

CHAPTER 2016-130

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 589

An act relating to environmental control; repealing s. 373.245, F.S., relating to violations of consumptive use permit conditions; amending s. 373.323, F.S.; revising eligibility requirements for taking the water well contractor licensure examination; amending s. 378.209, F.S.; providing conditions under which certain constructed clay settling areas are exempt from reclamation rate and financial responsibility requirements; amending s. 403.067, F.S.; authorizing the use of land set-asides and land use modifications, including constructed wetlands or other water quality improvement projects, in water quality credit trading; amending s. 403.201, F.S.; providing applicability of prohibited variances concerning discharges of waste into waters of the state and hazardous waste management; amending s. 403.709, F.S.; revising conditions under which the Department of Environmental Protection may use specified funds to contract with a third party for the closing and long-term care of solid waste management facilities; abrogating the scheduled expiration of such authorization; amending s. 403.814, F.S.; requiring Florida registered professionals to certify that certain stormwater management systems will meet additional requirements for a general permit; requiring that such certification be submitted to the department or water management district before construction of such stormwater management systems begins; reenacting s. 373.414(17), F.S., relating to variances for activities in surface waters and wetlands, to incorporate the amendment made by the act to s. 403.201, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 373.245, Florida Statutes, is repealed.

Section 2. Paragraph (b) of subsection (3) of section 373.323, Florida Statutes, is amended to read:

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

(3) An applicant who meets the following requirements shall be entitled to take the water well contractor licensure examination:

(b) Has at least 2 years of experience in constructing, repairing, or abandoning water wells. Satisfactory proof of such experience shall be demonstrated by providing:

1. Evidence of the length of time the applicant has been engaged in the business of the construction, repair, or abandonment of water wells as a

major activity, as attested to by a letter from a water well contractor or ~~and~~ a letter from a water well inspector employed by a governmental agency.

2. A list of at least 10 water wells that the applicant has constructed, repaired, or abandoned within the preceding 5 years. Of these wells, at least seven must have been constructed, as defined in s. 373.303(2), by the applicant. The list shall also include:

- a. The name and address of the owner or owners of each well.
- b. The location, primary use, and approximate depth and diameter of each well that the applicant has constructed, repaired, or abandoned.
- c. The approximate date the construction, repair, or abandonment of each well was completed.

Section 3. Subsection (4) is added to section 378.209, Florida Statutes, to read:

378.209 Timing of reclamation.—

(4) When the beneficial use of a constructed clay settling area has been extended, the rate of reclamation requirements in paragraphs (1)(a)-(e) and the requirements of s. 378.208 apply to such settling area when the beneficial use of such settling area is completed.

Section 4. Paragraph (i) is added to subsection (8) of section 403.067, Florida Statutes, to read:

403.067 Establishment and implementation of total maximum daily loads.—

(8) WATER QUALITY CREDIT TRADING.—

(i) Land set-asides and land use modifications not otherwise required by state law or a permit, including constructed wetlands or other water quality improvement projects, that reduce nutrient loads into nutrient impaired surface waters may be used under this subsection.

Section 5. Subsection (2) of section 403.201, Florida Statutes, is amended to read:

403.201 Variances.—

(2) ~~A No~~ variance may not ~~shall~~ be granted from any provision or requirement concerning discharges of waste into waters of the state or hazardous waste management which would result in the provision or requirement being less stringent than a comparable federal provision or requirement, except as provided in s. 403.70715. However, this subsection does not prohibit the issuance of moderating provisions or requirements under state law, subject to any necessary approval by the United States Environmental Protection Agency.

Section 6. Subsections (2) through (4) of section 403.709, Florida Statutes, are renumbered as subsections (3) through (5), respectively, present subsection (5) is amended, and a new subsection (2) is added to that section, to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fees. There is created the Solid Waste Management Trust Fund, to be administered by the department.

(2) Notwithstanding subsection (1), a solid waste landfill closure account is established within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities.

