

By Senator Altman

16-01204-13

20131684__

1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 ss. 125.022 and 166.033, F.S.; providing requirements
4 for the review of development permit applications by
5 counties and municipalities; amending s. 253.0345,
6 F.S.; revising provisions for the duration of leases
7 and consents of use issued by the Board of Trustees of
8 the Internal Improvement Trust Fund for special
9 events; exempting such leases and consents of use from
10 certain fees; creating s. 253.0346, F.S.; defining the
11 term "first-come, first-served basis"; providing
12 requirements for the calculation of lease fees for
13 certain marinas; providing conditions for the discount
14 and waiver of lease fees and surcharges for certain
15 marinas, boatyards, and marine retailers; providing
16 applicability; amending s. 373.118, F.S.; revising
17 provisions for general permits to provide for the
18 expansion of certain marinas and limit the number of
19 mooring fields authorized under such permits; amending
20 s. 373.233, F.S.; clarifying conditions for competing
21 consumptive use of water applications; amending s.
22 373.308, F.S.; providing that issuance of well permits
23 is the sole responsibility of water management
24 districts; prohibiting government entities from
25 imposing requirements and fees and establishing
26 programs for installation and abandonment of
27 groundwater wells; amending s. 373.323, F.S.;
28 providing that licenses issued by water management
29 districts are the only water well construction

16-01204-13

20131684__

30 licenses required for construction, repair, or
31 abandonment of water wells; authorizing licensed water
32 well contractors to install equipment for all water
33 systems; amending s. 373.403, F.S.; defining the term
34 "mean annual flood line"; amending s. 373.406, F.S.;
35 exempting specified ponds, ditches, and wetlands from
36 surface water management and storage requirements;
37 exempting certain water control districts from
38 wetlands or water quality regulations; amending s.
39 373.709, F.S.; requiring water management districts to
40 coordinate and cooperate with the Department of
41 Agriculture and Consumer Services for regional water
42 supply planning; providing criteria and requirements
43 for determining agricultural water supply demand
44 projections; amending s. 376.313, F.S.; holding
45 harmless a person who discharges pollution pursuant to
46 ch. 403, F.S.; amending s. 403.021, F.S.; providing
47 requirements and conditions for water quality testing,
48 sampling, collection, and analysis by the department;
49 amending s. 403.0872, F.S.; extending the payment
50 deadline of permit fees for major sources of air
51 pollution and conforming the date for related notice
52 by the department; revising provisions for the
53 calculation of such annual fees; amending s. 403.813,
54 F.S.; revising conditions under which certain permits
55 are not required for seawall restoration projects;
56 amending s. 403.814, F.S.; requiring the Department of
57 Environmental Protection to establish general permits
58 for special events; providing permit requirements;

16-01204-13

20131684__

59 amending s. 570.076, F.S.; conforming a cross-
60 reference; amending s. 570.085, F.S.; requiring the
61 Department of Agriculture and Consumer Services to
62 establish an agricultural water supply planning
63 program; providing program requirements; providing an
64 effective date.

65

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

67

68 Section 1. Section 125.022, Florida Statutes, is amended to
69 read:

70 125.022 Development permits.-

71 (1) When reviewing an application for a development permit,
72 a county may not request additional information from the
73 applicant more than three times, unless the applicant waives the
74 limitation in writing. The first request must be reviewed and
75 approved in writing by the permit processor's supervisor or
76 department director or manager. The second request must be
77 approved by a department or division director or manager.
78 Subsequent requests must be approved in writing by the county
79 administrator. If the applicant believes the request for
80 additional information is not authorized by ordinance, rule,
81 statute, or other legal authority, the county, at the
82 applicant's request, shall proceed to process the application.

83 (2) When a county denies an application for a development
84 permit, the county shall give written notice to the applicant.
85 The notice must include a citation to the applicable portions of
86 an ordinance, rule, statute, or other legal authority for the
87 denial of the permit.

16-01204-13

20131684

88 (3) As used in this section, the term "development permit"
89 has the same meaning as in s. 163.3164.

90 (4) For any development permit application filed with the
91 county after July 1, 2012, a county may not require as a
92 condition of processing or issuing a development permit that an
93 applicant obtain a permit or approval from any state or federal
94 agency unless the agency has issued a final agency action that
95 denies the federal or state permit before the county action on
96 the local development permit.

97 (5) Issuance of a development permit by a county does not
98 in any way create any rights on the part of the applicant to
99 obtain a permit from a state or federal agency and does not
100 create any liability on the part of the county for issuance of
101 the permit if the applicant fails to obtain requisite approvals
102 or fulfill the obligations imposed by a state or federal agency
103 or undertakes actions that result in a violation of state or
104 federal law. A county may attach such a disclaimer to the
105 issuance of a development permit and may include a permit
106 condition that all other applicable state or federal permits be
107 obtained before commencement of the development.

