

1                   A bill to be entitled  
2           An act relating to contaminated site cleanup; amending  
3           s. 376.051, F.S.; directing the Department of  
4           Environmental Protection to publish reports of certain  
5           releases and discharges of pollution; amending s.  
6           376.3071, F.S.; providing an exception to requirements  
7           for prompt payment to subcontractors and suppliers;  
8           amending s. 376.30713, F.S.; revising legislative  
9           findings; providing an exception to a requirement that  
10          applicants for advanced cleanup of certain individual  
11          sites are not subject to application period  
12          limitations and need not pay a certain cost-sharing  
13          commitment; requiring applications by such applicants  
14          to be accepted on a first-come, first-served basis;  
15          providing that applications for the cleanup of  
16          individual redevelopment sites are not subject to  
17          certain ranking provisions; specifying application  
18          requirements; providing construction; increasing the  
19          amount per year the department may use for advanced  
20          cleanup work; specifying expenditure limitations;  
21          revising the time period during which the department  
22          may terminate or amend voluntary cost-share  
23          agreements; revising duties of property owners and  
24          responsible parties with respect to voluntary cost-  
25          share agreements; amending s. 376.3078, F.S.;

26 providing a statement of public interest; authorizing  
 27 site assessments in advance of site priority ranking  
 28 under certain circumstances; specifying criteria for  
 29 sites to be eligible for such assessments; specifying  
 30 what must be demonstrated through such assessments;  
 31 specifying criteria for the assignment of assessment  
 32 tasks; specifying funding limitations; specifying the  
 33 prioritization of requests; providing an effective  
 34 date.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. Subsection (7) is added to section 376.051,  
 39 Florida Statutes, to read:

40 376.051 Powers and duties of the Department of  
 41 Environmental Protection.—

42 (7) The department shall publish on a publicly accessible  
 43 website any report of unauthorized releases or discharges of  
 44 pollution submitted to the State Watch Office within 24 hours  
 45 after receipt of such report.

46 Section 2. Paragraph (h) of subsection (6) of section  
 47 376.3071, Florida Statutes, is amended to read:

48 376.3071 Inland Protection Trust Fund; creation; purposes;  
 49 funding.—

50 (6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

51 (h) The contractor or the person to whom ~~which~~ the  
52 contractor has assigned its right to payment pursuant to  
53 paragraph (e) shall make prompt payment to subcontractors and  
54 suppliers for their costs associated with an approved contract  
55 pursuant to s. 287.0585, except that the contractor or the  
56 person to whom the contractor has assigned its right to payment  
57 pursuant to paragraph (e) may remit payments to subcontractors  
58 and suppliers within 30 working days after the contractor's  
59 receipt of payment by the department before the penalties  
60 required by s. 287.0585(1) are applicable.

61 Section 3. Paragraphs (a) and (c) of subsection (1) and  
62 subsections (2) and (4) of section 376.30713, Florida Statutes,  
63 are amended to read:

64 376.30713 Advanced cleanup.—

65 (1) In addition to the legislative findings provided in s.  
66 376.3071, the Legislature finds and declares:

67 (a) That the inability to conduct site rehabilitation in  
68 advance of a site's priority ranking pursuant to s.  
69 376.3071(5) (a) may substantially impede or prohibit property  
70 redevelopment, property transactions, or the proper completion  
71 of public works projects.

72 (c) It is in the public interest and of substantial  
73 economic benefit to the state to provide an opportunity for site  
74 rehabilitation to be conducted on a limited basis at  
75 contaminated sites, in advance of the site's priority ranking,

76 | to encourage redevelopment and facilitate property transactions  
77 | or public works projects.

78 |       (2) The department may approve an application for advanced  
79 | cleanup at eligible sites, including applications submitted  
80 | pursuant to paragraph (c), notwithstanding the site's priority  
81 | ranking established pursuant to s. 376.3071(5)(a), pursuant to  
82 | this section. Only the facility owner or operator or the person  
83 | otherwise responsible for site rehabilitation qualifies as an  
84 | applicant under this section.

85 |       (a) Advanced cleanup applications may be submitted between  
86 | May 1 and June 30 and between November 1 and December 31 of each  
87 | fiscal year. Applications submitted between May 1 and June 30  
88 | shall be for the fiscal year beginning July 1. An application  
89 | must consist of:

90 |       1. A commitment to pay 25 percent or more of the total  
91 | cleanup cost deemed recoverable under this section along with  
92 | proof of the ability to pay the cost share. The department shall  
93 | determine whether the cost savings demonstration is acceptable.  
94 | Such determination is not subject to chapter 120.

