

1                   A bill to be entitled  
2           An act relating to contaminated site cleanup; amending  
3           s. 376.30713, F.S.; revising legislative findings;  
4           providing an exception to a requirement that an  
5           applicant for advanced cleanup demonstrate an ability  
6           to pay cost share; requiring that the Department of  
7           Environmental Protection determine whether specified  
8           requirements are acceptable under certain  
9           circumstances; providing that the application for the  
10          cleanup of individual redevelopment sites are not  
11          subject to certain application period limitations and  
12          cost-share provisions; specifying the application  
13          requirements for such sites; conforming provisions to  
14          changes made by the act; increasing the amount per  
15          year the department may use for advanced cleanup work;  
16          specifying expenditure limitations; amending s.  
17          376.3078, F.S.; providing a statement of public  
18          interest; authorizing site assessments in advance of  
19          site priority ranking under certain circumstances;  
20          specifying criteria for sites to be eligible for such  
21          assessments; specifying what must be demonstrated  
22          through such assessments; specifying criteria for the  
23          assignment of assessment tasks; specifying funding  
24          limitations; specifying the prioritization of  
25          requests; amending s. 220.1845, F.S.; increasing the

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

30  
 31 Be It Enacted by the Legislature of the State of Florida:

32  
 33 Section 1. Paragraphs (a) and (c) of subsection (1) and  
 34 subsections (2) and (4) of section 376.30713, Florida Statutes,  
 35 are amended to read:

36 376.30713 Advanced cleanup.—

37 (1) In addition to the legislative findings provided in s.  
 38 376.3071, the Legislature finds and declares:

39 (a) That the inability to conduct site rehabilitation in  
 40 advance of a site's priority ranking pursuant to s.  
 41 376.3071(5) (a) may substantially impede or prohibit property  
 42 redevelopment, property transactions, or the proper completion  
 43 of public works projects.

44 (c) It is in the public interest and of substantial  
 45 economic benefit to the state to provide an opportunity for site  
 46 rehabilitation to be conducted on a limited basis at  
 47 contaminated sites, in advance of the site's priority ranking,  
 48 to encourage redevelopment and facilitate property transactions  
 49 or public works projects.

50 (2) The department may approve an application for advanced

51 cleanup at eligible sites, notwithstanding the site's priority  
52 ranking established pursuant to s. 376.3071(5)(a), pursuant to  
53 this section. Only the facility owner or operator or the person  
54 otherwise responsible for site rehabilitation qualifies as an  
55 applicant under this section.

56 (a) Advanced cleanup applications may be submitted between  
57 May 1 and June 30 and between November 1 and December 31 of each  
58 fiscal year. Applications submitted between May 1 and June 30  
59 shall be for the fiscal year beginning July 1. An application  
60 must consist of:

61 1. A commitment to pay 25 percent or more of the total  
62 cleanup cost deemed recoverable under this section along with  
63 proof of the ability to pay the cost share or a demonstration  
64 that the applicant is in compliance with sub-sub-subparagraphs  
65 c.(I) and (II). The department shall determine whether the cost  
66 savings or compliance demonstration is acceptable. Such  
67 determination is not subject to chapter 120.

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

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

75 (II) For an aggregate application relying on a

76 | demonstrated cost savings to the department, the applicant  
77 | shall, in conjunction with the proposed agency term contractor,  
78 | establish and provide in the application the percentage of cost  
79 | savings in the aggregate that is being provided to the  
80 | department for cleanup of the sites under the application  
81 | compared to the cost of cleanup of those same sites using the  
82 | current rates provided to the department by the proposed agency  
83 | term contractor.

84 |       b. Applications for the cleanup of individual sites may be  
85 | submitted in one of two formats to meet the cost-share  
86 | requirement:

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

91 |       (II) For an individual application relying on a  
92 | demonstrated cost savings to the department, the applicant  
93 | shall, in conjunction with the proposed agency term contractor,  
94 | establish and provide in the application a 25-percent cost  
95 | savings to the department for cleanup of the site under the  
96 | application compared to the cost of cleanup of the same site  
97 | using the current rates provided to the department by the  
98 | proposed agency term contractor.

99 |       2. A nonrefundable review fee of \$250 to cover the  
100 | administrative costs associated with the department's review of

101 the application.

102 3. A limited contamination assessment report.

103 4. A proposed course of action.

