By the Committee on Environmental Preservation and Conservation; and Senator Altman

592-03473B-13 20131684c1

A bill to be entitled

An act relating to environmental regulation; amending s. 20.255, F.S.; authorizing the Department of Environmental Protection to adopt rules requiring or incentivizing the electronic submission of forms, documents, fees, and reports required for certain permits; amending ss. 125.022 and 166.033, F.S.; providing requirements for the review of development permit applications by counties and municipalities; amending s. 211.3103, F.S.; revising the definition of "phosphate-related expenses" to include maintenance and restoration of certain lands; amending s. 253.0345, F.S.; revising provisions for the duration of leases and letters of consent issued by the Board of Trustees of the Internal Improvement Trust Fund for special events; providing conditions for fees relating to such leases and letters of consent; creating s. 253.0346, F.S.; defining the term "first-come, first-served basis"; providing conditions for the discount and waiver of lease fees and surcharges for certain marinas, boatyards, and marine retailers; providing applicability; amending s. 253.0347, F.S.; exempting lessees of certain docks from lease fees; amending s. 373.118, F.S.; deleting provisions requiring the department to adopt general permits for public marina facilities; deleting certain requirements under general permits for public marina facilities and mooring fields; limiting the number of vessels for mooring fields authorized under such permits; amending

s. 373.233, F.S.; clarifying conditions for competing consumptive use of water applications; amending s. 373.236, F.S.; prohibiting water management districts from reducing certain allocations as a result of activities relating to sources that are resistant to drought; providing an exception; amending s. 373.308, F.S.; providing that issuance of well permits is the sole responsibility of water management districts; prohibiting government entities from imposing requirements and fees and establishing programs for installation and abandonment of groundwater wells; amending s. 373.323, F.S.; providing that licenses issued by water management districts are the only water well construction licenses required for construction, repair, or abandonment of water wells; authorizing licensed water well contractors to install equipment for all water systems; amending s. 373.406, F.S.; exempting specified ponds, ditches, and wetlands from surface water management and storage requirements; amending s. 373.701, F.S.; providing a legislative declaration that efforts to adequately and dependably meet water needs; requiring the cooperation of utility companies, private landowners, water consumers, and the Department of Agriculture and Consumer Services; amending s. 373.703, F.S.; requiring the governing boards of water management districts to assist self-suppliers, among others, in meeting water supply demands; authorizing the governing boards to contract with self-suppliers for

the purpose of carrying out its powers; amending s.373.709, F.S.; requiring water management districts to coordinate and cooperate with the Department of Agriculture and Consumer Services for regional water supply planning; providing criteria and requirements for determining agricultural water supply demand projections; amending s. 376.313, F.S.; holding harmless a person who discharges pollution pursuant to ch. 403, F.S.; amending s. 403.031, F.S.; defining the term "beneficiaries"; amending s. 403.061, F.S.; authorizing the department to adopt rules requiring or incentivizing the electronic submission of forms, documents, fees, and reports required for certain permits; amending s. 403.0872, F.S.; extending the payment deadline of permit fees for major sources of air pollution and conforming the date for related notice by the department; revising provisions for the calculation of such annual fees; amending s. 403.7046, F.S.; revising requirements relating to recovered materials; amending s. 403.813, F.S.; revising conditions under which certain permits are not required for seawall restoration projects; creating s. 403.8141, F.S.; requiring the Department of Environmental Protection to establish general permits for special events; providing permit requirements; amending s. 403.973, F.S.; authorizing expedited permitting for natural gas pipelines, subject to specified certification; providing that natural gas pipelines are subject to certain requirements;

providing that natural gas pipelines are eligible for certain review; amending s. 570.076, F.S.; conforming a cross-reference; amending s. 570.085, F.S.; requiring the Department of Agriculture and Consumer Services to establish an agricultural water supply planning program; providing program requirements; providing an effective date.

