

1                   A bill to be entitled  
2           An act relating to inland protection; amending s.  
3           376.3071, F.S.; revising legislative findings and  
4           intent; authorizing the Inland Protection Trust Fund  
5           to be used for the cleanup of drycleaning solvents  
6           under the drycleaning solvent cleanup program;  
7           specifying an appropriation to the Water Quality  
8           Assurance Trust Fund for use in the drycleaning  
9           solvent cleanup program; specifying an annual  
10          appropriation; amending s. 376.3078, F.S.; revising  
11          the sources of funds for the drycleaning solvent  
12          cleanup program; revising the maximum amount of funds  
13          the Department of Environmental Protection may  
14          obligate under the program annually; making a  
15          technical change; revising the use of the scoring  
16          system application to include program sites;  
17          specifying that assignments use a specific scoring  
18          system created by rule; revising the annual funding  
19          available for advanced site assessment; requiring the  
20          department to have a specified number of individual  
21          contractors participating in the program by a  
22          specified date; requiring the department to adopt a  
23          scoring system by rule for scoring contractors;  
24          specifying system requirements; providing an effective  
25          date.

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

Section 1. Paragraphs (a), (d), and (g) of subsection (1), paragraphs (a) and (b) of subsection (2), and subsections (3) and (4) of section 376.3071, Florida Statutes, are amended, paragraph (c) is added to subsection (12), and subsection (15) is added to that section, to read:

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

(1) FINDINGS.—In addition to the legislative findings set forth in s. 376.30, the Legislature finds and declares:

(a) That significant quantities of drycleaning solvents, petroleum, and petroleum products are being stored in storage systems in this state, which is a hazardous undertaking.

(d) That adequate financial resources must be readily available, including the appropriation specified in subsection (15), to provide for the expeditious supply of safe and reliable alternative sources of potable water to affected persons and to provide a means for investigation and cleanup of contamination sites without delay.

(g) That the drycleaning solvent cleanup program under s. 376.3078 and the Petroleum Restoration Program must be implemented in a manner that reduces costs and improves the efficiency of rehabilitation activities to reduce the

51 significant backlog of contaminated sites eligible for state-  
52 funded rehabilitation and the corresponding threat to the public  
53 health, safety, and welfare, water resources, and the  
54 environment.

55 (2) INTENT AND PURPOSE.—

56 (a) It is the intent of the Legislature to establish the  
57 Inland Protection Trust Fund to serve as a repository for funds  
58 which will enable the department to respond without delay to  
59 incidents of inland contamination related to the storage of  
60 drycleaning solvents, petroleum, and petroleum products in order  
61 to protect the public health, safety, and welfare and to  
62 minimize environmental damage.

63 (b) It is the intent of the Legislature that the  
64 department implement rules and procedures to improve the  
65 efficiency and productivity of the drycleaning solvent cleanup  
66 program under s. 376.3078 and the Petroleum Restoration Program.  
67 The department is directed to implement rules and policies to  
68 eliminate and reduce duplication of site rehabilitation efforts,  
69 paperwork, and documentation, and micromanagement of site  
70 rehabilitation tasks. The department shall make efficiency and  
71 productivity a priority in the administration of the Petroleum  
72 Restoration Program and to this end, when necessary, shall use  
73 petroleum program contracted services to improve the efficiency  
74 and productivity of the program. Furthermore, when implementing  
75 rules and procedures to improve such efficiency and

76 | productivity, the department shall recognize and consider the  
 77 | potential value of utilizing contracted inspection and  
 78 | professional resources to efficiently and productively  
 79 | administer the program.

80 |         (3) CREATION.—There is created the Inland Protection Trust  
 81 | Fund, hereinafter referred to as the "fund," to be administered  
 82 | by the department. This fund shall be used by the department as  
 83 | a nonlapsing revolving fund, consisting of the appropriation  
 84 | specified in subsection (15), for carrying out the purposes of  
 85 | this section and ss. 376.3073 and 376.3078 ~~s. 376.3073~~. To this  
 86 | fund shall also be credited all penalties, judgments,  
 87 | recoveries, reimbursements, loans, and other fees and charges  
 88 | related to the implementation of this section and ss. 376.3073  
 89 | and 376.3078 ~~s. 376.3073~~ and the excise tax revenues levied,  
 90 | collected, and credited pursuant to ss. 206.9935(3) and  
 91 | 206.9945(1)(c). Charges against the fund shall be made pursuant  
 92 | to this section.