104 5. A department site access agreement, or similar  
105 agreements approved by the department that do not violate state  
106 law, entered into with the property owner or owners, as  
107 applicable, and evidence of authorization from such owner or  
108 owners for petroleum site rehabilitation program tasks  
109 consistent with the proposed course of action where the  
110 applicant is not the property owner for any of the sites  
111 contained in the application.

112

113 The limited contamination assessment report must be sufficient  
114 to support the proposed course of action and to estimate the  
115 cost of the proposed course of action. Costs incurred related to  
116 conducting the limited contamination assessment report are not  
117 refundable from the Inland Protection Trust Fund. Site  
118 eligibility under this subsection or any other provision of this  
119 section is not an entitlement to advanced cleanup or continued  
120 restoration funding. The applicant shall certify to the  
121 department that the applicant has the prerequisite authority to  
122 enter into an advanced cleanup contract with the department. The  
123 certification must be submitted with the application.

124 c. Applications for the cleanup of individual  
125 redevelopment sites are not subject to the application period

126 limitations specified in paragraph (a) or to the cost-share  
127 provisions in paragraph (1)(d) and are accepted on a first-come,  
128 first-served basis. Applications for the cleanup of individual  
129 redevelopment sites must include:

130 (I) Certification that the applicant has consulted with  
131 the local government having jurisdiction over the area about the  
132 proposed redevelopment of the site, that the local government is  
133 in agreement with or approves the proposed redevelopment, and  
134 that the proposed redevelopment complies with applicable laws  
135 and requirements for such redevelopment. The certification shall  
136 be accomplished by referencing or providing a legally recorded  
137 or officially approved land use or site plan, a development  
138 order or approval, a building permit, or a similar official  
139 document issued by the local government which reflects the local  
140 government's approval of the proposed redevelopment of the site;  
141 or by providing a letter from the local government which  
142 describes the proposed redevelopment of the site and expresses  
143 the local government's agreement with or approval of the  
144 proposed redevelopment.

145 (II) A demonstrated reasonable assurance that the  
146 applicant has sufficient financial resources to implement and  
147 complete the redevelopment project.

148 (b) The department shall rank the applications specified  
149 in sub-subparagraphs (a)1.a. and b. based on the percentage of  
150 cost-sharing commitment proposed by the applicant, with the

151 highest ranking given to the applicant who proposes the highest  
152 percentage of cost sharing. If the department receives  
153 applications that propose identical cost-sharing commitments and  
154 that exceed the funds available to commit to all such proposals  
155 during the advanced cleanup application period, the department  
156 shall proceed to rerank those applicants. Those applicants  
157 submitting identical cost-sharing proposals that exceed funding  
158 availability must be so notified by the department and offered  
159 the opportunity to raise their individual cost-share  
160 commitments, in a period specified in the notice. At the close  
161 of the period, the department shall proceed to rerank the  
162 applications pursuant to this paragraph.

163 (4) The department may enter into contracts for a total of  
164 up to \$30 ~~\$25~~ million of advanced cleanup work in each fiscal  
165 year. Up to \$5 million of these funds may be designated for  
166 cleanup of individual redevelopment sites as referenced in sub-  
167 subparagraph (2) (a)1.c.

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

172 (b) A facility or an applicant, applying for cleanup of  
173 individual redevelopment sites as referenced in sub-subparagraph  
174 (2) (a)1.c., may not be approved for more than \$1 million of  
175 cleanup activity in each fiscal year.

176        (c) A property owner or responsible party may enter into a  
177 voluntary cost-share agreement in which the property owner or  
178 responsible party commits to bundle multiple sites and lists the  
179 facilities that will be included in those future bundles. The  
180 facilities listed are not subject to agency term contractor  
181 assignment pursuant to department rule. The department reserves  
182 the right to terminate or amend the voluntary cost-share  
183 agreement for any identified site under the voluntary cost-share  
184 agreement if the property owner or responsible party fails to  
185 submit an application to bundle any site, not already covered by  
186 an advance cleanup contract, under such voluntary cost-share  
187 agreement within a subsequent open application period during  
188 which it is eligible to participate. For the purposes of this  
189 section, the term "facility" includes, but is not limited to,  
190 multiple site facilities such as airports, port facilities, and  
191 terminal facilities even though such enterprises may be treated  
192 as separate facilities for other purposes under this chapter.

