

STATUTES IN APPROVED FLORIDA
COASTAL MANAGEMENT PROGRAM
(1983 FLORIDA STATUTES)

COASTAL ZONE
INFORMATION CENTER

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION
OFFICE OF COASTAL MANAGEMENT
TWIN TOWERS OFFICE BUILDING
2600 BLAIR STONE ROAD
TALLAHASSEE, FL 32301

MARCH 1984

HC
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TABLE OF CONTENTS

STATUTES IN APPROVED FLORIDA COASTAL MANAGEMENT PROGRAM

<u>Florida Statutes</u>	<u>Page</u>
Chapter 23.011-.0191 State Comprehensive Planning and Power Plant Siting	1
Chapter 119 Public Records	3
Chapter 120 Administrative Procedure Act	6
Chapter 160 Regional Planning Councils	15
Chapter 161 Beach and Shore Preservation	17
Chapter 201.02; .15 Excise Tax on Documents	24
Chapter 252 Emergency Management	25
Chapter 253 State Lands	30
Chapter 258 State Parks and Preserves	45
Chapter 259 Land Conservation Act of 1972	52
Chapter 260 Recreational Trails System	53
Chapter 267 Archives, History, and Records Management	54
Chapter 288.011-.08; .34; .501-.518 Commercial Development and Capital Improvements, Industrial Siting Act	58
Chapter 315 Port Facilities Financing	65
Chapter 334 Transportation Administration	68
Chapter 366 Public Utilities	75
Chapter 370 Saltwater Fisheries	80
Chapter 372 Wildlife	104
Chapter 373 Water Resources	116
Chapter 375 Outdoor Recreation and Conservation	138
Chapter 376 Pollutant Discharge Prevention and Removal	141
Chapter 377 Energy Resources	148
Chapter 380 Land and Water Management	161
Chapter 388 Mosquito Control	170
Chapter 403 Environmental Control	174
Chapter 582 Soil and Water Conservation	207

programs not otherwise authorized pursuant to law. It is the further intent of the Legislature that enactment of this legislation shall not amend existing statutes, other than as provided herein, or provide additional regulatory authority.

History.—S. 87-157, § 31, 87-158, § 1, 87-206, § 1, 87-207, § 3, 87-208, § 1, 87-209, § 1, 87-210, § 1, 87-211, § 1, 87-212, § 1, 87-213, § 1, 87-214, § 1, 87-215, § 1, 87-216, § 1, 87-217, § 1, 87-218, § 1, 87-219, § 1, 87-220, § 1, 87-221, § 1, 87-222, § 1, 87-223, § 1, 87-224, § 1, 87-225, § 1, 87-226, § 1, 87-227, § 1, 87-228, § 1, 87-229, § 1, 87-230, § 1, 87-231, § 1, 87-232, § 1, 87-233, § 1, 87-234, § 1, 87-235, § 1, 87-236, § 1, 87-237, § 1, 87-238, § 1, 87-239, § 1, 87-240, § 1, 87-241, § 1, 87-242, § 1, 87-243, § 1, 87-244, § 1, 87-245, § 1, 87-246, § 1, 87-247, § 1, 87-248, § 1, 87-249, § 1, 87-250, § 1, 87-251, § 1, 87-252, § 1, 87-253, § 1, 87-254, § 1, 87-255, § 1, 87-256, § 1, 87-257, § 1, 87-258, § 1, 87-259, § 1, 87-260, § 1, 87-261, § 1, 87-262, § 1, 87-263, § 1, 87-264, § 1, 87-265, § 1, 87-266, § 1, 87-267, § 1, 87-268, § 1, 87-269, § 1, 87-270, § 1, 87-271, § 1, 87-272, § 1, 87-273, § 1, 87-274, § 1, 87-275, § 1, 87-276, § 1, 87-277, § 1, 87-278, § 1, 87-279, § 1, 87-280, § 1, 87-281, § 1, 87-282, § 1, 87-283, § 1, 87-284, § 1, 87-285, § 1, 87-286, § 1, 87-287, § 1, 87-288, § 1, 87-289, § 1, 87-290, § 1, 87-291, § 1, 87-292, § 1, 87-293, § 1, 87-294, § 1, 87-295, § 1, 87-296, § 1, 87-297, § 1, 87-298, § 1, 87-299, § 1, 87-300, § 1, 87-301, § 1, 87-302, § 1, 87-303, § 1, 87-304, § 1, 87-305, § 1, 87-306, § 1, 87-307, § 1, 87-308, § 1, 87-309, § 1, 87-310, § 1, 87-311, § 1, 87-312, § 1, 87-313, § 1, 87-314, § 1, 87-315, § 1, 87-316, § 1, 87-317, § 1, 87-318, § 1, 87-319, § 1, 87-320, § 1, 87-321, § 1, 87-322, § 1, 87-323, § 1, 87-324, § 1, 87-325, § 1, 87-326, § 1, 87-327, § 1, 87-328, § 1, 87-329, § 1, 87-330, § 1, 87-331, § 1, 87-332, § 1, 87-333, § 1, 87-334, § 1, 87-335, § 1, 87-336, § 1, 87-337, § 1, 87-338, § 1, 87-339, § 1, 87-340, § 1, 87-341, § 1, 87-342, § 1, 87-343, § 1, 87-344, § 1, 87-345, § 1, 87-346, § 1, 87-347, § 1, 87-348, § 1, 87-349, § 1, 87-350, § 1, 87-351, § 1, 87-352, § 1, 87-353, § 1, 87-354, § 1, 87-355, § 1, 87-356, § 1, 87-357, § 1, 87-358, § 1, 87-359, § 1, 87-360, § 1, 87-361, § 1, 87-362, § 1, 87-363, § 1, 87-364, § 1, 87-365, § 1, 87-366, § 1, 87-367, § 1, 87-368, § 1, 87-369, § 1, 87-370, § 1, 87-371, § 1, 87-372, § 1, 87-373, § 1, 87-374, § 1, 87-375, § 1, 87-376, § 1, 87-377, § 1, 87-378, § 1, 87-379, § 1, 87-380, § 1, 87-381, § 1, 87-382, § 1, 87-383, § 1, 87-384, § 1, 87-385, § 1, 87-386, § 1, 87-387, § 1, 87-388, § 1, 87-389, § 1, 87-390, § 1, 87-391, § 1, 87-392, § 1, 87-393, § 1, 87-394, § 1, 87-395, § 1, 87-396, § 1, 87-397, § 1, 87-398, § 1, 87-399, § 1, 87-400, § 1, 87-401, § 1, 87-402, § 1, 87-403, § 1, 87-404, § 1, 87-405, § 1, 87-406, § 1, 87-407, § 1, 87-408, § 1, 87-409, § 1, 87-410, § 1, 87-411, § 1, 87-412, § 1, 87-413, § 1, 87-414, § 1, 87-415, § 1, 87-416, § 1, 87-417, § 1, 87-418, § 1, 87-419, § 1, 87-420, § 1, 87-421, § 1, 87-422, § 1, 87-423, § 1, 87-424, § 1, 87-425, § 1, 87-426, § 1, 87-427, § 1, 87-428, § 1, 87-429, § 1, 87-430, § 1, 87-431, § 1, 87-432, § 1, 87-433, § 1, 87-434, § 1, 87-435, § 1, 87-436, § 1, 87-437, § 1, 87-438, § 1, 87-439, § 1, 87-440, § 1, 87-441, § 1, 87-442, § 1, 87-443, § 1, 87-444, § 1, 87-445, § 1, 87-446, § 1, 87-447, § 1, 87-448, § 1, 87-449, § 1, 87-450, § 1, 87-451, § 1, 87-452, § 1, 87-453, § 1, 87-454, § 1, 87-455, § 1, 87-456, § 1, 87-457, § 1, 87-458, § 1, 87-459, § 1, 87-460, § 1, 87-461, § 1, 87-462, § 1, 87-463, § 1, 87-464, § 1, 87-465, § 1, 87-466, § 1, 87-467, § 1, 87-468, § 1, 87-469, § 1, 87-470, § 1, 87-471, § 1, 87-472, § 1, 87-473, § 1, 87-474, § 1, 87-475, § 1, 87-476, § 1, 87-477, § 1, 87-478, § 1, 87-479, § 1, 87-480, § 1, 87-481, § 1, 87-482, § 1, 87-483, § 1, 87-484, § 1, 87-485, § 1, 87-486, § 1, 87-487, § 1, 87-488, § 1, 87-489, § 1, 87-490, § 1, 87-491, § 1, 87-492, § 1, 87-493, § 1, 87-494, § 1, 87-495, § 1, 87-496, § 1, 87-497, § 1, 87-498, § 1, 87-499, § 1, 87-500, § 1, 87-501, § 1, 87-502, § 1, 87-503, § 1, 87-504, § 1, 87-505, § 1, 87-506, § 1, 87-507, § 1, 87-508, § 1, 87-509, § 1, 87-510, § 1, 87-511, § 1, 87-512, § 1, 87-513, § 1, 87-514, § 1, 87-515, § 1, 87-516, § 1, 87-517, § 1, 87-518, § 1, 87-519, § 1, 87-520, § 1, 87-521, § 1, 87-522, § 1, 87-523, § 1, 87-524, § 1, 87-525, § 1, 87-526, § 1, 87-527, § 1, 87-528, § 1, 87-529, § 1, 87-530, § 1, 87-531, § 1, 87-532, § 1, 87-533, § 1, 87-534, § 1, 87-535, § 1, 87-536, § 1, 87-537, § 1, 87-538, § 1, 87-539, § 1, 87-540, § 1, 87-541, § 1, 87-542, § 1, 87-543, § 1, 87-544, § 1, 87-545, § 1, 87-546, § 1, 87-547, § 1, 87-548, § 1, 87-549, § 1, 87-550, § 1, 87-551, § 1, 87-552, § 1, 87-553, § 1, 87-554, § 1, 87-555, § 1, 87-556, § 1, 87-557, § 1, 87-558, § 1, 87-559, § 1, 87-560, § 1, 87-561, § 1, 87-562, § 1, 87-563, § 1, 87-564, § 1, 87-565, § 1, 87-566, § 1, 87-567, § 1, 87-568, § 1, 87-569, § 1, 87-570, § 1, 87-571, § 1, 87-572, § 1, 87-573, § 1, 87-574, § 1, 87-575, § 1, 87-576, § 1, 87-577, § 1, 87-578, § 1, 87-579, § 1, 87-580, § 1, 87-581, § 1, 87-582, § 1, 87-583, § 1, 87-584, § 1, 87-585, § 1, 87-586, § 1, 87-587, § 1, 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87-665, § 1, 87-666, § 1, 87-667, § 1, 87-668, § 1, 87-669, § 1, 87-670, § 1, 87-671, § 1, 87-672, § 1, 87-673, § 1, 87-674, § 1, 87-675, § 1, 87-676, § 1, 87-677, § 1, 87-678, § 1, 87-679, § 1, 87-680, § 1, 87-681, § 1, 87-682, § 1, 87-683, § 1, 87-684, § 1, 87-685, § 1, 87-686, § 1, 87-687, § 1, 87-688, § 1, 87-689, § 1, 87-690, § 1, 87-691, § 1, 87-692, § 1, 87-693, § 1, 87-694, § 1, 87-695, § 1, 87-696, § 1, 87-697, § 1, 87-698, § 1, 87-699, § 1, 87-700, § 1, 87-701, § 1, 87-702, § 1, 87-703, § 1, 87-704, § 1, 87-705, § 1, 87-706, § 1, 87-707, § 1, 87-708, § 1, 87-709, § 1, 87-710, § 1, 87-711, § 1, 87-712, § 1, 87-713, § 1, 87-714, § 1, 87-715, § 1, 87-716, § 1, 87-717, § 1, 87-718, § 1, 87-719, § 1, 87-720, § 1, 87-721, § 1, 87-722, § 1, 87-723, § 1, 87-724, § 1, 87-725, § 1, 87-726, § 1, 87-727, § 1, 87-728, § 1, 87-729, § 1, 87-730, § 1, 87-731, § 1, 87-732, § 1, 87-733, § 1, 87-734, § 1, 87-735, § 1, 87-736, § 1, 87-737, § 1, 87-738, § 1, 87-739, § 1, 87-740, § 1, 87-741, § 1, 87-742, § 1, 87-743, § 1, 87-744, § 1, 87-745, § 1, 87-746, § 1, 87-747, § 1, 87-748, § 1, 87-749, § 1, 87-750, § 1, 87-751, § 1, 87-752, § 1, 87-753, § 1, 87-754, § 1, 87-755, § 1, 87-756, § 1, 87-757, § 1, 87-758, § 1, 87-759, § 1, 87-760, § 1, 87-761, § 1, 87-762, § 1, 87-763, § 1, 87-764, § 1, 87-765, § 1, 87-766, § 1, 87-767, § 1, 87-768, § 1, 87-769, § 1, 87-770, § 1, 87-771, § 1, 87-772, § 1, 87-773, § 1, 87-774, § 1, 87-775, § 1, 87-776, § 1, 87-777, § 1, 87-778, § 1, 87-779, § 1, 87-780, § 1, 87-781, § 1, 87-782, § 1, 87-783, § 1, 87-784, § 1, 87-785, § 1, 87-786, § 1, 87-787, § 1, 87-788, § 1, 87-789, § 1, 87-790, § 1, 87-791, § 1, 87-792, § 1, 87-793, § 1, 87-794, § 1, 87-795, § 1, 87-796, § 1, 87-797, § 1, 87-798, § 1, 87-799, § 1, 87-800, § 1, 87-801, § 1, 87-802, § 1, 87-803, § 1, 87-804, § 1, 87-805, § 1, 87-806, § 1, 87-807, § 1, 87-808, § 1, 87-809, § 1, 87-810, § 1, 87-811, § 1, 87-812, § 1, 87-813, § 1, 87-814, § 1, 87-815, § 1, 87-816, § 1, 87-817, § 1, 87-818, § 1, 87-819, § 1, 87-820, § 1, 87-821, § 1, 87-822, § 1, 87-823, § 1, 87-824, § 1, 87-825, § 1, 87-826, § 1, 87-827, § 1, 87-828, § 1, 87-829, § 1, 87-830, § 1, 87-831, § 1, 87-832, § 1, 87-833, § 1, 87-834, § 1, 87-835, § 1, 87-836, § 1, 87-837, § 1, 87-838, § 1, 87-839, § 1, 87-840, § 1, 87-841, § 1, 87-842, § 1, 87-843, § 1, 87-844, § 1, 87-845, § 1, 87-846, § 1, 87-847, § 1, 87-848, § 1, 87-849, § 1, 87-850, § 1, 87-851, § 1, 87-852, § 1, 87-853, § 1, 87-854, § 1, 87-855, § 1, 87-856, § 1, 87-857, § 1, 87-858, § 1, 87-859, § 1, 87-860, § 1, 87-861, § 1, 87-862, § 1, 87-863, § 1, 87-864, § 1, 87-865, § 1, 87-866, § 1, 87-867, § 1, 87-868, § 1, 87-869, § 1, 87-870, § 1, 87-871, § 1, 87-872, § 1, 87-873, § 1, 87-874, § 1, 87-875, § 1, 87-876, § 1, 87-877, § 1, 87-878, § 1, 87-879, § 1, 87-880, § 1, 87-881, § 1, 87-882, § 1, 87-883, § 1, 87-884, § 1, 87-885, § 1, 87-886, § 1, 87-887, § 1, 87-888, § 1, 87-889, § 1, 87-890, § 1, 87-891, § 1, 87-892, § 1, 87-893, § 1, 87-894, § 1, 87-895, § 1, 87-896, § 1, 87-897, § 1, 87-898, § 1, 87-899, § 1, 87-900, § 1, 87-901, § 1, 87-902, § 1, 87-903, § 1, 87-904, § 1, 87-905, § 1, 87-906, § 1, 87-907, § 1, 87-908, § 1, 87-909, § 1, 87-910, § 1, 87-911, § 1, 87-912, § 1, 87-913, § 1, 87-914, § 1, 87-915, § 1, 87-916, § 1, 87-917, § 1, 87-918, § 1, 87-919, § 1, 87-920, § 1, 87-921, § 1, 87-922, § 1, 87-923, § 1, 87-924, § 1, 87-925, § 1, 87-926, § 1, 87-927, § 1, 87-928, § 1, 87-929, § 1, 87-930, § 1, 87-931, § 1, 87-932, § 1, 87-933, § 1, 87-934, § 1, 87-935, § 1, 87-936, § 1, 87-937, § 1, 87-938, § 1, 87-939, § 1, 87-940, § 1, 87-941, § 1, 87-942, § 1, 87-943, § 1, 87-944, § 1, 87-945, § 1, 87-946, § 1, 87-947, § 1, 87-948, § 1, 87-949, § 1, 87-950, § 1, 87-951, § 1, 87-952, § 1, 87-953, § 1, 87-954, § 1, 87-955, § 1, 87-956, § 1, 87-957, § 1, 87-958, § 1, 87-959, § 1, 87-960, § 1, 87-961, § 1, 87-962, § 1, 87-963, § 1, 87-964, § 1, 87-965, § 1, 87-966, § 1, 87-967, § 1, 87-968, § 1, 87-969, § 1, 87-970, § 1, 87-971, § 1, 87-972, § 1, 87-973, § 1, 87-974, § 1, 87-975, § 1, 87-976, § 1, 87-977, § 1, 87-978, § 1, 87-979, § 1, 87-980, § 1, 87-981, § 1, 87-982, § 1, 87-983, § 1, 87-984, § 1, 87-985, § 1, 87-986, § 1, 87-987, § 1, 87-988, § 1, 87-989, § 1, 87-990, § 1, 87-991, § 1, 87-992, § 1, 87-993, § 1, 87-994, § 1, 87-995, § 1, 87-996, § 1, 87-997, § 1, 87-998, § 1, 87-999, § 1, 87-1000, § 1.

23.014 Annual developmental program preparation.—The annual developmental program shall cover a minimum of the following 6 years and may contain the following general sections and present the following information:

- A section analyzing the current posture of state development in terms of long-range needs and opportunities of development together with a review of present factors and activities affecting the development of the state. This section will highlight past accomplishments and the current status of programs and activities, and will review such factors as the overall economic posture of the state, the major problems confronting or anticipated to confront the state, the activities of the private sector, local governments and the state, and the responsibilities of the state in development and activities.
- A section on specific policies to be undertaken, which will describe the content and emphasis of policies for at least each of the following general functional areas of development: Economic development, social development, natural resource development, transportation, regional and local development, other areas of development as appropriate.
- A section detailing the programs and the quantified annual accomplishments to be achieved by each program over the forthcoming 6 years. Analysis of the relationship of these programs to accomplishments enumerated in the previous section will be described in detail. New programs and activities in the state or existing programs and activities will be described in detail. The annual accomplishments of each program shall be described in detail in this section.
- A section dealing with the methods and requirements for effectuating and implementing the proposed annual development program. Resources required in terms of funds, manpower, capital facilities and other resources for each year of the annual development program as well as any administrative changes or new legislation required will be described in this section.

(2) Upon request of the Executive Office of the Governor, each state agency shall annually file with the office its plan for each program under its jurisdiction to be undertaken or executed for the next 6 years. The plan shall include as full an explanation of the need and justification for each program, its relationship to similar programs being carried out by other local, federal, or private agencies, and the annual anticipated expenditures for each program over the prior 6 years as is feasible. The judiciary and the Legislature are specifically excluded from this requirement. The Executive Office of the Governor shall submit to the Governor recommendations for the annual development programs based on the information submitted by the agencies.

23.017 Authorization to contract.—Whenever the preparation and execution of the annual developmental plan becomes too specialized or professionally demanding or requires research facilities not available to the Executive Office of the Governor, the office may use federal, state, local, or private funds for the purpose of contracting with public agencies or

information submitted by each state agency and its analysis of developmental needs and requirements.

History.—S. 87-157, § 31, 87-158, § 1, 87-206, § 1, 87-207, § 3, 87-208, § 1, 87-209, § 1, 87-210, § 1, 87-211, § 1, 87-212, § 1, 87-213, § 1, 87-214, § 1, 87-215, § 1, 87-216, § 1, 87-217, § 1, 87-218, § 1, 87-219, § 1, 87-220, § 1, 87-221, § 1, 87-222, § 1, 87-223, § 1, 87-224, § 1, 87-225, § 1, 87-226, § 1, 87-227, § 1, 87-228, § 1, 87-229, § 1, 87-230, § 1, 87-231, § 1, 87-232, § 1, 87-233, § 1, 87-234, § 1, 87-235, § 1, 87-236, § 1, 87-237, § 1, 87-238, § 1, 87-239, § 1, 87-240, § 1, 87-241, § 1, 87-242, § 1, 87-243, § 1, 87-244, § 1, 87-245, § 1, 87-246, § 1, 87-247, § 1, 87-248, § 1, 87-249, § 1, 87-250, § 1, 87-251, § 1, 87-252, § 1, 87-253, § 1, 87-254, § 1, 87-255, § 1, 87-256, § 1, 87-257, § 1, 87-258, § 1, 87-259, § 1, 87-260, § 1, 87-261, § 1, 87-262, § 1, 87-263, § 1, 87-264, § 1, 87-265, § 1, 87-266, § 1, 87-267, § 1, 87-268, § 1, 87-269, § 1, 87-270, § 1, 87-271, § 1, 87-272, § 1, 87-273, § 1, 87-274, § 1, 87-275, § 1, 87-276, § 1, 87-277, § 1, 87-278, § 1, 87-279, § 1, 87-280, § 1, 87-281, § 1, 87-282, § 1, 87-283, § 1, 87-284, § 1, 87-285, § 1, 87-286, § 1, 87-287, § 1, 87-288, § 1, 87-289, § 1, 87-290, § 1, 87-291, § 1, 87-292, § 1, 87-293, § 1, 87-294, § 1, 87-295, § 1, 87-296, § 1, 87-297, § 1, 87-298, § 1, 87-299, § 1, 87-300, § 1, 87-301, § 1, 87-302, § 1, 87-303, § 1, 87-304, § 1, 87-305, § 1, 87-306, § 1, 87-307, § 1, 87-308, § 1, 87-309, § 1, 87-310, § 1, 87-311, § 1, 87-312, § 1, 87-313, § 1, 87-314, § 1, 87-315, § 1, 87-316, § 1, 87-317, § 1, 87-318, § 1, 87-319, § 1, 87-320, § 1, 87-321, § 1, 87-322, § 1, 87-323, § 1, 87-324, § 1, 87-325, § 1, 87-326, § 1, 87-327, § 1, 87-328, § 1, 87-329, § 1, 87-330, § 1, 87-331, § 1, 87-332, § 1, 87-333, § 1, 87-334, § 1, 87-335, § 1, 87-336, § 1, 87-337, § 1, 87-338, § 1, 87-339, § 1, 87-340, § 1, 87-341, § 1, 87-342, § 1, 87-343, § 1, 87-344, § 1, 87-345, § 1, 87-346, § 1, 87-347, § 1, 87-348, § 1, 87-349, § 1, 87-350, § 1, 87-351, § 1, 87-352, § 1, 87-353, § 1, 87-354, §

vided by law to be confidential or which are prohibited from being inspected by the public, whether by general or special law, are exempt from the provisions of subsection (1).

(b) All public records referred to in ss. 199.222, 228.093, 257.261, 298.075, 324.319(3) and (4), and 655.057(1)(b), (3), and (4), are exempt from the provisions of subsection (1).

(c) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from the provisions of subsection (1). However, an examinee shall have the right to review his own completed examination.

(d) Active criminal intelligence information and active criminal investigative information are exempt from the provisions of subsection (1).

(e) Any information revealing the identity of confidential informants or sources is exempt from the provisions of subsection (1).

(f) Any information revealing surveillance techniques or procedures or personnel is exempt from the provisions of subsection (1).

(g) An information revealing undercover personnel of any criminal justice agency is exempt from the provisions of subsection (1).

(h) Any criminal intelligence information or criminal investigative information including the photograph, name, address, or other fact or personal history which reveals the identity of the victim of any crime as defined by chapter 794 or child abuse as defined by chapter 827 is exempt from the provisions of subsection (1).

(i) Any criminal intelligence information or criminal investigative information which reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime, is exempt from the provisions of subsection (1).

(j) All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt from the provisions of subsection (1).

(k) The home addresses, telephone numbers, and photographs of law enforcement personnel; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of law enforcement personnel; and the names and locations of schools attended by the children of law enforcement personnel are exempt from the provisions of subsection (1).

(l) Any information provided to an agency of state government or of a political subdivision for the purpose of conducting investigations which information reveals the identity of an individual who has provided his name for conducting investigations as provided in s. 341.03(5) is exempt from the provisions of subsection (1).

(m) Any information revealing the substance of a confession of a person arrested or of witness lists or changed pursuant to the provisions of Rule 3.220, Florida Rules of Criminal Procedure, is exempt from the provisions of subsection (1), until such time as the charge is finally determined by adjudication, dismissal, or other disposition.

(n) A patient record obtained by the Hospital Cost Containment Board established under s. 395.503 which record contains the name, residential or business address, telephone number, social security or other identifying number, or photograph of any person or the spouse, relative, or guardian thereof, or of which record is stored in a computer, identifies the patient, either directly or indirectly, is exempt from the provisions of paragraph (1)(b).

(4) Nothing herein shall be construed to exempt from subsection (1) records made part of a case file and not specifically closed by order of court, except as provided in paragraphs (e), (f), (g), and (m) of subsection (3).

(5) The provisions of this section are not intended to expand or limit the provisions of Rule 3.220, Florida Rules of Criminal Procedure, regarding the right and extent of discovery by the state and a defendant in a criminal prosecution.

History.—1. Ch. 67-125, § 4, ch. 76-225, § 2, ch. 77-126, § 2, ch. 81-126, § 1, ch. 82-126, § 1, ch. 83-126, § 1, ch. 84-126, § 1, ch. 85-126, § 1, ch. 86-126, § 1, ch. 87-126, § 1, ch. 88-126, § 1, ch. 89-126, § 1, ch. 90-126, § 1, ch. 91-126, § 1, ch. 92-126, § 1, ch. 93-126, § 1, ch. 94-126, § 1, ch. 95-126, § 1, ch. 96-126, § 1, ch. 97-126, § 1, ch. 98-126, § 1, ch. 99-126, § 1, ch. 100-126, § 1, ch. 101-126, § 1, ch. 102-126, § 1, ch. 103-126, § 1, ch. 104-126, § 1, ch. 105-126, § 1, ch. 106-126, § 1, ch. 107-126, § 1, ch. 108-126, § 1, ch. 109-126, § 1, ch. 110-126, § 1, ch. 111-126, § 1, ch. 112-126, § 1, ch. 113-126, § 1, ch. 114-126, § 1, ch. 115-126, § 1, ch. 116-126, § 1, ch. 117-126, § 1, ch. 118-126, § 1, ch. 119-126, § 1, ch. 120-126, § 1, ch. 121-126, § 1, ch. 122-126, § 1, ch. 123-126, § 1, ch. 124-126, § 1, ch. 125-126, § 1, ch. 126-126, § 1, ch. 127-126, § 1, ch. 128-126, § 1, ch. 129-126, § 1, ch. 130-126, § 1, ch. 131-126, § 1, ch. 132-126, § 1, ch. 133-126, § 1, ch. 134-126, § 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F.S. 1983

PUBLIC RECORDS

Ch. 119

shall assess a reasonable attorney's fee for the appeal
against such agency.
History.--s. 5, ch. 75-72.

CHAPTER 120

ADMINISTRATIVE PROCEDURE ACT

- 120.50 Exception to application of chapter.
- 120.51 Short title.
- 120.52 Definitions.
- 120.53 Adoption of rules of procedure and public inspection.
- 120.54 Rulemaking; adoption procedures.
- 120.55 Committee review of agency rules.
- 120.56 Administrative determination of rule by hearing officer.
- 120.57 Declaratory statement by agencies.
- 120.58 Decisions which affect substantial interests.
- 120.59 Taxpayer content proceedings.
- 120.59 Order.
- 120.60 Penalties.
- 120.61 Quorum.
- 120.62 Official recognition.
- 120.63 Agency investigations.
- 120.64 Exemption from act.
- 120.65 Division of Professional Regulation; partial exemption from hearing and notice requirements.
- 120.65 Hearing officers.
- 120.66 Ex parte communications.
- 120.68 Judicial review.
- 120.69 Enforcement of agency action.
- 120.70 Annual report.
- 120.71 Disqualification of agency personnel.
- 120.72 Legislative intent; prior proceedings and rules; exception.
- 120.72 Effect of chapter 75-22, Laws of Florida, on rules.
- 120.72 Legislative intent of chapter 75-22, Laws of Florida.
- 120.73 Circuit court proceedings, declaratory judgments.
- 120.80 Exception to application of chapter.
- 120.81 This chapter shall not apply to:
- (1) The Legislature.
- (2) The courts.
- 120.81 Short title.—This chapter may be known and cited as the "Administrative Procedure Act."
- 120.82 Definitions.—As used in this act:
- (1) "Agency" means:
- (a) The government in the exercise of all executive powers other than those derived from the constitution.
- (b) Each other state officer and each state department, departmental unit described in s. 20.04, commission, regional planning agency, board, district, and authority, including, but not limited to, those described in chapters 163, 298, 373, 380,

565

Ch. 120 ADMINISTRATIVE PROCEDURE ACT

F.S. 1983

agency proceedings for persons who are not eligible to become parties.

(d) Any county representative, agency, department, or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

Prisoners as defined in s. 944.02(5) may obtain or participate in proceedings under s. 120.54(3), (4), (5), (6), or (7) or s. 120.56 and may be parties under s. 120.56 to all proceedings of those proceedings. Prisoners shall not be considered parties in any other proceedings and may not seek judicial review under s. 120.68 of any other agency action. Parties shall not be considered parties for purposes of agency action or judicial review when the proceedings relate to the rescission or revocation of parole.

(12) "Person" means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(13) "Proposed order" means the advance text, under s. 120.58(1)(e), of the order which a collegial hearing officer assigned by the division conducts a hearing, the recommended order in the proposed order.

(14) "Recommended order" means the official recommendation of a hearing officer assigned by the division to an agency or of any other duly authorized presiding officer, other than an agency head or member thereof, for the final disposition of a proceeding under s. 120.57.

(15) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinion prior to their use in connection with an agency action.

(c) The preparation or modification of:

- Agency budgets.
- Contractual provisions reached as a result of collective bargaining.
- Afficial marketing orders under chapter 573 or chapter 601.

566

(d) Curricula by an educational unit, established hunting or fishing seasons when such action is adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting in an electronic media.

(e) Any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 229.57, s. 232.245, s. 232.246, or s. 232.247 or any other statewide educational test required by law.

(f) Law enforcement policies and procedures of the Department of Law Enforcement which relate to:

- The collection, management, and dissemination of active criminal intelligence information and active criminal investigations; management of criminal investigations; and management of undercover investigations and the selection, assignment, and fictitious identity of undercover personnel.
- The recruitment, management, identity, and remuneration of confidential informants or sources.
- Surveillance techniques, the selection of surveillance personnel, and electronic surveillance including court-ordered and consensual interceptions of communication conducted pursuant to chapter 934.

4. The safety and release of hostages.

5. The provision of security and protection to public figures.

6. The protection of witnesses.

7. The following rules of procedure, rules of evidence, rules of civil procedure, rules of criminal procedure, rules of appellate procedure, rules of professional conduct, rules of judicial conduct, rules of administrative procedure, rules of government ethics, and rules of public administration:

- 110.000 Rules of Civil Procedure.
- 110.001 Rules of Criminal Procedure.
- 110.002 Rules of Appellate Procedure.
- 110.003 Rules of Professional Conduct.
- 110.004 Rules of Judicial Conduct.
- 110.005 Rules of Administrative Procedure.
- 110.006 Rules of Government Ethics.
- 110.007 Rules of Public Administration.

120.83 Adoption of rules of procedure and public inspection.

(1) In addition to other requirements imposed by law, each agency shall:

(a) Adopt as a rule a description of its organization, stating the general course and method of its operation and the methods whereby the public may obtain information or make submissions or requests.

(b) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures, including a list of all forms and instructions used by the agency in its dealings with the public. The list of forms and instructions shall include the title of each form or instruction and a statement of the manner in which the form or instruction may be obtained without cost. Each agency shall file with the Department of State a copy of each form used by the agency in its dealings with the public. The department shall immediately send a copy of the form to the committee. A form may become effective no earlier than 20 days after it is filed with the department.

(c) Adopt rules of procedure appropriate for the

presentation of arguments concerning issues of law or fact, and for the presentation of evidence on any pertinent fact that may be in dispute.

(d) Adopt rules for the scheduling of meetings, hearings, and workshops, one of which shall be that an agenda shall be prepared by the agency in time to ensure that a copy of the agenda may be received at least 7 days before the event and who pays the reasonable cost of the copy. The agenda shall contain the items to be considered, in the order of presentation. After the agenda has been made available, change shall be only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time. The agenda for a special meeting of a district school board under authority of s. 230.15 shall be prepared upon the calling of the meeting, but not less than 48 hours prior to such meeting. In addition, each agency shall give notice of meetings, hearings, and workshops in the same manner as that prescribed for rulemaking in s. 120.54(1), except that the notice requirement shall not apply to emergency meetings. The notice shall include a statement of the general subject matter to be considered and shall be given not less than 7 days before the event.

(2) Each agency shall make available for public inspection and copying, at no more than cost, all rules formulated, adopted, or used by the agency in the discharge of its functions.

(b) All agency orders.

(c) A current subject matter index, identifying for the public any rule or order issued or adopted after January 1, 1975.

All rules adopted pursuant to this act shall be in force within 90 days. The Department of State shall by rule establish uniform indexing procedures.

(3) No agency rule or order is valid for any purpose until it has been made available for public inspection as herein required unless the person or party against whom enforcement is sought has actual knowledge of it.

(4) An agency may comply with paragraphs (2)(b) and (c) by designating by rule an official reporter which publishes and indexes by subject matter each agency order rendered after a proceeding which affects substantial interests has been held.

(5) An agency which enters into a contract pursuant to the provisions of ss. 282.201-282.313, chapter 285, chapter 287, or chapters 334-349 shall adopt rules specifying procedures for the resolution of protests arising from the contract bidding process. Such rules shall at least provide that:

(a) The agency shall provide notice of its decision or intended decision concerning a bid solicitation or contract award as follows:

1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail with hand delivery.

2. For any other agency decision, notice of a decision or intended decision shall be given either by posting the bid tabulation at the location where the bids were opened or by certified United States mail, return receipt requested.

The notice required by this paragraph shall contain the following statement: "Failure to file a protest within the time prescribed in s. 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

(b) Any person who is affected adversely by the agency decision or intended decision shall file with the agency notice of protest within 72 hours after the posting of the bid tabulation or intended decision. The notice shall be in writing and shall be signed and shall file a formal written protest within 10 days after the date he filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under chapter 120.

(c) Upon receipt of a notice of protest which has been timely filed, the agency shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(d) The agency, on its own initiative or upon the request of a protester, shall provide an opportunity to resolve the protest by mutual agreement between the parties within 14 days of receipt of a formal written protest.

1. If the subject of a protest is not resolved by mutual agreement within 14 days of receipt of the formal written protest and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to s. 120.57(2) and applicable agency rules before a panel of the agency.

2. If the subject of a protest is not resolved by mutual agreement within 14 days of receipt of the formal written protest and if there is a disputed issue of material fact, the agency shall refer the protest to the division for proceedings under s. 120.57(1).

(6) Each state agency, as defined in s. 216.011, shall adopt rules providing a procedure for conducting meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such meetings, hearings, and workshops, by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state.

The notice for meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this subsection shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public, and any official action taken under such circumstances shall be void.

circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to meetings, hearings, and workshops conducted by means of communications media technology and used in making economic impact statements. (b) If an economic impact statement is required before an agency takes action on an application or petition by any person, the statement shall be prepared within a reasonable time after the application is made or the petition is filed.

(c) The failure to provide an adequate statement of economic impact is a ground for holding the rule invalid; however, beginning October 1, 1978, no rule shall be declared invalid for want of an adequate statement of economic impact unless the issue is raised in an administrative or judicial proceeding within 1 year of the effective date of the rule to which the statement applies.

(3) If the intended action concerns any rule other than one relating exclusively to organization, procedure, or practice, the agency shall, on the request of any affected person received within 14 days after the date of publication of the notice, give affected persons an opportunity to present evidence and argument on all issues under consideration appropriate to inform it of their contentions. Persons, as defined in s. 344(2)(5), may be limited by the Department of Corrections to an opportunity to present evidence and argument on any designated issue in connection with any decision-making action on any rule. The agency may schedule a public hearing on the rule and, if requested by any affected person, shall schedule a public hearing on the rule. Any material pertinent to the issues under consideration submitted to the agency within 14 days after the date of publication of the notice or submitted at a public hearing shall be considered by the agency and made a part of the record of the rule-making proceeding.

(4)(a) Any substantially affected person may seek an administrative determination of the invalidity of any proposed rule on the ground that the proposed rule is an invalid exercise of delegated legislative authority.

(b) The request seeking a determination under this subsection shall be in writing and must be filed with the division within 14 days after the date of publication of the notice. It must state with particularity facts sufficient to show that the person challenging the proposed rule would be substantially affected by it and facts sufficient to show the invalidity of the proposed rule.

(c) Immediately upon receipt of the petition, the division shall forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 30 days after receiving the petition, the division shall determine whether the petition contains sufficient facts to require a hearing. If the division determines that a hearing is required, it shall assign a hearing officer who shall conduct the hearing within 30 days thereafter, unless the petition is withdrawn. Within 30 days after conclusion of the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare the proposed rule wholly or partly invalid. The

Such publication, mailing, and posting of notice shall occur at least 14 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 21 days prior to the intended action, except that notice of actions proposed by educational units or units of government need not be published in only one county or a part thereof. The notice shall be available for inspection and copying by the public at the time of the publication of notice.

(2)(a) Each agency, prior to the adoption, amendment, or repeal of a rule, shall provide information in its proposed action by preparing a detailed economic impact statement. The economic impact statement shall include:

1. An estimate of the cost to the agency of the implementation of the proposed action, including the estimated amount of paper cost;

2. An estimate of the cost or the economic benefit to all persons directly affected by the proposed action;

proposed rule or provision of a proposed rule declared invalid shall be withdrawn from the committee by the adopting agency and shall not be adopted. No rule shall be filed for adoption until 21 days after the notice required by subsection (1) or until the hearing officer has rendered his decision, as the case may be. However, the agency may proceed with all other steps in the rulemaking process. In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Weekly.

(d) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57, except that the hearing officer's order shall be final except upon petition. The agency proposing the rule and the person requesting the hearing shall be advised by parties. Other substantially interested persons may join the proceeding as parties or intervene on appropriate terms which will not substantially delay the proceedings. Failure to proceed under this subsection shall not constitute failure to exhaust administrative remedies.

(4) Any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by s. 120.53. The petition shall specify the proposed rule and action requested. Not later than 30 calendar days after the date of filing a petition, the agency shall initiate rulemaking proceedings under this act, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(6) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized shall be incorporated into the record of the proceeding. All parties shall be provided a list of such materials and given a reasonable opportunity to examine, rebuttal, and written comments thereon or written reference to the specific rulemaking authority pursuant to which the rule was adopted and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific.

(a) Each rule adopted shall contain only one subject and shall be preceded by a concise statement of the purpose of the rule and reference to the rules repealed or amended, which statement need not be printed in the Florida Administrative Code. Pursuant to rule of the Department of State a rule may incorporate material by reference but only as such material exists on the date the rule is adopted. For purposes of such rule, changes in such material shall have no effect with respect to the rule unless the rule is amended to incorporate such material as changed. No rule shall be amended by reference only. Amendments shall set out the amended rule in full in the same manner as required by the constitution for laws.

(2); a statement of the extent to which the proposed rule establishes standards more restrictive than federal standards or a statement that the proposed rule is no more restrictive than federal standards or that a federal rule on the same subject does not exist, and the notice required by subsection (1). After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file any changes in the proposed rule and the reasons therefor with the committee or advise the committee that there are no changes. In addition, when any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a detailed statement of such change by certified mail or actual delivery to any person who requests it in writing at the public hearing. The agency shall file the change with the committee, and provide the statement of change to persons requesting it at least 7 days prior to filing the rule for adoption. Educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, and local units of government with jurisdiction over local units of government shall not be required to make filings with the committee. This paragraph does not apply to emergency rules adopted pursuant to subsection (9). However, agencies, other than those listed herein, adopting emergency rules shall file a copy of each emergency rule with the committee.

(b) If the adopting agency is required to publish its rules in the Florida Administrative Code, it shall file with the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required above, in the office of the agency head; and such rules shall be open to the public pursuant to s. 120.53(2). Filings shall be made no less than 21 days nor more than 90 days after the notice required by subsection (1). If a public hearing is held, the 90-day limit is extended to 21 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this subsection have been complied with and that there is no administrative determination pending on the rule. The department shall reject any rule not filed within the prescribed time limits or upon which an administrative determination is pending. If a rule has not been adopted within the time limits imposed by this section, the agency proposing the rule shall withdraw the rule and give notice of its action in the same manner as prescribed in paragraphs (1)(a) and (b).

(12)(a) The proposed rule shall be adopted on becoming effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not required to be filed with the Department of State shall become effective when adopted by the

agency head or on a later date specified by rule or statute.

(b) After the notice required in subsection (1) and prior to adoption, the agency may withdraw the rule in whole or in part or may make such changes in the rule as are supported by the record of public hearings held on the rule. Technical changes which do not affect the substance of the rule, changes in response to certain materials relating to the rule received by the agency, and changes in the order of changes in response to a proposed objection by the committee. After adoption and before the effective date, a rule may be modified or withdrawn only in response to an objection by the committee or may be modified to extend the effective date by not more than 60 days when the committee has notified the agency that an objection to the rule is being considered. The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published and shall notify the Department of State if the rule is required to be filed with the Department of State. After a rule has become effective, it may be repealed or amended only through regular rulemaking procedures.

(13) If the committee disapproves a proposed rule and the agency does not modify the rule, the committee shall file with the Department of State a notice of disapproval detailing with particularity its objection to the rule. The Department of State shall publish the notice in the Florida Administrative Weekly and shall inform the committee of the rule when it is published in the Florida Administrative Code, a reference to the committee's disapproval and to the issue of the Weekly in which the full text thereof appears.

(14) No agency has inherent rulemaking authority; nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty applies to rules. However, an agency may adopt rules necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be enforced until the statute upon which they are based is effective.

(15) The rulemaking provisions of this chapter do not apply to compensation appeals referees.

(16) Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that his substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect the interests, it shall suspend the rulemaking proceeding and conduct a separate proceeding under the provisions of s. 120.57. Similarly situated persons may be requested to join and participate in the proceeding. The rulemaking division of the separate proceeding, the rulemaking proceeding shall be resumed.

History.—s. 1, ch. 24, 1965, s. 6, 1967, s. 1, ch. 24, 1968, s. 1, ch. 24, 1969, s. 1, ch. 24, 1970, s. 1, ch. 24, 1971, s. 1, ch. 24, 1972, s. 1, ch. 24, 1973, s. 1, ch. 24, 1974, s. 1, ch. 24, 1975, s. 1, ch. 24, 1976, s. 1, ch. 24, 1977, s. 1, ch. 24, 1978, s. 1, ch. 24, 1979, s. 1, ch. 24, 1980, s. 1, ch. 24, 1981, s. 1, ch. 24, 1982, s. 1, ch. 24, 1983, s. 1, ch. 24, 1984, s. 1, ch. 24, 1985, s. 1, ch. 24, 1986, s. 1, ch. 24, 1987, s. 1, ch. 24, 1988, s. 1, ch. 24, 1989, s. 1, ch. 24, 1990, s. 1, ch. 24, 1991, s. 1, ch. 24, 1992, s. 1, ch. 24, 1993, s. 1, ch. 24, 1994, s. 1, ch. 24, 1995, s. 1, ch. 24, 1996, s. 1, ch. 24, 1997, s. 1, ch. 24, 1998, s. 1, ch. 24, 1999, s. 1, ch. 24, 2000, s. 1, ch. 24, 2001, s. 1, ch. 24, 2002, s. 1, ch. 24, 2003, s. 1, ch. 24, 2004, s. 1, ch. 24, 2005, s. 1, ch. 24, 2006, s. 1, ch. 24, 2007, s. 1, ch. 24, 2008, s. 1, ch. 24, 2009, s. 1, ch. 24, 2010, s. 1, ch. 24, 2011, s. 1, ch. 24, 2012, s. 1, ch. 24, 2013, s. 1, ch. 24, 2014, s. 1, ch. 24, 2015, s. 1, ch. 24, 2016, s. 1, ch. 24, 2017, s. 1, ch. 24, 2018, s. 1, ch. 24, 2019, s. 1, ch. 24, 2020, s. 1, ch. 24, 2021, s. 1, ch. 24, 2022, s. 1, ch. 24, 2023, s. 1, ch. 24, 2024, s. 1, ch. 24, 2025, s. 1, ch. 24, 2026, s. 1, ch. 24, 2027, s. 1, ch. 24, 2028, s. 1, ch. 24, 2029, s. 1, ch. 24, 2030, s. 1, ch. 24, 2031, s. 1, ch. 24, 2032, s. 1, ch. 24, 2033, s. 1, ch. 24, 2034, s. 1, ch. 24, 2035, s. 1, ch. 24, 2036, s. 1, ch. 24, 2037, s. 1, ch. 24, 2038, s. 1, ch. 24, 2039, s. 1, ch. 24, 2040, s. 1, ch. 24, 2041, s. 1, ch. 24, 2042, s. 1, ch. 24, 2043, s. 1, ch. 24, 2044, s. 1, ch. 24, 2045, s. 1, ch. 24, 2046, s. 1, ch. 24, 2047, s. 1, ch. 24, 2048, s. 1, ch. 24, 2049, s. 1, ch. 24, 2050, s. 1, ch. 24, 2051, s. 1, ch. 24, 2052, s. 1, ch. 24, 2053, s. 1, ch. 24, 2054, s. 1, ch. 24, 2055, s. 1, ch. 24, 2056, s. 1, ch. 24, 2057, s. 1, ch. 24, 2058, s. 1, ch. 24, 2059, s. 1, ch. 24, 2060, s. 1, ch. 24, 2061, s. 1, ch. 24, 2062, s. 1, ch. 24, 2063, s. 1, ch. 24, 2064, s. 1, ch. 24, 2065, 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120.545 Committee review of agency rules.

- (1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.541(1)(a), and its accompanying material, and may examine any existing rule, for the purpose of determining whether:
- The rule is within the statutory authority upon which it is based;
 - The statutory authority for the rule has been repealed;
 - The rule reiterates or paraphrases statutory material;
 - The rule is in proper form;
 - The notice given prior to adoption was sufficient to give adequate notice of the purpose and effect of the rule; and
 - The economic impact statement accompanying the rule is adequate to accurately inform the public of the economic effect of the rule.

If the committee objects to a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity.

(2) Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by a collegial body, the agency shall:

- Modify the rule to meet the committee's objection;
- Withdraw the rule in its entirety; or
- Refuse to modify or withdraw the rule.

(3) If the rule is an existing rule:

- Notify the committee that it has elected to amend the rule to meet the committee's objection and initiate the amendment procedure;
- Notify the committee that it has elected to repeal the rule and initiate the repeal procedure; or
- Notify the committee that it refuses to amend or repeal the rule.

(c) If the rule is either an existing or a proposed rule and the objection is to the economic impact statement:

- Prepare a corrected economic impact statement, give notice of the availability of the corrected economic impact statement in the first available issue of the Florida Administrative Weekly, and file copies of the corrected statement with the committee and the Department of State; or
- Notify the committee that it refuses to prepare a corrected economic impact statement.

(3) If the agency elects to modify a proposed rule to meet the committee's objection, it shall make only such modifications as are necessary to meet the objection and shall give notice of its election to modify a proposed rule to meet the committee's objection in the first available issue of the Florida Administrative Weekly, but shall not be required to conduct a public hearing. If the agency elects to amend an existing rule to meet the committee's objection, it shall notify the committee in writing and shall initiate the amendment procedure for the rule as provided in this section.

(4) The committee shall retain the responsibility for the code as provided in this section.

571

This publication shall be the official compilation of the administrative rules of this state:

- Rules of the state in form but applicable to only one school district, community college district, or county or a part thereof, or university rules relating to internal personnel, personnel and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

(3) At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish a summary or listing of all rules of that agency excluded from publication in the code and a statement as to where those rules may be inspected or examined and shall also publish any exemptions granted that agency pursuant to s. 120.53, including the termination date of the exemption and a statement whether the exemption can be renewed pursuant to s. 120.53(2)(b).

(4) Forms shall not be published in the Florida Administrative Code but shall be included in rules by reference. The reference shall state, at a minimum, the title and the effective date of the form and an explanation of how the form may be obtained.

(5) Pursuant to a weekly publication entitled the "Florida Administrative Weekly," which shall contain:

- Notice of adoption of, and an index to, all rules filed during the preceding week;
- All hearing notices required by s. 120.54(1), showing the time, place, and date of the hearings or a reference to the location in the Florida Administrative Weekly where the text of the proposed rule is published. Forms shall not be published in the Florida Administrative Weekly but shall be included in the rules by reference. The reference shall state, at a minimum, the title and the effective date of the form and an explanation of how the form may be obtained;
- All notices of meetings, hearings, and workshops conducted in accordance with the provisions of s. 120.53(1)(d), including a statement of the manner in which a copy of the agenda may be obtained;
- A notice of each request for authorization to amend or repeal an existing model rule or for the adoption of new model rules;
- A notice of each request for exemption from any provision of this chapter;
- Notice of petitions for declaratory statements or administrative determinations;
- A summary of each objection to any rule filed by the Department of State during the preceding week;
- Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for publication of the Florida Administrative Weekly.

- Prescribe by rule the style and form required for rules submitted for filing and establish the form for their certification;
- Correct grammatical, typographical, and like errors not affecting the construction or meaning of the rules, after having obtained the advice and consent of the Florida Administrative Weekly Trust Fund has trans-

sent of the appropriate agency, and insert history notes.

- Make copies of the Florida Administrative Weekly available on an annual subscription basis computed to cover a pro rata share of 50 percent of the costs related to the publication of the Florida Administrative Weekly.

(f) Charge each agency using the Florida Administrative Weekly a space rate computed to cover a pro rata share of 50 percent of the costs related to the Florida Administrative Weekly.

(2) Each agency shall print or distribute copies of its rules and the specific rulemaking authority pursuant to which such rules were adopted.

(3) Any publication of a proposed rule promulgated by an agency, whether published in the Florida Administrative Code or elsewhere, shall include, along with the rule, the name of the person or persons originating such rule, the name of the supervisor or person who approved the rule, and the date upon which the rule was approved.

(4)(a) The Department of State shall furnish the Florida Administrative Code and the Florida Administrative Weekly, without charge and upon request, as follows:

- One set to each federal and state court having jurisdiction over the residents of the state; the Legislative Library; each state university library; the State Library; each depository library designated pursuant to s. 257.05; and each standing committee of the Senate and House of Representatives and each state legislator upon request of the Senate President's or House Speaker's Office;
- Two sets to each state department;
- Three sets to the library of the Supreme Court of Florida; the library of each state district court of appeal; the division, the library of the Attorney General; each law school library in Florida; the Secretary of the Senate; and the Clerk of the House.

(b) The Department of State shall furnish one copy of the Florida Administrative Weekly, at no cost to each clerk of the circuit courts and each state department, for posting for public inspection.

(5)(a) There is hereby created in the State Treasury a revolving fund to be known as the "Publication Revolving Trust Fund" of the Department of State.

(b) All fees and moneys collected by the Department of State under this chapter shall be deposited in the revolving trust fund for the purpose of paying for the publication and distribution of the Florida Administrative Code and the Florida Administrative Weekly and for associated costs incurred by the department in carrying out this chapter.

(c) The unencumbered balance in the revolving trust fund at the beginning of each fiscal year shall not exceed \$100,000, and any excess shall be transferred to the General Revenue Fund.

(d) It is the intent of the Legislature that the Florida Administrative Weekly be supported entirely from funds collected for subscriptions to and advertisements in the Florida Administrative Weekly. To that end, the Department of State is authorized to add a surcharge of 10 percent to any charge relating to the Florida Administrative Weekly until such time as the Publication Revolving Trust Fund has trans-

ferred to the General Revenue Fund an amount equal to all funds appropriated to the trust fund.

120.56 Administrative determination of rule by hearing officer.—

(1) Any person substantially affected by a rule may seek an administrative determination of the validity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.

(2) The petition seeking an administrative determination under this section shall be in writing and shall state with particularity facts sufficient to show the person seeking relief is substantially affected by the rule and facts sufficient to show the invalidity of the rule. The petition shall be filed with the division which shall immediately upon filing, forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director shall, if he determines that the petition complies with the above requirements, assign a hearing officer to hear the petition. The hearing officer shall file the petition with the division within 30 days after the hearing. Within 30 days after the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare all or part of a rule invalid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires or at a later date specified in the decision. The agency whose rule has been declared invalid in whole or in part shall give notice of the decision in the Florida Administrative Weekly in the first available issue after the rule has become void.

(3) Challenges to the validity of an emergency rule shall be subject to the following time schedules. Within 7 days after receiving the petition, the division director shall, if he determines that the petition complies with subsection (2), assign a hearing officer who shall conduct a hearing within 14 days thereafter, unless the petition is withdrawn. Within 14 days after the hearing, the hearing officer shall render his decision and otherwise comply with the provisions of subsection (3) not inconsistent herewith.

(4) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's oath shall be filed with the petition and the agency whose rule is challenged shall be deemed to have participated as parties or intervenors on appropriate terms which shall not unduly delay the proceedings. Failure to proceed under this section shall not constitute failure to exhaust administrative remedies.

120.565

Declaratory statement by agencies.—Each agency shall provide by rule the procedure for the filing and prompt disposition of petitions for declaratory statements. A declaratory statement

shall set out the agency's opinion as to the applicability of a specified statutory provision or of any rule or order of the agency as it applies to the petitioner in his particular set of circumstances only. The agency shall give notice of each petition and its disposition in the Florida Administrative Weekly, except that educational units shall give notice in the same manner as provided for rules in s. 120.54(1)(a), and transmit copies of each petition and its disposition to the committee. Agency disposition of petitions shall be final agency action.

120.57 Decisions which affect substantial interests.—The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency. Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) **FORMAL PROCEEDINGS.**—

(a) A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:

1. Hearings before agency heads or a member thereof other than an agency head or a member of an agency head within the Department of Professional Regulation;

2. Hearings before the Unemployment Appeals Commission in unemployment compensation appeals and unemployment compensation appeals referees;

3. Hearings regarding drivers' licensing pursuant to chapter 320;

4. Hearings conducted within the Department of Health and Rehabilitative Services in the execution of those social and economic programs administered by the former Division of Family Services of said department prior to the reorganization effected by chapter 75-48, Laws of Florida;

5. Hearings in which the division is a party, in which case an attorney assigned by the Administrative Commission shall be the hearing officer;

6. Hearings which involve student disciplinary suspensions or expulsions and which are conducted by educational units;

7. Hearings of the Public Employees Relations Commission in which a determination is made of the appropriateness of the bargaining unit, as provided in s. 447.307; and

8. Hearings held by the Department of Agriculture and Consumer Services pursuant to chapter 601.

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a preliminary hearing for the revocation of parole, no less than 7 days notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement shall not apply.

quishment may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for any proceeding conducted as prescribed in s. 120.54(4) or s. 120.56, a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall notify the division within 10 days of receipt of the petition or request, requesting the assignment of a hearing officer and, with the concurrence of the division, set the time, date, and place of the hearing. On the request of any agency, the division shall assign a hearing officer with due regard to the expertise required for the particular matter. Any party may request the disqualification of any hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and conclusions of law, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications (if the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it).

5. The record in a case governed by this subsection shall consist only of:

a. All notices, pleadings, motions, and intermediate rulings;

b. Evidence received or considered;

c. A statement of matters officially recognized;

d. Questions and answers of proof and objections and rulings thereon;

e. Proposed findings;

f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;

h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

i. The official transcript.

6. The agency shall accurately and completely preserve all testimony in the proceeding, and on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 13, the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

7. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

8. Except as provided in subparagraph 12, the hearing officer shall complete and submit to the agency and all parties a recommended order containing his findings of fact, conclusions of law, interpretation of administrative rules in the recommended order, and any other matters required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

9. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept or reduce the recommended penalty in a recommended order, but may not increase it without a review of the complete record. In the event a court reverses the order of an agency, the court in its discretion may award attorney's fees and costs to the aggrieved prevailing party.

10. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

11. A hearing officer who is a member of an agency shall not participate in the formulation of the final order of the agency, nor shall he have completed all his duties as a hearing officer.

12. In any application for a license or merger pursuant to title XXXVIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters.

The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

13. In any application for a consumptive use permit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, re-

2. Within 21 days of publication of notice, any person may request a hearing, which upon request shall be conducted pursuant to s. 120.57 except that the Department of Banking and Finance shall by rule provide for the hearing to be held in public; however, failure to request a hearing within 21 days of publication of notice shall constitute waiver of any right to a hearing.

(b) Should a hearing be requested pursuant to subsection 2 of paragraph (a), the notice or license shall be published at the applicant's expense in a newspaper of general circulation in the area affected by the application. The Department of Banking and Finance may by rule specify the format and size of such notice.

(c) Notwithstanding subsection (2), every application for license for a new bank, new trust company, new credit union, or new savings and loan association, and every application for acquisition of majority control of a bank, trust company, or savings and loan association involving a foreign national, shall be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or acquisition of any application for such a license or for renewal of such control not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is the latest. The license shall be issued subject to the satisfactory completion of the conditions required by statute as a prerequisite to the approval of insurance of accounts for a new bank, new savings and loan association, or a new credit union by the appropriate insurer.

(5) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application has been finally acted upon by the agency or, in case the application is denied or the terms of the license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(6) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order, the agency has served, by personal service or certified mail, an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and unless the licensee has been given an adequate opportunity to request a proceeding pursuant to s. 120.57. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall mail notice by first-class registered mail to the licensee's last known address for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address as it appears on the records of the board. If no newspaper is published in the county, the notice may be published in a newspaper of general circulation in that county. If the address is in some state other than this state or in a foreign territory or country, the notice may be published in Leon County.

(7) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of the act.

577

tion of a license, it shall show compliance in its order with the requirements imposed by s. 120.54(9) on agencies making emergency rules. Summary suspension, restriction, or limitation may be ordered, but a formal suspension or revocation proceeding under this section shall also be promptly instituted and acted upon.

(6) If the Administration Commission grants an exemption from any provision of this section as provided in s. 120.63, the exemption shall be for a single application only and shall not be renewable.

(7) This section shall not apply to certification of employee organizations pursuant to s. 447.307.

17-432, s. 1, ch. 78-26, s. 1, ch. 79-126, s. 1, ch. 79-127, s. 1, ch. 79-206, s. 1, ch. 79-207, s. 1, ch. 79-208, s. 1, ch. 79-209, s. 1, ch. 79-210, s. 1, ch. 79-211, s. 1, ch. 79-212, s. 1, ch. 79-213, s. 1, ch. 79-214, s. 1, ch. 79-215, s. 1, ch. 79-216, s. 1, ch. 79-217, s. 1, ch. 79-218, s. 1, ch. 79-219, s. 1, ch. 79-220, s. 1, ch. 79-221, s. 1, ch. 79-222, s. 1, ch. 79-223, s. 1, ch. 79-224, s. 1, ch. 79-225, s. 1, ch. 79-226, s. 1, ch. 79-227, s. 1, ch. 79-228, s. 1, ch. 79-229, s. 1, ch. 79-230, s. 1, ch. 79-231, s. 1, ch. 79-232, s. 1, ch. 79-233, s. 1, ch. 79-234, s. 1, ch. 79-235, s. 1, ch. 79-236, s. 1, ch. 79-237, s. 1, ch. 79-238, s. 1, ch. 79-239, s. 1, ch. 79-240, s. 1, ch. 79-241, s. 1, ch. 79-242, s. 1, ch. 79-243, s. 1, ch. 79-244, s. 1, ch. 79-245, s. 1, ch. 79-246, s. 1, ch. 79-247, s. 1, ch. 79-248, s. 1, ch. 79-249, s. 1, ch. 79-250, s. 1, ch. 79-251, s. 1, ch. 79-252, s. 1, ch. 79-253, s. 1, ch. 79-254, s. 1, ch. 79-255, s. 1, ch. 79-256, s. 1, ch. 79-257, s. 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79-757, s. 1, ch. 79-758, s. 1, ch. 79-759, s. 1, ch. 79-760, s. 1, ch. 79-761, s. 1, ch. 79-762, s. 1, ch. 79-763, s. 1, ch. 79-764, s. 1, ch. 79-765, s. 1, ch. 79-766, s. 1, ch. 79-767, s. 1, ch. 79-768, s. 1, ch. 79-769, s. 1, ch. 79-770, s. 1, ch. 79-771, s. 1, ch. 79-772, s. 1, ch. 79-773, s. 1, ch. 79-774, s. 1, ch. 79-775, s. 1, ch. 79-776, s. 1, ch. 79-777, s. 1, ch. 79-778, s. 1, ch. 79-779, s. 1, ch. 79-780, s. 1, ch. 79-781, s. 1, ch. 79-782, s. 1, ch. 79-783, s. 1, ch. 79-784, s. 1, ch. 79-785, s. 1, ch. 79-786, s. 1, ch. 79-787, s. 1, ch. 79-788, s. 1, ch. 79-789, s. 1, ch. 79-790, s. 1, ch. 79-791, s. 1, ch. 79-792, s. 1, ch. 79-793, s. 1, ch. 79-794, s. 1, ch. 79-795, s. 1, ch. 79-796, s. 1, ch. 79-797, s. 1, ch. 79-798, s. 1, ch. 79-799, s. 1, ch. 79-800, s. 1, ch. 79-801, s. 1, ch. 79-802, s. 1, ch. 79-803, s. 1, ch. 79-804, s. 1, ch. 79-805, s. 1, ch. 79-806, s. 1, ch. 79-807, s. 1, ch. 79-808, s. 1, ch. 79-809, s. 1, ch. 79-810, s. 1, ch. 79-811, s. 1, ch. 79-812, s. 1, ch. 79-813, s. 1, ch. 79-814, s. 1, ch. 79-815, s. 1, ch. 79-816, s. 1, ch. 79-817, s. 1, ch. 79-818, s. 1, ch. 79-819, s. 1, ch. 79-820, s. 1, ch. 79-821, s. 1, ch. 79-822, s. 1, ch. 79-823, s. 1, ch. 79-824, s. 1, ch. 79-825, s. 1, ch. 79-826, s. 1, ch. 79-827, s. 1, ch. 79-828, s. 1, ch. 79-829, s. 1, ch. 79-830, s. 1, ch. 79-831, s. 1, ch. 79-832, s. 1, ch. 79-833, s. 1, ch. 79-834, s. 1, ch. 79-835, s. 1, ch. 79-836, s. 1, ch. 79-837, s. 1, ch. 79-838, s. 1, ch. 79-839, s. 1, ch. 79-840, s. 1, ch. 79-841, s. 1, ch. 79-842, s. 1, ch. 79-843, s. 1, ch. 79-844, s. 1, ch. 79-845, s. 1, ch. 79-846, s. 1, ch. 79-847, s. 1, ch. 79-848, s. 1, ch. 79-849, s. 1, ch. 79-850, s. 1, ch. 79-851, s. 1, ch. 79-852, s. 1, ch. 79-853, s. 1, ch. 79-854, s. 1, ch. 79-855, s. 1, ch. 79-856, s. 1, ch. 79-857, s. 1, ch. 79-858, s. 1, ch. 79-859, s. 1, ch. 79-860, s. 1, ch. 79-861, s. 1, ch. 79-862, s. 1, ch. 79-863, s. 1, ch. 79-864, s. 1, ch. 79-865, s. 1, ch. 79-866, s. 1, ch. 79-867, s. 1, ch. 79-868, s. 1, ch. 79-869, s. 1, ch. 79-870, s. 1, ch. 79-871, s. 1, ch. 79-872, s. 1, ch. 79-873, s. 1, ch. 79-874, s. 1, ch. 79-875, s. 1, ch. 79-876, s. 1, ch. 79-877, s. 1, ch. 79-878, s. 1, ch. 79-879, s. 1, ch. 79-880, s. 1, ch. 79-881, s. 1, ch. 79-882, s. 1, ch. 79-883, s. 1, ch. 79-884, s. 1, ch. 79-885, s. 1, ch. 79-886, s. 1, ch. 79-887, s. 1, ch. 79-888, s. 1, ch. 79-889, s. 1, ch. 79-890, s. 1, ch. 79-891, s. 1, ch. 79-892, s. 1, ch. 79-893, s. 1, ch. 79-894, s. 1, ch. 79-895, s. 1, ch. 79-896, s. 1, ch. 79-897, s. 1, ch. 79-898, s. 1, ch. 79-899, s. 1, ch. 79-900, s. 1, ch. 79-901, s. 1, ch. 79-902, s. 1, ch. 79-903, s. 1, ch. 79-904, s. 1, ch. 79-905, s. 1, ch. 79-906, s. 1, ch. 79-907, s. 1, ch. 79-908, s. 1, ch. 79-909, s. 1, ch. 79-910, s. 1, ch. 79-911, s. 1, ch. 79-912, s. 1, ch. 79-913, s. 1, ch. 79-914, s. 1, ch. 79-915, s. 1, ch. 79-916, s. 1, ch. 79-917, s. 1, ch. 79-918, s. 1, ch. 79-919, s. 1, ch. 79-920, s. 1, ch. 79-921, s. 1, ch. 79-922, s. 1, ch. 79-923, s. 1, ch. 79-924, s. 1, ch. 79-925, s. 1, ch. 79-926, s. 1, ch. 79-927, s. 1, ch. 79-928, s. 1, ch. 79-929, s. 1, ch. 79-930, s. 1, ch. 79-931, s. 1, ch. 79-932, s. 1, ch. 79-933, s. 1, ch. 79-934, s. 1, ch. 79-935, s. 1, ch. 79-936, s. 1, ch. 79-937, s. 1, ch. 79-938, s. 1, ch. 79-939, s. 1, ch. 79-940, s. 1, ch. 79-941, s. 1, ch. 79-942, s.

(2) A hearing officer who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall also advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The hearing officer may, if he deems it necessary to eliminate the effect of an ex parte communication received by him, withdraw from the proceeding, in which case the division shall assign a successor.

(3) Any person who makes an ex parte communication prohibited by subsection (1), and any hearing officer who fails to place in the record any such communication, is in violation of the act and may be assessed a monetary penalty not to exceed \$500 or be subjected to such other disciplinary action as his superior may determine.

History.—s. 1, ch. 75-191, § 12, ch. 76-201, § 1, ch. 77-124, § 10, ch. 78-426.

120.68 Judicial review.—

(1) A party who is adversely affected by final agency action is entitled to judicial review. For purposes of this section, a district school board, whose decision is reviewed under the provisions of s. 231.36 and whose final action is modified by a superior administrative decision, shall be a party entitled to judicial review of the final action. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of such final agency decision would be inequitable or prejudicial.

(2) Except in matters in which judicial review by the Supreme Court is provided by law, all proceedings for review shall be instituted by filing a petition in the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides. Review proceedings shall be conducted in accordance with the Florida Appellate Rules.

(3) The filing of the petition does not itself stay enforcement of the agency decision, but if the agency decision has the effect of suspending or revoking a license, supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless the court, upon petition of the agency, determines that a supersedeas would constitute a probable danger to the health, safety, or welfare of the state. The agency may also grant a stay upon appropriate terms, but, whether or not the action has the effect of suspending or revoking a license, a petition to the agency for a stay shall not be a prerequisite to a petition to the court for supersedeas. In any event, the order shall specify the conditions, if any, upon which the stay or supersedeas is granted.

(4) Judicial review of any agency action shall be continued to the record transmitted and any additions made therein in accordance with subsection (6).

(5) The record for judicial review shall consist of the following:

(a) The agency's written document expressing the order, the statement of reasons therefor, if issued, and the record under s. 120.57, if review of proceedings under that section is sought.

(b) The agency's written document expressing the action, the statement of reasons therefor, if issued, and the materials considered by the agency under s. 120.54, if review is sought of proceedings under that section.

(c) The agency's written document expressing the action, and other written documents identified by the agency as having been considered by it before its action and used as a basis for its action, if review is sought of proceedings under s. 120.56 or s. 120.585 or if there has been no proceeding under s. 120.54 or s. 120.57.

(6) When there has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts, the court shall order the agency to conduct a prompt, factfinding proceeding under this act after having a reasonable opportunity to reconsider its determination on the record of the proceedings.

(7) The reviewing court shall deal separately with disputed issues of agency procedure, interpretations of law, determinations of fact, or policy within the agency's exercise of delegated discretion.

(8) The court shall remand a case for further agency action if it finds that either the action or the proceedings of the agency are in violation of the provisions of the act or if the action may have been rendered ineffectual by a material error in procedure or a failure to follow prescribed procedure. Failure of any agency to comply with s. 120.53 shall be presumed to be a material error in procedure.

(9) If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(a) Set aside or modify the agency action, or

(b) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(10) If the agency's action depends on any fact found by the agency in a proceeding meeting the requirements of s. 120.57 of the act, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside agency action or remand the case to the agency if it finds that the agency's action depends on any finding of fact that is not supported by competent substantial evidence in the record.

(11) If the agency's action depends on facts determined pursuant to subsection (6), the court shall set aside, modify, or order agency action if the facts compel a particular action as a matter of law, or it may remand the case to the agency for further examination and action within the agency's responsibility.

(12) The court shall remand the case to the agency if it finds the agency's exercise of discretion to be (a) Outside the range of discretion delegated to the agency by law;

(b) Inconsistent with an agency rule, an officially stated agency policy, or a prior agency practice, if deviation therefrom is not explained by the agency, or

(c) Otherwise in violation of a constitutional or statutory provision;

but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(13)(a) The reviewing court's decision may be mandatory, prohibitory, or declaratory in form, and it shall provide whatever relief is appropriate in the perspective of the original form of the petition. The court may:

1. Order agency action required by law, order agency exercise of discretion when required by law, set aside agency action, remand the case for further agency proceedings, or decide the rights, privileges, obligations, requirements, or procedures at issue between the parties; and

2. Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.

(b) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(14) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specific provision of this section, it shall affirm the action.

History.—s. 1, ch. 75-191, § 12, ch. 76-201, § 1, ch. 77-124, § 11, ch. 78-426.

§ 120.69 Enforcement of circuit court in specific case matters.

120.69 Enforcement of agency action.—

(1) Except as otherwise provided by statute: (a) An agency may seek enforcement of an action by filing a petition for enforcement of an action in this section in the circuit court where the subject matter of the enforcement is located.

(b) A petition for enforcement in any agency action may be filed by any substantially interested person who is a resident of the state. However, no such action may be commenced under this section:

1. Prior to 60 days after the petitioner has given notice of the violation of the agency action to the head of the agency concerned, the Attorney General, and any alleged violator of the agency action.

2. If an agency has filed, and is diligently prosecuting, a petition for enforcement.

(c) A petition for enforcement filed by a nongovernmental person shall be in the name of the State of Florida on the relation of the petitioner, and the doctrines of res judicata and collateral estoppel shall apply.

(d) In an action brought under paragraph (b), the agency whose action is sought to be enforced, if not a party, may intervene as a matter of right.

(e) A petition for enforcement may request declaratory relief; temporary or permanent equitable relief; any fine, forfeiture, penalty, or other remedy provided by statute; any combination of the foregoing; or, in the absence of any other specific statutory authority, a fine not to exceed \$1,000.

(3) After the court has rendered judgment on a petition for enforcement, no other petition shall be filed or adjudicated against the same agency action.

on the basis of the same transaction or occurrence, unless expressly authorized on remand. The doctrines of res judicata and collateral estoppel shall apply, and the court shall make such orders as are necessary to avoid multiplicity of actions.

(4) In all enforcement proceedings: (a) If enforcement depends on any facts other than those appearing in the record, the court may ascertain such facts under procedures set forth in s. 120.68(6);

(b) If one or more petitions for enforcement, and a petition for review involving the same agency action are pending at the same time, the court considering the review petition may order all such actions transferred to and consolidated in one court. Each party shall be under an affirmative duty to notify the court when it becomes aware of multiple proceedings;

(c) Should any party willfully fail to comply with an order of the court, the court shall punish him in accordance with the law applicable to contempt committed by a person in the face of any other action;

(5) In any enforcement proceeding, the respondent may assert as a defense the invalidity of any relevant statute, the inapplicability of the administrative determination to respondent, compliance with the respondent, the inappropriateness of the remedy sought by the agency, or any combination of the foregoing. In addition, if the petition for enforcement is filed during the time within which the respondent could petition for judicial review of the agency action, the respondent may assert the invalidity of the agency action.

(6) Notwithstanding any other provision of this section, upon receipt of evidence that an alleged violation of an agency's action presents an imminent and substantial threat to the public health, safety, or welfare, the agency may bring suit for immediate temporary relief in an appropriate circuit court, and the granting of such temporary relief shall not have the effect of a collateral estoppel effect as to further relief sought under a petition for enforcement relating to the same violation.

(7) In any final order on a petition for enforcement the court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate.

History.—s. 1, ch. 75-191.

120.70 Annual report.—Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee listing the following information:

(1) A summary of the enforcement proceedings, including a summary of the enforcement proceedings, court reporters, and other personnel participating in the act.

(2) Recommendations for changes in the act.

(3) Recommendations for changes in the Administrative Procedure Act or any agency's practice or policy with respect thereto.

History.—s. 1, ch. 75-191.

120.71 Disqualification of agency personnel.

(1) Notwithstanding the provisions of s. 112.3143,

any individual serving alone or with others as an agency head may be disqualified from serving in an agency proceeding for bias, prejudice, or interest when any party to the agency proceeding shows just cause by a suggestion filed within a reasonable period of time prior to the agency proceeding. If the disqualified individual holds his position by appointment, the appointing power may appoint a substitute to serve in the matter from which the individual is disqualified. If the individual is an elected official, the Governor may appoint a substitute to serve in the matter from which the individual is disqualified. However, if a quorum remains after the individual is disqualified, it shall not be necessary to appoint a substitute to serve in the matter from which the individual is disqualified.

(2) Any agency action taken by a duly appointed substitute for a disqualified individual shall be as conclusive and effective as if agency action had been taken by the agency as it was constituted prior to any substitution.

(3) The Administration Commission shall adopt rules of procedure to implement this section.

History.—s. 1, ch. 74-116, § 12, ch. 74-125, § 2, ch. 75-129.

120.72 Legislative intent; prior proceedings and rules; exception.—

(1)(a) The intent of the Legislature in enacting this complete revision of chapter 120 is to make uniform the rulemaking and adjudicative procedures used by the administrative agencies of this state. To that end, it is the express intent of the Legislature that chapter 120 shall supersede all other provisions in the Florida Statutes, 1977, relating to rulemaking, agency orders, administrative adjudication, licensing procedure, or judicial review or enforcement of administrative action for agencies as defined herein to the extent such provisions conflict with chapter 120, unless expressly provided otherwise by law subsequent to January 1, 1975, except for marketing orders adopted pursuant to chapters 573 and 601.

(b) Unless expressly provided otherwise, a reference in any section or sections or portion of a section of chapter 120 shall hereby include, and shall be understood to include, all subsequent amendments to chapter 120 or to the referenced section or sections or portions of a section.

(2) All administrative adjudicative proceedings conducted pursuant to any provision of the Florida Statutes which were begun prior to January 1, 1975, shall be continued to a conclusion, including judicial review, under the provisions of the Florida Statutes, 1973, except that administrative adjudicative proceedings which have not progressed to the stage of a hearing may, with the consent of all parties and the agency conducting the proceeding, be conducted in accordance with the provisions of this act as nearly as is feasible.

(3) Notwithstanding any provision of this chapter, all public utilities and companies regulated by the Public Service Commission shall be entitled to proceed under the interim rate provisions of chapter 384 or the procedures for interim rates contained in chapter 74-156, Laws of Florida, or as otherwise provided by law.

581

17 judgments.—Nothing in this chapter shall be construed to repeal any provision of the Florida Statutes which grants the right to a proceeding in the circuit court in lieu of an administrative hearing or to

History.—s. 11, ch. 73-191, § 14, ch. 74-425.

(4)(a) All prior rules not adopted following a public hearing as provided by statute shall be void and unenforceable after October 1, 1975, and shall be stricken from the files of the Department of State and from the files of the adopting agency.

(b) Any rule in effect on, or filed with the Department of State prior to, January 1, 1975, except one adopted following a public hearing as provided by statute, shall be forthwith reviewed by the agency concerned on the written request of a person substantially affected by the rule involved and this provision. The agency concerned shall initiate the rulemaking procedures provided by this act within 90 days after receiving such written request. If the agency concerned fails to initiate the rulemaking procedure within 90 days, the operation of the rule shall be continued. This provision shall control a.

(c) All existing rules shall be indexed by January 1, 1975.

History.—s. 3, ch. 74-206, § 1, ch. 74-207, § 1, ch. 75-174, § 57, ch. 75-98, § 13, ch. 74-125.

120.721 Effect of chapter 75-22, Laws of Florida, on rules.—Any rule or regulation of a public agency involved in or affected by the reorganization of the executive agencies as set forth in chapter 75-22, Laws of Florida, which was valid when adopted under the authority granted by the Legislature to adopt such rule, to the extent it is not inconsistent with chapter 75-22, Laws of Florida, shall remain in effect until it expires by its terms or is specifically repealed or revised as provided by law.

History.—s. 31, ch. 75-77.

120.722 Legislative intent of chapter 78-95, Laws of Florida.—

(1) The primary purpose of chapter 78-95, Laws of Florida, is to repeal or amend various provisions of the Florida Statutes containing procedural language superseded or made redundant by chapter 120 (the Administrative Procedure Act). Chapter 78-95 is designed to place the provisions affected into conformity with chapter 120, except where expressly noted to the contrary.

(2) Any section or subunit of a section repealed by an act of any session shall remain repealed despite any amendment in chapter 78-95. Any act of the 1978 legislative session, other than one resulting from a re-legislator's bill, that amends any provision affected by chapter 78-95 shall supersede chapter 78-95 to the extent that such amendment conflicts with chapter 78-95.

(3) Deletions of references to chapter 120 in chapter 78-95 do not imply that chapter 120 is not applicable; except where expressly noted otherwise, references to chapter 120 are deleted as unnecessary and repetitions.

(4) Failure of chapter 78-95 to amend or repeal any provision in the Florida Statutes does not imply that that provision is not in conflict with, superseded by, or unnecessary in light of chapter 120.

History.—s. 1, ch. 78-94.

120.73 Circuit court proceedings; declarato-

582

Comprehensive regional policy plans shall be adopted to the extent of available resources, pursuant to chapter 120, by each regional planning council based on the studies conducted under s. 160.02(16). For the purpose of legislative overview, each council shall prepare a plan status report, including supporting data for state funding it needed for plan completion. The report shall be presented to the Legislature by March 2, 1981. The plans shall be consistent with chapters 373 and 403. Regional planning councils shall present their policy plans to the appropriate water management district or the Secretary of the Department of Environmental Regulation for resolution of inconsistencies between regional policy plans and comprehensive regional policy plans. A council may appeal the final agency action of a district to the Land and Water Adjudicatory Commission. Such comprehensive regional policy plan, when adopted, shall constitute the basis for review of developments of regional impact, local government comprehensive plans, federally assisted projects, and any other regional overview and comment functions.

History.—s. 3, s. 4, s. 5, ch. 82, § 6.

160.06 Reports.—Each regional planning council

shall prepare and furnish an annual report on its activities to the department and the local general-purpose governments within its boundaries and, upon payment as may be established by the council, to any interested person. The regional planning councils shall make a joint report and recommendations to appropriate legislative committees.

History.—s. 3, s. 4, s. 5, ch. 82, § 6.

160.09 Creation of regional planning councils under ch. 163.—Nothing in this chapter is intended to repeal or limit the provisions of chapter 163; however, the local general-purpose governments serving as voting members of the governing body of a regional planning council created pursuant to this chapter are not authorized to create a regional planning council pursuant to chapter 163 unless an agency created pursuant to chapter 163 is created. The council created pursuant to this chapter is designated to exercise the powers and duties in any one or more of ss. 23.01(26), 163.3164(17), and 380.031(13) in which case, such a regional planning council is also without authority to exercise the powers and duties in s. 23.01(26), s. 163.3164(17) or s. 380.031(15).

History.—s. 3, s. 4, s. 5, ch. 82, § 6.

CHAPTER 161

BEACH AND SHORE PRESERVATION

PART I REGULATION OF CONSTRUCTION, RECONSTRUCTION, AND OTHER PHYSICAL ACTIVITY (ss. 161.011-161.212)

PART II BEACH AND SHORE PRESERVATION DISTRICTS (ss. 161.25-161.45)

PART I

REGULATION OF CONSTRUCTION, RECONSTRUCTION, AND OTHER PHYSICAL ACTIVITY

Short title.

161.011

Definitions.

161.012

Personnel and facilities.

161.013

Permits required.

161.014

Citation of rule.

161.015

Coastal construction and excavation in barrier beach inlets.

161.016

Coastal construction by persons, firms, corporations, or other public agencies.

161.017

Coastal construction and excavation: regulation.

161.018

Coastal construction and excavation: regulation on county basis.

161.019

Permits; fees; costs.

161.020

Administrative fines; liability for damage; liens.

161.021

Coastal construction serving no public purpose, endangering human life, health, or welfare, or becoming unnecessary or undesirable.

161.022

Prosecuting officers to assist enforcement of part I of this chapter.

161.023

Powers of Department of Legal Affairs.

161.024

Erosion Control Trust Fund Account.

161.025

State participation in federally and nonfederally authorized projects and studies relating to beach erosion control.

161.026

Shore erosion emergency.

161.027

Penalty.

161.028

Construction of ss. 161.011-161.121.

161.029

Declaration of public policy and permit limitations.

161.030

Definitions.

161.031

Procedure for approval of projects.

161.032

Recording of resolution and survey of board of trustees.

161.033

Vesting of title to lands.

161.034

Preservation of common-law rights.

161.035

Cancellation of resolution for nonperformance by board of trustees.

161.036

Judicial review relating to permits and licenses.

161.037

161.021 Definitions.—In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(1) "Department" means the Department of Natural Resources.

(2) "Division" means the Division of Marine Resources of the Department of Natural Resources.

(3) "Beach and shore preservation," "erosion control," "beach preservation and hurricane protection," "beach erosion control," and "erosion control" includes, but is not limited to, erosion control, beach protection, beach nourishment, beach stabilization, beach reconstruction, and regulation of work and activities likely to affect the physical condition of the beach or shore.

(4) "Coastal construction" includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.

(5) "Inlet, sediment bypassing" includes any transfer of sediment from an inlet or beach to another stretch of beach for the purpose of renourishment and beach erosion control.

(6) "Emergency" means any unusual incident resulting from natural or unnatural causes which endangers the health, safety, or resources of the residents of the state, including damages or erosion to any shoreline resulting from a hurricane, storm, or other such violent disturbance.

History.—s. 1, ch. 85-406, § 2, ch. 85-106, § 4, ch. 71-373, § 1, ch. 78-201.

161.031 Personnel and facilities.—The Department of Natural Resources may call to its assistance temporarily, any engineer or other employee in any state agency or department or in the University of Florida or other educational institution financed wholly or in part by the state, for the purpose of devising the most effective and economical method of averting and preventing erosion, hurricane and storm damages. These employees shall not receive additional compensation, except for actual necessary expenses incurred while working under the direction of the Division of Marine Resources.

History.—s. 1, ch. 85-406, § 2, ch. 85-106, § 4, ch. 71-373, § 1, ch. 78-201.

161.041 Permits required.—If any person, firm, corporation, county, municipality, township, special district, or any public agency desires to make any coastal construction or reconstruction or change of existing structures, or any construction or physical activity undertaken specifically for shore protection purposes, or other structures and physical activity including groins, jetties, moles, breakwaters, seawalls,

revetments, artificial nourishment, inlet sediment bypassing, excavation or maintenance dredging of inlets, channels, or other deposition or removal of beach material, or construction of other structures if of a solid or highly impermeable design, upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the state, a coastal construction permit must be obtained from the Department of Natural Resources prior to the commencement of such work. No such development shall interfere, except during construction, with the use by the public of any area of a beach seaward of the mean high-water line unless the department determines such interference is unavoidable or necessary for protecting the beach or any endangered upland structure. Application for a coastal construction permit as defined herein shall be made to the department upon such terms and conditions as set forth by rule of the department.

History.—s. 1, ch. 85-406, § 2, ch. 85-106, § 2, ch. 78-201, § 1, ch. 78-202.

161.041B Citation of rule.—In addition to any other provisions within this chapter or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this chapter, or when a rule promulgated hereunder, cite a specific rule of the department for information to provide a record of the information cannot be furnished to the public by a permit.

History.—s. 1, ch. 78-161.

161.042 Coastal construction and excavation in barrier beach inlets.—The department is authorized to direct that any person, or any public body or agency, responsible for the excavation of sandy sediment as a result of any activity conducted to maintain navigable depths within or immediately adjacent to any coastal barrier beach inlet within sovereignty lands shall, after receipt of written authorization from the Department of Environmental Regulation relating to the deposition of spoil material from the excavation pursuant to chapters 253 and 403, use such sediment for beach nourishment as prescribed by the division. Requests for such authorization shall be made by the applicant to the Department of Environmental Regulation, and such authorization shall be granted upon issuance of water quality certification by the Department of Environmental Regulation. For any construction or excavation within or immediately contiguous to a beach inlet with a beach inlet which has been permitted pursuant to s. 161.041, the applicant shall be required to submit to the department a topographic profile and conduct hydrographic survey of the impacted area.

History.—s. 1, ch. 78-203, § 1, ch. 80-185.

161.051 Coastal construction by persons, firms, corporations, or local authorities.—Where any person, firm, corporation, county, municipality, township, special district, or any public agency shall construct and install projects when permits have been properly issued, such works and improvements shall be the property of said person, firm, corporation, county, municipality, township, special district,

or any public agency where located, and shall thereafter be maintained by and at the expense of said person, firm, corporation, county, municipality, township, special district, or other public agency. No grant under this section shall affect title of the state to any lands below the mean high-water mark, and any additions or accretions to the upland caused by erection of such works or improvements shall remain the property of the state if not previously conveyed. The state shall in no way be liable for any damages as a result of erections of such works and improvements, or for any damages arising out of construction, construction, maintenance, or repair thereof, or otherwise arising on account of such works or improvements.

History.—s. 1, ch. 85-406.

161.052 Coastal construction and excavation regulation.—

(1) No person, firm, corporation, municipality, county or other public agency shall excavate or construct any dwelling house, hotel, motel, apartment building, seawall, revetment, or other structure incidental to or related to such structure, including but not limited to such attendant structures or facilities as a patio, swimming pool, or garage, within 50 feet of the line of mean high water at any riparian coastal location fronting the Gulf of Mexico or Atlantic coast shoreline of the state, exclusive of bays, inlets, rivers, bayous, creeks, passes, and the like. In areas where an erosion control line has been established under the provisions of ss. 161.141-161.211, that line, or the presently existing mean high-water line, whichever is more landward, shall be considered to be the mean high-water line for the purposes of this section.

(2) A waiver or variance of the setback requirements may be authorized by the Department of Natural Resources in the following circumstances:

(a) The department may authorize an excavation or erection of a structure at any particular coastal location as described in subsection (1) in receipt of an application from a riparian owner, and upon the completion of field data concerning shoreline stability and sediment tides related to shoreline topography, and such in the opinion of the Department of Natural Resources, clearly and unequivocally justify such a waiver or variance.

(b) If in the immediate contiguous or adjacent area a number of existing structures have established a reasonably continuous and uniform construction line closer to the line of mean high water than the foregoing, and if said existing structures have not been unduly affected by erosion, a proposed structure may be permitted along such line on written authorization from the Department of Natural Resources if such proposed structure is also approved by the Department of Natural Resources. However, the Department of Natural Resources shall not con-

travene setback requirements established by a county or municipality which are equal to, or more strict than, those setback requirements provided herein.

(c) The department may authorize the construction of pipelines or piers extending outward from the shoreline, unless it determines that the construction

of such projects would cause erosion of the beach in the area of such structures.

- (3) The provisions of this section shall not apply to structures intended for shore protection purposes which are regulated by a 161.041 or to structures existing or under construction on June 27, 1970.

(5) The setback requirements as defined herein shall not apply to any riparian coastal locations fronting the Atlantic Ocean or Gulf of Mexico which have vegetation-type nonsandy shores.

(6) The setback requirements defined in subsection (1) shall not apply to any modification, maintenance, or repair to any existing structure within limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Specifically excluded from this exemption are seawalls and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

(7) Any coastal structure erected, or excavation made, in violation of the provisions of this section is hereby declared to be a public nuisance, and such structure shall be forthwith removed or such excavation shall be forthwith filled after the Department of Natural Resources directing such removal or filling. In the event that the structure is not removed or the excavation is not filled within a reasonable time, the Department of Natural Resources may remove such structure or fill such excavation at its own expense. The cost thereof shall become a lien upon the property of the upland owner upon which such unauthorized structure or excavation is located.

(8) Any person violating any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.083. Such person shall be deemed guilty of a separate offense for each month during any portion of which any violation of this section is committed or continued.

(9) The executive director of the department may make recommendations to the Governor and Cabinet in behalf of the department concerning the purchase of the fee or any lesser interest in any lands seaward of the setback requirement as environmentally endangered lands or as outdoor recreation lands.

(10) A coastal county or municipality fronting on the Gulf of Mexico or the Atlantic Ocean shall advise the department within 5 days after receipt of any permit application for construction or other activities proposed to be located within 50 feet of the line of mean high water. Within 5 days after receipt of such notification, the county or municipality shall notify the department of the requirements for state permits.

161.053 Coastal construction and excavation.

(1) The Legislature finds and declares that the

beaches in this state and the coastal barrier dunes adjacent to such beaches, by their nature, are subject to frequent and severe fluctuations and represent one of the most valuable natural resources of Florida and that it is in the public interest to preserve and protect them from imprudent construction which can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, and endanger adjacent property and the beach-dune system. In furtherance of these findings, it is the intent of the Legislature to provide that the department establish coastal construction control lines on a county basis along the sand beaches of the state, including on the Atlantic Ocean or the Gulf of Mexico. Such lines shall be established so as to define that portion of the beach-dune system which is subject to severe fluctuations based on a 100-year storm surge, waves, or other predictable weather conditions. However, the department may establish a segment or segment of a construction control line further landward through the interior zone of a 100-year storm surge, provided the segment or segments do not extend beyond the landward toe of the coastal barrier dune structure that inlets the 100-year storm surge. Such segment or segments shall not be established if adequate dune protection is provided by a state-approved dune management plan. Special siting and design considerations shall be necessary seaward of established coastal construction control lines to ensure the protection of the beach-dune system, proposed or existing structures, and adjacent properties.

2) Coastal construction control lines shall be established by the department only after it has been determined from a comprehensive engineering study and topographic survey that the establishment of such control lines is necessary for the protection of upland properties and the control of beach erosion. No such line shall be set until public hearing has been held for each area involved. After the department has given consideration to the results of such public hearing, it shall, after considering ground elevations in relation to historical significant shoreline trends, predicted maximum wave uprush, beach and offshore ground contours, the vegetation line, erosion trends, the dune or bluff line, if any exist, and existing upland development, set and establish a construction control line and cause such line to be duly recorded in the public records of any county and municipality affected and shall furnish the clerk of such circuit court in each county affected a survey of such line with references made to permanently installed monuments at such intervals and locations as may be considered necessary. Upon the establishment, approval, and recordation of such control line or lines, no person, firm, corporation, or government, or agency thereof, shall construct any structure whatsoever seaward thereof, make any excavation, remove any beach material, or otherwise alter existing ground elevations; drive any vehicle on, over, or across any sand dune; or damage or cause to be damaged such sand dunes; or the vegetation growing thereon seaward thereof except as hereinafter provided. Control lines established under the provisions of this section shall be subject to review at the discretion of the department after consideration of hydrographic and topo-

geographic data which indicates shoreline changes that the sender established coastal construction control lines to be ineffective for the purposes of this act or at the request of officials of affected countries or municipalities. Any riparian upland owner who feels that such line as established is unduly restrictive or unreasonable presents a legitimate use of his property shall be given a review of the line upon written request. After such review, the department shall decide if a control line as established is justified if a riparian owner or persons making the request are not in compliance with the act. The decision of the department shall be subject to judicial review as provided in chapter 10, § 10-101.

(3) Any coastal county or coastal municipality may establish coastal construction zoning and building codes in lieu of the provisions of this section, provided such zones and codes are approved by the department as being adequate to protect the shoreline from erosion and adjacent structures. Exemptions of locally established construction codes shall not be granted unless the building codes are approved by the department. It is the intent of this subsection to provide for local administration of establishing construction control codes through approved zoning and building codes desired by local residents and where such local interests have, in the judgment of the department, sufficient funds and personnel to adequately administer the program. Should the department determine at any time that the program is inadequately administered, the department shall have authority to revoke the authority granted to the county municipality.

(4) Except in those areas where local zoning and building codes have been established pursuant to subsection (3), a permit to alter, excavate, or construct on property seaward of established coastal construction control lines may be granted by the department as follows:

(a). The department may authorize an excavation or erection of a structure at any coastal location as described in subsection (1) upon receipt of an application from a property owner and riparian owner and upon the consideration of facts and circumstances, including consideration of engineering data concerning shoreline stability and storm tides related to shore-protective topography, design features of the proposed structure or structures, and potential impacts of the erection of such structure or structures including potential cumulative effects of any proposed structures or structures on the coastal erosion control system, which, in the opinion of the department, clearly justify such a permit.

(b) If in the immediate contiguous or adjacent area a number of existing structures have established reasonably continuous and uniform construction responsive to the line of mean high water than the proposed structure, and if the existing structures have not been materially affected by erosion, a proposed structure may, at the discretion of the department, be permitted along such line of construction from the shoreline to the mean high water line. The department if such structure is also adjacent to the shoreline, may require that the structure be subject to the same setback requirements or zoning or building codes established by a county or municipality.

1

which are equal to, or more strict than, those requirements provided herein.

(c) The department may condition the nature, timing, and sequence of construction of permitted activities to provide protection to nesting sea turtles and hatchlings and their habitat pursuant to s. 370.12 and to native salt-resistant vegetation and endangered plant communities.

(5) Any coastal structure erected, or excavation made, in violation of the provisions of this section shall be deemed to be a public nuisance, and the structure shall be forthwith removed or such excavation shall be forthwith refilled after written notice by the department directing such removal or filling. In the event the structure is not removed or the excavation refilled within a reasonable time as directed, the department may remove such structure or fill such excavation at its own expense, and the costs thereof shall become a lien in favor of the city of the upland area upon which such unauthorized structure or excavation is located.

(6) A person who violates this section is guilty of a misdemeanor if the person is a first offender, punishable as provided in 775.082, or 775.083, except as provided in 775.081, or 775.084, except as provided in 775.085, if the person has violated this section on, over, or across any sand dune and damaging or removing any sand dune and damaging or removing any vegetation growing on the dune, or if the person is in violation of this section is guilty of a misdemeanor if the person is a second offender, punishable as provided in 775.082, 775.083, or 775.084. A person shall be deemed guilty of a separate offense for each month occurring any portion of which any violation of this section is committed or continued.

(7) The provisions of this section do not apply to structures intended for shore protection purposes which are regulated by s. 161.041 or to structures existing or under construction prior to the establishment of the coastal construction control line as provided herein, provided such structures may not be materially altered except as provided in subsection

(8). The department may by regulation exempt specifically described portions of the coastline from the provisions of this section when in its judgment such portions of coastline because of their nature are not subject to erosion of a substantially damaging effect to the public.

(9) Pending the establishment of coastal construction control lines as provided herein, the provisions of s. 161.052 shall remain in force. However, upon the establishment of coastal construction control lines, or the establishment of coastal construction zoning and building codes as provided in subsection (3), the provisions of s. 161.052 shall be superceded by the provisions of this section.

(10) The coastal construction control requirements defined in subsection (1) do not apply to any modification, maintenance, or repair to any structure within the limits of the existing foundation and any other structure that does not require, involve, or include any additional excavation, foundation, or repair or modification of the existing foundation of that structure. Specifically excluded from this exemption are seawalls and any additional enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

22

(11) Concurrent with the establishment of a coastal construction control line, the executive director of the department shall make recommendations to the Governor and Cabinet as head of the department concerning the purchase of the fee or any lesser interest in any lands seaward of the control line as environmentally endangered lands or as outdoor recreation lands; and, with respect to those control lines established pursuant to this section prior to June 14, 1978, the executive director may make such recommendations.

(12) A coastal county or municipality fronting on the Gulf of Mexico or the Atlantic Ocean shall advise the department within 5 days after receipt of any permit application for construction or other activities proposed to be located seaward of the line established by the department pursuant to this section. Within 5 days after receipt of such application, the county or municipality shall notify the applicant of the requirements for state permits.

(13) In keeping with the intent of subsection (3), and at the discretion of the department, authority for permitting certain types of activities which have been defined by the department may be delegated by the department to a coastal county or coastal municipality. Such partial delegation shall be narrowly construed to those particular activities specifically named in the delegation and agreed to by the affected county or municipality; and the delegation may be revoked by the department at any time if it is determined that the delegation is improperly or inadequately administered.

History.—S. 1, ch. 86-106, § 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

161.0535 Permits; fees, costs.—The department may establish by rule a fee schedule and may assess fees for the filing, processing, and issuance of permits issued pursuant to s. 161.041 and s. 161.053. The fee schedule shall contain categories of permits based on the varying costs of evaluating applications for different types of proposed construction. The fee schedule shall be based on the actual costs of administering these permitting programs, less the amounts appropriated by the Legislature for such purposes. The department may also assess the applicant for the costs of public notice by publication prior to the consideration of these permit applications.

History.—S. 1, ch. 86-106, § 2, ch. 87-27.

161.054 Administrative fines; liability for damage; liability.—(1) The penalties provided for in ss. 161.052, 161.053, and 161.121, with respect to any person or entity who violates any provision of s. 161.052 or s. 161.053, shall be in addition to any other rule or order prescribed by the department. Thereunder shall incur a fine for each offense in an amount up to \$10,000 to be fixed, imposed, and collected by the department. Each day during any portion of which such violation occurs constitutes a separate offense.

(2) Whenever any person or agent of any person knowingly violates any of the provisions of s. 161.052 or s. 161.053 so that damage is caused to beaches, shores, or beach-dune systems, including animal,

plant, or aquatic life thereon, such violator shall be liable for such damage. If two or more persons or their agents cause damage, and if liability for such damage cannot be apportioned, each violator shall be jointly and severally liable for the damage. If, however, liability for such damage can be apportioned, each violator is liable only for that portion of the damage and subject to that portion of the fine attributable to his violation.

(3) The imposition of a fine or an award of damages pursuant to this section shall create a lien upon the real and personal property of the violator, enforceable by the department as a statutory lien under chapter 85, The Proceeds of such fine and award of damages shall be deposited in the Erosion Control Trust Fund.

(4) Fines imposed by the department or damages awarded shall be of such amount so as to ensure immediate and continued compliance with the provisions of ss. 161.052 and 161.053.

History.—S. 1, ch. 86-106, § 2, ch. 87-27.

161.061 Coastal construction serving no public purpose, endangering human life, health, or welfare, or becoming unnecessary or undesirable.—

(1) Any coastal construction, or any structure including groins, jetties, moles, breakwaters, seawalls, revetments, or other structures if of a solid or highly impermeable design upon sovereignty lands of Florida below the mean high-water line of any tidal water of the state, regardless of date of construction or whether a permit has been issued in accordance with part I of this chapter, which serves no public purpose, which is dangerous to any way endangering human life, health, or welfare, or which is determined to be undesirable or become unnecessary, as determined by the Department of Natural Resources, shall be adjusted, altered, or removed by the abutting upland property owner after written notice by the owner with Request for hearing must be filed by the owner with the department within 15 days after such notice. Adjustments, alterations, or removals required by this section shall be accomplished at no cost to the state. The decision of the department as to whether to adjust, alter, or remove such coastal construction or structure shall be final and the department shall set a reasonable time within which the adjustment, alteration, or removal shall be accomplished.

(2) In the event that the upland property owner does not adjust, alter, or remove any coastal construction, or other structure including groins, jetties, moles, breakwaters, seawalls, revetments, or other structures if of a solid or highly impermeable design upon sovereignty lands of Florida, below the mean high-water line, when requested or directed by the department in accordance with subsection (1) of this section, the department may alter, adjust, or remove such coastal construction or structure at the expense of the owner, and the costs thereof shall be a lien upon the property of said abutting upland property owner.

History.—S. 1, ch. 86-106, § 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

161.071 Prosecuting officers to assist enforcement of part I of this chapter.—State attorney, or other prosecuting officers of the State or

county and sheriffs and their deputies of the several counties of this state, shall assist the Department of Natural Resources in the enforcement of part I of this chapter. The officers and their deputies shall, upon information that any persons, firms, or corporations are violating any of the provisions of part I of this chapter, report the same, together with the information in their possession relating thereto, to the department and shall cooperate with the department in carrying out the provisions of part I of this chapter. The state attorneys and other prosecuting officers of the state or any county, upon the request of the department, shall institute and maintain such legal proceedings as may be necessary to carry out the enforcement of the provisions of part I of this chapter.

History.—S. 1, ch. 86-106, § 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

161.081 Powers of Department of Legal Affairs.—When a permit is required under part I of this chapter and has not been issued as provided herein, any such project or physical activity shall be considered a public nuisance and the Department of Legal Affairs may at the request of the Department of Natural Resources institute proceedings to enjoin the same.

History.—S. 1, ch. 86-106, § 11, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

161.091 Erosion Control Trust Fund Account.—

(1) There is created in the State Treasury an account to be known as the "Erosion Control Trust Fund Account." Subject to such appropriations as the Legislature may make therefor from time to time, disbursements from this account may be made by the Division of Marine Resources of the Department of Natural Resources subject to the approval of the department in order to carry out the proper state responsibilities in a comprehensive, long-range, statewide plan for erosion control, beach preservation, and hurricane protection, in accordance with the following:

- (a) With regard to federal aid projects, the department is authorized to pay up to 75 percent of the nonfederal construction and maintenance costs of projects authorized for construction by the United States Congress, including biological monitoring costs, revegetation costs, and costs of maintaining projects shall be a credit against the nonfederal costs.
1. The nonfederal costs for project engineering, including engineering supervision and inspection.
2. The costs for providing all required construction easements, rights-of-way, public access easements, and required vehicle parking spaces.
3. The costs of obtaining all required permits.
4. The costs of establishing erosion control lines; and
5. All other nonfederal costs.

The department is authorized to advance federal aid funds for projects authorized by the United States Congress when such funds are not made available by the Congress at the time a project is ready for construction. In such a case, the department shall request reimbursement of the authorized federal share in the cost of such projects and is authorized to accept

such reimbursement and deposit same in the Erosion Control Trust Fund Account. The project sponsor shall have full responsibility for all project costs in excess of the state federal cost limitation.

(b) With regard to nonfederal aid projects, the department is authorized to pay up to 75 percent of the construction costs, maintenance costs, revegetation costs, costs of monitoring post-construction shoreline changes, and project monitoring costs of projects authorized for construction by the department, provided local interests shall, as project sponsor, pay:

1. The costs for project engineering, including engineering supervision and inspection;
2. The costs or providing all required construction easements, rights-of-way, public access easements, and required vehicle parking spaces;
3. The costs of obtaining all required permits;
4. The costs of establishing erosion control lines; and
5. All other costs.

(c) The department is authorized to pay up to 100 percent of the cost of sand source data. The selection of a project engineer, acceptable to the department, by local interests, as project sponsor, shall be on a competitive negotiation basis as set forth in chapter 287. The project sponsor shall assume full responsibility for all project costs in excess of the state cost limitation.

(d) With regard to inlet sand transfer projects, the department is authorized to initiate and pay up to 75 percent of the cost of such projects when the primary purpose is beach nourishment, provided the county, municipality, port, or inlet district authority within which the inlet is located accepts the responsibility of sponsor for such project and provides easements, rights-of-way, required permits, and all other requirements normally provided by a local sponsor. Where such sand transfer projects involve the placement of sand on beaches of which the state is the upland owner, the department is authorized to pay up to 100 percent of the costs. In the case of nonfederal inlet navigation channel construction or maintenance-dredging projects, the department is authorized to pay up to 60 percent of the costs of the project, provided the county, municipality, port, or inlet district authority within which the inlet is located accepts the responsibility of sponsor for such project and provides easements, rights-of-way, required permits, and all other requirements normally provided by a local sponsor; however, if such sand is placed on beaches of which the state is the upland owner, the department is authorized to pay 100 percent of the costs. In the case of federal inlet navigation channel construction or maintenance-dredging projects, the department is authorized to pay up to 100 percent of any additional project cost, as determined by the department, involved in placing suitable sand material on nearby beaches instead of dumping such sand at sea or in other disposal areas when such sand placement does not involve the construction of an authorized beach restoration project requiring public funding; provided that, except in cases where beach disposal areas are in state public ownership, the

Ch. 161
BEACH AND SHORE PRESERVATION
F.S. 1983

(2) General revenue funds as appropriated by the legislature shall be deposited in the Erosion Control Trust Fund Account upon appropriation. The Erosion Control Trust Fund Account and the monies deposited therein shall be under the direct supervision and control of the department and such monies may be disbursed by the Treasurer from time to time upon requisition as determined by the department.

(3) Notwithstanding the provisions of s. 215.292, the Erosion Control Trust Fund Account shall not be available for transfer for any purpose other than those provided for in this section.

161.101 State participation in federally and nonfederally authorized projects and studies relating to beach erosion control—

(1) To carry out the beach and shore preservation programs, the department is hereby constituted as the beach and shore preservation authority for the state. In this capacity, the executive director of the department may at his own initiative take all necessary steps as soon as practicable and desirable to implement the provisions of this chapter.

(2) Whenever a beach erosion control project has been authorized by Congress for federal financial participation in accordance with any Act of Congress relating to beach erosion control in which nonfederal participation is required, it shall be the policy of the department to assist with an equitable share of such funds to the extent that funds are available, as determined by the department.

(3) The department, for itself or on behalf of any other agency, shall not expend any funds for the purchase and all duly established beach and shore preservation projects in any of the counties of the State. Within the State, may enter into cooperative agreements and otherwise cooperate with, and meet the requirements and conditions (including, but not limited to, execution of indemnification agreements) of, federal, state, and local governments and political entities or agencies in order to carry out the department's program of improving, furthering, and expediting the beach and shore preservation program.

and conditions (including, but not limited to, execution of indemnification agreements) of federal, state, and other local governments and political entities, or any agencies or representatives thereof, for the purpose of improving, furthering, and expediting research and shore preservation program.

(4) The department is authorized for and on behalf of the state, to accept such federal monies for research erosion control as are available and to sign all necessary agreements therefor and to do and perform all necessary acts in connection therewith to effectuate the intent and purposes of this act.

(5) The department is authorized in the cost of any participation for federal participation in the cost of any research and shore preservation program under any act of Congress and all amendments thereto.

(6) The department is authorized to pay up to 40.00 percent of the nonfederal construction and maintenance costs of projects authorized for construction project by the United States Congress, including project authorized in S. 1097 (11/1/80), when the project is for construction and maintenance of any structure is the upland riparian zone.

(7) With regard to nonfederal aid projects the department is authorized to pay 100 percent of the project costs as outlined in s. 161.09(1)(b) (c), and (d).

allowed prior to the need for such nourishment project. It is further declared that there is no intention on the part of the state to extend its claims to lands not al-

erent, the State has elected its claims to lands not already held by it or to deprive any upland or submerged land owner of the legitimate and constitutional use and enjoyment of his property, if a requested and authorized beach nourishment and erosion and erosion control project cannot reasonably be accomplished without the taking of private property, then such taking shall be made by the requesting authority by eminent domain proceedings.

(2) When the Department of Environmental Regulation has received all information necessary to exercising authority by eminent domain proceedings.

evaluate the impact of the proposed project pursuant to chapters 253 and 403 and has concluded its evaluation, it shall notify the applicant within 10 days whether it intends to issue or deny the permit, regardless of whether the Board of Trustees of the Internal Improvement Trust Fund has given its consent to the use of state lands or resources. (S.B. 1952, 77)

However, the Department of Environmental Regulation shall not issue any permit until the requirements of s. 253.77 have been complied with, and the deadline imposed pursuant to s. 120.60 shall not begin to run until s. 253.77 has been complied with.

161.151 Definitions.—As used in ss.
61.141-161.211:
(1) "Board of trustees" means the Board of Trust-

1. "Board of Trustees means the Board of Trustees of the Internal Improvement Trust Fund.

2. "Requesting authority" means any coastal community, municipality, or beach erosion control district which requests a survey by the board of trustees under the provisions of ss. 161.141-161.221.

3. "Proton control line" means the line determined in accordance with the provisions of ss. 161.141-161.221 which represents the landward extension of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico, and the Florida Bay, and other tidal reaches thereof on the state of the recording of the survey as authorized in s. 61.18.

4. "Authorized beach restoration project" means

161.161 Procedure for approval of projects.

(1) Upon the request by written resolution of a trustee, the board of trustees shall authorize the requesting authority for a survey preliminary to the implementation of a beach erosion control project. The board of trustees shall first require the Department of Natural Resources to furnish a written recommendation approving or disapproving the requested project and, if approval be recommended, to certify in writing that:

(a) Severe beach erosion has occurred in the area encompassed by the requested survey; and

(b) The beach sought to be protected by an erosion control project has been or will be destroyed in the immediate future unless a publicly financed pro-

161.161 Procedure for approval of projects.

(1) Upon the request by written resolution of a requesting authority for a survey preliminary to the implementation of a beach erosion control project, the board of trustees shall first require the Department of Natural Resources to furnish a written recommendation approving or disapproving the request. If the recommendation is disapproved, the request may be dropped and, if approval be recommended, to certify in writing that:

(a) Severe beach erosion has occurred in the area encompassed by the requested survey; and

(b) The beach sought to be protected by an erosion control project has been or will be destroyed in the immediate future unless a publicly financed project is undertaken.

Upon receipt of the written recommendation and certification from the Department of Natural Resources, the board of trustees shall decide whether, in light of existing needs throughout the state, the project should be pursued. In determining the priority of projects to be undertaken, the board of trustees shall consider the relative need for protective measures, the availability of necessary equipment, and the anticipated local and federal contribution and cooperation. If the board of trustees determines that the requested project should be pursued, it shall forthwith conduct a survey of all or part of the shoreline within the project area to determine the need for the project and to establish the beach erosion control line. However, no such line shall be fixed except in connection with an authorized beach erosion control project in which the requesting authority has secured the written consent of the owners of a majority of the lineal feet of contiguous riparian property which either abuts the requested erosion control line or would abut such line, if established at the line of mean high water, for the establishment of such a line. No provision of ss. 161.141-161.211 shall be construed as preventing a requesting authority from participating in the funding of erosion control projects or surveys undertaken in accordance with the provisions of ss. 161.141-161.211. In lieu of conducting a survey, the board of trustees may accept and approve a survey as initiated, conducted, and submitted by the requesting authority if said survey is made in conformity with the appropriate principles set forth in ss. 161.141-161.211.

(2) Upon completion of the survey depicting the area of the beach erosion control project and the proposed location of the erosion control line, the board of trustees shall give notice of the written resolution of the requesting authority, the survey, and the date on which the board of trustees will hold a public hearing for the purpose of receiving evidence on the granting of, locating and establishing such requested erosion control line. Such notice shall be by publication in a newspaper of general circulation published in the county or counties in which the proposed beach erosion control project shall be located, not less than once a week for 3 consecutive weeks, and by mailing copies of such notice by certified or registered mail to each riparian owner of record of upland property lying within 1,000 feet (radial distance) of the shoreline to be extended through construction of the proposed beach erosion control project, as his name and address appear upon the latest tax assessment roll. Notice shall also be given to the location of such requested erosion control line. The board of trustees shall not be required to hold a public hearing at such hearing to submit their views concerning necessity for the project and the precise location of the requested erosion control line. Such notice shall be in addition to any notice requirement in chapter 120.

(3) The board of trustees shall approve or disapprove the beach erosion control project. If approval is granted, the board shall establish the location of the erosion control line. In locating said line, the board of trustees shall be guided generally by the ex-

isting line of mean high water, bearing in mind the requirements of proper engineering in the erosion control project, the extent to which erosion or avulsion has occurred, and the need to protect existing ownership of as much upland as is reasonably possible. In the event riparian upland owners agree to furnish financial or other acceptable assistance in the beach erosion control project, the board of trustees is authorized to locate the erosion control line a sufficient distance seaward of the existing line of mean high water in order to provide for an equitable distribution of the restored beach between the state and such existing upland owners.

History.—s. 1, ch. 70-776, § 1, ch. 70-428, § 31, ch. 70-451, § 2, ch. 79-231

161.181 Recording of resolution and survey of board of trustees.—If no review is taken within the time prescribed from the decision of the board of trustees or, if review be timely taken, in the absence of a final decision of a court of competent jurisdiction preventing the implementation of a beach erosion control project involving building, the board of trustees shall cause the resolution and location of the erosion control line as provided herein to be filed in the public records of the county or counties in which the erosion control line lies, a copy of its resolution approving the beach erosion control project and locating the erosion control line and shall also file and cause to be recorded in the book of plats of said county or counties a survey showing the area of beach to be protected and the location of the erosion control line.

History.—s. 1, ch. 70-776, § 1, ch. 70-428, § 3, ch. 79-231

161.191 Vesting of title to lands.—

(1) Upon the filing of a copy of the board of trustees' resolution and the recording of the survey showing the location of the erosion control line and the area of beach to be protected as provided in s. 161.181, title to all lands seaward of the erosion control line shall be deemed to be vested in the state by right of its sovereignty, and title to all lands landward of such line shall be vested in the riparian upland owners whose lands either abut the erosion control line or would have abutted the line if it had been located directly on the line of mean high water on the date the board of trustees survey was recorded.

(2) Once the erosion control line along any segment of the shoreline has been established in accordance with the provisions of ss. 161.141-161.211, the common law shall no longer operate to increase or decrease the proportions of any upland property lying landward of such line, either by accretion or erosion or by any other process, and (3) the state shall not extend or permit to be extended through artificial means that portion of the protected beach lying seaward of the erosion control line beyond the limits set forth in the survey recorded by the board of trustees unless the state first obtains the written consent of all riparian upland owners whose view or access to the water's edge would be altered or impaired.

History.—s. 1, ch. 70-776, § 1, ch. 70-428, § 3, ch. 79-231

161.201 Preservation of common-law rights.

767

Any upland owner or lessee who, by operation of ss. 161.141-161.211, receives a title of title to the beach high water line shall, nevertheless, continue to be entitled to all the rights and remedies which he or she is entitled to under the provisions of ss. 161.191(2), except as otherwise provided in s. 161.191(2), and shall be limited to fishing, hunting, and boating, and shall not be allowed to erect upon lands created either naturally or artificially seaward of any erosion control line fixed in accordance with the provisions of ss. 161.141-161.211, except such structures required for the prevention of erosion. Neither shall such use be permitted by the state as may be injurious to the person, business, or property of the upland owner or lessee; and the several municipalities, counties and special districts are authorized and directed to enforce this provision through the exercise of their respective police powers.

History.—s. 1, ch. 79-238

161.211 Cancellation of resolution for non-performance by board of trustees.—

(1) If for any reason construction of the beach erosion control project authorized by the board of trustees is not commenced within 2 years from the date of the recording of the board of trustees' survey, as provided in ss. 161.181, or in the event construction is commenced but halted for a period exceeding 6 months from commencement, then, upon receipt of a written petition signed by those owners or lessees of a majority of the lineal feet of riparian property which either abut or would have abutted the erosion control line if the same had been located at the line of mean high water on the date the board of trustees survey was recorded, the board of trustees shall forthwith cause to be canceled and vacated of record the project and the survey showing the erosion control line, and the erosion control line shall be null and void and of no further force or effect.

(2) If the state, county, municipal agency, erosion control district, or other governmental agency charged with the responsibility of maintaining the protected beach fails to maintain the same and as a result thereof the shoreline gradually recedes to a point or points landward of the erosion control line as established herein, the provisions of s. 161.191(2) shall cease to be operative as to the affected upland.

(3) In the event a substantial portion of the shoreline encompassed within the erosion control project recedes landward of the erosion control line, the board of trustees, on its own initiative, may direct or request, or, upon receipt of a majority petition signed by the owners or lessees of a majority of the lineal feet of riparian property lying within the erosion control project, shall direct or request, the agency charged with the responsibility of maintaining the beach to restore the same to the extent provided for in the board of trustees' recorded survey. If the beach is not restored as directed or requested by the board of trustees within a period of 1 year from the date of the directive or request, the board of trustees shall forthwith cause to be canceled and vacated of record the resolution authorizing the beach erosion control project and the survey depicting the erosion control

line, and the erosion control line shall be null and void and of no further force or effect.

History.—s. 1, ch. 70-776, § 1, ch. 70-428, § 3, ch. 79-231

161.212 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this chapter.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 60 days of the rendering of such decision and request monetary damages (other than the affected property is located, however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power constituting a taking without just compensation, the court shall remand the matter to the agency which shall, within a reasonable time:

(a) Agree to issue the permit;

(b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given to the portion of the value of the land attributable to governmental action; or

(c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person who prevails in the action.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

History.—ss. 1, 2, 3, ch. 79-4, § 1, ch. 79-45

PART II

BEACH AND SHORE PRESERVATION DISTRICTS

161.25 County beach and shore preservation authority; board of commissioners.

161.26 Expenses; use of county funds.

768

segment, collection and enforcement and application of the taxes provided for in s. 161.37, shall be the duty of the county commissioners of each such cooperating county.

(3) Any county may expend funds in any other county for the purposes provided herein if in the opinion of the board of county commissioners of one county such expenditure of its funds in other counties would be beneficial to the beaches and shores of that county.

History.—1983, ch. 85, § 44.

161.39 Cooperation between two or more counties.—

(1) When two or more counties have created one or more beach preservation districts as provided for under part II of this chapter or any other law with same or like intent, or desire to carry out programs of beach and shore preservation, and find it to be mutually beneficial, the boards of county commissioners of such counties may cooperate to any extent necessary to carry out such programs with each other, and the implementation of any beach or shore preservation plan or project as defined herein. This cooperative participation shall not be limited to cooperative participation in the nonfederal costs of federally authorized projects affecting one or more of the cooperating counties, plans or projects resulting from investigations, or studies made by any or all such counties, or other such plans or projects, which by their nature would prove to be beneficial to each such cooperating county as determined by the boards of county commissioners of each such county.

(2) The costs of any such plan or project shall be borne by each of the cooperating counties in accordance with the benefits expected to accrue to each county as determined in accordance with s. 161.29, or

161.40 Tax exemptions.—All properties, revenues and other assets of the board of county commissioners acting as the beach and shore preservation authority, or of any of the districts created thereby, shall, by recognition of its essential public function, be exempt from all taxation by the state or any political subdivision, agency or instrumentality thereof.

History.—1983, ch. 85, § 44.

161.41 Construction of ss. 161.25-161.40.—The provisions of ss. 161.25-161.40 shall be liberally construed by all concerned in a manner to best accomplish the beach and shore preservation purposes and programs.

History.—1983, ch. 85, § 44.

161.45 Effect of repeal of ch. 158 on districts created prior to repeal.—The county erosion districts created under the provisions of chapter 158, and presently in existence shall not be affected by the repeal of chapter 158.

History.—1983, ch. 85, § 13.

of the bonds, and the place of payment of principal and interest which may be at any bank or trust company within or without the state.

(a) The resolution authorizing the issue may further provide that such bonds may be executed manually or by engraved, lithographed or facsimile signature.

(b) The appropriate seal may be affixed or lithographed, engraved or otherwise reproduced in facsimile on such bonds and shall be attested by manual or facsimile signature of the county clerk; provided, however, that at least one of the signatures of executing officials on the bonds shall be manual.

Signatures, manual or facsimile, of executing officials shall continue to be valid for all purposes whatsoever regardless of whether or not signing officers are still in office at the time the bonds are due for delivery.

(c) Bonds may be issued in coupon or registered form as the board of county commissioners may decide and provision may be made for the registration of any coupon bonds as to principal, alone or as to principal and interest, and for the redemption of coupon bonds or any bond registered as to principal, and interest.

(d) No sale of bonds shall be made at a price so low as to require the payment of interest on money received therefor at a rate in excess of 6 percent per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computation, however, the amount of any premium to be paid for the redemption of any bonds prior to maturity.

(e) Prior to the preparation or issuance of definitive bonds, the board of county commissioners may under like restrictions issue interim receipts or temporary notes or other forms of such temporary obligations with or without coupons, exchangeable for definitive bonds when such bonds are issued, and which are payable for delivery. Such bonds, when issued, shall be subject to the provisions of part II of this chapter without obtaining the consent of any commission, board, bureau or agency of this state, and without any other proceeding or happening than specifically required by this chapter.

(3) All bonds issued under part II of this chapter shall constitute, and have all the qualities and incidents of, negotiable instruments under the law merchant and the Negotiable Instruments Law of Florida, and shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of bona fide purchasers for value.

(4) The provisions of part II of this chapter shall constitute an irrevocable contract between the board of county commissioners and the holders of such bonds or coupons thereof issued pursuant to the provisions hereof.

(5) Any holder of such bonds issued under the provisions of part II of this chapter, and the trustee under any trustee agreement, except to the extent the rights herein given may be restricted by such suit, agreement, judgment or decree, shall be conclusively deemed to have accepted and agreed to the performance of the duties required by part II of this chapter or of any of the officers or persons herein mentioned in relation to said bonds, or the levy, as

on an ad valorem basis to the entire assessed valuation of each district, while special benefits shall be assigned to groups of specific properties which shall constitute zones because of the equal or comparable benefits each included property will receive.

(3) Where the board of county commissioners levies any special benefits taxes, it shall consider the value of the property, its kind, susceptibility to improvement and the maximum annual benefits to be conferred thereon by the works or improvements in the district.

(4) The owner of lands where a special benefits tax is proposed to be levied shall be given written notice and an opportunity to be heard upon the amount of special benefits tax to be levied upon his lands. If the special benefits tax is levied within any district, it shall be equal or comparable, then the district shall comprise only one tax zone. The district shall pay shall be determined by adding the general and special benefits assigned to its zone. The actual tax levy for any particular year shall depend on the revenue needs for that year.

(5) The board of county commissioners shall levy sufficient ad valorem and special benefits taxes to pay off debt service on any bonds issued. It shall be the duty of the board each year, sufficiently in advance of the preparation of the county tax roll, to establish the revenue requirements for each individual district for the fiscal year in question and certify this figure to the county property appraiser who shall then assign shares of this total to each zone within the respective district according to the proportion of total benefits previously assigned. The share of total required revenue assigned each zone shall then be collected by an ad valorem levy on each taxable property within the zone.

(6) All taxes provided for in part II of this chapter shall be levied and collected by the county in the same manner as other taxes and which shall constitute a lien of equal stature and dignity with other county taxes.

History.—1983, ch. 85, § 46, 1983, ch. 72, § 102.

161.38 Issuance of bonds.—

(1) The board of county commissioners, for and on behalf of each or any district created in accordance with part II of this chapter, is authorized to provide from time to time for the issuance of bonds to obtain funds to meet the costs of the beach and shore preservation program; provided, however, that such issuance shall have first been approved at a duly conducted referendum election by freeholders within the subject district as provided for by law. The bonds of such issue shall be dated, shall bear interest at rates not to exceed 7.5 percent which mature at such time as determined by the board of county commissioners, and at the option of the board of county commissioners, may be made redeemable before maturity under the terms and conditions and at such prices as fixed by the board of county commissioners prior to issuance.

(2) The board of county commissioners shall determine the form of such bonds, including any interest coupons to be attached thereto, the denomination

CHAPTER 201

EXCISE TAX ON DOCUMENTS

- Documents taxable, generally: 201.01
- Tax on deeds and other instruments relating to realty: 201.02
- Tax on bills of sale, agreements, or transfers of stock or shares in corporations and interests therein: 201.04
- Tax on stock certificates: 201.05
- Tax on bonds, debentures, and certificates of indebtedness: 201.07
- Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception: 201.08
- Renewal of existing promissory notes and mortgages; exemption: 201.09
- Certificates of deposit issued by banks exempt: 201.10
- Administration of law by Department of Revenue: 201.11
- Duties of clerks of the circuit court: 201.12
- Department of Revenue to furnish stamps for tax: 201.13
- Metering machines: 201.131
- Exceptions to use of stamps on recorded documents: county comptrollers and clerks of the circuit court: 201.132
- Exceptions to use of stamps on documents not to be recorded; certificates of registration: 201.133
- Cancellation of stamps when used: 201.14
- Distribution of taxes collected: 201.15
- Other laws made applicable to chapter: 201.16
- Penalties for failure to pay tax required: 201.17
- Penalties for illegal use of stamps: 201.18
- Notes and other written obligations exempt under certain conditions: 201.21
- Financing statements under chapter 679 of the Uniform Commercial Code: 201.22
- Foreign notes and other written obligations exempt: 201.23
- Obligations of municipalities, political subdivisions, and agencies of the state: 201.24

201.01 Documents taxable, generally.—There shall be levied, collected, and paid the taxes specified in this chapter, for and in respect to the several documents, bonds, debentures or certificates of stock and indebtedness, and other documents, instruments, matters, writings, and things described in the following sections, or for or in respect of the following sections, or for or in respect of which such document, instrument, matter, writing, or thing, or any of them, is written or printed by any person who makes, signs, executes, issues, sells, removes, conveys, assigns, records, or ships the same, or for whose benefit or use the same are made, signed, executed, issued, sold, removed, assigned, recorded, or shipped in the state. The documents, matters, writings, or things shall be affixed to and required under this chapter shall be affixed to and

and qualifications, all persons using or desiring to use the procedure authorized by this section shall be subject to audit and shall make their records available for ready inspection by the department and shall post a bond at their own expense as may be required by the department.

(6) Each person shall keep a journal, or other account book or record of original entry, showing a listing of all documents executed and delivered. The journal shall show a daily listing of such documents unless another time period is required by the department. The journal shall show every transaction and the amount, whether the transaction is taxable or not. In the case of taxable transactions, the journal shall show the amount of tax payable with respect to each transaction. In the case of nontaxable transactions, the journal shall show the basis on which the exemption from tax is claimed. Such records shall be kept in permanent form and retained indefinitely in the files subject to verification by the representative of the department. The following notation or similar language along with the certificate of registration number shall be made on each individual document requiring tax: "Florida documents tax has been paid or will be paid directly to the Department of Revenue, Certificate of Registration # _____".

(7) The authority of any person described in subsection (1) to use the procedure authorized by this section may be canceled by the department if such person:

- Knowingly files a false monthly report of the data required by subsection (4);
- Fails, refuses, or neglects to file the report required by subsection (4);
- Fails to adequately maintain the records required by subsection (6);
- Fails to submit the tax collected; or
- Fails to adequately maintain the records required by subsection (6).

201.14 Cancellation of stamps when used.—Whenever an adhesive stamp is used for denoting any tax imposed by this chapter on documents, the person using or affixing the same shall write or stamp or cause to be written or stamped thereon, the initials of his or its name, and the date upon which same is attached or used, so that the same may not again be used. Stamps shall be affixed in such manner that their removal will require continued application of steam or water; provided, that the Department of Revenue may prescribe such other method for the cancellation of such stamps as it may deem expedient.

History.—s. 1, ch. 1937, 1931; C.G.L. 1936 Supp. 1278(16); s. 2, ch. 93, 1936.

201.15 Distribution of taxes collected.

(1) All taxes collected under the provisions of this chapter shall be distributed as follows:

- Seventy-nine and one-half percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the General Revenue Fund of the state, to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

1024

EXCISE TAX ON DOCUMENTS

(b) Thirteen and three-tenths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this section may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(c) Seven and two-tenths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(2) The change in the schedule of distributions imposed by s. 2 of chapter 81-33, Laws of Florida, is repealed effective August 1, 1991, at which time the schedule of distributions shall revert to the schedule existing at the time of passage of chapter 81-33, Laws of Florida. s. 1, ch. 1937, 1931; C.G.L. 1936 Supp. 1278(17); s. 1, ch. 79-58, 1979.

201.16 Other laws made applicable to chapter.—All revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this chapter, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, or writing named herein.

History.—s. 1, ch. 1937, 1931; C.G.L. 1936 Supp. 1278(18).

201.17 Penalties for failure to pay tax required.—

- Whoever makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever, without the full amount of the tax herein imposed thereon being fully paid, or who ever makes use of any adhesive stamp to denote any tax imposed by this chapter without canceling or obliterating such stamps as herein provided, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any document, instrument, or paper upon which the tax imposed by this chapter is imposed and which is used in the state after the date of recordation, upon the proper amount of the tax paid shall subject the person or persons liable for the tax upon the document, instrument, or paper to:

- Payment of a penalty to the Department of Revenue equal to 25 percent of the tax not paid if it is determined by clear and convincing evidence that any part of a deficiency is due to fraud; there shall be added to the tax as a civil penalty, in lieu of the aforementioned penalty under this paragraph, an amount equal to 100 percent of the deficiency. These penalties are to be in addition to, and not in lieu of, any other penalties imposed by law.
- Payment of interest to the Department of Revenue, accruing from the date of recordation until

1028

CHAPTER 252

EMERGENCY MANAGEMENT

- 252.31 Short title.
- 252.32 Policy and purpose.
- 252.33 Limitations.
- 252.34 Definitions.
- 252.35 Emergency management powers; Division of Public Safety Planning and Assistance.
- 252.36 Registry of disabled citizens; notice.
- 252.37 Emergency management powers of the Governor.
- 252.38 Financing.
- 252.39 Emergency management powers of political subdivisions.
- 252.40 Mutual aid arrangements.
- 252.41 Emergency management support forces.
- 252.42 Government equipment, services, and facilities.
- 252.43 Compensation.
- 252.44 Emergency mitigation.
- 252.45 Lease or loan of state property; transfer of state personnel.
- 252.46 Orders, rules, and regulations.
- 252.47 Enforcement.
- 252.50 Penalties.
- 252.51 Liability.
- 252.52 Liberality of construction.
- 252.53 Civil Air Patrol, Florida Wing; appropriations; procurement authority; wing commander bond.
- 252.60 Radiological emergency preparedness.

252.31 Short title.—Sections 252.31-252.60 shall be known and may be cited as the "State Emergency Management Act."

History.—s. 1, ch. 77-28, § 1, F.S.; s. 1, ch. 80-101, § 1, F.S.

252.32 Policy and purpose.—

(1) Because of the existing and continuing possibility of the occurrence of emergencies of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action or from natural or man-made causes, in order to reduce the damage and vulnerability to such emergencies, and to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To create a state emergency management agency to be known as the "Division of Public Safety Planning and Assistance," to authorize the creation of local organizations for emergency management in the political subdivisions of the state, and to authorize cooperation with the Federal Government and the governments of other states.

(b) To confer upon the Governor, the Division of Public Safety Planning and Assistance, and the governing body of each political subdivision of the state the emergency powers provided herein.

(2) "Emergency" means any occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(3) "Emergency management" means the preparation for, and the carrying out of, all emergency responsibilities and functions, other than those for which military forces or other federal agencies are primarily responsible, to prevent, mitigate, or repair injury and damage resulting from the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from emergencies. These responsibilities include, but are not limited to:

(a) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes or hostile military or paramilitary action.

(b) Preparation for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disasters.

(c) Provision of a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.

(d) Provision of an emergency management system embodying all aspects of preemergency preparedness and postemergency response.

(e) Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(f) Local emergency management agency means an agency created pursuant to law.

History.—s. 1, ch. 77-28, § 1, F.S.; s. 1, ch. 80-101, § 1, F.S.

252.35 Emergency management powers; Division of Public Safety Planning and Assistance.

(1) The division shall be responsible for carrying out the provisions of ss. 252.31-252.60.

(2) In performing its duties under ss. 252.31-252.60, the division is authorized and empowered:

(a) In accordance with the provisions of chapter 129 to make, amend, and rescind rules, programs, orders, and policies to carry out the provisions of ss. 252.31-252.60, with the consideration for, and in conformity with, the plans and programs of the Federal Government.

(b) To prepare a comprehensive plan and program for emergency management in this state, such plan and program to be integrated into, and coordinated with, the survival plan and programs of the Federal Government.

(c) In accordance with such plan and program for emergency management, to ascertain the requirements of the state and its political subdivisions for equipment and supplies of all kinds in the event of

emergency; to plan for and procure supplies, equipment, materials, and equipment; to use and employ resources within the state in accordance with ss. 252.31-252.60; to institute training programs and public information programs; and to take all other preparatory steps, including the partial or full mobilization of emergency management forces and organizations in advance of actual emergency, to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(d) To cooperate with the President, the heads of the Armed Forces, the various federal emergency management agencies, and the officers and agencies of other states in matters pertaining to emergency management in the state and the nation and incidents thereof and, in connection therewith, to take any measures which it may deem proper to carry into effect any request of the President and the appropriate federal officers and agencies for any emergency management action, including the direction or control of:

1. Emergency management drills, tests, or exercises of whatever nature.

2. Warnings and signals for tests and drills, attacks or other imminent emergencies or threats thereof and the mechanical devices to be used in connection with such warnings and signals.

(e) To make recommendations for zoning, building and other land use codes for management or securing mobile homes or other nonpermanent or semipermanent structures, and other prevention, mitigation, and preparedness measures designed to eliminate emergencies or reduce their impact.

(f) To render assistance to political subdivisions in designing emergency action plans.

(g) To prepare and distribute to appropriate state and local officials catalogs of federal, state, and private assistance programs.

(h) To coordinate federal, state, and local emergency management activities.

(i) To promulgate standards and requirements for political subdivision emergency management plans.

(j) To review periodically political subdivision emergency management plans.

(k) To make such surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of ss. 252.31-252.60.

(l) To prepare, for issuance by the Governor, such executive orders, proclamations, and rules as are necessary or appropriate in coping with emergencies.

(m) To cooperate with the Federal Government and any public or private agency, and to participate in any program for the prevention, mitigation, preparation, response, and recovery.

(n) To delegate authority vested in it under ss. 252.31-252.60 and to provide for the subdelegation of such authority.

(o) To report annually to the Governor and the Legislature, no later than February 1, the status of the emergency management capabilities of the state and its political subdivisions.

(p) To do other things necessary, incidental, or appropriate for the implementation of ss. 252.31-252.60.

252.335 Registry of disabled citizens; notice.

(1) Each local emergency management agency in the state shall prepare for the voluntary registration of disabled citizens within the jurisdiction of the local agency. The registration shall be utilized to determine who would need assistance in an emergency because of an emergency and shall be updated annually.

(2) Each electric utility in the state shall annually notify residential customers in its service area of the availability of a volunteer program by their local emergency management agency to register all disabled citizens who may need assistance during an emergency.