93 |         (4) USES.—Whenever, in its determination, incidents of  
 94 | inland contamination related to the storage of drycleaning  
 95 | solvents, petroleum, or petroleum products may pose a threat to  
 96 | the public health, safety, or welfare, water resources, or the  
 97 | environment, the department shall obligate moneys available in  
 98 | the fund to provide for:

99 |             (a) Prompt investigation and assessment of contamination  
 100 | sites.

101 (b) Expeditious restoration or replacement of potable  
 102 water supplies as provided in s. 376.30(3)(c)1.

103 (c) Rehabilitation of contamination sites, which shall  
 104 consist of cleanup of affected soil, groundwater, and inland  
 105 surface waters, using the most cost-effective alternative that  
 106 is technologically feasible and reliable and that provides  
 107 adequate protection of the public health, safety, and welfare,  
 108 and water resources, and that minimizes environmental damage,  
 109 pursuant to the site selection and cleanup criteria established  
 110 by the department under subsection (5), except that this  
 111 paragraph does not authorize the department to obligate funds  
 112 for payment of costs which may be associated with, but are not  
 113 integral to, site rehabilitation, such as the cost for  
 114 retrofitting or replacing petroleum storage systems.

115 (d) Maintenance and monitoring of contamination sites.

116 (e) Inspection and supervision of activities described in  
 117 this subsection.

118 (f) Payment of expenses incurred by the department in its  
 119 efforts to obtain from responsible parties the payment or  
 120 recovery of reasonable costs resulting from the activities  
 121 described in this subsection.

122 (g) Payment of any other reasonable costs of  
 123 administration, including those administrative costs incurred by  
 124 the Department of Health in providing field and laboratory  
 125 services, toxicological risk assessment, and other assistance to

126 | the department in the investigation of drinking water  
 127 | contamination complaints and costs associated with public  
 128 | information and education activities.

129 |       (h) Establishment and implementation of the compliance  
 130 | verification program as authorized in s. 376.303(1)(a),  
 131 | including contracting with local governments or state agencies  
 132 | to provide for the administration of such program through  
 133 | locally administered programs, to minimize the potential for  
 134 | further contamination sites.

135 |       (i) Funding of the provisions of ss. 376.305(6), ~~and~~  
 136 | 376.3072, and 376.3078.

137 |       (j) Activities related to removal and replacement of  
 138 | petroleum storage systems, exclusive of costs of any tank,  
 139 | piping, dispensing unit, or related hardware, if soil removal is  
 140 | approved as a component of site rehabilitation and requires  
 141 | removal of the tank where remediation is conducted under this  
 142 | section or if such activities were justified in an approved  
 143 | remedial action plan.

144 |       (k) Reasonable costs of restoring property as nearly as  
 145 | practicable to the conditions which existed before activities  
 146 | associated with contamination assessment or remedial action  
 147 | taken under s. 376.303(4).

148 |       (l) Repayment of loans to the fund.

149 |       (m) Expenditure of sums from the fund to cover ineligible  
 150 | sites or costs as set forth in subsection (13), if the

151 department in its discretion deems it necessary to do so. In  
152 such cases, the department may seek recovery and reimbursement  
153 of costs in the same manner and pursuant to the same procedures  
154 established for recovery and reimbursement of sums otherwise  
155 owed to or expended from the fund.

156 (n) Payment of amounts payable under any service contract  
157 entered into by the department pursuant to s. 376.3075, subject  
158 to annual appropriation by the Legislature.

159 (o) Drycleaning solvent remediation on eligible sites in  
160 the drycleaning solvent cleanup program and petroleum  
161 remediation pursuant to this section throughout a state fiscal  
162 year. The department shall establish a process to uniformly  
163 encumber appropriated funds throughout a state fiscal year and  
164 shall allow for emergencies and imminent threats to public  
165 health, safety, and welfare, water resources, and the  
166 environment as provided in paragraph (5) (a). This paragraph does  
167 not apply to appropriations associated with the free product  
168 recovery initiative provided in paragraph (5) (c) or the advanced  
169 cleanup program provided in s. 376.30713.

170 (p) Enforcement of this section and ss. 376.30-376.317 by  
171 the Fish and Wildlife Conservation Commission. The department  
172 shall disburse moneys to the commission for such purpose.