108 (6) This section does not prohibit a county from providing
109 information to an applicant regarding what other state or
110 federal permits may apply.

111 Section 2. Section 166.033, Florida Statutes, is amended to
112 read:

113 166.033 Development permits.—

114 (1) When reviewing an application for a development permit,
115 a municipality may not request additional information from the
116 applicant more than three times, unless the applicant waives the

16-01204-13

20131684

117 limitation in writing. The first request must be reviewed and
118 approved in writing by the permit processor's supervisor or
119 department director or manager. The second request must be
120 approved by a department or division director or manager.
121 Subsequent requests must be approved in writing by the municipal
122 administrator or equivalent chief administrative officer. If the
123 applicant believes the request for additional information is not
124 authorized by ordinance, rule, statute, or other legal
125 authority, the municipality, at the applicant's request, shall
126 proceed to process the application.

127 (2) When a municipality denies an application for a
128 development permit, the municipality shall give written notice
129 to the applicant. The notice must include a citation to the
130 applicable portions of an ordinance, rule, statute, or other
131 legal authority for the denial of the permit.

132 (3) As used in this section, the term "development permit"
133 has the same meaning as in s. 163.3164.

134 (4) For any development permit application filed with the
135 municipality after July 1, 2012, a municipality may not require
136 as a condition of processing or issuing a development permit
137 that an applicant obtain a permit or approval from any state or
138 federal agency unless the agency has issued a final agency
139 action that denies the federal or state permit before the
140 municipal action on the local development permit.

141 (5) Issuance of a development permit by a municipality does
142 not in any way create any right on the part of an applicant to
143 obtain a permit from a state or federal agency and does not
144 create any liability on the part of the municipality for
145 issuance of the permit if the applicant fails to obtain

16-01204-13

20131684__

146 requisite approvals or fulfill the obligations imposed by a
147 state or federal agency or undertakes actions that result in a
148 violation of state or federal law. A municipality may attach
149 such a disclaimer to the issuance of development permits and may
150 include a permit condition that all other applicable state or
151 federal permits be obtained before commencement of the
152 development.

153 (6) This section does not prohibit a municipality from
154 providing information to an applicant regarding what other state
155 or federal permits may apply.

156 Section 3. Section 253.0345, Florida Statutes, is amended
157 to read:

158 253.0345 Special events; submerged land leases.-

159 (1) The trustees may ~~are authorized to~~ issue leases or
160 consents of use ~~or leases~~ to riparian landowners, special and
161 event promoters, and boat show owners to allow the installation
162 of temporary structures, including docks, moorings, pilings, and
163 access walkways, on sovereign submerged lands solely for the
164 purpose of facilitating boat shows and displays in, or adjacent
165 to, established marinas or government-owned ~~government-owned~~
166 upland property. Riparian owners of adjacent uplands who are not
167 seeking a lease or consent of use shall be notified by certified
168 mail of any request for such a lease or consent of use before
169 ~~prior to~~ approval by the trustees. The trustees shall balance
170 the interests of any objecting riparian owners with the economic
171 interests of the public and the state as a factor in determining
172 whether ~~if~~ a lease or consent of use should be executed over the
173 objection of adjacent riparian owners. This section does ~~shall~~
174 not apply to structures for viewing motorboat racing, high-speed

16-01204-13

20131684__

175 motorboat contests, or high-speed displays in waters where
176 manatees are known to frequent.

177 (2) A lease or consent of use for a ~~Any~~ special event under
178 ~~provided for in~~ subsection (1) shall include an exemption from
179 lease fees and shall be for a period not to exceed 30 days and a
180 duration not to exceed 10 consecutive years. The lease or
181 consent of use may also contain appropriate requirements for
182 removal of the temporary structures, including the posting of
183 sufficient surety to guarantee appropriate funds for removal of
184 the structures should the promoter or riparian owner fail to do
185 so within the time specified in the agreement.

186 (3) ~~Nothing in~~ This section does not ~~shall be construed to~~
187 allow any lease or consent of use that would result in harm to
188 the natural resources of the area as a result of the structures
189 or the activities of the special events agreed to.

190 Section 4. Section 253.0346, Florida Statutes, is created
191 to read:

192 253.0346 Lease of sovereignty submerged lands for marinas,
193 boatyards, and marine retailers.-

194 (1) For purposes of this section, the term "first-come,
195 first-served basis" means the facility operates on state-owned
196 submerged land for which:

197 (a) There is not a club membership, stock ownership, equity
198 interest, or other qualifying requirement.

199 (b) Rental terms do not exceed 12 months and do not include
200 automatic renewal rights or conditions.

201 (2) For marinas that are open to the public on a first-
202 come, first-served basis and for which at least 90 percent of
203 the slips are open to the public:

16-01204-13

20131684__

204 (a) The annual lease fee for a standard-term lease shall be
205 6 percent of the annual gross dockage income. In calculating
206 gross dockage income, the department may not include pass-
207 through charges.