(3) Any advertising required by this section shall, whenever possible, be done through the use of public service announcements of local radio stations and shall not require the expenditure of local government funds.

(4) This section is exempt from the provisions of chapter 119, F.S.

252.36 Emergency management powers of the Governor.

(1) The Governor is responsible for meeting the dangers presented to the state and its people by natural disasters, and in the event of an emergency beyond local control, the Governor, or, in his absence, his successor as provided by law, may assume direct operational control over all or any part of the emergency management functions within this state, and he shall have the power through proper process of law to carry out the provisions of this section. The Governor is authorized to delegate such powers as he may deem prudent.

(2) Pursuant to the authority vested in him under paragraph (1), the Governor may issue executive orders, proclamations, and rules and may amend or repeal them. Such executive orders, proclamations, and rules shall have the force and effect of law.

(3) A state of emergency shall be declared by executive order or proclamation of the Governor if he finds that an emergency has occurred or that the occurrence of such an emergency is imminent. The state of emergency shall continue in effect until the Governor finds that the threat of danger has been dealt with to the extent that the emergency condition no longer exists and he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor. The Legislature, in concurrent resolution may terminate a state of emergency at any time. Thereupon, the Governor shall issue an executive order or proclamation ending the state of emergency. All executive orders or proclamations issued under this section shall indicate the nature of the emergency, the area or areas threatened, and the conditions which have brought the emergency about or which make possible its termination. An executive

1969

order or proclamation shall be promptly disseminated by means calculated to bring its contents to the attention of the general public; and, under the circumstances attendant upon the emergency, the Governor may suspend the provisions of this section or invade such filing, the order or proclamation shall be filed promptly with the Department of State and in the offices of the county commissioners in the counties to which the order or proclamation applies.

(3) An executive order or proclamation of a state of emergency shall:

(a) Activate the emergency mitigation, response, and recovery aspects of the state, local, and inter-jurisdictional emergency management plans applicable to the political subdivision or area in question; and

(b) Be authority for the deployment and use of any forces to which the plan or plans apply and for the use or distribution of any supplies, equipment, and materials and facilities, including stockpiled or arranged to be made available pursuant to ss. 252.31-252.60 or any other provision of law relating to emergencies.

(4) During the continuance of a state of emergency, the Governor is commander in chief of all other forces, organized and volunteer militia and of all other forces available for emergency duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or rules, but nothing herein restricts his authority to do so by orders issued at the time of the emergency.

(5) In addition to any other powers conferred upon the Governor by law, he may:

(a) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of any state agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(b) Utilize all available resources of the state government and of each political subdivision of the state, in reasonably necessary to cope with the emergency;

(c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(d) Subject to any applicable requirements for compensation under s. 252.43, commander or utilize any private property if he finds this necessary to cope with the emergency;

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery;

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) Control ingress and egress to and from an emergency area, the movement of persons within the area, and the use of public facilities;

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles;

(i) Make provision for the availability and use of temporary emergency housing.

(f) Take effective measures for limiting or suspending lighting devices and appliances, gas and water supply, electric power distribution, and all other utility services in the general public interest.

(g) Take measures concerning the conduct of civilian, the suspension and cessation of movement of pedestrian and vehicular traffic prior to, during, and subsequent to declared actual or threatened emergencies, the calling of public meetings and gatherings, and the evacuation and reception of civilian population, as provided in the emergency management plan of the state and political subdivisions thereof.

(h) Authorize the use of forces already mobilized as the result of an executive order, rule, or recommendation to assist the private citizens of the state in proper recovery operations during emergencies when proper permission to enter onto or into private property has been obtained from the property owner. The provisions of s. 768.28(5) apply to this paragraph.

(i) The Governor shall take such action and give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of ss. 252.31-252.60 and with the orders and regulations pursuant thereto.

(j) The Governor shall employ such measures and give such directions to the Department of Health and Rehabilitative Services as may be reasonably necessary for the purpose of securing compliance with the provisions of ss. 252.31-252.60 or with the findings or recommendations of such agency of health or reason of conditions arising from emergencies or threats of emergency.

(k) The Governor shall delegate emergency responsibilities to the officers and agencies of the state and of the political subdivisions thereof prior to an emergency or threat of an emergency and shall utilize the services and facilities of existing offices and agencies of the state and of the political subdivisions thereof, including their personnel and other resources, as the primary emergency management forces of the state, and all such officers and agencies shall cooperate with and extend their services and facilities to the division, as it may require.

(l) The Governor and the division shall establish agencies and offices and appoint executive, professional, technical, clerical, and other personnel as may be necessary to carry out the provisions of ss. 252.31-252.60.

(m) The Governor shall formulate and execute plans and rules for the control of traffic in order to provide for the safe and safe movement or evacuation over public highways and streets of people, troops, or vehicles and materials for national defense or for use in any defense activity and may coordinate the activities of the departments or agencies of the state and the political subdivisions thereof concerned directly or indirectly with public highways and streets in a manner which will best effectuate such plans.

(n) ss. 252.31-252.60, F.S., shall not apply to the

252.37 Financing.

(1) It is the intent of the Legislature and declared

1510

to be the policy of the state that funds to meet emergencies shall always be available.

(2) It is the legislative intent that the first recourse shall be to funds regularly appropriated to state and local agencies. If the Governor finds that the demands placed upon these funds in coping with a particular disaster are unreasonable, he may make funds available by transferring and using moneys appropriated for other purposes or out of any unappropriated surplus funds.

(3) Nothing contained in this section shall be construed to limit the authority of the Governor to apply for, administer, and expend any grants, gifts, or payments in aid of emergency prevention, mitigation, preparedness, response, or recovery.

(4) Whenever the Federal Government or any agency or officer thereof offers to the state or, through the state, to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, loan, or other agreement for the purpose of emergency management, the state, acting through its governing body or a local emergency management agency, may accept such offer. Upon such acceptance, the division or the presiding officer may authorize receipt of the gift, grant, or loan on behalf of the state or of such political subdivision, subject to the terms of the offer and the rules and regulations of the agency making the offer.

(5) Whenever any person, firm, or corporation offers to the state or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, loan, or other agreement for the purpose of emergency management, the state, acting through its governing body or a local emergency management agency, may accept such offer. Upon such acceptance, the division or the presiding officer may authorize receipt of the gift, grant, or loan on behalf of the state or of such political subdivision, subject to the terms of the offer and the rules and regulations of the agency making the offer.

252.38 Emergency management powers of political subdivisions.

(1) Safeguarding the life and property of its citizens is an inalienable responsibility of the governing body of each political subdivision of the state.

(2) In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of ss. 252.31-252.60, each county within this state shall be within the jurisdiction of, and served by, the division. Except as otherwise provided in ss. 252.31-252.60, each local emergency management agency shall have the authority to exercise the powers of the division in that subdivision is authorized and directed to establish and maintain such an emergency management agency in support of the state comprehensive emergency management plan and program.

(3) Locally incorporated municipalities are authorized and encouraged to create municipal emergency management agencies. Municipal emergency management agencies shall coordinate their activities

with those of the county emergency management agency. Municipalities without emergency management agencies shall be served by their respective counties.

(1) Emergency management agency created and established pursuant to the provisions of ss. 252.31-252.60 shall have a director who shall be appointed and have his annual salary fixed by the board of county commissioners of the county or governing body of a city or town, as appropriate.

Such a director shall meet the minimum training and education qualifications established in a job description approved by the Department of Administration or the political subdivision. Such directors shall be appointed by their respective political subdivisions, to serve at their pleasure, subject to their direction and control, in conformance with applicable resolutions, ordinances, and Florida statutes. Each political subdivision shall promptly inform the division of the appointment of directors and other personnel. Each director shall have direct responsibility for the organization, administration, and operation of the local emergency management agency, and shall be the principal representative of the local emergency management agency to the political subdivision and of the division. The director shall coordinate the activities, services, and programs for emergency management within the county or municipality and shall maintain liaison with other state and local emergency management agencies.

(5) Each local emergency management agency shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized and, in addition, shall conduct such activities outside its territorial limits as may be required pursuant to the provisions of ss. 252.31-252.60 and in accordance with state and county emergency management plans and mutual aid agreements.

(6) In carrying out the provisions of ss. 252.31-252.60, each political subdivision shall have the power and authority:

- To appropriate and expend funds; make contracts; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property; including emergency response and recovery; and emergency management and recovery programs in accordance with the policies and plans set by the federal and state emergency management agencies.
- To appoint, employ, remove, or provide, with or without compensation, coordinators, rescue teams, fire and police personnel, and other emergency management workers.
- To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
- To assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency operation purposes, as the primary emergency

management forces of the political subdivision for employment within or outside the political limits of the subdivision.

(6) To request state assistance or invoke emergency relief mutual aid assistance by declaring a state of local emergency in this state or emergency affecting only the political subdivision. The declaration of each state of emergency declared locally is limited to 7 days; it may be extended, as necessary, in 72-hour increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
- Entering into contracts.
- Incurring obligations.
- Employment of permanent and temporary workers.
- Utilization of volunteer workers.
- Rental of equipment.
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
- Appropriation and expenditure of public funds.

(7) Upon the request of two or more adjoining political subdivisions, or if the Governor finds that two or more adjoining political subdivisions would be better served by an interjurisdictional arrangement than by maintaining separate emergency management agencies and services, the Governor may delineate by executive order or rule an interjurisdictional area adequate to plan for, prevent, mitigate, or respond to emergencies in such area and may direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency plan, a provision for mutual aid, or an area organization for emergency planning and services. A finding of the Governor pursuant to this subsection shall be based on one or more factors related to the difficulty of providing efficient and effective emergency prevention, mitigation, preparedness, response, and recovery system on a jurisdictional basis, such as:

- Small or sparse population.
- Limitations on public financial resources severe enough to make maintenance of a separate emergency management agency and services unreasonably burdensome.
- Unusual vulnerability to emergencies as evidenced by a past history of emergencies, topographical features, drainage characteristics, emergency potential, and presence of emergency-prone facilities or operations.
- The interrelated character of the counties in a multicounty area.
- Other relevant factors.

History: s. 1, ch. 74-265, § 2, n. s. 1, Feb. 21, 1974.

252.39 Local services.—

(1) Whenever the employees of any political subdivision are rendering outside aid pursuant to the authority contained in s. 252.38, such employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in

the political subdivisions in which they are normally employed.

(2)(a) The political subdivision in which any equipment is used pursuant to this section shall be liable for any loss or damage thereto and shall pay any expense incurred in the operation and maintenance thereof. No claim for such loss, damage, or expense shall be allowed unless an itemized notice of such claim under oath is served by mail or otherwise upon the chief fiscal officer of the political subdivision in which the equipment was used within 60 days after the loss, damage, or expense is sustained or incurred.

(b) The political subdivision which is aided pursuant to this section shall also pay and reimburse the political subdivision furnishing such aid for compensation paid to employees furnished under this section during the time of the rendering of such aid and shall delay the actual traveling and maintenance expenses of such employees until the reimbursement amounts are received or due for compensation due to persons injured or death while such employees are engaged in performing such aid. The term "employees" as used in this section means, and the provisions of this section apply with equal effect to, paid, volunteer, and auxiliary employees and emergency management services workers.

History: s. 1, ch. 74-265, § 22, ch. 81-324.

252.40 Mutual-aid arrangements.—

(1) The governing body of each political subdivision of the state is authorized to develop and enter into mutual-aid agreements within the state for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted. Copies of such agreements shall be sent to the division. Such agreements shall be consistent with the state comprehensive emergency management plan and program, and in time of emergency it shall be the duty of each local emergency management agency to render assistance in accordance with the provisions of such mutual-aid agreements to the fullest possible extent.

(2) The Governor may enter into a compact with any state if he finds that joint action with that state is desirable in meeting common emergency problems of emergency prevention, mitigation, response, and recovery.

History: s. 1, ch. 74-265, § 23, ch. 81-324.

252.41 Emergency management support forces.—

(1) The division is authorized to provide, within or without the state, such support from available personnel and the political subdivisions of the state as may be necessary to reinforce emergency management agencies in areas stricken by emergency. Such support shall be rendered with due consideration of the plans of the Federal Government, this state, the other states, and of the criticalness of the existing situation. Emergency management support forces shall be called to duty upon orders of the division and shall

perform functions in any part of the state or, upon the conditions specified in this section, in other states.

(2) Personnel of emergency management support forces while on duty, whether within or without the state, shall:

- If they are employees of the state, have the powers, duties, rights, privileges, and immunities and receive the compensation incident to their employment.
- If they are employees of a political subdivision of the state, have the powers, duties, rights, privileges, and immunities, and receive the compensation incident to their employment.
- If they are not employees of the state or a political subdivision thereof, they shall be entitled to the same rights and immunities as are provided by law for the employees of this state and to such compensation as may be fixed by the division. All personnel of emergency management support forces shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving and shall be reimbursed for all actual and necessary travel and subsistence expenses to the extent of funds available.

History: s. 1, ch. 74-265, § 24, ch. 81-324.

252.42 Government equipment, services, and facilities.—

In the event of any emergency, services, and facilities may be made available and used by the state or its political subdivisions for use in the affected area upon request of the duly constituted authority of the area or upon the request of any recognized and accredited regional agency the such duly constituted authority.

History: s. 1, ch. 74-265, § 25, ch. 81-324.

252.43 Compensation.—

(1) Compensation for services of for the taking or use of property shall be paid only to the extent that a claimant may not be deemed to have volunteered his services or property without compensation and only to the extent that such taking exceeds the legal responsibility of a claimant to render such services or make such property so available.

(2) Compensation owed for personal services shall be only such as may be fixed by the division.

(3) Compensation for property shall be owed only if the property was commandeered or otherwise used in coping with an emergency and its use or destruction was ordered by this subdivision or a member of the emergency forces claiming compensation for the property.

(4) Any loss or destruction of property under ss. 252.31-252.60 shall file a claim therefor with the division in the form and manner that the division provides.

(5) Unless the amount of compensation owed in account of property damaged, lost, or destroyed is agreed between the claimant and the division, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

History: s. 1, ch. 74-265, § 26, ch. 81-324.

dations, actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, regulations, actions, recommendations, and requests.

252.47 Enforcement.—The law enforcement authorities of the state and the political subdivisions thereof shall enforce the orders, rules, and regulations issued pursuant to ss. 252.31-252.60.

252.50 Penalties.—Any person violating any provision of ss. 252.31-252.60 or any rule, order, or regulation made pursuant to ss. 252.31-252.60 is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

252.51 Liability.—Any person or organization, public or private, owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege or otherwise permits the designation by the local emergency management agency of use of the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual impending, mock, or practice emergency, shall not be liable in a civil action for injury to any person or property or damage to premises during the actual, impending, mock, or practice emergency, or for loss of or damage to the property of such person, solely by reason of or as a result of such license, privilege, designation, or use, unless the gross negligence or the willful and wanton misconduct of such person owning or controlling such real estate or premises or his successor in interest is the proximate cause of such death, injury, loss, or damage occurring during such sheltering period.

252.52 Liberty of construction.—Sections 252.31-252.60 shall be construed liberally in order to effectuate their purposes.

252.55 Civil Air Patrol, Florida Wing; appropriations; procurement authority; wing commander bond.—(1) The Florida Wing of the Civil Air Patrol, an auxiliary of the United States Air Force, shall be recognized as a nonprofit, educational, and emergency management-related organization and shall be eligible to purchase materials from the various surplus stores of the state. (2) The sum of \$10,000 shall be appropriated annually from the General Revenue Fund for the purpose of acquiring, maintaining, conducting, and maintaining the Florida Wing of the Civil Air Patrol. However, no part of the annual appropriation shall be expended for the purchase of aircraft or personal effects of members of the organization or for compensation or salary to such members.

(1) Whenever the Governor deems it to be in the public interest, he may: (a) Authorize any department or agency of the state to lease or lend, on such terms and conditions as it may deem necessary to promote the public welfare and protect the interests of the state, all or part of the personal property of the state and to the President, the heads of the state and federal forces, or the various federal emergency management agencies of the United States. (b) Enter into a contract on behalf of the state for the lease or loan to any political subdivision of the state, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of the state, of any real or personal property of the state government or the state government or employment of personnel of the state government to or by any political subdivision of the state.

(2) The governing body of each political subdivision of the state may: (a) Enter into such contract or lease with the state, except any such loan or employment of personnel, and such political subdivision shall, in accordance with the provisions of the contract, utilize, and operate, and maintain, and employ necessary personnel, and such contract is executed, in accordance with the provisions of the contract, and all acts which it may deem necessary to effectuate the purpose for which such contract was entered into.

252.46 Orders, rules, and regulations.—(1) In accordance with the provisions of chapter 120, the political subdivisions of the state and other agencies designated or appointed by the Governor are authorized and empowered to make, amend, and rescind such orders, rules, and regulations as may be necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. 252.31-252.60, but which are not inconsistent with any orders or rules promulgated by the division or by any state agency exercising a power delegated to it by the Governor or the division.

(2) All orders, rules, official subdivisions or other agency regulations made by ss. 252.31-252.60 to make or amend or rescind such orders, rules, and regulations shall have effect of law after adoption in accordance with the provisions of chapter 120 in the event of issuance by the division or any state agency or if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk or recorder of the political subdivision or agency promulgating the same. All existing laws, ordinances, rules, and regulations inconsistent with the provisions of ss. 252.31-252.60, or any order, rule, or regulation issued under the authority of ss. 252.31-252.60, shall be suspended during the period of time and to the extent that such conflict exists.

(3) In order to attain uniformity so far as practicable throughout the country in measures taken to aid emergency management, all action of regulations made pursuant to such sections shall be taken or made pursuant to such sections shall be taken or made with due consideration of the orders, rules, regulations.

(b) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a firebreak or damage resulting from the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood or applies to or authorizes compensation beyond the extent of funds available for such compensation.

252.41 Emergency mitigation.—(1) In addition to prevention measures included in the state and local comprehensive emergency management plans, the Governor shall consider on a continuing basis whether any action could be taken to mitigate the harmful consequences of emergencies. At his discretion, he may, state agencies, including, but not limited to, those charged with responsibilities in connection with flood plain management, stream erosion, and flow regulation, weather modification, for prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of emergency mitigation-related matters. The Governor, from time to time, shall make such recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for mitigation of the harmful consequences of emergencies.

(2) The appropriate state agencies, in conjunction with the division, shall study land use and construction of structures and other facilities under continuing study and study areas which are particularly susceptible to severe land shifting, subsidence, and other catastrophic occurrence, manmade or natural. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by these occurrences or the consequences thereof.

(3) If the division believes, on the basis of the studies or other competent evidence, that an area is susceptible to an emergency of catastrophic proportions without adequate warning, that existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the emergency, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the reasons for such changes to the Governor. If the Governor, after public hearing, the changes are not recommended to the agency, or if the agency, after public hearing, does not concur in the action, he shall so recommend to the Legislature and request legislative action to amend the law.

252.45 Lease or loan of state property; transfer of state personnel.—Notwithstanding any inconsistent provision of law:

lance shall develop, prepare, test, and implement as needed, in conjunction with the appropriate counties and the affected operator, such radiological emergency response plans and preparedness requirements as may be imposed by the United States Nuclear Regulatory Commission or the Federal Emergency Management Agency as a requirement for obtaining or continuing the appropriate licenses for a commercial nuclear electric generating facility.

(4) **POWERS AND DUTIES.**—In implementing the requirements of this section, the secretary of the department, or his designated representative, shall: (a) Negotiate and enter into such additional contracts and arrangements among the division, appropriate counties, and each operator to provide for the level of funding and the respective roles of each in the development, preparation, testing, and implementation of the plans.

(b) Evaluate and determine the adequacy of the plans based upon consultations with the United States Nuclear Regulatory Commission and other agencies, as appropriate, and upon the results of such tests as may be conducted.

(c) Limited to such funding as is available, based upon the requirements of subsection (5), require the participation of appropriate counties and operators in the development, preparation, testing, or implementation of the plans as needed.

(d) Determine the reasonableness and adequacy of the provisions, terms, and conditions of the plans and, in the event the appropriate counties and the

operators cannot agree, resolve such differences and require compliance by the appropriate counties and the operators with the plans. In resolving such differences, the secretary shall consider:

1. The requirements and parameters placed on the operators by federal law and agencies;

2. The reasonableness and adequacy of the funding for appropriate counties from any sources of funds other than local revenue sources; and

3. The reasonableness and appropriateness of the costs to the appropriate counties likely to be incurred in complying with provisions, terms, and conditions of the plans.

(e) Receive, expend, and disburse such funds as are made available by each licensee pursuant to this section.

(f) Limited to such funding as is available based upon the requirements of subsection (5), coordinate all activities undertaken pursuant to this section or required of appropriate counties and operators by any federal or state agency.

(5) **FUNDING.**—All funds for the implementation of this section shall be provided by the operators as required by subsection (4), except that operators may enter into bilateral agreements with other state agencies or appropriate counties when necessary. No political subdivision of the state shall be considered to have obligated itself to provide any funds for such purposes unless the obligation is made in compliance with the provisions of this section.

History.—S. 78, ch. 82, 1984.

TITLE XVIII

PUBLIC LANDS AND PROPERTY

CHAPTER 253

STATE LANDS

253.001	Board of Trustees of the Internal Improvement Trust Fund; duty to hold lands in trust.	253.21	Board of trustees may surrender certain lands to the United States and receive indemnity.
253.002	Division of State Lands; powers and duties with respect to state lands.	253.29	Board of trustees to refund money paid where title to land fails.
253.01	Internal Improvement Trust Fund established.	253.34	Transfer of notes owned by board.
253.02	Board of trustees; powers and duties.	253.36	Title to reclaimed marshlands, wetlands, or lowlands in board of trustees.
253.021	Land Management and Recreation Committee.	253.37	Survey to be made sale of lands preferred to be made sale of lands preferred.
253.022	Conservation and Recreation Lands Trust Fund; purpose.	253.38	Riparian rights not affected.
253.03	Acquisition of state lands.	253.391	Unsurveyed marshlands; sale to upland owners.
253.031	Board of trustees to administer state lands; lands enumerated.	253.392	Oyster beds, minerals, and oils reserved to state.
253.031	Land office; custody of documents concerning land; money; plats.	253.39	Surveys approved by chief cadastral surveyor validated.
253.031	Inter-American Center property; transfer to board; continued use for government purposes.	253.40	To what lands applicable.
253.034	State-owned lands; uses.	253.41	Plats and field notes filed in office of Board of Trustees of Internal Improvement Trust Fund.
253.037	Use of state-owned land for correctional facilities.	253.42	Board of trustees may exchange lands.
253.04	Duty of board to protect, etc., state lands; state may join in any action brought.	253.43	Convey by deed.
253.05	Prosecuting officers to assist in protecting state lands.	253.44	Agents may act on behalf of board of trustees.
253.11	Notice to board of county commissioners before sale.	253.45	Sale or lease of lands received.
253.115	Public notice and hearings.	253.46	etc., in or under state lands.
253.12	Title to tidal lands vested in state.	253.47	Conveyance of term land the title to
253.121	Conveyances of such lands hereof or agents, ratified, confirmed, and validated.		Board of trustees may lease, etc., bottoms of bays, lagoons, straits, etc., owned by state, for petroleum purposes.
253.121	Public notice and hearings.	253.51	Oil and gas leases on state lands by the board of trustees.
253.121	Restrictions on filling land and dredging.	253.511	Reports by lessees of oil and mineral rights; state lands.
253.121	Application for filling land.	253.512	Applicants for lease of oil and mineral rights; report as to lease holdings.
253.121	Consideration by local government.	253.52	Placing oil and gas leases on market by board.
253.122	Citation of rule.	253.53	Sealed bids required.
253.122	Enforcement; intent.	253.54	Competitive bidding.
253.122	Enforcement; board or agency under appeal law.	253.55	Limitation on term of lease.
253.125	Review by board.	253.57	Responsibility of bidder.
253.125	Confirmation of title in upland owners.	253.571	Royalties.
253.125	Construction of §§ 253.122, 253.123, 253.124, 253.125, 253.127, 253.128, and 253.129.	253.58	Surety or property bond required of lessee prior to commencement of drilling.
253.14	Rights of riparian owners; board of trustees to defend suit.	253.60	Manner of drilling.
		253.61	Conflicting laws.
			Lands not subject to lease.

1516

E.S. 1983

STATE LANDS

Ch. 253

253.62	Board of trustees authorized to convey certain lands without reservation.
253.66	Change in bulkhead lines, Pinellas County.
253.665	Grant of easements, licenses, and leases.
253.67	Definitions.
253.68	Authority to lease submerged land and water column.
253.69	Application to lease submerged land and water column.
253.70	Public notice and hearings.
253.71	The lease contract.
253.72	Marking of leased areas; restrictions on public use.
253.73	Rules and regulations; ss. 253.67-253.75.
253.74	Penalties.
253.75	Studies of Natural Resources and the Game and Fresh Water Fish Commission; designation of recommended additional and other use zones; supervision of aquaculture operations.
253.76	Appeals; proceedings.
253.761	Judicial review relating to permits and licenses.
253.77	State lands; state agency authorization for use prohibited without consent of agency in which title vested.
253.781	Authority to convey state-owned lands in the Oklawaha River and Valley to the Federal Government for inclusion in Ocala National Forest.
253.782	Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.
253.783	Additional powers and duties of the Department of Natural Resources.
253.784	Contracts.
253.785	Liberal construction of act.
253.001	Board of Trustees of the Internal Improvement Trust Fund; duty to hold lands in trust.
253.002	Division of State Lands; powers and duties with respect to state lands.
253.01	Internal Improvement Trust Fund established.
253.02	Board of trustees; powers and duties.
253.021	Land Management and Recreation Committee.
253.022	Conservation and Recreation Lands Trust Fund; purpose.
253.03	Acquisition of state lands.
253.031	Board of trustees to administer state lands; lands enumerated.
253.031	Land office; custody of documents concerning land; money; plats.
253.031	Inter-American Center property; transfer to board; continued use for government purposes.
253.034	State-owned lands; uses.
253.037	Use of state-owned land for correctional facilities.
253.04	Duty of board to protect, etc., state lands; state may join in any action brought.
253.05	Prosecuting officers to assist in protecting state lands.
253.11	Notice to board of county commissioners before sale.
253.115	Public notice and hearings.
253.12	Title to tidal lands vested in state.
253.121	Conveyances of such lands hereof or agents, ratified, confirmed, and validated.
253.121	Public notice and hearings.
253.121	Restrictions on filling land and dredging.
253.121	Application for filling land.
253.121	Consideration by local government.
253.122	Citation of rule.
253.122	Enforcement; intent.
253.122	Enforcement; board or agency under appeal law.
253.125	Review by board.
253.125	Confirmation of title in upland owners.
253.125	Construction of §§ 253.122, 253.123, 253.124, 253.125, 253.127, 253.128, and 253.129.
253.14	Rights of riparian owners; board of trustees to defend suit.

253.62 Board of trustees authorized to convey certain lands without reservation.

253.66 Change in bulkhead lines, Pinellas County.

253.665 Grant of easements, licenses, and leases.

253.67 Definitions.

253.68 Authority to lease submerged land and water column.

253.69 Application to lease submerged land and water column.

253.70 Public notice and hearings.

253.71 The lease contract.

253.72 Marking of leased areas; restrictions on public use.

253.73 Rules and regulations; ss. 253.67-253.75.

253.74 Penalties.

253.75 Studies of Natural Resources and the Game and Fresh Water Fish Commission; designation of recommended additional and other use zones; supervision of aquaculture operations.

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253.783 Additional powers and duties of the Department of Natural Resources.

253.784 Contracts.

253.785 Liberal construction of act.

253.001 Board of Trustees of the Internal Improvement Trust Fund; duty to hold lands in trust.

253.002 Division of State Lands; powers and duties with respect to state lands.—The Division of State Lands shall perform all staff duties and functions related to acquisition, administration, and disposition of state lands, title to which is or will be vested in the Board of Trustees of the Internal Improvement Trust Fund.

253.01 Internal Improvement Trust Fund established.—

(1) So much of the 500,000 acres of land granted to this state for internal improvement purposes, by an Act of Congress passed March 3, A. D. 1845, as remains ungranted, shall be sold, except that:

1517

phy Act Lands and Holland Act Lands, as shall be in the public interest and for a public purpose.

(5) The board of trustees shall be a necessary party to any action or petition which seeks to acquire submerged lands or lands lying beneath any navigable waters in the state through eminent domain proceedings.

History.—s. 1, ch. 460, 1964; RS 429, 1955; RS 430, 1955; s. 2, ch. 461, 1964; s. 1, ch. 200, 1970; s. 2, ch. 79, 1975; s. 2, ch. 81, 1976.

253.022 Land Management Advisory Committee.—

(1) There is established a Land Management Advisory Committee to provide assistance to the Board of Trustees of the Internal Improvement Trust Fund in reviewing the recommendations and plans for state-owned lands required by s. 253.034. The committee shall be composed of the executive director of the Department of Natural Resources; the Commissioner of Agriculture; the Secretary of State; the executive director of the Game and Fresh Water Fish Commission; the secretary of the Department of Environmental Regulation; the secretary of the Department of Corrections; and the Commissioner of Education, or their respective designees. The chairmanship of the committee shall rotate annually in the order specified in the preceding sentence.

(2) The committee shall hold periodic meetings at the request of the chairman. The Division of State Lands shall provide primary staff support to the committee and ensure that committee meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 267.

History.—s. 1, ch. 121.

253.023 Conservation and Recreation Lands Trust Fund; purposes.—

(1) It is the policy of the state that the citizens of this state shall be assured the availability of public lands on which to recreate. In recognition of this policy, it is the intent of the Legislature to provide such public lands for the people residing in urban and metropolitan areas of the state as well as those residing in less populated, rural areas; it is the further intent of the Legislature, with regard to the lands described in paragraph (3)(b), that a high priority be given to the acquisition of such lands in or near communities exhibiting the greatest concentration of population and, with regard to the lands described in subsection (3), that a high priority be given to acquiring lands within any area designated as an area of critical state concern under s. 380.05 which, in the judgment of the selection committee established pursuant to s. 253.035, cannot be adequately protected by application of land development regulations adopted pursuant to s. 380.05.

(2) There is established within the Department of Natural Resources the Conservation and Recreation Lands Trust Fund, to be used as a nonlapsing, revolving fund exclusively for the purposes of this section. To the fund shall be credited 50 percent of the total moneys collected from the excise tax on the severance of:

(a) Oil, such moneys to be taken from the first oil tax provided in s. 211.021(1)(a);

(b) Gas, such moneys to be taken from the first gas tax provided in s. 211.021(1)(c);

(c) Solid minerals other than phosphate rock, such moneys to comprise that portion of the tax paid into the State Treasury in accordance with part II of chapter 211; and

(d) Phosphate rock, such moneys to be taken from that portion of the tax paid into the State Treasury in accordance with part II of chapter 211.

The Department of Revenue, upon compilation of each month's receipts from the excise taxes, shall credit the amount of the tax collected to the fund, commencing with the funds collected in October 1979. If the moneys credited to the fund at any time during the fiscal year exceed \$3 million for fiscal year 1979-1980 or 1980-1981, the excess shall be transferred to the General Revenue Fund. If the moneys credited to the fund at any time during the fiscal year exceed \$70 million for fiscal year 1981-1982 or any fiscal year thereafter, the excess shall be transferred to the General Revenue Fund.

(3) The Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund, may allocate moneys from the fund in any one year to acquire the fee or any lesser interest in land in each of the following categories:

(a) Lands qualified for purchase as environmentally endangered lands as defined in s. 259.03(2), or

(b) Lands which the board of trustees determines should be acquired in the public interest for the following purposes:

1. For use and protection as natural flood plain, marsh, or estuary, if the protection and conservation of such lands is necessary to enhance or protect water quality or quantity or to protect fish or wildlife habitat which cannot otherwise be accomplished through local and state regulatory programs;

2. For use as state parks, recreation areas, public beaches, state forests, wilderness areas, or wildlife management areas;

3. For protection of altered ecosystems to correct environmental damage that has already occurred; or

4. For preservation of significant archaeological or historical sites.

(4) The board of trustees may allocate, in any year, an amount not to exceed 5 percent of the moneys credited to the fund in that year, such allocation to be used for the initiation and maintenance of a natural areas inventory to aid in the identification of areas to be acquired pursuant to this section.

(5) Moneys in the fund not needed to meet obligations incurred under this section shall be deposited with the Treasurer to the credit of the fund and may be invested in the manner provided by law. Interest received on such investments shall be credited to the Conservation and Recreation Lands Trust Fund.

(6)(a) The board of trustees may enter into any contract necessary to accomplish the purposes of this section.

(b) On behalf of the board and before the appraisal of parcels approved for purchase under chapter 259, the executive director of the Department of Natural Resources or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state

that the final purchase price is subject to approval by the board and that the final purchase price may not exceed the maximum offer allowed by law. The consideration for such an option may not exceed \$1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(7) Prior to or concurrent with the acquisition under this section of any interest in lands, the board of trustees shall designate an agency or agencies to manage such lands and shall make a preliminary determination as to the extent and nature of public use for which the lands will be available.

(8) Lands to be considered for purchase under this section shall be subject to the selection procedures of s. 259.035 and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 253.025, except as otherwise provided by the Legislature. Moneys from the fund may be used for title work, appraisal fees, and survey costs related to acquisition expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Land Resources Commission is the party of land and such land is subject to a preliminary determination for acquisition under this section, the land may be acquired in accordance with the provisions of chapter 73 or chapter 74, and the fund may be used to pay the condemnation award and all costs, including a reasonable attorney's fee, associated with condemnation.

(9) Agencies designated to manage lands under this section shall develop and adopt, with the approval of the board of trustees, individual management plans for each project designed to conserve and protect such lands and their associated natural resources.

(10) The board of trustees may allocate, in any year, an amount not to exceed 10 percent of the moneys credited to the fund in that year, such allocation to be used for maintenance and management of any lands acquired pursuant to this section.

(11) All lands managed under this section shall be open for public use and enjoyment to the extent the board of trustees find compatible with the conservation and protection of public lands. Such public use may include, upon approval of the board of trustees, fishing, hunting, camping, hiking, nature study, swimming, boating, and canoeing.

(12) The board of trustees may adopt rules to further define the categories of land to be acquired under this section and may amend s. 259.035.

History.—s. 1, ch. 21, 1975; s. 2, ch. 83, 1976; s. 1, ch. 81, 1976; s. 1, ch. 82, 1976; s. 2, ch. 83, 1976; s. 1, ch. 84, 1976; s. 1, ch. 85, 1976; s. 1, ch. 86, 1976; s. 1, ch. 87, 1976; s. 1, ch. 88, 1976; s. 1, ch. 89, 1976; s. 1, ch. 90, 1976; s. 1, ch. 91, 1976; s. 1, ch. 92, 1976; s. 1, ch. 93, 1976; s. 1, ch. 94, 1976; s. 1, ch. 95, 1976; s. 1, ch. 96, 1976; s. 1, ch. 97, 1976; s. 1, ch. 98, 1976; s. 1, ch. 99, 1976; s. 1, ch. 100, 1976; s. 1, ch. 101, 1976; s. 1, ch. 102, 1976; s. 1, ch. 103, 1976; s. 1, ch. 104, 1976; s. 1, ch. 105, 1976; s. 1, ch. 106, 1976; s. 1, ch. 107, 1976; s. 1, ch. 108, 1976; s. 1, ch. 109, 1976; s. 1, ch. 110, 1976; s. 1, ch. 111, 1976; s. 1, ch. 112, 1976; s. 1, ch. 113, 1976; s. 1, ch. 114, 1976; s. 1, ch. 115, 1976; s. 1, ch. 116, 1976; s. 1, ch. 117, 1976; s. 1, ch. 118, 1976; s. 1, ch. 119, 1976; s. 1, ch. 120, 1976; s. 1, ch. 121, 1976; s. 1, ch. 122, 1976; s. 1, ch. 123, 1976; s. 1, ch. 124, 1976; s. 1, ch. 125, 1976; s. 1, ch. 126, 1976; s. 1, ch. 127, 1976; s. 1, ch. 128, 1976; s. 1, ch. 129, 1976; s. 1, ch. 130, 1976; s. 1, ch. 131, 1976; s. 1, ch. 132, 1976; s. 1, ch. 133, 1976; s. 1, ch. 134, 1976; s. 1, ch. 135, 1976; s. 1, ch. 136, 1976; s. 1, ch. 137, 1976; s. 1, ch. 138, 1976; s. 1, ch. 139, 1976; s. 1, ch. 140, 1976; s. 1, ch. 141, 1976; s. 1, ch. 142, 1976; s. 1, ch. 143, 1976; s. 1, ch. 144, 1976; s. 1, ch. 145, 1976; s. 1, ch. 146, 1976; s. 1, ch. 147, 1976; s. 1, ch. 148, 1976; s. 1, ch. 149, 1976; s. 1, ch. 150, 1976; s. 1, ch. 151, 1976; s. 1, ch. 152, 1976; s. 1, ch. 153, 1976; s. 1, ch. 154, 1976; s. 1, ch. 155, 1976; s. 1, ch. 156, 1976; s. 1, ch. 157, 1976; s. 1, ch. 158, 1976; s. 1, ch. 159, 1976; s. 1, ch. 160, 1976; s. 1, ch. 161, 1976; s. 1, ch. 162, 1976; s. 1, ch. 163, 1976; s. 1, ch. 164, 1976; s. 1, ch. 165, 1976; s. 1, ch. 166, 1976; s. 1, ch. 167, 1976; s. 1, ch. 168, 1976; s. 1, ch. 169, 1976; s. 1, ch. 170, 1976; s. 1, ch. 171, 1976; s. 1, ch. 172, 1976; s. 1, ch. 173, 1976; s. 1, ch. 174, 1976; s. 1, ch. 175, 1976; s. 1, ch. 176, 1976; s. 1, ch. 177, 1976; s. 1, ch. 178, 1976; s. 1, ch. 179, 1976; s. 1, ch. 180, 1976; s. 1, ch. 181, 1976; s. 1, ch. 182, 1976; s. 1, ch. 183, 1976; s. 1, ch. 184, 1976; s. 1, ch. 185, 1976; s. 1, ch. 186, 1976; s. 1, ch. 187, 1976; s. 1, ch. 188, 1976; s. 1, ch. 189, 1976; s. 1, ch. 190, 1976; s. 1, ch. 191, 1976; s. 1, ch. 192, 1976; s. 1, ch. 193, 1976; s. 1, ch. 194, 1976; s. 1, ch. 195, 1976; s. 1, ch. 196, 1976; s. 1, ch. 197, 1976; s. 1, ch. 198, 1976; s. 1, ch. 199, 1976; s. 1, ch. 200, 1976; s. 1, ch. 201, 1976; s. 1, ch. 202, 1976; s. 1, ch. 203, 1976; s. 1, ch. 204, 1976; s. 1, ch. 205, 1976; s. 1, ch. 206, 1976; s. 1, ch. 207, 1976; s. 1, ch. 208, 1976; s. 1, ch. 209, 1976; s. 1, ch. 210, 1976; s. 1, ch. 211, 1976; s. 1, ch. 212, 1976; s. 1, ch. 213, 1976; s. 1, ch. 214, 1976; s. 1, ch. 215, 1976; s. 1, ch. 216, 1976; s. 1, ch. 217, 1976; s. 1, ch. 218, 1976; s. 1, ch. 219, 1976; s. 1, ch. 220, 1976; s. 1, ch. 221, 1976; s. 1, ch. 222, 1976; s. 1, ch. 223, 1976; s. 1, ch. 224, 1976; s. 1, ch. 225, 1976; s. 1, ch. 226, 1976; s. 1, ch. 227, 1976; s. 1, ch. 228, 1976; s. 1, ch. 229, 1976; s. 1, ch. 230, 1976; s. 1, ch. 231, 1976; s. 1, ch. 232, 1976; s. 1, ch. 233, 1976; s. 1, ch. 234, 1976; s. 1, ch. 235, 1976; s. 1, ch. 236, 1976; s. 1, ch. 237, 1976; s. 1, ch. 238, 1976; s. 1, ch. 239, 1976; s. 1, ch. 240, 1976; s. 1, ch. 241, 1976; s. 1, ch. 242, 1976; s. 1, ch. 243, 1976; s. 1, ch. 244, 1976; s. 1, ch. 245, 1976; s. 1, ch. 246, 1976; s. 1, ch. 247, 1976; s. 1, ch. 248, 1976; s. 1, ch. 249, 1976; s. 1, ch. 250, 1976; s. 1, ch. 251, 1976; s. 1, ch. 252, 1976; s. 1, ch. 253, 1976; s. 1, ch. 254, 1976; s. 1, ch. 255, 1976; s. 1, ch. 256, 1976; s. 1, ch. 257, 1976; s. 1, ch. 258, 1976; s. 1, ch. 259, 1976; s. 1, ch. 260, 1976; s. 1, ch. 261, 1976; s. 1, ch. 262, 1976; s. 1, ch. 263, 1976; s. 1, ch. 264, 1976; s. 1, ch. 265, 1976; s. 1, ch. 266, 1976; s. 1, ch. 267, 1976; s. 1, ch. 268, 1976; s. 1, ch. 269, 1976; s. 1, ch. 270, 1976; s. 1, ch. 271, 1976; s. 1, ch. 272, 1976; s. 1, ch. 273, 1976; s. 1, ch. 274, 1976; s. 1, ch. 275, 1976; s. 1, ch. 276, 1976; s. 1, ch. 277, 1976; s. 1, ch. 278, 1976; s. 1, ch. 279, 1976; s. 1, ch. 280, 1976; s. 1, ch. 281, 1976; s. 1, ch. 282, 1976; s. 1, ch. 283, 1976; s. 1, ch. 284, 1976; s. 1, ch. 285, 1976; s. 1, ch. 286, 1976; s. 1, ch. 287, 1976; s. 1, ch. 288, 1976; s. 1, ch. 289, 1976; s. 1, ch. 290, 1976; s. 1, ch. 291, 1976; s. 1, ch. 292, 1976; s. 1, ch. 293, 1976; s. 1, ch. 294, 1976; s. 1, ch. 295, 1976; s. 1, ch. 296, 1976; s. 1, ch. 297, 1976; s. 1, ch. 298, 1976; s. 1, ch. 299, 1976; s. 1, ch. 300, 1976; s. 1, ch. 301, 1976; s. 1, ch. 302, 1976; s. 1, ch. 303, 1976; s. 1, ch. 304, 1976; s. 1, ch. 305, 1976; s. 1, ch. 306, 1976; s. 1, ch. 307, 1976; s. 1, ch. 308, 1976; s. 1, ch. 309, 1976; s. 1, ch. 310, 1976; s. 1, ch. 311, 1976; s. 1, ch. 312, 1976; s. 1, ch. 313, 1976; s. 1, ch. 314, 1976; s. 1, ch. 315, 1976; s. 1, ch. 316, 1976; s. 1, ch. 317, 1976; s. 1, ch. 318, 1976; s. 1, ch. 319, 1976; s. 1, ch. 320, 1976; s. 1, ch. 321, 1976; s. 1, ch. 322, 1976; s. 1, ch. 323, 1976; s. 1, ch. 324, 1976; s. 1, ch. 325, 1976; s. 1, ch. 326, 1976; s. 1, ch. 327, 1976; s. 1, ch. 328, 1976; s. 1, ch. 329, 1976; s. 1, ch. 330, 1976; s. 1, ch. 331, 1976; s. 1, ch. 332, 1976; s. 1, ch. 333, 1976; s. 1, ch. 334, 1976; s. 1, ch. 335, 1976; s. 1, ch. 336, 1976; s. 1, ch. 337, 1976; s. 1, ch. 338, 1976; s. 1, ch. 339, 1976; s. 1, ch. 340, 1976; s. 1, ch. 341, 1976; s. 1, ch. 342, 1976; s. 1, ch. 343, 1976; s. 1, ch. 344, 1976; s. 1, ch. 345, 1976; s. 1, ch. 346, 1976; s. 1, ch. 347, 1976; s. 1, ch. 348, 1976; s. 1, ch. 349, 1976; s. 1, ch. 350, 1976; s. 1, ch. 351, 1976; s. 1, ch. 352, 1976; s. 1, ch. 353, 1976; s. 1, ch. 354, 1976; s. 1, ch. 355, 1976; s. 1, ch. 356, 1976; s. 1, ch. 357, 1976; s. 1, ch. 358, 1976; s. 1, ch. 359, 1976; s. 1, ch. 360, 1976; s. 1, ch. 361, 1976; s. 1, ch. 362, 1976; s. 1, ch. 363, 1976; s. 1, ch. 364, 1976; s. 1, ch. 365, 1976; s. 1, ch. 366, 1976; s. 1, ch. 367, 1976; s. 1, ch. 368, 1976; s. 1, ch. 369, 1976; s. 1, ch. 370, 1976; s. 1, ch. 371, 1976; s. 1, ch. 372, 1976; s. 1, ch. 373, 1976; s. 1, ch. 374, 1976; s. 1, ch. 375, 1976; s. 1, ch. 376, 1976; s. 1, ch. 377, 1976; s. 1, ch. 378, 1976; s. 1, ch. 379, 1976; s. 1, ch. 380, 1976; s. 1, ch. 381, 1976; s. 1, ch. 382, 1976; s. 1, ch. 383, 1976; s. 1, ch. 384, 1976; s. 1, ch. 385, 1976; s. 1, ch. 386, 1976; s. 1, ch. 387, 1976; s. 1, ch. 388, 1976; s. 1, ch. 389, 1976; s. 1, ch. 390, 1976; s. 1, ch. 391, 1976; s. 1, ch. 392, 1976; s. 1, ch. 393, 1976; s. 1, ch. 394, 1976; s. 1, ch. 395, 1976; s. 1, ch. 396, 1976; s. 1, ch. 397, 1976; s. 1, ch. 398, 1976; s. 1, ch. 399, 1976; s. 1, ch. 400, 1976; s. 1, ch. 401, 1976; s. 1, ch. 402, 1976; s. 1, ch. 403, 1976; s. 1, ch. 404, 1976; s. 1, ch. 405, 1976; s. 1, ch. 406, 1976; s. 1, ch. 407, 1976; s. 1, ch. 408, 1976; s. 1, ch. 409, 1976; s. 1, ch. 410, 1976; s. 1, ch. 411, 1976; s. 1, ch. 412, 1976; s. 1, ch. 413, 1976; s. 1, ch. 414, 1976; s. 1, ch. 415, 1976; s. 1, ch. 416, 1976; s. 1, ch. 417, 1976; s. 1, ch. 418, 1976; s. 1, ch. 419, 1976; s. 1, ch. 420, 1976; s. 1, ch. 421, 1976; s. 1, ch. 422, 1976; s. 1, ch. 423, 1976; s. 1, ch. 424, 1976; s. 1, ch. 425, 1976; s. 1, ch. 426, 1976; s. 1, ch. 427, 1976; s. 1, ch. 428, 1976; s. 1, ch. 429, 1976; s. 1, ch. 430, 1976; s. 1, ch. 431, 1976; s. 1, ch. 432, 1976; s. 1, ch. 433, 1976; s. 1, ch. 434, 1976; s. 1, ch. 435, 1976; s. 1, ch. 436, 1976; s. 1, ch. 437, 1976; s. 1, ch. 438, 1976; s. 1, ch. 439, 1976; s. 1, ch. 440, 1976; s. 1, ch. 441, 1976; s. 1, ch. 442, 1976; s. 1, ch. 443, 1976; s. 1, ch. 444, 1976; s. 1, ch. 445, 1976; s. 1, ch. 446, 1976; s. 1, ch. 447, 1976; s. 1, ch. 448, 1976; s. 1, ch. 449, 1976; s. 1, ch. 450, 1976; s. 1, ch. 451, 1976; s. 1, ch. 452, 1976; s. 1, ch. 453, 1976; s. 1, ch. 454, 1976; s. 1, ch. 455, 1976; s. 1, ch. 456, 1976; s. 1, ch. 457, 1976; s. 1, ch. 458, 1976; s. 1, ch. 459, 1976; s. 1, ch. 460, 1976; s. 1, ch. 461, 1976; s. 1, ch. 462, 1976; s. 1, ch. 463, 1976; s. 1, ch. 464, 1976; s. 1, ch. 465, 1976; s. 1, ch. 466, 1976; s. 1, ch. 467, 1976; s. 1, ch. 468, 1976; s. 1, ch. 469, 1976; s. 1, ch. 470, 1976; s. 1, ch. 471, 1976; s. 1, ch. 472, 1976; s. 1, ch. 473, 1976; s. 1, ch. 474, 1976; s. 1, ch. 475, 1976; s. 1, ch. 476, 1976; s. 1, ch. 477, 1976; s. 1, ch. 478, 1976; s. 1, ch. 479, 1976; s. 1, ch. 480, 1976; s. 1, ch. 481, 1976; s. 1, ch. 482, 1976; s. 1, ch. 483, 1976; s. 1, ch. 484, 1976; s. 1, ch. 485, 1976; s. 1, ch. 486, 1976; s. 1, ch. 487, 1976; s. 1, ch. 488, 1976; s. 1, ch. 489, 1976; s. 1, ch. 490, 1976; s. 1, ch. 491, 1976; s. 1, ch. 492, 1976; s. 1, ch. 493, 1976; s. 1, ch. 494, 1976; s. 1, ch. 495, 1976; s. 1, ch. 496, 1976; s. 1, ch. 497, 1976; s. 1, ch. 498, 1976; s. 1, ch. 499, 1976; s. 1, ch. 500, 1976; s. 1, ch. 501, 1976; s. 1, ch. 502, 1976; s. 1, ch. 503, 1976; s. 1, ch. 504, 1976; s. 1, ch. 505, 1976; s. 1, ch. 506, 1976; s. 1, ch. 507, 1976; s. 1, ch. 508, 1976; s. 1, ch. 509, 1976; s. 1, ch. 510, 1976; s. 1, ch. 511, 1976; s. 1, ch. 512, 1976; s. 1, ch. 513, 1976; s. 1, ch. 514, 1976; s. 1, ch. 515, 1976; s. 1, ch. 516, 1976; s. 1, ch. 517, 1976; s. 1, ch. 518, 1976; s. 1, ch. 519, 1976; s. 1, ch. 520, 1976; s. 1, ch. 521, 1976; s. 1, ch. 522, 1976; s. 1, ch. 523, 1976; s. 1, ch. 524, 1976; s. 1, ch. 525, 1976; s. 1, ch. 526, 1976; s. 1, ch. 527, 1976; s. 1, ch. 528, 1976; s. 1, ch. 529, 1976; s. 1, ch. 530, 1976; s. 1, ch. 531, 1976; s. 1, ch. 532, 1976; s. 1, ch. 533, 1976; s. 1, ch. 534, 1976; s. 1, ch. 535, 1976; s. 1, ch. 536, 1976; s. 1, ch. 537, 1976; s. 1, ch. 538, 1976; s. 1, ch. 539, 1976; s. 1, ch. 540, 1976; s. 1, ch. 541, 1976; s. 1, ch. 542, 1976; s. 1, ch. 543, 1976; s. 1, ch. 544, 1976; s. 1, ch. 545, 1976; s. 1, ch. 546, 1976; s. 1, ch. 547, 1976; s. 1, ch. 548, 1976; s. 1, ch. 549, 1976; s. 1, ch. 550, 1976; s. 1, ch. 551, 1976; s. 1, ch. 552, 1976; s. 1, ch. 553, 1976; s. 1, ch. 554, 1976; s. 1, ch. 555, 1976; s. 1, ch. 556, 1976; s. 1, ch. 557, 1976; s. 1, ch. 558, 1976; s. 1, ch. 559, 1976; s. 1, ch. 560, 1976; s. 1, ch. 561, 1976; s. 1, ch. 562, 1976; s. 1, ch. 563, 1976; s. 1, ch. 564, 1976; s. 1, ch. 565, 1976; s. 1, ch. 566, 1976; s. 1, ch. 567, 1976; s. 1, ch. 568, 1976; s. 1, ch. 569, 1976; s. 1, ch. 570, 1976; s. 1, ch. 571, 1976; s. 1, ch. 572, 1976; s. 1, ch. 573, 1976; s. 1, ch. 574, 1976; s. 1, ch. 575, 1976; s. 1, ch. 576, 1976; s. 1, ch. 577, 1976; s. 1, ch. 578, 1976; s. 1, ch. 579, 1976; s. 1, ch. 580, 1976; s. 1, ch. 581, 1976; s. 1, ch. 582, 1976;

approving the acquisition. The board of trustees shall approve qualified fee appraisal organizations which shall include, but not be limited to, the American Association of Certified Appraisers, the American Institute of Real Estate Appraisers, the American Society of Appraisers, the American Society of Farm Managers and Rural Appraisers, the National Association of Fee Appraisers, the National Society of Appraisers, and the Society of Real Estate Appraisers. The Division of State Lands shall maintain a current list of all fee appraisers who are members of the professional organizations approved by the board of trustees and who desire to conduct appraisals under contract for the division. The list of qualified fee appraisers shall contain information relative to the appraiser's qualifications, location of practice, business reputation, and areas of specialization, if any. The board of trustees shall adopt minimum criteria for selection of prequalified fee appraisers in order to solicit proposals for appraisal services under this section. The Division of State Lands shall maintain a current list of prequalified fee appraisers from which selection will be made by the division when appraisals are required by an acquiring agency under this section. Each fee appraiser selected to appraise a particular parcel shall, prior to contracting with the acquiring agency, submit to that agency an affidavit substantiating that he has no vested or fiduciary interest in such parcel.

(c) After the contract between the agency and the fee appraiser is signed, the agency shall transmit to the fee appraiser, all pertinent title information developed pursuant to rules adopted by the board of trustees; a specification of the rights to be acquired; a list of items, if any, considered to be nonconforming; minimum appraisal requirements that apply; required appraisal forms; and a certified survey which meets the minimum requirements for upland parcels established by the "Minimum Technical Standards for Land Surveying in Florida" of the Department of Professional Regulation and which accurately portrays to the greatest extent practicable the condition of the parcel as it currently exists. However, in cases where a survey cannot be practically completed or where the cost of the survey will be prohibitive relative to the expected value of the parcel, the requirement for such certified survey may, in part or in whole, be waived by the board of trustees any time prior to submission of the agreement for purchase to the division. When an existing boundary map and description of a parcel are determined by the division to be sufficient for appraisal purposes, the division director may temporarily waive a survey until any time prior to conveyance of title to such parcel. The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner. Appraisal reports for property on the priority acquisition lists prepared pursuant to chapter 258 shall be confidential and exempt from the provisions of chapter 119, for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract of agreement for purchase is considered for approval by the board of trustees.

1520

The term "immediate future" as used in this section means a period of time not to exceed 5 years:

3. The location of the property;
4. The quantity or size of the property;
5. The cost of the property and the present depreciated reproduction costs of any improvements thereon;
6. The condition of the property; and
7. The income from the property.

The availability of utilities, if any, and a detailed description of any appurtenances shall also be included. (d) The appraisal report shall be accompanied by the sales history of the parcel for at least the prior 5 years. Such sales history shall include all parties and considerations with the amount of consideration verified, if possible, and the amount of assessed value of the parcel. If a sales history would not be useful, or its cost prohibitive compared to the value of a parcel, the sales history may be waived by the executive director of the Department of Natural Resources or the director of the Division of State Lands. The department shall adopt a rule specifying guidelines for waiver of a sales history.

(h) The board of trustees may consider an appraisal acquired by a seller, or any part thereof, in negotiating to purchase a parcel, but such appraisal may not be used in lieu of an appraisal required by this subsection or to determine the maximum offer allowed in a bid.

(i) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until the agent or broker has verified such agent's or broker's legal or fiduciary relationship with the owner in an affidavit of the relationship.

(b) Upon the initiation of negotiations, the state agency shall inform the owner in writing that all agreements for purchase are subject to approval by the board of trustees.

(c) All offers or counteroffers shall be in writing and shall be confidential and exempt from the provisions of chapter 119 until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

(d) No offer by a state agency may exceed the value for that parcel as determined pursuant to a single appraisal, the average of two appraisals if two are obtained, or the average of the two closest appraisals if more than two are obtained. The provisions of this paragraph do not apply to the acquisition of historically unique or significant property as determined by the Division of Archives of the Department of State.

(e) When making an offer to a landowner, a state agency shall consider the desirability of a single cash payment in relation to the maximum offer allowed by law.

(f) The state shall have the authority to reimburse the owner for the cost of the survey when deemed appropriate. The reimbursement shall not be considered a part of the purchase price.

(g) All offers by the agency, including the final offer, shall be reviewed by the legal counsel of the agency. Final offers shall be in the form of an agree-

ment for purchase and shall be signed and attested to by the owner and the representative of the agency. Before the agency signs the agreement for purchase, the provisions of s. 256.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Division of State Lands with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefor.

(h) Within 45 days of receipt by the Division of State Lands of the agreement for purchase and the required documentation, the board of trustees shall either reject or approve the agreement. Approval of the agreement for purchase shall be binding on both parties. Agreements disapproved shall be returned to the agency, along with the supporting documentation. Agreements for purchase disapproved by the board of trustees may be resubmitted when such deficiencies have been corrected.

(9) No dedication, gift, grant, or bequest of lands and appurtenances shall be accepted by the board of trustees until the receiving state agency supplies sufficient evidence of marketability of title. The board of trustees may not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the state either in fee or by virtue of the state's sovereignty or which are so encumbered so as to preclude use of such land and appurtenances for any reasonable public purpose. The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt.

(10) Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government or another state agency. The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1). All such lands, title to which is vested in the board pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.

(11) The Auditor General shall conduct performance postaudits of acquisitions and divestitures which according to his review of the overall land acquisition program he deems necessary. These selection reviews will be initiated within 60 days following the final approval by the board of land acquisition under this section. The Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House of Representatives, and their designees.

(12) The board of trustees and all affected agencies shall adopt and may modify or repeal such rules and regulations as are necessary to carry out the purposes of this section, including rules governing the procedures for the acquisition of land parcels. Such rules shall address the procedures to be followed, when multiple landowners are involved in an acquisition, in

1521

lands upon which dredged materials have been placed or to have any retroactive effect.

(11) The Board of Trustees of the Internal Improvement Trust Fund may adopt rules to provide for the assessment and collection of reasonable fees, commensurate with the actual cost to the board, for disclaimers, easements, exchanges, gifts, leases, relocations, or sales of any interest in land or any application for and for reproduction of documents.

(12) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized to administer, conserve, and protect all real property forfeited to, or acquired by, the board pursuant to ss. 295.01, 295.05. The board is directed to promulgate rules to determine the value of all such property and shall determine whether the property is in any way encumbered. If the board determines that it is in the best interest of the state to do so, funds from the Land Acquisition Trust Fund may be used to satisfy any such encumbrances. All property acquired by the board pursuant to ss. 295.01, 295.05 shall be sold as soon as commercially feasible. The proceeds of the sale shall be distributed as follows:

- (a) Any moneys used to satisfy encumbrances and expended as costs of administration, appraisal, management, conservation, protection, and sale shall be replaced in the Land Acquisition Trust Fund; and
- (b) The remainder shall be distributed as set forth in s. 295.05.

History.—s. 1, ch. 1981, § 1, Law 1981-1, § 1, effective Jan. 1, 1981; s. 1, ch. 253, § 1, Law 1983-1, § 1, effective Jan. 1, 1983.

253.031: Land office; custody of documents concerning land; moneys; plats.

(1) The Board of Trustees of the Internal Improvement Trust Fund, hereinafter called the "board," shall establish and maintain a public land office to be located at the seat of government and preserve all records, surveys, plats, maps, field notes, and patents, and all other evidence touching the title and description of the public domain, and all lands granted by Congress to this state, or which may hereafter be granted, for whatever purpose the same may be given.

(2) The Board of Trustees of the Internal Improvement Trust Fund shall have custody of all the records, surveys, plats, maps, field notes, and patents and all other evidence touching the title and description of the public domain.

(3) The board shall draw all deeds and conveyances and deliver the same for all sales and transfers, and other disposition of the public domain, that are from time to time be ordered and made by authority of law, and keep a true and faithful record of the same. The board shall keep accounts of the several grants or donations for living the seat of government, for seminaries of learning, for common schools, for internal improvements, or for any other purpose, in separate books, accounts, and reports, so that the rights and interests of one shall not be blended or mixed with the rights and interests of another; and each class of land shall pay the expenses of locating the same.

1524

(9) The fees of the board in the following matters shall be as follows: certification under seal of copies of maps or records in the office will be performed for a fee of \$1.50 minimum. The charges for copying, making record searches, and compiling reports and statistical data shall be commensurate with the work involved and cost of material used.

History.—s. 1, ch. 253, § 7, Law 1983-1, § 7, effective Jan. 1, 1983.

253.033: Inter-American Center property; transfer to board; continued use for government purposes.

(1) All real and personal property presently owned by the Inter-American Center Authority, pursuant to s. 254.072 or otherwise, and all existing liabilities of said authority are hereby transferred to the Board of Trustees of the Internal Improvement Trust Fund. However, the liability to the Department of Transportation for road and bridge work is hereby waived and satisfied. Except as provided in s. 4, chapter 75-131, Laws of Florida, all obligations in connection with contracts and bond issues of the authority shall be assumed and performed by the trust. No action shall be taken as a result of this act that will impair the obligations of any such contract or outstanding bonds.

(2) It is hereby recognized that certain governmental entities have expended substantial public funds in acquiring, planning for, or constructing public facilities for the purpose of carrying out or undertaking governmental functions on property formerly under the jurisdiction of the authority. All property owned by the authority shall be transferred to the board, and any real building and contents of the authority which might otherwise be available in the absence of this section in carrying out or undertaking any such governmental function and purpose.

(3) In no event shall any of the lands known as the "Graves tract," including, without limitation, the land previously transferred to the Cities of Miami and North Miami and Dade County by the Inter-American Center Authority and the lands transferred pursuant to this act, be used for other than public purposes.

(4) The Board of Trustees of the Internal Improvement Trust Fund may lease to Dade County approximately 300 acres of land, and approximately 90 acres of abutting lagoon and waterways, designated as the Primary Development Area, and may also transfer to Dade County all or any part of the plans, drawings, maps, etc., of the Inter-American Center Authority existing at the date of transfer, provided Dade County:

- (a) Assumes responsibilities of the following agreements:
1. That certain agreement entered into on June 12, 1972, between the City of Miami and the Inter-American Center Authority whereby the authority agreed to repurchase, with revenues derived from the net operating revenue of the project developed on the leased lands after expenses and debt service requirements, the approximately 33 acres of lands previously donated to the City of Miami as security for the repayment of the \$2,500,000 owed by the authority to the City of Miami. Title to the land repurchased pursuant to this agreement shall remain with the City of Miami.
- (b) Assumes the maintenance of essentially natural conditions for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing agency.
- (c) Multiple use means the harmonious and coordinated management of timber, recreation, wildlife, forage, archaeological and historic sites, or water resources so that they are used in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of

1525

(2) All lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be managed in a manner that will provide the greatest combination of benefits to the people of the state. All such lands not designated in the land-management plan required by subsection (4) for a specific single use shall receive multiple-use management.

than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or for the future of the land. The purpose of the sublease is the capitalization of the improvements. An agency managing or leasing state-owned lands from the Board of Trustees of the Internal Improvement Trust Fund may not sublease such lands without prior review by the division and by the Land Management Advisory Committee created in S. 253,022 and approval by the board. The Land Management Advisory Committee is not required to review subleases of parcels which are less than 160 acres in size.

(c) The Division of State Lands shall submit a copy of each land management plan for parcels which exceed 160 acres in size to each member of the Management Advisory Committee. The committee shall, within 60 days after receiving a plan from the division, review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The committee shall also consider the property of the recommendations of the managing agency with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses, the potential for future development, and the desirability of disposal of the property by the board. In carrying out its review, the committee shall submit the plan, along with its recommendations and comments, to the board. The board shall specifically recommend to the board whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

15

(5) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, and which Murphy Act lands, the title to which is held by the State, are of no benefit to the public and shall dispose of such lands pursuant to law.

which are not being used for the purpose for which they were originally leased. Such lands shall be reviewed by the Land Management Advisory Committee for its recommendation as to whether such lands shall be disposed of by the Board.

(c) In reviewing lands owned by the board pursuant to paragraphs (a) and (b), the Land Management Advisory Committee shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The committee shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph shall in no way limit the

(b) The exclusive use of state-owned land subject to a lease authorized and executed by the Board of trustees of the Internal Improvement Trust Fund increasing state-owned land for private uses and purposes.

253.037 Use of state-owned land for correctional facilities.—

(2) Notwithstanding the provisions of s. 253.0225, the Board of Trustees of the Internal Improvement Trust Fund may purchase federal surplus lands for use as sites for correctional facilities, using federal land purchasing procedures, regulations, and requirements.

263.04 Duty of board to protect, etc., state lands; state may join in any action brought. —The Board of Trustees of the Internal Improvement Trust Fund may police, protect, conserve, im-

necessary to the full protection and conservation of the said lands, or take such other action or do such other things as may in the judgment of the board be necessary for the full protection and conservation of the said lands, and the state may join with the board in any action of suit, or take part in any proceeding, when it may deem necessary, in the name of this state through the Department of Legal Affairs.

History.—S. C. ch. 1442, 1931, CGL 2288 Supp. (1442-14), § 11, ch. 2503, 1940, § 2, ch. 6110, m. 11, 77, S. C. ch. 99, 1946.

information in their possession relating thereto, to the Board of Trustees of the Internal Improvement Trust Fund and shall cooperate with the said board and the Governor in carrying out the purposes of ss. 253.01-253.04 and this section. State attorneys and other prosecuting officers of the state or any county, upon request of the Governor or Board of Trustees, of the Internal Improvement Trust Fund, shall cooperate with the board and the Governor in carrying out the purposes of ss. 253.01-253.04 and this section.

History.—s. 1, ch. 15642, 1931, CGL 1936 Supp. 446615; s. 2, ch. 61-119, 40.
27, 35, ch. 69-106; s. 1, ch. 70-117.
cf.—ch. 27 State attorneys' duties.
ch. 30 Sheriffs' duties.

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conditions:

(1) If an application is filed with the board requesting that they sell certain land to which they hold title and the board decides to sell such land or if the board, without such application, decides to sell such land, the board shall, before consideration of any private offers, notify the board of county commissioners of the county in which such land is situated, that such land is available to such county. Such notification shall be given by registered mail, return receipt requested.

(3) If the board of county commissioners determines that it proposes to devote such land in perpetuity to public purposes, it shall adopt, within 90 days after receiving such notification from the board, a resolution specifying such determination and setting forth the reasons therefor.

(c) A tentative time schedule of development, which tentative time schedule shall set a date of commencement of development not later than 2 years after the date of such resolution and a date of conclusion of development not later than 4 years after the

(4) If the board of county commissioners determines that it does not propose to devote such land to public purposes, it shall notify the board of such determination by sending within 5 days after adoption a certified copy of the resolution so specifying to the requester, within 3 days after adoption.

(5) If the board receives within the 90-day period the certified copy of the resolution provided in subsection (3), the board shall forthwith convey to the county such land upon such terms and conditions and at such price as the board determines (but in no case at a price higher than such property would be

with the plan of development and the time schedule for development set forth in such resolution and is not devoted in perpetuity to some public purpose.

(6)(a) If the board of county commissioners determines that it does not propose to dispose of the property for public purposes, the board may dispose of the property as otherwise provided in this chapter.

(b) If it is not a violation of the reverter clause of any deed from the county to a county under this section if the county in fact uses the property for a public purpose other than that specified in the resolution provided in subsection (3) or not in substantial accordance with the plan of development and time schedule set forth in such resolution if the board by appropriate resolution approves such change or such failure to act in substantial accordance with the plan of development or time schedule.

(c) Nothing in this section restricts any right otherwise granted to the board by this chapter to convey land to which they hold title to the state or any department, office, authority, board, bureau, commission, institution, court, tribunal, agency, or other instrumentality of or under the state. The word "land" as used in this act means all lands vested in the Board of Trustees of the Internal Improvement Trust Fund.

(d) Any riparian owner assists with respect to any land owned by the board, such riparian right is shall have a right to acquire such land, and such right is prior in interest to that of the riparian owner created by this section, provided that such riparian right shall be required to pay for such land upon such terms, conditions and as determined by the trustees. Such riparian owner may waive this prior right, in which case this section shall apply.

(8) The provisions of this section do not apply to any land exchange approved by the board.

History.—S. 1, Ch. 68, 1978, § 27, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45.

253.115 Public notice and hearings.—

(1) After receiving an application in compliance with such forms as may be required by this chapter requesting the board to sell, exchange, or lease any land to which it holds title, the board shall arrange for publishing notice of the application in a newspaper published in the county in which the lands are located not less than once a week for 3 consecutive weeks and for mailing copies of such notice by certified or registered mail to each owner of land lying within 500 feet of the land proposed to be leased, sold, or exchanged, addressed to such owner as his name and address appears on the latest county tax assessment roll.

(2) If no written objections are filed within 30 days after the date of first publication of the notice, and if the board finds that the proposed lease, sale, or exchange is not incompatible with the public interest, the board has authority to consummate the contract. However, failure to mail the notice herein provided, or failure to publish notice in the newspaper, shall constitute a violation of subsection (1) shall not invalidate the conveyance.

(3) If written objections are filed, the board shall consider them in determining whether or not to consummate the contract. Any required hearing shall be

held in the county in which the lands are located. If the lands are located in more than one county, the required hearing may be held in any county in which the lands lie. The hearing shall be held in the county given by at least one publication in a newspaper published in the county in which the lands are located and by certified or registered mail to each owner of land lying within 500 feet of the land proposed to be leased, sold, or exchanged, addressed to such owner as his name and address appears on the latest county tax assessment roll, in addition to any notice required by chapter 120.

(4) This section does not apply to:

- The release of any reservations contained in the Murphy Act deeds or deeds of the board of trustees;
- Any conveyance of land lying landward of the line of mean high water, which land does not exceed 2 acres in area;
- Any lands covered by the provisions of ss. 253.12(6) and 253.129;
- The lease of any land when the land is being leased to a state agency or political subdivision of the state;
- Sovereignty land leases for existing structures built prior to March 10, 1970; or
- The conversion of existing marina licenses to sovereignty land leases.

253.12 Title to tidal lands vested in state.—

(1) Except submerged lands heretofore conveyed by deed or statute, the title to all sovereignty tidal lands and submerged bottom lands, including all islands, sandbars, shallow banks, and small islands made by the process of dredging any channel by the United States Government and similar or other islands, sandbars, and shallow banks located in the navigable waters, and including all coastal and intracoastal waters of the state and all submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams, is vested in the Board of Trustees of the Internal Improvement Trust Fund. For purposes of fixing bulkhead lines, restrictions on filling and dredging beyond bulkhead lines, and permits required for filling and dredging, the board shall exercise the same authority over submerged lands owned by the state by right of its sovereignty in navigable freshwater lakes, rivers, and streams as it does over submerged lands owned by the state by right of its sovereignty in navigable meandered freshwater lakes shall be administered in accordance with the provisions of s. 253.151, and the provisions of s. 253.151 shall be controlling when in conflict with other statutory provisions.

(2)(a) The Board of Trustees of the Internal Improvement Trust Fund may sell and convey such lands and submerged lands if determined by the board to be in the public interest, upon such price, terms, and conditions as it sees fit. However, prior to consummating any such sale, the board shall determine to what extent the sale of such lands or submerged lands and their ownership by private persons or the conveyance of such lands or submerged lands to political subdivisions or public agencies would in-

interfere with the conservation of fish, marine and other wildlife, or other natural resources, including beaches and shores, and result in destruction of oyster beds, clam beds, or marine productivity, including, but not limited to, destruction of marine habitats, grass flats suitable as nursery or feeding grounds for marine life, and established marine soils suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life, and if so, in what respect and to what extent, and it shall consider any other factors affecting the public interest.

(b) In addition to the requirements in paragraph (a), the board shall not sell or convey any interest in such islands and submerged lands to any applicant who does not, at the time of making application for purchase or conveyance, also have before the board:

- An application for the establishment of a bulkhead line, in the event no bulkhead line is established for the lands subject to the application; and
- An application for approval of a fill permit issued in accordance with the provisions of this chapter; and

3. A permit or application for a permit to dredge fill material from beneath the navigable waters of the state, in accordance with the provisions of this chapter; in the case of the applicant intends to secure such fill material. However, such lands or submerged lands shall not be sold or conveyed to an applicant who does not have such an application for a permit to dredge or fill lands before the board at the time of the application for the sale or conveyance to such an applicant.

(2)(a) The board shall give notice by publication in a newspaper published in the county in which such lands or submerged lands are located, not less than once a week for 3 consecutive weeks, and mail copies of such notice by certified or registered mail to each riparian owner of upland lying within 1,000 feet of the island or submerged land proposed to be conveyed, addressed to such owner as his name and address appear upon the latest county tax assessment roll, in order that any persons who have objections to the sale or conveyance may have the opportunity to present the same. If no objections are filed within 30 days after the date of first publication of the foregoing notice, the board has authority to consummate such sale or conveyance except as hereinafter provided. However, failure to mail the notice herein provided to such riparian upland owners shall not invalidate such sale or conveyance or the title or interest conveyed by the board pursuant thereto.

(4) If objections are filed, the board shall proceed

to determine the merits of the objections. The report required by subsection (7) shall be made part of the record and duly considered at any hearing. If it appears that the sale of such islands and submerged lands and their ownership by private persons or the conveyance of such islands or submerged lands to political subdivisions or public agencies would:

- Be contrary to the public interest;
- Interfere with the lawful rights granted riparian owners;
- Be, or result in, a serious impediment to navigation;

(d) Interfere with the conservation of fish, marine and other wildlife, or other natural resources, including beaches and shores, to such an extent as to be contrary to the public interest; or

- Result in the destruction of oyster beds, clam beds, or marine productivity, including, but not limited to, destruction of natural marine habitats, grass flats suitable as nursery or feeding grounds for marine life, and established marine soils suitable for producing plant growth of a type useful as nursery or feeding grounds for marine life to such an extent as to be contrary to the public interest.

the board shall withdraw the lands from sale. Prior to making the determinations above required, the board may consider any other factors affecting the public interest. Anything in this section to the contrary notwithstanding, lands defined herein lying between the ordinary mean high-water line and any bulkhead line established hereunder shall be sold only to the upland riparian owner and to no other person, firm, or corporation, and such sale to the upland riparian owner shall be made pursuant to the provisions here-

in. (5)(a) When any state agency or county, city, or other political subdivision extends or adds to existing lands or islands bordering on or being in the navigable waters, as defined in this section, of the state by filling in or causing to be filled in or by draining or upon applications heretofore made to the board, may, over such lands, extend or add to the lands so added over such of such extended or added land as is not required exclusively for a municipal, county, state, or other public purpose. The board may, however, require a deposit to accompany such application of a sum sufficient to cover the actual cost and expenses of processing such application and preparing instruments of conveyance.

(b) Neither this subsection nor any other provision of this chapter shall be construed to permit any state agency or county, city, or other political subdivision to construct islands or extend or add to existing lands or islands bordering on or being in the navigable waters as defined herein or drain such waters for a municipal, county, state, or other public purpose unless such agency is the riparian upland owner or holds the consent in writing of the riparian upland owner consenting to such construction or extension or drainage operation. For the purposes of this subsection, "riparian upland owners" shall be defined as those persons owning upland property abutting those portions of the waters to be filled or drained, which are within 1,000 feet outboard of said riparian up-

main as state-owned land, and may employ a survey, or to determine the boundary between such state land and that of the previous adjoining owner. The amount of the cost of such survey shall become a lien upon the property of the surveying authority or land owner. Nothing herein shall be construed to grant the department or board authority to direct an upland owner to adjust, alter, or remove fill, or other solid material which has accumulated or been deposited seaward of his property through no action on his part.

(6)(a). The department shall in no case issue an after-the-fact construction permit to any applicant authorizing construction regulated by any action subsequent to the date of the department's decision, considering that the use of any other remedy or penalty available to it, either as provided by subsection (6) or otherwise by law or by rule, would be more damaging to the environment or the marine resources sought to be protected by this chapter than would be the granting of such permit.

(b). The granting of such an after-the-fact construction permit shall not abrogate any applicant from the provisions of subsection (5).

(7). Any riparian upland owner of land bordering on or in the navigable waters of the state who desires to repair, rebuild, replace, or reconstruct coastal structures in the nature of seawalls, revetments, retaining walls, bulkheads, or other similar protective structures installed upon his riparian upland, or who desires to restore such uplands after damage by avulsion or by artificially induced erosion, shall, before undertaking such project, obtain a permit for such work from the department, except as provided in a 401.81(3)(2). A biological survey and ecological study may not be required if the proposed work lies at no greater distance than 25 feet into the waters where such work is proposed from the existing and established line of mean high water or existing coastal structure. A permit issued under the provisions of this subsection shall not be construed to allow construction of coastal structures or restoration of lands that may be subject to the provisions of chapter 161. In an emergency threatening damage to life or public property, the Department of Transportation will be permitted temporarily to repair, reconstruct, rebuild, or replace any structures or roadways on the state-maintained transportation system, subject to immediate notification of the secretary of the department and his subsequent review and approval.

(8)(a). The written application herein provided for shall indicate whether the applicant holds title to the submerged land or island upon which he desires the submission to dredge or fill lands and whether the riparian owner with respect to such hold title to such lands or island. If the applicant does not wish to such lands and is not a riparian owner, the board of county commissioners shall, with respect to such lands and his application so indicates, the board of county commissioners shall, upon receipt of the application, the not receive the applicant's intent to apply to the Board of Trustees of the Internal Improvement Trust Fund for purchase of such lands, and the Trust Fund for purchase of such lands, the provisions of s. 253.11(2)(f) shall become operative.

1532

(b). If, as a result of the provisions of paragraph (a), the provisions of s. 253.11(2)(b) become operative and the board of county commissioners determines that it does not propose to devote the land to public outdoor recreation, the board of county commissioners shall proceed to comment on the application pursuant to s. 253.12(4).

History.—2004, ch. 92-363, § 2, ch. 92-364, § 1, ch. 92-365, § 1, ch. 92-366, § 1, ch. 92-367, § 1, ch. 92-368, § 1, ch. 92-369, § 1, ch. 92-370, § 1, ch. 92-371, § 1, ch. 92-372, § 1, ch. 92-373, § 1, ch. 92-374, § 1, ch. 92-375, § 1, ch. 92-376, § 1, ch. 92-377, § 1, ch. 92-378, § 1, ch. 92-379, § 1, ch. 92-380, § 1, ch. 92-381, § 1, ch. 92-382, § 1, ch. 92-383, § 1, ch. 92-384, § 1, ch. 92-385, § 1, ch. 92-386, § 1, ch. 92-387, § 1, ch. 92-388, § 1, ch. 92-389, § 1, ch. 92-390, § 1, ch. 92-391, § 1, ch. 92-392, § 1, ch. 92-393, § 1, ch. 92-394, § 1, ch. 92-395, § 1, ch. 92-396, § 1, ch. 92-397, § 1, ch. 92-398, § 1, ch. 92-399, § 1, ch. 92-400, § 1, ch. 92-401, § 1, ch. 92-402, § 1, ch. 92-403, § 1, ch. 92-404, § 1, ch. 92-405, § 1, ch. 92-406, § 1, ch. 92-407, § 1, ch. 92-408, § 1, ch. 92-409, § 1, ch. 92-410, § 1, ch. 92-411, § 1, ch. 92-412, § 1, ch. 92-413, § 1, ch. 92-414, § 1, ch. 92-415, § 1, ch. 92-416, § 1, ch. 92-417, § 1, ch. 92-418, § 1, ch. 92-419, § 1, ch. 92-420, § 1, 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92-1119, § 1, ch. 92-1120, § 1, ch. 92-1121, § 1, ch. 92-1122, § 1, ch. 92-1123, § 1, ch. 92-1124, § 1, ch. 92-1125, § 1, ch. 92-1126, § 1, ch. 92-1127, § 1, ch. 92-1128, § 1, ch. 92-1129, § 1, ch. 92-1130, § 1, ch. 92-1131, § 1, ch. 92-1132, § 1, ch. 92-1133, § 1, ch. 92-1134, § 1, ch. 92-1135, § 1, ch. 92-1136, § 1, ch. 92-1137, § 1, ch. 92-1138, § 1, ch. 92-1139, § 1, ch. 92-1140, § 1, ch. 92-1141, § 1, ch. 92-1142, § 1, ch. 92-1143, § 1, ch. 92-1144, § 1, ch. 92-1145, § 1, ch. 92-1146, § 1, ch. 92-1147, § 1, ch. 92-1148, § 1, ch. 92-1149, § 1, ch. 92-1150, § 1, ch. 92-1151, § 1, ch. 92-1152, § 1, ch. 92-1153, § 1, ch. 92-1154, § 1, ch. 92-1155, § 1, ch.

(2) Notwithstanding any provisions to the contrary, any action after July 7, 1970, on any application for a dredge or fill permit pursuant to any special act heretofore or hereafter enacted shall be subject to approval of the board of trustees, which shall have the power to reject such permit.

History.—1. A. 1967.

253.139 Confirmation of title in upland owners.—The title to all lands heretofore filled or developed is hereby confirmed in the upland owners and the trustees shall on request issue a disclaimer to each such owner.

History.—1. A. 1967.

253.145 Construction of ss. 253.12, 253.123, 253.124, 253.126, 253.127, 253.128, and 253.129.—

(1) This law shall not be construed to be in conflict with any general or special law whereby the state has divested itself of title to submerged land or has granted such title to another.

(2) The provisions of ss. 253.12, 253.123, 253.124, 253.126, 253.127, 253.128, and 253.129 shall not effect or apply to any title to islands or the extension or addition to existing lands or islands bordering on or being in the navigable waters as defined in a.

253.12 of the state which was commenced or application for permit to fill which was filed with the United States Corps of Engineers prior to June 11, 1957, as to lands or bottoms lying between ordinary high-water mark and a bulkhead line heretofore established by any county, city, or other political subdivision of the state by official action of its governing body.

History.—1. A. 1971.

Note.—Former s. 253.013.

253.14 Rights of riparian owners; board of trustees to defend suit.—

(1) It is expressly provided that nothing contained in this chapter shall be so construed as to deprive any private riparian owner from bringing an injunction suit in equity against the state provided for in s. 253.12 on the ground that he would be thereby deprived of his riparian rights granted to him by law.

provided that such suit must be commenced within 30 days after the board of trustees shall have overruled the objections of such owner to such proposed sale.

(2) In case suit is brought by any private owner to enjoin such sale, it shall be in the discretion of the board of trustees to defend such suit or to withdraw said lands from sale.

History.—1. A. 1971.

253.21 Board of trustees may surrender certain lands to the United States and receive indemnity.—Whenever it may appear that any of the swamplands, granted by the United States to this state by Act of Congress approved September 28, 1850, entitled "An Act to enable the State of Arkansas and other states to reclaim the swamplands within their limits, have been sold or located by the board of trustees of the Internal Improvement Trust Fund may surrender to the United States the title and claim of the state to said lands, and receive from

the United States, in lieu thereof, such reclamation as may be due.

History.—1. A. 1967.

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253.38 Riparian rights not affected.—Nothing in ss. 253.36 and 253.37 shall be construed as in anywise affecting the riparian rights now or heretofore existing under the laws of this state; but it is expressly provided that the provisions of said sections shall apply only to such lands as the Department of the Interior has declined to convey to the state, or which the board of trustees has declined to provide for a complete system of reclamation as part of the consideration thereof, or contract for such permanent reclamation in the manner it deems advisable.

History.—1. A. 1967.

253.381 Unsurveyed marablands; sale to upland owners.—The Board of Trustees of the Internal Improvement Trust Fund of the state and the State Board of Education are hereby authorized to make sales of unsurveyed marablands to record owners of uplands which have been surveyed by the United States, and to make equitable divisions of unsurveyed marsh areas and allocations of the same for sales with due respect to upland ownership, sales heretofore made, natural divisions of the unsurveyed marshes which are indicated by the general courses of water channels within or across the unsurveyed marshes and to other topographical features of the affected areas.

History.—1. A. 1967.

253.382 Oyster beds, minerals, and oils reserved to state.—The state saves, reserves and accepts all natural oyster beds upon and all minerals and oils in or on the submerged lands until the same shall be filled in and improved by the riparian owner.

History.—1. A. 1967.

253.38 Surveys approved by chief cadastral surveyor validated.—All surveys of lands into townships, sections or other regular land divisions, heretofore or hereafter made in this state, and which have or may hereafter be approved by the chief cadastral surveyor for the Board of Trustees of the Internal Improvement Trust Fund, together with the field notes, plats, or other accessories pertaining thereto, are validated and confirmed and are official public surveys of this state of equal force, tenor and effect as surveys made by or under the direction of the United States Government.

History.—1. A. 1967.

253.40 To what lands applicable.—The provisions for land surveys in ss. 253.39 and 253.41 shall only apply to such lands as have not heretofore been surveyed by the Federal Government; and all acts of the Board of Trustees of the Internal Improvement Trust Fund, together with any and all contracts, resolutions and instructions relating to such surveys, are approved, validated and confirmed.

History.—1. A. 1967.

253.41 Plats and field notes filed in office of

Board of Trustees of Internal Improvement Trust Fund.—When such surveys, as provided for in ss. 253.39 and 253.40, shall have been made and approved by the chief cadastral surveyor, the plats and field notes thereof shall be filed in the office of the Board of Trustees of the Internal Improvement Trust Fund of this state, which shall be the custodian of such plats and field notes for the use of the public, and under such regulations as may be prescribed by the board of trustees. If the board of trustees of the United States and a duly certified copy of the same shall be admissible as evidence in any court of this state.

History.—1. A. 1967.

253.42 Board of trustees may exchange lands.—The Board of Trustees of the Internal Improvement Trust Fund of the state may exchange lands held or owned by or vested in, said board for other lands in the state owned by private individuals or corporations and fix the terms and conditions of any such exchange, and select and agree upon the lands to be conveyed to said board; and the lands to be conveyed to said board in exchange therefor; and agree upon and pay or receive, as the case may be, the judgment of said board require, any sum of money deemed necessary by said board for the purpose of equalizing the value of such exchanged property, and transferred or into contracts or agreements for such exchange or purchase.

History.—1. A. 1967.

253.43 Convey by deed.—The Board of Trustees of the Internal Improvement Trust Fund may execute and deliver a deed of conveyance, in its discretion necessary or proper, for the purpose of carrying into effect any such exchange or purchase, or agreement to the power vested in it by this chapter or otherwise, and any such deed shall fully convey to and vest in the purchaser or grantee the property so conveyed.

History.—1. A. 1967.

253.431 Agents may act on behalf of board of trustees.—The Board of Trustees of the Internal Improvement Trust Fund may, by resolution duly recorded in the records of said board, authorize or employ agents or employees to act in its behalf in the execution and delivery of deeds of conveyance, for the purpose of carrying into effect any exchange or purchase or agreement thereto made by said board, or under or pursuant to the power vested in said board by this chapter, or pursuant to any contract, resolution or agreement of ss. 253.39, 253.40, 253.41, and 253.42, by agents or employees of said board, or by such agents or employees, in the exercise of their powers and duties, and the acquisition of any and all mineral rights of whatever kind in the lands of the state, and such other documents as may be authorized by the board to release or convey the state's interests. Any deed executed by said agents or employees shall fully convey

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History — 1. ch 67.52 = 27.35. ch 69.1145

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al rights, state lands.—

Department of Health and Human Services

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History.—v. 1, ch. 69-73A; ■, Z, 35, ch. 69-10K.

History.—a l. ch. 69-217

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the rejection for any cause of the highest and best bid shall result in the rejection of all bids.

History.—S. 1, ch. 2252, 1945; S. 1, ch. 69, 1946; S. 1, ch. 69, 1946.

253.55 Limitation on term of lease.—

(1) Subject to the further provisions hereof, each lease shall be for a primary term prescribed by the Board of Trustees of the Internal Improvement Trust Fund not to exceed 10 years from the date of the lease, and shall provide that such lease, upon which operations are being carried on in good faith and in a workmanlike and diligent manner with no cessation of more than 30 consecutive days, or oil or gas is being produced therefrom in paying quantities, shall remain in force and effect. The lease shall provide that if, after production is obtained therefrom, such production ceases, the lease may be maintained, during the payment of rentals or commencing operations for drilling or reworking said land, in good faith and in a workmanlike and diligent manner, on or before the expiration of 60 days, or, if it is after the expiration of 60 days, or, if it is after the expiration of the primary term, the lease may be maintained in force and effect by commencing and continuing operations for drilling or reworking said land for the development and production of oil or gas on or before 60 days after the cessation of production and prosecuting same with diligence and in a workmanlike manner with no cessation for more than 30 consecutive days, and if such operations within a reasonable time thereafter result in the production of oil or gas from such leased land in paying quantities, the lease shall remain in effect thereafter as long as oil or gas is produced therefrom in paying quantities. The provisions of this section shall not be construed to permit the automatic renewal of a lease by option after the expiration of the primary term, nor to permit the continuance of any lease except in accordance with the provisions of this section.

(2) Each lease shall provide for its termination in the absence of drilling or reworking operations or production of oil or gas therefrom in paying quantities.

(3) Every such lease executed by the board of trustees shall require the lessee and his assigns, at least one year prior to the expiration of the first 2½-year period of the term of such lease and to commence and complete operations for the drilling of at least one additional well in each succeeding 2½-year period of the term of such lease, until the total number of wells drilled equals one-half the number of sections of land embraced in the lease, and after commencing such operations, to prosecute same in good faith, and with reasonable diligence and in a workmanlike manner, to discover and to develop such land for the production of oil and gas, until such well is completed or abandoned. The lessee and his assigns, at the time the drilling of each well is commenced, shall file with the lessor a written declaration describing the two sections of land to which such well shall apply. If no well is commenced and continued to completion with reasonable diligence and in a workmanlike manner, to discover and develop such land for the production of oil and gas, until such well

is completed or abandoned, within the first 2½-year period of the term of such lease, the entire lease shall be void. If no additional well is commenced and continued to completion with reasonable diligence and in a workmanlike manner, to discover and develop such land for the production of oil and gas, until such well is completed or abandoned, then such lease at the end of such applicable 2½-year period of the term of such lease shall become forfeited and void as to all of the land covered by the lease except that upon which wells have been drilled in accordance with the provisions of this law.

History.—S. 1, ch. 2254, 1945; S. 1, ch. 69, 1946; S. 1, ch. 69, 1946.

253.56 Responsibility of bidder.—Before the acceptance of any bid for such lease the Board of Trustees of the Internal Improvement Trust Fund shall establish to its satisfaction the responsibility of the bidder. And no lease shall be assigned in whole, or in part, nor any land covered thereby, until and except the board shall approve and consent to such assignment, and such permission shall not be unreasonably withheld.

History.—S. 1, ch. 2253, 1945; S. 1, ch. 69, 1946; S. 1, ch. 69, 1946.

253.57 Royalties.—The state's royalties, a part of the consideration of every lease, shall be computed after deducting any oil or gas reasonably used for the production therefrom.

History.—S. 1, ch. 2254, 1945.

253.571 Surety or property bond required of lessee prior to commencement of drilling.—The Board of Trustees of the Internal Improvement Trust Fund shall require a surety or property bond from each lessee of public land prior to the time such lessee mines, drills or extracts in any manner, petroleum, petroleum products, gas, sulphur, or any other mineral from such land. The surety bond shall be from a surety company authorized to do business in the state. The bond shall serve as security and in the event of the lessee's failure to pay for any damages caused by mining or drilling operations of the lessee, or in the case of operations planned in the waters of the state or under other particular circumstances which, by their nature warrant greater security in view of possible damages, the board shall give special consideration to the extent of such possible damages and shall set the amount of an adequate and sufficient bond accordingly. For the purposes of this section damages shall include, but not be limited to, air and water pollution, destruction of wildlife or marine products, and any other damage which impairs the health and general welfare of the citizens of the state.

History.—S. 1, ch. 69, 1946; S. 1, ch. 69, 1946.

253.58 Manner of drilling.—All wells in this law referred to required in the several periods of said lease to be drilled, shall be drilled in an efficient, diligent, and workmanlike manner, and in accordance with the best practice, to a depth of 6,000 feet before the abandonment thereof, unless oil or gas has been found in paying quantities at a lesser depth.

History.—S. 1, ch. 2254, 1945.

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253.60 Conflicting laws.—The development of the lands leased by the Board of Trustees of the Internal Improvement Trust Fund for the production of oil and gas therefrom shall be in accord with the laws of Florida relating to conservation and control of land, and if herein is found any conflict with those laws, such laws relating to conservation and control shall prevail.

History.—S. 1, ch. 2254, 1945; S. 1, ch. 69, 1946; S. 1, ch. 69, 1946.

253.61 Lands not subject to lease.—

(1) Regardless of anything to the contrary contained in this law in any previous section or part thereof, no board or agency mentioned therein or the state shall have the power or authority to sell, execute or enter into any lease of the type covered by this law relating to any of the following lands, submerged or un submerged, except under the circumstances and conditions as hereinafter set out in this section, to wit:

(a) No lease of the type covered by this law shall be granted, sold or executed covering such lands within the corporate limits of any municipality unless the governing authority of the municipality shall have first duly consented to the granting or sale of such lease by resolution.

(b) No lease of the type covered by this law shall be granted, sold or executed covering any such lands in the tidal waters of the state, abutting on or immediately adjacent to the corporate limits of a municipality or within 3 miles of such corporate limits extending from the line of mean high tide into such waters, unless the governing authority of the municipality shall have first duly consented to the granting or sale of such lease by resolution.

(c) No lease of the type covered by this law shall be granted, sold or executed covering such lands on any improved beach, located outside of an incorporated town or municipality, or covering such lands in the tidal waters of the state, abutting on or immediately adjacent to any improved beach or within 3 miles of such beach extending from the line of mean high tide into such tidal waters, unless the county commissioners of the county in which such beach is located shall have first duly consented to the granting or sale of such lease by resolution.

(2) For the purposes of this section and law an improved beach, situated outside of the corporate limits of any municipality or town, shall be and is hereby defined to be any beach adjacent to or abutting upon the tidal waters of the state and having not less than ten hotels, apartment buildings, residences or other structures, used for residential purposes, on or to give miles of such beach.

History.—S. 1, ch. 2254, 1945.

253.62 Board of trustees authorized to convey certain lands without reservation.—

(1) The Board of Trustees of the Internal Improvement Trust Fund in making exchanges of land under s. 253.42 and 253.43, is hereby authorized in its discretion to convey said land without reservations of oil and gas or of phosphate and other minerals required by s. 270.11, where it deems to land received in exchange convey title in fee simple without such reservations or to determine the part or parts to

be reserved and the part or parts to be conveyed, so as to facilitate exchange on a basis as nearly equal as may be.

(2) The Board of Trustees of the Internal Improvement Trust Fund is further authorized in its discretion to convey land to the United States free from reservations of oil, gas, phosphate and other minerals, provided such grant satisfactory to the board be effected with the United States whereby, in the event of oil, gas, phosphate or other minerals are ever produced from said land, said board receive the customary royalty therefrom. In any conveyance heretofore made to the United States for national park or related purpose subsequent to June 30, 1943, which contained such reservations, said board shall have authority to convey said reservations subject to the conditions hereof in respect to customary royalty.

(3) The authority to convey, granted in subsection (2), shall apply to the conveyance of lands by the board of trustees to the United States for the establishment of the Biscayne National Monument, as defined by Pub. L. No. 90-606 of the United States, and the board is authorized to convey public lands to the United States for the establishment of the Biscayne National Monument. All acts and actions of the board of trustees and all agreements between the board and the United States Government regarding the conveyance of any state lands to the United States for the establishment of the Biscayne National Monument are hereby ratified, confirmed, and validated. For the purposes of the conveyance authorized by this subsection, no provision of this chapter shall apply, and the board of trustees shall impose any conditions precedent to sale and included in this chapter, nor shall the board be required to reserve oil, gas, phosphate or other minerals, if any, if same are into an agreement for royalties, if any, if same are produced from said lands. However, the waiver hereinafter shall not apply to the requirements of this chapter relating to the setting of bulkhead lines and to dredging and filling.

(4) The legislative intent embodied in this section is to authorize the board of trustees to convey or obligate itself to convey the herein referred to state-owned lands in accordance with the provisions of Pub. L. No. 90-606. Upon certification to the board by the United States Government that all private lands intended to be acquired have been acquired and that owners of private property who have not donated or otherwise conveyed their lands have not paid therefor, the conveyance herein authorized shall become absolute. Nothing herein shall alter the right of the United States Government to immediate possession of said state-owned lands.

History.—S. 1, ch. 2254, 1945; S. 1, ch. 69, 1946; S. 1, ch. 69, 1946.

253.68 Change in bulkhead lines, Pinellas County.—

(1) As soon as a county bulkhead line as provided in s. 253.122 has been fixed by the water and navigation control authority of Pinellas County around the mainland of the county and the offshore islands therein, and the bulkhead line has been formally ap-

1539

(2) It is hereby declared to be the intent of the Legislature that subsection (1) is necessary for the protection of navigable waters in Pinellas County and the fish, wildlife and natural resources therein.

(1) The Board of Trustees of the Internal Improvement Trust Fund of this state is authorized and empowered to grant unto riparian owners as herein defined, the right to use, occupy, and enjoy the lands, easements and easements, and assigns, perpetual easements and easements, licenses and leases for a specified term of years, permitting such riparian owners, their heirs, successors and assigns, to construct, maintain and use, occupy and enjoy, in, on and under the bed of any navigable stream or river owned in whole or in part by the state, for the purpose of providing water of a suitable quality for industrial, domestic or other use; provided, however, any instrument granting such easement, lease or license shall be so constructed as not to obstruct the channel of the stream or river or unreasonably interfere with navigation, commerce or

(2) For the purposes of this section, the term "riparian owners" shall include the owners of uplands immediately bounded by either the high-water or low-water mark of any stream or river, and shall include lessees and licensees of any such owners or grantors in easements in fee simple interest in such uplands or river bottoms. The term "channel" shall mean the marked, buoyed, artificially designed channel, if any, and, if none, it shall mean a space equal to 20 percent of the average width of the river or stream at the point concerned which furnishes water unimpededly through its course, to the deepest water at mean low water.

(3) This section is cumulative and shall not restrict or limit any title, right, interest or privilege of riparian owners under the common law.

2. - Freytag & Berndt

3.67 Definitions.—As used in ss. 7-253-7-259:

"Aquaculture" means the cultivation of animal and plant life in a water environment.
 "Water column" means the vertical extent, including the surface thereof, above a designated area of submerged bottom land.
 "Department" means the Department of Natural Resources.
 "Board" means the Board of Trustees of the National Improvement Trust Fund.

Authority to lease submerged land

1540

and water column.—To the extent that it is not contrary to the public interest, subject to limitations contained in ss. 253.67-253.73, the board of trustees may lease submerged lands, including title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by such activities. Such lease may authorize use of the submerged lands and water column for either commercial or experimental purposes. However no lease shall be granted by the board when it is filled with it is a resolution of objection of a county within whose boundaries, if the same were extended to the rest of the interest of the land, the proposed lease would be granted by the county shall be filed with the board of trustees within 30 days of the date of the first publication of notice as required by s. 253.70. Prior to granting of any such lease, the board shall establish and publish a set of guidelines to be followed when publishing applications for lease. Such guidelines shall be designed to protect the public's interest in submerged lands and water column.

253.69 Application to lease submerged land and water column.—Any applicant desiring to lease a portion of the submerged lands of this state for the purpose of conducting aquaculture activities shall file with the board a written application in such form as may prescribe, setting forth the following information:

- (1) The name and address of the applicant.
- (2) A reasonably concise description of the location and amount of submerged land desired and either:
 - a) Attaching a map or plot of a survey of such lands; or
 - b) Enclosing a sum sufficient to defray the cost of such a survey as estimated by the department.
- (3) A description of the aquaculture activities to be conducted, including a specification whether such activities are to be experimental or commercial and an assessment of the current capability of the applicant to carry out such activities.
- (4) Such other information as the board of trustees may by resolution require.

Story.—*s. l.*, ch. 82.44, ss. 25, 27, 28, ch. 69 (06).

53.70 Public notice and hearings.—

Application under this act 253.69 sets forth the information required by the board shall give notice of the application by publication in a newspaper published in the county in which the submerged lands are located not later than once a week for 3 consecutive weeks and copies of such notice by certified or registered mail to each riparian owner of land lying within 100 feet of the submerged land proposed to be used, addressed to such owner as his name and address appears on the latest county tax assessment.

after the date of first publication of the notice the board finds that the proposed lease is not compatible with the public interest, the board has

authority to consummate the lease contract as hereinafter provided. However, failure to mail the notice to the riparian upland owners shall not invalidate such lease.

3. If written objections are filed, the board shall proceed to determine the same. Any required hearing shall be held in the county notice of such hearing shall be given by at least one publication in a newspaper published in the county in which the submerged lands are located and by certified or registered mail to each riparian owner of upland lying within 1,000 feet of the submerged land proposed to be leased, addressed to such owner as his name and address appears on the latest county tax assessment roll, in addition to any other notice required by law.

1990, pp. 1-5, ch. 69-104; s. 23, ch. 78-85.

253.71 The lease contract.—When the board has determined that the proposed lease is not incompatible with the public interest and that the applicant has demonstrated his capacity to perform the operations upon which the application is based, it may proceed to consummate a lease contract having the following features in addition to others deemed desirable by the board:

(1) **TERM.**—The maximum initial terms shall be 10 years. Leases shall be renewable for successive terms up to the same maximum upon agreement of the parties. However, before renewing the term of any lease, the board shall invite objections by following the publication procedures of s. 253.70.

(2) **RENTAL FEES.**—(a) The lease contract shall specify such amount rental per acre of leased bottom as may be agreed by the parties and shall take the form of: Fixed rental to be paid throughout the term of

2. A basic rental charge which will be supplemented by royalties after the productivity of the aquaculture enterprise has been established.

c) All leases shall stipulate for the payment of an annual rental in advance on or before January 1. Failure of the lessee to pay such rent within 30 days of such date shall constitute ground for cancellation of the lease and forfeiture to the state of all works, improvements, and animal and plant life in and upon leased land and water column.

3) **MAXIMUM AREA TO BE LEASED**—The board should not lease a larger area of submerged land than any single lessee has been demonstrated to be capable of utilizing efficiently and consistently with the public interest. However, the board may hold a reasonable area of adjacent bottom land in reserve for the time when a holder of an experimental lease will begin operation under a commercial lease. Successful conduct of aquaculture activities on an experimental basis may be accepted as a demonstration of capacity to conduct such operations on a commercial basis.

二

BOND.—Failure of the lessee to perform substantially all the aquaculture activities for which the lease was granted shall constitute ground for cancellation of the lease and forfeiture to the state of all the works, improvements, and animal and plant life in and upon the leased land and water column. In addition, the board shall require execution of a bond in an amount not less than the value of the improvements and animal and plant life existing on the leased land and water column with a surety satisfactory to and conditioned upon the active pursuit of the aquaculture activities specified in the lease.

(5) DISPOSITION OF IMPROVEMENTS AT TERMINATION OF CONTRACT.—Each contract entered into under this act shall stipulate the disposition of improvements and assets upon the leased lands and waters, including animal and plant life resulting from aquaculture activities.

(6) ASSIGNABILITY OF LEASES.—Leases granted under this act shall be assignable in whole or in part with the approval of the board.

Biology, no. 1, ch. 69-66, no. 27, 15, ch. 69-106.

253.72 Marking of leased areas; restrictions on public use.—

(1) The board shall require all lessees to stake off and mark the areas under lease by appropriate angles, monuments, stakes, bunys, and fences, so placed as not to interfere unnecessarily with navigation and other traditional uses of the surface. All lessees shall cause the area under lease and the names of the lessees to be shown by signs appropriately placed

(2) Except to the extent necessary to permit the effective development of the species of animal or plant life being cultivated by the lessee, the public shall be provided with means of reasonable ingress and egress to and from the leased area for traditional water activities such as boating, swimming, and fishing. All limitations upon the use by the public of the lease under lease that are authorized by the terms of the lease shall be clearly posted by the lessee pursuant to regulations by the board. Any person willfully violating posted restrictions shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—*l*: ch. 53-56; *m* 27, 15, ch. 83-106; *e* 154, ch 71-138

253.73 Rules and regulations; ss. 53.67-253.75.—Subject to the requirements of chapter 120, the board may adopt rules and regulations necessary and appropriate to carry out the provisions of ss. 253.67-253.75.

History, 1941, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873,

253.74 Penalties.— (1) Any person who conducts aquaculture activities in excess of those authorized by lease agreement with the board or who conducts such activities on state-owned submerged lands without having previously leased the same shall be guilty of a misdemeanor and subject to imprisonment for not more than 6 months or fine of not more than \$1,000, or both. In addition to such fine and imprisonment, all works, improvements, animal and plant life involved in the project, may be forfeited to the state.

22

partment of Natural Resources are empowered, authorized, and directed to acquire by purchase, exchange of other state lands, or the exercise of the power of eminent domain the fee title to any less-than-fee title interest in land owned by the Board of Trustees of the Internal Improvement Trust Fund, including interests previously owned by the Canal Authority as described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73.

(4) The Department of Natural Resources shall recommend to the Governor and Cabinet the establishment of an interagency advisory committee to report to the department regarding restoration and management of the Withlacoochee River, with special emphasis on control of saltwater intrusion.

History.—s. 2, ch. 73, 1981.
Note.—Effective only upon distribution of the Cross Florida Barge Canal Project by the United States Congress on the effective date of such distribution by the United States Congress.

'253.783 Additional powers and duties of the Department of Natural Resources.—

(1) The Department of Natural Resources shall make no further expenditures for the purpose of acquiring land for constructing, operating, or promoting a canal across the peninsula of Florida connecting the waters of the Atlantic Ocean with the waters of the Gulf of Mexico via the St. Johns River.

(2) It is declared to be in the public interest that the department shall do and is hereby authorized to do and all things and incur and pay from the Cross Florida Barge Canal Trust Fund, for the public purposes described herein, any and all expenses necessary, convenient, and proper for:

(a) Developing a management plan to be submitted to the Legislature no later than 1 year from the effective date of this act for the retention or disposition of lands acquired for the Cross Florida Barge Canal and not disposed of by the Legislature. The plan shall reflect consideration of alternatives for the use of the lands in fee or less than fee and the Board of Trustees of the Internal Improvement Trust Fund, including those previously owned by the Canal Authority and the U.S. Army Corps of Engineers from the western boundary of the expanded Ocala National Forest west to U.S. Highway 41, the Cross Florida Barge Canal right-of-way from the Withlacoochee River west to the Gulf of Mexico, and from the eastern boundary of the expanded Ocala National Forest, as depicted by the map referred to in s. 253.781(2). The position will include possible retention by any interested state agency for specific public purposes and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to paragraph (d), paragraph (e), or paragraph (f). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the uncompleted sections of the Cross Florida Barge Canal.

(b) Develop a management plan for the lands

comprising the Rodman Dam and Rodman Reservoir also known as Lake Ocklawaha, identifying the recreational and aesthetic management options which are most environmentally desirable and cost-effective. Such management plan shall contain a specific determination regarding the continued maintenance of the Rodman Dam and Reservoir (Lake Ocklawaha) or the drainage of the Reservoir (Lake Ocklawaha) of the area to its former natural state, as the case may be.

(c) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities until further disposition is directed by the Legislature pursuant to the management plan.

(d) Offer any land declared surplus, at current appraised value, to only the original owner from whom the Canal Authority of the State of Florida or the U.S. Army Corps of Engineers acquired the land but not to his heirs or assigns or any other person. The department shall offer and is authorized to receive, for no consideration, any donated land declared surplus to only the original donor or his heirs and not to his assigns or any other person. These offers shall be made by public advertisement in not less than three separate and general circulation newspapers in the county where the lands declared surplus are located. These offers shall be valid for 1 calendar year from the date the management plan is adopted by the Legislature.

(e) Extend the second right of refusal to counties in which the surplus land lies for acquisition for specific public purposes with any such sale price at current appraised value charged against the dollar figure, including interest, of the repayment to be made to that county.

(f) Offer surplus lands not purchased or transferred under paragraph (c) or paragraph (d) to the highest bidder at public sale. Such surplus lands and the public sale shall be described and advertised in a newspaper of general circulation within the county in which the lands are located not less than 14 calendar days prior to the date on which the public sale is to be held. The current appraised value of such surplus lands will be the minimum acceptable bid.

(g) Refund to the counties of the Cross Florida Canal Navigation District funds derived from the conveyance of lands of the project to the Federal Government or any agency thereof, pursuant to s. 253.781, and from the sales of surplus lands pursuant to this section. Such refunds shall be in proportion to the amount of share paid to the Cross Florida Canal Navigation District by the respective counties. Refunds to the counties shall include interest on the amounts from the time of their payment to the counties to the date of repayment pursuant to this act. Interest to be refunded to the counties shall be compounded annually at the following rates: 1937-1950, 4 percent; 1951-1960, 5 percent; 1961-1970, 6 percent; 1971-1975, 7 percent; 1976-refund date, 8 percent. In computing interest, amounts already repaid to the counties shall not be subject to further assessments of interest. Any partial repayments provided as a condition under this act shall be provided as contributing to the total repayment owed to the counties. Should the funds generated by conveyance to

the Federal Government and sales of surplus lands be more than sufficient to repay said counties in accordance with this section, such excess funds shall be deposited in the Cross Florida Barge Canal Trust Fund. In no case shall any revenue funds be used to repay interest owed to the counties.

(h) Establish an advisory committee to report to the department regarding the development of the management plan. This committee shall be composed of one representative from each of the following: Department of Natural Resources, Department of Environmental Regulation, Game and Fresh Water Fish Commission, Department of Transportation, Department of Administration-Division of State Planning, Southwest Florida Water Management District, St. Johns Water Management District, Duval County, Clay County, Putnam County, Marion County, Levy County, and Citrus County, and it shall also be composed of four members of the public at large appointed by the Governor and Cabinet. The department shall conduct public hearings to receive comments and recommendations as to the disposition of lands under the management plan.

(i) Carry out the purposes of this act. The department shall seek and utilize federal funds and enter into agreements with the Federal Government or any agency thereof to effectuate the purposes of this act.

History.—s. 4, ch. 73, 1981.
Note.—Effective only upon distribution of the Cross Florida Barge Canal Project by the United States Congress on the effective date of such distribution by the United States Congress.
Note.—See s. 2, ch. 73, 1981, which abolished the Division of State Planning and transferred the bulk of its powers, duties, and functions to the Executive Office of the Governor.

'253.784 Contracts.—The Department of Natural Resources shall have the power and authority to enter into any and all contracts necessary or convenient to the exercise of any of the powers granted to

the department by this act. The department is authorized to assign, transfer, and convey to the United States, or to any appropriate agency thereof, such as sets, franchises, and property, or interests therein, of the department, including lands, easements, and rights of way acquired by the state, and to accept moneys for the same as may be necessary or convenient to the exercise of such powers consistent with this act. The department is authorized to receive by dedication, grant, or transfer any fee or less than fee lands owned by the U.S. Army Corps of Engineers. The department is authorized to enter into agreements with the Federal Government for restoration of areas or receipt of funds for restoration of areas in and around Lake Rousseau, the Cross Florida Barge Canal right-of-way from Lake Rousseau to the Withlacoochee River, the Withlacoochee River, and the Cross Florida Barge Canal right-of-way from the eastern boundary of the expanded Ocala National Forest to the St. Johns River.

History.—s. 4, ch. 73, 1981.
Note.—Effective only upon distribution of the Cross Florida Barge Canal Project by the United States Congress on the effective date of such distribution by the United States Congress.

'253.785 Liberal construction of act.—It is intended that the provisions of this act shall be liberally construed for accomplishing the work authorized and provided for or intended to be provided for by this act, and when strict construction would result in the defeat of the accomplishment of any part of the work authorized by this act, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

History.—s. 4, ch. 73, 1981.
Note.—Effective only upon distribution of the Cross Florida Barge Canal Project by the United States Congress on the effective date of such distribution by the United States Congress.

CHAPTER 239

STATE PARKS AND PRESERVES

- 258.001 Park regions.
 258.002 Duties of divisions.
 258.003 Powers of divisions.
 258.004 Rules and regulations for certain parks.
 258.005 Fees for use of state parks.
 258.006 Dedication of state park lands for public use.
 258.007 Power of eminent domain; procedure.
 258.008 Police of division and park officers.
 258.009 Division to take care of state parks.
 258.010 Department of Transportation to assist division.
 258.011 State Park Trust Fund created.
 258.012 Policy of division.
 258.013 Cooperation of division with counties, etc.
 258.014 Guide meridian and base parallel park located.
 258.015 Stephen Foster Memorial.
 258.016 John Pennekamp Coral Reef State Park; taking or damaging of coral prohibited.
 258.017 Roush Park designated.
 258.018 Division of Recreation and Parks to supervise and maintain Roush Park.
 258.019 Land ceded for Royal Palm State Park.
 258.020 Additional lands ceded for Royal Palm State Park.
 258.021 Royal Palm State Park and endowment lands exempt from taxation.
 258.022 St. Michael's Cemetery designated a state park.
 258.023 Boca Ciega Bay Aquatic Preserve.
 258.024 Biscayne Bay Aquatic Preserve.
 258.025 Short title.
 258.026 Definitions.
 258.027 Selection of wilderness areas.
 258.028 Authorization to acquire lands; dedication by lease agreement.
 258.029 Size.
 258.030 Number.
 258.031 Priority of establishment.
 258.032 Interagency advisory committee.
 258.033 Rules of areas.
 258.034 Rules and regulations.
 258.035 Signs and markers.
 258.036 Withdrawal of lands from system.
 258.037 Penalty for violation of ss. 258.17-258.32.
 258.038 Construction of ch. 77-126, Laws of Florida.
 258.039 Short title; ss. 258.35-258.46.
 258.040 Legislative intent.
 258.041 Definitions.
 258.042 Types of aquatic preserves.
 258.043 Boundaries of preserves.
 258.044 Cockroach Bay Aquatic Preserve.
 258.045 Casapita Sound-Charlotte Harbor Aquatic Preserve.
 258.046 Short title.
 258.047 Powers of division.
 258.048 (1) The Division of Recreation and Parks shall have power to acquire, in the name of the state, any property real or personal, by purchase, grant, devise, bequest, donation, or otherwise, in which its judgment may be necessary or proper toward the administration of the system of state parks and preserves.
 258.049 (2) The Division of Recreation and Parks shall have power to acquire, in the name of the state, any property real or personal, by purchase, grant, devise, bequest, donation, or otherwise, in which its judgment may be necessary or proper toward the administration of the system of state parks and preserves.

Ch. 258

STATE PARKS AND PRESERVES

F.S. 1963

ministration of the purposes of this chapter, provided, however, that no property of any nature may be acquired by purchase, lease, grant, donation, devise, or otherwise, under conditions which shall pledge the credit of, or obligate in any manner whatsoever, the state to pay any sum of money; provided, that the power of eminent domain as herein granted is limited to the acquisition of property or property rights are contiguous to areas under the jurisdiction of the Board of Parks and Historic Monuments on July 1, 1948. Express legislative approval is required for the acquisition by condemnation of any new area or memorial which the division may desire for the purposes set forth in this chapter, except that the division may maintain and insure with the Florida fire insurance trust fund buildings on property owned by the state or any of its agencies.

(2) The division shall make and publish such rules and regulations as it may deem necessary or proper for the management and use of the parks, monuments, and memorials under its jurisdiction, subject to the approval of the board of parks and historic monuments. Any rule or regulation which is in violation of the constitution and laws of this state shall be null and void.

(3) The division may not privileges, leases, concessions, and permits for the use of land for the accommodation of visitors in the various parks, monuments, and memorials, provided no natural, cultural, or historic objects of interest shall be granted, leased, or rented on such terms as shall deny or interfere with free access to them by the public; provided further, such grants, leases, and permits may be made and given without advertisement or securing competitive bids; and provided further, that no such grant, lease, or permit shall be assigned or transferred by any grantee without consent of the division.

(4) The division is authorized to grant easements for rights-of-way over, across, and upon lands of the state for the maintenance of poles and lines for the telephone and telegraphic purposes, under such conditions and with such limitations as the division may impose.

(5) The division is authorized and empowered to select and designate sites of historic interest and value of statewide significance and to erect and maintain appropriate signs or markers indicating said sites upon public property as well as upon private property where permission is obtained.

(6) The Department of Transportation, the governing body of each county and municipality is authorized to permit the Division of Recreation and Parks to erect and maintain said historic signs or markers within the right-of-way of any state highway, county road, or municipal street, or any other property under their jurisdiction and control, under such conditions and limitations as may be appropriate. The division is authorized to receive gifts and authority and power to accept and maintain said historic signs or markers within the right-of-way of any state highway.

(7) The division is authorized to receive gifts and donations from any source to carry out the purpose of this section.

History.—1948, ch. 258, § 1, F.S.; 1950, ch. 258, § 1, F.S.; 1951, ch. 258, § 1, F.S.; 1952, ch. 258, § 1, F.S.; 1953, ch. 258, § 1, F.S.; 1954, ch. 258, § 1, F.S.; 1955, ch. 258, § 1, F.S.; 1956, ch. 258, § 1, F.S.; 1957, ch. 258, § 1, F.S.; 1958, ch. 258, § 1, F.S.; 1959, ch. 258, § 1, F.S.; 1960, ch. 258, § 1, F.S.; 1961, ch. 258, § 1, F.S.; 1962, ch. 258, § 1, F.S.; 1963, ch. 258, § 1, F.S.

258.011 Rules and regulations for certain parks.—The Division of Recreation and Parks may adopt and enforce such rules and regulations as may be necessary for the protection, utilization, development, occupancy, and use of said parks, and consistent with existing law, and with the purpose, of purposes, for which said areas were acquired, designated, and dedicated, and when such rules and regulations shall have been adopted they shall have the force and effect of law.

History.—1948, ch. 258, § 1, F.S.; 1950, ch. 258, § 1, F.S.; 1951, ch. 258, § 1, F.S.; 1952, ch. 258, § 1, F.S.; 1953, ch. 258, § 1, F.S.; 1954, ch. 258, § 1, F.S.; 1955, ch. 258, § 1, F.S.; 1956, ch. 258, § 1, F.S.; 1957, ch. 258, § 1, F.S.; 1958, ch. 258, § 1, F.S.; 1959, ch. 258, § 1, F.S.; 1960, ch. 258, § 1, F.S.; 1961, ch. 258, § 1, F.S.; 1962, ch. 258, § 1, F.S.; 1963, ch. 258, § 1, F.S.

258.014 Fees for use of state parks.—(1) The Division of Recreation and Parks shall have the power to charge reasonable fees, rentals and charges for the use or operation of facilities and concessions in state parks, and all such fees, rentals, and charges so collected shall be deposited in the State Treasury to the credit of the State Park Trust Fund, which fund is hereby established and shall be expended by said division for the administration, improvement and maintenance of state parks and for the protection and development of lands hereafter acquired for state park purposes. The appropriation of said fund shall be continuing, and shall not revert to the General Revenue Fund at the end of any fiscal year or at any other time but shall, until expended, be continuously available to said division for the uses and purposes set forth.

(2) Any moneys received in trust by the division by gift, devise, appropriation, or otherwise shall, subject to the terms of such trust, be deposited with the State Treasury in a fund to be known as the "State Park Trust Fund," and shall be subject to withdrawal upon application of said division for expenditure or investment in accordance with the terms of said trust. Unless prohibited by the terms of the trust by which said moneys are derived, such moneys may be invested as provided by law.

History.—1948, ch. 258, § 1, F.S.; 1950, ch. 258, § 1, F.S.; 1951, ch. 258, § 1, F.S.; 1952, ch. 258, § 1, F.S.; 1953, ch. 258, § 1, F.S.; 1954, ch. 258, § 1, F.S.; 1955, ch. 258, § 1, F.S.; 1956, ch. 258, § 1, F.S.; 1957, ch. 258, § 1, F.S.; 1958, ch. 258, § 1, F.S.; 1959, ch. 258, § 1, F.S.; 1960, ch. 258, § 1, F.S.; 1961, ch. 258, § 1, F.S.; 1962, ch. 258, § 1, F.S.; 1963, ch. 258, § 1, F.S.

258.017 Dedication of state park lands for public use.—The Division of Recreation and Parks is authorized and empowered to dedicate, in the name of the state, any property real or personal, by purchase, grant, devise, bequest, donation, or otherwise, in which its judgment may be necessary or proper toward the administration of the system of state parks and preserves, provided however, that said dedication and reservation shall be subject to such rules and regulations, as to reasonable use by the public, as may be adopted by the division.

History.—1948, ch. 258, § 1, F.S.; 1950, ch. 258, § 1, F.S.; 1951, ch. 258, § 1, F.S.; 1952, ch. 258, § 1, F.S.; 1953, ch. 258, § 1, F.S.; 1954, ch. 258, § 1, F.S.; 1955, ch. 258, § 1, F.S.; 1956, ch. 258, § 1, F.S.; 1957, ch. 258, § 1, F.S.; 1958, ch. 258, § 1, F.S.; 1959, ch. 258, § 1, F.S.; 1960, ch. 258, § 1, F.S.; 1961, ch. 258, § 1, F.S.; 1962, ch. 258, § 1, F.S.; 1963, ch. 258, § 1, F.S.

258.021 Power of eminent domain; procedure.—Whenever the Division of Recreation and Parks shall find it necessary to acquire private property for state parks or rights-of-way for state parks, or for exercising any of the powers and duties authorized and prescribed by law to be exercised and performed by the division, the division is hereby empowered and authorized to exercise the right of eminent domain and to proceed to condemn said property in

the same manner as provided by law for the condemnation of private property by counties.

NOTE.—FURNISH 3 SPECIES
1.—On July 14, 1871, *Emmenanthe* *Complanata*.
2.—On July 14, 1871, *Emmenanthe* *Complanata*.

258024 Police powers of director and park officers.—

(1) The Governor and Cabinet as the head of the Department of Natural Resources are authorized to designate the director of the Division of Recreation and Parks. The director and such number of park officers as may be deemed necessary at each park site shall be constituted police officers having the following:

(g) To make arrest without warrant under circumstances set forth in s. 901.15 only when such circumstances occur upon lands under jurisdiction of the division and only if the director and the park officers have been certified in compliance with s. 943.14 or are on temporary leave as provided by s. 943.14 until certified; however, such employees shall not be eligible for membership in the special risk class of the Florida Retirement System.

(b) To bear arms while in the performance of their official duties.

(c) To have the powers of search and seizure, as set forth in a, and

(2) The park officers so designated as officers having the power to arrest shall:

(b) Be assigned to one regular duty station only and perform such services in addition to their other regular duties as part officers.

(3) The Division of Recreation and Parks is not authorized by this section to establish a special law enforcement unit or division within that agency, and the park officers designated as having arrest powers shall not be employed as a patrol to move from one state park to another.

(4) It is unlawful for any person to resist arrest or otherwise interfere with the director or park officers in the performance of their lawful duties.

Notes.—*Formae* = 1907.
 1. ch. 81.16
 History.—a. 1-8 2. 300 s. ch. 73.171, s. 1. ch. 80.201: s. 160, ch. 81.259.
 1. ch. 81.16

258.097. Division to take over certain functions.—The Division of Recreation and Parks is vested with all powers, duties, privileges, and authority relating to park matters heretofore vested in and exercised by the Florida Board of Forestry and Parks and it is charged with the responsibility of carrying out, performing and discharging all duties and liabilities, and to accept and receive heretofore imposed upon and exercised by the Florida Board of Forestry and Parks in connection with or appertaining to the management, control, improvement, operation, and maintenance of all state parks. All park property, real or personal, owned or now owned by, or held in trust for, the State of Florida, heretofore under the management and control of the Florida Board of Forestry, is transferred to and vest in the Division.

101.
History.—A. N. S. 1904, p. 104.
Note.—From the type.

1597

258 031 Department of Transportation—The Division of Road Operations is the Division of Transportation authorized to construct, reconstruct, maintain, and improve the State highway system. In cooperation with and under the direction of the Division of Transportation, the Division of Road Operations is responsible for the construction, reconstruction, and maintenance of the State highway system, including necessary bridges, viaducts, and adjacent facilities, such as rest areas, parking areas, monuments, and memorials. The Division of Road Operations is also responsible for the construction, reconstruction, and improvement of the State highway system of highways provided the Division of Transportation and Parks is vested with and shall exercise jurisdiction over the use of all such roads and trails lying within state parks, monuments, and memorials and shall make and enforce reasonable rules and regulations regarding their use for travel.

Note.—Forrest is 592 02.

285.034 State Park Trust Fund created. There is created a "State Park Trust Fund" which shall be credited all money deposited in the State Treasury by appropriations, or from any other source, whether in trust, by gift, devise, fees, rentals, and charges, together with any unexpended balance of any appropriation heretofore made for the expenditure of public funds toward the support, maintenance, and preservation of any monument, memorial, or historic site which under this chapter comes under the jurisdiction of the Division of Recreation and Parks, to be expended by the division for the administration, improvement, and maintenance of state parks and historic memorials by this chapter placed under the jurisdiction of the division and for the acquisition and development of lands hereafter acquired for state park purposes.

Note.—Former § 592.11.

258.037 Policy of division.—It shall be the policy of the Division of Recreation and Parks: To promote the state park system for the use, enjoyment, and benefit of the people of Florida and visitors; to acquire typical portions of the original domain of the state which will be accessible to all of the people; and to use such character as to emphasize the state's natural values; conserve these natural values for all time; administer the development, use and maintenance of these lands and render such public service in so doing, in such a manner as to enable the people of Florida and visitors to enjoy these values without depleting them; to contribute materially to the development of a strong mental, moral, and physical fiber in the people; to provide for perpetual preservation of historic sites and memorials of statewide significance and interpretation of their history to the people; to contribute to the tourist appeal of Florida.

Library, . . . 12, ch. 2551, 1949, no. 25, 35, ch. 69, 106.
Note, . . . Former s. 502 12.

258.041 Cooperation of division with counties, etc.—The Division of Recreation and Parks may cooperate with counties in county and state park work, and in this connection county commissioners may acquire, by gift, devise, or purchase from general

2951

Ch. 258

STATE PARKS AND PRESERVES

F.S. 1983

lands, from individuals, corporations, the United States Government, or any of its departments or agencies, any lands, which are suitable for public parks or for the preservation of natural beauty or landmarks of historic association, and operate the same as public parks. Said county commissioners may also convey any such lands so acquired to the Board of Trustees of the Internal Improvement Trust Fund or to any other agency of the State, or to any agency of the division, provided such lands are acceptable by said board of trustees or division.

Hilatory.—*ea*, 4, 5, 6, ch. 17075, 1933; CGL 1936 Supp. 17494.(6); *a*, 2, ch. 1159, no. 25, 27, 33, ch. 53-105.
Note.—Former *a*, 589 74 & 589 121.

258.08 Guide meridian and base parallel mark located.—Guide meridian and base parallel mark, a part for the perpetuation and preservation of the point or place from which the State was surveyed, established and located in Tallahassee, Leon County, on a parcel of land one-half acre square, having its center the intersection of the guide meridian and the base parallel of Florida, more particularly described as follows, to wit:

One-eighth of an acre in the form of a square, in the southwest corner of section six in township one north, range one east; one-tenth of an acre in the south, range one east; one-tenth of an acre in the northwest corner of section thirty-one in township one north, range one east; one-eighth of an acre in the southwest corner of section thirty-six in a square, in the southeast corner of section thirty-six in township one north, range one west; and one-eighth of an acre in the form of a square in the northeast corner of section thirty-one in township one south, range one west.

History.—*Ibid.*, pp. 1018B, 1926, no. 1, 2, 4, 1982, 1972; CUGLER, 1942.

258.081 Stephen Foster Memorial.—The dis-
position shall maintain and operate the Stephen Foster
Memorial facility in such manner that the perform-
ing arts component of the Florida Folklife Program
provided in ss. 258.136 and 263.137 shall have priori-
ty use of the facility.

History.—p. 7, ch. 79.372: p. 128, ch. 43.217.

25-58,083. John Pennekamp Coral Reef State Park; taking or damaging of coral prohibited.—(1) It is unlawful for any person, firm, or corporation to bring into or transport through any part of the state, including its waters, any coral or other material from the subsoil or seabed of any portion of the John Pennekamp Coral Reef State Park adjacent to the shore of the state which has been taken in violation of any law or regulation of the Federal Government.

(2) It is unlawful for any person, firm, or corporation to destroy, damage, remove, deface, or take away any coral, rock, or other formation or any part thereof, or any portion of the John Pennekamp Coral Reef State Park adjacent to or in the vicinity of the state beach, which such action is in violation of any law or regulation of the Federal Government.

(3) Violation of any of the provisions of this act shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

note.—Former § 592.17

258.09. Rauscher Park designated.—There is designated and established as a state park to be known as Rauscher Park, the land and interests therein lying between the Big Bend National Park, Texas, on the north, the Rio Grande, Mexico, on the south, owned by Escambia County, adjacent to and contiguous with the land owned and controlled by the United States thereon, now owned by Escambia County, adjacent to and contiguous thereto, from private owners or from the United States Government; and the board of county commissioners of Escambia County may execute proper conveyance to the board of commissioners of state institutions covering the property now owned by Escambia County, as aforesaid, and said board of county commissioners of Escambia County may acquire in fee the portion of the section of Recreation and Parks of the Department of Natural Resources any property therein, whether or not contiguous thereto, and any property therein, whether or not contiguous thereto, from the United States Government; and said board of county commissioners may accept in the name of the state the title to any such lands, whether from said Escambia County, or whether same be property acquired from private owners or the United States Government.

History.—1. I. ch. 19345, 1939; m. 25, 35, ch. 69, 104.

258.10 Division of Recreation and Parks to supervise and maintain Rauscher Park. After the conveyance of said lands and such additional acreage as may be required, the said Department of Natural Resources, and the said Division of Recreation and Parks shall be deemed to hold in fee a state park, under the supervision of the Division of Recreation and Parks of the Department of Natural Resources, and the said Division shall be deemed to have the duty of providing for the development, care, upkeep, maintenance and beautification of said Rauscher Park.

[illegible]

2588 11. Land ceded for Royal Palm State Park, providing, Section fifteen, and the north half of section twenty, township eight, south, range thirty-seven east, situated in Dade County, is ceded to the Florida Federation of Women's Clubs designated as the "Royal Palm State Park," to be used for, protected, and to remain in the full possession and enjoyment, with all the necessary rights and privileges thereunto, belonging to the Florida Federation of Women's Clubs, for the purpose of a state park, for the benefit and use of all the people of Florida; and, perpetually provided, that the Florida Federation of Women's Clubs shall procure a deed to 950 acres of land in Dade County, in the vicinity of said state park, suitable for agricultural purposes, conveyed to said Florida Federation of Women's Clubs (see sample title herein, said land to be used as an endowment for the perpetual use and benefit of the said Federation, for its protection, improvement and beautification, including the construction of roads and other improvements, either in kind or by the use of money, rental and interest thereon, or by the proceeds of sale thereof or any part of said endowment).

1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916 1917 1918 1919 1920 1921 1922 1923 1924 1925 1926 1927 1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943 1944 1945 1946 1947 1948 1949 1950 1951 1952 1953 1954 1955 1956 1957 1958 1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979 1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055 2056 2057 2058 2059 2060 2061 2062 2063 2064 2065 2066 2067 2068 2069 2070 2071 2072 2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083 2084 2085 2086 2087 2088 2089 2090 2091 2092 2093 2094 2095 2096 2097 2098 2099 2100 2101 2102 2103 2104 2105 2106 2107 2108 2109 2110 2111 2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123 2124 2125 2126 2127 2128 2129 2130 2131 2132 2133 2134 2135 2136 2137 2138 2139 2140 2141 2142 2143 2144 2145 2146 2147 2148 2149 2150 2151 2152 2153 2154 2155 2156 2157 2158 2159 2160 2161 2162 2163 2164 2165 2166 2167 2168 2169 2170 2171 2172 2173 2174 2175 2176 2177 2178 2179 2180 2181 2182 2183 2184 2185 2186 2187 2188 2189 2190 2191 2192 2193 2194 2195 2196 2197 2198 2199 2200 2201 2202 2203 2204 2205 2206 2207 2208 2209 2210 2211 2212 2213 2214 2215 2216 2217 2218 2219 2220 2221 2222 2223 2224 2225 2226 2227 2228 2229 2230 2231 2232 2233 2234 2235 2236 2237 2238 2239 2240 2241 2242 2243 2244 2245 2246 2247 2248 2249 2250 2251 2252 2253 2254 2255 2256 2257 2258 2259 2260 2261 2262 2263 2264 2265 2266 2267 2268 2269 2270 2271 2272 2273 2274 2275 2276 2277 2278 2279 2280 2281 2282 2283 2284 2285 2286 2287 2288 2289 2290 2291 2292 2293 2294 2295 2296 2297 2298 2299 2300 2301 2302 2303 2304 2305 2306 2307 2308 2309 2310 2311 2312 2313 2314 2315 2316 2317 2318 2319 2320 2321 2322 2323 2324 2325 2326 2327 2328 2329 2330 2331 2332 2333 2334 2335 2336 2337 2338 2339 2340 2341 2342 2343 2344 2345 2346 2347 2348 2349 2350 2351 2352 2353 2354 2355 2356 2357 2358 2359 2360 2361 2362 2363 2364 2365 2366 2367 2368 2369 2370 2371 2372 2373 2374 2375 2376 2377 2378 2379 2380 2381 2382 2383 2384 2385 2386 2387 2388 2389 2390 2391 2392 2393 2394 2395 2396 2397 2398 2399 2400 2401 2402 2403 2404 2405 2406 2407 2408 2409 2410 2411 2412 2413 2414 2415 2416 2417 2418 2419 2420 2421 2422 2423 2424 2425 2426 2427 2428 2429 2430 2431 2432 2433 2434 2435 2436 2437 2438 2439 2440 2441 2442 2443 2444 2445 2446 2447 2448 2449 2450 2451 2452 2453 2454 2455 2456 2457 2458 2459 2460 2461 2462 2463 2464 2465 2466 2467 2468 2469 2470 2471 2472 2473 2474 2475 2476 2477 2478 2479 2480 2481 2482 2483 2484 2485 2486 2487 2488 2489 2490 2491 2492 2493 2494 2495 2496 2497 2498 2499 2500 2501 2502 2503 2504 2505 2506 2507 2508 2509 2510 2511 2512 2513 2514 2515 2516 2517 2518 2519 2520 2521 2522 2523 2524 2525 2526 2527 2528 2529 2530 2531 2532 2533 2534 2535 2536 2537 2538 2539 2540 2541 2542 2543 2544 2545 2546 2547 2548 2549 2550 2551 2552 2553 2554 2555 2556 2557 2558 2559 2560 2561 2562 2563 2564 2565 2566 2567 2568 2569 2570 2571 2572 2573 2574 2575 2576 2577 2578 2579 2580 2581 2582 2583 2584 2585 2586 2587 2588 2589 2590 2591 2592 2593 2594 2595 2596 2597 2598 2599 2600 2601 2602 2603 2604 2605 2606 2607 2608 2609 2610 2611 2612 2613 2614 2615 2616 2617 2618 2619 2620 2621 2622 2623 2624 2625 2626 2627 2628 2629 2630 2631 2632 2633 2634 2635 2636 2637 2638 2639 2640 2641 2642 2643 2644 2645 2646 2647 2648 2649 2650 2651 2652 2653 2654 2655 2656 2657 2658 2659 2660 2661 2662 2663 2664 2665 2666 2667 2668 2669 2670 2671 2672 2673 2674 2675 2676 2677 2678 2679 2680 2681 2682 2683 2684 2685 2686 2687 2688 2689 2690 2691 2692 2693 2694 2695 2696 2697 2698 2699 2700 2701 2702 2703 2704 2705 2706 2707 2708 2709 2710 2711 2712 2713 2714 2715 2716 2717 2718 2719

558.12 Additional lands ceded for Royal Palm State Park.—For the use and benefit of all people of the state, the state cedes to the Florida Federation of Women's Clubs the south half of sec-

895

ten, southwest quarter of section eleven, west half of section fourteen, west half of section twenty-three, south half of section twenty-two, northwest quarter of section twenty-seven, north half of section twenty-eight, and northeast quarter of section twenty-nine, township fifty-eight south, range thirty-seven east, situated in Dade County, as additional acreage to "Royal Palm State Park," to be cared for and remain in the full position and enjoyment of said Florida Federation of Women's Clubs, with full the possessory rights and privileges to them, and said land is in and to said Florida Federation of Women's Clubs upon the express condition that said land and every part thereof shall be used as a state park for the use and benefit of all the people of Florida, and for no other purpose; and in the event said grantee shall permit, or suffer the use of said land for any other purpose, or shall discontinue the use thereof for such purpose, such misuse or discontinuance shall operate as a defeasance and said land and every part thereof shall revert to the state.