95 |       a. Applications for the aggregate cleanup of five or more  
96 | sites may be submitted in one of two formats to meet the cost-  
97 | share requirement:

98 |       (I) For an aggregate application proposing that the  
99 | department enter into a performance-based contract, the

100 applicant may use a commitment to pay, a demonstrated cost  
101 savings to the department, or both to meet the requirement.

102 (II) For an aggregate application relying on a  
103 demonstrated cost savings to the department, the applicant  
104 shall, in conjunction with the proposed agency term contractor,  
105 establish and provide in the application the percentage of cost  
106 savings in the aggregate that is being provided to the  
107 department for cleanup of the sites under the application  
108 compared to the cost of cleanup of those same sites using the  
109 current rates provided to the department by the proposed agency  
110 term contractor.

111 b. Applications for the cleanup of individual sites may be  
112 submitted in one of two formats to meet the cost-share  
113 requirement:

114 (I) For an individual application proposing that the  
115 department enter into a performance-based contract, the  
116 applicant may use a commitment to pay, a demonstrated cost  
117 savings to the department, or both to meet the requirement.

118 (II) For an individual application relying on a  
119 demonstrated cost savings to the department, the applicant  
120 shall, in conjunction with the proposed agency term contractor,  
121 establish and provide in the application a 25-percent cost  
122 savings to the department for cleanup of the site under the  
123 application compared to the cost of cleanup of the same site

124 using the current rates provided to the department by the  
125 proposed agency term contractor.

126 2. A nonrefundable review fee of \$250 to cover the  
127 administrative costs associated with the department's review of  
128 the application.

129 3. A limited contamination assessment report.

130 4. A proposed course of action.

131 5. A department site access agreement, or similar  
132 agreements approved by the department that do not violate state  
133 law, entered into with the property owner or owners, as  
134 applicable, and evidence of authorization from such owner or  
135 owners for petroleum site rehabilitation program tasks  
136 consistent with the proposed course of action where the  
137 applicant is not the property owner for any of the sites  
138 contained in the application.

139

140 The limited contamination assessment report must be sufficient  
141 to support the proposed course of action and to estimate the  
142 cost of the proposed course of action. Costs incurred related to  
143 conducting the limited contamination assessment report are not  
144 refundable from the Inland Protection Trust Fund. Site  
145 eligibility under this subsection or any other provision of this  
146 section is not an entitlement to advanced cleanup or continued  
147 restoration funding. The applicant shall certify to the  
148 department that the applicant has the prerequisite authority to

149 enter into an advanced cleanup contract with the department. The  
150 certification must be submitted with the application.

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

165 (c) Applications for the advanced cleanup of individual  
166 sites scheduled for redevelopment are not subject to the  
167 application period limitations or the requirement to pay 25  
168 percent of the total cleanup costs specified in paragraph (a) or  
169 to the cost-sharing commitment specified in paragraph (1) (d).  
170 Applications must be accepted on a first-come, first-served  
171 basis and are not subject to the ranking provisions of paragraph  
172 (b). Applications for the advanced cleanup of individual sites  
173 scheduled for redevelopment must include:

174       1. A nonrefundable review fee of \$250 to cover the  
175 administrative costs associated with the department's review of  
176 the application.

177       2. A limited contamination assessment report. The report  
178 must be sufficient to support the proposed course of action and  
179 to estimate the cost of the proposed course of action. Costs  
180 incurred related to conducting and preparing the report are not  
181 refundable from the Inland Protection Trust Fund.

182       3. A proposed course of action for cleanup of the site.

183       4. If the applicant is not the property owner for any of  
184 the sites contained in the application, a department site access  
185 agreement, or a similar agreement approved by the department and  
186 not in violation of state law, entered into with the property  
187 owner or owners, as applicable, and evidence of authorization  
188 from such owner or owners for petroleum site rehabilitation  
189 program tasks consistent with the proposed course of action.

190       5. A certification to the department stating that the  
191 applicant has the prerequisite authority to enter into an  
192 advanced cleanup contract with the department. The advanced  
193 cleanup contract must include redevelopment and site  
194 rehabilitation milestones.

195       6. Documentation, in the form of a letter from the local  
196 government having jurisdiction over the area where the site is  
197 located, which states that the local government is in agreement  
198 with or approves the proposed redevelopment and that the



199 proposed redevelopment complies with applicable laws and  
200 requirements for such redevelopment.

201 7. A demonstrated reasonable assurance that the applicant  
202 has sufficient financial resources to implement and complete the  
203 redevelopment project.

204  
205 Site eligibility under this section is not an entitlement to  
206 advanced cleanup funding or continued restoration funding.