208 (b) A discount of 30 percent on the annual lease fee shall
209 apply if dockage rate sheet publications and dockage advertising
210 clearly state that slips are open to the public on a first-come,
211 first-served basis.

212 (3) For a facility designated by the department as a Clean
213 Marina, Clean Boatyard, or Clean Marine Retailer under the Clean
214 Marina Program:

215 (a) A discount of 10 percent on the annual lease fee shall
216 apply if the facility:

- 217 1. Actively maintains designation under the program.
218 2. Complies with the terms of the lease.
219 3. Does not change use during the term of the lease.

220 (b) Extended-term lease surcharges shall be waived if the
221 facility:

- 222 1. Actively maintains designation under the program.
223 2. Complies with the terms of the lease.
224 3. Does not change use during the term of the lease.
225 4. Is available to the public on a first-come, first-served
226 basis.

227 (c) If the facility is in arrears on lease fees or fails to
228 comply with paragraph (b), the facility is not eligible for the
229 discount or waiver under this subsection until arrears have been
230 paid and compliance with the program has been met.

231 (4) This section applies to new leases or amendments to
232 leases effective after July 1, 2013.

16-01204-13

20131684

233 Section 5. Subsection (4) of section 373.118, Florida
234 Statutes, is amended to read:

235 373.118 General permits; delegation.—

236 (4) The department shall adopt by rule one or more general
237 permits for local governments to construct, operate, and
238 maintain public marina facilities, public mooring fields, public
239 boat ramps, including associated courtesy docks, and associated
240 parking facilities located in uplands. Such general permits
241 adopted by rule shall include provisions to ensure compliance
242 with part IV of this chapter, subsection (1), and the criteria
243 necessary to include the general permits in a state programmatic
244 general permit issued by the United States Army Corps of
245 Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-
246 500, as amended, 33 U.S.C. ss. 1251 et seq. A facility
247 authorized under such general permits is exempt from review as a
248 development of regional impact if the facility complies with the
249 comprehensive plan of the applicable local government. Such
250 facilities shall be consistent with the local government manatee
251 protection plan required pursuant to chapter 379 and shall
252 obtain Clean Marina Program status prior to opening for
253 operation and maintain that status for the life of the facility.
254 The expansion of any marina, whether private or government-
255 owned, for which the services of at least 90 percent of the
256 slips are open to the public on a first-come, first-served
257 basis, ~~Marinas and mooring fields~~ authorized under any such
258 general permit may ~~shall~~ not exceed an additional area of 50,000
259 square feet over wetlands and other surface waters. Mooring
260 fields authorized under such general permit may not exceed 100
261 vessels. All facilities permitted under this section shall be

16-01204-13

20131684__

262 constructed, maintained, and operated in perpetuity for the
263 exclusive use of the general public. The department shall
264 initiate the rulemaking process within 60 days after the
265 effective date of this act.

266 Section 6. Subsection (1) of section 373.233, Florida
267 Statutes, is amended to read:

268 373.233 Competing applications.—

269 (1) If two or more applications that ~~which~~ otherwise comply
270 with the provisions of this part are pending for a quantity of
271 water that is inadequate for both or all, or which for any other
272 reason are in conflict, and the governing board or department
273 has issued an affirmative proposed agency action for each
274 application, the governing board or the department has ~~shall~~
275 ~~have~~ the right to approve or modify the application which best
276 serves the public interest.

277 Section 7. Subsection (1) of section 373.308, Florida
278 Statutes, is amended to read:

279 373.308 Implementation of programs for regulating water
280 wells.—

281 (1) The department shall authorize the governing board of a
282 water management district to implement a program for the
283 issuance of permits for the location, construction, repair, and
284 abandonment of water wells. Upon authorization from the
285 department, issuance of well permits will be the sole
286 responsibility of the water management district, and other
287 government entities may not impose additional or duplicate
288 requirements or fees or establish a separate program for the
289 permitting of the location, abandonment, boring, or other
290 activities reasonably associated with the installation and

16-01204-13

20131684__

291 abandonment of a groundwater well.

292 Section 8. Subsections (1) and (10) of section 373.323,
293 Florida Statutes, are amended to read:

294 373.323 Licensure of water well contractors; application,
295 qualifications, and examinations; equipment identification.—

296 (1) Every person who wishes to engage in business as a
297 water well contractor shall obtain from the water management
298 district a license to conduct such business. Licensure under
299 this part by a water management district shall be the only water
300 well construction license required for the construction, repair,
301 or abandonment of water wells in the state or any political
302 subdivision thereof.

303 (10) Water well contractors licensed under this section may
304 install, repair, and modify pumps and tanks in accordance with
305 the Florida Building Code, Plumbing; Section 612—Wells pumps and
306 tanks used for private potable water systems. In addition,
307 licensed water well contractors may install pumps, tanks, and
308 water conditioning equipment for all water ~~well~~ systems.

