

Bill No. SB 1318

Barcode 070346

Proposed Committee Substitute by the Committee on General
Government Appropriations

1 A bill to be entitled
2 An act relating to underground petroleum
3 storage tanks; amending s. 376.3071, F.S.;
4 directing the Department of Environmental
5 Protection to encumber petroleum remediation
6 funds uniformly throughout the state's fiscal
7 year; providing for a prioritization within a
8 priority scoring range; providing that limited
9 source removal projects approved outside the
10 established priority order may be funded from
11 the Inland Protection Trust Fund; providing a
12 priority order for these projects; limiting the
13 use of the funds to certain specified purposes;
14 limiting the amount of money allocated to such
15 projects each fiscal year; providing for the
16 repeal of the law on a specified date; amending
17 s. 376.30713, F.S.; providing that the
18 preapproved advanced cleanup provisions may
19 apply to certain discharges under the petroleum
20 cleanup participation program; amending s.
21 376.3075, F.S.; authorizing the Inland
22 Protection Financing Corporation to borrow
23 money and issue bonds to pay for large-scale
24 cleanups that are eligible for state funding;
25 requiring submission of a plan by the Inland
26 Protection Financing Corporation prior to the
27 issuance of certain debt; requiring the
28 department to obtain legislative authorization
29 for certain debt-financed cleanup projects and
30 payments; extending the termination date of the
31 corporation; creating s. 376.30715, F.S.;

Bill No. SB 1318

Barcode 070346

1 providing that certain contaminated sites
2 acquired prior to July 1, 1990, are eligible
3 for state financial cleanup assistance;
4 providing an effective date.

5
6 WHEREAS, all of Florida's underground petroleum storage
7 tank systems must be upgraded prior to January 1, 2010, and

8 WHEREAS, it is in the state's best interest to
9 encourage early replacement of such systems, and

10 WHEREAS, it is in the state's best interest to provide
11 financial assistance for limited source removal at the time of
12 the system's replacement, and

13 WHEREAS, it is in the state's best interest to provide
14 for a method of payment for large-scale cleanups in the future
15 so as to minimize the impact on other cleanups that are
16 underway, NOW, THEREFORE,

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsections (4) and (5) of section
21 376.3071, Florida Statutes, are amended and subsection (14) is
22 added to said section to read:

23 376.3071 Inland Protection Trust Fund; creation;
24 purposes; funding.--

25 (4) USES.--Whenever, in its determination, incidents
26 of inland contamination related to the storage of petroleum or
27 petroleum products may pose a threat to the environment or the
28 public health, safety, or welfare, the department shall
29 obligate moneys available in the fund to provide for:

30 (a) Prompt investigation and assessment of
31 contamination sites.

Bill No. SB 1318

Barcode 070346

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

3 (c) Rehabilitation of contamination sites, which shall
4 consist of cleanup of affected soil, groundwater, and inland
5 surface waters, using the most cost-effective alternative that
6 is technologically feasible and reliable and that provides
7 adequate protection of the public health, safety, and welfare
8 and minimizes environmental damage, in accordance with the
9 site selection and cleanup criteria established by the
10 department under subsection (5), except that nothing herein
11 shall be construed to authorize the department to obligate
12 funds for payment of costs which may be associated with, but
13 are not integral to, site rehabilitation, such as the cost for
14 retrofitting or replacing petroleum storage systems.

15 (d) Maintenance and monitoring of contamination sites.

16 (e) Inspection and supervision of activities described
17 in this subsection.

18 (f) Payment of expenses incurred by the department in
19 its efforts to obtain from responsible parties the payment or
20 recovery of reasonable costs resulting from the activities
21 described in this subsection.

22 (g) Payment of any other reasonable costs of
23 administration, including those administrative costs incurred
24 by the Department of Health in providing field and laboratory
25 services, toxicological risk assessment, and other assistance
26 to the department in the investigation of drinking water
27 contamination complaints and costs associated with public
28 information and education activities.

29 (h) Establishment and implementation of the compliance
30 verification program as authorized in s. 376.303(1)(a),
31 including contracting with local governments or state agencies

Bill No. SB 1318

Barcode 070346

1 to provide for the administration of such program through
2 locally administered programs, to minimize the potential for
3 further contamination sites.

4 (i) Funding of the provisions of ss. 376.305(6) and
5 376.3072.