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

Section 1. Subsection (8) is added to section 20.255, Florida Statutes, to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(8) The department may adopt rules requiring or incentivizing electronic submission of forms, documents, fees, or reports required for permits under chapter 161, chapter 253, chapter 373, chapter 376, or chapter 403. The rules must reasonably accommodate technological or financial hardship and must provide procedures for obtaining an exemption due to such hardship.

Section 2. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—

(1) When reviewing an application for a development permit that is certified by a professional listed in s. 403.0877, a county may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. Prior to a third request for additional

information, the applicant shall be offered a meeting to try and resolve outstanding issues. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the county, at the applicant's request, shall proceed to process the application for approval or denial.

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

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

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

(5) Issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county may attach such a disclaimer to the issuance of a development permit and may include a permit

condition that all other applicable state or federal permits be obtained before commencement of the development.

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

Section 3. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—

(1) When reviewing an application for a development permit that is certified by a professional listed in s. 403.0877, a municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing. Prior to a third request for additional information, the applicant shall be offered a meeting to try and resolve outstanding issues. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the municipality, at the applicant's request, shall proceed to process the application for approval or denial.

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

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

(4) For any development permit application filed with the municipality after July 1, 2012, a municipality may not require as a condition of processing or issuing a development permit

that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the municipal action on the local development permit.

(5) Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality may attach such a disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

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

Section 4. Paragraph (c) of subsection (6) of section 211.3103, Florida Statutes is amended to read:

211.3103 Levy of tax on severance of phosphate rock; rate, basis, and distribution of tax.—

(6)

(c) For purposes of this section, "phosphate-related expenses" means those expenses that provide for infrastructure or services in support of the phosphate industry, including environmental education, reclamation or restoration of phosphate lands, maintenance and restoration of reclaimed lands and county

owned environmental lands which were formerly phosphate lands, community infrastructure on such reclaimed lands and county owned environmental lands which were formerly phosphate lands, and similar expenses directly related to support of the industry.

Section 5. Section 253.0345, Florida Statutes, is amended to read:

253.0345 Special events; submerged land leases.—

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

(2) A lease or consent of use for a ~~Any~~ special event under ~~provided for in~~ subsection (1):

(a) Shall be for a period not to exceed 45 ~~30~~ days and a

duration not to exceed 10 consecutive years.

(b) Shall include a lease fee, if applicable, based solely on the period and actual size of the preemption and conditions to allow reconfiguration of temporary structures within the lease area with notice to the department of the configuration and size of preemption within the lease area.

(c) The lease or letter of consent ~~of use~~ may ~~also~~ contain appropriate requirements for removal of the temporary structures, including the posting of sufficient surety to guarantee appropriate funds for removal of the structures should the promoter or riparian owner fail to do so within the time specified in the agreement.

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

Section 6. Section 253.0346, Florida Statutes, is created to read:

253.0346 Lease of sovereignty submerged lands for marinas, boatyards, and marine retailers.—

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

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

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

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

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

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

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

1. Actively maintains designation under the program.

2. Complies with the terms of the lease.

3. Does not change use during the term of the lease.

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

1. Actively maintains designation under the program.

2. Complies with the terms of the lease.

3. Does not change use during the term of the lease.

4. Is available to the public on a first-come, first-served basis.

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

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

Section 7. Subsection (2) of section 253.0347, Florida Statutes, is amended to read:

253.0347 Lease of sovereignty submerged lands for private residential docks and piers.—

(2)(a) A standard lease contract for sovereignty submerged lands for a private residential single-family dock or pier, private residential multifamily dock or pier, or private residential multislip dock must specify the amount of lease fees as established by the Board of Trustees of the Internal Improvement Trust Fund.

(b) If private residential multifamily docks or piers, private residential multislip docks, and other private residential structures pertaining to the same upland parcel include a total of no more than one wet slip for each approved upland residential unit, the lessee is not required to pay a lease fee on a preempted area of 10 square feet or less of sovereignty submerged lands for each linear foot of shoreline in which the lessee has a sufficient upland interest as determined by the Board of Trustees of the Internal Improvement Trust Fund.