309 Section 9. Subsection (23) is added to section 373.403,
310 Florida Statutes, to read:

311 373.403 Definitions.—When appearing in this part or in any
312 rule, regulation, or order adopted pursuant thereto, the
313 following terms mean:

314 (23) "Mean annual flood line" for purposes of delineating
315 the ordinary high water line for nontidal water bodies and other
316 surface waters shall have the same meaning as provided in s.
317 381.0065.

318 Section 10. Subsections (13) through (15) are added to
319 section 373.406, Florida Statutes, to read:

16-01204-13

20131684

320 373.406 Exemptions.—The following exemptions shall apply:

321 (13) Nothing in this part, or in any rule, regulation, or
322 order adopted pursuant to this part, applies to construction,
323 operation, or maintenance of any wholly owned, manmade ponds
324 constructed entirely in uplands or drainage ditches constructed
325 in uplands.

326 (14) Nothing in this part, or in any rule, regulation, or
327 order adopted pursuant to this part, may require a permit for
328 activities affecting wetlands created solely by the unreasonable
329 and negligent flooding or interference with the natural flow of
330 surface water caused by an adjoining landowner.

331 (15) Any water control district created and operating
332 pursuant to chapter 298 for which a valid environmental resource
333 permit or management and storage of surface waters permit has
334 been issued pursuant to this part is exempt from further
335 wetlands or water quality regulations imposed pursuant to
336 chapters 125, 163, and 166.

337 Section 11. Subsection (1) and paragraph (a) of subsection
338 (2) of section 373.709, Florida Statutes, are amended to read:

339 373.709 Regional water supply planning.—

340 (1) The governing board of each water management district
341 shall conduct water supply planning for any water supply
342 planning region within the district identified in the
343 appropriate district water supply plan under s. 373.036, where
344 it determines that existing sources of water are not adequate to
345 supply water for all existing and future reasonable-beneficial
346 uses and to sustain the water resources and related natural
347 systems for the planning period. The planning must be conducted
348 in an open public process, in coordination and cooperation with

16-01204-13

20131684__

349 local governments, regional water supply authorities,
350 government-owned and privately owned water and wastewater
351 utilities, multijurisdictional water supply entities, self-
352 suppliers, reuse utilities, the department, the Department of
353 Agriculture and Consumer Services, and other affected and
354 interested parties. The districts shall actively engage in
355 public education and outreach to all affected local entities and
356 their officials, as well as members of the public, in the
357 planning process and in seeking input. During preparation, but
358 prior to completion of the regional water supply plan, the
359 district must conduct at least one public workshop to discuss
360 the technical data and modeling tools anticipated to be used to
361 support the regional water supply plan. The district shall also
362 hold several public meetings to communicate the status, overall
363 conceptual intent, and impacts of the plan on existing and
364 future reasonable-beneficial uses and related natural systems.
365 During the planning process, a local government may choose to
366 prepare its own water supply assessment to determine if existing
367 water sources are adequate to meet existing and projected
368 reasonable-beneficial needs of the local government while
369 sustaining water resources and related natural systems. The
370 local government shall submit such assessment, including the
371 data and methodology used, to the district. The district shall
372 consider the local government's assessment during the formation
373 of the plan. A determination by the governing board that
374 initiation of a regional water supply plan for a specific
375 planning region is not needed pursuant to this section shall be
376 subject to s. 120.569. The governing board shall reevaluate such
377 a determination at least once every 5 years and shall initiate a

16-01204-13

20131684__

378 regional water supply plan, if needed, pursuant to this
379 subsection.

380 (2) Each regional water supply plan shall be based on at
381 least a 20-year planning period and shall include, but need not
382 be limited to:

383 (a) A water supply development component for each water
384 supply planning region identified by the district which
385 includes:

386 1. A quantification of the water supply needs for all
387 existing and future reasonable-beneficial uses within the
388 planning horizon. The level-of-certainty planning goal
389 associated with identifying the water supply needs of existing
390 and future reasonable-beneficial uses shall be based upon
391 meeting those needs for a 1-in-10-year drought event.

392 a. Population projections used for determining public water
393 supply needs must be based upon the best available data. In
394 determining the best available data, the district shall consider
395 the University of Florida's Bureau of Economic and Business
396 Research (BEBR) medium population projections and any population
397 projection data and analysis submitted by a local government
398 pursuant to the public workshop described in subsection (1) if
399 the data and analysis support the local government's
400 comprehensive plan. Any adjustment of or deviation from the BEBR
401 projections must be fully described, and the original BEBR data
402 must be presented along with the adjusted data.

403 b. Agricultural demand projections used for determining the
404 needs of agricultural self-suppliers must be based upon the best
405 available data. In determining the best available data for
406 agricultural self-supplied water needs, the district shall use

16-01204-13

20131684

407 the data indicative of future water supply demands provided by
408 the Department of Agriculture and Consumer Services pursuant to
409 s. 570.085.