173 (q) Payments for program deductibles, copayments, and  
174 limited contamination assessment reports that otherwise would be  
175 paid by another state agency for state-funded drycleaning

176 | solvent or petroleum contamination site rehabilitation.  
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178 | The issuance of a site rehabilitation completion order pursuant  
179 | to subsection (5) or paragraph (12)(b) for contamination  
180 | eligible for programs funded by this section does not alter the  
181 | project's eligibility for state-funded remediation if the  
182 | department determines that site conditions are not protective of  
183 | human health under actual or proposed circumstances of exposure  
184 | under subsection (5). The Inland Protection Trust Fund may be  
185 | used only to fund the activities in ss. 376.30-376.317 except s.  
186 | 376.3079 ~~ss. 376.3078 and 376.3079~~. Amounts on deposit in the  
187 | fund in each fiscal year must first be applied or allocated for  
188 | the payment of amounts payable by the department pursuant to  
189 | paragraph (n) under a service contract entered into by the  
190 | department pursuant to s. 376.3075 and appropriated in each year  
191 | by the Legislature before making or providing for other  
192 | disbursements from the fund. This subsection does not authorize  
193 | the use of the fund for cleanup of contamination caused  
194 | primarily by a discharge of solvents as defined in s.  
195 | 206.9925(6), or polychlorinated biphenyls when their presence  
196 | causes them to be hazardous wastes, except solvent contamination  
197 | which is the result of chemical or physical breakdown of  
198 | petroleum products and is otherwise eligible or solvent  
199 | contamination from a drycleaning facility that is eligible for  
200 | funding in the drycleaning solvent cleanup program. Facilities



201 used primarily for the storage of motor or diesel fuels as  
 202 defined in ss. 206.01 and 206.86 are not excluded from  
 203 eligibility pursuant to this section.

204 (12) SITE CLEANUP.—

205 (c) Drycleaning solvent facility restoration.—An annual  
 206 appropriation of \$30 million shall be deposited from the fund  
 207 into the Water Quality Assurance Trust Fund to be used for the  
 208 drycleaning solvent cleanup program under s. 376.3078.

209 (15) APPROPRIATION.—A minimum of \$150 million is  
 210 appropriated annually to the Inland Protection Trust Fund to  
 211 implement this section.

212 Section 2. Paragraphs (a) and (b) of subsection (2),  
 213 paragraph (m) of subsection (3), paragraphs (d) and (e) of  
 214 subsection (8), and paragraph (e) of subsection (14) of section  
 215 376.3078, Florida Statutes, are amended, and subsection (15) is  
 216 added to that section, to read:

217 376.3078 Drycleaning facility restoration; funds; uses;  
 218 liability; recovery of expenditures.—

219 (2) FUNDS; USES.—

220 (a) All penalties, judgments, recoveries, reimbursements,  
 221 loans, and other fees and charges related to the implementation  
 222 of this section and the tax revenues levied, collected, and  
 223 credited pursuant to ss. 376.70 and 376.75, and fees collected  
 224 pursuant to s. 376.303(1)(d), ~~and~~ deductibles collected pursuant  
 225 to paragraph (3)(d), and the funds appropriated from the Inland

226 | Protection Trust Fund pursuant to s. 376.3071(12)(c), shall be  
227 | deposited into the Water Quality Assurance Trust Fund, to be  
228 | used upon appropriation as provided in this section and s.  
229 | 376.3071(12)(c). Charges against the funds for drycleaning  
230 | facility or wholesale supply site rehabilitation shall be made  
231 | in accordance with ~~the provisions of~~ this section.

232 | (b) Whenever, in its determination, incidents of  
233 | contamination by drycleaning solvents related to the operation  
234 | of drycleaning facilities and wholesale supply facilities may  
235 | pose a threat to the environment or the public health, safety,  
236 | or welfare, the department shall obligate moneys available  
237 | pursuant to this section to provide for:

238 | 1. Prompt investigation and assessment of the contaminated  
239 | drycleaning facility or wholesale supply facility sites.

240 | 2. Expeditious treatment, restoration, or replacement of  
241 | potable water supplies as provided in s. 376.30(3)(c)1.

242 | 3. Rehabilitation of contaminated drycleaning facility or  
243 | wholesale supply facility sites, which shall consist of  
244 | rehabilitation of affected soil, groundwater, and surface  
245 | waters, using the most cost-effective alternative that is  
246 | technologically feasible and reliable and that provides adequate  
247 | protection of the public health, safety, and welfare and  
248 | minimizes environmental damage, in accordance with the site  
249 | selection and rehabilitation criteria established by the  
250 | department under subsection (4), except that nothing in this

251 subsection shall be construed to authorize the department to  
 252 obligate drycleaning facility restoration funds for payment of  
 253 costs that may be associated with, but are not integral to,  
 254 drycleaning facility or wholesale supply facility site  
 255 rehabilitation.