207 (4) The department may enter into contracts for a total of  
208 up to \$30 ~~\$25~~ million of advanced cleanup work in each fiscal  
209 year. Up to \$5 million of these funds may be designated by the  
210 department for advanced cleanup of individual sites scheduled  
211 for redevelopment under paragraph (2)(c).

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

216 (b) A facility or an applicant applying for cleanup of  
217 individual redevelopment sites pursuant to paragraph (2)(c) may  
218 not be approved for more than \$1 million of cleanup activity in  
219 any one fiscal year.

220 (c) A property owner or responsible party may enter into a  
221 voluntary cost-share agreement in which the property owner or  
222 responsible party commits to bundle multiple sites and lists the  
223 facilities that will be included in those future bundles. The

224 facilities listed are not subject to agency term contractor  
225 assignment pursuant to department rule. The department must  
226 reserve ~~reserves~~ the right to terminate or amend the voluntary  
227 cost-share agreement for any identified site under the voluntary  
228 cost-share agreement if the property owner or responsible party  
229 fails to submit an application to bundle any site, not already  
230 covered by an advance cleanup contract, under such voluntary  
231 cost-share agreement within three ~~a~~ subsequent open application  
232 periods or 18 months, whichever period is shorter, period during  
233 which it is eligible to participate. The property owner or  
234 responsible party must agree to conduct limited site assessments  
235 on the identified sites within 12 months after the execution of  
236 the voluntary cost-share agreement. For the purposes of this  
237 section, the term "facility" includes, but is not limited to,  
238 multiple site facilities such as airports, port facilities, and  
239 terminal facilities even though such enterprises may be treated  
240 as separate facilities for other purposes under this chapter.

241 Section 4. Subsection (14) is added to section 376.3078,  
242 Florida Statutes, to read:

243 376.3078 Drycleaning facility restoration; funds; uses;  
244 liability; recovery of expenditures.-

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

249 of the ranking of the sites on the priority list as specified in  
250 subsection (8).

251 (a) A real property owner that is eligible for site  
252 rehabilitation at a facility that has been determined eligible  
253 for the drycleaning solvent cleanup program under this section  
254 may request an advanced site assessment, and the department may  
255 authorize the performance of a site assessment in advance of the  
256 ranking of the site on the priority list as specified in  
257 subsection (8), if the following criteria are met:

258 1. The site assessment information would provide new  
259 information that would be sufficient for the department to  
260 better evaluate the actual risk of the contamination, thereby  
261 reducing the risk to public health and the environment;

262 2. The property owner agrees:

263 a. To implement the appropriate institutional controls in  
264 accordance with department rules adopted pursuant to subsection  
265 (4) at the time the property owner requests the advanced site  
266 assessment; and

267 b. To implement and maintain, upon completion of the  
268 cleanup, the required institutional controls, or a combination  
269 of institutional and engineering controls, when the site meets  
270 the site rehabilitation criteria for closure with controls in  
271 accordance with department rules adopted pursuant to subsection  
272 (4);

273 3. Current conditions at the site allow the site

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

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

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

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

284 (c) An advanced site assessment must incorporate risk-  
285 based corrective action principles to achieve protection of  
286 human health and safety and the environment in a cost-effective  
287 manner, in accordance with department rules adopted pursuant  
288 subsection (4). The site assessment must also be sufficient to  
289 estimate the cost and determine the proposed course of action  
290 toward site cleanup. Advanced site assessment activities  
291 performed under this subsection shall be designed to  
292 affirmatively demonstrate that the site meets one of the  
293 following findings based on the following specified criteria:

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

298 2. Recommend additional groundwater monitoring to support

299 natural attenuation monitoring or long-term groundwater  
300 monitoring; or

301 3. Recommend "no further action," with or without  
302 institutional controls or institutional and engineering controls  
303 for those sites that meet the "no further action" criteria in  
304 accordance with department rules adopted pursuant to subsection  
305 (4).

306  
307 If the site does not meet one of the findings specified in  
308 subparagraphs 1.-3., the department shall notify the property  
309 owner in writing of this decision, and the site shall be  
310 returned to its priority ranking order in accordance with its  
311 score.

312 (d) Advanced site assessment program tasks shall be  
313 assigned by the drycleaning solvent cleanup program. In addition  
314 to the provisions in paragraph (a), the assignment of site  
315 assessment tasks shall be based on the department's  
316 determination of contractor logistics, geographical  
317 considerations, and other criteria that the department  
318 determines are necessary to achieve the most cost-effective  
319 approach.

320 (e) Available funding for advanced site assessments may  
321 not exceed 10 percent of the annual Water Quality Assurance  
322 Trust Fund appropriation for the drycleaning solvent cleanup  
323 program.

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

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

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