all funds available in the fund until the total amount of awards is paid to the claimant or claimants.

(b) If the secretary or the person determined by the secretary to be responsible for the discharge disagrees with the amount of the damage award, such person may request a hearing pursuant to section 212.121. If a hearing is requested, the final order shall be issued by the secretary of the department.

(c) Each person's damage claims arising from a single occurrence shall be stated in one application. Damage claims arising from any claim at the time the award is made shall be deemed waived.

(d) If a person damaged by a discharge of pollutant chooses to make a claim against the fund and accepts payment from the fund, then the department shall be subrogated to any cause of action that the claimant may have had, to the extent of such payment or judgment, and shall diligently pursue recovery on that cause of action pursuant to subsection (4) and sections 376.506 and 376.606. In any such action, the

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amount of damages shall be proved by the department by submitting to the court a written report of the amount paid or owed from the fund to claimants. Such written report shall be admissible in evidence, and the amount paid from or owed by the fund to the claimants stated therein shall be irrebuttably presumed to be the amount of damages.

(e) The fund is absolutely liable for all proven damages against the fund as provided for in this section.

(f) The department shall be a necessary party to all administrative hearings and court proceedings under this section.

(2) It shall be the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sum expended from the fund for cleanup, abatement, and damages in accordance with the provisions of this part. In any suit to enforce claims of the fund under this part, it shall not be necessary for the department in administering the fund to plead or prove negligence in any form or manner. The department in administering the fund need only plead and prove that the prohibited discharge or other polluting condition occurred. The only defenses of a person alleged to be responsible for the discharge to an action for damages, costs, and expenses of cleanup or abatement, shall be to plead and prove that the occurrence was solely the result of any of the following or any combination of the following:

(a) An act of war
(b) An act of government, either state, federal, or municipal
(c) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency
(d) An act or omission of a third party, other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the defendant, except when the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, if the defendant establishes by a preponderance of the evidence that the defendant exercised due care with respect to the hazardous waste concerned, taking into consideration the characteristics of such hazardous waste, in light of all relevant facts and circumstances, and

2 The defendant took precautions against foreseeable acts or omissions of any such third party and against the consequences that could foreseeably result from such acts or omissions.

(4) In the event the total awards against the fund exceed the present balance of the fund, the claimants shall be paid from the future income of the fund.

(5) In the event the total awards for a specific occurrence exceed the current balance of the fund, the immediate award shall be paid on a pro rata basis, and all claimants paid on a pro rata basis shall be paid a pro rata share of all funds received by the fund until the total amount of proven damages is paid to the claimants or claimants. However, amounts collected by the fund from the prosecution of causes of action pursuant to paragraph (3)(d) and subsection (4) shall be utilized to satisfy the claims as to which such prosecution relates to the extent therefore unsatisfied.

376.70 Facilities, financial responsibility —
(1) Each owner or operator of a facility shall be required to establish and maintain evidence of financial responsibility. Such evidence of financial responsibility shall be the only evidence required by the department that such registrant has the ability to meet the liabilities which may be incurred under this part.

(2) Any claim brought pursuant to this part may be brought directly against the bond, the insurer or any other person providing a facility with evidence of financial responsibility.

(3) Each owner or operator of a facility subject to the provisions of this part shall designate a person in the state as his legal agent for service of process under this part, and such designation shall be filed with the Department of State. The Secretary of State shall be the designated agent for purposes of service of process under this part.

376.75 Enforcement and penalties —
(1) The penalty provisions of this section shall not apply to any discharge promptly reported and removed by a registrant in accordance with the rules, regulations, and orders of the department.

(2) Penalties assessed herein for a discharge shall be in accordance with the provisions administered by the department in chapter 403.
Section 45. The sum of $11 million is hereby appropriated from the Florida Coastal Protection Trust Fund to the Florida Site Restoration Trust Fund for use in accordance with this part. This appropriation is comprised of $5 million from the fund's principal and the remaining amount is from the interest accumulations.

PART VIII
ON SITE SEWAGE DISPOSAL

Section 46. Section J81.272, Florida Statutes, 1982 Supplement, is amended to read:

(Substantive rewording of section. See § J81.272, F.S., 1982 Supp., for present text)

J81.272 Onsite sewage disposal systems installations, conditions—

(a) The Legislature declares that it is the policy of this state to require that all onsite sewage disposal systems, except approved onsite graywater systems, developed under the provisions of this act, connect to a publicly-owned or investor-owned sewerage system within 365 days after notification that such a system is available. Where a publicly-owned or investor-owned sewerage system is not available, the Department of Health and Rehabilitative Services may issue permits for the construction or installation of onsite sewage disposal systems under conditions as described in this section. Provisions shall be made, such as the inclusion of sewer utility easements and rights-of-way in a subdivider, to assure the eventual construction and utilization of a sewerage system in said subdivision. The developer of any lot that is developed under the provisions of this section shall provide advance notice of this requirement to the purchaser of such lot.

(b) Subdivisions and lots where each lot has a minimum area of at least one-half acre and either a minimum distance of 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a private potable well and onsite sewage disposal system, provided the projected daily domestic sewage flow does not exceed an average of 1,500 gallons per acre per day and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules promulgated hereunder can be met.

(c) Subdivisions and lots with a public water system may utilize onsite sewage disposal systems, provided there are no more than four lots per acre, provided that the projected daily domestic sewage flow does not exceed an average of 2,500 gallons per acre; and provided that all distance and setback, soil condition, water table elevation, and other related requirements which are generally applicable to the use of onsite sewage disposal systems are met.

(d) Notwithstanding the provisions of subsections (2) and (3), where a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health and Rehabilitative Services, that a central water system will be installed by a regulated public utility based on a density formula, then a private potable well may be used on a temporary basis with onsite sewage disposal systems until the agreed upon densities are reached. In subdivisions regulated by this subsection, the average daily domestic sewage flow shall not exceed 2,500 gallons per acre. This section shall not affect the validity of existing prior agreements.

(e) Subsections (2) and (3) shall not apply to areas where a municipally owned or investor-owned public sewage system is available contiguous to the proposed subdivision or within one-fourth mile thereof with public right-of-way accessibility.

(f) Onsite sewage disposal systems shall be placed no closer than the minimum distances indicated for the following:

<table>
<thead>
<tr>
<th>Distance from Source</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 feet from private potable well</td>
<td>2,500 gallons per acre per day</td>
</tr>
<tr>
<td>125 feet from public potable well</td>
<td>1,500 gallons per acre per day</td>
</tr>
<tr>
<td>200 feet from surface waters</td>
<td>1,000 gallons per acre per day</td>
</tr>
</tbody>
</table>

(g) All provisions of this section and rules promulgated hereunder relating to soil condition, water table elevation, distance, and other setback requirements shall be equally applied to all lots regardless of the date of platting. Provided, however, lots platted prior to 1972 shall be subject to a 50 foot minimum surface water setback and shall not be subject to lot size requirements. The projected daily sewage flow for domestic onsite sewage disposal systems for lots platted before 1972 shall not exceed:

<table>
<thead>
<tr>
<th>Flow Rate</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,500 gallons per acre per day</td>
<td>for lots served by public water systems</td>
</tr>
<tr>
<td>1,500 gallons per acre per day</td>
<td>for lots served by private wells</td>
</tr>
</tbody>
</table>

(h) The Department of Health and Rehabilitative Services may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. No variance shall be granted pursuant to this section until the Department of Health and Rehabilitative Services is satisfied that

<table>
<thead>
<tr>
<th>Condition</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>hardship</td>
<td>by action of the applicant</td>
</tr>
<tr>
<td>no reasonable alternative exists for the treatment of the sewage</td>
<td></td>
</tr>
</tbody>
</table>

(i) Discharge from the individual sewage disposal system will not adversely affect the health of the applicant or other members of the public or significantly degrade the ground or surface waters. Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration shall be given to those lots platted prior to 1972. The department shall appoint an advisory review group board which shall meet monthly to recommend agency action on variance requests. The board shall be comprised of the following:

1. A representative from the Department of Health and Rehabilitative Services' Health Program Office
2. A representative from the county health units
3. A representative from the home building industry
4. A representative from the septic tank industry
5. A representative from the Department of Environmental Regulation

Review group members shall be appointed for a period of 3 years with such appointments being staggered so that no more than two members' terms expire on any one year.

(j) Organic chemical solvents shall not be advertised, sold, or used in the state for the purpose of degreasing or declogging onsite sewage disposal systems.

(k) No permit shall be issued for an onsite sewage disposal system in areas zoned for industrial or manufacturing use, or its equivalent, where possible use is to dispose of toxic or hazardous chemicals. Where business enterprises currently use onsite sewage disposal systems to dispose of toxic or hazardous chemicals, alternative disposal systems shall be used within 3 years of the enactment of this act.

(l) As used in this subsection:

1. "Blackwater" means all residential waste carried off by toilet and kitchen drains and sewers.
2. "Graywater" means all residential waste not described in subparagraph 1 and includes bath, lavatory, sink (but not kitchen sink), and laundry wastes.
3. "Individual graywater disposal system" means a system of piping, a tank or treatment device, and a subsurface absorption bed or drainfield for handling and treating graywater where blackwater is treated by a central sewerage system.
4. The Department of Health and Rehabilitative Services is authorized to approve on a limited and experimental basis the installation of individual graywater disposal systems.
5. The general requirements of chapter 10D-6, Florida Administrative Code, governing the installation of individual sewage disposal facilities, shall apply for installation of individual graywater disposal systems except for the following:

1. The required septic tank or interceptor shall not be less than 250 gallons in capacity.
2. The required drainfield or absorption bed shall not be less than 100 square feet in area.
A BILL relating to pollutant spill prevention and control,

By Senator [Signature]

By the Committee on [Committee Name]

Chairman's signature

APR 2, 1983

Read 1st Time
Referred to Committees on

APPROPRIATIONS

Fav Unfav With Amend Com Sub 5-7-83

APPROPRIATIONS

Fav Unfav With Amend Com Sub 5-7-83

Fav Unfav With Amend Com Sub

Read 2nd Time
Read 3rd Time

Secretary of Senate

☑️ Immediately Certified to House
☑️ Laid on Table
☑️ Motion to Reconsider by Senator

☑️ HOUSE AMENDMENTS ACTION — See reverse side
☐ CONFERENCE COMMITTEE ACTION — See reverse side

☐ SENATE AMEND TO HOUSE AMEND ACTION — See reverse side
☐ CONFERENCE COMMITTEE ACTION — See reverse side

INDEFINITELY POSTPONED

☑️ HOUSE AMENDMENTS ACTION — See reverse side
☐ CONFERENCE COMMITTEE ACTION — See reverse side

☐ SENATE AMEND TO HOUSE AMEND ACTION — See reverse side
☐ CONFERENCE COMMITTEE ACTION — See reverse side

Immediat•ly Certified to House
Laid on Table under Rule
Motion to Reconsider pending

Clerk, House of Representatives
Section 45. The sum of $11 million is hereby appropriated from the Florida Coastal Protection Trust Fund to the Florida Site Restoration Trust Fund for use in accordance with this part. This appropriation is comprised of $5 million from the fund's principal and the remaining amount is from the interest accumulations.

PART VII
ONSITE SEWAGE DISPOSAL

Section 46. Section 272, Florida Statutes, 1982 Supplement, is amended to read

(8) The Legislature declares that it is the policy of this state to require that all onsite sewage disposal systems except approved onsite graywater systems, developed under the provisions of this act connect to a public-owned or investor-owned sewerage system within 180 days after notification that such a system is available. Where a publicly-owned or investor-owned sewerage system is not available, the Department of Health and Rehabilitative Services may issue permits for the construction or installation of onsite sewage disposal systems under conditions as described in this section. Permits shall be made, such as the inclusion of sewer utility easements and rights-of-way in a subdivision, to assure the eventual construction and utilization of a sewerage system in said subdivision. The developer of any lot that is developed under the provisions of this section shall provide advance notice of this requirement to the purchaser of such lot.

(2) Subdivisions and lots where each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordersing the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a private potable well and onsite sewage disposal system, provided the projected daily domestic sewage flow does not exceed an average of 1,500 gallons per acre and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements which are generally applicable to the use of onsite sewage disposal systems are met.

(4) Notwithstanding the provisions of subsections (2) and (3), where a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health and Rehabilitative Services, that a central water system will be installed by a regulated public utility based on a density formula, then private potable wells may be used on a temporary basis with onsite sewage disposal systems until the agreed upon densities are reached. In subdivisions regulated by this subsection, the average daily domestic sewage flow shall not exceed 2,500 gallons per acre. This section shall not affect the validity of existing prior agreements.

(5) Subsections (2) and (3) shall not apply to areas where a municipally owned or investor-owned public sewerage system is available contiguous to the proposed subdivision or within one-fourth mile thereof with public right-of-way accessibility.

(6) Onsite sewage disposal systems shall be placed no closer than the minimum distances indicated for the following

(a) Seventy-five feet from a private potable well
(b) Two hundred feet from a public potable well.
(c) Seventy-five feet from surface waters

(7) All provisions of this section and rules promulgated hereunder relating to soil condition, water table elevation, distance, and other setback requirements shall be equally applied to all lots regardless of the date of platting. Provided, however, lots platte prior to 1972 shall be subject to a minimum surface water setback and shall not be subject to lot size requirements. The projected daily sewage flow for domestic onsite sewage disposal systems for lots platte prior to 1972 shall not exceed

(a) 2,500 gallons per acre per day for lots served by public water systems.
(b) 1,500 gallons per acre per day for lots served by private wells.
(c) The Department of Health and Rehabilitative Services may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. No variance shall be granted pursuant to this section until the Department of Health and Rehabilitative Services is satisfied that

(a) The hardship was not caused intentionally by the action of the applicant.
(b) No reasonable alternative exists for the treatment of the sewage, and
(c) Discharge from the individual sewage disposal system will not adversely affect the health of the applicant or other members of the public or significantly degrade the ground or surface waters. Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration shall be given to the lots platte prior to 1972. The department shall appoint an advisory review variance board which shall meet monthly to recommend agency action on variance requests. The board shall be comprised of the following:

1. A representative from the Department of Health and Rehabilitative Services' Health Program Office
2. A representative from the county health units.
3. A representative from the home building industry
4. A representative from the septic tank industry
5. A representative from the Department of Environmental Regulation

Review group members shall be appointed for a period of 3 years with such appointments being staggered so that no more than two members' terms expire on any one year.

(9) Organic chemical solvents shall not be advertised, sold, or used in the state for the purpose of degreasing or declogging onsite sewage disposal systems.