193        Section 2. Subsection (14) is added to section 376.3078,  
194 Florida Statutes, to read:

195        376.3078 Drycleaning facility restoration; funds; uses;  
196 liability; recovery of expenditures.-

197        (14) ADVANCED SITE ASSESSMENT.-It is in the public  
198 interest, and of substantial environmental and economic benefit  
199 to the state, to provide an opportunity to conduct site  
200 assessment on a limited basis at contaminated sites in advance



201 of the ranking of the sites on the priority list as specified in  
202 subsection (8).

203 (a) A real property owner that is eligible for site  
204 rehabilitation at a facility that has been determined eligible  
205 for the drycleaning solvent cleanup program under this section  
206 may request an advanced site assessment, and the department may  
207 authorize the performance of a site assessment in advance of the  
208 ranking of the site on the priority list as specified in  
209 subsection (8), if the following criteria are met:

210 1. The site assessment information would provide new  
211 information that would be sufficient for the department to  
212 better evaluate the actual risk of the contamination, thereby  
213 reducing the risk to public health and the environment;

214 2. The property owner agrees:

215 a. To implement the appropriate institutional controls in  
216 accordance with department rules adopted pursuant to subsection  
217 (4) at the time the property owner requests the advanced site  
218 assessment; and

219 b. To implement and maintain, upon completion of the  
220 cleanup, the required institutional controls, or a combination  
221 of institutional and engineering controls, when the site meets  
222 the site rehabilitation criteria for closure with controls in  
223 accordance with department rules adopted pursuant to subsection  
224 (4);

225 3. Current conditions at the site allow the site

226 assessment to be conducted in a manner that will result in cost  
227 savings to the Water Quality Assurance Trust Fund;

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

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

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

236 (c) An advanced site assessment must incorporate risk-  
237 based corrective action principles to achieve protection of  
238 human health and safety and the environment in a cost-effective  
239 manner, in accordance with department rules adopted pursuant  
240 subsection (4). The site assessment must also be sufficient to  
241 estimate the cost and determine the proposed course of action  
242 toward site cleanup. Advanced site assessment activities  
243 performed under this subsection shall be designed to  
244 affirmatively demonstrate that the site meets one of the  
245 following findings based on the following specified criteria:

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

250 2. Recommend additional groundwater monitoring to support

251 natural attenuation monitoring or long-term groundwater  
252 monitoring; or

253 3. Recommend "no further action," with or without  
254 institutional controls or institutional and engineering controls  
255 for those sites that meet the "no further action" criteria in  
256 accordance with department rules adopted pursuant to subsection  
257 (4).

258  
259 If the site does not meet one of the findings specified in  
260 subparagraphs 1.-3., the department shall notify the property  
261 owner in writing of this decision, and the site shall be  
262 returned to its priority ranking order in accordance with its  
263 score.

264 (d) Advanced site assessment program tasks shall be  
265 assigned by the drycleaning solvent cleanup program. In addition  
266 to the provisions in paragraph (a), the assignment of site  
267 assessment tasks shall be based on the department's  
268 determination of contractor logistics, geographical  
269 considerations, and other criteria that the department  
270 determines are necessary to achieve the most cost-effective  
271 approach.

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

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

278 (g) The department shall prioritize the requests for  
 279 advanced site assessment, based on the date of receipt and the  
 280 environmental and economic value to the state, until 10 percent  
 281 of the annual Water Quality Assurance Trust Fund appropriation,  
 282 as provided in paragraph (e), has been obligated.

283 Section 3. Paragraph (f) of subsection (2) of section  
 284 220.1845, Florida Statutes, is amended to read:

285 220.1845 Contaminated site rehabilitation tax credit.—

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

287 (f) The total amount of the tax credits which may be  
 288 granted under this section is \$21.6 million in the 2015-2016  
 289 fiscal year, ~~and~~ \$5 million in the 2016-2017 fiscal year, and  
 290 \$10 million annually thereafter.

291 Section 4. Subsection (4) of section 376.30781, Florida  
 292 Statutes, is amended to read:

293 376.30781 Tax credits for rehabilitation of drycleaning-  
 294 solvent-contaminated sites and brownfield sites in designated  
 295 brownfield areas; application process; rulemaking authority;  
 296 revocation authority.—

297 (4) The Department of Environmental Protection is  
 298 responsible for allocating the tax credits provided for in s.  
 299 220.1845, which may not exceed a total of \$21.6 million in tax  
 300 credits in the 2015-2016 fiscal year, ~~and~~ \$5 million in tax

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301 | credits in the 2016-2017 fiscal year, and \$10 million in tax  
302 | credits annually thereafter.

303 |       Section 5. This act shall take effect July 1, 2017.