410 2. A list of water supply development project options,
411 including traditional and alternative water supply project
412 options, from which local government, government-owned and
413 privately owned utilities, regional water supply authorities,
414 multijurisdictional water supply entities, self-suppliers, and
415 others may choose for water supply development. In addition to
416 projects listed by the district, such users may propose specific
417 projects for inclusion in the list of alternative water supply
418 projects. If such users propose a project to be listed as an
419 alternative water supply project, the district shall determine
420 whether it meets the goals of the plan, and, if so, it shall be
421 included in the list. The total capacity of the projects
422 included in the plan shall exceed the needs identified in
423 subparagraph 1. and shall take into account water conservation
424 and other demand management measures, as well as water resources
425 constraints, including adopted minimum flows and levels and
426 water reservations. Where the district determines it is
427 appropriate, the plan should specifically identify the need for
428 multijurisdictional approaches to project options that, based on
429 planning level analysis, are appropriate to supply the intended
430 uses and that, based on such analysis, appear to be permissible
431 and financially and technically feasible. The list of water
432 supply development options must contain provisions that
433 recognize that alternative water supply options for agricultural
434 self-suppliers are limited.

435 3. For each project option identified in subparagraph 2.,

16-01204-13

20131684__

436 the following shall be provided:

437 a. An estimate of the amount of water to become available
438 through the project.

439 b. The timeframe in which the project option should be
440 implemented and the estimated planning-level costs for capital
441 investment and operating and maintaining the project.

442 c. An analysis of funding needs and sources of possible
443 funding options. For alternative water supply projects the water
444 management districts shall provide funding assistance in
445 accordance with s. 373.707(8).

446 d. Identification of the entity that should implement each
447 project option and the current status of project implementation.

448 Section 12. Subsection (3) of section 376.313, Florida
449 Statutes, is amended to read:

450 376.313 Nonexclusiveness of remedies and individual cause
451 of action for damages under ss. 376.30-376.317.—

452 (3) Except as provided in s. 376.3078(3) and (11), nothing
453 contained in ss. 376.30-376.317 prohibits any person from
454 bringing a cause of action in a court of competent jurisdiction
455 for all damages resulting from a discharge or other condition of
456 pollution covered by ss. 376.30-376.317 not regulated or
457 authorized pursuant to chapter 403. Nothing in this chapter
458 shall prohibit or diminish a party's right to contribution from
459 other parties jointly or severally liable for a prohibited
460 discharge of pollutants or hazardous substances or other
461 pollution conditions. Except as otherwise provided in subsection
462 (4) or subsection (5), in any such suit, it is not necessary for
463 such person to plead or prove negligence in any form or manner.
464 Such person need only plead and prove the fact of the prohibited

16-01204-13

20131684__

465 discharge or other pollutive condition and that it has occurred.
466 The only defenses to such cause of action shall be those
467 specified in s. 376.308.

468 Section 13. Subsection (11) of section 403.021, Florida
469 Statutes, is amended to read:

470 403.021 Legislative declaration; public policy.—

471 (11) It is the intent of the Legislature that water quality
472 standards be reasonably established and applied to take into
473 account the variability occurring in nature. The department
474 shall recognize the statistical variability inherent in sampling
475 and testing procedures that are used to express water quality
476 standards. The department shall also recognize that some
477 deviations from water quality standards occur as the result of
478 natural background conditions. The department shall not consider
479 deviations from water quality standards to be violations when
480 the discharger can demonstrate that the deviations would occur
481 in the absence of any human-induced discharges or alterations to
482 the water body. Testing, sampling, collection, or analysis may
483 not be conducted or required unless such testing, sampling,
484 collection, or analysis has been subjected to and validated
485 through inter- and intra-laboratory testing, quality control,
486 peer review, and adopted by rule. The validation shall be
487 sufficient to ensure that variability inherent in such testing
488 sampling, collection, or analysis has been specified and reduced
489 to the minimum for comparable testing, sampling, collection, or
490 analysis.

491 Section 14. Subsection (11) of section 403.0872, Florida
492 Statutes, is amended to read:

493 403.0872 Operation permits for major sources of air

16-01204-13

20131684

494 pollution; annual operation license fee.—Provided that program
495 approval pursuant to 42 U.S.C. s. 7661a has been received from
496 the United States Environmental Protection Agency, beginning
497 January 2, 1995, each major source of air pollution, including
498 electrical power plants certified under s. 403.511, must obtain
499 from the department an operation permit for a major source of
500 air pollution under this section. This operation permit is the
501 only department operation permit for a major source of air
502 pollution required for such source; provided, at the applicant's
503 request, the department shall issue a separate acid rain permit
504 for a major source of air pollution that is an affected source
505 within the meaning of 42 U.S.C. s. 7651a(1). Operation permits
506 for major sources of air pollution, except general permits
507 issued pursuant to s. 403.814, must be issued in accordance with
508 the procedures contained in this section and in accordance with
509 chapter 120; however, to the extent that chapter 120 is
510 inconsistent with the provisions of this section, the procedures
511 contained in this section prevail.