(10) No permit shall be issued for an onsite sewage disposal system in areas zoned for industrial or manufacturing use, or its equivalent, where possible use is to dispose of toxic or hazardous chemicals. Where business enterprises currently use onsite sewage disposal systems to dispose of toxic or hazardous chemicals, alternative disposal systems shall be used within 3 years of the enactment of this act.

(11)(a) As used in this subsection

1. "Blackwater" means all residential waste carried off by toilet and kitchen drains and sewers.
2. "Graywater" means all residential waste not described in subparagraph 1, and includes bath, lavatory, sink (but not kitchen sink), and laundry wastes.
3. "Individual graywater disposal system" means a system of piping, a tank or treatment device, and a subsurface absorption bed or drainfield for handling and treating graywater where blackwater is treated by a central sewerage system.

(b) The Department of Health and Rehabilitative Services is authorized to approve on a limited and experimental basis the installation of individual graywater disposal systems.

(c) The general requirements of chapter 10D-6, Florida Administrative Code, governing the installation of individual sewage disposal facilities shall apply for installation of individual graywater disposal systems except for the following:

1. The required septic tank or interceptor shall not be less than 250 gallons in capacity.
2. The required drainfield or absorption bed shall not be less than 100 square feet in area.
A BILL relating to pollutant spill prevention and control,

By Senator

By the Committee on

Chairman's signature

and

Secretary of Senate

 Clerk House of Representatives

I DEFINITELY POSTPONED

SENATE ACTION
APR 2 1983
Read 1st Time
Referred to Committees on

NATURAL RESOURCES
Unfavorable with Amendment

APPROPRIATIONS
Unfavorable with Amendment

Read 2nd Time
Read 3rd Time
and

House of Representatives

HOUSE ACTION
Read 1st Time
Referred to Committees on

Favorable with Amendment

Favorable with Amendment

Favorable with Amendment

Favorable with Amendment

Read 2nd Time
Read 3rd Time
and

□ Motion to Reconvene pending

□ House Amendments Action — See reverse side

□ Conference Committee Action — See reverse side

□ Senate Amend to House Amend Action — See reverse side

□ Conference Committee Action — See reverse side
A bill to be entitled
An act relating to pollutant spill prevention
and control, transferring to chapter 403,
Florida Statutes, and amending ss. 376.011-
376.14, 376.16-376.21, Florida Statutes;
providing a short title; providing legislative
intent, providing definitions; prohibiting
pollution of state lands and waters; providing
powers and duties of the Department of
Environmental Regulation; requiring a
certificate to operate a terminal facility;
providing regulatory powers of the department;
providing for removal of prohibited discharges;
providing for personnel and equipment;
establishing the Florida Environmental
Protection Trust Fund; providing for uses of
trust fund moneys; levying an excise tax on
terminal and pollutant handling operations;
providing for collection and distribution of
excise tax revenues; providing for liabilities
and defenses of terminal facilities and
vessels; providing for damages under certain
circumstances; providing for declaration of
emergency by the Governor under certain
circumstances; providing for financial
responsibility of terminal facilities and
vessels; prohibiting "hold-harmless"
agreements; requiring the department to report
to the Legislature annually; providing for
legislative approval of the department's
pollutant spill prevention and control budget;
(d) All provable costs and damages which are the proximate results of the discharge of pollutants covered by this part chapter.

(e) The acquisition of spoil disposal sites and improvements to existing and future spoil sites for the ports of St. Petersburg Bayboro Harbor, Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Port St. Joe, Tampa, Panama City, Pensacola, and other navigable waters of the state.

(6) Any interest in lands acquired using moneys in the Florida Environmental Coastal Protection Trust Fund shall be held by the Trustees of the Internal Improvement Trust Fund, and such lands shall be acquired pursuant to the procedures set forth in s. 253.025.

(7) The department shall recover to the use of the fund from the person or persons causing the discharge or from the Federal Government, jointly and severally, all sums owed or expended therefrom, pursuant to s. 403.960(4) or 376-3(4), except that recoveries resulting from damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the Florida Environmental Coastal Protection Trust Fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Requests for reimbursement to the fund for the above costs, if not paid within 30 days of demand, shall be turned over to the Department of Legal Affairs for collection.

403.960 376-12 Liabilities and defenses of terminal facilities and vessels.--

(1) Because it is the intent of this part chapter to provide the means for rapid and effective cleanup and to
minimize damages, any vessel, or its agents or servants, who
permits or suffers a prohibited discharge or other polluting
condition to take place within state boundaries shall be
liable to the fund for all costs of cleanup or abatement, up
to an amount not to exceed $14 million or $100 per gross
registered ton of such vessel, whichever is the lesser. When
the department can show that such discharge was the result of
willful or gross negligence or willful misconduct within the
privity or knowledge of the owner or operator or agent
thereof, such owner or operator shall be liable to the fund
for the full amount of such sums expended. When a discharge
of pollutants occurs from a terminal facility or pipeline,
recovery of costs of abatement and cleanup shall be limited to
an amount not to exceed $8 million, except that when the
department can show that such discharge was the result of
willful or gross negligence or willful misconduct within the
privity or knowledge of the owner or operator, such owner or
operator shall be liable to the fund for the full amount of
such sums expended. In addition to the foregoing costs of
cleanup, terminal facilities shall be liable to the fund for
all damages in accordance with the terms of subsections (2),
(3), and (4) and s. 403.959(7) s. 376.11(7).
(2) Any person claiming to have suffered damages as a
result of a discharge of pollutants prohibited by s. 403.953
s. 376.041 may, within 180 days after the date of such
discharge, apply to the department for reimbursement from the
Florida Environmental Protection Trust Fund. It shall
be the responsibility of the claimant to provide the
department with the required documentation concerning the
damages suffered as a direct result of the discharge. The
department shall prescribe appropriate forms and details for

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such application, which application shall include a provision
requiring the applicant to make a sworn verification of the
damage claim to the best of his knowledge. The 
secretary
director of the department may, upon petition and for good
cause shown, waive the 180-day limitation for filing damage
claims.

(a) The secretary director shall establish the amount
of damage award and shall certify the amount of the award and
the name of the claimant to the Treasurer, who shall pay the
award from the fund, subject to the provisions of subsection
(5). If the claimant agrees with the established amount of
damage, the settlement shall be binding upon both parties as
to all issues and cannot be further attacked, collaterally or
by separate action, in the future. If the total amount of
such awards exceeds the amount available to any claimant or
claimants from the fund, such claimant or claimants shall have
the right to a pro rata share of all funds available in the
fund until the total amount of awards is paid to the claimant
or claimants.

(b) If either the claimant or the person determined by
the secretary director to be responsible for the discharge
disagrees with the amount of the damage award, such person may
request a hearing pursuant to s. 120.57. If a hearing is
requested, the final order shall be issued by the Governor and
Cabinet as head of the department.

(c) Each person’s damage claims arising from a single
occurrence shall be stated in one application. Damages
omitted from any claim at the time the award is made shall be
deemed waived.

(d) If a person damaged by a discharge of pollutant
chooses to make a claim against the fund and accepts payment
from, or a judgment against, the fund, then the department
shall be subrogated to any cause of action that the claimant
may have had, to the extent of such payment or judgment, and
shall diligently pursue recovery on that cause of action
pursuant to subsection (4) and s. 403.959(7) In any such action, the amount of damages shall be proved by the
department by submitting to the court a written report of the
amounts paid or owed from the fund to claimants. Such written
report shall be admissible in evidence, and the amounts paid
from or owed by the fund to the claimants stated therein shall
be irrebuttably presumed to be the amount of damages.
(e) The fund is absolutely liable for all proven
damages against the fund as provided for in this section.
(f) The department shall be a necessary party to all
administrative hearings and court proceedings under this
section.
(3) It shall be the duty of the department in
administering the fund diligently to pursue the reimbursement
to the fund of any sum expended from the fund for cleanup,
abatement, and damages in accordance with the provisions of
this part chapter. In any suit to enforce claims of the fund
under this part chapter, it shall not be necessary for the
department in administering the fund to plead or prove
negligence in any form or manner. The department in
administering the fund need only plead and prove that the
prohibited discharge or other polluting condition occurred.
The only defenses of a person alleged to be responsible for
the discharge to an action for damages, costs, and expenses of
cleanup, or abatement shall be to plead and prove that the
occurrence was solely the result of any of the following or
any combination of the following:

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(a) An act of war.

(b) An act of government, either state, federal, or municipal.

(c) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(d) An act or omission of a third party, without regard to whether any such act or omission was or was not negligent.

(4) In the event the total awards against the fund shall exceed the present balance of the fund, the claimants shall be paid from the future income of the fund.

(5) In the event the total awards for a specific occurrence exceed the current balance of the fund, the immediate award shall be paid on a prorated basis, and all claimants paid on a prorated basis shall be paid a pro rata share of all funds received by the fund until the total amount of the proven damages is paid to the claimants or claimants. However, amounts collected by the fund from the prosecution of causes of action pursuant to paragraph (2)(d) and subsection (4) shall be utilized to satisfy the claims as to which such prosecutions relate to the extent theretofore unsatisfied.

(6) Nothing contained herein shall be construed to limit the liability of vessels, terminal facilities, or the fund for damages.

(7) In addition to the civil penalty, the pilot and the master of any vessel or person in charge of any terminal facility or pipeline who fails to give immediate notification of a discharge to the department or the nearest Coast Guard station shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s.
775.084. After reporting a discharge, a vessel shall remain in the jurisdiction of the department sufficient time to prove financial responsibility for the damages resulting from the discharge. The pilot and master of a vessel which fails to remain in the jurisdiction of the department for a reasonable time after notice of a discharge shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In no event shall the department detain the vessel longer than 12 hours after proving financial responsibility. The department shall, by rules and regulations, require that the registrant designate a person at the terminal facility who shall be the person in charge of that facility for the purposes specified by this section.

403.961 Emergency proclamation; Governor's powers.--

(1) Whenever any disaster or catastrophe exists or appears imminent, arising from the discharge of oil, petroleum products or their byproducts, or any other pollutants, the Governor shall by proclamation declare the fact and that an emergency exists in any or all sections of the state. If the Governor is unavailable, the Lieutenant Governor shall, by proclamation, declare the fact and that an emergency exists in any or all sections of the state. A copy of such proclamation shall be filed with the Department of State.

(2) In performing his duties under this section, the Governor is authorized and directed to cooperate with all departments and agencies of the Federal Government, the offices and agencies of other states and foreign countries and the political subdivisions thereof, and private agencies in all matters pertaining to a disaster or catastrophe.
In performing his duties under this section, the Governor is further authorized and empowered:

(a) To make, amend, and rescind the necessary orders, rules, and regulations to carry out this section within the limits of the authority conferred upon him and not inconsistent with the rules, regulations, and directives of the President of the United States or of any federal department or agency having specifically authorized emergency functions.

(b) To delegate any authority vested in him under this section and to provide for the subdelegation of any such authority.

Whenever the Governor is satisfied that an emergency no longer exists, he may terminate the proclamation by another proclamation affecting the sections of the state covered by the original proclamation, or any part thereof. The proclamation shall be published in such newspapers of the state and posted in such places as the Governor, or any person acting in that capacity, deems appropriate.

403.962 378-14 Terminal facilities and vessels; financial responsibility.--

(1) Each owner or operator of a terminal facility, pipeline, or vessel, including any barge, using any port in Florida shall be required to establish and maintain evidence of financial responsibility pursuant to federal laws and regulations. Such evidence of financial responsibility shall be the only evidence required by the department that such registrant or vessel has the ability to meet the liabilities which may be incurred under this part chapter.

(2) Any claim brought pursuant to this part chapter by the fund or any damaged party may be brought directly against
the bond, the insurer, or any other person providing a
terminal facility, pipeline, or vessel with evidence of
financial responsibility.

(3) Each owner or operator of a terminal facility, pipeline, or vessel subject to the provisions of this part
chapter shall designate a person in the state as his legal
agent for service of process under this part chapter, and such
designation shall be filed with the Department of State. In
the absence of such designation, the Secretary of State shall
be the designated agent for purposes of service of process
under this part chapter.

403.963 376-165 "Hold-harmless" agreements
prohibited.--Any agreement entered into after July 1, 1974, to
"hold-harmless" a vessel or terminal facility from liability
for the occurrence of a discharge prohibited by this part
chapter, agreed to by a governmental agency or political
subdivision, is deemed contrary to public policy and is hereby
prohibited.

403.964 376-17 Reports to the Legislature.--The
department shall include in its recommendations to each
regular session of the Legislature specific recommendations
relating to the operation of this part chapter.

403.965 376-18 Budget approval.--The department shall
submit to each regular session of the Legislature its budget
recommendations for disbursements from the fund pursuant only
to paragraph 403.959(5)(a) 376-11(5)(a). Upon appropriation
thereof by the Legislature, the Comptroller shall authorize
expenditures therefrom as approved by the department.

403.966 376-19 County and municipal ordinances; powers
limited --Nothing in this part chapter shall be construed to
deny any county or municipality authority to exercise police
powers by ordinance or law under any general or special act, and laws and ordinances promulgated in furtherance of the intent of this part chapter to promote the general welfare, public health, and public safety shall be valid unless in direct conflict with the provisions of this part chapter or any rule, regulation, or order of the department adopted under authority of this part chapter. However, in order to avoid unnecessary duplication, no county, municipality, or other political subdivision of the state may adopt or establish a similar program of licensing and fees for the accomplishment of the purposes of this part chapter.

403.967 376-29 Limitation on application.--Nothing in this part chapter shall be deemed to apply to the storage or transportation of liquefied petroleum gas or to industrial effluents discharged into the waters or atmosphere of the state pursuant to either a federal or state permit.

403.968 376-295 Individual cause of action for damages.--The remedies in this act shall be deemed to be cumulative and not exclusive. Nothing in this act shall require pursuit of any claim against the fund as a condition precedent to any other remedy. Notwithstanding any other provision of law, nothing contained herein shall prohibit any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by this part chapter. In any such suit, it shall not be necessary for the person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it occurred. The only defenses to such cause of action shall be those specified in subsection 403.960(4) 376-12(4). In addition to any other

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remedy, the injured party shall be entitled to recover costs of the action and reasonable attorneys' fees.

403.969 376.21 Construction.--This part chapter, being necessary for the general welfare and the public health and safety of the state and its inhabitants, shall be liberally construed to effect the purposes set forth under this part chapter and the Federal Water Pollution Control Act, as amended.