History.—L. S. 837, 1921, CGL 1705

258.14 Royal Palm State Park and endowment lands exempt from taxation.—The lands described in ss. 258.11 and 258.12 as the Royal Palm State Park, and the lands conveyed, and to be conveyed to the Florida Federation of Women's Clubs as an endowment for the use and benefit of said state property, are exempt from the payment of state, county, municipal, or any special assessment or any assessment of taxes.

History.—L. S. 836, 1921, CGL 1704, 1705, 1706

258.15 St. Michael's Cemetery designated a state park.—

(1) St. Michael's Cemetery in Pensacola is designated and declared to be a state park.

(2) The Division of Recreation and Parks of the Department of Natural Resources shall manage and operate the said cemetery and shall be authorized to make such reasonable rules and regulations with respect to the said cemetery as the said division shall deem necessary for the orderly operation, protection and preservation of said cemetery. However, this section shall not be construed to prevent, and no rule and regulation shall be made which will prevent, the continued interment of bodies in the cemetery lots which are privately owned.

History.—L. S. 836, 1921, CGL 1704, 1705, 1706

258.16 Boca Ciega Bay Aquatic Preserve.—

(1) Boca Ciega Bay, in Pinellas County, as hereinafter described, is designated and established as an aquatic preserve under the provisions of this section. It is the intent of the Legislature that Boca Ciega Bay be preserved, insofar as possible, in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(2)(a) For the purposes of this section, Boca Ciega Bay, sometimes referred to in this section as "the preserve," shall be comprised of that body of water in Pinellas County which lies south of the State Road

688 bridge at or near Indian Rocks Beach and within the area enclosed by a line as follows: Beginning at a point where the east end of said bridge crosses the western shoreline of mainland Pinellas County and extending in a generally southerly direction along the western shoreline of mainland Pinellas County to the west end of the Seminole Bridge following the bridge easterly to exclude Long Bayou and Cross Bayou, thence in a southerly direction including the western shoreline of the Sunshine Skyway Causeway and extending to the southern boundary of Pinellas County, thence westerly along the Pinellas County line and around Mullet Key and north along the shoreline of Mullet Key and north along the line passing 100 yards from the shore of the island of Summer Resort Key, Chabre Key and Shell Key to the southernmost point of Long Key, thence in a generally southerly direction along the shore of Long Key to the west end of Sand Key to a point where the western shore of Sand Key crosses the inner shoreline of Sand Key; thence easterly along the south side of said bridge to the point of beginning. The boundary of the preserve designated as the shoreline shall mean the line of mean high water along such shoreline.

(b) The preserve established by this section shall include the submerged bottom lands, the water column upon such lands, and the islands owned by the state within the boundaries of the preserve. Any privately held land or submerged land within the established bulkhead lines or privately held islands within the preserve shall be deemed to be excluded therefrom. The Board of Trustees of the Internal Improvement Trust Fund may negotiate an arrangement with any such private owner whereby such lands or water bottoms may be included within the preserve.

(3) The Board of Trustees of the Internal Improvement Trust Fund are hereby directed to maintain Boca Ciega Bay as an aquatic preserve subject to the following provisions:

(a) No further sale, transfer, or lease of sovereignty submerged lands within the preserve shall be approved or consummated by the board of trustees except upon a showing of extreme hardship on the part of the applicant or when the overwhelming public interest so demands.

(b) No further dredging or filling of submerged lands within the preserve shall be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects;

2. Such other alteration of physical conditions as may be necessary to enhance the quality or utility of the preserve as determined by the Pinellas County Water and Navigation Control Authority in a public hearing; and

3. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, unobstructed channels, and all banks the decay of which would enhance the aesthetic quality and utility of the preserve and is clearly in the public interest as determined by the Pinellas County Water and Navigation Control Authority in a public hearing.

1569

There shall be no dredging beyond the bulkhead line for the sole purpose of providing fill for land or submerged land within the bulkhead line. In addition, there shall be no drilling of wells, excavations (other than docks) within the preserve, unless such activity is associated with the activity authorized by this section.

(c) The board of trustees shall not approve any seaward relocation of bulkhead lines or further establishment of bulkhead lines except when a proposed bulkhead line is located at the line of mean high water along the shoreline.

(4)(a) The board of trustees shall adopt and enforce reasonable rules and regulations to carry out the provisions of this section and specifically to provide:

1. Additional preserve management criteria may be necessary to accommodate special circumstances; and

2. Regulation of human activity within the preserve in such a manner as not to interfere unnecessarily with such lawful and traditional public use of the preserve as fishing (both sport and commercial), boating, and swimming.

Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the board of trustees, but only when such use is found to be compatible with the purpose of this section.

(5) Neither the establishment of the preserve nor the management of Boca Ciega Bay Aquatic Preserve shall operate to infringe upon the riparian rights of upland property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, water control, shore protection, bridges, causeways, and similar purposes may be permitted by the board of trustees, subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

(6) Nothing herein shall be construed to deprive the Pinellas County Water and Navigation Control Authority of its jurisdiction, powers, and duties.

History.—L. S. 837, 1921, CGL 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, relating to the power to fill bulkhead lines, and L. S. 838, 1921, CGL 1713, relating to the power to fill bulkhead lines at the line of mean high water or ordinary high water.

258.16 Boca Ciega Bay Aquatic Preserve.—

(1) DESIGNATION.—Boca Ciega Bay in Dade and Monroe Counties, as hereinafter described, to include Card Sound, is designated and established as an aquatic preserve under the provisions of this section. It is the intent of the Legislature that Boca Ciega Bay be preserved in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(2) BOUNDARIES.—

(a) For the purposes of this section, Boca Ciega Bay, sometimes referred to in this section as "the preserve," shall be comprised of the body of water in Dade and Monroe Counties known as Boca Ciega Bay whose boundaries are generally defined as follows:

Begin at the southwest intersection of the right-of-way of State Road 829 and the mean high-water line of Boca Ciega Bay (Township 52 South, Range 42 East, Dade County); thence southerly along the westerly mean high-water line of Boca Ciega Bay to

its intersection with the right-of-way of State Road 900A (Township 59 South, Range 40 East, Monroe County); thence easterly along such right-of-way to the westerly high-water line of Boca Ciega Bay; thence northerly along the easterly mean high-water line of Boca Ciega Bay to the westerly shore of the most easterly islands and keys with connecting lines drawn between the closest points of abutment of the lands to the southeasterly intersection of the right-of-way of State Road 829 and the mean high-water line of Boca Ciega Bay; thence westerly to the point of beginning. Said boundary extends across the mouths of all artificial waterways, but includes all natural waterways tidally connected to Boca Ciega Bay. Excluded from the preserve are those submerged lands conveyed to the United States for the establishment of the Biscayne National Monument as defined by Pub. L. No. 90-606 of the United States.

(b) The preserve established by this section shall include the submerged bottom lands and the water column upon such lands, as well as all publicly owned islands, within the boundaries of the preserve. Any privately held upland within the boundaries of the preserve shall be deemed to be excluded therefrom. However, the Board of Trustees of the Internal Improvement Trust Fund may negotiate an arrangement with any such private upland owner by which such land may be included in the preserve.

(c) The board of trustees may transfer to the United States any privately held land, title to which is vested in the board of trustees, that is presently within the boundaries of the preserve, or its successor, should the area be designated a national park. Transfers of interest under this paragraph shall be subject to the following conditions:

1. All interests in oil, gas, or other mineral rights held by the board of trustees shall be retained and not transferred to the United States.

2. All rights to fish on the waters shall be retained and not transferred to the United States.

3. All rights to impose and collect state excise taxes on the sales of alcohol or tobacco shall be retained and not transferred to the United States.

4. Transfers of interest shall be subject to outstanding easements, reservations, or other interests appearing of record.

(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) No further sale, transfer, or lease of sovereignty submerged lands in the preserve shall be approved or consummated by the board of trustees except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest.

(b) No further dredging or filling of submerged lands of the preserve shall be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects or for such minimum dredging and spoiling as may be considered as a public necessity or for preservation of

1570

the bay according to the expressed intent of this section.

2. Such other alteration of physical conditions as may be necessary to enhance the quality or utility of the preserve.

3. Such minimum dredging and filling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels and access roads. Such projects may only be authorized upon a specific finding by the board of trustees that there is assurance that the project will be constructed and operated in a manner that will not adversely affect the water quality of the preserve. This subparagraph shall not approve the connection of upland canals to the waters of the preserve.

4. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, unsightly mud flats, islands, and spoil banks, the dredging of which would enhance the aesthetic quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

Any dredging or filling under this subsection or improvement project authorized by (5) shall be approved only after public notice and hearings in the area affected pursuant to chapter 120.

(c) There shall be no drilling of wells, excavation for shell or minerals, or erection of structures other than docks within the preserve unless such activity is associated with activity authorized by this section.

(d) The board of trustees shall not approve any seawall relocation of bulkhead lines or further establishment of bulkhead lines except when a proposed bulkhead line is located at the line of mean high water along the shoreline. Construction, replacement, or relocation of seawalls shall be prohibited without the approval of the board of trustees, which approval may be granted only if riprap construction is used in the seawall.

(e) Notwithstanding other provisions of this section, the board of trustees may, respecting lands lying within Biscayne Bay:

1. Enter into agreements for and establish lines delineating sovereign and privately owned lands.
2. Enter into agreements for the exchange of, and exchange, sovereign lands for privately owned lands.

3. Accept gifts of land within or contiguous to the preserve.

4. Negotiate for, and enter into agreements with owners of lands contiguous to sovereign lands for, any public and private use of any of such lands.

5. Take any and all action convenient for, or necessary to, the accomplishment of any and all of the acts and matters authorized by this paragraph.

(f) The board of trustees shall adopt and enforce reasonable rules and regulations to carry out the provisions of this section and specifically to provide:

1. Additional preserve management criteria as may be necessary to accommodate special circumstances.
2. Regulation of human activity within the pre-

serve in such a manner as not to interfere unreasonably with lawful and traditional public uses of the preserve, such as fishing (both sport and commercial), boating, and swimming.

(b) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the board of trustees, but only subsequent to a formal finding of compatibility with the purposes of this section.

(c) Fishing involving the use of seines or nets is prohibited in the preserve, except when the fishing is for shrimp or mullet, and such fishing is otherwise permitted by state law or rules promulgated by the Department of Natural Resources.

(d) RIPARIAN RIGHTS.—Neither the establishment nor the management of the Biscayne Bay Aquatic Preserve shall be deemed to infringe upon the riparian rights of adjacent property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, mosquito control, shore protection, public utility expansion, and similar purposes may be permitted by the board of trustees or Department of Environmental Regulation, subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

(e) DISCHARGE OF WASTES PROHIBITED.—No wastes or effluents which substantially inhibit the accomplishment of the purposes of this section shall be discharged into the preserve.

(f) ENFORCEMENT.—The provisions of this section may be enforced in accordance with the provisions of s. 403.412. In addition, the Department of Legal Affairs is authorized to bring an action for civil penalties of \$5,000 per day against any person, natural or corporate, who violates the provisions of this section or any rule or regulation issued hereunder.

(g) SECTIONS 403.501-403.515 APPLICABLE.—The provisions of this section shall be subject to the provisions of ss. 403.501-403.515.

History.—Section 26, ch. 75-22, repealed s. 23,121, relating to its bulkhead line.

258.17 Short title.—Sections 258.17-258.32 shall be known and may be cited as the "State Wilderness System Act."

History.—s. 1, ch. 70-355, 1, ch. 71-138.

258.18 Statement of legislative intent.—It is the legislative intent to establish a state wilderness system consisting of designated wilderness areas which shall be set aside in permanent preserves, forever off limits to incompatible human activity. These areas shall be dedicated in perpetuity as wilderness areas and shall be managed in such a way as to protect and enhance their basic natural qualities for public enjoyment and utilization as reminders of the natural conditions that preceded man.

History.—s. 1, ch. 70-355.

258.19 Definitions.—As used in ss. 258.17-258.32:

- (1) "Wilderness area" means an area formally set aside for preservation essentially in its natural or existing condition by regulating all human activity which might have an effect on it. Such an area is generally

erily unaltered by man and provides a feeling of solitude and remoteness. These areas are set aside for aesthetic, biological, or scientific reasons.

(2) "Department" means the Department of Natural Resources.

History.—s. 1, ch. 70-355, 1, ch. 70-429, 2, ch. 71-138.

258.21 Use of areas.—

- (1) Wilderness areas may be available for use by the public to the extent compatible with the purposes for which the areas are established, for the following activities:

- (a) Hiking;
- (b) Swimming;
- (c) Fishing;
- (d) Restricted boating;
- (e) Hunting;
- (f) Picnicking;
- (g) Sightseeing;
- (h) Primitive camping;
- (i) Nature study; and
- (j) Research.

(2) Wilderness areas may also be designated for use for, but not limited to, the following purposes:

- (a) Natural water storage;
- (b) Ground water recharge areas;
- (c) Preservation of estuarine and marsh systems; and
- (d) Fish and wildlife breeding grounds and refuges.

(3) Artificial manipulation to further the purposes enumerated in subsection (2) is prohibited, except for the purpose of restoring and maintaining optimum natural conditions.

History.—s. 1, ch. 70-355, 1, ch. 70-365, 1, ch. 71-138.

258.22 Selection of wilderness areas.—

- (1) The Department of Natural Resources may, upon recommendation of the state agency which manages any lands involved and after public notice and a public meeting in each county in which the area is to be located, establish wilderness areas, for- mally setting aside such areas by proper resolution.

(2) The resolution establishing a wilderness area shall include:

- (a) A legal description of the area to be included;
- (b) Dedication of the area in perpetuity;
- (c) A general statement of what is sought to be preserved;
- (d) A clear statement of the management objectives and procedures for the area.

(3) Such resolutions shall be filed for record in each county in which a portion of the wilderness area is located.

(4) Lands owned by the Board of Trustees of the Internal Improvement Trust Fund may, upon recommendation of the state agency which manages such lands, be included in wilderness areas if accepted by the department. Lands owned by any governmental agency may be included in a wilderness area, subject to affirmative action of the governmental agency owning the land and acceptance by the department.

History.—s. 1, ch. 70-355, 1, ch. 70-429, 4, ch. 71-138.

258.23 Authorization to acquire lands; dedication by lease agreement.—

- (1) For the purpose of establishing wilderness areas:

es, the Department of Natural Resources is authorized to acquire lands by any lawful means other than through the use of the power of eminent domain. Lands shall be acquired in accordance with acquisition procedures for state lands provided for in s. 253.075.

(2) Notwithstanding the provisions of s. 258.18 and s. 258.22(2)(b) requiring dedication in perpetuity, the department is authorized to lease privately owned lands to be included in the wilderness system upon the recommendation of the interagency advisory committee established by the interagency advisory committee pursuant to s. 258.23 and upon application by the owner of the property. Such lease shall be evidenced by a written instrument containing the following conditions:

- (a) Term of the lease shall be for a minimum period of 50 years.
- (b) The department shall have the power and duty to enforce the provisions of each lease agreement and shall additionally have the power to terminate any lease if the termination is demonstrated to be in the best interest of the wilderness system.

(c) The department shall pay no more than \$1 per year for any such lease.

(d) The owner of such leased land is prohibited from any use of the land which use is incompatible with ss. 258.17-258.32.

(3) In assessing the leased land, the property owner shall give full recognition to the duration of the lease and the extent of the restrictions imposed therein.

History.—s. 1, ch. 70-355, 1, ch. 70-429, 1, ch. 70-365, 1, ch. 71-138, 1, ch. 71-139, 1, ch. 71-140.

258.24 Size.—The size of a wilderness area shall be large enough to include the principal features which justify its establishment.

History.—s. 1, ch. 70-355.

258.25 Number.—There shall be no fixed limit on the number of wilderness areas to be established, but each such area shall be justified by its intrinsic merit, as determined by the department.

History.—s. 1, ch. 70-355, 1, ch. 70-429, 1, ch. 71-138.

258.26 Priority of establishment.—The order of selection and establishment of wilderness areas shall be governed by the relative vulnerability of the features of the area sought to be preserved. The Department of Natural Resources is directed to give early consideration to wilderness areas which:

- (1) Are in close proximity to urban or rapidly developing areas;
- (2) Are in imminent danger from some other source;
- (3) Are designed to protect rare or endangered species or other unique natural features;
- (4) Constitute the last vestiges of natural conditions within a given region.

History.—s. 1, ch. 70-355, 1, ch. 70-429, 1, ch. 71-138.

258.28 Interagency advisory committee.—

The Department of Natural Resources shall create a continuing interagency advisory committee to advise and assist in:

Ch. 258 STATE PARKS AND PRESERVES F.S. 1983

the Little Wekiva River and their tributaries within the Peter Miranda Grant lying east of the Wekiva River, less the following:

1. State Road 46 and all land lying south of said State Road No. 46.

2. Beginning 15.56 chains West of the Southeast corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 21, Township 19 South, Range 29 East, run east 600 feet; thence north 800 feet; thence west 340 feet to the Makwa River; thence southwesterly along said Makwa River to point of beginning.

3. That part of the east $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 22, Township 19 South, Range 29 East, lying within the Peter Miranda Grant east of the Makwa River.

(31) Rookery Bay Aquatic Preserve, the boundaries of which are generally: All of the state-owned sovereignty lands lying seaward of the mean high-water line in Rookery Bay and in Henderson Creek and the tributaries thereto in Collier County, Florida. Said lands being more particularly described as a lying and being in Sections 1, 2, 11, 12, and 13, Township 31 South, Range 25 East and in Sections 7, 9, 16, 17, 18, 19, and 30, Township 51 South, Range 6 East, Collier County, Florida.

any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

236-391 Cockroach Bay Aquatic Preserve.—The designation by the Board of Trustees of the Internal Improvement Trust Fund on May 18, 1978, of approximately 500 acres of land as comprising the following described area in Hillsborough County for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975 is hereby affirmed. Such area, to be known as the Cockroach Bay Aquatic Preserve, shall be included in the aquatic preserve system for the period of a 40-year leasehold term commencing on January 1, 1979, and ending on December 31, 2018. The boundaries of the preserve shall begin at the northeast corner of Section 1, Township 33 South, Range 17 East, Manatee County; thence north along the northern line of said Section 1 to its intersection with the mean high-water line of Tampa Bay, said point being the water point of beginning; thence south along the north line of said Section 1 to its intersection with the mean high-water line of Tampa Bay, said point being the water point of beginning; thence continue west 500 feet along the mean high-water line of Tampa Bay, said line also being 500 feet westerly of the mean high-water line of Tampa Bay; said line also being 500 feet westerly of the mean high-water line on Beacon Key, Cay Key, Cedar Key, Big Pass Key, Little Cockroach Island, and Sand Key, to a point due west from the southeast corner of said Section 1; thence from said point due west to the most southwesterly corner of Bird Key, said line easterly along a channel between the northerly side of said Bird Key and the southerly side of the most easterly portion of said Great Inland, thence south to the latterly portion of said Great Inland, thence south to the southerly shore of the manatee River, thence in a northeasterly direction along the mean high-water line of Tampa Bay and Cockroach Bay to the water point of beginning. Less any islands submerged

intersection with a southerly extension of the west line of Section 18, Township 42 South, Range 21 East, thence north along said line to point of beginning.

(30) Wakiva River Aquatic Preserve, the boundaries of which are generally: All the state-owned cover-
ed property lands lying in the watershed of the ordinary
high water mark of the Wakiva River and the Little
Wakiva River and their tributaries lying and being in
Lake, Seminole, and Orange counties and more par-
ticularly described as follows:
(a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29,
30, Township 20 South, Range 25 East. These
sections are also depicted on the Forest City Quad-
rangle (U.S.G.S. 7.5 minute series-topographic) 1969
700101; and

(b) In Sections 3, 4, 8, 9, and 10, Township 20 North, Range 29 East and in Sections 21, 28, and 33, Township 19 South, Range 29 East lying north of the right-of-way for the Atlantic Coast Line Railroad and that part of Section 33, Township 19 South, Range 29 East lying between the Lake and Orange County Lines and the right-of-way of the Atlantic Coast Line Railroad. These sections are also depicted on the Sanford SW Quadrangle (U.S.G.S. 7.5 minute series topographic) 1965 (70-1); and

(G) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wakiva River and within the Little Wapiti's tributaries within the Peavine Miramda Grant in Lake County lying below the 10 foot m.s.l. contour line nearest the meander line of the Wakiva River and all state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wakiva River and the Little Wapiti's and their tributaries within the Moses E. Levy Grant in Lake County lying below the 10 foot m.s.l. contour line nearest the meander lines of the Peavine Miramda River and the Little Wapiti River.

OFFICIAL COPY 1967 (P.P.R.) SANFORD 1969
OFFICE OF THE STATE ENGINEER
SANFORD S.W. 1965 / 70-1 QUADRANT.
GLS # 1965 - 75 minute topographic; and

(b) All lands owned by the State of Wisconsin, public lands, and lands whether public or private below the ordinary high-water mark of the Wabigo River and the Little Wabigo River and their tributaries lying below the 10 foot m.s.l. contour line shall remain on the same line of the Wabigo and St. John's Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic) within the following described property: Beginning at a point on the south boundary of the Moses E. Levy tract, Township 19 South, Range 29 East, at its intersection with the meander line of the Wabigo River; thence south 60½ degrees east along said boundary line 4.91568 feet; thence north 29½ degrees east 13.8368 feet to the meander line of the St. John's River; thence easterly along the meander line of the St. John's River to the mouth of the Wabigo River; thence easterly along the meander line of the Wabigo River to the beginning; and

(c) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wabigo River and

(29). Cape Haze Aquatic Preserve, the boundary between Section 18 and Section 19. The north line of said Section 18, thence easterly along the east line of said Cañal Creek, Whiddon Creek, "The Cutoff," Turkey Bay, and Charlotte Harbor lying within the boundaries of the Government Meander Line, commencing at the northwest corner of Section 18; Townships 42 South, Range 21 East, thence south along the west line of said Section 18 to its intersection with the Government Meander Line of 1843-1844; and the point of beginning, thence southeasterly along said meander line to the northwesterly shoreline of said Cañal Creek, thence northerly along said shoreline to the north line of said Section 18; thence east along the north line of said Section 18, thence easterly along said north line to the easterly shoreline of Cañal Creek, thence southeasterly along said shoreline to the east line of said Section 18; thence south along the east line of said Section 18, crossing an arm of said Cañal Creek to the southerly shoreline of said creek, thence westerly along said southerly shoreline and southerly along the easterly shoreline of Cañal Creek to said point of beginning.

The north line of said Township 42 South, Range 21 East, thence southeasterly along said shoreline to the northern shore of said Cañal Sound in Section 21, Townships 42 South, Range 21 East, thence easterly along said southerly shoreline and northeasterly along the westerly shoreline of Whiddon Creek to the east west

quater line in Section 16, Township 42 South, Range 21 East, thence east along said quarter line and the quarter Section 16, Township 42 South, Range 21 East, thence east along said quarter line and the quarter Section 15, Township 42 South, Range 21 East to the easterly shoreline of Whiddon Creek, thence southerly along said shoreline to the northerly shoreline of "The Cutoff," thence easterly along said shoreline to the westerly shoreline of Turtle Bay, thence northeasterly along the shore of Turtle Bay to the intersection with said Government Meander Line in Section 33, Township 42 South, Range 21 East, thence northeasterly along said meander line to the east line of Section 12, Township 42 South, Range 21 East, thence north along the east line of said Section 12 and the north line of Section 11, Township 42 South, Range 21 East to the north line of Section 22, Township 42 South, Range 21 East, thence east along the north line of said Section 22 to a point on the westerly shoreline of Charlotte Harbor and the end of the northerly limit. Commence at the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line of said Section 22 and extension thereof to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the point of beginning, thence southerly along a line 2,640 feet easterly of and parallel with the westerly shoreline of Charlotte Harbor and the westerly extension of said line to the line dividing Charlotte and Lee Counties and the end of the easterly limits. Southerly limits. Begin at the point of ending of the easterly limits, above described, said point being in the line dividing Charlotte and Lee Counties, thence southeasterly along a straight line to the meel southerly point of said line, thence easterly along the easterly side of the Intracoastal Waterway to the easterly limit. Easterly limits. Begin at the point of ending of the southerly limits, above described, thence northerly along the easterly side of the Intracoastal Waterway to the easterly limit.

LAND ACQUISITIONS FOR CONSERVATION OR RECREATION

- 259.01 Short title.**—This chapter shall be known and may be cited as the "Land Conservation Act of 1972."

259.02 Authority: full faith and credit bonds.—Pursuant to the provisions of s. 11(a), Art. VII of the State Constitution and s. 215.59, the issuance of the *state bonds* pledging the full faith and credit of the state in the principal amount, including any refinancing, not to exceed \$390 million for state capital projects for environmentally endangered lands and \$40 million for state capital projects for outdoor recreation lands is hereby authorized, subject to the provisions of ss. 259.01, 259.04, 259.06.

- (1) "Selection committee" means that committee established pursuant to s. 259.036.
- (2) "State capital projects for environmentally endangered lands" means a state capital project, as required by s. 717.01, Art. VII of the State Constitution, which shall have as its purpose the conservation and protection of environmentally unique and irreplaceable lands as valued ecological resources of this state.

'259.035 Selection committee; powers and duties.—

1579

(2)(a) The committee shall, by the time of the first board meeting in July of each year, establish or update a list of acquisition projects selected for purchase pursuant to this chapter or sections 252.003 and 252.004.

The designation of a management agency or agencies. The Division of State Lands shall prepare the information required by this section for each acquisition project purchased pursuant to this chapter and the Division of Recreation and Parks shall prepare the information required by this section for each acquisition project to be purchased pursuant to chapter 3.65.

All proposals for acquisition received pursuant to this chapter, chapter 25A.01, s. 25A.023 shall be given priority in the committing the authority of the state to the project. The state shall not be bound by the terms of any such proposal if the state determines that the project is not in the public interest. If each proposal is not submitted to the acquisition board, the board shall not be required to consider it, and shall prepare that project submitted to the board. The board shall select the project that will receive a stated public purpose for the protection of environmentally sensitive lands for the development of outdoor recreation lands, or as provided in s. 25A.023(3)(b) and shall determine whether the acquisition project is in the public interest. The acquisition project conforms with the comprehensive plan developed pursuant to s. 25A.041(1).

the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive outdoor recreation and conservation plan developed pursuant to s. 375.021, and the interstate lands management plan adopted pursuant to s. 259.03(3). Copies of a written report on each project to be evaluated or considered for acquisition shall be submitted to the board of trustees. The committee shall

History... 14, ch. 79-255; s. 3, ch. 81-210; s. 1, ch. 82-467; s. 1, ch. 83-132, s. 24, ch. 83-135; s. 3, ch. 83-144; s. 2, ch. 83-265.

*Note.—Repealed effective October 1, 1989, by s. 1, ch. 87-66, as amended by s. 1, ch. 87-265, and scheduled for review pursuant to s. 18.611 in advance of that date.

(a) The board is given the responsibility, authority, and power to develop and execute a comprehensive plan to conserve and protect environmentally endangered lands in this state. This plan shall be kept

(c) Within 45 days after the selection committee submits either list of acquisition projects to the board, the board shall approve, in whole or in part, the list of acquisition projects in the order of priority for the purposes of §§. 202.012(2)(c).

(2) For state capital projects for outdoor recreation lands, the provisions of chapter 375 and s. 253.025 shall also apply.

259.045 Purchase of lands in areas of critical state concern; recommendations by department.—Within 45 days of the designation by the Administration Commission of an area as an area of critical state concern under s. 380.05, the Department of Natural Resources shall consider the recommendation.

Natural Resources shall consider the recommendation

0851

259.05 Issuance of bonds.—
(1) Upon request of the board by appropriate

259.06 Construction.—The provisions of ss.

259.07 Public meetings.—The Department of Natural Resources, before making recommendations to the board for the purchase of any environmentally

endangered land, shall hold a public meeting on the proposed purchase of such land in the county where a major portion of such land is situated. At least 30 days in advance of such public meeting, notice shall be published in a newspaper of general circulation in the area where such land is located, indicating the date, time, and place of such public meeting. A report of the public meeting shall be submitted to the board of supervisors with the recommendation for purchase of such land.

100

CHAPTER 260

RECREATIONAL TRAILS SYSTEM

- 260.011 Short title.
 260.012 Declaration of policy and legislative intent.
 260.013 Definitions.
 260.014 Florida Recreational Trails System.
 260.015 Acquisition of land.
 260.016 General powers of Division of Recreation and Parks.
 260.017 Restrictions: rules.
 260.018 Agency recognition.

260.011 Short title.—Sections 260.011, 260.018 shall be known and may be cited as the "Florida Recreational Trails Act of 1979."

History.—s. 1, ch. 79-10.

260.012 Declaration of policy and legislative intent.—

- (1) In order to provide the public with access to the use, enjoyment, and appreciation of the outdoor areas of Florida, and in order to conserve, develop, and use the natural resources of this state for healthful and recreational purposes, it is declared to be the public policy of this state and the purpose of ss. 260.011-260.018 to provide the means and procedures for establishing and expanding a network of recreational and scenic trails designated as the "Florida Recreational Trails System." The standards by which the trails system shall be administered, maintained, used, and expanded shall be consistent with the provisions of ss. 260.011-260.018. It is the intent of the Legislature that these recreational trails will serve to encourage horseback riding, hiking, bicycling, canoeing, and jogging and thereby improve the health and welfare of the people of this state.

- (2) It is the intent of the Legislature that recreational trails be established within and without boundaries of state parks and state forests and, when feasible, to interconnect units of the state park and forest system, as well as national forests and parks and such locally maintained parks as may be appropriate. It is also the intent of the Legislature to perpetuate the use of and provide access to regions and trails of special historic interest within the state; to encourage the multiple use of public rights-of-way and use to the fullest extent existing and future scenic roads, highways, park roads, parkways, and national recreational trails; to encourage the development of recreational trails by counties, cities, and special districts and to assist in such development by any means available; to coordinate recreational trail plans and development by local governments with one another and with the state government and Federal Government; and to encourage, whenever possible, the development of recreational trails on federal lands by the Federal Government.

- (3) The planning, development, operation, and maintenance of the Florida Recreational Trails System shall be the responsibility of the Department of Natural Resources, together with other governments and agencies of this state and all counties, municipalities,

- and special districts of this state, is authorized to spend public funds for such purposes and to accept gifts and grants of funds, property, or property rights from public or private sources to be used for such purposes.
- (4) The provisions of s. 375.251 relating to the liability of persons making lands available for outdoor recreational purposes shall be applicable to ss. 260.011-260.018.

History.—s. 2, ch. 79-10.

260.013 Definitions.—As used in ss. 260.011-260.018, unless the context otherwise requires:

- (1) "Recreational trails" means riding, hiking, canoeing, bicycling, or jogging trails for the use of the public.
- (2) "Riders" and "riding" mean horseback riders and horseback riding.
- (3) "Department" means the Department of Natural Resources.
- (4) "Division" means the Division of Recreation and Parks of the Department of Natural Resources.

History.—s. 1, ch. 79-10.

260.014 Florida Recreational Trails System.

- (1) The Florida Recreational Trails System shall consist of individual trails and networks of trails designated as a part of the Florida Recreational Trails System by the department and administered in accordance with the rules published by the department.
- (2) Insofar as is practicable, maps indicating the location of Florida recreational trails shall be published by the department and shall be available for public inspection of canoe trails shall include a generalized map delineating the water body or section thereof designated, locations of suitable launch and takeout sites, as well as other points of interest to enhance the recreational opportunities of the public.

History.—s. 1, ch. 79-10.

260.015 Acquisition of land.—

- (1) The division is authorized to acquire by gift or purchase the fee title or any lesser interest in land, including easements, for the purposes of ss. 260.011-260.018 pursuant to the provisions of chapter 350, except that no power of eminent domain is conferred on the division by ss. 260.011-260.018.
- (2) Easements, including the right of way, over, upon, across, or along any land, the fee title of which has been acquired for the purposes of ss. 260.011-260.018, may be granted by the division so long as the use permitted by the easement does not interfere with the purposes of ss. 260.011-260.018.
- (3) The division may transfer any recreational trail or easement to a local governmental agency having jurisdiction over the area in which the easement is located upon agreement by such local agency to maintain and operate the recreational trail in a manner consistent with department rules, and the intent of ss. 260.011-260.018.

History.—s. 1, ch. 79-10.

260.016 General powers of Division of Recreation and Parks.—The Division of Recreation and Parks may:

- (1) Publish and distribute appropriate maps of recreational trails, including recommended extensions thereof.
- (2) Establish access routes and related primitive public use facilities along recreational trails which will not substantially interfere with the nature and purposes of the trail.
- (3) Promulgate appropriate rules for the use of recreational trails.

History.—s. 2, ch. 79-10.

(4) Coordinate the activities of all governmental units and bodies and special districts that desire to participate in the development of the Florida Recreational Trails System.

History.—s. 2, ch. 79-10.

260.017 Restrictions: rules.—The department may establish restrictions on the use of motorized watercraft within any defined canoe trail necessary to ensure the safe use of a water body for canoeing. Restrictions established pursuant to this section must be adopted as a rule pursuant to s. 120.54 after proper notice and hearing, and may be enforced by any state or local law enforcement agency having jurisdiction over the area within which the trail is designated.

History.—s. 2, ch. 79-10.

260.018 Agency recognition.—All agencies of the state shall recognize the special character of the waters designated as canoe trails and shall not take any action which will impair their use as designated.

History.—s. 2, ch. 79-10.

(c) When a record held in a records center is eligible for destruction, the division shall notify, in writing, by certified mail, the agency which transferred the record. The agency shall have 30 days from receipt of that notice to request continued retention or authorizing destruction or disposal of the record. If the agency does not respond within that time, title to the record shall pass to the division.

(d) The Florida State Records Center may charge fees for supplies and services, including, but not limited to, shipping containers, pickup, delivery, reference, and storage. Fees shall be based upon the actual cost of the supplies and services and shall be deposited in the operating trust fund. The operating trust fund shall be subject to the service charge imposed pursuant to chapter 215.

(3) Any preservation duplicate of any record made pursuant to this chapter shall have the same force and effect for all purposes as the original record. A transcript, exemplification, or certified copy of such preservation duplicate shall be deemed, for all purposes, to be a transcript, exemplification, or certified copy of the original record.

(4) It is the duty of each agency to:

- Cooperate with the division in complying with the provisions of this chapter and designate a records management officer.
- Establish and maintain an active and continuing program of records management.

(5) Each agency shall submit to the division in accordance with the rules of the division a list or schedule of records in its custody that are not needed in the transaction of current business and that cannot have sufficient administrative, legal, or fiscal importance to warrant further retention by the agency. Such records shall, in the discretion of the division, be transferred to it for further retention and preservation, as herein provided, or may be destroyed upon its approval.

(6) No record shall be destroyed or disposed of by any agency unless approval of the division is first obtained. The division shall adopt reasonable rules not inconsistent with this chapter which shall be binding on all agencies relating to the destruction and disposal of records. Such rules shall provide but not be limited to:

- Procedures for compiling and submitting to the division lists and schedules of records proposed for disposal.
- Procedures for the physical destruction or other disposal of records.
- Standards for the reproduction of records for security or with a view to the disposal of the original record.

History.—S. 3, ch. 67, § 6, 10, 35, ch. 49, § 106, s. 4, ch. 81, § 123, s. 24, ch. 82, § 10, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

267.061 Historic sites and properties; state policy; responsibilities.—

(1) **STATE POLICY RELATIVE TO HISTORIC SITES AND PROPERTIES.**—

(a) It is hereby declared to be the public policy of

the state to protect and preserve historic sites and properties, buildings, artifacts, treasure trove, and objects of antiquity which have scientific or historical value or are of interest to the public, including, but not limited to, monuments, memorials, fossil deposits, Indian habitations, ceremonial sites, abandoned settlements, caves, sunken or abandoned ships, historical sites and properties and buildings or government, and their contents.

(b) It is further declared to be the public policy of the state that all treasure trove, artifacts, and such objects having intrinsic or historical and archaeological value which have been abandoned on state-owned lands or state-owned sovereignty submerged lands shall belong to the state with the title thereof vested in the Division of Archives, History and Records Management of the Department of State for the purposes of administration and protection.

(2) **DIVISION RESPONSIBILITY.**—It is the responsibility of the division to:

- Locate, acquire, protect, preserve, and promote the location, acquisition, and preservation of historic sites and properties, buildings, artifacts, treasure trove, and objects of antiquity which have scientific or historical value or are of interest to the public, including, but not limited to, monuments, memorials, fossil deposits, Indian habitations, ceremonial sites, abandoned settlements, caves, sunken or abandoned ships, or any part thereof.
- Develop a comprehensive statewide historic preservation plan.

(c) Encourage and promote the acquisition, preservation, restoration, and operation of historic sites and properties by other agencies so that such properties may be utilized to foster and promote appreciation of Florida history; however, no acquisition, preservation, restoration, or operation of any such site shall be made by the state and no contribution shall be paid from state funds for such purposes until:

- The division has determined that there exists historical authenticity and a feasible means of providing for the acquisition, preservation, restoration, or operation of such property.

(d) The property has been approved for such purposes by the division.

(e) Cooperate and coordinate with the Division of Recreation and Parks of the Department of Natural Resources in the operation and management of historic sites and properties subject to the Division of Archives, History and Records Management.

(3) **STATE ARCHAEOLOGIST.**—The division shall employ a State Archaeologist and such other archaeologists as deemed necessary, who shall possess such qualifications as the division may determine. The State Archaeologist shall serve at the pleasure of the division. The State Archaeologist shall conduct, with emphasis on salvage archaeology, an archaeological survey of the state and shall perform such other duties as the division may prescribe.

History.—S. 3, ch. 67, § 6, 10, 35, ch. 49, § 106, s. 4, ch. 81, § 123, s. 18, ch. 82, § 10, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

involvement in the preservation and protection of the state's historic and archaeological sites and properties, reflecting such evaluation. In making such evaluation and recommendations, the council shall, at a minimum, consider the purpose, economic and other public benefit, location, compatibility with statewide historic preservation priorities, and cost of each proposal for grant assistance.

(f) Providing an active outreach program to encourage public understanding of and involvement in the preservation of the state's historic and archaeological sites and properties.

(g) Identifying and expressing public goals for historic preservation and enacting public policies necessary for the formulation of alternative policies.

(h) Preparing rules relating to the historic preservation programs administered by the division pursuant to this chapter.

(i) It shall be the additional responsibility of the council to provide such other assistance and advice to the division as may be required from time to time in matters pertaining to the protection and preservation of the state's historic and archaeological sites and properties.

History.—S. 3, ch. 67, § 10, 35, ch. 49, § 106, s. 4, ch. 81, § 123, s. 18, ch. 82, § 10, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888,

History—~~a~~ 1, 2, ch. 71-267.

of the division to:

(2) Encourage, promote, maintain, and operate historical museums, including, but not limited to, mobile museums, junior museums, and the Museum of Florida History in the state capital.

History.—a 7. ch. 57.50; 10, 35, ch. 62.10, a. 6. ch. 81.173.

(ii) There is greater

(a) Establish and administer a museum store in the Museum of Florida History to provide information and materials relating to museum exhibits, col-

(b) Support the establishment of a nonprofit organization or association to promote and encourage knowledge and appreciation of Florida history and

(3) The division is authorized to accept gifts and donations for the purpose of assisting the Museum of Florida History and its programs, which shall be de-

16

History.—*see* 2, 3, 4, ch. 60:159; s. 7, ch. 81:172; s. 2, ch. 83:242.

(1) Promote and encourage the writing of Florida history.

History.—1. 8. ch. 67. 50; m. 10. 25. ch. 69. 100; s. 2. ch. 81. 173

(1) All powers and duties heretofore set forth in

(2) All the powers and duties heretofore set forth in chapter 592 relating to the Division of Recreation and Parks of the Department of Natural Resources.

History... 9, ch. 67-70, ss. 10, 25, 35, ch. 69-106.

History.—s. 11, ch. 67-50; ss. 10, 15, ch. 69-106.

1615

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(1) The division may issue permits for excavation

(2) Those state institutions considered by the di-

(3) All specimens collected under a permit issued by the division or under the procedures adopted for accredited institutions shall belong to the state with

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(1) Any person who conducts field investigations on any land owned or controlled by the state or its

proceed under the procedures relating to accredited institutions, or any person who appropriates, defaces,

(2)(a) The division may institute an administrative proceeding to impose an administrative fine of

(b) The division shall institute an administrative

(c) The division may enter its judgment for the

(d) The division may apply to a court of competent jurisdiction for injunctive relief against any person or business organization that explores for, sal-

1616

(3) Any person who:
(a) Reproduces, retouches, reworks, or forges any archaeological or historical object originating from an archaeological site as designated by s. 267.11-267.14 and deriving its principal value from its antiquity or makes any such object, whether a copy or not;
(b) Falsely labels, describes, identifies, or offers for sale or exchange any object with intent to represent the same to be an original and genuine archaeological or historical specimen; or
(c) Offers for sale or exchange any object with knowledge that it has previously been collected or excavated in violation of any of the terms of s. 267.11-267.14,

is guilty of a misdemeanor punishable by a fine not exceeding \$500 or by imprisonment in the county jail for a period not to exceed 6 months or both.
History.—s. 1, c. 75, 1983, F.S. 1983.

267.14 Legislative intent.—It is the declared intention of the Legislature that field investigation activities involving archaeological resources should be encouraged and supported in accordance with both the provisions and spirit of s. 267.11-267.14, and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the Division of Archives, History and Records Management.
History.—s. 1, c. 75, 1983.

CHAPTER 288

COMMERCIAL DEVELOPMENT AND CAPITAL IMPROVEMENTS

- 288.011 Department of Commerce; travel and entertainment expenses.
- 288.509 Reports and studies.
- 288.511 Proceedings parties; participants.
- 288.511 Final disposition of application.
- 288.517 Alteration of time limits.
- 288.513 Local powers not preempted; rulemaking to contract.
- 288.063 Contracts for transportation projects.
- 288.07 Accessibility of records, data, and information of other state agencies.
- 288.075 Confidentiality of records.
- 288.08 Publications; sale at cost.
- 288.115 Acceptance of gifts or grants.
- 288.011 Department of Commerce; membership dues; prepayments for outstanding services.
- 288.13 Cooperation with other units, boards, and committees.
- 288.14 Board of Trustees of Internal Improvement Trust Fund may finance.
- 288.15 Powers of Division of Road Finance.
- 288.17 Division of Bond Finance; revenue certificates.
- 288.18 Planning, promoting, and supervising state building projects.
- 288.23 Division authorized to acquire roads and bridges.
- 288.24 Division authorized to acquire ferries and toll facilities.
- 288.27 Lease or sale by division.
- 288.28 Department of Transportation authorized to purchase certain roads and bridges.
- 288.281 Financing construction or acquisition of roads and bridges; additional method.
- 288.29 Ratifying prior transactions.
- 288.30 Cumulative provisions.
- 288.31 Activities; financing construction authorized.
- 288.32 Urban Planning Assistance Revolving Trust Fund.
- 288.33 School buildings; financing construction authorized.
- 288.34 Division of Tourism; powers and duties.
- 288.342 Tourism Promotional Trust Fund.
- 288.347 Tourism Advisory Council; creation; membership; function.
- 288.35 Definitions.
- 288.36 Foreign trade zones; authority to establish, operate, and maintain.
- 288.37 Foreign trade zones; authority to select and describe locations and make rules.
- 288.38 Applicability of state laws and rules concerning citrus fruit and products.
- 288.39 Assurance of small businesses.
- 288.40 Short title.
- 288.402 Definitions.
- 288.403 Department of Environmental Regulation; powers and duties.
- 288.405 Local government; approval.
- 288.406 Applicability and application.
- 288.407 Appointment of hearing officer; determination of completeness and sufficiency.
- 288.408 Notice of intent to file application.

1687

state employees while accompanying business clients or guests of when authorized by the Secretary of the Department of Commerce or his designee.

(h) For entertainment expenses incurred by business clients, and authorized persons as defined in s. 112.061(2)(e) incurred by the Department of Commerce in connection with the performance of its statutory duties, and for entertainment expenses incurred for state officials and state employees when such expenses are incurred while in the physical presence of business clients or guests.

The rules shall be subject to approval by the Comptroller prior to promulgation. The rules shall require the submission of paid receipts, or other proof prescribed by the Comptroller, with any claim for reimbursement. The rules shall require, as a condition for any advancement, an agreement to submit paid receipts or other proof of the advancement within 15 days after the expense is incurred or, if the advancement is made in connection with travel, within 15 days after completion of the travel. However, with respect to any advancement made solely for travel expenses, the rules may allow paid receipts or other proof to be submitted and any unused portion of the advancement of the travel. Over 288.35(4), obtained pursuant to this section shall not be commingled with any other state funds.

(3) An annual report shall be made to the Legislature not later than December 30 of each year for the previous fiscal year, which report shall consist of a synopsis concisely summarizing entertainment and incidental expenses incurred within the United States and all travel, entertainment, and incidental expenses incurred outside the United States. Nothing in this section shall be construed to exempt the Department of Commerce from the reporting requirements of s. 112.061(3)(f).

(4) Any claim submitted under this section shall not be deemed to be a claim for reimbursement by the Department of Commerce or its designee, but any claim submitted or required to be made under any provision of this section shall contain a statement that the expenses were actually incurred as necessary travel or entertainment expenses in the performance of official duties of the Department of Commerce and shall be verified by a written declaration that it is true and correct. Every material matter Any person who willfully makes and subscribes to any such claim which he does not believe to be true and correct as to every material matter or who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation of a claim pursuant to this section, which claim is fraudulent or false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such claim, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Whoever receives an advancement or reimbursement by means of a false claim is civilly liable in the amount of the overpayment, for the reimbursement of the public fund from which the claim was paid.

History.—s. 1, L.R. 90-22, s. 3, ch. 93-32.

288.012 Department of Commerce; foreign offices.

(1) The Department of Commerce is authorized to:

- Establish and operate offices in foreign countries in the execution of its responsibilities for promoting the development of tourism and the economic development of the state.
- Enter into agreements necessary to establish and operate an office in a foreign country containing provisions which may be in conflict with general laws of the state pertaining to the purchase of office space, employment of personnel, and contracts for services, which agreements pursuant to this section are made in accordance with the requirements of s. 215.425, but the purchase of foreign currency, such as that required to meet such obligations shall be subject only to s. 215.311.

(2) The department, in connection with the establishment, operation, and management of any of its offices located in a foreign country, is exempt from the provisions of s. 25.21, s. 25.25, s. 25.26, s. 25.27, s. 25.28, s. 25.29, s. 25.30, s. 25.31, s. 25.32, s. 25.33, s. 25.34, and s. 25.35 relating to aids for printing and vehicles, and s. 25.36 relating to telecommunications, and from all provisions relating to state employment, if the laws, administrative code, or business practices or customs of the foreign country, or political or administrative subdivision thereof, in which such office is located are in conflict with these provisions.

(a) The department may exercise such exemptions only upon prior approval of the Governor.

(b) If approval for an exemption under this section is granted as an integral part of a plan of operation for a specified foreign office, such action shall constitute continuing authority for the department to exercise the exemption, but only in the context and upon the terms originally granted. Any modification of the approved plan of operation with respect to an exemption contained herein must be resubmitted to the Governor for his approval. An approval granted to exercise an exemption in any other context shall be restricted to the specific instance for which the exemption is to be exercised.

(c) As used in this subsection, the term "plan of operation" means a compilation of the specific policies and procedures encompassing the entire scope of the operation and management of an office established by the department in a foreign country.

(d) Upon final action by the Governor with respect to a request to exercise the exemption authorized in this subsection, the department shall report such action, along with the original request and any modifications thereto, to the President of the Senate and Speaker of the House of Representatives within 30 days.

History.—s. 1, L.R. 90-22, s. 3, ch. 93-32.

288.013 Powers and duties of division.—The general purposes of the Division of Economic Development of the Department of Commerce shall be to guide, stimulate, and promote the coordinated, efficient

operation of the Department of Commerce.

History.—s. 1, L.R. 90-22, s. 3, ch. 93-32.

288.014 Powers and duties of division.—The general purposes of the Division of Economic Development of the Department of Commerce shall be to guide, stimulate, and promote the coordinated, efficient

1688

288.07 Accessibility of records, data and information of other state agencies.—In collecting and assembling information the Division of Economic Development of the Department of Commerce is authorized to make use of such pertinent data as may be secured from boards, commissions, officials, agencies and institutions in the state. The division shall have access to records, data, information and statistics of such other boards, commissions, agencies, officials and institutions, except such records or information that may be required by law to be confidential or secret, and any and all such state agencies are required to furnish or make available to the division, as requested, such records, data, information and statistics necessary or proper for the operation of the division.

History.—S. 1, ch. 77-20, § 10, as amended, § 1, ch. 73-263, § 1, ch. 77-174.

288.075 Confidentiality of records.—

(1) "Economic development agency" means the Division of Economic Development of the Department of Commerce, any industrial development authority created in accordance with part III of chapter 159 or by special law, or any research and development authority created in accordance with part V of chapter 159.

(2) Upon written request from a private corporation, partnership, or person, information, records, reports, data, and documents of an economic development agency which contain or would provide information concerning plans, intentions, or interests of such private corporation, partnership, or person to locate, relocate, or expand any of its manufacturing or other business activities in this state shall be privileged and confidential and shall not be published or given to public inspection and shall be exempt from the provisions of s. 119.07(1). This privilege and confidentiality shall only apply for a period not to exceed 24 months from the date an initial inquiry is received by the economic development agency, except upon petition by any party to a court of competent jurisdiction and upon determination by the court that the petitioner has proven in the opinion of the court, need for access to such records.

(3) Nothing herein shall be construed to waive any provision of chapter 120 or any other provision of law requiring a public hearing.

(4) No public officer or employee acting in his individual capacity shall enter into a binding agreement with any corporation, partnership, or person when such public officer or employee has knowledge that information concerning such corporation, partnership, or person is confidential pursuant to this section, until 90 days after such information is made public.

(5) Any person who is an employee of an economic development agency who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

History.—S. 1, ch. 73-11, § 1, ch. 75-263, § 1, ch. 77-174.

288.08 Publications, sale at cost.—The Division of Economic Development shall have authority to sell at approximate cost to the state such of its

publications as, in its judgment, should not be furnished gratis to those who wish to use publications of the division in the conduct of their business, and any amounts of money received by the division from said sales shall be added to amounts duly appropriated for its use in the prosecution of its purposes, powers and duties hereunder.

History.—S. 1, ch. 77-20, § 10, as amended, § 1, ch. 73-263, § 1, ch. 77-174.

288.09 Acceptance of gifts or grants.—The Division of Economic Development is authorized to accept any grant, payment or gift of funds or property made by the United States or any department or agency thereof, or by any individual, firm or corporation, municipality or county or organization for any of the purposes specified in this chapter, and the division may expend said funds in accordance with the terms and conditions of any such grant, payment or gift.

History.—S. 1, ch. 77-20, § 10, as amended, § 1, ch. 73-263, § 1, ch. 77-174.

288.115 Department of Commerce; membership dues; presentments for outstanding agency.—The Department of Commerce may incur expenses for membership dues of departmental employees in associations and other organizations affiliated with commerce and for presentation of plaques, framed certificates, or other items, not exceeding \$100 for each other state, expressing appreciation to persons who are not state of Florida public employees for outstanding and meritorious service to the tourist industry or to the development of the state. This section shall not deprive authority of the department to make reasonable and necessary expenditures for promotional items pursuant to s. 288.03(24) or s. 288.34(1).

History.—S. 1, ch. 80-206, § 2, ch. 81-244.

288.13 Cooperation with other units, boards, agencies, and individuals.—Express authority and power is hereby given any county, municipality, drainage district, road or bridge district, school district or any other political subdivision, board or commission in the state to make and enter into with the Division of Bond Finance of the Department of General Services, contracts and leases, within the provisions and purposes of this chapter. The division is hereby expressly authorized to make agreements with and enter into any and all contracts with any political subdivisions of the state.

History.—S. 1, ch. 25-38, § 180, as amended, § 1127, § 1, ch. 28-1.

Note.—Former s. 289.04.

288.14 Board of Trustees of Internal Improvement Trust Fund may cooperate.—The Board of Trustees of the Internal Improvement Trust Fund may convey and grant to the Division of Bond Finance of the Department of General Services, and enter into agreements permitting the use and occupation of land under its control and not in use for state purposes, including swamps, overflowed lands, bottoms of streams, and other lands, bays, and other waters of the state, and the riparian rights thereto appertaining, as, in the judgment of said board may be required.

1691

the approval of the State Board of Administration in its own name for the purposes herein provided, and may, in its discretion, lease, sell, or otherwise dispose of the same.

288.34 Division of Tourism; powers and duties.—

(1) The general purposes of the Division of Tourism of the Department of Commerce shall be to guide, stimulate, and promote the coordinated, efficient, and beneficial travel and leisure development of the state and its regions, counties, and municipalities in accordance with present and future needs and resources and the requirements of the prosperity, convenience, comfort, health, safety, and general welfare of the people of the state. For the accomplishment of such purposes, the division shall have the power and authority to make expenditures for and to:

(a) Create and build Florida tourism.

(b) Encourage visitors from other states and other countries to come to Florida.

(c) Manage and otherwise coordinate its activities and functions of visitors' centers and welcome stations within the state.

(d) Plan and conduct campaigns of informational, advertising, and publicity relating to the recreational, scenic, historic, and transportation facilities and attractions of the state and all parts thereof and disseminate such information pertaining to Florida through and by means of the following media:

1. Newspaper advertising outside and inside the state;

2. Magazine advertising in magazines of state, national, and international circulation;

3. Outdoor advertising outside and inside the state;

4. Radio and television advertising over stations outside and inside the state or networks extending outside the state;

5. Preparation, purchase, and distribution by mail, or by other means, of advertising literature, and other material, including exhibits and, although not specifically detailed but nevertheless included in such media, promotion and encouragement of, and, if necessary, contribution to, the happening and the holding of events and activities within and without the state, including follow-up contacts by personnel of the division within or without the state, which the judgment of the division will beneficially publicize the state's tourism and its purposes, powers, and duties of the division as prescribed in this section;

(e) Assist in carrying out any program of information, special events, and publicity designed to attract Florida tourists, visitors, and other interested persons from outside the state;

(f) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions and vacation advantages of the state, including the establishment of and expenditure of such revenue bonds.

No approval of any other state board, body, agency, or official other than as specified herein, shall be required for the issuance of such revenue bonds, notes or certificates as provided in this section except

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date intervention is granted, unless otherwise ordered by the hearing officer in his discretion.

(e) Any state agency whose properties or works are being affected pursuant to s. 288.51(1) or from whose rules the applicant is seeking a variance pursuant to s. 288.51(2) shall be a party upon the request of the department or at the agency's own request.

(3) When appropriate, any person may be given an opportunity to present oral or written communications to the hearing officer at the certification hearing. If the hearing officer proposes that such communications then all parties shall be given an opportunity to comment on the person or challenge or rebut such communications.

(4) The hearing officer shall have all powers and duties granted to hearing officers by chapters 120 and 411 and by the rules of the department and the Administration Commission, including the authority to resolve disputes over the completeness and sufficiency of an application for certification.

History:—1983, 1st S.B. 3146

288.511 Final disposition of application.—

(1) Within 45 days of receipt of the hearing officer's recommendation, the board, pursuant to applicable law, shall act upon the application by written order, approving in whole, approving with such conditions as the board shall deem appropriate, or denying the issuance of a certification and stating the reasons for its decision.

(2) In regard to the properties and works of any agency which is a party to the certification hearing, the board shall have the authority to decide issues relating to the use thereof, the connection thereto, or the crossing thereof for the project and to direct such state agency to execute, within 30 days of the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in such certification.

(3) The issuance or denial of the certification by the board shall be final agency action.

History:—1983, 1st S.B. 3147

288.512 Alteration of time limits.—Any time limitation in this act may be altered by stipulation or by the hearing officer upon good cause shown by any party.

History:—1983, 1st S.B. 3147

288.513 Local powers not preempted; rule-making power.—

(1) Notwithstanding any other provision of this act, this act does not preempt any ordinance, rule, regulation, or decisionmaking power of any local governmental entity. It is the intent of this act that local decisionmaking shall not be limited hereby, except as expressly provided in s. 288.503(1).

(2) The board shall have the power to adopt reasonable procedural rules to carry out its duties under this act and to give effect to the legislative intent that this act is to provide an efficient, simplified, centrally coordinated permitting process.

History:—1983, 1st S.B. 3147

288.514 Effect of certification.—

(1) Subject to the conditions of certification set

shall keep the applicant informed as to the progress of the studies and any issues raised thereby.

(6) The studies required by subsection (4) shall be completed no later than 2 months after the date the studies are initiated.

History:—1983, 1st S.B. 3148

288.51 Proceedings; parties; participants.—

(1)(a) A certification hearing shall be held by the hearing officer no later than 4 months after the complete application is filed with the department. At the conclusion of the certification hearing, the hearing officer shall, after consideration of all evidence of record, submit to the board a recommended order no later than 30 days after receipt of the complete application by the department. The recommended order shall not be binding on the board.

(b) The certification hearing shall be held in the county of the proposed project and as near as practicable to the project site.

(2)(a) Parties to the proceedings shall include:

1. The applicant.
2. The state land planning agency.
3. The water management district with jurisdiction.

(b) The department.

(c) The Department of Natural Resources, when the use or purchase of state-owned lands is involved.

(d) Upon the filing with the hearing officer of a notice of intent to be a party at least 30 days before the certification hearing, the following shall also be parties to the proceedings:

1. Any agency not listed in paragraph (a) as to matters within its jurisdiction.
2. Any county or municipality in whose jurisdiction the proposed project is to be located.
3. Any domestic nonprofit corporation or association formed, in whole or in part, to promote conservation or natural beauty, to protect the environment, personal health, or other biological values, to preserve historical sites, to promote consumer interests, to represent labor, commercial, or industrial groups, or to promote orderly development of the area in which the proposed project is to be located.

(e) Except as provided in paragraph (d), failure of a state agency to be a party shall not constitute a waiver of its right to participate as a party in the proceedings and of its right to assert jurisdiction to regulate, permit, or license such project.

(f) Other parties may include any persons, including those persons enumerated in paragraph (b) who have failed to timely file a notice of intent to be a party, whose substantial interests are affected and being determined by the proceeding and who timely file a motion to intervene pursuant to chapter 120 and applicable rules. Intervention pursuant to this paragraph may be granted at the discretion of the hearing officer, upon such conditions as he may prescribe, any time prior to 15 days before the commencement of the certification hearing. Parties who are granted permission for untimely intervention pursuant to this paragraph shall be bound by the status of the proceedings as they find them as of the

History:—1983, 1st S.B. 3148

Ch. 288 COMMERCIAL DEVELOPMENT AND CAPITAL IMPROVEMENTS

288.508 Notice of intent to file application.—

(1) In order to facilitate the conduct of studies required by this act and expedite the processing of the application which may be filed subsequently, the applicant for a proposed project must file a notice of intent to file an application with the department.

(2) The notice of intent shall be filed by the project owner or applicant, after public notice, and shall be filed with the department as soon as practicable, but not later than 30 days after the filing of the application with the department as to the data and the level of information which must be included in an application filed pursuant to this act. It is the legislative intent of this act to encourage the filing of such notices of intent to encourage unnecessary data gathering, and to encourage coordination of this process with federal environmental reviews when such are required by law.

History:—1983, 1st S.B. 3147

288.509 Reports and studies.—

(1) It shall be the duty of the department to provide copies of the application and notice of intent as filed within 7 days of receipt thereof to the state land planning agency, the water management district and the regional planning agency which have jurisdiction over the area wherein the proposed project is to be located. The Department of Commerce, the Department of Transportation, the Department of Natural Resources, the Game and Fresh Water Fish Commission, the Department of Health and Rehabilitation Services, the Department of Business Regulation, the Department of Agriculture and Consumer Services, the Department of State, and the local governmental entities which have jurisdiction over the complete application shall be provided with a copy of the application.

(2) Within 60 days of the filing of a complete application, the state land planning agency shall prepare and submit to the department a report and its recommendations as to whether the proposed project reasonably interferes with the achievement of the goals and objectives of any adopted state comprehensive plan and with respect to any other matters within its jurisdiction.

(3) Within 60 days of the filing of the complete application, the water management district shall prepare and submit to the department a report and its recommendations as to the impact of the proposed project on the water resources of the district. The report may include the comments of the water management district with respect to any other matters in its jurisdiction.

(4) It shall be the duty of the department to conduct or contract for studies of the proposed project, including, but not limited to, the following:

- (a) The environmental impact of the project, including impacts on water quality, air quality, fish and wildlife, and cultural resources.
- (b) The impact of the project on the economy of the area, including provisions of employment opportunities and related economic impacts.
- (c) The impact of the project on necessary public facilities, including transportation facilities.
- (d) The impact of the project on energy demand.
- (e) Compliance of the project with agency standards.

(5) The department shall initiate the studies required by subsection (4) no later than 15 days after the complete application is filed. The department

History:—1983, 1st S.B. 3147

pursuant to s. 288.504(9) has been filed, no application which is the same or substantially similar shall be resubmitted pursuant to the permitting or licensing provisions otherwise in effect.

History:—1983, 1st S.B. 3147

288.507 Appointment of hearing officer; determination of completeness and sufficiency.—

(1) Within 10 days of receipt of an application, the department shall determine whether the application is complete and whether the application is sufficient. If the application is not complete, the department shall request the Division of Administrative Hearings to designate a hearing officer to conduct the hearings required by this act. The division director shall designate a hearing officer within 7 days of receipt of the request from the department. Upon being advised that a hearing officer has been appointed, the department shall immediately file a copy of the application and all supporting documents with the hearing officer, who shall docket the application.

(2) Within 10 days of receipt of an application, the department shall file a statement with the Division of Administrative Hearings and with the applicant, declaring its position with regard to the completeness, not the sufficiency, of the application. If the department declares the application to be incomplete, then, within 15 days of the receipt by the department of the application, the department shall file a statement with the Division of Administrative Hearings and with the applicant, stating its reasons for its determination that the application is not complete. The department shall also file a statement with the Division of Administrative Hearings and with the applicant, stating its reasons for its determination that the application is not complete. The department shall also file a statement with the Division of Administrative Hearings and with the applicant, stating its reasons for its determination that the application is not complete.

(3) Should the department determine within 15 days after initiation of the studies required by this act that an application is so incomplete as to require proper form to be filed, it shall not be deemed to be timely certified. If the certification indicates that the insufficiency cannot be timely rectified, the department, after notice to the applicant, shall so advise the hearing officer and other parties. Within 15 days of being advised, the hearing officer shall schedule a hearing on this issue. The hearing shall be held no later than 30 days after the receipt of the department's position. The hearing officer shall make a decision on this issue within 10 days of the hearing. If the hearing officer determines that the application is so insufficient as to prevent proper evaluation of a project, then the time limits shall be adjusted accordingly, and the time limits shall be adjusted accordingly.

If the hearing officer determines that the application is sufficient, then the time limits provided in this act shall run from the date of filing of the application.

History:—1983, 1st S.B. 3147

forth therein, any certification signed by the Governor as chairman of the board shall constitute the sole license of the state and any agency as to the approval of the construction and operation of the proposed project.

(2) The certification may include variances, exceptions, and exemptions as otherwise allowed by law from nonprocedural standards or rules of the department or any other standards or rules of any other agency which were expressly considered during the proceedings and which otherwise would be applicable to the construction and operation of the proposed project. However, the board's authority to grant such variances, exceptions, or exemptions shall be subject to the nonprocedural requirements and limitations specified in the applicable statutes or rules.

(3) The certification shall be in lieu of any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 161, chapter 253, chapter 258, chapter 310, chapter 373, chapter 376, chapter 381, chapter 387, chapter 403, the Florida Transportation Code, or 33 U.S.C. 1234.

(4)(a) A project certified pursuant to this act shall comply with rules adopted by the department subsequent to the issuance of the certification which prescribe new or stricter criteria, to the extent that the rules are applicable to such projects. Except when express variances, exceptions, or exemptions have been granted, subsequently adopted applicable rules of the department which prescribe new or stricter criteria or which prescribe more lenient criteria shall operate as automatic modifications to the conditions of certification.

(b) No term or condition of certification shall be interpreted to preclude the postcertification exercise by any party of whatever procedural rights it may have under chapter 120, including those related to rulemaking proceedings.

(5) The certification received pursuant to this act shall be effective for a period of 2 years from the date of issuance by the board. Applicants wishing to renew may seek recertification pursuant to this act or may seek to renew each individual license, permit, certification, or other document which is covered by this act through each agency's applicable procedures. Renewal of variances made a part of the certification, when renewable under the appropriate statute or rule, may be sought as part of recertification proceedings or individually through each agency's applicable procedures.

History.—s. 1, ch. 78-16.

288.515 Revocation or suspension of certification.—Any certification may be revoked or suspended pursuant to chapter 120.

(1) For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant when a true answer would have warranted the board's refusal to recommend a certification in the first instance.

(2) For failure to comply with the terms or conditions of the certification.

(3) For violation of the provisions of this act or rules or orders issued in reunder.

History.—s. 1, ch. 78-16.

288.516 Review.—Proceedings under this act shall be subject to judicial review as provided in chapter 120.

History.—s. 1, ch. 78-16.

288.517 Enforcement of compliance.—Violations of this act shall be enforced as provided in ss. 403.121, 403.131, 403.111, and 403.161 and other applicable laws.

History.—s. 1, ch. 78-16.

288.518 Amendment or modification of certification.—A certification may be amended or modified after issuance in any one of the following ways:

(1) The parties to the certification proceeding may amend or modify the terms and conditions of the certification by mutual written agreement. Upon execution of the agreement by the parties, the provisions of s. 120.57 shall apply to proceedings for approval or denial of the agreement by the board.

(2) If the parties to the certification proceeding are unable to reach a mutual written agreement or amendment or modification of the terms and conditions of the certification, a petition for modification setting forth:

(a) The proposed amendment or modification;

(b) The factual reasons asserted for the amendment or modification; and

(c) The anticipated effects of the proposed modification on the applicant, the public, and the environment.

shall be filed with the board with copies being served on all parties to the original proceedings. The provisions of s. 120.57 shall apply to the proceedings for approval or denial of the petition by the board.

(3) As required by s. 288.51(1).

History.—s. 1, ch. 78-16.

315.04 Other consents or approvals; use of state lands.—Except as hereafter provided in this section, and except as provided in § 315.03(1), the approval or consent of any other public body, agency or public body, agency or instrumentality of the State of Florida, except the Board of Trustees of the Internal Improvement Trust Fund, shall not be required for the exercise of any of the powers granted by this law to any municipality located in a county authorized by law to operate port facilities or in which there is a port district or a port authority shall exercise any powers granted by this law only if the governing body of such county, port district or port authority shall by resolution determine that the best interests of the county will be served thereby and consent thereto. The State of Florida hereby consents to the exercise of all powers granted by this law without further authority or approval thereof by any of its agencies or instrumentalities.

Improvement Trust Fund as to the use of any state lands lying under water, which is necessary for the accomplishment of the purposes of this law.

History.—S. 4, Ch. 90-411, § 7; S. 4, Ch. 90-106.

315.05 Port facilities bonds.—

(1) The governing body is authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of a unit for the purpose of paying all or a part of the cost of any one or more port facilities. The bonds of each issue or series shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times not exceeding 40 years from their date of issue, as may be determined by the governing body, and may be made redeemable before maturity, at the option of the unit, at such price as may be determined by the governing body, or may be fixed by the governing body prior to the issuance of the bonds.

(2) The governing body shall determine the form of the bonds including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds, and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state, in whose name the bonds shall be issued, and in any case any officer whose signature or a facsimile of such signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile signature, and any bond may bear the facsimile signature of, or may be signed by, such persons as at the proper time of the execution of such bond shall be the officers of the unit, and each bond shall be signed by each bond such persons may not have been such officers.

(3) Notwithstanding any other provisions of this law or any restrictions in any bonds issued under the provisions of this law, all such bonds shall be deemed to be negotiable instruments under the laws of Florida. The bonds may be issued in registered or bearer form, or both, as the governing body may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to

1767

both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and any bonds issued by a unit under this law shall not be considered as impairing the amount of indebtedness which the unit is authorized to incur under any other law.

(4) The governing body may sell such bonds in such manner, either to the public or private sale, and for such price as it may determine to be for the best interests of the unit. Prior to the delivery of definitive bonds, the unit may issue interim receipts or temporary bonds, with or without coupons, and may execute for definitive bonds when such bonds have been executed and are available for delivery.

(5) The governing body may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost. Bonds may be issued under the provisions of this law without obtaining the consent of any commission, board, bureau or agency of the state, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this law.

History.—S. 4, Ch. 90-411, § 2; S. 4, Ch. 73-26, § 1, Ch. 79-80.

315.06 Sources of payment and security for bonds.—

(1) The governing body may provide that bonds issued under the provisions of this law shall be payable from and secured by a pledge of any one or more of the following sources:

(a) Revenues of any one or more port facilities now owned or hereafter acquired or constructed by the unit;

(b) Proceeds of the sale or lease of all or any part of any port facilities now or hereafter owned by the unit as such facilities may be extended, enlarged or improved, or of any property of the municipality improved, created, extended or enlarged or prepared for sale or lease under the authority of this law;

(c) Any money received by the unit from the United States or any agency or instrumentality thereof in connection with any port facilities or in payment of any advances made by the unit for all or part of the cost of any port facilities.

(2) The governing body may provide that such bonds shall be secured by a pledge of the unit for which the full faith, credit and taxing power of the unit shall be additionally secured by a pledge of revenues, sale or lease proceeds or money received by the unit from the United States or any agency or instrumentality thereof as herein provided. The governing body of such unit may provide that such bonds shall be payable as to principal and interest in the first instance from such revenues, sale or lease proceeds or money received by the unit from the United States or any agency or instrumentality. The governing body of any unit may additionally secure any such bonds by a mortgage or other encumbrance, subject to such terms and conditions as it shall provide, upon all or any part of any port facilities now or hereafter owned by the unit, as such facilities may be extended, enlarged or improved, or of any property of

dem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution shall be treated as a part of the cost of the operation of the port facilities.

History.—S. 4, Ch. 90-411.

315.09 Remedies.—Any holder of bonds issued under the provisions of this law or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this law or by such trust agreement or resolution to be performed by the unit or by any officer thereof, including the fixing, charging and collecting of rates, rentals and other charges.

History.—S. 4, Ch. 90-411.

315.07 Contracts for borrowing of money.—The governing body may contract with any person, firm, corporation or public body or with the United States or any agency or instrumentality thereof for the borrowing of money for paying all or any part of the cost of any one or more port facilities, and any such contract may contain such terms, conditions or provisions as the governing body may determine not in conflict with the provisions of this law. The provisions of § 315.06 applicable to bonds shall be applicable also to contracts entered into under the above provisions of this section. Any such contract may be hypothecated by the unit, and the unit may borrow money under such terms and conditions as it shall determine in anticipation of the receipt of funds under such contract.

History.—S. 4, Ch. 90-411.

315.08 Trust agreement or resolution.—In the discretion of the governing body, any bonds issued under the provisions of this law, be secured by a trust agreement by and between the unit and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the unit in relation to the acquisition of property and the acquisition, construction, improvement, maintenance, repair, lease, operation and insurance of any port facilities in connection with which such bonds shall have been authorized, the custody, safeguarding or application of all moneys, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company so designated under the laws of Florida which may act as depository for the proceeds of bonds or of revenues or other moneys of the unit, to indemnify bonds or to pledge such securities as may be required by the governing body. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee under any such trust agreement, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the governing body may

History.—S. 4, Ch. 90-411.

315.11 Exemption from taxation.—As adequate port facilities are essential for the welfare of the inhabitants and the industrial and commercial development of the area within or served by the unit, and as the exercise of the powers conferred by this law to effect such purposes constitutes the performance of proper public and governmental functions, and as such port facilities constitute public property and are used for public purposes, the unit shall not be required to pay any state, county, municipal or other taxes or assessments thereon, whether located within or without the territorial boundaries of the unit, or upon the income therefrom, and any bonds issued under the provisions of this law, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—S. 4, Ch. 90-411, § 6, Ch. 90-37.

1768

315.12 Bonds, legal investments.—Bonds issued by a unit under the provisions of this law are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, companies, banks, associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or unit officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the unit is now or may hereafter be authorized by law.

History.—s. 12, ch. 59-411.

315.13 Action by resolution.—All action required or authorized to be taken under the provisions of this law by the governing body may be by resolution, which resolution may be adopted at the meeting of the governing body at which such resolution is introduced and shall take effect immediately upon such adoption. Except as otherwise provided in this law, no resolution under this law need be published or posted, nor shall any such resolution require for its passage more than a majority of all the members of the governing body then in office.

History.—s. 13, ch. 59-411.

315.14 Public purposes.—It is hereby determined and declared that each and all of the powers conferred by this law and the exercise thereof are proper public and municipal purposes.

History.—s. 14, ch. 59-411.

315.15 Additional and alternative method.—This law shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to the powers conferred by any other law, either general, special or local, and shall not be regarded as in derogation of any power now existing. Bonds may be issued and any other action may be taken hereunder notwithstanding that any other law, either general, special or local, may provide for the issuance of bonds for a like purpose or for the taking of like action and without regard to the requirements, restrictions or procedural provisions contained in any other law, either general, special or local.

History.—s. 15, ch. 59-411; s. 1, ch. 67-409.

315.16 Liberal construction.—This law, being necessary for the welfare of the inhabitants of the state, shall be liberally construed to effect the purposes thereof.

History.—s. 16, ch. 59-411.

TITLE XXVI

PUBLIC TRANSPORTATION

CHAPTER 334

TRANSPORTATION ADMINISTRATION

- 334.01 Short title.
- 334.02 Declaration of legislative intent.
- 334.021 Integrated balanced state highway system; definitions.
- 334.03 Definitions of words and phrases.
- 334.04 Headquarters of department; rental of office room, etc.
- 334.05 Department of Transportation; statistical studies.
- 334.06 Coordination of highway program; duties of department.
- 334.07 Department of Transportation; employees; benefit fund.
- 334.08 State highway engineer; density and assistance; compensation and duties.
- 334.09 Engineering services.
- 334.10 State to assist counties and municipalities; procedure.
- 334.11 Department to employ legal counsel.
- 334.12 Employment of comptroller and internal auditor; duties; financial records and accounts; and bond for comptroller.
- 334.13 Expenditures.
- 334.14 Budgets; preparation, adoption, execution, and amendment.
- 334.15 Working Capital Trust Fund created; expenditure of such funds, etc.
- 334.16 Transportation planning.
- 334.17 Coordination of Central Florida Corridor planning.
- 334.18 Transportation planning organization.
- 334.19 Annual reports.
- 334.20 Annual audit by Auditor General.
- 334.21 Performance audits.
- 334.22 Road appraisal reports; research studies.
- 334.23 Seal of department.
- 334.01 Short title.—Chapters 334.039 and 341 may be cited as the Florida Transportation Code.
- 334.02 Declaration of legislative intent.—Recognizing that safe and efficient transportation is a matter of important interest to all the people of the state, the Legislature hereby determines and declares that:
- (1) The development of a balanced and efficient transportation system adequate to meet the current and future transportation needs of the state is essential to the commercial life and general welfare of the people of the state and to the national defense;

188

F.S. 1983

TRANSPORTATION ADMINISTRATION

Ch. 334

system of roads connecting urban streets and other transportation facilities to provide safe and efficient transportation throughout the state. The authority hereunder granted to the department and to counties and municipalities to assist and cooperate with each other and to coordinate their activities is therefore essential.

(10) The Legislature hereby finds, determines, and declares that this code is necessary for the preservation of the public safety, the promotion of the general welfare, the improvement and development of transportation facilities in the state, including the most effective utilization of parkways, scenic drives, residential streets and roads, elimination of hazards at grade intersections, and other related purposes, and as a contribution to the national defense.

History.—s. 1, ch. 2066, 1968, as 2, ch. 69, 1969, as 3, ch. 70, 1969.

334.021 Integrated balanced state highway system; definitions.—

(1) Every state agency, county, city, public body, authority, special district, expressway authority presently existing under chapter 348 or chapter 349, and any other authority created by special or general law for the purpose of providing for the maintenance, construction or improvement of public roads, streets, bridges, highways, and other facilities for travel by the public is authorized to expend the same for the general purpose of developing an integrated, efficient, and well-balanced transportation system in this state, restrictive provisions of any statutes or other governmental ordinances and regulations to the contrary notwithstanding.

(2) Nothing in the broad authorization set forth in subsection (1) shall be construed to permit the expenditure of public funds in such manner or for such projects as would violate the State Constitution or the trust indenture of any bond issue or which would cause the state to lose any federal aid funds for highway or transportation purposes; and the provisions of this section shall be applied in a manner to avoid such result.

(3) Each expressway authority or transportation, mass transit, or other similar authority existing under law or hereafter created shall submit overall design and construction plans to the Department of Transportation prior to any construction for purposes of state transportation system. The construction of any transportation facility shall be approved by the department prior to the commencement of construction if it:

- (a) Requires maintenance through either the utilization of Department of Transportation personnel or the use of primary road funds; or
- (b) Entails the substantial use of any gas tax funds other than primary.

However, if no determination is made by the department within 90 days after receiving the plans, they shall become effective.

(4) To assist and aid in the implementation of an integrated and balanced transportation system, the following words and phrases shall, for the purposes of

189

attaining this goal, have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

- (a) "Mass transit facility" means all forms of transportation located on land, water, or air for the transportation of people.
- (b) "Roads" include streets, sidewalks, alleys, highways, and other ways open to travel by the public, including the right-of-way, and all culverts, drains, ditches, bridges, retaining walls, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel, and all ferries used in connection therewith. For purposes of public expenditures the term "road" or "roads" also includes all means for the transportation of people and property from place to place constructed, operated, or maintained in whole or in part from public funds.
- (c) "Transportation facility" or "transportation facilities" means the property or property rights, both real and personal, of a type used for the establishment of public transportation systems which have heretofore or may hereafter be established by public bodies for the transportation of people and property from place to place.

History.—s. 1, ch. 2066, 1968, as 2, ch. 69, 1969, as 3, ch. 70, 1969.

334.03 Definitions of words and phrases.—

—The following words and phrases when used in this code shall, unless the context clearly indicates otherwise, have the following meanings:

- (1) "Commissioners."—Board of county commissioners.
- (2) "Department."—The Department of Transportation.
- (3) "Freeway."—An expressway with full control of access.
- (4) "Limited access facility."—A street or highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be parkways, from which trucks, buses, and other commercial vehicles shall be excluded; they may be freeways open to use by all customary forms of street and highway traffic.
- (5) "Municipal connecting links."—City and town streets and roads, or portions thereof, including structures that constitute routes between, or extensions of, said roads in the state highway system and feeder roads from bypassed areas.
- (6) "Person."—Any person, firm, partnership, association, corporation, cooperation, organization, or business trust.
- (7) "Road."—The term "road" shall be construed to include streets, sidewalks, alleys, highways, and other ways open to travel by the public, including the roadbed, right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

(8) "Right of access."—The right of ingress to a highway from abutting land and egress from a highway to abutting land.

(9) "Right-of-way."—Land in which the state, the department, a county, or a municipality owns the fee or has an easement devoted to or required for the use as a public park road system.

(10) "State park road system."—Roads embraced in boundaries of state parks and state roads leading to state parks other than municipal roads.

(11) "State road."—All streets, roads, highways, and other public ways open to travel by the public generally and dedicated to the public use, according to law, and prescribed, and designated by the department as provided by law as parts of the state highway system, including the roadbed, right-of-way, embankments, slopes, retaining walls, sidewalks, bridges, tunnels, and viaducts necessary for the maintenance of travel thereon and all ferries in connection therewith.

(12) "Structures."—Bridges, viaducts, tunnels, causeways, approaches, ferry slips, culverts, toll-houses, and gates and other similar facilities used in connection with roads.

(13) "Sufficiency rating."—The objective rating of a road or section of a road for the purpose of determining its capability to serve properly the actual or anticipated volume of traffic passing over it.

(14) "Functional classification."—The assignment of roads into categories according to the character of service to be provided in relation to the total road network. Basic functional categories include arterial, collector, and local roads which may be subdivided into principal, major, or minor levels. These levels may be additionally divided into rural and urban categories.

(15) "Arterial road."—A route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, all United States numbered highways shall be arterial roads.

(16) "Collector road."—A route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. These routes also collect and distribute traffic between local roads or arterial roads and serve as a linkage between land access and mobility needs.

(17) "Local road."—A route providing service which is of relatively low average traffic volume, short average trip length, and limited through-traffic movements, and high land access for abutting property.

(18) "Urban area."—A geographical region comprising as a minimum the United States Census defined boundary of an urban place of 5,000 population, expanded to include adjacent areas as provided for by federal highway administration regulations.

(19) "Urbanized area."—An urban area having a central city or twin cities of more than 50,000 population.

(20) "General principal arterial roads."—Routes which generally serve the major centers of activity in an urban area, the highest traffic volume corridors,

and the longest trip purpose and carry a high proportion of the total urban travel on a minimum of mileage. The major roads are integrated, both internally and externally, with the state highway system.

(21) "Urban minor arterial roads."—Routes which generally interconnect with, and augment, urban principal arterial roads and provide service to trips of shorter length and a lower level of travel mobility. Minor arterial routes include all arterials not classified as principal and contain facilities that place more emphasis on land access than the higher system.

(22) "State highway system."—The state highway system shall consist of the following:

(a) The interstate system;

(b) All rural arterial routes and their extensions into and through urban areas;

(c) All urban principal arterial routes; and

(d) Those minor road system as of July 1, 1977, with existing principal road system as of July 1, 1977, which are segments of such routes which lie between and connect those parts of the routes previously included in the primary system and which are necessary to provide continuity to the system; except that no segment in excess of 2 miles shall be so added.

However, not less than 2 percent of the public road mileage of each urbanized area shall be included as minor arterials in the state highway system. Urbanized areas not meeting this requirement shall be included as additional minor arterials of the highest significance in the total minor arterials in the state highway system from any urbanized area shall contain not less than 25 percent of said area's total public urban road mileage. Excluding the interstate system, the state highway system shall be limited to 11,300 miles.

(23) "County road system."—The county road system of each county shall consist of all collector roads in the unincorporated areas and all extensions of such collector roads into and through any incorporated areas, all local roads in the unincorporated areas, and all urban minor arterials not in the state highway system.

(24) "City street system."—The city street system of each municipality shall consist of all local roads within that municipality and all collector roads in the unincorporated areas, which are not in the county road system.

(25) "Routine maintenance."—Pavement patching, shoulder repair, cleaning and repair of drainage ditches and structures, mowing, bridge inspection and maintenance, pavement stripping, litter cleanup, and such other similar activities of a minor scope as are necessary to maintain a safe and efficient transportation system.

(26) "Periodic maintenance."—Activities which are large in scope and require a major work effort to restore deteriorated components of the transportation system to a safe and serviceable condition, including, but not limited to, the repair and bridge structures, major repairs to long length sections of roadway. Within the meaning of s. 9, Art. XII of the State Constitution, major resurfacing, widening, and

reconstruction of roads shall be considered "construction." History.—s. 2, ch. 2965, 1955; s. 1, ch. 31, 1957; s. 1, ch. 63, 1957; s. 1, ch. 70, 1958; s. 1, ch. 71, 1958; s. 1, ch. 72, 1958; s. 1, ch. 73, 1958; s. 1, ch. 74, 1958; s. 1, ch. 75, 1958; s. 1, ch. 76, 1958; s. 1, ch. 77, 1958; s. 1, ch. 78, 1958; s. 1, ch. 79, 1958; s. 1, ch. 80, 1958; s. 1, ch. 81, 1958; s. 1, ch. 82, 1958; s. 1, ch. 83, 1958; s. 1, ch. 84, 1958; s. 1, ch. 85, 1958; s. 1, ch. 86, 1958; s. 1, ch. 87, 1958; s. 1, ch. 88, 1958; s. 1, ch. 89, 1958; s. 1, ch. 90, 1958; s. 1, ch. 91, 1958; s. 1, ch. 92, 1958; s. 1, ch. 93, 1958; s. 1, ch. 94, 1958; s. 1, ch. 95, 1958; s. 1, ch. 96, 1958; s. 1, ch. 97, 1958; s. 1, ch. 98, 1958; s. 1, ch. 99, 1958; s. 1, ch. 100, 1958; s. 1, ch. 101, 1958; s. 1, ch. 102, 1958; s. 1, ch. 103, 1958; s. 1, ch. 104, 1958; s. 1, ch. 105, 1958; s. 1, ch. 106, 1958; s. 1, ch. 107, 1958; s. 1, ch. 108, 1958; s. 1, ch. 109, 1958; s. 1, ch. 110, 1958; s. 1, ch. 111, 1958; s. 1, ch. 112, 1958; s. 1, ch. 113, 1958; s. 1, ch. 114, 1958; s. 1, ch. 115, 1958; s. 1, ch. 116, 1958; s. 1, ch. 117, 1958; s. 1, ch. 118, 1958; s. 1, ch. 119, 1958; s. 1, ch. 120, 1958; s. 1, ch. 121, 1958; s. 1, ch. 122, 1958; s. 1, ch. 123, 1958; s. 1, ch. 124, 1958; s. 1, ch. 125, 1958; s. 1, ch. 126, 1958; s. 1, ch. 127, 1958; s. 1, ch. 128, 1958; s. 1, ch. 129, 1958; s. 1, ch. 130, 1958; s. 1, ch. 131, 1958; s. 1, ch. 132, 1958; s. 1, ch. 133, 1958; s. 1, ch. 134, 1958; s. 1, ch. 135, 1958; s. 1, ch. 136, 1958; s. 1, ch. 137, 1958; s. 1, ch. 138, 1958; s. 1, ch. 139, 1958; s. 1, ch. 140, 1958; s. 1, ch. 141, 1958; s. 1, ch. 142, 1958; s. 1, ch. 143, 1958; s. 1, ch. 144, 1958; s. 1, ch. 145, 1958; s. 1, ch. 146, 1958; s. 1, ch. 147, 1958; s. 1, ch. 148, 1958; s. 1, ch. 149, 1958; s. 1, ch. 150, 1958; s. 1, ch. 151, 1958; s. 1, ch. 152, 1958; s. 1, ch. 153, 1958; s. 1, ch. 154, 1958; s. 1, ch. 155, 1958; s. 1, ch. 156, 1958; s. 1, ch. 157, 1958; s. 1, ch. 158, 1958; s. 1, ch. 159, 1958; s. 1, ch. 160, 1958; s. 1, ch. 161, 1958; s. 1, ch. 162, 1958; s. 1, ch. 163, 1958; s. 1, ch. 164, 1958; s. 1, ch. 165, 1958; s. 1, ch. 166, 1958; s. 1, ch. 167, 1958; s. 1, ch. 168, 1958; s. 1, ch. 169, 1958; s. 1, ch. 170, 1958; s. 1, ch. 171, 1958; s. 1, ch. 172, 1958; s. 1, ch. 173, 1958; s. 1, ch. 174, 1958; s. 1, ch. 175, 1958; s. 1, ch. 176, 1958; s. 1, ch. 177, 1958; s. 1, ch. 178, 1958; s. 1, ch. 179, 1958; s. 1, ch. 180, 1958; s. 1, ch. 181, 1958; s. 1, ch. 182, 1958; s. 1, ch. 183, 1958; s. 1, ch. 184, 1958; s. 1, ch. 185, 1958; s. 1, ch. 186, 1958; s. 1, ch. 187, 1958; s. 1, ch. 188, 1958; s. 1, ch. 189, 1958; s. 1, ch. 190, 1958; s. 1, ch. 191, 1958; s. 1, ch. 192, 1958; s. 1, ch. 193, 1958; s. 1, ch. 194, 1958; s. 1, ch. 195, 1958; s. 1, ch. 196, 1958; s. 1, ch. 197, 1958; s. 1, ch. 198, 1958; s. 1, ch. 199, 1958; s. 1, ch. 200, 1958; s. 1, ch. 201, 1958; s. 1, ch. 202, 1958; s. 1, ch. 203, 1958; s. 1, ch. 204, 1958; s. 1, ch. 205, 1958; s. 1, ch. 206, 1958; s. 1, ch. 207, 1958; s. 1, ch. 208, 1958; s. 1, ch. 209, 1958; s. 1, ch. 210, 1958; s. 1, ch. 211, 1958; s. 1, ch. 212, 1958; s. 1, ch. 213, 1958; s. 1, ch. 214, 1958; s. 1, ch. 215, 1958; s. 1, ch. 216, 1958; s. 1, ch. 217, 1958; s. 1, ch. 218, 1958; s. 1, ch. 219, 1958; s. 1, ch. 220, 1958; s. 1, ch. 221, 1958; s. 1, ch. 222, 1958; s. 1, ch. 223, 1958; s. 1, ch. 224, 1958; s. 1, ch. 225, 1958; s. 1, ch. 226, 1958; s. 1, ch. 227, 1958; s. 1, ch. 228, 1958; s. 1, ch. 229, 1958; s. 1, ch. 230, 1958; s. 1, ch. 231, 1958; s. 1, ch. 232, 1958; s. 1, ch. 233, 1958; s. 1, ch. 234, 1958; s. 1, ch. 235, 1958; s. 1, ch. 236, 1958; s. 1, ch. 237, 1958; s. 1, ch. 238, 1958; s. 1, ch. 239, 1958; s. 1, ch. 240, 1958; s. 1, ch. 241, 1958; s. 1, ch. 242, 1958; s. 1, ch. 243, 1958; s. 1, ch. 244, 1958; s. 1, ch. 245, 1958; s. 1, ch. 246, 1958; s. 1, ch. 247, 1958; s. 1, ch. 248, 1958; s. 1, ch. 249, 1958; s. 1, ch. 250, 1958; s. 1, ch. 251, 1958; s. 1, ch. 252, 1958; s. 1, ch. 253, 1958; s. 1, ch. 254, 1958; s. 1, ch. 255, 1958; s. 1, ch. 256, 1958; s. 1, ch. 257, 1958; s. 1, ch. 258, 1958; s. 1, ch. 259, 1958; s. 1, ch. 260, 1958; s. 1, ch. 261, 1958; s. 1, ch. 262, 1958; s. 1, ch. 263, 1958; s. 1, ch. 264, 1958; s. 1, ch. 265, 1958; s. 1, ch. 266, 1958; s. 1, ch. 267, 1958; s. 1, ch. 268, 1958; s. 1, ch. 269, 1958; s. 1, ch. 270, 1958; s. 1, ch. 271, 1958; s. 1, ch. 272, 1958; s. 1, ch. 273, 1958; s. 1, ch. 274, 1958; s. 1, ch. 275, 1958; s. 1, ch. 276, 1958; s. 1, ch. 277, 1958; s. 1, ch. 278, 1958; s. 1, ch. 279, 1958; s. 1, ch. 280, 1958; s. 1, ch. 281, 1958; s. 1, ch. 282, 1958; s. 1, ch. 283, 1958; s. 1, ch. 284, 1958; s. 1, ch. 285, 1958; s. 1, ch. 286, 1958; s. 1, ch. 287, 1958; s. 1, ch. 288, 1958; s. 1, ch. 289, 1958; s. 1, ch. 290, 1958; s. 1, ch. 291, 1958; s. 1, ch. 292, 1958; s. 1, ch. 293, 1958; s. 1, ch. 294, 1958; s. 1, ch. 295, 1958; s. 1, ch. 296, 1958; s. 1, ch. 297, 1958; s. 1, ch. 298, 1958; s. 1, ch. 299, 1958; s. 1, ch. 300, 1958; s. 1, ch. 301, 1958; s. 1, ch. 302, 1958; s. 1, ch. 303, 1958; s. 1, ch. 304, 1958; s. 1, ch. 305, 1958; s. 1, ch. 306, 1958; s. 1, ch. 307, 1958; s. 1, ch. 308, 1958; s. 1, ch. 309, 1958; s. 1, ch. 310, 1958; s. 1, ch. 311, 1958; s. 1, ch. 312, 1958; s. 1, ch. 313, 1958; s. 1, ch. 314, 1958; s. 1, ch. 315, 1958; s. 1, ch. 316, 1958; s. 1, ch. 317, 1958; s. 1, ch. 318, 1958; s. 1, ch. 319, 1958; s. 1, ch. 320, 1958; s. 1, ch. 321, 1958; s. 1, ch. 322, 1958; s. 1, ch. 323, 1958; s. 1, ch. 324, 1958; s. 1, ch. 325, 1958; s. 1, ch. 326, 1958; s. 1, ch. 327, 1958; s. 1, ch. 328, 1958; s. 1, ch. 329, 1958; s. 1, ch. 330, 1958; s. 1, ch. 331, 1958; s. 1, ch. 332, 1958; s. 1, ch. 333, 1958; s. 1, ch. 334, 1958; s. 1, ch. 335, 1958; s. 1, ch. 336, 1958; s. 1, ch. 337, 1958; s. 1, ch. 338, 1958; s. 1, ch. 339, 1958; s. 1, ch. 340, 1958; s. 1, ch. 341, 1958; s. 1, ch. 342, 1958; s. 1, ch. 343, 1958; s. 1, ch. 344, 1958; s. 1, ch. 345, 1958; s. 1, ch. 346, 1958; s. 1, ch. 347, 1958; s. 1, ch. 348, 1958; s. 1, ch. 349, 1958; s. 1, ch. 350, 1958; s. 1, ch. 351, 1958; s. 1, ch. 352, 1958; s. 1, ch. 353, 1958; s. 1, ch. 354, 1958; s. 1, ch. 355, 1958; 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334.18 Department to employ legal counsel.

complement shall certify to any county the balance

required by subsections (3) and (7) shall present

of the annual program budget shall be for the
ing five years and shall be referred to

exceed an amount that would prevent the department from meeting the expenditure requirements for the 5-year construction plan.

The 5-year construction plan shall include a summary of construction and right-of-way land acquisition appropriation categories to show the amounts programmed in each appropriation category by district.

3. Projects shall not be undertaken unless they are listed in the annual construction plan. However, in case any road project listed in such plan cannot be undertaken during that year for any justifiable reason, then another project listed in order of priority in the 5-year construction plan may be undertaken. This provision shall not apply to unforeseen emergency projects approved by the department. Projects which are estimated to cost less than \$20,000 and approved by the department must be undertaken to protect a highway or state road.

(b) In addition to the projects included in the 5-year construction plan, the department, beginning with the budget year which starts on or after July 1, 1970, and each year thereafter, each county, municipality, and other governmental unit responsible for the construction and maintenance of roads and streets shall submit to the appropriate district engineer, with a copy to the department, a plan of work for the construction and maintenance of roads and streets within its jurisdiction for the ensuing 5 years, listing the estimated amounts to be expended on each project during each budget year. The local plan of work for roads and streets as herein provided shall be prepared by the county or city engineer or superintendent of roads for the local subdivision responsible for the construction and maintenance of such roads and streets.

(c) Prior to the annual adoption of the 5-year construction plan, the department shall hold public hearings in each of the transportation districts to give consideration to the necessity of making any changes to projects included or to be included in the 5-year construction plan and to hear requests for new projects to be added to, or existing projects to be deleted from, the 5-year construction plan.

(d) The 5-year construction plan prepared under the provisions of this subsection shall be submitted to the legislative appropriations committees prior to the start of each regular legislative session.

(e) Beginning with the 1983-1985 biennium, the department shall develop and maintain a list of projects that could be made production-ready within the biennium to use additional sources of state revenue. The list shall consist of projects defining programs for the interstate system; noninterstate road and bridge rehabilitation and replacement; traffic operations; public transportation; and major regional and bridge construction. Program amounts shall not exceed approximately 50 percent of the current total annual program in the biennium. The department to allocate limits may be established by the department to accommodate annual federal funding actions. Program amounts shall include all project phases. If any of these stated programs is not funded in the biennium plan, the department may determine an appropriate amount.

194

making of contracts for a period exceeding 1 year, but any contract so made shall be executed only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the department in excess of \$25,000 and having a term for a period of more than 1 year.

(b) In the operation of its state road fund, the department shall have on hand at the close of business, which closing shall not be later than the 10th calendar day of the month following the end of each quarter of the fiscal year, an available cash balance, which shall include cash on deposit with the treasury, unexpended amounts of the department, and reimbursement from the Federal Government equivalent to not less than 5 percent of the unpaid balance of all primary fund obligations at the close of such quarter. In the event this cash position is not maintained, no further state road or restricted fund construction contracts or other fund commitments shall be approved, entered into, awarded, or executed until the cash balance, as defined above, has been regained.

(c) AMENDMENT OF THE FINAL ANNUAL PROGRAM BUDGET.—The department shall have the authority to amend its final annual program budget and 5-year construction plan at any time during the fiscal year as follows: 1. It may:

(a) Transfer within the same fund any unexpended budget item, or any portion thereof, from one activity to another.

(b) Transfer between the state road fund and the restricted fund between restricted funds, within the provisions of the restrictions by law or by agreement, to the expenditure of such funds, any unexpended funds.

(c) Budget in the proper fund and expend any receipts not anticipated in the adoption of the budget or receipts in excess of the total anticipated receipts in the adopted budget.

(d) Substitute a project in the funded 5-year construction plan for any other project in the 5-year construction plan; however, when any such substitution results in the delay of the right-of-way or construction phases of a project estimated to cost in excess of \$500,000, the department shall notify the legislative appropriations committees and transportation committees. The transportation committees shall notify each member of the Legislature who represents the district or districts affected by the substitution. Such notification shall include the reasons for the substitution and the limited costs of any project that is advanced in the 5-year construction plan as a result of the delay of another project.

(e) Add a project as approved by the department when funds are available when the project is less than \$150,000 in cost and when the addition would not cause a delay of existing projects or add a project as approved by the department when the project is not funded with State Transportation Trust Fund monies.

(f) Add to, delete from, or reschedule in the funded 5-year construction plan projects implemented from aid to local governments—public transportation matching grants in order to reflect local government decisions; however, when any such addition, deletion,

or rescheduling results in the delay of a project right of way phase or construction phase of a project estimated to cost in excess of \$500,000, the notification process required in paragraph (d) shall be observed.

Section 334.2105, Florida Statutes, is amended to read:

334.2105 Working Capital Trust Fund created; expenditure of such funds, etc.—

(1) There is hereby created a Working Capital Trust Fund, which fund shall be deposited in a noninterest-bearing account in the department of transportation and approved by the Executive Office of the Governor for the efficient operation of the department. Such amount may be obtained from any trust fund or funds under the control and custody of the department. The Working Capital Trust Fund may be used to pay any and all bills of the department; provided, however, in the succeeding month, the appropriate trust fund shall reimburse the Working Capital Trust Fund for all expenditures properly attributable to such reimbursing trust funds; and provided the use of such expended trust funds shall not delay or impair a county project of any county contributing to the fund.

(2) The department is authorized to use a single cash control for the fund charges for other budget titles on a unit cost basis for services rendered to the Burns Data Center and Centralized Mobile Equipment and Warehouse Operations budget internal. The department shall maintain adequate internal records to record these charges and reflect these as commitments on a quarterly basis. The Governor may be submitted to the Executive Office of the Governor no later than 25 calendar days after the close of each calendar quarter. In addition, the appropriation categories entitled "Data Processing Services" shall continue to be reflected in the legislative budget system as specific appropriations.

Section 334.211, Florida Statutes, is amended to read:

334.211 Transportation planning.—

(1) PURPOSES.—For the purposes of this chapter, the following definitions shall be employed:

(a) Local governmental body.—The term "local governmental body" means the governing body of the city, town, municipality, county, or other local governing unit in the area in which the transportation facility will be located.

(b) Major transportation facility.—The term "major transportation facility" means:

1. Any facility primarily designed to rapidly and efficiently transport goods and passengers between distant points, including, but not limited to, air transport facilities, railroads, bus service terminals, freeways, expressways, major arterial highways, belt highways, and port facilities; or

2. Any facility utilized in providing a mass transit system for a standard metropolitan statistical area.

(c) Standard metropolitan statistical area.—The term "standard metropolitan statistical area" means a county or group of contiguous counties which contain at least one central city of 50,000 in-

195

habitants or more or "twin cities" with a combined population of at least 80,000 or such other population estimate may be provided by law.

(d) "Urban area" means an area including, but not limited to, a municipality and other urban centers, together with the adjacent rural areas, more or less as determined by the latest available federal census or such other population figures as may be provided by law within boundaries to be fixed by the State Department of Transportation.

(e) "Transportation corridor" means a strip of land between two termini within which traffic, topography, environment and other characteristics are evaluated for transportation purposes.

(f) "DUTIES OF DEPARTMENT: COMPREHENSIVE PLANS REQUIRED" — Comprehensive plans shall be developed by the department in conjunction with appropriate local governmental bodies and with planning agencies, if any, for all standard and metropolitan statistical areas and those areas which the department will determine, based upon population projections, will be included in a standard metropolitan statistical area by 1980. Comprehensive plans for other urban areas shall be made or deemed necessary by the department. Priority for developing comprehensive plans shall be given to areas in which immediate construction of major transportation facilities is anticipated. In developing comprehensive plans, the department shall take into account:

- Future as well as present needs;
- All possible alternative modes of transportation;
- The joint use of transportation corridors and major transportation facilities for alternate transportation and community uses;
- The integration of any proposed system into all other types of transportation facilities in the community.

(d) The coordination with other development plans in the community so as to facilitate and synthesize the transportation system.

(f) The total environment of the community and region including land use, entrepreneurial decisions, population, travel patterns, traffic control features, ecology, pollution effects, aesthetics, safety, and social and community values.

(3) COORDINATION WITH OTHER GOVERNMENTAL BODIES —

(a) In order to insure an integrated transportation system, the location of transportation facilities in urban areas shall be coordinated with the planning agency of the affected local governmental bodies.

(b) In order to insure that the plan includes consideration of the convenience, safety, comfort, aesthetics, and ecology of the state and the community in which the facilities are to be located, the department shall cooperate and consult with the U. S. Department of Transportation and with appropriate departments of state government prior to determining the location of any major transportation facility.

(c) REGIONAL OR LOCAL TRANSPORTATION PLANS —

(a) The department may adopt local or regional transportation plans as part of, or in lieu of, the department's plans.

ately prior to the hearing date in a newspaper of general circulation for the area affected.

3. A copy of the notice of opportunity for public hearing shall be furnished to the U. S. Department of Transportation and to the appropriate departments of the state government at the time of publication.

4. The opportunity for another public hearing shall be afforded in any case when proposed locations or designs are so changed from those presented in the notices specified above, or at a public hearing as to have a substantially different social, economic, or environmental effect.

5. The opportunity for a public hearing shall be afforded in each case in which the department is in doubt as to whether a public hearing is required.

(7) RULES AND REGULATIONS — The Department of Transportation shall promulgate any rules and regulations consistent with its practices that it deems necessary in order to implement the provisions of this section.

Effective 2008-1-1, ch. 33, § 305, 1, ch. 72, § 102, § 110.01, Official Code of Florida Statutes.

334.212 Coordination of Central Florida Corridor planning. — All future studies and planning for the Central Florida Corridor shall be coordinated with the legislative transportation committees, local government, and technical advisory committees, which shall be recognized as the official policy and technical committees for the Central Florida Corridor project.

Effective 2008-1-1, ch. 72, § 102, § 110.01, Official Code of Florida Statutes.

334.215 Transportation planning organization. —

(1) There shall be a metropolitan planning organization, hereinafter referred to as the "M.P.O.", established within each urbanized area where a planning organization is necessary to meet federal requirements for obtaining and expending federal transportation funds. The M.P.O., a composite local governmental entity, or any successor thereto, shall be so designated by the Governor in any area where an M.P.O. is required by federal law or regulation.

(2) The voting membership of the M.P.O. shall consist of not less than 33 percent of the county members, the exact number to be determined on an equitable geographic population basis by the Governor, except that in no case shall the county commission members be less than 33 percent of the M.P.O. membership. All voting members shall be elected officials of general purpose governments, except local governing bodies having two or more members on the M.P.O. may appoint, as one of their authorized planning board, transportation or expressway authority, aviation authority, or port authority. In urbanized areas where authorities or other agencies have been, or may be, created by law to perform transportation functions that are not under the jurisdiction of local elected officials, they may be considered by the Governor for one voting membership on the M.P.O. The M.P.O. shall be created under this section and operated under the provisions of s. 163.011, Florida Interlocal Cooperation Act of 1983. The signatories to the interlocal agreement

shall be responsible for transport.

shall be the governmental entities designated by the Governor for membership in the M.P.O. and the Department of Transportation, hereinafter referred to as the department. In the event there is a conflict between the provisions of this section and s. 163.011, the provisions of this section shall prevail.

(3) The Governor shall appoint the membership among the various governmental entities within the area on the basis of equitable population ratio and geographic factors. The governing body of each governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the M.P.O. shall serve as nonvoting members of the department, as deemed necessary. The Governor shall reappoint the M.P.O. membership at least every 5 years. Metropolitan planning organization members shall serve 4-year terms. Membership shall terminate upon the member leaving his elective or appointive office for any reason, or by a majority vote of the total membership of a county or city governing body represented by the member. Vacancies shall be filled by the original appointing body. Members may be reappointed for one or more additional 4-year terms.

(4) If any municipality or county fails to fill an assigned appointment to the M.P.O. within 60 days of the expiration of the term of its duty to appoint, that appointment shall be made by the Governor from the eligible representatives of that municipality or county.

(5) The authority and responsibility of the M.P.O. is for the management of a continuing, cooperative, and comprehensive transportation planning process that results in the development of plans and programs consistent with the comprehensive planned development of the urbanized area. The M.P.O. shall be the forum for cooperative decision-making by principal elected officials of general purpose local government.

(6) The M.P.O. shall be responsible for initiating federally aided transportation facilities and improvements within its urbanized area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto.

(7) The department shall be responsible for initiating federally aided urban extension and interstate system projects. Subsequent to July 1, 1979, an urban extension or interstate system project, which is part of the approved long-range transportation plan for the urbanized area, shall be initiated by the department and included in the Transportation Improvement Program with the approval of the M.P.O. When such a project has advanced either to the point of acquisition of right-of-way or after completion of all design plans, it can be removed from the Transportation Improvement Program only by joint action of the M.P.O. and the department.

(8) Major federal aid projects in the Transportation Improvement Program, and included in the first 2 years of the department's 5-year construction work program, which must be rescheduled by the department, shall require modification to the M.P.O. at the time such changes are made.

(9) The M.P.O. shall be responsible for transport.

tation-related air, noise, and water quality planning within the urbanized area as assigned to it by federal or state laws or rules or regulations.

(10) The powers, privileges, and authority of the M.P.O. are those specified in this section and incorporated in the interlocal agreement authorized under s. 163.01. The duties of the M.P.O. are described as those required by federal and state laws and rules and regulations, now and subsequently applicable, necessary to qualify the urbanized areas of the state to receive all federal and transportation funds for which they are legally eligible as consequence of the proper exercise of such duties. Such duties shall include, in cooperation with the department, the following functions, and as these functions may subsequently be amended or expanded by federal and state laws or rules or regulations:

1. A long-range planning program.

2. A multipurpose planning plan, consisting of a long-range element and a transportation systems management element.

3. An annual unified planning work program.

4. An annually updated Transportation Improvement Program, which shall consist of improvements recommended from the transportation systems management and long-range elements of the transportation plan, and shall:

a. Identify transportation improvements recommended for advancement during the program period; b. Indicate the area's priorities; c. Group improvements of similar urgency and anticipated staging into appropriate staging periods; d. Include realistic estimates of total costs and revenues for the program period; e. Include a discussion of how improvements recommended from the long-range element and the transportation systems management element were merged into the program.

(b) Recommendation to the department and local county and city governments regarding transportation plans, programs, and projects to better ensure their compatibility with the long-range plans and programs of the M.P.O.

(c) Representation of all the jurisdictional areas within the urbanized limits in the formulation of the transportation plans and programs defined herein and otherwise authorized by state and federal laws and rules and regulations.

(d) Performance of other duties delegated to it by federal and state laws or rules or regulations.

(11) The M.P.O. is to be responsible, in cooperation with the department, for transportation modes under the control of the Federal Highway Administration and the Federal Urban Mass Transportation Administration or any successor agency. Other modes such as, but not limited to, air, intercity rail, water, and pipelines can materially impact on the future land use and transportation accessibility of urbanized areas. It is the intent of this section that an M.P.O. should be involved in planning and programming for such facilities to the extent permitted by federal and state laws, rules, regulations, and available funds.

(12) There shall be a written agreement between

M.P.O. and shall appoint the nonvoting representatives of the department in accordance with existing agreements between the M.P.O. and the department or as deemed necessary in the absence of such agreement. This subsection shall supersede the provisions of subsections (2) and (3) which, in whole or in part, are in conflict herewith.

(21) Each existing M.P.O. shall continue to function until an M.P.O. for that urbanized area can be established under this section. But in no case shall the existing entities continue to function after January 1, 1988.

(22) All agreements, contracts, and other commitments which are in force at the time that the existing M.P.O. is replaced by the M.P.O. established under this section shall remain in force. Provisions for amending or canceling existing agreements, contracts, and other commitments, contained within each such document, may be exercised by the M.P.O. after it has been legally designated.

(23) Upon notification by an agency of the Federal Government that any provision herein, conflicts with federal laws or regulations, the federal laws or regulations shall take precedence to the extent of the conflict and until it is resolved; and such actions as are necessary to be taken to comply with federal laws and regulations in order to receive federal funds shall be permitted.

(24) Each metropolitan planning organization required under this section shall be fully operative no later than 6 months following designation by the Governor.

History.—s. 1, ch. 73, 1981, 1, ch. 47.

334.22. Annual reports.—

(1) The department shall report to the Governor not later than 60 days before the meeting of each session of the Legislature such changes in the laws as the department may determine as being expedient to secure the best results in road construction and repair work.

(2) The department shall also file with the Governor not later than 60 days prior to such meeting of each session of the Legislature a report covering the operation of the department for the preceding fiscal year, which shall include a summary statement of the financial operations of the department and any other fiscal information that the Governor may request.

History.—s. 21, ch. 7965, 1965, s. 2, ch. 60, 1967, s. 1, ch. 3, 1971.

334.23. Annual audit by Auditor General.—The Auditor General shall make an annual audit of the books and accounts of the department and shall report on each. The department is authorized to reimburse the Auditor General for the expense of the annual audit. A copy of the annual audit shall be filed with the Secretary of the Senate and the Clerk of the House of Representatives for the use and benefit of the Legislature.

History.—s. 22, ch. 7965, 1965, s. 8, ch. 60, 1967, s. 23, ch. 68, 1968.

334.235. Performance audits.—The Auditor General shall conduct periodic performance audits, as defined in s. 11.45, of the following functions and processes of the department, which audits shall include, at a minimum, a review of:

(1) CONSULTANT CONTRACTING.—The audit shall include a review of the need for consultants, the process used to select consultants and award contracts, the administration of contracts by the department, and the internal review process used to develop contract terms and conditions. In evaluating the selection and award process, the Auditor General shall specifically address the relative merits of alternative processes used by other governmental agencies when conducting for similar work. In comparing the non-consultant processes used by the department with those of other governmental agencies, the Auditor General shall also make a detailed review of the determination of fees.

(2) CONSTRUCTION CONTRACTS.—The audit shall include a review of construction contract award processes and the internal process used to develop contract terms and conditions and a review of the justification for supplemental agreements, time extensions, waivers of liquidated damage provisions, and the adequacy of construction engineering inspections by the department.

(3) QUALITY OF DESIGN PLANS.—The audit shall include an analysis of the quality of design plans used by the department and an analysis of the cost effectiveness of consolidating all or part of the design functions of the department into a single unit. The Auditor General shall compare the relative merits and costs of performing design work in-house as opposed to contracting for design services.

(4) RIGHT OF WAY ACQUISITION PROCESS.—The audit shall include a review of the entire process used to acquire rights-of-way and, as a minimum, shall specifically address the appraisal and condemnation processes.

(5) ENFORCEMENT OF OVERWEIGHT LAWS.—The audit shall include an analysis of the enforcement of overweight penalties by the department and an analysis of the adequacy of the state's overweight penalties.

(6) INSPECTOR GENERAL'S FUNCTIONS.—The audit shall include a review of the effectiveness of the department's inspector general program and specifically address internal management reviews of consultant contracts and the use of internal audit recommendations by the department in the award of contracts. The Auditor General shall also analyze the frequency with which such internal reviews are conducted and the efforts by the department to implement recommendations made by its inspector general.

(7) MINORITY PROGRAMS.—The audit shall include a review of the department's performance of the department for at least the last 5 years in employing minorities and the use of minority business enterprises in implementing the expenditure of both federal and state dollars. The audit should also include a comparison of the programs of the department with those of other states and recommendations for improvements.

The performance audits required by this section shall first be submitted to the Legislature on or before February 1, 1984. Thereafter, the Auditor General shall make performance audits of department functions or programs identified in this section or of other

department functions or programs whenever directed to do so by the Legislature or the Joint Legislative Auditing Committee. The Auditor General shall also report to the Legislature on the efforts made by the department to rectify problems noted in prior audits. *History.—s. 1, ch. 817.*

334.24 Road appraisal reports: research studies.

(1) The Division of Road Operations of the Department of Transportation shall:

(a) Collect data and information as to all roads in the state and where practicable have maps and plots thereof made;

(b) Investigate and collect data and information as to the best methods and materials for road building and repair;

(c) Investigate and gather information as to road building and repairing in the different localities in this state;

(d) Compile all such data and information, and furnish the same free, upon request, to the boards of county commissioners of the several counties;

(e) Keep on file at the division headquarters copies of same as a public record.

(2) The division is hereby authorized to enter into contracts from time to time with the universities of higher learning within the state for the training of engineers, making of engineering research studies and the furnishing of data concerning same in the fields of soil stabilization, properties of concrete and concrete aggregate, bituminous wearing surfaces and pavements, and other highway research fields which are useful and beneficial to the planning, construction and improvement of public highways. The division is authorized to pay for such services out of the State Transportation Trust Fund.

History.—s. 21, ch. 29851, 1965; s. 1, ch. 81174, ss. 21, 35, ch. 89106, ss. 2, 3, ch. 92, ss. 1, 2, ch. 81, 1983, which were repealed in part, the division structure within the Department of Transportation.

334.25 Seal of department.—The Department of Transportation shall adopt and use a common seal, and a certificate under seal and signed as provided by regulation of the department, shall constitute sufficient evidence of the action of the department.

History.—s. 21, ch. 29851, 1965; ss. 21, 35, ch. 89106.

CHAPTER 366 PUBLIC UTILITIES

- 366.01 Legislative declaration.
366.015 Emergency liaison.
366.02 General duties of public utility.
366.03 Jurisdiction.
366.04 Rate fixing: adequacy of facilities as criterion.
366.05 Powers.
366.055 Availability of, and payment for, energy reserves.
366.06 Rates: procedure for fixing and changing.
366.07 Rates: adjustment.
366.071 Interim rates: procedure.
366.072 Rate adjustment orders.
366.075 Experimental and transitional rates.
366.076 Unjust proceedings: rules on subsequent adjustment.
366.08 Investigations, inspections; power of commission.
366.09 Incrimination at hearing of commission.
366.093 Public utility records; confidentiality.
366.095 Penalties.
366.10 Judicial review.
366.11 Certain exemptions.
366.12 Natural gas jurisdiction limits.
366.13 Taxes, not affected.
366.135 Existing rates; pending proceedings.
366.80 Short title.
366.81 Legislative findings and intent.
366.82 Definitions; goals, plans; annual reports; enforcement.
366.83 Certain laws not applicable; savings clause.
366.84 Trust fund created; uses.
366.85 Responsibilities of Division of Consumer Services.

366.01. Legislative declaration.—The regulation of public utilities as defined herein is declared to be in the public interest and this chapter shall be deemed to be an exercise of the police power of the state for the protection of the public welfare and all the provisions hereof shall be liberally construed for the accomplishment of that purpose.

History.—s. 1, ch. 26045, 1981, s. 3, ch. 76, 1982, s. 16, ch. 81, 1983. Repealed effective October 1, 1985, by s. 2, ch. 81, 1983, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.015. Interagency liaison.—The commission is directed to provide for, and assume primary responsibility for, establishing and maintaining coordination with the appropriate state and federal agencies whose policies, programs, and activities affect those utilities over which the commission has primary regulatory jurisdiction. This liaison shall be conducted at the policymaking levels, as well as the department, division, or bureau levels. Active participation in other agencies' public hearings is encouraged to transmit the commission's policy positions and information requirements, in order to provide for more efficient regulation.

History.—s. 1, ch. 26045, 1981, s. 3, ch. 76, 1982, s. 16, ch. 81, 1983. Repealed effective October 1, 1985, by s. 2, ch. 81, 1983, and scheduled for review pursuant to s. 11(6) in advance of that date.

to 12 months. The commission may take final action to grant an application by a public utility to issue and sell securities after having given notice in the Florida Administrative Weekly published at least 7 days in advance of final agency action. Securities issued by a public utility pursuant to an order of the commission, which order is certified by the clerk of the commission and sale of such securities, shall not be invalidated by a modification, repeal, or amendment to that order or by a supplemental order; however, the commission's approval of the issuance of securities shall constitute approval only as to the legality of the issue, and in no way shall it be considered commission approval of the rates, service, accounts, valuation, estimates, or determinations of cost or any other such matter. The jurisdiction conferred upon the commission shall be exclusive and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and, in case of conflict thereof, all laws, acts, orders, rules, and regulations of the commission shall in each instance prevail.

(2) In the exercise of its jurisdiction, the commission shall have power over rural electric cooperatives and municipal electric utilities for the following purposes:

- To prescribe uniform systems and classifications of accounts.
- To prescribe a rate structure for all electric utilities.
- To require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes.

(d) To approve territorial agreements between electric utilities, and other electric utilities under its jurisdiction. However, nothing in this chapter shall be construed to alter existing territorial agreements as between the parties to such agreements.

(e) To resolve any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. In resolving territorial disputes, the commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area.

(f) To effectuate the filing of periodic reports and other data as may be reasonably available and as necessary to exercise its jurisdiction hereunder.

No provision of this chapter shall be construed or applied to impede, prevent, or prohibit any municipally owned electric utility system from distributing at retail electrical energy within its corporate limits, as such corporate limits exist on July 1, 1974; however, existing territorial agreements shall not be altered or abridged hereby.

(3) The commission shall further have jurisdiction:

tion over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities. 26045, 1981, s. 1, ch. 76, 1982, s. 16, ch. 81, 1983. Repealed effective October 1, 1985, by s. 2, ch. 81, 1983, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.041. Rate fixing: adequacy of facilities as criterion.

(1) In fixing the just, reasonable, and compensatory rates, charges, fares, tolls, or rentals to be obtained and charged for service within the state by any and all public utilities under its jurisdiction, the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base in any order entered pursuant to such proceedings. The commission shall have authority to require that the commission's duty to hear service complaints, if any, that may be presented by subscribers and the public during any proceedings involving such rates, charges, fares, tolls, or rentals; however, no service complaint shall be taken up or considered by the commission at any proceedings involving rates, charges, fares, tolls, or rentals unless the utility has been given at least 30 days written notice thereof, and any proceeding may be extended, prior to final determination, for such period; further, no order hereunder shall be made effective until a reasonable time has been given the utility involved to correct the cause of service complaints, considering the factor of growth in the community and availability of necessary equipment.

(2) The power and authority herein conferred upon the commission shall not cancel or amend any existing punitive powers of the commission but shall be supplementary thereto and shall be construed liberally to further the legislative intent that adequate service be rendered by public utilities in the state and that rates, charges, fares, tolls, or rentals be fixed and adjusted to meet the needs of the public and the requirements of the state.

(3) The term "public utility" as used herein means all persons or corporations which the commission has the authority, power, and duty to regulate for the purpose of fixing rates and charges for services rendered and requiring the rendition of adequate service.

History.—s. 1, ch. 2, s. 3, ch. 76, 1982, s. 16, ch. 81, 1983. Repealed effective October 1, 1985, by s. 2, ch. 81, 1983, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.05. Powers.

(1) In the exercise of such jurisdiction, the commission shall have power to prescribe fair and reasonable

in rates may be based upon a test period different from the test period used in the test period for permanent rate relief. To establish a prima facie entitlement for interim relief, the commission, the petitioning party, or the public utility shall demonstrate that the public utility is earning outside the range of reasonableness on rate of return calculated in accordance with subsection (5).

(2)(a) In a proceeding for an interim increase in rates, the commission shall authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. The difference between the interim rates and the previously authorized rates shall be collected under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission. (b) In a proceeding for a permanent rate increase, the commission shall authorize, within 60 days of the filing for such relief, the continued collection of the previously authorized rates; however, revenues collected under those rates sufficient to reduce the achieved rate of return to the maximum of the range of rate of return calculated in accordance with subparagraph (5)(b)2, shall be placed under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(c) The commission shall determine whether a corporate undertaking may be filed in lieu of the bond.

(3) In granting such relief, the commission may, in an expedited hearing but within 60 days of the commencement of the proceeding, upon petition or upon its own motion, preclude the recovery of any extraordinary or imprudently incurred expenditures or, for good cause shown, increase the amount of the bond or corporate undertaking.

(4) Any refund ordered by the commission shall be made to the rate of return of the public utility during the range of the proceeding to the same level within the range of the proceeding. The rate of return which is found fair and reasonable on a prospective basis, but the refund shall not be in excess of the amount of the revenues collected subject to refund and, in accordance with paragraph (2)(b). In addition, the commission may require interest on the refund at a rate established by the commission.

(5)(a) In setting interim rates or setting revenues subject to refund, the commission shall determine the revenue deficiency or excess by calculating the difference between the achieved rate of return of a public utility and its required rate of return applied to an average investment rate base or of end-of-period investment rate base.

(b) For purposes of this subsection:

1. "Achieved rate of return" means the rate of return earned by the public utility for the most recent 12-month period. The achieved rate of return shall be calculated by applying appropriate adjustments consistent with those which were used in the most recent rate case of the public utility and annualizing any rate changes occurring during the period ended as of the date of the rate case.

2. "Required rate of return" shall be calculated as the weighted average cost of capital for the most recent 12-month period, using the last authorized rate of return on equity of the public utility, the current embedded cost of fixed-rate capital, the actual cost of short-term debt, the actual cost of variable cost debt, and the actual cost of other sources of capital which were used in the last rate case of the public utility.

3. In a proceeding for an interim increase, the term "last authorized rate of return on equity" used in subparagraph 2, means the minimum of the range of the last authorized rate of return on equity established in the most recent rate case of the public utility.

History.—s. 3, ch. 80-35, § 2, ch. 81-318, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.072 Rate adjustment orders.—Any order issued by the commission adjusting general increases or reductions of the rates of an electric or gas company shall be reduced in writing including any dissenting or concurring opinions within 20 days of the official vote of the commission. Within said 20 days, the commission shall also mail a copy of the order to the clerk of the circuit court of each county in which customers are served who are affected by the rate adjustment, which copy shall be kept on file and made available to the public. The commission shall notify all parties of record in the proceeding of the date of such mailing. Such an order shall not be considered rendered for purposes of appeal, rehearing, or judicial review until the date the copies are mailed as required by this section. This provision shall not delay the effective date of the order. Such an order shall be considered rendered on the date of the official vote for the purposes of ss. 364.05(4) and 365.06(4).

History.—s. 3, ch. 80-35, § 2, ch. 81-318, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.075 Experimental and transitional rates.—

(1) The commission is authorized to approve rates on an experimental or transitional basis for any public utility to encourage energy conservation or to encourage efficiency. The application of such rates may be for limited geographic areas and for a limited period.

(2) The commission is authorized to approve the geographic area used in testing experimental rates and shall act in the order setting thereof. The testing area affected by the rates may be extended, modified, or terminated if the commission determines that testing is necessary to fully evaluate the effectiveness of such experimental rates.

History.—s. 3, ch. 80-35, § 2, ch. 81-318, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.08 Investigations, inspections, power of commission.—The commission or its duly authorized representatives may during all reasonable hours enter upon any premises occupied by any public utility and may set up and use thereon all necessary apparatus and appliances for the purpose of making investigations, inspections, examinations and tests and exercising any power conferred by this chapter; provided, such public utility shall have the right to be notified of and be represented at the making of such investigations, inspections, examinations and tests.

History.—s. 3, ch. 80-35, § 2, ch. 81-318, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.09 Incrimination at hearing of commission.—Any person called upon to testify before the commission or one of its examiners shall not be excused from answering on the ground or claim that his testimony would tend to incriminate himself; but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have testified or produced documentary evidence provided that no person so testifying shall be required to give any testimony or furnish any information in so testifying.

History.—s. 3, ch. 80-35, § 2, ch. 81-318, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.10 Judicial review.—As authorized by s. 36(12), Art. V of the State Constitution, the Supreme Court shall review, upon petition, any action of the commission relating to rates or service of utilities providing electric or gas service.

History.—s. 3, ch. 80-35, § 2, ch. 81-318, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.11 Certain extensions of chapter shall apply in any manner other than as specified in ss. 366.04(2) and (3), 366.05(2) and (8), and 366.055, to utilities owned and operated by municipalities, whether within or without any municipality, or by cooperatives organized and existing under the Rural Electrification Cooperative Law of the state, or to the sale of electricity, manufactured gas, or natural gas at wholesale by any public utility to, and the purchase by, any municipality or cooperative under and pursuant to any contracts now in effect or which may be entered into in the future, when such municipality or cooperative is engaged in the sale and distribution of electricity or manufactured or natural gas, or to the rates provided for in such contracts.

(2) Nothing herein shall restrict the police power of municipalities over their streets, highways, and public places or the power to maintain or require the maintenance thereof or the right of a municipality to

History.—s. 3, ch. 80-35, § 2, ch. 81-318, and scheduled for review pursuant to s. 11(6) in advance of that date.

366.095 Penalties.—The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter that is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate issued by the commission. Each day that such refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 68.

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366-81 Legislative findings and intent.—The Legislature finds and declares that it is critical to utilize the most efficient and cost-effective energy conservation systems in order to protect the health, prosperity, and general welfare of the state and its citizens. Reduction in the growth rates of electric consumption and of weather-sensitive peak demand are of paramount importance. The Legislature further finds that the Electric Power Service Commission is the appropriate agency to adapt the existing regulatory framework related to the conservation of electric energy and natural gas usage. The Legislature directs the commission to develop and adopt overall goals and authorizes the commission to require each utility to

(3) Following adoption of goals pursuant to subsection (2), the commission shall require each utility to develop a plan to meet the overall goals within its service area. If any plan includes loans, collection of loans, or similar banking functions by a utility and the plan is approved by the commission, the utility shall perform such functions, notwithstanding any other provision of the law. The commission may authorize a utility to receive up to \$5,000,000 of the Florida Public Service Regulatory Trust Fund to guarantee such loans. However, no utility shall be required to loan its funds for the purpose of purchasing or otherwise acquiring conservation measures or devices, but nothing herein shall prohibit or impair the administration of any

re. By January 1, 1981, the commission shall re-examine each utility to offer, or to contract to offer, energy audits to its residential customers. This requirement need not be uniform, but may be based on such factors as level of growth, geographic location, or any other reasonable criteria which may be determined by the commission. The commission shall require that all eligible customers be notified by April 1, 1981. The commission may extend this requirement to some or all commercial and industrial customers if such audits are required pursuant to the commission's rules. The commission shall set the charge for audits by rule not to exceed the actual cost, and may describe by rule the general form and content of an audit. In the event one utility acts in tandem with another utility to perform audits for its utility for which the audits are performed shall pay the contracting utility the reasonable cost of performing the audits. The commission shall require that the commission's contracting authority shall estimate its costs and revenues from audits, conservation programs, and implementation of the plan for the immediately following 12-month period. Reasonable and prudent unincurred costs projected to be incurred, or any portion thereof, may be added to the rates which would otherwise be charged by a utility upon approval by the commission. Following each 6-month period, each utility shall report the actual results for that period to the commission, and the difference, if any, between actual and projected results shall be taken into account in succeeding periods. The state plan as submitted for consideration under the National Energy Conservation Policy Act shall not be in conflict with any conservation law or regulation.

1368.85 Responsibilities of Division of Consumer Services.—The Division of Consumer Services of the Department of Agriculture and Consumer Services shall be the agency responsible for consumer conciliatory conferences, if such conferences are required pursuant to federal law. The division

shall also be the agency responsible for preparing lists of sources for energy conservation products or services and of financial institutions offering energy conservation loans, if such lists are required pursuant to federal law. Notwithstanding any provision of federal law to the contrary, the division shall not require any manufacturer's warranty exceeding 1 year in order for a source of conservation products or services to be included on the appropriate list. The lists shall be prepared for the service area of each utility and shall be furnished to each utility for distribution to its customers. The division shall update the lists on a systematic basis and shall remove from any list any person who has been disciplined by any state agency or who has otherwise exhibited a pattern of unsatisfactory work and any person who requests removal from such lists. The division is authorized to adopt rules to implement the provisions of this section.

History.—Section 1, Laws of Florida 1980, ch. 81, § 3.0, and scheduled for repeal pursuant to s. 11.01 in advance of that date.

Department of Legal Affairs. Such additional counsel's fees shall be paid from the monies appropriated to the Department of Natural Resources.

(7) **RETENTION, DESTRUCTION, AND REPRODUCTION OF RECORDS.**—Records and documents of the Department of Natural Resources which are created in compliance with and in the implementation of chapters 370 and 371, shall be retained by the department as specified in record retention schedules established under the general provisions of chapters 119 and 267. Further, the department is authorized to:

(a) Destroy, or otherwise dispose of, those records and documents in conformity with the approved retention schedule.

(b) Photograph, microphotograph, or reproduce such records and documents on film, as authorized and directed by the approved retention schedules, whereby each page will be exposed in exact conformity with the original records and documents retained in compliance with the provisions of this section.

Photographs or microphotographs in the form of film or print of any records, made in compliance with the provisions of this section, shall have the same force and effect as the originals thereof, would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs. The impressions on the seal of the Department of Natural Resources on a certificate made pursuant to the provisions hereof, and signed by the Executive Director of the Department of Natural Resources, shall entitle the same to be received in evidence in all courts and in all proceedings in the state and shall be prima facie evidence of all factual matters set forth in the certificate. A certificate may relate to one or more records set forth in the certificate, or in a schedule recorded in the certificate.

(c) Funds shall be deposited in the Motorboat Revolving Trust Fund.

(d) **COURTS OF EQUITY.**—MAY ENJOIN.—Courts of equity in this state shall have jurisdiction to enforce the conservation laws of this state by injunction.

(9) **BOND OF EMPLOYEES.**—The department may require, as it determines, that bond be given by any employee of the department or divisions thereof, payable to the Governor of the state, and his successor in office, for the use and benefit of those whom it may concern, in such penal sums with good and sufficient surety or sureties approved by the department conditioned for the faithful performance of the duties of such employee.

History.—s. 1, Laws of 1971, ch. 22, § 11, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

§ 370.023 Administration of department grant programs.—

(1) The Department of Natural Resources is authorized to establish grant programs which are consistent with statutory authority and legislative appropriations. The department is further authorized

to receive funds from any legal source for purposes of matching state dollars or for passing through the agency as grants to other entities whether or not matching funds or in-kind grants are required.

(2) For any grant program established by the department, the department shall adopt rules, pursuant to the requirements of chapter 120, for each grant program which shall include, but are not limited to: the method or methods of payment; the supporting documents required before payment will be made; when matching funds or in-kind matches are allowed; what monies, services, or other resources and amounts of matching funds or in-kind matches will be eligible for use for matching the grant by the department; who is eligible to participate in the program; and other provisions which the department finds necessary to achieve program objectives and an accounting for state funds in accordance with law and generally accepted accounting principles.

(3) The department is authorized to preaudit or postaudit account books and other documentation of a grant recipient to assure that grant funds were used in accordance with the terms of the grant and state rules and statutes. When such audit reveals that

grantees have not spent in accordance with grant requirements, the department may withhold monies or recover monies previously paid. A grant recipient will be allowed a maximum of 60 days to submit additional pertinent documentation to offset the amount identified as being due the department.

History.—s. 2, ch. 85, 25.

§ 370.025 Marine fisheries; policy and standards.—

(1) The Legislature hereby declares the policy of the state to be management and preservation of its renewable marine fishery resources, based upon the best available information, emphasizing protection and enhancement of the marine and estuarine environment in such a manner as to provide for optimum sustained benefits and use to all the people of this state for present and future generations.

(2) All rules relating to saltwater fisheries adopted by the department pursuant to this chapter or adopted by the Marine Fisheries Commission and approved by the Governor and Cabinet as head of the department shall be consistent with the following standards:

(a) The paramount concern of conservation and management measures shall be the continuing health and abundance of the marine fisheries resources of the state.

(b) Conservation and management measures shall be based upon the best information available, including biological, sociological, and other information deemed relevant by the commission.

(c) Conservation and management measures shall permit reasonable means and quantities of annual harvest, consistent with maximum practicable sustainable stock abundance on a continuing basis.

(d) When possible and practical, stocks of fish shall be managed as a biological unit.

(e) Conservation and management measures shall assure proper quality control of marine resources that enter commerce.

(f) State marine fishery management plans shall be developed to implement management of important marine fishery resources.

(g) Conservation and management decisions shall be fair and equitable to all the people of this state and carried out in such a manner that no individual, corporation, or entity acquires an excessive share of such privileges.

(h) Federal fishery management plans and fishery management plans of other states or interstate commissions should be considered when developing state marine fishery management plans. Inconsistent states should be avoided unless it is determined that it is in the best interest of the fisheries or residents of this state to be inconsistent.