6 (j) Activities related to removal and replacement of
7 petroleum storage systems, exclusive of costs of any tank,
8 piping, dispensing unit, or related hardware, if soil removal
9 is preapproved as a component of site rehabilitation and
10 requires removal of the tank where remediation is conducted
11 under s. 376.30711 or if such activities were justified in an
12 approved remedial action plan performed pursuant to subsection
13 (12).

14 (k) Activities related to reimbursement application
15 preparation and activities related to reimbursement
16 application examination by a certified public accountant
17 pursuant to subsection (12).

18 (l) Reasonable costs of restoring property as nearly
19 as practicable to the conditions which existed prior to
20 activities associated with contamination assessment or
21 remedial action taken under s. 376.303(4).

22 (m) Repayment of loans to the fund.

23 (n) Expenditure of sums from the fund to cover
24 ineligible sites or costs as set forth in subsection (13), if
25 the department in its discretion deems it necessary to do so.
26 In such cases, the department may seek recovery and
27 reimbursement of costs in the same manner and in accordance
28 with the same procedures as are established for recovery and
29 reimbursement of sums otherwise owed to or expended from the
30 fund.

31 (o) Payment of amounts payable under any service

Bill No. SB 1318

Barcode 070346

1 contract entered into by the department pursuant to s.
2 376.3075, subject to annual appropriation by the Legislature.

3 (p) Petroleum remediation pursuant to s. 376.30711
4 throughout a state fiscal year. The department shall establish
5 a process to uniformly encumber appropriated funds throughout
6 a state fiscal year and shall allow for emergencies and
7 imminent threats to human health and the environment as
8 provided in paragraph (5)(a). This paragraph does not apply to
9 appropriations associated with the free product recovery
10 initiative of paragraph (5)(c) or the preapproved advanced
11 cleanup program of s. 376.30713.

12

13 The Inland Protection Trust Fund may only be used to fund the
14 activities in ss. 376.30-376.319 except ss. 376.3078 and
15 376.3079. Amounts on deposit in the Inland Protection Trust
16 Fund in each fiscal year shall first be applied or allocated
17 for the payment of amounts payable by the department pursuant
18 to paragraph (o) under a service contract entered into by the
19 department pursuant to s. 376.3075 and appropriated in each
20 year by the Legislature prior to making or providing for other
21 disbursements from the fund. Nothing in this subsection shall
22 authorize the use of the Inland Protection Trust Fund for
23 cleanup of contamination caused primarily by a discharge of
24 solvents as defined in s. 206.9925(6), or polychlorinated
25 biphenyls when their presence causes them to be hazardous
26 wastes, except solvent contamination which is the result of
27 chemical or physical breakdown of petroleum products and is
28 otherwise eligible. Facilities used primarily for the storage
29 of motor or diesel fuels as defined in ss. 206.01 and 206.86
30 shall be presumed not to be excluded from eligibility pursuant
31 to this section.

Bill No. SB 1318

Barcode 070346

1 (5) SITE SELECTION AND CLEANUP CRITERIA.--

2 (a) The department shall adopt rules to establish
3 priorities based upon a scoring system for state-conducted
4 cleanup at petroleum contamination sites based upon factors
5 that include, but need not be limited to:

6 1. The degree to which human health, safety, or
7 welfare may be affected by exposure to the contamination;

8 2. The size of the population or area affected by the
9 contamination;

10 3. The present and future uses of the affected aquifer
11 or surface waters, with particular consideration as to the
12 probability that the contamination is substantially affecting,
13 or will migrate to and substantially affect, a known public or
14 private source of potable water; and

15 4. The effect of the contamination on the environment.

16

17 Moneys in the fund shall then be obligated for activities
18 described in paragraphs (4) (a) - (e) at individual sites in
19 accordance with such established criteria. However, nothing
20 in this paragraph shall be construed to restrict the
21 department from modifying the priority status of a
22 rehabilitation site where conditions warrant, taking into
23 consideration the actual distance between the contamination
24 site and groundwater or surface water receptors or other
25 factors that affect the risk of exposure to petroleum
26 products' chemicals of concern. The department may use the
27 effective date of a department final order granting
28 eligibility pursuant to subsections (9) and (13) and ss.
29 376.305(6) and 376.3072 to establish a prioritization system
30 within a particular priority scoring range.