256 4. Maintenance and monitoring of contaminated drycleaning  
 257 facility or wholesale supply facility sites.

258 5. Inspection and supervision of activities described in  
 259 this subsection.

260 6. Payment of expenses incurred by the department in its  
 261 efforts to obtain from responsible parties the payment or  
 262 recovery of reasonable costs resulting from the activities  
 263 described in this subsection.

264 7. Payment of any other reasonable costs of  
 265 administration, including those administrative costs incurred by  
 266 the Department of Health in providing field and laboratory  
 267 services, toxicological risk assessment, and other assistance to  
 268 the department in the investigation of drinking water  
 269 contamination complaints and costs associated with public  
 270 information and education activities.

271 8. Reasonable costs of restoring property as nearly as  
 272 practicable to the conditions that existed prior to activities  
 273 associated with contamination assessment or remedial action.

274  
 275 The department may ~~shall~~ not obligate funds in excess of the sum

276 of the annual appropriation plus the appropriation specified in  
277 s. 376.3071(12)(c).

278 (3) REHABILITATION LIABILITY.—

279 (m) The owner, operator, and either the real property  
280 owner or agent of the real property owner may apply for the  
281 drycleaning solvent ~~contamination~~ cleanup program by jointly  
282 submitting a completed application package to the department  
283 pursuant to the rules that shall be adopted by the department.  
284 If the application cannot be jointly submitted, then the  
285 applicant shall provide notice of the application to other  
286 interested parties. After reviewing the completed application  
287 package, the department may ~~shall~~ notify the applicant in  
288 writing as to whether the drycleaning facility or wholesale  
289 supply facility is eligible for the program. If the department  
290 denies eligibility for a completed application package, the  
291 notice of denial shall specify the reasons for the denial,  
292 including specific and substantive findings of fact, and shall  
293 constitute agency action subject to the provisions of chapter  
294 120. For the purposes of ss. 120.569 and 120.57, the real  
295 property owner and the owner and operator of a drycleaning  
296 facility or wholesale supply facility which is the subject of a  
297 decision by the department with regard to eligibility shall be  
298 deemed to be parties whose substantial interests are determined  
299 by the department's decision to approve or deny eligibility.

300 (8) SCORING SYSTEM APPLICATION.—

301 (d) Assignments for program tasks or sites to be conducted  
302 by state contractors ~~shall be made according to the current~~  
303 ~~priority list and~~ shall be based on the department scoring  
304 system created pursuant to paragraph (15) (b) ~~determination of~~  
305 ~~contractor logistics, geographical considerations, and other~~  
306 ~~criteria the department determines are necessary to achieve~~  
307 ~~cost-effective site rehabilitation.~~

308 (e) Assignments for the program tasks or sites shall be  
309 made beginning with the highest-ranked sites on the priority  
310 list at the effective date the assignment is made and proceed  
311 through lower-ranked sites.

312 (14) ADVANCED SITE ASSESSMENT.—It is in the public  
313 interest, and of substantial environmental and economic benefit  
314 to the state, to provide an opportunity to conduct site  
315 assessment on a limited basis at contaminated sites in advance  
316 of the ranking of the sites on the priority list as specified in  
317 subsection (8).

318 (e) Available funding for advanced site assessments may  
319 not exceed 10 percent of the annual Water Quality Assurance  
320 Trust Fund appropriation for the drycleaning solvent cleanup  
321 program under this section plus the appropriation specified in  
322 s. 376.3071(12) (c).

323 (15) STATE CONTRACTOR PARTICIPATION AND SCORING SYSTEM.—

324 (a) The department must have at least 25 individual state  
325 contractors participating in the drycleaning solvent cleanup

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326 program by December 31, 2018.

327 (b) The department shall by rule create a system for  
328 scoring contractors to be assigned to drycleaning solvent  
329 cleanup program tasks and sites. Such system, at a minimum, must  
330 consider the contractor's qualifications, the contractor's  
331 rates, and any of the contractor's performance evaluations for  
332 previous work performed pursuant to this section.

333 Section 3. This act shall take effect July 1, 2018.