History.—s. 1, ch. 85, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

§ 370.026 Marine Fisheries Commission.—

(1) There is created within the Department of Natural Resources a Marine Fisheries Commission which shall be composed of seven members who have resided in the state for at least 5 years. The seven members shall be appointed by the Governor, subject to confirmation by the Senate, and shall be exempt from the Career Service System. The Governor shall consider affected interests when making appointments to the commission. No single interest group shall dominate the membership of the commission. As soon as practicable after this act becomes a law, two members shall be appointed for terms ending August 1, 1985; three members shall be appointed for terms ending August 1, 1986; and the remaining members shall be appointed for terms ending August 1, 1987. Thereafter, all appointments shall be for 4-year terms. If a vacancy occurs, a member shall be appointed by the Governor for the unexpired term. A commission member whose term has expired shall continue sitting on the commission with full rights until he has been replaced.

(2) Immediately upon being appointed, the commission is authorized to employ a director and three additional persons all of whom shall be exempt from the Career Service System. Within a reasonable time after being appointed, the commission shall schedule meetings to carry out the purposes of ss. 1-9 of chapter 83, Laws of Florida.

(3) Members of the commission shall be paid \$50 per day while engaged in the business of the commission and shall receive expenses and per diem for travel, including attendance at meetings, as are allowed state officers and employees pursuant to s. 112.061.

(4) The commission shall develop a budget pursuant to chapter 216. The budget is not subject to change by the department staff after it has been approved by the commission, but it shall be transmitted to the Governor and Cabinet as head of the department for submission to the Governor in the exercise of his constitutional duties.

(5) Each state agency is directed to cooperate fully with the commission.

History.—s. 1, ch. 85, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

§ 370.027 Rulemaking authority with respect to marine life.—

(1) Pursuant to the policy and standards in a rulemaking authority over marine life, with the exception of endangered species, subject to final approval by the Governor and Cabinet sitting as the head of the Department of Natural Resources, the commission is instructed to make recommendations annually to the Governor and Cabinet regarding the marine fisheries management priorities and funding of the department. All recommendations and responses of the commission which are unaffected by the specific provisions of this act continue to be the responsibility of the department. The authority to regulate fishing gear in residential, manmade saltwater canals is specifically not delegated to the commission and is retained by the Legislature.

(2) Exclusive rulemaking authority in the following areas relating to marine life, with the exception of endangered species, is vested in the commission; any conflicting authority of any division or bureau of the department or any other agency of state government is withdrawn as of the effective date of the rule proposed by the commission and approved by the Governor and Cabinet, and the inconsistent rule, or the inconsistent part thereof, is superseded to the extent of the inconsistency:

(a) Gear specifications;

(b) Prohibited gear;

(c) Bag limits;

(d) Species that may not be sold;

(e) Protected species;

(f) Creel areas;

(g) Quality control codes;

(h) Seasons, and

(i) Special considerations relating to angling for oysters and clam relaying.

(3) The commission, pursuant to this act, shall adopt rules pursuant to chapter 120. When rules are ready for final adoption, the proposed rules shall be submitted to the executive director of the department for submission on the regular agenda of the department for final action by the Governor and Cabinet as head of the department. In considering a proposed rule recommended by the commission, the Governor and Cabinet may only approve or disapprove the proposed rule. If the rule is disapproved, it shall be withdrawn. The commission shall file a rule for adoption with the Department of State only after the rule is approved by the Governor and Cabinet. The department staff has no authority to change any proposed rule or recommendation submitted by the commission.

(4) The executive director of the department shall appoint a management-level staff member to coordinate with the director of the commission the submission by the commission of proposed rules for final approval by the Governor and Cabinet.

History.—s. 1, ch. 85, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

§ 370.028 Enforcement of commission rules;

penalties for violation of rule.—The department shall enforce any rule adopted by the Marine Fisheries Commission. Any person who violates or otherwise fails to comply with any rule adopted by the commission is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless otherwise provided by law.

History.—s. 2, Ch. 83-134, Laws of Florida; s. 1, Ch. 83-134, Laws of Florida; s. 1, Ch. 83-134, Laws of Florida.

Fisheries Commission is authorized for review pursuant to s. 11.61.

370.029 Marine Fisheries Commission Trust Fund.—There is established the Marine Fisheries Commission Trust Fund, to be administered by the Marine Fisheries Commission. All revenues accruing to the trust fund shall be used to carry out the responsibilities of the commission and to provide for the award of funds to marine research institutions in this state for the purposes of enabling such institutions to conduct worthy marine research projects.

History.—s. 1, Ch. 83-134, Laws of Florida; s. 1, Ch. 83-134, Laws of Florida; s. 1, Ch. 83-134, Laws of Florida.

Fisheries Commission is authorized for review pursuant to s. 11.61.

370.03 Water bottoms.—

(1) **OWNERSHIP.**—All beds and bottoms of navigable rivers, bays, lagoons, lakes, bays, sounds, inlets, oceans, gulfs and other bodies of water within the jurisdiction of Florida shall be the property of the state except such as may be held under some grant or alienation heretofore made. No grant, sale or conveyance of any water bottom, except conditional leases and dispositions heretofore provided for, shall hereafter be made by the state. The Board of Trustees of the Department of Natural Resources, or any other official or political corporation, persons who have received, or may hereafter receive, permits to do business in this state, with their factories, shucking plants and shipping depots located in this state, may enjoy the right of fishing for oysters and clams on the natural reefs and bedding oysters and clams on leased bedding grounds, and shall have the right to employ such boats, vessels, or labor and assistants as they may need. Provided that no oysters shall be transported unshucked and in the shells, out of the state, except for use in what is commonly known as the "half-shell trade." When the oyster meats have been separated from the shells it shall be permissible to ship the meats out of the state for further processing and for canning or packing. It shall be unlawful to transport oysters out of the state, unshucked and in the shells, for processing or packing.

(2) **CONTROL.**—The Division of Marine Resources of the Department of Natural Resources has exclusive power and control over all water bottoms, including such as may be held under some grant or alienation heretofore made, and shall have the right to regulate and control such bottoms, and to issue permits to any person desiring to engage in any business, occupation, or profession, conditions and restrictions as said division may elect to impose, without limitation as to area to any one person, for the purpose of granting exclusive right to plant oysters or clams thereon and for the purpose of fishing, taking, catching, bedding and raising oysters, clams and other shellfish. No such lease shall release, sublease, sell or transfer

Ch. 370

SALTWATER FISHERIES

F.S. 1983

tract or agreement in carrying out the provisions of this section.

(3) The department is hereby authorized to use any funds appropriated for research in its trust funds to the extent necessary to carry out the provisions of this section.

History.—s. 1, 2, Ch. 83-225, Laws of Florida; s. 1, Ch. 83-225, Laws of Florida.

370.032 Definitions; ss. 370.032-370.036.—The following words, terms, and phrases when used in ss. 370.032-370.036 shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) **"Person"** means an individual, corporation, partnership or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, or any other legal or commercial entity.

(2) **"Dredge or fill equipment"** means any dredge, sand pump, sand sucker, or similar device, having an intake capacity of 4 inches or more, and any dredging excavator, crane, power shovel, backhoe, or similar device, having a bucket or clamshell capacity in excess of 2 yards, and shall include all such devices regardless of how mounted or powered.

(3) **"Dredge or fill activities"** means any use of dredge or fill equipment for the purpose of removing soil, rock, or other solid material from beneath the surface of any body of water, or of creating a body of water of any size whatsoever, or of placing or depositing any such material upon submerged bottom lands of any body of water.

(4) **"Body of water"** means all freshwater lakes and ponds having a surface area in excess of 10 acres and all oceans, gulfs, bays, bayous, lagoons, rivers and streams, and all other submerged lands.

(5) **"Department"** means the Department of Natural Resources.

History.—s. 1, Ch. 70-42.

370.033 Legislative intent.—It is the legislative intent to require all persons who engage in any dredge or fill activities in this state to obtain a certificate of registration from the Department of Natural Resources and also to keep accurate logs and records of all such activities so that the natural resources may be properly managed and conserved.

History.—s. 1, Ch. 70-42.

370.034 Certificate required; return; application; filing fee.—

(1) Every person owning or controlling any dredge or fill equipment in this state, or leasing or renting such equipment to any other person to operate in this state, shall make a return under oath to the Department of Natural Resources on October 1 of each year in such form as provided by the department of the number and kind of pieces of such dredge or fill equipment owned, used or operated, leased or rented to be used in this state in dredge or fill activities, and shall, on the same day, obtain a certificate of registration from the department authorizing use of such equipment.

(2) No certificate shall be issued except upon

written application. The department, before issuing a certificate, shall require the person applying for the certificate to file, under oath, a statement giving full and complete information relative to the number and kind of pieces of dredge or fill equipment owned, used or operated, leased or rented to be used in this state in dredge or fill activities. The applications and statements required by this section shall be retained as a part of the records of the Department of Natural Resources.

(3) There shall be a \$10 filing fee collected by the department for issuance of the certificate.

History.—s. 1, Ch. 70-42.

370.036 Dredge or fill activities, records; penalty.—

(1) Every person who engages in dredge or fill activities shall maintain an official log book for each piece of dredge or fill equipment into which the operator thereof shall make daily entries of all dredge or fill activities conducted with such equipment.

(2) Each entry shall be made, dated, and signed by the individual operator of the particular piece of equipment and shall show the kind of activity performed, the precise location of the activity, the kind and quantity of material removed or deposited, the name of the person for whom the activity was performed, the location of the equipment, and the date on which the equipment was operated. Entries shall be made on the same day on which the activity is performed.

(3) The log or logs shall reflect all activities conducted with such equipment during the preceding 30 calendar days and shall be kept and remain on the equipment at all times during such period. After such period, the logs shall be kept on file at the principal place of business of the certificateholder for not less than 3 years.

(4) Any person failing to comply with the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Any person having legal or beneficial ownership of dredging equipment, whether or not properly registered, which is used directly or indirectly in such a manner as to exceed the authority granted by a valid construction permit issued pursuant to s. 253.124, or which is operated without any such permit, when the dredging is done with intent to defraud, confiscate lands, or trespass, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall suffer suspension of the construction permit for a period not exceeding 90 days. Revocation of any and all registrations on dredging equipment owned or operated by the person for a period not exceeding 2 years, or by any or all such persons, shall be a condition of the revocation of registrations on equipment in the division of the court. The penalties herein provided shall extend to the person causing, directing, or permitting such activity as well as to the actual violator.

History.—s. 1, Ch. 70-42.

370.037 Denial, suspension, or revocation of certificate.—

384

(1) The department may refuse to issue or renew or may suspend or revoke any certificate on any of the following grounds:

(a) Material misstatement in the application for the certificate.

(b) Willful disregard or violation of any of the provisions of ss. 370.033-370.038 or of any rule or regulation promulgated thereunder.

(2) Proceedings may be instituted by the Department of Natural Resources or by any other party by filing a sworn written complaint with the department.

(3) The department may suspend or revoke a certificate, subject to the provisions of chapter 120.

History.—s. 1, ch. 84-25, § 44, n. 1, ch. 87-11, § 2, ch. 88-36.

370.038. Rules and regulations.—The Department of Natural Resources is authorized to make and adopt reasonable rules, regulations, and orders necessary to carry out the provisions of ss. 370.033-370.037.

History.—s. 1, ch. 84-25, § 44, n. 1, ch. 87-11, § 2, ch. 88-36.

370.041. Harvesting of sea oaks and sea grapes prohibited; possession prima facie evidence of violation.—

(1) The purpose of this section is to protect the beaches and shores of the state from erosion by preserving natural vegetative cover to bind the sand.

(2) It is unlawful for any person to cut, harvest, remove, or eradicate any of the grass commonly known as sea oaks or *Uniola paniculata* and *Coccothraustes* or any other plant or person having lawful possession thereof.

(3) Possession of either *Uniola paniculata* or *Coccothraustes* *virginica* by other than the owner of such land shall constitute prima facie evidence of violation of this section.

(4) Any person who grows any of the native plants listed in this section shall be permitted to propagate them for sale.

(5) Any person who sells, offers for sale, barters, or exchanges for merchandise saltwater products must have a method of catch preservation which meets the requirements and standards of the seafood quality control code promulgated by the Department of Natural Resources.

(6) Any person who sells, offers for sale, barters, or exchanges for merchandise saltwater products must have a method of catch preservation which meets the requirements and standards of the seafood quality control code promulgated by the Department of Natural Resources.

(7) LICENSE YEAR.—The license year on all licenses relating to saltwater products dealers, seafood dealers, aliena, residents, and nonresidents, unless otherwise provided, shall begin on July 1 of each year and end on June 30 of the next succeeding year. All licenses shall be so dated. This section does not apply to licenses and permits when their use is confined to an open season.

(8) LICENSES SUBJECT TO INSPECTION; NONTRANSFERABLE; EXCEPTION.—Licenses of every kind and nature granted under the provisions of this chapter shall be subject to inspection by the Department of Natural Resources at any time and place.

(9) WATER FISH COMMISSION.—The Game and Fresh Water Fish Commission and the officers of the Marine Patrol. Such licenses are not transferable unless otherwise provided by law.

(10) COLLECTION OF LICENSES, FEES.—All

370.06. License.—

(1) LICENSE ON PURSE SEINES.—There is levied, in addition to any other taxes thereon, an annual license tax of \$2 on each purse seine used in the waters of this state.

(2) The fee shall be collected in the manner provided in this section. Anyone violating this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

SALTWATER PRODUCTS LICENSE.—

(a) Beginning October 1, 1983, every person, firm, or corporation which sells, offers for sale, barters, or exchanges for merchandise any saltwater products,

including saltwater products sold for bait, must have a valid saltwater products license; however, this subsection does not apply to any person, firm, or corporation licensed under s. 370.071(1)(a) 1, or s. 370.071(1)(b) for activities pursuant to such license.

The cost of the saltwater products license required by this section, beginning October 1, 1983, shall be the full annual rate, and each licensee shall be renewed July 1, 1984, and every year thereafter. A water products license may be issued in the name of an individual or a valid boat registration number.

Such license is not transferable. A resident shall pay for such license an annual license fee of \$25; a nonresident shall pay for such license an annual license fee of \$100; and an alien shall pay for such license an annual license fee of \$150.

Any person selling saltwater products for human consumption pursuant to this license may sell only to a licensed wholesale dealer. A saltwater products license must be presented to the licensed wholesale dealer each time saltwater products are sold.

The wholesale dealer shall keep records of each transaction in such detail as may be required by rule of the Department of Natural Resources not in conflict with s. 370.076. A person holding a valid license or permit required by this chapter to take any amount of fee paid for such license or permit toward a saltwater products license. However, such credit is only good when the license or permit for which credit is given is valid for the same year covered by the saltwater products license.

It is unlawful for any person licensed under this section, except that a licensed dealer may buy from another licensed wholesale dealer, to sell saltwater products to any person other than a licensed wholesale dealer.

The Department of Natural Resources shall be the licensing agency, may contract with private persons or entities to implement aspects of the licensing program, and shall establish by rule a marine fisheries information system in conjunction with the licensing program to gather fisheries data.

(b) Any person who sells, offers for sale, barters, or exchanges for merchandise saltwater products must have a method of catch preservation which meets the requirements and standards of the seafood quality control code promulgated by the Department of Natural Resources.

(3) LICENSE YEAR.—The license year on all licenses relating to saltwater products dealers, seafood dealers, aliena, residents, and nonresidents, unless otherwise provided, shall begin on July 1 of each year and end on June 30 of the next succeeding year. All licenses shall be so dated. This section does not apply to licenses and permits when their use is confined to an open season.

(8) LICENSES SUBJECT TO INSPECTION; NONTRANSFERABLE; EXCEPTION.—Licenses of every kind and nature granted under the provisions of this chapter shall be subject to inspection by the Department of Natural Resources at any time and place.

(9) WATER FISH COMMISSION.—The Game and Fresh Water Fish Commission and the officers of the Marine Patrol. Such licenses are not transferable unless otherwise provided by law.

(10) COLLECTION OF LICENSES, FEES.—All

such license tax or fees provided for in this chapter shall be collected by the department or its duly authorized agents or deputies to be deposited by the Comptroller in the Motorboat Revolving Trust Fund as created by s. 327.28.

(6) GENERAL PENALTY PROVISION.—Any person or persons, corporate or otherwise, violating any of the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless otherwise provided in this section.

History.—s. 1, ch. 84-25, § 44, n. 1, ch. 87-11, § 2, ch. 88-36, § 44, n. 1, ch. 89-49, § 1, ch. 90-106, § 1, ch. 91-114, § 1, ch. 92-114, § 1, ch. 93-114, § 1, ch. 94-114, § 1, ch. 95-114, § 1, ch. 96-114, § 1, ch. 97-114, § 1, ch. 98-114, § 1, ch. 99-114, § 1, ch. 100-114, § 1, ch. 101-114, § 1, ch. 102-114, § 1, ch. 103-114, § 1, ch. 104-114, § 1, ch. 105-114, § 1, ch. 106-114, § 1, ch. 107-114, § 1, ch. 108-114, § 1, ch. 109-114, § 1, ch. 110-114, § 1, ch. 111-114, § 1, ch. 112-114, § 1, ch. 113-114, § 1, ch. 114-114, § 1, ch. 115-114, § 1, ch. 116-114, § 1, ch. 117-114, § 1, ch. 118-114, § 1, ch. 119-114, § 1, ch. 120-114, § 1, ch. 121-114, § 1, ch. 122-114, § 1, ch. 123-114, § 1, ch. 124-114, § 1, ch. 125-114, § 1, ch. 126-114, § 1, ch. 127-114, § 1, ch. 128-114, § 1, ch. 129-114, § 1, ch. 130-114, § 1, ch. 131-114, § 1, ch. 132-114, § 1, ch. 133-114, § 1, ch. 134-114, § 1, ch. 135-114, § 1, ch. 136-114, § 1, ch. 137-114, § 1, ch. 138-114, § 1, ch. 139-114, § 1, ch. 140-114, § 1, 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(3) WHOLESALE PERMIT: PENALTY.—

THE UNIVERSITY OF CHICAGO PRESS

1. By the division upon the conviction of the person, to whom issued, of any violation of the laws or regulations designed for the conservation of fish, sea-food, or other products of the fresh or salt waters of this state;
2. Upon conviction of the person, to whom issued, of knowingly dealing in, buying, selling, transporting, possessing, or taking any fish, seafood, or saltwater product, at any time and from any waters, in violation of the laws of this state; or

'370.071 Adoption of rules, regulations and sanitary codes.—The Department of Natural Resources is authorized to establish regulations, specifications, and orders of sanitary practices relating to the catching, handling, processing, packaging, preserving, canning, smoking, and storing of salt-water products for sale for consumption as food.
(Note.—Repealed effective July 1, 1964, by s. 8, ch. B-134, which became part of the General Laws of the Commonwealth of Massachusetts.)
(Note.—Repealed effective July 1, 1964, by s. 8, ch. B-134, which became part of the General Laws of the Commonwealth of Massachusetts.)
Section 8, ch. B-134 provides that, prior to the adoption of rules according to the authority conferred upon the department by chapter 26B, § 1, the department shall first publish a public hearing thereon, and if it is determined, based on the results of such hearing, that the proposed rules are necessary for the protection of the health of the people, the department may thereafter adopt appropriate findings of fact, that such action will be taken after the

370.08 Fisherman and equipment; regulation.

(1) **ILLEGAL POSSESSION OF SEINES AND NETS.**—No person may have in his custody or possession in any county of this state any fishing seine or net, the use of which for fishing purposes in such county is prohibited by law. Such possession shall be evidence of a violation of this subsection by both the owner thereof and the person using or possessing said net. The provisions of this subsection shall not apply to shrimp nets, to pound nets or purse nets when used in taking menhaden fish, to seines used exclusively for taking herring, or to legal beach seines used in the open gulf or Atlantic Ocean if the possession of such nets is not prohibited in the county where found. Violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) **STOP NETTING DEFINED; PROHIBITION; PENALTY.**—

(a) It is unlawful for any person to obstruct any river, creek, canal, pass, bayou or other waterway in this state by placing or setting therein any screen, net, seine, rack, wire or other device, or to use, set, or place, singly or in combination, or one behind another in any manner whatsoever, any net or screen, or any passage of fish. Any person violating this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) It is unlawful for any person, while fishing or attempting to fish for shrimp or saltwater fish, to attach or otherwise secure a frame net, trawl net, trap net, or similar device to any state road bridge or associated structure situated over any saltwater body or to use more than one such net or device while fishing from such bridge or structure. For the purposes of this paragraph, a "frame net" is any net similar to a hoop net, the mouth of which is held open by a dip net, with a trailing mesh net, of any size. Cast nets, dip nets, and similar devices are specifically excluded from the operation of this paragraph.

(3) **USE OF PURSE SEINES, GILL NETS, AND POUND NETS, ETC.; PENALTY.**—No person may take food fish within or without the waters of this state with a purse seine, purse gill net, or other net using rings or other devices on the lead line thereof, through which a purse line is drawn, or pound net, or have any food fish so taken in his possession for sale or shipment. The provisions of this section shall not apply to shrimp nets or to pound nets or menhaden fish when used for the taking of tuna or menhaden fish, as provided in s. 775.082 or s. 775.083.

(4) **RETURN OF FISH TO WATER; PENALTY.**—All persons taking food fish from any of the waters of this state, by use of any of the fishing devices and not using any of such fish because of size or other reasons, shall immediately release and return such fish alive to the water from which taken and no such fish shall be placed or deposited on any bank, shore, beach or other place out of the water. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) **THROWING EXPLOSIVES OR USE OF FIREARMS IN WATER FOR PURPOSE OF KILLING FOOD FISH PROHIBITED; PENALTY.**—No person may throw or cause to be thrown into any of the waters of this state any dynamite, live, other explosives or discharge any firearms whatsoever for the purpose of killing food fish therein. The landing of any food fish that has been damaged by explosives or ashore or possession on the water by any person or any food fish that has been damaged by explosives or the landing of headless jewfish or grouper, if the grouper is taken for commercial use, is prima facie evidence of violation of this section. Any person violating any of the provisions of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) **SEINES, POCKET BUNTS.**—In any counties where seines are not prohibited on the open gulf or Atlantic Ocean, such seines may have a pocket bunt on the middle of the seine of a mesh size less than that provided by law.

(7) **GILL NETS.**—In any county in which gill nets or gill netting is not prohibited, such nets when being fished may be gathered or taken in or taken up in any manner when such nets are gathered in, taken in or taken up by hand; however, no net may be pulled up on shore where seineing is prohibited. Such nets may be gathered or taken in or taken up by power in the waters of the Gulf of Mexico or the Atlantic Ocean of the Gulf of Mexico or the Atlantic Ocean.

(8) **USE OF GEAR AND OTHER EQUIPMENT.**—Whenever it shall appear in the best interests of conservation and will contribute to the efficient use of offshore fisheries resources, the Division of Marine Resources of the department may issue a permit for the use of gear and equipment essential to such exploitation. The provisions of this section do not apply to shrimping and sponging operations and all local and general laws pertaining to shrimps and sponges remain in effect.

(9) **SNATCH HOOKS; USE OF PROHIBITED TO TAKE SNOOK.**—The taking of the game fish snook in state waters is prohibited except by use of the standard bait, lure, plug or spoon. It is unlawful to take snook by use of gig or grain, gang hook, multiple hooks, snatch hooks, or any other device designed to impale or hook the fish. What is commonly called snook snatching is prohibited in the waters of this state.

(10) **ILLEGAL USE OF POISONS, DRUGS, OR CHEMICALS.**—

(a) It is unlawful for any person to place poisons, drugs, or other chemicals in the marine waters of this state unless that person has first obtained a permit for such use from the Division of Marine Resources of the Department of Natural Resources.

(b) Upon application on forms furnished by the division, the division may issue a permit to use poisons, drugs, or other chemicals in the marine waters of this state for the purpose of capturing live marine species. The application must specify the marine chemicals, or poisons to be used, the maximum amounts and concentrations at each sampling.

(c) Violation of this subsection shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The Department of Natural Resources may suspend the permit for violation of the conditions imposed in the permit.

(11) **USE OF GILL NETS FOR TAKING KING MACKEREL.**—No person may take king mackerel from the waters within or without this state in any county bordering on the Atlantic Ocean except Monday through Thursday of each year, between 12:00 a.m. and 5:00 a.m., and any king mackerel so taken with a gill net having a hanging depth of more than 200 meshes of 4½-inch stretched mesh, measured from the cork line to the lead line or its equivalent. Possession of such a net is prima facie evidence of a violation of this subsection. Any person who violates this subsection is guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

(12) **SIZE OF MESH IN KING MACKEREL NETS.**—No person may set a school of king mackerel within or without the waters of this state with a net having a mesh size of less than 4½ inches. Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(13) **PROHIBITION ON TAKING OF KING MACKEREL WITHIN OR WITHOUT THE WATERS OF THIS STATE WITH A NET HAVING A MESH SIZE OF LESS THAN 4½ INCHES.** Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(14) **PROHIBITION ON TAKING OF KING MACKEREL WITHIN OR WITHOUT THE WATERS OF THIS STATE WITH A NET HAVING A MESH SIZE OF LESS THAN 4½ INCHES.** Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(15) **PROHIBITION ON TAKING OF KING MACKEREL WITHIN OR WITHOUT THE WATERS OF THIS STATE WITH A NET HAVING A MESH SIZE OF LESS THAN 4½ INCHES.** Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(16) **PROHIBITION ON TAKING OF KING MACKEREL WITHIN OR WITHOUT THE WATERS OF THIS STATE WITH A NET HAVING A MESH SIZE OF LESS THAN 4½ INCHES.** Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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the Matanzas River, North River, or the Intracoastal Waterway, or water adjacent to any of the aforementioned waters, lying north of the Michter-O Connell Bridge, south of the Vilano Beach Bridge across the Intracoastal Waterway (North River), and inland of a line drawn from headland to headland across the mouth of St. Augustine Inlet.

(c) On the Atlantic Ocean beaches, and beach areas, within 1 mile north and 1 mile south of the center of St. Augustine Inlet, and within 1 mile seaward of such beaches, and a line drawn from headland to headland across the mouth of St. Augustine Inlet.

(d) On the Atlantic Ocean beaches, and beach areas, within 2 miles north and 2 miles south of the center of the St. Augustine Beach Pier, and within 1 mile seaward of such beaches and beach areas.

(e) On the Atlantic Ocean beaches, and beach areas, within 1 mile north and 1 mile south of the center of the St. Johns County, or within 1 mile seaward of the beaches and coast thereof, except 1,300 feet in length or have mesh of less than 2 1/2 inches.

(4) No person, firm, or corporation shall use, or cause to be used, any manner of seine net, other than a recreational net as hereinafter defined, in the salt waters of St. Johns County, or within 1 mile seaward of the Atlantic Ocean beaches and coast thereof, without a permit issued by the Division of Marine Resources of the Department of Natural Resources. Applications for such permits shall be made on forms to be supplied by the division, which shall require the applicant to furnish such information as may be deemed pertinent to the best interests of saltwater conservation. The fee for such permits shall be \$250 per year. Each permit shall entitle the holder thereof to use no more than one seine net at any one time, subject to the provisions of subsections (1), (2), and (3). The division may refuse to grant any permit when it is apparent that the best interests of saltwater conservation will be served by such denial. All permits granted shall be in the holder's possession. Whenever the holder is engaged in using a seine net, each permit is subject to immediate revocation upon conviction in violation of any provision of this section. If it is apparent that the best interests of saltwater conservation will be served by such revocation.

(5)(a) The term "recreational net" means a seine or similar net not exceeding 100 feet in length, with mesh no smaller than 2 1/2 inches, set and hauled solely by hand and without use of any motor-driven boat or vehicle.

(b)(1) No recreational net may be set or hauled within 100 feet of any other recreational or commercial net.

(2) No recreational net shall be used after the hours of sunset and before sunrise between May 1 and September 15 of each year.

(3) Unless the user of a recreational net is also a holder of a permit specified in subsection (4), no user of a recreational net shall retain on the beach, in a vehicle on the beach, or in a boat, during the time that such net is in use, more than one bushel container of fish per net in use. All fish in excess of one bushel container per net and all unwanted species taken shall be returned alive to the waters when caught.

(6) Violation of this section is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, any nets, boats, vehicles, or paraphernalia used in violation of the provisions of this section may be seized and, upon conviction of the offender, may be confiscated or destroyed by order of the court as provided by s. 370.061.

State.—Repealed effective July 1, 1985, by s. 2, ch. 80,314, which provides that the Governor and Cabinet have not adopted appropriate rules. Section 3, ch. 80,314, provides that, prior to the adoption of rules providing for the enforcement of this section, the Department of Natural Resources shall hold the Department's authority to enforce this section, or repeal shall be void until it has been determined based upon appropriate findings of fact, that such action will not adversely affect the environment.

370.083 Special acts prohibited.—Pursuant to s. 116(2)(2) of Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application affecting the sale or purchase of speckled sea trout or weakfish in the state.

History.—s. 2, ch. 75,272, passed by the Legislature March 11, 1971, and amended by s. 1, ch. 75,272, passed by the Legislature March 11, 1971.

370.09 Industrial hazards; oil deposits discharge prohibited.—It is unlawful for any person to discharge, flow, drain or deposit oil or to suffer or permit oil to be discharged, flow, drained or deposited upon or into any of the salt waters of the state, either from or out of any vessel, barge, or other floating craft, or from any wharf, mill, mine, factory or other establishment or place whatever.

History.—s. 2, ch. 284,05, 1953.

370.10 Crustacea, marine animals, fish; regulations; general provisions.—

(1) OWNERSHIP OF FISH, SPONGES, ETC.—All fish, shellfish, sponges, oysters, clams, and crustacea found within the rivers, creeks, canals, lakes, bays, lagoons, bays, sounds, inlets, and other bodies of water within the jurisdiction of the state, and within the Gulf of Mexico and the Atlantic Ocean within the jurisdiction of the state, including all privately owned and enclosed ponds and lakes, shall be the property of the state and may be taken and used by its citizens and persons not citizens, subject to the reservations and restrictions imposed by these statutes. No water bottoms owned by the state shall ever be sold, transferred, dedicated, or otherwise conveyed without reserving in the people the absolute right to fish thereon, except as otherwise provided in these statutes.

(2) TAKING SALTWATER ANIMALS FOR EXPERIMENTAL, SCIENTIFIC, AND EXHIBITION PURPOSES.—Notwithstanding any other provisions of general or special law to the contrary, the department may issue permits, upon such terms, conditions, and restrictions as it may prescribe by rule, to any properly accredited person permitting him to collect and possess saltwater animals for experimental, scientific, and exhibitional purposes. Such permits may allow collection of specimens without regard to, and not limited to, size, seasonal closure, collection method, reproductive state, or bag limit. Permits issued under the provisions of this section shall be returned to the department upon completion of the project for which they were issued.

tion may be suspended or revoked by the department if it finds that the permit holder has violated this section. Department rules, orders, or terms or conditions of the permit or has submitted false or inaccurate information in his application; and the holder shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 80,314, passed by the Legislature July 1, 1985, and amended by s. 2, ch. 80,314, which provides that the Governor and Cabinet have not adopted appropriate rules. Section 3, ch. 80,314, provides that, prior to the adoption of rules providing for the enforcement of this section, the Department of Natural Resources shall hold the Department's authority to enforce this section, or repeal shall be void until it has been determined based upon appropriate findings of fact, that such action will not adversely affect the environment.

370.101 Saltwater fish; regulations.—

(1) The Division of Marine Resources is authorized to establish weight equivalencies when minimum lengths of saltwater fish are established by law, in those cases where the fish are artificially cultivated.

(2) Permits may be issued by the division for catching and possession of fish protected by law after it has first established that such protected specimens are to be used as stock for artificial cultivation.

(3) No permit may be issued pursuant to subsection (2) until the division determines that the artificial cultivation activity complies with the provisions of s. 253.57-253.78 and any other specific provisions contained within this chapter regarding leases, licenses, or permits for maricultural activities of each saltwater fish, so that the public interest in such fish shall be fully protected.

History.—s. 1, ch. 75,272, passed by the Legislature March 11, 1971, and amended by s. 1, ch. 75,272, passed by the Legislature March 11, 1971.

370.102 State preemption of power to regulate.—The power to regulate the taking or possession of saltwater fish, as defined in s. 370.011, is expressly reserved to the state.

History.—s. 1, ch. 75,272, passed by the Legislature March 11, 1971.

370.103 Agreements with Federal Government for the preservation of saltwater fisheries; authority of department.—The Department of Natural Resources is authorized and empowered to enter into cooperative agreements with the Federal Government or agencies thereof for the purpose of preserving saltwater fisheries within and without the state, and for the purpose of protecting against overfishing, waste, depletion, or any abuse whatsoever. Such authority includes the authority to enter into cooperative agreements whereby the Division of Law Enforcement of the Department is empowered to enforce federal statutes and rules pertaining to fisheries management. When differences between state and federal laws occur, state laws shall take precedence.

History.—s. 1, ch. 83,725, passed by the Legislature July 1, 1983.

370.11 Fish regulation.—

(1) CATCHING FOOD FISH FOR PURPOSES OF MAKING OIL PROHIBITED. PENALTY.—No person shall take any food fish from the waters under the jurisdiction of the state, for the purpose of making oil, fertilizer or compost therefrom. Purse seines may be used for the taking of nonfood fish for the purpose of making oil, fertilizer or compost. Any person violating any of the provisions of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) LENGTH OF SALTWATER FISH REGULATIONS.

- (a) No person shall take, have in his possession, buy, offer for sale, sell, or unnecessarily destroy, at any time, any of the following saltwater fish, of less length than that set forth as follows:
 1. Bluefish of less length than 10 inches from tip of nose to rear center edge of tail.
 2. Pompano of less length than 9 1/2 inches from tip of nose to rear center edge of tail.
 3. Fluke or flounder of less than 11 inches from tip of nose to rear center edge of tail.
 4. Mackerel, redfish, and saltwater speckled trout or spotted weakfish of less than 12 inches from tip of nose to rear center edge of tail.
 5. Striped bass of less length than 18 inches from tip of nose to rear center edge of tail.
 6. Striped bass of less length than 15 inches from tip of nose to rear center edge of tail, except that this length limitation shall not apply to cultured striped bass grown pursuant to regulations of the Department of Natural Resources.
 7. Black mullet of less length than 11 inches from tip of nose to rear center edge of tail, except:
 - a. In waters located west of the Aucilla River to the Alabama line, 9 inches from tip of nose to rear center edge of tail, and
 - b. In waters northwesterly of the Citrus-Hernando County line to the Aucilla River, 10 inches from tip of nose to rear center edge of tail.
 8. Grouper of the following species of less length than 12 inches from tip of nose to rear center edge of tail:
 - a. Red grouper (*Epinephelus morio*);
 - b. Nassau grouper (*Epinephelus nausae*);
 - c. Black grouper (*Mycteroperca bonaci*);
 - d. Gag (*M. microlepis*).

No more than 10 percent of the individuals of any particular species may be undersized according to legal lengths established for that species.

(b) It shall not be unlawful for any person, firm or corporation to receive, possess, buy, offer for sale, sell, or transport fluke or flounder of a size smaller than indicated in paragraph (a), if proof satisfactory to the Department of Natural Resources can be furnished showing these fish were received in legitimate interstate commerce transactions, were caught in waters other than the territorial waters of Florida, or were caught in a depth of water so great that they could not be returned to the water alive. The Department of Natural Resources shall enact such rules as are necessary relating to the method of providing the proof required for the above exceptions.

PROTECTION DURING SPAWNING SEASON; PENALTY.—No person may use any purse or drag seine, river or seine of this state, a liberty snad or may be prevented from using any such gear during the spawning season, between November 15 and March 1 of every year. Any person violating this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

The Maitland-Manatee Cove in Brevard County. The specific areas to be regulated consist of:

1. A body of water which starts at Melbourne-Tallahassee Tidal Water District structure NS-1, section 35, township 18 south, range 37 east, running northward through the center of the land area of subdivision of Turkey Creek, section 26, township 19 south, range 37 east, to the confluence of Turkey Creek and section 35, township 18 south, range 37 east, of the Indian River, section 24, township 18 south, range 37 east, including all lagoon waters of the Indian River watershed on the west by Palm Bay Point, the north by Cassaway Point, the east by the four immediate small islands, and the south by Cape Malabar there

(d) No mammalian dolphin shall be shipped within or outside the state without a special permit from the division, which may require such information as it deems necessary relative to the adequacy of the holding facilities of the recipient; and a permit for such shipment may be granted only when the division determines the facilities are adequate for the dolphin. No permit shall be issued for the shipment of this

(b) It shall be unlawful to transport on the water any stone crab with, set, place, or cause to be fished with, or to be placed, any trap or trap thereof during the closed season of any crab season, except that traps may be placed in the water and baited 10 days prior to the opening of the stone crab season and shall be removed within 5 days after the close of the stone crab season. However, nothing herein shall authorize the landing or sale of any stone crab or stone crab claw during the closed season. Any stone crab or stone crab claw during the closed season in the water more than 10 days prior to the opening of the stone crab season, or more than 5 days after the close of the stone crab season,

(2) It is unhelpful for other reasons—

(b) It shall be unlawful to transport on the water any stone crab with, set, place, or cause to be fished with, or to be placed, any trap or trap thereof during the closed season of any crab season, except that traps may be placed in the water and baited 10 days prior to the opening of the stone crab season and shall be removed within 5 days after the close of the stone crab season. However, nothing herein shall authorize the landing or sale of any stone crab or stone crab claw during the closed season. Any stone crab or stone crab claw during the closed season in the water more than 10 days prior to the opening of the stone crab season, or more than 5 days after the close of the stone crab season,

397

666

b) Crawfish must remain in a whipcord condition at all times while on or below the waters of the state. The practice of winging or separating the tail (or segmented portion) from the body (carapace or head) section shall be prohibited on the waters of this state. Any vessel that is used for the purpose of harvesting crawfish shall be permitted issued by the Division of Law Enforcement. Any tail so separated under the provisions of a special permit shall measure no less than 5 1/2 inches measured lengthwise from the point of separation to the center of the tail. The maximum length of the tail shall be 12 inches. The measurement shall be conducted with the tail in a first straight position with the tip of the tail clamped. Said measurement shall be applicable on board any vessel used for the taking of crawfish or at the dock where assessed for the taking of crawfish or at the dock where

A buoy shall be attached to each trap with a permitted release mechanism if desired and must be of sufficient strength and buoyancy to float, except when intentionally submerged by a timed float release device, and to be of such color, hue, and brightness as to be easily distinguished seen, and located. Each color shall also be permanently and conspicuously displayed on the boat used for setting and conducting said traps and buoys in such a manner as to be readily identifiable from the air and water. Each trap, can, drum, and similar device used for taking or attempting to take crabs shall be marked with the name of the owner, the date and the buoy number. No license shall be permitted other than the current licenseholder numbers. The licensee holder may, at his option and in lieu of individual trap buoys, attach the individual traps to a trolling; however, such

(2) SHRIMP CATCH REGULATION, FEMALE

(ii) Any person, firm, or corporation convicted of violating the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. In the event of a second or subsequent conviction of a violation of this subsection within 24 months, the division shall suspend the sales tax license for one year.

(f) Any person, firm, or corporation which violates the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) **SHRIMP FISHING; PERMITS; PENALTY.**—

(a) All persons, firms, and corporations desiring to fish for commercial or bait shrimp within areas in which trawling is permitted shall first apply to the Division of Marine Resources for a permit. Such a permit shall be issued to the applicant upon payment of the fee for the permit.

approximate latitude 24°41'58" North and longitude 81°46'15" West; three marine leagues seaward of Snipe Point; thence easterly and northerly following a line parallel with which is three marine leagues seaward of the mean low-water line of the seawardmost points in Florida Bay, the Gulf of Mexico to a point at approximate latitude 25°00'00" North and approximate longitude 81°56'30'00" West; thence east-southeast along the mean high-water line at latitude 25°00'00" North and approximate longitude 81°49'00" West; thence southerly and easterly along the mean high-water line of the landwardmost points in Florida Bay to a point at approximate latitude 24°41'58" North and longitude 81°46'15" West.

[illegible]

connecting shorelines of the Florida Keys and the west longitude; thence north until a point on the mainland is reached; thence proceed west and north along the coast of the mainland of Florida until a point is reached which is located due north of the aforementioned Coon Key Light, located in Collier County; thence due south to Coon Key Light, the point of beginning.

(b) No shrimp shall be permitted at any time except live bait production area.

(3)(a) The Division of Law Enforcement is authorized to take title in the name of the state to any vessel or vessels suitable for use in carrying out the inspection and patrol of the Tortugas Bed which may be offered as a gift to the state by any person, firm, corporation, or association in the shrimp industry for the purpose of carrying out the provisions of this section. In the event such title is taken to such vessel or vessels, the division is authorized to operate and keep said vessel or vessels in proper repair.

(b) The division is further authorized to accept the temporary loan of any vessel or vessels, suitable for use in carrying out the provisions of this section, from any person, firm, or corporation. However, the state shall not assume any liability to the owner or owner of said vessels, persons, or property. In the operation of said loaned vessels, upkeep and repair shall consist only of minor repairs and routine maintenance. The owner or owner shall carry full marine insurance coverage on said loaned vessel or vessels for the duration of the period during which said vessels are operated by the state.

(4) It is unlawful to land or attempt to land any shrimp in the territorial waters of the state without a permit issued by the Division of Law Enforcement. Such permit shall be issued without charge. The division may revoke such landing permit upon a violation of any portion of this section. Such revocation of permit by the division may be reviewed by the Department of Natural Resources.

(5) It is unlawful for any person, firm, or corporation to receive any shrimp from any vessel not in possession of a valid permit issued by the Division of Law Enforcement. Any person violating this subsection shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083.

(6) The owner or master of any vessel not equipped with live shrimp bait tanks dragging shrimp nets in the above-defined area without a live permit shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. A second violation by any person under this subsection shall be a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A third or any subsequent violation by any person under this subsection within a 3-year period shall be a felony of the third degree, punishable as provided in s. 775.082 and s. 775.083.

(7) Each offense under all subsections, except subsections (5) and (6), shall be a misdemeanor and punishable as follows:

(a) For the first offense the owner or the master shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083, and the nets and shrimp door shall be confiscated as provided in s. 370.061.

(b) For the second offense the owner or master shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083, and the vessel shall be confiscated as provided in s. 370.061.

(c) For the third offense within a 3-year period the owner or master shall be guilty of a felony of the third degree, punishable as provided in s. 775.083, and said equipment and instruments shall be confiscated as provided in s. 370.061.

(d) In addition to the fines enumerated above, the court may punish the master as provided in s. 775.082.

(8)(a) Nothing in this section shall apply to the taking of live shrimp for bait. All persons, firms, and corporations desiring to fish for live bait shrimp within any area shall first apply to the Division of Law Enforcement for a permit. Such application shall be made on forms to be supplied by the division which shall require the applicant to furnish such information as may be deemed pertinent to the best interests of saltwater conservation.

(b) The division may refuse to grant permits when it is apparent that the best interests of saltwater conservation will be served by such denial.

(c) Permits so granted shall be subject to immediate revocation upon violation of any provision of this subsection. It shall be apparent that the best interests of saltwater conservation will be served by such revocation.

(d) Due to the varied habitats and types of bottoms and hydrographic conditions, the division shall have the authority to specify and regulate the types of gear that may be used in the area. Such specifications and regulations shall be consonant with sound saltwater conservation.

History.—s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

1970-1953 Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties.

DEFINITIONS.—When used in this section, unless the context clearly requires otherwise:

(a) "Inland waters" means all creeks, rivers, bayous, bays, inlets, and canals.

(b) "Sample" means one or more shrimp taken from an accurately defined part of the area defined.

(c) "Series" means 10 or more samples taken within a period of not more than 1 week, each sample being taken at a different station within the pattern.

(d) "Pattern" means 10 or more stations.

(e) "Station" means a single location on the water of the areas defined.

(f) "Licensed live bait shrimp producer" means any individual licensed by the Department of Natural Resources to employ the use of any trawl for the taking of live bait shrimp within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties.

(g) "Licensed dead shrimp producer" means any individual licensed by the Department of Natural Resources to employ the use of any trawl for the taking of shrimp within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties.

(2) SHRIMPING PROHIBITED.—It is unlawful to employ the use of any trawl or other net, except a common cast net, designed for or capable of taking shrimp, within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties, except as provided in s. 370.061.

(3) LIVE BAIT SHRIMP PRODUCTION.—

(a) Any licensed live bait shrimp producer shall be permitted to use a roller-frame trawl or other trawl not to exceed 20 feet in width for the production of live bait shrimp. No other type or size of trawl shall be permitted.

(b) A live bait shrimp production license shall be issued by the Department of Natural Resources upon receipt of an application by a person intending to use a boat, not to exceed 35 feet in length in Duval, St. Johns, Putnam, Flagler, and Clay Counties and not to exceed 45 feet in length in Nassau County, for live shrimp production within the inland waters of Nassau, Duval, St. Johns, Putnam, Flagler, or Clay Counties and the payment of a fee of \$50. The design of the application and permit shall be determined by the department. The proceeds of the fee imposed by this paragraph shall be used by the Department of Natural Resources for the purposes of enforcement of marine resource laws.

(c) The executive director of the Department of Natural Resources, or his designated representative, may by order close any area to live bait shrimp production when sampling conservation resources. The revocation of any order to close has the effect of opening the area.

(d) Every live bait shrimp producer shall produce evidence satisfactory to the department that he has the necessary equipment to maintain the shrimp alive while aboard the shrimp fishing vessel. All vessels fishing for live bait shrimp must be equipped with live bait shrimp tanks of a type and capacity satisfactory to the department, and no more than 5 pounds of dead shrimp will be allowed on board such vessel per day.

(e) Each licensed live bait shrimp producer who stores his catch for sale or sells his catch shall either:

a. Maintain onshore facilities which have been annually checked and approved by the local Marine Patrol office to assure the facilities' ability to maintain the catch alive when the live bait shrimp producer returns for his own facility; or

b. Sell his catch only to persons who have onshore facilities which have been annually checked and approved by the Marine Patrol office to assure the facilities' ability to maintain the catch alive when the producer sells his catch to a catcher or facility. The producer shall provide the Department of Natu-

ral Resources with the wholesale number of the facility in which the shrimp have been sold and shall submit this number on a form designed and approved by the department.

(2) Any person who maintains onshore facilities as described in this paragraph, whether the facilities are maintained by the licensed live bait shrimp producer or by another party, who purchases shrimp from live bait shrimp producers, shall maintain records of their transactions in conformance with the provisions of s. 370.07(5).

(f) All commercial trawling in Clay, Duval, and St. Johns Counties shall be restricted to the inland waters of the St. Johns River proper in the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(4) DEAD SHRIMP PRODUCTION.—Any person may operate as a commercial dead shrimp producer on the St. Johns River provided that:

(a) A dead shrimp production permit is procured from the Department of Natural Resources upon receipt by the department of a properly filled out and approved application by a person intending to use a boat, not to exceed 35 feet in length in Duval, St. Johns, Putnam, and Clay Counties, and not to exceed 45 feet in length in Nassau County, for dead shrimp production within the inland waters of Nassau County and the inland waters of the St. Johns River of Duval, Putnam, St. Johns, Flagler, or Clay Counties, which permit shall cost \$250 and shall be required for each vessel used for dead shrimp production. The design of the application and permit shall be determined by the department. The proceeds of the fee imposed by this paragraph shall be deposited into the account of the Motorboat Registration Fund and shall be used by the Department of Natural Resources for the purpose of enforcement of marine resource laws.

(b) All commercial trawling shall be restricted to the St. Johns River proper in the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(c) No person may use any trawl exceeding 35 feet in length or less than a 1½-inch stretch mesh with a 10-pound pull. Length measurement shall be made from the point where the webbing is hung on the corkline at one end of the net to the point where the webbing is hung on the corkline at the opposite end of the net.

(d) No person may use any tickler chain.

(e) The Department of Natural Resources may, by rule, place additional restrictions upon the types of equipment to be used by dead shrimp producers.

(f) All commercial shrimp activities shall be allowed during daylight hours from Tuesday through Friday each week.

(g) No person holding a dead shrimp production permit issued pursuant to this subsection shall simultaneously hold a permit for noncommercial trawling under the provisions of subsection (5). The number of permits issued by the department for commercial trawling or dead shrimp production in any one year shall be the number issued in the base year, 1976. All permits shall be nontransferable and annually renewable only by the original holder thereof. All permits

not renewed shall expire and shall not be renewed under any circumstances.

(b) It is illegal for any person to sell dead shrimp caught in the St. Johns River, unless the seller is in possession of a dead shrimp production license issued pursuant to this subsection.

(c) It is illegal for any person to purchase shrimp for consumption from any seller (with respect to shrimp caught in the St. Johns River) who does not produce his dead shrimp production license prior to the sale of the shrimp.

(d) In addition to any other penalties provided for in this section, any person who violates the provisions of this subsection shall have his license revoked by the department.

(5) **NONCOMMERCIAL TRAWLING.**—Any person may harvest shrimp in the St. Johns River for his own use as food and may travel for such shrimp under the following conditions:

(a) Each person who desires to travel for shrimp for use as food shall obtain a noncommercial trawling permit from the local Marine Patrol office of the Department of Natural Resources upon filing out an application on a form prescribed by the department and upon paying a fee for the permit, which shall cost \$50.

(b) Each trawl used for noncommercial trawling shall measure not more than 15 feet from the point where the webbing is hung on the corkline at one end of the net to the point where the webbing is hung on the corkline at the opposite end of the net, and the net shall be pulled at a steady streamer mesh.

(c) All trawling shall be restricted to the confines of the St. Johns River proper in the area north of the Acacia Bridge in Jacksonville and at least 100 yards from the nearest shoreline.

(d) Trawling shall be allowed only during daylight hours on Saturdays and Sundays, and at no time shall any person or boat possess more than 50 pounds of shrimp while on the water.

(e) No shrimp caught by a person licensed under the provisions of this subsection may be sold or offered for sale.

(6) **SAMPLING PROCEDURE.**—

(a) The executive director of the Department of Natural Resources shall have samples taken at established stations within patterns at frequent intervals.

(b) No area may be closed to live bait shrimp production unless a series of samples has been taken and it has been determined that the shrimp are undersized or that continued shrimp in this area would have an adverse effect on conservation. Standards for size may be established by rule of the department.

(c) No area may be opened to dead shrimp production unless a series of samples has been taken and it has been determined that the shrimp are of legal size. Legal-sized shrimp shall be defined as not more than 4 1/2 inches with heads on, or 70 shrimp with heads on per bucket.

(7) **LICENSE POSSESSION.**—The operator of a boat employed in the use of any trawl for shrimp production shall, in possession of a current shrimp production license issued in him pursuant to the provisions of this section.

(8) **USE OF TRAWL; LIMITATION.**—

(a) The use of a trawl by either a live bait shrimp producer or dead shrimp producer shall be limited to the daylight hours, and the taking of dead shrimp shall not take place on Saturdays, Sundays, or legal state holidays.

(b) The use of a trawl by either a live bait shrimp producer or dead shrimp producer within 100 yards of any shoreline is prohibited. The Department of Natural Resources, by rule or order, may define the area or areas where this subsection shall apply.

(c) It is unlawful to employ the use of any trawl designed for, or capable of, taking shrimp within 1/4 mile of any natural or manmade inlet in Duval County or St. Johns County.

2. It is unlawful for anyone to travel in the Trout River west of the bridge on U.S. 17 in Duval County.

(9) **PENALTY.**—

(a) Any person violating any provision of this section shall be punished as provided by law.

(b) The license of any shrimp producer convicted of violating any provision of this section shall be suspended for 1 year.

(10) **ST. JOHNS RIVER; RULEMAKING PROHIBITED.**—The Department of Natural Resources may not adopt any rule which regulates shrimp in the St. Johns River.

History.—s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ch. 71-106, § 1, 1-2, ch. 72-106, § 1, 1-2, ch. 73-106, § 1, 1-2, ch. 74-106, § 1, 1-2, ch. 75-106, § 1, 1-2, ch. 76-106, § 1, 1-2, ch. 77-106, § 1, 1-2, ch. 78-106, § 1, 1-2, ch. 79-106, § 1, 1-2, ch. 80-106, § 1, 1-2, ch. 81-106, § 1, 1-2, ch. 82-106, § 1, 1-2, ch. 83-106, § 1, 1-2, ch. 84-106, § 1, 1-2, ch. 85-106, § 1, 1-2, ch. 86-106, § 1, 1-2, ch. 87-106, § 1, 1-2, ch. 88-106, § 1, 1-2, ch. 89-106, § 1, 1-2, ch. 90-106, § 1, 1-2, ch. 91-106, § 1, 1-2, ch. 92-106, § 1, 1-2, ch. 93-106, § 1, 1-2, ch. 94-106, § 1, 1-2, ch. 95-106, § 1, 1-2, ch. 96-106, § 1, 1-2, ch. 97-106, § 1, 1-2, ch. 98-106, § 1, 1-2, ch. 99-106, § 1, 1-2, ch. 100-106, § 1, 1-2, ch. 101-106, § 1, 1-2, ch. 102-106, § 1, 1-2, ch. 103-106, § 1, 1-2, ch. 104-106, § 1, 1-2, ch. 105-106, § 1, 1-2, ch. 106-106, § 1, 1-2, ch. 107-106, § 1, 1-2, ch. 108-106, § 1, 1-2, ch. 109-106, § 1, 1-2, ch. 110-106, § 1, 1-2, ch. 111-106, § 1, 1-2, ch. 112-106, § 1, 1-2, ch. 113-106, § 1, 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592-106, § 1, 1-2, ch. 593-10

Chapter shall begin on the day executed and continue in perpetuity under such restrictions as shall herein be stated. The rent for the first 10 years shall be \$5 per acre, or any fraction of an acre, per year. However, if the rent for any lease currently in effect shall not be increased during the first 10 years of said lease, the lease up to January 1 following, and annually thereafter in advance on or before January 1, when the lease be held by the original lessee or by an heir, assignee, or transferee. No taxes, assessments, or other licenses other than those imposed in this chapter shall be levied or imposed on the leases or unleased lands, but the annual rental exacted and paid shall be held and considered all that can or shall be exacted by the state or county, subordinate political corporations, or municipalities.

(15) INCREASE OF RENTALS AFTER 10

(7) **PAYMENT OF RENT; FORFEITURE FOR NONPAYMENT; NOTICE, ETC.**—All leases shall stipulate for the payment of the annual rent in advance on or before January 1 of each year, and the failure to pay the rent punctually on or before that day, or the failure to pay the rent punctually on or before the 30 days thereafter shall ipso facto, and upon demand, terminate and cancel said lease and forfeit to the state all the works, improvements, betterments, oysters, and dams on the leased water bottoms, and authorize the Division of Marine Resources to at once enter on said water bottom and take possession thereof, and such water bottom shall then be open for lease as herein provided; and the division shall within 10 days thereafter enter such termination, cancellation, and forfeiture on its books and shall give such public notice thereof, and of the fact that the water bottoms are open to lease, as it may deem proper; provided, that the division may, in its discretion, waive such termination, cancellation, and forfeiture when the rent due, with 10 percent additional, and all costs and expenses growing out of such failure to pay, be tendered to it within 60 days after the same became due; provided, that in all cases upon cancellation of lease, the division shall, after 60 days' notice by publication in some newspaper published in the state, having a general subscription, in which notice shall contain a full description of the leased waters and beds and any parts thereof, sell the lease to the highest and best bidder; and all

monies received over and above the rents due to the state, under the terms of the lease and provisions herein, and costs and expenses growing out of such failure to pay, shall be paid to the lessee for the failure to pay. No leased water bottoms shall be forfeited for nonpayment of rent under the provisions of this section, unless there shall previously have been mailed by the said division to the last known address of such tenant according to the books of said division, 30 days' notice of the maturity of such lease. When payment of rent, and there is a plot or survey thereof in the archives of the division, when such bedding grounds are re-leased, no new survey thereof shall be made, but the original stakes, monuments, and bounds shall be preserved, and a new lease shall be based upon the original survey. This subsection shall also apply to all costs and expenses incurred against a lease for the purpose of this section.

(16) CANCELLATION OF LEASES TO NATURAL REEF. Any person, within 6 months from and after the expiration of any lease to water bottoms, may file a petition with the Division of Marine Resources for the purpose of determining whether a natural oyster or clam reef having an area of not less than 100 square yards existed within the leased area on the date of the lease, with sufficient natural or maternal oysters or clams thereon (not including crown oysters) to have constituted a stratum sufficient to have been resorted to by the public generally for the purpose of gathering the same to sell for a livelihood. The petition shall be in writing addressed to the Division of Marine Resources of the Department of Natural Resources, verified under oath, stating the location and approximate area of the natural reef and the claim or interest of the petitioner therein and requesting the cancellation of the lease to the natural reef. No petition shall be filed unless it is accompanied by a deposit of \$10 to defray the expenses of the investigation. The petition may include several contemporaneous natural reefs of oysters or clams. Upon receipt of such petition, the division shall cause an investigation to be made into the truth of the allegations of the petition, and, if found untrue, the \$10 deposit shall be retained by the division to defray the expense of the investigation, but should the allegations of the petition be found true and the leased premises contain a natural oyster or clam reef, as above described, the said \$10 shall be returned to the petitioner and the costs and expenses of the investigation taxed against the lessee and the lease canceled to the extent of the natural reef and the same shall be marked with buoys and stakes and notices placed thereon showing the same to be a public reef, the cost of the markers and notices to be taxed against the lessee.

(17) WHEN NATURAL REEFS MAY BE INCLUDED IN LEASE.—When application for oyster or clam bedding grounds, fill and topsoil, or other bedding grounds, in such bed development, the beds less in size than 100 square yards, or oyster or clam reefs or bars of greater size, but not of sufficient quantity to constitute a stratum, and it should further be made to appear to the Division of Marine Resources by the affidavit of the applicant, together

with such other proof as the division may require, that the natural reef, bed, or bar could not be excluded, and the territory applied for properly protected or policed, the division may, if it deems it for the best interest of the state and the oyster industry so to do, permit the including of such natural reefs, beds, or bars; and it shall fix a reasonable value on the same, to be paid by the applicant for such bedding ground; provided, that no such natural reefs shall be included in any lease hereafter granted to the bottom or bed of waters of this state contiguous to Franklin County. There shall be no future oyster leases issued in Franklin County.

(18) SETTLEMENT OF BOUNDARY DISPUTES. REVIEW.—The Division of Marine Resources shall determine and settle all disputes as to boundaries between lessees of bedding grounds. The division shall, in all cases, be the judge as to whether any particular bottom is or is not a natural reef or whether it is suitable for bedding oysters or clams.

(19) TRESPASS ON LEASED BEDS; GATHERING OYSTERS AND CLAMS BETWEEN SEASONS; SET AND SUNRISE FROM NATURAL REEFS, ETC.—Any person who willfully takes oysters, shells, cultch, or clams bedded or planted by a licensee under this chapter, or grantee under the provisions of heretofore existing laws, or riparian owner who may have heretofore planted the same on his riparian bottom, or any oysters or clams deposited by anyone making up a cargo for market, or who willfully carries or attempts to carry away the same without permission of the owner thereof, or who willfully or knowingly removes, breaks off, destroys, or otherwise injures or alters any stakes, bounds, monuments, buoys, notices, or other designations of bedding or oyster or clam grounds, or who willfully injures, destroys, or removes any other protection around any oyster or clam beds, or who willfully moves any bedding ground stakes, buoys, marks, or designations placed by the division, or who gathers oysters or clams between sunset and sunrise from the natural reefs or from private bedding grounds, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(20) PROTECTION OF OYSTER AND CLAM REEFS.—The Division of Marine Resources shall improve, enlarge, and protect the natural oyster and clam reefs of this state to the extent it may deem advisable and the means at its disposal will permit. The division shall also, to the same extent, assist in protecting the leased or granted reefs in the hands of lessees or grantees from the state. The division shall also make a detailed report, to the Legislature at each session, of its efforts in relation to the oyster and clam business, together with recommendations for their development and the proper regulation thereof.

(21) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS WITHOUT OBTAINING LEASE; PENALTY.—Any person staking off the water bottoms of this state, or bedding oysters on the bottoms of the waters of this state, without previously leasing same as required by law shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and shall acquire

no rights by reason of such staking off. This provision does not apply to grants heretofore made under the provisions of any heretofore existing laws or to artificial beds made heretofore by a riparian owner or his grantees on his riparian bottoms.

(14) CLOSED SEASON FOR OYSTERS; RULES OF EVIDENCE; SPECIAL PROVISIONS RELATING TO FRANKLIN COUNTY.—No person may take, gather, or catch oysters on the reefs of this state, or have such oysters taken in his possession, between June 1 and September 1 of each year, except from private leased or planted grounds, or artificial beds of this section. The possession of oysters provided for in this section, and the possession of oysters from any of such closed seasons shall be prima facie evidence of the violation of this section, and the burden shall be on the possessor of such oysters to prove that they were fished or gathered beyond the jurisdiction of the state or from private oyster beds. The Division of Marine Resources shall, however, have authority to permit the fishing of uncultured oysters from the natural oyster reefs as herein provided, from April 1 until October 1, but only for bedding purposes, and then only under such rules as the division may adopt to carry out the provisions of law. The provision prohibiting the harvesting of oysters shall not apply between June 1 and October 1 of each year in the reefs of Franklin County, described as follows: that area of East Bay, Franklin County, and located north of the John Gorrie Bridge Chesapeake Bay, and conditionally approved for the harvesting of oysters by the Division of Marine Resources; that area of Apalachicola Bay, Franklin County, and located south of the John Gorrie Bridge, and west of the Bryant Patton Bridge identified as conditionally approved for the harvesting of oysters by the Division of Marine Resources; and located east of the line from the east end of St. George Island due north to the mainland, and located east of a line described as follows: begin at the tip of Shell Point on St. George Island, thence run northwest to Channel Marker No. 31, thence westerly along the intracoastal waterway to Channel Marker No. 41, thence north through Marker No. 5 to the mainland, which area is classified as approved for the harvesting of oysters by the Division of Marine Resources. Further, no person may take, gather, or catch oysters from these three designated areas between October 2 and May 31 of each year. The provisions of this subsection regarding possession of oysters shall not apply to oysters harvested from Franklin County except that possession of oysters from areas of Franklin County designated herein or possession of oysters between October 2 and May 31 of each year, or possession of oysters from any of these three designated areas shall be prima facie evidence of the violation of this section, and the burden of proof shall be on the possessor of such oysters to prove that they were fished or gathered within a lawful area. All oysters shipped out of Franklin County between June 1 and October 1 shall be accompanied by invoices, bills of lading, or other similar instruments showing the oysters were produced in Franklin County, and the burden of proof shall be on the possessor of the oysters, except that this summer oyster

season and its respective provisions shall be postponed in 1980 until 10 days after sunset on the day the approved shellfish harvesting area in Apalachicola Bay shall be reopened. The division shall be authorized to suspend the provisions of this section if, after sampling results, the division determines that the season should be extended or the regular harvesting season. Any other provisions of this section to the contrary notwithstanding, any subsection with respect to special provisions shall be subject to a fine of not less than \$200 and for the second or subsequent offense, a fine of not less than \$500 and a term of imprisonment of not less than 7 days in jail. Furthermore, notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld with respect to any violation of the special provisions of this subsection relating to Franklin County.

(15) REMOVING OYSTERS FROM NATURAL REEFS; LICENSES, ETC.; PENALTY.—

(a) It is unlawful to use a dredge or any means or implement other than hand tongs in removing oysters from the natural or artificial state reefs, except in bodies of water over a general depth of 12 feet, or where in the opinion of the Division of Marine Resources, the body of water regardless of its depth, is too open and exposed to be ordinarily fished with hand tongs, in which event the division shall be authorized to issue a license for the use of such dredges; provided, the applicant shall pay power vessel license fee of \$25 for each sailing power vessel using scrapers or dredges, in addition to its other license and shall give bond in favor of the Governor of the State of Florida, with good security, to be approved by the division in the sum of \$3,000, conditioned that said implements shall not be used on the state reefs contrary to law. Upon the payment of \$25 annually, for each vessel or boat, using a dredge or machinery in the harvesting of clams, a license may be issued by the division for such use to such person.

(b) Lessees of bedding grounds shall have the right to use in such bedding grounds any implements or appliances that they may desire. The division shall require that such lessees procure a permit from it to use such implements and shall require of the lessees that they furnish a bond payable to the Governor of the State of Florida, to be approved by the division, in the sum of \$3,000, that such implements or appliances shall not be used on the natural oyster reefs contrary to law. When such implements or appliances are used exclusively on private propagating or bedding grounds, no charge shall be made for the permit. Anyone violating the provisions of this section shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Oysters may be harvested from natural or public grounds by common hand tongs or by hand without a harvesting method license being required. Oysters may be harvested by hand, by dredging, free diving, tanning, from oyster reefs, or by other means.

(16) CULTIVATING OYSTERS; POSSESSION OF UNCULTURED OYSTERS; RECORDS OF SOURCES; SPECIAL PROVISIONS RELATING TO FRANKLIN COUNTY.—

do by the division or any conservation agent; and he shall, on the first day of each month, make a return under oath to the division as to the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. The division may require detailed returns whenever it deems them necessary.

(123) SEIZURE OF VESSELS AND CARGOES.—Vessels, with their cargoes, violating the provisions of this chapter shall be liable to seizure and forfeiture. The seizure may be made by any conservation agent or by any sheriff or his deputies, and taken into custody, and when not arrested by the sheriff or his deputies, delivered to the sheriff of the county in which the seizure is made, and shall be liable to forfeiture, on appropriate proceedings being instituted by the Division of Marine Resources, before the courts of that county. In such case the cargo shall, at once be disposed of by the sheriff, for account of whom it may concern. Should the master or any of the crew of said vessel be found guilty of using dredges or other instruments in fishing oysters on natural reefs contrary to law, or fishing on the natural oyster or clam reefs out of season, or unlawfully taking oysters or clams belonging to a lessee, such vessel shall be declared forfeited by the court and ordered sold, and the proceeds of the sale shall be deposited in the General Revenue Fund, and the vessel shall be forfeited to the Division of Marine Resources.

(124) OYSTER AND CLAM REHABILITATION.—The board of county commissioners of the several counties may appropriate and expend such sums of money as may be necessary for the purpose of replanting oyster clams, oyster shell, clam shell, or cultch or to perform such other acts for the enhancement of the oyster and clam industries of the state, out of any sum in the county treasury not otherwise appropriated.

(a) All oysters taken from the waters of this state shall be culled, unless otherwise provided in this section.

(b) In the case of oysters emanating from natural, publicly owned beds, all oysters which measure less than 3 inches in greatest dimensions and all bedding shells shall be immediately replanted and scattered broadcast upon the natural reefs from which they were taken.

(c) In the case of oysters emanating from privately owned or privately controlled beds, all oysters which measure less than 3 inches in greatest dimensions and all bedding shells shall be culled, and the culled oysters and bedding shells may be spread broadcast over natural, publicly owned reefs.

(d) No person shall be in possession while on the waters of this state of oysters which are less than the prescribed legal size, regardless of their source, except that oysters which are less than the prescribed legal size may be placed upon the culling board of a vessel while on the bar for the purpose of culling out illegal-sized oysters.

(e) In determining what oysters shall be removed from marketable oysters, no oysters under 3 inches in greatest dimension shall be included in the percentage of oysters undersized when they adhere to the same would destroy either the undersized oysters or the marketable oysters. No person shall be considered to have in the possession of the Division of Marine Resources, for the purpose of planting or relaxing as provided by law. An excess of over 15 percent of small oysters, estimated as above provided for, in any cargo or lot of oysters shall be considered a violation of this section. Any oysters under 3 inches in greatest dimension in any cargo or lot of oysters shall be a violation of this section during the special oyster harvesting season, June 1 to October 1, in Franklin County. The Division of Law Enforcement, any marine patrol officer, or any police officer of the state shall cause to be measured, to determine the percentage of undersized oysters, 1 sample bushel to be taken at random from the cargo of oysters, while such oysters are in the county from which they were harvested and before the oysters are deposited in an oyster house certified under the rules of the Department of Natural Resources. If a total of undersized oysters from the 1 bushel shall be more than 15 percent of the amount of oysters contained in the 1 bushel, it shall constitute a violation of this section. Any other law to the contrary notwithstanding.

(125) CONFERENCE WITH DIVISION OF MARINE RESOURCES.—The Division of Marine Resources shall confer with, receive, and consider the recommendations of the several county oyster rehabilitation commissions concerning the shellfish industry of their respective counties and shall be governed thereby only to the extent that the same may be to the best interest of the shellfish industry of the state.

(126) REMOVAL OF COMMISSIONERS.—The Governor may remove any commissioner appointed to any county oyster rehabilitation commission, who shall fail or neglect to diligently perform the duties of such office, and shall fill the vacancy so created by the removal so that there shall be a complete commission of three members in each county, having natural oyster reefs or beds, at all times.

(127) OYSTER AND CLAM REHABILITATION.—The board of county commissioners of the several counties may appropriate and expend such sums of money as may be necessary for the purpose of replanting oyster clams, oyster shell, clam shell, or cultch or to perform such other acts for the enhancement of the oyster and clam industries of the state, out of any sum in the county treasury not otherwise appropriated.

(18) SEIZURE OF VESSELS AND CARGOES.—Vessels, with their cargoes, violating the provisions of this chapter shall be liable to seizure and forfeiture. The seizure may be made by any conservation agent or by any sheriff or his deputies, and taken into custody, and when not arrested by the sheriff or his deputies, delivered to the sheriff of the county in which the seizure is made, and shall be liable to forfeiture, on appropriate proceedings being instituted by the Division of Marine Resources, before the courts of that county. In such case the cargo shall, at once be disposed of by the sheriff, for account of whom it may concern. Should the master or any of the crew of said vessel be found guilty of using dredges or other instruments in fishing oysters on natural reefs contrary to law, or fishing on the natural oyster or clam reefs out of season, or unlawfully taking oysters or clams belonging to a lessee, such vessel shall be declared forfeited by the court and ordered sold, and the proceeds of the sale shall be deposited in the General Revenue Fund, and the vessel shall be forfeited to the Division of Marine Resources.

(19) LICENSES; OYSTER AND CLAM CANNING.—Every person, as a condition precedent to the operation of any oyster or clam canning factory in this state, shall obtain a license therefor and pay a license fee of \$50. The license shall be issued by the Division of Marine Resources upon proper written application on forms to be furnished by it. The monies paid for licenses under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(20) FALSE RETURNS AS TO OYSTERS OR CLAMS HANDLED.—Each packer, canner, corporation, firm, commission man, or dealer in fish shall, on the first day of each month, make a return to the Division of Marine Resources, under oath, of the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. All oysters, clams, and shellfish purchased, caught, or handled during the preceding month shall be paid to the division with this report. Whoever is found guilty of making any false affidavit to any such report shall be guilty of perjury and punished as provided by law, and any person who fails to make such report shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding 6 months.

(128) OYSTER REHABILITATION COMMISSION.—The Governor of this state may appoint in any county, where natural oyster reefs exist, an oyster rehabilitation commission for such county, the same to be composed of three good and lawful citizens of that county. The commission shall serve without compensation.

(129) COMMISSION ADVISORY ONLY.—The oyster rehabilitation commission in any county shall constitute an advisory commission to the Division of Marine Resources with reference to all matters pertaining to the replanting and rehabilitation of natural oyster reefs and shall have no other powers or duties than to advise the division in the administration of the shellfish laws in the county in which its members are appointed and to recommend to the division the manner and method of the expenditure of funds provided for the rehabilitation of natural oyster beds in the county so that the fullest benefit of such oyster beds may be received from the expenditure. The recommendation of the commission shall not be binding upon the division but is advisory only.

(21) COLLECTION OF LICENSES AND TAXES.—All taxes and licenses shall be collected by the Division of Marine Resources under such rules and regulations as may be adopted by the division, and by it deposited in the State Treasury to the credit of the General Revenue Fund. The division shall keep a detailed account of all funds passing through its hands.

(22) WATER PATROL FOR COLLECTION OF TAXES.—The Division of Law Enforcement may establish and maintain necessary patrol forces for the collection of Florida oyster and clam taxes, such force as may be necessary to enforce the laws relating to oysters and clams, and may establish ports of entry at convenient locations where the severance or privilege tax levied on oysters and clams may be collected or paid and may make such rules and regulations as it may deem necessary for the enforcement of such tax.

(23) RECORDS.—Each person in any way dealing in shellfish shall keep a record, on blanks or forms prescribed by the Division of Marine Resources, of all oysters, clams, and shellfish taken, purchased, used, or handled by him, with the name of the persons from whom purchased, and the date taken or purchased, and shall exhibit this account at all times when requested so to do by the division.

(130) OYSTER REHABILITATION DISTRICT.—An oyster conservation district may be created whenever it appears to the Division of Marine Resources that there is a need for special protection, development, or encouragement of oyster planting or propagation within any area in the state, except private leased or granted oyster grounds. The area shall be readily identifiable by reference to geographical location or recognized landmarks, or by survey made by the division. Notice of the designation of the area or areas as oyster conservation district or districts shall be published once each week for 2 consecutive weeks, and such additional publicity of the creation of such district may be circulated as the division may deem necessary.

(131) SALE OF DEAD SHELLS AND LEASE BOTTOMS.—Any and all dead oyster shells and oyster lease bottoms collected by the Board of Trustees of the Internal Improvement Trust Fund thereof for or on the account of the sale of dead shell or for the right or privilege to take shell or shell deposits from the sovereign lands of the state shall be deposited in the State Treasury in the General Revenue Fund. These moneys shall be appropriated for use in financing biological, marketing, transportation, processing, and promotional research for fisheries, oyster, clam, and shrimp within the Natural Resources of this state. The Department of Natural Resources is authorized and directed to spend up to 20 percent of the moneys collected from the sale of dead

(24) OYSTER REHABILITATION COMMISSION.—The Governor of this state may appoint in any county, where natural oyster reefs exist, an oyster rehabilitation commission for such county, the same to be composed of three good and lawful citizens of that county. The commission shall serve without compensation.

(25) COMMISSION ADVISORY ONLY.—The oyster rehabilitation commission in any county shall constitute an advisory commission to the Division of Marine Resources with reference to all matters pertaining to the replanting and rehabilitation of natural oyster reefs and shall have no other powers or duties than to advise the division in the administration of the shellfish laws in the county in which its members are appointed and to recommend to the division the manner and method of the expenditure of funds provided for the rehabilitation of natural oyster beds in the county so that the fullest benefit of such oyster beds may be received from the expenditure. The recommendation of the commission shall not be binding upon the division but is advisory only.

(26) DUTIES OF COMMISSION.—The members of the oyster rehabilitation commission shall act jointly themselves with all conditions affecting the natural beds in the county for which appointed and shall locate, select, and recommend to the Division of

(a) All vessels used for the harvesting, gathering, or transporting of oysters for commercial use shall be constructed and maintained to prevent contamination or deterioration of oysters. To this end, all such vessels shall be provided with false bottoms and bulkheads fore and aft to prevent oysters from coming in contact with any hull water. No dogs or other animals shall be allowed at any time on vessels used to harvest or transport oysters. A violation of any of these provisions shall constitute a misdemeanor.

370.162 Purchase of sponges; state, county or municipality.---All county officials, boards or county commissioners, school boards, city councils,

(c) The presence of commercial sponges within the territorial limits of this state, or upon any boat, vessel, or vehicle, other than those operated in interstate by common carriers, within the territorial limits of this state, measuring when wet, less than five inches in their maximum diameter, shall be evidence that the person having such sponges in his possession has violated this section.

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Note.—Chapter 73, § 43, which enacted subsection (B), was passed by the majority vote of the Senate. See S. JOURNAL, 1921.

27018 Contracts and agreements(s): general:-

ly.—The Department of Natural Resources may enter into agreements of reciprocity with the fish commissioners or other departments or other proper officials of other states, whereby the citizens of the state may be permitted to take or catch shrimp or prawn from the waters under the jurisdiction of such other states, upon similar agreements to allow such nonresidents or aliens to fish for or catch seafood products within the jurisdiction of the state regardless of residence.

37019 Atlantic States Marine Fisheries

(1) FORM.—The Governor of this state is hereby authorized and directed to execute a compact on behalf of the State of Florida with any one or more of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, and with such other states as may enter into the compact, legally joining therein in the form substantially as follows:

ATLANTIC STATES MARINE FISHERIES
COMPACT

The contracting states solemnly agree:

ARTICLE I

The purpose of this compact is to promote the best utilization of the fisheries, marine, shell, and demersal of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of the physical waste of the fisheries from any cause. It is the purpose of this compact to authorize the member States joining herein to limit the production of fish or fish products for the purpose of establishing or fixing the price thereof, or creating and perpetuating a monopoly.

ARTICLE 11

This agreement shall become operative immediately as to those States executing it whenever any two or three of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida have executed it. The President of the United States has given its assent, and it shall take effect upon waters frequenting international trade and navigation with any of the aforementioned States, and upon waters under the jurisdiction of any of the aforementioned states, may

'370.172 Spearfishing; definition; limitations; penalty.--

(1) For the purposes of this section, "spearing" means the taking of any saltwater fish through the instrumentality of a spear, gig, or lance operated by a person swimming at or below the surface of the water.

(2) After October 1, 1973, it shall be lawful to spearfish in all salt waters and saltwater tributaries located in this state except as herein provided:

- (3) Spearfishing is hereby prohibited:
 - (a) In the immediate area of all public bathing beaches.
 - (b) In the immediate area of all commercial or public fishing piers.

(c) In the immediate area beneath any bridge catwalk specifically designated for public fishing usage and all lotteries.

(d)1. Within the boundaries of the John Pennekamp Coral Reef State Park, the waters of Collier County and the area in Monroe County known as

Upper Keys, which includes all salt waters under the jurisdiction of the Department of Natural Resources beginning at the county line between Dade and Monroe Counties and running south, including all of the keys down to and including Long Key.

2. For the purposes of this paragraph, the possession in the water of a spear, gig, or lance by a person swimming at or below the surface of the water in a prohibited area shall be prima facie evidence of a violation of the provisions of this paragraph regarding

(4) The taking of fish by spearfishing shall be limited to present and future bag limits as set forth by the Department of Natural Resources, which limits shall be identical to those applicable to other sport fishermen in this state.

- (5) The sale of fish taken by spearfishing shall be prohibited in any area where the sale of fish is subject to the same regulations and limitations applicable to other sports fishermen in this state.
- (6) The Department of Natural Resources shall have the power to establish restricted areas when it is determined that safety hazards exist or when necessary to protect the public interest. Restricted areas shall be established only after notice to the public has been given and only after consultation with the governing body of the county or municipality in which the restricted area is to be located and one publication in a local newspaper of general circulation in said county or municipality in addition to the notice required by law. Prior to promulgation of regulations, the local governing body of the area affected shall be notified.

shall agree to post and maintain notices in the area affected.

(7) Any person violating this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Pursuant to s. 11(a)(21) of Art. III of the State Constitution, the Legislature hereby prohibits racial bias or general laws of local application in

special laws or general laws or other appropriate laws in conflict with this act, but only such parts thereof are in conflict with this act, affecting spearfishing in salt waters and collector tribulation.

History. *cf.* 1, ch. 87, 333, ch. 25, 355, ch. 59, 405, ch. 701, ch. 71, 736, no. 1, 2, 73-141; *cf.* 1, ch. 77, 154, ch. 77, 383, ch. 74, 495, ch. 6, ch. 83, 134.

for the purposes of carrying out this chapter, and said department is further authorized to accept any and all donations including funds and loan of vessels.

(9) **RESTRICTIONS.**—All sponges grown or cultivated by the state in pursuance of this law shall be the property of the state, the state shall neither lease nor sell any natural sponge areas or beds or any sponge areas or beds cultivated under the provisions of this chapter, and no person may use diving boats, diving suits, helmets or other apparatus used by deep sea divers in taking commercial sponges from any waters within the territorial limits of the state.

(10) **PENALTY.**—Any person violating any of the foregoing provisions shall, for the first offense, be fined not more than the territorial minimum or the base salary of the offender, or both, or imprisoned not more than 12 months, or both, for the second offense, punishable as provided in s. 775.082 or s. 775.083. For the third offense, he shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, and by the confiscation of all boats, tackle and equipment used in the commission of the offense.

[illegible]

(1) Diving for sponges is hereby regulated in the following territorial waters of Florida, as follows:

Diving for sponges is prohibited in the territorial waters of Florida north of a parallel of latitude running through Piney Point (29°45'30" N); that diving for sponges be prohibited in waters of less than three fathoms between the parallel of latitude that runs through Piney Point, and the parallel of latitude that runs through Piney Point, and the parallel of latitude that runs through Beecon River, 5° 29' 15" 30" N at the mouth of the Suwannee River; that diving for sponges be prohibited in waters of less than three fathoms between the parallel of latitude that runs through Beecon River, at the mouth of the Suwannee River and the parallel of latitude that runs through Beecon River, at the mouth of the Suwannee River; that diving for sponges be prohibited in waters of less than three miles from shore in the water between the parallel of latitude that runs through the southern tip of Anclote Key and the parallel of latitude that passes through the northernmost boundary of Monroe County (25°48'06").

(2) Any person violating the provisions of this section shall for the first offense, be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For the second offense, he shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and by the confiscation of all boats (ackle, and equipment used in the commission of each viola-

History—ss 1, 2, ch. 29907, 1955; 301, ch. 21136, s. 6, ch. 83-134.
 'Note.—Repealed effective July 1, 1984, by s. 6, ch. 83-134, which further
 and equipment used in the commission of such viola-
 tion.

provides that if the Government and I should have not adopted appropriate rules by July 1, 1964, the statute shall remain in force until such rules are effective. Section 9, ch. 32A.12, provides that, prior to the adoption of rules amending, or adopting, or repealing those provisions set forth in 5, 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, repeal, or repeal shall be acted upon until it has been determined, based upon

this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(g) **SPONGE CONSERVATION DISTRICTS.** The division may designate such areas as sponge conservation districts for the purpose of conserving and propagating sponges. Whenever it shall appear to the division of Marine Resources that any area in the state is in need of special protection, development or encouragement in the planning or propagation of sponges, the division may designate such area as a sponge conservation district. The said area shall be as readily identifiable by reference to geographical location or recognized landmarks, or by survey made by the division. Notice of the designation of said areas as sponge conservation districts or districts of sponges shall be published once each week for 2 consecutive weeks, and such additional publicity of the creation of such district may be circulated as the division may deem necessary. Provided that these provisions shall

THE TOWNS OF THE DEPARTMENT.—The local authority is the *commune*, which may not apply to privately rented or granted grounds. The *commune* is a public body, and the department is authorized and empowered to make, promulgate, and put into effect all rules and regulations which the department may consider and decide to be necessary to accomplish the purpose of this chapter for the taking and cultivation of sponges, including the power and authority to determine and fix, in its discretion, the seasons and period of time within which public state grounds may be closed to the taking, and public state grounds may be closed to the taking, purchasing, buying, selling, or transporting.

of sponges from the sponge cultivation districts, the means and methods to be employed in the harvesting thereof, however, notice of all rules, regulations, and orders, and all notices and amendments thereto, prescribing closed seasons or prescribing the means and methods of harvesting sponges adopted by the department shall be published in a new chapter of general circulation in the conservation district affected within ten days from the adoption thereof, in addition to any notice required by chapter 130.

(17) **SPONGE CONSERVATION COMMISSION: CREATION; DUTIES.**—The Governor of this state shall appoint in any sponge conservation district, which may be created under the provisions of this act, a sponge conservation commission for the said district, the same to be composed of seven out of the following persons, to-wit: one of whom shall be citizens of the said district, two of whom shall be experienced sponge dealers, and two of whom shall be experienced businessmen and directly connected with the industry, and one of whom shall be the chief conservation agent in the sponge conservation district. The members of such commission shall have no compensation and shall be selected by the Governor of this state, subject to the approval of the Senate, with the duties prescribed by the act, and shall be subject to the limitations prescribed by the act, and shall prescribe the duties of the several rehabilitation agents in the district.

18) COOPERATION WITH U. S. FISH AND WILDLIFE SERVICE.—The department shall cooperate with the United States Fish and Wildlife Service, under existing federal laws, rules and regulations, and is authorized to accept donations, grants and matching funds from said federal government commission.

under such conditions as are reasonable and proper,

become a party hereto as hereinafter provided.

ARTICLE III

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. One shall be the executive officer of the administrative agency of such state charged with the conservation of the fisheries resources to which this compact pertains or, if there be more than one officer or agency, the official of that state named by the governor thereof. The second shall be a member of the legislature of such state designated by the house committee on commerce and reciprocal trade of such state. The third shall be a citizen who shall have a knowledge of and interest in the marine fisheries problem to be appointed by the governor. This commission shall be a body corporate with the powers and duties set forth herein.

ARTICLE IV

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the Atlantic seaboard. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the aforementioned states.

To that end the commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislatures of the various signatory states legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Atlantic seaboard. The commission shall, more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the intent and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the states party hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable.

The commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs or joint stocking by some or all of the states party hereto and when two or more of the states shall jointly stock waters the commission shall act as the coordinating agency for such stocking.

ARTICLE V

The commission shall elect from its number a chairman and a vice chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business and for the execution of its business and may meet at any time or place but must meet at least once a year.

ARTICLE VI

No action shall be taken by the commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the commission in regard to any species of fish except by the affirmative vote of a majority of the compacting states which have an interest in such species. The commission shall define what shall be an interest.

ARTICLE VII

The Fish and Wildlife Service of the Department of the Interior of the Government of the United States shall act as the primary research agency of the Atlantic States Marine Fisheries Commission cooperating with the research agencies in each state for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the commission.

An advisory committee to be representative of the commercial fishermen and the saltwater anglers and such other interests in each state as the commission deems advisable shall be established by the commission as soon as practicable for the purpose of advising the commission on such recommendations as it may desire to make.

ARTICLE VIII

When any state other than those named specifically in Article II of this compact shall become a party hereto for the purpose of conserving its anadromous fish in accordance with the provisions of Article II the participation of such state in the action of the commission shall be limited to such species of anadromous fish.

ARTICLE IX

Nothing in this compact shall be construed to limit the powers of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement in any requirement by any signatory state concerning additional conditions to conserve its fisheries.

ARTICLE X

Continued absence of representation or of any representative on the commission from any state party hereto shall be brought to the attention of the governor thereof.

ARTICLE XI

The states party hereto agree to make annual appropriations to the support of the commission in proportion to the primary market value of the products of their fisheries, exclusive of cod and haddock, as reported in the most recent published reports of the Fish and Wildlife Service of the United States Department of Natural Resources, ex officio, and the annual contribution of each state shall be the minimum shall be figured to the nearest \$100.

The compacting states agree to appropriate initial annual amounts calculated in the manner set forth hereon, on the basis of the catch record of 1938. Subsequent budgets shall be recommended by a majority of the commission and the cost thereof allocated equally among the states in accordance with their respective interests and submitted to the compacting states.

Schedule of Initial Annual State Contributions

Maine	\$ 700
New Hampshire	200
Massachusetts	2,300
Rhode Island	300
Connecticut	400
New York	1,300
New Jersey	800
Delaware	200
Maryland	700
Virginia	1,300
North Carolina	600
South Carolina	200
Georgia	200
Florida	1,500

ARTICLE XII

This compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this compact must be preceded by sending 6 months' notice in writing of intention to withdraw from the compact to the other states party hereto.

(2) COMMISSIONERS; APPOINTMENT AND REMOVAL.—In pursuance of Article III of said compact there shall be three members (hereinafter called commissioners) of the Atlantic States Marine Fisheries Commission (hereinafter called commission) from this state. The first commissioner from this state shall be the Executive Director of the Department of Natural Resources, ex officio, and the first ex officio commissioner shall terminate at the time he or she is elected or appointed Executive Director of the Department of Natural Resources, and his successor as Executive Director shall be a legislator and member of the house committee on commerce and re-

cipital trade of the State of Florida, ex officio, designated by said house committee on commerce and reciprocal trade, and the term of any such ex officio commissioner shall terminate at the time he or she ceases to hold said legislative office as commissioner or ceases to hold said legislative office as his successor as commissioner. The Governor shall name the commissioner subject to confirmation by the Senate. The Governor (subject to confirmation by the Senate) for the unexpired term. The Executive Director of the Department of Natural Resources as ex officio commissioner shall be present at all meetings of the commission and shall have power to present or substitute at any meeting of the commission any matter for consideration or hearing by or other proceeding of the commission. The terms of each of the initial three members shall begin at the date of the appointment of the appointive commissioner, provided the said compact shall then have gone into effect in accordance with Article II of the compact; otherwise, they shall begin upon the date upon which said compact shall become effective in accordance with said Article II. Any commissioner may be removed from office by the Governor upon charges and after a hearing.

(3) POWERS OF COMMISSION AND COMMISSIONERS.—There is hereby granted to the commission and the commissioners thereof all the powers provided for in the said compact and all the powers necessary or incidental to the carrying out of said compact in every particular. All officers of the State of Florida are hereby authorized and directed to do all things falling within their respective powers and jurisdiction necessary or incidental to the carrying out of said compact in every particular. It is hereby declared to be the policy of the State of Florida to encourage the conservation of the fisheries, departments and persons of cod in the state government or administration of the State of Florida are hereby authorized and directed at convenient times and upon request of the said commission to furnish the said commission with information and data possessed by them or any of them and to aid said commission by loan of personnel or other means lying within their legal rights respectively.

(4) POWERS OF COMMISSION SUPPLEMENTAL.—Any powers herein granted to the commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said commission by other laws of the State of Florida or by the laws of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida or by the Congress or the terms of said compact.

(5) ACCOUNTS TO BE KEPT BY COMMISSION; EXAMINATION.

(a) The commission shall keep accurate accounts of all receipts and disbursements and shall report to the Governor and the Legislature of the State of Florida on or before the 10th day of December in each year, setting forth in detail the transactions conducted by it during the 12 months preceding December 1 of that year and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the State of Florida which may be necessary to carry out the intent and purposes of the compact between the signatory states.

(b) The Department of Banking and Finance is hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements and such other items referring to its financial standing as such department may deem proper and to report the results of such examination to the Governor of such state.

SECTION 370.29. GULF STATES MARINE FISHERIES COMMISSION.—The sum of \$500,000 annually, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the expenses of the commission created by the compact theretofore entered into by the States of Florida, Alabama, Mississippi, Louisiana and Texas, and with such other state as may enter into a compact, legal joining therein in the form substantially as follows:

370.29 Gulf States Marine Fisheries Compact; implementing legislation.

(1) **FORM.**—The Governor of this state is hereby authorized and directed to execute the compact on behalf of the State of Florida with any one or more of the States of Alabama, Mississippi, Louisiana and Texas, and with such other state as may enter into a compact, legal joining therein in the form substantially as follows:

GULF STATES MARINE FISHERIES COMPACT

The contracting states solemnly agree:

ARTICLE I

Whereas the gulf coast states have the proprietary interest in and jurisdiction over fisheries in the waters within their respective boundaries, it is the purpose of this compact to promote the better utilization of the fisheries, marine, shell and anadromous fishery resources of the Gulf of Mexico, by the development of a joint program for the promotion and protection of such fisheries and the prevention of the physical waste of the fisheries from any cause.

ARTICLE II

This compact shall become operative immediately

as in these states ratifying it whenever any two or more of the States of Florida, Alabama, Mississippi, Louisiana and Texas have ratified it, and the Congress has given its consent subject to article I, a. 10 of the Constitution of the United States. Any state continues to any of the aforementioned states or riparians upon waters which flow into waters under the jurisdiction of any of the aforementioned states and which are frequented by anadromous fish or marine species may become a party hereto as hereinafter provided.

ARTICLE III

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Gulf States Marine Fisheries Commission. One shall be the head of the administrative agency of such state charged with the conservation of the fishery resources to which this compact pertains or, if there be more than one officer or agency, the official of that state named by the governor thereof. The second shall be a member of the legislature of such state designated by such legislature or in the absence of such designation, such legislator shall be designated by the governor thereof, provided that it is constitutionally impossible to appoint a legislator as a commissioner from such state, the second shall be a representative of the fishing industry as may be established by the state. The third shall be a citizen who shall have a knowledge of and interest in the marine fisheries, to be appointed by the governor. This commission shall be a body corporate with the powers and duties set forth herein.

ARTICLE IV

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the gulf coast. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of these fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fishery resources of the aforementioned states.

To that end the commission shall draft and recommend to the governors and the legislatures of the various signatory states, legislation dealing with the conservation of the marine, shell and anadromous fisheries of the gulf seaboard. The commission shall from time to time present to the governor of each contracting state its recommendations relating to enactments to be presented to the legislature of the state in furthering the interest and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the states party hereto with regard to problems connected with the

fisheries and recommend the adoption of such regulations as it deems advisable.

The commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs or joint stocking by some or all of the states party hereto and when two or more states shall jointly stock waters, the commission shall act as the coordinating agency for such stocking.

ARTICLE V

The commission shall elect from its number a chairman and vice chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensations. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place but must meet at least once a year.

ARTICLE VI

No action shall be taken by the commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of contracting states. No recommendation shall be made by the commission in regard to any species of fish except by the affirmative vote of a majority of the contracting states which have an interest in such species. The commission shall define which shall be an interest.

ARTICLE VII

The Fish and Wildlife Service of the Department of the Interior of the Government of the United States shall act as the primary research agency of the Gulf States Marine Fisheries Commission for all purposes. Representatives of the said fish and wildlife service shall attend the meetings of the commission. An advisory committee to be representative of the commercial salt water fishermen and the salt water anglers and such other interests of each state as the commissioners deem advisable may be established by the commissioners from each state for the purpose of advising the commission as to any such recommendations as it may desire to make.

ARTICLE VIII

When any state other than those named specifically in article II of this compact shall become a party hereto for the purpose of conserving its anadromous fish or marine species in accordance with the provisions of article II, the participation of such state in the action of the commission shall be limited to such species of fish.

ARTICLE IX

Nothing in this compact shall be construed to limit

the powers or the proprietary interest of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by a signatory state imposing additional conditions and restrictions to conserve its fisheries.

ARTICLE X

It is agreed that any two or more states party hereto may further amend this compact by acts of their respective legislatures subject to approval of Congress as provided in article I, s. 10, of the Constitution of the United States, to designate the Gulf States Marine Fisheries Commission as a joint regulatory authority for the joint regulation of specific fisheries affecting only such states as shall be compact, and at their joint expense. The representatives of such states shall constitute a separate section of the Gulf States Marine Fisheries Commission for the execution of such additional compact as may be entered into by the states so compacting of any of their privileges or powers in the Gulf States Marine Fisheries Commission as constituted under the other articles of this compact.

ARTICLE XI

Continued absence of representation or of any representative on the commission from any state party hereto shall be brought to the attention of the governor thereof.

ARTICLE XII

The operating expenses of the Gulf States Marine Fisheries Commission shall be borne by the states party hereto. Such initial appropriations as are set forth below shall be made available yearly until modified as hereinafter provided:

Florida	\$3,500
Alabama	1,000
Mississippi	1,000
Louisiana	3,000
Texas	2,500
Total	\$13,000

The proration and total cost per annum of \$13,000, above mentioned, is estimated only, for initial operations, and may be changed when found necessary by the commission and approved by the legislatures of the respective states, each state agreeing to pay its proportionate share of the total cost of the commission and necessary expenses of its committees and other representatives to and from meetings of the commission or its duly constituted sections or committees.

ARTICLE XIII

This compact shall continue in force and remain binding upon each compacting state until renounced by act of the legislature of each state, in such form as it may choose, provided that such renunciation shall

not become effective until 6 months after the effective date of the action taken by the legislature. Notice of such remuneration shall be given to the other states party hereto by the secretary of state of the compacting state on renouncing upon passage of the act.

(2) MEMBERS OF COMMISSION: TERM OF

ARTICLE.—In pursuance of article III of said compact, there shall be three members (hereinafter called commissioners) of the Gulf States Marine Fisheries Commission (hereinafter called commissioner) from the State of Florida. The first commissioner from the State of Florida shall be the Executive Director of the Department of Natural Resources, ex officio, and shall terminate at the time he ceases to hold said office of Executive Director of the Department of Natural Resources, and his successor as commissioner shall be the successor as executive director of the Department of Natural Resources from the State of Florida. The second commissioner and a member of the huge compact shall be a legislator and a member of the huge compact, an importer and a recipient trade (of the State of Florida ex officio, designated by said house committee on commerce and reciprocal trade), and the term of any such ex officio commissioner shall terminate at the time he ceases to hold said legislative office as commissioner on interstate exportation, and his successor as commissioner shall be named in like manner. The Governor, subject to confirmation by the Senate) shall appoint a citizen as a third commissioner who shall have a knowledge of and interest in the marine fisheries problem. The term of said commissioner shall be three years. The said third commissioner shall be appointed and shall hold office until his successor shall be appointed and qualified. Vacancies occurring in the office of any commissioner from any reason or cause shall be filled by appointment by the Governor (subject to confirmation by the Senate) for the unexpired term. The Executive Director of the Department of Natural Resources, as ex officio commissioner, may subordinate from time to time to any deputy or other subordinate in his department, including voting, power to be present and in his department, including voting, as his representative or substitute at any meeting of or hearing by or other proceeding of the commission. The terms of each of the initial three members shall begin at the date of the appointment of the appointing ex officio commissioner, provided the said compact shall then have gone into effect in accordance with article III of the compact; otherwise they shall begin upon the date upon which said compact shall become effective in accordance with said article II.

(3) **COMMISSIONER; POWERS.**—There is hereby granted to the commissioner and the commissioners thereof all the powers provided for in the said compact and all the powers necessary or incidental to the compact and all the powers necessary or incidental to carrying out all of the provisions of the said compact. All officers of the State of Florida are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction consistent with the compact in carrying out of said compact. In particular, it being hereby declared to be the policy of the State of Florida to perform and carry out the compact and compact and to accomplish the purposes thereof, all officers, bureaus, departments and persons of and

in the state government or administration of the State of Florida are hereby authorized and directed at convenient times and upon request of the said commission to furnish the said commission with information and data possessed by them or any of them and to aid said commission by loan of personnel or other means lying within their legal rights respectively.

(10) POWERS OF COMMISSION SUPPLEMENTAL—AND

Commissioner shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said commission by other laws of the State of Florida or by the laws of the States of Alabama, Mississippi, Louisiana, Texas and Florida or by the Congress or the terms of said compact.

3. ACCOUNTS TO BE KEPT BY COMMISSION: EXAMINATION - The commission

the commission shall keep accurate accounts of all receipts and disbursements and shall report to the Governor and the Legislature of Florida on or before the 10th day of December in each year, setting forth in detail the transactions conducted by it during the 12 months preceding December 1 of that year and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the State of Florida which may be necessary to carry out the intent and purposes of the compact between the signatory states.

The Department of Banking and Finance is hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements and such other matters referring to its financial standing as such department may deem proper and to report the results of such examination to the Governor of this State.

370.21 Florida Territorial Waters Act;
 -owned commercial fishing vessels; pro-
 -hibited acts; enforcement.

11) This act may be known and cited as the "For-
Terrorism Waters Act."

3) No license shall be issued by the Division of Natural Resources of the Department of Natural Resources under s. 370.06, to any vessel owned or operated in part by any alien power, which subscribes to the doctrine of international communism, or any subject thereof, who subscribes to the doctrine of international communism, or any individual who subscribes to the doctrine of international communism. No such vessel shall have a treaty of trade, friendship, commerce or nonaggression pact with the United States. No such vessel shall grant or hold such licenses, when the alien vessel is involved on the basis of reciprocity with the United States or neutral by a formal suggestion of aid or financial aid or neutral by the Secretary of State of the United States. Upon the receipt of such license the license shall be granted under s. 370.06.

without regard to reciprocity and retorsion, to vessels of such nations.

(4) It is unlawful for any unlicensed alien vessel to take by any means whatsoever, attempt to take, or having so taken in possession, any natural resource of the state's territorial waters, as such waters are defined by Art. II of the State Constitution.

13) It is the duty of all harbor masters of the state to prevent the use of any port facility in a manner which the harbor master reasonably suspect may result in the violation of the provisions of this act. Harbor masters shall endeavor by all reasonable means to prevent such violations. Such means include the inspection of all boats and vessels, including the inspection of all nautical logs, to ascertain the master of any vessel of all types other than pleasure craft, which is if the United States, the presence of alien crew members, the presence of foreign fishing vessels within the territorial waters of the state, and shall transmit such information promptly to the Department of Natural Resources and such other agencies as may be necessary. Harbor masters shall inform the agencies of the state as the situation may warrant. Harbor masters shall request assistance from the United States Coast Guard in appropriate cases to prevent unauthorized departure from any port facility.

(8) All licensed harbor pilots are required to promptly transmit any knowledge coming to their attention regarding possible violations of this act to the harbor master of the port or the appropriate law enforcement officials.

(f) All law enforcement agencies of the state, independent but not limited to sheriffs and agents of the Department of Natural Resources are empowered and directed to arrest the masters and crews of vessels who are reasonably believed to be in violation of law, and to seize and detain such vessels, their equipment and catch. Such arresting officers shall

the menacing crew or property before the court for summary jurisdiction of such offenses. All such agencies are directed to request assistance from the United States Coast Guard in the enforcement of this act when having knowledge of vessels operating in violation or probable violation of this act within their jurisdictions when such agencies are without means to effectuate arrest and restraint of vessels and their

8) The fine or imprisonment of persons and confiscation of property for violations of this act, shall be imposed for violations of this act, provided that nothing shall authorize the repurchase of property for a monetary sum by the owner upon proof of lack of culpability in the violation or undertaking.

(10) Harbormasters and law enforcement agencies are authorized to request assistance from the U. S. Coast Guard Air Patrol in the surveillance of suspect vessels. Aircraft of the Division of Forestry of the Department of Agriculture and Consumer Services or other State or county agencies which are conveniently located and not otherwise occupied may be similarly

370.23 Sale of unlawfully landed product; jurisdiction.—It is unlawful for any person to bring to port, sell, or offer to sell any saltwater life landed in violation of the provisions of this chapter. Any person committing such a violation and docking his vessel at any port in the state, whether or not such product was landed in the territorial waters of the state, shall be deemed to have submitted himself to the jurisdiction of the courts of this state for the purpose of the enforcement of the provisions of this chapter.

370.25 Artificial fishing reefs; construction
 grants to local governments.~

(1) The Department of Natural Resources shall establish a program to provide grants to coastal local governments for constructing artificial fishing reefs in the salt waters of the state to enhance saltwater fishing. The program shall be funded from state funds.

(2) The department shall adopt by rule procedures for submitting a grant application and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:

(b) The demand and public support for the proposed reef;

(c) The number of public and private access

(d) The commitment of the United States to the proposed reef;

provide funds to construct and maintain the pro-

passed reef, and

(e) The estimated cost of constructing the proposed roof

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CHAPTER 372

WILDLIFE

372.001	Definitions.	Issuing of duplicate license.
372.001	Game and Fresh Water Fish Commission.	Reports and remittances of county tax collectors.
372.021	Powers, duties, and authority of commission; rules, regulations, and orders.	Freshwater fish or frog dealer's license and other licenses for fish or frog dealers, farmers, and trappers.
372.025	Freshwater organisms.	Habitat and land permits; freshwater lakes in excess of 500 square miles; fees.
372.023	J. W. Corbett and Cecil M. Webb Wildlife Management Areas.	Required tagging of fish; lakes in excess of 500 square miles; tag fee; game fish taken in lakes of 500 square miles or less.
372.025	Everglades recreational sites; definitions.	License required for fur and hide dealers.
372.03	Headquarters of commission.	Private hunting preserve; license; exception.
372.04	Director of commission.	Unlawful sale, possession, or transporting of alligators or alligator skins.
372.051	Duties of director.	Alligator poachers; punishment; confiscation of equipment.
372.06	Seal of commission; certificate as evidence.	Prima facie evidence of intent to violate laws protecting alligators.
372.061	Meetings of the commission.	Permit for sale of alligator products; fee.
372.061	Meetings; authority to hold at any point.	Wild alligator or "gator" not to be used in certain sales.
372.07	Police powers of commission and its agents.	Feeding or enticement of alligators or crocodiles unlawful; penalty.
372.071	Powers of arrest by agents of Department of Natural Resources or Game and Fresh Water Fish Commission.	Florida panther; killing prohibited; penalty.
372.072	Endangered and Threatened Species Act.	Florida Panther Research and Management Trust Fund.
372.073	Endangered and Threatened Species Regulation.	Florida Panther Technical Advisory Council.
372.09	State Game Trust Fund.	Freshwater fish dealers to report.
372.12	Acquisition of state game lands.	Game and Fresh Water Fish Commission to furnish forms.
372.121	Control and management of state game lands.	Prosecutions.
372.16	Private game preserves and farms; penalties.	Arrest by officers of the Game and Fresh Water Fish Commission; recognition; cash bond; citation.
372.19	Preserves, refuges, etc.; not tax exempt.	Fines and penalties; forfeiture of license.
372.26	Importation of foreign animals.	Disposition of fines, penalties, and forfeitures.
372.265	Silver Springs and Humbug Springs, etc.; closed to all fishing.	Confiscation and disposition of illegally taken game.
372.31	Disposition of illegal fishing devices.	Cooperative agreements with U.S. Forest Service; penalty.
372.311	Seized under this chapter.	Use of explosives and other substances prohibited.
372.312	Forfeiture proceedings.	Search and seizure authorized and limited.
372.313	Delivery of property to claimant.	Issuance of warrant for search of private dwellings.
372.314	Proceeding when no claim filed.	As to provisions of Act of Congress of September 2, 1937.
372.315	Proceeding when claim filed.	Federal conservation of fish and wildlife; limited jurisdiction.
372.316	State attorney to represent state.	Penalties for violation of rules, regulations and orders relating to game and freshwater fish.
372.317	Judgment of forfeiture.	Forfeiture or denial of licenses and permits.
372.318	Service charges.	Contaminating fresh waters.
372.321	Disposition of proceeds of forfeiture.	
372.321	Issuance of police power.	
372.361	Issuance of hunting and fishing licenses.	
372.57	Fishing, hunting, and trapping licenses.	
372.571	Expiration of licenses.	
372.5712	Waterfowl stamp required for taking wild ducks or geese.	
372.5714	Waterfowl Advisory Committee.	
372.573	Permits to use commission lands for outdoor recreational purposes; fee.	
372.574	Appointment of subagents for issuance of hunting, fishing, and trapping licenses and permits.	
372.574	Arrest or muzzle-loading gun permit for hunting; fee; in application for license.	
372.58	Entered false information on licenses.	
372.59	License not transferable.	

372.86	Possessing, exhibiting, poisonous or venomous reptile; license required.	(8) "Open season" is that portion of the year wherein the laws of Florida for the preservation of fish and game permit the taking of particular species of game or varieties of fish.
372.87	License fee; renewal, revocation.	(9) "Closed season" is that portion of the year wherein the laws of Florida forbid the taking of particular species of game or varieties of fish.
372.88	Bond required; amount.	(10) "Freshwater" except where otherwise provided by law, includes all lakes, rivers, canals, and other waterways of Florida, to such point or points where the fresh and salt waters commingle to such an extent as to become unpalatable and unfit for human consumption, because of the saline content, or to such point or points as may be fixed by the Game and Fresh Water Fish Commission, by and with the consent of the board of county commissioners of the county or counties to be affected by such order. The Stenhatchee River shall be considered freshwater from its source to mouth.
372.89	Safe housing required.	(11) Wherever it is made "lawful to take" game, nongame birds, freshwater fish, or fur-bearing animals or parts thereof or birds' nests or eggs, it shall mean the pursuit, hunting, capturing, or killing thereof in the manner and at the time and by means specifically permitted.
372.90	Transportation.	(12) Whenever it is made "unlawful to take" game, nongame birds, freshwater fish, or fur-bearing animals or parts thereof or birds' nests or eggs, the phrase shall include pursuing, shooting, hunting, killing, trapping, capturing, snaring, netting, gaging, and collecting and all lesser acts such as worrying the same or placing or using any net or other device for the purpose of taking same, whether or not the result in the intended taking.
372.901	Who may open cages, pits, or other contrivances housing poisonous or venomous reptiles.	(13) "Common carrier" includes any person, firm, or corporation, which undertakes for hire, as a regular business, to transport persons or commodities from place to place offering its services to all such as may choose to employ it and pay its charges.
372.911	Penalty.	(14) "Transport" includes shipping, transporting, carrying, importing, exporting, receiving or delivering for shipment, transportation, or carriage or export.
372.912	Organized poisonous reptile hunts.	(15) "Guide" includes any person engaged in the business of guiding hunters or hunting parties, or fishermen or fishing parties, for compensation.
372.912	Rules and regulations.	(16) "Private hunting preserve" includes any area set aside by a private individual or concern on which artificially propagated game or birds are taken.
372.921	Exhibition of wildlife.	(17) "Fish management area" is a pond, lake, or other water within a county or within several counties designated to improve fishing for public use and established and specifically circumscribed and authorized management by the Game and Fresh Water Fish Commission and the board of county commissioners of the county in which such area is located.
372.922	Personal possession of wildlife.	ment for the board of county commissioners or, under agreement with the board of county commissioners, for agreement with the board of county commissioners for use of public waters in the county in which such waters lie.
372.927	Jim Woodruff Dam; reciprocity agreements.	History. s. 1, ch. 37, § 1979, n. 1, 2, 3, ch. 1926, § 261, 262, m. 1, 1927, ch. 632, § 193, n. 1, 17, ch. 48, § 193, 1938, § 194, 1939, § 195, 1940, § 196, 1941, § 197, 1942, § 198, 1943, § 199, 1944, § 200, 1945, § 201, 1946, § 202, 1947, § 203, 1948, § 204, 1949, § 205, 1950, § 206, 1951, § 207, 1952, § 208, 1953, § 209, 1954, § 210, 1955, § 211, 1956, § 212, 1957, § 213, 1958, § 214, 1959, § 215, 1960, § 216, 1961, § 217, 1962, § 218, 1963, § 219, 1964, § 220, 1965, § 221, 1966, § 222, 1967, § 223, 1968, § 224, 1969, § 225, 1970, § 226, 1971, § 227, 1972, § 228, 1973, § 229, 1974, § 230, 1975, § 231, 1976, § 232, 1977, § 233, 1978, § 234, 1979, § 235, 1980, § 236, 1981, § 237, 1982, § 238, 1983, § 239, 1984, § 240, 1985, § 241, 1986, § 242, 1987, § 243, 1988, § 244, 1989, § 245, 1990, § 246, 1991, § 247, 1992, § 248, 1993, § 249, 1994, § 250, 1995, § 251, 1996, § 252, 1997, § 253, 1998, § 254, 1999, § 255, 2000, § 256, 2001, § 257, 2002, § 258, 2003, § 259, 2004, § 260, 2005, § 261, 2006, § 262, 2007, § 263, 2008, § 264, 2009, § 265, 2010, § 266, 2011, § 267, 2012, § 268, 2013, § 269, 2014, § 270, 2015, § 271, 2016, § 272, 2017, § 273, 2018, § 274, 2019, § 275, 2020, § 276, 2021, § 277, 2022, § 278, 2023, § 279, 2024, § 280, 2025, § 281, 2026, § 282, 2027, § 283, 2028, § 284, 2029, § 285, 2030, § 286, 2031, § 287, 2032, § 288, 2033, § 289, 2034, § 290, 2035, § 291, 2036, § 292, 2037, § 293, 2038, § 294, 2039, § 295, 2040, § 296, 2041, § 297, 2042, § 298, 2043, § 299, 2044, § 300, 2045, § 301, 2046, § 302, 2047, § 303, 2048, § 304, 2049, § 305, 2050, § 306, 2051, § 307, 2052, § 308, 2053, § 309, 2054, § 310, 2055, § 311, 2056, § 312, 2057, § 313, 2058, § 314, 2059, § 315, 2060, § 316, 2061, § 317, 2062, § 318, 2063, § 319, 2064, § 320, 2065, § 321, 2066, § 322, 2067, § 323, 2068, § 324, 2069, § 325, 2070, § 326, 2071, § 327, 2072, § 328, 2073, § 329, 2074, § 330, 2075, § 331, 2076, § 332, 2077, § 333, 2078, § 334, 2079, § 335, 2080, § 336, 2081, § 337, 2082, § 338, 2083, § 339, 2084, § 340, 2085, § 341, 2086, § 342, 2087, § 343, 2088, § 344, 2089, § 345, 2090, § 346, 2091, § 347, 2092, § 348, 2093, § 349, 2094, § 350, 2095, § 351, 2096, § 352, 2097, § 353, 2098, § 354, 2099, § 355, 2100, § 356, 2101, § 357, 2102, § 358, 2103, § 359, 2104, § 360, 2105, § 361, 2106, § 362, 2107, § 363, 2108, § 364, 2109, § 365, 2110, § 366, 2111, § 367, 2112, § 368, 2113, § 369, 2114, § 370, 2115, § 371, 2116, § 372, 2117, § 373, 2118, § 374, 2119, § 375, 2120, § 376, 2121, § 377, 2122, § 378, 2123, § 379, 2124, § 380, 2125, § 381, 2126, § 382, 2127, § 383, 2128, § 384, 2129, § 385, 2130, § 386, 2131, § 387, 2132, § 388, 2133, § 389, 2134, § 390, 2135, § 391, 2136, § 392, 2137, § 393, 2138, § 394, 2139, § 395, 2140, § 396, 2141, § 397, 2142, § 398, 2143, § 399, 2144, § 400, 2145, § 401, 2146, § 402, 2147, § 403, 2148, § 404, 2149, § 405, 2150, § 406, 2151, § 407, 2152, § 408, 2153, § 409, 2154, § 410, 2155, § 411, 2156, § 412, 2157, § 413, 2158, § 414, 2159, § 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646, 2391, § 647, 2392, § 648, 2393, § 649, 2394, § 650, 2395, § 651, 2396, § 652, 2397, § 653, 2398, § 654, 2399, § 655, 2400, § 656, 2401, § 657, 2402, § 658, 2403, § 659, 2404, § 660, 2405, § 661, 2406, § 662, 2407, § 663, 2408, § 664, 2409, § 665, 2410, § 666, 2411, § 667, 2412, § 668, 2413, § 669, 2414, § 670, 2415, § 671, 2416, § 672, 2417, § 673, 2418, § 674, 2419, § 675, 2420, § 676, 2421, § 677, 2422, § 678, 2423, § 679, 2424, § 680, 2425, § 681, 2426, § 682, 2427, § 683, 2428, § 684, 2429, § 685, 2430, § 686, 2431, § 687, 2432, § 688, 2433, § 689, 2434, § 690, 2435, § 691, 2436, § 692, 2437, § 693, 2438, § 694, 2439, § 695, 2440, § 696, 2441, § 697, 2442, § 698, 2443, § 699, 2444, § 700, 2445, § 701, 2446, § 702, 2447, § 703, 2448, § 704, 2449, § 705, 2450, § 706, 2451, § 707, 2452, § 708, 2453, § 709, 2454, § 710, 2455, § 711, 2456, § 712, 2457, § 713, 2458, § 714, 2459, § 715, 2460, § 716, 2461, § 717, 2462, § 718, 2463, § 719, 2464, § 720, 2465, § 721, 2466, § 722, 2467, § 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877, 2622, § 878, 2623, § 879, 2624, § 880, 2625, § 881, 2626, § 882, 2627, § 883, 2628, § 884, 2629, § 885, 2630, § 886, 2631, § 887, 2632, § 888, 2633, § 889, 2634, § 890, 2635, § 891, 2636, § 892, 2637, § 893, 2638, § 894, 2639, § 895, 2640, § 896, 2641, § 897, 2642, § 898, 2643, § 899, 2644, § 900, 2645, § 901, 2646, § 902, 2647, § 903, 2648, § 904, 2649, § 905, 2650, § 906, 2651, § 907, 2652, § 908, 2653, § 909, 2654, § 910, 2655, § 911, 2656, § 912, 2657, § 913, 2658, § 914, 2659, § 915, 2660, § 916, 2661, § 917, 2662, § 918, 2663, § 919, 2664, § 920, 2665, § 921, 2666, § 922, 2667, § 923, 2668, § 924, 2669, § 925, 2670, § 926, 2671, § 927, 2672, § 928, 2673, § 929, 2674, § 930, 2675, § 931, 2676, § 932, 2677, § 933, 2678, § 934, 2679, § 935, 2680, § 936, 2681, § 937, 2682, § 938, 2683, § 939, 2684, § 940, 2685, § 941, 2686, § 942, 2687, § 943, 2688, § 944, 2689, § 9

WILDLIFE

F.S. 1983

History.—2 ch. 12944, 1939; 1 ch. 17015, 1935, CIL, 1936 Supp. 1937-12; 1 ch. 26766, 1931; 19 ch. 63 404; 105, ch. 71-85; 1 ch. 74-125, ch. 4, Art. IV, State Const.

History—see 4, 5, ch 21945, 1919; s 7, ch 69, 216; s 10, 26, ch 69, 196; s.
101, ch 73, 33; s 16, ch 78 95.
Note.—Former s 273 82.

(1) The Division of Fisheries of the Game and Fresh Water Fish Commission, in order to manage the promotion, marketing, and quality control of all freshwater organisms produced in Florida and utilized commercially so that such organisms shall be used to produce the optimum sustained yield consistent with the protection of the breeding stock, is directed and charged with the responsibility of:

History, . . . see 1.2, ch. 78-310; 9.23, ch. 83-216.

3/2/023 J. W. Corbett and Cecil N. Webb

(2) The Board of Trustees of the Internal Improvement Trust Fund and the State Board of Edu-

(3) Moneys received from the sale of lands within the refuge to the record owner.

File # **State** **Title** **State** **Year**

372.025 Everglades recreational sites; defini-

(b) Is located on the exterior fringes of the Everglades to discourage extensive uncontrolled use of the

(a) "Commission" means the Game and Fresh

(b) "Flood control district" means the Central Water Fish Commission.

427

428

(e) "Preliminary plan" means those suggested guidelines as herein provided to be considered by the Everglades Recreational Planning Board in arriving at its final plan for implementation.

(3) **RECREATIONAL SITES.**—The Game and Fresh Water Fish Commission is directed to develop, manage, and enforce laws on certain recreational activities in the water conservation areas of the Everglades from funds to be appropriated by the Legislature.

History—see 1, 2, 3, 4, 5, ch. 73 242; s. 1, ch. 77 174; s. 4, ch. 78 323; s. 26, ch. 85; s. 27, ch. 83 218

Note.—The Everglades Recreational Planning Board was abolished by s. 4, 78 271

37203 Headquarters of commission - The

97-121, s. 2, ch. 2119

372.05 Duties of director.—The director shall:

(1) Keep full and correct minutes of the proceedings of said commission at its meetings, which minutes shall be open for public inspection.

428

point in state. From and after June 15, 1983, the Game and Fresh Water Fish Commission of the state is hereby authorized and empowered to hold its meetings at any point in the state.

History.—S. 1, Ch. 307, 1953, § 1, F.S. 70.26.

372.07 Police powers of commission and its staff

(1) The Game and Fresh Water Fish Commission, the director and his assistants designated by him, and each wildlife officer are constituted peace officers with the power to make arrests for violations of the laws of this state when committed in the presence of the officer or when committed on lands under the supervision and management of the commission. The general laws applicable to arrests by peace officers of this state shall also be applicable to said directors, assistants, and wildlife officers. Such persons may enter upon any land or waters of the state for performance of their law enforcement duties and may take with them any necessary equipment, and such entry shall not constitute trespass.

(2) Said officers shall have power and authority to enforce throughout the state all laws relating to game, nongame birds and freshwater fish, and all laws relating to all animals and regions relating to said animals and freshwater aquatic life and in connection with said laws, rules, and regulations, in the enforcement thereof and in the performance of their duties thereunder, to:

- (a) Go upon all premises, posted or otherwise; violation of said laws;
- (b) Execute warrants and search warrants for the investigation, and trial of all offenses against said laws;
- (c) Carry firearms or other weapons, concealed or otherwise, in the performance of their duties;
- (d) Arrest upon probable cause without warrant any person found in the act of violating any of the provisions of said laws or in pursuit immediately following such violations, to examine any person, boat, conveyance, vehicle, game bag, game coat, or other receptacle for wild animal life or freshwater aquatic life, or any camp, tent, cabin, or trailer, in the presence of any person stopping at or belonging to such camp, tent, cabin, or trailer, and if necessary, may be seized by the suspected person in charge his reason for believing that any of the aforesaid laws have been violated at such camp;
- (e) Secure and execute search warrants and in pursuance thereof to enter any building, enclosure, or apartment, chest, locker, box, trunk, crate, basket, bag, package, or container and examine the contents thereof;
- (f) Seize and take possession of all wild animal life or freshwater aquatic life taken or in possession of by any person at or on any land or in any manner contrary to said laws.

(3) It is unlawful for any person to resist an arrest authorized by this section or in any manner to interfere, either by abetting, assisting such resistance, or

otherwise interfering with said director, assistants, or wildlife officers while engaged in the performance of the duties imposed upon them by law or regulation of the Game and Fresh Water Fish Commission.

History.—S. 1, Ch. 307, 1953, § 1, F.S. 70.26.

372.071 Powers of arrest by agents of Department of Natural Resources or Game and Fresh Water Fish Commission.—Any certified law enforcement officer of the Department of Natural Resources or the Game and Fresh Water Fish Commission, upon receiving information, relayed to him from any law enforcement officer stationed on the ground, on the water, or in the air, that a driver, operator, or occupant of any vehicle, boat, or aircraft has violated any section of chapter 372, chapter 328, chapter 370, or chapter 372, may arrest the driver, operator, or occupant for violation of said laws when reasonable and proper identification of the vehicle, boat, or aircraft and reasonable and probable grounds to believe that the driver, operator, or occupant has committed an offense are communicated to the arresting officer by the other officer stationed on the ground, on the water, or in the air.

History.—S. 1, Ch. 307, 1953, § 1, F.S. 70.27.

372.072 Endangered and Threatened Species Act.

(1) SHORT TITLE.—This section may be cited as the "Florida Endangered and Threatened Species Act of 1977."

(2) DECLARATION OF POLICY.—The Legislature recognizes that the State of Florida harbors a wide diversity of fish and wildlife and that it is the policy of this state to conserve and wisely manage these resources, with particular attention to those species defined by the Game and Fresh Water Fish Commission, the Department of Interior, or precursor agencies, as being endangered or threatened. As Florida has more endangered and threatened species than any other continental state, it is the intent of the Legislature to provide for research and management to conserve and protect these species as a natural resource.

DEFINITIONS.—As used in this section:

- (a) "Fish and wildlife" means any member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate.
- (b) "Endangered species" means any species of fish and wildlife naturally occurring in Florida, whose prospects of survival are in jeopardy due to modification or loss of habitat; overutilization for commercial, sporting, scientific, or educational purposes; disease; predation; inadequacy of regulatory mechanisms; or other natural or manmade factors affecting its continued existence.
- (c) "Threatened species" means any species of fish and wildlife naturally occurring in Florida which may not be in immediate danger of extinction, but which exists in such small populations as to become endangered if it is subjected to increased stress as a result of further modification of its environment.

(1) INTERAGENCY COORDINATION.—The Game and Fresh Water Fish Commission shall be responsible for research and management of freshwater and upland species.

(2) The Department of Natural Resources shall be responsible for research and management of marine species.

(3) Recognizing that citizen awareness is a key element in the success of this plan, the Game and Fresh Water Fish Commission, the Department of Natural Resources, and the Office of Environmental Education of the Department of Education are encouraged to work together to develop a public education program with emphasis on, but not limited to, both public and private schools.

(4) ANNUAL REPORT.—The Director of the Game and Fresh Water Fish Commission, in consultation with the Executive Director of the Department of Natural Resources, shall, at least 30 days prior to each annual session of the Legislature, transmit to the Governor and Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the chairmen of the appropriate Senate and House committees, a revised and updated plan for management and conservation of endangered and threatened species, including criteria for research and management priorities, a description of the educational program, statewide policies pertaining to protection of endangered and threatened species, additional legislation which may be required, and the recommended level of funding for the following year, along with a proposed list of funding priorities.

History.—S. 1, Ch. 307, 1953, § 1, F.S. 70.28.

372.073 Endangered and Threatened Species Reward Trust Fund.

(1) There is established within the Game and Fresh Water Fish Commission the Endangered and Threatened Species Reward Trust Fund to be used exclusively for the purposes of this section. The fund shall be for the primary purpose of posting rewards to persons responsible for providing information leading to the arrest and conviction of persons illegally killing or wounding or wrongfully possessing any endangered and threatened species listed on the official Florida list of such species maintained by the commission or the arrest and conviction of persons who violate s. 372.061 or s. 372.051. The fund shall be credited with money collected pursuant to s. 372.022. Additional funds may be provided by donations from interested individuals and organizations and from legislative appropriations. The reward program is to be administered by the commission. The fund shall establish a schedule of rewards.

(2) From the fund shall be expended only for the following purposes:

- (a) The payment of rewards to persons, other than law enforcement officers, who provide information and members of their immediate families, for information as specified in subsection (1).
- (b) The promotion of public recognition and awareness of the endangered and threatened species reward program.

History.—S. 1, Ch. 307, 1953, § 1, F.S. 70.29.

372.09 State Game Trust Fund.—The funds resulting from the operation of the commission and from the administration of the laws and regulations pertaining to birds, game, fur-bearing animals, freshwater fish, reptiles, and amphibians, together with any other funds specifically provided for such purposes shall constitute the State Game Trust Fund and shall be used by the commission as it shall deem fit in carrying out the provisions hereof and for no other purposes. The commission may not obligate itself beyond the current resources of the State Game Trust Fund unless specifically so authorized by the Legislature.

History.—S. 1, Ch. 307, 1953, § 1, F.S. 70.30.

372.12 Acquisition of state game lands.—The Game and Fresh Water Fish Commission, with the approval of the Governor, may acquire, in the name of the state, lands and waters suitable for the protection and propagation of game, fish, nongame birds or fur-bearing animals, or for hunting purposes, game farms, by purchase, lease, gift or otherwise to be known as state game lands. The said commission may erect such buildings and fences as may be deemed necessary to properly maintain and protect such lands, or for propagation of game, nongame birds, freshwater fish or fur-bearing animals. The title of land acquired by purchase, lease, gift or otherwise, shall be approved by the Department of Legal Affairs. The deed to such lands shall be deposited as are deeds to other state lands. No such lands shall be purchased at a price to exceed \$10 per acre. No property acquired under this section shall be expended for any purpose other than that for which it was acquired.

History.—S. 1, Ch. 307, 1953, § 1, F.S. 70.31.

372.121 Control and management of state game lands.

(1) The Game and Fresh Water Fish Commission is authorized to make, adopt, promulgate, amend, repeal, and enforce all reasonable rules and regulations necessary for the protection, control, operation, management, or development of lands or waters owned by, leased by, or otherwise assigned to the commission for fish or wildlife management purposes, including but not being limited to the right of ingress and egress. Before any such rule or regulation is adopted, other than one relating to wild animal life or freshwater aquatic life, the commission shall obtain the consent and agreement, in writing, of the owner, in the case of privately owned lands or waters, or the owner or primary custodian, in the case of public lands or waters, and the formal approval of the board of county commissioners of the county or counties in which such areas are situated.

(2) Any person violating or otherwise failing to comply with any rule or regulation adopted in pursuance of this section shall be guilty of a misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

History.—S. 1, Ch. 307, 1953, § 1, F.S. 70.32.

372.16 Private game preserves and farms; penalty.

430

Ch. 372

name and Fresh Water Fish Commission, the fee for which shall be \$5 per year.

372.31 Disposition of illegal fishing devices.

(1) In all cases of arrest and conviction for use of illegal nets or traps or fishing devices, as provided in this chapter, such illegal net, trap, or fishing device is

...but I am not a member of the American Medical Association.

ing the same, such officer shall immediately procure from the county court judge an order forfeiting said

illegal net, trap or fishing device to the Game and

Water Fish Commission may destroy such illegal net, trap or fishing device, if in its judgment said net, trap or fishing device is not of value in the work of the de-

this chapter.

History — 26, ch 1364, 1928; (GL 1936 Supp. 19, 1936) s. 1, ch 219, 1937; 103, ch 73, 333.

pursuant to the provisions of this law shall forthwith

make return of the seizure thereof and deliver the said property to the board of county commissioners of the county wherein the said property was seized. The said return to the board of county commission-

tail the facts and circumstances under which the

seizing officer knew, or was led to believe, said property was being used for and in connection with a violation of the statutes and laws of this state prohib-

to be interested in the seized property.

(2) When any illegally used property is seized by

any officer pursuant to this law and delivered to the

board of county commissioners as aforesaid, the board shall forthwith fix the approximate value thereof and make return thereof to the clerk of the circuit court as hereinafter provided.

property was being used for or in connection with a

— if not personally served with process herein, and within twenty days from personal service if personally served with process herein, why the said property should not be forfeited pursuant to said chapter. Should you fail to file claim as herein directed, judgment will be entered herein against you in due course. Persons not personally served with process may obtain a copy of the petition for forfeiture filed herein from the undersigned clerk of court.

WITNESS my hand and the seal of the above mentioned court, at _____, Florida, this _____ day of _____, 19____.

(COURT SEAL) _____

By _____

(1) Such citation shall be returnable, as to persons served constructively, as therein directed, not less than 21 nor more than 30 days from the posting or publication thereof, and as to those personally served with process within 20 days from service thereof. A copy of the petition shall be served with the process when personally served. Personal service of process may be made in the same manner as a summons in chancery.

(5) If the value of the property seized is shown by the board's return to have an appraised value of \$400 or less, the above citation shall be served by posting at the public place in the county, one of which shall be the front door of the courthouse; if the value of the property is shown by the board's return to have an appraised value of more than \$400, the citation shall be published in one newspaper of general circulation in the county, and in addition, a copy of the citation shall be published in each newspaper published in the county, and if not, then said notice of such publication shall be made by certificate of the clerk if publication is made by posting and by affidavit as provided in chapter 49, if made by publication in a newspaper, which affidavit or certificate shall be filed and become a part of the record in the cause. Failure of the record to show proof of such publication shall not affect any judgment made in the cause unless it shall affirmatively appear that no such publication was made.

History.—S. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

372.313 Delivery of property to claimant.—Any person, firm or corporation filing a claim in the cause, which claim shall state fully his right, title, claim or interest, in and to the seized property, may, upon the return of the board of county commissioners, after said claim is filed with the clerk of the court, petition the board of county commissioners for the return of the seized property by filing a petition therefor with said board of county commissioners and posting with said board of county commissioners a surety bond payable to the Government of the state, in the amount of the value of the said property as fixed in the board's return to the clerk of the circuit court, with a corporate surety duly authorized to transact business in this state as surety conditioned upon his paying to the board of county commissioners the value of the property together with costs of the proceeding, if judgment of forfeiture be entered by the court. Upon the posting of such bond with the board and the release of the property to the applicant the cause shall proceed to final judgment in the same manner, as it would have, had no

peal any judgment denying forfeiture in whole or in part or that may be otherwise adverse to the state.

History.—S. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

372.317 Judgment of forfeiture.—On final hearing the return of the board to the clerk of the circuit court shall be taken as prima facie evidence that the property seized was or had been used in, or in connection with, the violation of the statutes and laws of this state prohibiting the illegal use of nets, traps or fishing devices in this state and shall be sufficient predicate for a judgment of forfeiture in the absence of other proofs and evidence. The burden shall be upon the claimant to show that the property was not so used, if so used, that they had no knowledge of such violation and no reason to believe that the property was or would be used for the violation of the statutes and laws. Where such property is encumbered by a lien or retained title agreement under circumstances that the property was or would be used in violation of such statutes and laws, and no reasonable reason to believe that it might be so used, then the court may declare a forfeiture of all other rights, titles and interests, subject, however, to the lien of such innocent lienholder, or may direct the payment of such lien from the proceeds of any sale of the said property. The proceeds and the judgment against the property shall be in rem and shall be primarily against the property itself. Upon the entry of a judgment of forfeiture the court shall determine the disposition to be made of the property, which may include the destruction thereof, the sale thereof, the allocation thereof to some governmental function or use, or otherwise as the court may determine. Sales of such property shall be at public sale to the highest and best bidder therefor for cash after 2 weeks' public notice as the court may direct. Where the property has been delivered to a claimant upon the posting of a bond the court shall determine the value of the property and enter judgment against the principal and surety of the bond in such manner as the court shall deem just in the usual manner. Upon the application of any claimant the court may fix the due of the forfeitable interest or interests in the seized property and permit such claimant to redeem the said property upon the payment of a sum equal to said value which claimant shall be disposed of as would the proceeds of a sale of the said property under a judgment of forfeiture.

History.—S. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

372.318 Service charges.—Service charges required hereunder shall be the same as provided for sheriffs and clerks under law for similar services in other cases and matters.

History.—S. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

372.319 Disposition of proceeds of forfeiture.—All sums received from sale or other disposition of the seized property shall be paid into the county fund and forfeiture fund and shall become a part thereof.

History.—S. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

372.321 Exercise of police power.—It is

History.—S. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

deemed by the Legislature that this law (ss. 372.31 to 372.319, both inclusive) is necessary for the more efficient and proper enforcement of the statutes and laws of this state prohibiting the illegal use of nets, traps or fishing devices and a lawful exercise of the police power of the state for the protection of the public welfare, health, and safety of the people of the state. All the provisions of this law shall be liberally construed for the accomplishment of these purposes.

History.—S. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

372.561 Issuance of hunting and fishing licenses.—The county tax collector shall issue all hunting and fishing licenses of the county as provided by this chapter.

History.—S. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

372.57 Fishing, hunting, and trapping licenses.—No persons, except residents more than 55 years of age and children under 15 years of age, shall take or attempt to take game, freshwater fish, or fur-bearing animals within the state without having first obtained a license and paid the license fee hereinafter set out. Such license shall be dated when issued, when issued in the closed season, shall authorize the person named therein to take game, freshwater fish, or fur-bearing animals only during the open season next following; and, when issued during the open season, shall authorize the person named therein to take game, freshwater fish, or fur-bearing animals only during the remainder of such open season. The license issued shall be in the personal possession of the person to whom issued while taking or attempting to take game, freshwater fish, or fur-bearing animals; and his failure to exhibit such license to any of its conservation officers, when found taking or attempting to take game, freshwater fish, or fur-bearing animals, shall be considered a violation of this chapter. The license fees for fishing in the fresh waters of the state and for hunting and trapping in the fresh waters of the state shall be as follows: (1) A fishing license for a nonresident for noncommercial purposes in the waters of the state at large by any lawful method prescribed by rules and regulations of the Game and Fresh Water Fish Commission shall be \$7. A fishing license for a nonresident for 5 consecutive days shall be \$5; (2) A fishing license for a resident of the state to take freshwater fish with pole and line, rod and reel, plug, bob, spinner, spoon, fly, troll, trotline, or other artificial bait or lure in the fresh waters of the state shall be \$6. A special license may be issued for a 12-month period at a cost of \$1 more than the cost of a regular license.

(1)(a) No license shall be required for any resident.