(c) A lessee of sovereignty submerged lands for a private residential single-family dock or pier, private residential multifamily dock or pier, or private residential multislip dock is not required to pay a lease fee on revenue derived from the transfer of fee simple or beneficial ownership of private residential property that is entitled to a homestead exemption pursuant to s. 196.031 at the time of transfer.

(d) A lessee of sovereignty submerged lands for a private residential single-family dock or pier, private residential multifamily dock or pier, or private residential multislip dock must pay a lease fee on any income derived from a wet slip, dock, or pier in the preempted area under lease in an amount determined by the Board of Trustees of the Internal Improvement Trust Fund.

(e) A lessee of sovereignty submerged land for a private residential single-family dock designed to moor up to four boats is not required to pay lease fees for a preempted area equal to or less than 10 times the riparian shoreline along sovereignty submerged land on the affected waterbody or the square footage authorized for a private residential single-family dock under rules adopted by the Board of Trustees of the Internal Improvement Trust Fund for the management of sovereignty submerged lands, whichever is greater.

(f) A lessee of sovereignty submerged land for a private residential multifamily dock designed to moor boats up to the number of units within the multifamily development is not required to pay lease fees for a preempted area equal to or less than 10 times the riparian shoreline along sovereignty submerged land on the affected waterbody times the number of units with docks in the private multifamily development providing for existing docks.

Section 8. Subsection (4) of section 373.118, Florida Statutes, is amended to read:

373.118 General permits; delegation.—

(4) The department shall adopt by rule one or more general permits for local governments to construct, operate, and maintain ~~public marina facilities,~~ public mooring fields, public boat ramps, including associated courtesy docks, and associated parking facilities located in uplands. Such general permits adopted by rule shall include provisions to ensure compliance with part IV of this chapter, subsection (1), and the criteria necessary to include the general permits in a state programmatic general permit issued by the United States Army Corps of

Engineers under s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq. A facility authorized under such general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities shall be consistent with the local government manatee protection plan required pursuant to chapter 379 ~~and shall obtain Clean Marina Program status prior to opening for operation and maintain that status for the life of the facility~~. ~~Marinas and mooring fields authorized under any such general permit shall not exceed an area of 50,000 square feet over wetlands and other surface waters~~. Mooring fields authorized under such general permits may not exceed 100 vessels. All facilities permitted under this section shall be constructed, maintained, and operated in perpetuity for the exclusive use of the general public. The department is authorized to have delegation from the Board of Trustees to issue leases for mooring fields that meet the requirements of this general permit. The department shall initiate the rulemaking process within 60 days after the effective date of this act.

Section 9. Subsection (1) of section 373.233, Florida Statutes, is amended to read:

373.233 Competing applications.—

(1) If two or more applications that ~~which~~ otherwise comply with the provisions of this part are pending for a quantity of water that is inadequate for both or all, or which for any other reason are in conflict, and the governing board or department has deemed the application complete, the governing board or the department has ~~shall have~~ the right to approve or modify the

application which best serves the public interest.

Section 10. Subsection (4) of section 373.236, Florida Statutes, is amended to read:

373.236 Duration of permits; compliance reports.—

(4) Where necessary to maintain reasonable assurance that the conditions for issuance of a 20-year permit can continue to be met, the governing board or department, in addition to any conditions required pursuant to s. 373.219, may require a compliance report by the permittee every 10 years during the term of a permit. The Suwannee River Water Management District may require a compliance report by the permittee every 5 years through July 1, 2015, and thereafter every 10 years during the term of the permit. This report shall contain sufficient data to maintain reasonable assurance that the initial conditions for permit issuance are met. Following review of this report, the governing board or the department may modify the permit to ensure that the use meets the conditions for issuance. Permit modifications pursuant to this subsection shall not be subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the district. In order to promote the sustainability of natural systems through the diversification of water supplies to include sources that are resistant to drought, a water management district may not reduce an existing permitted allocation of water during the permit term as a result of planned future construction of, or additional water becoming available from, sources that are resistant to drought, including, but not limited to, a seawater desalination plant, unless such reductions are conditions of a

permit with the water management district. Except as otherwise provided in this subsection, this subsection does ~~shall~~ not ~~be construed to~~ limit the existing authority of the department or the governing board to modify or revoke a consumptive use permit.