403.970 376.16 Enforcement and penalties.--

(1) It is unlawful for any person to violate any provision of this part chapter or any rule, regulation, or order of the department made hereunder. Violation shall be punishable by a civil penalty of up to $50,000 per violation per day to be assessed by the department. Each day during any portion of which the violation occurs constitutes a separate offense.

(2) Penalties assessed herein for a discharge shall be the only penalties assessed by the state, and the assessed person or persons shall be excused from paying any additional penalty for water pollution assessable under any other part of this chapter 483 for the same occurrence.

(3) The penalty provisions of this section shall not apply to any discharge promptly reported and removed by a registrant or vessel in accordance with the rules, regulations and orders of the department.

Section 2. All powers, duties, personnel, records, property, and unexpended balances of appropriations, allocations and other funds of the Department of Natural Resources under chapter 376, Florida Statutes, are hereby transferred by a type four transfer, pursuant to s. 20.06(4),

CODING. Words in struck through type are deletions from existing law, words underlined are additions.
A bill to be entitled
An act relating to water resources; amending s. 373.026, Florida Statutes, expanding duties of the Department of Environmental Regulation with respect to collecting and monitoring data relating to water resources; creating s. 403.063, Florida Statutes, requiring the department to establish a groundwater quality monitoring network and providing criteria therefor; requiring regional and local governments to sample and test groundwater as directed by the department; requiring the department to develop a program of inspecting package sewage treatment facilities, amending s. 403.855, Florida Statutes, expanding duties of the department relating to imminent hazards in water supplies, adding subsections to s. 373 203, Florida Statutes, providing definitions; amending s. 373 206, Florida Statutes, expanding the authority of the department to plug hazardous artesian wells; creating s. 373.207, Florida Statutes, requiring water management districts to adopt plans for plugging abandoned artesian wells; providing for review of plans by the department; creating s. 487.0615, Florida Statutes; establishing the Pesticide Review Council; providing for membership; providing powers and responsibilities; providing for rulemaking petition, providing reimbursement for travel; creating s. 487 043, Florida Statutes.
Section 41. Part I of chapter 376, Florida Statutes, shall consist of sections 376.011, 376.021, 376.031, 376.041, 376.051, 376.06, 376.07, 376.09, 376.10, 376.11, 376.12, 376.13, 376.14, 376.15, 376.16, 376.165, 376.17, 376.18, 376.19, 376.20, 376.205, and 376.21, Florida Statutes, and s 376.011, Florida Statutes, is amended to read

376.011 Short title -- Part I of this chapter shall be known as the "Pollutant Spill Prevention and Control Act."

Section 42. Subsection (6) is added to section 376.051 to read.

376.051 Powers and duties of the department.--

(6) Within 120 days of the effective date of this subsection, the department shall adopt rules providing for the coordination of the respective duties of the Department of Environmental Regulation and the Department of Natural Resources with respect to the implementation of part I of this chapter. Such rules shall specifically establish procedures that determine which of the two agencies should respond in the case of specific types of pollutant spill incidents, and establish minimum criteria for response times. The rules shall also specify criteria and procedures for the expenditure of Coastal Protection Trust Fund moneys for pollution incidents that require action by the Department of Environmental Regulation.

Section 43 Part II of chapter 376, Florida Statutes, consisting of sections 376.30, 376.32, 376.35, 376.40, 376.45, 376.50, 376.55, 376.60, 376.65, 376.70, 376.75, 376.80, 376.85, and 376.90, Florida Statutes, is created to read:

PART II

376.30 Legislative intent --

CODING Words in struck through type are deletions from existing law, words underlined are additions.
(1) The Legislature finds and declares that the preservation of groundwater is a matter of the highest urgency and priority, and that such use can only be served effectively by maintaining the quality of inland waters as close to a pristine condition as possible, taking into account multiple use accommodations necessary to provide the broadest possible promotion of public and private interests.

(2) The Legislature further finds and declares that:

(a) The transfer of pollutants within the jurisdiction of the state and state inland waters is a hazardous undertaking;

(b) Spills, discharges, and escapes of pollutants occurring as a result of procedures taken by private and government entities involving the storage of such products pose threats of great danger and damage to the environment of the state, to citizens of the state and other interests deriving livelihood from the state,

(c) Such hazards have occurred in the past, are occurring now, and present future threats of potentially catastrophic proportions, all of which are expressly declared to be inimical to the paramount interests of the state as herein set forth, and

(d) Such state interests outweigh any economic burdens imposed by the Legislature upon those engaged in storing pollutants as defined herein and related activities.

(3) The Legislature intends by the enactment of this part to exercise the police power of the state by conferring upon the department the power to:

(a) Deal with the hazards and threats of danger and damage posed by such transfers and related activities,
(b) Require the prompt containment and removal of product occasioned thereby; and

(c) Establish a fund to provide for the inspection and supervision of such activities and guarantee the prompt payment of reasonable damage claims resulting therefrom.

(4) The Legislature further finds and declares that the preservation of groundwater quality is of prime public interest and concern to the state in promoting its general welfare, preventing diseases, promoting health, and providing for public safety and that the state's interest in such preservation outweighs any burdens of liability imposed by the Legislature upon those engaged in storing pollutants and related activities.

(5) The Legislature further declares that it is the intent of this part to support and complement applicable provisions of the Federal Water Pollution Control Act, as amended, specifically those provisions relating to the national contingency plan for removal of pollutants.

376 32 Definitions.--When used in this part, unless the context clearly requires otherwise:

(1) "Department" means the Department of Environmental Regulation.

(2) "Secretary" means the secretary of the Department of Environmental Regulation

(3) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.

(4) "Discharge" shall include, but not be limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping of any pollutant which occurs and affects lands and the surface and groundwaters of the state not regulated by part I of chapter 376.

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(5) "Fund" means the Florida Site Restoration Trust
Fund.

(6) "Pollutants" shall include oil of any kind and in
any form gasoline, pesticides, ammonia, chlorine, and
derivatives thereof, not including liquefied petroleum gas.

(7) "Pollution" means the presence on the land or in
waters of the state of pollutants, in quantities which are or
may be potentially harmful or injurious to human health or
welfare, animal or plant life, or property which may
unreasonably interfere with the enjoyment of life or property,
including outdoor recreation

(8) "Facility" means a location containing a
stationary storage tank or tanks which contain pollutants and
which have a storage capacity greater than 500 gallons and
which are not covered by part I

(9) "Owner" means any person owning a facility.

(10) "Operator" means any person operating a facility,
whether by lease, contract, or other form of agreement

(11) "Person in charge" means the person on the scene
who is in direct, responsible charge of a facility from which
pollutants are discharged, when the discharge occurs.

(12) "Person" means any individual, partner, joint
venture, corporation; any group of the foregoing, organized or
united for a business purpose, or any governmental entity

376.35 Pollution prohibited, pollution of waters and
lands of the state prohibited.--The discharge of refined
petroleum products upon any waters and lands of the state in
the manner defined by this part is prohibited.

376.40 Powers and duties of the department --The
department shall have the power and the duty to

CODING Words in double quotes type are deletions from existing law, words underlined are additions.
(1) Establish rules to implement the intent of this part and to regulate underground and above ground facilities and their onsite integral piping systems not covered by part I, including but not limited to construction standards, permitting of tanks, maintenance and installation standards, and removal or disposal standards.

(2) Provide for the development and implementation of criteria and plans to prevent and meet pollution occurrences of various degrees and kinds.

(3) Establish requirements that any registrant covered by this act be subject to a complete and thorough inspection at reasonable times. Any registrant causing or permitting the discharge of a pollutant in violation of provisions of this part shall be fully and carefully monitored by the department to insure that such discharges shall not continue to occur.

(4) Promulgate rules providing for registration certificates required under this part subject to such terms and conditions as are set forth in this part and as set forth in rules and regulations promulgated by the department as authorized herein.

(5) It shall be the duty of the department to keep an accurate record of costs and expenses incurred for the removal of prohibited discharges and thereafter diligently to pursue the recovery of any sums so incurred from the person responsible or from the Government of the United States under any applicable federal act.

(6) The department may bring an action on behalf of the state to enforce the liabilities imposed by this part. The provisions of ss. 403.121, 403.131, 403.141, and 403.161 shall apply to enforcement under this part.

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(7) The powers and duties of the department under this part shall extend to the land mass of the state not described in part I.

376.45 Operation without registration prohibited.--

(1) No person shall operate or cause to be operated a facility without a current valid registration certificate.

(2) Registration certificates shall be issued on an annual basis, subject to such terms and conditions as the department may determine are necessary to carry out the purposes of this part.

(3) As a condition precedent to the issuance or renewal of a registration certificate, the department shall require satisfactory evidence that the applicant has implemented, or is in the process of implementing, state regulations for prevention, control, and abatement of pollution from any pollutants as defined herein.

(4) The department shall require, in connection with the issuance of a facility registration certificate, the payment of a reasonable fee for processing applications for registration certificates. This fee shall be in addition to other taxes imposed by this part. The fee shall be reasonably related to the administrative costs of verifying data submitted pursuant to obtaining the certificates and reasonable inspections; however, the fee shall not exceed $75 per facility per year. Such fees shall be deposited in the Florida Site Restoration Trust Fund which may be used by the department for personnel and equipment to administer this part. In the event the department contracts with another party to perform any duties under this part such fees deposited in the trust fund may be used to cover such reasonable expenses incurred by that party.
(5) No later than October 1, 1984, the owner or operator of a facility, with a storage capacity of 5,000 gallons or greater of pollutants, shall obtain a registration certificate. Provided, however, all storage facilities, regardless of size, owned or operated by the state or any other political subdivision, shall be registered by July 1, 1984. All other facilities, not exempted by this part, shall obtain a registration certificate no later than October 1, 1985. The department shall issue a registration certificate upon the showing that the registrant can provide proof of compliance with the department's rules.

(6) Subsequent to the dates established in subsection (5) above, no person shall operate or cause to be operated any facility without a registration certificate issued by the department. No registration certificate shall be valid for more than 1 year unless revalidated by the department. Each applicant for a registration certificate shall pay the registration certificate application fee to the department, describing the barrel or other measurement capacity of the facility.

376.55 Removal of prohibited discharges.--

(1) Any person discharging pollutants as prohibited by this part shall immediately undertake to contain, remove, and abate the discharge to the department's satisfaction. Notwithstanding the above requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department.

(2) If the person causing a discharge, or the person in charge of facilities at which a discharge has taken place, fails to act, immediately the department may arrange for the
removal of the pollutant, except that if the pollutant was 
discharged into or upon the navigable waters of the United 
States, the department shall act in accordance with the 
national contingency plan for removal of such pollutant as 
established pursuant to the Federal Water Pollution Control 
Act, as amended, and the costs of removal incurred by the 
department shall be paid in accordance with the applicable 
provisions of said law. Federal funds provided under said act 
shall be used to the maximum extent possible prior to the 
expenditure of state funds

(3) No action taken by any person to contain or remove 
a discharge, whether such action is taken voluntarily or at 
the request of the department or its designee, shall be 
construed as an admission of liability for the discharge.

(4) No person who, voluntarily or at the request of 
the department or its designee, renders assistance in 
containing or removing pollutants shall be liable for any 
civil damages to third parties resulting solely from acts or 
omissions of such person in rendering such assistance, except 
for acts or omissions amounting to gross negligence or willful 
misconduct.

(5) Nothing in this part shall affect the right of any 
person to render assistance in containing or removing any 
pollutant or any rights which that person may have against any 
third party whose acts or omissions in any way have caused or 
contributed to the discharge of the pollutant.

(6) Any person who renders assistance in containing or 
removing any pollutant may be eligible for reimbursement of 
the cost of containment or removal, provided prior approval 
for such reimbursement is granted by the department. The
department may, upon petition and for good cause shown, waive the prior-approval prerequisite.

376.60 Florida Site Restoration Trust Fund.--

(1) The purpose of this section is to provide a mechanism to have financial resources immediately available for cleanup and rehabilitation after a pollutant has been discharged, to prevent further damage by the pollutant, and to pay for damages. It is the legislative intent that this section be liberally construed to effect the purposes set forth, such interpretation being especially imperative in light of the danger to the environment and resources.

(2) Further it is the purpose of this section to provide a mechanism through which the State of Florida could immediately respond to short-term emergencies involving a threat to or an actual contamination of the groundwater. It is the intent of the Legislature that the department provide not only technical assistance when responding to these short-term emergencies, but also financial resources to respond to emergencies which pose an immediate environmental or public health threat.

(3) The Trust Fund shall be utilized to enable the department to respond on an emergency basis to incidents which threaten the environment or public health when otherwise responsible parties do not adequately respond. The department shall adopt rules for the purposes of this section.

(4) Fund money shall be expended in a manner which is consistent with s. 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767, as it relates to cleanup of hazardous waste sites which resulted from contamination by pollutants, as defined herein and hazardous waste as defined by department rule.
(5) The Florida Site Restoration Trust Fund is established, to be used by the department as a nonlapsing revolving fund for carrying out the purposes of this part and part VI relating to hazardous waste management. To this fund shall be credited all excise taxes, penalties, judgments, and other fees and charges related to this part, and part VI relating to hazardous waste management. Charges against the fund shall be in accordance with this section.

(6)(a) There is hereby levied, to be collected from and paid by each registrant, excluding municipalities, counties, the state and its political subdivisions, an excise tax upon each registrant for the privilege of operating a facility handling pollutants, the amount of which is to be determined by the department as measured by the volume transferred to or from the registrant.

(b) The excise tax shall be 2 cents per barrel coming to rest in Florida until the balance in the fund equals or exceeds $10 million. The fiscal year immediately following the year in which the balance in the fund equals or exceeds $10 million, no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to $3 million. The fiscal year immediately following the year in which the balance in the fund is less than or equal to $3 million, the excise tax shall be and shall remain 2 cents per barrel coming to rest in Florida until the fund again equals or exceeds $10 million. The fiscal year immediately following the year in which the fund again is equal to or exceeds $10 million, the excise tax and fund shall be controlled as when the fund first was equal to or exceeded $10 million.

2. The fund is unable to pay any proven claims against the fund at the end of the fiscal year. Notwithstanding any

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other provision of this section, the fiscal year following the year in which the fund is unable to pay any proven claims against the fund at the end of the fiscal year, the excise tax shall be and shall remain 5 cents per barrel until all outstanding proven claims have been paid and the fund again equals or exceeds $1.5 million then the excise tax shall be 2 cents per barrel until the fund again equals or exceeds $10 million. The fiscal year immediately following the year in which the fund, after levy of the 5-cent excise tax, again is equal to or exceeds $10 million, the excise tax and fund shall be controlled in accordance with subparagraph 1., unless otherwise provided.