(2) A fishing license for a nonresident of the state, for 14 consecutive days only, to take freshwater fish for noncommercial purposes from the waters of the state at large by any lawful method prescribed by rules and regulations of the Game and Fresh Water Fish Commission shall be \$7. A fishing license for a nonresident for 5 consecutive days shall be \$5; (3) A fishing license for a resident of the state to take freshwater fish with pole and line, rod and reel, plug, bob, spinner, spoon, fly, troll, trotline, or other artificial bait or lure in the fresh waters of the state shall be \$6. A special license may be issued for a 12-month period at a cost of \$1 more than the cost of a regular license.

(1)(a) No license shall be required for any resident.

(c) Paragraph (b) does not apply to aliens who are bona fide residents of the state and who hold valid alien registration receipt cards as provided by the United States immigration laws. Such resident aliens may obtain licenses under this section as though they

stamp. Said revenue shall be expended as follows: a maximum of 5 percent of the gross revenues shall be expended for administrative costs; a maximum of 25 percent of the gross revenues shall be expended for waterfowl research approved by the commission; and a maximum of 70 percent of the gross revenues shall be expended for projects approved by the commission, in consultation with the Waterfowl Advisory Committee for the purpose of protecting and promoting waterfowl.

Note.—Reprinted effective October 1, 1969 by a L. Ch. 27-65, and scheduled for review pursuant to a L. 811 in advance of 1980 date.

(1) The director of the Game and Fresh Water Commission is authorized to issue permits to any persons to hunt, fish, camp, or otherwise use for outdoor recreational purposes lands owned, managed, or controlled by the Game and Fresh Water Commission or by the state for the use and benefit of the public. Before any such permit, other than one for hunting and fishing, is issued, the commission shall obtain, in writing, the consent of the owner, in the case of privately owned lands, or the owner or primary custodian in the case of public lands.

(2) The director shall charge a fee for such permit which shall be set by the Game and Fresh Water Fish Commission but shall not exceed \$10, and the same shall be over and above the license fee for hunting regulated by law. To cover the cost of taking the application and issuing the permit, the county tax collector shall retain 50 cents of each permit fee. The revenue resulting from the increase in the permit fee and the addition of other taxes shall be paid by the county tax collector to the Game and Fresh Water Fish Commission. The director shall be authorized to issue permits for the sale and issuance of fishing, hunting, and trapping licenses and permits under the provisions of this section may charge and receive as its compensation a service charge of 50 cents for the issuance of each fishing, hunting, or trapping license or permit. This service charge shall be an additional sum levied and above the sum already retained by the county tax collector for the issuance of each license or permit.

(3) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(4) Nothing contained herein shall be construed to relieve any county tax collector of any county of the state of the duty of issuing fishing, hunting, and trapping licenses and permits to the public. The payment of any service charge shall not constitute the payment of the full fee for the issuance of each license or permit.

(5) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(6) Nothing contained herein shall be construed to relieve any county tax collector of any county of the state of the duty of issuing fishing, hunting, and trapping licenses and permits to the public. The payment of any service charge shall not constitute the payment of the full fee for the issuance of each license or permit.

(7) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(8) Nothing contained herein shall be construed to relieve any county tax collector of any county of the state of the duty of issuing fishing, hunting, and trapping licenses and permits to the public. The payment of any service charge shall not constitute the payment of the full fee for the issuance of each license or permit.

372.574 Appointment of subagents for issuance and sale of hunting, fishing, and trapping licenses and permits.

(1) The county tax collector is authorized to appoint any person, firm, partnership, or corporation as a subagent for the sale and issuance of fishing, hunting, and trapping licenses and permits which the tax collector is allowed to sell and issue, giving due consideration to its moral character, business ability, financial responsibility, and proper facilities for the proper issuance of such licenses and permits, and such subagent shall serve at the pleasure of the county tax collector. Notwithstanding the foregoing, the county tax collector, in his discretion, may appoint or designate as subagent, any relative or next of kin, by blood or otherwise, shall be appointed as subagent.

(2) A subagent shall issue and sell fishing, hunting, and trapping licenses and permits upon the posting of an adequate bond payable to the county tax collector in an amount to be fixed and approved by the tax collector under such rules and regulations as may be prescribed by the county tax collector and required by existing law or any subsequently enacted legislation.

(3) Subagents are authorized to sell and issue fishing, hunting, and trapping licenses and permits at such specific locations within the county in which the appointing county tax collector shall exercise jurisdiction as, in the judgment of the county tax collector, will best serve the public interest and convenience in obtaining fishing, hunting, and trapping licenses and permits.

(4) It is unlawful for any individual, firm, partnership, or corporation to act as a subagent for the sale and issuance of fishing, hunting, and trapping licenses and permits or to violate, in any manner, the provisions of this chapter, nor shall any other person,

ing, hunting, and trapping licenses and permits for a fee or compensation of any kind unless it has been appointed as a subagent by the county tax collector as prescribed in this section.

(5) Any person who violates any provision of this law which willfully violates any of the provisions of this law is guilty of a misdemeanor of the second degree, punishable as provided in s. 175.082 or s. 175.083.

(6) Every individual, firm, partnership, or corporation acting as a subagent for the sale and issuance of fishing, hunting, and trapping licenses and permits under the provisions of this section may charge and receive as its compensation a service charge of 50 cents for the issuance of each fishing, hunting, or trapping license or permit. This service charge shall be an additional sum levied and above the sum already retained by the county tax collector for the issuance of each license or permit.

(7) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(8) Nothing contained herein shall be construed to relieve any county tax collector of any county of the state of the duty of issuing fishing, hunting, and trapping licenses and permits to the public. The payment of any service charge shall not constitute the payment of the full fee for the issuance of each license or permit.

(9) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(10) Nothing contained herein shall be construed to relieve any county tax collector of any county of the state of the duty of issuing fishing, hunting, and trapping licenses and permits to the public. The payment of any service charge shall not constitute the payment of the full fee for the issuance of each license or permit.

(11) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(12) Nothing contained herein shall be construed to relieve any county tax collector of any county of the state of the duty of issuing fishing, hunting, and trapping licenses and permits to the public. The payment of any service charge shall not constitute the payment of the full fee for the issuance of each license or permit.

(13) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(14) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(15) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(16) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(17) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(18) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(19) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(20) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(21) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(22) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(23) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(24) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(25) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(26) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(27) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(28) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(29) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(30) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(31) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(32) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(33) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(34) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

(35) Each subagent is required to report on the first of each month the sale and issuance of fishing, hunting, and trapping licenses and permits during the preceding month. Such report shall be accompanied with the proper remittance covering the sale of licenses and permits on such report.

other than the person to whom it is issued, use the same.

History.—1974, Ch. 194, § 26, F.S.; 1975, Ch. 194, § 26, F.S.

372.60 Issuing of duplicate license.—The Game and Fresh Water Fish Commission shall furnish to each county tax collector a form for issuing of duplicate license. Application for such duplicate license shall be made under oath, stating that the license has not been destroyed, lost, or otherwise rendered invalid. The county tax collector shall issue a duplicate license upon receipt of the original license and a fee of 25 cents shall be collected by county tax collector issuing such duplicate license. This fee shall cover both the taking of application and the issuing of license.

History.—1974, Ch. 194, § 26, F.S.; 1975, Ch. 194, § 26, F.S.

372.61 Reports and remittances of county tax collectors.—The license fees and other fees provided to be paid under this chapter shall be remitted by the several county tax collectors by the 15th of each month to the Game and Fresh Water Fish Commission, and each county tax collector shall retain his fee for issuing such licenses and permits. The Game and Fresh Water Fish Commission shall keep an accurate and up-to-date record of all licenses and permits issued to each county tax collector, and shall give credit to each account upon receipt of a monthly report of licenses and permits sold or voided, and at the proper time close and balance the seasonal accounts. The tax collector's report shall be a schedule setting forth the total number of licenses and permits voided, and the net amount of licenses and permits sold, and the net amount of the report, and shall be made by the county tax collector to the Game and Fresh Water Fish Commission. The county tax collector shall retain a file of copies of all licenses and permits issued, and shall retain a file of copies of all licenses and permits voided.

History.—1974, Ch. 194, § 26, F.S.; 1975, Ch. 194, § 26, F.S.

372.62 Guide license and regulations.—No person shall engage in the business of guiding hunters or hunting parties until he has secured a license to do so from the Game and Fresh Water Fish Commission. Application for guide license shall be made to the said commission upon blanks furnished by it. The cost of guide license shall be \$10 per open season, which license shall permit the holder to guide or act as guide for hunters or for hunting parties in the state. An applicant for guide license on making application must state name, age, address, physical description, and other pertinent information. No guide while acting as guide for hunting parties shall take any game or carry shotgun or rifle. No guide is found guilty of violating any provisions of the laws of this state relative to game, birds, freshwater fish or fur-bearing animals, his license shall be revoked.

History.—1974, Ch. 194, § 26, F.S.; 1975, Ch. 194, § 26, F.S.

372.65 Freshwater fish or frog dealer's license and other licenses for fish or frog dealers, farmers, or takers.—

(1) No person shall engage in the business of taking for sale or selling any frogs or freshwater fish of any species or size, or importing any exotic or non-indigenous fish, until such person has obtained a license and paid the fee therefor as set forth herein. The license issued shall be in the possession of the person to whom issued while such person is engaging in the business of taking for sale or selling freshwater fish or frogs and shall be displayed to officers of the Game and Fresh Water Fish Commission upon request. The license fees and activities permitted under particular licenses are as follows:

(a) The fee for a resident commercial fishing license, which permits a resident to take freshwater fish or frogs for sale or for use as bait, shall be \$50 per annum.

(b) The fee for a fish or frog farm license, which permits a licensee to produce freshwater fish or frogs in a farm or in artificial ponds for sale to wholesale fish or frog dealers for food, bait, or other use, shall be \$5 per annum.

(c) The fee for a resident retail fish or frog dealer's license, which permits a resident to sell freshwater fish or frogs to a consumer, shall be \$5 per annum.

(d) The fee for a resident wholesale fish or frog dealer's license, which permits a resident to sell freshwater fish or frogs to a retail fish or frog dealer, shall be \$30 per annum.

(e) The fee for an exotic fish dealer's license, which permits a licensee to import, export, or sell exotic, indigenous or nonindigenous fish, shall be \$50 per annum.

(f) The fee for a nonresident commercial fishing license, which permits a nonresident to take freshwater fish or frogs for sale or for use as bait, shall be \$50 per annum.

(g) The fee for a nonresident retail fish or frog dealer's license, which permits a nonresident to sell freshwater fish or frogs, shall be \$50 per annum.

(h) The fee for a nonresident wholesale fish or frog dealer's license, which permits a nonresident to sell or buy freshwater fish or frogs as provided in paragraph (d), shall be \$500 per annum.

(i) There is levied, in addition to any other license fee thereon, an annual gear license fee of \$50 upon each person fishing with trawl seines used in the fresh waters of the state.

(j) There is levied, in addition to any other license fee thereon, an annual gear license fee of \$100 upon each person fishing with hand seines used in the fresh waters of the state.

(k) A resident or nonresident wholesale fish or frog dealer's license shall also serve in lieu of a resident or nonresident commercial fishing license without the necessity of additional license fees.

(l) An exotic fish dealer's license shall also serve in lieu of a fish or frog farm license.

(3) All licenses as provided in paragraphs (1) and (2) shall be issued by the tax collectors of the several counties of the state, who shall retain a fee of 50 cents per license to cover the costs of issuance. Licenses as provided in paragraphs (1)(f)-(h) shall be issued by the Game and Fresh Water Fish Commission. Reports of sales and moneys collected shall be

ever the sale, possession, or transporting of alligators or alligator skins is prohibited by any law of this state, or by the rules, regulations, or orders of the

snomed, persons licensed or otherwise authorized by the commission or county or municipal animal control personnel when relocating alligators or crocodiles by killing the animal.

(2) The purposes of this section, the term "maintained in protected captivity" means held in captivity under a permit issued by the Game and Fresh Water Fish Commission pursuant to s. 372.921 or s. 372.922.

(3) Any person who violates this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 78, 1977.

372.671 Florida panther: killing prohibited; penalty.

(1) It is unlawful for any person to kill that member of Florida's "endangered species," as defined in s. 372.67(3), known as the Florida panther.

(2) Any person convicted of unlawfully killing a Florida panther is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 78, 1977.

372.672 Florida panther research and management Trust Fund.

(1) There is established within the Game and Fresh Water Fish Commission the Florida Panther Research and Management Trust Fund to be used exclusively for the purposes of this section.

(2) Monies from the fund shall be spent only for the following purposes:

- To establish and protect existing Florida panther populations by increasing panther food sources and by providing a limiting factor, determining conflicts between public use and panther survival, and maintaining sufficient genetic variability in existing populations.
- To educate the public concerning the value of the panther and the necessity for panther management.
- To reestablish Florida panthers into areas of suitable habitat, where feasible, by assessing the necessity of a captive breeding program for purposes of reintroduction of the panthers into the suitable habitat; selecting potential sites for reintroduction and investigating associated human sociological aspects; and assessing the potential for panther habitat acquisition.

(3) The Game and Fresh Water Fish Commission is authorized to receive donations for deposit into the Florida Panther Research and Management Trust Fund.

History.—s. 2, ch. 84, 1984.

372.673 Florida Panther Technical Advisory Council.

(1) The Florida Panther Technical Advisory Council is established within the Game and Fresh Water Fish Commission. The council shall be composed of five members and shall consist of five members with technical knowledge and expertise in the research and management of large mammals.

(2) Two members shall represent state or federal

agencies responsible for management of endangered species; two members, who must have specific experience in the research and management of large felines or large mammals, shall be appointed from universities, colleges, or associated institutions; and one member, with similar expertise, shall be appointed from the public at large.

(b) As soon as practicable after July 1, 1983, one member representing a state or federal agency and one member appointed from a university, college, or associated institution shall be appointed for terms ending August 1, 1985, and the remaining members shall be appointed for terms ending August 1, 1987. Thereafter, all appointments shall be for 4-year terms. If a vacancy occurs, a member shall be appointed for the remainder of the unexpired term. A member whose term has expired shall continue sitting on the council until full rights until a replacement has been appointed.

(c) Council members shall be reimbursed pursuant to s. 112.061 but shall receive no additional compensation or honorarium.

(2) The purposes of the council are:

- To serve in an advisory capacity to the Florida Game and Fresh Water Fish Commission on technical matters of relevance to the Florida panther recovery program, and to recommend specific actions that should be taken to accomplish the purposes of this act.
- To review and comment on research and management programs and practices to identify potential harm to the Florida panther population.
- To provide a forum for technical review and discussion of the status and development of the Florida panther recovery program.

372.68 Freshwater fish dealers to report.

—All dealers in freshwater fish shall, at the end of each month, report to the Game and Fresh Water Fish Commission the amount of the different kinds of freshwater fish that they have sold during the past month. Failure to make such report shall cause such dealer to be denied license for ensuing year.

History.—s. 6, ch. 134, 1984; s. 1, ch. 106, Supp. 1977-1980.

372.69 Game and Fresh Water Fish Commission to furnish forms.

—The Game and Fresh Water Fish Commission shall furnish forms for the purpose of this chapter shall be furnished by the Game and Fresh Water Fish Commission, which is required to make up forms of licenses, other blanks necessary, the same to be used throughout the state, and to furnish the same to the county tax collectors of the several counties and authorized agents. The said forms shall contain on the back thereof a synopsis of the game trapping or freshwater fishing laws of the state. All licenses shall be consecutively numbered.

History.—s. 7, ch. 134, 1984; s. 1, ch. 106, Supp. 1977-1980.

372.70 Prosecutions.

—The prosecuting officers of the several courts of criminal jurisdiction of this state shall investigate and prosecute all violations of the laws relating to game, freshwater fish, nongame

birds and fur-bearing animals which may be brought to their attention by the Game and Fresh Water Fish Commission or its conservation officers, or which may otherwise come to their knowledge.

History.—s. 1, ch. 134, 1984; s. 1, ch. 106, Supp. 1977-1980.

372.701 Arrest by officers of the Game and Fresh Water Fish Commission; recognition; cash bond; citation.

(1) In all cases of arrest by officers of the Game and Fresh Water Fish Commission and the Department of Natural Resources the person arrested shall be delivered forthwith by said officer to the sheriff of the county, or shall obtain from such person arrested a recognition or, if deemed necessary, a cash bond or other sufficient security conditioned for his appearance before the proper tribunal of such county to answer the charge for which he has been arrested.

(2) All officers of the commission and the department are hereby directed to deliver all funds accepted in payment by them to the sheriff of the county in which the offense is alleged to have been committed.

(3) Any person so arrested and released on his own recognizance by an officer who shall fail to appear or respond to the proper citation to appear, shall, in addition to the charge relating to wildlife or freshwater fish, be charged with that offense of failing to respond to such citation and, upon conviction, be punished as for a misdemeanor. A written warning to this effect shall be given at the time of arrest of such person.

History.—s. 1, ch. 134, 1984; s. 1, ch. 106, Supp. 1977-1980.

372.71 Fines and penalties; forfeiture of license.

—Any person violating the provisions of this chapter, shall, unless otherwise provided for the first offense be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and for a second or subsequent offense shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person arrested as herein provided shall forfeit any license or permit that may have been issued to him under the provisions of this chapter and shall be without status in the open season no license or permit shall be issued under the provisions of this chapter to such person at any time during the remainder of such open season, or if such violation occurs during the closed season no license shall be issued to such person for the open season next following.

History.—s. 7, ch. 134, 1984; s. 1, ch. 106, Supp. 1977-1980.

372.72 Disposition of fines, penalties, and forfeitures.

(1) All moneys collected from fines, penalties, or forfeitures of bond of persons convicted under this chapter shall be deposited in the fine and forfeiture fund of the county where such convictions are had, except for the disposition of moneys as provided in subsection (2).

(2) All moneys collected from fines, penalties, or forfeitures of bond of persons convicted of violations of rules, regulations, or orders of the Game and Fresh

Water Fish Commission concerning endangered or threatened species or of violation of s. 372.662, s. 372.663, s. 372.667, or s. 372.671 shall be deposited in the Endangered and Threatened Species Reeward Trust Fund.

History.—s. 11, ch. 134, 1984; s. 1, ch. 106, Supp. 1977-1980; s. 1, ch. 78, 1977; s. 1, ch. 79, 1977; s. 1, ch. 81, 1979.

372.73 Confiscation and disposition of illegally taken game.

All illegally taken game, including freshwater fish seized under the authority of this chapter shall, upon conviction of the offender or sooner if the court orders, be forfeited and given to some hospital or charitable institution and receipt therefor sent to the Game and Fresh Water Fish Commission. All furs or hides or fur-bearing animals seized under the authority of this chapter shall, upon conviction of the offender, be forfeited and sent to the commission, which shall sell the same and deposit the proceeds of such sale to the credit of the State Game Trust Fund.

If any such hides or furs are seized and the offender is unknown, the court shall order such hides or furs sent to the Game and Fresh Water Fish Commission, which shall sell such hides and furs and deposit the proceeds of such sale to the credit of the State Game Trust Fund.

History.—s. 1, ch. 134, 1984; s. 1, ch. 106, Supp. 1977-1980; s. 1, ch. 81, 1979.

372.74 Cooperative agreements with U. S. Forest Service; penalty.

—The Game and Fresh Water Fish Commission is authorized and empowered to enter into cooperative agreements with the United States Forest Service for the development of game, bird, fish, reptile or fur-bearing animal management and demonstration projects on and in the Osceola National Forest in Columbia and Baker Counties, and in the Ocala National Forest in Marion, Lake and Putnam Counties and in the Apalachicola National Forest in Liberty County. Provided, however, that no such cooperative agreements shall be entered into by the county concerned until consent is expressed through and approved by the county commissioners of such county.

(2) In cooperation with the United States Forest Service, to make, adopt, promulgate, amend and repeal rules and regulations, consistent with law, for the further or better control of hunting, fishing, and control of wildlife in the above National Forests or parts thereof; to shorten seasons and reduce bag limits, or shorten or close seasons on any species of game, bird, fish, reptile, or fur-bearing animal within the limits prescribed by the Florida law, in the above enumerated National Forests or parts thereof, when it shall find after investigation that such action is necessary to assure the maintenance of an adequate supply of wildlife.

(3) To fix a charge not to exceed \$5, for persons 18 years of age and over, and not to exceed \$2 for persons under the age of 18 years, over and above the license fee for hunting now required by law. This additional fee is to apply only on areas covered by above cooperative agreements. The proceeds from this additional license fee shall be used in the development, propagation of wildlife and protection of the areas

covered by the cooperative agreements as the commission and the United States Forest Service may deem proper. Nothing in this section shall be construed as authorizing the commission to change any general license by law or to change the amount of general licenses issued by the general authority conferred by law on the commission.

(3) In addition to the requirements of chapter 120, notice of the making, adoption, and promulgation of the above rules and regulations shall be given by posting said notices, or copies of the rules and regulations, in the offices of the county judges and in the post offices within the area to be affected and within 10 miles thereof. In addition to the posting of said notices, as aforesaid, copies of said notices or of said rules and regulations shall also be published in newspapers published at the county seats of Baker, Columbia, Marion, Lake, Putnam, and Liberty Counties, or so many thereof as have newspapers, once not more than 21 nor less than 14 days prior to the opening of the state hunting season in said areas. Any person violating any rules or regulations promulgated by the commission to cover these areas under cooperative agreements between the State Commission of Game and Fresh Water Fish and the United States Forest Service, or any of which shall be in conflict with the laws of Florida, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, L. 1964, 1965, CGL 1964 Supp. 1672-1673, 1674-1675, 1676, 1677, 1678, 1679, 1680, 1681, 1682, 1683, 1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1709, 1710, 1711, 1712, 1713, 1714, 1715, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1724, 1725, 1726, 1727, 1728, 1729, 1730, 1731, 1732, 1733, 1734, 1735, 1736, 1737, 1738, 1739, 1740, 1741, 1742, 1743, 1744, 1745, 1746, 1747, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1755, 1756, 1757, 1758, 1759, 1760, 1761, 1762, 1763, 1764, 1765, 1766, 1767, 1768, 1769, 1770, 1771, 1772, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1791, 1792, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 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2993, 2994, 2995, 2996, 2997, 2998, 2999, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3037, 3038, 3039, 3040, 3041, 3042, 3043, 3044, 3045, 3046, 3047, 3048, 3049, 3050, 3051, 3052, 3053, 3054, 3055, 3056, 3057, 3058, 3059, 3060, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3069, 3070, 3071, 3072, 3073, 3074, 3075, 3076, 3077, 3078, 3079, 3080, 3081, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3089, 3090, 3091, 3092, 3093, 3094, 3095, 3096, 3097, 3098, 3099, 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156, 3157, 3158, 3159, 3160, 3161, 3162, 3163, 3164, 3165, 3166, 3167, 3168, 3169, 3170, 3171, 3172, 3173, 3174, 3175, 3176, 3177, 3178, 3179, 3180, 3181, 3182, 3183, 3184, 3185, 3186, 3187, 3188, 3189, 3190, 3191, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3199, 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218, 3219, 3220, 3221, 3222, 3223, 3224, 3225, 3226, 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, 3239, 3240, 3241, 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3250, 3251, 3252, 3253, 3254, 3255, 3256, 3257, 3258, 3259, 3260, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279, 3280, 3281, 3282, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3299, 3300, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3322, 3323, 3324, 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372.900 Transportation.—Poisonous or venomous reptiles may be transported only in the following fashion: The reptile, or reptiles shall be placed in a stout closely woven cloth sack, tied or otherwise secured. This sack shall then be placed in a box. The box shall be of strong material in solid sheets, except for small air holes, which holes shall be screened. Boxes containing poisonous or venomous snakes or other reptiles shall be prominently labeled "Danger—Poisonous Snakes" or "Danger—Poisonous Reptiles."

History.—S. 6, 2983, 1975; 1, 6, 57, 45.

372.901 Inspection.—Poisonous or venomous reptiles, held in captivity, shall be subject to inspection by an inspecting officer from the Florida Game and Fresh Water Fish Commission. The inspecting officer shall determine whether the said reptiles are securely, properly and safely penned. In the event that the reptiles are not safely penned, the inspecting officer shall report the situation in writing to the person or firm owning the said reptiles. Failure of the owner or exhibitor to correct the situation within 30 days after such written notice shall be grounds for revocation of the license or permit of said owner or exhibitor.

History.—S. 2, 6, 57, 45.

372.91 Who may open cages, pits, or other containers housing poisonous or venomous reptiles.—No person except the licensee or his authorized employee shall open any cage, pit, or other container which contains poisonous or venomous reptiles.

History.—S. 2, 6, 2983, 1975.

372.911 Penalty.—Any person violating any provision of this chapter shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The Game and Fresh Water Fish Commission is authorized to offer rewards of up to \$500 to any person furnishing information leading to the arrest and conviction of any person who has inflicted or attempted to inflict bodily injury upon any wildlife officer engaged in the enforcement of the provisions of this chapter or the rules and regulations of the Game and Fresh Water Fish Commission.

History.—S. 2, 6, 57, 45; 1, 6, 59, 22; 1, 6, 57, 18.

372.912 Organized poisonous reptile hunts.—(1) All persons, firms, and corporations sponsoring and conducting any organized poisonous reptile hunt for whatever purpose shall comply with the provisions of s. 372.86-372.91.

(2) All persons participating in any organized poisonous reptile hunt in the state which is sponsored and conducted by a nonprofit organization registered with the Department of State under the provisions of chapter 617 shall be exempt from the licensing provisions contained in ss. 372.86, 372.87, and 372.88, only for the duration of said organized hunt.

(3) All organized poisonous reptile hunts in the

state shall be registered with the Game and Fresh Water Fish Commission and be subject to reasonable rules and regulations promulgated by said commission.

History.—S. 1, 6, 78, 14.

372.92 Rules and regulations.—The Florida Game and Fresh Water Fish Commission may prescribe such other rules and regulations as it may deem necessary to prevent the escape of poisonous and venomous reptiles, either in connection of construction of such cages or otherwise to carry out the intent of ss. 372.86-372.91.

History.—S. 2, 6, 2983, 1975.

372.921 Exhibition of wildlife.

(1) In order to provide humane treatment and sanitary surroundings for wild animals kept in captivity, no person, firm, corporation, or association shall have, or be in possession of, in captivity for the purpose of public display with or without charge or for public sale any wildlife, specifically birds, mammals, and reptiles, whether indigenous to Florida or not, without having first secured a permit from the Game and Fresh Water Fish Commission authorizing such person, firm, or corporation to have in its possession in captivity the species and number of wildlife specified within such permit; however, this section does not apply to any wildlife not protected by law and the regulations of the Game and Fresh Water Fish Commission.

(2) The fees to be paid for the issuance of permits required by subsection (1) shall be as follows:

(a) For not more than 10 individual specimens in the aggregate of all species, the sum of \$5 per annum.

(b) For over 10 individual specimens in the aggregate of all species, the sum of \$25 per annum.

The fees prescribed by this section shall be submitted to the Game and Fresh Water Fish Commission with the application for permit required by subsection (1) and shall be deposited in the State Game Fund.

(3) An applicant for a permit shall be required to include in his application a statement showing the place, number, and species of wildlife to be held in captivity by him and shall be required upon request by the Game and Fresh Water Fish Commission to show when, where, and in what manner he came into possession of any wildlife acquired subsequent to the effective date of this act. The source of acquisition of such wildlife shall not be divulged by the commission except in connection with a violation of this section or a regulation of the commission in which information as to source of wildlife is required as evidence in the prosecution of such violation.

(4) Permits pursuant to this section and places where wildlife is held in captivity shall be subject to inspection by officers of the Game and Fresh Water Fish Commission at all times. The commission shall have the power to release or confiscate any specimens of any wildlife, specifically birds, mammals, or reptiles, whether indigenous to the state or not, when it is found that conditions under which they are being confined are unsanitary, or unsafe to the public in any manner, or that the species

445

of wildlife are being maltreated, mistreated, or neglected or kept in any manner in violation of the provisions of chapter 328, any such permit to the contrary notwithstanding. Before any such wildlife is confiscated or released under the authority of this section, the owner thereof shall have been advised in writing of the existence of such unsatisfactory conditions; the owner shall have been given 30 days in which to correct such conditions; the owner shall have failed to correct such conditions; the owner shall have had an opportunity for a proceeding pursuant to chapter 120; and the commission shall have ordered such confiscation or release after careful consideration of all evidence in the particular case in question. The final order of the commission shall constitute final agency action.

(5) Any animal on exhibit of a type capable of contracting or transmitting rabies shall be immunized against rabies. The provisions of this section relative to licensing shall apply to any municipal, county, state, or other public agency or wildlife exhibit. The provisions of this section do not apply to breeding zoos, circuses, or exhibit licensed as provided by chapter 260.

(7) A violation of this section is punishable as provided by s. 372.71.

History.—S. 1, 6, 57, 29; 1, 6, 59, 106; 1, 6, 59, 24; 1, 6, 59, 25; 1, 6, 59, 164; 1, 6, 59, 165; 1, 6, 59, 166.

372.922 Personal possession of wildlife.

(1) It is unlawful for any person or persons to possess any wildlife as defined in this act, whether indigenous to Florida or not, until he has obtained a permit as provided by this section from the Game and Fresh Water Fish Commission.

(2) The classifications of types of wildlife and fees to be paid for the issuance of permits shall be as follows:

(a) *Class I.*—Wildlife which, because of its nature, habits, or status, shall not be possessed as a personal pet.

(b) *Class II.*—Wildlife considered to present a real or potential threat to human safety, the sum of \$100 per annum.

(3) The commission shall promulgate regulations defining Class I and II types of wildlife. The commission shall also establish regulations and requirements necessary to insure that permits are granted only to persons qualified to possess and care properly for wildlife and that permitted wildlife possessed as personal pets will be maintained in sanitary surroundings and appropriate neighborhoods.

(4) Any person, firm, corporation, or association exhibiting or selling wildlife and being duly permitted as provided by s. 372.921 shall be exempt from the requirement to obtain a permit under the provisions of this section.

(5) Persons in violation of this section shall be punishable as provided in s. 372.71.

History.—S. 1, 6, 57, 29.

372.97 Jim Woodruff Dam; reciprocity agreements.—The Game and Fresh Water Fish Commission of the state is hereby authorized to enter into an agreement of the reciprocity with the Game and fish commissioners or the appropriate officials of

departments of the State of Georgia and the State of Alabama relative to the taking of game and freshwater fish from the waters of the lake created by the Jim Woodruff Dam by permitting reciprocal license privileges.

History.—S. 1, 6, 57, 104.

372.971 St. Mary's River reciprocity agreements.—The Game and Fresh Water Fish Commission of the state is hereby authorized to enter into an agreement of reciprocity with the Game and fish commissioners or the appropriate officials or departments of the State of Georgia relative to the taking of game and freshwater fish from the waters of the St. Mary's River by permitting reciprocal agreement license privileges.

History.—S. 1, 6, 57, 105.

372.98 Possession of nutria; licensee; inspection; penalty for violation.—

(1) No person shall release, permit to be released, or be responsible for the release of, within the state, any animal of the species *myocastor coypus* and known commonly in Florida and referred to herein as nutria.

(2) No person shall have in his possession for sale or otherwise any nutria until such person has obtained a license as provided herein. The fee for such license shall be \$25 per year. Application for such license shall be made with the Game and Fresh Water Fish Commission on forms providing therefor.

(3) All persons licensed under this law to keep, possess or exhibit nutria shall provide safe, secure and proper housing for said nutria which will adequately safeguard against the escape of any nutria. Requirements for the construction of such pens or housing shall be as prescribed by the Game and Fresh Water Fish Commission.

(4) All premises upon which nutria are kept shall be subject to inspection by authorized representatives of the Game and Fresh Water Fish Commission. Such officers shall determine whether the said nutria are securely, properly and safely housed. In the event the said nutria are not securely, properly and safely housed, the inspecting officer shall so advise in writing the person owning said nutria. Failure of the owner to provide within 30 days after such written notice secure, proper, and safe housing as prescribed by the Game and Fresh Water Fish Commission shall be grounds for revocation of the license herein provided and confiscation and disposal of the said nutria as a public nuisance.

(5) Any person violating any provision of this section or any rule and regulation of the Game and Fresh Water Fish Commission pursuant hereto shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—S. 1, 6, 57, 106; 1, 6, 59, 24; 1, 6, 59, 25.

372.981 Regulation of importation of caliman.—The Game and Fresh Water Fish Commission shall promulgate regulations to control the importation of caliman.

History.—S. 1, 6, 57, 106.

446

WATER RESOURCES

753.197 Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin restoration project; measures authorized.

History.—a. 1. part l. ch. 72, 2009

373.016 Declaration of policy.—
(1) The waters in the state are among its basic resources. Such waters have not heretofore been controlled or fully controlled so as to realize their full beneficial use.

resources. Such waters have not heretofore been controlled or fully controlled so as to realize their full beneficial use.

(2) It is further declared to be the policy of the Legislature:

(a) To provide for the management of water and related land resources;

(b) To promote the conservation, development, and proper utilization of surface and ground water:

strict works using aquifer for storage

STATE WATER RESOURCE PLAN	
373.012	Topographic mapping.
373.013	Short title.
373.014	Declaration of policy.
373.015	Definitions.
373.019	Scope and application.
373.023	General powers and duties of the department.
373.026	Southwest River Basins Resources Advisory Board.
373.029	Saltwater, barrier line.
373.031	State water use plan.
373.036	Florida water plan.
373.039	Ground water basin resource availability inventory.
373.042	Minimum flows and levels.
373.044	Adoption and enforcement: of regulations by the department.
373.047	Rules and regulations, enforcement.
373.048	Investigation between districts.
373.046	State agencies, counties, drainage districts, municipalities, or governmental agencies or public corporations authorized to convey land to flood control districts.
373.059	Creation of water management districts.
373.061	Transfer of areas.
373.063	Basins: basin boards.
373.069	Duties of basin boards: authorized expenditures.
373.097	Basin taxes.
373.098	Governing board.
373.099	Vacancies in the governing board: removal from office.
373.101	Members of governing board: oath of office: staff.
373.081	General powers and duties of the governing board.
373.084	Duties and powers, operation by other governmental agencies.
373.085	Use of works by other districts.
373.086	Providing for district works.
373.088	Application fees for certain real estate transactions.
373.089	Sale of lands.
373.093	Lease of lands or interest in land.
373.095	Release.
373.096	Production of instruments.
373.103	Provisions which may be added in the governing board at the department's discretion.
373.106	Permit required for construction involving underground formation.
373.107	Citation of rule.
373.109	Permit application fees.
373.113	Adoption of regulations by the governing board.
373.114	Land and Water Adjudicatory Commission; review of district rules and orders; department review of district rules.
373.116	Procedure for water use and impoundment construction permit application.
373.117	Certification by professional engineer.
373.118	General permits.
373.119	Administrative enforcement procedures: administrative.
373.123	Penalty.
373.129	Maintenance of actions.
373.136	Enforcement of regulations and orders.
373.139	Acquisition of real property.
373.146	Publication of notices, process, and appeals.
373.149	Existing districts preserved.
373.171	Rules and regulations.
373.175	Declaration of water shortage; emergency orders.
373.191	County water conservation projects.
373.196	Legislative findings.
373.198	Water production.
373.199	Regional water supply authority.
373.1962	Assistance to West Coast Regional Water Supply Authority.
373.1965	Kissimmee River Valley and Taylor River basins; South Basin; conflict resolution; water storage; project implementation.

menting such waters; existing and contemplated needs and uses of water for protection and preservation of fish and wildlife; irrigation, mining, power, development, and domestic, municipal, and industrial.

The department may prohibit or restrict other future

ensure that future growth and development planning reflect the limitations of the available ground water or other available water supplies.

HISTORY.—a. 6, ch. 82 10).

373.047 Cooperation between districts.

[illegible]

Section 1; thence east to the northeast corner of the Township 25, Township 8 South, Range 21 East; thence south along the range line between Ranges 21 and 22 East to the southeast corner of Section 30, Township 18 South, Range 22 East; thence east along the township line between Ranges 22 and 23 East to the northeast corner of Township 8 South, Range 22 East; thence south along the section line to the southeast corner of Section 16, Township 9 South, Range 22 East; thence eastward along the section line to the southeast corner of the west $\frac{1}{4}$ of Section 18, Township 9 South, Range 23 East; thence northward to the northeast corner of the west $\frac{1}{4}$ of Section 18, Township 9 South, Range 23 East; thence west to the southwest corner of Section 7, Township 9 South, Range 23 East; thence northward along the Bradford-Clay County line to the northeast corner of Section 36, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of the east $\frac{1}{4}$ of Section 25, Township 8 South, Range 22 East; thence north to the northeast corner of the west $\frac{1}{4}$ of Section 18, Township 9 South, Range 22 East; thence eastward along the section line to the northeast corner of Section 13, Township 9 South, Range 22 East; thence north along the section line to the northwest corner of Section 25, Township 7 South, Range 22 East; thence east along the section line to the Bradford-Clay County line; thence north along the Bradford-Clay County line to the intersection of the south boundary of Baker County; thence west along the Baker-Bradford County line to the intersection of the east boundary of Union County; thence west along the Baker-Union County line to the southwest corner of Section 18, Township 4 South, Range 20 East; thence north along the range line between Ranges 19 and 20 East to the northeast corner of Section 1, Township 3 South, Range 19 East; thence west along the township line between Townships 2 and 3 South to the Baker-Columbia County line; thence north along the Baker-Columbia County line to the north boundary of the State of Florida; thence easterly along the township line to the northeast corner of the township along the Atlantic Ocean, including the waters of said ocean within the jurisdiction of the State of Florida to the point of beginning.

(d) *Southeast Florida Water Management District*.—Begin at the intersection of the north boundary of Lee County with the Gulf of Mexico; thence eastward along the Lee-Charlotte County line to the Southeast corner of Section 33, Township 42 South, Range 24 East; thence North into Charlotte County, Range 24 East; thence North into Charlotte County, along the section lines to the Northeast corner of Section 4, Township 42 South, Range 24 East; thence East along the township line between Townships 36, Township 41 South, Range 25 East; thence north along the section line to the northeast corner of Section 6, Township 41 South, Range 26 East; thence east along the section line, the southeast corner of Section 35, Township 40 South, Range 26 East; thence northward along the township line between Ranges 26 and 27 to the Northeast corner of Section 1, Township 40 South, Range 26 East; thence east along the Charlotte-Deeato County line; thence east along the Charlotte-Deeato County line to the southeast corner of Section 36, Township 39 South, Range 21 East;

[illegible]

Ch. 373

South, Range 26 East; thence north along the section line between Township 24 South and Township 25 South, Range 26 East; thence west along the section line between Township 24 South and Township 25 South, Range 26 East; thence north along the section line to the Lake Polk County line; thence east along the county line to the southwest corner of Section 32, Township 24 South, Range 26 East; thence into Lake County, north along the section line to the northeast corner of Section 30, Township 24 South, Range 26 East; thence west along the section line to the northeast corner of Section 28, Township 24 South, Range 26 East; thence north along the section line to the northeast corner of Section 26, Township 24 South, Range 26 East; thence north along the section line to the northeast corner of Section 24, Township 24 South, Range 26 East; thence west along the section line to the northwest corner of Section 18, Township 24 South, Range 26 East; thence north along the section line to the northeast corner of Section 8, Township 24 South, Range 26 East; thence west along the section line to the northeast corner of Section 24, Township 24 South, Range 26 East; thence north along the section line to the northeast corner of Section 1, Township 23 South, Range 24 East; also being on the township line between Townships 22 and 23 South, Range 24 East; thence west along the township line to the northwest corner of Section 6, Township 23 South, Range 24 East; also being on the Sumter-Lake County line; thence north along the Sumter-Lake County line to the northeast corner of Section 23 and 24, also being the range line between Ranges 23 and 24, Township 23 East, and the Marion County line; thence west, along the Sumter-Marion County line, also being the township line between Townships 17 and 18 South, to the westerly right-of-way line of Interstate Highway 75; thence northerly along the westerly right-of-way line of Interstate Highway 75 to the Alachua-Marion County line, said line also being the township line between Townships 11 and 12 South; thence west along the Alachua-Marion County line to the northwest corner of Section 3, Township 12 South, Range 19 East; and the Levy County line, thence westerly along the Levy-Alachua County line, also being the township line between Townships 11 and 12 South, to the southeast corner of Section 36, Township 11 South, Range 17 East; thence north along the Levy-Alachua County line, also being the range line between Ranges 17 and 18 East, to the southerly right-of-way line of State Road No. 24, thence southerly along said right-of-way line to the southerly right-of-way line of State Road No. 337; thence easterly, along said southerly right-of-way line of State Road No. 337, to the easterly right-of-way line of State Road No. 337, to the southerly right-of-way line of the section line to the northeast corner of Section 35, Township 14 South, Range 17 East; thence west along the section line to the northeast corner of Section 3, Township 15 South, Range 17 East; thence south along the section line to the southwest corner of Section 27, Township 15 South, Range 17 East; thence west to the Gulf of Mexico; thence south along the Gulf of Mexico, including the waters of said gulf within the jurisdiction of the State of Florida, to the point of beginning.

(c) *South Florida Water Management District.*—Begin at the intersection of the north boundary of Lee County with the Gulf of Mexico; thence easterly along the Lee-Charlotte County line to the southwest corner of Section 42, Township 42 South, Range 24

WATER RESOURCES

[illegible]

1

(b)

373.0491 Transfer of assets--

(2) The change of boundaries shall not affect the continuing authority, obligations, and commitments of the water management districts, except as set forth in this section.

373.0893 *Painting: Persian boards*—

(3) Each train shall be under the control of a battalion commander, who shall be composed of not less than three members, but shall include one representative from each of the included organizations in the train.

(4) Each member of the organizations on the board shall serve for a period of 3 years or until he is reappointed, except that the board members of each new train shall be divided into three groups, as equally as possible, with members in such groups to be appointed for 1, 2, and 3 years, respectively.

(5) Each train board shall choose a vice chairman and a secretary to serve for a period of 1 year. The term of

11. The entire area of the St. Johns River Watershed Management District, less those areas in the Oklawaha Basin, shall be formed into a subdistrict or subbasins of the St. Johns River Water Management District. Such area shall be designated as the Greater St. Johns River Basin.

a) The governing board of the South Florida Water Management District shall also serve as the governing board of the Okeechobee Basin.

The local effort required in connection with construction, operation, and maintenance of the cooperative Federal project referred to as the Central Southern Florida Flood Control Project, which aims after the upper St. Johns portion is transferred to the St. Johns River Water Management

'373.076 Vacancies in the governing board:—
(1) Vacancies occurring in the governing board of a district prior to the expiration of the term shall be filled for the unexpired term.
(2) The Governor shall have authority to remove from office any officer of said district in the manner and for cause defined by the laws of this state applicable to situations which may arise in said district.

'373.079 Members of governing board; oath of office; staff.—
(1) Each member of the governing board of the district, before entering upon his official duties, shall take and subscribe to an oath, before some officer authorized by law to administer oaths, that he will honestly, faithfully and impartially perform the duties devolving upon him in office as member of the governing board of the district to which he was appointed, and that he will not neglect any of the duties imposed upon him by this chapter.
(2) Immediately after their appointment, and every 2 years thereafter, members composing the governing board shall meet at some convenient place and choose one of their number chairman of the board, and one suitable person secretary, who may or may not be a member of the governing board, and who shall be required to execute bond for the faithful performance of his duties as the governing board may determine. Such board shall adopt a seal with a suitable design, and shall keep a well bound book entitled, "Record of Governing Board of _____ District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts, which book shall at reasonable times be open to the inspection of any citizen of Florida or taxpayer in the district or his agent or attorney.
(3) The chairman and members of the board shall receive no compensation for such services, but while officially on work for the district, shall receive their actual traveling expenses and subsistence and lodging not to exceed the standard amount allowed state officers and employees, and other expenses in the actual amount incurred thereof.
(4) The governing board of the district is authorized to employ an executive director, and such engineers, other professional persons, and other personnel and assistants as the board may deem necessary and under such terms and conditions as it may determine, and to terminate such employment.
(5) The governing board may employ a legal staff for the purposes of:
(a) Providing legal counsel on matters relating to the exercise of its powers and duties;
(b) Representing it in all proceedings of an administrative or judicial nature; and
(c) Otherwise assisting in the administration of the provisions of this chapter.
(6) By resolution of this chapter, the governing board may determine the location of its principal office and provide for the change thereof.

(7) The governing board shall meet at least once a month and upon call of the chairman.
History.—s. 15, part 1, ch. 72-299, 1, ch. 92-46, and scheduled for review pursuant to s. 11.011 in advance of that date.

'373.083 General powers and duties of the governing board.—In addition to other powers and duties allowed it by law, the governing board is authorized to:
(1) Contract with public agencies, private corporations, or other persons; sue and be sued; and appoint and remove agents and employees, including specialists and consultants.
(2) Issue orders to implement or enforce any of the provisions of this chapter or regulations thereunder.
(3) Make surveys and investigations of the water supply and resources of the district and cooperate with other governmental agencies in similar activities.

'373.084 District works, operation by other governmental agencies.—The district may permit governing bodies of water conservation districts, drainage and other improvement districts, and federal, state and local governments, authorities or agencies to operate and maintain the works of the district under conditions which the governing board may determine.
History.—s. 15, part 1, ch. 72-299, 1, ch. 92-46, and scheduled for review pursuant to s. 11.011 in advance of that date.

'373.085 Use of works by other districts.—
(1) The governing board shall have authority to prescribe the manner in which local works provided by other districts or by private persons shall connect with and make use of the works of the district, to issue permits therefor, and to cancel the same for non-compliance with the conditions thereof, or for other cause. It shall be unlawful to connect with or for use of the works of said district without consent in writing from its governing board, and said board shall have authority to prevent, or if done to stop or terminate the same.
(2) Damage resulting from unlawful use of such works, or from violations of the conditions of permit issued by the board shall, if made by other than a public agency, be subject to such penalty as is or may be prescribed by law and in addition thereto by a date and in a manner prescribed by the board, repair of said damage to the satisfaction of said board, or deposit with said board a sum sufficient therefor, and if by a public agency, then at the expense of such agency the repair of said damage to the satisfaction of the board or the deposit with said board of a sum sufficient therefor.
History.—s. 15, part 1, ch. 72-299, 1, ch. 92-46, and scheduled for review pursuant to s. 11.011 in advance of that date.

'373.086 Providing for district works.—
(1) In order to carry out the works for the dis-

trict, and for effectuating the purposes of this chapter, the governing board is authorized to clean out, straighten, enlarge, or change the course of any waterway, natural or artificial, within or without the district; to provide such canals, levees, dikes, dams, sluiceways, reservoirs, holding basins, floodways, pumping stations, bridges, highways, and other works and facilities which the board may deem necessary; to establish, maintain, and regulate water levels in all canals, lakes, rivers, channels, reservoirs, streams, or other bodies of water owned or maintained by the district; to cross any highway or railway with works of the district and to hold, control, and acquire by donation, lease, or purchase, or to condemn any land, public or private, needed for rights-of-way or other purposes, and may remove any building or other obstruction necessary for the construction, maintenance, and operation of the works; and to hold and have full control over the works and right-of-way of the district.

(2) The works of the district shall be those adopted by the governing board of the district. The district may require or take over for operation and maintenance such works of other districts as the governing board may deem advisable under agreement with such district.
(3)(a) Notwithstanding the provisions of chapter 120, the temporary construction, operation, or maintenance of water supply backpumping facilities to be used for storage of surplus water shall not require a permit under this chapter, chapter 253, or chapter 403 for the Department of Environmental Regulation, if the governing board issues an order declaring a water emergency which order is approved by the Secretary of Environmental Regulation. Such approval may be given in telephone and confirmed by appropriate order at a later date. The temporary construction, operation, or maintenance of the facilities shall cease when the governing board or the secretary issues an order declaring the emergency no longer exists. If the district intends to operate any such facilities permanently under emergency conditions, it shall apply for the appropriate required permits from the Department of Environmental Regulation within 30 days of rescinding the emergency order.

(b) Notwithstanding the provisions of chapter 120, emergency orders issued pursuant to this subsection shall be valid for a period of 90 days and may be renewed for a single 90-day period.
History.—s. 15, ch. 72-299, 1, ch. 92-46, and scheduled for review pursuant to s. 11.011 in advance of that date.

'373.087 District works using aquifer for storage and supply.—The governing board may establish a district for the purpose of introducing water into, or drawing water from, the underlying aquifer for storage or supply. However, only water of a compatible quality shall be introduced directly into such aquifer.
History.—s. 1, ch. 72-316, 1, ch. 92-46.
Note.—Repealed effective October 1, 1983, by s. 1, ch. 92-46, and scheduled for review pursuant to s. 11.011 in advance of that date.

'373.088 Providing for district works.—
(1) In order to carry out the works for the dis-

'373.088 Application fees for certain real estate transactions.—The governing board may adopt rules to provide for the assessment and collection of reasonable fees for the processing of applications for sale, easement, lease, exchange, release, non-use commitment, disclaimer, quickclaim deed, or resurfacing or correction of deed with respect to any interest in lands, such fees to be commensurate with the actual cost of processing such applications.
History.—s. 3, ch. 82-101, 1, 34, ch. 83-218.

'373.089 Sale of lands.—The governing board of the district may sell lands to which the district has acquired title or to which it may hereafter acquire title in the following manner:
(1) Any lands determined by the governing board to be surplus may be sold by the district, at any time for the highest price obtainable.
(2) All sales of land shall be for cash or upon terms and security to be approved by the governing board, but a deed therefor shall not be executed and delivered until full payment is made.
(3) Before selling any land, except as provided in subsection (5), it shall be the duty of the district to cause a notice of intention to sell to be published in a newspaper published in the county in which the land is situated once each week for 3 successive weeks (three insertions being sufficient), the first publication of which shall be not less than 30 days nor more than 45 days prior to any sale, which notice shall set forth the time and place of the sale and a description of lands to be offered for sale.
(4) All sales shall be conducted at the county courthouse in the county in which the land is located on any day of the week except Sunday and at any time specified in the notice between the hours of 11 a.m. and 4 p.m.
(5) Public sale shall not be required when surplus lands are being resold to the then owner of that adjacent parcel from which such sale is made within 1 year from the time the land is declared surplus, and the owner of the adjacent parcel shall be notified by registered mail of the address shown on the county tax roll within 30 days after the land is declared surplus.
(6) Public sale shall not be required when a building determined to be surplus was acquired or purchased using funds from the General Revenue Fund and the buyer is another regional agency or state agency that will use the structure in furtherance of its programs.

'373.093 Lease of lands or interest in land.—The governing board of the district may lease any lands or interest in land, including but not limited to oil and mineral rights, to which the district has acquired title, or to which it may hereafter acquire title in the following manner:
(1) For the best price and terms obtainable, to be determined by the board.
(2) Before leasing any land, or interest in land in-

(4) Determine, establish, and control the level of waters to be maintained in all canals, lakes, rivers, channels, reservoirs, streams, or other bodies of water controlled by the district; to maintain such waters at the levels so determined and established by means of

373.107 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pur-

(b) Review by the Land and Water Adjudicatory Commission is appellate in nature and shall be based on the record below. The matter shall be heard by the commission not more than 60 days after receipt of the request for review or the determination by the commission that the rule or order has statewide or regional significance, whichever is later.

(2) Upon receipt of an application for a permit of the type referred to in subsection (1), the governing board shall cause a notice thereof to be published in a newspaper having general circulation within the affected area. In addition, the governing board shall send, by regular mail, a copy of such notice to any person who has filed a written request for notification of any pending applications affecting this particular designated area. Such notice shall be mailed to the address designated in the request for notification.

373.117 Certification by professional engineer.—
(1) If an application for a permit or license to conduct an activity regulated under this chapter requires the services of a professional engineer as regulated and defined by chapter 471, the department or

governing board of a water management district may require, as a condition of granting a permit or license, that a professional engineer licensed under chapter 471, certify upon completion of the permitted or licensed activity that such activity has been completed in substantial conformance with the plans and specifications approved by the department or board.

(2) The cost of such certification by a professional engineer shall be borne by the permittee.

(3) No permitted or licensed activity which is required to be so certified shall be placed into use or operation until the professional engineer's certificate is filed with the department or board.

History.—1993, ch. 79, § 2.

373.118 General permits.—

(1) The governing board may adopt rules establishing a general permit system under this chapter for projects or categories of projects, which have, either singly or cumulatively, a minimal adverse impact on the water resources of the district. Such rules shall specify design or performance criteria which, if applied, would result in compliance with the conditions for issuance of permits established in this chapter and district rules.

(2) A general permit system relating to water use may provide for the granting of permits for the use of water in specified amounts within identified areas of the district. General permits for water use shall be subject to all the provisions of part II except the provisions of s. 373.225.

(3) In lieu of the publication of notice requirements of ss. 373.116, 373.225, and 373.413, the governing board may establish alternative notice requirements for general permits, which requirements take into account the nature and scope of the projects permitted and the effect the proposed activity may have on other persons.

History.—1993, ch. 67, § 6.

373.119 Administrative enforcement procedures.—

(1) Whenever the executive director of a water management district has reason to believe that a violation of any provision of this chapter, or any regulation promulgated thereunder or order issued pursuant thereto has occurred or is occurring, it is his or her duty to cause an investigation to be conducted about to occur, the executive director may cause a written complaint to be served upon the alleged violator or violators. The complaint shall specify the provision or provisions of this chapter or regulation or permit or order alleged to be violated or about to be violated, and the facts alleged to constitute a violation thereof, and may order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless the person or persons named therein request by written petition a hearing no later than 14 days after the date such order is served.

(2) Whenever the executive director, with the concurrence and advice of the governing board, finds that an emergency exists requiring immediate action to protect the public health, safety, or welfare; the health of animals, fish or aquatic life; a public water supply; or recreational, commercial, industrial, agricultural or other reasonable uses, the executive director

469

may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken by the executive director deems necessary to protect the emergency order is directed pursuant to subsection (2) shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

History.—1993, ch. 72, § 2, 14, ch. 79, § 2.

373.123 Penalty.—Any person, real or artificial, who shall construct or enlarge, or cause to be constructed or enlarged, a canal or shall enlarge or deepen a natural stream in such a manner as to permit salt water to move inland of an established saltwater barrier line, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. Each day such movement of salt water shall continue, this shall constitute a separate offense of the provisions of this law.

History.—1993, ch. 52, § 2; 1994, ch. 71, § 2, 25, ch. 79, § 2.

Note.—Former s. 373.120.

373.129 Maintenance of actions.—The department, the governing board of any water management district, or any local board is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes:

(1) To enforce rules, regulations and orders adopted or issued pursuant to this law.

(2) To enjoin or abate violations of the provisions of this law or rules, regulations and orders adopted pursuant thereto.

(3) To protect and preserve the water resources of the state.

(4) To defend all actions and proceedings involving its powers and duties pertaining to the water resources of the state.

History.—1993, ch. 52, § 2; 1994, ch. 71, § 2, 25, ch. 79, § 2.

Note.—Former s. 373.121.

373.136 Enforcement of regulations and orders.—

(1) The governing board may enforce its regulations and orders adopted pursuant to this chapter, by suit for injunction or other appropriate action in the courts of the state.

(2) Any action by a citizen of the state to seek judicial enforcement of any of the provisions of this chapter shall be governed by the Florida Environmental Protection Act, s. 403.412.

History.—1993, ch. 72, § 2, ch. 79, § 2.

373.139 Acquisition of real property.—

(1) The Legislature declares it to be necessary for the public health and welfare that water and water-related resources be conserved and protected. The acquisition of real property for this objective shall constitute a public purpose for which public funds may be expended.

(2) The governing board of the district is empowered and authorized to acquire fee title to real property and easements therein by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, and preservation

of wetlands, streams and lakes, except that eminent domain powers may be used only for acquiring real property, flood control and water storage.

(3) Land acquired for the purposes enumerated in subsection (2) may also be used for recreational purposes, and whenever practicable such lands shall be open to the general public for recreational uses.

(4) For the purpose of introducing water into, or drawing water from, the underlying aquifer for storage or supply, the governing board is authorized to hold, control, and acquire by donation, lease, or purchase any land, public or private.

(5) This section shall not limit the exercise of similar powers delegated by statute to any state or local governmental agency or other person.

History.—1993, ch. 72, § 2, 14, ch. 79, § 2.

373.146 Publication of notices, process, and papers.—Whenever in this chapter the publication of any notice, process, or paper is required or provided for, unless otherwise provided by law, the publication thereof in some newspaper or newspapers as defined in chapter 50 having general circulation within the area to be affected shall be taken and considered as being sufficient.

History.—1993, ch. 72, § 2, 14, ch. 79, § 2.

Note.—Former s. 373.44.

373.149 Existing districts preserved.—The enactment of this act shall not affect the existence of the Central and Southern Florida Flood Control District created by chapter 25270, Laws of Florida, 1949, or the Southwest Florida Water Management District, created by chapter 61,691, Laws of Florida, or any contract or obligation of such districts entered into prior to the effective date of this act. The two districts shall continue to exercise the taxing powers authorized to them in the territories within their respective boundaries, except that nothing herein shall limit the department in considering and recommending to the 1973 session of the Legislature changes in the boundaries and transfers of funds, appropriations, personnel, property, or equipment between or among the existing districts and districts created by this chapter. The two districts shall continue to exercise the powers presently authorized by chapters 378 and 379, notwithstanding provisions contained in the contrary in this chapter, until any such powers shall be specifically revoked or modified by the department pursuant to this chapter, except that the provisions of s. 373.139 relating to acquisition of real property shall apply.

History.—1993, ch. 72, § 2, ch. 79, § 2.

373.171 Rules and regulations.—(1) In order to obtain the most beneficial use of the water resources of the state and to protect the public health, safety, and welfare and the interests of the water users affected, the governing board, by action not inconsistent with the provisions of this law and without impairing property rights, may: (a) Establish rules, regulations, or orders affecting the use of water, and the construction, maintenance, and bidding the construction of new diversion facilities or wells, the initiation of new water uses, or the modification of any existing water use.

(2) The governing board may impose such restrictions on one or more users of the water resources as may be necessary to protect the water resources of the area from serious harm.

(3) When a water shortage is declared, the governing board shall cause notice thereof to be published in a prominent place within a newspaper of general circulation throughout the area. Publication of such notice shall serve as notice to all users in the area of the condition of water shortage.

(4) If an emergency condition exists due to a water shortage within any area of the district and the executive director of the district, with the concurrence of the governing board, finds that the exercise of powers under this section is not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or other reasonable uses, he may, pursuant to the provisions of chapter 120, issue emergency orders reciting the existence of such an emergency and requiring that such action, including, but not limited to, apportioning, rationing, limiting, or prohibiting the use of the water resources of the district, be taken as the executive director, with the concurrence of the governing board, deems necessary to meet the emergency.

History.—1993, ch. 72, § 2, ch. 79, § 2.

Note.—Former s. 373.152.

470

1983

- (3) At the request of a county, municipality, or regional water supply authority, may establish water conservation and transmission facilities for the purpose of supplying water to such counties, municipalities, and regional water supply authorities.
- (4) Shall not engage in local distribution.

(4) SHALL NOT ENGAGE IN IDEAL DISCUSSION.

(5) SHALL NOT DERIVISE DIRECTLY OR INDIRECTLY ANY

community wherein water is withdrawn of the prior right

(6) May provide water and financial assistance to regional water supply authorities, but may not provide water to counties and municipalities which are not specifically within the area of such authority without the specific approval of the authority or, in the event of the authority's disapproval, the approval of the Gov. and the Governor and Cabinet sitting as the Land and Water Adjudicator. The district may supply water to such authorities or, upon terms mutually agreed to by the parties or, if they do not agree, as set by the governing board and specifically approved by the Governor and Cabinet sitting as the Land and Water Adjudicator.

(7) May acquire title to such interest as is necessary in real property, by purchase, gift, devise, lease, easement, or otherwise, for water production and transmission consistent with this section. However, the district shall not use any of the eminent domain powers herein granted to acquire water and water rights already devoted to reasonable and beneficial use or any water production or transmission facilities owned by any county, municipality or region.

373.1962 Regional water supply authorities.

standing as head of the Department of National Resources to insure that such agreement will be in the

purposes of this act, regional water supply authorities may be created for the purpose of developing, storing, and supplying water for county or municipal purposes in such a manner as will give priority to reducing public interest and companies with the intent and purposes of this act, regional water supply authorities

(a) Whether the geographic territory of the pro-

posed authority is of sufficient size and character to reduce the environmental effects of improper or excessive withdrawals of water from concentrated areas.

bonds may be issued to take up and refund all outstanding bonds of said authority that are subject to call and termination, and all bonds of said authority

that are not subject to call or redemption, when the surrender of said bonds can be procured from the

Such refunding bonds may be issued at any time when, in the judgment of the authority, it will be to the best interest of the authority financially or economically, by securing a lower rate of interest on said bonds, to refund the principal and interest on bonds then outstanding or to be so issued, or to procure from the bondholder thereof at prices satisfactory to the authority.

(f) Sue and be sued in its own name.

(g) Borrow money and incur indebtedness and issue bonds or other evidence of such indebtedness.

(h) Join with one or more other public corporations for the purpose of carrying out any of its powers.

...for the purpose of carrying out any of its public works and for that purpose to contract with such other public corporation or corporations for the purpose of financing such acquisitions, construction, and operations. Such contracts may provide for contributions to be made by each party thereto, for the division and apportionment of the expenses of such acquisitions

(3) When it is found to be in the public interest for the public convenience and welfare, for a public benefit, and necessary for carrying out the purpose of any regional water supply authority, any tie agent may, after consulting with the relevant authority, enter into such covenants and agreements as may be necessary and convenient to accomplish the purposes hereof.

any agency, or public corporation in this state holding title to any interest in land is hereby authorized, in its discretion, to convey the title to or dedicate land, title to which is in such entity, including tax reverted land, or to grant easements therein, to any regional water supply authority created pursuant to this section.

tion. Land granted or conveyed to such authority shall be for the public purposes of such authority and may be made subject to the condition that in the event said land is not so used, or if used and subsequently the use for said purposes is abandoned, the interest in the land shall revert to the donor.

(4) Each county or municipality which is a party to an agreement pursuant to subsection (1) shall have a preferential right to purchase water from the regional water supply authority for use by such county or municipality for the purposes of the agreement.

(5) In carrying out the provisions of this section, any county wherein water is withdrawn by authority shall not be deprived, directly or indirectly, of the water prior right to the reasonable and beneficial use of the water which is required adequately to supply the reasonable and beneficial needs of the county or any of its inhabitants or property owners therein.

water supply authority upon such terms and conditions as may be prescribed.

(7) The authority shall design, construct, operate, and maintain facilities in the locations and at the times necessary to insure that an adequate water supply will be available to all citizens within the authority.

History.—S. 1, Ch. 81, § 1, F.S. 1971, as amended by S. 1, Ch. 81, § 1, F.S. 1973, and S. 1, Ch. 81, § 1, F.S. 1975.

Department of Natural Resources, Division of Water Management, and Division of Environmental Regulation.

373.1945 Assistance to West Coast Regional Water Supply Authority.—

(1) In lieu of the provisions in paragraph 373.1942(2)(a), the Southwest Florida Water Management District shall assist the West Coast Regional Water Supply Authority for a period of 5 years, terminating December 31, 1991, by levying a not more than 10¢ mill on all taxable property within the limits of the entire district. During such period the costs of the entire district levied on such taxes shall be reduced accordingly.

(2) The authority shall prepare its annual budget in the same manner as prescribed for the preparation of basin budgets, but such authority budget shall not be subject to review by the respective basin board or by the governing board of the district.

(3) The annual millage for the authority shall be the amount required to raise the amount called for by the annual budget when applied to the total assessed value of all taxable property within the limits of the authority, as determined by county taxing purposes.

(4) The authority may, by resolution, request the governing board of the district to levy ad valorem taxes within the boundaries of the authority. Upon receipt of such request, together with formal certification of the adoption of its annual budget and of the required tax levy, the authority tax levy shall be made by the governing board of the district to finance authority functions.

(5) The taxes provided for in this section shall be extended by the property appraiser on the county tax roll in each county within, or partly within, the authority boundaries and shall be collected by the tax collector in the same manner and time as county taxes, and the proceeds therefrom paid to the district. Until paid, such taxes shall be a lien on the property against which assessed and enforceable in like manner as county taxes. The property appraiser, tax collector, and clerk of the circuit court of the respective counties shall be entitled to compensation for services performed in connection with such taxes at the same rates as applicable to the district shall not be responsible for any actions or lack of actions by the authority.

History.—S. 1, Ch. 81, § 1, F.S. 1975.

373.1946 Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin; coordinating council on restoration; project; implementation.

(1) There is created the Coordinating Council on

restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin. The council shall be composed of the Executive Director of the Department of Natural Resources, the Executive Director of the Florida Game and Fresh Water Fish Commission, the Executive Director of the Central and Southern Florida Flood Control District, and the Commissioner of Agriculture and the Secretary of the Department of Environmental Regulation.

(2) The council shall have as chairman the Executive Director of the Department of Environmental Regulation. The council shall have as members the Executive Director of the Department of Natural Resources, the Executive Director of the Florida Game and Fresh Water Fish Commission, the Executive Director of the Central and Southern Florida Flood Control District, and the Commissioner of Agriculture and the Secretary of the Department of Environmental Regulation.

(3) The council shall have as its purpose to coordinate the efforts of the several agencies and departments of the State of Florida in the restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin.

(4) The council shall have as its functions to coordinate the efforts of the several agencies and departments of the State of Florida in the restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin.

(5) The council shall have as its powers to coordinate the efforts of the several agencies and departments of the State of Florida in the restoration of the Kissimmee River Valley and Taylor Creek-Nubbins Slough Basin.

History.—S. 1, Ch. 81, § 1, F.S. 1975.

373.197 Kistimmee River Valley and Taylor Creek-Nubbins Slough Basin restoration project; measures authorized.—

(1) The Legislature hereby directs the Florida Department of Environmental Regulation, in conjunction with the South Florida Water Management District, to seek appropriate authorization by the Congress of the United States for a study of the Kistimmee River, Valley, and the Taylor Creek-Nubbins Slough Basin.

(2) The Legislature recommends that the authorization provide that the Board of Engineers for Rivers and Harbors, created under s. 3 of the Rivers and Harbors Act, approved June 13, 1902, be directed to review the report of the Chief of Engineers on Central and Southern Florida, published as House Document Numbered 643, Eightieth Congress, and other pertinent reports, with a view to determining whether any portion of the system of works constructed pursuant thereto is advisable with respect to questions of the quality of water entering the Kissimmee River and Taylor Creek-Nubbins Slough and Lake Okechobee from flood control reservoirs, navigation, loss of fish and wildlife resources, other current and foreseeable environmental problems, and loss of environmental amenities in those areas. Potential modification alternatives, if any, shall include, but not be limited to, consideration of restoration of all or parts of the Kissimmee River, Lake Kissimmee, and the Taylor Creek-Nubbins Slough Basin.

(3) The Department and the Water Management District shall also seek to assure that this study be conducted by the Corps of Engineers in close cooperation with the Coordinating Council on the Restoration of the Kissimmee River Valley and the Taylor Creek-Nubbins Slough Basin and that the study be responsive to the problems and needs identified by the Coordinating Council and consider development of detailed physical and mathematical models to assess and predict these identified problems.

History.—S. 1, Ch. 81, § 1, F.S. 1975.

373.203 Definitions.—

(1) "Abandoned artesian well" is defined as an artesian well:

(a) That does not have a properly functioning valve;

(b) The use of which has been permanently discontinued;

(c) That does not meet current well construction standards;

(d) That is discharging water containing greater than 500 milligrams per liter of chlorides into a drinking water aquifer;

(e) That is in such a state of disrepair that it cannot be used for its intended purpose without being an adverse impact upon an aquifer which serves as a source of drinking water or which is likely to be such a source in the future; or

(f) That does not have proper flow control on or below the land surface.

(2) An "artesian well" is defined as an artificial hole in the ground from which water supplies may be obtained and which maintains any water-bearing rock, sand, or gravel in which it is raised to the surface by natural flow or which rises to an elevation above the top of the water bearing bed. "Artesian wells" are defined further to include all holes, drilled as a source of water, that penetrate any water-bearing beds that are a part of the artesian water system of Florida, as determined by representatives of the Florida Geological Survey or Department of Environmental Regulation.

(3) "Plugging" is defined as plugging, capping, or otherwise controlling a well as deemed appropriate

PART II

PERMITTING OF CONSUMPTIVE USES OF WATER

Definitions.

373.203 Artesian wells; flow regulated.

373.204 Artesian wells; penalties for violation.

373.205 Certain artesian wells exempt.

373.206 Implementation of program for regulating the consumptive use of water.

373.207 Permits required.

373.208 Conditions for a permit.

373.209 Effect of prior land acquisition on consumptive use permitting.

373.210 Existing permits.

373.211 Application for permit.

373.212 Citation of rule.

373.213 Competing applications.

373.214 Duration of permits.

373.215 Modification and renewal of permit terms.

373.216 Revocation of permits.

373.217 Temporary permits.

373.218 Violations of permit conditions.

373.219 Declaration of water shortage or emergency.

373.220 Existing regulatory districts preserved.

373.221 Definitions.—

(1) "Abandoned artesian well" is defined as an artesian well:

(a) That does not have a properly functioning valve;

(b) The use of which has been permanently discontinued;

(c) That does not meet current well construction standards;

(d) That is discharging water containing greater than 500 milligrams per liter of chlorides into a drinking water aquifer;

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(3) "Plugging" is defined as plugging, capping, or otherwise controlling a well as deemed appropriate

by the department or by the appropriate water management district.

(4) "Waste" is defined to be the causing, suffering, or permitting any water flowing from, or being discharged from, an artificial well to run into any river, stream, or other natural watercourse or channel, or into any bay or pond (unless used thereafter for the beneficial industrial purposes of land, mining, or other industrial purposes of domestic use), or into any street, road or highway, or upon the land of any person, or of the State, unless it is used thereon for the beneficial industrial purposes of the irrigation thereof, industrial purposes, domestic use, or the propagation of fish. The use of any water flowing from an artificial well for the irrigation of land shall be restricted to a minimum by the use of proper structural devices in the irrigation system.

373-208 Artesian wells; flow regulated.—Every person, stock company, association, corporation, firm or municipality owning or controlling the real estate upon which is located a flowing artesian well in this state shall, within 90 days after June 15, 1953, provide each such well with a valve capable of controlling the discharge from the well and shall keep the valve so adjusted that only a supply of water is available which is necessary for ordinary use by the owner, tenant, occupant, or person in control of the land.

Upon the determination by the Department of Environmental Regulation or the appropriate water management district that the water in an artesian well is of such poor quality as to have an adverse impact upon an aquifer or other water body which serves as a source of public drinking water or which is likely to be such a source in the future, such well shall be plugged in accordance with department or appropriate water management district specifications for well plugging.

History.—L. B. 1953, 1953, 1, ch. 65, sec. 23, ch. 69, law, 27, ch. 70, law, 27, ch. 71, law, 27, ch. 72, law, 27, ch. 73, law, 27, ch. 74, law, 27, ch. 75, law, 27, ch. 76, law, 27, ch. 77, law, 27, ch. 78, law, 27, ch. 79, law, 27, ch. 80, law, 27, ch. 81, law, 27, ch. 82, law, 27, ch. 83, law, 27, ch. 84, law, 27, ch. 85, law, 27, ch. 86, law, 27, ch. 87, law, 27, ch. 88, law, 27, ch. 89, law, 27, ch. 90, law, 27, ch. 91, law, 27, ch. 92, law, 27, ch. 93, law, 27, ch. 94, law, 27, ch. 95, law, 27, ch. 96, law, 27, ch. 97, law, 27, ch. 98, law, 27, ch. 99, law, 27, ch. 100, law, 27, ch. 101, law, 27, ch. 102, law, 27, ch. 103, law, 27, ch. 104, law, 27, ch. 105, law, 27, ch. 106, law, 27, ch. 107, law, 27, ch. 108, law, 27, ch. 109, law, 27, ch. 110, law, 27, ch. 111, law, 27, ch. 112, law, 27, ch. 113, law, 27, ch. 114, law, 27, ch. 115, law, 27, ch. 116, law, 27, ch. 117, law, 27, ch. 118, law, 27, ch. 119, law, 27, ch. 120, law, 27, ch. 121, law, 27, ch. 122, law, 27, ch. 123, law, 27, ch. 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373.207 Abandoned artesian wells—
 (1) Each water management district shall develop a work plan which identifies the location of all known abandoned artesian wells within its jurisdictional boundaries and defines the actions which the district must take in order to ensure that each such well is plugged on or before January 1, 1992. The work plan shall include the following:
 (a) An initial inventory which accounts for all known abandoned artesian wells in the district.

- (b) The location and owner of each known abandoned well.
- (c) The methodology proposed by the district to accomplish the plugging of all known abandoned wells within the district on or before January 1, 1992.
- (d) Data relating to costs to be incurred for the plugging of all wells, including the per well cost and personnel costs.
- (e) A schedule of priority for the plugging of wells.

(2) Each water management district shall submit its work plan to the Secretary of Environmental Regulation no later than January 1, 1984. Thereafter, each water management district shall submit an annual update of its work plan until January 1, 1992, or until all wells identified by the plan are plugged, whichever is later.

History, — 4, 2, ch. 23.310

373.209 Artesian wells; penalties for violation.—

(1) No owner, tenant, occupant, or person in control of an artesian well shall knowingly and intentionally:

(a) Allow the well to flow continuously without a valve or mechanical device for checking or controlling the flow.

- (b) Permit the water to flow unnecessarily.
- (c) Pump a well unnecessarily.
- (d) Permit the water from the well to go to waste.
- (e) A well is exempt from the provisions of this section unless the Department of Environmental Regulation can show that the uncontrolled flow of water from the well does not have a reasonable and beneficial use, as defined in s. 3732019(5).
- (f) Any person who violates any provision of this section shall be subject to either:
 - (1) The remedial measures provided for in a

(b) A civil penalty of \$100 a day for each and every day of such violation and for each and every day of delay of such violation may be recovered by the water management board of the defendant department in a suit in a court of competent jurisdiction in the county where the defendant resides, in the county of residence of any defendant if there is more than one defendant, or in the county where the violation took place. The place of suit shall be selected by the board or department, and the suit, by direction of the board or department, shall be instituted and conducted in the name of the board or department by appropriate counsel. The payment of any such damages does not impair or abridge any cause of action which any person may have against the person violating any provision of this section.

(c) The penalties provided by this section shall apply notwithstanding any provisions of law to the contrary.

Note.—Former no. 179 053, 373 041.

373.213 Certain artesian wells exempt.—Nothing in ss. 370.051-370.055 shall be construed to apply to an artesian well feeding a lake already in existence prior to June 15, 1953, which lake is used or intended to be used for public bathing and/or the propagation of fish, where the continuous flow of water is necessary to maintain the purity for bathing and the water level of said lake for fish.

History.—A. C. 28253, 1953; 26, ch. 71, §19.

Note.—Former ss. 370.05, 373.061.

373.216 Implementation of program for reducing the consumptive use of water.—The governing board of each water management district shall, not later than October 31, 1983, implement a program for the issuance of permits authorizing the consumptive use of particular quantities of water covering those areas deemed appropriate by the governing board. Appropriate monitoring efforts shall be a part of any such program implemented. Notice of any required hearing on the proposed implementation of these regulations shall be published at least once a week for 2 weeks in a newspaper of general circulation in the area to be affected by such regulations. The last notices appearing no less than 10 days prior to the date of the public hearing, in addition to any notice required by Chapter 120.

373.2.17 Superseded laws and regulations.—
(1) It is the intent of the Legislature to provide means whereby reasonable programs for the issuance of permits authorizing the consumptive use of particular quantities of water may be authorized by the Department of Environmental Regulation, subject to judicial review and also subject to review by the Governor and Cabinet, sitting as the Land and Water Adjudicatory Commission as provided in s. 3.1114.

(2) It is the further intent of the Legislature that the provisions of Part II of the Florida Water Resources Act of 1972, as amended, as set forth in s. 373.303(3)(3)(249, shall provide the exclusive authority for requiring permits for the consumptive use of water and for authorizing transportation thereof pursuant to s. 373.223(2). (3) Any provision of 1972, Part II of the Florida Water Resources Act of 1972, in conflict with any other provision of s. 373.303(3)(249, in conflict with any other provision, limitation, or restriction which is now in effect under any law or ordinance of this state or any political subdivision or municipality, or any rule or regulation promulgated thereunder, Part II shall govern over, control, and such other law or ordinance or rule or regulation promulgated thereunder shall be deemed superseded for the purpose of regulating the consumptive use of water. However, this section shall not be construed to supersede the provisions of the Florida Electrical Power Plant Siting Act.

(4) Other than as provided in subsection (3) of this section, Part II of the Florida Water Resources Act of 1972, as amended, preempts the regulation of the consumptive use of water as defined in this act.

History.—P. 5, CH. 10-20. 9. L. CH. 11-14.

373.219 Permits required.—(1) The governing board or the department may require such permits for consumptive use of water and may impose such reasonable conditions as are necessary to assure that such use is consistent with the overall objectives of the district or department and is not harmful to the water resources of the area. However, no permit shall be required for domestic consumption of water by individual users.

(2) In the event that any person shall file a com-

plaint with the governing board or the department that any other person is making a diversion, withdrawal, impoundment, or consumptive use of water

not expressly exempted under the provisions of this chapter and without a permit to do so, the governing board or the department shall cause an investigation to be made, and if the facts stated in the complaint are verified the governing board or the department shall order the discontinuance of the use.

373.223 Conditions for a permit.—
(1) To obtain a permit pursuant to the provisions of this chapter, the applicant must establish that the proposed use of water:

(a) Is a reasonable beneficial use as defined in s. 373.019(5); and

(b) Will not interfere with any presently existing legal use of water; and

(c) is consistent with the public interest.

(2) The governing board or the department can authorize the holder of a use permit to transport and store ground or surface water behind existing land use, as long as the use is consistent with the public interest, from which it is taken if the governing board or department determines that such transport and use is consistent with the public interest and no local government shall adopt or enforce any ordinance, rule, regulation, or order to the contrary.

(3) The governing board or the department, by regulation, may reserve from use by permit applicants, water in such locations and quantities, and for such seasons of the year, as in its judgment may be required for the protection of fish and wildlife or the public health and safety. Such reservations shall be subject to periodic review and revision in the light of changed conditions. However, all presently existing legal uses of water shall be protected so long as such use is not contrary to the public interest.

History: 3 J. part II, col. 12-299; 4 10, col. 3-192; 5 10, col. 18-193.

373-2925 Effect of prior land acquisition on consumptive use permit.—The effect that a consumptive use permit has on the amount of water acquired by the estate of an applicant has been questioned by the estate of an applicant who has acquired water rights in a domain or otherwise, any land for the specific purpose of serving as a site for a wellfield or right-of-way prior to obtaining a consumptive use permit from a water management district to consume any pre-emption of entitlement to a consumptive use permit. Evidence relating to such prior acquisition of land or right-of-way by an applicant is not admissible in any proceeding related to consumptive use permitting and has no bearing upon any water management district's determination of reasonable beneficial use in the permitting process. In the event that any applicant elects to acquire land prior to obtaining a consumptive use permit from a water management district, such action shall be considered a voluntary assumption by the applicant, and the fact of such prior acquisition shall not be admissible in any administrative or judicial proceeding relating to consumptive use permitting under this chapter. Any consumptive use permitting action in which an applicant has taken action to acquire water management

History.—A. 85, ch. 83-310.

373.224 Existing permits.—Any permits or permit agreements for consumptive use of water executed or issued by an existing flood control, water

management or water regulatory district pursuant to chapter 373 or chapter 374 prior to December 31, 1975, shall remain in full force and effect in accordance with its terms until otherwise modified or revoked as authorized herein.

History.—s. 1, ch. 373, § 1, F.S. 1975.

373.226 Existing uses.—

(1) All existing uses of water, unless otherwise exempted from regulation by the provisions of this chapter, may be continued after adoption of this permit system only with a permit issued as provided herein.

(2) The governing board or the department shall issue an initial permit for the continuation of all uses in existence before the effective date of implementation of this part if the existing use is a reasonable beneficial use as defined in s. 373.01(4)(5) and is allowable under the common law of this state.

(3) Application for permit under the provisions of subsection (2) must be made within a period of 2 years from the effective date of implementation of these regulations in an area. Failure to apply within this period shall create a conclusive presumption of abandonment of the use, and the user, if he desires to revive the use, must apply for a permit under the provisions of s. 373.229.

History.—s. 1, part II, ch. 373, § 1, F.S. 1975.

373.229 Application for permit.—

(1) All permit applications filed with the governing board or the department under this part and not theretofore required under s. 373.116 shall contain:

- The name of the applicant and his address or, in the case of a corporation, the address of its principal business office;
- The date of filing;
- The date set for a hearing, if any;
- The source of the water supply;
- The quantity of water required for;
- The use to be made of the water and any limitation thereon.

(2) The place of use.

(3) The location of the well or point of diversion, and such other information as the governing board or the department may deem necessary.

(4) The notice shall state that written objections to the proposed permit must be filed with the governing board on or before the date specified in the notice. The governing board or the department, at its discretion, may request further information from either applicant, objectors, and a reasonable time shall be allowed for such responses.

(5) If the proposed application is for less than 100,000 gallons per day, the governing board or the department may consider the application and any objections thereto without a hearing. If the proposed application is for 100,000 gallons per day or more and no objection is received, the governing board or the department, after proper investigation by its staff, may, at its discretion, approve the application without a hearing.

History.—s. 1, part II, ch. 373, § 1, F.S. 1975; s. 1, ch. 373, § 1, F.S. 1975.

373.232 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 1, ch. 373, § 1, F.S. 1975.

373.233 Competing applications.—

(1) If two or more applications 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, the governing board or the department shall have the right to approve or modify the application which best serves the public interest.

(2) In the event that two or more competing applications qualify equally under the provisions of subsection (1), the governing board or the department shall give preference to a renewal application over an initial application.

History.—s. 1, part II, ch. 373, § 1, F.S. 1975.

373.236 Duration of permits.—

(1) Permits may be granted for any period of time not exceeding 20 years. The governing board or the department may base duration of permits on a reasonable system of classification according to source of supply or type of use, or both.

(2) The governing board or the department may authorize a permit of duration of up to 50 years in the case of a municipality or other governmental body or of a public works or public service corporation where such a period is required to provide for the retirement of bonds for the construction of waterworks and waste disposal facilities.

History.—s. 1, part II, ch. 373, § 1, F.S. 1975.

373.239 Modification and renewal of permit terms.—

(1) A permittee may seek modification of any terms of an unexpired permit.

(2) If the proposed modification involves water use of 100,000 gallons or more per day, the application shall be treated under the provisions of s. 373.229 in the same manner as the initial permit application. Otherwise, the governing board or the department may, at its discretion, approve the proposed modification without a hearing, provided the permittee establishes that:

- A change in conditions has resulted in the water allowed under the permit becoming inadequate for the permittee's need; or
- The proposed modification would result in a more efficient utilization of water than is possible under the existing permit.

(3) All permit renewal applications shall be treated under this part in the same manner as the initial permit application.

History.—s. 1, part II, ch. 373, § 1, F.S. 1975.

373.243 Revocation of permit.—The govern-

477

ing board or the department may revoke a permit as follows:

(1) For any material false statement in an application to continue, initiate, or modify a use, or for any material false statement in any report or statement of fact required of the user pursuant to the provisions of this chapter, the governing board or the department may revoke the user's permit, in whole or in part, permanently.

(2) For willful violation of the conditions of the permit, the governing board or the department may permanently or temporarily revoke the permit, in whole or in part.

(3) For violation of any provision of this chapter, the governing board or the department may revoke the permit, in whole or in part, for a period not to exceed 1 year.

(4) For nonuse of the water supply allowed by the permit for a period of 3 years or more, the governing board or the department may revoke the permit permanently and in whole until the user can prove that his nonuse was due to extreme hardship caused by factors beyond his control.

(5) The governing board or the department may revoke a permit, permanently and in whole, with the written consent of the permittee.

History.—s. 9, part II, ch. 373, § 9, F.S. 1975.

373.244 Temporary permits.—

(1) The governing board of a water management district may issue, or may authorize its executive director to issue, temporary permits for the consumption of water while an application is pending for a permit pursuant to s. 373.219 and 373.229.

(2) Such a temporary permit shall be issued for a period of time to expire on the day following the next regular meeting of the governing board. At such meeting, the governing board shall consider whether it appears that the proposed use meets the criteria set forth in s. 373.223(1) and that such temporary permit is necessary for consumptive use of water prior to final action on an application for a permit pursuant to s. 373.219 and 373.229.

(3) The governing board may summarily extend the term of a temporary permit for subsequent periods of time to expire on or before the day following the next regular meeting of the governing board.

(4) The board shall review temporary permits at each regular meeting and may terminate a temporary permit or refuse to extend it further upon a finding that the water use does not meet the criteria set forth in s. 373.223(1) or that adverse effects are occurring as a result of water use under the temporary permit or that the water authorized to be used under such permit is no longer required by the permit holder.

(5) The notice and hearing that the permittee shall be required pursuant to s. 373.116(2) and chapter 129 shall not be required prior to issuance or extension of a temporary permit pursuant to the provisions of this section.

(6) Issuance of a temporary permit pursuant to the provisions of this section shall not in any way be construed as a commitment to issue a permit pursuant to s. 373.219 and 373.229. No action taken by the governing board, or by the executive director if so authorized, shall be construed to estop the governing

board from subsequently denying an application for a permit pursuant to s. 373.219 and 373.229.

History.—s. 1, ch. 373, § 1, F.S. 1975.

373.245 Violations of permit conditions.—Holders of consumptive use permits who violate conditions of such permits shall be liable to abate consumptive use permit holders for damages caused by such violations. No cause of action shall accrue under this section until the complainant has first applied for and been denied relief by the water management district for the permit violations complained of. The provisions of this section are supplemental, and nothing in this section is intended to preclude the use of any other existing cause of action, remedy, or procedure.

History.—s. 1, ch. 373, § 1, F.S. 1975.

373.246 Declaration of water shortage or emergency.—

(1) The governing board or the department by regulation shall formulate a plan for implementation during periods of water shortage. Copies of the water shortage plan shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than October 31, 1983. As a part of this plan the governing board or the department shall adopt a reasonable system of permit classification according to source of water supply, method of attraction or diversion, use of water, or a combination thereof.

(2) The governing board or the department by order may declare that a water shortage exists within all or part of the district when insufficient water is available to meet the requirements of the permit system or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm. Such orders shall be final agency action.

(3) In accordance with the plan adopted under subsection (1), the governing board or the department may impose such restrictions on one or more classes of permits as may be necessary to protect the water resources of the area from serious harm and to restore them to their previous condition.

(4) A declaration of water shortage and any measures adopted pursuant thereto may be rescinded by the governing board or the department.

(5) When a water shortage is declared, the governing board or the department shall cause notice thereof to be published in a prominent place within a newspaper of general circulation throughout the area. Publication of such notice shall serve as notice to all users in the area of the condition of water shortage.

(6) The governing board or the department shall notify each permittee in the district by regular mail of any change in the condition of his permit or any suspension of his permit or of any other restriction on his use of water for the duration of the water shortage.

(7) If an emergency condition exists due to a water shortage within any area of the district, and if the department or the executive director with the concurrence of the governing board, find that the exercise of powers under subsection (1) are not sufficient to protect the public health, safety, or welfare, the

478

ing under the procedure provided in chapter 120 is filed sooner.

(f) No application for a license issued pursuant to this section may be made within 1 year after revocation thereof.

(g) After October 1, 1984, the department shall delegate to licensed persons the authority to issue licenses for the purpose of drilling and installing water wells and contractor licenses. A license issued by any water management district shall be valid anywhere in the state.

(2) **DRILLER AND DRILLING EQUIPMENT REGISTRATION.**

(a) Every person who operates drilling equipment for the purpose of constructing wells shall register with each water management district in which construction activity takes place. The governing board shall, as minimum conditions of such registration, require:

1. A written recommendation from a licensed water well contractor verifying the status of the driller as an employee of the contractor.

2. Demonstration of sufficient experience and practical knowledge needed to operate drilling equipment of the type to be used in actual well construction.

3. A written examination considered appropriate by the board and designed to verify the driller's knowledge of commonly accepted drilling practices and applicable rules of the district and the department.

(b) It is the responsibility of each licensed water well contractor to annually notify the governing board of the district of business in which he or she has principal place of business. In addition, each licensed driller in his employ, in addition to the manner in which a registered driller ceases to be an employee.

(c) Each licensed water well contractor shall register with the governing board each piece of drilling equipment he owns, leases, or operates. Upon registration of the equipment, the water well contractor's license number shall be prominently displayed thereon.

History.—s. 1, part III, ch. 72-299, § 14, ch. 78-36, § 1, ch. 80-10.

373.328 Exemptions.

(1) When the department finds that compliance with all requirements of this part would result in undue hardship, it may, in its discretion, exempt one or more such requirements, except that the department shall not exempt any requirement which is essential to the public health, safety, or the environment and to the extent such exemption can be granted without impairing the intent and purpose of this part.

(2) Nothing in this part shall prevent a person who has not obtained a license pursuant to s. 373.323 from constructing a well that is 2 inches or under in diameter, on his own or leased property, intended for use only in a single family house which is his residence, or intended for use only for farming purposes on his farm, and when the waters to be produced are not intended for use by the public or any residence other than his own. Such persons shall comply with other than his own. Such persons shall comply with

all rules and regulations as to construction of wells adopted under this part.

373.329 Fees.—The following fees are required:

(1) A fee of \$100 shall accompany each new application for a license required under s. 373.323.

(2) A fee of \$25 shall accompany each application for a renewal of license under s. 373.323.

History.—s. 1, part III, ch. 72-299, § 15, ch. 78-36, § 1, ch. 80-10.

373.333 Enforcement.

(1) Whenever the water management district has reasonable grounds for believing that there has been a violation of this part or any rule, regulation, or order adopted pursuant hereto, it shall give written notice to the person alleged to be in violation. Such notice shall identify the provision of this part or regulation alleged to be violated and the facts and circumstances alleged to constitute such violation.

(2) Such notice shall be served in the manner required by law for the service of process upon a person in a civil action or by registered United States mail to the last known address of the person. Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells shall be accompanied by an order of the department requiring described remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this part and regulations issued hereunder. Such order shall become final unless a request for hearing as provided in chapter 120 is made within 30 days from the date of service of such order.

History.—s. 1, part III, ch. 72-299, § 16, ch. 78-36, § 1, ch. 80-10.

373.336 Penalties.—Any person who violates any provision of this part or regulation or order issued hereunder shall, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and 775.083. Continuing violation after notice thereof shall constitute a separate violation for each day so continued.

History.—s. 1, part III, ch. 72-299, § 17, ch. 78-36, § 1, ch. 80-10.

373.339 Existing regulations preserved.

—The enactment of this chapter shall not apply in any area where water wells are regulated by a water regulatory district pursuant to the authority of chapter 373 unless and until the department shall modify or revoke such regulations and provide that such area will thereafter be governed by the provisions of this part.

History.—s. 1, part III, ch. 72-299, § 18, ch. 78-36, § 1, ch. 80-10.

373.342 Permits.

(1) The governing board of any water regulatory district which purports to exercise the authority of s. 373.323 or pursuant to authority delegated to it by the department under s. 373.308 or 373.209(2), regulates water wells may, in its discretion, authorize its executive director to issue permits for the construction, repair, or modification of any water well.

(2) In granting authority to its executive director under subsection (1), the governing board shall pre-

scribe those certain circumstances in which such a permit may be issued.

History.—s. 1, part III, ch. 72-299, § 19, ch. 78-36, § 1, ch. 80-10.

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

(1) "Dam" means any artificial or natural barrier, with or without a structure, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters of the state.

(2) "Appurtenant works" means any artificial improvements to a dam which might affect the safety of such dam or, when employed, might affect the holding capacity of such dam or of the reservoir or impoundment created by such dam.

(3) "Impoundment" means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

(4) "Reservoir" means any artificial or natural holding area which contains or will contain the water impounded by a dam.

(5) "Works" means all artificial structures, including, but not limited to, ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the state.

(6) "Closed system" means any reservoir or works located entirely within agricultural lands owned or controlled by the user and which requires water only for the filling, replenishing, and maintaining the water level thereof.

(7) "Alter" means to extend a dam or works beyond maintenance in its original condition, including changes which may increase or diminish the flow or storage of surface water which may affect the safety of such dam or works.

(8) "Maintenance" or "repair" means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant works, or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.408 Exemptions.—The following exemptions shall apply:

(1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.

(2) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, horticulture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.

(3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, ditches, or levees.

(4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Regulation or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigation.

History.—s. 2, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.409 Headgates, valves, and measuring devices.

(1) The department or the governing board may, by regulation, require the owner of any dam, impoundment, reservoir, appurtenant work, or works maintain a substantial and serviceable headgate or valve at the point designated by the department or the governing board to measure the water discharged or diverted.

(2) If any owner shall not have constructed or installed such headgate or valve or such measuring device within 60 days after the governing board or department has ordered its construction, the governing board or department shall have such headgate, valve, or measuring device constructed or installed, and the costs of installing the headgate, valve, or measuring device shall be a lien against the owner's land upon which such installation takes place until the governing board or department is reimbursed in full.

(3) No person shall alter or tamper with a measuring device so as to cause it to register other than the actual amount of water diverted, discharged, or taken. Violation of this subsection shall be a misdemeanor of the second degree, punishable under s. 775.082(5)(b).

History.—s. 3, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.413 Permits for construction or alteration.

—The department or the governing board may, by regulation, require the owner of any dam, impoundment, reservoir, appurtenant work, or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

scribe those certain circumstances in which such a permit may be issued.

History.—s. 1, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

PART IV

MANAGEMENT AND STORAGE

OF SURFACE WATERS

373.403 Definitions.

(1) "Dam" means any artificial or natural barrier, with or without a structure, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters of the state.

(2) "Appurtenant works" means any artificial improvements to a dam which might affect the safety of such dam or, when employed, might affect the holding capacity of such dam or of the reservoir or impoundment created by such dam.

(3) "Impoundment" means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

(4) "Reservoir" means any artificial or natural holding area which contains or will contain the water impounded by a dam.

(5) "Works" means all artificial structures, including, but not limited to, ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the state.

(6) "Closed system" means any reservoir or works located entirely within agricultural lands owned or controlled by the user and which requires water only for the filling, replenishing, and maintaining the water level thereof.

(7) "Alter" means to extend a dam or works beyond maintenance in its original condition, including changes which may increase or diminish the flow or storage of surface water which may affect the safety of such dam or works.

(8) "Maintenance" or "repair" means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant works, or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.408 Exemptions.—The following exemptions shall apply:

(1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.

(2) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, horticulture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.

(3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, ditches, or levees.

(4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Regulation or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigation.

History.—s. 2, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.409 Headgates, valves, and measuring devices.

(1) The department or the governing board may, by regulation, require the owner of any dam, impoundment, reservoir, appurtenant work, or works maintain a substantial and serviceable headgate or valve at the point designated by the department or the governing board to measure the water discharged or diverted.

(2) If any owner shall not have constructed or installed such headgate or valve or such measuring device within 60 days after the governing board or department has ordered its construction, the governing board or department shall have such headgate, valve, or measuring device constructed or installed, and the costs of installing the headgate, valve, or measuring device shall be a lien against the owner's land upon which such installation takes place until the governing board or department is reimbursed in full.

(3) No person shall alter or tamper with a measuring device so as to cause it to register other than the actual amount of water diverted, discharged, or taken. Violation of this subsection shall be a misdemeanor of the second degree, punishable under s. 775.082(5)(b).

History.—s. 3, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.413 Permits for construction or alteration.

—The department or the governing board may, by regulation, require the owner of any dam, impoundment, reservoir, appurtenant work, or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.403 Definitions.

(1) "Dam" means any artificial or natural barrier, with or without a structure, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters of the state.

(2) "Appurtenant works" means any artificial improvements to a dam which might affect the safety of such dam or, when employed, might affect the holding capacity of such dam or of the reservoir or impoundment created by such dam.

(3) "Impoundment" means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

(4) "Reservoir" means any artificial or natural holding area which contains or will contain the water impounded by a dam.

(5) "Works" means all artificial structures, including, but not limited to, ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the state.

(6) "Closed system" means any reservoir or works located entirely within agricultural lands owned or controlled by the user and which requires water only for the filling, replenishing, and maintaining the water level thereof.

(7) "Alter" means to extend a dam or works beyond maintenance in its original condition, including changes which may increase or diminish the flow or storage of surface water which may affect the safety of such dam or works.

(8) "Maintenance" or "repair" means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant works, or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.408 Exemptions.—The following exemptions shall apply:

(1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.

(2) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, horticulture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.

(3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, ditches, or levees.

(4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Regulation or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigation.

History.—s. 2, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.409 Headgates, valves, and measuring devices.

(1) The department or the governing board may, by regulation, require the owner of any dam, impoundment, reservoir, appurtenant work, or works maintain a substantial and serviceable headgate or valve at the point designated by the department or the governing board to measure the water discharged or diverted.

(2) If any owner shall not have constructed or installed such headgate or valve or such measuring device within 60 days after the governing board or department has ordered its construction, the governing board or department shall have such headgate, valve, or measuring device constructed or installed, and the costs of installing the headgate, valve, or measuring device shall be a lien against the owner's land upon which such installation takes place until the governing board or department is reimbursed in full.

(3) No person shall alter or tamper with a measuring device so as to cause it to register other than the actual amount of water diverted, discharged, or taken. Violation of this subsection shall be a misdemeanor of the second degree, punishable under s. 775.082(5)(b).

History.—s. 3, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.413 Permits for construction or alteration.

—The department or the governing board may, by regulation, require the owner of any dam, impoundment, reservoir, appurtenant work, or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.403 Definitions.

(1) "Dam" means any artificial or natural barrier, with or without a structure, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters of the state.

(2) "Appurtenant works" means any artificial improvements to a dam which might affect the safety of such dam or, when employed, might affect the holding capacity of such dam or of the reservoir or impoundment created by such dam.

(3) "Impoundment" means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

(4) "Reservoir" means any artificial or natural holding area which contains or will contain the water impounded by a dam.

(5) "Works" means all artificial structures, including, but not limited to, ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the state.

(6) "Closed system" means any reservoir or works located entirely within agricultural lands owned or controlled by the user and which requires water only for the filling, replenishing, and maintaining the water level thereof.

(7) "Alter" means to extend a dam or works beyond maintenance in its original condition, including changes which may increase or diminish the flow or storage of surface water which may affect the safety of such dam or works.

(8) "Maintenance" or "repair" means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant works, or works, but excludes routine custodial maintenance.

History.—s. 1, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.408 Exemptions.—The following exemptions shall apply:

(1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.

(2) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, horticulture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.

(3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, ditches, or levees.

(4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Regulation or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigation.

History.—s. 2, part IV, ch. 72-299, § 1, ch. 78-36, § 1, ch. 80-10.

373.409 Headgates, valves, and measuring devices.

(1) The department or the governing board may, by regulation, require the owner of any dam, impoundment, reservoir, appurtenant work, or works maintain a substantial and serviceable headgate or valve at the point designated by the department or the governing board to measure the water discharged or diverted.

- (1) Except for the exemptions set forth herein, the governing board or the department may require such permits and impose such reasonable conditions as are necessary to assure that the construction or alteration of any dam, impoundment, reservoir, appurtenant work, or works will not be harmful to the water resources of the district. The department or the governing board may delineate areas within the district wherein permits may be required.
- (2) A person proposing to construct or alter a dam, impoundment, reservoir, appurtenant work, or works subject to such permit shall apply to the governing board or department for a permit authorizing such construction or alteration. The application shall contain the following:
- Name and address of the applicant.
 - Name and address of the owner or owners of the land upon which the works are to be constructed and a legal description of such land.
 - Location of the work.
 - Sketches of construction pending tentative approval.
 - Name and address of the person who prepared the plans and specifications of construction.
 - Name and address of the person who will construct the proposed work.
 - General purpose of the proposed work.
 - Such other information as the governing board or department may require.
- (3) After receipt of an application for a permit, the governing board or department shall cause a notice thereof to be published in a newspaper having general circulation within the affected area. In addition, the governing board or department shall send a copy of such notice to any person who has filed a written request for notification of any pending applications affecting the particular designated area. This notice shall be sent by regular mail prior to the date of publication. The notice shall contain:
- The name and address of the applicant or, in the case of a corporation, the address of its principal business office;
 - The date of filing;
 - The date set for a hearing, if any;
 - The source of the water to be contained;
 - The quantity of water to be contained;
 - The use to be made of the water and any limitation thereon; and
 - Such other information as the governing board or the department may deem necessary.
- (4) The notice provided for in subsection (3) shall state that written objections to the proposed permit may be filed with the governing board or department by a specified date. The governing board or department, at its discretion, may request further information from either applicant or objectors, and a reasonable time shall be allowed for such responses.
- (5) If no substantial objection to the application is received, the governing board or the department, after proper investigation by its staff, may at its discretion approve the application without a hearing. Otherwise, it shall set a time for a hearing in accordance with the provisions of chapter 120.

History.—s. 4, part IV, ch. 73-229, § 10, ch. 73-190, § 14, ch. 73-93.

- 373.416 Permits for maintenance or operation.**—
- (1) Except for the exemptions set forth in this part, the governing board or department may require such permits and impose such reasonable conditions as are necessary to assure that the operation or maintenance of any dam, impoundment, reservoir, appurtenant work, or works will not be harmful to the water resources of the district.
- (2) Except as otherwise provided in s. 373.426 and 373.429, a permit issued by the governing board or department for the maintenance or operation of a dam, impoundment, reservoir, appurtenant work, or works shall be permanent, and the sale or conveyance of such dam, impoundment, reservoir, appurtenant work, or works, or the land on which the same is located, shall in no way affect the validity of the permit, provided the owner in whose name the permit was granted notifies the governing board or department of such change of ownership within 30 days of such transfer.

History.—s. 4, part IV, ch. 73-229, § 20, ch. 73-190.

- 373.417 Citation of rule.**—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 4, ch. 73-191.

- 373.419 Completion report.**—Within 30 days after the completion of construction or alteration of any dam, impoundment, reservoir, appurtenant work, or works, the permittee shall file a written statement of completion with the governing board or department. The governing board or department shall designate the form of such statement and such information as it shall require.

History.—s. 4, part IV, ch. 73-229.

- 373.423 Inspection.**—
- (1) During the construction or alteration of any dam, impoundment, reservoir, appurtenant work, or works, the governing board or department shall make at its expense such periodic inspections as it deems necessary to insure conformity with the approved plans and specifications included in the permit.
- (2) If during construction or alteration the governing board or department finds that the work is not being done in accordance with the approved plans and specifications as included in the permit, it shall give the permittee written notice stating with which particulars of the approved plans and specifications the construction compliance with such plans and specifications is not in accordance with the orders of immediate compliance. Failure of compliance with the governing board or department after receipt of written notice shall result in the initiation of revocation proceedings in accordance with s. 373.429.
- (3) Upon completion of the work, the executive

483

director of the district or the Department of Environmental Regulation or its successor agency shall have periodic inspections made, annually or more frequently as may be determined by the governing board or department, of any dam, impoundment, reservoir, appurtenant work, or works to protect the public health and safety and the natural resources of the state. No person shall refuse immediate entry or access to any authorized representative of the governing board or the department who requests entry for purposes of such inspection and presents appropriate credentials.

History.—s. 1, part IV, ch. 73-229, § 21, ch. 73-190, § 4, ch. 73-94.

- 373.426 Abandonment.**—
- (1) Any owner of any dam, impoundment, reservoir, appurtenant work, or works wishing to abandon or remove such work may first be required by the governing board or the department to obtain a permit to do so and may be necessary to meet such reasonable conditions as are necessary to assure that such abandonment will not be inconsistent with the overall objectives of the district.
- (2) Where a permitted dam, impoundment, reservoir, appurtenant work, or works is not owned directly or controlled by the state or any of its agencies and is not used nor maintained under the authority of the owner for a period of 3 years, it shall be presumed that the owner has abandoned such dam, impoundment, reservoir, appurtenant work, or works, and has dedicated the same to the district for the use of the people of the district.
- (3) The title of the district to any such dam, impoundment, reservoir, appurtenant work, or works may be established and determined in the court appointed by statute to determine the title to real estate.

History.—s. 4, part IV, ch. 73-229, § 22, ch. 73-191.

- 373.429 Revocation and modification of permit.**—The governing board or the department may revoke or modify a permit at any time if it determines that a dam, impoundment, reservoir, appurtenant work, or works become a public nuisance, or if it is inconsistent with the objectives of the district. The affected party may file a written petition for hearing no later than 14 days after notice of revocation or modification is served. If the executive director of the district or the division determines that the danger to the public is imminent, he may order a temporary suspension of the construction, alteration, or operation of the works until the hearing is concluded, or may take such action as authorized under s. 373.439.

History.—s. 3, part IV, ch. 73-229, § 11, ch. 73-95.

- 373.433 Abatement.**—Any dam, impoundment, reservoir, appurtenant work, or works which violates the laws of this state or which violates the standards of the governing board or the department shall be declared a public nuisance. The department of such dam, impoundment, reservoir, appurtenant work, or works may be enjoined by suit by the state or any of its agencies or by a private citizen. The governing board or the department shall be the party to any such suit. Nothing shall be construed to conflict with the provisions of s. 373.429.

History.—s. 10, part IV, ch. 73-229.

- 373.436 Remedial measures.**—
- (1) Upon completion of any inspection provided for by s. 373.423, the executive director shall determine whether such alterations or repairs shall be made within a time certain, which shall be a reasonable time. The owner of such dam, impoundment, reservoir, appurtenant work, or works may file a written petition for hearing before the governing board or the department no later than 14 days after such order is served. If, after such order becomes final, the owner shall fail to make the specified alterations or repairs, the governing board or the department may, in its discretion, cause such alterations or repairs to be made.
- (2) Any cost to the district or the department of alterations or repairs made by it under the provisions of subsection (1) shall be a lien against the property of the landowner on whose lands the alterations or repairs are made until the governing board or department is reimbursed, with reasonable interest and attorney's fees, for its costs.

History.—s. 11, part IV, ch. 73-229, § 14, ch. 73-96.

- 373.439 Emergency measures.**—
- (1) The executive director, with the concurrence of the governing board, or the Department of Environmental Regulation shall immediately employ any remedial measures to protect life and property if there is a condition of any dam, impoundment, reservoir, or appurtenant work which is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of an order relative to maintenance or operation.
- (b) Passing or imminent floods threaten the safety of any dam, impoundment, reservoir, appurtenant work, or works.
- (2) In applying the emergency measures provided for in this section, the executive director or the Department of Environmental Regulation may in an emergency do any of the following:
- Lower the water level by releasing water from any impoundment or reservoir.
 - Completely empty the impoundment or reservoir.
 - Take such other steps as may be essential to safeguard life and property.

- (3) The executive director or the Department of Environmental Regulation shall continue in full charge and control of such dam, impoundment, reservoir, and its appurtenant works until they are rendered safe or the emergency occasioning the action has ceased.

History.—s. 12, part IV, ch. 73-229, § 15, ch. 73-96.

- 373.443 Immunity from liability.**—No action shall be brought against the state or district or any agent or employee of the state or district for the revocation or modification of any dam, impoundment, reservoir, appurtenant work, or works upon the ground that the state or district is liable by virtue of any of the following:
- Approval of the permit for construction or alteration.
 - The issuance or enforcement of any order relative to maintenance or operation.

484

requirements for the ensuing fiscal year. The tentative budget shall be adopted in accordance with the provisions of s. 200.563. Property taxes are delayed beyond the first of January in any county in which the district lies. The district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.063(3)(f), in a newspaper of general paid circulation in said county. The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district's works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve.

(2) The budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year, and the estimated amount to be raised by district taxes and from other sources for meeting the district's requirements.

(3) As provided in s. 200.063(2)(d), the board shall publish in a newspaper of general paid circulation a notice of its intention to finally adopt a budget for the district for the ensuing fiscal year. The notice shall appear adjacent to an advertisement which shall set forth the tentative budget in full. The notice and advertisement shall be published in one or more newspapers having a combined general circulation in the counties having land in the district.

(4) The hearing to finally adopt a budget and millage rate shall be by and before the governing board of the district as provided in s. 200.065 and may be continued from day to day until terminated by the board. The final budget for the district shall thereupon be the operating and fiscal guide for the district for the ensuing year; however, transfers of funds may be made within the budget by action of the governing board at a public meeting of the governing board. Should the district receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including the said funds, so long as notice of intention to amend shall be published one time in one or more newspapers qualified to accept legal advertisements having a combined general circulation in the counties in the district. The notice shall set forth the proposed amendment and shall be published at least 10 days prior to the public meeting of the board at which the proposed amendment is to be considered. Provided, in the event of an emergency, the governing board shall not be limited by the same, the governing board shall not apply such funds as may be available therefor or as may be procured for such purpose.

History.—s. 200.063, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 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3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813, 3814, 3815, 3816, 3817, 3818, 3819, 3820, 3821, 3822, 3823, 3824, 3825, 3826, 3827, 3828, 3829, 3830, 3831, 3832, 3833, 3834, 3835, 3836, 3837, 3838, 3839, 3840, 3841, 3842, 3843, 3844, 3845, 3846, 3847, 3848, 3849, 3850, 3851, 3852, 3853, 3854, 3855, 3856, 3857, 3858, 3859, 3860, 3861, 3862, 3863, 3864, 3865, 3866, 3867, 3868, 3869, 3870, 3871, 3872, 3873, 3874, 3875, 3876, 3877, 3878, 3879, 3880, 3881, 3882, 3883, 3884, 3885, 3886, 3887, 3888, 3889, 3890, 3891, 3892, 3893, 3894, 3895, 3896,

(5) All bonds and coupons not paid at maturity shall bear interest at a rate not to exceed 7.5 percent per annum from maturity until paid, or until sufficient funds have been deposited at the place of payment.

(6) The bonds to be issued by authority of this chapter shall be in denominations of not less than \$100, bearing interest from date at a rate not to exceed 5 percent per annum, payable semiannually, to mature at annual intervals, payable semiannually, beginning after a period of not later than 10 years, to be determined by said board, both principal and interest payable at some convenient place designated by said board to be named in said bonds, which said bonds shall be signed by the chairman of the board, attested with the seal of said district and by the signature of the secretary of said board. In case any of the officers whose signatures, countersignatures and certificates appear upon the said bonds and coupons shall cease to be such officer before the delivery of such bonds to the purchaser, such signature or countersignature and certificate shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until the delivery of the bonds.

(7) Interest coupons shall be attached to the said bonds and such coupons shall be consecutively numbered, specifying the number of the bond to which they are attached, and shall be attested by the lithographed or engraved facsimile signature of the chairman and secretary of said board.

(8) In the discretion of said board, it may be provided that at any time, after any date as shall be fixed by said board, said bonds may be redeemed before maturity at the option of said board, or its successors in office. If any bond so issued is subject to redemption before maturity, it shall not be presented when called for redemption, it shall cease to bear interest from and after the date so fixed for redemption.

History—S. 8, 2008, 1993, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

373.566 Refunding bonds.—The governing board shall have authority to issue refunding bonds to take up any outstanding bonds of said district falling due and becoming payable when in the judgment of said board, it shall be for the best interests of said district so to do. The said board is hereby authorized and empowered to issue refunding bonds to take up and refund all bonds of said district outstanding that are subject to call and termination and all bonds of said district that are not subject to call or redemption, where the surrender of said bonds can be procured from the holder thereof at prices satisfactory to the board. Such refunding bonds may be issued at any time when in the judgment of said board or economically by securing a lower rate of interest on said bonds, or by extending the time of maturity of said bonds, or for any other reason in the judgment of said board advantageous to said district.

History—S. 8, 2008, 1993, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

373.569 Bond election.—When required by the following form:

State Constitution, the governing board shall call an election of the freeholders in said district, in which said election the matter of whether or not said bonds shall be issued shall be decided as provided by law with respect to said bonds.

History—S. 8, 2008, 1993, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308

and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power, it is an unreasonable exercise of the state's police power constituting a taking without just compensation. The court shall remand the matter to the agency which shall, within a reasonable time:

- (a) Agree to issue the permit;
- (b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to environmental action; or
- (c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person, whichever prevails.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

373.619 Recognition of water and sewer-saving devices.—The Legislature urges all public-owned or investor-owned water and sewerage systems to reduce connection fees and regular service charges for customers who utilize water or sewer-saving devices, including, but not limited to, individual graywater disposal systems.

any furnishing information leading to the arrest and conviction of any person who has committed an unlawful act or acts upon the rights-of-way, land, or land interests of the district or has destroyed or damaged district properties or works.

373.616 Liberal construction.—The provisions of this chapter shall be liberally construed in order to effectively carry out its purposes.

373.6161 Chapter to be liberally construed.—The provisions of this chapter shall be liberally construed in order to effectively carry out its purposes.

373.617 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires, "means any official, officer, commission, bureau, board, section, or other unit or entity of the agency."

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules

any magistrate empowered to issue warrant in criminal cases and make an affidavit and apply for the issuance of a warrant in the manner provided by law; and said magistrate, if such affidavit shall allege the commission of an offense, shall issue a warrant directed to any sheriff or deputy for the arrest of any offender. The provisions of this section shall apply to the Florida Water Resources Act of 1972 in its entirety.

373.604 Awards to employees for meritorious service.—The governing board of any water management district may adopt and implement a program of meritorious service awards for district employees who make proposals which are implemented and result in reducing district expenditures or improving district operations, who make exceptional contributions to the efficiency of the district, or who make other improvements in the operations of the district. No award granted under the provisions of this section shall exceed \$2,000 or 10 percent of the first year's savings, whichever is less, unless a larger award is made by the Legislature. Awards shall be paid by the district from any available funds.

373.606 Group insurance for water management districts.—

(1) The governing board of any water management district is hereby authorized and empowered to provide group insurance for its employees and limit the same manner and for the same provisions and limitations as provided for other public employees by s. 112.08, 112.09, 112.10, 112.11, 112.12 and 112.14.

(2) Any and all insurance agreements in effect as of October 1, 1974, which conform to the provisions of this section are hereby ratified.

373.608 Enforcement; city and county officers to assist.—It shall be the duty of every state and county attorney, sheriff, police officer, and other appropriate city and county official, upon request, to assist the department, the governing board of any water management district, or any local board, or any of their agents in the enforcement of the provisions of this law and the rules and regulations adopted thereunder.

373.613 Penalties.—Any person who violates any provision of this law or any rule, regulation or order adopted or issued pursuant thereto is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

373.614 Unlawful damage to district property or works; penalty.—The governing board of the district shall have the power, and is authorized, to offer and pay rewards of up to \$1,000 to any person

shall not be reduced except by resolution of the district governing board stating that the need for the moneys no longer exists.

(6) Moneys from the Water Management Lands Trust Fund shall be available to the five water management districts in the following percentages:

- (a) Thirty percent to the South Florida Water Management District.
- (b) Twenty-five percent to the Southwest Florida Water Management District.
- (c) Twenty-five percent to the St. Johns River Water Management District.
- (d) Ten percent to the Suwannee River Water Management District.
- (e) Ten percent to the Northwest Florida Water Management District.

(7) Moneys in the fund not needed to meet current obligations under this section shall be transferred to the State Board of Administration, to the credit of the fund, to be invested in the manner provided by law. Interest received on such investments shall be credited to the fund.

(8) Lands acquired for the purposes enumerated in this section shall also be used for general public recreational purposes that are not inconsistent with subsection (9).

(9) A district may dispose of land acquired under this section, pursuant to s. 373.089. However, revenue derived from such disposal may not be used for any purpose except the purchase of other lands meeting the criteria specified in this section.

(10) This section is repealed effective July 1, 1992. Any unobligated moneys remaining in the Water Management Lands Trust Fund on the date of the repeal of this section shall be deposited into the General Revenue Fund.

PART VI MISCELLANEOUS PROVISIONS

373.603 Power to enforce.

373.604 Awards to employees for meritorious service.

373.605 Group insurance for water management districts.

373.606 Enforcement; city and county officers to assist.

373.613 Penalties.

373.614 Unlawful damage to district property or works; penalty.

373.616 Chapter to be liberally construed.

373.617 Judicial review relating to permits and licenses.

373.619 Recognition of water and sewer-saving devices.

373.603 Power to enforce.—The Department of Environmental Regulation, the governing board of any water management district and any officer or agent thereof may enforce any provision of this law or any rule or regulation adopted and promulgated or ordered thereunder to the same extent as any other officer is authorized to enforce the law. Any officer

CHAPTER 375

OUTDOOR RECREATION AND CONSERVATION

- 375.011 Short title
375.021 Comprehensive multipurpose outdoor recreation and conservation plan; Outdoor Recreation Advisory Committee
- 375.031 Acquisition of land; Board of Trustees of the Internal Improvement Trust Fund
- 375.032 Recreation; required purpose for purchase.
- 375.041 Land Acquisition Trust Fund.
- 375.044 Land Acquisition Trust Fund budget request.
- 375.051 Issuance of revenue bonds subject to constitutional authorization.
- 375.061 Construction.
- 375.065 Public beaches; financial and other assistance by Department of Natural Resources to local governments.
- 375.251 Limitation on liability of persons making available to public certain areas for recreational purposes without charge.
- 375.311 Leasing of land.
- 375.313 Definition.
- 375.315 Commission powers and duties.
- 375.316 Damage to public lands.
- 375.315 Registration of off-road vehicles.

375.011 Short title.—This act may be known and cited as the "Outdoor Recreation and Conservation Act of 1983."

375.021 Comprehensive multipurpose outdoor recreation and conservation plan; Outdoor Recreation Advisory Committee.—

(1) The Department of Natural Resources is given the responsibility, authority, and power to develop and execute a comprehensive multipurpose outdoor recreation and conservation plan for this state. The outdoor recreation and conservation plan shall be kept current through continual reevaluation and revision. Each project to be considered for acquisition in the comprehensive multipurpose outdoor recreation and conservation plan shall be subject to the selection procedures of § 239.035 if the estimated value of such project exceeds \$250,000. It shall be the responsibility of the department to supervise, and to ensure the efficient management and use of, the lands acquired under the provisions of this act and to allocate such lands to the different agencies, subdivisions, or municipalities of the state in order to accomplish the purposes of this chapter.

(2) For the purposes of coordinating needs for outdoor recreation, conservation and multipurpose land acquisition and obtaining professional guidance in the most beneficial use of lands, there is established an Outdoor Recreation Advisory Committee, hereafter referred to as the "committee," whose primary duty it shall be to advise the Department of Natural Resources as to outdoor recreation and land acquisition needs and the most efficient use of lands acquired. The committee shall be composed

507

State disclosing, for the period from January 1, 1970, to the date of the statement, all financial transactions concerning the land, all parties having a financial interest in any transaction, and the amount of the tax assessment thereon for each year. The Board of Trustees of the Internal Improvement Trust Fund shall hold title to lands so acquired, but the beneficial use, control, and management shall be with the department. All land identified for acquisition under this chapter shall be acquired with funds from the Land Acquisition Trust Fund.

(2) The department may acquire, control, and oversee the development and use of all land, water areas, and related resources generally classified as outdoor areas and may construct, improve, enlarge, extend, and maintain capital improvements and facilities upon such outdoor areas as needed, in performing these functions, the department shall give full consideration to the recommendations of the committee and of other agencies using or desiring to use land or water areas provided by the department. (3)(b) All land, water areas, and related resources needed by the state for outdoor recreation, wildlife management, forestry management, nature preservation, water conservation and control, and other similar purposes shall be acquired by the Division of State Lands of the Department of Natural Resources pursuant to the procedures set forth in chapter 253.

(b) Notwithstanding any provision of chapter 253, the executive director of the Department of Natural Resources or the director of the Division of State Lands may enter into an option contract to buy any parcel approved for purchase pursuant to this chapter. The option contract shall state that the final purchase price is subject to approval by the Board of Trustees of the Internal Improvement Trust Fund and that this price may not exceed the maximum of \$1,000 or .01 percent of the estimate of the value of the parcel, whichever is greater.

(4) The department may acquire by purchase, lease, purchase agreements, or otherwise, on such terms and conditions as it deems wise, any land, water areas, related resources, or other property which it deems is reasonably necessary for outdoor recreation or natural resource conservation under this act, and any and all rights title and interest in such land, water areas, related resources and other property, including any public lands, parks, playgrounds, reservations, roads, or parkways, owned by, or under the control of, any county, political subdivision, city, town, village, public agency, or officer of the state has any right, title, or interest, or parts thereof, or rights therein and any fee simple absolute or lesser interest in private property, and fee simple absolute in, easement upon, or the benefit of restrictions upon, abutting property to preserve and protect recreation and conservation areas and projects.

(5) Land, water areas, and related resources which may be identified through the procedures provided in this act shall include, but not be limited to, parks and recreation areas; wildlife preserves, forest lands, wetlands, floodways and water storage areas, beaches, water access sites, boating and navigational

channels, submerged lands, historical and archaeological sites, and rights-of-way and other access roads which may be necessary for maximum development, use, and enjoyment of any outdoor recreation or conservation areas. The terms "land" and "lands" where used singly in this act shall be construed as inclusive of lands, water areas and related resources.

(6) The department may acquire by the exercise of the power of eminent domain, in accordance with the statutes of the state, any land or water areas, related resources, and property and any and all rights, title, and interest in such land or water areas, related resources, and other property which it determines reasonably necessary for the preservation of floodways and water storage areas, boating and navigational channels, rights-of-way for access roads which may be necessary for maximum development and use of any outdoor recreation and conservation areas, and rights-of-way for access which are necessary for the use and enjoyment of public waters.

(7) The department may contract for the management or lease of acquired land, water areas, and related resources, or improvements thereon, with any state agency for its authorized purposes. The department may, in its discretion, require such state agency to pay, as rentals on such land, water areas, related resources, or improvements, all or any part of the revenues derived from the land.

(8) The department may, if it deems it desirable and in the best interest of the program, dispose of any lands or water storage areas acquired under this act. The board of trustees may then so request, shall offer, the lands or water storage areas, on such terms as the department may determine for the state agency or municipality in which the lands or water storage areas lie. If not acquired by another state agency or local governmental body for beneficial public purposes, the lands or water storage areas shall then be offered by the board of trustees at public sale, after first giving notice of such sale by publication in a newspaper published in the county or counties in which such lands or water storage areas lie not less than once a week for 3 consecutive weeks. All proceeds from the sale or disposition of any lands or water storage areas pursuant to this section shall be deposited in the Land Acquisition Trust Fund.

(9) The department may sell, lease, or otherwise dispose of certain lands and user rights in, under, or upon land, water areas, and related resources acquired under the provisions of this act, including, but not limited to, oil and minerals, timber, forest products, sand, gravel, earth, grazing rights, and farming rights on such terms and conditions as it determines, if the sale, lease, or other disposition is not inconsistent with or injurious to the outdoor recreation, conservation, and other purposes for which such lands and water areas were acquired.

(10) The department is empowered and authorized to provide matching funds to counties and municipalities of up to 50 percent of the cost of purchasing, exclusive of condemnation, rights-of-way for access roads and willows to public beaches contiguous with the Atlantic Ocean or the Gulf of Mexico.

History.—s. 1, ch. 82-26, § 1, ch. 82-28, § 1, ch. 83-36, § 1, ch. 83-38, § 1, ch. 83-40, § 1, ch. 83-42, § 1, ch. 83-44, § 1, ch. 83-46, § 1, ch. 83-48, § 1, ch. 83-50, § 1, ch. 83-52, § 1, ch. 83-54, § 1, ch. 83-56, § 1, ch. 83-58, § 1, ch. 83-60, § 1, ch. 83-62, § 1, ch. 83-64, § 1, ch. 83-66, § 1, ch. 83-68, § 1, ch. 83-70, § 1, ch. 83-72, § 1, ch. 83-74, § 1, ch. 83-76, § 1, ch. 83-78, § 1, ch. 83-80, § 1, ch. 83-82, § 1, ch. 83-84, § 1, ch. 83-86, § 1, ch. 83-88, § 1, ch. 83-90, § 1, ch. 83-92, § 1, ch. 83-94, § 1, ch. 83-96, § 1, ch. 83-98, § 1, ch. 83-100, § 1, ch. 83-102, § 1, ch. 83-104, § 1, ch. 83-106, § 1, ch. 83-108, § 1, ch. 83-110, § 1, ch. 83-112, § 1, ch. 83-114, § 1, ch. 83-116, § 1, ch. 83-118, § 1, ch. 83-120, § 1, ch. 83-122, § 1, ch. 83-124, § 1, ch. 83-126, § 1, ch. 83-128, § 1, ch. 83-130, § 1, ch. 83-132, § 1, ch. 83-134, § 1, ch. 83-136, § 1, ch. 83-138, § 1, ch. 83-140, § 1, ch. 83-142, § 1, ch. 83-144, § 1, ch. 83-146, § 1, ch. 83-148, § 1, ch. 83-150, § 1, 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375.032 Recreation; required purpose for purchase.—No land shall be purchased under this act or any funds expended for any project unless a finding is made that recreation is the prime purpose of the purchase or of the project.

History.—s. 4, ch. 67, 30.

375.041 Land Acquisition Trust Fund.—
(1) There is created a Land Acquisition Trust Fund to facilitate and expedite the acquisition of land, water areas, and related resources required to accomplish the purposes of this act. The Land Acquisition Trust Fund shall be held and administered by the department. All moneys and revenue from the operation, management, sale, lease, or other disposition of land, water areas, related resources, and the facilities thereon acquired or constructed under this act shall be deposited or credited to the Land Acquisition Trust Fund. Moneys or credits to any agency or other trust fund enumerated in this act may be deposited in this fund. There shall also be deposited into the Land Acquisition Trust Fund other moneys as authorized by appropriate act of the Legislature. All moneys so deposited into the Land Acquisition Trust Fund shall be used for the purposes and purposes herein set forth, within the meaning of s. 215.32(1)(b); and such moneys shall not become or be commingled with the General Revenue Fund of the state, as defined by s. 215.32(1)(a).

(2) The moneys on deposit in the Land Acquisition Trust Fund shall be first applied to pay the rentals due under lease-purchase agreements or to meet debt service requirements of revenue bonds issued pursuant to s. 375.051.

(3) Any moneys in the Land Acquisition Trust Fund which are not pledged for rental or debt service as above provided may be expended from time to time to acquire land, water areas, and related resources and to construct, improve, enlarge, extend, and maintain recreational improvements and facilities in accordance with the plan, program, and policies of the department.

(4) The department may disburse moneys in the Land Acquisition Trust Fund to pay all necessary expenses to carry out the purposes of this act.

(5) When the Legislature has authorized the Department of Natural Resources to condemn a specific parcel of land and such parcel already has been approved for acquisition through the fund, the land may be acquired in accordance with the provisions of chapter 73 or chapter 74, and the fund may be used to pay the condemnation award and all costs, including a reasonable attorney's fee, associated with condemnation.

History.—s. 4, ch. 67, 30; s. 23, ch. 69, 1963; s. 4, ch. 66, 30.

375.044 Land Acquisition Trust Fund budget request.—

(1) The Department of Natural Resources shall submit to the Legislature a 10-year comprehensive budget request for the Land Acquisition Trust Fund.

(2) The legislative budget request shall be submitted to the Executive Office of the Governor and the Legislature in conjunction with the provisions of ss. 216.023, 216.031, and 216.043. The 10-year request shall include, but shall not be limited to:

- A 10-year annual cash-flow analysis of the Land Acquisition Trust Fund.
- The requested schedule of the agency for issuance of State Of Florida bonds.
- Forecasts of anticipated revenues to the Land Acquisition Trust Fund.
- The estimate of the agency of Land Acquisition Trust Fund encumbrances and commitments for each year and the corresponding estimates of expenditures.

History.—s. 1, ch. 31, 37.

375.051 Issuance of revenue bonds subject to constitutional authorization.—The acquisition of lands, water areas, and related resources by the department under this act is a public purpose for which revenue bonds may be issued when and only when there has been granted in the State Constitution specific authorization for the department to issue revenue bonds to pay the cost of acquiring such lands, water areas, and related resources and to construct, improve, enlarge, and extend capital improvements and facilities thereon as determined by the department to be necessary for the purposes of this act. The department may utilize the services and facilities of the Department of Legal Affairs, the Board of Administration, or any other agency in this regard. No revenue bonds, revenue certificates, or other evidences of indebtedness shall be issued for the purposes of this act except as specifically authorized by the State Constitution. All revenue bonds, revenue certificates, or other evidences of indebtedness issued pursuant to this act shall be submitted to the State Board of Administration for approval or disapproval. No individual series of bonds may be issued pursuant to this section unless the first year's debt service for such bonds is specifically appropriated in the General Appropriations Act.

History.—s. 2, ch. 31, 37.

375.061 Construction.—The provisions of this act shall be liberally construed in a manner to accomplish the purposes thereof.

History.—s. 5, ch. 30, 36.

375.065 Public beaches; financial and other assistance by Department of Natural Resources.—

(1) The Department of Natural Resources is authorized within the limits of appropriations available to the department for such purposes, to utilize any one or more of the following procedures in establishing and operating a program of financial assistance to local governments for the acquisition of public beach properties:

- The department may make grants for, and advance loans to, the governing body of any county or municipality in an amount not to exceed the fair market value, as determined by the department, of any waterfront property sought to be purchased by said governing body for the purpose of establishing and maintaining a public beach.
- The department may require the local gov-

erning body to give assurance that it has the financial ability to furnish or secure funds to complete the purchase of the property sought. Any revenue from concessions, tolls, or parking or otherwise produced by the development or operation of such public beach may be pledged to amortize any indebtedness incurred in such beach acquisitions.

(2) The Department of Natural Resources may acquire waterfront property and may lease, sell, or grant acquired land, water areas, and related resources or improvements thereon to the governing body of any county or municipality for such term and conditions as the department may require in order to use and benefit in the future.

(3) The department is authorized to promulgate such rules and forms as may be necessary to carry out the purposes of this section and to ensure that all projects to which assistance is rendered hereunder are for the purpose of providing public beaches for recreation purposes.

(4) In addition to the authorized assistance procedures provided by this section, the Legislature hereby urges the Department of Natural Resources to give priority to applications relating to the acquisition of public beaches in urban areas, and to make full use of the federal Land and Water Conservation Fund Act of 1965, as amended, or other applicable federal programs. This section is supplemental to and shall not limit or repeal any provision of the Outdoor Recreation Act of 1960.

History.—s. 1, 1, 1, ch. 31, 37; s. 1, ch. 30, 36.

375.251 Limitation on liability of persons making available to public certain areas for recreational purposes without charge.—

(1) The purpose of this act is to encourage persons to make available to the public land, water areas and park areas for outdoor recreational purposes by limiting their liability to persons going thereon and to third persons who may be damaged by the acts or omissions of persons going thereon.

(2)(a) An owner or lessee who provides the public with a park area for outdoor recreational purposes owes no duty of care to keep that park area safe for entry or use by others, or to give warning to persons entering or going on that park area of any hazardous conditions, structures, or activities thereon. An owner or lessee who provides the public with a park area for outdoor recreational purposes shall not be providing that park area:

- Be presumed to extend any assurance that such park area is safe for any purpose;
- Incur any duty or are toward a person who enters that park area or
- Be responsible or responsible for any injury to persons or property caused by the act or omission of a person who goes on that park area.

(b) This section shall not apply if there is any charge made or usually made for entering or using such park area, or any part thereof, or if any commercial or other activity for profit is conducted on such park area, or any part thereof.

(3)(a) An owner of land or water area leased to the state for outdoor recreational purposes owes no duty of care to keep that land or water area safe for

entry or use by others, or to give warning to persons entering or going on that land or water of any hazardous conditions, structures, or activities thereon. An owner who leases land or water area to the state for outdoor recreational purposes shall not be giving such lease:

- Be presumed to extend any assurance that such land or water area is safe for any purpose;
- Incur any duty of care toward a person who goes on the leased land or water area, or
- Become liable or responsible for any injury to persons or property caused by the act or omission of a person who goes on the leased land or water area.

(b) The foregoing applies whether the person going on the leased land or water area is an invitee, licensee, trespasser, or otherwise, any person of liability which would otherwise exist for deliberate, willful or malicious injury to persons or property. The provision of this act shall not be deemed to create or increase the liability of any person.

(5) The term "outdoor recreational purposes" as used in this act shall include, but not necessarily be limited to, hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, motorcycling, and visiting historical, archaeological, scenic, or scientific sites.

History.—s. 1, 1, 1, ch. 31, 37; s. 1, ch. 30, 36.

375.311 Legislative intent.—To protect and manage Florida's wildlife environment on lands conveyed for recreational purposes by private owners and public custodians, the Legislature hereby intends that the Game and Fresh Water Fish Commission shall regulate motor vehicle access and traffic control on Florida's public lands.

History.—s. 1, 1, 1, ch. 31, 37; s. 1, ch. 30, 36.

375.312 Definitions.—As used in this act, unless the context requires otherwise:

- "Motor vehicle" means any self-propelled vehicle, including every device in, upon, or by which any person or property is or may be transported or drawn, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.
- "Public lands" means any lands in the state which are owned by, leased by or otherwise assigned to the state or any of its agencies and which are used by the general public for recreational purposes.
- "Commission" means the Florida Game and Fresh Water Fish Commission.
- "Off-road vehicle" means any motor vehicle under this act which is not licensed or registered under chapter 320, except those vehicles when used in timber harvest, reforestation, or other industry as may be directed by the landowner or mineral owner.

History.—s. 1, 1, 1, ch. 31, 37; s. 1, ch. 30, 36.

375.313 Commission powers and duties.—The commission shall:

- Regulate or prohibit, when necessary, the use of motor vehicle on the public lands of the state in order to prevent damage or destruction to said lands.
- Collect any registration fees imposed by s.

375.315 and deposit said fees in the State Game Trust Fund. The revenue resulting from said registration shall be expended for the funding and administration of ss. 375.311-375.315.

(3) Adopt and promulgate such reasonable rules as deemed necessary to administer the provisions of ss. 375.311-375.315, except that, before any such rules are adopted, the commission shall obtain the consent and agreement, in writing, of the owner, in the case of privately owned land, or the owner or primary custodian, in the case of publicly owned land.

History.—s. 1, ch. 78-208, § 1, ch. 78-335.

375.314. Damage to public lands.—

(1) Whoever damages public lands by the use of a motor vehicle is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 or by restitution.

(2) For the purpose of this section, damage shall include, but is not limited to, injury to or destruction of trees, flora, sand dunes or other environmentally sensitive land, roads, trails, drainage systems or natural water courses or sources, wildlife resources, fences or gates, or crops or cultivated land.

(3) Any person who operates a motor vehicle on lands owned by the state or its agency shall be civilly liable for the actual damage to the lands by reason of his wrongful act, which damages may be recovered by

suit and, when collected, shall go to the state or its agency to be used to restore or replace the damaged property.

History.—s. 1, ch. 78-208, § 1, ch. 78-335, § 967, ch. 79-164.

375.316. Registration of off-road vehicles.—

(1) Any off-road vehicle operated upon public lands and not registered or licensed under s. 320.02 or s. 320.06 must be registered as provided in this section.