512 (11) Each major source of air pollution permitted to
513 operate in this state must pay between January 15 and April
514 ~~March~~ 1 of each year, upon written notice from the department,
515 an annual operation license fee in an amount determined by
516 department rule. The annual operation license fee shall be
517 terminated immediately in the event the United States
518 Environmental Protection Agency imposes annual fees solely to
519 implement and administer the major source air-operation permit
520 program in Florida under 40 C.F.R. s. 70.10(d).

521 (a) The annual fee must be assessed based upon the source's
522 previous year's emissions and must be calculated by multiplying

16-01204-13

20131684__

523 the applicable annual operation license fee factor times the
524 tons of each regulated air pollutant actually emitted, as
525 calculated in accordance with the department's emissions
526 computation and reporting rules. The annual fee shall only apply
527 to those regulated pollutants, ~~(except carbon monoxide)~~ and
528 greenhouse gases, for which an allowable numeric emission
529 limiting standard is specified in ~~allowed to be emitted per hour~~
530 ~~by specific condition of the source's most recent construction~~
531 ~~or operation permit, times the annual hours of operation allowed~~
532 ~~by permit condition; provided, however, that:~~

533 1. The license fee factor is \$25 or another amount
534 determined by department rule which ensures that the revenue
535 provided by each year's operation license fees is sufficient to
536 cover all reasonable direct and indirect costs of the major
537 stationary source air-operation permit program established by
538 this section. The license fee factor may be increased beyond \$25
539 only if the secretary of the department affirmatively finds that
540 a shortage of revenue for support of the major stationary source
541 air-operation permit program will occur in the absence of a fee
542 factor adjustment. The annual license fee factor may never
543 exceed \$35.

544 2. ~~For any source that operates for fewer hours during the~~
545 ~~calendar year than allowed under its permit, the annual fee~~
546 ~~calculation must be based upon actual hours of operation rather~~
547 ~~than allowable hours if the owner or operator of the source~~
548 ~~documents the source's actual hours of operation for the~~
549 ~~calendar year. For any source that has an emissions limit that~~
550 ~~is dependent upon the type of fuel burned, the annual fee~~
551 ~~calculation must be based on the emissions limit applicable~~

16-01204-13

20131684__

552 ~~during actual hours of operation.~~

553 ~~3. For any source whose allowable emission limitation is~~
554 ~~specified by permit per units of material input or heat input or~~
555 ~~product output, the applicable input or production amount may be~~
556 ~~used to calculate the allowable emissions if the owner or~~
557 ~~operator of the source documents the actual input or production~~
558 ~~amount. If the input or production amount is not documented, the~~
559 ~~maximum allowable input or production amount specified in the~~
560 ~~permit must be used to calculate the allowable emissions.~~

561 ~~4. For any new source that does not receive its first~~
562 ~~operation permit until after the beginning of a calendar year,~~
563 ~~the annual fee for the year must be reduced pro rata to reflect~~
564 ~~the period during which the source was not allowed to operate.~~

565 ~~5. For any source that emits less of any regulated air~~
566 ~~pollutant than allowed by permit condition, the annual fee~~
567 ~~calculation for such pollutant must be based upon actual~~
568 ~~emissions rather than allowable emissions if the owner or~~
569 ~~operator documents the source's actual emissions by means of~~
570 ~~data from a department-approved certified continuous emissions~~
571 ~~monitor or from an emissions monitoring method which has been~~
572 ~~approved by the United States Environmental Protection Agency~~
573 ~~under the regulations implementing 42 U.S.C. ss. 7651 et seq.,~~
574 ~~or from a method approved by the department for purposes of this~~
575 ~~section.~~

576 ~~2.6.~~ The amount of each regulated air pollutant in excess
577 of 4,000 tons per year ~~allowed to be~~ emitted by any source, or
578 group of sources belonging to the same Major Group as described
579 in the Standard Industrial Classification Manual, 1987, may not
580 be included in the calculation of the fee. Any source, or group

16-01204-13

20131684

581 of sources, which does not emit any regulated air pollutant in
582 excess of 4,000 tons per year, is allowed a one-time credit not
583 to exceed 25 percent of the first annual licensing fee for the
584 prorated portion of existing air-operation permit application
585 fees remaining upon commencement of the annual licensing fees.