3. In the event that the excise tax is being levied simultaneously to replenish both the Coastal Protection Trust Fund and the Florida Site Restoration Trust Fund, both funds shall receive an equal distribution of the revenue generated from the excise tax.

4. The fund has had appropriated to it by the Legislature, but not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax shall continue in effect until all such funds are repaid to the General Revenue Fund.

(c) The excise tax provided for in this section shall be collected monthly by the Department of Revenue on the basis of records certified to the Department of Revenue and Department of Environmental Regulation and shall be credited to the fund. However, for the purposes of this section, the excise tax on each barrel of the pollutant shall be imposed only once, at the first transfer of the specific pollutant. Each tax barrel of the refined petroleum product shall only be considered once for the purpose of this excise tax. This
excise tax shall be in addition to all other taxes imposed upon or paid by the registrant. However, any facility with a storage capacity of 250 barrels or less shall report and pay the excise tax semiannually.

(d) Except for the 3-percent collection allowance, the same duties and privileges imposed by chapter 212 respecting the remission of tax; the making of returns; penalties and interest; the keeping of books, records, and accounts; and the compliance with the rules of the Department of Revenue in the administration of that chapter shall apply to and be binding on all registrants who are subject to this section, except for the provisions of s. 212.12(1).

(e) The Department of Revenue shall maintain records indicating the amount of taxes collected. These records shall be confidential, as provided in s. 213.072.

(f) The Department of Revenue shall promulgate rules, establish audit procedures for the audit of registrants under this section, assess for delinquencies, and prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(g) The Department of Revenue, according to the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

(7) Moneys in the fund also may be disbursed for administrative expenses of the department related to the enforcement of this part.

(8) Moneys in the fund not needed currently to meet the obligations of the department in the exercise of its responsibilities under this part shall be deposited with the Treasurer to the credit of the fund and may be invested in

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such manner as is provided for by statute. Interest received on such investment shall be credited to the fund.

(9) The department shall recover to the use of the fund from the person or persons causing the discharge or from the Federal Government, jointly and severally, all sums owed or expended therefrom, pursuant to s. 376.65(4), except that recoveries resulting from damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Requests for reimbursement to the fund for the above costs, if not paid within 30 days of demand, shall be turned over to the Department of Legal Affairs for collection.

376.65 Liabilities and defenses of facilities.--

(1) Because it is the intent of this part to provide the means for rapid and effective cleanup and to minimize damages, when a discharge of pollutants occurs from an inland terminal facility, recovery of costs of abatement and cleanup shall be limited to an amount not to exceed $8 million; from a local bulk plant facility, recovery costs of abatement and cleanup shall be limited to an amount not to exceed $2 million; from a retail facility, recovery costs of abatement and cleanup shall be limited to an amount not to exceed $1 million; and from an end-user recovery, cost of abatement and cleanup shall be limited to the following amounts: 1,500 gallons but less than 30,000 gallons shall be limited to $500,000 and 30,000 gallons or more shall be limited to $1 million. However, when a discharge of pollutants occurs from a facility with less than a 1,500 gallon capacity recovery of costs of abatement and cleanup shall be limited to $250,000.
When the department can show that such discharge was the result of willful or gross negligence or willful misconduct within the privity or knowledge of the owner or operator, such owner or operator shall be liable to the fund for the full amount of such sums expended. In addition to the foregoing costs of cleanup, facilities shall be liable to the fund for all damages in accordance with the terms of subsections (2), (3) and (4) and s. 376.60(6).

(2) Any person claiming to have suffered damages as a result of a discharge of pollutants prohibited by s. 376.35, may, within 180 days after the date of such discharge, apply to the department for reimbursement from the fund. The department shall give notice of the claim for damages to the person responsible for the discharge. It shall be the responsibility of the claimant to provide the department with the required documentation concerning the damages suffered as a direct result of the discharge. The department shall prescribe appropriate forms and details for such application, which application shall include a provision requiring the applicant to make a sworn verification of the damage claim to the best of his knowledge. The secretary of the department may, upon petition and for good cause shown, waive the 180-day limitation for filing damage claims.

(a) The secretary shall establish the amount of damage award and shall certify the amount of the award and the name of the claimant to the treasurer, who shall pay the award from the fund, subject to the provisions of subsection (5). If the claimant agrees with the established amount of damage, the settlement shall be binding upon both parties as to all issues and cannot be further attached, collaterally or by separate action, in the future. If the total amount of such awards

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exceeds the amount available to any claimant or claimants from
the fund, such claimant or claimants shall have the right to a
pro rata share of all funds available in the fund until the
total amount of awards is paid to the claimant or claimants.

(b) If either the claimant or the person determined by
the secretary to be responsible for the discharge disagrees
with the amount of the damage award, such person may request a
hearing pursuant to s. 120.57. If a hearing is requested, the
final order shall be issued by the secretary of the
department.

(c) Each person's damage claims arising from a single
occurrence shall be stated in one application. Damages
omitted from any claim at the time the award is made shall be
deemed waived.

(d) If a person damaged by a discharge of pollutant
chooses to make a claim against the fund and accepts payment
from, or a judgment against, the fund, then the department
shall be subrogated to any cause of action that the claimant
may have had, to the extent of such payment or judgment, and
shall diligently pursue recovery on that cause of action
pursuant to subsection (4) and s. 376.60(6). In any such
action, the amount of damages shall be proved by the
department by submitting to the court a written report of the
amount paid or owed from the fund to claimants. Such written
report shall be admissible in evidence, and the amounts paid
from or owed by the fund to the claimants stated therein shall
be irrebuttably presumed to be the amount of damages.

(e) The fund is absolutely liable for all proven
damages against the fund as provided for in this section.

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(f) The department shall be a necessary party to all administrative hearings and court proceedings under this section.

(2) It shall be the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sum expended from the fund for cleanup, abatement, and damages in accordance with the provisions of this part. In any suit to enforce claims of the fund under this part, it shall not be necessary for the department in administering the fund to plead or prove negligence in any form or manner. The department in administering the fund need only plead and prove that the prohibited discharge or other polluting condition occurred. The only defenses of a person alleged to be responsible for the discharge to an action for damages, costs, and expenses of cleanup, or abatement, shall be to plead and prove that the occurrence was solely the result of any of the following or any combination of the following:

(a) An act of war

(b) An act of government, either state, federal, or municipal.

(c) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(d) An act or omission of a third party, other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the defendant, except when the sole contractual arrangement arises from a published tariff and acceptance for carriage by a

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common carrier by rail, if the defendant establishes by a
preponderance of the evidence that:

1. The defendant exercised due care with respect to
the hazardous waste concerned, taking into consideration the
characteristics of such hazardous waste, in light of all
relevant facts and circumstances; and

2. The defendant took precautions against foreseeable
acts or omissions of any such third party and against the
consequences that could foreseeably result from such acts or
omissions.

(4) In the event the total awards against the fund
shall exceed the present balance of the fund, the claimants
shall be paid from the future income of the fund

(5) In the event the total awards for a specific
occurrence exceed the current balance of the fund, the
immediate award shall be paid on a prorated basis, and all
claimants paid on a prorated basis shall be paid a pro rata
share of all funds received by the fund until the total amount
of the proven damages is paid to the claimant or claimants.

However, amounts collected by the fund from the prosecution of
causes of action pursuant to paragraph (2)(d) and subsection
(4) shall be utilized to satisfy the claims as to which such
prosecutions relate to the extent theretofore unsatisfied.

376.70 Facilities, financial responsibility.--

(1) Each owner or operator of a facility shall be
required to establish and maintain evidence of financial
responsibility. Such evidence of financial responsibility
shall be the only evidence required by the department that
such registrant has the ability to meet the liabilities which
may be incurred under this part.
(2) Any claim brought pursuant to this part may be brought directly against the bond, the insurer, or any other person providing a facility with evidence of financial responsibility.

(3) Each owner or operator of a facility subject to the provisions of this part shall designate a person in the state as his legal agent for service of process under this part, and such designation shall be filed with the Department of State. In the absence of such designation, the Secretary of State shall be the designated agent for purposes of service of process under this part.

376.75 Enforcement and penalties --

(1) The penalty provisions of this section shall not apply to any discharge promptly reported and removed by a registrant in accordance with the rules, regulations and orders of the department.

(2) Penalties assessed herein for a discharge shall be in accordance with the provisions administered by the department in chapter 403.

376.80 County and municipal ordinances; powers limited. -- Nothing in this part shall be construed to deny any county or municipality authority to exercise police powers by ordinance or law under any general or special act, and laws and ordinances adopted in furtherance of the intent of this part to promote the general welfare, public health, and public safety shall be valid unless in direct conflict with the provisions of this part or any rule, regulation, or order of the department adopted under authority of this part. However, in order to avoid unnecessary duplication, no county, municipality, or other political subdivision of the state may...
adopt or establish a similar program of licensing and fees for
the accomplishment of the purposes of this part.

376.85 Individual cause of action for damages.--The
remedies in this part shall be deemed to be cumulative and not
exclusive. Nothing in this part shall require pursuit of any
claim against the fund as a condition precedent to any other
remedy. Notwithstanding any other provision of law, nothing
contained herein shall prohibit any person from bringing a
cause of action in a court of competent jurisdiction for all
damages resulting from a discharge or other condition of
pollution covered by this part. In any such suit, it shall
not be necessary for the person to plead or prove negligence
in any form or manner. Such person need only plead and prove
the fact of the prohibited discharge or other pollutive
condition and that it occurred. The only defenses to such
cause of action shall be those specified in s 376.65(3) In
addition to any other remedy, the injured party shall be
entitled to recover costs of the action and reasonable
attorneys' fees.

376.90 Construction.--This part, being necessary for
the general welfare and the public health and safety of the
state and its inhabitants, shall be liberally construed to
effect the purposes set forth under this part and Federal
Water Pollution Control Act, as amended

Section 44. Paragraph (b) of subsection (4) of section
376.11, Florida Statutes, is amended to read:

376.11 Florida Coastal Protection Trust Fund.--

(4)

(b) The excise tax shall be 2 cents per barrel
transferred until the balance in the fund equals or exceeds
$30 635 million. The fiscal year immediately following the
I. SUMMARY:

A. Present Situation:

PART I-POLLUTANT SPILL PREVENTION AND CONTROL

Present Florida law, does not provide for an effective mechanism to control, prevent, or pay for pollution problems which can arise from leaking storage facilities which contain refined petroleum products.

PART II-HAZARDOUS WASTE MANAGEMENT

The hazardous waste program was initiated in Florida in 1980. The permitting portion of the program is now underway. Under this program hazardous waste generators that generate greater than 1,000 kilograms per month, hazardous waste treaters, storers or disposers are permitted. The state currently has no mechanism for identifying small hazardous waste generators or addressing their waste disposal needs in an economically feasible manner.

The Hazardous Waste Management Trust Fund (Fund), s. 403.725, F.S., is designated for abating or reducing imminent hazards due to hazardous wastes, maintaining and monitoring waste disposal areas, preventing damage from hazardous waste, paying provable property damages, and paying for restoration of areas damaged by abandoned hazardous waste sites. In 1980, $600,000 was appropriated from general revenue to the Fund, of which only $100,000 was designated to be used statewide. The remainder could only be used in specified geographic locations. The Fund balance is approximately $500,000, but the Department of Environmental Regulation (DER) plans to obligate all but $100,000 of this amount by June 30, 1983. The only additional source of revenue for this Fund is the tax hazardous waste generators, excluding units of government, must pay on the cost of disposal, storage, or treatment of their wastes. The law allows a graduated tax rate which will increase to 4%, current rate is 2%. The tax does not cover current annual administrative costs estimated to be $58,000. This Fund is the only source for matching federal monies in order to clean up designated "Superfund" uncontrolled hazardous waste sites. The matching money needed in 1984 is $4.6 million. There are not sufficient monies in the Fund to provide this match. Additionally, the state needs to clean up uncontrolled sites which will not be cleaned up using federal money.

Section 403.723, F.S., addresses the siting of hazardous waste treatment, storage or disposal facilities. This process provides local governments with the opportunity to deny siting of a facility within their locale. If denied the facility application would be referred to the appropriate regional
planning council who could recommend a variance. If a variance is recommended the project is referred to the Governor and Cabinet. Since this process has been in effect, no hazardous waste facility has been sited in Florida. Currently there is one commercial hazardous waste facility in the state, a storage facility in Pompano Beach, but it was sited before 1980.

PART III—WATER RESOURCES DATA COLLECTION

DER is authorized to carry out numerous survey and research programs relating to water resources information. Additionally, such research is being done by a number of other governmental entities at local, regional and federal levels. There exists no central repository for such information.

PART IV—SEWAGE TREATMENT

There is a tremendous backlog of demand for municipal sewage treatment facilities construction. Over $750 million has been requested this year for the construction of publicly owned waste water control facilities. It is estimated that similar needs over the next 3 years will total approximately $1.3 billion. Although Florida municipalities have received $1.2 billion in federal construction grants for these facilities over the past decade, these federal grants are being severely curtailed. While the state received $130 million each year in 1980 and 1981, the current federal allocation is about $80 million. These federal grants now look like they will be greatly curtailed by 1985.

The "Florida Water Pollution Control and Sewage Treatment Plant Grant Act of 1970" (Section 403.1621 - 403.1833, F.S.) was enacted by the Legislature to provide state assistance with the local costs of sewage treatment. Under this Act, grants would be limited to 25 percent of that portion of project cost that is eligible for a federal grant. The program never has received a state appropriation.

Over the years, federal grants have been the primary funding source for sewage treatment projects for local governments. Accordingly, there were federal administrative requirements that had to be complied with and some of the flexibility originally conceived for the state act were not realized.

PART V—ONSITE SEWAGE DISPOSAL

Septic tanks are currently regulated by the Department of Health & Rehabilitative Services (HRS) under the authority of Chapter 381, F.S. This chapter is further implemented by Chapter 10D-6, Florida Administrative Code.

Under current law, subdivisions with 50 or fewer lots, with a minimum area of one-half acre per lot, and meeting certain dimension criteria, may be developed with a private well and a septic tank, provided other related requirements of Chapter 10D-6, F.A.C., are met. Additionally, subdivisions of 100 or fewer lots, with a minimum area of one-third acre per lot, and meeting certain dimensional criteria, may be developed with a public water system and a septic tank, provided other related requirements of Chapter 10D-6, F.A.C., are met.

Other subdivisions with public water systems may install septic tanks, provided there are no more than 4 lots per acre, and all distance, setback, soil condition, and water table elevation and other requirements are met.