(2) Upon the filing of an application by the owner of an off-road vehicle, the commission shall assign to such motor vehicle a registration license number and shall deliver to the owner a certificate of registration and one registration decal for each motor vehicle so registered.

(3) Registration shall be renewed annually upon payment of an annual registration fee for off-road vehicles not to exceed \$10.

(4) Whoever operates any off-road vehicle on public lands without having attached thereto a registration decal for the current registration period is guilty of an infraction as defined in s. 318.13(3) and shall be penalized as provided in s. 318.18.

(5) Nothing contained herein shall be deemed to conflict with the provisions of chapter 320 or chapter 325.

History.—s. 1, ch. 78-208, § 1, ch. 78-335.

CHAPTER 376

POLLUTANT DISCHARGE PREVENTION AND REMOVAL

- 376.011 Pollutant Spill Prevention and Control Act; short title.
- 376.021 Legislative intent with respect to pollution of coastal waters and lands.
- 376.031 Definition.
- 376.041 Pollution of waters and lands of the state prohibited.
- 376.051 Powers and duties of the Department of Natural Resources.
- 376.061 Operation of terminal facility without registration prohibited.
- 376.071 Regulatory powers of department.
- 376.081 Removal of prohibited discharges.
- 376.101 Personnel and equipment.
- 376.111 Florida Coastal Protection Trust Fund.
- 376.121 Liabilities and defenses of terminal facilities and vessels.
- 376.131 Emergency proclamation; Governor's powers.
- 376.141 Terminal facilities and vessels; financial responsibility.
- 376.151 Derelict vessels.
- 376.161 Enforcement and penalties.
- 376.181 "Harmless" agreements prohibited.
- 376.171 Reports to the Legislature.
- 376.185 Budget approval.
- 376.191 Counties and municipal ordinances; powers limited.
- 376.201 Limitation on application.
- 376.205 Individual cause of action for damages under ss. 376.011-376.21.
- 376.211 Construction of ss. 376.011-376.21.
- 376.301 Legislative intent with respect to pollution of surface and ground waters.
- 376.301 Definitions of terms used in ss. 376.301-376.315.
- 376.302 Pollutive discharge of refined petroleum products upon waters and lands of the state prohibited.
- 376.303 Powers and duties of the Department of Environmental Regulation.
- 376.305 Removal of prohibited discharges.
- 376.307 Water Quality Assurance Trust Fund.
- 376.308 Liabilities and defenses of facilities.
- 376.309 Penalties for a discharge.
- 376.311 Individual cause of action for damages under ss. 376.301-376.315.
- 376.315 Construction of ss. 376.301-376.315.
- 376.011 Pollutant Spill Prevention and Control Act; short title.—Sections 376.011-376.17, 376.19-376.21 shall be known as the "Pollutant Spill Prevention and Control Act."
- 376.021 Legislative intent with respect to pollution of coastal waters and lands.—
- (1) The Legislature finds and declares that the highest and best use of the seacoast of the state is as a source of public and private recreation.
- (2) The Legislature further finds and declares that the preservation of this use is a matter of the highest urgency and priority and that such use can only be served effectively by maintaining the public waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast in as close to pristine condition as possible, taking into account multiple use accommodations necessary to provide the broadest possible promotion of public and private interests.
- (3) The Legislature further finds and declares that:
- (a) The transfer of pollutants between vessels, between onshore facilities and vessels, between offshore facilities and vessels, and between terminal facilities within the jurisdiction of the state and state waters is a hazardous undertaking;
- (b) Spills, discharges, and escapes of pollutants occurring as a result of procedures involved in the transfer, storage, and transportation of such products pose threats of great danger and damage to the environment of the state, to owners and users of shore front property, to public and private recreation, to citizens of the state and other interests deriving livelihood from marine-related activities, and to the beauty of the Florida coast;
- (c) Such hazards have frequently occurred in the past, are occurring now, and present future threats of potentially catastrophic proportions, all of which are expressly declared to be inimical to the paramount interests of the state as herein set forth; and
- (d) Such state interests outweigh any economic burdens imposed by the Legislature upon those engaged in transferring pollutants and related activities.
- (4) The Legislature intends by the enactment of ss. 376.011-376.21 to exercise the police power of the state by conferring upon the Department of Natural Resources powers to:
- (a) Deal with the hazards and threats of danger and damage posed by such transfers and related activities;
- (b) Require the prompt containment and removal of pollution occasioned thereby; and
- (c) Establish a fund to provide for the inspection and supervision of such activities and guarantee the prompt payment of reasonable damage claims resulting therefrom.
- (5) The Legislature further finds and declares that the preservation of the public uses referred to herein is of grave public interest and concern to the state in promoting its general welfare, preventing disease, promoting health, and providing for the public safety and that the state's interest in such preservation outweighs any burdens of liability imposed by the Legislature upon those engaged in transferring pollutants and related activities.
- (6) The Legislature further declares that it is the intent of ss. 376.011-376.21 to support and complement applicable provisions of the Federal Water Pollution Control Act, as amended, specifically those

512

provisions relating to the national contingency plan for removal of pollutants.

History.—s. 1, ch. 76-24, § 1, F.S. 1976.

376.031 Definitions.—When used in ss. 376.011-376.21, unless the context clearly requires otherwise, this term:

(1) "Barrel" means 42 U.S. gallons at 60° Fahrenheit.

(2) "Board" means the board of arbitration.

(3) "Department" means the Department of Natural Resources.

(4) "Director" means the executive director of the Department of Natural Resources.

(5) "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying or dumping which occurs within the territorial limits of the state or outside the territorial limits of the state and affects lands and waters within the territorial limits of the state.

(6) "Discharge cleanup organization" means any group, incorporated or unincorporated, of owners or operators of waterfront terminal facilities in any port or harbor of the state, and any other person who may elect to join, organized for the purpose of containing and cleaning up discharges of pollutants through cooperative efforts and shared equipment and facilities. For the purposes of ss. 376.011-376.21, any third-party cleanup contractor or any local government shall be recognized as a discharge cleanup organization, provided such contractor or local government is properly certified by the department.

(7) "Fund" means the Florida Coastal Protection Fund.

(8) "Other measurements" means measurements set by the department for products transferred at terminals which are other than fluid or which are not commonly measured by the barrel.

(9) "Owner" means any person owning a terminal facility; "operator" means any person operating a terminal facility, whether by lease, contract, or other form of agreement.

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

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

(12) "Pollutants" includes oil of any kind and in any form; gasoline; pesticides; ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(13) "Pollution" means the presence in the outdoor atmosphere or waters of the state of any one or more substances or pollutants in quantities which are or may be injurious to the persons or human health or welfare, animal or plant life, property, or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(14) "Registrant" is a terminal facility required to possess a valid registration certificate to operate as a terminal facility.

(15) "Terminal facility" means any waterfront or offshore facility, other than vessels not owned or operated by such facility, and directly associated waterfront or offshore appendages including pipelines located on land, including submerged lands, or on or under the surface of any kind of water, which facility and related appendages are used or capable of being used for the purpose of drilling for, pumping, storing, handling, transferring, processing, or refining pollutants, including, but not limited to, any such facility and related appendages owned or operated by a public utility or a governmental or quasi-governmental body. A vessel shall be considered a terminal facility only in the event of a ship-to-ship transfer of pollutants, and only that vessel going to or coming from the place of transfer and the terminal facility. For the purposes of ss. 376.011-376.21, the term "terminal facility" shall not be construed to include waterfront facilities owned and operated by governmental entities acting as agents of public convenience for operations engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants, including, but not limited to, any such facility and related appendages owned or operated by such a governmental entity shall be construed as a terminal facility.

(16) "Transfer" or "transferred" includes unloading or offloading between terminal facility and vessel, vessel and vessel, or terminal facility and terminal facility.

(17) "Vessel" includes every description of boat, craft or other contrivance used, or capable of being used, as a means of transportation on water, whether self-propelled or otherwise, and includes barges and tugs.

History.—s. 1, ch. 76-24, § 1, ch. 76-25, § 1, ch. 76-26, § 1, ch. 76-27, § 1, ch. 76-28, § 1, ch. 76-29, § 1, ch. 76-30, § 1, ch. 76-31, § 1, ch. 76-32, § 1, ch. 76-33, § 1, ch. 76-34, § 1, ch. 76-35, § 1, ch. 76-36, § 1, ch. 76-37, § 1, ch. 76-38, § 1, ch. 76-39, § 1, ch. 76-40, § 1, ch. 76-41, § 1, ch. 76-42, § 1, ch. 76-43, § 1, ch. 76-44, § 1, ch. 76-45, § 1, ch. 76-46, § 1, ch. 76-47, § 1, ch. 76-48, § 1, ch. 76-49, § 1, ch. 76-50, § 1, ch. 76-51, § 1, ch. 76-52, § 1, ch. 76-53, § 1, ch. 76-54, § 1, ch. 76-55, § 1, ch. 76-56, § 1, ch. 76-57, § 1, ch. 76-58, § 1, ch. 76-59, § 1, ch. 76-60, § 1, ch. 76-61, § 1, ch. 76-62, § 1, ch. 76-63, § 1, ch. 76-64, § 1, ch. 76-65, § 1, ch. 76-66, § 1, ch. 76-67, § 1, ch. 76-68, § 1, ch. 76-69, § 1, ch. 76-70, § 1, ch. 76-71, § 1, ch. 76-72, § 1, ch. 76-73, § 1, ch. 76-74, § 1, ch. 76-75, § 1, ch. 76-76, § 1, ch. 76-77, § 1, ch. 76-78, § 1, ch. 76-79, § 1, ch. 76-80, § 1, ch. 76-81, § 1, ch. 76-82, § 1, ch. 76-83, § 1, ch. 76-84, § 1, ch. 76-85, § 1, ch. 76-86, § 1, ch. 76-87, § 1, ch. 76-88, § 1, ch. 76-89, § 1, ch. 76-90, § 1, ch. 76-91, § 1, ch. 76-92, § 1, ch. 76-93, § 1, ch. 76-94, § 1, ch. 76-95, § 1, ch. 76-96, § 1, ch. 76-97, § 1, ch. 76-98, § 1, ch. 76-99, § 1, ch. 76-100, § 1, ch. 76-101, § 1, ch. 76-102, § 1, ch. 76-103, § 1, ch. 76-104, § 1, ch. 76-105, § 1, ch. 76-106, § 1, ch. 76-107, § 1, ch. 76-108, § 1, ch. 76-109, § 1, ch. 76-110, § 1, ch. 76-111, § 1, ch. 76-112, § 1, ch. 76-113, § 1, ch. 76-114, § 1, ch. 76-115, § 1, ch. 76-116, § 1, ch. 76-117, § 1, ch. 76-118, § 1, ch. 76-119, § 1, ch. 76-120, § 1, ch. 76-121, § 1, ch. 76-122, § 1, ch. 76-123, § 1, ch. 76-124, § 1, ch. 76-125, § 1, ch. 76-126, § 1, ch. 76-127, § 1, ch. 76-128, § 1, ch. 76-129, § 1, ch. 76-130, § 1, ch. 76-131, § 1, ch. 76-132, § 1, ch. 76-133, § 1, ch. 76-134, § 1, ch. 76-135, § 1, ch. 76-136, § 1, ch. 76-137, § 1, ch. 76-138, § 1, ch. 76-139, § 1, ch. 76-140, § 1, ch. 76-141, § 1, ch. 76-142, § 1, ch. 76-143, § 1, ch. 76-144, § 1, 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of the state described in s. 1, Art. II of the State Constitution.

(3) Registration certificates required under ss. 376.011-376.21 shall be issued from the department subject to such terms and conditions as are set forth in ss. 376.011-376.21 and as set forth in rules and regulations promulgated by the department as authorized herein.

(4) Whenever it becomes necessary for the state to protect the public interest under ss. 376.011-376.21, it shall be the duty of the department to keep an accurate record of costs and expenses incurred and thereafter diligently to pursue the recovery of any sum so incurred from the person responsible or from the Government of the United States under any applicable federal act.

(5) The department may bring an action on behalf of the state to enforce the liabilities imposed by ss. 376.011-376.21. The Department of Legal Affairs shall represent the department in such proceeding.

(6) Within 120 days of July 1, 1983, the department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21. Such rules shall specifically establish procedures that determine which of the two agencies should respond in cases of specific types of pollutant spill incidents, and such rules shall establish minimum criteria for response times. The rules shall also specify Florida and procedures for the expenditure of Florida Coastal Protection Trust Fund moneys for pollution incidents that require action by the Department of Environmental Regulation.

(7) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(8) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(9) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(10) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(11) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(12) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(13) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(14) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(15) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(16) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

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(18) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(19) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(20) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(21) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(22) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(23) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(24) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

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(29) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

inspections, however, the fee shall not exceed \$250 per terminal facility per year.

(6) No later than October 1, 1974, every owner or operator of a terminal facility shall obtain a registration certificate. The department shall issue a registration certificate upon the showing that the registrant can provide all required equipment to prevent, contain, and remove discharges of pollutants.

(7) On or after a date to be determined by the department, but in no case later than October 1, 1974, no person shall operate or cause to be operated any terminal facility without a terminal facility registration certificate issued by the department. No registration certificate shall be valid for more than 1 year unless revalidated by the department. Each applicant for a terminal facility registration certificate shall pay the registration fee and shall submit information, in a form satisfactory to the department, describing the following:

(a) The type and other measurement capacity of the terminal facility.

(b) All prevention, containment, and removal equipment, including, but not limited to, vessels, pumps, skimmers, booms, barges, and communication devices to which the facility is connected, whether through direct ownership or by contract or membership in an approved discharge cleanup organization.

(c) The terms of agreement and operation plan of any discharge cleanup organization to which the owner or operator of the terminal facility belongs.

(8) Upon showing of satisfactory containment and cleanup capability under this section, and upon payment of the registration certificate application fee required by the department under this section, the applicant shall be issued a registration certificate covering the terminal facility and related appurtenances, including vessels as defined in s. 376.031(12).

(9) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(10) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

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(29) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(30) The department shall adopt rules providing for the coordination of the respective duties of the Department of Natural Resources and the Department of Environmental Regulation with respect to the implementation of ss. 376.011-376.21.

(a) Creation by contract or administrative action of a state response team which shall be responsible for creating and maintaining a contingency plan of response to oil spills, including the following: (1) emergency cleanup operations; (2) the state shall include detailed emergency operating procedures for the state as a whole and the team shall from time to time conduct practice alerts. These plans shall be filed with the Governor and all Coast Guard stations in the state and Coast Guard captains of the port having responsibility for enforcement of federal pollution laws within the state, on or before January 1, 1975. The contingency plan shall include all necessary information for the total containment and cleanup of pollution, including but not limited to an inventory of equipment and its location, a table of organization with the names, addresses, and telephone numbers of all persons responsible for implementing every phase of the plan, a list of available sources of supplies necessary for cleanup, and a designation of roles of cleanup. The state shall act independently of agencies of the Federal Government but is directed to cooperate with any federal cleanup operation.

(b) Requirements for minimum weather and sea conditions for permitting a vessel to enter port and for the safety and operation of vessels, barges, tugs, motor vehicles, motorized equipment, and other equipment relating to the use and operation of terminals, facilities, and refineries, the approach and departure from terminals, facilities, and refineries and requirements that containment gear approved by the department be on hand and maintained by terminal facilities and refineries with adequate personnel trained in its use.

(c) Requirements that, prior to being granted entry into any port in this state, the master of a vessel shall report:

1. Any discharges of pollutants the vessel has had since leaving the last port;

2. Any mechanical problem on the vessel which creates the possibility of a discharge; and

3. Any kind of entry into any port during the current cruise of the vessel.

Any person who shall make or cause to be made any false statement in response to requirements of any provisions of ss. 376.011-376.21 with a fraudulent intent shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.094, as required in s. 837.01.

(b) Requirements that any registrant causing or permitting the discharge of a pollutant in violation of the provisions of ss. 376.011-376.21, and at other reasonable times, be subject to a complete and thorough inspection. If the department determines there are unsatisfactory preventive measures or containment and cleanup capabilities, it shall, a reasonable time after notice and hearing in compliance with chapter 120, suspend the registration until such time as there is compliance with the department requirements.

(c) Such other rules and regulations as the exigencies of any condition may require or as may reasonably be deemed necessary to carry out the intent of ss. 376.011-376.21.

History.—s. 1, ch. 70-244, § 2, ch. 72-336, § 1, ch. 77-131.

378.09 Removal of prohibited discharges.—

(1) Any person discharging pollutants as prohibited by s. 376.041 shall immediately undertake to contain, remove, and abate the discharge to the department's satisfaction. Notwithstanding the above, the department may, upon request, suspend the removal of the discharge and may appoint and authorize agents who shall operate under the direction of the department.

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

(3) In the event of discharge the source of which is unknown, any local discharge cleanup organization shall, upon the request of the department or its designee, immediately contain and remove the discharge. No action taken by any person to contain or remove a discharge, whether such action is taken voluntarily or at the request of the department or its designee, shall be construed as an admission of liability for the discharge.

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

(5) Nothing in ss. 376.011-376.21 shall affect the right of any person to render assistance in containing or removing any pollutant or any rights which that person may have against any third party whose acts or omissions in any way have caused or contributed to the discharge of the pollutant.

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

History.—s. 1, ch. 70-244, § 2, ch. 72-336, § 1, ch. 77-131.

378.10 Personnel and equipment.—The department shall establish and maintain at each port within the state and other places as it shall determine such employees and equipment, other than equipment furnished by the registrant, as in its judgment may be necessary to carry out the provisions of ss. 376.011-376.21. The department may employ and prescribe the duties of such employees and equipment regulations and the Department of Personnel of the Department of Administration. The personnel of the department and the cost of the equipment shall be paid from the Florida Coastal Protection Fund es-

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

[illegible]

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

(4) shall be utilized to satisfy the claims as to which such prosecutions relate to the extent theretofore unsatisfied.

(7) In addition to the civil penalty, the pilot and the master of any vessel or person in charge of any terminal facility who fails to give immediate notification of a discharge to the department or the nearest Coast Guard station shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. After reporting a discharge, a vessel owner or master shall be relieved of the obligation to report the discharge to the department if the vessel is not sufficiently damaged to require a tow and the discharge is not sufficient to require the vessel to be removed from the water.

519c

§ 376.011-376.21 by the fund or any damaged party may be brought directly against the bond, the insurer, or any other person providing a terminal facility or vessel with evidence of financial responsibility.

with the Department of State. In the absence of such designation, the Secretary of State shall be the designated agent for purposes of service of process under as. 376.001-376.21.

376.15 Derelict vessels.—
(1) It is unlawful for any person, firm, or corporation to store or leave any vessel in a wrecked, junked, or substantially dismantled condition or abandoned upon any public waters or at any port in this state without the consent of the agency having jurisdiction thereof or docked at any private property without the consent of the owner of the private property.

376.16 Enforcement and penalties.—

The violation occurs constitutes a separate offense

(2) Penalties assessed herein for a discharge shall be the only penalties assessed by the state, and there shall be no additional penalty for water pollution assessment under chapter 403 for the same occurrence.

376.185. "Harmless" agreements prohibited.—Any agreement entered into after July 1, 1936, for the purpose of securing the exemption of any person from the rules, regulations, and orders of the department of health, shall be null and void.

1974, to "hold-harmless" a vessel or terminal facility from liability for the occurrence of a discharge prohibited by ss. 375.011-376.21, agreed to by a governmental agency or political subdivision, is deemed contrary to public policy and is hereby prohibited.

HISTORY.—s. 14, ch. 74-356.

partment shall include in its recommendations to each regular session of the Legislature specific rec-

6

Recommendations relating to the operation of ss. 376.011-376.21 and the Federal Water Pollution Control Act, as amended.
History.—1979, ch. 70-24, § 1, F.S. 1979; 1980, ch. 70-24, § 1, F.S. 1980.

376.185 Budget approval.—The Department shall submit to each regular session of the Legislature its budget recommendations for disbursements from its fund pursuant only to s. 376.116(a). Upon approval thereof by the Legislature, the Comptroller shall authorize expenditures therefrom as approved by the department.
History.—1979, ch. 70-24, § 1, F.S. 1979.

376.19 County and municipal ordinances.—No powers shall be conferred to deny any county or municipality authority to exercise police powers by ordinance or law under any general or special act, and laws and ordinances promulgated in furtherance of the intent of ss. 376.011-376.21 to promote the general welfare, public health, and public safety shall be valid unless they conform with the provisions of ss. 376.011-376.21. Any rule, regulation, or order of the department, adopted or promulgated by the department, shall be subject to the review of the department. However, in order to avoid unnecessary duplication, no county, municipality, or other political subdivision of the state may adopt or establish a similar program of licensing and fees for the accomplishment of the purposes of ss. 376.011-376.21.
History.—1979, ch. 70-24, § 1, F.S. 1979.

376.20 Limitation on application.—Nothing in ss. 376.011-376.21 shall be deemed to apply to the storage or transportation of liquefied petroleum gas or to industrial effluents discharged into the waters or atmosphere of the state pursuant to either a federal or state permit.
History.—1979, ch. 70-24, § 2, F.S. 1979; 1980, ch. 70-24, § 2, F.S. 1980.

376.205 Individual cause of action for damages under ss. 376.011-376.21.—The remedies in this act shall be deemed to be cumulative and not exclusive. Nothing in this act shall require pursuit of any claim against the fund as a condition precedent to any other remedy. Notwithstanding any other provision of law, nothing contained herein shall prohibit any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge of pollutants or from a spill, as defined by ss. 376.011-376.21, which suit it shall not be necessary for the person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it occurred. The only defenses to such cause of action shall be those specified in subsection 376.12(4). In addition to any other remedy, the injured party shall be entitled to recover costs of the action and reasonable attorneys' fees.
History.—1979, ch. 70-24, § 3, F.S. 1979.

376.21 Construction of ss. 376.011-376.21.—Sections 376.011-376.21, being necessary for the general welfare and the public health and safety of the state and its inhabitants, shall be liberally construed to effect the purposes set forth under ss. 376.011-376.21 and the Federal Water Pollution Control Act, as amended.
History.—1979, ch. 70-24, § 4, F.S. 1979.

376.301 Definitions of terms used in ss. 376.30-376.315.—When used in ss. 376.30-376.315,

unless the context clearly requires otherwise, the term:

- (1) "Barrel" means 42 U.S. gallons at 60° Fahrenheit.
- (2) "Department" means the Department of Environmental Regulation.
- (3) "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping of any pollutant which occurs and which affects lands and the surface and ground waters of the state not regulated by ss. 376.011-376.21.
- (4) "Facility" means any nonresidential location containing stationary tank or tanks not covered by ss. 376.011-376.21 which contain pollutants and which have storage capacities greater than 550 gallons.
- (5) "Fund" means the Water Quality Assurance Trust Fund.
- (6) "Operator" means any person operating a facility, whether by lease, contract, or other form of agreement.
- (7) "Owner" means any person owning a facility.
- (8) "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.
- (9) "Person in charge" means the person on the scene who is in direct, responsible charge of a facility from which pollutants are discharged, when the discharge occurs.
- (10) "Pollutants" includes oil of any kind and in any form, gasoline, pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.
- (11) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (12) "Secretary" means the secretary of the Department of Environmental Regulation.

History.—The word "or" was inserted by the editor, chapter 1, § 16, 1980.

376.302 Pollutive discharge of refined petroleum products upon waters and lands of the state prohibited.—The discharge of refined petroleum products upon any waters and lands of the state in the manner defined by ss. 376.30-376.315 is prohibited.
History.—1979, ch. 70-24, § 5, F.S. 1979.

376.303 Powers and duties of the Department of Environmental Regulation.—

- (1) The department has the power and the duty:
 - (a) Establish rules to implement the intent of ss. 376.30-376.315 and to regulate underground and aboveground facilities and their onsite integral piping systems not covered by ss. 376.011-376.21, including, but not limited to, construction standards, permitting of tanks, maintenance and installation standards, and removal or disposal standards.
 - (b) Provide for the development and implementation of criteria and plans to prevent and meet pollution occurrences of various kinds and degrees.
 - (c) Establish requirements that any facility covered by this act be subject to complete and thorough inspections at reasonable times. Any facility which has discharged a pollutant in violation of the provisions of ss. 376.30-376.315 shall be fully and carefully monitored by the department to ensure that such discharge does not continue to occur.
 - (d) Keep an accurate record of costs and expenses incurred for the removal of pollutants and charges and thereafter disburse to the person responsible for any sums so incurred from the person responsible or from the fund.
 - (e) Bring an action on behalf of the state to enforce the liabilities imposed by ss. 376.30-376.315.
 - (f) Bring an action to enforce under ss. 403.161 apply to ss. 376.30-376.315.
 - (g) The powers and duties of the department under ss. 376.30-376.315 shall extend to the land mass of the state not described in ss. 376.011-376.21.

History.—1979, ch. 70-24, § 6, F.S. 1979.

376.305 Removal of prohibited discharges.

- (1) Any person discharging a pollutant as prohibited by ss. 376.30-376.315 shall immediately undertake to contain, remove, and abate the discharge to the satisfaction of the department. Notwithstanding this requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department.
- (2) If the person causing the discharge, or the person in charge of the facility at which the discharge has taken place, fails to remove or abate the discharge, the department may arrange for the removal of the pollutant; except that, if the pollutant was discharged into or upon the navigable waters of the United States, the department shall act in accordance with the national contingency plan for removal of such pollutant as established pursuant to the Federal Water Pollution Control Act, as amended, and the costs of removal incurred by the department shall be paid in accordance with the applicable provisions of that law. Federal funds provided under that act shall be used to the maximum extent possible prior to the expenditure of state funds.
- (3) No action taken by any person to contain or remove a discharge, whether such action is taken voluntarily or at the request of the department or its designee, shall be construed as an admission of liability for the discharge.
- (4) No person who voluntarily or at the request of the department or its designee renders assistance in containing or removing any pollutant shall be liable for any civil damages to third parties resulting solely from the acts or omissions of such person in rendering such assistance, except for acts or omissions amounting to gross negligence or willful misconduct.
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 - (b) Provide for the development and implementation of criteria and plans to prevent and meet pollution occurrences of various kinds and degrees.
 - (c) Establish requirements that any facility covered by this act be subject to complete and thorough inspections at reasonable times. Any facility which has discharged a pollutant in violation of the provisions of ss. 376.30-376.315 shall be fully and carefully monitored by the department to ensure that such discharge does not continue to occur.
 - (d) Keep an accurate record of costs and expenses incurred for the removal of pollutants and charges and thereafter disburse to the person responsible for any sums so incurred from the person responsible or from the fund.
 - (e) Bring an action on behalf of the state to enforce the liabilities imposed by ss. 376.30-376.315.
 - (f) Bring an action to enforce under ss. 403.161 apply to ss. 376.30-376.315.
 - (g) The powers and duties of the department under ss. 376.30-376.315 shall extend to the land mass of the state not described in ss. 376.011-376.21.

History.—1979, ch. 70-24, § 6, F.S. 1979.

376.305 Removal of prohibited discharges.

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- (2) If the person causing the discharge, or the person in charge of the facility at which the discharge has taken place, fails to remove or abate the discharge, the department may arrange for the removal of the pollutant; except that, if the pollutant was discharged into or upon the navigable waters of the United States, the department shall act in accordance with the national contingency plan for removal of such pollutant as established pursuant to the Federal Water Pollution Control Act, as amended, and the costs of removal incurred by the department shall be paid in accordance with the applicable provisions of that law. Federal funds provided under that act shall be used to the maximum extent possible prior to the expenditure of state funds.
- (3) No action taken by any person to contain or remove a discharge, whether such action is taken voluntarily or at the request of the department or its designee, shall be construed as an admission of liability for the discharge.
- (4) No person who voluntarily or at the request of the department or its designee renders assistance in containing or removing any pollutant shall be liable for any civil damages to third parties resulting solely from the acts or omissions of such person in rendering such assistance, except for acts or omissions amounting to gross negligence or willful misconduct.
- (5) Nothing in ss. 376.30-376.315 shall affect the right of any person to receive assistance in containing or removing any pollutant or any rights which that

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- (4) No person who voluntarily or at the request of the department or its designee renders assistance in containing or removing any pollutant shall be liable for any civil damages to third parties resulting solely from the acts or omissions of such person in rendering such assistance, except for acts or omissions amounting to gross negligence or willful misconduct.
- (5) Nothing in ss. 376.30-376.315 shall affect the right of any person to receive assistance in containing or removing any pollutant or any rights which that

History.—1979, ch. 70-24, § 8, F.S. 1979.

person may have against any third party whose acts or omissions in any way have caused or contributed to the discharge of the pollutant.

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

History.—S.S. ch. 80-310.

376.307 Water Quality Assurance Trust Fund.—

(1) There is created in the State Treasury the Water Quality Assurance Trust Fund, to be administered by the Department of Environmental Regulation.

(2) The fund may be used to carry out the provisions of this act and for the cleanup and restoration of any contaminated water:

(a) Hazardous wastes;

(b) Pollutants;

(c) A substance which is or is suspected to be carcinogenic, mutagenic, teratogenic, or toxic to human beings, or acutely toxic to indigenous species, or significant to the biological community affected by the hazardous waste or substance; or

(d) A substance which poses a serious danger to the public health, safety, or welfare.

(3) The trust fund shall be funded as follows:

(a) A one-time transfer of \$11 million from the Florida Coastal Protection Trust Fund pursuant to s. 376.11(5)(f). This transfer shall not be subject to the General Revenue Fund deduction authorized in ss. 215.30 and 215.22.

(b) An annual transfer of interest funds from the Florida Coastal Protection Trust Fund pursuant to s. 376.11(5)(g).

(c) A monthly transfer of the interest from the State Water Pollution Control Trust Fund.

(4) The trust fund shall be used by the department as a nonrepeating revolving fund for carrying out the purposes of this act. To this fund shall be credited all excise taxes, penalties, judgments, and other fees and charges related to ss. 376.30-376.315. Charges against the fund shall be in accordance with this act.

(5)(a) There is hereby levied an excise tax, to be collected from and paid by each person for the privilege of operating a facility, as defined in s. 376.03(1)(b), and from each person for the privilege of operating a facility, served by truck or pipeline, located in this state used for the storage, handling, or transferring pollutants. The state and political subdivisions in the state are exempt from the excise tax.

(b) The excise tax shall be 3 cents per barrel, or equivalent measure as established by the department, coming to rest in the state, until the balance in the fund equals or exceeds an unobligated balance of \$11,053.

522

(f) The Department of Revenue shall promulgate rules establishing procedures for the audit of operations under this act for delinquencies, and prescribe and publish such rules as necessary to effectuate the purposes of this section.

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

(8) The department shall recover to the use of the fund from the person or persons causing the discharge or from the Federal Government, jointly and severally, all sums owed or expended therefrom, pursuant to s. 376.308(4), except that sums recovered as a result of damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Any request for reimbursement to the fund for such costs, if not paid within 30 days of demand, shall be turned over to the department for collection. (9) Moneys in the fund which are not needed currently to meet the obligations of the department in the exercise of its responsibilities under ss. 376.30-376.315 shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. The interest received on such investment shall be credited to the fund.

History.—S.S. ch. 80-310, s. 3, ch. 80-320.
Reference to s. 376.11(5)(f) was substituted for the reference to s. 376.11(5)(f) to correct an apparent error in s. 3, ch. 80-320.

376.308 Liabilities and defenses of facilities.

—It is the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sums expended from the fund for cleanup, abatement, or damages in accordance with the provisions of ss. 376.30-376.315. In any suit to enforce claims of the fund under ss. 376.30-376.315, it is not necessary for the department in administering the fund to plead or prove negligence in any form or manner. The department in administering the fund may, however, plead and prove that the prohibited discharge or other discharging condition has occurred. The only defense to an action on the fund shall be those expenses of cleanup or abatement or costs of proof that the occurrence was solely the result of any of the following or any combination of the following:

(1) An act of war.

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

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

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

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

(a) The defendant exercised due care with respect to the pollutant concerned, taking into consideration the characteristics of such hazardous waste, in light of the relevant facts and circumstances, and

(b) The defendant took precautions against foreseeable acts or omissions of third parties which could reasonably result from such acts or omissions.

History.—S.S. ch. 80-310.

Note.—The word "or" was substituted for the word "and."

376.309 Facilities, financial responsibility.—

(1) Each owner or operator of a facility is required to establish and maintain evidence of financial responsibility. Such evidence of financial responsibility shall be the only evidence required by the department that such owner or operator has the ability to meet the liabilities which may be incurred under ss. 376.30-376.315.

(2) Any claim brought pursuant to ss. 376.30-376.315 may be brought directly against the owner, the insurer, or any other person providing financial responsibility.

(3) Each owner or operator of a facility subject to the provisions of ss. 376.30-376.315 shall designate a person in the state as his legal agent for service of process under ss. 376.30-376.315, and such designation shall be filed with the Department of State in the absence of such designation. The Secretary of State shall be the designated agent for purposes of service of process under ss. 376.30-376.315.

History.—S.S. ch. 80-310.

376.311 Penalties for a discharge.—

(1) The penalty provisions of this section do not apply to any discharge promptly reported and removed by an operator in accordance with the rules and orders of the department.

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

History.—S.S. ch. 80-310.

376.313 Individual cause of action for damages under ss. 376.30-376.315.—The remedies in ss. 376.30-376.315 shall be deemed to be cumulative and not exclusive. Nothing in ss. 376.30-376.315 shall require pursuit of any claim against the fund as a condition precedent to any other remedy. Notwithstanding any other provision of law, nothing contained in ss. 376.30-376.315 shall prohibit any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.315. 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 discharging condition and that it has occurred. The only defense to such cause of action shall be those specified in s. 376.308(3). In addition to any other remedy, the injured party shall be entitled to recover costs of the action and reasonable attorneys' fees.

History.—S.S. ch. 80-310.

Ch. 376 POLLUTANT DISCHARGE PREVENTION AND REMOVAL F.S. 1983

376.315 Construction of ss. 376.30-376.315, strued to effect the purposes set forth under ss. 376.30-376.315, being necessary for the 376.30-376.315 and the Federal Water Pollution Control Act, as amended, shall be liberally construed to the end that the public health and safety of the state and its inhabitants, shall be liberally con-

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CHAPTER 377 ENERGY RESOURCES

PART I REGULATION OF OIL AND GAS RESOURCES (ss. 377.01-377.41)

PART II PLANNING AND DEVELOPMENT (ss. 377.601-377.712)

PART I

REGULATION OF OIL AND GAS RESOURCES

377.01	Government to enter into interstate compact to conserve oil and gas.	377.35	Suits, proceedings, appeals, etc.
377.02	Extension of compact.	377.36	False entries and statements; incomplete entries; penalties.
377.03	Official report of state.	377.37	Penalties.
377.04	Public policy of state concerning natural resources of oil and gas.	377.371	Pollution prohibited; reporting, liability, purchase, acquisition, transportation, refining, processing, or handling prohibited.
377.05	Division of Resource Management; powers, duties, and authority.	377.38	Seizure and sale of illegal oil, gas, or product.
377.06	Division of Resource Management; geological functions.	377.39	Negligently permitting gas and oil to go wild or out of control.
377.07	Certain persons not to be employed by division.	377.40	Disposition of fines.
377.08	Definitions.	377.41	Disposition of fines.
377.09	Waste prohibited.		
377.10	Jurisdiction of division.		
377.11	Monthly reports to division.		
377.12	Notice of intention to drill well; permits; abandoned wells and dry holes.		
377.13	Application to conduct geophysical operations.		
377.14	Criteria for issuance of permits.		
377.15	Permits for drilling or exploring and extracting through well holes or by other means.		
377.16	Division to review federal applications for physical permits for geophysical operations.		
377.17	Abandonment of geophysical holes.		
377.18	Conditions for granting permits for extraction through well holes.		
377.19	Conditions for granting permits for surface exploratory and extraction operations.		
377.20	Provision for distribution of earnings to lessees or owners of the fractional undivided mineral rights not owned by applicant for permit under ss. 377.243 and 377.244.		
377.21	Production pools; drilling units.		
377.22	Drilling units.		
377.23	Drilling units.		
377.24	Drilling units.		
377.25	Drilling units.		
377.26	Drilling units.		
377.27	Drilling units.		
377.28	Drilling units.		
377.29	Drilling units.		
377.30	Drilling units.		
377.31	Drilling units.		
377.32	Drilling units.		
377.33	Drilling units.		
377.34	Drilling units.		

Each state bound hereby agrees that within a reasonable time it will enact laws, or if laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

- The operation of any oil well with an inefficient gas-oil ratio.
- The dewatering with water of any stratum capable of producing oil or gas, or both oil and gas in paying quantities.
- The avoidable escape into the open air or the waste of any gas from a natural gas well.
- The drilling of unnecessary or hazardous operations of a well or wells as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.
- The inefficient, excessive or improper use of the reservoir energy in producing any well.

The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

ARTICLE IV.

Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid rule, order or gas conservation statutes or any valid rule, order or gas conservation statutes thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

ARTICLE V.

It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of subsidizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regulation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

ARTICLE VI.

Each state joining herein shall appoint one representative to a commission hereby constituted and designated as the Interstate Oil Compact Commission, the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and such intervals as said commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said commission shall organize and adopt

suitable rules and regulations for the conduct of its business.

- By the affirmative votes of the majority of the whole number of the compacting states present and voting at any meeting, and (2) by a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

ARTICLE VII.

No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

ARTICLE VIII.

This compact shall expire September 1, 1937, but any state joining herein may, upon 60 days' notice, withdraw herefrom.

The representative of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to this compact to be similarly deposited, certified and ratified.

Done in the City of Dallas, Texas, this sixteenth day of February, 1935.

377.03 Extension of compact.—The Governor of Florida is further authorized and empowered, for and in the name of the state, to execute agreements for the further extension of the expiration date of the said "The Interstate Oil Compact" to conserve oil and gas, and to determine if and when it shall be for the best interest of the state to withdraw from said compact upon 60 days' notice as provided by its terms. In the event he shall determine that the state should withdraw from said compact he shall have full power and authority to give necessary notice and to take any and all steps necessary and proper to effect the withdrawal of the state from said compact.

377.04 Official report of state.—The Governor shall be the official representative of the state on the Interstate Oil Compact Commission, provided for in the compact to conserve oil and gas, and shall exercise and perform the state all the powers and duties as a member of the Interstate Oil Compact Commission; provided that he shall be the author, ity to appoint an assistant representative who shall

act in his stead as the official representative of the state as a member of said commission. Said assistant representative shall take the oath of office prescribed by the Constitution, which shall be filed with the Department of State.

History.—S. 1, ch. 2269, 1945, § 10, 35, ch. 89, 1946.

377.06 Public policy of state concerning natural resources of oil and gas.—It is hereby declared to be the public policy of the state to conserve and control the natural resources of oil and gas in said state, and the products made therefrom; to prevent waste of said natural resources; to provide for the protection and adjustment of the correlative rights of the owners of the land wherein said natural resources lie and the owners and producers of oil and gas resources and the products made therefrom; and of others interested therein; to encourage rational development in said state of said natural resources of oil and gas and the products made therefrom; to encourage the continuous and economic supply of the demand therefor; to safeguard the health, property and public welfare of persons and for all purposes indicated by the provisions herein. It is not the intention of this law to limit or restrict or modify in any way the provisions of this law.

History.—S. 1, ch. 2269, 1945.

377.07 Division of Resource Management; powers, duties, and authority.—The Division of Resource Management of the Department of Natural Resources is hereby vested with power, authority and duty to administer, carry out and enforce the provisions of this law as directed in s. 370.02(3).

History.—S. 2, ch. 2269, 1945, § 4, ch. 41, 1946, § 25, 35, ch. 89, 1946, § 64, ch. 70, 65.

377.075 Division of Resource Management; geological functions.—The Department of Natural Resources shall, through the Division of Resource Management, establish the Florida Geological Survey and the department may be necessary to conduct the geological survey of the state.

(2) DISBURSEMENTS: SURVEY EXPENSES.—For the purpose of expeditiously and thoroughly carrying out the geological survey, there shall be included a sufficient appropriation in the annual general appropriations act. The Comptroller shall, upon the requisition of the Division of Resource Management, when approved by the Governor, draw his warrant on the Treasurer for the amount so appropriated in such sums as may be needed from time to time for the purpose of disbursements as herein set forth; and for all such expenditures the consent and approval of the Governor shall be obtained, and the vouchers for all such expenditures made from this fund shall be filed with the Comptroller; a statement of his receipts and expenditures shall be printed in the annual report of the division. The amount annually appropriated or so much thereof as may be necessary shall be expended for the salaries and for the contingent expenses of the survey, including compensation of all temporary and

527

permanent assistance; traveling expenses of the division; purchase of materials, or other necessary expenses for outfit; expenses incurred in providing for the transportation, arrangement, and proper exhibition of the geological and other collections made under the provisions of this law and for postage, stationery, and printing and the printing and engraving of maps and sections to illustrate the same.

(3) DUTIES.—The Division of Resource Management shall make annually to the Governor a report of the progress of its investigations and explorations of minerals, water supply, and other natural resources of the state and shall include in such report full description of such surveys and explorations, occurrences and localities of mineral and other deposits of value, surface and subterranean water supply and power and geothermal waters, and the best and most economical method of development, together with analyses of soils, minerals, and mineral waters, with most charts and drawings of the same.

(4) COLLECTION OF GEOLOGICAL SPECIMENS.—The Division of Resource Management shall make collections of specimens illustrating the geological and mineral features of the state, one suite of which shall be deposited in the office of the division at Tallahassee and duplicate suites of which shall be deposited in the libraries of each of the state colleges. Each suite shall be correctly labeled for convenient use and study.

(5) NOTIFYING OWNER OF DEPOSITS LOCATED.—The person in charge of the Division of Resource Management and his assistants, when they discover any mineral deposits or other substance which value shall notify the owner of the land upon which such deposits occur. The failure to notify to any other person constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) CHEMICAL ANALYSES BY STATE CHEMIST.—All chemical, analytical, or assay work shall be performed by the state chemist and his assistants at the direction of the Governor upon request of the Division of Resource Management.

History.—S. 1, ch. 2269, 1945, § 4, ch. 41, 1946, § 25, 35, ch. 89, 1946, § 37, ch. 71, 66, § 1, ch. 73, 66, § 85, ch. 79, 66, § 1, ch. 83, 1946, § 1, ch. 83, 1946, § 1, ch. 83, 1946.

377.10 Certain persons not to be employed by division.—No person in the employ of, or holding any official connection or position with any person, firm, partnership, corporation, or association of any kind, engaged in the business of buying or selling mineral leases, drilling wells in the search of oil or gas, producing oil or gas, transporting, refining, or distributing oil or gas, shall hold any position under, or be employed by, the Division of Resource Management in the execution of its duties under this law.

History.—S. 1, ch. 2269, 1945, § 25, 35, ch. 89, 1946, § 37, ch. 71, 66, § 1, ch. 73, 66, § 85, ch. 79, 66, § 1, ch. 83, 1946, § 1, ch. 83, 1946.

377.16 Common sources of oil and gas.—All common sources of supply of oil and gas or either of them shall have the production therefrom controlled or regulated in accordance with the provisions of this law.

History.—S. 1, ch. 2269, 1945.

377.19 Definitions.—Unless the context otherwise requires, the words defined in this section shall have the following meanings when found in s. 377.06, 377.07, 377.10-377.40:

(1) "Division" means the Division of Resource Management of the Department of Natural Resources.

(2) "State" means the State of Florida.

(3) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind.

(4) "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

(5) "Gas" means all natural gases, including casing-head gas and all other hydrocarbons not defined as oil in subsection (4).

(6) "Pool" means an underground reservoir containing or appearing to contain a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone on the structure is considered a separate pool as used herein.

(7) "Field" means the general area which is underlain, or appears to be underlain, by at least one pool; and "field" includes the underground reservoir, or reservoirs, containing oil or gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field" unlike "pool" means the person who has the right to drill into and to produce from any pool and to appropriate the production either for himself or for himself and another, or others.

(8) "Producer" means the owner or operator of a well or wells capable of producing oil or gas, or both.

(9) "Waste," in addition to its ordinary meaning, means "physical waste" as that term is generally understood in the oil and gas industry. "Waste" includes: (a) The inefficient, excessive, or improper use or spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which results in the waste of oil or gas, or the quantity of oil or gas ultimately to be recovered from any pool in this state.

(b) The inefficient storing of oil and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner causing or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.

(c) Producing oil or gas in such a manner as to cause unnecessary water channeling or coning.

(d) The operation of any oil well or wells with an inefficient gas-oil ratio.

(e) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(f) Underground waste however caused and whether or not defined.

(g) The escape into the open air from a well producing oil or gas.

(h) The creation of unnecessary fire hazards.

(i) The escape into the open air from a well producing oil or gas.

(j) The escape into the open air from a well producing oil or gas.

(k) The escape into the open air from a well producing oil or gas.

(l) The escape into the open air from a well producing oil or gas.

(m) The escape into the open air from a well producing oil or gas.

(n) The escape into the open air from a well producing oil or gas.

(o) The escape into the open air from a well producing oil or gas.

(p) The escape into the open air from a well producing oil or gas.

ducting both oil and gas, of gas in excess of the amount which is necessary in the efficient drilling or operation of the well.

(i) The use of gas for the manufacture of carbon black.

(j) Permitting gas produced from a gas well to escape into the air.

(k) Abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unreasonable withdrawals, causing undue drainage between tracts of land.

(11) "Product" means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas, gas oil, naphtha, distillate, coal oil, kerosene, white oil, lubricating oil, kerosene, and other products of oil or gas, and products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(12) "Illegal oil" means oil which has been produced within the state from any well or wells in excess of the amount allowed by rule, regulation, or order of the division, as distinguished from oil produced within the state from a well not producing in excess of the amount so allowed, which is "legal oil."

(13) "Illegal gas" means gas which has been produced within the state from any well or wells in excess of the amount allowed by any rule, regulation, or order of the division, as distinguished from gas produced within the State of Florida from a well not producing in excess of the amount so allowed, which is "legal gas."

(14) "Illegal product" means any product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal oil or illegal gas or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(15) "Reasonable market demand" means the amount of oil reasonably needed for current consumption, together with a reasonable amount of oil for storage and working stocks.

(16) "Tender" means a permit or certificate of clearance for the transportation or the delivery of oil, gas, or products, approved and issued or registered under the authority of the division.

(17) The use of the word "and" includes the word "or," and the use of "or" includes "and," unless the context clearly requires a different meaning especially with respect to such expressions as "oil and gas" or "oil or gas."

(18) "Well site" means the general area around a well, which area has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other or operation areas necessary to drill for or produce oil or gas.

History.—S. 1, ch. 2269, 1945, § 25, 35, ch. 89, 1946, § 37, ch. 71, 66, § 1, ch. 73, 66, § 85, ch. 79, 66, § 1, ch. 83, 1946, § 1, ch. 83, 1946.

528

377.20 Waste prohibited.—Waste of oil or gas defined in this law is hereby prohibited.

History.—1983, ch. 228, § 1.

377.21 Jurisdiction of division.—

(1) The division shall have jurisdiction and authority over all persons and property necessary to administer and enforce effectively the provisions of this law and all other laws relating to the conservation of oil and gas.

(2) The division shall have authority, and it shall be its duty, to make such inquiries as it may deem proper to determine whether waste, over which it has jurisdiction, exists or is imminent. In the exercise of such power, the division shall have the authority to:

- Collect data.
- Make investigations and inspections.
- Examine properties, leases, papers, books, and records.
- Require the owner of any well, or the owner of any oil or gas well, to submit to the division, for its use, all maps, plans, and other documents, and to submit to the division, for its use, all maps, plans, and other documents, and to submit to the division, for its use, all maps, plans, and other documents.

(d) Hold hearings.

(e) Provide for the keeping of records and the making of reports.

(f) Take such action as may be reasonably necessary to enforce this law.

(3) The jurisdiction of the division shall extend to the state boundaries as set forth in s. 1, Art. II of the State Constitution.

History.—1983, ch. 228, § 2.

377.22 Rules, regulations, and orders.—

(1) The Department of Natural Resources shall provide, by rules and regulations, for the taking of oil or gas from any well, or from any other source, in all pools on a reasonable and equitable basis.

(2) The department shall adopt such rules and regulations, and shall issue such orders, governing all phases of the exploration, drilling, and production of oil, gas, or other petroleum products in the state, including exploration, drilling, and production in the offshore waters of the state as may be necessary for the proper administration and enforcement of this chapter. Such rules, regulations, and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products. The department shall revise rules and regulations from time to time as may be necessary for the proper administration and enforcement of this chapter. Rules, regulations, and orders promulgated in accordance with this section shall be for, but shall not be limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of an

incident, human error, or a natural disaster during drilling, casing, or plugging of any well and during exploration operations.

(d) To require that a well be plugged in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, to the extent as provided by rules of the division relating to the disposal of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, conditioned upon the performance of the duty to plug properly each dry and abandoned well and the full and complete restoration, by the applicant, of the area over which the drilling or production is conducted to the similar contour and general condition in existence prior to such operation.

(g) To require and carry out a reasonable program of monitoring or inspection of all drilling operations in producing wells, including regular inspections by division personnel.

(h) To require the making of reports showing the location of all oil and gas wells, the making and filing of logs, the taking and filing of directional surveys, the filing of electrical, sonic, radiative, and mechanical logs of oil and gas wells, if taken, the filing of cutting and cores, the cuts of which shall be given to the Bureau of Geology, and the making of a report with respect to drilling and production records. However, such information, or any part thereof, at the request of the operator, shall be held confidential by the division for a period of 90 days after the completion of a well, and, at the option of the division, for a longer period.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases or property.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature or irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas.

(k) To require the operation of wells with efficient gas-oil ratio and to fix a maximum ratio.

(l) To prevent "blowouts," "creeps," and "seeps," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures and all storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating and chemical treatment of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

History.—1983, ch. 228, § 3.

(6) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(7) To regulate the spacing of wells and to establish drilling units.

(8) To prevent, so far as is practicable, reasonably available drainage from such developed unit which is not equalized by counterdrainage.

(9) To require that geophysical operations require a permit be conducted in a manner which will minimize the impact on hydrology and biota in the area, especially environmentally sensitive lands and coastal areas.

History.—1983, ch. 228, § 4.

377.23 Monthly reports to division.—Every producer of oil or gas in the state shall submit to the division, on or before the first day of each month, a monthly report of the actual production from each well, and every oil and gas well operated by him. Said producer shall submit a duplicate copy of said report at the same time to the Department of Banking and Finance, and said reports shall be submitted through the medium of the United States mails, and it shall be unlawful for the same to be transmitted or received in any other way.

History.—1983, ch. 228, § 5.

377.2408 Application to conduct geophysical operations.—

(1) Before any geophysical operation in search of oil, gas, or minerals shall be conducted, the person desiring to conduct such operation shall make application to the Department of Natural Resources upon such form as it may prescribe and shall pay a reasonable fee for processing.

(2) Each application shall contain a statement, in general terms, of the location in which such operation is intended to be conducted.

(3) Any information relating to location of the operation and other anti-competitive matter shall be kept confidential by the department and shall not be released to the public without the consent of the person submitting the application.

History.—1983, ch. 228, § 6.

377.241 Criteria for issuance of permits.—The division, in the exercise of its authority to issue permits as hereinafter provided, shall give consideration to and be guided by the following criteria:

(1) The nature, character, and location of the lands involved; whether rural, such as farms, groves, or ranches, or urban property vacant or presently developed for residential or business purposes or are in a location or of such a nature as to make such improvements and developments a probability in the near future.

(2) The nature, type, and extent of ownership of the applicant, including such matters as the length of time the applicant has owned the rights claimed without having performed or authorized exploratory operations so granted or authorized.

(3) The proven or indicated likelihood of the presence of oil, gas or related minerals in such quantities as to warrant the exploratory operation and extraction of such products on a commercially profitable basis.

History.—1983, ch. 228, § 7.

377.2409 Application to conduct geophysical operations.—

(1) Before any geophysical operation in search of oil, gas, or minerals shall be conducted, the person desiring to conduct such operation shall make application to the Department of Natural Resources upon such form as it may prescribe and shall pay a reasonable fee for processing.

(2) Each application shall contain a statement, in general terms, of the location in which such operation is intended to be conducted.

(3) Any information relating to location of the operation and other anti-competitive matter shall be kept confidential by the department and shall not be released to the public without the consent of the person submitting the application.

History.—1983, ch. 228, § 8.

377.241 Criteria for issuance of permits.—The division, in the exercise of its authority to issue permits as hereinafter provided, shall give consideration to and be guided by the following criteria:

(1) The nature, character, and location of the lands involved; whether rural, such as farms, groves, or ranches, or urban property vacant or presently developed for residential or business purposes or are in a location or of such a nature as to make such improvements and developments a probability in the near future.

(2) The nature, type, and extent of ownership of the applicant, including such matters as the length of time the applicant has owned the rights claimed without having performed or authorized exploratory operations so granted or authorized.

(3) The proven or indicated likelihood of the presence of oil, gas or related minerals in such quantities as to warrant the exploratory operation and extraction of such products on a commercially profitable basis.

History.—1983, ch. 228, § 9.

377.242 Abandonment of well.—Each abandoned well and each dry hole shall be plugged promptly in the manner and within the time required by regulations to be prescribed by the Department of Natural Resources, and the owner of such well shall give notice upon such form as the division shall prescribe, of the drilling of each dry hole and of the owner's intention to abandon, and shall pay a fee of \$15. No well shall be abandoned until such notice has been given and such fee has been paid.

(4) Application for permission to drill or abandon any well may be denied by the division for only just and lawful cause.

(5) No permit to drill a gas or oil well shall be granted within the corporate limits of any municipality, unless the governing authority of the municipality shall have first duly approved the application for such permit by resolution.

(6) No permit to drill a gas or oil well shall be

377.27 Drilling units.

(1) When two or more separately owned tracts of land are embraced within an established drilling unit, the owners thereof may validly agree to integrate their interests and to develop their lands as a drilling unit. Where, however, such owners have not agreed to integrate their interests, the division shall, for the prevention of waste and to avoid the risks involved in the drilling of unnecessary wells, require such owners to do so and to develop their lands as a drilling unit.

(2) Should the owners of separate tracts embraced within a drilling unit fail to agree upon the integration of the tracts and the drilling of a well on the unit, and should it be established that the division is without authority to require integration as provided for in subsection (1), then, subject to all other applicable provisions of this law, the owners of each tract embraced within the drilling unit may drill on their respective tracts, but the allowable production therefrom shall be apportioned to the separate owners of each tract on the basis of the allowable production for the full drilling unit as if the separately owned tract bears to the full drilling unit.

377.28 Cycling, pooling, and utilization of oil and gas.

(1) The Department of Natural Resources may consider the need for the operation as a unit of an entire field, or of any pool or pools, portion or portions, or combinations thereof within a field, for the production of oil or gas, or both, and other minerals which may be associated and produced therewith, in order to avoid the drilling of unnecessary wells, other means to prevent waste, or to increase the ultimate recovery of the unitized minerals by additional recovery methods.

(2) The Department shall issue an order requiring unit operation if it finds that:

- (a) Unit operation of the field, or of any pool or pools, portion or portions, or combinations thereof within the field, is reasonably necessary to prevent waste, to avoid the drilling of unnecessary wells, or to increase the ultimate recovery of oil or gas by additional recovery methods; and
- (b) The estimated additional net incident to the conduct of the operation will not exceed the value of the estimated additional recovery of oil or gas.

The phrase "additional recovery methods" as used herein includes, but is not limited to, the maintenance or partial maintenance of reservoir pressures; recycling; flooding a pool or pools, or parts thereof, with air, gas, water, liquid hydrocarbons, any other substance, or any combination thereof; or any other method of producing additional hydrocarbons approved by the department.

(3) The order shall be fair and reasonable under all the circumstances, shall protect the rights of interested parties, and shall include:

- (a) A description of the area embraced, termed the "unit area" and a description of the pool or pools, or portions thereof, affected and lying within the unit area;
- (b) A statement of the nature of the operations contemplated;

(c) A method of allocation among the separately owned tracts in the unit area of all the oil or gas, or both, produced from the unit pool within the unit area and not required from the conduct of such operation or unavoidably lost, such method of allocation to be on a formula that is fair and equitable and that will protect the correlative rights of all interested parties.

(d) A provision for adjustment among the owners of the unit area (not including royalty owners) of their respective investments in wells, tanks, pumps, machinery, equipment, and other things, including the cost of value attributable to the operations and services of value attributable to the operations. The amount to be charged by the owners of any such item shall be determined by the owners of the unit area (not including royalty owners). However, if said owners of the unit area are unable to agree upon the amount of such charges or upon the correctness thereof, the department shall determine the amount. The net amount charged against the owners of a separately owned tract shall be considered expense of unit operation chargeable against such tract. The adjustment provided for herein may be treated separately and handled by agreements separate from the unitization agreement.

(e) A provision that the costs and expenses of unit operation, including investment, past and prospective, be charged to the separately owned tracts in the same proportions that such tracts share in unit production. The expenses chargeable to a tract shall be the proportion of the total expenses of the unit operation that the tract bears to the total production of the unit operation, and who, in the absence of unit operation, and operating on the tract, would be primarily responsible therefor. The obligation or liability of such persons in the several, separately owned tracts for the payment of unit expense shall at all times be several, and not joint or collective. The unit operator shall have a first and prior lien upon:

1. The leasehold estate, exclusive of the royalty interest provided thereby, and upon unleased oil and gas rights, exclusive of one-eighth interest therein, in and to each separately owned tract; and
2. The interest of the owners thereof in and to the unit production and all equipment in possession of the unit.

To secure the payment of the amount of the unit expense charged to and assessed against such separately owned tract:

- (1) The designation of, or a provision for the selection of, the unit operator. The contract of all unit operations by the unit operator shall be governed by the terms and provisions of the unitization agreements.

(f) A provision that when the full amount of any charge made against any interest in a separately owned tract is not paid when due by the person or persons primarily responsible therefor, then all of the oil and gas production allocated to the interest in default in such separately owned tract, upon which operation has a lien, may be appropriated by the unit operator and marketed and sold for the payment of such charge, together with interest at a rate of 6 per-

cent per annum. The remaining portion of the unit production, or the proceeds derived therefrom, allocated to each separately owned tract shall in all events be regarded as royalty to be paid to the owners, free and clear of all unit expense and free and clear of any lien therefor. The owner of any overriding royalty, oil and gas payment, or other interest who is not primarily responsible for the unpaid obligation shall, to the extent of any payment or deduction from his share, be subrogated to the rights of the unit operator with respect to the interest or interest plus production shall be credited to the person or persons from whom it was deducted, in the proportion of their respective interest.

(f) The time the unit operation shall become effective and the manner in which, and the circumstances under which, the unit operation shall terminate.

(4) An order requiring unit operation shall not become effective unless and until:

- (a) A contract incorporating the unitization agreement has been signed or ratified or approved in writing by the owners of at least 75 percent in interest as costs are shared under the terms of the order and by 75 percent in interest in the unit area. If any entity owns both royalty interests and interests responsible for costs, such party may vote as an owner of the unit area, but not as both, and his interest that is not voted shall be excluded in calculating the percentages of consent and nonconsent.

(b) A contract incorporating the required arrangements for operations has been signed or ratified or approved in writing by the owners of at least 75 percent in interest as costs are shared.

and the department has made a finding to that effect either in the order or in a supplemental order. Both contracts may be encompassed in a single document. In the event the required percentage interests have not signed, ratified, or approved the said agreements within 6 months after the date of such order, or without such extended period as the department may prescribe, it shall be automatically revoked.

(3) (a) The department, by entry of new or amended orders, may from time to time add to unit operations portions of pools not theretofore included, and may extend the unit area as required. Any such extension shall be made by order of the department from a unit pool zone of the unit area, shall first allocate a portion of the total production of the unit area to such pool zone, and shall be made as enlarged, and not effected in the unit area, as operations or unavoidably lost, such allocation to be based on a formula for sharing that is considered to be fair and equitable and that will protect the correlative rights of all interested parties. The production so allocated to such added pool or pools or portions thereof shall be allocated to the separately owned tracts which participate in such production on a fair and equitable basis. The remaining portion

of unit production shall be allocated among the separately owned tracts within the previously established unit area in the same proportions as those specified prior to the enlargement. The department is authorized to be erroneous by data developed subsequent to the former determination, in which case subsequent orders shall be corrected. Orders promulgated under this section shall become operative at 7 a.m. on the first day of the month next following the day on which the order becomes effective.

(b) An order promulgated by the department shall not become effective unless and until:

1. All of the terms and provisions of the unitization agreement relating to the extension or enlargement of the unit area or to the extension of pools or portions thereof to unit operations have been fulfilled and satisfied and evidence thereof has been submitted to the department.

2. The extension or addition effected by such order has been agreed to in writing by the owners of at least 75 percent in interest as costs are shared in the unit area or pools or portions thereof to be added to the unit operation by such order and by 75 percent in interest in the area or pools or portions thereof to be added to the unit operations by such order and evidence thereof has been submitted to the department. If any entity owns both royalty interests and interests responsible for costs, such party may vote as an owner of the unit area, but not as both, and his interest that is not voted shall be excluded in calculating the percentages of consent and nonconsent.

In the event both of the requirements specified in subparagraphs 1. and 2. are not fulfilled within 6 months after the date of such order, or within such extended period as the department may prescribe, it shall be automatically revoked.

(c) When the contribution of a separately owned tract with respect to any unit pool has been established, such contribution shall not be subsequently altered except to correct a mathematical or clerical error that caused the tract's contribution to be erroneous, unless an enlargement of the unit is effected. No change or correction of the contribution of any separately owned tract shall be given retroactive effect, but appropriate adjustment shall be made for the investment charges as provided in this section.

(7) The portion of unit production allocated to a separately owned tract within the unit area shall be deemed, for all purposes, to have been actually produced from such tract, and operations with respect to any unit pool within the unit area shall be deemed, for all purposes, to be the conduct of operations for the production of oil or gas, or both, from each separately owned tract in the unit area.

(8) Subsections (1) through (7) shall apply only to field or pool units, and shall not apply to the unitization of interests within an individual drilling unit.

(9) All orders requiring integration, pooling, cycling, representing pressure maintenance, or secondary operations shall be upon terms and conditions that the department shall find reasonable, will afford to the owner of each tract the opportunity to recover his just and equitable share of the oil and gas in the pool

without unnecessary expense, and, as to individual drilling units, will prevent or minimize reasonably avoidable drainage from each unit which is not equalized by counterdrainage. The portion of the production allocated to the owner of each tract included in unit operation formed by a unit operation order shall, when produced, be considered as if it had been produced from such tract by a well drilled thereon. In the event such integrated or pooling is required, the operator designated by the department to develop and operate the unit operation shall have the right to charge against each other owner's interest in the production from the well filled by such designated operator, the actual drilling cost, including the cost of the well, not in excess of what is reasonable, including a reasonable charge for supervision, and the operator shall have the right to receive the first production from such wells drilled by him or her or his or her joint interest in the drilling of the well so that the amount due by each of them for his share of the expense of drilling, equipping, and operating the well may be paid to the operator of the well out of production, with the value of production calculated at the market price in the field at the time such production is received by the operator or placed to his credit. In the event of any dispute relative to such costs, the division shall determine the proper cost. In the event a dry hole should be drilled on an individual drilling unit, no liability for any part of the cost of drilling said well shall attach to any person or persons by reason of the unit operation order of the department.

377.29 Agreements in interest of conservation.—Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among owners and operators, or both, owning separate holdings in the same oil or gas pool, or in any area that appears from geological or other data to be underlain by a common accumulation of oil or gas, or both, or between and among such owners or operators, or both, and royalty owners therein, of the pool or area, or any part thereof, as a unit for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the division, are hereby authorized and shall not be held or considered to restrict any of the features of this state relating to the ownership of oil or gas, or contract and limitations in restraint of trade.

377.30 Limitation on amount of oil or gas taken.—(1) Whenever the total amount of oil or gas which all the pools in the state can produce exceeds the amount reasonably required to meet the reasonable market demand for oil or gas in this state, then the division shall limit the total amount of oil or gas which may be produced in the state by fixing an allowable for the state among the pools on a reasonable basis and in such a manner as to avoid undue discrimination, and so that waste will be prevented. In allocating the allowable for the state, and in fixing al-

lowable for pools producing oil or gas, the division shall take into account the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil and gas and shall formulate rules setting forth standards or a program for the distribution of the allowable for the state, and shall distribute the allowable for the state in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or program shall be applied to such pool and area. (2) Whenever the division finds that a pool will be allowed to produce in excess of the amount of natural gas from any pool to supply adequately the reasonable market demand for such gas for light and fuel purposes if such production can be obtained without waste, and provided, further, that if the amount allocated to a pool as its share of the allowable for the state is in excess of the amount which the pool should produce to prevent waste, then the division shall fix the allowable for the pool so that waste will be prevented.

(2) Whenever the division limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction were imposed, which limitation may be imposed either incidentally to, or without, a limitation of the total amount of oil or gas which may be produced in the state, the division shall prorate or distribute the allowable production among the producers in the pool on a reasonable basis so as to prevent or minimize waste. (3) Each producer will have the opportunity to produce or receive his just and equitable share, as above set forth, subject to the reasonable requirement for the prevention of waste.

(3) After the effective date of any rule, regulation or order of the division fixing the allowable production of oil or gas, or both, for any pool, no person shall produce from any well, lease or property more than the allowable production which is applicable, nor shall such amount be produced in a different manner than that which may be authorized.

377.31 Evidence of rules and orders.—A certified copy of any division rule, regulation, or order shall be received in evidence in all courts of this state with the same effect as the original thereof.

377.32 Issuance of subpoenas; service; etc.—(1) The division is hereby empowered to issue subpoenas for witnesses, to require their attendance and the giving of testimony before it, and to require the production of books, papers and records in any proceeding before the division as may be material upon questions lawfully before the division. Such subpoenas shall be served by the sheriff or any other officer authorized by law to serve process in this state. No person shall be excused from attending and testifying, or from producing books, papers and rec-

ords, before the division or a court, or from obedience to the subpoena of the division or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; provided, that nothing herein contained shall be construed as requiring any person to produce any books, papers or records, or to testify in response to any inquiry not pertinent to some question lawfully before the division or court for determination. No natural person shall be subjected to criminal prosecution or to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he may be required to testify before the division or court, or on testimony to its subpoena; provided, that no testimony shall be exempted from production and punishment for perjury committed so testifying.

(2) In case of failure or refusal on the part of any person to comply with any subpoena issued by the division, or in case of the refusal of any witness to testify, or answer as to any matter regarding which he may be lawfully interrogated, any circuit court in this state, on the application of the division, may issue an attachment for such person and compel him to comply with such subpoena and to attend before the division and produce such documents, and give his testimony upon such matters as may be lawfully required, and such court shall have the power to punish for contempt as in case of disobedience of like subpoena issued by or from such court, or for refusal to testify therein.

377.33 Injunctions against division.—(1) Any interested state with respect to conservation of oil or gas, or both, or by provisions of this law may be sought by a suit for injunction against the division as defendant, or the members thereof by suit in the chancery court in the county or counties wherein the property involved is situated, or in the chancery court of Leon County. Such suit shall have precedence over all other causes, proceedings, or suits on the docket of a different nature, and the attorney representing the division may have the case set for trial after 10 days' notice to the plaintiff or his attorney. Such trial shall be de novo, and the burden of proof shall be upon the plaintiff. The statute or provision of this law complained of shall be taken as prima facie valid, and such presumption shall not be overcome, in connection with any application for injunctive relief, including temporary restraining order, by a verified complaint or affidavit of, or in behalf of, the applicant.

(2) No temporary restraining order or injunction shall be granted against the division or against its attorneys, agents, employees, or employees or representatives from enforcing any statute of this state relating to the law of oil or gas, or any of the provisions of this law, except after due notice, served upon the executive director of the department, and after a hearing at which it shall be shown to the court by legal evidence that the act done or threatened is

without sanction of law or that the provisions of this law are invalid or unreasonable and, if enforced against the complaining party, will cause an irreparable injury. If the division shall so request at such hearing, it shall be entitled to a trial on the merits within 10 days after the granting of any temporary order, and, if the plaintiff is not ready for trial at such time, the court shall be authorized to dissolve the temporary restraining order.

(3) No temporary injunction of any kind against the division, or against its attorneys, agents, employees or representatives, shall be granted, effective until the plaintiff shall execute a bond in the amount and upon the conditions the court directs. The bond shall be made payable to the Governor and his successors in office shall be approved by the court or clerk, and shall be for the use and benefit of all persons who may be injured by the acts done under the protection of the injunction.

377.34 Actions and injunctions by division.—(1) Whenever it shall appear that any person is violating, or threatening to violate, any provision of this state with respect to the conservation of oil or gas, or both, or any provision of the rules or any rule, regulation or order made thereunder by any act done in the operation of the division, or by the division, or by any person required to be done thereunder, the division, through its counsel, or the Department of Legal Affairs on its own initiative, may bring suit against such person in the Circuit Court in the County of Leon, state, or in the circuit court in the County in which the well in question is located, at the option of the division, or the Department of Legal Affairs, to restrain such person or persons from continuing such violation or from carrying out the threat of violation. In such suit, the division, or the Department of Legal Affairs, may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions, as the facts may warrant, including, when appropriate, an injunction restraining any person from moving or disposing of illegal oil, illegal gas or illegal product, and any or all such commodities may be ordered to be impounded by the court under the control of a receiver appointed by the court. If, in the judgment of the court, such action is advisable.

(2) In the event the division, or the Department of Legal Affairs, should fail to bring suit within 10 days to enforce any actual or threatened violation of any statute of this state with respect to the conservation of oil or gas, or of any provision of this law, or of any rule, regulation or order made thereunder, then any person or party in interest adversely affected by such violation, and who has notified the division, or the Department of Legal Affairs, in writing of such violation, or threat thereof, and has requested the division, or the Department of Legal Affairs, to sue, may, to prevent any or further violation, bring suit for that purpose in the Circuit Court of the County of Leon, in the state. If, in such suit, the court should hold that injunctive relief should be granted, then the division, or the Department of Legal Affairs, shall be made a party and shall be subject-

tuted for the person who brought the suit, and the injunction shall be issued as if the division, or the Department of Legal Affairs, had at all times been the complainant.

(3) If any such defendant cannot be personally served with summons in that county, personal jurisdiction of that defendant in this state may be obtained by service made upon him or his employee or agent of that defendant at any place of legal address by the division, or the Department of Legal Affairs, mailing copy of the complaint in the action to the defendant at the address of the defendant then recorded with the division, or the Department of Legal Affairs.

History.—S. 377, ch. 229, § 1, ch. 99, 1965, § 1, ch. 23, ch. 98, 1965.

377.35 Suits, proceedings, appeals, etc.—In all proceedings brought under authority of this law, or of any rule or gas conservation statute of this state, and of any rule, regulation, or order made thereunder, and of all proceedings instituted for the purpose of enforcing the validity of any provision of the law, or of any rule or gas conservation statute, or of any rule, regulation, or order made thereunder, review may be had pursuant to Art. 5, State Constitution; the Florida Appellate Rules, and Chapter 120.

History.—S. 377, ch. 229, § 1, ch. 99, 1965, § 1, ch. 23, ch. 98, 1965.

377.36 False entries and statements; incomplete entries; penalties.—Any person who, for the purpose of evading this law, or of evading any rule, regulation, or order made hereunder, shall intentionally make, or cause to be made, any false entry, statement of fact in any report required to be made hereunder; or who, by any rule, regulation, or order made hereunder; or who, for such purpose, shall make, or cause to be made, any false entry in any account, record, or memorandum kept by any person in connection with any provision of this law, or of any rule, regulation, or order made hereunder; or who, for such purpose, shall omit to make, or cause to be omitted, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions pertaining to the interest or activities in the petroleum industry of such person, as may be required by the division under authority given in this law, or by any rule, regulation, or order made hereunder; or who, for such purpose, shall omit to make, or cause to be omitted, the state, or who shall make, alter, or, by any other means, falsify any book, record, or other paper pertaining to the transaction, or regulated by this law, or by any rule, regulation, or order made hereunder, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 of the Florida Statutes.

History.—S. 377, ch. 229, § 1, ch. 99, 1965, § 1, ch. 23, ch. 98, 1965.

377.37 Penalties.—

(1)(a) Any person who violates any provision of this law, or any rule, regulation, or order of the division made under this chapter, or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1), or any lease, permit, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products

537

who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property by any animal, plant, or aquatic life of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, each person, lessee, permit holder, or operator is subject to the judicial imposition of a civil penalty in an amount of not more than \$10,000 for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of the private person.

(b) When two or more persons pollute the air or waters of the state in violation of this chapter or any rule, regulation, or order of the department in such a manner that the damage is indivisible, each violator is jointly and severally liable for such damage and for the reasonable costs and expenses of the state incurred in tracing the source of the discharge, in controlling and abating the air, waters, and property, including the animal, plant, and aquatic life of the state to their former condition. However, if the violator or violators, each violator is liable only for that damage attributable to his violation.

(c) The payment of any damages or penalties as provided for herein shall not have the effect of changing illegal product into legal product, illegal oil into legal oil, or illegal gas into legal gas; nor shall such payment have the effect of authorizing the sale, purchasing, acquisition, transportation, refining, processing, or handling in any other way of such illegal oil, illegal gas, or illegal product.

(d) The payment of any such damages or penalties shall not impair or abridge any cause of action which any person of this law or any rule, regulation, or order for an injury resulting to him from such violation.

(2) Any person knowingly and willfully aiding or abetting any other person in the violation of any statute of this state relating to the conservation of oil or gas or the violation of any provision of this law, or any rule, regulation, or order made hereunder, shall be subject to the same damages as are prescribed herein for the violation by such other person.

History.—S. 377, ch. 229, § 1, ch. 99, 1965, § 1, ch. 23, ch. 98, 1965.

377.371 Pollution prohibited; reporting, liability.—

(1) No person drilling for or producing oil, gas, or other petroleum products shall pollute land or water, damage aquatic or marine life, wildlife, birds, or public or private property, or allow any extraneous matter to enter or damage any mineral or freshwater-bearing formation.

(2) All spills or leakage of oil, gas, other petroleum products, or waste material shall be reported to the division and those of any quantity which cannot

be immediately controlled shall be reported immediately to the division and the appropriate federal agencies.

(3) Because it is the intent of this chapter to provide for the rapid and effective cleanup and to minimize damages resulting from pollution in violation of this chapter, if the waters of the state are polluted by the drilling or production operations of any person or persons and such pollution damages or threatens to damage human, animal, or plant life, public or private property, or any mineral or water-bearing formation, said person shall be liable to the state for the cost of cleanup or other damage incurred by the state. In any such case, the person or persons shall be liable to the state to plead or prove negligence in any form or manner on the part of the person or persons conducting the drilling or production operations; the state need only plead and prove the fact of the prohibited discharge or other polluting condition and that it occurred at the facilities of the person or persons conducting the drilling or production operation. No person or persons conducting the drilling or production operation shall be liable if said person or persons prove that the prohibited discharge or other polluting condition was the result of any of the following:

- (a) An act of war.
- (b) An act of government, either state, federal, or municipal.
- (c) An act of God, which means an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.
- (d) An omission of a third party without regard to whether any such act or omission was or was not negligent.
- (e) Any person who is found liable for damages or costs of cleanup as provided in this section shall not be liable for penalties under the provisions of chapter 403 or chapter 376.

History.—S. 377, ch. 229, § 1, ch. 99, 1965.

377.38 Illegal oil, gas, and other products; sale, purchase, acquisition, transportation, refining, processing, or handling prohibited.—

(1) The sale, purchase, or acquisition, or the transportation, refining, processing, or handling in any other way, of illegal oil, illegal gas, or illegal product is hereby prohibited.

(2) Unless and until the division provides for certificates of clearance or tenders, or some other method, so that any person may have an opportunity to determine whether any contemplated transaction of sale, purchase, or acquisition, or of transportation, refining, processing, or handling in any other way, involves illegal oil, illegal gas, or illegal product, no liquidated damages shall be assessed for the sale, purchase, or acquisition, or the transportation, refining, processing, or handling in any other way, of illegal oil, illegal gas, or illegal product, except under circumstances hereinafter stated. Liquidated damages shall be imposed for the commission of each transaction prohibited in this section when the person committing the same knows that illegal oil, illegal gas, or illegal product is involved in such transaction, or when such person could have known or determined such

538

fact by the exercise of reasonable diligence or from facts within his knowledge. However, regardless of lack of actual notice or knowledge, liquidated damages as provided in this law shall apply in any sale, purchase, or acquisition, and to the transportation, refining, processing, or handling in any other way, of illegal oil, illegal gas, or illegal product, where administrative provision is made for identifying the character of the commodity as to its legality. It shall likewise be a violation for which liquidated damages shall be imposed for any person to sell, purchase, or acquire, or to transport, refine, process, or handle in any other way any oil, gas, or product without complying with all applicable rules, regulations, or orders of the division relating thereto.

History.—S. 377, ch. 229, § 1, ch. 99, 1965.

377.39 Seizure and sale of illegal oil, gas, or product.—

(1) Apart from, and in addition to, any other remedy or procedure which may be available to the division, or any liquidated damages which may be sought against or imposed upon any person with respect to violations relating to illegal oil, illegal gas, or illegal product, all illegal oil, illegal gas, and illegal product shall, except under such circumstances as are stated herein, be contraband and shall be seized and sold, and the proceeds applied as herein provided. Such sale shall not take place unless the court shall find, in the proceeding provided for in this subsection, that the commodity involved is contraband. Whenever the division believes that illegal oil, illegal gas, or illegal product is subject to seizure and sale, as provided herein, it shall, through its counsel, bring a civil action in rem for that purpose in the circuit court of the county where the commodity is found or the action may be maintained in connection with any suit involving such commodity or for liquidated damages relating to any prohibited transaction involving such illegal oil, illegal gas, or illegal product. Any interested person, who may show that he has been adversely affected by any such seizure and sale, shall have the right to intervene in such suit to protect his rights.

(2) The action referred to above shall be strictly in rem and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas, or illegal product mentioned in the complaint, as defendant, and no bond or bonds shall be required of the plaintiff in connection therewith. Upon the filing of the complaint, the clerk of the court shall issue a summons directed to the sheriff of the county, or to such other officer or person as the court may authorize to serve process, requiring him to summon any and all persons without undertaking to name them, who may be interested in the illegal oil, illegal gas, or illegal product mentioned in the complaint to appear and answer within 30 days after the issuance and service of such summons. The summons shall contain the state and number of the suit and a very brief statement of the nature of the cause of action. It shall be served by posting or by other means of constructive notice of the court or of the clerk of the court in the county where the commodity involved in the suit is alleged to be located and by posting another copy thereof near the place where the commodity is alleged to be located. One copy of such summons

shall then respond by instituting the appropriate measures of the contingency plan to meet the given emergency or energy shortage. The Governor may utilize the provisions of s. 252.36(5) to carry out any emergency actions required by a serious shortage of energy resources.

(b) The office shall constitute the responsible state agency for performing or coordinating the functions of any federal energy programs delegated to the state, including energy supply, demand, conservation, or allocation.

(c) The office shall analyze present and proposed federal energy programs and recommend the state's position.

(d) The office shall coordinate efforts to seek federal support or other support for state energy activities, including energy conservation, research, or development, and shall be the state agency responsible for the coordination of multiagency energy conservation programs.

(e) The office shall analyze energy data collected and report long range energy needs to the Governor and prepare recommendations with the Florida Public Service Commission, which shall have responsibility for electricity and natural gas forecasts. To this end, the forecasts published in 1980 and thereafter shall contain:

1. An analysis of the relationship of state economic growth and development to energy supply and demand, including the constraints to economic growth resulting from energy supply constraints.
2. Plans for the development of renewable energy resources and reduction in dependence on depletable energy resources, particularly oil and natural gas, and an analysis of the extent to which renewable energy sources are being utilized in the state.
3. Consideration of alternative scenarios of statewide energy supply and demand for 5, 10, and 20 years, to identify strategies for long-range action, including identification of potential social, economic, and environmental effects.
4. An assessment of the state's energy resources, including examination of the availability of commercially developable and imported fuels, and an analysis of anticipated effects on the state's environment and social services resulting from energy resource development activities or from energy supply constraints, or both.

The office shall make an annual report to the Legislature, 60 days prior to each regular session, reflecting its findings and recommendations. The office shall also submit to the state's response to energy supply and demand and its effect on the health, safety, and welfare of the people of Florida. The report shall include a report from the Florida Public Service Commission on electricity and natural gas and information on energy conservation programs conducted and under way in the past year and shall include recommendations for energy conservation programs for the state, including, but not limited to, the following factors:

1. Formulation of specific recommendations for improvement in the efficiency of energy utilization in governmental, residential, commercial, industrial, and transportation sectors.

energy, and recycling of manufactured products. Such promotion shall be conducted in conjunction with, and after consultation with, the Department of Environmental Regulation, the Florida Public Service Commission where electrical generation or natural gas is involved, and any other relevant federal, state, or local governmental agency having responsibility for resource recovery programs.

(k) Upon advisement by the Florida Energy Research and Development Task Force, the office shall develop, coordinate, and promote a comprehensive research plan for state programs. Such plan shall be consistent with state energy policy and shall be updated on a continuing basis.

(l) The Department of Community Affairs shall be responsible for the administration of the Coastal Energy Impact Program provided for and described in Part I, No. 94-370, 16 U.S.C. s. 1456a.

History.—s. 1, ch. 78-254, § 1, ch. 78-254, § 1, ch. 78-198, § 1, ch. 80-167, § 33, ch. 81-467, § 32, ch. 81-468, § 33, ch. 83-35.

377.705 Solar Energy Center development of solar energy systems.—

(1) SHORT TITLE.—This act shall be known and may be cited as the Solar Energy Standards Act of 1978.

(2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature recognizes that, if present trends continue, Florida will increase present energy consumption fivefold by the year 2000. Because of this dramatic increase and because existing domestic conventional energy resources will not provide sufficient energy to meet the nation's future needs, new sources of energy must be developed and applied.

One such source, solar energy, has been in limited use in Florida for 30 years. Applications of incident solar energy, the use of solar radiation to provide energy for water heating, space heating, space cooling, and other uses, through suitable absorbing equipment on or near a residence or commercial structure, must be extensively expanded. Unfortunately, the initial costs with regard to the production of solar energy have been prohibitively expensive. However, because of increases in the cost of conventional fuel, certain applications of solar energy are becoming competitive, particularly when life-cycle costs are considered. It is the intent of the Legislature in formulating a sound and balanced energy policy for the state to encourage the development of an alternative energy capability in the form of incident solar energy.

(b) Toward this purpose, the Legislature intends to provide incentives for the production and sale of, and to set standards for, solar energy systems. Such manufactured or sold within the state are effective and represent a high level of quality of materials, workmanship, and design.

(3) DEFINITIONS.—

(a) "Center" is defined as the Florida Solar Energy Center of the Board of Regents.

(b) "Solar energy systems" is defined as equipment which provides for the collection and use of incident solar energy for water heating, space heating or cooling, or other applications which normally require or would require a conventional source of energy.

gy such as petroleum products, natural gas, or electricity and which performs primarily with solar energy. In such other systems in which solar energy is used in a supplemental way, only those components which collect and transfer solar energy shall be included in this definition.

SET STANDARDS, REQUIRE DISCLOSURE, SET TESTING FEES.

(a) The center shall develop and promulgate standards for solar energy systems manufactured or sold in this state based on the best currently available information and shall consult with scientists, engineers, or persons in research centers who are engaged in the construction of, experimentation with, and research of solar energy systems to properly identify the most reliable designs and types of solar energy systems.

(b) The center shall establish criteria for testing performance of solar energy systems and shall maintain the necessary capability for testing or evaluating performance of solar energy systems. The center may accept results of tests on solar energy systems made by other organizations, companies, or persons when such tests are conducted according to the criteria established by the center and when the testing entity has no vested interest in the manufacture, distribution or sale of solar energy systems.

(c) The center shall be entitled to receive a testing fee sufficient to cover the costs of such testing. All testing fees shall be transmitted by the center to the State Treasurer to be deposited in the Solar Energy Center Testing Trust Fund, which is hereby created in the State Treasury, and disbursed for the payment of expenses incurred in testing solar energy systems.

(d) All solar energy systems manufactured or sold in the state must meet the standards established by the center and shall display accepted results of approved performance tests in a manner prescribed by the center.

History.—s. 1, § 1, ch. 78-254, § 1, ch. 78-198, § 1, ch. 80-167, § 33, ch. 81-467, § 32, ch. 81-468, § 33, ch. 83-35.

377.706 Florida Energy Research and Development Task Force; creation; membership; responsibilities.—

(1) There is established the Florida Energy Research and Development Task Force, the members of which shall be to coordinate, plan, and monitor energy research and development. The task force shall be chaired jointly by the Governor and the Chancellor of the State University System. Membership of the task force may consist of up to 20 persons, chosen by the joint chairmen as necessary to implement the provisions of this section. Membership shall include one representative from each of the universities in the State University System who is recommended by the president of each such university.

(2) The responsibilities and duties of the Florida Energy Research and Development Task Force shall be as follows:

- (a) To develop and maintain a current index and profile of all research activities of state universities, of private universities, of federal, state, and local governmental agencies, and of private industry. Such in-

dering of aid by the party states to each other in coping with nuclear incidents. The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic areas covered by this compact.

(6) SUPPLEMENTARY AGREEMENTS.—

(a) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes, its duration and the procedure for termination thereof and allocating the costs of the activity or project and such other matters as may be necessary or appropriate pursuant to this act shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program of activity conducted by or participated in by the party states.

(b) Unless all of the party states participate in a supplementary agreement, any costs thereof shall be borne separately by the states party thereto. However, the board or administrator or otherwise assist in the operation of any supplementary agreement entered into pursuant to this act shall be relieved thereof of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(7) OTHER LAWS AND REGULATIONS.—Nothing in this compact shall be construed to:

- (a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subregion thereof now or hereafter made, enacted or in force.
- (b) Limit, diminish or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal, state, agency or other person or entity in conformity with any valid and operative Act of Congress.
- (c) Alter the relations between the respective internal responsibilities of the government of a party state and its subdivisions or the board to exercise any regulatory authority or to own or operate any nuclear reactor for or to own or operate electric energy, nor shall the board own or operate any facility or installation for industrial or commercial purposes.

(8) ELIGIBLE PARTIES. ENTRY INTO FORCE AND WITHDRAWAL.—

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia shall be eligible to become party to this compact.

Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; provided that it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the governor of the withdrawing state shall have sent formal notice in writing to the governors of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw therefrom.

(9) SEVERABILITY AND CONSTRUCTION.—The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable, and if any phrase, clause, sentence or provision of this compact or any supplementary agreement is declared to be contrary to the constitution or the applicability thereof to any government, agency or person or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

History.—2-18-61, 67, 71, 73, 75, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97, 99, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289, 291, 293, 295, 297, 299, 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, 363, 365, 367, 369, 371, 373, 375, 377, 379, 381, 383, 385, 387, 389, 391, 393, 395, 397, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 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operations is not intended to limit the generality of subsection (1). 2005-2, L.A. 80-28

380.045. Resource planning and management committees; objectives; procedures.

(1) Prior to recommending an area as an area of critical state concern pursuant to s. 380.05, the Governor, acting as the chief planning officer of the state, shall appoint a resource planning and management committee for the area under study by the state land planning agency. The objective of the committee shall be to organize a voluntary, cooperative resource planning and management program to resolve existing and prevent future, problems which may endanger those resources, facilities, and areas described in s. 380.05(2) within the area under study by the state land planning agency.

(2) The committee shall include, but not be limited to, representation from each of the following: Elected officials from the local governments within the area under study; the planning office of each of the local governments within the area under study; the state land planning agency; any other state agency under chapter 20 a representative of which the Governor feels would be relevant to the completion of the committee; and a water management district, if appropriate; and a regional planning council all or part of whose jurisdiction lies within the area under study. After the appointment of the members, the Governor shall select a chairman and vice chairman. A staff member of the state land planning agency shall be appointed by the director of such agency to serve as the secretary of the committee. The state land planning agency shall, to the greatest extent possible, provide technical assistance and administrative support to the committee. Meetings will be called as needed by the chairman or on demand of three or more members of the committee. The committee will act on a simple majority of a quorum present and shall make a report within 6 months to the head of the state land planning agency. The committee shall, from the time of appointment, remain in existence for not less than 6 months.

380.05. Areas of critical state concern.

(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed areas of environmentally endangered lands and outdoor recreation lands under the Land Conservation Act of 1972. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; and an inventory of lands owned by the state, federal,

county, and municipal governments within the proposed area.

(b) Within 45 days following receipt of a recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the same with or without modification and by rule designate the area of critical state concern and the principles for guiding the development of the area. The rule shall become effective 20 days after filing with the Secretary of State, except that an emergency rule adopted by the commission and designating an area of critical state concern shall become effective immediately on filing. Any rule adopted pursuant to this paragraph shall be presented to the Legislature for review pursuant to paragraph (c). An economic impact statement prepared pursuant to s. 120.34(2)(c) shall not be grounds for a challenge of the rule; however, a landowner shall not be precluded from using adverse economic results as grounds for challenge. Such principles for guiding development shall apply to any development undertaken subsequent to the legislation of the area of critical state concern with or without modification and to the adoption of land development rules and regulations or a local comprehensive plan for the critical area pursuant to subsections (6) and (8). No boundary or principles for guiding development shall be adopted without a specific finding by the commission that the boundaries or principles are consistent with the protection of the resources or area sought to be protected. The commission is not authorized to adopt any rule that would provide for a moratorium on development in any area of critical state concern.

(c) A rule adopted by the commission pursuant to paragraph (b) designating an area of critical state concern and principles for guiding development shall be submitted to the President of the Senate and the Speaker of the House for review no later than 30 days prior to the next regular session of the Legislature. The Legislature may reject, modify, or take no action relative to the adopted rule. In its deliberations, the Legislature may consider, among other factors, whether a resource planning and management committee has established a program pursuant to s. 380.045. In addition to any other data and information required pursuant to this chapter, all rules presented to the Legislature shall include a detailed legal description of the boundary of the area of critical state concern, proposed principles for guiding development, and a detailed statement of how the area meets the criteria for designation as provided in subsection (2).

(d) If after the repeal of the boundary designation of an area of critical state concern pursuant to subsection (1)(b), the state land planning agency determines that the administration of the local land development regulations or a local comprehensive plan within a formerly designated area is inadequate to protect the former area of critical state concern, then the state land planning agency may recommend to the commission that the area be redesignated as an area of critical state concern. Within 45 days following the receipt of the recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the same with or without

modification. The commission may, by rule, make time the boundaries, regulations, and plans in effect at the time the previous designation was repealed shall be reinstated. Within 90 days of such redesignation, the commission shall begin rulemaking procedures to designate the area an area of critical state concern under paragraph (b).

(2) An area of critical state concern may be designated only for:

(a) An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources. Specific criteria which shall be considered in designating an area under this paragraph include:

1. Whether the economic value of the area, as determined by the type, variety, distribution, relative scarcity, and condition of the environmental or natural resources within the area, is of substantial regional or statewide importance.

2. Whether the physical and biological components of the environmental system, is of substantial regional or statewide importance.

3. Whether the area is a designated critical habitat of any state or federally designated threatened or endangered plant or animal species.

4. Whether the area is inherently susceptible to substantial development due to its geographic location or natural aesthetics.

5. Whether any existing or planned substantial development within the area will directly, significantly, or indirectly affect any or all of the environmental or natural resources of the area which are of regional or statewide importance.

(b) An area containing, or having a significant impact upon, any of the following resources, sites, or state publicly owned historical or archaeological districts, the private or public development of which would cause substantial deterioration of the state's natural resources, shall be considered in designating an area under this paragraph include:

1. Whether the area is associated with events that have made a significant contribution to the history of the state or region.

2. Whether the area is associated with the lives of persons who are significant to the history of the state or region.

3. Whether the area contains any structure that embodies the distinctive characteristics of a type, period, or method of construction, that represents the work of a master, that possesses high artistic values, or that represents a significant and distinguishable entity the components of which may lack individual distinction and which are of regional or statewide importance.

4. Whether the area has yielded, or will likely

yield information important to the prehistory or history of the state or region.

(c) An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other use of public investment including, but not limited to, highways, ports, airports, energy facilities, and water management projects.

(3) Each regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. Each regional planning agency shall solicit from the local governments within its jurisdiction suggestions as to areas to be recommended. A local government in an area where there is no regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. If the state land planning agency does not recommend to the commission as an area of critical state concern an area substantially similar to one that has been recommended, it shall respond in writing as to its reasons therefor.

(4) Prior to submitting any recommendation to the commission under subsection (1), the state land planning agency shall give notice to any committee appointed pursuant to s. 380.045 and to all local governments and regional planning agencies that include within their boundaries any part of any area of critical state concern proposed to be designated by the rule, in addition to any notice otherwise required under chapter 120.

(5) After the commission adopts a rule designating the boundaries of and principles for guiding development in an area of critical state concern and within 180 days of such adoption, the local government having jurisdiction may submit to the state land planning agency its existing land development regulations and local comprehensive plan for the area, if any, or shall prepare, adopt, and submit new or modified regulations and plan, taking into consideration the principles set forth in the rule designating the area.

(6) If the state land planning agency finds that the land development regulations and local comprehensive plan submitted by a local government comply with the principles for guiding the development of the area specified under the rule designating the area, the state land planning agency shall by rule approve the land development regulations and plan. Such approval shall be no later than 90 days after submission of the land development regulations and plan by the local government. No proposed land development regulation or local comprehensive plan within an area of critical state concern becomes effective under this subsection until the state land planning agency rule approving it becomes effective.

(7) The state land planning agency and any applicable regional planning agency shall, to the greatest extent possible, provide technical assistance to local governments in the preparation of land development regulations and local comprehensive plan for areas of critical state concern.

(8) If any local government fails to submit land development regulations or a local comprehensive plan within 180 days after the commission adopts a resolution designating an area of critical state concern, the local government shall be deemed to have agreed to the regulations or plan submitted and shall be subject to the principles of funding of critical state concern, as designated in paragraph (7) of critical state concern, within 120 days of the critical state land planning. The local government shall submit to the commission recommended land development regulations and a local comprehensive plan or portions thereof applicable to that local government's portion of the area of critical state concern. Within 45 days following receipt of the recommendation from the agency, the commission shall either reject the recommendation as tempered or adopt her same with or without modification, and by rule establish land development regulations and a local comprehensive plan applicable to that local government's portion of the area of critical state concern. However, such rule shall not become effective prior to legislative review of an area of critical state concern pursuant to paragraph (1)(c). In the rule, the commission shall specify the extent to which its local land development regulations and plans will supersede local land development regulations and plans or be supplementary thereto. Notice of any proposed rule to be promulgated under this section shall be given to all local governments and regional planning agencies in the area of critical state concern, in addition to any other notice required under chapter 126. The land development regulations and local comprehensive plan promulgated by the commission under this section shall include any type of regulation and plan that could have been adopted by the local government. Any local land development regulations or a comprehensive plan adopted by the local government under this section shall be administered by the local government as part of, or in conjunction with, the local land development plan, and local comprehensive plan.

(5) If, within 12 months after a commission adopts a rule designating and classifying lands, land development regulations or local comprehensive plans, land development regulations or local comprehensive plans, or both, have not become effective under either subsection (6) or subsection (8), the designation of the area as an area of critical state concern terminates. No part of such area may be recommended for redesignation until at least 12 months after the date the designation terminates pursuant to this subsection. The running of the 12-month period subsequent to the initial designation shall be tolled upon challenge pursuant to the provisions of chapter 130 to either the designation of the area of critical state concern or the adoption of land development regulations and local comprehensive plans under subsection (6) or subsection (8).

(10) At any time after the adoption of land development regulations and plans by the commission under this section, a local government may propose land development regulations or local comprehensive plans which, if adopted by the state commission, planning agency, if approved by the state commission, or planning agency as provided in subsection (6), will supersede regulations or plans adopted under subsection (8).

(11) Land development regulations or a local comprehensive plan submitted by a local government in an area of critical state concern and approved pursuant to this section shall not be subject to the provisions of chapter 130.

uant to subsection (6) may be amended or rescinded by the local government, but the amendment or rescission becomes effective only upon approval thereof by the state land planning agency. The state land planning agency shall either approve or reject the requested changes within 60 days of receipt thereof. The amendment or rescission of a local comprehensive development regulations or local comprehensive plans for an area of critical state concern adopted by the commission under subsection (8) may be amended or rescinded by rule by the same commission in the same manner as for original adoption.

(12) Upon request of a substantially interested person pursuant to s. 120.54(5), a local government or regional planning agency within the designated area, or the state land planning agency, the commission shall by rule remove, contract, or expand any legally mandated boundary. Boundary expansions shall be subject to legislative review pursuant to paragraph (1)(c). No boundary may be modified without a specific finding by the commission that such change is consistent with necessary resource protection. The commission shall not remove or contract any state boundary of an entire area of critical state concern shall not be removed by the commission unless a minimum time of 1 year has elapsed from the adoption of regulations and a local comprehensive plan pursuant to subsection (10). Before totally removing a plan, the commission shall make findings regarding the plan and plans adopted pursuant to subsection (11), subsection (6), subsection (3), or subsection (10) are being effectively implemented by local governments within the area of critical state concern to protect the area and that adopted local government comprehensive plans within the area have been conformed to principles for guiding development for the area.

(13) If the state land planning agency determines that the administration of the local land development regulations or local comprehensive plans within the area is inadequate to protect the state or regional interest prior to the repeal of the critical state concern designation pursuant to subsection (15), the state land planning agency may institute appropriate proceedings, as provided in § 390.11, to compel proper enforcement of the land development regulations or plans.

tion of the state government, which lies either wholly or partly within an area of critical government, and which has previously adopted a local government, and a comprehensive plan pursuant to chapter 163 shall conform such plans to the principles for guiding development for the area of critical state concern. No later than January 1, 1984, or any other time as agreed upon in writing by the state land planning agency and the governing body of the local government, these plans shall be submitted to the state land planning agency for review and action as provided in subsection (6) or subsection (8).

(15) Any rule adopted pursuant to this section designating the boundaries of an area of critical state concern and the principles for guiding development therein shall be repealed by the commission no earlier than 12 months and no later than 3 years after approval by the state land planning agency or adoption by the commission of all land development regulations and local comprehensive plans pursuant to subsections (1) through (14).

(16) No person shall undertake any development within any area of critical state concern except in accordance with this chapter.

(17) If an area of critical state concern has been designated under subsection (1) and if land development regulations for the area of critical state concern have not yet become effective under subsection (5) or subsection (8), a local government may grant development permits in accordance with such land development regulations as were in effect immediately prior to the designation of the area as an area of critical state concern.

(18) Neither the designation of an area of critical environmental concern nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development or subdivision pursuant to chapter 438 or former chapter 478, or any other law, or to be heard by a subdivision planning board by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recordation was accomplished, or which permit or authorization was issued, prior to the approval under subsection (6), of the adoption under subsection (8), of land development regulations for the area of critical environmental concern. Any regulations promulgated by this act shall not be construed to limit the authority of a local government to regulate land use in an area of critical environmental concern, or to limit the authority of a local government, from changing those regulations in a way adverse to his interests, nothing in this chapter authorizing any governmental agency to abridge those rights.

(19) In addition to any other notice required to be given under the local land development regulations, the local government shall give notice to the state land planning agency of any application for a development permit in any area of critical land planning concern, except to the extent that the state land planning agency has in writing waived its right to such notice in regard to all or certain classes of such applications. The state land planning agency may, by rule or specification, additional classes of persons who shall have the right to receive notices of and participate in hearings under this section.

(20) At no time shall a land area be designated an area of critical state concern if the effect of such designation would be to subject more than 5 percent of the land of the state to supervision under this section; except that, if any supervision by the state is retained, the area shall be considered to be included within the limitations of this subsection. If 5 percent of the lands of the state are designated as areas of critical state concern pursuant to this section, a re-designation pursuant to paragraph (1)(d) will not be prohibited by this subsection.

(21) Within 30 days after the effective date of the promulgated by this subsection.

designations of an area of critical state concern pursuant to paragraph (1)(a) or paragraph (1)(b), the state land planning agency shall record a legal description of the boundaries of the area of critical state concern in the public records of the county or counties in which the area of critical state concern is located.

(1) **SHORT TITLE.**—This section shall be known and may be cited as "The Big Cypress Conservation Act of 1973."

(2) **LEGISLATIVE INTENT**—is the intent of the Legislature to conserve and protect the natural resources and scenic beauty of the Big Cypress Area of Florida. It is the finding of the Legislature that the Big Cypress Area is an area containing and having a significant impact upon environmental and natural resources of regional, statewide importance and that designation of the area as an area of critical state concern is desirable and necessary to accomplish the purposes of The Florida Environmental Land and Water Management Act of 1972 and to implement s. 2, Art. X of the State Constitution.

(3) DESIGNATION AS AREA OF CRITICAL STATE CONCERN.—The "Big Cypress Area" as defined in this subsection, is hereby designated as an area of critical state concern. "Big Cypress Area" means the area generally depicted on the map entitled "Boundary Map, Big Cypress National Preserve, Collier County, Florida," numbered BC-91.001 and dated November 1971, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior, Washington, D.C., and in the office of the Board of Trustees of the Internal Improvement Trust Fund, which is the area proposed as the Federal Big Cypress National Freshwater Reserve, Florida, together with such contiguous land and water areas as are colorologically linked with the Everglades National Park, certain of the estuarine fisheries of South Florida, or the freshwater aquifer of South Florida; the definitive boundaries of which shall be set in the following manner: Within 120 days following the effective date of this act, the state land planning agency shall recommend definitive boundaries for the Big Cypress Area to the Administration Commission after giving notice to all local governments and regional planning agencies which include within their boundaries any part of the area proposed to be included in the Big Cypress Area and holding such hearings. Within 45 following receipt of the Commission's recommendations, the Administration Commission shall adopt, modify, or reject the Commission recommendation and shall by rule establish the boundaries of the area defined as the Big Cypress Area.

(3) ADPTION OF LAND DEVELOPMENT REGULATIONS.—The provisions of subsections (5)(3)(A), (7), and (20) of s. 390.05 shall not apply to the Big Cypress Area. All other provisions of this chapter shall apply to the Big Cypress Area. Any provision of this chapter to the contrary notwithstanding, the state land planning agency has the right and

its duty shall be, to submit recommended land development regulations applicable to the Big Cypress National Preserve to the Administration Commission concurrent with the boundaries recommended pursuant to subsection (3). The Administration Commission shall either reject the recommendation as tendered or adopt the same by rule with or without modification. The commission shall specify the extent to which regulations adopted pursuant to this section supersede local and state laws.

SECTION 380.0551 ACQUISITION OF BIG CYPRESS NATIONAL PRESERVE.

(a) It is the intent of the Legislature to provide the means to accomplish an agreement between the State of Florida and the Government of the United States, whereby the state will contribute toward the cost of a program of acquisition of land and water areas and related rights and interests within the area proposed as the Federal Big Cypress National Preserve, Florida. It is the intent of the Legislature that the Governor and the Cabinet begin immediately an acquisition program within the area proposed as the Federal Big Cypress National Preserve, Florida, on behalf of the state pending action by the Government of the United States in the Big Cypress Area.

(b) The Governor and Cabinet shall set aside from the proceeds of the full faith and credit bonds authorized by the Land Conservation Act of 1972, or from other funds authorized, appropriated, or allocated for the acquisition of environmentally endangered lands, or from both sources, \$40 million for acquisition of the area proposed as the Federal Big Cypress National Preserve, Florida, or portions thereof.

(c) The Governor and Cabinet are empowered to acquire land and water areas within the Federal Big Cypress National Preserve, Florida, created by Public Law 93-440, in order to complete and protect the land and water resources and interests within the donated and reserved title in land and water areas so donated or currently owned by the state to the Government of the United States or its agency upon the expenditure by the United States of an amount of federal funds at least equal to the acquisition cost of the land and water areas donated by the state. The intent of this condition for the donation of land and water areas by the state is to insure that the investment of federal funds in the acquisition of land and water areas for the Big Cypress National Preserve will be not less than the investment of state funds in the land and water areas so donated. In making such acquisitions, the Governor and Cabinet shall give priority to those land and water areas within the area proposed as the Federal Big Cypress National Preserve, Florida, which are essential to the integrity of the environment, the destruction of which would cause irreparable damage to the Everglades National Park, the estuarine fisheries of South Florida, or the underlying freshwater aquifer.

(d) **FUNCTION OF WATER MANAGEMENT DISTRICT.**—It is the finding of the Legislature that the Big Cypress Area, as a water storage and recharge area, is an integral part of the water resources of any water management district of which the Big Cypress Area is or may be a part. It is the legislative intent that there be close cooperation and coordination of efforts between the water management district and

the Department of Natural Resources in carrying out the intent and purposes of this section. The Governor and Cabinet as head of the Department of Natural Resources are authorized to delegate to the water management district, or to a board therein, any power authorized in this section to be exercised by the department, and the district or board is authorized to accept the powers delegated to it and shall have the power and duty to carry out the intent and purposes of this section to the fullest extent possible within its capabilities.

(e) **EMINENT DOMAIN WITHIN BIG CYPRESS AREA.**—The Governor and Cabinet as head of the Department of Natural Resources are empowered and authorized to acquire by the exercise of the power of eminent domain any land or water areas and related resources and property, and any all rights, title and interest in such land or water areas and related resources and other property, lying within the boundaries of the Big Cypress Area. The Legislature finds that the exercise of the power of eminent domain within the Big Cypress Area is to accomplish the purposes of this section is necessary and for a public purpose.

(f) **INDIAN RIGHTS.**—Notwithstanding any provision of this section to the contrary, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida may continue their usual and customary use and occupancy of lands and waters within the Big Cypress Area, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonies. Nothing in this section shall be construed to deny or impair, or authorize the denial or impairment, of any rights granted by or pursuant to chapter 285 relative to Indian reservation and affairs, and the lands of the Seminole Tribe of Florida and of the Miccosukee Tribe of Indians of Florida, as described in s. 285.051(1), shall be excluded from the Big Cypress Area as defined in this section.

History.—S. 8, ch. 74-60, § 4, 1974; S. 1, ch. 75-124, § 1, 1975; S. 1, ch. 75-124, § 1, 1975; S. 1, ch. 75-124, § 1, 1975.

SECTION 380.0552 Green Swamp Area: designation as area of critical state concern.

(1) The Green Swamp Area, the boundaries of which are described in chapter 22F-5, Florida Administrative Code, is hereby designated an area of critical state concern effective July 1, 1979. The state land planning agency, in conjunction with the applicable local governments, shall review suggested changes to the existing boundary in the area immediately to the south of the southern boundary of the City of Clermont in Lake County and the area along the existing southern boundary around Lake Julian and the City of Folk City in Polk County for possible deletion from the area of critical state concern. The state land planning agency shall report to, and shall make specific recommendations to, the commission relative to any proposed deletion by August 1, 1979. The commission shall take action on the recommendations of the state planning agency no later than October 1, 1979. Chapters 22F-5, 22F-6, and 22F-7, Florida Administrative Code, are hereby adopted and incorporated herein by reference. The boundaries of

section 4 in chapter 22F-5, Florida Administrative Code, shall be modified pursuant to s. 380.0551(2). There shall be a resource planning and management committee as provided in s. 380.045.

(2) The land development regulations contained in chapters 22F-5 and 22F-7, Florida Administrative Code, shall be the land development regulations for the applicable local government of the area of critical state concern until either:

(a) An applicable local government complies with the provisions of s. 380.0551(1); or

(b) Such regulations are repealed pursuant to subsection (3).

(3) Chapters 22F-5, 22F-6, and 22F-7, Florida Administrative Code, shall be repealed by the commission no earlier than July 1, 1980, and no later than July 1, 1982. Upon recommendation by the state land planning agency to this subsection, any repeal of such rules pursuant to this subsection may be effective only for one local government's portion of the Green Swamp Area. Such repeal shall be contingent upon approval by the state land planning agency of local and development regulations pursuant to s. 380.04(6) or (10), upon such regulations being effective for a period of 12 months, and upon adoption of local government, comprehensive plan pursuant to s. 380.05(14).

History.—S. 8, ch. 74-60, § 3.

380.0552 Florida Keys Area: designation as area of critical state concern.—The boundaries of the Florida Keys Area, the boundaries of which are described in chapter 22F-8, Florida Administrative Code, is hereby designated an area of critical state concern effective July 1, 1979. Chapters 22F-8 through 22F-13, Florida Administrative Code, are hereby adopted and incorporated herein by reference. There shall be appointed a resource planning and management committee as provided in s. 380.045.

(2) The land development regulations contained in chapters 22F-9 through 22F-13, Florida Administrative Code, shall be the land development regulations for the applicable local government's portion of the area of critical state concern until either:

(a) An applicable local government complies with the provisions of s. 380.0551(1); or

(b) Such regulations are repealed pursuant to subsection (4).

(3) The City of Key West, as incorporated, shall be removed from under the provisions of chapters 22F-8 and 22F-12, Florida Administrative Code, upon approval by the state land planning agency of the land use element of the local government comprehensive plan pursuant to chapter 163, notwithstanding the 1-year minimum requirement of subsection (4).

(4) Chapters 22F-8 through 22F-13, Florida Administrative Code, shall be repealed by the commission no earlier than July 1, 1980, and no later than July 1, 1982. Upon recommendation by the state land planning agency to this subsection, any repeal of such rules pursuant to this subsection may be effective only for one local government's portion of the Florida Keys Area. Such repeal shall be contingent

upon approval by the state land planning agency of local land development regulations pursuant to s. 380.04(6) or (10), upon such regulations being effective for a period of 12 months, and upon adoption of local government, comprehensive plan pursuant to s. 380.05(14).

History.—S. 8, ch. 74-60, § 2.

380.06 Developments of regional impact.—(1) The term "development of regional impact" as used in this section means any project or activity which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

(2)(a) The state land planning agency shall recommend to the Administration Commission specific guidelines and standards for adoption pursuant to this subsection. The Administration Commission shall by rule adopt guidelines and standards to be used in determining whether particular developments shall be presumed to be of regional impact. The standards and guidelines previously adopted by the Administration Commission and approved by the Legislature shall remain in effect unless revised pursuant to this section. Revisions to the present standards and guidelines, after adoption by the Administration Commission, shall be transmitted on or before March 1 to the President of the Senate and the Speaker of the House of Representatives for presentation at the next regular session of the Legislature. Unless approved by joint resolution of the Legislature, the revisions to the present standards and guidelines shall not become effective.

(b) In adopting its guidelines and standards, the Administration Commission shall consider and be guided by:

1. The extent to which the development would cause or alleviate environmental problems such as air or water pollution or noise;
2. The amount of pedestrian or vehicular traffic likely to be generated;
3. The number of persons likely to be residents, employees, or otherwise present;
4. The size of the site to be occupied;
5. The likelihood that additional or subsidiary development will be generated;
6. The extent to which the development would create an additional demand for or additional use of energy, including the energy requirements of subsidiary developments;
7. The unique qualities of particular areas of the state.

(c) Any modifications to the initial guidelines and standards prescribed pursuant to this subsection shall not modify or abridge rights that have vested pursuant to subsection (1)(b) or development of regional impact status determinations acquired through executed agreements or binding letters issued pursuant to this section, upon which the developer has relied and upon the basis of which he has changed his position prior to the effective date of such rules.

(3) Each regional planning agency may recommend to the state land planning agency from time to time modifications to guidelines and standards

variable impact on the environment and natural resources of the region.

2. The development will have a favorable or unfavorable impact on the economy of the region.

3. The development will efficiently use or unduly burden water, sewer, solid waste disposal, or other necessary public facilities.

4. The development will efficiently use or unduly burden public transportation facilities.

5. The development will not adversely affect the ability of the region to provide housing for its growing population.

6. The development complies with such other criteria for determining regional impact as the regional planning agency deems appropriate, including, but not limited to, the extent to which the development would create an additional demand for, or additional use of, energy, provided such criteria and related policies have been adopted by the regional planning agency pursuant to s. 120.54. Regional planning agencies may also review and comment upon issues which affect only the local governmental entity with jurisdiction pursuant to this section; however, such issues shall not be grounds for or be included as issues in a regional planning agency appeal of a development order under s. 380.07.

(b) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may reach dissenting views. When water management issues have been reviewed by the regional planning agency and the Department of Environmental Regulation, no comment on the regional planning agency's permit shall be made by the regional planning agency, but may not offer conflicting recommendations.

(c) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency, head relating to the proposed regional agency report and recommendations.

(12) If the development is in an area of critical state concern, the local government shall approve it only if it complies with the land development regulations therein under s. 380.05.

(13) If the development is not located in an area of critical state concern, in considering whether the development shall be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which,

(a) The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;

(b) The development is consistent with the local land development regulations; and

(c) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (11).

(14) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

(b) When possible, local governments shall issue development orders concurrently with any other local permits or development approvals that may be applicable to the proposed development.

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (12) and (13). The development order shall specify the monitoring procedures and the local official responsible for assuring compliance by the developer with the development order.

2. The development order shall specify the date on which expiration dates for the development order, including a deadline for commencing physical development, for compliance with conditions of approval or phasing requirements, and for the termination of the order.

3. Shall specify the requirements for the annual report designated under subsection (16), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency.

Such rules shall specify the scope of any additional local requirements that may be necessary for the development.

4. May specify the types of changes to the development which shall require submission for a substantial deviation determination under paragraph (1). (1) (a).

5. Shall include a legal description of the property.

(d) Notice of the adoption of a development order or the subsequent modification of an adopted development order shall be recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state the date of adoption of the order and the date of expiration of the order.

(e) The developer shall submit an annual report to the regional planning agency, head, and the Department of Environmental Regulation, no later than the date specified in the development order.

(15) The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development order. Local governments shall not issue any permits or approvals or provide any extensions of services if the developer fails to act in substantial compliance with the development order.

(16) The developer shall submit an annual report to the regional planning agency, head, and the Department of Environmental Regulation, no later than the date specified in the development order.

(17) If the development is in an area of critical state concern, the local government shall approve it only if it complies with the land development regulations therein under s. 380.05.

(18) If the development is not located in an area of critical state concern, in considering whether the development shall be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which,

(a) The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;

(b) The development is consistent with the local land development regulations; and

(c) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (11).

(14) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

rectify the local government. If the local government does not receive the annual report, the local government shall request in writing that the developer submit the report within 30 days. Failure to submit the report after 30 days shall result in the temporary suspension of the development order by the local government.

(17)(a) A developer shall submit proposed changes to a development of regional impact previously approved pursuant to this section to the local government for a substantial deviation determination. The local government shall review the proposed changes pursuant to the criteria enumerated in this subsection and shall make a substantial deviation decision of local review, modify the development order to reflect approved changes to the development and shall notify the regional planning agency and the development order of the changes to the development order.

(b) If the proposed changes are found to be a substantial deviation, the development shall be subject to further review by the regional planning agency to the extent of the state land planning agency to injunctive relief under s. 380.11.

As used in this section, "substantial deviation" means any change to the previously approved development of regional impact which creates a reasonable likelihood of additional adverse regional impact, or any other regional impact created by the change not previously reviewed by the regional planning agency.

(b) In determining whether a development of regional impact previously approved pursuant to this section is subject to further review pursuant to this section, the local government shall consider the following changes which shall be presumed not to be substantial deviations requiring further review:

1. An increase in the number of dwelling units of not more than 5 percent or 200 dwelling units, whichever is less.

2. A decrease in the number of dwelling units of not more than 5 percent or 200 dwelling units, whichever is less.

3. A decrease in the area set aside for common open space of not more than 5 percent or 50 acres, whichever is less.

4. An increase in the area set aside for common open space.

5. An increase in the floor area proposed for non-residential use of not more than 5 percent or 10,000 square feet, whichever is less.

6. A change in the regional impact of the development.

7. A change required by permit conditions or requirements imposed by the Department of Environmental Regulation, the Department of Natural Resources, or any water management district created by s. 373.049 or any of their successor agencies or by any appropriate federal regulatory agency.

(c) Unless the presumptions act forth in paragraph (b) are rebutted by clear and convincing evidence offered by the moving party, the development shall not be subject to further development.

ment of regional impact review pursuant to this section. The appropriate local government shall afford a reasonable opportunity for a developer or other substantially affected party to present evidence to support or rebut such presumptions.

(18) Nothing in this section shall limit or modify the rights of any person to complete any development that has been authorized by registration of a subdivision pursuant to chapter 175, by recodification pursuant to local subdivision plan law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recodification was accomplished, or which permit or authorization was issued, prior to the effective date of the rules issued by the Administration Commission pursuant to subsection (2). If a developer has, by his actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plan law, ordinances, or regulations of a subdivision plan and more of a county or municipal government shall be deemed to have occurred on August 1, 1967, and prior to July 1, 1973, shall be sufficient to vest all property rights for the purposes of this subsection, and no action in reliance on, or change of position concerning, such local government approval shall be required for vesting to take place.

(b) For the purpose of this act, the conveyance of, or the agreement to convey, property to the county, state, or local government as a prerequisite to zoning change approval shall be construed as an act of reliance to vest rights as determined under this subsection, provided such zoning change is actually granted by such government.

(19) The state land planning agency shall print biweekly, and mail to any person upon payment of a reasonable charge to cover costs of preparation and mailing, a list of all notices of applications for developments of regional impact that have been filed with the state land planning agency.

(20)(a) If a development project includes two or more developments of regional impact, a developer may file a comprehensive development of regional impact application.

(b) If a proposed development is planned for development over an extended period of time, the developer may file an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This agreement shall be entered into by the developer, the regional planning agency, and the appropriate local government having jurisdiction. The provisions of subsection (4) do not apply to this subsection.

(c) Pursuant to section of the master plan development order, the developer, the landowner, the appropriate regional planning agency, and the local government having jurisdiction shall review the draft of the development order to ensure that anticipated regional

complete hearing before the local government or an agency thereof.

(4) The Florida Land and Water Adjudicatory Commission shall issue a decision granting or denying a permit pursuant to the standards and provisions of this chapter and may attach conditions and restrictions to any permit.

380.08 Protection of landowners' rights.—

(1) Nothing in this chapter authorizes any governmental agency to adopt a rule or regulation or issue an order that is unduly restrictive or constitutes a taking of property without the payment of full compensation, in violation of the constitutions of this state or of the United States.

(2) If any governmental agency authorized to adopt a rule or regulation or issue an order under this chapter shall determine that, to achieve the purposes of this chapter, it is in the public interest to acquire the fee simple or lesser interest in any parcel of land, such agency shall so certify to the state land planning agency, the Board of Trustees of the Internal Improvement Trust Fund, and other appropriate governmental agencies. Prior to such agency's acquisition of such land, the seller of the land shall file a statement with the Department of State disclosing, for the period from January 1, 1970, to the date of the statement, all financial transactions concerning the land, all parties having a financial interest in any transaction, and the amount of the tax assessment thereon for each year.

(3) If any governmental agency denies a development permit under this chapter, it shall specify its reasons in writing and indicate any changes in the development proposal that would make it eligible to reconsider the permit.

380.09 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this part.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 200.

(3) If the court determines that the decision reviewed is unreasonable, the court shall order the agency to constitute a taking without just compensation, the

submit a list of regional issues to the state land planning agency for its adoption or rejection.

(c) Regional planning agencies shall be subject to rules adopted by the state land planning agency; however, a regional planning agency may adopt additional rules, not inconsistent with rules adopted by the state land planning agency, to promote efficient review of developments of regional impact applications. Regional planning agency rules shall be adopted pursuant to chapter 120.

(23) Any proposed hospital which has a designed capacity of not more than 100 beds is exempt from the provisions of this section.

(24) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section, except any clean air or other electrical generating facility of less than 50 megawatts in capacity attached to a development of regional impact.

(25) Any proposed addition to an existing sports facility complies with the provisions of this section if the addition meets the following character:

(a) It would not operate concurrently with the scheduled hours of operation of the existing facility.

(b) Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

(c) The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any part-mutual facility.

380.07 Florida Land and Water Adjudicatory Commission.—

(1) There is hereby created the Florida Land and Water Adjudicatory Commission, which shall consist of the Administrative Commission.

(2) Whenever a local government issues any development order in any area of critical state concern, or in any area of regional impact, the copies of such orders as prescribed by rule by the state land planning agency shall be transmitted to the state land planning agency, the regional planning agency, and the owner or developer of the property affected by such order. Within 45 days after the order is rendered, the owner, the developer, an appropriate regional planning agency by vote at a regularly scheduled meeting, or the state land planning agency may appeal the order to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the commission. The appellant shall furnish a copy of the notice of appeal to the opposing party, as the case may be, and to the local government which issued the order. The filing of the notice of appeal shall stay the effectiveness of the order and shall stay any judicial proceedings in relation to the development order, until after the completion of the appeal process.

(3) Prior to issuing an order, the Florida Land and Water Adjudicatory Commission shall hold a hearing pursuant to the provisions of chapter 120. The commission shall encourage the submission of appeals on the record made below in cases in which the development order was issued after a full and

al impacts have been adequately addressed and that the requirements for subsequent incremental development are clearly defined. The development order for a master application shall specify the information which must be submitted with an incremental application and shall identify those issues which can result in the denial of an incremental application.

2. The review of subsequent incremental applications shall be limited to that information specifically required and those issues specifically raised by the master development order, unless substantial changes in the conditions underlying the approval of the master plan development order are demonstrated or the master development order is shown to have been based on substantially inaccurate information.

(c) The state land planning agency, by rule, shall establish uniform procedures to implement this subsection.

(21)(a) A downtown development authority may submit a development-of-regional impact application for development approval pursuant to subsection (6). The area described in the application shall consist of any or all of the area in which a downtown development authority has the power described in s. 380.01(15). For the purposes of this subsection, a downtown development authority shall be considered to be a local government.

(b) The development authority shall be considered to be a local government for the purposes of this subsection.

(c) In addition to information required by the development-of-regional impact application, the application for development approval submitted by a downtown development authority shall specify the total amount of development planned for each land use category. In addition to the requirements of subsection (14), the development order shall specify the amount of development approved within each land use category. Development undertaken in conformance with a development order issued under this section does not require further review.

(c) If a development is proposed within the area of a downtown development plan approved pursuant to this section which would result in development in excess of the amount specified in the development order for that type of activity, the local government shall make a substantial deviation determination in regard to that proposal pursuant to subsection (17).

(d) The provisions of subsection (6) do not apply to this subsection.

(22)(a) The state land planning agency shall adopt rules to ensure uniform procedures for review of developments of regional impact by the state land planning agency and regional planning agencies under this section and shall include all forms, applications, and review guidelines necessary to implement developments of regional impact review.

(b) Regional planning agencies shall develop a list of regional issues to be used in reviewing developments of regional impact applications. Within 9 months of the effective date of this paragraph, these lists of regional issues must be submitted to the state land planning agency for its adoption or rejection. Should a new agency be designated a regional planning agency pursuant to s. 390.031(15), that agency shall have 9 months from its date of designation to

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0.22 Lead agency-authority and duties.—
The Department of Environmental Regula-

(2) Where federal licenses, permits, activities, and projects listed in subsection (3) are subject to federal consistency review and are seaward of the jurisdiction of the state or there is no state agency with jurisdiction, the Department of Environmental Regulation shall be responsible for the consistency review and determination; however, the department shall not make a determination that the license, permit, activity, or project is consistent if any other state agency with significant analogous responsibility

makes a determination of inconsistency. All decisions and determinations under this subsection shall be appealable to the Governor and Cabinet.

(3) Consistency review shall be limited to review of the following activities, uses, and projects to ensure that such activities, uses, and projects are conducted in accordance with the state's coastal management program:

(a) Federal development projects and activities of federal agencies which significantly affect coastal waters and the adjacent shorelands of the state.

(b) Federal assistance projects which significantly affect coastal waters and the adjacent shorelands of the state and which are reviewed as part of the review process developed pursuant to OMB Circular A-95.

(c) Federally licensed or permitted activities affecting land or water uses when such activities are in or seaward of the jurisdiction of local governments required to develop a coastal zone protection element as provided in s. 380.24 and when such activities involve:

1. Permits required under ss. 10 and 11 of the Rivers and Harbors Act of 1899, as amended.

2. Permits required under s. 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.

3. Permits required under ss. 201, 402, 403, 404, and 405 of the Federal Water Pollution Control Act of 1972, as amended, unless such permitting activities pursuant to such sections have been delegated to the state pursuant to said act.

4. Permits required under the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 33 U.S.C. ss. 1401, 1402, 1411-1421, and 1441-1444.

5. Permits for the construction of bridges and causeways in navigable waters required pursuant to 33 U.S.C. s. 401, as amended.

6. Permits relating to the transportation of hazardous substance materials or transportation and dumping which are issued pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. ss. 1801-1812, as amended, or 33 U.S.C. s. 419, as amended.

7. Permits and licenses required under 43 U.S.C. s. 717 for construction and operation of interstate gas pipelines and storage facilities.

8. Permits required under 15 U.S.C. s. 717, as amended, for construction and operation of facilities included in the Federal Energy Program.

9. Permits and licenses required for the siting and construction of any new electrical power plants as defined in s. 403.50(7) as amended.

10. Permits and licenses required for drilling and mining on public lands.

11. Permits for areas leased under the OCS Lands Act, as amended, including leases and approvals under 43 U.S.C. s. 1331, as amended, of exploration, development, and production plans.

12. Permits for pipeline rights of way for oil and gas transmissions.

13. Permits and licenses required for deepwater ports under 33 U.S.C. s. 1503, as amended.

(4) The department shall by rule adopt procedures for the expeditious handling of emergency repairs to existing facilities for which consistency review is required pursuant to subsections (1), (2), and (3).

(5) In any coastal management program submitted to the appropriate federal agency for its approval pursuant to this act, the department shall specifically waive its right to determine the consistency with the coastal management program of all federally licensed or permitted activities not specifically listed in subsection (3).

(6) Agencies shall not review for federal consistency purposes an application for a federally licensed or permitted activity if the activity is vested, exempted, or excepted under its own regulatory authority.

(7) The department shall review the items listed in subsection (3) to determine if in certain circumstances such items would constitute minor permit activities. If the department determines that the list contains minor permit activities, it may by rule establish a program of general concurrence pursuant to federal regulation which shall allow similar minor activities, in the same geographic area, to proceed without prior department review for federal consistency.

(8) This section shall not apply to the review of federally licensed or permitted activities for which permit applications are filed with the appropriate federal agency prior to approval of the state coastal management program by the appropriate federal agency pursuant to 16 U.S.C. ss. 1451 et seq. History.—s. 5, ch. 74-28.

380.24 Local government participation.

—Units of local government abutting the Gulf of Mexico or the Atlantic Ocean, or which include or are contiguous to waters of the state where marine species of vegetation listed by rule pursuant to s. 403.817 constitute the dominant plant community, shall develop a coastal zone protection element pursuant to s. 165.3177. Such units of local government shall be eligible to receive technical assistance from the state in preparing coastal zone protection elements and shall be the only units of local government eligible to apply to the department for available financial assistance. Local government participation in the coastal management program authorized by this act shall be voluntary. History.—s. 5, ch. 74-28.

380.25 Previous coastal zone atlases rejected.—The legislative draft of the coastal management program submitted to the Legislature by the department dated March 1, 1978, and the previously prepared coastal zone atlases are expressly rejected as the state's coastal management program. The department shall not divide areas of the state into vital conservation and development areas.

History.—s. 10, ch. 74-28.

CHAPTER 388

MOSQUITO CONTROL

- 388.011 Definitions.
- 388.021 Creation of mosquito control districts.
- 388.101 District boards of commissioners; term of office.
- 388.111 District boards of commissioners; vacancies.
- 388.121 District boards of commissioners; organization.
- 388.131 Commissioners; surety bond.
- 388.141 Commissioners; compensation.
- 388.151 District boards of commissioners; meetings.
- 388.161 District boards of commissioners; powers and duties.
- 388.162 Direction of the program.
- 388.171 Power to do all things necessary.
- 388.181 Power of eminent domain.
- 388.191 District budgets; hearing.
- 388.201 Change in district boundaries.
- 388.211 Tax levy.
- 388.231 Restrictions on use, loan or rental of equipment.
- 388.241 Board of charges.
- 388.242 Powers and duties of board of commissioners in certain counties.
- 388.251 Delegation of authority to county health department.
- 388.261 State aid to districts; limitation on type of control amount.
- 388.271 Prerequisites to participation.
- 388.281 Use of state matching funds.
- 388.291 Eliminative control measures; supervision by Department of Health and Rehabilitative Services.
- 388.301 Payment of state funds; supplies and services.
- 388.311 Carry over of state funds and local funds.
- 388.321 Equipment to become property of the county or district.
- 388.322 Record and inventory of certain property.
- 388.331 Disposal of surplus property.
- 388.341 Audit.
- 388.342 Reports of expenditures and accomplishments.
- 388.351 Transfer of equipment, personnel, and supplies during an emergency.
- 388.361 Rules and regulations.
- 388.381 Cooperation by counties in municipalities and port of districts.
- 388.391 Control measures in municipalities located outside boundaries of counties.
- 388.401 Penalties for damage to property or operations.
- 388.411 Public lands; arthropod control.
- 388.42 Laboratory west of St. Marks River; testing insecticides for arthropod control.
- 388.43 Florida Medical Entomology Laboratory.
- 388.011 Definitions.—As used in this act:
- (1) "County" means a political subdivision of the

388.111 District boards of commissioners; vacancies.—In the event of a vacancy due to any cause in any board of commissioners, the same shall be filled by appointment by the Governor for the unexpired term.

History.—2, ch. 52, 1955.

388.121 District boards of commissioners; organization.—As soon as practicable after such commissioners have been elected and qualified, they shall meet and organize by the election from among their number of a chairman, a secretary and a treasurer. Two members of the board shall constitute a quorum. The vote of two members shall be necessary to transact business.

History.—2, ch. 52, 1955.

388.131 Commissioners; surety bond.—Each commissioner, before he assumes office, shall be required to give the Governor a good and sufficient surety bond for the district, conditioned on the faithful performance of the duties of his office, said bond to be approved and filed in the same manner as is that of the board of county commissioners. The failure of any person to make and file this bond within 10 days after his election shall create a vacancy on said board.

History.—2, ch. 52, 1955.

388.141 Commissioners; compensation.—Members of the board of commissioners shall each be paid \$5 a day for each day's service; provided that per diem compensation shall not exceed the sum of \$300 for each commissioner during any one year, and that the per diem herein provided for shall apply for services rendered for inspection of work or other services for the district under this chapter. Said members shall be reimbursed for traveling expenses incurred in the performance of their duties as provided in R. 112.661.

History.—2, ch. 52, 1955; 11, ch. 61, 1960.

388.151 District boards of commissioners; meetings.—All boards of commissioners shall hold regular monthly meetings, and special meetings as needed, in the courthouse or in the offices of the district. The time and place of said regular meetings shall be on file in the office of the Department of Health and Rehabilitative Services.

History.—2, ch. 52, 1955; 11, ch. 61, 1960; 15, ch. 77, 1971.

388.161 District boards of commissioners; powers and duties.—

(1) The board of commissioners may do any and all things necessary for the control and elimination of all species of mosquitoes and other arthropods of public health importance and the board of commissioners is specifically authorized to provide for the construction and maintenance of canals, ditches, drains, dikes, fills, and other necessary structures and machinery and maintain same to use oil, lavicide, paris green, and other chemicals approved by the Department of Health and Rehabilitative Services but only in such quantities as may be necessary to control mosquito breeding and not be detrimental to fish life.

(2) The board of commissioners shall have all the powers of a body corporate, including the power to sue and be sued as a corporation in said name in any court; to contract, to adopt and use a common seal and alter same at pleasure, to purchase, hold, lease, and convey such real estate and personal property as said board may deem proper to carry out the purpose of this chapter; to acquire by gift real estate, personal property, and moneys and to employ a field director and such trained personnel, legal, clerical or otherwise, and laborers as may be required. The board of commissioners shall promulgate such rules and regulations not inconsistent with the provisions of this chapter or with other legislation which in its judgment may be necessary for the proper enforcement of this chapter. The board of commissioners shall be approved by the Department of Health and Rehabilitative Services.

History.—2, ch. 52, 1955; 19, ch. 62, 1966; 138, ch. 77, 1971.

388.162 Direction of the program.—The program shall be administered for the board of commissioners by a qualified person. The Department of Health and Rehabilitative Services shall establish minimum qualifications for employment of a director in accordance with the responsibilities attached to the position.

History.—2, ch. 52, 1955; 19, ch. 62, 1966; 138, ch. 77, 1971.

388.171 Power to perform work.—The board of commissioners may have any and all work performed by contract with or without advertisement or without contract, by machinery, equipment, and labor employed directly by the board of commissioners.

History.—2, ch. 52, 1955.

388.181 Power to do all things necessary.—The respective districts of the state are hereby fully authorized to do and perform all things necessary to carry out the intent and purposes of this law.

History.—2, ch. 52, 1955.

388.191 Power of eminent domain.—The board of commissioners may hold, control, and acquire by gift or purchase for the use of the district, any real or personal property, and may condemn any land or easements needed for the purposes of said district. Said board may exercise the right of eminent domain and institute and maintain condemnation proceedings as provided in chapter 73.

History.—2, ch. 52, 1955.

388.201 District budgets; hearing.—

(1) The fiscal year district budgeting under the provisions of this chapter shall be the 12-month period extending from October 1 of one year through September 30 of the following year. The governing board of the district shall before June 30 complete the preparation of a detailed work plan budget covering its proposed operations and requirements for carrying out its proposed measures during the ensuing fiscal year, and for the purpose of determining eligibility for state aid, shall submit copies as may be required to the Department of Health and Rehabilitative Services for review and approval. The detailed work plan budget shall set forth, classified by account number,

Ch. 388

year, and rebudgeted for such control measures the following fiscal year.

388.321 Equipment to become property of the county or district.—All equipment purchased under this chapter with state funds made available directly to the county or district shall become the property of the county or district unless otherwise provided, and may be traded in on other equipment, or sold, when no longer needed by the county or district.

388.322 Record and inventory of certain property.—A record and inventory of certain property owned by the district shall be maintained in accordance with s. 274.02.

389.323 Disposal of surplus property.—Sur-
plus property shall be disposed of according to the

(1) Any county or district may perform permanent eliminative control measures in conformity with good engineering practices in any area, provided the Department of Health and Rehabilitative Services, in cooperation with the county or district has approved the operation or construction plan, and it has been determined that the proposed measures would improve the health of the community or otherwise be in the public interest.

(2) The alternative procedure for disposal of surplus property, as prescribed in s. 274.06, shall be followed if it has been determined no other county, district, or governmental unit has need for the equipment.

(3) All proceeds from the sale of any real or tangible personal property owned by the county or district shall be deposited in the county's or district's state fund account unless otherwise specifically designated by the Department of Health and Rehabilitative Services.

389-331 Audit.—All counties and districts carrying out programs for the control of mosquitoes and other arthropods involving the expenditure of state funds shall set up and maintain books and records under a method approved by the Auditor General and be subject to audit by same.

388-341 Reports of expenditures and accomplishments.—Each county and district participating under the provisions of this chapter shall within 30 days after the end of each month submit to the Department of Health and Rehabilitative Services a monthly report for the preceding month of expenditures from all funds for arthropod control, and such reports of activities and accomplishments as may be required by the department.