31 (b) It is the intent of the Legislature to protect the

Bill No. SB 1318

Barcode 070346

1 health of all people under actual circumstances of exposure.
2 The secretary shall establish criteria by rule for the purpose
3 of determining, on a site-specific basis, the rehabilitation
4 program tasks that comprise a site rehabilitation program and
5 the level at which a rehabilitation program task and a site
6 rehabilitation program may be deemed completed. In
7 establishing the rule, the department shall incorporate, to
8 the maximum extent feasible, risk-based corrective action
9 principles to achieve protection of human health and safety
10 and the environment in a cost-effective manner as provided in
11 this subsection. Criteria for determining what constitutes a
12 rehabilitation program task or completion of site
13 rehabilitation program tasks and site rehabilitation programs
14 shall be based upon the factors set forth in paragraph (a) and
15 the following additional factors:

16 1. The current exposure and potential risk of exposure
17 to humans and the environment including multiple pathways of
18 exposure.

19 2. The appropriate point of compliance with cleanup
20 target levels for petroleum products' chemicals of concern.
21 The point of compliance shall be at the source of the
22 petroleum contamination. However, the department is
23 authorized to temporarily move the point of compliance to the
24 boundary of the property, or to the edge of the plume when the
25 plume is within the property boundary, while cleanup,
26 including cleanup through natural attenuation processes in
27 conjunction with appropriate monitoring, is proceeding. The
28 department also is authorized, pursuant to criteria provided
29 for in this paragraph, to temporarily extend the point of
30 compliance beyond the property boundary with appropriate
31 monitoring, if such extension is needed to facilitate natural

Bill No. SB 1318

Barcode 070346

1 | attenuation or to address the current conditions of the plume,
2 | provided human health, public safety, and the environment are
3 | adequately protected. Temporary extension of the point of
4 | compliance beyond the property boundary, as provided in this
5 | subparagraph, shall include notice to local governments and
6 | owners of any property into which the point of compliance is
7 | allowed to extend.

8 | 3. The appropriate site-specific cleanup goal. The
9 | site-specific cleanup goal shall be that all petroleum
10 | contamination sites ultimately achieve the applicable cleanup
11 | target levels provided in this paragraph. However, the
12 | department is authorized to allow concentrations of the
13 | petroleum products' chemicals of concern to temporarily exceed
14 | the applicable cleanup target levels while cleanup, including
15 | cleanup through natural attenuation processes in conjunction
16 | with appropriate monitoring, is proceeding, provided human
17 | health, public safety, and the environment are adequately
18 | protected.

19 | 4. The appropriateness of using institutional or
20 | engineering controls. Site rehabilitation programs may
21 | include the use of institutional or engineering controls to
22 | eliminate the potential exposure to petroleum products'
23 | chemicals of concern to humans or the environment. Use of
24 | such controls must be preapproved by the department and
25 | institutional controls shall not be acquired with funds from
26 | the Inland Protection Trust Fund. When institutional or
27 | engineering controls are implemented to control exposure, the
28 | removal of such controls must have prior department approval
29 | and must be accompanied immediately by the resumption of
30 | active cleanup, or other approved controls, unless cleanup
31 | target levels pursuant to this paragraph have been achieved.

Bill No. SB 1318

Barcode 070346

1 5. The additive effects of the petroleum products'
2 chemicals of concern. The synergistic effects of petroleum
3 products' chemicals of concern shall also be considered when
4 the scientific data becomes available.

5 6. Individual site characteristics which shall
6 include, but not be limited to, the current and projected use
7 of the affected groundwater in the vicinity of the site,
8 current and projected land uses of the area affected by the
9 contamination, the exposed population, the degree and extent
10 of contamination, the rate of contaminant migration, the
11 apparent or potential rate of contaminant degradation through
12 natural attenuation processes, the location of the plume, and
13 the potential for further migration in relation to site
14 property boundaries.

15 7. Applicable state water quality standards.

16 a. Cleanup target levels for petroleum products'
17 chemicals of concern found in groundwater shall be the
18 applicable state water quality standards. Where such standards
19 do not exist, the cleanup target levels for groundwater shall
20 be based on the minimum criteria specified in department rule.
21 The department shall consider the following, as appropriate,
22 in establishing the applicable minimum criteria: calculations
23 using a lifetime cancer risk level of 1.0E-6; a hazard index
24 of 1 or less; the best achievable detection limit; the
25 naturally occurring background concentration; or nuisance,
26 organoleptic, and aesthetic considerations.