586 ~~3.7.~~ If the department has not received the fee by March 1
587 ~~February 15~~ of the calendar year, the permittee must be sent a
588 written warning of the consequences for failing to pay the fee
589 by April ~~March~~ 1. If the fee is not postmarked by April ~~March~~ 1
590 of the calendar year, the department shall impose, in addition
591 to the fee, a penalty of 50 percent of the amount of the fee,
592 plus interest on such amount computed in accordance with s.
593 220.807. The department may not impose such penalty or interest
594 on any amount underpaid, provided that the permittee has timely
595 remitted payment of at least 90 percent of the amount determined
596 to be due and remits full payment within 60 days after receipt
597 of notice of the amount underpaid. The department may waive the
598 collection of underpayment and shall not be required to refund
599 overpayment of the fee, if the amount due is less than 1 percent
600 of the fee, up to \$50. The department may revoke any major air
601 pollution source operation permit if it finds that the
602 permitholder has failed to timely pay any required annual
603 operation license fee, penalty, or interest.

604 ~~4.8.~~ Notwithstanding the computational provisions of this
605 subsection, the annual operation license fee for any source
606 subject to this section shall not be less than \$250, except that
607 the annual operation license fee for sources permitted solely
608 through general permits issued under s. 403.814 shall not exceed
609 \$50 per year.

16-01204-13

20131684__

610 ~~5.9.~~ Notwithstanding the provisions of s.
611 403.087(6)(a)5.a., authorizing air pollution construction permit
612 fees, the department may not require such fees for changes or
613 additions to a major source of air pollution permitted pursuant
614 to this section, unless the activity triggers permitting
615 requirements under Title I, Part C or Part D, of the federal
616 Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and
617 administer such permits shall be considered direct and indirect
618 costs of the major stationary source air-operation permit
619 program under s. 403.0873. The department shall, however,
620 require fees pursuant to the provisions of s. 403.087(6)(a)5.a.
621 for the construction of a new major source of air pollution that
622 will be subject to the permitting requirements of this section
623 once constructed and for activities triggering permitting
624 requirements under Title I, Part C or Part D, of the federal
625 Clean Air Act, 42 U.S.C. ss. 7470-7514a.

626 (b) Annual operation license fees collected by the
627 department must be sufficient to cover all reasonable direct and
628 indirect costs required to develop and administer the major
629 stationary source air-operation permit program, which shall
630 consist of the following elements to the extent that they are
631 reasonably related to the regulation of major stationary air
632 pollution sources, in accordance with United States
633 Environmental Protection Agency regulations and guidelines:

- 634 1. Reviewing and acting upon any application for such a
635 permit.
- 636 2. Implementing and enforcing the terms and conditions of
637 any such permit, excluding court costs or other costs associated
638 with any enforcement action.

16-01204-13

20131684

639 3. Emissions and ambient monitoring.
640 4. Preparing generally applicable regulations or guidance.
641 5. Modeling, analyses, and demonstrations.
642 6. Preparing inventories and tracking emissions.
643 7. Implementing the Small Business Stationary Source
644 Technical and Environmental Compliance Assistance Program.
645 8. Any audits conducted under paragraph (c).
646 (c) An audit of the major stationary source air-operation
647 permit program must be conducted 2 years after the United States
648 Environmental Protection Agency has given full approval of the
649 program to ascertain whether the annual operation license fees
650 collected by the department are used solely to support any
651 reasonable direct and indirect costs as listed in paragraph (b).
652 A program audit must be performed biennially after the first
653 audit.

654 Section 15. Paragraph (e) of subsection (1) of section
655 403.813, Florida Statutes, is amended to read:
656 403.813 Permits issued at district centers; exceptions.—
657 (1) A permit is not required under this chapter, chapter
658 373, chapter 61-691, Laws of Florida, or chapter 25214 or
659 chapter 25270, 1949, Laws of Florida, for activities associated
660 with the following types of projects; however, except as
661 otherwise provided in this subsection, nothing in this
662 subsection relieves an applicant from any requirement to obtain
663 permission to use or occupy lands owned by the Board of Trustees
664 of the Internal Improvement Trust Fund or any water management
665 district in its governmental or proprietary capacity or from
666 complying with applicable local pollution control programs
667 authorized under this chapter or other requirements of county

16-01204-13

20131684__

668 and municipal governments:

669 (e) The restoration of seawalls at their previous locations
670 or upland of, or within 18 inches ~~1-foot~~ waterward of, their
671 previous locations. However, this shall not affect the
672 permitting requirements of chapter 161, and department rules
673 shall clearly indicate that this exception does not constitute
674 an exception from the permitting requirements of chapter 161.

675 Section 16. Subsection (13) is added to section 403.814,
676 Florida Statutes, to read:

677 403.814 General permits; delegation.—

678 (13) The department shall issue general permits for special
679 events as defined in s. 253.0345. The permits must be for a
680 period that runs concurrently with the consent of use or lease
681 issued pursuant to that section. No more than two seagrass
682 studies may be required by a general permit, one conducted
683 before issuance of the permit and the other conducted at the
684 time the permit expires. General permits must also allow for the
685 movement of temporary structures within the footprint of the
686 lease area. A survey of the lease or consent area is required at
687 the time of application for a 10-year standard lease or consent
688 of use and general permit. An area of up to 25 percent of a
689 previous lease or consent of use area must be issued as part of
690 the general permit, lease, or consent of use to allow for
691 economic expansion of the special event during the 10-year term.
692 An annual survey of the distances of all structures from the
693 boundaries of the lease or consent of use area must be conducted
694 to ensure that the lease boundaries have not been violated.