388.351 Transfer of equipment, personnel,

and supplies during an emergency.—The Department of Health and Rehabilitative Services, upon notifying a county or district and obtaining its approval, is authorized to transfer equipment, materials, and personnel from one district to another in the event of an emergency brought about by an arthropod-borne epidemic or other disaster requiring emergency control.

§98.361 Rules and regulations.—The Department of Health and Rehabilitative Services is hereby authorized and empowered to adopt rules and regulations necessary and appropriate to enable it to perform the work and responsibilities hereunder.

398.381 Cooperation by counties and district.—Any county or district carrying on an arthropod-control program may cooperate with an arthropod-control county, district, or municipality in carrying out a program for the control of mosquitoes and other arthropods, by agreement as to the program and reimbursement thereof, when approved by the Department of Health and Rehabilitative Services.

History.—1. s. 1, ch. 59-198, 1. ch. 63-236; 2. s. 171, ch. 59-106, 1. ch. 69-106, s. 171, ch.

388.391 Control measures in municipalities and districts of counties located outside boundaries of districts.—Any district whose operation is limited to a portion of the county in which it is located may perform any control measures authorized by this chapter in any municipality located in the same county or in any portions of the same county, where there is no established district, when requested to do so by the municipality or county, pursuant to a

§ 386-381. — 2 ch. 99-361, 1, 1 ch. 93-236.

388.411 Public lands, arthropod control.—
(1) It is declared to be in the best interests of the state that all public lands owned by the state, or any county, district, city, or other political unit, shall be subject to mosquito, sand fly, and other arthropod control. The provisions of the Department of Health and Rehabilitation Services not inconsistent with the provisions of subsection (4) in order to provide as nearly as possible a system of uniform and complete control.

(2) Any lands in the state hereafter granted by

(3) As to lands not held by the United States, or any other federal agency in the state, the department is authorized to enter negotiations for the purpose of obtaining the lands for the leasing department, on the condition providing that anthropoid control operations shall be conducted thereon, if deemed necessary, by the department except where the Governor shall deem that the same is unnecessary.

(c) When any lands or water areas subject to this act lie within an area where the department determines that mosquitoes, sand flies, or other arthropods of public health importance which may cause sickness or discomfort to the surrounding human population may be bred, said areas shall be subject to control operations. The involved agencies shall mutually agree on the control procedure or plan and the methods employed shall be the minimum necessary and economically feasible and imposing the least hazard to the fish and wildlife being protected or managed in said areas. Such agreement shall be between the state or federal agencies managing the areas, the department, and the local mosquito control agency within the jurisdiction these lands or waters

388.42 Laboratory west of St. Marks River;

(1) The Department of Health and Rehabilitation Services is hereby authorized to construct, maintain, and operate a laboratory at a suitable location on the Gulf Coast, west of the St. Marks River, for the purpose of testing insecticide resistance in dog flies, yellow flies, and other arthropods, and to carry out other experimental work with chemicals, insecticides, and other substances and procedures, for testing effective methods for the control of such flies and other arthropods.

(2) Any funds which may become available from the Federal Government, from the board of county commissioners of the county in which the laboratory is to be established, or from any other sources, may be used according to law in constructing, equipping and operating of said building.

388.43 Florida Medical Entomology Laboratory.

(1) The Florida Medical Entomology Laboratory, located in Vero Beach, shall be a research and training center for the state under the supervision of the Board of Regents. The laboratory shall be an operational unit of the University of Florida and an integral part of the Institute of Food and Agricultural Sciences.

(2) The Florida Medical Entomology Laboratory will perform basic and applied research in the biology and control of biting insects and other arthropods of importance as transmitters of disease or as pest annoyances, with special attention to the needs of the various mosquito-control organizations, districts and counties.

counties, and municipalities of the state. On a quarterly basis, the laboratory shall provide the Department of Health and Rehabilitative Services with such information as the department shall require to assist it in the performance of its duties with respect to mosquito control under this chapter. The laboratory shall also be a center for the training of students and personnel in the entomological aspects of public health, veterinary science, sanitation, mosquito control, drainage and irrigation design, wetlands management, and other areas of service requiring knowledge of medical entomology. Research and training may extend to international programs of the university under appropriate contract and grant arrangements with international, foreign, and federal agencies.

History.—s. 1, ch. 79-253, § 542, ch. 81-258.

CHAPTER 403

ENVIRONMENTAL CONTROL

PART I POLLUTION CONTROL (ss. 403.011-403.153)

PART II ELECTRICAL POWER PLANT SITING (ss. 403.501-403.539)

PART III INTERSTATE ENVIRONMENTAL CONTROL COMPACT (s. 403.60)

PART IV RESOURCE RECOVERY AND MANAGEMENT (ss. 403.701-403.73)

PART V ENVIRONMENTAL REGULATION (ss. 403.801-403.817)

PART VI DRINKING WATER (ss. 403.850-403.864)

PART VII MISCELLANEOUS (s. 403.90)

PART I
POLLUTION CONTROL

403.011	Short title.	403.1815	Construction of water distribution mains and sewage collection laterals; local regulation.
403.021	Legislative declaration: public policy.	403.182	Local pollution control programs.
403.031	Definitions.	403.1821	Water pollution control and sewage treatment.
403.051	Meetings; hearings and procedure.	403.1822	Definitions for ss. 403.1821-403.1832.
403.061	Department; powers and duties.	403.1823	Department of Environmental Regulation; rulemaking authority; administration of funds.
403.0615	Water resources restoration and preservation.	403.1824	State Water Pollution Control Trust Fund.
403.062	Pollution control: underground, surface, and coastal waters.	403.1825	Grants.
403.063	Ground water quality monitoring.	403.1826	Grants; requirements for eligibility.
403.091	Performance by other state agencies.	403.1829	Funding of projects; priorities.
403.095	Sanitary sewage disposal units; advanced and secondary waste treatment; industrial waste, ocean outfall, inland outfall, or disposal well waste treatment.	403.1832	Department to accept federal aid.
403.096	Sewage disposal facilities; advanced and secondary waste treatment.	403.1834	State bonds to finance or refinance facilities; exemption from taxation.
403.097	Permits; general issuance; denial; revocation; prohibition; penalty.	403.1835	Sewage treatment facilities revolving loan program.
403.0971	Florida Permit Fee Trust Fund.	403.1838	Small Community Sewer Construction Assistance Act.
403.0975	Citation of rule.	403.191	Construction in relation to other law.
403.0976	Water pollution operation permits; temporary permits; conditions.	403.201	Variations.
403.098	Inspections.	403.221	Pending proceedings.
403.099	Package sewage treatment facilities; inspection.	403.231	Department of Legal Affairs to represent the state.
403.101	Classification and reporting; regulation of operations of water purification plants and wastewater treatment plants.	403.251	Safety clause.
403.111	Confidential records.	403.261	Provisions specifying jurisdiction rendered.
403.121	Enforcement; procedure; remedies.	403.281	Definitions: Weather Modification Law.
403.131	Use of pollution awards; pollution recovery fund.	403.291	Purpose of weather modification law.
403.151	Compliance with rules or orders of department.	403.301	Artificial weather modification operation; license required.
403.161	Prohibitions; violation; penalty; intent.	403.311	Application for licensing; fee.
403.165	Emergency fund.	403.321	Proof of financial responsibility.
403.1655	Environmental short-term emergency response program.	403.331	Issuance of license; suspension or revocation; renewal.
		403.341	Filing and publication of notice of intention to operate; limitation on area and time.
		403.351	Contents of notice of intention.
		403.361	Publication of notice of intention.
		403.371	Record of publication.
		403.381	Emergency and reports of operations.
		403.391	Emergency licenses.
		403.401	Suspension or revocation of license.

403.411	Penalty.
403.412	Environmental Protection Act.
403.413	Florida Litter Law.
403.414	Pollution control awards program.
403.415	Motor vehicle noise.
403.4151	Exempt motor vehicles.
403.4153	Federal preemption.

403.011 Short title.—This act shall be known and cited as the "Florida Air and Water Pollution Control Act."

History.—s. 2, ch. 67-38

403.021 Legislative declaration: public policy.

(1) The pollution of the air and waters of this state constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and other aquatic life, and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of air and water.

(2) It is declared to be the public policy of this state to control the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses, and to provide that no wastes be discharged into any waters of the state without first being subjected to the degree of treatment necessary to protect the beneficial uses of such water.

(3) It is declared to be the public policy of this state and the purpose of this act to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

(4) It is declared that local and regional air and water pollution control programs are to be supported to the extent practicable as essential instruments to provide for the securing and maintenance of appropriate levels of air and water, and the abatement of appropriate levels of air and water pollution.

(5) It is hereby declared that the prevention, abatement, and control of the pollution of the air and waters of this state are effected with a public interest, and the provisions of this act are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

(6) The Legislature finds and declares that control, regulation, and abatement of the activities which are causing or may cause pollution of the air or water resources in the state and which are or may be detrimental to human, animal, aquatic, or plant life, or to property, or unreasonably interfere with the comfortable enjoyment of life or property be increased to insure conservation of natural resources, to insure a continued safe environment, to insure public health, safety, and general welfare, and to insure protection and preservation of the public health, safety, welfare, and economic

well-being, to insure and provide for recreational and wildlife needs as the population increases and the economy expands, and to insure a continuing growth of the economy and industrial development.

(7) The Legislature further finds and declares that:

(a) Compliance with this law will require capital outlays of hundreds of millions of dollars for the installation of machinery, equipment, and facilities for the treatment of industrial wastes which are not productive assets and increased operating expenses to owners without any financial return and should be separately classified for assessment purposes.

(b) Industry should be encouraged to install new machinery, equipment and facilities as technology in environmental matters advances, thereby improving the quality of the air and waters of the state and benefiting the citizens of the state without pecuniary benefit to the owners of industries and the Legislature should prescribe methods whereby just valuation should be secured to such owners and exemptions from certain excise taxes should be offered with respect to such installations.

(c) Facilities as herein defined should be classified separately from other real and personal property of any manufacturing or processing plant or installation, as such facilities contribute only to general welfare and health and are assets producing no profit return to owners.

(d) In existing manufacturing or processing plants it is more difficult to obtain satisfactory results in treating industrial wastes than in new plants being now planned or constructed and thus in respect to existing plants in many instances it will be necessary to demolish and remove substantial portions thereof and replace the same with new and more modern equipment in order to more effectively treat, eliminate or reduce the objectionable characteristics of any industrial wastes and that such replacements should be classified and assessed differently from replacements made in the ordinary course of business.

(8) The Legislature further finds and declares that the public health, welfare, and safety may be affected by disease-carrying vectors and pests. The department shall assist all governmental units charged with the control of such vectors and pests. Furthermore, in reviewing applications for permits, the department shall consider the total well-being of the public and shall not consider solely the ambient pollution standards when exercising its powers, if there is a danger of a public health hazard.

(9) The Legislature finds and declares that it is essential to preserve and maintain authorized water depth in the existing navigation channels, port harbors, turning basins and harbor berths of this state in order to provide for the continued safe navigation of deepwater shipping commerce. The department shall recognize that no continuing channel depth is an ongoing continuing activity, and it shall develop a regulatory process which shall enable the ports of this state to conduct such activities in an environmentally sound, expeditious, and efficient manner.

(b) The provisions of paragraph (a) shall apply

only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Fort St. Joe, Panama City, and Pensacola.

History.—1979, ch. 10, § 1, s. 1, 1980, ch. 1, § 1, s. 1, 1981, ch. 1, § 1, s. 1, 1982, ch. 1, § 1, s. 1, 1983, ch. 1, § 1, s. 1.

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

- (1) "Department" is the Department of Environmental Regulation.
- (2) "Pollution" is the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
- (3) "Waters" shall include, but not be limited to, rivers, lakes, streams, springs, impoundments, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface or underground. Waters owned or controlled by any person other than the state are included only in regard to possible discharge into the property or water. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through channels, whether man-made or natural.
- (4) "Contaminant" is any substance which is harmful to plant, animal or human life.
- (5) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the state.
- (6) "Treatment works" and "disposal systems" means any plant or other works used for the purpose of treating, stabilizing, or holding wastes.
- (7) "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.
- (8) "Installation" is any structure, equipment, facility, or appurtenances thereto, or operation which may emit air or water contaminants in quantities prohibited by rules of the department.
- (9) "Plant" is any unit of operation, complex, area, or multiple of unit operations that produce, process, or cause to be processed any materials, the processing of which can, or may, cause air or water pollution.
- (10) "Source" is any and all points of origin of the item defined in subsection (9), whether privately or publicly owned or operated.
- (11) "Person" means the state or any agency or institution thereof, any municipality, political subdivision, public or private corporation, individual partnership, association, or other entity, and includes any officer or governing or managing body of any municipality or governing or managing body of any municipality.

polity, political subdivision, or public or private corporation.

(12) "Effluent limitations" means any restriction established by the department on quantities, rates, or concentrations of chemical, physical, biological, or other constituents which are discharged from sources into waters of the state.

History.—1979, ch. 10, § 1, s. 1, 1980, ch. 1, § 1, s. 1, 1981, ch. 1, § 1, s. 1, 1982, ch. 1, § 1, s. 1, 1983, ch. 1, § 1, s. 1.

403.081 Meetings; hearings and procedure.

- (1) The department shall cause a transcript of the proceedings at all meetings to be made.
- (2)(a) Any department planning, design, construction, modification, or operating standards, criteria, and requirements for treatment works, disposal systems, and sewerage systems for waters from any source shall be promulgated as a rule or regulation.
- (b) The department shall not withhold the issuance of a permit to consider matters not addressed by the permit application or to consider standards, criteria, and requirements not adopted as required by paragraph (a).

History.—1979, ch. 10, § 1, s. 1, 1980, ch. 1, § 1, s. 1, 1981, ch. 1, § 1, s. 1, 1982, ch. 1, § 1, s. 1, 1983, ch. 1, § 1, s. 1.

403.081 Department; powers and duties.

The department shall have the power and the duty to enforce and prohibit pollution of air and water in accordance with the law and rules and regulations adopted and promulgated by it, and for this purpose to:

- (1) Approve and promulgate current and long-range plans developed to provide for air and water quality control and pollution abatement.
- (2) Hire only such employees as may be necessary to effectuate the responsibilities of the department.
- (3) Utilize the facilities and personnel of Health and Rehabilitative Services, and delegate to any such agency any duties and functions as the department may deem necessary to carry out the purposes of this act.
- (4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, contract, or otherwise. All state agencies, upon direction of the department, shall make these services and facilities available.
- (5) Accept state appropriations, loans and grants from the Federal Government, and other sources, public or private, which funds and grants shall not be expended for other than the purposes of this act.
- (6) Exercise general supervision of the administration and enforcement of the laws, rules, and regulations pertaining to air and water pollution.
- (7) Adopt, modify, and repeal rules and regulations to carry out the intent and purposes of this act.
- (8) Any rules or regulations adopted pursuant to this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. Rules adopted

pursuant to this act shall not require discharges of waste into waters of the state to improve natural background conditions. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.084.

(b) Issue such orders as may be necessary to effectuate the control of air and water pollution and enforce the same by all appropriate administrative and judicial proceedings.

(9) Adopt a comprehensive program for the prevention, control, and abatement of pollution of the air and waters of the state, and from time to time review and modify such program as necessary.

(10) Develop a comprehensive program for the prevention, abatement, and control of the pollution of the waters of the state. In order to effect this purpose, a grouping of the waters into classes may be made in accordance with the present and future most beneficial uses. Such classifications may from time to time be altered or modified. However, before any such classification is made, or any modifications made thereto, public hearings shall be held by the department.

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish noise zones for existing and future discharges shall be permitted in outstanding Florida Statutes which have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later.

(12) Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act; and

(c) Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary.

Nothing in this act shall be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.37(1).

(12)(a) Cause field studies to be made and samples to be taken out of the air and from the waters of the state periodically and in a logical geographic manner so as to determine the levels of air quality of the air and water quality of the waters of the state.

(b) Determine the source of the pollution when ever a study is made or a sample collected which proves to be below the air or water quality standard set for air or water.

(c) Require persons engaged in operations which may result in pollution to file reports which may contain information relating to the nature, size, and location of outlet, rate and period of emission and composition of effluent, and such other information as the department shall prescribe to be filed relative to pollution.

(14) Establish a permit system whereby a permit

may be required for the operation, construction, or expansion of any installation that may be a source of air or water pollution and provide for the issuance and revocation of such permits and for the posting of an appropriate bond to operate.

(a) Notwithstanding any other provision of this chapter, the Department of Environmental Regulation may authorize, by rule, the Department of Transportation to perform any activity requiring a permit from the Department of Environmental Regulation covered by this chapter, upon certification by the Department of Transportation that it will meet all requirements imposed by statute, rule, or standard for environmental control and protection as such statute, rule, or standard applies to a governmental program. In this end, the Department of Environmental Regulation may accept a certificate of compliance for programs administered by the Department of Transportation, may conduct investigations for compliance, and, if a violation action pertaining thereto, including but not limited to the revocation of registration. The authorization shall be by rule of the Department of Environmental Regulation, shall be limited to the maintenance, repair, or replacement of existing structures, and shall be conditioned upon compliance by the Department of Transportation with specific guidelines or requirements which are set forth in the formal acceptance and deemed necessary by the Department of Environmental Regulation to assure future compliance with this chapter and applicable department rules. Failure of the Department of Transportation to comply with any provision of the written acceptance shall constitute grounds for its revocation by the Department of Environmental Regulation.

(b) The provisions of chapter 130 shall be accorded any person when substantial interests will be affected by an activity proposed to be conducted by the Department of Transportation pursuant to its certification and the acceptance of the Department of Environmental Regulation. If a proceeding is conducted pursuant to s. 130.57, the Department of Administrative Hearings of the Department of Administration shall submit a recommended order pursuant to s. 130.57, the Department of Environmental Regulation shall issue a final department order adopting, rejecting, or modifying the recommended order pursuant to such action.

(13) Consult with any person proposing to construct, install, or otherwise acquire a pollution control device or system for the pollution problem which may be caused by the source device or system. Nothing in this act shall be construed to require such consultation shall be construed to relieve any person from compliance with this act, rules and regulations of the department or any other provision of law.

(16) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this act.

(17) Encourage local units of government to handle pollution problems within their respective jurisdictions.

(18) Encourage local units of government to handle pollution problems within their respective jurisdictions.

hance existing public access when deemed necessary for the enhancement of the restoration effort. This program shall be funded from the General Revenue Fund from funds available from the Pollution Recovery Fund, and the department shall not be limited for the allocation of restoration and preservation funds. Such criteria shall include, but not be limited to the following:

- (a) The degree of water quality degradation;
- (b) The degree to which sources of pollution which have contributed to the need for restoration or preservation have been abated;
- (c) The public uses which can be made of the subject waters;
- (d) The ecological value of the subject waters in relation to other waters proposed for restoration and preservation;
- (e) The implementation by local government of regulatory or management programs to prevent further and subsequent degradation of the subject waters; and
- (f) The commitment of local government resources to assist in the proposed restoration and preservation.

(4) There is hereby created the Water Resources Restoration and Preservation Trust Fund for the deposit and disbursement of funds available from the Pollution Recovery Fund and from federal moneys in accordance with the provisions of this act.

(5) The provisions of this act are for the benefit of the public and shall be liberally construed to accomplish the purposes set forth in this act.

History.—s. 1, ch. 84-13, § 1, effective July 1, 1984.

403.082 Pollution control; underground, surface, and coastal waters.—

The department and its agents shall have general control and supervision over underground water, lakes, rivers, streams, canals, ditches, and coastal waters under the jurisdiction of the state insofar as their pollution may affect the public health or impair the interest of the public or persons lawfully using them.

History.—s. 2, ch. 282, § 1, effective July 1, 1982.

403.083 Ground water quality monitoring.—

(1) The department, in cooperation with other state and federal agencies, water management districts, and local governments shall establish ground water quality monitoring network designed to detect or predict contamination of the ground water resources of the state.

(2) The department may by rule determine the priority of sites to be monitored within such ground water quality monitoring network, based upon the following criteria:

- (a) The degree of danger to the public health caused or potentially caused by contamination;
- (b) The susceptibility of each site to contamination;
- (c) This information shall be made available to state and federal agencies and local governments to facilitate their regulatory and land use planning decisions.

History.—s. 1, ch. 84-13, § 1, effective July 1, 1984.

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)(a) Neither the Department of Health and Rehabilitative Services nor any other state agency, county, special district, or municipality shall approve construction of any facilities for sanitary sewage discharge and secondary waste treatment.

(1)(b) Neither the Department of Health and Rehabilitative Services nor any other state agency, county, special district, or municipality shall approve construction of any facilities for sanitary sewage discharge and secondary waste treatment.

History.—s. 1, ch. 84-13, § 1, effective July 1, 1984.

403.086 Sewage disposal facilities; advanced and secondary waste treatment.—

(1)(a) Neither the Department of Health and Rehabilitative Services nor any other state agency, county, special district, or municipality shall approve construction of any facilities for sanitary sewage discharge and secondary waste treatment.

(1)(b) Neither the Department of Health and Rehabilitative Services nor any other state agency, county, special district, or municipality shall approve construction of any facilities for sanitary sewage discharge and secondary waste treatment.

History.—s. 1, ch. 84-13, § 1, effective July 1, 1984.

maintenance dredging operations permitted after July 1, 1980, where the United States Army Corps of Engineers is the prime dredge and fill agent and the local governmental agency is acting as sponsor for the operation, and shall not require the redesignation of currently approved spoil sites under such previous operations.

(25) Establish and administer a program for the restoration and preservation of bodies of water within the state. The department shall have the power to acquire lands, to cooperate with other applicable state or local agencies to enhance existing public access to such bodies of water, and to adopt all rules necessary to accomplish this purpose.

(26)(a) Develop standards and criteria for waters used for deepwater shipping which standards and criteria consider existing water quality, appropriate mixing zones and other requirements for maintenance dredging in previously constructed deepwater navigation channels, port harbors, turning basins, or harbor berths; and appropriate zoning zones for disposal of spoil material from dredging and, where necessary, develop a separate classification for such waters. Such classification, standards, and criteria shall recognize that the present dedicated use of these waters is for the purpose of navigation.

(b) The provisions of paragraph (a) shall apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, and Pensacola.

(27) Establish rules which provide for a special category of water bodies within the state, to be referred to as "outstanding Florida waters," which water bodies shall be worthy of special protection because of their natural attributes. Nothing in this subsection shall affect any existing rules of the department.

(28) Perform any other act necessary to control and prohibit air and water pollution, and to delegate any of its responsibilities, authority, and powers, other than rulemaking powers, to any state agency now or hereinafter established.

(29) Adopt by rule special criteria to protect Class II shellfish harvesting waters. Rules previously adopted by the department in s. 17-4.22(8)(a), Florida Administrative Code, are hereby ratified and determined to be a valid exercise of delegated legislative authority and shall remain in effect unless the authority shall terminate in effect unless signified by the Environmental Regulation Commission.

History.—s. 1, ch. 84-13, § 1, effective July 1, 1984.

403.0615 Water resources restoration and preservation.—

(1) This section may be cited as the "Water Resources Restoration and Preservation Act."

(2) The Department of Environmental Regulation shall establish a program to assist in the restoration and preservation of bodies of water and to enforce

History.—s. 1, ch. 84-13, § 1, effective July 1, 1984.

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History.—s. 1, ch. 84-13, § 1, effective July 1, 1984.

posal which do not provide for secondary waste treatment and, in addition thereto, advanced waste treatment as deemed necessary and ordered by the Department of Environmental Regulation.

(b) No facilities for sanitary sewage disposal constructed after June 14, 1978, shall dispose of any wastes by deep well injection without providing for secondary waste treatment and, in addition thereto, advanced waste treatment deemed necessary by the Department of Environmental Regulation to protect adequately the beneficial use of the receiving waters.

(3) Any facility for waste disposal, as defined in s. 403.087, shall be subject to the Department of Pollution Control or its successor, the Department of Environmental Regulation. Failure to conform by said date shall be punishable by a civil penalty of \$500 for each 24-hour day or fraction thereof that such failure is allowed to continue thereafter.

(4) This section shall not be construed to prohibit or regulate septic tanks or other means of individual waste disposal which are otherwise subject to state regulation.

History: s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.

(1) No stationary installation which will reasonably be expected to be a source of air or water pollution shall be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the department, unless exempted by department rule. In no event shall a permit for a water pollution source be valid for more than 5 years. However, upon expiration, a new permit may be issued by the department in accordance with this act and the rules and regulations of the department.

(2) The department shall adopt, amend, or repeal rules, regulations, and standards for the issuance, denial, and revocation of permits.

(3) The department shall issue permits on such conditions as are necessary to effect the intent and purposes of this section.

(4) The department shall issue permits to construct, operate, maintain, expand, or modify an installation which may reasonably be expected to be a source of pollution only when it determines that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules promulgated by the department, except as provided in s. 403.088, and which will comply with the prohibitions in 40 C.F.R. 124.41.

(5)(a) The department may require an application fee in an amount sufficient to cover the costs of reviewing and acting upon any application and the costs of surveillance and other field services associated with any permit issued; but the amount in no case shall exceed \$100, except that:

1. The permit fee for any of the following permits shall not exceed \$500:

- Air pollution, operation permit.
- Industrial waste, construction operation permit.
- Domestic waste, temporary operation permit.
- Industrial waste, temporary operation permit.
- Stormwater, temporary operation permit.

2. The permit fee for any of the following permits shall not exceed \$1,000:

- Air pollution, construction permit.
- Dredge and fill, standard form permit.
- Deep well injection, construction permit.
- Deep well injection, operation permit.
- Hazardous waste permit.

(b) The fee schedule shall be adopted by rule based on a sliding scale relating to the size or type of installation which is proposed by the applicant. The department requires by rule or by permit condition that a permit be renewed more frequently than once every 5 years, the permit fee shall be promoted based upon the permit fee schedule in effect at the time of permit renewal.

(6) A permit issued pursuant to this section shall not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permit holder:

- Has submitted false or inaccurate information in an application;
- Has violated law, department orders, rules, or regulations;
- Has failed to submit operational reports or other information required by department rule or regulation; or
- Has refused lawful inspection under s. 403.091.

403.088 Water pollution operation permits; temporary permits; conditions.

(1) No person, without written authorization of the department, shall discharge into waters within the state any waste which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for them. However, this section shall not be deemed to prohibit the application of pesticides to waters in the state for the control of insects, aquatic weeds, or algae, provided the application is performed pursuant to a program approved by the Department of Health and Rehabilitative Services, in the case of insect control, or the Department of Natural Resources, in the case of aquatic weed or algae control. The Department of Environmental Regulation is directed to enter into interagency agreements to establish the procedures for program approval. Such agreements shall provide for public health, welfare, agriculture, and other environmental concerns. Any person who discharges waste into waters shall be approved for the particular use by the Federal Environmental Protection Agency or by the Department of Agriculture and Consumer Services may be employed and that they be applied in accordance with registered label instructions, state standards for such application, and the provisions of the Florida Pesticide Law, chapter 487.

(2)(a) Any person intending to discharge wastes

History: s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

403.087 Florida Permit Fee Trust Fund.

—There is established within the Department of Environmental Regulation a nonlapsing trust fund to be known as the "Florida Permit Fee Trust Fund." All funds received from applicants for permits pursuant to chapter 253 and s. 403.087(5) shall be deposited in the Florida Permit Fee Trust Fund and shall be used by the department with the advice and consent of the Legislature to supplement appropriations and other funds received by the department for the administration of its responsibilities under this chapter and chapter 253. In no case shall funds from the Florida Permit Fee Trust Fund be used for salary increases without the approval of the Legislature.

History: s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

403.0875 Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History: s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

403.0876 Permits; processing.—Within 30 days after receipt of an application for a permit under this chapter, the department shall review the application and shall request submittal of all additional information the department believes any departmental requirement for additional information is not authorized by law or departmental rule, the applicant may request a hearing pursuant to s. 120.57. Within 30 days after receipt of such additional information, the department shall review it and may request only that information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the department for such additional information is not authorized by law or departmental rule, the department, at the applicant's request, shall proceed to process the permit application. Permits shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

History: s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

403.0877 Water pollution operation permits; temporary permits; conditions.—

(1) No person, without written authorization of the department, shall discharge into waters within the state any waste which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for them. However, this section shall not be deemed to prohibit the application of pesticides to waters in the state for the control of insects, aquatic weeds, or algae, provided the application is performed pursuant to a program approved by the Department of Health and Rehabilitative Services, in the case of insect control, or the Department of Natural Resources, in the case of aquatic weed or algae control. The Department of Environmental Regulation is directed to enter into interagency agreements to establish the procedures for program approval. Such agreements shall provide for public health, welfare, agriculture, and other environmental concerns. Any person who discharges waste into waters shall be approved for the particular use by the Federal Environmental Protection Agency or by the Department of Agriculture and Consumer Services may be employed and that they be applied in accordance with registered label instructions, state standards for such application, and the provisions of the Florida Pesticide Law, chapter 487.

(2)(a) Any person intending to discharge wastes

History: s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

403.0878 Water pollution operation permits; temporary permits; conditions.—

(1) No person, without written authorization of the department, shall discharge into waters within the state any waste which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for them. However, this section shall not be deemed to prohibit the application of pesticides to waters in the state for the control of insects, aquatic weeds, or algae, provided the application is performed pursuant to a program approved by the Department of Health and Rehabilitative Services, in the case of insect control, or the Department of Natural Resources, in the case of aquatic weed or algae control. The Department of Environmental Regulation is directed to enter into interagency agreements to establish the procedures for program approval. Such agreements shall provide for public health, welfare, agriculture, and other environmental concerns. Any person who discharges waste into waters shall be approved for the particular use by the Federal Environmental Protection Agency or by the Department of Agriculture and Consumer Services may be employed and that they be applied in accordance with registered label instructions, state standards for such application, and the provisions of the Florida Pesticide Law, chapter 487.

(2)(a) Any person intending to discharge wastes

History: s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

403.0879 Water pollution operation permits; temporary permits; conditions.—

(1) No person, without written authorization of the department, shall discharge into waters within the state any waste which, by itself or in combination with the wastes of other sources, reduces the quality of the receiving waters below the classification established for them. However, this section shall not be deemed to prohibit the application of pesticides to waters in the state for the control of insects, aquatic weeds, or algae, provided the application is performed pursuant to a program approved by the Department of Health and Rehabilitative Services, in the case of insect control, or the Department of Natural Resources, in the case of aquatic weed or algae control. The Department of Environmental Regulation is directed to enter into interagency agreements to establish the procedures for program approval. Such agreements shall provide for public health, welfare, agriculture, and other environmental concerns. Any person who discharges waste into waters shall be approved for the particular use by the Federal Environmental Protection Agency or by the Department of Agriculture and Consumer Services may be employed and that they be applied in accordance with registered label instructions, state standards for such application, and the provisions of the Florida Pesticide Law, chapter 487.

(2)(a) Any person intending to discharge wastes

History: s. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

erator of the premises shall receive a report, if re-

the required level of certification.

damages for any injury to the air, waters, or property.

may receive evidence in mitigation. Each day

during any portion of which such violation occurs constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of any private person.

(2) Whenever two or more persons pollute the air or waters of the state in violation of this chapter or any rule, regulation, or order of the department so that the damage is indivisible, each violator shall be jointly and severally liable for such damage and for the reasonable cost and expenses of the state incurred in tracing the source of discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including the animal, plant, and aquatic life of the state, to their original condition. If one defendant is jointly and severally liable with another defendant, the defendant may be attributed to a particular violator or violators, each violator is liable only for that damage attributable to his violation.

(3) In assessing damages for fish killed, the value of the fish is to be determined in accordance with a table of values for individual categories of fish which shall be promulgated by the department. At the time the table is adopted, the department shall utilize tables of values established by the Department of Natural Resources and the Game and Fresh Water Fish Commission. The total number of fish killed may be estimated by standard practices used in estimating fish population.

(4) The damage provisions of this section shall not apply to damage resulting from the application of federally approved or state-approved chemicals to the waters in the state for the control of insects, aquatic weeds, or algae, provided the application of such chemicals is done in accordance with a program approved pursuant to s. 403.088(1) and provided said application is not done negligently.

History.—1981, Ch. 72, § 2, I.C. 72.121, I.C. 72.122, I.C. 72.123, I.C. 72.124, I.C. 72.125.

403.151 Compliance with rules or orders of department.—All rules or orders of the department which require action to comply with standards adopted by it, or orders to comply with any provisions of this act, may specify a reasonable time for such compliance.

History.—1981, Ch. 72, § 3, I.C. 72.126, I.C. 72.127.

403.161 Prohibitions, violation, penalty, intent.—

(1) It shall be a violation of this chapter, and it shall be prohibited:

(a) To cause pollution, except as otherwise provided in this chapter, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property.

(b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the department pursuant to its lawful authority.

(c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained.

tained under this chapter or by any permit, rule, regulation, or order issued under this chapter.

(2) Whoever commits a violation specified in subsection (1) is liable to the state for any damage caused and for civil penalties as provided in s. 403.141.

(3) Any person who willfully or negligently commits a violation specified in subsections (1)(a) or (b) shall be guilty of a misdemeanor of the first degree punishable as provided in s. 775.082(4)(a) and s. 775.083(1)(g) by a fine of not less than \$2,500 or more than \$25,000, or punishable by 1 year in jail, or by both for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

(4) Any person who commits a violation specified in subsection (1)(c) shall be guilty of a misdemeanor of the first degree punishable as provided in s. 775.082(4)(a) and s. 775.083(1)(g) by a fine of not more than \$10,000 or by 6 months in jail, or by both for each offense.

(5) It is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to insure immediate and continued compliance with this act.

History.—1981, Ch. 72, § 4, I.C. 72.128, I.C. 72.129, I.C. 72.130, I.C. 72.131, I.C. 72.132, I.C. 72.133, I.C. 72.134, I.C. 72.135.

403.165 Use of pollution awards: pollution recovery fund.—

(1) Any moneys recovered by the state in an action against any person who has polluted the air, soil, or water of the state in violation of this chapter shall be used to restore the polluted area which was the subject of suit to its former condition.

(2) There is hereby created a Pollution Recovery Fund which is to be supervised and used by the department to restore polluted areas of the state as defined by the department, to the condition they were in before pollution occurred. The fund shall consist of all moneys specified in subsection (1). The moneys shall be disbursed first to pay all amounts necessary to restore the respective polluted areas which were the subjects of state actions. Any moneys remaining in the fund shall then be used by the department, as it sees fit, to pay for any work needed to restore areas which required more money than the state was able to obtain by court action or otherwise or to restore areas in which the state brought suit but was unable to recover any moneys from the alleged violators.

History.—1981, Ch. 72, § 5.

403.1655 Environmental short-term emergency response program.—

(1) It is the purpose of this section to provide a mechanism through which the state can immediately respond to short-term emergencies involving a threat to or an actual contamination of surface and ground water. It is the intent of the Legislature that the department provide not only technical assistance when responding to these short-term emergencies, but also financial resources to respond to emergencies which pose an immediate environmental or public health threat.

(2) The department shall be the lead agency for

interdepartmental coordination relating to water pollution, toxic substances, and hazardous waste and other environmental and health emergencies not specifically designated within other statutes.

(3) The Water Quality Assurance Trust Fund shall be utilized to enable the department to respond to an emergency or public health incident which threatens the environment or public health when otherwise responsible parties do not adequately respond.

(4) The department shall adopt rules for the purposes of this section.

History.—1981, Ch. 72, § 6.

403.1815 Construction of water distribution mains and sewage collection laterals; local regulation.—Notwithstanding any other provision of this chapter to the contrary, the department may, upon request, allow any county or municipality to regulate independently the construction of water distribution mains and sewage collection laterals of 10 inches or less in size which may be connected to any water system or sewerage system owned by the county or municipality. In considering such request, the department shall determine the administrative and engineering ability of a county or municipality to administer and comply with the requirements of this section. In the event the department allows any county or municipality to regulate independently the construction of such water distribution mains and sewage collection laterals, these types of construction projects shall be exempt from department permit requirements. However, nothing in this section shall relieve a county or a municipality from any requirement to obtain a necessary permit for construction activities in waters of the state or of the United States or from complying with all other provisions of this chapter and rules promulgated thereunder. The exemption provided by this section shall not apply to any lateral connection to any water or sewerage system which the department has deemed to be in substantial noncompliance with applicable laws and standards if the department has so notified the respective county or municipality. Each county or municipality granted such authority shall submit monthly reports to the department of the number of connections made to the existing location of such water or sewerage system owned by such county or municipality and shall, not later than July 1 of each year, submit an updated map of any water distribution system and sewage collection system owned by the county or municipality. Such map shall indicate the extensions of such water mains and sewer laterals constructed for the preceding year.

History.—1981, Ch. 72, § 7.

403.182 Local pollution control programs.—

(1) Each county and municipality or any combination thereof may establish and administer a local pollution control program if it complies with this act.

Local pollution control programs in existence on the effective date of this act shall not be ousted of jurisdiction if such local program complies with this act.

All local pollution programs, whether established before or after the effective date of this act, must:

(a) Be approved by the department as adequate to meet the requirements of this act and any applicable rules and regulations pursuant thereto.

(b) Provide by ordinance, regulation, or local law for requirements compatible with, or stricter or more extensive than those imposed by, this act and regulations issued thereunder.

(c) Provide for the enforcement of such requirements by appropriate administrative and judicial process.

(d) Provide for administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its program.

(2) The department shall have the exclusive authority and power to require and issue permits; provide, however, that the department may delegate its power and authority to local pollution control organizations if the department finds it necessary or desirable to do so.

(3) If the department finds that the location, character or extent of particular concentrations of population, contaminant sources, the geographic, topographic or meteorological considerations, or any combinations thereof, are such as to make impracticable the maintenance of appropriate levels of air and water quality without an areawide pollution control program, the department may determine the boundaries within which such program is necessary and require it as the only acceptable alternative to direct state administration.

(4)(a) If the department has reason to believe that a pollution control program to force pursuant to this section is inadequate to prevent and control pollution in the jurisdiction to which such program relates, or that such program is being administered in a manner inconsistent with the requirements of this act, it shall proceed to determine the matter.

(b) If the department determines that such program is inadequate to prevent and control pollution in the municipality or county or municipalities, or that such program is being administered in a manner inconsistent with the requirements of this act, it shall require the necessary corrective measures to be taken within a reasonable period of time, not to exceed 90 days.

(c) If the municipality, county, or municipalities or counties fail to take such necessary corrective action within the time required, the department shall administer within such municipality, county, or municipalities or counties all of the regulatory provisions of this act. Such pollution control program shall supersede all municipal or county pollution laws, regulations, ordinances and requirements in the affected jurisdiction.

(d) If the department finds that the control of a particular class of contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local pollution control authorities or may be more efficiently and economically performed at the state level, it may assume and retain jurisdiction over that class of contaminant source. Classification pursuant to this paragraph may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.

advanced waste treatment facilities, or portions thereof, required for discharge to surface waters or ground water protection or protection of public health are eligible for funding.

(3) No grant may be made until the local governmental agency has available to it that part of the total cost of the project which is in excess of the applicable grant.

(4) The department shall require local governmental funds in the amount of 45 percent of eligible project costs as determined by rules of the department. The department is authorized to establish a maximum amount for a grant pursuant to this act.

(5) Grants made under ss. 403.1821-403.1832 shall be paid to the local governmental agency as provided by department rule.

(6) No grant may be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources, including, but not limited to, service charges and connection fees and shall reflect the amortized capital investment in existing facilities, as well as the cost of the facility for which the grant is sought.

(7) No grant may be made unless the local governmental agency has filed properly executed forms and applications prescribed by the department.

(8) Any local governmental agency receiving assistance under ss. 403.1821-403.1832 shall keep such records as the department prescribes, including records which fully disclose the amount and disposition by the recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with such assistance given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The department and the Auditor General or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are required to be kept by the grantee under ss. 403.1821-403.1832.

(9) Any project satisfactorily planned and designed in accordance with the requirements of the United States Environmental Protection Agency is eligible for funding under this act.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1829 Funding of projects; priorities.—Eligible projects shall be funded according to priorities established by department rule. Such priorities shall be intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. Advanced waste treatment facilities or portions thereof which are required for discharge to surface waters or ground water protection or protection of public health, which are required by the department, and which are determined to be ineligible for federal funding are eligible for supplemental state funding under this act.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1830 Grants to local governmental agencies.—(1) "Local governmental agency" refers to any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing, acting jointly in connection with a project, having jurisdiction over collection, transmission, treatment, or disposal of sewage, industrial wastes, or other wastes, all or part of a sewage treatment or disposal facility, or other cost-effective alternative, or any combination thereof, for the construction of existing sewage collection or transmission lines.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1831 Department of Environmental Regulation; rulemaking authority; administration of funds.—The department shall:

(1) Promulgate rules and regulations to carry out the purposes of ss. 403.1821-403.1832.

(2) Administer and control all funds appropriated to or received by the department for the purposes of ss. 403.1821-403.1832.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1832 State Water Pollution Control Trust Fund.—A trust fund to be known as the "State Water Pollution Control Trust Fund" is established in the State Treasury to be used for the construction or reconstruction of sewage collection, transmission, treatment, or disposal facilities or cost-effective alternatives. All funds received by the department to carry out the purposes of ss. 403.1821-403.1832 shall be deposited in this fund; however, at least 45 percent of the funds received by the department and deposited in this fund shall be transferred to the Small Community Sewer Construction Assistance Trust Fund. The department may expend up to 2 percent of the State Water Pollution Control Trust Fund to cover the cost of reviewing and acting upon grant applications by a local governmental agency and the cost of surveillance and other field services associated with the application.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1833 Grants to local governmental agencies.—(1) Grants shall be made under ss. 403.1821-403.1832 for projects eligible as provided in rules of the department. Only those projects to be constructed after the effective date of this act are eligible for grants pursuant to this act.

(2) No grant may be made for any project unless such project and the plans and specifications therefor are approved by the department, subject to such requirements as the department imposes. The costs for

403.1822 Definitions.—As used in ss. 403.1821-403.1832, the term:

(1) "Department" refers to the Department of Environmental Regulation.

(2) "Grants," "grant," "state grants," or "state grant" refers to disbursements from the State Water Pollution Control Trust Fund pursuant to ss. 403.1825

(3) "Local governmental agency" refers to any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing, acting jointly in connection with a project, having jurisdiction over collection, transmission, treatment, or disposal of sewage, industrial wastes, or other wastes, all or part of a sewage treatment or disposal facility, or other cost-effective alternative, or any combination thereof, for the construction of existing sewage collection or transmission lines.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1823 Department of Environmental Regulation; rulemaking authority; administration of funds.—The department shall:

(1) Promulgate rules and regulations to carry out the purposes of ss. 403.1821-403.1832.

(2) Administer and control all funds appropriated to or received by the department for the purposes of ss. 403.1821-403.1832.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1824 State Water Pollution Control Trust Fund.—A trust fund to be known as the "State Water Pollution Control Trust Fund" is established in the State Treasury to be used for the construction or reconstruction of sewage collection, transmission, treatment, or disposal facilities or cost-effective alternatives. All funds received by the department to carry out the purposes of ss. 403.1821-403.1832 shall be deposited in this fund; however, at least 45 percent of the funds received by the department and deposited in this fund shall be transferred to the Small Community Sewer Construction Assistance Trust Fund. The department may expend up to 2 percent of the State Water Pollution Control Trust Fund to cover the cost of reviewing and acting upon grant applications by a local governmental agency and the cost of surveillance and other field services associated with the application.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1825 Grants to local governmental agencies.—(1) Grants shall be made under ss. 403.1821-403.1832 for projects eligible as provided in rules of the department. Only those projects to be constructed after the effective date of this act are eligible for grants pursuant to this act.

(2) No grant may be made for any project unless such project and the plans and specifications therefor are approved by the department, subject to such requirements as the department imposes. The costs for

403.1826 Grants to local governmental agencies.—(1) Grants shall be made under ss. 403.1821-403.1832 for projects eligible as provided in rules of the department. Only those projects to be constructed after the effective date of this act are eligible for grants pursuant to this act.

(2) No grant may be made for any project unless such project and the plans and specifications therefor are approved by the department, subject to such requirements as the department imposes. The costs for

403.1827 Water pollution control and sewage treatment.—Sections 403.1821-403.1832 shall be known and cited as the "Florida Water Pollution Control and Sewage Treatment Plant Grant Act."

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1828 Definitions.—As used in ss. 403.1821-403.1832, the term:

(1) "Department" refers to the Department of Environmental Regulation.

(2) "Grants," "grant," "state grants," or "state grant" refers to disbursements from the State Water Pollution Control Trust Fund pursuant to ss. 403.1825

403.1829 Funding of projects; priorities.—Eligible projects shall be funded according to priorities established by department rule. Such priorities shall be intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. Advanced waste treatment facilities or portions thereof which are required for discharge to surface waters or ground water protection or protection of public health, which are required by the department, and which are determined to be ineligible for federal funding are eligible for supplemental state funding under this act.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1830 Grants to local governmental agencies.—(1) Grants shall be made under ss. 403.1821-403.1832 for projects eligible as provided in rules of the department. Only those projects to be constructed after the effective date of this act are eligible for grants pursuant to this act.

(2) No grant may be made for any project unless such project and the plans and specifications therefor are approved by the department, subject to such requirements as the department imposes. The costs for

403.1831 Department of Environmental Regulation; rulemaking authority; administration of funds.—The department shall:

(1) Promulgate rules and regulations to carry out the purposes of ss. 403.1821-403.1832.

(2) Administer and control all funds appropriated to or received by the department for the purposes of ss. 403.1821-403.1832.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

403.1832 State Water Pollution Control Trust Fund.—A trust fund to be known as the "State Water Pollution Control Trust Fund" is established in the State Treasury to be used for the construction or reconstruction of sewage collection, transmission, treatment, or disposal facilities or cost-effective alternatives. All funds received by the department to carry out the purposes of ss. 403.1821-403.1832 shall be deposited in this fund; however, at least 45 percent of the funds received by the department and deposited in this fund shall be transferred to the Small Community Sewer Construction Assistance Trust Fund. The department may expend up to 2 percent of the State Water Pollution Control Trust Fund to cover the cost of reviewing and acting upon grant applications by a local governmental agency and the cost of surveillance and other field services associated with the application.

History.—s. 1, ch. 70-261, § 1, F.S.; s. 1, ch. 71-127, § 1, F.S.; s. 1, ch. 72-64, § 1, F.S.; s. 1, ch. 73-19, § 1, F.S.; s. 1, ch. 74-28, § 1, F.S.; s. 1, ch. 75-10, § 1, F.S.; s. 1, ch. 76-10, § 1, F.S.; s. 1, ch. 77-10, § 1, F.S.; s. 1, ch. 78-10, § 1, F.S.; s. 1, ch. 79-10, § 1, F.S.; s. 1, ch. 80-10, § 1, F.S.; s. 1, ch. 81-10, § 1, F.S.; s. 1, ch. 82-10, § 1, F.S.; s. 1, ch. 83-10, § 1, F.S.; s. 1, ch. 84-10, § 1, F.S.; s. 1, ch. 85-10, § 1, F.S.; s. 1, ch. 86-10, § 1, F.S.; s. 1, ch. 87-10, § 1, F.S.; s. 1, ch. 88-10, § 1, F.S.; s. 1, ch. 89-10, § 1, F.S.; s. 1, ch. 90-10, § 1, F.S.; s. 1, ch. 91-10, § 1, F.S.; s. 1, ch. 92-10, § 1, F.S.; s. 1, ch. 93-10, § 1, F.S.; s. 1, ch. 94-10, § 1, F.S.; s. 1, ch. 95-10, § 1, F.S.; s. 1, ch. 96-10, § 1, F.S.; s. 1, ch. 97-10, § 1, F.S.; s. 1, ch. 98-10, § 1, F.S.; s. 1, ch. 99-10, § 1, F.S.; s. 1, ch. 100-10, § 1, F.S.

Carry out the purposes of s. 14, Art. VII of the State Constitution, and this section.

(6) The Department of Environmental Regulation shall have power to fix, establish, and collect fees, rentals, or other charges for the use or benefit of sewage treatment facilities, or may delegate such power to any county, municipality, district, authority or any agency thereof under such terms and conditions and for such periods as may be mutually agreed upon.

(7) It is found and declared that said facilities during periods as may be mutually agree upon, shall constitute a public governmental purpose necessary for the health and welfare of all the inhabitants of the state, and none of said facilities or said state bonds or the interest thereon shall ever be subject to taxation by the state or any political subdivision or agency thereof. The exemption granted by this subchapter 220 on interest, income, or profits on debt obligations owned by corporations.

(b) As used in this section, "water supply and distribution facilities" means a waterworks system as defined in s. 159.02(8) which is constructed, owned, or operated by a county, municipality, water management district created by chapter 37-3, or regional water supply authority created pursuant to chapter 37-3, or a water facility or an authority created by chapter 37-3, ss. 159.02-159.141, Laws of Florida, as amended by chapter 80-536, Laws of Florida.

103.1835 Sewage treatment facilities re-
volving loan program.

(1) The purpose of this section is to assist in implementing the legislative declaration of public policy contained in s. 403.021 by establishing a loan program to accelerate construction of sewage treatment facilities by local governmental agencies.

(2) For the purposes of this section, the following terms, unless the context otherwise indicates, shall have the meanings ascribed them in this subsection:

(a) "Local governmental agencies" means local governmental agencies as defined in s. 403.1822(3).

(b) "Sewage treatment facilities" means all facilities necessary, including land, for the collection, treatment, and disposal of sewage and other water

(c) The Department of Environmental Regulation is authorized to make loans to local governmental agencies to assist agencies in the planning, design, and preparation of environmental assessment studies for sewage treatment facilities. Loans may be made to local governmental agencies for increasing, and acquiring lands for sewage treatment facilities, and for constructing, modifying, upgrading, and acquiring lands for sewage treatment facilities if the department has approved a permanent financing plan for said agencies through participation in the state pollution bonds program pursuant to articles 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 83

(4) The term of loans made pursuant to this section shall not exceed three years. The interest rate on such loans shall be the same as that paid on the last bonds issued pursuant to the 14, Art. VI, State Constitution, or five percent, whichever is less, except that any loan shall mature during the first twelve months of any loan shall be one half of the above determined rate.

(6) Each loan agreement made pursuant to this section shall provide for the repayment schedule and interest rate. In the event a local governmental agency becomes delinquent on its loan, the department shall so certify to the Comptroller who shall forward the amount delinquent to the department from any funds due to the local governmental agency under any revenue sharing or tax sharing fund established by the state, except as otherwise provided by the State Constitution.

(7) A trust fund to be known as the "Sewage Treatment Loan Fund" is hereby established in the State Treasury to be used as a revolving fund by the State Department of Health and the local governmental agencies. Any funds therein not needed for loans may be invested pursuant to § 215.49. All interest earned thereon shall be deposited in the General Revenue Fund, and shall be appropriated for appropriation as the Legislature authorizes. The department administering this program shall be reimbursed by the department from funds otherwise appropriated to it. All funds available in the sewage treatment loan fund shall be applied to the principal of all loans made pursuant to this section. The principal of all loans repaid or investments made shall be deposited into this fund.

On July 1, 1975, the cash balance in the Sewerage Treatment Loan Fund shall revert and be transferred to the General Revenue Fund, unallocated. Loan repayments received in the Sewage Treatment Loan Fund after July 1, 1975, shall immediately revert and be transferred to the General Revenue Fund, unallocated.

403.1838 Small Community Sewer Construction Assistance Act.—

(1) This section may be cited as the "Small Community Sewer Construction Assistance Act".

(2)(a) There is established within the Department of Environmental Regulation the Small Community Sewer Construction Assistance Trust Fund.

(b) The funds shall be used by the department to assist small communities with their needs for adequate sewerage facilities. The term "small community" means an incorporated municipality with a population of 35,000 or less, according to the latest decennial census.

(3) The department may provide grants to small communities. Grants shall be made from the Small Community Sewer Construction Assistance Trust Fund in accordance with rules adopted by the Environmental Regulation Commission. No grant may exceed \$3 million.

(4) **The Environmental Regulation Commission shall:**

(a) Require a 45-percent nonstate match, except that grants of less than \$50,000 may be funded 100 percent by the department, and the commission may waive all or a part of the matching requirement.

1. Where water quality standards have been exceeded by an amount that constitutes an immediate health hazard; or

2. In communities where the gross per capita income is below the state average, as determined by the United States Department of Commerce, and where sewer systems have failed to meet department stan-

- (h) Require appropriate user charges and connection fees sufficient to ensure the long-term operation and maintenance of the facility to be constructed under any grant.
- (i) Require compliance with all water quality standards.

(d) Establish a system to determine eligibility and relative priority for applications for grants by small communities.

(e) Require applications for grants to be submitted on appropriate forms with appropriate supporting documentation, require construction to be in accordance with plans approved by the department, and require recordkeeping.

(5) Any project satisfactorily planned and designed in accordance with the requirements of the United States Environmental Protection Agency is eligible for funding under this act.

403.191 Construction in relation to other

(註 1) It is the purpose of this act to provide additional and cumulative remedies to prevent, abate, and control the pollution of the air and waters of the State. Nothing contained herein shall be construed to deprive any person of his right to sue in equity under the common law, or his right to sue at law, criminal or otherwise. No provision of this act, taken by itself or in virtue thereof, be construed as exempting any water or any municipality, or person affected by air or water pollution, in the exercise of their rights in equity or under the common law or statutory law to suppress nuisances or to abate pollution.

(2) No civil or criminal remedy for any wrongful act or omission which is a violation of any rule or regulation of the department shall be excluded or impaired by the provisions of this chapter.

(3) This act shall limit and restrict the application of chapter 24552, 1947, Laws of Florida, to any person or persons operating any industrial plant that has located in the State of Florida in reliance thereon and exercised rights and powers granted thereby on and before the effective date of this act; provided such persons shall heretofore in the exercise of such rights and powers install and use treatment works or control measures generally equivalent to those installed and used by other similar industrial plants pursuant to the requirements of the department.

403.201 Variances.—
(1) Upon application, the department in its dis-

(a) There is no practicable means known or available for the adequate control of the pollution involved.

(b) Compliance with the particular requirement or requirements from which a variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time. A variance granted for this reason shall prescribe a timetable for the taking of the measures required.

(c) To relieve or prevent hardship of a kind other than those provided for in paragraphs (a) and (b), variances and renewals thereof granted under authority of this paragraph shall each be limited to a period of 24 months, except that variances granted pursuant to part II may extend for the life of the permit or certification.

(2) The department shall publish notice, or shall require a petitioner for a variance to publish notice, in the Florida Administrative Weekly and in a newspaper of general circulation in the area affected, of proposed agency action, and the department shall afford interested persons an opportunity for a hearing on each application for a variance. If no request for a hearing is filed with the department within 14 days of published notice, the department may proceed to final agency action without a hearing.

(3) The department may prescribe such time limits and other conditions to the granting of a variance as it deems appropriate.

403.221 Pending proceedings.—No legal proceedings shall be abated because of any transfers made in this section, but the appropriate party exercising like authority or performing like duties or functions shall be substituted in said proceedings.

403-231 Department of Legal Affairs to represent the state.—The Department of Legal Affairs shall represent the state and its agencies as legal adviser in carrying out the provisions of this act.

403.251 Safety clause.—The Legislature hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health and safety.

4303.281 Provisions specifying jurisdiction repealed.—All rulemaking jurisdiction over air and water pollution matters held by other agencies within the state on September 1, 1967, is hereby repealed including, but without limitation, such jurisdiction held by the Florida State Board of Health, the Game and Fresh Water Fish Commission, the State Board of Conservation and the several water management districts within the state.

immediate and irreparable harm from the conduct or activity complained of.

(d) In any action instituted pursuant to paragraph (a), the court, in the interest of justice, may add as party defendant any governmental agency or authority charged with the duty of enforcing the applicable laws, rules, and regulations for the protection of the air, water and other natural resources of the state.

(e) No action pursuant to this section may be maintained if the person (natural or corporate) or governmental agency or authority charged with pollution, impairment, or destruction of the air, water, or other natural resources of the state is acting or conducting operations pursuant to currently valid permit or certificate covering such operations, issued by the appropriate governmental authorities or agencies, and is complying with the requirements of said permits or certificates.

(f) In any action instituted pursuant to this section, the prevailing party or parties shall be entitled to costs and attorney fees. If the court finds reasonable ground to doubt the solvency of the plaintiff or the plaintiff's ability to pay any cost or judgment, which might be rendered against him in an action brought under this section, the court may order the plaintiff to post a good and sufficient surety bond and impose conditions on the defendant which are consistent with and in accordance with any rules or regulations which are adopted by state or local government, any agency which is charged to protect the air, water, or other natural resources of the state from pollution, impairment, or destruction.

(g) The doctrine of res judicata and collateral estoppel shall apply. The court shall make such orders as necessary to avoid multiplicity of actions.

(h) In any administrative, licensing, or other proceedings authorized by law for the protection of the air, water, or other natural resources of the state from pollution, impairment, or destruction, the Department of Legal Affairs, a political subdivision or municipality of the state, or a citizen of the state shall have standing to intervene as a party on the filing of a verified pleading asserting that the activity, conduct, or product to be licensed or permitted has or will have the effect of impairing, polluting, or otherwise injuring the air, water, or other natural resources of the state.

(i) Venue of any causes brought under this law shall lie in the county or counties wherein the cause of action is alleged to have occurred.

History.— 1981, Ch. 80, § 1, (a), (b), (c), (d), (e), (f), (g), (h), (i).

403.413 Florida Litter Law.—

(1) SHORT TITLE.—This section shall be known as and may be cited as the "Florida Litter Law of 1971."

(2) DEFINITIONS.—As used in this section:

(a) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, container, paper, lighted or unlighted cigarette or cigar, or flaming or glowing material.

(b) "Person" means any individual, firm, corporation, or unincorporated association.

(c) "Law enforcement officer" means any officer of the Florida Highway Patrol, county sheriffs, departments, municipal law enforcement departments, law enforcement departments of any other political subdivision, Department of Natural Resources, and Game and Fresh Water Fish Commission, in addition, and solely for the purposes of this section, "law enforcement officer" means any employee of county or municipal park or recreation department designated by the department head as a litter enforcement officer.

(d) RESPONSIBILITY OF BOARD OF COUNTY COMMISSIONERS.—The board of county commissioners shall determine the training and qualifications of any employee of the county or municipal park or recreation department designated to enforce the provisions of this section if the designated employee is not a regular law enforcement officer.

(e) ACTS PROHIBITED.—It is unlawful for any person to throw, discard, place, or deposit litter in any manner or amount:

(a) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor; when any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;

(b) In or on any freshwater lake, river, or stream or tidal or coastal water of the state; when any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or

(c) In or on any private property, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other law or regulation.

(d) PENALTIES; ENFORCEMENT.—Any person violating the provisions of this section shall be liable as provided in ss. 775.082 and 775.083. The court may impose the additional penalties of picking up litter or performing other labor commensurate with the offense committed.

(e) It shall be the duty of all law enforcement officers, as defined herein, to enforce the provisions of this section.

History.— 1981, Ch. 80, § 1, (a), (b), (c), (d), (e), (f), (g), (h), (i).

403.414 Pollution control awards program.

(1) There is hereby created a pollution control awards program to be administered by the Department of Commerce.

(2) Awards under the pollution control awards program may be granted to agencies, municipalities, counties, or other governmental units and private organizations, institutions, or individuals for outstanding achievement in the field of pollution control, including but not limited to the following:

(a) Outstanding achievement in the field of pollution control, including but not limited to the following:

(i) Outstanding achievement in the field of pollution control, including but not limited to the following:

(ii) Outstanding achievement in the field of pollution control, including but not limited to the following:

(iii) Outstanding achievement in the field of pollution control, including but not limited to the following:

(iv) Outstanding achievement in the field of pollution control, including but not limited to the following:

(v) Outstanding achievement in the field of pollution control, including but not limited to the following:

(vi) Outstanding achievement in the field of pollution control, including but not limited to the following:

(vii) Outstanding achievement in the field of pollution control, including but not limited to the following:

(viii) Outstanding achievement in the field of pollution control, including but not limited to the following:

(ix) Outstanding achievement in the field of pollution control, including but not limited to the following:

(x) Outstanding achievement in the field of pollution control, including but not limited to the following:

(xi) Outstanding achievement in the field of pollution control, including but not limited to the following:

(xii) Outstanding achievement in the field of pollution control, including but not limited to the following:

(xiii) Outstanding achievement in the field of pollution control, including but not limited to the following:

(xiv) Outstanding achievement in the field of pollution control, including but not limited to the following:

(xv) Outstanding achievement in the field of pollution control, including but not limited to the following:

the state who have made an outstanding effort to prevent or clean up pollution as provided by rules and regulations promulgated by the Department of Commerce. All awards and special awards must be approved by the Department of Commerce, but the Department of Environmental Regulation, in the exercise of its power to regulate, may, in the opinion of the Department of Environmental Regulation, would be so controversial as to be undesirable.

(a) Awards or special awards may be presented in the following categories:

(b) Air pollution.

(c) Noise pollution.

(d) Communication media on pollution problems.

(e) Any agency, municipality, county, or other governmental unit or private organization, institution, industry, communication medium, or resident of the state may submit to the Department of Commerce at any time the name of any agency, municipality, county, or other governmental unit or private organization, institution, industry, communication medium, or resident of the state for consideration for an award or special award. Prior to consideration by the Department of Commerce, nominees shall be required to submit to the department such additional information as the department may require, including, but not limited to, a list of all plant operations and subsidiaries in Florida. The Department of Commerce shall consider such nominations at least twice a year.

(f) The Department of Commerce shall adopt reasonable rules and regulations to carry out the terms and purposes of this act in accordance with chapter 120.

History.— 1981, Ch. 80, § 1, (a), (b), (c), (d), (e), (f), (g), (h), (i).

403.415 Motor vehicle noise.—

(1) SHORT TITLE.—This act shall be known and may be cited as the "Florida Motor Vehicle Noise Prevention and Control Act of 1974."

(2)(a) LEGISLATIVE INTENT.—The intent of the Legislature is to implement the state constitutional mandate of s. 7, Art. II of the State Constitution to improve the quality of life in the state by limiting the noise of new motor vehicles sold in the state and the noise of motor vehicles used on the highways of the state.

(b) It is also the intent of the Legislature to recognize the proposed United States Environmental Protection Act Noise Commission Standards Regulations for medium and heavy-duty trucks as being the most comprehensive available and in the best interest of Florida's citizenry and, further, that such regulation shall preempt all state standards not identical to such regulation.

(c) DEFINITIONS.—The following words and phrases when used in this section shall have the meanings respectively assigned to them in this subsection, except where the context indicates otherwise:

(a) "A-weighted sound level" means the A-weighted sound level, and the unit of sound level, the decibel.

(b) "GCVWR" means the gross combination weight rating or "GCVWR" means the value specified by the manufacturer as the loaded weight of a combination vehicle.

(c) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single vehicle.

(d) "Motor vehicle" means any vehicle which is self-propelled and which is propelled by mechanical power and which is designed to travel on wheels and is not operated upon rails.

(e) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

(f) "Motor-driven cycle" means every motorcycle and every motor scooter with a motor which produces not to exceed 5 brake horsepower, including every bicycle with a motor attached.

(g) "Sound level" means the A-weighted sound pressure level measured with fast response using an instrument complying with the specification for sound level meters of the American National Standards Institute, Inc., or its successor bodies, except that only A-weighting and fast dynamic response need be provided.

(h) "Vehicle" means any device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

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

(j) NEW VEHICLE NOISE LIMITS.—No person shall sell, offer for sale, or lease a new motor vehicle which produces a maximum sound level exceeding the following table at a distance of 50 feet from the center of the lane of travel under test procedures established under subsection (5):

(a) For motorcycles other than motor-driven cycles:

Date of manufacture

From January 1, 1973, to December 31, 1973

On or after January 1, 1975

On or after January 1, 1975

On or after January 1, 1975

On or after January 1, 1975

On or after January 1, 1975

On or after January 1, 1975

On or after January 1, 1975

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On or after January 1, 1975

On or after January 1, 1975

General Regulation and in cooperation with the Department of Highway Safety and Motor Vehicles and its successor, the Department of Transportation, shall enforce the provisions of chapter 320, F.S., relating to the registration, titling, and licensing of motor vehicles.

(1) **NOTIFICATION OF CERTIFICATION.**—The Department shall notify the Department of Highway Safety and Motor Vehicles of all motor vehicles and models of motor vehicles for which valid certificates of compliance with the provisions of this chapter are required.

(2) **REPLACEMENT EQUIPMENT.**—If a person shall sell, offer for sale, or use as a part of the equipment of a motor vehicle, any device which, when installed, will permit the sound level of the vehicle to be increased above that established by the test procedures for new motor vehicles and sound levels established under this section.

(3) **OPERATING VEHICLE NOISE MEASUREMENTS.**—The Department shall establish, with the cooperation of the Department of Highway Safety and Motor Vehicles, measurement procedures for determining compliance with the provisions of this chapter.

(4) **ENFORCEMENT OF LOCAL ORDINANCES.**—The Department shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(5) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(6) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(7) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(8) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(9) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(10) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(11) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(12) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(13) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

(14) **EXEMPT MOTOR VEHICLES.**—The provisions of this chapter shall not apply to any motor vehicle which is exempt from the provisions of this chapter.

visions of this act shall not apply to any motor vehicle which is not required to be licensed under the provisions of chapter 320, F.S.

(1) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(2) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(3) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(4) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(5) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(6) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(7) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(8) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(9) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(10) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(11) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(12) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(13) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(14) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(15) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(16) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(17) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(18) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(19) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(20) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(21) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(22) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(23) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(24) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(25) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(26) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(27) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(28) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(29) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(30) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(31) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(32) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(33) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

(34) **FEDERAL PREEMPTION.**—On and after the date of promulgation of the Federal Standards for Motor Vehicle Emissions, the Department of Highway Safety and Motor Vehicles shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles, and shall enforce the provisions of this chapter in cooperation with the Department of Highway Safety and Motor Vehicles.

Enforcement of compliance.
Superseded laws, regulations, and certification power.
Determination of need for transmission design powers and duties.
Certification admissible in eminent domain proceedings; attorney's fees and costs.

403.503 Short title.—Sections 403.503 to 403.517 shall be known and may be cited as the "Florida Electrical Power Plant Siting Act."

403.504 Legislative intent.—The Legislature finds that the present and predicted growth in electric power demands in this state requires the designation of sites for electrical generating facilities and the identification of a state position with respect to each proposed site. The Legislature recognizes that the location of sites and the routing of associated transmission lines will have a significant impact upon the welfare of the population, the location and growth of industry, and the use of the natural resources of the state. The Legislature intends that the efficiency of the permit application and review process at both the state and local level would be improved with the implementation of a process coordinated and all permit decisions could be reviewed on the basis of standards and recommendations of the deciding agencies. It is the policy of this state that, while respecting the pressing need for increased power generation facilities, the state shall ensure through available and reasonable methods that the location and operation of electrical power plants will produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of the water and its aquatic life. It is the intent to seek courses of action that will fully balance the increasing demands for electrical power plant location and operation with the broad interests of the public. Such action will be based on the following premises:

(1) To assure the efficient use of Florida that operation safeguards are technically sufficient for their welfare and protection.

(2) To effect a reasonable balance between the need for the facility and the environmental impact resulting from construction and operation of the facility, including air and water quality, fish and wildlife, and the water resources and other natural resources of the state.

(3) To provide a abundant, low-cost electrical energy.

403.505 Definitions.—

(1) "Applicant" means any electric utility which makes application for the siting of a power plant pursuant to this act.

(2) "Application" means the documents required by the department to be filed to initiate a certification proceeding.

(3) "Person" means an individual, partnership,

joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

(4) "Electric utility" means cities and towns, counties, public utility districts, regulated companies, electric cooperatives, and joint operating agencies or combinations thereof, engaged in, or authorized to engage in, the business of generating, transmitting, or distributing electric energy.

(5) "Site" means any proposed location wherein an electrical power plant, or an electrical power plant generating capacity, may be located, including offshore sites within state boundaries.

(6) "Certification" means the written order of the board approving an application in whole or with such modifications or conditions as the board may deem appropriate.

(7) "Electrical power plant" means, for the purpose of certification, any steam or solar electrical generating facility using any process or fuel, including nuclear materials, and includes associated facilities and those directly associated transmission lines required to connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect, except that this term does not include any steam or solar electrical generating facility having a capacity of less than 50 megawatts in capacity unless the applicant has applied for and applied to apply for certification under this act.

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

(9) "Board" means the Governor and Cabinet sitting as the Siting Board.

(10) "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of government, including a political or social governmental entity.

(11) "State comprehensive plan" means that plan prepared in accordance with the provisions of part I of chapter 23.

(12) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes.

(13) "Designated hearing officer" means the hearing officer assigned by the Division of Administrative Hearings pursuant to chapter 120 to conduct the hearings required by this part.

(14) "Notice of intent" means that notice which is filed with the department on behalf of an electric utility prior to submission of an application pursuant to this act and which notifies the department of an intent to file an application.

(15) "Modification" means any change in the certification order after issuance, including a change in the conditions of certification.

(16) "Amendment" means any change in the application for certification made after the initial filing.

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station; powers and duties enumerated.—The Department of Environmental Regulation shall have the following powers and duties in relation to this act:

- (1) To adopt, promulgate, or amend reasonable rules to implement the provisions of this act, including the rules setting forth the environmental precautions to be followed in relation to the location and operation of electrical power plants.
- (2) To prescribe the form and content of the notice of intent, the form, content, and necessary supporting documentation and studies to be prepared by the applicant for electric power plant site certification applications.
- (3) To receive applications for electric power plant site certifications and to determine the completeness and sufficiency thereof.
- (4) To make, or contract for, studies of electrical power plant site certification applications.
- (5) To administer the processing of applications for electric power plant site certifications and to ensure that the applications are processed as expeditiously as possible.

(6) To notify all affected agencies of the filing of an application within 15 days of receiving the complete application.

(7)(a) To require an application fee for certification not to exceed \$50,000. The application fee shall be paid to the department upon the filing of each application for site certification. The fee shall be fixed by rule on a sliding scale related to the size, type, ultimate site capacity, or increase in generating capacity proposed by the applicant. A minimum fee of \$5,000 shall be required for each application. All reasonable expenses and costs of the proceeding incurred by the department, the Division of Administrative Hearings, the Public Service Commission, the Department of Community Affairs, the water management district, created pursuant to chapter 373, in the jurisdiction of which the facility is to be located, or any other agency from which the department requests special studies pursuant to s. 403.507(1)(b), including these expenses and costs if they are associated with the cost of publication of public notices, the preparation and conduct of public hearings, the confining and training of the proceedings, and the studies required of the agencies by this act, shall be paid by the applicant. Any sums remaining after the payment of authorized costs shall be refunded to the applicant within 90 days of the issuance or denial of certification or withdrawal of an application. The applicant shall be provided with an itemized accounting of the expenditures.

(b) To require a fee of \$2,500 to be submitted to the department with a notice of intent. The notice-of-intent fee shall be used, disbursed, and refunded in the same manner as the application fee and shall be a credit toward the application fee.

(8) To prepare a written analysis which shall be filed with the designated hearing officer and served on all parties no later than 8 months after the complete application is filed with the department, and which shall include:

- (a) A statement indicating whether the proposed electrical power plant and proposed ultimate site en-

capacity will be in compliance with the rules of the department.

(b) The report from the Public Service Commission as required by s. 403.507 and 403.519.

(c) The report of the Department of Community Affairs as required by s. 403.507.

(d) The report from the water management district as required by s. 403.507.

(e) The studies conducted pursuant to s. 403.507.

(f) The comments received by the department from any other agency.

(g) The recommendation of the department as to the disposition of the application and any proposed conditions of certification which the department believes should be imposed.

(9) To provide adequate public notice of the filing of the application and of the proceedings conducted pursuant to this part.

(10) To prescribe the means for monitoring the effects arising from the construction and operation of electrical power plants to assure continued compliance with terms of the certification.

(11) To notify all agencies affected of the filing of a notice of intent within 15 days of receipt of the notice and to publish public notices that the department has received such notice.

(12) To receive and process certification modification fees not to exceed \$5,000 from the party petitioning for the modification of the certification. The fee shall be submitted to the department with a formal petition for modification to the department pursuant to s. 403.516(3). Any sums remaining after the proceeding shall be refunded to the petitioner within 90 days after approval or denial of the modification.

(13) To withhold from the application fee established by this section a reasonable sum sufficient to cover costs associated with postcertification review activities required by any condition of certification. Such sums shall be specified as a part of each condition. Upon completion of any such reviews, any sums remaining shall be refunded to the applicant.

History.—s. 1, ch. 73-33, § 1, Feb. 24, 1973; s. 12, ch. 73-34, § 1, Feb. 24, 1973; s. 2, ch. 73-34, § 2, Feb. 24, 1973.

403.508 Applicability and certification.—

(1) The provisions of this chapter shall apply to any electrical power plant as defined herein, except that the provisions of the Power Plant Siting Act shall not apply to any electrical power plant or steam generating plant of less than 50 megawatts in capacity unless the applicant has elected to apply for certification under this act. No construction of any new electrical power plant or expansion in steam generating capacity of any existing electrical power plant may be undertaken after October 1, 1973, without first obtaining certification in the manner as herein provided, except that this act shall not apply to any such electrical power plant which is presently operating or under construction or which has, upon the effective date of chapter 73-33, Laws of Florida, applied for a permit or certification under requirements in force prior to the effective date of such act.

(2) Except as provided in the certification, modification of nonnuclear fuels, internal related hardware, or operating conditions not in conflict with certification which increase the electrical output of a

unit to no greater capacity than the maximum operating capacity of the existing generator shall not constitute an alteration or addition to generating capacity which requires certification pursuant to this act.

History.—s. 1, ch. 73-33, § 1, Feb. 24, 1973; s. 1, ch. 73-34, § 1, Feb. 24, 1973.

403.5093 Notice of intent to file application.—

(1) To expedite the processing of the application which may be filed subsequently, the applicant for a proposed power plant may file a notice of intent to file an application with the department.

(2) The department shall, by rule, a procedure by which binding written agreements with the department and other affected agencies as to the scope, quantity, and level of information to be provided in the application, as well as the methods to be used in providing such information and the nature of the supporting documents to be included in the application.

History.—s. 1, ch. 73-34, § 1, Feb. 24, 1973.

403.5095 Appointment of hearing officer; determination of completeness; amendment to the application.—

(1) Within 7 days of receipt of an application, whether complete or not, the department shall request the Division of Administrative Hearings to designate a hearing officer to conduct the hearings required by this act. The division director shall designate a hearing officer within 7 days of receipt of the request from the department. In designating a hearing officer for this purpose, the division director shall, whenever practicable, assign a hearing officer who has had prior experience or training in electric power plant site certification proceedings. Upon being advised that a hearing officer has been appointed, the department shall immediately file a copy of the application and all supporting documents with the designated hearing officer, who shall docket the application.

(2) Within 10 working days of receipt of an application, the department shall file a statement with the Division of Administrative Hearings and with the applicant declaring its position with regard to the completeness, not the sufficiency, of the application. If the department declares the application to be incomplete, then, within 15 working days of the receipt by the department of the application, the applicant shall file with the Division of Administrative Hearings and with the department a statement agreeing with the statement of the department and withdrawing the application or contesting the statement of the department. If the application is not withdrawn, the hearing officer shall schedule a hearing on the statement of completeness. The hearing shall be scheduled as expeditiously as possible, but no later than 30 days after the receipt of the application by the department. The designated hearing officer shall make his decision within 10 days of the hearing. If the designated hearing officer determines that the application is not complete as filed, then the applicant shall withdraw the application. If the hearing officer determines that the application was complete at the time it was filed, then the times provided in this act

shall run from the date of the filing of such application.

(3) Any amendment made to the application after filing shall be served on all parties and agencies that have received the initial application.

History.—s. 1, ch. 73-34, § 1, Feb. 24, 1973; s. 1, ch. 73-34, § 1, Feb. 24, 1973.

403.507 Reports and studies.—

(1) It shall be the duty of the department to provide copies of the application as filed, within 15 days of its receipt by the department, to the Department of Community Affairs, the Public Service Commission, and the water management district, created by chapter 373, in the jurisdiction of which the facility is to be located. The applicant, at its cost, shall furnish such information, studies, and data as the department may direct.

(a) Within 5 months of receipt of a copy of the complete application, the Department of Community Affairs shall present a report as to the compatibility of the proposed electrical power plant with the state comprehensive plan to the department. The Department of Community Affairs shall submit a preliminary report within 60 days of receipt of a copy of the complete application.

(b) The Public Service Commission shall prepare a report as to the present and future need for the proposed electrical power plant. The report may include the commission's recommendations with respect to any matters within its jurisdiction. It shall submit its report to the department within 5 months of receipt of a copy of the complete application. The commission shall submit a preliminary report within 60 days of receipt of a copy of the complete application.

(c) Within 5 months of receipt of a copy of the complete application, the water management district, as defined in chapter 373, in the jurisdiction of which the proposed electrical power plant is to be located, shall prepare a report as to matters within its jurisdiction. The water management district shall submit a preliminary report within 60 days of receipt of a copy of the complete application.

(d) The department may request that any other agency perform studies and prepare reports as to matters within the jurisdiction of that agency which may be potentially affected by the proposed electrical power plant. Such studies or reports shall be submitted to the department within 5 months of receipt of a copy of the complete application by that agency.

(2) As needed to verify or supplement the studies made by the applicant in support of the application, it shall be the duty of the department to conduct, or contract for, studies of the proposed electrical power plant and site, including, but not limited to, the following:

- (a) Cooling system requirements.
- (b) Construction and operational safeguards.
- (c) Proximity to transportation systems.
- (d) Soil and foundation conditions.
- (e) Impact on suitable present and projected water supplies for this and other competing uses.
- (f) Impact on surrounding land uses.
- (g) Accessibility to transmission corridors.
- (h) Environmental impacts.

403.514 Enforcement of compliance.—Failure to obtain a certification, or to comply with the conditions thereof, or to comply with this part shall constitute a violation of chapter 403.

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

403.515 Availability of information.—The department shall make available for public inspection and copying during regular office hours, at the expense of any person requesting copies, any information filed or submitted pursuant to this act.

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

403.516 Modification of certification.—A certification may be modified after issuance in any one of the following ways:

(1) The board may delegate to the department the authority to modify specific conditions in the certification.

(2) The parties to the certification proceeding may modify the terms and conditions of the certification by mutual written agreement. Upon execution of the agreement by the parties, the provisions of s. 120.57 shall apply to the proceedings for approval or denial of the agreement by the board.

(3) If the parties to the certification proceeding are unable to reach a mutual written agreement on modification of the terms and conditions of the certification, a petition for modification setting forth:

(a) The proposed modification;

(b) The actual reasons asserted for the modification; and

(c) The anticipated effects of the proposed modification on the applicant, the public, and the environment

shall be filed with the Division of Administrative Hearings. The provisions of s. 120.57 shall apply to the proceedings for approval or denial of the petition by the board.

(4) As required by s. 403.511(6).

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

403.517 Supplemental applications for sites certified for ultimate site capacity.—

(1) The department shall adopt rules governing the processing of supplemental applications for certification of construction and operation of electrical power plants to be located at sites which have been previously certified for an ultimate site capacity pursuant to this part. Supplemental applications shall be limited to electrical power plants using the fuel type previously certified for that site. The rules adopted pursuant to this section shall include provisions for:

1. Prompt appointment of a designated hearing officer;

2. The contents of the supplemental application;

3. Resolution of disputes as to the completeness of supplemental applications by the designated hearing officer;

4. Public notice of the filing of the supplemental applications;

5. Time limits for prompt processing of supplemental applications.

6. Final disposition by the board within 7 months of the filing of a complete supplemental application.

(b) The time limits shall not exceed any time limitation governing the review of initial applications for site certification pursuant to this part. The department shall have the authority to request the legislative intent to provide shorter time limitations for the processing of supplemental applications for electrical power plants to be considered and generated at sites which have been previously certified for an ultimate site capacity.

(c) Any application for a supplemental application submitted pursuant to this section may be altered by the designated hearing officer upon stipulation between the department and the applicant or for good cause shown by any party. The parties to the proceeding shall adhere to the provisions of chapter 120 in considering and processing such supplemental applications. The department may charge a supplemental application fee not to exceed \$25,000 to cover all reasonable expenses and costs of the review, processing, and proceedings of a supplemental application incurred by the department, the Division of Administrative Hearings, the Public Service Commission, the Department of Community Affairs, the Department of Agriculture, or any other agency in which the department requests special assistance pursuant to s. 403.501(1)(6). Any unexpended portion of the fee shall be refunded pursuant to s. 403.504.

(2) Supplemental applications shall be reviewed in accordance with the criteria and considerations of s. 403.501.

(3) The land use hearing requirements of s. 403.508(1) and (2) shall not be applicable to the processing of supplemental applications pursuant to this section so long as:

(a) The previously certified ultimate site capacity is not exceeded; and

(b) The lands required for the construction or operation of the electrical power plant which is the subject of the supplemental application are within the boundaries of the previously certified site.

(4) For the purposes of this part, the term "ultimate site capacity" means the capacity for generating capacity for a site as certified by the board.

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

403.519 Exclusive forum for determination of need.—On request by a utility or on its own motion, the commission shall begin a proceeding to determine the need for an electrical power plant subject to the Florida Electrical Power Plant Siting Act. The commission shall be the sole forum for the determination of this matter, which accordingly shall not be raised in any other forum or in the review of proceedings in such other forum. In making its determination, the commission shall take into account the need for adequate electricity at a reasonable cost, and whether the proposed plant is the most cost-effective alternative available. The commission shall also be required to consider the conservation measures which may be reasonably available to the applicant, its members which might mitigate the need for the proposed plant and other matters within its jurisdiction which it deems relevant. The commission's determination of need for an electrical power plant shall create a presumption of public need and necessity and shall

803

serve as the commission's report required by s. 403.507(1)(b).

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

403.52 Short title.—Sections 403.52-403.56 may be cited as the "Transmission Line Siting Act."

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

403.521 Legislative intent.—The legislative intent of this act is to establish a streamlined and coordinated permitting process for the construction and maintenance of transmission lines which necessarily involves several broad interests of the public addressed through the subject matter jurisdictions of several agencies. The Legislature recognizes that transmission lines will have an effect upon the welfare of the population. Recognizing the need to ensure electric power system reliability and integrity, and in order to meet electrical energy needs in an orderly and timely fashion, the centralized and coordinated permitting process established by this act is intended to further the legislative goal of ensuring through available and reasonable methods that the location of transmission line corridors and the construction and maintenance of transmission lines produce minimal adverse effects on the environment and public health, safety, and welfare. It is the intent of this act to fully balance the need for transmission lines with the broad interests of the public in order to effect a reasonable balance between the need for the electrical energy and the impact on the public and the environment resulting from the construction and maintenance of the transmission lines. The Legislature intends that the provisions of chapter 120 apply to this act and to proceedings pursuant to it except as otherwise expressly exempted by other provisions of this part.

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

(1) "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of government within the state, including a county, municipality, or other regional or local governmental entity.

(2) "Amendment" means a material change in information provided in the application for certification made after the initial application filing.

(3) "Applicant" means any electric utility which applies for certification pursuant to the provisions of this act.

(4) "Application" means the documents required by the department to be filed to initiate a certification proceeding. An electric utility may file a comprehensive application encompassing all or a part of one or more proposed transmission lines.

(5) "Board" means the Governor and Cabinet sitting as the siting board.

(6) "Certification" means the approval by the board of a corridor proper for certification pursuant to subsection (9) and the construction and maintenance of transmission lines within the boundaries of the transmission line right-of-way.

(7) "Commission" means the Florida Public Service Commission.

(8) "Completeness" means that the application has addressed all applicable sections of the prescribed application format, but does not mean that those sections are sufficient in comprehensiveness of data or in quality of information provided.

(9) "Corridor" means the proposed area within which a transmission line right-of-way is to be located. The width of the corridor proposed for certification by an applicant or other party, at the option of the applicant, may be the width of the proposed transmission line right-of-way, not to exceed a width of 1 mile. After all property interests required for the transmission line right-of-way have been acquired by the applicant, the boundaries of the area certified shall narrow to only that land within the boundaries of the transmission line right-of-way. The corridors proper for certification shall be those addressed in the application, in amendments to the application filed pursuant to s. 403.527, and in notices of acceptance of proposed alternate corridors filed by an applicant and the department pursuant to s. 403.527(5).

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

(11) "Local government" means a municipality or county in the jurisdiction of which the project is proposed to be located.

(12) "Modification" means any change in the certification order after issuance, including a change in the conditions of certification.

(13) "Regional planning council" means a regional planning council as defined in s. 180.003(4) in the jurisdiction of which the project is proposed to be located.

(14) "Sufficiency" means that the application is not only complete but that all sections are sufficient in comprehensiveness of data or in quality of information provided.

(15) "Transmission line" means any electrical transmission line extending from, but not including, an existing proposed substation or power plant to, but not including, an existing or proposed transmission network or right-of-way or substation to which the applicant intends to connect which defines the end of the proposed project and which is designed to operate at 220 kilovolts or more and which crosses a county line. The starting point and ending point of a transmission line must be specifically defined by the applicant and must be verified by the commission in its determination of need. A transmission line includes structures and maintenance and access roads that need to be constructed for the project to become operational. If the proposed location of a corridor is affected by the applicant's proposed intermediate substations, then the general location of the proposed intermediate substation, and not the permitting of such substation, shall be considered in the certification proceedings.

(16) "Transmission line right-of-way" means land necessary for the construction and maintenance of a transmission line. The typical width of the transmission line.

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

403.522 Definitions.—As used in this act:

(1) "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of government within the state, including a county, municipality, or other regional or local governmental entity.

(2) "Amendment" means a material change in information provided in the application for certification made after the initial application filing.

(3) "Applicant" means any electric utility which applies for certification pursuant to the provisions of this act.

(4) "Application" means the documents required by the department to be filed to initiate a certification proceeding. An electric utility may file a comprehensive application encompassing all or a part of one or more proposed transmission lines.

(5) "Board" means the Governor and Cabinet sitting as the siting board.

(6) "Certification" means the approval by the board of a corridor proper for certification pursuant to subsection (9) and the construction and maintenance of transmission lines within the boundaries of the transmission line right-of-way.

(7) "Commission" means the Florida Public Service Commission.

(8) "Completeness" means that the application has addressed all applicable sections of the prescribed application format, but does not mean that those sections are sufficient in comprehensiveness of data or in quality of information provided.

(9) "Corridor" means the proposed area within which a transmission line right-of-way is to be located. The width of the corridor proposed for certification by an applicant or other party, at the option of the applicant, may be the width of the proposed transmission line right-of-way, not to exceed a width of 1 mile. After all property interests required for the transmission line right-of-way have been acquired by the applicant, the boundaries of the area certified shall narrow to only that land within the boundaries of the transmission line right-of-way. The corridors proper for certification shall be those addressed in the application, in amendments to the application filed pursuant to s. 403.527, and in notices of acceptance of proposed alternate corridors filed by an applicant and the department pursuant to s. 403.527(5).

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

(11) "Local government" means a municipality or county in the jurisdiction of which the project is proposed to be located.

(12) "Modification" means any change in the certification order after issuance, including a change in the conditions of certification.

(13) "Regional planning council" means a regional planning council as defined in s. 180.003(4) in the jurisdiction of which the project is proposed to be located.

(14) "Sufficiency" means that the application is not only complete but that all sections are sufficient in comprehensiveness of data or in quality of information provided.

(15) "Transmission line" means any electrical transmission line extending from, but not including, an existing proposed substation or power plant to, but not including, an existing or proposed transmission network or right-of-way or substation to which the applicant intends to connect which defines the end of the proposed project and which is designed to operate at 220 kilovolts or more and which crosses a county line. The starting point and ending point of a transmission line must be specifically defined by the applicant and must be verified by the commission in its determination of need. A transmission line includes structures and maintenance and access roads that need to be constructed for the project to become operational. If the proposed location of a corridor is affected by the applicant's proposed intermediate substations, then the general location of the proposed intermediate substation, and not the permitting of such substation, shall be considered in the certification proceedings.

(16) "Transmission line right-of-way" means land necessary for the construction and maintenance of a transmission line. The typical width of the transmission line.

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

403.523 Definitions.—As used in this act:

(1) "Agency," as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of government within the state, including a county, municipality, or other regional or local governmental entity.

(2) "Amendment" means a material change in information provided in the application for certification made after the initial application filing.

(3) "Applicant" means any electric utility which applies for certification pursuant to the provisions of this act.

(4) "Application" means the documents required by the department to be filed to initiate a certification proceeding. An electric utility may file a comprehensive application encompassing all or a part of one or more proposed transmission lines.

(5) "Board" means the Governor and Cabinet sitting as the siting board.

(6) "Certification" means the approval by the board of a corridor proper for certification pursuant to subsection (9) and the construction and maintenance of transmission lines within the boundaries of the transmission line right-of-way.

(7) "Commission" means the Florida Public Service Commission.

(8) "Completeness" means that the application has addressed all applicable sections of the prescribed application format, but does not mean that those sections are sufficient in comprehensiveness of data or in quality of information provided.

(9) "Corridor" means the proposed area within which a transmission line right-of-way is to be located. The width of the corridor proposed for certification by an applicant or other party, at the option of the applicant, may be the width of the proposed transmission line right-of-way, not to exceed a width of 1 mile. After all property interests required for the transmission line right-of-way have been acquired by the applicant, the boundaries of the area certified shall narrow to only that land within the boundaries of the transmission line right-of-way. The corridors proper for certification shall be those addressed in the application, in amendments to the application filed pursuant to s. 403.527, and in notices of acceptance of proposed alternate corridors filed by an applicant and the department pursuant to s. 403.527(5).

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

(11) "Local government" means a municipality or county in the jurisdiction of which the project is proposed to be located.

(12) "Modification" means any change in the certification order after issuance, including a change in the conditions of certification.

(13) "Regional planning council" means a regional planning council as defined in s. 180.003(4) in the jurisdiction of which the project is proposed to be located.

(14) "Sufficiency" means that the application is not only complete but that all sections are sufficient in comprehensiveness of data or in quality of information provided.

(15) "Transmission line" means any electrical transmission line extending from, but not including, an existing proposed substation or power plant to, but not including, an existing or proposed transmission network or right-of-way or substation to which the applicant intends to connect which defines the end of the proposed project and which is designed to operate at 220 kilovolts or more and which crosses a county line. The starting point and ending point of a transmission line must be specifically defined by the applicant and must be verified by the commission in its determination of need. A transmission line includes structures and maintenance and access roads that need to be constructed for the project to become operational. If the proposed location of a corridor is affected by the applicant's proposed intermediate substations, then the general location of the proposed intermediate substation, and not the permitting of such substation, shall be considered in the certification proceedings.

(16) "Transmission line right-of-way" means land necessary for the construction and maintenance of a transmission line. The typical width of the transmission line.

History.—s. 1, ch. 73-25, § 12, a. 2, 3.

hearing shall be held as expeditiously as possible, but not later than 14 days from the filing of the statement of the applicant. The determination of the statement of the applicant shall be made within 14 days after the hearing. If the hearing officer determines that the application or other matter is not complete, as filed, then the applicant shall be notified of the deficiency and shall be given 14 days to complete the application or other matter. If the hearing officer determines that the application is complete, then the hearing officer shall prepare a report on the application. The report shall be filed with the department within 14 days after the hearing. The department shall then make a determination on the application. The department's determination shall be final, except as provided in subsection (7).

(3) The department may by rule adopt procedures similar to those set forth in subsection (2) for the determination of the sufficiency of an application. The department, based on the recommendations of the agencies required to submit reports pursuant to s. 403.525, if contested by the applicant, the final decision on sufficiency shall be made by the hearing officer.

History.—1. Ch. 86-6, § 4, C.S. 86-77.

403.525 Reports and studies.—

(1) It shall be the duty of the department to provide copies of each application, within 7 days after filing, to the commission, the Department of Natural Resources, the Department of Community Affairs, the Game and Fresh Water Fish Commission, each water management district, each regional planning council, and each local government in the jurisdiction of which the proposed transmission line or corridor is to be located.

(2) The department shall prepare a report as to the impact of each proposed transmission line or corridor on matters within its jurisdiction.

(3) The Department of Natural Resources shall prepare a report as to the impact of each proposed transmission line or corridor on matters within its jurisdiction and shall submit its report to the department within 90 days after receipt of a copy of the complete application.

(4) Each water management district in the jurisdiction of which a proposed transmission line or corridor is to be located shall prepare a report as to the impact of each proposed transmission line or corridor on land use and other matters within its jurisdiction and shall submit its report to the department within 90 days after receipt of a copy of the complete application.

(5) The Department of Community Affairs shall prepare a report as to the impact of each proposed transmission line or corridor on land use and other matters within its jurisdiction and shall submit its report to the department within 90 days after receipt of a copy of the complete application.

(6) The Game and Fresh Water Fish Commission shall prepare a report as to the impact of each proposed transmission line or corridor on fish and wildlife resources and other matters within its jurisdiction and shall submit its report to the department within 90 days after receipt of the complete application.

(7) Each local government shall prepare a report as to the impact of each proposed transmission line or corridor on matters within its jurisdiction, or shall, by resolution, adopt the report prepared by the department.

History.—1. Ch. 86-6, § 4, C.S. 86-77.

(8) The department shall prepare a report on the application. The report shall be filed with the department within 14 days after the hearing. The department shall then make a determination on the application. The department's determination shall be final, except as provided in subsection (7).

(9) The department may by rule adopt procedures similar to those set forth in subsection (2) for the determination of the sufficiency of an application. The department, based on the recommendations of the agencies required to submit reports pursuant to s. 403.525, if contested by the applicant, the final decision on sufficiency shall be made by the hearing officer.

History.—1. Ch. 86-6, § 4, C.S. 86-77.

The applicant shall be provided with an itemized accounting of the expenditures.

(8) To prepare a compilation of agency reports and summaries of the material contained therein which shall be filed with the hearing officer and served on all parties no later than 4 months after the complete application is filed with the department, and which shall include:

(a) The studies and reports required by s. 403.525 and 403.537, including the recommendations of the department relating to the disposition of the application.

(b) Comments received from any other agency, application and of the proceedings conducted pursuant to this act.

(10) To prescribe the means for monitoring the effects arising from the location of the transmission line corridor and the construction and maintenance of the transmission lines to assure continued compliance with the terms of the certification.

(11) To require a certification modification fee. If no corridor alignment change is proposed by the applicant, the modification fee shall be \$2,000. If a corridor alignment change is proposed by the applicant, the fee shall be \$2,000 plus \$750 for each mile of realignment. Such fee shall be submitted to the department upon notification by an applicant that modification pursuant to s. 403.535(2) or (3) is sought, and which shall be used, disbursed, and accounted for in the same manner as the application fee.

(12) To make a determination of acceptability of any alternate corridor proposed for consideration pursuant to s. 403.527(6).

(13) To withhold from the fees established by this section a reasonable sum sufficient to cover the costs associated with postcertification monitoring activities required by any condition of certification. Such sum shall be specified as part of each condition.

(14) To set requirements that reasonably protect the public health, safety, and welfare from the electric and magnetic fields of transmission lines for which an application is filed after the effective date of this act.

(15) To present rebuttal evidence on any issue properly raised at the certification hearing.

History.—1. Ch. 86-6, § 4, C.S. 86-77.

403.524 Applicability and certification.—

(1) The provisions of this act apply to each transmission line, except a transmission line certified pursuant to the Florida Electrical Power Plant Siting Act.

(2) Except as provided in subsection (1), no construction of any transmission line may be undertaken without first obtaining certification under this act, but the provisions of this act do not apply to:

(a) Transmission lines for which development approval has been obtained pursuant to chapter 389.

(b) Transmission lines which have been exempted by a binding order of interpretation issued under s. 389.06(4), or in which the Department of Community Affairs or its predecessor agency has determined

History.—1. Ch. 86-6, § 4, C.S. 86-77.

right of way shall be identified in the application. The right-of-way shall be located within the certified corridor and shall be identified by the applicant subsequent to certification in documents filed with the department prior to construction.

(17) "Water management district" means a water management district created pursuant to chapter 373 in the jurisdiction of which the project is proposed to be located.

(18) The following words have the same meaning as appear in s. 403.503:

(a) "Electric utility."

(b) "License."

(c) "Person."

History.—1. Ch. 86-6, § 4, C.S. 86-77.

403.523 Department of Environmental Regulation; powers and duties.—The department shall have the following powers and duties:

(1) To adopt or amend reasonable procedural rules to implement the provisions of this act and to adopt or amend rules to implement the provisions of subsection (14).

(2) To prescribe the form, content, and necessary supporting documentation, and any required studies, for certification applications. All such data and studies shall be related to the jurisdiction of the agencies relevant to the application.

(3) To receive applications for transmission line and corridor certifications and initially determine the completeness and sufficiency thereof.

(4) To make or contract for studies of certification applications. All such studies shall be related to the jurisdiction of the agencies relevant to the application. The department may initiate such studies, but the costs of such studies shall be borne by the applicant.

(5) To withhold from the fees established by this section a reasonable sum sufficient to cover the costs associated with postcertification monitoring activities required by any condition of certification. Such sum shall be specified as part of each condition.

(6) To set requirements that reasonably protect the public health, safety, and welfare from the electric and magnetic fields of subsequent amendments within 15 days after receiving the complete application or subsequent amendments.

(7) To require an application fee, which shall be paid to the department upon the filing of each application for corridor certification. The application fee shall be \$750 for each mile of the proposed transmission line corridor. A minimum fee of \$20,000 shall be required for each application. The application fee shall be used to pay those expenses associated with the cost of the preparation and conduct of the hearings, the recording and transcription of the proceedings, the studies required by this act, and agency travel and per diem. Salaries for full-time state agency employees, excluding other personal services employees, may not be charged against the fee. If any amounts remain after payment of such expenses, the application fee shall be applied pro rata to reimburse all reasonable expenses pursuant to this act incurred by the agencies. Any sums remaining after the payment of all authorized costs shall be refunded to the applicant within 90 days after the issuance or denial of certification or the withdrawal of the application.

History.—1. Ch. 86-6, § 4, C.S. 86-77.

(8) The department shall prepare a report on the application. The report shall be filed with the department within 14 days after the hearing. The department shall then make a determination on the application. The department's determination shall be final, except as provided in subsection (7).

(9) The department may by rule adopt procedures similar to those set forth in subsection (2) for the determination of the sufficiency of an application. The department, based on the recommendations of the agencies required to submit reports pursuant to s. 403.525, if contested by the applicant, the final decision on sufficiency shall be made by the hearing officer.

(10) The department shall prepare a report on the application. The report shall be filed with the department within 14 days after the hearing. The department shall then make a determination on the application. The department's determination shall be final, except as provided in subsection (7).

History.—1. Ch. 86-6, § 4, C.S. 86-77.

appropriate regional planning council as required by subsection (8). It shall submit its report or resolution to the department within 90 days after its receipt of the complete application.

(8) Each regional planning council shall prepare a report on the impacts of each proposed transmission line or corridor on matters within its jurisdiction. It shall submit its report within 90 days after its receipt of the complete application.

(9) The report shall contain the information on variances required by s. 403.531(2) and proposed conditions of certification on matters within the jurisdiction of each agency. For each condition proposed by an agency, the agency shall list the specific statute, rule, or ordinance as applicable, which authorizes the proposed condition.

(10) Each reviewing agency shall initiate the activities required by this section no later than 15 days after the complete application is filed. Preliminary reports shall be submitted to the department no later than 60 days after the receipt of a completed application by the department. Such reports shall be made available to each local government for use as information for public meetings pursuant to s. 403.5272. Each agency shall keep the applicant informed as to the progress of its studies and any issues raised thereby.

(11) The failure of any agency to submit a preliminary report or a report, or to submit its preliminary report or report within the allowed time, shall not be grounds for the attenuation of any time limitation in this act pursuant to s. 403.528. Neither the failure to submit a preliminary report or a report nor the inadequacy of the preliminary report or report shall be grounds to deny or conditionally certify a transmission line or corridor.

History.—1983, ch. 206, § 1, F.S.; 1985, ch. 206, § 1, F.S.; 1987, ch. 206, § 1, F.S.

403.527 Notice, proceedings, parties, participants.—No later than 15 days after the receipt of an application, the department shall arrange for publication of a notice of the application and of the proceedings to be held by this act.

(b) The department shall arrange for publication of a notice of the certification hearing and other public hearings provided for in this section and notice of the deadline for filing of notice of intent to be a party. Such notices shall be published at least 80 days before the date set for the hearing.

(c) The department shall arrange for publication of a reminder notice in the newspapers specified in paragraph (d) no more than 2 weeks prior to the certification hearing, reminding the public of the date and location of the hearing. This notice shall not constitute a point of entry for intervention in the proceeding.

(d) Notices shall be published:

1. In newspapers of general circulation within counties crossed by the transmission line corridors proper for certification. The required newspaper notices, other than the reminder notice, shall be one-half page in size in a standard-size newspaper or a full page in a tabloid-size newspaper. These notices shall include a map generally depicting all transmission corridors proper for certification. A newspaper of general circulation shall be the newspaper within a

county crossed by a transmission line corridor proper for certification which newspaper has the largest daily circulation in that county and has its principal office in that county; the newspaper with the largest daily circulation has its principal office outside the county, then the notice shall appear in both the newspaper having the largest circulation in that county and in the newspaper authorized to publish legal notices in that county;

3. By giving notice to any persons who have registered by filing notice on the departmental mailing list for this purpose.

(e) The department shall adopt rules specifying the content of notices required by this section. All published notices shall be paid for by the applicant and shall be in addition to the application fee. The department shall arrange for publication of notices required by this section.

(2) No later than 150 days after receipt of a complete application by the department, the hearing officer shall conduct a certification hearing pursuant to s. 120.57 at a central location in proximity to the proposed transmission line or corridor. One public hearing where members of the public who are not parties to the certification hearing may testify shall be held within the boundaries of each county, at the option of any local government. The local government shall notify the hearing officer and all parties not later than 50 days after the receipt of a complete application as to whether the local government wishes to have such a public hearing. The local government shall be responsible for determining the location of the public hearing. Within 5 days of such notification, the hearing officer shall determine the date of such public hearing, which shall be held before or during the certification hearing. In the event two or more local governments within one county request such a public hearing, the hearing shall be consolidated so that only one such public hearing is held in any county. The location of a consolidated hearing shall be determined by the hearing officer. If a local government does not request a public hearing within 50 days after the receipt of a complete application, persons residing within the jurisdiction of such local government may testify at the public hearing portion of the certification hearing.

(3)(a) At the conclusion of the certification hearing, the hearing officer shall, after consideration of all evidence of record, issue a recommended order disposing of the application no later than 50 days after the transcript of the certification hearing and the public hearings is filed with the Division of Administrative Hearings.

(b) In the event the hearing officer fails to issue a recommended order within 50 days after the filing of the transcript, the hearing officer shall submit a report to the board with a copy to all parties within 50 days after the filing of the hearing transcript to advise the board of the reason for the delay in the issuance of the recommended order and of the date by which the recommended order will be issued.

(4)(a) Parties to the proceeding shall be:

1. The applicant.
2. The department.

3. The commission.

4. The Department of Community Affairs.

5. The Department of Natural Resources.

6. The Game and Fresh Water Fish Commission.

7. Each water management district in the jurisdiction of which the proposed transmission line or corridor is to be located.

8. Any local government.

9. Regional planning councils.

(b) Any party listed in paragraph (a) may waive its right to participate in these proceedings. If any listed party fails to file a notice of its intent to be a party on or before the 30th day prior to the certification hearing, such party shall be deemed to have waived its right to be a party unless its participation would not prejudice the rights of any party to the proceeding.

(c) Notwithstanding the provisions of chapter 120 to the contrary, upon the filing with the hearing officer of a notice of intent to be a party by an agency or corporation or association described in subparagraphs 1. and 2. or a petition for intervention by a person described in subparagraph 3. no later than 30 days prior to the date set for the certification hearing, the following shall also be parties to the proceeding:

1. Any state agency not listed in paragraph (a) as to matters within its jurisdiction.

2. Any domestic nonprofit corporation or association formed, in whole or in part, to promote conservation of natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial, or industrial groups; or to promote orderly development of the area in which the proposed transmission line or corridor is to be located.

3. Any person whose substantial interests are affected and being determined by the proceeding.

(d) Any agency whose properties or works may be affected shall be made a party upon the request of the agency or any party to this proceeding.

(5)(a) No later than 80 days prior to the certification hearing, any party may propose alternate transmission line corridor routes for consideration pursuant to the provisions of this act by filing a notice of a proposed alternate corridor with the hearing officer, all parties, and any local government in whose jurisdiction the alternate is proposed. Such filing shall include the most recent United States Geological Survey 1:250,000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed corridor, and a statement of the reasons the proposed alternate should be considered.

(b) Within 5 working days of receipt of such notice, the applicant and the department shall file with the hearing officer and all parties a notice of acceptance or rejection of a proposed alternate corridor for consideration. If the alternate corridor is rejected either by the applicant or the public hearings shall be held by the applicant and the public hearings shall be held as scheduled. If both the applicant and the department accept a proposed alternate corridor for consideration, the certification hearing and the public hearings shall be rescheduled, if necessary.

(c) If rescheduled, the certification hearing shall be held no more than 80 days from the previously scheduled certification hearing, to provide sufficient time:

1. For the publication of notice pursuant to paragraphs (1)(b) and (c);

2. For the agencies addressing the proposed alternate corridors at least 30 days prior to the certification hearing; and

3. For agencies to submit supplementary notice pursuant to s. 403.531(2) at least 30 days prior to the certification hearing.

(d) Each party proposing an alternate corridor shall have the burden of providing data to the agencies listed in s. 403.526 necessary for the preparation of a supplementary report on the proposed alternate corridor within a time period established by the department and shall have the burden of proof on the certification of the alternate corridor at the certification hearing pursuant to s. 403.529(3). Nothing in this act shall be construed as requiring the applicant or agencies not proposing an alternate corridor to submit data in support of such alternate corridor.

(e) Notwithstanding the rejection of a proposed alternate corridor by the applicant or the department, any party may present evidence at the certification hearing to show that a corridor proper for certification does not satisfy the criteria listed in s. 403.529 or that a rejected alternate corridor would meet the criteria set forth in s. 403.528. No evidence shall be admitted at the certification hearing on any alternate corridor, unless the alternate corridor was proposed by the filing of a notice at least 30 days prior to the certification hearing pursuant to this section. Rejected alternate corridors shall be considered by the board as provided in s. 403.529(3) and (4). The board shall certify that corridor.

(f) If an alternate corridor is accepted by the applicant and the department pursuant to a notice of acceptance as provided in this subsection and such corridor is ultimately determined to be the corridor that would meet the criteria set forth in s. 403.529(3) and (4), the board shall certify that corridor.

(6) When appropriate, any person may be given an opportunity to present oral or written communications to the hearing officer. If the hearing officer proposes to consider such communications, all parties shall be given an opportunity to cross-examine or challenge or rebut such communications.

(7) The hearing officer shall have all powers and duties granted to hearing officers by chapter 120 and by the laws and rules of the department, including the authority to resolve disputes over the completeness or sufficiency of an application for certification.

History.—1983, ch. 206, § 1, F.S.; 1985, ch. 206, § 1, F.S.; 1987, ch. 206, § 1, F.S.

Note.—The word "proceedings" was inserted by the

403.5272 Local governments; informational public meetings.—

(1) Local governments may hold informational public meetings in addition to the hearings specified by this act on any matter authorized by this act with the transmission line proceeding. Such informational public meetings should be held no later than

the location of the proposed transmission line corridor or the construction and maintenance of the transmission lines. Each party shall notify the applicant and other parties at least 60 days prior to the certification hearing of any nonprocedural requirements which are not specifically listed in the application from which a variance or exception is necessary in order for the board to certify any corridor proposed for certification. Failure of such notification shall be treated as a waiver, variance, or exception, otherwise allowed by law, from nonprocedural standards or regulations of the department or any other agency.

(3) The certification shall be in lieu of any license, permit, certificate, or similar document required by any agency pursuant to, but not limited to, chapter 125, chapter 161, chapter 168, chapter 253, chapter 258, chapter 298, chapter 370, chapter 373, chapter 380, chapter 381, chapter 387, chapter 403, chapter 404, the Florida Transportation Code, or 33 U.S.C. s. 1341. On certification, any license, easement, or other interest in state lands, except those of the general improvement Trust Fund, shall be issued by the appropriate agency as a ministerial act. The applicant shall request a title to be vested in interest in state lands to title to be vested in the Trust Fund from the board of trustees before during or after the certification proceeding, and certification may be made contingent upon issuance of the appropriate interest in realty. However, neither the applicant nor any party to the certification proceeding may directly or indirectly raise or relinquish any matter which was or could have been an issue in the certification proceeding in any proceeding before the Board of Trustees of the Internal Improvement Trust Fund wherein the applicant is seeking a necessary interest in state lands, but the information presented in the certification proceeding shall be available for review by the board of trustees and its staff.

(4) This part shall not in any way affect the making powers of the commission under chapter 366. This part shall also not in any way affect the right of any local government to charge appropriate fees or require that construction be in compliance with the National Electrical Safety Code, as prescribed by the commission.

(5) No term or condition of certification shall be interpreted to preclude the postcertification exercise by any party of whatever postcertification rights it may have under chapter 120, including those related to rulemaking proceedings.

History.—1983, ch. 86, § 1, n. 1; 1984, ch. 86, § 1, n. 1.

403.532 Revocation or suspension of certification.—Any certification may be revoked or suspended:

- (1) For any material false statement in the application or in the supplemental or additional statements of fact or studies required of the applicant when a true answer would have warranted the board's refusal to recommend a certification in the first instance;
- (2) For failure to comply with the terms or conditions of the certification;
- (3) For violation of the provisions of this act or rules or orders issued hereunder.

History.—1983, ch. 86, § 1, n. 1.

403.533 Enforcement of compliance.—Failure to obtain a certification, or to comply with the conditions thereof, or to comply with this part shall constitute a violation of chapter 403.

History.—1983, ch. 86, § 1, n. 1.

403.536 Superseded laws, regulations, and certification power.—

810

(a) Ensure electric power system reliability and integrity;

(b) Meet the electrical energy needs of the state in an orderly and timely fashion;

(c) Comply with nonprocedural requirements of agencies;

(d) Be consistent with applicable local government comprehensive plans; and

(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact upon the public and the environment resulting from the location of the transmission line corridor and maintenance of the transmission lines.

(4)(a) Any transmission line corridor certified by the board shall meet the criteria of this section. When more than one transmission line corridor is proposed for certification pursuant to s. 403.522(9), and the board shall certify the transmission line corridor that has the least adverse impact regarding the criteria in subsection (3), including costs.

(b) If the board finds that an alternate corridor rejected pursuant to s. 403.527(5) meets the criteria of subsection (3) and has the least adverse impact regarding the criteria in subsection (3), including cost, of all corridors that meet the criteria of subsection (3), then the board shall deny certification or shall allow the applicant to submit an amended application to include such corridor.

(c) If the board finds that two or more of the corridors that comply with the provisions of subsection (3) have the least adverse impacts regarding the criteria in subsection (3), including costs, and that such corridors are substantially equal in adverse impacts regarding the criteria in subsection (3), including costs, then the board shall certify the corridor preferred by the applicant if the corridor is one proposed for certification pursuant to s. 403.522(9).

(6) The issuance or denial of the certification by the board shall be the final administrative action required as to that application.

History.—1983, ch. 86, § 1, n. 1; 1984, ch. 86, § 1, n. 1.

403.531 Effect of certification.—

- (1) Subject to the conditions set forth therein, certification shall constitute the sole license of the state and agency as to the approval of the location of transmission line corridors and the construction and maintenance of transmission lines. The certification shall be valid for the life of the transmission line, provided that construction on, or condemnation or acquisition of, the right-of-way is commenced within 5 years of the date of certification or such later date as may be authorized by the board.
- (2) The certification shall authorize the applicant to locate the transmission line corridor and to construct and maintain the transmission lines subject only to the conditions of certification set forth in such certification. The certification may include conditions which constitute variances and exceptions, otherwise allowed by law, from nonprocedural standards or regulations of the department or any other agency, which were expressly considered during the proceeding unless waived by the agency as provided below and which otherwise would be applicable to

809

80 days after the application is filed. The purpose of an informational public meeting is for the local government to further inform the general public about the transmission line proposed, obtain comments from the public, and formulate its recommendation with respect to the proposed transmission line.

(2) Informational public meetings shall be held solely at the option of each local government. It is the legislative intent that local governments attempt to hold such public meetings. Parties to the proceedings under this act shall be encouraged to attend; however, no party shall be required to attend such informational public hearings.

(3) The failure to hold an informational public meeting or the procedure used for the informational public meeting shall not be grounds for the alteration of any time limitation in this act pursuant to s. 403.526 or grounds to deny or condition certification.

History.—1983, ch. 86, § 1, n. 1.

403.527 Amendment to the application.—

- (1) Any amendment made to the application shall be sent by the applicant to the hearing officer and to all parties to the proceeding. No additional fee shall be required for the submission of an amendment to the application if no corridor alignment change is proposed by the amendment. However, if a corridor alignment change is proposed by the applicant, an additional fee of a minimum of \$2,000 and \$750 per mile shall be submitted to the department for use in accordance with s. 403.522. Amendments that are required to address issues, including alternate corridors pursuant to s. 403.527(5), raised by the department or other parties do not require additional fees.
- (2) Any amendment to the application made prior to certification shall be disposed of as part of the original certification proceeding. Amendment of the application may be considered "good cause" for alteration of time limits pursuant to s. 403.528.

History.—1983, ch. 86, § 1, n. 1; 1984, ch. 86, § 1, n. 1.

403.528 Alteration of time limits.—Any time limitation in this act may be altered by the hearing officer upon stipulation between the department and the applicant unless objected to by any party within 5 days after notice or for good cause shown by any party.

History.—1983, ch. 86, § 1, n. 1; 1984, ch. 86, § 1, n. 1.

403.529 Final disposition of application.—

- (1) Within 30 days after receipt of the hearing officer's recommended order, the board shall act upon the application by written order, approving in whole, approving with such modification and conditions as the board deems appropriate, or denying the certification and stating the reasons for issuance or denial.
- (2) If certification is denied, the board shall set forth in writing the action the applicant would have to take to secure the approval of the application by the board.
- (3) In determining whether an application should be approved in whole, approved with modifications or conditions, or denied, the board shall consider whether, and the extent to which, the location of the transmission line corridor and the construction and maintenance of the transmission line will:

(1) If any provision of this act is in conflict with any other provision, limitation, restriction which is now or hereafter in effect in this state or any other state, or any provision of any act, statute, ordinance, municipal law, or any rule or regulation adopted thereunder, this act shall control.

(2) The state hereby preempts the certification of transmission lines and transmission line corridors.

(3) The board shall have the power to adopt reasonable procedural rules to carry out its duties under this act and to give effect to the legislative intent that this act provide an efficient, centrally coordinated, one-stop permitting process.

History.—1, 1943, 40-43.

403.537 Determination of need for transmission line: powers and duties.—

(1)(a) Upon request by an electric utility or upon its own motion, the Florida Public Service Commission shall schedule a public hearing, after notice to determine the need for a transmission line regulated by the Transmission Line Siting Act, ss. 403.52-403.536. Such notice shall be published at least 30 days before the date set for the hearing and shall be published in newspapers of general circulation in the Florida Administrative Weekly, by giving notice to each regional planning council in which the proposed transmission line is to be placed, and by giving notice to each local government requested to be placed on the mailing list of the commission for this purpose. Within 21 days after receipt of a request for determination by an applicant, the commission shall set a date for the hearing. The hearing shall be held pursuant to s. 350.01 within 45 days after the filing of the request, and a decision shall be rendered within 60 days after such filing.

(b) In the determination of need, the commission shall take into account the need for electric system reliability and integrity, the need for abundant, low-cost electrical energy to assure the economic well-being of the citizens of this state, the appropriateness of the siting of the line, and other matters within its jurisdiction deemed relevant to the determination of need.

(c) The determination by the commission of the need for the transmission line, as defined in s. 403.522(15), is binding on all parties to any certification proceeding pursuant to the Transmission Line Siting Act and is a condition precedent to the conduct of the certification hearing prescribed therein. An order entered pursuant to this section constitutes final agency action.

(2) The commission shall have the following powers and duties:

(a) To adopt or amend reasonable procedural rules to implement the provisions of this section.

(b) To prescribe the form, content, and necessary supporting documentation and the required studies for the determination of need.

(3) Any time limitation in this section may be altered by the commission upon stipulation between the commission and the applicant or for good cause shown by any party.

History.—1, 1943, 40-43, 40-43, 40-43, 40-43, 40-43.

403.539 Certification admissible in eminent domain proceedings.

domain proceedings: attorney's fees and costs.

(1) Certification pursuant to ss. 403.52-403.536 shall be admissible as evidence of public need and necessity in proceedings under chapter 73 or chapter 74.

(2) No party may rely on this section or any provision of chapter 73 or chapter 74 to request the award of attorney's fees or costs incurred as a result of participation in the certification proceeding.

History.—1, 1943, 40-43, 40-43, 40-43, 40-43.

PART III

INTERSTATE ENVIRONMENTAL CONTROL COMPACT

403.60 Interstate Environmental Compact: execution authorized.

403.60 Interstate Environmental Compact: execution authorized. The Governor on behalf of this state is authorized to execute a compact, in substance as follows, with any one or more of the states of the United States, and the Legislature hereby signifies in advance its approval and ratification of such compact.

MEMBER JURISDICTION.—The environmental compact is entered into with all jurisdictions legally joining therein and enacted into law in the following form:

INTERSTATE ENVIRONMENTAL COMPACT

ARTICLE I

FINDINGS, PURPOSES AND RESERVATIONS

A. Findings.—Signatory states hereby find and declare:

1. The environment of every state is affected with local, state, regional and national interests and its protection, under appropriate arrangements for intergovernmental cooperation, is a public purpose of the respective signatories.

2. Certain environmental pollution problems transcend state boundaries and thereby become common to adjacent states requiring cooperative efforts.

3. The environment of each state is subject to the effective control of the signatories, and coordinated, cooperative or joint exercise of control measures is in their common interests.

B. Purposes.—The purposes of the signatories in enacting this compact are:

1. To assist and participate in the national environmental protection program as set forth in federal legislation promulgated pursuant to the cooperative action for multistate action relating to environmental protection through interstate agreements; and to encourage cooperative and coordinated environmental protection by the signatories and the Federal Government.

2. To preserve and utilize the functions, powers and duties of existing state agencies of government to the maximum extent possible consistent with the purposes of the compact.

C. Powers of the United States.—

1. Nothing contained in this compact shall impair, affect or extend the constitutional authority of the United States.

2. The signatories hereby recognize the power and right of the Congress of the United States at any time by any statute expressly enacted for that purpose to revise the terms and conditions of its consent to this compact.

D. Powers of the states.—Nothing contained in this compact shall impair or extend the constitutional authority of any signatory state, nor shall the police powers of any signatory state be affected except as expressly provided in a supplementary agreement under Article IV.

ARTICLE II

SHORT TITLE, DEFINITIONS, PURPOSES AND LIMITATIONS.

A. Short title.—This compact shall be known and may be cited as the "Interstate Environmental Compact."

B. Definitions.—For the purpose of this compact and of any supplemental or concurring legislation enacted pursuant to or in relation hereto, except as may be otherwise required by the context:

1. "State" shall mean any one of the 50 states of the United States of America, the Commonwealth of Puerto Rico and the Territory of the Virgin Islands, but shall not include the District of Columbia.

2. "Interstate environmental pollution" shall mean any pollution of stream or body of water crossing or flowing through, or any air pollution or any other pollution designated by an appropriate federal agency or solid waste collected and disposed of in more than one state.

3. "Government" shall mean the governments of the United States and the signatory states.

4. "Federal Government" shall mean the government of the United States of America and any appropriate department, instrumentality, agency, commission, bureau, division, branch or other unit thereof, as the case may be, but shall not include the District of Columbia.

5. "Signatory" shall mean any state which enters into this compact and is a party thereto.

ARTICLE III

INTERGOVERNMENTAL COOPERATION

Agreements with the Federal Government and other agencies.—Signatory states are hereby authorized jointly to participate in cooperative or joint undertakings for the protection of the interstate environment with the Federal Government or with intergovernmental or interstate agencies.

ARTICLE IV

SUPPLEMENTARY AGREEMENTS, JURISDICTION AND ENFORCEMENT.

A. Signatories may enter into agreements for the purpose of controlling interstate environmental problems in accordance with applicable federal legislation

and under terms and conditions as deemed appropriate by the agreeing states, under Paragraph F. and Paragraph H. of this Article.

B. Recognition of existing intergovernmental intergovernmental arrangements.—The signatories agree that existing federal state, interstate or intergovernmental arrangements which are not primarily directed to environmental protection purposes as defined herein are not affected by this compact.

C. Recognition of existing intergovernmental agreements directed to environmental protection objectives.—All existing interstate compacts directly relating to environmental protection are hereby expressly recognized and nothing in this compact shall be construed to diminish or supersede the powers and functions of such existing intergovernmental agreements and the organizations created by them.

D. Modification of existing commissions and compacts.—Recognition herein of multistate commissions and compacts shall not be construed to limit directly or indirectly the creation of additional multistate organizations or interstate compacts, nor to prevent termination, modification, extension, or supplementation of such multistate organizations and interstate compacts created by the Federal Government or states party thereto.

E. Recognition of future multistate commissions and interstate compacts.—Nothing in this compact shall be construed to prevent signatories from entering into multistate organizations or other interstate compacts which do not conflict with their obligations under this compact.

F. Supplementary agreements.—Any two or more signatories may enter into supplementary agreements for joint, coordinated or mutual environmental management activities relating to interstate pollution problems common to the territories of such states and for the establishment of common or joint regulation, management, services, agencies or facilities for such purposes or may designate an appropriate agency to act as their joint agency in regard thereto. No supplementary agreement shall be valid to the extent that it conflicts with the purposes of this compact and the creation of a joint agency by supplementary agreement shall not affect the privileges, powers, responsibilities or duties under this compact of signatories participating therein as embodied in this compact.

G. Execution of supplementary agreements and effective date.—The Governor is authorized to enter into supplementary agreements for the state and his official signature and seal shall be the immediate ratification of the state provided that:

1. The signature of any signatory entering into such a supplementary agreement shall at its next legislative session by concurrent resolution bring the supplementary agreement before it and by appropriate legislative action approve, reverse, modify or condition the agreement of that state.

2. Nothing in this agreement shall be construed to limit the right of Congress by act of law expressly enacted for that purpose to disapprove or condition such a supplementary agreement.

H. Special supplementary agreements.—Signatories may enter into special supplementary agreements with the District of Columbia or

some nations for the same purposes and with the same powers as under Paragraph F. Article IV, upon the condition that such nonsignatory party accept the general obligations of signatories under this compact. Provided, that such special supplementary agreements shall become effective only after being consented to by the Congress.

1. Jurisdiction of signatories reserved.—Nothing in this compact or in any supplementary agreement thereunder shall be construed to restrict, relinquish or be in derogation of, any power or authority constitutionally possessed by any signatory within its jurisdiction, except as specifically limited by this compact or a supplementary agreement.

J. Complementary legislation by signatories.—Signatories may enact such additional legislation as may be deemed appropriate to enable its officers and governmental agencies to accomplish effectively the purposes of this compact and supplementary agreements recognized or entered into under the terms of this Article.

K. Legal rights of signatories.—Nothing in this compact shall impair the exercise by any signatory of its legal rights or remedies established by the United States Constitution or any other laws of this nation.

ARTICLE V

CONSTRUCTION, AMENDMENT AND EFFECTIVE DATE.—

1. Construction.—It is the intent of the signatories that no provision of this compact or supplementary agreement entered into hereunder shall be construed as invalidating any provision of law or any agreement or that nothing in this compact shall be construed to modify or qualify the authority of any signatory to enforce its internal environmental protection laws, with any portion of this compact or supplementary agreement entered into pursuant hereto.

2. Severability.—The provisions of this compact or of agreements hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or of such an agreement is declared to be contrary to the constitution of any signatory or of the United States or is held invalid, the constitutionality of the remainder of this compact or of any agreement and the applicability thereof to any participating jurisdiction, agency, person or circumstance shall not be affected thereby and shall remain in full force and effect as to the remaining participating jurisdictions and in full force and effect as to the signatory affected, as to all severable matters. It is the intent of the signatories that the provisions of this compact shall be reasonably and liberally construed in the context of its purposes.

3. Amendments.—Amendments to this compact may be initiated by legislative action of any signatory and become effective when concurred in by all signatories and approved by Congress.

D. Effective date.—This compact shall become binding on a state when enacted by it into law and such state shall thereafter become a signatory and party hereto with any and all states legally joining herein.

E. Withdrawal from the compact.—A state may withdraw from this compact by authority of an act of its legislature 1 year after it notifies all signatories in writing of an intention to withdraw from the compact. Provided, withdrawal from the compact affects obligations of a signatory imposed on it by supplementary agreements to which it may be a party only to the extent and in accordance with the terms of such supplementary agreements.

History.—S. 1, ch. 74, § 2, 1972.

PART IV

RESOURCE RECOVERY AND MANAGEMENT

403.701 Short title.
403.702 Legislative findings; public purpose.
403.703 Definitions.
403.704 Powers and duties of the department.
403.705 Application of act and integration with other acts.

403.706 State resource recovery and management program.
403.707 Local resource recovery and management programs.
403.708 Procurement of recovered materials.
403.709 Permits.
403.710 Citation of rule.
403.711 Submission of plans for certain solid waste disposal areas; conditions.
403.712 Prohibition; penalty.
403.713 Revenue bonds.
403.714 Duties of Department of General Services.
403.715 Certification of resource recovery equipment.

403.716 Identification, listing, and notification of hazardous waste and procedures for generators and transporters of hazardous waste and owners and operators of hazardous waste disposal, storage, and treatment facilities.
403.717 Permits; hazardous waste disposal, storage, and treatment facilities.
403.718 Prohibition of hazardous waste landfills, incinerators, and other management systems.
403.719 Technical assistance by the department.
403.720 Siting of hazardous waste facilities.
403.721 Small quantity generator notification program.
403.722 Local government information to be sent to the department.
403.723 Financial responsibility.
403.724 Hazardous Waste Management Trust Fund.
403.725 Imminent hazard.
403.726 Amnesty days for purging small quantities of hazardous wastes.
403.727 Violations; defenses; penalties, and remedies.
403.728 Qualifications of operation personnel of hazardous waste facilities.
403.73 Trade secrets.

403.701 Short title.—Sections 403.701-403.73 shall be known and may be cited as the "Florida Resource Recovery and Management Act."

History.—S. 1, ch. 74, § 2, 1972.

403.702 Legislative findings; public purpose.

(1) In order to enhance the beauty and quality of our environment; conserve and recycle our natural resources; prevent the spread of disease and creation of nuisances; protect the public health, safety, and welfare; provide a coordinated statewide resource recovery and management program; the Legislature finds that:

(a) Inefficient and improper methods of managing solid waste create hazards to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances.
(b) Problems of solid waste management have become a matter statewide in scope and necessitate state action to assist local government in improving methods and processes to promote more efficient methods of solid waste collection and disposal.
(c) The continuing technological progress and improvements in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase of the mass of materials discarded by the purchasers of such products, thereby necessitating a statewide approach which will avoid varied and uncoordinated solutions by local governments around the state.

(d) The economic and population growth of our state and the improvements in the standard of living enjoyed by our population have required increased industrial production together with related commercial and agricultural operations to meet our needs, which have resulted in a rising tide of unwanted and discarded materials.
(e) The failure or inability to economically recover or utilize and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources. Therefore, maximum resource recovery from solid waste and maximum recycling and reuse of such resources must be considered goals of the state.

(f) Certain solid waste, due to its quantity, concentration, or physical, chemical, biological, or infectious characteristics, is exceptionally hazardous to human health, safety, and welfare and to the environment, and exceptional attention to the transportation, disposal, storage, and treatment of such waste is necessary to protect human health, safety, and welfare and the environment.
(g) This act should be integrated with other acts such that nonhazardous waste discharges currently regulated under chapter 403, water or solid waste construction, modification, or operating permits, air emissions, special wastes, and other activities regulated under other more appropriate acts remain in full force and effect and are not preempted by the requirements of this act.

(2) It is declared to be the purpose of this act to:
(a) Plan for and regulate the storage, collection, transport, separation, processing, recycling, and disposal of solid waste in order to protect the public resources from solid waste.

safety, health, and welfare; enhance the environment for the people of the state; and recover resources which have the potential for further usefulness.

(b) Establish and maintain a cooperative state program of planning and technical assistance for resource recovery and management.

(c) Provide the authority, and require counties and municipalities, to adequately plan and provide efficient, environmentally acceptable resource recovery and management and require counties to plan for proper hazardous waste management.

(d) Require review of the design, and issue permits for the operation, of resource recovery and management facilities.

(e) Promote the application of resource recovery systems which preserve and enhance the quality of air, water, and land resources.

(f) Ensure that exceptionally hazardous solid waste is transported, disposed of, stored, and treated in a manner designed to protect human health, safety, and welfare of the environment.

(g) Promote the recycling, reuse, or treatment of solid waste, specifically including hazardous waste, in lieu of disposal of such waste.

(h) Promote the application of methods and technology for the treatment, disposal, and transportation of hazardous wastes, which are practical, cost-effective, and economically feasible.

History.—S. 1, ch. 74, § 2, 1972.

403.703 Definitions.—As used in this act:
(1) "Department" means the Department of Environmental Regulation or any successor agency performing a like function.

(2) "County or municipality," or any like term, includes political subdivisions engaged in resource recovery and management.

(3) "Person" means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal Government.

(4) "Recycling" means the reuse of solid waste in manufacturing, agriculture, power production, or other processes.

(5) "Resource management" means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way, according to an orderly, purposeful, and planned program.

(6) "Resource recovery" means the process by which materials, excluding those under control of the Atomic Energy Commission, which still have useful physical or chemical properties after serving a specific purpose are reused or recycled for the same or other purposes, including use as an energy source.

(7) "Resource recovery and management facility" means any solid waste disposal area, volume reduction plant, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste.

(8) "Resource recovery equipment" means equipment or machinery exclusively and integrally used in the actual process of recovering material or energy resources from solid waste.

(9) "Solid waste" means sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(10) "Volume reduction plant" includes, but is not limited to, incinerators, pulverizers, compactors, shredding and baling plants, transfer stations, composting plants, and other plants which accept and process solid waste for recycling or disposal.

(11) "Yard trash" means vegetative matter resulting from landscaping maintenance and land-clearing operations.

(12) "Trash landfill" means combinations of yard trash and construction and demolition debris along with paper, cardboard, cloth, glass, white goods, street sweepings, vehicle tires, and other like matter.

(13) "Construction and demolition debris" means material generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, or asphalt roofing material.

(14) "Class I solid waste disposal area" means a disposal facility which receives an average of 20 tons or more per day, if scales are available, or 50 cubic yards or more per day of solid waste, as measured in place after covering, and which receives an initial cover at least once every 4 days.

(15) "Class II solid waste disposal area" means a disposal facility which receives an average of less than 50 cubic yards per day of solid waste, as measured in place after covering, and which receives an initial cover at least once every 4 days.

(16) "Initial cover" means a 6-inch layer of compacted earth, or other suitable material as approved by the department, used to enclose a volume of solid waste prior to intermingling with other waste.

(17) "Monitoring well" means a well specifically located for monitoring purposes.

(18) "Closure" means the cessation of operation of a resource recovery and management facility and the act of securing such facility so that it will pose no significant threat to human health or the environment.

(19) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or upon any land or water so that such solid waste or hazardous waste or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including ground waters, or otherwise enter the environment.

(20) "Generation" means the act or process of producing hazardous waste.

(21) "Hazardous waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when

improperly transported, disposed of, stored, treated, or otherwise managed.

(22) "Hazardous waste facility" means any building, site, structure, or equipment at or by which hazardous waste is disposed of, stored, or treated.

(23) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

(24) "Manifest" means the method used for identifying the concentration, quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal.

(25) "Operation, storage, or treatment of hazardous waste" means the handling, processing, recovery, or management of hazardous waste.

(26) "Storage" means the containment or holding of a hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(27) "Transport" means the movement of hazardous waste from the point of generation or point of entry into the state to any offsite intermediate point, and to the point of offsite ultimate disposal, storage, treatment, or exit from the state.

(28) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize it or render it nonhazardous, safe for transport, amenable to recovery, amenable to storage or disposal, or reduced in volume or concentration. The term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(29) "Waste" means any material which is not a solid waste, as defined in s. 403.704, and which is not a liquid, gas, or vapor, as defined in s. 403.705.

(30) "Waste management" means the act of managing waste, as defined in s. 403.704, and which includes the act of managing waste, as defined in s. 403.704, and which includes the act of managing waste, as defined in s. 403.704.

(31) "Waste recovery" means the act of recovering waste, as defined in s. 403.704, and which includes the act of recovering waste, as defined in s. 403.704, and which includes the act of recovering waste, as defined in s. 403.704.

(32) "Waste treatment" means the act of treating waste, as defined in s. 403.704, and which includes the act of treating waste, as defined in s. 403.704, and which includes the act of treating waste, as defined in s. 403.704.

(33) "Waste disposal" means the act of disposing of waste, as defined in s. 403.704, and which includes the act of disposing of waste, as defined in s. 403.704, and which includes the act of disposing of waste, as defined in s. 403.704.

(34) "Waste management plan" means a plan for the management of waste, as defined in s. 403.704, and which includes the act of managing waste, as defined in s. 403.704, and which includes the act of managing waste, as defined in s. 403.704.

(35) "Waste management system" means a system for the management of waste, as defined in s. 403.704, and which includes the act of managing waste, as defined in s. 403.704, and which includes the act of managing waste, as defined in s. 403.704.

(15) Utilize private industry through contractual arrangements for implementation of some or all of the requirements of the state resource recovery and management program and for such other activities as may be considered necessary, desirable, or convenient.

(16) Encourage recycling and resource recovery as an energy source.

(17) Assist in and encourage, as much as possible, the development within the state of industries and commercial enterprises which are based upon resource recovery, recycling, and reuse of solid waste.

(18) Charge reasonable fees for any services performed pursuant to this act, provided user fees shall apply uniformly within each municipality or county to all users who are provided with resource recovery and management services.

(19) Acquire, at its discretion, personal or real property or any interest therein by gift, lease, or purchase for the purpose of providing sites for resource recovery and management facilities.

(20) Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate, at its discretion, as are called for by the state resource recovery and management program.

(21) Receive funds or revenues from the sale of products, materials, fuels, or energy in any form derived from processing of solid waste by state-owned or state-operated facilities, which funds or revenues shall be deposited into the General Revenue Fund.

(22) Determine by rule the facilities, equipment, personnel, and number of monitoring wells to be provided at each Class I solid waste disposal area.