The law allows the HRS to adopt variances in hardship cases which may be less restrictive than the provisions outlined
above. The law also states that certain rules and regulations of HRS shall be superseded by the criteria outlined above.

The law also states that residential lots platted prior to 1972 are not subject to the other provisions of s. 381.272, F.S. It states that those lots may be developed with a minimum of 75 feet between any private well and a septic tank or with a public water supply and a septic tank, provided Chapter 10D-6, F.A.C., non-distance related requirements are met and the appropriate health department is notified of the developers intentions.

HRS is required to evaluate experimental graywater systems and report to the Legislature by October 1, 1983. The law allows HRS to issue temporary permits for experimental individual sewage disposal systems.

PART VI-EMINENT DOMAIN FOR WATER SUPPLY

All Florida counties have eminent domain power to appropriate property, except state or federal property, for any county purpose. No county may condemn land outside its jurisdictional boundaries for parks, playgrounds, recreational centers or other recreational purposes.

All municipalities in the state may exercise eminent domain to appropriate property, except state or federal property, for the purposes provided in s. 166.411, F.S.

PART VII-PESTICIDES

The Pesticide Technical Council conducts public workshops on any proposed new pesticide rule or amendments to rules and submits its recommendations to the Commissioner of Agriculture for his review and action. This council also reviews certain pesticide registration actions taken by the Department of Agriculture and Consumer Services. The council is administrative in nature and has no scientific expertise.

The department has an extensive pesticide regulatory program, which includes registration of household, industrial, institutional and agricultural pesticides. The department performs chemical analyses on human food and animal feed to determine whether poisonous or deleterious chemical residues are in these feed stuffs. They also analyze product samples to determine whether or not they meet label specifications.

DER and HRS have responsibilities for the quality of ground and drinking water. However, these agencies do not have any direct authority over pesticides.

There has been great public concern recently over the appearance of a pesticide, aldicarb, in ground and drinking water wells. This has brought to light the obvious gap in responsibilities of state agencies to address pesticide residues in ground and drinking water supplies. In the aldicarb incident, a Temik Task Force was appointed by the Commissioner of Agriculture to study the contamination problem. The task force reported their findings to the Pesticide Technical Council and made recommendations to the Commissioner of Agriculture. The recommendations to the Commissioner resulted in two temporary suspensions of the use of aldicarb. The exercise has demonstrated the need for a permanent mechanism to perform these studies and make recommendations for action to protect the public and the environment from pesticide contamination.

PART VIII-ENVIRONMENTAL REORGANIZATION
The 1975 Environmental Reorganization Act encouraged DER to align its' district office boundaries with the water management districts (WMD's) to the maximum extent practicable. In addition DER and WMD's were also encouraged to collocate their offices to allow for better coordination concerning water related matters especially in the area of permitting. Finally DER was given the authority to delegate its' regulatory responsibilities to WMD's when DER determines the WMD has the financial and technical capacity.

B. Effect of Proposed Changes:

PART I-POLLUTANT SPILL PREVENTION AND CONTROL

1. Specifies that the Department of Natural Resources must adopt rules to delineate the coordination of responsibilities for responding to a pollutant spill and specify criteria and procedures for expenditures from the Coastal Protection Trust Fund.

2. Prohibits the discharge of refined petroleum products upon lands and waters of the state.

3. Gives DER the power to regulate refined petroleum storage facilities with a capacity of greater than 500 gallons. DER is directed to integrate the requirement of this bill with those presently required under other law.

4. Prohibits the operation of a storage facility without an annual certificate from DER. The fee must not exceed $75 and must be deposited into a trust fund. Facilities with a capacity of 5,000 gallons or greater and state or local governmental facilities must be certified by October 1, 1984. All other facilities must be certified by October 1, 1985.

5. Requires the person responsible for discharge of a refined petroleum product to remove and abate the discharge. In the event the person does not, DER may remove the discharge or contact to have it removed.

6. Creates a Florida Groundwater Refined Petroleum Protection Trust Fund which may be used to clean up discharges of refined petroleum products not covered by Part I of Chapter 376, F.S. The fund is capped at $10 million and is funded by an excise tax of 2 cents per barrel of refined petroleum products coming into the state which are not taxed under section 376.11, F.S. The tax will not be levied until balance in the fund reduces below $3 million. Interest and permit fees will be deposited into the Trust Fund and DER may use the fund for administrative purposes.

7. Provides limited liability to not exceed $8 million for facilities, $2 million for bulk plants and $1 million for retail outlets; $500,000 for end users with 1,500 gallon to 29,999 gallon capacity facilities; $1,000,000 for end users with 30,000 gallons and over facilities. Liability for discharge from facilities of less than 1,500 gallons would be limited to $250,000. Persons damaged by any discharge from a facility may apply to DER for reimbursement from the fund. DER is also charged to pursue recovery of any expenditures for cleanup, abatement or damages.

8. Requires the owner of a facility to provide DER with evidence it has the financial responsibility to meet the liabilities under the act.

9. Provides civil penalties of $25,000 per day.
10. Provides that local government may not adopt an ordinance more stringent or inconsistent with department rules relating to facilities covered by this act.

11. Amends s. 376.11, F.S., to reduce the cap in the Coastal Protection Trust Fund from $35 million to $30 million.

12. Directs that $5 million be transferred from the Florida Coastal Protection Trust Fund to the Florida Groundwater Refined Petroleum Protection Trust Fund.

PART II-HAZARDOUS WASTE MANAGEMENT

1. Increases the tax on hazardous waste generators to 5% from 2%.

2. Removes the exemption from the hazardous waste generators tax currently provided for units of government.

3. Authorizes the levy of a tax on the gross receipts of hazardous waste storage, treatment, or disposal facilities. The rate would be 3%. The primary host local government would collect and use the funds in the following manner:
   a) to cover the cost of tax collection;
   b) local inspection costs for inspecting the facility;
   c) additional security costs as a result of the facility, including fire and police protection;
   d) hazardous waste contingency planning implementation; and
   e) road construction or repair of public roads adjacent to and within 1,000 feet of the hazardous waste facility.

4. Provides a credit against corporate income tax liability for costs a commercial hazardous waste facility incurs for hydrologic, geologic or soil site evaluations, permit fees in siting a hazardous waste facility, and 5% of the cost of stationary recycling facilities.

5. Establishes the Port Spoil Site Acquisition Trust Fund and distributes 50% of the interest earnings on the Florida Coastal Protection Trust Fund, to a maximum of $8 million, to this new Fund. It also establishes the Hazardous Waste Site Restoration Fund, which would receive 50% of the interest earnings of the Florida Coastal Protection Trust Fund effective July 1, 1983, minus previous commitments for that interest money.

6. Provides counties and municipalities with the authority to plan for resource recovery management, including hazardous wastes.

7. Redefines closure to include preparing a facility so it will pose no significant threat to human health or the environment.

8. Authorizes DER to: receive and administer appropriated funds for county hazardous waste management plans; facilitate consistency between county plans, coordinate the development of the plans; submit recommendations to the Legislature relative to state needs after the plans have been reviewed; promote public awareness of proper hazardous waste management methods through local and regional
meetings; assist hazardous waste storage, treatment or disposal industry by providing them data developed by the counties on types and quantities of hazardous waste generated, and institute a hazardous waste emergency response program in coordination with appropriate agencies.

9. Insures the free flow of solid waste across local government boundaries. It allows local governments who undertake resource recovery of solid waste pursuant to general law or special act to institute flow control ordinances only for the purpose of insuring that their facility receives an adequate quantity of solid waste from solid waste generated in their jurisdiction.

10. Establishes a new time frame for hazardous waste facility permits and specifies the permit review and final action procedure.

11. Authorizes and provides direction for the development of county hazardous waste management plans. Assistance is provided by DER, regional planning councils, and water management districts.

12. Provides that a person may petition the Governor and Cabinet for a variance from local ordinances, regulations or plans. The Governor and Cabinet may grant a variance only if:
   a) a hazardous waste facility permit has been issued by DER;
   b) a facility will not have significant adverse impact on environment, ground or surface water resources; and
   c) a facility will not have significant adverse impact on economy of the region.

13. States that a responsible generator is relieved from liability for hazardous waste sent to a licensed treatment, reuse, disposal, or processing facility, if he has received a certificate of disposal from that facility.

14. Redefines the purpose of the Hazardous Waste Management Trust Fund. It's new purposes include:
   a) monitoring and inspecting hazardous waste storage, treatment, or disposal facilities;
   b) responding to hazardous waste emergencies;
   c) implementing hazardous waste contingency plans; and
   d) funding the "Amnesty Days" project, the purpose of which will be to collect and dispose of small quantities of hazardous waste. A $400,000 appropriation is provided from the Hazardous Waste Site Restoration Fund to the Hazardous Waste Management Trust Fund for this purpose.

15. Creates the Hazardous Waste Site Restoration Fund, which has the same purposes as the former Hazardous Waste Management Trust Fund.

DER is directed to diligently pursue any available federal funds before expending funds from the Hazardous Waste Site Restoration Fund.
16. Clarifies to whom defenses are available with respect to violations of hazardous waste laws. It provides that defenses shall be available to persons alleged to be in violation of the law if the violation was the sole result of an act of government unless the person claiming the defense is the government and then the defense is only available if the act was caused by another governmental body.

17. Provides for a FY 1983-84 general-revenue appropriation of $300,000 to DER for distribution to the regions and in some cases the counties, for performing county needs assessments and storage facility area selections, the components of county hazardous waste management plans required by this bill.


19. Transfers $400,000 to the Hazardous Waste Management Trust Fund from the Hazardous Waste Site Restoration Fund for the "Amnesty Days" project.

PART III—WATER RESOURCES DATA COLLECTION

Directs DER to act as a library of information on water resource research in the state. DER is directed to publish annually a compilation of research documents available and to develop a statewide ground water investigation plan.

PART IV—SEWAGE TREATMENT

1. Renames Sections 403.1821-403.1832 as the Florida Water Pollution Control and Sewage Treatment Grant Act.

2. Defines an "eligible project" as a sewage treatment or disposal facility, or other cost-effective alternative, and may include the construction or reconstruction of existing sewage collection and transmission lines.

3. Authorizes DER to expend up to 2 percent of the State Water Pollution Control Trust Fund to cover the costs of reviewing and acting upon grant applications by a local governmental agency and the cost of other associated field services.

4. Establishes criteria for distributing grants from the State Water Pollution Control Trust Fund as follows:
   a) Grants could be used only for projects constructed after July 1, 1983.
   b) Local government units would be required to contribute 45 percent of eligible project costs.
   c) Projects already planned and designed in accordance with U.S. Environmental Protection Agency requirements would be eligible for funding.
   d) Eligible projects would be funded according to priorities established by DER rule.
   e) The Environmental Regulation Commission would establish the priorities and have final approval over the state grants. In establishing priorities for state grants under this act, an application shall not receive a lower priority solely because the proposed...
project includes reserve capacity for which the incremental costs will be paid by the applicant in accordance with s. 403.1826(2).

f) Because of limited state financial resources for this grant program, no grant shall be made for the incremental costs of a project involving sewage treatment beyond secondary treatment levels.

5. Allows DER to enter into agreements or contracts with the federal government on design, construction, operation, maintenance, and enforcement for projects.

6. Establishes the Small Community Sewer Construction Assistance Trust Fund within DER. These funds are to be used by DER to assist small communities with a population of 10,000 or less with their need for adequate sewer facilities.

Provides that $20 million be transferred from the Water Pollution Control Trust Fund to the Small Communities Sewer Construction Assistance Trust Fund each October 1.

PART V-ONSITE-SEWAGE DISPOSAL

1. Allows half-acre lots to be developed with septic tanks and private potable wells in subdivisions, provided the projected daily sewage flow did not exceed 1,500 gallons per acre, satisfactory drinking water could be obtained and appropriate laws and rules were followed.

2. Allows one-quarter acre lots to be developed with septic tanks in subdivisions where public water was available, provided the projected daily domestic sewage flow did not exceed 2,500 gallons per acre, and appropriate laws and rules were followed.

3. Authorizes a developer to use private potable wells and onsite sewage disposal systems to install a central water system when a certain density is reached. In these situations the average domestic sewage flow may not exceed 2,500 gallons per acre.

4. Provides that the first two paragraphs under this part would not apply to areas where a public sewage system is available contiguous to the proposed subdivision or within one-fourth mile thereof with public right-of-way.

5. Requires that onsite sewage disposal systems may be placed no closer than 75 feet from a private potable well, 200 feet from a public potable well and 50 feet from surface waters.

6. Provides that lots platted prior to 1972 shall not be subject to lot size requirements if the daily sewage flow did not exceed 2,500 gallons when on public wells and does not exceed 1,500 gallons when on private wells, but shall be subject to soil condition, water table elevation, distance, and other setback requirements.

7. Redefines swales in the law.

8. Authorizes HRS to adopt variances which are less restrictive than provisions in the law if the applicant can show that the hardship was not caused intentionally, that no reasonable alternative exists for sewage treatment and that the discharge from the individual sewage disposal system will not adversely affect human health or degrade
the ground or surface waters. Where soil conditions, water
table elevation and setback provisions are determined to be
satisfactory, special consideration must be given to lots
platted prior to 1972.

9. Prohibits the sale, use, or advertisement of organic
chemicals for the purpose of treating onsite sewage
disposal systems. Prohibits issuance of a permit for
onsite sewage disposal system in areas zoned for industrial
or manufacturing or equivalent use, where possible use is
to dispose of toxic or hazardous chemicals. Allows
existing businesses using such systems for such purpose
three years to convert to an alternative disposal system.

10. Grants the Pesticide Review Council the power and duty to
evaluate the feasibility of using biological controls to
replace the use of restricted-use pesticides.

11. Appropriates $1,216,200 for FY 1983-1984 and $1,330,225 for
FY 1984-1985 to the Department of Agriculture & Consumer
Services from the Professional Regulation Trust Fund to
finance the Accelerated Soil Survey Program.

Authorizes HRS to borrow money from the Professional
Regulation Trust Fund to finance septic tank research.
These funds would be paid back to the Professional
Regulation Trust Fund by HRS from septic tank permit fees.

12. Adds a $3 fee to onsite sewage disposal permits for the
purpose of funding septic tank research. A $7 fee would be
added to onsite sewage disposal permits for the purpose of
funding the accelerated soil survey program.

13. Provides that the act is subject to review pursuant to s.
11.61, F.S. (Sunset).

PART VI-EMINENT DOMAIN FOR WATER SUPPLY

1. Authorizes counties and municipalities to exercise eminent
domain for any public purpose except over state or federal
property. If the exercise of eminent domain outside its
territorial boundaries was for water supply purposes, the
local government would be required to apply for a
consumptive use permit from the district having authority
over the land to be condemned.