(a) The department may use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facility if:

1. The facility has, had, or was not required to obtain a department permit to operate the facility;

2. The permittee, where required by permit or rule, provided proof of financial assurance for closure in the form of an insurance certificate or an alternative form of financial assurance mechanism established pursuant to s. 403.7125;

3. The department has ordered the facility closed or has deemed the facility abandoned;

4. The closure of the facility is accomplished in substantial accordance with a closure plan approved by the department; and

5. The department has sufficient documentation to confirm that the issuer of the insurance policy or alternative form of financial assurance will provide or reimburse the funds required to complete the closing and long-term care of the facility.

(b) The department shall deposit all funds received from the insurer or other parties for reimbursing the costs of closing or long-term care of the facility under this subsection into the solid waste landfill closure account.

(c) If the amount available under the insurance policy or alternative form of financial assurance is insufficient, or is otherwise unavailable, to perform or complete the facility closing or long-term care under this subsection, and the department has used all such funds from the insurance policy or alternative form of financial assurance, the department may use funds from the Solid Waste Management Trust Fund to pay for or reimburse additional expenses needed for performing or completing the approved facility closure or long-term care activities.

~~(5)(a) Notwithstanding subsection (1), a solid waste landfill closure account is established within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities. The department may use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facility if:~~

- ~~1. The facility has or had a department permit to operate the facility;~~
- ~~2. The permittee provided proof of financial assurance for closure in the form of an insurance certificate;~~
- ~~3. The facility is deemed to be abandoned or was ordered to close by the department;~~
- ~~4. Closure is accomplished in substantial accordance with a closure plan approved by the department; and~~
- ~~5. The department has written documentation that the insurance company issuing the closure insurance policy will provide or reimburse the funds required to complete closing and long-term care of the facility.~~

~~(b) The department shall deposit the funds received from the insurance company as reimbursement for the costs of closing or long-term care of the facility into the solid waste landfill closure account.~~

~~(c) This subsection expires July 1, 2016.~~

Section 7. Subsection (12) of section 403.814, Florida Statutes, is amended to read:

403.814 General permits; delegation.—

(12) A general permit is granted for the construction, alteration, and maintenance of a stormwater management system serving a total project area of up to 10 acres meeting the criteria of this subsection. ~~Such~~ When the stormwater management systems must be system is designed, operated, and maintained in accordance with applicable rules adopted pursuant to part IV of chapter 373. ~~There is a rebuttable presumption that the discharge from~~ for such systems complies system will comply with state water quality standards. The construction of such a system may proceed without any further agency action by the department or water management district if, before within 30 days after construction begins, an electronic self-certification is submitted to the department or water management district which that certifies that the proposed system was designed by a Florida registered professional and that the registered professional has certified that the proposed system will ~~to~~ meet the following additional requirements:

(a) The total project area involves less than 10 acres and less than 2 acres of impervious surface;

- (b) ~~No~~ Activities will not impact wetlands or other surface waters;
- (c) ~~No~~ Activities are not conducted in, on, or over wetlands or other surface waters;
- (d) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;
- (e) The project is not part of a larger common plan, development, or sale; and
- (f) The project does not:
 1. Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;
 2. Cause adverse impacts to existing surface water storage and conveyance capabilities;
 3. Cause a violation of state water quality standards; or
 4. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086.

Section 8. For the purpose of incorporating the amendment made by this act to section 403.201, Florida Statutes, in a reference thereto, subsection (17) of section 373.414, Florida Statutes, is reenacted to read:

373.414 Additional criteria for activities in surface waters and wetlands.

(17) The variance provisions of s. 403.201 are applicable to the provisions of this section or any rule adopted pursuant to this section. The governing boards and the department are authorized to review and take final agency action on petitions requesting such variances for those activities they regulate under this part and s. 373.4145.

Section 9. This act shall take effect upon becoming a law.

Approved by the Governor March 25, 2016.

Filed in Office Secretary of State March 25, 2016.