Section 11. Subsection (1) of section 373.308, Florida Statutes, is amended to read:

373.308 Implementation of programs for regulating water wells.—

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

Section 12. Subsections (1) and (10) of section 373.323, Florida Statutes, are amended to read:

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

(1) Every person who wishes to engage in business as a water well contractor shall obtain from the water management district a license to conduct such business. Licensure under this part by a water management district shall be the only water well construction license required for the construction, repair,

or abandonment of water wells in the state or any political subdivision thereof.

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

Section 13. Subsections (13) and (14) are added to section 373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:

(13) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, applies to construction, alteration, operation, or maintenance of any wholly owned, manmade farm ponds as defined in s. 403.927 constructed entirely in uplands.

(14) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, may require a permit for activities affecting wetlands created solely by the unauthorized flooding or interference with the natural flow of surface water caused by an unaffiliated adjoining landowner. This exemption does not apply to activities that discharge dredged or fill material into waters of the United States, including wetlands, subject to federal jurisdiction under section 404 of the federal Clean Water Act, 33 U.S.C. s. 1344.

Section 14. Subsection (3) of section 373.701, Florida Statutes, is amended to read:

373.701 Declaration of policy.—It is declared to be the policy of the Legislature:

(3) Cooperative efforts between municipalities, counties, utility companies, private landowners, water consumers, water management districts, ~~and~~ the Department of Environmental Protection, and the Department of Agriculture and Consumer Services are necessary ~~mandatory~~ in order to meet the water needs of rural and rapidly urbanizing areas in a manner that will supply adequate and dependable supplies of water where needed without resulting in adverse effects upon the areas from which ~~such~~ water is withdrawn. Such efforts should employ ~~use~~ all practical means of obtaining water, including, but not limited to, withdrawals of surface water and groundwater, reuse, and desalination, and will require ~~necessitate not only~~ cooperation and ~~but also~~ well-coordinated activities. Municipalities, counties, and special districts are encouraged to create multijurisdictional water supply entities or regional water supply authorities as authorized in s. 373.713 ~~or multijurisdictional water supply entities~~.

Section 15. Subsections (1), (2), and (9) of section 373.703, Florida Statutes, are amended to read:

373.703 Water production; general powers and duties.—In the performance of, and in conjunction with, its other powers and duties, the governing board of a water management district existing pursuant to this chapter:

(1) Shall engage in planning to assist counties, municipalities, special districts, publicly owned and privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities, or self-suppliers in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse

environmental effects of improper or excessive withdrawals of water from concentrated areas. As used in this section and s. 373.707, regional water supply authorities are regional water authorities created under s. 373.713 or other laws of this state. As used in part VII of this chapter, self-suppliers are persons who obtain surface or groundwater from a source other than a public water supply.

(2) Shall assist counties, municipalities, special districts, publicly owned or privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities, or self-suppliers in meeting water supply needs in such manner as will give priority to encouraging conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas.

(9) May join with one or more other water management districts, counties, municipalities, special districts, publicly owned or privately owned water utilities, multijurisdictional water supply entities, or regional water supply authorities, or self-suppliers for the purpose of carrying out any of its powers, and may contract with such other entities to finance acquisitions, construction, operation, and maintenance, provided such contracts are consistent with the public interest. The contract may provide for contributions to be made by each party to the contract ~~thereto~~, for the division and apportionment of the expenses of acquisitions, construction, operation, and maintenance, and for the division and apportionment of resulting the benefits, services, and products ~~therefrom~~. The contracts may contain other covenants and agreements necessary and

appropriate to accomplish their purposes.