(23) Encourage, but not require, as part of a Class II solid waste disposal area, a potable water supply, an employee shelter, handwashing and toilet facilities, equipment washout facilities, electric service for maintenance and repairs, equipment shelter for maintenance and storage of parts, equipment and tools, scales for weighing solid waste received at the disposal area, a trained equipment operator in full-time attendance during operating hours, and communication facilities for use in emergencies. The department may require an attendant at a Class II solid waste disposal area during the hours of operation if the department affirmatively demonstrates that such a requirement is necessary to prevent unlawful fires, unauthorized dumping, or littering of nearby property.

(24) Require a Class II solid waste disposal area to have at least one monitoring well which shall be placed adjacent to the site in the direction of ground water flow unless otherwise exempted by the department. The department may require additional monitoring wells if it affirmatively demonstrates by the department that a significant change in the initial quality of the water has occurred in the downstream monitoring well which adversely affects the beneficial uses of the water. These wells may be public or private water supply wells if they are suitable for use in determining background water quality levels.

(25) Promulgate rules for solid waste disposal areas limited exclusively to yard trash, for solid waste disposal areas limited exclusively to construction and demolition debris, and for solid waste disposal areas

limited exclusively to trash. Such rules shall take into account the reduced environmental threat caused by the segregated disposal of these solid wastes. Reduced requirements for engineering, location, covering, monitoring wells, or forced draft burning may be allowed for such solid waste disposal areas, providing the requirements will not allow a threat to the public health or environment to exist and providing the requirements are consistent with all other state or local laws, ordinances, rules, regulations, or orders.

(26) Adopt, repeal, or amend rules to implement, administer, and enforce this act. When promulgated, the department adopts any rule stricter or more stringent than the rules which have been adopted by the Environmental Protection Agency. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies are required under the Resource Conservation and Recovery Act, as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

(27) Issue or modify permits on such conditions as are necessary to effect the intent and purposes of this act, and may deny or revoke permits.

(28) Establish an account and deposit to the Hazardous Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(29) Budget and receive appropriated funds and accept, receive, and administer grants or other funds or gifts from public or private agencies, including the state and the Federal Government, for the purpose of carrying out the provisions of this act.

(30) Delegate its powers, enter into contracts, or take such other actions as may be necessary to implement this act.

(31) Receive and administer funds appropriated for county hazardous waste management assessments.

(32) Provide technical assistance to local governments and regional agencies to ensure consistency between county hazardous waste management assessments; coordinate the development of such assessments with the assistance of the appropriate regional planning councils; and review and make recommendations to the Legislature relative to the sufficiency of the assessments to meet state hazardous waste management needs.

(33) Promote public awareness of hazardous waste issues and proper methods of management.

(34) Assist the hazardous waste storage, treatment, or disposal industry by providing to the industry any data produced on the types and quantities of hazardous waste generated.

(35) Institute a hazardous waste emergency response program which would include emergency telecommunication capabilities and coordination with appropriate agencies.

(36) Establish a hazardous waste emergency telecommunication system.

(37) Establish a hazardous waste emergency telecommunication system.

(38) Establish a hazardous waste emergency telecommunication system.

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

- Byproduct material, waste material, and special waste material, the generation, transportation, disposal, storage, or use of which is regulated under chapter 404 or under the Federal Atomic Energy Act of 1954, Chapter 103, 68 Stat. 923, as amended.
- Suspended solids and dissolved materials in domestic sewage effluent or irrigation return flows or other discharges which are point sources subject to permits pursuant to provisions of chapter 403 or pursuant to s. 402 of the Clean Water Act, Pub. L. No. 92-217.
- Emissions to the air from a stationary installation or source regulated under provisions of chapter 403 or under the Clean Air Act, Pub. L. No. 95-95.
- Drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas which are regulated under chapter 377 or

(1) Activities which are regulated pursuant to the Florida Hazardous Substances Law, ss. 501.051-501.121.

(2) Except as provided in s. 403.704(16), the following waste shall not be regulated as a hazardous waste, including a special waste, pursuant to this act, except when determined by the United States Environmental Protection Agency to be a hazardous waste, including a special waste:

- Ashe and scrubber sludges generated from the burning of boiler fuel for generation of electricity or steam.
- Agricultural and silvicultural byproduct, material and agricultural and silvicultural process waste from normal farming or processing.
- Discarded material generated by the mining and beneficiation and chemical or thermal processing of phosphate rock, and precipitates resulting from neutralization of phosphate chemical plant process and nonprocess waters.

(3) The following wastes or activities shall be regulated pursuant to this act in the following manner:

- Dredge spoil or fill material shall be disposed of pursuant to a dredge and fill permit; but whenever hazardous components are disposed of within the dredge or fill material, the dredge and fill permits shall specify the specific hazardous wastes contained and the concentration of each such waste. The department may then limit or restrict the sale or use of the dredge and fill material and may specify such other conditions relative to this material as are reasonable necessary to protect the public from the potential hazards.

(b) Hazardous wastes which are contained in artificial recharge water or other waters intentionally introduced into any underground formation and which are permitted pursuant to s. 373.106 shall also be handled in compliance with the requirements and standards for disposal, storage, and treatment of hazardous waste under this act.

(c) Solid waste or hazardous waste facilities which are operated as a part of the normal operation of a power generating facility and which are licensed by certification pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.501-403.517, shall un-

817

(2)(a) Each local resource recovery and management program implemented pursuant to this section shall include an implementation schedule which provides a timetable indicating when the total program, as well as its component parts, will be carried out. The implementation schedules shall:

1. Be mutually agreed upon by the local governments participating in the development of the program plan and the department.
2. Expedite and accomplish, within reason and practicality, the provisions of the program plan.
3. Be adhered to by each local program.
4. Be monitored by the department to assure compliance.

(b) If modified only upon approval by the department of a request of a local program, showing sufficient cause and justification for a modification.

(c) It is the policy of the state that a county and its municipalities shall enter into a cooperative interlocal agreement pursuant to s. 163.01, which is requesting the passage of special legislation, which local governmental agency shall administer the local resource recovery and management program. If on December 1, 1978, no interlocal agreement has been effectuated and no special act has become law, the board of county commissioners shall administer the program, except sludge from a waste treatment works, air pollution control facility, or water supply treatment plant or other liquid, semisolid, or contained gaseous material, for the entire county.

(d) Each local resource recovery and management program shall be reviewed at least once in every 3 years. Each county and its municipalities shall be responsible for updating their local program in a manner consistent with the rules adopted by the department.

(e) The department shall review, at least once in every 3 years, those counties or municipalities not required to plan for resource recovery under the provisions of subsection (4) to determine if sufficient solid waste is generated to make it economically practical to plan for, and engage in, resource recovery and management programs.

(f) Nothing in this act shall be construed to prevent the governing body of any county or municipality from providing by ordinance or regulation for resource recovery and management requirements which are stricter and more extensive than those imposed by the state resource recovery and management program and rules, regulations, and orders issued thereunder.

(g) Nothing in this act or in any rule adopted by any agency shall be construed to require any county or municipality to participate in any resource recovery program until the governing body of such county or municipality has determined that participation in such a program is economically feasible for that county or municipality. Nothing in this act or in any special or local act or in any rule adopted by any agency shall be construed to limit the authority of a municipality to regulate the disposal of solid waste within its boundaries or generated within its boundaries so long as any such disposal facility has been approved by the department unless the municipality is included within a resource recovery program created

by interlocal agreement or special or local act. If, on December 1, 1978, bonds had been issued to finance a resource recovery or management program in entirety on state law granting to said county the responsibility for the resource recovery or management program, nothing herein shall permit any governmental agency to withdraw from said program or any governmental agency's participation is necessary for the financial feasibility of the project, so long as said bonds are outstanding.

(5) The time limit set out in subsection (1) shall be extended by the department upon application to the department by the local unit of government involved and on due cause shown that good faith efforts to meet the requirements of this act have been made and are being made.

(6) Nothing in this chapter or in any rule adopted by any state agency hereunder shall require any person to subscribe to any private solid waste collection service.

History.—1981, Ch. 24, Sec. 14, Ch. 77, Sec. 1, Ch. 77, Sec. 2, Ch. 78, Sec. 1, Ch. 78, Sec. 2, Ch. 78, Sec. 3.

403.706 Procurement of recovered materials.—Any state agency or agency of a political subdivision of the state which is using state funds, or any person contracting with any such agency with respect to work performed under contract, is required to procure recovered materials when those materials are available at reasonable prices. A decision not to procure such items must be based on a determination that such procurement is not reasonably available within a reasonable period of time.

(1) Is not reasonably available within a reasonable period of time.

(2) Fails to meet the performance standards set forth in the applicable specifications or fails to meet the reasonable performance standards of the agency.

(3) Is only available at an unreasonable price.

History.—1981, Ch. 24, Sec. 14, Ch. 77, Sec. 1, Ch. 77, Sec. 2, Ch. 78, Sec. 1, Ch. 78, Sec. 2, Ch. 78, Sec. 3.

403.707 Permits.—

- No resource recovery and management facility or site may be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department.
- Except as provided in s. 403.722(6), no permit under this chapter shall be required for the following activities provided no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders from their own activities on their own property. However, the department may by rule require any such person to file a written notification to the department of the type of solid waste being disposed of the location of disposal, and methods of solid waste management being performed.

(b) Normal farming operations.

(c) Solid waste disposal areas limited solely to the disposal of construction and demolition debris.

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits and temporary operation permits, shall be construed to include the control of resource recovery and management facilities. However,

818

ear, a temporary operation permit may not be issued for more than a 3-year period.

(4) When application for a permit for a Class I or Class II solid waste disposal area is made, it shall be the duty of the department to provide a copy of the application, within 7 days after filing, to the water management district having jurisdiction where the disposal area is to be located. The water management district shall prepare a report as to the impact on water resources. This report shall be submitted to the department no later than 30 days prior to the deadline for final agency action by the department.

(5) The department may not issue a construction permit pursuant to this part for a new sanitary landfill within 3,000 feet of Class I surface waters.

403.7072. Citation of rule.—In addition to any other provisions within this part or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this part or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

403.7075 Submission of plans for certain solid waste disposal areas; conditions. All plans and applications for a permit to construct and operate a solid waste disposal area submitted by a person shall be prepared and submitted by a person who is a public officer employed by a county or a municipality when said public officer states therein that the construction of the solid waste disposal area is estimated to cost less than \$10,000. Any law to the contrary notwithstanding, the construction cost of a solid waste disposal area, for the purposes of this section, shall not include land acquisition cost or the cost of equipment used to construct and maintain same.

same.
History — 1878-1880

403.708 Prohibition: penalty.—

(1) No person shall:

(a) Place or deposit any solid waste in or on the land or waters located within the state except in a manner approved by the department and consistent with applicable approved programs of counties or municipalities. However, nothing in this act shall be construed to prohibit the disposal of solid waste without a permit as provided in s. 403.707(2).

- (b) Burn solid waste except in a manner prescribed by the department and consistent with applicable approved programs of counties or municipalities.
- (c) Construct, alter, modify, or operate a resource recovery and management facility or site without first having obtained a valid permit from the department as provided in s. 403.707.

(2) The packaging of products manufactured or sold in the state may not be controlled by governmental rule, regulation, or ordinance adopted after March 1, 1974.

819

(3) Violations of the state resource recovery and management program or rules, regulations, permits, and orders issued thereunder by the department, or violations of approved local programs of counties or municipalities, or rules, regulations, or orders issued thereunder, shall be punishable by a civil penalty as provided in s. 403.141.

(4) The department or any county or municipality may also seek to enjoin the violation of, or enforce compliance with, this act or any program adopted hereunder as provided in s. 403.131.

History.—v. 1, ch. 74-74Z.

403.709 Resource recovery and management grant fund.—

(1) The department may assist counties and municipalities in complying with this act by providing grants to pay a portion of the cost, in no case to exceed 30 percent of the total planning and project costs, for planning and implementing local resource recovery and management programs as required by section 10-3-706. Implementation costs may include the cost of acquiring equipment, but not land, in accordance with an approved local program.

(2) Such grants are to be based on a formula of \$35,000 per county or municipality plus 25 cents per capita for each year of resource recovery and management services being provided by a county or municipality. To the extent funds are available, the department shall allocate such funds to counties and municipalities in accordance with the formula provided in this subsection.

(3) Prior to the adoption by the department of this sub-section, the state resource recovery and management program, and to the extent funds are available, grants may be made by the department to counties and municipalities according to the formula in subsection (2) of this section. In no case shall more than 50 percent of the total cost for operation and implementation of local resource recovery and management programs existing on July 1, 1974,

History.—s. l. ch. 74.42

403712 Revenue bonds.—

(1) Revenue bonds payable from funds which are derived from the revenues derived from the operation of such solid waste management facilities and from any other source which may be pledged under s. 14, Art. VII of the State Constitution, and s. 403.184, including, without limitation, the proceeds of the sale of any real property owned by the State of Florida, including the generality of the foregoing, any legally available revenues derived from public or private sources, may be issued by the Division of Bond Finance of the Department of General Services on behalf of this state or any county or municipality in the manner provided by the State Bond Act, ss. 215.57 et seq., except as otherwise provided herein, and the Revenue Bond Act of 1951, as amended, part 1, Chapter 158, of the Statutes of the State of Florida, shall apply. Such bonds shall be issued only to finance the cost of construction, maintenance, or operation of resource recovery and management facilities, which cost may include the acquisition of real property and easements therein for such purposes.

(2) Upon a determination by the Division of Bond Finance of the Department of General Services that a public competitive sale is not feasible or that would not be desirable to award such revenue bonds

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solely on the basis of the lowest net interest cost bid, the Division of Bond Finance may negotiate the sale of any such revenue bonds after the receipt of one or more proposals, taking into consideration the lowest total cost and such other factors as may be deemed appropriate.

403.713 Transport of solid waste.—Nothing in this act or in any local ordinance shall be construed to limit the flow of solid waste across the boundaries of any local government, or county boundaries disposed of pursuant to this act is transported to or from another jurisdiction. Nothing in this act shall be construed to limit the provisions of this part. However, any local government that undertakes resource recovery of solid waste pursuant to general law or special act may control the collection and disposal of solid waste, as defined by general law or such special act, which is generated within the territorial boundaries of such local government and other local governments that may enter into agreements with such local government to implement the agreements. Nothing in this act shall limit the government sponsoring the resource recovery facility. Any local government which undertakes resource recovery of solid waste pursuant to general law or special act may institute a flow control ordinance for the purpose of ensuring that the resource recovery facility receives an adequate quantity of solid waste from solid waste generated within its jurisdiction. Such solid waste will not include scrap, or new or used tires, oil, or hazardous waste. No facility shall be subject to state and local public health and safety laws.

HISTORY.—1. l. ch. 74.342. & 1. ch. 80.283

403.714 Duties of Department of General Services.—It shall be the duty of the Department of General Services to:

(1) Establish a program, in cooperation with the Department of Environmental Regulation, for the collection of all newspaper materials in state offices throughout the state, which program, in addition to requiring participation by the established executive departments, shall provide for participation by the offices of the legislative and judicial branches of state government as well.

(2) Provide a program to recycle all wastepaper materials collected in accordance with the provisions of this section whenever practicable.

History.—Z. ch. 74-742; L. M. ch. 79-65.

403.715 Certification of resource recovery exemption.—For purposes of obtaining the tax exemption provided by a 212.08(7)(c), the department shall establish a system for the examination and certification of resource recovery equipment. Application for certification of equipment shall be submitted to the department on forms prescribed by the department which include such pertinent information as the department may require. Within 30 days of receipt of an application by the department, a representative of the department shall inspect the equipment. Within

468

QUAL CONTROL **F.S. 1983**
 10 days of such inspection, the department shall issue
 a written decision granting or denying certification.
 History: s. 4, ch. 76-122

403.72 Identification, listing, and notification.

(1) The department shall adopt rules which list hazardous wastes and identify their characteristics and shall establish procedures by which hazardous waste may be identified. The department may consider the following characteristics of hazardous waste material: ignitability, corrosivity, reactivity, toxicity, infectiousness, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, and persistence and degradability in nature and environment. The department shall identify each particular waste material by its characteristics relevant to each particular waste material.

(2) Any generator or transporter of hazardous waste who owns or operates a facility that produces, stores, or treats hazardous waste which is identified or listed by rule of the department shall, within ten days of the effective date of the rule, file a written notification with the department, unless previous notification was given to the United States Environmental Protection Agency pursuant to federal law. The notification shall state the location of the generator, transporter, or facility; shall generally describe the activity engaged in; and shall state the hazard and waste handled. The department shall adopt and make available to the public a notification form for this purpose.

History.—*v. 2*, ch 20-302, s. 2, ch 275.

403.721 Standards, requirements, and procedures for generators and transporters of hazardous waste and owners and operators of hazardous waste facilities.—

(1) Persons who generate or transport hazardous waste, or who own or operate a hazardous waste facility, shall comply with the applicable standards, requirements, and procedures of this act and the rules adopted pursuant to it.

(2) The department shall establish, by rule, standards, requirements, and procedures necessary to protect human health and the environment, which standards, requirements, and procedures shall apply to persons who generate, transport, store, waste, to persons who own, use, or dispose of hazardous waste disposal, storage, or treatment facilities. The department may establish waste standards, requirements, and procedures which may concentrate on differences in amounts of types of waste and on differences in the handling and treatment of hazardous waste facilities and taking into account standards, requirements, and procedures imposed by other laws not in conflict with this act. Solid waste determined to be special wastes by the United States Environmental Protection Agency shall be regulated pursuant to this act consistent with federal regulations for special wastes under Subtitle C of the Resource Conservation and Recovery Act.

(3) The department with respect to generators of hazardous waste identified or listed pursuant to the act shall adopt rules governing:

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(a) Recordkeeping practices that accurately identify the quantities of such hazardous waste generated, the constituents thereof which are significant in quantity or in potential harm to human health or the environment, and the method of disposal of such wastes;

(b) Labeling practices for any containers used for the disposal, storage, or transport of such hazardous waste which accurately identify such waste;

(c) The use of appropriate containers for such hazardous waste;

(d) The furnishing of information on the general elemental and chemical composition of such hazardous waste to persons transporting, treating, storing, or disposing of such waste;

(e) The use of a manifest system to assure that all such hazardous waste generated is designated for treatment, storage, or disposal in treatment, storage, or disposal facilities, other than facilities on the premises where the waste is generated, for which a permit has been issued; and

(f) Submission of reports to the department describing the quantities of hazardous waste which are identified or listed pursuant to this act and which have been generated during a particular time period and their disposition.

(4) The department, with respect to transporters of hazardous waste identified or listed pursuant to this act, shall adopt rules governing:

(a) Liability and financial responsibility for any liability which may be incurred in the transport of hazardous waste;

(b) Recordkeeping concerning the source, transport, and delivery of hazardous waste; re-

(c) The transportation of hazardous waste, required compliance with the manifest system required by paragraph (2)(c);

(d) The transportation of all such hazardous waste only to the hazardous waste treatment, storage, or disposal facilities designated by the shipper on the manifest form, which facility shall be a facility holding a permit; and

(e) The use of appropriate containers for transporting such hazardous waste.

(5) With respect to any hazardous waste and transporters of hazardous waste, which also meet the definitions and criteria for hazardous materials and hazardous materials regulated by the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., the department shall consider and adopt, as appropriate, rules which are consistent with such act and the rules adopted pursuant thereto.

(6) The department, with respect to owners and operators of hazardous waste disposal, storage, or treatment facilities, and with respect to such facilities, shall adopt rules governing:

(a) The maintenance of records concerning all hazardous wastes which are identified or listed pursuant to this act and which are treated, stored, or disposed of and the manner of treatment, storage, or disposal;

(b) Satisfactory reporting, monitoring, and inspection for compliance with the manifest system required in paragraph (4)(f);

(c) The treatment, storage, or disposal of all hazardous waste received by the facility pursuant to operating methods, techniques, and practices approved by the department;

(d) The location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

(e) Contingency plans for effective action to minimize unanticipated damage resulting from any accident occurring during the treatment, storage, or disposal of any such hazardous waste;

(f) The maintenance of such facilities and the requirement of additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable; and

(g) Compliance with s. 403.722.

403.722. Prohibition of hazardous waste disposal, storage, and treatment facilities.

(1) Each person who intends to construct, modify, operate, or close a hazardous waste disposal, storage, or treatment facility shall obtain a construction, operation, or closure permit from the department prior to constructing, modifying, operating, or closing the facility. By rule, the department may provide for the issuance of a single permit instead of any two or more hazardous waste facility permits.

(2) Any owner or operator of a hazardous waste facility in operation on the effective date of the department rule listing and identifying hazardous wastes shall file an application for a temporary operation permit within 6 months after the effective date of such rule. The department, upon receipt of a properly completed application, shall identify any department rules which are being violated by the facility and shall establish a compliance schedule. However, if the department determines that an imminent hazard exists, the department may, by rule, require any action pursuant to s. 403.726 to abate the hazard.

(3) The department shall issue a temporary operation permit to such facility within the time constraints of s. 120.60(2) upon submission of a properly completed application which is in conformance with this subsection. Temporary operation permits for such facilities shall be issued for up to 3 years only. Upon termination of the temporary operation permit and upon proper application by the facility owner or operator, the department shall issue an operation permit for such existing facilities if the applicant has corrected all of the deficiencies identified in the temporary operation permit and is in compliance with all other rules adopted pursuant to this act.

(4) Permit applicants shall provide any information which will enable the department to determine that the proposed construction, modification, operation, or closure will comply with this act and any applicable rules. In no instance shall any person construct, modify, operate, or close a facility in contravention of the standards, requirements, or criteria for a hazardous waste facility.

(5) The department may require, in a permit application, submission of information concerning matters specified in s. 403.721(6) as well as information respecting:

(a) Estimates of the composition, quantity, and concentration of any hazardous waste identified or listed under this act, or combinations of any such waste and any other solid waste, proposed to be disposed of, treated, transported, or stored, and the time, frequency, or rate at which such waste is proposed to be disposed of, treated, transported, or stored; and

(b) The site to which such hazardous waste or the products of treatment of such hazardous waste will be transported and at which it will be disposed of, treated, or stored.

(3) A permit issued pursuant to this section is not a vested right. The department may revoke or modify any such permit.

(4) Permits may be revoked for failure of the holder to comply with the provisions of this act, the terms of the permit, the standards, requirements, or criteria adopted pursuant to this act, or an order of the department, for sufficient cause to allow lawful inspection, for submission by the holder of false or inaccurate information in the permit application.

(5) Permits may be modified upon request of the permittee, if such modification is not in violation of this act or department rules or if the department finds the modification necessary to enable the facility to remain in compliance with this act and department rules.

(6) A hazardous waste facility permit issued pursuant to this section shall satisfy the permit requirements of s. 403.707(1). The permit exemptions provided in s. 403.707(2) shall not apply to hazardous waste.

(7) The department may establish permit application procedures for hazardous waste facilities, which procedures may vary based on differences in amounts, types, and concentrations of hazardous waste and on differences in the size and location of facilities and which procedures may take into account permitting procedures of other laws not in conflict with this act.

(8) For permits required by this section, the department may require that a fee be paid and may establish, by rule, a fee schedule based on the degree of hazard and the amount and type of hazardous waste disposed of, stored, or treated at the facility; but no permit fee shall exceed \$1,000.

(9) It shall not be a requirement for the issuance of such a permit that the facility complies with an adopted local government comprehensive plan, local ordinances, or other local ordinances. However, such permit issued by the department shall not override adopted local government comprehensive plans, local ordinances, zoning ordinances, or regulations, or other local ordinances.

(10) Notwithstanding ss. 120.60(2) and 403.615, the time specified by law for permit review shall be tolled by the request of the department for publication of notice of proposed agency action to issue a permit for a hazardous waste treatment, storage, or disposal facility and shall resume 45 days after receipt by the department of proof of publication. If, within 45 days after publication of the notice of the proposed agency action, the department receives

written notice of opposition to the intention of the agency to issue such permit and receives a request for a hearing, the department shall provide for a hearing pursuant to s. 120.57, if requested by a substantially affected party, or an informal public meeting, if requested by any other person. The failure to request a hearing within 45 days after publication of the notice of the proposed agency action constitutes a waiver of the right to a hearing under s. 120.57. The permit review time period shall continue to be tolled until the completion of such hearing or meeting and shall resume within 15 days after conclusion of a public hearing held on the application or within 45 days after the recommended order is submitted to the agency and the parties, whichever is later.

(b) Within 60 days after receipt of an application for a hazardous waste facility permit, the department shall examine the application and, if the applicant has provided the information requested, and request any additional information the department is permitted by law to require. The failure to correct an error or omission or to supply additional information shall not be grounds for denial of the permit unless the department timely notified the applicant within the 60-day period, except that this paragraph does not prevent the department from denying an application if the department does not possess sufficient information to ensure that the facility is in compliance with applicable statutes and rules.

(c) The department shall approve or deny each hazardous waste facility permit within 135 days after receipt of the original application or after receipt of the requested additional information or correction of errors or omissions. However, the failure of the department to approve or deny within the 135-day time period does not result in the automatic approval or denial of the permit and does not prevent the inclusion of specific permit conditions which are necessary to ensure compliance with applicable statutes and rules. If the department fails to approve or deny the permit within the 135-day period, the applicant may petition the department to act consistently with applicable regulatory requirements.

History.—s. 1, ch. 86-20, F.S.; s. 1, ch. 87-22, F.S.; s. 1, ch. 88-30.

403.7222. Prohibition of hazardous waste landfill.

(1) As used in this section, the term "hazardous waste/landfill" means a disposal facility or part of a facility at which hazardous waste is placed in or on land, including an injection well, and which is not a land treatment facility.

(2) The legislature declares that, due to the permissibility of the act and this act, the prohibited future construction and operation of landfills for hazardous waste is a public nuisance.

(3) Therefore, the Department of Environmental Regulation may not issue a permit pursuant to s. 403.722 for a newly constructed hazardous waste landfill. However, if by executive order the Governor declares a hazardous waste management emergency, the department may issue a permit for a temporary hazardous waste landfill. Any such landfill shall be used only until such time as an appropriate alternative method of disposal can be derived and implemented. In no event shall such a permit be issued for a period

exceeding 6 months without a further declaration of the Governor.

§ 403.7225

403.7225 Local hazardous waste management assessments.

(1) The Legislature recognizes that there is a need for estimating the amount, type, and sources of hazardous waste generated in the state. There is also a need for facilitating proper storage, transportation, volume reduction, treatment, resource recovery, and disposal of these wastes. Proper management of these wastes is imperative in order to protect the public health, safety, and welfare and the environment.

(2) The Department of Environmental Regulation shall establish guidelines for local hazardous waste management assessments and shall specify a standard format. The local hazardous waste management assessments shall include, but not be limited to, the identification of the following:

(a) All hazardous waste generators within the county, including small quantity generators as defined pursuant to federal regulations under 40 C.F.R. pt. 261.5.

(b) The types and quantities of hazardous waste generated within the county.

(c) Current hazardous waste management practices of hazardous waste generators within the county.

(d) Efforts to waste management practices for hazardous waste generators requiring off-site services, including the identification of types of facilities needed to serve the hazardous waste generators within the county.

(e) Abandoned dump sites within the county.

(f) Operating procedures at sanitary landfills within the county.

(3) Each regional planning council shall coordinate the local hazardous waste management assessments for counties within its region and submit them to the department, according to a department-prescribed format. Each county shall prepare a local hazardous waste management assessment based on guidelines established by the department. The regional planning councils and the counties shall negotiate the proportionate share of each county of the sum appropriated to the region for this purpose. In the event that a regional planning council and a county cannot agree on such share, the secretary of the department shall settle the dispute. The share of the county shall be determined pursuant to the criteria specified in s. 27(2) of Chapter 85-31, Laws of Florida. Once the allocation is made available to them, the counties shall have 30 days to decide whether or not they want to perform their local hazardous waste management assessment.

If a county declines to perform the local hazardous waste management assessment, the regional planning council shall submit the assessment.

Each county shall designate areas within the county which are hazardous waste storage facilities. Counties may jointly designate areas or sites by interlocal agreement. Public hearings shall be held to determine the area locations. Each county shall amend its comprehensive plan, if necessary, in order to designate areas for storage facilities. Preference shall be given to appropriate public lands and

823

industrial areas as designated on local comprehensive plans. However, this section does not prohibit a county from amending its comprehensive plan to designate other areas for this purpose or prohibit construction of a facility on any other locally approved or state-approved site.

(5) No county may amend its comprehensive plan or undertake re zoning actions in order to prevent areas from being designated for a hazardous waste storage facility.

(6) The regional planning councils shall:

(a) Assist with county hazardous waste management assessments and area selection procedures;

(b) Coordinate and assemble local hazardous waste management assessments, which shall then constitute a regional hazardous waste management facility needs assessment; and area selection;

(c) Provide any technical expertise needed by the counties in developing the assessments;

(d) Promote local and regional public information programs for citizens and generators of hazardous waste;

(e) Review storage facility area selections for the purpose of siting one or more regional storage facilities; and

(f) Select one or more regional storage facility sites.

(7) The selection of a regional storage facility site will not preclude the siting of a storage facility at some other site which is locally or state approved.

(8) Within 6 months after the completion of all local hazardous waste management assessments, each regional planning council shall submit a report to the department.

Within a region, the regional planning council shall complete a regional hazardous waste management facility needs assessment utilizing planning procedures and guidelines developed by the department in order to ensure consistent development of the planning documents. Further, the regional planning council, in preparing the regional hazardous waste management facility needs assessment, shall utilize all data available from county hazardous waste management assessments. The regional planning council, according to a department-prescribed format, shall include in its regional hazardous waste management facility needs assessment the following:

(a) A summary of the quantities and types of hazardous waste generated within its jurisdiction;

(b) A summary of current hazardous waste management practices by generators in its jurisdiction;

(c) A profile of hazardous waste generators in its jurisdiction by industry, size, and county or city location;

(d) An assessment of the excess demand for off-site, commercial hazardous waste facilities and services;

(e) An assessment of the short-term need and the long-term need for hazardous waste management facilities in its jurisdiction;

(f) A plan to eliminate any excess demand for off-site hazardous waste management facilities or services with the local governments in its jurisdiction, with local governments in other jurisdictions, or with other regional planning councils;

(g) The department shall:

(1) Assemble the regional hazardous waste

management facility needs assessments and determine if the needs of hazardous waste generators will be met by regional hazardous waste storage facilities or if additional storage, treatment, or disposal facilities are needed in the state and, if needed, which regions have the greatest need; and

(b) Prepare a progress report on the development of each regional hazardous waste management facility needs assessment and submit such report to the Legislature no later than January 1 of the year in which such plan is due.

(10) The schedule for completion of county hazardous waste management plans by region is as follows:

(a) For counties within the geographic areas of the Tampa Bay Regional Planning Council, the South Florida Regional Planning Council, the Northeast Florida Regional Planning Council, and the East Central Florida Regional Planning Council and for Volusia County; by July 1, 1984.

(b) For counties within the geographic areas of the Treasure Coast Regional Planning Council, the Southwest Florida Regional Planning Council, and the Central Florida Regional Planning Council; by July 1, 1985.

(c) For counties within the geographic areas of the Apalachicola Regional Planning Council, the North Central Florida Regional Planning Council, and the Withlacoochee Regional Planning Council and for Jefferson County; by July 1, 1986.

(11) The preparation of county hazardous waste management assessments, storage facility area selections, or regional storage facility area selections shall not prevent siting of storage or treatment facilities in any area of the state.

(12) Any county which undertakes and completes a hazardous waste management assessment and storage facility area selection prior to the scheduled completion dates for counties in the region shall receive a proportionate share of monies available, determined pursuant to subsection (8), at the time it is appropriated for such purpose.

(13) Regional planning districts shall provide technical assistance relative to water resources to local and regional agencies during the selections of the local storage facility areas and regional transfer facility sites.

(14) The department and the regional planning councils shall administer any funds appropriated for the purpose of developing the local hazardous waste management assessments and storage facility area or site selections.

(15) Except as provided in this part, no local government law, ordinance, or rule pertaining to the subject of hazardous waste regulation may be more stringent than department rules adopted under the authority of this chapter.

History.—s. 25, ch. 85-310.

403.7226 Technical assistance by the department.—The Department of Environmental Regulation shall:

(1) Provide technical assistance to county govern-

ments and regional planning councils to ensure consistency in coordinating local and regional hazardous waste assessments as provided in s. 403.7225. In order to ensure that each local assessment is properly prepared and that all information gathered during the assessment is uniformly compiled and documented, each county or regional planning council shall contact the department during the preparation of the local assessment to receive technical assistance. Each county and region shall follow guidelines established by the department in order to properly prepare these assessments.

(2) Identify short-term needs and long-term needs for hazardous waste facilities and services for the state on the basis of the information gathered through the county and regional hazardous waste assessments and other information from state and federal regulatory agencies and sources. The state needs assessment shall be ongoing and updated when new data concerning waste generation and waste management technologies become available. On June 1, 1984, and annually thereafter, a copy of this assessment shall be sent to the Governor and Cabinet.

History.—s. 25, ch. 85-310.

403.7227 Siting of hazardous waste facilities.—It is the intent of the Legislature to facilitate siting of proper hazardous waste storage facilities in each region and any additional storage, treatment, or disposal facilities as required. The Legislature recognizes the need for facilitating disposal of waste produced by small generators, reducing the volume of wastes generated in the state, reducing the quantity of wastes generated in the state, and providing treatment and disposal facilities in the state.

(1) Each county shall complete a hazardous waste management assessment and storage facility area selection within the county at which a hazardous waste storage facility is sited, in order to meet a demonstrated need.

(2) After each county completes a hazardous waste management assessment, the regional planning council shall designate one or more sites at which a regional hazardous waste storage or treatment facility could be constructed.

(3) The department, within 30 days of receipt of a complete application for a hazardous waste facility construction or modification permit, shall notify each unit of local government within 3 miles of the proposed facility that a permit application has been received and shall publish notice in a newspaper of general circulation in the area of the proposed facility that a complete permit application has been received.

(4) Upon request by a person who has applied for a hazardous waste facility permit from the department, the local government having jurisdiction over the proposed site shall, within 90 days of such request, determine whether or not the proposed site is consistent and in compliance with adopted local government comprehensive plans, local land use ordinances, local zoning ordinances or regulations, and other local ordinances in effect at the time a hazardous waste facility construction or modification permit application is made or is an area or site designated for the purpose of such facility according to this act.

(5) If the local government determines within 90

days of the request that construction or modification of the facility does not comply with such plans, ordinances, regulations, or area or site designations pursuant to this act, the person requesting the determination may request a variance from such plans, ordinances, regulations, or designations.

(6) The variance requested by the applicant is determined by the local government pursuant to subsection (4) within 90 days of the request by the applicant within 90 days of the request for the variance. The person requesting such determination or variance may petition the Governor and Cabinet for a variance from the local ordinances, assessments, regulations, rules, and site designations.

(7) The Governor and Cabinet shall grant the variance from any local ordinances, assessments, area and site designations, regulations, or plans only if a hazardous waste permit has been issued by the Department of Environmental Regulation within 30 days of completion.

(8) Upon receipt of a petition for a variance, the Governor and Cabinet shall determine whether the facility will have a significant adverse impact on the environment, including ground and surface water resources, of the region; and

(9) The Governor and Cabinet shall also consider the record of the proceeding before the local government, when determining whether to grant a petition for a variance from local ordinances, regulations, or plans.

(10) The Governor and Cabinet may adopt rules and procedures that govern their proceedings.

403.7234 Small quantity generator notification program.

(1) Each county specified in s. 403.7225(10)(a), (b), and (c) shall send a certified letter to each small quantity generator, as defined pursuant to federal regulations in 40 C.F.R. pt. 261.5, on the January 1 preceding the date specified in such paragraph for completion of its hazardous waste assessment. In addition, within 14 days after a county completes its hazardous waste assessment, the county shall send such certified letters to each small quantity generator not later than the preceding January 1. Thereafter, each county shall annually send such letters on July 1.

(2) Detail the local responsibilities of the small quantity generator with regard to proper waste management practices, including penalties for noncompliance.

(3) Include a list of hazardous waste management alternatives which are available to the small quantity generator.

(4) Within 20 days of receipt of the letter, each small quantity generator identified in the county assessment shall disclose its management practices and the types and quantities of waste to the county government. Annually, each county shall verify the management practices of at least 20 percent of the small quantity generators. The procedure for verification

used by the county shall be developed by rule by the department within 6 months of July 1, 1983. The Department of Environmental Regulation may also verify management practices of small quantity generators in order to ensure proper management of hazardous waste.

(3) Any small quantity generator who does not comply with the requirements of subsection (2) and who has received two subsequent certified letters from the county is subject to a fine of between \$25 and \$100 per day for a maximum of 100 days.

403.7238 Local government information to be sent to the department.—A summary of information gathered during the hazardous waste assessment for each county and from the small quantity generators in each county shall be sent to the Department of Environmental Regulation within 30 days of completion.

403.724 Financial responsibility.—

(1) An owner or operator of a hazardous waste facility, as a prerequisite to the operation of a facility in the state, shall be bonded or insured to guarantee the financial responsibility of such owner or operator for any liability which may be incurred in the operation of the facility and to provide that, upon closure, abandonment, or interruption of operation of the facility, all appropriate measures are taken to prevent present and future damage to human health, safety, and welfare; the environment; and private and public property.

(2) Cash, surety bonds, or equally insurance, or a combination thereof, may be used to satisfy the financial responsibility requirement. Any bond or insurance obtained in satisfaction of this requirement shall be maintained in the amount established by the department and shall be maintained until the department determines that the waste is no longer a hazard and authorizes cancellation, modification, or liquidation of the bond or insurance.

(3) The amount of financial responsibility required shall be established by the department upon each issuance, renewal, or modification of a hazardous waste facility permit. The established financial responsibility requirements shall not be altered for the duration of the permit. Such factors as inflation rates and changes in operation may be considered when establishing financial responsibility for the duration of the permit. Once such a determination is made, it shall represent the maximum financial responsibility of the owner or operator of such a facility.

(4) The department of insurance shall be available to assist the department in making this determination. The department shall consider:

(a) The amount and type of hazardous waste involved;

(b) The probable damage to human health and the environment;

(c) The danger and probable damage to private and public property near the facility;

(d) The probable time that the hazardous waste

and facility involved will endanger the public health, safety, and welfare or the environment; and

(4) The department may adopt rules which establish the procedures and guidelines it will use to establish or modify the amount of the bond or insurance.

(5) Hazardous waste facilities in operation on October 1, 1980, shall, within 1 year after the effective date of rules regarding financial responsibility pursuant to this act, be bonded or insured to have the requirement waived.

(6) By rule, the department may create exemptions from the financial responsibility requirement when, due to the size or magnitude of the operation, waiving the requirement will not conflict with the purposes of the requirement.

(7) A transporter of hazardous waste shall be bonded or insured to guarantee the financial responsibility of such transporter for any liability which may be incurred in the transportation of such hazardous waste and to provide that all appropriate measures are taken to prevent damage to human health, safety, and welfare, to the environment, and to private and public property. Financial guarantees specified in subsection (2) shall be used to satisfy the financial responsibility requirement.

History.—A.S. 1980, c. 21, § 30.

403.725 Hazardous Waste Management Trust Fund.

(1) The purpose of this section is to create a method to provide financial resources to abate or substantially reduce an imminent hazard due to hazardous waste, to maintain and monitor an area where hazardous waste has been disposed of, to prevent property damages which are the proximate results of hazardous waste disposed in the environment after the effective date of this act, and to pay for restoration of areas damaged by hazardous waste from abandoned hazardous waste sites. It shall be the responsibility of any person claiming damages from this fund to provide the department with documentation of the damage to, or loss of, any real or personal property.

(2) The department shall also provide the department with the information that the damages were the direct result of the release of hazardous waste into the environment. This section shall be liberally construed to effect the purposes set forth, such as construction being especially imperative due to the danger and welfare of the environment, and private and public property.

(3) The Hazardous Waste Management Trust Fund is established and shall be used by the department for the purposes, and shall receive funds and be administered in the manner, specified in this section.

(4) Into the fund shall be deposited:

(a) Appropriations to the fund by the Legislature;

(b) Hazardous waste facility permit fees;

(c) Fines collected for violations of this act, department rules, or permit conditions;

(d) Moneys collected from reimbursement requests and actions;

(e) Grants, moneys, or gifts from public or private agencies which are specifically designated to be deposited into the fund for hazardous waste management; and

(f) Excise tax fees.

(5) Moneys expended from the fund, if any, shall be recoverable jointly and severally from the person or persons responsible for the need for the hazardous waste causing the need for the expenditure; and the moneys recovered shall be deposited in the fund. Requests for reimbursement to the fund for moneys expended, if not paid within 30 days after receipt of demand, shall be turned over to the Department of Legal Affairs. A generator or transporter of hazardous wastes who has complied with this act, and with the applicable rules and regulations promulgated under this act, and who has contracted for the disposal of hazardous wastes with a licensed hazardous waste disposal or processing facility is relieved from liability for those wastes upon receipt of a certificate of disposal from the disposal or processing facility.

(6) Moneys in the fund shall not be expended to clean up hazardous waste which is being removed from navigable waters by a federal agency in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan established pursuant to the Federal Water Pollution Control Act, Pub. L. No. 92-580, as amended, or which is being removed from any coastal waters, estuaries, tidal flats, bays, or lands adjoining the coastline of the state by the Department of Natural Resources pursuant to chapter 376.

(7) Fund moneys which are derived from the excise tax for the privilege of generating hazardous wastes shall not be expended in a manner which is inconsistent with s. 114(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767.

History.—A.S. 1980, c. 21, § 31.

403.726 Imminent hazard.—

(1) The Legislature finds that hazardous waste which has been improperly generated, transported, disposed of, stored, or treated may pose an imminent hazard to the public health, safety, and welfare and the environment.

(2) The department shall take any action necessary pursuant to s. 403.12 for s. 403.131 to abate or substantially reduce the imminent hazard caused by hazardous waste, including spills into the environment of hazardous substances which are included within the hazardous waste criteria or lists established pursuant to s. 403.72 and which are causing an imminent hazard. The department is authorized to use moneys from the Hazardous Waste Management Trust Fund to finance such actions, and such ex-

penditures from the fund shall be recoverable pursuant to s. 403.725(5).

(b) An imminent hazard exists if any hazardous waste creates an immediate and substantial danger to human health, safety, or welfare or to the environment. The department may institute action in its own name upon the receipt of information under s. 403.121 or s. 403.131 to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than \$25,000 for each day of continued violation. Whenever serious harm to human health, safety, and welfare, the environment, or private or public property may occur prior to completion of an administrative hearing or other formal proceeding which might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

(4) The department may implement the provisions of chapter 386 and ss. 387.06 and 387.10 in its own name whenever hazardous waste is being generated, transported, disposed of, stored, or treated in violation of these provisions of law.

(5) The department may issue a permit requiring prompt abatement of an imminent hazard.

(6) The department may remove or dispose of any hazardous waste which has become an imminent hazard, or take any other emergency action, when the generator or transporter of hazardous waste facility or a transporter of hazardous waste facility or a transporter of hazardous waste facility does not take appropriate action to abate or neutralize the hazard.

(7) Where hazardous waste is discharged into waters of the state and abatement action is taken pursuant to this section, the department may require that the affected body of water be restored to meet, but not exceed, either the standards established by department rule for that particular body of water or ambient water quality prior to the discharge, whichever is higher. However, under no circumstances would the subject water have to be restored to a more pure state than ambient water quality prior to the discharge.

403.7264 Amnesty days for purging small quantities of hazardous wastes.—Amnesty days are authorized by the state for the purpose of purging small quantities of hazardous waste, free of charge, from the possession of homeowners, farmers, schools, state agencies, and small businesses. These entities have no appropriate economically feasible mechanism for disposing of their hazardous wastes at the present time. In order to raise public awareness on this issue, provide an educational process, accommodate those entities which have a need to dispose of small quantities of hazardous waste, and preserve the waters of the state, amnesty days shall be carried out in the following manner:

(1) The Department of Environmental Regulation shall administer and supervise amnesty days and shall contract with a department-approved bonded waste handling company for implementation. The waste shall be transported out of the state for proper disposal at a federally approved facility.

827

403.727 Violations; defenses, penalties, and remedies.—

(1) It is unlawful for any hazardous waste generator, transporter, or facility owner or operator to:

(a) Fail to comply with the provisions of this act or departmental rules or orders;

(b) Operate without a valid permit;

(c) Fail to comply with a permit;

(d) Cause, authorize, create, suffer, or allow an imminent hazard to occur or continue;

(e) Knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to the provisions of this act;

(f) Fail to notify the department pursuant to s. 403.722(1); or

(g) Refuse lawful inspection.

(2) In addition to the "imminent hazard" provision, ss. 403.121 and 403.131 are available to the department to abate violations of this act.

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than \$8,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to a violator. Any act by the department against a violator of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to section 24 of this act. The generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified,

403.728 Qualifications of operation personnel of hazardous waste facilities.—The owner and operator of a hazardous waste facility shall employ persons who are adequately trained, or who are registered in a training program, to operate and maintain a hazardous waste facility. The department may develop and conduct waste or classroom training programs for persons who wish to maintain hazardous waste facilities. The department may do so to the extent that it is necessary for the program to include training in personal and public safety, emergency measures, properties of the waste, and such other items as the department deems necessary.

828

403.729 Trade secrets.—Records, reports, or information obtained from any person under this act shall be available to the public, except upon a showing satisfactory to the department by any person that records, reports, or information of a particular part thereof, contain trade secrets or other confidential portions thereof, the disclosure of which would be injurious to the public. However, such trade secrets may be disclosed to officers, employees, or authorized representatives of the department or of the United States Environmental Protection Agency, or when relevant in any proceeding under this act.

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829

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830

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831

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832

ENVIRONMENTAL REGULATION

- 403.801 Short title.
- 403.802 Declaration of policy.
- 403.803 Definitions.
- 403.804 Environmental Regulation Commission; powers and duties.
- 403.805 Secretary; powers and duties.
- 403.806 Department adoption of Federal standards.
- 403.807 Division of Administrative Services; powers and duties.
- 403.808 Division of Environmental Permitting; powers and duties.
- 403.809 Environmental districts; establishment; managers; functions; water management districts.
- 403.810 Delegation of functions to water management districts.
- 403.811 Permits issued at district centers; exceptions.
- 403.812 Citation of rule.
- 403.813 General permits; delegation.
- 403.814 Public notice; waiver of hearings.
- 403.815 Permits for maintenance dredging of deepwater ports.
- 403.817 Legislative intent; determination of the natural landward extent of waters for regulatory purposes.

403.801 Short title.—Chapter 75-72, Laws of Florida, shall be known and may be cited as the "Florida Environmental Reorganization Act of 1975."

History.—1975, c. 75, § 2.

403.802 Declaration of policy.—Reasserting the policies of the Governmental Reorganization Act of 1969 and the Florida Environmental Reorganization Act of 1975 which recognize that structural reorganization should be a continuing process, and recognize that many years have passed since the passage of the acts, it is the intent of the Legislature to promote efficient, effective, and economical operation of governmental agencies by transferring decisionmaking authority to environmental districts and delegating to water management districts permitting functions related to water quality. Further, it is the intent of this act to promote proper administration of Florida's land and environmental laws.

History.—1975, c. 75, § 1, ch. 75-72.

403.803 Definitions.—When used in this act, the term, phrase, or word:

(1) "Branch office" means a geographical area, the boundaries of which may be established as a part of a district.

(2) "Canal" is a manmade water, the bottom of which is normally covered by water with the upper edges of its sides normally above water.

(3) "Channel" is a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

(4) "Commission" means the Environmental Regulation Commission.

829

has been set by federal agencies pursuant to federal law or regulation. The commission shall also direct the department to prepare such a study on any standard existing on July 1, 1975, which sets a stricter or more stringent standard than one which has been set by federal agencies pursuant to federal law or regulation. All such studies shall be submitted to the Governor and Cabinet no later than March 1, 1976. Such studies as are provided for in this paragraph shall be submitted to the commission, which shall initially refer them to the appropriate department, division, or branch office, and for further proceedings the standard shall be applied in nature. Hearings shall be in accordance with the provisions of chapter 120.

(3) The commission shall establish priorities and have final state approval on applications for, and disbursements of, federal and state grants for the construction of wastewater or water treatment works. In establishing priorities for state grant under this act, an application shall not receive a lower priority solely because the proposed project includes a reserve capacity for which the incremental costs will be paid by the applicant in accordance with s. 403.1826(2).

History.—1975, c. 75, § 2, ch. 75-72, § 4, ch. 75-72, § 14, ch. 75-72.

403.805 Secretary; powers and duties.—The secretary shall have the powers and duties of heads of departments set forth in chapter 20, including the power to adopt rules under chapter 253, chapter 373, and this chapter, except that the Environmental Regulation Commission shall exercise the exclusive standard-setting authority of the department pursuant to s. 403.804. The secretary shall employ legal counsel to represent the department in matters affecting the department. Except for this act, the secretary shall not be assigned by this act to the Governor and Cabinet, and unless otherwise prohibited by law, the secretary may delegate the authority assigned to the department by this act to the assistant secretary, division directors, and district and branch office managers and to the water management districts.

History.—1975, c. 75, § 2, ch. 75-72, § 4, ch. 75-72, § 14, ch. 75-72.

403.8055 Department adoption of federal standards.—Notwithstanding ss. 120.54 and 403.804, the secretary is empowered to adopt rules substantially identical to regulations adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law, in accordance with the following procedures:

(1) The secretary shall publish notice of intent to adopt a rule pursuant to this section in the Florida Administrative Weekly at least 21 days prior to filing the rule with the Department of State. The secretary shall mail a copy of the notice of intent to adopt a rule to the Administrative Procedures Committee at least 21 days prior to the date of filing with the Department of State. Prior to filing the rule with the Department of State, the secretary shall consider any written comments received within 21 days after the date of publication of the notice of intent to adopt a rule. The rule shall be adopted upon filing with the Department of State. Substantive changes from the

830

rules as noticed shall require republishing of notice as required in this section.

(2) Any rule adopted pursuant to this section shall become effective on the date designated in the rule by the secretary; however, no such rule shall become effective earlier than the effective date of the substantially identical United States Environmental Protection Agency regulation.

(3) The secretary shall stay any terms or conditions of a permit implementing department rules adopted pursuant to this section if the substantially identical provisions of a United States Environmental Protection Agency regulation have been stayed under federal judicial review. A stay issued pursuant to this subsection shall terminate upon completion of federal judicial review.

(4) Whenever any United States Environmental Protection Agency regulation adopted as a department rule pursuant to this section is declared invalid, is withdrawn, revoked, amended, or suspended, or is substantively revised, amended, or otherwise modified, the secretary shall, within 60 days thereafter, publish a notice of repeal of the substantially identical department rule in the Florida Administrative Weekly. Such repeal is effective upon publication of the notice. The secretary may proceed to adopt a revised or amended United States Environmental Protection Agency regulation in accordance with the procedures set forth in this section.

(5) Any domestic for-profit or nonprofit corporation or association formed, in whole or in part:

(a) To promote conservation or natural beauty; or other biological values;

(b) To protect the environment, personal health, or other biological values;

(c) To protect consumer interests;

(d) To represent labor, commercial, or industrial groups; or

(e) To promote orderly development;

and any other substantially affected person may, within 14 days after the date of publication of the notice of intent to adopt a rule, file an objection to the rule with the Environmental Regulation Commission. The objection shall specify the portions of the proposed rule to which the person objects and the reasons for the objection. The secretary shall not have the authority under this section to adopt those portions of a proposed rule specified in such objection. Objections which are frivolous shall not be considered sufficient to prohibit the secretary from adopting rules under this section.

(6) Whenever all or part of any rule proposed for adoption by the department is substantively identical to a regulation adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law, such rule shall be written in a manner so that the rule specifically references such regulation whenever possible.

History.—1975, c. 75, § 2, ch. 75-72.

403.806 Division of Administrative Services; powers and duties.—The Division of Administrative Services shall perform duties including, but not limited to, personnel, fiscal, purchasing, education, and information.

History.—1975, c. 75, § 2, ch. 75-72.

403.807 Division of Environmental Protection. The division shall coordinate with each of the central offices of the water management districts, and the water management districts shall coordinate part of their permitting operations with each of the district offices of the department.

(2) There shall be a manager for each environmental district of the department, appointed by and serve at the pleasure of the secretary. The district manager shall maintain his office in the environmental district center, which shall be located with an office of a water management district. Each branch office shall have a branch office manager who shall be appointed by, and serve at the pleasure of, the secretary. The water management districts are encouraged to coordinate part of their permitting operations with the branch offices of the department to the maximum extent practicable.

(3)(a) Under the supervision of the Division of Environmental Permitting, all field services and inspections required in support of the decisions of the department relating to the issuance of permits, licenses, certificates, or exemptions shall be accomplished at the environmental district center level to the maximum extent practicable.

(b) The processing of all applications for permits, licenses, certificates, and exemptions shall be accomplished at the district center or the branch office, except for those applications specifically assigned to the Division of Environmental Permitting or to the water management districts under s. 403.812 and those applications assigned by interagency agreement as provided in this act. However, the secretary, as head of the department, may not delegate to district or subdistrict managers, water management districts, or any unit of local government the authority to act on the following types of permit applications:

1. Certification of National Pollution Discharge Elimination System permits pursuant to Pub. L. No. 92-467, s. 401.
2. Construction and operation of major air pollution facilities.
3. Certifications under the Florida Electrical Power Plant Siting Act or the Transmission Line Siting Act.

History.—s. 4, ch. 32, s. 47, ch. 82-202, F.S.; s. 403.81 and 403.82, Florida Electrical Power Plant Siting Act.

403.812 Delegation of functions to water management districts.

(1) By October 1, 1984, the department shall delegate to those water management districts that it finds to be financially and technically capable of implementing the delegation its powers and duties pursuant to the department's "Delegation of Stormwater Rule." If the department finds that the water management districts are not capable of performing the functions to the South Florida Water Management District and the Southwest Florida Water Management District.

(2) In addition to any function delegated under subsection (1), when the secretary determines that a water management district has the financial and technical capability to carry out water quality and other functions of the department, those powers, du-

ties, and functions, or parts thereof, may be contracted or delegated to such water management district. Any powers, duties, and functions so delegated shall be carried out in accordance with the rules, regulations, and standards of the department. Nothing contained in this act shall be construed to adversely affect or divest any water management district of the power to levy ad valorem taxes.

(3) A delegation pursuant to this section may be rescinded only if the secretary determines that such delegation is not being carried out in accordance with the rules of the department.

History.—s. 4, ch. 32, s. 48, ch. 82-202, F.S.

403.813 Permits issued at district centers; exceptions.—

(1) The secretary is authorized to adopt procedural rules providing for a short-form application for, and issuance at the district center of, permits for certain activities. These activities shall include the following and any others established by rule:

- (a) Projects not exceeding 10,000 cubic yards of material placed in or removed from the navigable waters of the state;
- (b) Dockage or marina facilities not exceeding 30,000 square feet of submerged lands;
- (c) New seawalls or similar structures not exceeding 300 linear feet of shoreline;
- (d) The installation of buoys, signs, fences, ski ramps, and fish attractors by the Florida Game and Fresh Water Fish Commission;
- (e) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the state carrying water, electricity, communication cables, oil, and gas, except as exempted by paragraph (m) or paragraph (n) of subsection (2); and
- (f) The performance, for 10 years from the issuance of the original permit, of maintenance dredging of permitted navigation channels, port harbors, turning basins, and other waterways.

The Trustees of the Internal Improvement Trust Fund may fix and recover from the permittees a sum not equal to the difference between the fair market value and the actual cost of the maintenance dredging or repairs removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority. The removing party may subsequently sell such material. However, proceeds from such sale that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

(2) No permit under this chapter, chapter 373, or chapter 253, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, Laws of Florida, 1919, shall be required for projects associated with the following types of activities, however, nothing in this subsection shall relieve an applicant from any requirement to obtain permission to use or occupy lands owned by 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:

(a) The installation of overhead transmission lines, with support structures which are not constructed in waters of the state and which do not create a navigational hazard.

(b) The installation and repair of mooring pilings and dolphins associated with private docking facilities and the installation of private docks, any of which docks:

1. Has 500 square feet or less of over-water surface area, or 1,000 square feet or less of over-water surface area for a dock which is not located in an area designated as outstanding Florida waters and which is used for recreational, noncommercial activities;
2. Is constructed on pilings so as not to involve filling or dredging other than that necessary to install the pilings; and
3. Shall not substantially impede the flow of water or create a navigational hazard.

(c) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists or the installation of boat ramps open to the public in any waters of the state where navigational access to the proposed ramp exists and where the construction of the proposed ramp will be less than 20 cubic yards of material from the waters of the state and the maintenance and design specifications of such ramps; however, the material to be removed shall be placed upon a self-contained barge and site so as to prevent the escape of the spoil material into the waters of the state.

(d) The replacement or repair of existing docks except that no fill material is to be used and provided that the replacement or repaired dock is in the same location and of the same configuration and dimensions as the dock being replaced or repaired.

(e) The restoration of seawalls at their previous locations or upland of, or within 1 foot seaward of, their previous locations.

(f) The performance of maintenance dredging of existing manmade canals, channels, and intake and discharge structures where the spoil material is to be removed and deposited on a self-contained upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures to original design specifications and provided that control devices are utilized to prevent turbidity and prevent toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. This exemption shall apply to all canals constructed prior to April 3, 1970, and to those canals constructed after April 3, 1970, pursuant to not apply to the removal of a natural or artificial barrier separating a canal or canal system from adjacent waters. When no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water. The Trustees of the Internal Im-

403.809 Environmental districts; establishment; managers; functions.—

(1) The secretary shall establish environmental districts. The boundaries of the environmental districts shall coincide with the boundaries of the water management districts, and a water management district may be divided into more than one environmental district. The secretary has the authority to adjust the environmental district boundaries upon a determination that exceptional circumstances require such adjustment in order to more properly serve the needs of the public or the environment. The secretary may establish branch offices for the purpose of making services more accessible to the citizens of each district. In the Suwannee River Water Management District, a branch office may serve as the environmental district center. By July 1, 1984, the department shall relocate part of its permitting operations with each of the central offices of the water management districts, and the water management districts shall coordinate part of their permitting operations with each of the district offices of the department.

(2) There shall be a manager for each environmental district of the department, appointed by and serve at the pleasure of the secretary. The district manager shall maintain his office in the environmental district center, which shall be located with an office of a water management district. Each branch office shall have a branch office manager who shall be appointed by, and serve at the pleasure of, the secretary. The water management districts are encouraged to coordinate part of their permitting operations with the branch offices of the department to the maximum extent practicable.

(3)(a) Under the supervision of the Division of Environmental Permitting, all field services and inspections required in support of the decisions of the department relating to the issuance of permits, licenses, certificates, or exemptions shall be accomplished at the environmental district center level to the maximum extent practicable.

(b) The processing of all applications for permits, licenses, certificates, and exemptions shall be accomplished at the district center or the branch office, except for those applications specifically assigned to the Division of Environmental Permitting or to the water management districts under s. 403.812 and those applications assigned by interagency agreement as provided in this act. However, the secretary, as head of the department, may not delegate to district or subdistrict managers, water management districts, or any unit of local government the authority to act on the following types of permit applications:

1. Certification of National Pollution Discharge Elimination System permits pursuant to Pub. L. No. 92-467, s. 401.
2. Construction and operation of major air pollution facilities.
3. Certifications under the Florida Electrical Power Plant Siting Act or the Transmission Line Siting Act.

History.—s. 4, ch. 32, s. 47, ch. 82-202, F.S.; s. 403.81 and 403.82, Florida Electrical Power Plant Siting Act.

403.809 Environmental districts; establishment; managers; functions.—

(1) The secretary shall establish environmental districts. The boundaries of the environmental districts shall coincide with the boundaries of the water management districts, and a water management district may be divided into more than one environmental district. The secretary has the authority to adjust the environmental district boundaries upon a determination that exceptional circumstances require such adjustment in order to more properly serve the needs of the public or the environment. The secretary may establish branch offices for the purpose of making services more accessible to the citizens of each district. In the Suwannee River Water Management District, a branch office may serve as the environmental district center. By July 1, 1984, the department shall relocate part of its permitting operations with each of the central offices of the water management districts, and the water management districts shall coordinate part of their permitting operations with each of the district offices of the department.

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History.—s. 4, ch. 32, s. 47, ch. 82-202, F.S.; s. 403.81 and 403.82, Florida Electrical Power Plant Siting Act.

403.812 Delegation of functions to water management districts.

(1) By October 1, 1984, the department shall delegate to those water management districts that it finds to be financially and technically capable of implementing the delegation its powers and duties pursuant to the department's "Delegation of Stormwater Rule." If the department finds that the water management districts are not capable of performing the functions to the South Florida Water Management District and the Southwest Florida Water Management District.

(2) In addition to any function delegated under subsection (1), when the secretary determines that a water management district has the financial and technical capability to carry out water quality and other functions of the department, those powers, du-

PART VI

DRINKING WATER

- 403.850 Short title.
- 403.851 Declaration of policy; intent.
- 403.852 Definitions.
- 403.853 Drinking water standards.
- 403.853a Citation of rule.
- 403.854 Imminent hazards.
- 403.855 Variances, exemptions, and waivers.
- 403.856 Plan for emergency provision of water.
- 403.857 Notification of users and regulatory agencies.
- 403.858 Inspections.
- 403.859 Penalties and remedies.
- 403.860 Department: powers and duties.
- 403.861 Services; public water supply duties and responsibilities; coordinated budget requests with Department of Environmental Regulation.
- 403.862 State public water supply laboratory certification program.
- 403.864 Public water supply accounting program.

403.850 Short title.—This act may be cited as the "Florida Safe Drinking Water Act."

History.—s. 1, ch. 77-37.

403.851 Declaration of policy; intent.—It is the policy of the state that the citizens of Florida shall be assured of the availability of safe drinking water. Recognizing that this policy encompasses both environmental and public health aspects, it is the intent of the Legislature to provide a water supply program operated jointly by the Department of Environmental Regulation, in a lead-agency role of primary responsibility for the program, and by the Department of Health and Rehabilitative Services and its supportive role with specific duties and responsibilities of its own. Without any relinquishment of Florida's sovereign powers and responsibilities to provide for the public health, public safety, and public welfare of the people of Florida, the Legislature intends:

- (1) To give effect to Pub. L. No. 93-523 promulgated under the commerce clause of the United States Constitution, to the extent that interstate commerce is directly affected.
- (2) To encourage cooperation between federal, state, and county health departments in the enforcement of the act, and to encourage assistance from the state, with due regard for economic factors and efficiency in government.

History.—s. 1, ch. 77-37, § 62, ch. 79-34.

403.852 Definitions.—As used in ss. 403.850-403.864:

- (1) "Department" means the Department of Environmental Regulation, which is charged with the primary responsibility for the administration and im-

plementation of the Florida Safe Drinking Water Act.

- (2) "Public water system" means a community or noncommunity system for the provision to the public of piped water for human consumption, provided that such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. The term includes:
 - (a) Any collection, treatment, storage, and distribution facility or facilities under control of the operator of such system and used primarily in connection with such system.
 - (b) Any collection or pretreatment storage facility or facilities not under control of the operator of such system but used primarily in connection with such system.
- (3) "Community water system" means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
- (4) "Noncommunity water system" means a public water system for provision to the public of piped water for human consumption, which serves at least 25 individuals daily at least 60 days out of the year, but which is not a community water system, except that a water system for a wilderness educational camp is exempted.
- (5) "Person" means an individual, public or private corporation, company, association, partnership, municipality, agency of the state, district, federal agency, or any other legal entity, or its legal representative, agent, or assigns.
- (6) "Municipality" means a city, town, or other public body created by or pursuant to state law or an Indian tribal organization authorized by law.
- (7) "Federal agency" means any department, agency, or instrumentality of the United States Government.
- (8) "Supplier of water" means any person who owns or operates a public water system.
- (9) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(10) "Administrator" means the Administrator of the United States Environmental Protection Agency.

(11) "Federal act" means the Safe Drinking Water Act, Pub. L. No. 93-523.

(12) "Primary drinking water regulation" means a rule which:

- (a) Applies to public water systems;
- (b) Specifies contaminants which, in the judgment of the department, after consultation with the Department of Health and Rehabilitative Services, may have an adverse effect on the health of the public;
- (c) Specifies for each such contaminant either:
 - 1. A maximum contaminant level if, in the judgment of the department, it is economically and technologically feasible to ascertain the level of such contaminant in water in public water systems; or
 - 2. Each treatment technique known to the department which leads to a reduction in the level of the contaminant sufficient to satisfy the requirements of s. 403.853 if, in the judgment of the department, it is not economically or technologically feasible to ascertain the level of such contaminant; and

(13) "Secondary drinking water regulation" means a rule which:

- (a) Applies to public water systems; and
- (b) Specifies the maximum contaminant levels which, in the judgment of the department after public hearings, are requisite to protect the public welfare. Such regulation may apply to any contaminant in drinking water:

- 1. Which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use; or
- 2. Which may otherwise adversely affect the public welfare.

Such regulations may vary according to geographic and other circumstances.

(14) "National primary drinking water regulations" means primary drinking water regulations promulgated by the administrator pursuant to the federal act.

(15) "National secondary drinking water regulations" means secondary drinking water regulations promulgated by the administrator pursuant to the federal act.

(16) "Sanitary survey" means an onsite review of the water source, facilities, equipment, operation, and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation, and maintenance for providing safe drinking water.

History.—s. 1, ch. 77-37, § 62, ch. 79-34.

403.853 Drinking water standards.—

- (a) The department shall adopt and enforce:
 - 1. State primary drinking water regulations that shall be no less stringent at any given time than the complete interim or revised national primary drinking water regulations in effect at such time; and
 - 2. State secondary drinking water regulations patterned after the national secondary drinking water regulations.
- (b) Primary and secondary drinking water regulations for noncommunity water systems, which shall be no more stringent than the corresponding national primary or secondary drinking water regulations in effect at such time.
- (c) Subject to the exceptions authorized pursuant to s. 403.854, state primary drinking water regulations shall apply to each public water system in the state, except that such regulations shall not apply to any public water system which meets all of the following criteria: namely, that the system:

- (1) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control and testing procedures to assure compliance with such levels and to ensure proper operation and maintenance of the system, and which contains requirements as to:

- 1. The minimum quality of water which may be taken into the system; and
- 2. Siting for new facilities for public water systems.

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 - 2. State secondary drinking water regulations patterned after the national secondary drinking water regulations.
- (b) Primary and secondary drinking water regulations for noncommunity water systems, which shall be no more stringent than the corresponding national primary or secondary drinking water regulations in effect at such time.
- (c) Subject to the exceptions authorized pursuant to s. 403.854, state primary drinking water regulations shall apply to each public water system in the state, except that such regulations shall not apply to any public water system which meets all of the following criteria: namely, that the system:

- (1) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control and testing procedures to assure compliance with such levels and to ensure proper operation and maintenance of the system, and which contains requirements as to:

- 1. The minimum quality of water which may be taken into the system; and
- 2. Siting for new facilities for public water systems.

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- (a) Applies to public water systems; and
- (b) Specifies the maximum contaminant levels which, in the judgment of the department after public hearings, are requisite to protect the public welfare. Such regulation may apply to any contaminant in drinking water:

- 1. Which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use; or
- 2. Which may otherwise adversely affect the public welfare.

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- (c) Subject to the exceptions authorized pursuant to s. 403.854, state primary drinking water regulations shall apply to each public water system in the state, except that such regulations shall not apply to any public water system which meets all of the following criteria: namely, that the system:

- (1) Contains criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control and testing procedures to assure compliance with such levels and to ensure proper operation and maintenance of the system, and which contains requirements as to:

- 1. The minimum quality of water which may be taken into the system; and
- 2. Siting for new facilities for public water systems.

(13) "Secondary drinking water regulation" means a rule which:

- (a) Applies to public water systems; and
- (b) Specifies the maximum contaminant levels which, in the judgment of the department after public hearings, are requisite to protect the public welfare. Such regulation may apply to any contaminant in drinking water:

- 1. Which may adversely affect the odor or appearance of such water and consequently may cause a substantial number of the persons served by the public water system providing such water to discontinue its use; or
- 2. Which may otherwise adversely affect the public welfare.

stances when, in the judgment of the department, emergency circumstances exist in the state with respect to a need for safe drinking water, it may issue such rule or order as it may deem necessary in order to provide such water where it would not otherwise be available.

History.—S. 8, ch. 77, § 3.

403.857 Notification of users and regulatory agencies.—Whenever a public water supply system is not in compliance with the state primary and secondary drinking water regulations, the department shall notify the following:

- (1) Failure by a supplier of water to allow any of the authorized representatives of the department or of the state to conduct an inspection pursuant to s. 403.858.
- (2) Failure to comply with the state primary and secondary drinking water regulations.
- (3) Is subject to a variance or exemption from an inhibition to meet a maximum contaminant level requirement.
- (4) Is subject to an exemption or
- (5) Fails to comply with the requirements prescribed by a variance or exemption.

The owner or operator of the system shall, as soon as practicable, notify the local public health department, the department, and the communications media serving the area served by the system of that fact and of the extent, nature, and possible health effects of such fact. Such notice shall also be given by the owner or operator of the system by publication in a newspaper of general circulation, as determined by the department, within the area served by such water system at least once every 2 months as long as the violation, variance, or exemption continues. Such notice shall also be given with the water bills of the system as long as the violation, variance, or exemption continues, as follows:

(a) If the water bills of a public water system are issued at least as often as once every 3 months, such notice shall be included in at least one water bill of the system for each customer every 3 months; if the system issues its water bills less often than once every 3 months, such notice shall be included in each of the water bills issued by the system.

(b) Notwithstanding the provisions of this section notwithstanding, the department may prescribe by rule reasonable alternative notice requirements.

History.—S. 8, ch. 77, § 3.

403.858 Inspections.—Any duly authorized representative of the department or of the Department of Health and Rehabilitative Services may enter, take water samples from, and inspect any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a public water system is located or is being constructed or installed, at any reasonable time, for the purpose of ascertaining the state of compliance with the law or with rules or orders of the department.

History.—S. 8, ch. 77, § 3.

403.859 Prohibited acts.—The following acts and the causing thereof are prohibited and are violations of this act:

(1) Failure by a supplier of water to comply with the requirements of s. 403.857, or dissemination by such supplier of any false or misleading information with respect to notices required pursuant to s. 403.857.

History.—S. 8, ch. 77, § 3.

The provisions of this subsection do not apply to treated or untreated waste currently discharging into the Floridan Aquifer of Biscayne Aquifer on June 22, 1983.

History.—S. 8, ch. 77, § 3.

At the end of the 2-year operational test, there will be a peer review of data. The review shall be broadly distributed in competent, impartial, and experienced national authorities such as the United States Environmental Protection Agency and the National Academy of Sciences. The decision by the department to permit inspection shall take into consideration the reports of the review.

(c) The effluent quality must meet the water quality standards established by the Department of Environmental Regulation as part of the permit to construct the treatment facility.

(d) By January 1, 1984, the Department of Environmental Regulation shall promulgate by rule effluent standards for any project proposing wastewater reuse by injection into the Floridan Aquifer or Biscayne Aquifer.

(e) During the test period, no effluent will be injected into the Floridan Aquifer or the Biscayne Aquifer.

(f) The effluent quality must meet the water quality standards established by the Department of Environmental Regulation as part of the permit to construct the treatment facility.

(g) By January 1, 1984, the Department of Environmental Regulation shall promulgate by rule effluent standards for any project proposing wastewater reuse by injection into the Floridan Aquifer or Biscayne Aquifer.

(h) The effluent quality must meet the water quality standards established by the Department of Environmental Regulation as part of the permit to construct the treatment facility.

(i) By January 1, 1984, the Department of Environmental Regulation shall promulgate by rule effluent standards for any project proposing wastewater reuse by injection into the Floridan Aquifer or Biscayne Aquifer.

(j) The effluent quality must meet the water quality standards established by the Department of Environmental Regulation as part of the permit to construct the treatment facility.

(k) By January 1, 1984, the Department of Environmental Regulation shall promulgate by rule effluent standards for any project proposing wastewater reuse by injection into the Floridan Aquifer or Biscayne Aquifer.

(l) The effluent quality must meet the water quality standards established by the Department of Environmental Regulation as part of the permit to construct the treatment facility.

(m) By January 1, 1984, the Department of Environmental Regulation shall promulgate by rule effluent standards for any project proposing wastewater reuse by injection into the Floridan Aquifer or Biscayne Aquifer.

(a) The results of a sanitary survey if deemed necessary.

(b) The operation and maintenance records for the year preceding an application for waiver;

(c) The adequacy of monitoring procedures for maximum contaminant levels included in primary drinking water regulations;

(d) The feasibility of the supplier of water becoming a certified operator; and

(e) Any threat to public health that could result from nonattainment of the system by a certified operator.

(f) A waiver shall be granted for 3 years and shall be renewable upon application to the department pursuant to subsection (1).

(g) The department may revoke any waiver to protect the public health, provided the department finds on the basis of technical evidence, that revocation is necessary to achieve compliance with state quality standards for safe drinking water or that the supplier of water fails to comply with any conditions of the waiver. The department may proceed under s. 403.855 or s. 403.860.

(h) Neither the department nor any of its employees shall be held liable for money damages for any injury, sickness, or death sustained by any person as a result of drinking water from any noncommunity water system granted a waiver under subsection (4) or subsection (5).

History.—S. 8, ch. 77, § 3.

403.855 Imminent hazards.—In coordination with the Department of Health and Rehabilitative Services, the department, upon receipt of information that a contaminant which is present in, or is likely to enter, public or private water supplies may present an imminent and substantial danger to the public health, may take such actions as it may deem necessary in order to protect the public health. Department actions shall include, but are not limited to:

(1) Issuing emergency orders pursuant to s. 125.41(9).

(2) Issuing such corrective orders as may be necessary to protect the health of persons who are or may be users of such supplies including travelers. An order issued by the department under this section shall become effective upon service of such order on the alleged violator, notwithstanding the provisions of s. 403.860(3).

(3) Establishing a program designed to prevent contamination or to minimize the danger of contamination to potable water supplies.

(4) Contracting for clinical tests on samples of the affected population if the department determines there is a real and immediate danger to the public health.

(5) Commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

History.—S. 8, ch. 77, § 3.

403.856 Plan for emergency provision of water.—The department shall adopt an adequate plan, after consultation with the Department of Health and Rehabilitative Services, for the provision of safe drinking water under emergency circumstances.

History.—S. 8, ch. 77, § 3.

(1) The department may authorize variances or exemptions from the regulations issued pursuant to s. 403.853 under conditions and in such manner as it deems necessary and desirable, provided that such variances or exemptions are authorized under such conditions and in such manner as are no less stringent than the conditions under which and the manner in which variances and exemptions may be granted under the federal act.

(2)(a) The department shall exempt public water systems from any requirements respecting a maximum contaminant level or any treatment technique requirement, or both, when:

1. Due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement;

2. The public water system was in operation on the effective date of such exemption level or treatment technique requirement; and

3. The granting of the exemption will not result in an unreasonable risk to health.

(b) Proposed additions to existing treatment plants not under contract for construction on July 1, 1977, shall not be automatically exempt.

(3)(a) When the department receives an application for exemption, it shall act upon such application within a time period under s. 145.404 of Pub. L. No. 95-923, s. 11.5(4) and (5).

(4)(a) The department shall, except upon a showing of good cause, waive on a case-by-case basis any chlorination requirement applicable to noncommunity water systems existing on July 16, 1980, upon an affirmative showing by the supplier of water that no hazard to health will result. This showing shall be based upon the following:

1. The completion of a satisfactory sanitary survey;

2. The history of the quality of water provided by the system and monthly monitoring tests for bacteriological contamination;

3. Evaluation of the well and the site on which it is located, including geology, depth of well, casing, grouting, and other relevant factors which have an impact on the quality of water supplied; and

4. The number of connections and size of the distribution system.

(b) The department may, as a condition of waiver, require a monitoring program of sufficient frequency to assure that safe drinking water standards are being met.

(c) The department shall, except upon a showing of good cause, waive on a case-by-case basis any requirement for a certified operator for a noncommunity water system having a design flow of less than 10,000 gallons per day upon an affirmative showing by the supplier of water that the system can be properly maintained without a certified operator. The department shall consider:

(1) The results of a sanitary survey if deemed necessary;

(2) The operation and maintenance records for the year preceding an application for waiver;

(3) The adequacy of monitoring procedures for maximum contaminant levels included in primary drinking water regulations;

(4) The feasibility of the supplier of water becoming a certified operator; and

(5) Any threat to public health that could result from nonattainment of the system by a certified operator.

(f) A waiver shall be granted for 3 years and shall be renewable upon application to the department pursuant to subsection (1).

(g) The department may revoke any waiver to protect the public health, provided the department finds on the basis of technical evidence, that revocation is necessary to achieve compliance with state quality standards for safe drinking water or that the supplier of water fails to comply with any conditions of the waiver. The department may proceed under s. 403.855 or s. 403.860.

program by the Department of Health and Rehabilitative Services and its units and the department, the Department of Health and Rehabilitative Services shall:

- (a) Establish and maintain laboratories for the conducting of radiological, microbiological, and chemical analyses of water samples from public water systems, which are submitted to such laboratories for analysis. Copies of the reports of such analyses and quarterly summary reports shall be submitted to the appropriate department district or subdistrict office.
- (b) Require each county health department to:
 1. Collect water samples for analysis as may be required by the terms of this act, from public water systems within its jurisdiction. The duty to collect such samples may be shared with the appropriate department district or subdistrict office and shall be coordinated by field personnel involved.
 2. Submit the collected water samples to the appropriate laboratory for analysis.
 3. Maintain reports of analyses for its own records.
- (c) Conduct complaint investigation of public water systems to determine compliance with federal, state, and local standards and permit compliance.
- (d) Notify the appropriate department district or subdistrict office of potential violations of federal, state, and local standards and permit conditions by public water systems and assist the department in enforcement actions with respect to such violations to the maximum extent practicable.
- (e) Review and evaluate laboratory analyses of water samples from private water systems.
- (f) Require those county health departments designated by the Department of Health and Rehabilitative Services and approved by the department as having qualified sanitary engineering staffs, in addition to the duties prescribed in paragraph (1)(b), to:
 1. Review and evaluate each application for the construction, modification, or expansion of a public water supply system in accordance with federal, state, and local requirements. Upon completion of such review and evaluation, the application shall be forwarded to the appropriate department district or subdistrict office for final action.
 2. Review, evaluate, and approve or disapprove applications for the expansion of action taken on such applications shall be forwarded to the appropriate department district or subdistrict office.
 3. Maintain inventory, operational, and bacteriological records and carry out monitoring, surveillance, and sanitary surveys of public water systems to ensure compliance with federal, state, and local regulations.
 4. Participate in educational and training programs relating to drinking water and public water systems.
 - (d) Require those county health departments designated by the Department of Health and Rehabilitative Services as having the capability of performing bacteriological analyses, in addition to the duties prescribed in paragraph (1)(b), to:
 1. Perform bacteriological analyses of water samples submitted for analysis.

(7) Require an application fee of not more than \$20 for department review and approval of public water system plans and specifications.

(8) Adopt, modify, and repeal such rules as are necessary or appropriate to carry out its functions under this act.

(9) Require department of county health department review and approval of complete plans and specifications prior to the installation, operation, alteration, or extension of any public water system.

(10) Establish and maintain laboratories for radiological, microbiological, and chemical analyses of water samples from public water systems. If the department determines that an additional laboratory capability beyond that provided by the Department of Health and Rehabilitative Services is necessary, it may, by rule, develop and coordinate provision of facilities for the management and implementation of the state primary and secondary drinking water regulations, including the water supply survey.

(11) Collect and disseminate information and conduct educational and training programs relating to drinking water and public water systems.

(12) Conduct data management activities to maintain essential records needed for administration of the public water system supervision program and for submission to the administrator, including the maintenance of an inventory for all public water systems.

(13) Establish and collect fees for conducting state laboratory analyses as may be necessary, to be collected and used by either the department or the Department of Health and Rehabilitative Services in conducting its public water supply laboratory functions.

(14) Require suppliers of water to collect samples of water as required by state primary drinking water regulations, to submit such samples to an appropriate laboratory for analysis, and to keep sampling records as required under the federal act and make such records available to the department upon request.

(15) Require suppliers of water to submit the department reports and testing data required by the department to the department as may be necessary to ascertain the extent of any water supply system.

(16) Issue such orders as may be necessary to effectuate the intent and purposes of this act.

(17) Assist state and local agencies in the determination and investigation of suspected waterborne disease outbreaks, including diseases associated with chemical contaminants.

(18) Encourage public involvement and participation in the planning and implementation of the state public water system supervisory plans.

403.862 Department of Health and Rehabilitative Services; public water supply duties and responsibilities; coordinated budget requests with Department of Environmental Regulation.

(1) Recognizing that supervision and control of units of the Department of Health and Rehabilitative Services is retained by the Secretary of the agency, and that public health aspects of the state public water supply program require joint participation in the

403.860 Penalties and remedies.—
(1) A fine not to exceed \$5,000 for each day in which a violation occurs, may be imposed by a court of competent jurisdiction on any person who violates s. 403.859 (1), (2), (4), (5), or (6).

(2) A fine, not to exceed \$5,000 for each day in which such violation occurs or failure to comply continues, may be imposed by a court of competent jurisdiction upon any person who violates, or fails or refuses to comply with, any order issued by the department pursuant to this act.

(3) The department may initiate an administrative proceeding to establish liability and require corrective action. Such proceeding shall be instituted by the department's serving a written notice of violation upon the alleged violator by certified mail. The notice shall specify the provision of law or rule of the department alleged to have been violated and the facts alleged to constitute a violation thereof. Within 10 days after receipt of the notice, the violator shall, in writing, indicate whether or not it admits the violation. Failure to respond within 20 days after service, failure to request an administrative hearing, or failure to request a hearing shall constitute a waiver thereof. A department order, entered after a hearing pursuant to chapter 120 or a waiver thereof, shall be final and constitute a final adjudication of the matters alleged. Such order may require, in addition to corrective action, that the violator pay the state for its reasonable costs and expenses incurred in investigating the violation and prosecuting the administrative proceeding.

(4) The department may institute a civil action in any court of appropriate jurisdiction for injunctive relief to prevent violation of this act, rule, or regulation issued pursuant to this act, in addition to any other remedies provided under this section.

103.861 Department; powers and duties.—
The department shall have the power and the duty to carry out the provisions and purposes of this act and, for this purpose, to:

(1) Administer and enforce the provisions of this act and all rules and orders adopted, issued, or made effective hereunder.

(2) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as it may determine, with other local, state, federal, or interstate agencies; municipalities; political subdivisions; or persons.

(3) Receive financial and technical assistance from the Federal Government and other public or private agencies.

(4) Participate in related programs conducted by federal agencies, other states, interstate agencies, or other public or private agencies or organizations.

(5) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of, and accounting for, funds appropriated or otherwise provided for the purpose of carrying out provisions of this act.

(6) Delegate those responsibilities and duties deemed appropriate for the purpose of administering requirements of this act.

403.863 State public water supply laboratory recertification program.—
(1) Within 120 days of the effective date of this act, the department and the Department of Health and Rehabilitative Services shall jointly develop a

recertification program for the Department of Health and Rehabilitative Services laboratories. The program shall include the following:

- (a) Nothing in this section shall serve to negate the powers, duties, and responsibilities of the Secretary of Health and Rehabilitative Services relating to the protection of the public from the spread of communicable disease, epidemics, and plagues.

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(1) Within 120 days of the effective date of this act, the department and the Department of Health and Rehabilitative Services shall jointly develop a

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- (a) Nothing in this section shall serve to negate the powers, duties, and responsibilities of the Secretary of Health and Rehabilitative Services relating to the protection of the public from the spread of communicable disease, epidemics, and plagues.

403.865 State public water supply laboratory recertification program.—
(1) Within 120 days of the effective date of this act, the department and the Department of Health and Rehabilitative Services shall jointly develop a

recertification program for the Department of Health and Rehabilitative Services laboratories. The program shall include the following:

- (a) Nothing in this section shall serve to negate the powers, duties, and responsibilities of the Secretary of Health and Rehabilitative Services relating to the protection of the public from the spread of communicable disease, epidemics, and plagues.

court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power. (4) The agency shall submit a statement of its action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120. (3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power, the court shall remand the matter to the agency which shall, within a reasonable time: (a) Agree to issue the permit; (b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to governmental action; or

an accounting program for use by the department and the Department of Health and Rehabilitative Services and its units, including the county health departments, to determine the funds, overhead, personnel, and property used by each of the departments in conducting its respective public water supply functions and responsibilities for each fiscal year. The accounting program shall provide information sufficient to allow state auditing and health grant and aid reporting to the Department of Health and Rehabilitative Services to: (a) Segregate, from an accounting standpoint, funds distributed to county health departments for public water supply functions from other county health department trust funds. (b) Segregate, from an accounting standpoint, funds distributed to the central and branch laboratories of the Department of Health and Rehabilitative Services for public water supply functions from other laboratory funds. (c) Require each county health department, the central and each branch laboratory of the Department of Health and Rehabilitative Services, and any other entity of the Department of Health and Rehabilitative Services involved in and carrying out public water supply functions to account to the Department of Health and Rehabilitative Services on a semiannual basis for the funds received, from whatever source, and used for public water supply functions. (d) Require each county health department, the central and each branch laboratory of the Department of Health and Rehabilitative Services, and any other entity of the Department of Health and Rehabilitative Services, to be licensed in carrying out public water supply functions, either wholly or partially, with funds, either federal or state, received from a department through an interagency agreement or other means to account to the department on a semiannual basis for such funds received and used for public water supply functions.

History.—1981, Ch. 77, Sec. 1, 100, 101, 102, 103, 104.

PART VII MISCELLANEOUS

403.90 Judicial review relating to permits and licenses.

403.90 Judicial review relating to permits and licenses.

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this chapter.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit

841

state program, and the Department of Health and Rehabilitative Services shall adopt rules for the evaluation and certification of all laboratories in the state, other than the principal state laboratory, which perform or make application to perform water analyses pursuant to the Florida Sanitary Water Act. Such joint development shall be State Public Water Supply Program grants received by the Department of Health and Rehabilitative Services from the Federal Government in order to implement the federal act. (2) The Department of Health and Rehabilitative Services shall have the responsibility for the operation and implementation of the state laboratory certification program, except that, upon completion of the evaluation and review of the laboratory certification application, the evaluation shall be forwarded, along with recommendations, to the department for review and comment, prior to final approval or disapproval.

(3) Any federal grant funds received by the department for the operation and implementation of the state laboratory certification program shall be transferred to the Department of Health and Rehabilitative Services by interagency agreement between the two departments. The agreement shall require the two departments to share the costs of the certification program with a quarterly accounting of the funds transferred.

(4) Within 60 days of the effective date of the rules adopted pursuant to this section, no laboratory in the state, except the principal state laboratory, shall perform analyses pursuant to the Florida Sanitary Water Act without having applied for and received certification under the state certification program to perform such analyses.

(5) For the purposes of this section, the term "principal state laboratory" means the central laboratory of the Department of Health and Rehabilitative Services.

(6) For the purposes of this section, the term "certification" means regulatory recognition given to a laboratory that performs analyses pursuant to the Florida Sanitary Water Act, that it meets minimum analytical performance standards.

History.—1981, Ch. 77, Sec. 1, 100, 101, 102, 103, 104.

403.864 Public water supply accounting program.

(1) It is the intent of the Legislature to require a yearly accounting of funds, overhead, personnel, and property used by the department and the Department of Health and Rehabilitative Services and its units, including each of the county health departments, in conducting their respective responsibilities for the state public water supply program. Such accounting shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the department and the Department of Health and Rehabilitative Services no later than February 1 of each year. The first accounting shall be due by February 1, 1979, and shall cover the state fiscal year 1978-1979.

(2) In furtherance of this intent, the Department of Health and Rehabilitative Services, the department, and the Auditor General shall jointly develop

841

CHAPTER 582

SOIL AND WATER CONSERVATION

582.01	Definitions.	582.42	Officers, agents, and employees; surety bonds; annual audit.
582.02	Lands a basic asset of state.	582.43	Status and general powers of districts; power to levy tax; power to construct, operate, improve and maintain works of improvement; power to obtain necessary lands or interests therein.
582.03	Consequence of soil erosion.	582.44	Levy of taxes; procedure, etc.
582.04	Appropriate corrective methods.	582.45	Fiscal powers of governing body; bonds, etc.
582.05	Legislative policy for conservation.	582.46	Additional powers and authority.
582.055	Powers and duties of the Department of Agriculture and Consumer Services; rules.	582.47	Watershed improvement district to coordinate work with flood control districts.
	Soil and Water Conservation Council; powers and duties.	582.48	Discontinuance of watershed improvement district.
582.06	Additional powers of department.	582.49	Discontinuance of soil and water conservation district.
582.09	Administrative officer of soil and water conservation.		
582.10	Creation of soil and water conservation districts.		
582.11	Hearing upon question of creation; notice.		

582.12 Referendum for creation.
582.13 Expenses of referendum.
582.14 Results of referendum; publication, etc.
582.15 Organization of district etc.

Organization of district, etc.	
Addition of territory to district or removal of territory therefrom	582-16
Annexation of territory to district	582-16
Change of name of district	582-17
Creation of new districts	582-18
Dissolution of districts	582-19
Division of districts	582-20
Qualification of supervisors	582-21
Removal of supervisors	582-22
Reorganization of land use regulations	582-23
Redemption of contents	582-24
Regulation of land use	582-25
Regulation of public health	582-26
Regulation of public safety	582-27
Regulation of public works	582-28
Regulation of traffic	582-29
Regulation of water supply	582-30
Regulation of waste disposal	582-31
Regulation of zoning	582-32
Regulation of other matters	582-33
Regulation of other matters	582-34
Regulation of other matters	582-35
Regulation of other matters	582-36
Regulation of other matters	582-37
Regulation of other matters	582-38
Regulation of other matters	582-39
Regulation of other matters	582-40
Regulation of other matters	582-41
Regulation of other matters	582-42
Regulation of other matters	582-43
Regulation of other matters	582-44
Regulation of other matters	582-45
Regulation of other matters	582-46
Regulation of other matters	582-47
Regulation of other matters	582-48
Regulation of other matters	582-49
Regulation of other matters	582-50
Regulation of other matters	582-51
Regulation of other matters	582-52
Regulation of other matters	582-53
Regulation of other matters	582-54
Regulation of other matters	582-55
Regulation of other matters	582-56
Regulation of other matters	582-57
Regulation of other matters	582-58
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Regulation of other matters	582-60
Regulation of other matters	582-61
Regulation of other matters	582-62
Regulation of other matters	582-63
Regulation of other matters	582-64
Regulation of other matters	582-65
Regulation of other matters	582-66
Regulation of other matters	582-67
Regulation of other matters	582-68
Regulation of other matters	582-69
Regulation of other matters	582-70
Regulation of other matters	582-71
Regulation of other matters	582-72
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Regulation of other matters	582-76
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Regulation of other matters	582-79
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Regulation of other matters	582-81
Regulation of other matters	582-82
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Regulation of other matters	582-86
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Regulation of other matters	582-89
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Regulation of other matters	582-91
Regulation of other matters	582-92
Regulation of other matters	582-93
Regulation of other matters	582-94
Regulation of other matters	582-95
Regulation of other matters	582-96
Regulation of other matters	582-97
Regulation of other matters	582-98
Regulation of other matters	582-99
Regulation of other matters	582-100

582.22 Regulations; contents.

582.23 Performance of work under the regulations by the supervisors.

582.24 Board of adjustment.

582.24 Board of adjustments.
582.25 Rules of procedure of board.
582.26 Petition to board to vary from regulations.
582.28 Cooperation between districts.

State agencies to cooperate. 582.29
Discontinuance of districts; referendum. 582.30
(3)(a) "Department" means the Department of Agriculture and Consumer Services, with the provisions of this chapter.

582.31 Certification of results of referendum; dis-
solution.

582.32 Continuance of existing contracts, etc.
582.331 Establishment of watershed improvement districts within soil and water conservation culture.

(4) "Landowner" or "owner of land" includes any person who shall hold legal or equitable title to any lands lying within a district organized under the provisions of this chapter.

582.36 Determination of need for district; boundaries. Determination of feasibility of proposed district; referendum.

582.37 Consideration of results of referendum; declaration of organization of district.

592.38 Declaration of organization of district; certification to clerks of circuit courts; limitation on tax rate.

582.39 Establishment of watershed improvement district situated in more than one soil and water conservation district.

582.40 Change of district boundaries; additions, deletions, and amendments to district boundaries. (7) "Due notice," in addition to notice required by the provisions of chapter 120, means notice published at least twice, with an interval of at least one week, in a newspaper of general circulation and in a newspaper of local circulation in the district and in the county in which the district is situated.

582.40 Change of district boundaries, editions, detachments, transfers of land from one district to another; change of district name.

582.41 Board of directors of district.
name.
of general circulation be available, by posting at a

145

reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning curfew or municipal affairs generally. At new housing build pursuant to Shikhar 2, the following shall be required: (1) A sign

History.—L. E. H. 1914, 1937, CCL 1940 Supp. 4181-477; 1 L. E. 83-30.

[illegible]

582.02 Lands a basic asset of state.—The farm, forest and grazing lands of the state are among the basic assets of the state and the preservation of such lands is one of the primary responsibilities of the State.

proper land use practices have caused and have contributed to, and are now causing and contributing to, the basic assets of the state and the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; improvement and procedures necessary (or widespread adoption, as the carrying on of engineering operations, such as the construction of terraces, terraces and water resources and the disposal of water be adopted and carried out; among the works of improvement and procedures necessary (or widespread adoption, as the carrying on of engineering operations, such as the construction of terraces, terraces

continued to, and are now causing and contributing to a progressively more serious erosion of the farm and grazing lands of this state by fire, wind and water; the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, such as the construction of terraces, terracing outlets, check-dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches, and the like; the utilization of strip-cropping, later furrowing, contour cultivation,

tation, causing loosening of soil and exhaustion of humus; and developing a soil condition that favors erosion; the top soil is being turned, washed and blown out of fields and pastures; there has been an acceleration of landslides; erosion has increased; the rate of strip-cropping, water harvesting, contour farming, and contour furrowing; land drainage; land irrigation, seeding and planting of waste, sloping, abandoned, or eroded lands to water conserving and erosion-preventing plants, trees, and grasses; forestation.

erosion-preventing pines, alders, and grasses, soil stabilization and revegetation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; the addition of soil amendments, manure, organic materials, and fertilizers for

ure by any landowner or occupier to conserve the soil and control erosion upon his lands causes destruction by burning, washing and blowing of soil and water from his lands onto other lands and makes the con-

5.9.2.03. Consequences of soil erosion—The preservation of soil and control erosion of such other lands difficult or impossible.

582.03 Consequence of soil erosion.—The consequences of such soil erosion in the form of soil washing and soil blowing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, canals and harbors; the loss of fertile soil material in dust storms; the loss of topsoil from agricultural lands; the destruction of buildings and other structures by sand blasting; the accumulation of debris in water courses and for the obstruction of navigation; the silting up of rivers and streams; the silting up of ports and harbors; the silting up of irrigation canals; the silting up of drainage canals; the silting up of flood control works; the silting up of water supply works; the silting up of power house intakes; the silting up of fish hatcheries; the silting up of swimming pools; the silting up of skating rinks; the silting up of tennis courts; the silting up of golf courses; the silting up of parks and playgrounds; the silting up of cemeteries; the silting up of churches and schools; the silting up of hospitals and prisons; the silting up of government buildings; the silting up of private homes; the silting up of business premises; the silting up of public places; the silting up of private gardens; the silting up of public squares; the silting up of private streets; the silting up of public roads; the silting up of private lanes; the silting up of public paths; the silting up of private tracks; the silting up of public bridges; the silting up of private fences; the silting up of public walls; the silting up of private gates; the silting up of public windows; the silting up of private doors; the silting up of public roofs; the silting up of private floors; the silting up of public ceilings; the silting up of private basements; the silting up of public attics; the silting up of private porches; the silting up of public balconies; the silting up of private terraces; the silting up of public lawns; the silting up of private gardens; the silting up of public parks; the silting up of private grounds; the silting up of public forests; the silting up of private woods; the silting up of public fields; the silting up of private pastures; the silting up of public meadows; the silting up of private commons; the silting up of public heathland; the silting up of private moorland; the silting up of public tundra; the silting up of private marshes; the silting up of public bogs; the silting up of private fens; the silting up of public swamps; the silting up of private wetlands; the silting up of public estuaries; the silting up of private lagoons; the silting up of public fjords; the silting up of private gulches; the silting up of public ravines; the silting up of private gullies; the silting up of public draws; the silting up of private arroyos; the silting up of public washes; the silting up of private cañons; the silting up of public valleys; the silting up of private basins; the silting up of public plains; the silting up of private steppes; the silting up of public prairies; the silting up of private savannas; the silting up of public woodlands; the silting up of private forests; the silting up of public mountains; the silting up of private hills; the silting up of public plateaus; the silting up of private mesas; the silting up of public buttes; the silting up of private mounds; the silting up of public bluffs; the silting up of private cliffs; the silting up of public escarpments; the silting up of private ridges; the silting up of public spurs; the silting up of private benches; the silting up of public scarps; the silting up of private slopes; the silting up of public embankments; the silting up of private cuttings; the silting up of public dikes; the silting up of private levees; the silting up of public dykes; the silting up of private sea walls; the silting up of public breakwaters; the silting up of private piers; the silting up of public quays; the silting up of private wharves; the silting up of public docks; the silting up of private harbors; the silting up of public ports; the silting up of private shipping lanes; the silting up of public trade routes; the silting up of private highways; the silting up of public roads; the silting up of private trails; the silting up of public paths; the silting up of private tracks; the silting up of public bridges; the silting up of private ferries; the silting up of public tunnels; the silting up of private viaducts; the silting up of public overpasses; the silting up of private underpasses; the silting up of public culverts; the silting up of private drains; the silting up of public sewers; the silting up of private stormwater systems; the silting up of public wastewater treatment plants; the silting up of private sewage disposal systems; the silting up of public landfills; the silting up of private incinerators; the silting up of public recycling centers; the silting up of private waste management facilities; the silting up of public water treatment plants; the silting up of private drinking water supplies; the silting up of public irrigation systems; the silting up of private agricultural lands; the silting up of public forests; the silting up of private wildlife habitats; the silting up of public national parks; the silting up of private state parks; the silting up of public local parks; the silting up of private neighborhood parks; the silting up of public playgrounds; the silting up of private sports fields; the silting up of public golf courses; the silting up of private country clubs; the silting up of public beaches; the silting up of private resorts; the silting up of public vacation homes; the silting up of private second homes; the silting up of public rental properties; the silting up of private commercial buildings; the silting up of public industrial zones; the silting up of private business districts; the silting up of public downtown areas; the silting up of private suburban developments; the silting up of public exurban communities; the silting up of private rural estates; the silting up of public farmsteads; the silting up of private homesteads; the silting up of public pioneer settlements; the silting up of private frontier towns; the silting up of public mining camps; the silting up of private logging operations; the silting up of public ranches; the silting up of private dude ranches; the silting up of public hunting preserves; the silting up of private game reserves; the silting up of public nature reserves; the silting up of private wilderness areas; the silting up of public national monuments; the silting up of private historical landmarks; the silting up of public archaeological sites; the silting up of private prehistoric ruins; the silting up of public ancient cities; the silting up of private medieval castles; the silting up of public colonial forts; the silting up of private revolutionary battlefields; the silting up of public civil war sites; the silting up of private world war memorials; the silting up of public peace treaties; the silting up of private diplomatic missions; the silting up of public international organizations; the silting up of private multinational corporations; the silting up of public transnational networks; the silting up of private global communication systems; the silting up of public internet infrastructure; the silting up of private satellite services; the silting up of public mobile phone networks; the silting up of private television broadcasting stations; the silting up of public radio transmission towers; the silting up of private cable news networks; the silting up of public pay-per-view services; the silting up of private subscription-based streaming platforms; the silting up of public free-to-air television channels; the silting up of private premium content providers; the silting up of public digital distribution networks; the silting up of private peer-to-peer file sharing services; the silting up of public open source software development communities; the silting up of private proprietary technology companies; the silting up of public academic research institutions; the silting up of private think tanks; the silting up of public policy analysis organizations; the silting up of private lobbying groups; the silting up of public interest groups; the silting up of private advocacy organizations; the silting up of public consumer protection agencies; the silting up of private industry self-regulatory bodies; the silting up of public environmental watchdogs; the silting up of private corporate social responsibility initiatives; the silting up of public transparency portals; the silting up of private whistleblower hotlines; the silting up of public freedom of information requests; the silting up of private data privacy policies; the silting up of public cybersecurity measures; the silting up of private encryption protocols; the silting up of public digital rights management systems; the silting up of private intellectual property lawsuits; the silting up of public patent infringement cases; the silting up of private trademark disputes; the silting up of public copyright claims; the silting up of private creative commons licenses; the silting up of public open access journals; the silting up of private paywalled articles; the silting up of public preprint servers; the silting up of private peer review processes; the silting up of public conference proceedings; the silting up of private book publishing deals; the silting up of public film distribution agreements; the silting up of private music licensing contracts; the silting up of public art commissioning schemes; the silting up of private gallery representation fees; the silting up of public auction house commissions; the silting up of private collector's market premiums; the silting up of public museum admission tickets; the silting up of private VIP tour packages; the silting up of public guided tours; the silting up of private audio guides; the silting up of public interactive exhibits; the silting up of private virtual reality experiences; the silting up of public augmented reality applications; the silting up of private location-based services; the silting up of public geotagging features; the silting up of private social media check-ins; the silting up of public online reviews; the silting up of private reputation management strategies; the silting up of public crisis communication plans; the silting up of private damage control efforts; the silting up of public press releases; the silting up of private embargoed announcements; the silting up of public live-streamed events; the silting up of private exclusive behind-the-scenes footage; the silting up of public fan conventions; the silting up of private celebrity meet-and-greets; the silting up of public autograph signings; the silting up of private merchandise sales; the silting up of public crowdfunding campaigns; the silting up of private equity financing rounds; the silting up of public initial public offerings; the silting up of private venture capital investments; the silting up of public angel networks; the silting up of private seed accelerators; the silting up of public incubators; the silting up of private co-working spaces; the silting up of public shared offices; the silting up of private remote work arrangements; the silting up of public flexible benefit plans; the silting up of private executive compensation packages; the silting up of public employee stock ownership plans; the silting up of private profit-sharing schemes; the silting up of public pension funds; the silting up of private hedge funds; the silting up of public mutual funds; the silting up of private private equity firms; the silting up of public real estate investment trusts; the silting up of private REITs; the silting up of public commercial real estate markets; the silting up of private residential real estate markets; the silting up of public construction markets; the silting up of private engineering consulting firms; the silting up of public architecture practices; the silting up of private landscape design studios; the silting up of public interior design firms; the silting up of private furniture stores; the silting up of public home decor retailers; the silting up of private custom furniture makers; the silting up of public carpentry workshops; the silting up of private pottery studios; the silting up of public glassblowing demonstrations; the silting up of private jewelry making classes; the silting up of public metalworking shops; the silting up of private leatherworking studios; the silting up of public textile mills; the silting up of private weaving looms; the silting up of public spinning wheels; the silting up of private dyeing vats; the silting up of public printing presses; the silting up of private letterpress studios; the silting up of public linocut workshops; the silting up of private etching studios; the silting up of public engraving shops; the silting up of private bookbinding studios; the silting up of public calligraphy workshops; the silting up of private seal-making studios; the silting up of public stamp collecting societies; the silting up of private philatelic auctions; the silting up of public numismatic societies; the silting up of private coin grading services; the silting up of public antique appraisal services; the silting up of private art restoration studios; the silting up of public conservation laboratories; the silting up of private forensic science labs; the silting up of public DNA testing services; the silting up of private genealogy websites; the silting up of public family tree databases; the silting up of private oral history projects; the silting up of public archival collections; the silting up of private digitization efforts; the silting up of public digital preservation initiatives; the silting up of private backup solutions; the silting up of public disaster recovery plans; the silting up of private business continuity strategies; the silting up of public risk assessment frameworks; the silting up of private threat intelligence feeds; the silting up of public security advisories; the silting up of private vulnerability disclosures; the silting up of public bug bounty programs; the silting up of private penetration testing services; the silting up of public ethical hacking conferences; the silting up of private cyber security competitions; the silting up of public hackathons; the silting up of private innovation challenges; the silting up of public crowdsourcing platforms; the silting up of private idea incubators; the silting up of public invention contests; the silting up of private startup competitions; the silting up of public pitch competitions; the silting up of private investor networks; the silting up of public mentorship programs; the silting up of private advisory boards; the silting up of public focus group sessions; the silting up of private user experience studies; the silting up of public usability tests; the silting up of private beta testing programs; the silting up of public release candidate feedback loops; the silting up of private post-launch monitoring systems; the silting up of public analytics dashboards; the silting up of private A/B testing results; the silting up of public conversion rate optimization reports; the silting up of private customer journey maps; the silting up of public sentiment analysis tools; the silting up of private brand health metrics; the silting up of public market share reports; the silting up of private competitive intelligence summaries; the silting up of public SWOT analyses; the silting up of private PESTLE analyses; the silting up of public Porter's Five Forces diagrams; the silting up of private value chain models; the silting up of public business model canvases; the silting up of private lean startup methodologies; the silting up of public agile project management frameworks; the silting up of private scrum retrospectives; the silting up of public kanban board updates; the silting up of private daily stand-up meeting minutes; the silting up of public sprint planning sessions; the silting up of private burndown chart projections; the silting up of public release cycle timelines; the silting up of private deployment rollback procedures; the silting up of public incident response playbooks; the silting up of private disaster recovery runbooks; the silting up of public business impact analyses; the silting up of private critical path calculations; the silting up of public resource allocation matrices; the silting up of private budget variance reports; the silting up of public financial statements; the silting up of private tax return filings; the silting up of public annual general meeting agendas; the silting up of private shareholder resolutions; the silting up of public proxy voting records; the silting up of private dividend payment schedules; the silting up of public interest payment notices; the silting up of private coupon redemption codes; the silting up of public loyalty program terms and conditions; the silting up of private affiliate marketing disclosure statements; the silting up of public sponsored content guidelines; the silting up of private influencer partnership agreements; the silting up of public endorsement deal contracts; the silting up of private product placement scripts; the silting up of public cameo appearance requests; the silting up of private starliner booking inquiries; the silting up of public first-class lounge access passes; the silting up of private airport limousine reservations; the silting up of public hotel room upgrade requests; the silting up of private spa treatment bookings; the silting up of public restaurant reservation confirmations; the silting up of private Michelin guide recommendations; the silting up of public food critic reviews; the silting up of private sommelier wine pairings; the silting up of public chef's tasting menu descriptions; the silting up of private sous-chef secret recipes; the silting up of public bakery bread recipes; the silting up of private pastry chef techniques; the silting up of public ice cream parlor menus; the silting up of private gelato maker secrets; the silting up of public cafe latte recipes; the silting up of private barista coffee roasting profiles; the silting up of public distillery whiskey recipes; the silting up of private winemaker grape varietal selections; the silting up of public brewery beer recipes; the silting up of private brewmaster fermentation schedules; the silting up of public cheese producer aging methods; the silting up of private cheesemaker curdling techniques; the silting up of public butter churner churning times; the silting up of private candlemaker wax blends; the silting up of public soapmaker fragrance oils; the silting up of private perfume maker scent notes; the silting up of public cologne brand fragrances; the silting up of private deodorant stick formulas; the silting up of public body lotion scents; the

control and prevention of soil erosion, and for the prevention of flood-water and sediment damages, and for furthering the conservation, development and utilization of soil and water resources, and the disposal of water and thereby to conserve natural re-

loss of poor silt, material, sand, deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields, loss of soil and water which causes destruction of rivers and harbors, preserve wildlife, protect the sources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base of public lands, encourage and protect

loss of soil and washing of topsoil, which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve,

which causes water shortages, intensifies periods of drought, and causes crop failure; and increase in the speed and volume of rainfall runoff, causing severe and increasing floods, which bring suffering, disease, and death.

(1) The provisions of this chapter shall be administered by the Department of Agriculture and Consumer Services.

Q47

(2) The department is authorized to adopt rules to implement, make specific, and interpret the provisions of this chapter.

(3) The department is authorized to receive gifts, appropriations, materials, equipment, lands, and facilities and to manage, operate, and disburse them for the use and benefit of the soil and water conservation districts of the state.

(4) The department shall provide for the execution of surety bonds for all employees who are entrusted with funds or property, and it shall provide for an annual audit of the accounts of receipts and disbursements.

(5) The department may furnish information and call upon any state or local agencies for cooperation in carrying out the provisions of this chapter.

History—1977, § 1, ch. 76-36.

§ 582.06 Soil and Water Conservation Council powers and duties.—

(1) The Soil and Water Conservation Council in the Department of Agriculture and Consumer Services is hereby created.

(2) This council shall be composed of nine members, including farmers of at least 5 years' continuous residence in the conservation district and who shall have been practicing soil conservation and who shall be appointed by the department. No two members shall be appointed from the same congressional district. Terms of the members of the council shall be for 4 years, except that for the initial term shall be four new members appointed after June 14, 1978; one member shall be appointed for a term of 1 year, one member for a term of 2 years, one member for a term of 3 years, and one member for a term of 4 years. The chairman of the council shall be selected by the members of the council at a meeting to be called immediately upon appointment of the original members of the council and annually thereafter. The secretary of the council shall be the administrative officer of soil and water conservation.

(3) The advisory council shall meet at the call of its chairman, at the request of a majority of its members, at the request of the department, or at such times as may be prescribed by its rules.

(4) A majority of the members of the council shall constitute a quorum for all purposes, and an act by a majority of such quorum at any meeting shall constitute an official act of the council.

(5) The members of the council shall receive no compensation for their services, except that they shall receive per diem as provided in s. 112.061 and their traveling expenses when actually engaged in the business of the council.

(6) The powers and duties of the council shall be as follows:

(a) To consider and study the entire field of soil and water conservation; and

(b) To advise, counsel, and consult with the department and the administrative officer upon request in connection with the promulgation, administration, and enforcement of all laws, rules, and regulations relating to soil and water conservation.

(c) To consider all matters submitted to it by the department or the administrative officer;

History—1977, § 1, ch. 76-36.

(d) To offer suggestions and recommendations to the department and the administrative officer on its own initiative in regard to changes in the laws, rules, and regulations relating to soil and water conservation as may be deemed advisable to secure the effective administration and enforcement of said laws, rules, and regulations relating to the work of the department and in soil and water conservation; and

(e) To keep a complete record of all its proceedings showing the names of the members present at each meeting and any action taken by the council and to file and maintain such records in the department as public records.

History—1977, § 1, ch. 76-36; 1978, § 1, ch. 76-36; 1979, § 1, ch. 76-36; 1980, § 1, ch. 76-36; 1981, § 1, ch. 76-36; 1982, § 1, ch. 76-36; 1983, § 1, ch. 76-36; 1984, § 1, ch. 76-36; 1985, § 1, ch. 76-36; 1986, § 1, ch. 76-36; 1987, § 1, ch. 76-36; 1988, § 1, ch. 76-36; 1989, § 1, ch. 76-36; 1990, § 1, ch. 76-36; 1991, § 1, ch. 76-36; 1992, § 1, ch. 76-36; 1993, § 1, ch. 76-36; 1994, § 1, ch. 76-36; 1995, § 1, ch. 76-36; 1996, § 1, ch. 76-36; 1997, § 1, ch. 76-36; 1998, § 1, ch. 76-36; 1999, § 1, ch. 76-36; 2000, § 1, ch. 76-36; 2001, § 1, ch. 76-36; 2002, § 1, ch. 76-36; 2003, § 1, ch. 76-36; 2004, § 1, ch. 76-36; 2005, § 1, ch. 76-36; 2006, § 1, ch. 76-36; 2007, § 1, ch. 76-36; 2008, § 1, ch. 76-36; 2009, § 1, ch. 76-36; 2010, § 1, ch. 76-36; 2011, § 1, ch. 76-36; 2012, § 1, ch. 76-36; 2013, § 1, ch. 76-36; 2014, § 1, ch. 76-36; 2015, § 1, ch. 76-36; 2016, § 1, ch. 76-36; 2017, § 1, ch. 76-36; 2018, § 1, ch. 76-36; 2019, § 1, ch. 76-36; 2020, § 1, ch. 76-36; 2021, § 1, ch. 76-36; 2022, § 1, ch. 76-36; 2023, § 1, ch. 76-36; 2024, § 1, ch. 76-36; 2025, § 1, ch. 76-36; 2026, § 1, ch. 76-36; 2027, § 1, ch. 76-36; 2028, § 1, ch. 76-36; 2029, § 1, ch. 76-36; 2030, § 1, ch. 76-36; 2031, § 1, ch. 76-36; 2032, § 1, ch. 76-36; 2033, § 1, ch. 76-36; 2034, § 1, ch. 76-36; 2035, § 1, ch. 76-36; 2036, § 1, ch. 76-36; 2037, § 1, ch. 76-36; 2038, § 1, ch. 76-36; 2039, § 1, ch. 76-36; 2040, § 1, ch. 76-36; 2041, § 1, ch. 76-36; 2042, § 1, ch. 76-36; 2043, § 1, ch. 76-36; 2044, § 1, ch. 76-36; 2045, § 1, ch. 76-36; 2046, § 1, ch. 76-36; 2047, § 1, ch. 76-36; 2048, § 1, ch. 76-36; 2049, § 1, ch. 76-36; 2050, § 1, ch. 76-36; 2051, § 1, ch. 76-36; 2052, § 1, ch. 76-36; 2053, § 1, ch. 76-36; 2054, § 1, ch. 76-36; 2055, § 1, ch. 76-36; 2056, § 1, ch. 76-36; 2057, § 1, ch. 76-36; 2058, § 1, ch. 76-36; 2059, § 1, ch. 76-36; 2060, § 1, ch. 76-36; 2061, § 1, ch. 76-36; 2062, § 1, ch. 76-36; 2063, § 1, ch. 76-36; 2064, § 1, ch. 76-36; 2065, § 1, ch. 76-36; 2066, § 1, ch. 76-36; 2067, § 1, ch. 76-36; 2068, § 1, ch. 76-36; 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(3) After 6 months shall have expired from the date of entry of a determination by the Department of Agriculture and Consumer Service that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this chapter.

The office of the supervisor shall have no authority to require the applicant to furnish information or documents which are not required by law. The office of the supervisor shall have no authority to require the applicant to furnish information or documents which are not required by law.

582.19 Qualifications and tenure of supervisors.—
(1) The governing body of the district shall consist of five supervisors, elected as provided hereinabove.

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F.B.I. 1983

ment needed; to publish the results of such surveys, investigations, or research; and to disseminate information concerning such preventive and control measures and works of improvement; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this State or any of its agencies, or with the United States or any of its agencies.

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupiers of such lands or of the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing be prevented.

conservation and control, and works of improvement for flood prevention or the conservation, development and utilization of soil and water resources, and the disposal of water may be carried out;

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and within the limits of appropriations duly made available to it by law, to furnish financial or other aid, in any agency, governmental or otherwise, or any owner or occupier of lands within the district, in the carrying on of erosion control or prevention operations and works of improvement for flood prevention, the conservation, development and utilization, of soil and water resources and the disposal of water within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter.

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights therein, or any interest therein, or to acquire or to create any property, to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this trust, and to sell, lease, or otherwise dispose of any such property or interests therein in furtherance of the purposes of this trust.

(6) To make available, on such terms as it shall prescribe, to landowners and occupiers within the district, agricultural and engineering machinery and equipment; fertilizer, seeds and seedlings, and such other material or equipment, as will assist such landowners and occupiers to carry on operations.

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ute an indebtedness for which the faith and credit of the state or any of its revenues are pledged; to make, amend, and repeal rules and regulations not inconsistent with this chapter to carry into effect its purposes

(11) As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require landowners and occupants to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent soil erosion and prevent floodwater and sediment damages thereon;

592.21 Adoption of lead use regulations.—(1) The supervisors of any district shall have authority to formulate regulations governing the use of lead within the district in the interest of conserving the district's lead resources, and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to formulate lead use regulations until after they shall

notice be given to their intention to conduct a referendum of such regulations, and the submission of such regulations to the voters of the boundaries of the district, for their approval or rejection. The supervisors shall conduct a referendum of such regulations to the voters of the boundaries of the district, for their approval or rejection. The supervisors have considered the result of such referendum. Copies of such proposed regulations shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed regulations, or shall state where copies of such proposed regulations may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed land use regulations" shall appear.

tion and "Ag inst approval of proposed land use" shall appear, with a square before each proposition for conservation of soil and prevention of erosion and a direction to insert an "X" mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed regulations. The supervisors shall supervise in governing the conduct thereof, and shall publish the result thereof. All owners of lands within the district shall be eligible to vote in such referendum. Such landowners shall be eligible to vote. No inequalities in the conduct of such referendum or in

THE JOURNAL OF THE

210

582.24 Board of adjustment.—Where the provisions of any district ordinance under the provisions of this chapter shall adopt an ordinance prescribing land use regulations, said supervisors shall constitute, and be ex officio members of, a board of adjustment to hear and consider petitions which may be submitted to such board by any landowner in the district praying for relief from any of the provisions of the land use regulations.

582.25 Rules of procedure of board.—The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this chapter and with the provisions of any ordinance adopted pursuant to this chapter. The board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any three members of the board shall constitute a quorum. The members of the board shall exercise their office as members of the board as they shall desire to serve, and shall not be required to minister oaths and compel the attendance of witnesses.

582.26 Petition to board to vary from regulations.—Any landowner or occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his land the strict letter of the land use regulations prescribed by the board to authorize a variance from the terms of the land use regulations in the application of such regulations to the lands occupied by the petitioner.

582.27 Cooperation between districts.—The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and drainage, provide regulations and other things in type or class of land affected, but uniform as to all lands within each class or type. Copies of land use regulations adopted under the provisions of this chapter shall be printed and made available to all owners and occupants of lands lying within the district.

582.28 Discontinuance of districts; referenda.—(1) Any time after 3 years from the organization of a district under the provisions of this chapter, any 25 owners of land lying within the boundaries of such district may file a petition with the Department of Agriculture and Consumer Services praying that the operations of the district be terminated and the existence of the district discontinued. The department may upon petition therefor may be necessary to assist in the consideration thereof. Within 60 days after such a petition has been received by the department it shall give notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the district to be here inserted" and "Against terminating the existence of the district to be here inserted" shall appear with a square before each proposition and a diamond to insert an X mark in the square before one or the other of said propositions in the district. All owners of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(2) If two-thirds or more of the qualified voters in such referendum shall have voted for the discontinuance of the district, the department shall certify to the supervisors of the district the result of such referendum and that the continued operation of the district is not deemed to be practicable and feasible.

582.29 State agencies to cooperate.—Agencies of the state which have jurisdiction over or are interested in the administration of any state-owned lands, and of the administration of any governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands, and be provided with and served by the agencies administering such public owned lands.

582.30 Discontinuance of districts; referenda.—(1) Any time after 3 years from the organization of a district under the provisions of this chapter, any 25 owners of land lying within the boundaries of such district may file a petition with the Department of Agriculture and Consumer Services praying that the operations of the district be terminated and the existence of the district discontinued. The department may upon petition therefor may be necessary to assist in the consideration thereof. Within 60 days after such a petition has been received by the department it shall give notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the district to be here inserted" and "Against terminating the existence of the district to be here inserted" shall appear with a square before each proposition and a diamond to insert an X mark in the square before one or the other of said propositions in the district. All owners of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(2) If two-thirds or more of the qualified voters in such referendum shall have voted for the discontinuance of the district, the department shall certify to the supervisors of the district the result of such referendum and that the continued operation of the district is not deemed to be practicable and feasible.

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582.32 Regulations; contents.—The regulations to be adopted by the supervisors under the provisions of this chapter may include:

- (1) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;
- (2) Provisions requiring observance of particular methods of cultivation including contour cultivating, strip cropping, changes in cropping systems, seeding, and planting of plants, trees and grasses, forestation, and reforestation;
- (3) Specifications of cropping programs and tillage practices to be observed;
- (4) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;
- (5) Provisions for such other means, measures, operations and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in this chapter.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and drainage, provide regulations and other things in type or class of land affected, but uniform as to all lands within each class or type. Copies of land use regulations adopted under the provisions of this chapter shall be printed and made available to all owners and occupants of lands lying within the district.

582.33 State agencies to cooperate.—Agencies of the state which have jurisdiction over or are interested in the administration of any state-owned lands, and of the administration of any governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands, and be provided with and served by the agencies administering such public owned lands.

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582.36 State agencies to cooperate.—Agencies of the state which have jurisdiction over or are interested in the administration of any state-owned lands, and of the administration of any governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands, and be provided with and served by the agencies administering such public owned lands.

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582.23 Performance of work under the regulations by the supervisors.—(1) The supervisors may go upon any lands within the district to determine whether land use regulations adopted are being observed. Where the supervisors of any district shall find that any of the provisions of land use regulations adopted are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the circuit court for the county in which the lands are located a petition praying that a petition, duly verified, stating forth the adoption of the land use regulations, the failure of the defendant landowner or occupier to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the owner of such land. Upon the presentation of such petition the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a special master to take evidence on the facts and report and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

(2) The court may dismiss the petition, or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations, or otherwise bring the conditions of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of 5 percent per annum, from the owner of such lands.

(3) The court shall retain the jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, asking the court to cause judgment to be entered in favor of the supervisors, and to award to the supervisors the amount of such costs and expenses, with interest at the rate of 5 percent per annum until paid, together with the costs of suit, including a reasonable attorney's fee to be fixed by the court.

582.24 Board of adjustment.—Where the provisions of any district ordinance under the provisions of this chapter shall adopt an ordinance prescribing land use regulations, said supervisors shall constitute, and be ex officio members of, a board of adjustment to hear and consider petitions which may be submitted to such board by any landowner in the district praying for relief from any of the provisions of the land use regulations.

582.25 Rules of procedure of board.—The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this chapter and with the provisions of any ordinance adopted pursuant to this chapter. The board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any three members of the board shall constitute a quorum. The members of the board shall exercise their office as members of the board as they shall desire to serve, and shall not be required to minister oaths and compel the attendance of witnesses.

582.26 Petition to board to vary from regulations.—Any landowner or occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his land the strict letter of the land use regulations prescribed by the board to authorize a variance from the terms of the land use regulations in the application of such regulations to the lands occupied by the petitioner.

582.27 Cooperation between districts.—The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and drainage, provide regulations and other things in type or class of land affected, but uniform as to all lands within each class or type. Copies of land use regulations adopted under the provisions of this chapter shall be printed and made available to all owners and occupants of lands lying within the district.

582.28 Discontinuance of districts; referenda.—(1) Any time after 3 years from the organization of a district under the provisions of this chapter, any 25 owners of land lying within the boundaries of such district may file a petition with the Department of Agriculture and Consumer Services praying that the operations of the district be terminated and the existence of the district discontinued. The department may upon petition therefor may be necessary to assist in the consideration thereof. Within 60 days after such a petition has been received by the department it shall give notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the district to be here inserted" and "Against terminating the existence of the district to be here inserted" shall appear with a square before each proposition and a diamond to insert an X mark in the square before one or the other of said propositions in the district. All owners of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(2) If two-thirds or more of the qualified voters in such referendum shall have voted for the discontinuance of the district, the department shall certify to the supervisors of the district the result of such referendum and that the continued operation of the district is not deemed to be practicable and feasible.

582.29 State agencies to cooperate.—Agencies of the state which have jurisdiction over or are interested in the administration of any state-owned lands, and of the administration of any governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands, and be provided with and served by the agencies administering such public owned lands.

582.30 Discontinuance of districts; referenda.—(1) Any time after 3 years from the organization of a district under the provisions of this chapter, any 25 owners of land lying within the boundaries of such district may file a petition with the Department of Agriculture and Consumer Services praying that the operations of the district be terminated and the existence of the district discontinued. The department may upon petition therefor may be necessary to assist in the consideration thereof. Within 60 days after such a petition has been received by the department it shall give notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the district to be here inserted" and "Against terminating the existence of the district to be here inserted" shall appear with a square before each proposition and a diamond to insert an X mark in the square before one or the other of said propositions in the district. All owners of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(2) If two-thirds or more of the qualified voters in such referendum shall have voted for the discontinuance of the district, the department shall certify to the supervisors of the district the result of such referendum and that the continued operation of the district is not deemed to be practicable and feasible.

582.31 State agencies to cooperate.—Agencies of the state which have jurisdiction over or are interested in the administration of any state-owned lands, and of the administration of any governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands, and be provided with and served by the agencies administering such public owned lands.

582.32 Regulations; contents.—The regulations to be adopted by the supervisors under the provisions of this chapter may include:

- (1) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;
- (2) Provisions requiring observance of particular methods of cultivation including contour cultivating, strip cropping, changes in cropping systems, seeding, and planting of plants, trees and grasses, forestation, and reforestation;
- (3) Specifications of cropping programs and tillage practices to be observed;
- (4) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;
- (5) Provisions for such other means, measures, operations and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in this chapter.

592.31 Certification of results of referendum; dissolution.—Upon receipt from the Department of Agriculture and Consumer Services of a certification that the department has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this chapter, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be converted into the State Treasury, which amount shall be placed to the credit of the department for the purpose of liquidating any legal obligations said district may have at the time of its discontinuance. The supervisors shall thereupon file an application, duly verified, with the Department of State for the discontinuance of such district, and shall transmit with such application the certificate of the Department of Agriculture and Consumer Services setting forth the determination of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over, as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Department of State shall provide to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in its office.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.32 Continuance of existing contracts.

(1) Upon issuance of a certificate of dissolution all laws and regulations theretofore adopted and in force within the district shall be of no further force and effect. All contracts heretofore entered into, to which the district is a party, shall remain in force and effect for the period provided in such contracts. The Department of Agriculture and Consumer Services shall be substituted for the district or supervisors as party to such contracts. The department shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of this chapter, nor the pendency of any action instituted under the provisions of this chapter, and the department shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

(2) The department shall not be required to entertain petitions for the discontinuance of any district or conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this chapter, more than once in 5 years.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.33 Establishment of watershed improvement district.

592.31 Certification of results of referendum; dissolution.—Upon receipt from the Department of Agriculture and Consumer Services of a certification that the department has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this chapter, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be converted into the State Treasury, which amount shall be placed to the credit of the department for the purpose of liquidating any legal obligations said district may have at the time of its discontinuance. The supervisors shall thereupon file an application, duly verified, with the Department of State for the discontinuance of such district, and shall transmit with such application the certificate of the Department of Agriculture and Consumer Services setting forth the determination of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over, as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Department of State shall provide to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in its office.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.34 Petition for establishment; provisions.

(1) The owners of the major portion of land lying within the limits of a proposed watershed improvement district may file a petition with the supervisors of the soil and water conservation district, stating that the proposed watershed improvement district is organized to function in the area described in the petition.

(2) The petition shall set forth:

- The proposed name of the watershed improvement district.
- That there is need, in the interest of the public health, safety, and welfare for a watershed improvement district to function in the area described in the petition.
- A description of the area proposed to be organized as a watershed improvement district, which description shall be deemed sufficient if generally accurate.
- That the land within the area described in the petition is contiguous and is situated in the same watershed.
- The maximum millage rate, including not more than 1 mill for maintenance, expressed in mills on each dollar of assessed valuation at which taxes may be levied for any 1 fiscal year for the purposes of the watershed improvement district or to amortize indebtedness or bonds.
- A request that the area described in the petition be established as a watershed improvement district.

(3) Land lying within the limits of one watershed improvement district shall not be included in another watershed improvement district.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.35 Notice and hearing on petition; determination of need for district; boundaries.—Within 60 days after a petition has been filed with the supervisors of the soil and water conservation district, the supervisors shall cause notice to be given of a public hearing upon the practicability and feasibility of creating the proposed watershed improvement district. All owners of land within the proposed district and all other interested parties shall have the right to attend such a hearing and to be heard. If the supervisors determine from the hearing that there is need, in the interest of public health, safety, and welfare, for the organization of the proposed district, they shall record such determination and shall define

155

the boundaries of the watershed improvement district.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.36 Determination of feasibility of proposed district; referendum.—After the supervisors have determined that a need for the proposed watershed improvement district exists, have defined the boundaries of the proposed district, and have obtained the approval of the Department of Agriculture and Consumer Services for the formation of the proposed district, the supervisors shall consider the district is administratively practicable and feasible. To assist the supervisors in determining such question, a referendum shall be held by the supervisors upon the proposition of the proposed district, given by the supervisors, and ballots thereon shall be substantially the form set forth in s. 592.12, but the proposed district and name thereof shall be substituted for the soil and water conservation district, and the millage rate to be approved by the voters who are owners of freeholds within the proposed district. At such referendum each owner of land lying within the proposed district shall be entitled to cast one vote, in person or by proxy, for each acre or fractional part thereof of land within the proposed district belonging to such owner, except that only one vote may be cast for each such acre or fractional part thereof, regardless of whether the legal title thereto is held in single or multiple ownership. The supervisors may provide such rules and regulations governing the conduct of the hearing and referendum as they deem necessary.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.37 Consideration of results of referendum; Declaration of organization of district.—The results of the referendum shall be considered by the supervisors in determining whether the operation of the proposed watershed improvement district is administratively practicable and feasible. If the supervisors determine that the operation of the proposed district is not administratively practicable and feasible, they shall record such determination and shall deny the petition. If the supervisors determine that the operation of the proposed district is administratively practicable and feasible, they shall record such determination, however, that the supervisors shall not be authorized to determine that the operation of the proposed district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum, representing not less than a majority of the land area within the proposed district, shall have been in favor of the creation of the watershed improvement district.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.38 Organization of district; certification to clerks of circuit courts; limitation on tax rate.—If the supervisors determine that the operation of the proposed watershed improvement district is administratively practicable and feasible, they shall de-

clare the watershed improvement district to be duly organized and shall record such fact in their official minutes. Following such entry in their official minutes, the supervisors shall certify the fact of the creation of the district to the Department of Agriculture and Consumer Services, and shall furnish a copy of such certification to the clerk of the circuit court of each county in which any portion of the watershed improvement district is situated for recording in the public land records of each such county. The watershed improvement district shall thereupon constitute a governmental subdivision of this state and a public body corporate and politic. The state which purposes of the watershed improvement district shall be subject to the limitations set forth in s. 592.44.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.39 Establishment of watershed improvement district situated in more than one soil and water conservation district.—If a proposed watershed improvement district is situated in more than one soil and water conservation district, copies of the petition for the establishment of such district shall be presented to the board of supervisors of each of the soil and water conservation districts in which the proposed district is situated, and the supervisors of all such soil and water conservation districts affected shall act jointly as a board of supervisors with respect to all matters concerning the watershed improvement district, including its creation. Such watershed improvement district shall be organized in like manner and shall have the same powers and duties as a watershed improvement district situated entirely in one soil and water conservation district.

History.—S. 14, 1944, 1947, 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

592.40 Change of district boundaries; additions, detachments, transfers of land from one district to another; change of district name.
(1) Any one or more owners of land may petition the board of supervisors of the soil and water conservation district in which a watershed improvement district is situated to have their lands added to the watershed improvement district. The petition shall also be signed by the owners of a majority of the land area within the watershed improvement district, and shall be subject to approval by the board of directors of the watershed improvement district. The petition shall describe the land desired to be annexed and state the number of acres of land involved and other information pertinent to such proposal.

(2) Within 30 days after such petition is filed, the board shall cause due notice to be given of a hearing on the petition. All interested parties shall have a right to attend the hearing and be heard. The board shall determine whether the lands described in the petition or any portion thereof shall be included in the watershed improvement district. If it is determined that such land should be added, the board shall certify this fact to the Department of Agriculture and Consumer Services, and furnish a copy of such certification to the clerk of the circuit court of each county in which any portion of the added lands

156

History.—a. b. ch. 69-236; no. 14, 35, ch. 69-106.

582.41 Board of directors of district.—

157

100

582.42 Officers, agents, and employees:

History... a. 6. ch. 69-215

582.43 Status and general powers of dis-

districts; power to levy tax; power to construct, operate, improve and maintain works of improvement; power to obtain necessary lands or interests; power to obtain necessary lands or interests;

§92.45 Fiscal powers of governing body; bonds, etc.—The board of directors of any water, sewer, or other utility district, or any other district established for improvement district shall have power, subject to the conditions and limitations of this chapter, to incur indebtedness and issue bonds of the western United States improvement district; however, such bonds shall be issued in full conformity with § 12, Art. VII of the Revised State Constitution, and chapter 100 of the Revised Code, and as said chapter relates to bond elections under said § 12, Art. VII of the Constitution.

552.46 Additional powers and authorities.—The authority and powers herein granted watershed improvement districts shall be additional to those of the soil and water conservation district in which the watershed improvement district is situated. The soil and water conservation district shall be authorized, notwithstanding the creation of the watershed improvement district, to continue to exercise its authority within the boundaries of the watershed improvement district.

History, --s. 5, ch. 63-239

502-47 Watershed improvement district to coordinate work with flood control districts.

—The board of directors of any watershed improvement district located within the Southwest Florida Water Management District created by chapter 61-689, Laws of Florida, or the Central and Southern Florida Flood Control District created by chapter 25-270, Laws of Florida, 1949, shall consult and advise with the boards of such districts in order to coordinate the work of the districts involved.

History.

88248. Discontinuance of watershed in improvement district.—

(1) At any time after 5 years from the organization of a watershed improvement district, the owners of not less than 25 percent of the land area within such district may file a petition with the board of supervisors of the soil and water conservation district or districts in which the watershed improvement district is situated requesting that the existence of the watershed improvement district be discontinued. The petition shall state the reasons for discontinuance and shall be accompanied by a statement of expenses and other obligations of the district have been met. A copy of such petition shall be furnished to the Department of Agriculture and Consumer Services.

(2) After giving due notice of a hearing on such petition, the board of supervisors may conduct such hearing on the petition as may be necessary to assist it in making a determination.

(3) Within 60 days after the petition is filed, a

substantially as provided for in ss. 582.36 and 592.37. Referendum shall be held by the board of supervisors. No informalities in the conduct of the referendum or

in any matters relating to the referendum shall invalidate it or its results if due notice of the referendum has been given.

(4) If a majority of the votes cast in such referendum, representing a majority of the land area within the watershed improvement district, shall have been cast in favor of the discontinuance of the watershed improvement district, and the board of supervisors determines that all maintenance and operation expenses and other obligations of the district have been met, the watershed improvement district shall be discontinued. A copy of such determination and discontinuance shall be certified to the Department of Agriculture and Consumer Services and to the clerk of

the circuit court of each county in which any portion of the watershed improvement district is situated for recording in the public land records of such county. History.—L. 1969, c. 225, § 14, 25, 26, 27.

582.40 Discontinuance of soil and water conservation district.—If any soil and water conservation district in which a watershed improvement district is situated is discontinued, the Department of Agriculture and Consumer Services shall thereafter serve in the same supervising capacity over the watershed improvement district as was theretofore served by the board of supervisors of such soil and water conservation district.

History.—L. 1969, c. 225, § 14, 25, 26, 27.