27 b. Where surface waters are exposed to petroleum
28 contaminated groundwater, the cleanup target levels for the
29 petroleum products' chemicals of concern shall be based on the
30 surface water standards as established by department rule.
31 The point of measuring compliance with the surface water

Bill No. SB 1318

Barcode 070346

1 standards shall be in the groundwater immediately adjacent to
2 the surface water body.

3 8. Whether deviation from state water quality
4 standards or from established criteria is appropriate. The
5 department may issue a "No Further Action Order" based upon
6 the degree to which the desired cleanup target level is
7 achievable and can be reasonably and cost-effectively
8 implemented within available technologies or engineering and
9 institutional control strategies. Where a state water quality
10 standard is applicable, a deviation may not result in the
11 application of cleanup target levels more stringent than said
12 standard. In determining whether it is appropriate to
13 establish alternate cleanup target levels at a site, the
14 department may consider the effectiveness of source removal
15 that has been completed at the site and the practical
16 likelihood of: the use of low yield or poor quality
17 groundwater; the use of groundwater near marine surface water
18 bodies; the current and projected use of the affected
19 groundwater in the vicinity of the site; or the use of
20 groundwater in the immediate vicinity of the storage tank
21 area, where it has been demonstrated that the groundwater
22 contamination is not migrating away from such localized
23 source; provided human health, public safety, and the
24 environment are adequately protected.

25 9. Appropriate cleanup target levels for soils.

26 a. In establishing soil cleanup target levels for
27 human exposure to petroleum products' chemicals of concern
28 found in soils from the land surface to 2 feet below land
29 surface, the department shall consider the following, as
30 appropriate: calculations using a lifetime cancer risk level
31 of 1.0E-6; a hazard index of 1 or less; the best achievable

Bill No. SB 1318

Barcode 070346

1 | detection limit; or the naturally occurring background
2 | concentration.

3 | b. Leachability-based soil target levels shall be
4 | based on protection of the groundwater cleanup target levels
5 | or the alternate cleanup target levels for groundwater
6 | established pursuant to this paragraph, as appropriate.
7 | Source removal and other cost-effective alternatives that are
8 | technologically feasible shall be considered in achieving the
9 | leachability soil target levels established by the department.
10 | The leachability goals shall not be applicable if the
11 | department determines, based upon individual site
12 | characteristics, that petroleum products' chemicals of concern
13 | will not leach into the groundwater at levels which pose a
14 | threat to human health and safety or the environment.

15 |
16 | However, nothing in this paragraph shall be construed to
17 | restrict the department from temporarily postponing completion
18 | of any site rehabilitation program for which funds are being
19 | expended whenever such postponement is deemed necessary in
20 | order to make funds available for rehabilitation of a
21 | contamination site with a higher priority status.

22 | (c) The department shall require source removal, if
23 | warranted and cost-effective, at each site eligible for
24 | restoration funding from the Inland Protection Trust Fund.

25 | 1. Funding for free product recovery may be provided
26 | in advance of the order established by the priority ranking
27 | system under ~~pursuant to~~ paragraph (a) for site cleanup
28 | activities. However, a separate prioritization for free
29 | product recovery shall be established consistent with ~~the~~
30 | ~~provisions of~~ paragraph (a). No more than \$5 million shall be
31 | encumbered from the Inland Protection Trust Fund in any fiscal

Barcode 070346

1 year for free product recovery conducted in advance of the
2 priority order ~~under pursuant to~~ paragraph (a) established for
3 site cleanup activities.

4 2. Funding for limited interim soil-source removals
5 for sites that will become inaccessible for future remediation
6 due to road infrastructure and right-of-way restrictions
7 resulting from a pending Department of Transportation road
8 construction project or for secondary containment upgrading of
9 underground storage tanks required under Chapter 62-761,
10 Florida Administrative Code, may be provided in advance of the
11 order established by the priority ranking system under
12 paragraph (a) for site cleanup activities. The department
13 shall provide written guidance on the limited source removal
14 information and technical evaluation necessary to justify a
15 request for a limited source removal in advance of the
16 priority order pursuant to paragraph (a) established for site
17 cleanup activities. Prioritization for limited source removal
18 projects associated with a secondary containment upgrade in
19 any fiscal year shall be determined on a first-come,
20 first-served basis according to the approval date issued under
21 s. 376.30711 for the limited source removal. Funding for
22 limited source removals associated with secondary containment
23 upgrades shall be limited to 10 sites in each fiscal year for
24 each facility owner and any related person. The limited source
25 removal for secondary containment upgrades shall be completed
26 no later than 6 months after the department issues its
27 approval of the project and the approval automatically expires
28 at the end of the 6 months. Funding for Department of
29 Transportation and secondary containment upgrade source
30 removals may not exceed \$50,000 for a single facility unless
31 the department makes a determination that it is cost-effective