Section 16. Subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 373.709, Florida Statutes, are amended to read:

373.709 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for a ~~any~~ water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as members of the public, in the planning process and in seeking input. During preparation, but before ~~prior to~~ completion of the regional water supply plan, the district shall ~~must~~ conduct at least one public workshop to discuss the technical data and modeling tools anticipated to be used to support the regional water supply plan. The district shall also hold several public meetings to communicate the status, overall conceptual intent, and impacts

of the plan on existing and future reasonable-beneficial uses and related natural systems. During the planning process, a local government may choose to prepare its own water supply assessment to determine if existing water sources are adequate to meet existing and projected reasonable-beneficial needs of the local government while sustaining water resources and related natural systems. The local government shall submit such assessment, including the data and methodology used, to the district. The district shall consider the local government's assessment during the formation of the plan. A determination by the governing board that initiation of a regional water supply plan for a specific planning region is not needed pursuant to this section is ~~shall be~~ subject to s. 120.569. The governing board shall reevaluate the ~~such a~~ determination at least once every 5 years and shall initiate a regional water supply plan, if needed, pursuant to this subsection.

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

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

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

a. Population projections used for determining public water

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

b. Agricultural demand projections used for determining the needs of agricultural self-suppliers must be based upon the best available data. In determining the best available data for agricultural self-supplied water needs, the district shall consider the data indicative of future water supply demands provided by the Department of Agriculture and Consumer Services pursuant to s. 570.085. Any adjustment of or deviation from the data provided by the Department of Agriculture and Consumer Services must be fully described, and the original data must be presented along with the adjusted data.

2. A list of water supply development project options, including traditional and alternative water supply project options, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of ~~alternative~~ water supply development project options ~~projects~~. If such users propose a

project to be listed as a ~~an alternative~~ water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list. The total capacity of the projects included in the plan must ~~shall~~ exceed the needs identified in subparagraph 1. and shall take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and levels and water reservations. Where the district determines it is appropriate, the plan should specifically identify the need for multijurisdictional approaches to project options that, based on planning level analysis, are appropriate to supply the intended uses and that, based on such analysis, appear to be permittable and financially and technically feasible. The list of water supply development options must contain provisions that recognize that alternative water supply options for agricultural self-suppliers are limited.

3. For each project option identified in subparagraph 2., the following must ~~shall~~ be provided:

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

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

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

d. Identification of the entity that should implement each

project option and the current status of project implementation.

(3) The water supply development component of a regional water supply plan which deals with or affects public utilities and public water supply for those areas served by a regional water supply authority and its member governments within the boundary of the Southwest Florida Water Management District shall be developed jointly by the authority and the district. In areas not served by regional water supply authorities, or other multijurisdictional water supply entities, and where opportunities exist to meet water supply needs more efficiently through multijurisdictional projects identified pursuant to paragraph (2)(a), water management districts are directed to assist in developing multijurisdictional approaches to water supply project development jointly with affected water utilities, special districts, self-suppliers, and local governments.

Section 17. Subsection (3) of section 376.313, Florida Statutes, is amended to read:

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

(3) Except as provided in s. 376.3078(3) and (11), nothing contained in ss. 376.30-376.317 prohibits 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 ss. 376.30-376.317 which was not authorized pursuant to chapter 403. Nothing in this chapter shall prohibit or diminish a party's right to contribution from other parties jointly or severally liable for a prohibited discharge of pollutants or hazardous substances or other pollution

conditions. Except as otherwise provided in subsection (4) or subsection (5), in any such suit, it is not necessary for such 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 has occurred. The only defenses to such cause of action shall be those specified in s. 376.308.

Section 18. Subsection (22) is added to section 403.031, Florida Statutes, to read:

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(22) "Beneficiary" means any person, partnership, corporation, business entity, charitable organization, not-for-profit corporation, state, county, district, authority, or municipal unit of government or any other separate unit of government created or established by law.