PART VII-PESTICIDES

1. Creates the "Pesticide Review Council," within the
Department of Agriculture and Consumer Services to consist
of 9 members. This new council would be in addition to the
existing Pesticide Technical Council. The members are a
State Chemist, the IFAS Dean of Research, and the
following:

a) Recommended by Commissioner of Agriculture and
   appointed by the Governor: Hydrologist, Toxicologist,
   Pesticide Industry Scientific Representative.

b) Scientific Representative appointed by the agency:
   DER - 1 member, DNR - 1 member, HRS - 1 member, Game &
   Fish Commission - 1 member.

The meetings of this council would be as needed and their
powers and duties would include:

a) Review U.S.E.P.A. data on newly registered restricted-use pesticides.
the ground or surface waters. Where soil conditions, water table elevation and setback provisions are determined to be satisfactory, special consideration must be given to lots platted prior to 1972.

9. Prohibits the sale, use, or advertisement of organic chemicals for the purpose of treating onsite sewage disposal systems. Prohibits issuance of a permit for onsite sewage disposal system in areas zoned for industrial or manufacturing or equivalent use, where possible use is to dispose of toxic or hazardous chemicals. Allows existing businesses using such systems for such purpose three years to convert to an alternative disposal system.

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   b) Scientific Representative appointed by the agency:

      DER - 1 member, DNR - 1 member, HRS - 1 member, Game & Fish Commission - 1 member.

The meetings of this council would be as needed and their powers and duties would include.

   a) Review U.S.E.P.A. data on newly registered restricted-use pesticides.
b) Initiate scientific studies on restricted-use pesticides which pose adverse hydrogeologic or human health effects, using available state agency and state university services.

c) Apprise U.S.E.P.A. of specific soil, hydrogeological, and general environmental conditions in Florida counties of intense restricted-use pesticide application.

d) Formally request U.S.E.P.A. to require registrants of new restricted-use pesticides to provide test data generated in Florida or under Florida conditions.

e) Request information from U.S.E.P.A. relative to their findings on restricted-use pesticides registered in the state.

f) Make recommendations for required actions on the sale or use of restricted-use pesticides, subject to a majority vote, directly to the Commissioner of Agriculture.

g) Provide information as requested to appropriate government agencies, relative to council findings.

Recommendations of the Pesticide Review Council will be considered as a petition for rulemaking and subject to the provisions of Chapter 120, F.S.

Provisions are made for members of the Pesticide Review Council to be reimbursed for travel and per diem.

The council is scheduled for Sundown repeal and review in 1988.

2. Agricultural policy statement is provided.

3. Creates the Bureau of Product Data Evaluation within the Department of Agriculture and Consumer Service's Division of Inspection. This bureau will review and evaluate technical data associated with articles or products over which the department has authority. The bureau is authorized to establish a position for a toxicologist, a hydrologist, a biologist, and clerical positions.

PART VIII-ENVIRONMENTAL REORGANIZATION

1. Provides legislative intent.

2. Amends s. 403.803, F.S., definition section to provide definitions for "headquarters" and "branch office."

3. Amends s. 403.805, F.S., to allow the Secretary of DER to delegate the authority of DER to branch office managers and to WMD's.

4. Amends s. 403.807, F.S., to list the specific duties of the Division of Environmental Programs and to prohibit that Division from processing permits.

5. Amends s. 403.808, F.S., listing the functions to be performed by the Division of Environmental Permitting to include certain permitting which shall be performed by the headquarters office only.
6. Amends s. 403.809, F.S., to require that DER and the WMD's collocate part of their respective permitting operations with each others office.

7. Amends s. 403.812, F.S., requiring DER to delegate by October 1, 1984, to those WMD's that it finds to be financially and technically capable the administration of DER's "Regulation of Stormwater Rule." No later than October 1, 1984, such power and duties must be delegated to SFWM and SWFWMD. Provides conforming changes in other sections of law.

8. Amends s. 373.026, F.S., to strike language relating to the procedures DER follows in the review, modification or rescission of a rule of WMD's.

9. Amends s. 373.114, F.S., to clarify the procedures for the Land and Water Adjudicatory Commission to review rules or orders of WMD's. Such review has time constraints, limitations on who may initiate proceedings, and specifies actions the Land and Water Adjudicatory Commission may take if a rule or order is not consistent with Chapter 373, F.S. Also, this section authorizes DER to review rules of the WMD's to ensure consistency with the state water policy in Chapter 17-40, F.A.C.

10. Amends s. 373.323, F.S., concerning licenses of water well contractors. Requires that every person wishing to conduct business as a contractor must have a license from a WMD. Also gives the WMD's the authority to suspend or revoke a license if a holder of a permit violates s. 373.323, F.S.

11. Amends s. 373.333, F.S., identifying the kind of information a violation notice should contain and authorizing a WMD to issue the notice.

12. Amends s. 373.413, F.S., relating to enforcement of Part III of Chapter 373, F.S., on regulation of wells. Gives the WMD's the authority to assume DER's enforcement responsibility. Also allows notice of violation of those parts of the act relating to water wells by U.S. mail.

13. Provides for effective date.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Part I of this bill allows DER to charge a permit fee of up to $75 per year for a refined petroleum facility. It has been estimated that there are approximately 12,000-13,000 service stations in Florida; however, there are no estimates on other types of storage facilities in the state. Some estimates have said there may be as many 30,000-40,000 such facilities. In addition, this bill provides for an excise tax of 2 cents per barrel on refined petroleum products coming into the state, not taxed under Part I, which will be placed in the Trust Fund. At present there are very few refined petroleum products which would be taxed by this part because most are subject to the tax levied pursuant to s. 376.11, F.S.

Part II of this bill impacts the public as follows:

1. Hazardous waste facility owners will be fiscally impacted by the 3% tax local governments are authorized to charge them, based on their gross receipts. However, facility owners will receive compensation in the form of a deduction from the State Corporate Income Tax for technical site
studies and permits required in siting a facility. Hazardous waste recyclers can deduct 5% of the cost of their stationary facility equipment from their State Corporate Income Tax liability.

2. Hazardous waste generators will not be taxed for curing old hazardous waste site problems. Their taxes will be used for current anticipated problems and preventive measures. The general public will be the beneficiary of extensive planning in the way of county hazardous waste management plans, to insure proper management of hazardous wastes.

Part III does not economically impact the public.

Part IV has the following public impacts:

The public will benefit by local governments having a more flexible funding source and alternative funding schemes with variable requirements, thereby potentially providing services for more people.

The construction and real estate industry would benefit by having less interruptions from sewer connection moratoria or excessively high impact fees. There should be greater compliance with the State's Water Quality Standards.

Part V will require permit fees to be increased by $10 to fund research required by the bill.

Part VI could impact those landowners whose property was subject to eminent domain powers.

Part VII should have no economic impact on the public.

Part VIII should have no economic impact on the public.

B. Government:

Part I of this bill requires that all fees be deposited in the new trust fund and that DER will use such trust fund for administrative purposes. Conservatively, it is estimated the fund will generate in excess of $1 million per year which would be a combination of fees and interest.

Part II of this bill impacts government as follows:

1. The estimated tax receipts for fiscal year 1983-84 from the tax on hazardous waste generators is $24,000. The increase in the rate from 2% to 5% should generate an additional $36,000 bringing total FY 1983-84 receipts to $60,000. This estimate does not include any additional receipts that may materialize due to removing the exemption for units of government which are hazardous waste generators. The Department of Revenue deducts administrative expenses before distributing the receipts to the DER.

2. As of February 1983 the balance in the Coastal Protection Trust Fund was $48.3 million. Of this balance $7.6 million is currently committed to the acquisition of spoil disposal sites leaving $40.7 million available for coastal protection.

The available balance in the Coastal Protection Trust Fund will be reduced from $40.7 million to $30.9 million as a result of the $4.8 million appropriation from the fund by this bill to the Hazardous Waste Site Restoration Fund and the $5.0 million appropriation from the fund into the Florida Groundwater Refined Petroleum Trust Fund. This
will cause a reduction in the amount of interest earned on the Coastal Protection Trust Fund.

Currently fifty percent of the interest earned on the Coastal Protection Trust Fund is used for the acquisition of spoil disposal sites. The remaining fifty percent, after deducting administrative expenses, accrues to the Coastal Protection Trust Fund. This bill diverts this amount accruing to the Coastal Protection Trust Fund into a newly created Hazardous Waste Site Restoration Fund, at an estimated amount of $1.5 million annually.

3. A general revenue appropriation of $300,000 for FY 1983-84 is granted to DER.

4. The state's General Revenue Fund will be negatively impacted by the Corporate Income Tax credit allowed by the bill. No estimates are currently available on the magnitude of this credit.

5. There is only one known hazardous waste storage facility in the state. No data is available on its gross receipts to determine local impact.

6. $400,000 will be transferred from the Hazardous Waste Site Restoration Fund to the Hazardous Waste Management Trust Fund for the purpose of funding the "Amnesty Days" project.

Part III has the following impact:

The Department of Environmental Regulation estimates a need of $40,000 annually to carry out the purposes of this act. Agencies will be able to take advantage of existing research in evaluating future research needs. A coordinated research program should be less expensive than the current fragmented approach.

Part IV provides that $20 million will be transferred from the Water Pollution Control Trust Fund to the Small Communities Sewer Construction Assistance Trust Fund each October 1. There is no current balance in the Water Pollution Control Trust Fund from which to make this transfer.

Part V authorizes the Department of Agriculture & Consumer Services, and HRS to borrow money from the Department of Professional Regulation for research projects. The borrowed money will be paid back by the increased septic tank permit fees.

Part VI has an undeterminable impact on government.

Part VII requires a new bureau which shall cost $167,613 for the first 12 months. Ensuing years cost would be approximately $157,873. Additionally, there will be some travel and per diem expenses for Council members.

Part VIII shall have a nominal effect on governmental agencies.

III. COMMENTS:

This amendment would take effect on July 1, 1983, or upon becoming a law, whichever occurs later. Section 6 would take effect on July 1, 1983.

IV. AMENDMENTS:
19/1219

19/1220

11/1308

11/1218

58 52-B

58 41-B

HB = 9 NR

Sub: "water"

19/1224

11/20

12/19

12/20

12/21

18/1308

18/1208

13/1

157/1

50/1
BILL ACTION REPORT

C3-75 File with Secretary of Senate) (S) Hf BILL NO 981

COMMITTEE ON Natural Resources & Conservation

DATE 5/17/83

TIME 9:20 - 9:50

PLACE Room 4

OTHER COMMITTEE REFERENCES:
(In order shown)

APPROPRIATIONS

THE VOTE WAS:

DATE Reported 5/10/83

FINAL ACTION

[ ] Favorably with amendments

[ ] Favorably with Committee Substitute

[ ] Favorably with Committee Substitute

[ ] Unfavorably

[ ] Temporarily Passed

[ ] Reconsidered

[ ] Not Considered

THE VOTE WAS:

Aye Nay Aye Nay Aye Nay Aye Nay Aye Nay

Carluccio

Crawford

Henderson

Kirkpatrick

Langley

Mann

McPherson

Grizzle

Neal

TOTAL

Aye Nay Aye Nay Aye Nay Aye Nay Aye Nay

Please Complete: The key sponsor appeared ( )
A Senator appeared ( )
Sponsor's aide appeared ( )
Other appearance ( )
Amendment to amendment

On page 3, line 21, before the period

If amendment is text from another bill insert:

and insert:

but does not include liquefied petroleum gases

(Amendment No. Adopted Failed Date)

Scratch Sheet ONLY
BILL ANALYSIS HB 967

HOUSE COMMITTEE ON NATURAL RESOURCES

RE: Good Samaritan/Hazardous Materials

SPONSOR: Representatives Combee and Dunbar

Similar/Companion Bill: None

Other Committees of Reference: None

I. SUMMARY AND PURPOSE

A. Present Situation

Hazardous materials and hazardous waste discharges due to transportation or other associated accidents present a dilemma to qualified experts within both the chemical and petroleum industries. Rather than voluntarily participate in an emergency situation, qualified technicians, fearing personal civil liability, often refuse to assist in mitigation attempts.

B. EFFECT OF PROPOSED CHANGES

This bill would statutorily limit the liability of persons who voluntarily provide uncompensated assistance in mitigating discharges of hazardous materials or hazardous wastes.

The bill, however, would not:

(1) exclude a responsible party whose omission caused a discharge and who would otherwise presently be liable; or

(2) exclude those who receive compensation for services in rendering such assistance; i.e., ambulatory or medical professionals; or

(3) limit the liability of any person for damages from reckless or intentional misconduct.

II. FISCAL DATA

None
III. COMMENTS

The bill was introduced as an amendment and incorporated into PCB 10, Part VI, Hazardous Wastes, by the Committee on Natural Resources, April 12, 1983.

IV. AMENDMENTS

The language within the first engrossed version of CS/CS/HB 1129 was substituted for HB 967. A definition of "spill" is now included to refer to an emergency hazardous situation.

Prepared by: Alex Sokolik
Staff Director: Fred McCormack
Section 1. A new section 768.131, Florida Statutes, is created to read:

768.13 Hazardous spills, Good Samaritan, immunity from liability.—

(1) For the purpose of this section:

(a) "Spill" shall include the accidental spilling, leaking, pumping, pouring, emitting, or dumping of hazardous wastes or materials, which creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

(b) "Hazardous materials" shall include all materials and substances which are now designated or defined as hazardous by Florida or federal law or by the rules or regulations of Florida or any Federal Government agency.

(c) "Emergency hazardous situation" exists whenever there is an imminent and substantial threat to public health and safety.

(2) Notwithstanding any provision of the law to the contrary, no person who provides assistance or advice in immediately containing or treating or attempting to contain, treat, or prevent an actual or threatened spill shall be subject to civil liabilities or penalties of any type. Except for the immediate response to the spill or threatened spill all activities to prevent, contain, clean up, and dispose of or attempting to prevent, contain, clean up, and dispose of the hazardous materials shall be in accordance with applicable state and federal law.

(3) The immunities provided in subsection (2) shall not apply to any person:

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(c) "Emergency hazardous situation" exists whenever there is an imminent and substantial threat to public health and safety.

(2) Notwithstanding any provision of the law to the contrary, no person who provides assistance or advice in immediately containing or treating or attempting to contain, treat, or prevent an actual or threatened spill shall be subject to civil liabilities or penalties of any type. Except for the immediate response to the spill or threatened spill all activities to prevent, contain, clean up, and dispose of or attempting to prevent, contain, clean up, and dispose of the hazardous materials shall be in accordance with applicable state and federal law.