Bill No. SB 1318

Barcode 070346

1 and environmentally beneficial to exceed this amount, but in
2 no event shall the department authorize costs in excess of
3 \$100,000 for a single facility. Department funding for limited
4 interim soil-source removals associated with Department of
5 Transportation projects and secondary containment upgrades
6 shall be limited to supplemental soil assessment, soil
7 screening, soil removal, backfill material, treatment or
8 disposal of the contaminated soil, dewatering related to the
9 contaminated soil removal in an amount of up to 10 percent of
10 the total interim soil-source removal project costs,
11 treatment, and disposal of the contaminated groundwater and
12 preparation of the source removal report. No other costs
13 associated with the facility upgrade may be paid with
14 department funds. No more than \$1 million for Department of
15 Transportation limited source removal projects and \$10 million
16 for secondary containment upgrade limited source removal
17 projects conducted in advance of the priority order
18 established under paragraph (a) for site cleanup activities
19 shall be encumbered from the Inland Protection Trust Fund in
20 any fiscal year. This subparagraph is repealed effective June
21 30, 2008.

22 3. Once free product removal and other source removal
23 identified in this paragraph are completed at a site, and
24 notwithstanding the order established by the priority ranking
25 system under paragraph (a) for site cleanup activities is
26 complete, the department may shall reevaluate the site to
27 determine the degree of active cleanup needed to continue site
28 rehabilitation. Further, the department shall determine if
29 the reevaluated site qualifies for natural attenuation
30 monitoring only or if no further action is required to
31 rehabilitate the site. If additional site rehabilitation is

Bill No. SB 1318

Barcode 070346

1 necessary to reach no further action status, the site
2 rehabilitation shall be conducted in the order established by
3 the priority ranking system under paragraph (a) and the
4 department is encouraged to utilize natural attenuation and
5 monitoring where site conditions warrant.

6 (14) Prior to the department entering into a service
7 contract with the Inland Protection Financing Corporation that
8 includes payments by the department to support any existing or
9 planned note, bond, certificate of indebtedness, or other
10 obligation or evidence of indebtedness of the corporation
11 pursuant to s. 376.3075, the Legislature, by law, must
12 specifically approve the cleanup project to be financed and
13 must authorize the department to enter into such a contract.

14 Section 2. Subsection (1) of section 376.30713,
15 Florida Statutes, is amended to read:

16 376.30713 Preapproved advanced cleanup.--

17 (1) In addition to the legislative findings provided
18 in s. 376.30711, the Legislature finds and declares:

19 (a) That the inability to conduct site rehabilitation
20 in advance of a site's priority ranking pursuant to s.
21 376.3071(5) (a) may substantially impede or prohibit property
22 transactions or the proper completion of public works
23 projects.

24 (b) While the first priority of the state is to
25 provide for protection of the water resources of the state,
26 human health, and the environment, the viability of commerce
27 is of equal importance to the state.

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

Bill No. SB 1318

Barcode 070346

1 to facilitate property transactions or public works projects.

2 (d) It is appropriate for persons responsible for site
3 rehabilitation to share the costs associated with managing and
4 conducting preapproved advanced cleanup, to facilitate the
5 opportunity for preapproved advanced cleanup, and to mitigate
6 the additional costs that will be incurred by the state in
7 conducting site rehabilitation in advance of the site's
8 priority ranking. Such cost sharing will result in more
9 contaminated sites being cleaned up and greater environmental
10 benefits to the state. The provisions of this section shall
11 only be available for sites eligible for restoration funding
12 under EDI, ATRP, or PLIRP. This section is available for
13 discharges eligible for restoration funding under the
14 petroleum cleanup participation program for the state's cost
15 share of site rehabilitation. Applications shall include a
16 cost-sharing commitment for this section in addition to the
17 25-percent-copayment requirement of the petroleum cleanup
18 participation program. This section is not available for any
19 discharge under a petroleum cleanup participation program
20 where the 25-percent-copayment requirement of the petroleum
21 cleanup participation program has been reduced or eliminated
22 pursuant to s. 376.3071(13)(c).