Section 19. Subsection (43) is added to section 403.061, Florida Statutes, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(43) Adopt rules requiring or incentivizing the electronic submission of forms, documents, fees, or reports required for permits issued under chapter 161, chapter 253, chapter 373, chapter 376, or this chapter. The rules must reasonably accommodate technological or financial hardship and provide

procedures for obtaining an exemption due to such hardship.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 20. Subsection (11) of section 403.0872, Florida Statutes, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section. This operation permit is the only department operation permit for a major source of air pollution required for such source; provided, at the applicant's request, the department shall issue a separate acid rain permit for a major source of air pollution that is an affected source within the meaning of 42 U.S.C. s. 7651a(1). Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the procedures contained in this section and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section prevail.

(11) Each major source of air pollution permitted to operate in this state must pay between January 15 and April

~~March~~ 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

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

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

exceed $35.

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

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

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

~~5. For any source that emits less of any regulated air pollutant than allowed by permit condition, the annual fee calculation for such pollutant must be based upon actual emissions rather than allowable emissions if the owner or operator documents the source's actual emissions by means of data from a department-approved certified continuous emissions monitor or from an emissions monitoring method which has been~~

~~approved by the United States Environmental Protection Agency under the regulations implementing 42 U.S.C. ss. 7651 et seq., or from a method approved by the department for purposes of this section.~~

2.~~6.~~ The amount of each regulated air pollutant in excess of 4,000 tons per year ~~allowed to be~~ emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

3.~~7.~~ If the department has not received the fee by March 1 ~~February 15~~ of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by April ~~March~~ 1. If the fee is not postmarked by April ~~March~~ 1 of the calendar year, the department shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and shall not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air

pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

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

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

(b) Annual operation license fees collected by the department must be sufficient to cover all reasonable direct and indirect costs required to develop and administer the major stationary source air-operation permit program, which shall

consist of the following elements to the extent that they are reasonably related to the regulation of major stationary air pollution sources, in accordance with United States Environmental Protection Agency regulations and guidelines:

1. Reviewing and acting upon any application for such a permit.

2. Implementing and enforcing the terms and conditions of any such permit, excluding court costs or other costs associated with any enforcement action.

3. Emissions and ambient monitoring.

4. Preparing generally applicable regulations or guidance.

5. Modeling, analyses, and demonstrations.

6. Preparing inventories and tracking emissions.

7. Implementing the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

8. Any audits conducted under paragraph (c).

(c) An audit of the major stationary source air-operation permit program must be conducted 2 years after the United States Environmental Protection Agency has given full approval of the program to ascertain whether the annual operation license fees collected by the department are used solely to support any reasonable direct and indirect costs as listed in paragraph (b). A program audit must be performed biennially after the first audit.

Section 21. Section 403.7046, Florida Statutes, is amended to read:

403.7046 Regulation of recovered materials.—

(1) Any person who handles, purchases, receives, recovers, sells, or is an end user of recovered materials shall annually

certify to the department on forms provided by the department. The department may by rule exempt from this requirement generators of recovered materials; persons who handle or sell recovered materials as an activity which is incidental to the normal primary business activities of that person; or persons who handle, purchase, receive, recover, sell, or are end users of recovered materials in small quantities as defined by the department. The department shall adopt rules for the certification of and reporting by such persons and shall establish criteria for revocation of such certification. Such rules shall be designed to elicit, at a minimum, the amount and types of recovered materials handled by registrants, and the amount and disposal site, or name of person with whom such disposal was arranged, of any solid waste generated by such facility. By February 1 of each year, registrants shall report all required information to the department and to all counties from which it received materials. Such rules may provide for the department to conduct periodic inspections. The department may charge a fee of up to $50 for each registration, which shall be deposited into the Solid Waste Management Trust Fund for implementation of the program.

(2) Information reported pursuant to the requirements of this section or any rule adopted pursuant to this section which, if disclosed, would reveal a trade secret, as defined in s. 812.081(1)(c), is confidential and exempt from the provisions of s. 119.07(1). For reporting or information purposes, however, the department may provide this information in such form that the names of the persons reporting such information and the specific information reported are not revealed.