(3) The immunities provided in subsection (2) shall not apply to any person:

(a) whose act or emission causes in whole or in part such actual or threatened discharge and who would otherwise be liable therefor; or
(b) who receives compensation other than reimbursement for out-of-pocket expenses for services in rendering such assistance or advice; or

(c) who fails to act as an ordinary reasonably prudent person would have acted under the same or similar circumstances; or

(d) who fails to comply with the lawful instruction of an on-scene governmentally supervised operational emergency response team whose duty is to prevent, contain or clean up the spill.

Nothing in subsection (2) shall be construed to limit or otherwise affect the liability of

(a) any person for damages resulting from such person's gross negligence, or from such person's reckless, wanton, or intentional misconduct, or

(b) any person for the improper management of the hazardous waste or material after the emergency spill response activities are completed.

Nothing in this act shall be construed to limit or remove any present powers and responsibilities of the Department of Environmental Regulation with regard to hazardous waste management.
**BILL ACTION REPORT**

C3-75. File with Secretary of Senate)

**COMMITTEE ON** Natural Resources & Conservation

**DATE** April 13, 1983

**TIME** 2:00 - 5:00 p.m.

**PLACE** Room H

**OTHER COMMITTEE REFERENCES.**
(In order shown)

**THE VOTE WAS.**

**FINAL ACTION**

- Favorably with amendments
- Favorably with Committee Substitute
- Unfavorably
- Temporarily Passed
- Reconsidered
- Not Considered

**FACIAL VOTE**

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(Attach additional page if necessary)

Please Complete

- The key sponsor appeared (✓)
- A Senator appeared ( )
- Sponsor's aide appeared ( )
- Other appearance ( )
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(To be used for additional amendments and motions)
1. Corporate tax credit will be available to commercial hazardous waste and recycling facilities.

2. Lengthens hazardous waste storage treatment or disposal permit time frames from 90 to 135 days, and outlines the permitting process to satisfy EPA concerns, in order for Florida to receive this federal program.

3. Since hazardous wastes combine to form other toxic chemicals which may not be on EPA's list, this is an assurance that damage as a result of mixing of those substances will be eligible for state clean-up moneys.

4. This reinstates existing law.

5. Appropriates a one time sum of $4.8 million from the Florida Coastal Protection Trust Fund to the Hazardous Waste Site Restoration Fund.

6. Appropriates 50% of the interest if it is not otherwise committed for department administrative costs, from the Florida Coastal Protection Trust Fund to the Hazardous Waste Site Restoration Fund beginning July 1, 1983. This fund will accumulate the interest unless there is a major pollutant emergency for which the interest is needed. The Coastal Fund cap is left at the current $35 million.

7. Limits liability of hazardous waste generators who send waste to permitted treatment and reuse facilities, as well as disposal facilities.
Senator................................. moved the following amendment................................ which was adopted: which failed:

Amendment
on page......, line 2 and 7, et seq.
a
b
cbefore "hazardous"
d
e
If amendment is text from another bill insert:
Bill No. Draft No.

and insert:
1commercial
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(Amendment No. _____ Adopted _____ Failed _____ Date _____)
Amendment

on page. 10

and insert:

Bill No. Draft No.

and insert:

1. Section 10. Subsection (9) and 10. 2. Subsection (9) and 10. 2. Subsection (9) and 10. 2. Subsection (9) and 10. 2.

(9) The department shall process permit applications pursuant to s. 403.722, Florida Statutes, and:

- It shall not be a requirement for the issuance of such a permit that the facility complies with an adopted local government comprehensive plan,
- local land use ordinances, zoning ordinances or regulations, or other local ordinances.

(Amendment No. Adopted Failed Date)
Notwithstanding ss. 120.60(2) and 403.8157, the time specified by law for permit review shall be tolled by the request of the department for publication of notice of proposed agency action to issue a permit for a hazardous waste treatment, storage, or disposal facility and shall resume 45 days after receipt by the department of proof of publication. If, within 45 days after publication of the notice of the proposed agency action, the department receives written notice of opposition to the intention of the agency to issue such permit and receives a request for a hearing, the department shall provide for a hearing pursuant to s. 120.57, if requested by a substantially affected party, or an informal public meeting, if requested by any other person. Failure to request a hearing within 45 days after publication of the notice of the proposed agency action shall constitute a waiver of the right to a hearing under s. 120.57. The permit review time period shall continue to be tolled until the completion of such hearing or meeting; and shall resume pursuant to the time periods and tolling provisions of s. 120.60.
(b) Within 60 days after receipt of an application for a hazardous waste facility permit, the department shall examine the application, notify the applicant of any apparent errors or omissions and request any additional information the department is permitted by law to require. Failure to correct an error or omission or to supply additional information shall not be grounds for denial of the permit unless the department timely notified the applicant within the 60 day period, except that this paragraph shall not prevent the department from denying an application if it does not possess sufficient information to ensure that the facility is in compliance with applicable statutes and rules.

(c) The department shall approve or deny every hazardous waste facility permit within 135 days after receipt of the original application or after receipt of the requested additional information or correction of errors or omissions. However, failure of the department to approve or deny within the 135 day time period shall not result in the automatic approval or denial of the permit and shall not prevent the inclusion of specific permit conditions which are necessary to ensure compliance with applicable statutes and rules. If the department fails to approve or deny the permit within the 135 day period, the applicant may petition for a writ of mandamus to compel the department to take action.
Senator ............................................... the following
amendment ........... which was adopted: which failed:

Amendment
on page ................ line ........ strikes
after "sites"
a
b
c
d
e
If amendment is text from another bill insert:
Bill No. Draft No.
and insert:

1 ... or damaged by substances which are carcinogenic, mutagenic...
2 ... teratogenic or toxic to humans, plants, or animals.................
3 .................. ..........................................................
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(Amendment No. ______ Adopted ______ Failed _____ Date ________)
(Senator ________ Signed ________)

Senator.......................... amendment. ..................... which was adopted; which failed:

Amendment

On page........19........... line........... strike
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If amendment is text from another Bill insert:

Bill No. Draft No.

and insert:

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(Amendment No. Adopted Failed Date)

(Scratch Sheet ONLY)
Senator ........................................... moved the following amendment. .............. which was adopted: which failed:

Amendment
On page. 23 between lines 2 & 3, strike

If amendment is text from another bill insert:

Bill No. Draft No.

and insert:

Section 17. Effective July 1, 1983, the sum of $4.8 million shall be appropriated from the Florida Coastal Protection Trust Fund to the Hazardous Waste Site Restoration Fund for use in accordance with section 14 of this Act.

(Brumber subsequent section)
Amen. ... Jo,,.,,, SB ___ 
HB ___ 

SENATE AMENDMENT

DO NOT USE FELT TIP PEN

Typewrite if possible

Line numbers on amendment blank have no relation to line numbers on bills

Senator ____________________________ moved the following amendment __________ which was adopted, which failed:

Amendment on page _2_ , line _13_ .

If amendment is text from another bill insert:

Bill No. Draft No.

and insert:

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(Amen. No. __ ___ Adopted __ ___ Failed __ ___ Date __ ___ )
Amendment

On page...... 5 ......, line 9. . 27-30 ..... strike everything after the word investment on line 27.

a
b
and all of lines 28 - 30.
c
d
e

If amendment is text from another bill insert:

Bill No. Draft No.

3(a)(1) Effective July 1, 1983, and every year thereafter, 50 percent of the interest earned from investments of the Florida Coastal Protection Trust Fund, not otherwise committed for other purposes by this section, when the balance of the Florida Coastal Protection Fund is greater than $35 million shall be credited to the Hazardous Waste Site Restoration Fund and shall be used in accordance with Section 14 of this Act. In the event that the balance of the Florida Coastal Protection Trust Fund is reduced to $35 million or less, the interest normally accruing to the Hazardous Waste Site Restoration Fund shall be

(Amendment No. Adopted Failed Date)
discontinued until the balance of the Florida Coastal Protection Trust Fund exceeds $35 million.

The provisions of this subparagraph shall not apply if the Governor and Cabinet declare an emergency related to a major pollutant hazard authorized to be protected by this chapter.

(b)1. Effective July 1, 1980, and every year thereafter, 50 percent of the interest earned from investments of the Florida Coastal Protection Trust Fund when the balance of the fund is greater than $35 million shall be credited to the Port Spoil Site Acquisition Trust Fund and shall be used for the acquisition of spoil disposal sites and improvements to existing and future spoil sites for the ports of St. Petersburg Bayboro Harbor, Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Port St. Joe, Tampa, Panama City, Pensacola, and other navigable waters of the state. In the event that the balance of the the fund is reduced to $35 million or less, the interest normally accruing to the Port Site Acquisition Trust Fund priority acquisition and improvement program for spoil disposal sites shall be discontinued until the balance of the fund exceeds $35 million. The provisions of this subparagraph shall not apply if the Federal Government preempts the authority to levy, collect, and use an excise tax pursuant to this section or if the Governor and Cabinet declare an emergency related to a major pollutant hazard.
2. The Department of Natural Resources shall establish a priority acquisition and improvement program for spoil disposal sites, to be acquired using moneys from the Florida Port Spoil Site Acquisition Fund, based upon its recommendations and the recommendations made by the specific ports and the Department of Environmental Regulation. Such priority acquisition and improvement program shall take into consideration the existing need of each port for spoil disposal sites, the frequency and volume of maintenance dredging at each port, the movement of petroleum and other pollutant hazards at each port, the protection of recreational and environmental quality, and whether the proposed site meets the permit requirements of chapters 403 and 253. The Governor and Cabinet, as head of the Department of Natural Resources, shall approve the priority list of spoil sites as proposed by the Department of Natural Resources.
Senator
amendment

Amendment

on page 18, line 7

before "disposal"

If amendment is text from another bill insert:

Bill No. Draft No.

(Amendment No. Adopted Failed Date)

(Scratch Sheet ONLY)

SENATE AMENDMENT
SENATE AMENDMENT

Amenities

SENATE AMENDMENT

HB

DO NOT USE FELT TIP PEN

LINE NUMBERS ON AMENDMENT BLANK HAVE NO RELATION TO LINE NUMBERS ON BILLS

Senator ................................................. present the following

amendment ........................................... which was adopted: which failed:

Amendment:

On page 20, line 12,3, strike

a. After the effective date of the Act,

b. 

c. 

d. 

e. 

If amendment is text from another bill insert:

Bill No. Draft No.

and insert:

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(Amendment No. Adopted Failed Date)

(Scratch Sheet ONLY)
Amendment

Senator McPherson

The following amendment, which was adopted, which failed:

Amendment

[Text of amendment]

If amendment is text from another bill insert:

Bill No. Draft No.

[Text of amendment]

(Amendment No. _____ Adopted _____ Failed _____ Date _____)

(Scratch Sheet ONLY)

[Name]

[Date]
Senator Mr. Pherson moved the following amendment which was adopted: which failed:

Amendment

on page 12, line 29, strike

a. ... 

b. ... 

c. ... 

d. ... 

e. ...

If amendment is text from another bill insert:

Bill No. Draft No.

and insert:

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(Amendment No. Adopted____ Failed_____ Date______)

(Scratch Sheet ONLY)
COMMITTEE APPEARANCE RECORD
(Submit to Committee Chairman or Secretary)

(date)

---

SB 489

(Bill No.)

---

NAME: JOHN LACAPA

ADDRESS: TALLAHASSEE

REPRESENTING: FLA. Ports Council

obbyist (Registered with Senate) Yes X No

peaking: For Against Information X

ubject: COASTAL PROTECTION TRUST FUND

State employee-- Time: from______ .m. to______ .m.

State employees are required to file the first copy of this form with Committee Chairman unless appearance is requested by chairman as a witness or for informational purposes.)
Amendments form

SENATE AMENDMENT

DO NOT USE FELT TIP PEN

Typewrite if possible

Line numbers on amendment blank have no relation to line numbers on bills

Senator M. Pherson

moved the following amendment, which was adopted: which failed:

Amendment

On page 13 line 2 strike:

a

b

c

d

e

If amendment is text from another bill insert:

Bill No. Draft No.

and insert:

THE DEPARTMENT SHALL SUBMIT THE PLANS

OF WHICH, HEARS HAVE THE GREATEST INTEREST.

THE LEGISLATURE.

(Amendment No. Adopted Failed Date)
Local site planning

Local governments are required to select areas where storage facilities (transfer stations could be located). They must hold public hearings on the topic.

DER reviews these plans to see 1) if they meet state hazardous waste needs, or 2) if additional facilities (storage, treatment, disposal) are needed 3) which regions have the greatest need. These determinations are submitted to the Legislature.

State siting process for hazardous waste facility

Private industry makes application to DER to build a facility at a particular site. This may or may not be on a site a county has designated through their planning process above.

DER notifies all local governments within 3 miles of proposed location and publishes notice in newspaper.

Local governments have 90 days to determine if the proposed site is acceptable.

If locally acceptable and DER issues the permit, then the facility is sited.

Site is not locally acceptable.

Applicant can apply for a local variance.

Variance is granted by locals, and DER permit is issued, then the facility is sited.

Variance is denied by local government.

Applicant may appeal to Governor and Cabinet for local variance.

Governor and Cabinet may grant a variance if
1) a DER permit has been issued
2) will not have significant adverse impact on environment
3) will not have significant impact on economy.

The Governor and Cabinet shall consider the local record of proceeding.
**BILL ACTION REPORT**

C3-75: File with Secretary of Senate) (S)(H) BILL NO CS53489

**COMMITTEE ON FINANCE, TAXATION & CLAIMS**

**DATE 4/20/83**

**TIME 12:15 - 2:00**

**PLACE Room 1C**

**OTHER COMMITTEE REFERENCES**

(in order shown)  

**APPROVED**

**THE VOTE WAS**

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<th>#2 by Margolis Pg.5 L.4</th>
<th>#3 by Margolis Pg.5 L.167</th>
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*Please Complete. The key sponsor appeared (✓) A Senator appeared (✓) Sponsor's aide appeared (✓) Other appearance (✓)*

**COPY**

Reproduced by FLORIDA STATE ARCHIVES  
DEPARTMENT OF STATE  
Tallahassee, FL 32390  
Series 18  
Carton 13K-5  
9/20/83
The Vote Was

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I. SUMMARY:

A. Present Situation:

The hazardous waste program was initiated in Florida in 1980 by the Florida legislature. The permitting portion of the program is now underway according to U.S.E.P.A. guidelines. Under this program hazardous waste generators that generate greater than 1,000 kilograms per month, hazardous waste treaters, storers or disposers are permitted. The state currently has no mechanism for identifying small hazardous waste generators or addressing their waste disposal needs in an economically feasible manner.