23 Section 3. Section 376.3075, Florida Statutes, is
24 amended to read:

25 376.3075 Inland Protection Financing Corporation.--

26 (1) There is hereby created a nonprofit public benefit
27 corporation to be known as the "Inland Protection Financing
28 Corporation" for the purpose of financing the rehabilitation
29 of petroleum contamination sites pursuant to ss.
30 376.30-376.319 and the payment, purchase, and settlement of
31 reimbursement obligations of the department pursuant to s.

Bill No. SB 1318

Barcode 070346

1 376.3071(12), existing as of December 31, 1996. Such
2 reimbursement obligations are referred to in this section as
3 existing reimbursement obligations. The corporation shall
4 terminate on July 1, 2025 ~~2011~~.

5 (2) The corporation shall be governed by a board of
6 directors consisting of the Governor or the Governor's
7 designee, the Chief Financial Officer or the Chief Financial
8 Officer's designee, the chair of the Florida Black Business
9 Investment Board, and the secretary of the Department of
10 Environmental Protection. The executive director of the State
11 Board of Administration shall be the chief executive officer
12 of the corporation and shall direct and supervise the
13 administrative affairs of the corporation and shall control,
14 direct, and supervise the operation of the corporation. The
15 corporation shall also have such other officers as may be
16 determined by the board of directors.

17 (3) The corporation shall have all the powers of a
18 corporate body under the laws of the state to the extent not
19 inconsistent with or restricted by the provisions of this
20 section, including, but not limited to, the power to:

21 (a) Adopt, amend, and repeal bylaws not inconsistent
22 with this section.

23 (b) Sue and be sued.

24 (c) Adopt and use a common seal.

25 (d) Acquire, purchase, hold, lease, and convey such
26 real and personal property as may be proper or expedient to
27 carry out the purposes of the corporation and this section,
28 and to sell, lease, or otherwise dispose of such property.

29 (e) Elect or appoint and employ such officers, agents,
30 and employees as the corporation deems advisable to operate
31 and manage the affairs of the corporation, which officers,

Bill No. SB 1318

Barcode 070346

1 agents, and employees may be officers or employees of the
2 department and the state agencies represented on the board of
3 directors of the corporation.

4 (f) 1. Borrow money and issue notes, bonds,
5 certificates of indebtedness, or other obligations or
6 evidences of indebtedness necessary to pay the backlog or to
7 reimburse moneys from the Inland Protection Trust Fund used
8 pursuant to subsection (6) and to pay for large-scale
9 cleanups, such as ports, airports, and terminal facilities,
10 which are eligible for state funding.

11 2. No action shall be taken pursuant to this
12 paragraph, consistent with subsection (5), or to s.
13 376.3071(14) prior to the Inland Protection Financing
14 Corporation submitting a detailed financing plan to the
15 Governor, the President of the Senate, and the Speaker of the
16 House of Representatives. The plan shall address the need for
17 action to be taken pursuant to this paragraph to protect the
18 health, safety, and welfare of the people of the state; the
19 ability of the corporation to limit the impact on the Inland
20 Protection Trust Fund of all outstanding notes, bonds,
21 certificates of indebtedness, or other obligations or
22 evidences of indebtedness to less than \$10 million in any
23 state fiscal year; and the ability of the corporation to limit
24 its total outstanding debt to no more than \$100 million.

25 (g) Make and execute any and all contracts, trust
26 agreements, and other instruments and agreements necessary or
27 convenient to accomplish the purposes of the corporation and
28 this section.

29 (h) Select, retain, and employ professionals,
30 contractors, or agents, which may include the Florida State
31 Board of Administration's Division of Bond Finance, as shall

Bill No. SB 1318

Barcode 070346

1 | be necessary or convenient to enable or assist the corporation
2 | in carrying out the purposes of the corporation and this
3 | section.

4 | (i) Do any act or thing necessary or convenient to
5 | carry out the purposes of the corporation and this section and
6 | the powers provided in this section.