695 Section 17. Subsection (2) of section 570.076, Florida
696 Statutes, is amended to read:

16-01204-13

20131684

697 570.076 Environmental Stewardship Certification Program.—
698 The department may, by rule, establish the Environmental
699 Stewardship Certification Program consistent with this section.
700 A rule adopted under this section must be developed in
701 consultation with state universities, agricultural
702 organizations, and other interested parties.

703 (2) The department shall provide an agricultural
704 certification under this program for implementation of one or
705 more of the following criteria:

706 (a) A voluntary agreement between an agency and an
707 agricultural producer for environmental improvement or water-
708 resource protection.

709 (b) A conservation plan that meets or exceeds the
710 requirements of the United States Department of Agriculture.

711 (c) Best management practices adopted by rule pursuant to
712 s. 403.067(7)(c) or s. 570.085(1)(b) ~~570.085(2)~~.

713 Section 18. Section 570.085, Florida Statutes, is amended
714 to read:

715 570.085 Department of Agriculture and Consumer Services;
716 agricultural water conservation and water supply planning.—

717 (1) The department shall establish an agricultural water
718 conservation program that includes the following:

719 (a) ~~(1)~~ A cost-share program, coordinated where appropriate
720 with the United States Department of Agriculture and other
721 federal, state, regional, and local agencies, for irrigation
722 system retrofit and application of mobile irrigation laboratory
723 evaluations for water conservation as provided in this section
724 and, where applicable, for water quality improvement pursuant to
725 s. 403.067(7)(c).

16-01204-13

20131684

726 (b)~~(2)~~ The development and implementation of voluntary
727 interim measures or best management practices, adopted by rule,
728 which provide for increased efficiencies in the use and
729 management of water for agricultural production. In the process
730 of developing and adopting rules for interim measures or best
731 management practices, the department shall consult with the
732 Department of Environmental Protection and the water management
733 districts. Such rules may also include a system to assure the
734 implementation of the practices, including recordkeeping
735 requirements. As new information regarding efficient
736 agricultural water use and management becomes available, the
737 department shall reevaluate and revise as needed, the interim
738 measures or best management practices. The interim measures or
739 best management practices may include irrigation retrofit,
740 implementation of mobile irrigation laboratory evaluations and
741 recommendations, water resource augmentation, and integrated
742 water management systems for drought management and flood
743 control and should, to the maximum extent practicable, be
744 designed to qualify for regulatory incentives and other
745 incentives, as determined by the agency having applicable
746 statutory authority.

747 (c)~~(3)~~ Provision of assistance to the water management
748 districts in the development and implementation of a consistent,
749 to the extent practicable, methodology for the efficient
750 allocation of water for agricultural irrigation.

751 (2) (a) The department shall establish an agricultural water
752 supply planning program that includes the development of
753 appropriate data indicative of future agricultural water needs.
754 The data shall be based on at least a 20-year planning period

16-01204-13

20131684

755 and shall include, but is not limited to:

756 1. Applicable agricultural crop types or categories.

757 2. Historic estimates of irrigated acreage, current
758 estimates of irrigated acreage, and future irrigated acreage
759 projections for each applicable crop type or category spatially
760 for each county, including the historic and current methods and
761 assumptions used to generate the spatial acreage estimates and
762 projections.

763 3. Crop type or category water use coefficients for both
764 average year and 1-in-10 year drought years used in calculating
765 historic and current water supply needs and projected future
766 water supply needs, including data, methods, and assumptions
767 used to generate the coefficients. Estimates of historic and
768 current water supply needs shall take into account actual
769 metered data where available.

770 4. An evaluation of significant uncertainties affecting
771 agricultural production that may require a range of projections
772 for future agricultural water supply needs.

773 (b) In developing the future agricultural water supply
774 needs data, the department shall consult with the agricultural
775 industry, the University of Florida Institute of Food and
776 Agricultural Sciences, the Department of Environmental
777 Protection, the water management districts, the United States
778 Department of Agriculture National Agricultural Statistics
779 Service, and the United States Geological Survey.

780 (c) The future agricultural water supply needs data shall
781 be provided to each water management district for consideration
782 pursuant to ss. 373.036(2) and 373.709(2) (a)1.b. The department
783 shall coordinate with each water management district to

16-01204-13

20131684__

784 establish the schedule necessary for provision of agricultural
785 water supply needs data in order to comply with water supply
786 planning provisions of ss. 373.036(2) and 373.709(2) (a)1.b.

787 Section 19. This act shall take effect July 1, 2013.