(3) Except as otherwise provided in this section or pursuant to a special act in effect on or before January 1, 1993, a local government may not require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government, nor may the local government restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has satisfied the requirements of this section. A local government may not enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.

(a) The local government may require that the recovered materials generated at the commercial establishment be source separated at the premises of the commercial establishment.

(b) Prior to engaging in business within the jurisdiction of the local government, a recovered materials dealer must provide the local government with a copy of the certification provided for in this section. In addition, the local government may establish a registration process whereby a recovered materials dealer must register with the local government prior to engaging in business within the jurisdiction of the local government. Such registration process is limited to requiring the dealer to register its name, including the owner or operator of the dealer, and, if the dealer is a business entity, its general or limited partners, its corporate officers and directors, its permanent place of business, evidence of its

certification under this section, and a certification that the recovered materials will be processed at a recovered materials processing facility satisfying the requirements of this section. A registration application must be acted on by the local government within 90 days of receipt. During the pendency of the local government's review, a local government may not use the registration information to unfairly compete with the recovered materials dealer seeking registration. All counties, and municipalities whose population exceeds 35,000 according to the population estimates determined pursuant to s. 186.901, may establish a reporting process which shall be limited to the regulations, reporting format, and reporting frequency established by the department pursuant to this section, which shall, at a minimum, include requiring the dealer to identify the types and approximate amount of recovered materials collected, recycled, or reused during the reporting period; the approximate percentage of recovered materials reused, stored, or delivered to a recovered materials processing facility or disposed of in a solid waste disposal facility; and the locations where any recovered materials were disposed of as solid waste. Information reported under this subsection which, if disclosed, would reveal a trade secret, as defined in s. 812.081(1)(c), is confidential and exempt from the provisions of s. 24(a), Art. I of the State Constitution and s. 119.07(1). The local government may charge the dealer a registration fee commensurate with and no greater than the cost incurred by the local government in operating its registration program. Registration program costs are limited to those costs associated with the activities described in this paragraph. Any reporting

or registration process established by a local government with regard to recovered materials shall be governed by the provisions of this section and department rules promulgated pursuant thereto.

(c) A local government may establish a process in which the local government may temporarily or permanently revoke the authority of a recovered materials dealer to do business within the local government if the local government finds the recovered materials dealer, after reasonable notice of the charges and an opportunity to be heard by an impartial party, has consistently and repeatedly violated state or local laws, ordinances, rules, and regulations.

(d) In addition to any other authority provided by law, a local government is hereby expressly authorized to prohibit a person or entity not certified under this section from doing business within the jurisdiction of the local government; to enter into a nonexclusive franchise or to otherwise provide for the collection, transportation, and processing of recovered materials at commercial establishments, provided that a local government may not require a certified recovered materials dealer to enter into such franchise agreement in order to enter into a contract with any commercial establishment located within the local government's jurisdiction to purchase, collect, transport, process, or receive source-separated recovered materials; and to enter into an exclusive franchise or to otherwise provide for the exclusive collection, transportation, and processing of recovered materials at single-family or multifamily residential properties.

(e) Nothing in this section shall prohibit a local

government from enacting ordinances designed to protect the public's general health, safety, and welfare.

(f) As used in this section:

1. "Commercial establishment" means a property or properties zoned or used for commercial or industrial uses, or used by an entity exempt from taxation under s. 501(c)(3) of the Internal Revenue Code, and excludes property or properties zoned or used for single-family residential or multifamily residential uses.

2. "Local government" means a county or municipality.

3. "Certified recovered materials dealer" means a dealer certified under this section.