The Hazardous Waste Management Trust Fund created in 1980 by s. 403.725, F.S., is designated for abating or reducing imminent hazards due to hazardous wastes, maintaining and monitoring waste disposal areas, preventing damage from hazardous waste, paying provable property damages, and paying for restoration of areas damaged by abandoned hazardous waste sites. In 1980, $600,000 was appropriated from general revenue to the Fund, but only $100,000 of it was designated to be used statewide. The remainder could only be used in specified geographic locations. The Fund balance is approximately $465,734. The current and only additional source of revenue for this Fund is the tax hazardous waste generators must pay on the cost of disposal, storage, or treatment of their wastes. The law allows a graduated tax rate increasing to 4%, however it is now at 2% and the tax being collected is not covering current administrative costs estimated to be $58,000. Administrative costs are deducted before the tax goes into the Fund. This Fund is the only source for matching federal monies in order to clean up designated "Superfund" uncontrolled hazardous waste sites. However, as the balance of the fund now stands it will not provide the 10% match required to obtain federal funds for clean up. The matching money the state will have to provide in 1984 is $4.6 million in order to take advantage of federal monies which will be available to clean up nine of the Superfund sites. Additionally, the state needs to clean up uncontrolled sites which will not be cleaned up using federal money.

Section 403.723, Florida Statutes, addresses the siting of hazardous waste treatment, storage or disposal facilities. This process provides local governments with the opportunity to deny siting of a facility within their locale, in which case the facility application would be referred to the appropriate regional planning council who could recommend a variance. However, if the regional planning council upholds the local denial, the appeal process ends. If the regional planning council recommends a variance from the local denial the project is referred to the Governor and Cabinet. Since this process has been in effect, no hazardous waste facility has been sited.
in Florida. Currently there is one commercial hazardous waste facility in the state, a storage facility in Pompano Beach, but it was sited before 1980.

B. Effect of Proposed Changes:

Section 1.

The current graduated tax which generators must pay based on the cost of disposing, storing or treating their hazardous waste would increase to 5% from 2% when the bill becomes effective.

This should generate monies above administrative costs for deposit to the Hazardous Waste Management Trust Fund.

Section 2.

Owners or operators of hazardous waste facilities would be required to file a statement with the primary host local government disclosing gross receipts for the year. These receipts would be subject to a 3% tax which the primary host local government would collect and could use in the following manner:

a) to cover the cost of tax collection
b) local inspection costs for inspecting the facility
c) additional security costs as a result of the facility, including fire and police protection
d) hazardous waste contingency planning implementation
e) road construction or repair of public roads adjacent to and within 1,000 feet of the hazardous waste facility

Section 3.

This section would allow commercial hazardous waste facility owners to deduct, from their state corporate income tax, costs for hydrologic, geologic or soil site evaluations and permit fees in siting a hazardous waste facility.

This section would also allow those persons engaged in commercial hazardous waste recycling operators to deduct 5% of the cost of stationary recycling facilities from their state corporate income tax.

If the allowed credits could not be used in any one year, the unused portion could be carried forward up to 5 years.

Section 4.

This section provides for two trust funds to be set up. The Port Spoil Site Acquisition Trust Fund would be established and 50% of the interest earnings on the Florida Coastal Protection Trust Fund would be deposited to this new Fund, however the cap on the new fund would be $8 million. The second trust fund, the Hazardous Waste Site Restoration Fund, would receive 50% of the interest earnings of the Florida Coastal Protection Trust Fund effective July 1, 1983, minus previous commitments for that interest money.

This section also provides that the Governor and Cabinet shall approve the priority list of spoil sites proposed by the Department of Natural Resources.
Section 5.
This section provides counties and municipalities with the authority to plan for resource recovery management, including hazardous wastes.

Section 6.
This section redefines closure to include preparing a facility so it will pose no significant threat to human health or the environment.

Section 7.
The section would authorize DER to: receive and administer appropriated funds for county hazardous waste management plans; facilitate consistency between county plans, coordinate the development of the plans; submit recommendations to the Legislature relative to state needs after the plans have been reviewed; promote public awareness of proper hazardous waste management methods through local and regional meetings; assist hazardous waste storage, treatment or disposal industry by providing them data developed by the counties on types and quantities of hazardous waste generated, and institute a hazardous waste emergency response program in coordination with appropriate agencies.

Section 8.
This section corrects an inaccurate reference.

Section 9.
This section states that the free flow of solid waste or hazardous waste across local government boundaries shall not be limited. It also prohibits local governments from preventing such free flow of these wastes.

Section 10.
This section establishes a new time frame for hazardous waste facility permits and specifies the permit review and final action procedure. It specifies the DER will have 60 days after receipt of an application to notify the applicant and request additional information. The department shall approve or deny a permit application within 135 days, however failure to act on behalf of the DER shall not result in automatic approval or denial and shall not preclude appropriate permit conditions from being imposed. However, an applicant may petition for a writ of mandamus to compel the department to take action.

Section 11.
This section authorizes the development of county hazardous waste management plans. It directs regional planning councils to prepare needs assessments for member counties. It allows counties who choose, or non-member counties, to coordinate their needs assessments with DER and still allows them to receive their proportionate share of money allotted to the region, as determined by DER.

The components of the needs assessments are identified as:
1) identification of hazardous waste generators
2) identification of quantities and types of hazardous waste generated
3) identification of generators' hazardous waste management practices

4) identification of types of facilities needed to serve hazardous waste generators

The section directs each county to choose areas within the county to locate a hazardous waste storage facility. Counties will be required to amend local comprehensive plans accordingly and preference should be given to appropriate public lands and industrial areas. Counties shall be prohibited from taking actions to prevent hazardous waste storage facility area siting once the county selection process begins.

The county needs assessment and hazardous waste storage facility area selections shall constitute the county hazardous waste management plan.

Regional planning councils shall, upon direction by DER, a) facilitate county needs assessments and area selection procedures
b) coordinate county needs assessments and area selections
c) provide technical expertise as required by counties
d) facilitate local and regional public information programs for citizens and generators of hazardous waste

The DER shall:
a) Assemble the county plans.
b) Determine: 1) if hazardous waste storage facility needs will be met by area storage site selections; 2) whether additional storage, treatment or disposal facilities are needed; and 3) which regions have the greatest need for facility services, and report its determinations to the Legislature.
c) Prepare a progress report each year in which county plans are being developed and submit it to the Legislature on January 1.

This section sets up a schedule for completion of county plans by regional planning council geographic areas as follows:

Tampa Bay, South Florida, Northeast Florida July 1, 1984
Treasure Coast, East Central, Central Florida July 1, 1985
West Florida, Apalachee, North Central, Withlacoochee, and Southwest July 1, 1986

The section provides that pending county plan completions shall not inhibit siting of storage, treatment or disposal facilities in any area of the state. Such facilities sited shall be incorporated in appropriate plans as they are completed.

The section specifies that counties which prepare county plans prior to their completion date which are in compliance with this Act shall receive their proportionate share of any general revenue monies as it becomes available for this purpose.

The section directs water management districts to provide water resource technical assistance in development of the plans.
The section directs the DER to administer general revenue appropriated for development of the plans.

The section prohibits local government laws, ordinances or rules from being more stringent than state hazardous waste regulations.

Section 12.

This section reiterates that counties must develop hazardous waste management plans.

A person requesting a variance from local government denial or absence of action regarding siting a facility may petition the Governor and Cabinet for a variance from local ordinances, regulations or plans. The Governor and Cabinet shall grant a variance only if

a) a hazardous waste facility permit has been issued by the Department

b) facility will not have significant adverse impact on environment, ground or surface water resources; and

c) facility will not have significant adverse impact on economy of the region.

The Governor and Cabinet shall also consider the record of the proceeding before the local government.

Section 13.

The section states that a responsible generator is relieved from liability for hazardous waste he has sent to a licensed treatment, reuse, disposal, or processing facility, if he has received a certificate of disposal from that facility.

Section 14.

This section redefines the purpose of the Hazardous Waste Management Trust Fund. It's new purposes shall include the following:

a) maintain and monitor hazardous waste storage, treatment, or disposal facilities;

b) inspect hazardous waste storage, treatment or disposal facilities

c) respond to hazardous waste emergencies; and

d) implement hazardous waste contingency plans.

This section states that fines collected from violations of this act which are deposited to this fund, shall not be fines from uncontrolled or abandoned sites.

This section deletes the provision that would allow monies expended from the fund to be recovered from persons responsible for fund expenditures, as it is not applicable to the new purpose. It also deletes provision for limited liability of the generator, which is transferred to s. 403.724, F.S.

Section 15.

This section creates the Hazardous Waste Site Restoration Fund, which has the same purposes as the former Hazardous Waste Management Trust Fund.
Deposits to the fund shall include appropriations; fines from uncontrolled and abandoned sites; reimbursements; grants or gifts; and interest from the Florida Coastal Protection Trust Fund.

Moneys expended from the fund which are recoverable, divisible and may be attributed to a particular person, shall be recovered from that person to the extent of his attributable damage. If expenditures are not divisible or attributable to particular persons, each person shall be jointly and severally liable.

Section 16.

This section clarifies to whom defenses are available with respect to violations of hazardous waste laws. It provides that defenses shall be available to persons alleged to be in violation of the law if the violation was the sole result of an act of government unless the person claiming the defense is the government and then the defense is only available if the act was caused by another governmental body.

Section 17.

This section repeals s. 403.729, F.S., which describes the State Hazardous Waste Policy Advisory Council which was dismantled on July 1, 1982.

Section 18.

This section provides for a general revenue appropriation of $300,000 to the Department of Environmental Regulation for distribution to the regions and in some cases the counties, for performing county needs assessments and storage facility area selections, the components of county hazardous waste management plans required by this bill. This appropriation will fund plans in the Tampa Bay, South Florida and Northeast Florida regions. Funds for the remaining regions will have to be appropriated in 1984 and 1985.

Section 19.

Appropriates $4.8 million on July 1, 1983, from the Florida Coastal Protection Trust Fund to the Hazardous Waste Site Restoration Fund.

Section 20.

Provides effective date.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Hazardous waste facility owners will be fiscally impacted by the 3% tax local government is authorized to charge them, based on their gross receipts. However, facility owners will receive compensation in the form of a deduction from state corporate income tax for technical site studies and permits required in siting a facility. Hazardous waste recyclers can deduct 5% of the cost of their stationary facility equipment from their state corporate income tax.

Hazardous waste generators will not be taxed for curing old hazardous waste site problems. Their taxes will be used for current anticipated problems and preventive measures. The general public shall be the beneficiary of extensive planning in the way of county hazardous waste management plans, to insure proper management of hazardous wastes.
B. Government:

1. The estimated tax receipts for fiscal year 1983-84 from the tax on hazardous waste generators is $24,000. The increase in the rate from 2% to 5% should generate an additional $36,000 bringing total FY 1983-84 receipts to $60,000. The Department of Revenue deducts administrative expenses before distributing the receipts to the Department of Environmental Regulation.

2. As of February 1983 the balance in the Coastal Protection Trust Fund was $48.3 million. Of this balance $7.6 million is committed to the acquisition of spoil disposal sites leaving $40.7 million available for coastal protection. Fifty percent of the interest earned on the Coastal Protection Trust Fund is used for acquisition of spoil disposal sites with the remainder being made available for the funds use. The bill diverts the interest normally remaining in the fund, approximately $1.7 million annually to the Port Spool Site Acquisition Trust Fund until the fund meets its $8 million cap.

3. A general revenue appropriation of $300,000 is granted to the Department of Environmental Regulation. This appropriation is for the current 1982-83 fiscal year.

4. The available balance in the Coastal Protection Trust Fund will be reduced from $40.7 million to $35.9 million as a result of the $4.8 million appropriation from the fund to the Hazardous Waste Site Restoration Fund. This will cause a reduction in the amount of interest earned on the Coastal Protection Trust Fund.

5. The state's general revenue fund will be negatively impacted by the Corporate Income Tax credit allowed by the bill. No estimates are currently available on the magnitude of this credit.

6. There is only one known hazardous waste storage facility in the state. No data is available on its gross receipts to determine local impact.

III. COMMENTS:

The purpose of this bill primarily is to

a) rework the siting process to facilitate siting of storage, treatment or disposal facilities

b) provide mechanisms for offsetting local and industry costs

c) involve local government in the initial stages of siting facilities

d) document the nature and volume of hazardous waste generated in the state

e) promote hazardous waste recycling and proper management

f) provide reasonable funding sources for hazardous waste management

Additionally the bill makes some technical improvements in the law.

This bill will take effect upon becoming a law.
IV. AMENDMENTS:

1 by Finance, Taxation and Claims: Clarifies language relating to departmental action on hazardous waste facility permit application.

2 by Finance, Taxation and Claims: Technical amendment

3 by Finance, Taxation and Claims: Technical amendment

4 by Finance, Taxation and Claims: Technical amendment

5 by Finance, Taxation and Claims: Removes provision which currently exempts municipalities, counties, and other units of government from the levy of the tax on the generation of hazardous waste. The fiscal impact of this amendment is indeterminate at this time.
Amendment

On page 3, lines 8 - 10, strike all of said lines

and insert:

paid by a generator of hazardous waste. However, no tax shall be imposed upon a generator that is a municipality, county or other unit of government.
The Committee on ..........FT&C...........recommended the following amendment which was moved by Senator.............and adopted:

Technical Amendment

On page ....5...., lines ..1 & 7...., strike "act"

and insert:

chapter
The Committee on........FT&C...........recommended the following amendment which was moved by Senator..............and adopted:

Technical Amendment

On page .....5...., line .....4....., strike department

and insert:

Department of Environmental Regulation

Amendment No. 2, taken up by committee: Adopted

Offered by Senator Margolis

(Amendment No. ___ Adopted ___ Failed ___ Date __/_/___)
The Committee on .......FT&C....... recommended the following amendment which was moved by Senator .......... and adopted:

   Amendment

   On page ....12...., line ....10...., strike take action

   and insert:

   act consistent with applicable regulatory requirements.

CODING Words in struck through type are deletions from existing law, words underlined are additions.

* Amendment No. 1, taken up by committee: Adopted *
* Offered by Senator McPherson

(Amendment No. ____  Adopted ____  Failed ____  Date __/__/____)
The Committee on FT&C recommended the following amendment which was moved by Senator and adopted:

Technical Amendment

On page 24, line 8,

after the word "appropriated"

insert:

from the general revenue fund