Section 22. Paragraph (e) of subsection (1) of section 403.813, Florida Statutes, is amended to read:

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, ~~nothing in~~ this subsection does not relieve ~~relieves~~ an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or a ~~any~~ water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(e) The restoration of seawalls at their previous locations or upland of, or within 18 inches ~~1 foot~~ waterward of, their

previous locations. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

Section 23. Section 403.8141, Florida Statutes, is created to read:

403.8141 Special event permits.—The department shall issue permits for special events as defined in s. 253.0345. The permits must be for a period that runs concurrently with the letter of consent or lease issued pursuant to that section and must allow for the movement of temporary structures within the footprint of the lease area.

Section 24. Paragraph (b) of subsection (14) and paragraph (b) of subsection (19) of section 403.973, Florida Statutes, are amended, and paragraph (g) is added to subsection (3) of that section, to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)

(g) Projects to construct interstate natural gas pipelines subject to certification by the Federal Energy Regulatory Commission.

(14)

(b) Projects identified in paragraph (3)(f) or paragraph (3)(g) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that,

notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(19) The following projects are ineligible for review under this part:

(b) A project, the primary purpose of which is to:

1. Effect the final disposal of solid waste, biomedical waste, or hazardous waste in this state.

2. Produce electrical power, unless the production of electricity is incidental and not the primary function of the project or the electrical power is derived from a fuel source for renewable energy as defined in s. 366.91(2)(d).

3. Extract natural resources.

4. Produce oil.

5. Construct, maintain, or operate an oil, petroleum, ~~natural gas,~~ or sewage pipeline.

Section 25. Subsection (2) of section 570.076, Florida Statutes, is amended to read:

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

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

(a) A voluntary agreement between an agency and an

agricultural producer for environmental improvement or water-resource protection.

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

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

Section 26. Section 570.085, Florida Statutes, is amended to read:

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

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

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

(b) ~~(2)~~ The development and implementation of voluntary interim measures or best management practices, adopted by rule, which provide for increased efficiencies in the use and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the department shall consult with the Department of Environmental Protection and the water management districts. Such rules may also include a system to assure the implementation of the practices, including recordkeeping requirements. As new information regarding efficient

agricultural water use and management becomes available, the department shall reevaluate and revise as needed, the interim measures or best management practices. The interim measures or best management practices may include irrigation retrofit, implementation of mobile irrigation laboratory evaluations and recommendations, water resource augmentation, and integrated water management systems for drought management and flood control and should, to the maximum extent practicable, be designed to qualify for regulatory incentives and other incentives, as determined by the agency having applicable statutory authority.

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

(2)(a) The department shall establish an agricultural water supply planning program that includes the development of appropriate data indicative of future agricultural water needs, which must be:

1. Based on at least a 20-year planning period.

2. Provided to each water management district.

3. Considered by each water management district in accordance with ss. 373.036(2) and 373.709(2)(a)1.b.

(b) The data on future agricultural water supply demands which are provided to each district must include, but need not be limited to:

1. Applicable agricultural crop types or categories.

2. Historic estimates of irrigated acreage, current estimates of irrigated acreage, and future projections of

irrigated acreage for each applicable crop type or category, spatially for each county, including the historic and current methods and assumptions used to generate the spatial acreage estimates and projections.

3. Crop type or category water use coefficients for a 1-in-10 year drought and average year used in calculating historic and current water demands and projected future water demands, including data, methods, and assumptions used to generate the coefficients. Estimates of historic and current water demands must take into account actual metered data as available. Projected future water demands shall incorporate appropriate potential water conservation factors based upon data collected as part of the department's agricultural water conservation program pursuant to s. 570.085(1).

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

(c) In developing the data on future agricultural water supply needs described in paragraph (a), the department shall consult with the agricultural industry, the University of Florida Institute of Food and Agricultural Sciences, the Department of Environmental Protection, the water management districts, the United States Department of Agriculture, the National Agricultural Statistics Service, and the United States Geological Survey.

(d) The department shall coordinate with each water management district to establish a schedule for provision of data on agricultural water supply needs in order to comply with water supply planning provisions in ss. 373.036(2) and

373.709(2)(a)1.b.

Section 27. This act shall take effect July 1, 2013.