7 | (4) The corporation is authorized to enter into one or
8 | more service contracts with the department pursuant to which
9 | the corporation shall provide services to the department in
10 | connection with financing the functions and activities
11 | provided for in ss. 376.30-376.319. The department may enter
12 | into one or more such service contracts with the corporation
13 | and to provide for payments under such contracts pursuant to
14 | s. 376.3071(4)(o), subject to annual appropriation by the
15 | Legislature. The proceeds from such service contracts may be
16 | used for the costs and expenses of administration of the
17 | corporation after payments as set forth in subsection (5).
18 | Each service contract shall have a term not to exceed 10 years
19 | and shall terminate no later than July 1, 2025 ~~2011~~. The
20 | aggregate amount payable from the Inland Protection Trust Fund
21 | under all such service contracts shall not exceed \$65 million
22 | in any state fiscal year. Amounts annually appropriated and
23 | applied to make payments under such service contracts shall
24 | not include any funds derived from penalties or other payments
25 | received from any property owner or private party, including
26 | payments received from s. 376.3071(6)(b). In compliance with
27 | provisions of s. 287.0641 and other applicable provisions of
28 | law, the obligations of the department under such service
29 | contracts shall not constitute a general obligation of the
30 | state or a pledge of the faith and credit or taxing power of
31 | the state nor shall such obligations be construed in any

Bill No. SB 1318

Barcode 070346

1 manner as an obligation of the State Board of Administration
2 or entities for which it invests funds, other than the
3 department as provided in this section, but shall be payable
4 solely from amounts available in the Inland Protection Trust
5 Fund, subject to annual appropriation. In compliance with
6 this subsection and s. 287.0582, the service contract shall
7 expressly include the following statement: "The State of
8 Florida's performance and obligation to pay under this
9 contract is contingent upon an annual appropriation by the
10 Legislature."

11 (5) The corporation may issue and incur notes, bonds,
12 certificates of indebtedness, or other obligations or
13 evidences of indebtedness payable from and secured by amounts
14 payable to the corporation by the department under a service
15 contract entered into pursuant to subsection (4) for the
16 purpose of paying, purchasing, or settling existing
17 reimbursement obligations. The term of any such note, bond,
18 certificate of indebtedness, or other obligation or evidence
19 of indebtedness shall not have a financing term that exceeds 6
20 years, nor shall the total payments for principal and interest
21 on any such note, bond, certificate of indebtedness, or other
22 obligation or evidence of indebtedness exceed the original
23 amount of approved reimbursement claims to be paid, purchased,
24 or settled by the corporation by more than \$50 million. The
25 corporation may select its financing team and issue its
26 obligations through competitive bidding or negotiated
27 contracts, whichever is most cost-effective. Any such
28 indebtedness of the corporation shall not constitute a debt or
29 obligation of the state or a pledge of the faith and credit or
30 taxing power of the state, but shall be payable from and
31 secured by payments made by the department under the service

Bill No. SB 1318

Barcode 070346

1 contract pursuant to s. 376.3071(4)(o).

2 (6) Upon the issuance of debt obligations by the
3 corporation pursuant to subsection (5) for the payment,
4 purchase, or settlement of existing reimbursement obligations,
5 amounts on deposit in the Inland Protection Trust Fund shall
6 not be available for the payment, purchase, or settlement of
7 existing reimbursement obligations to the extent proceeds of
8 such debt obligations are available for the payment of such
9 existing reimbursement obligations. If, after the initial
10 issuance of debt obligations pursuant to subsection (5),
11 amounts on deposit in the Inland Protection Trust Fund are
12 used to pay existing reimbursement obligations, the
13 corporation shall reimburse the Inland Protection Trust Fund
14 for such payments from available proceeds of debt obligations
15 issued pursuant to subsection (5). Payment, purchase, or
16 settlement by the corporation of existing reimbursement
17 obligations otherwise payable pursuant to s. 376.3071(12)
18 shall satisfy the obligation of the department to make such
19 payments. Any such existing reimbursement obligations
20 purchased by the corporation shall be satisfied and
21 extinguished upon purchase by the corporation.

22 (7) The corporation shall pay, purchase, or settle
23 existing reimbursement obligations as determined by the
24 department. The department shall implement the repayment
25 priorities and method and amount of payments pursuant to s.
26 376.3071(12). However, any claims for reimbursement pursuant
27 to s. 376.3071(12) that the corporation is unable to pay
28 because of the limitations contained in subsection (5) shall
29 be paid by the department from the receipts of the Inland
30 Protection Trust Fund.

31 (8) The fulfillment of the purposes of the corporation

Bill No. SB 1318

Barcode 070346

1 promotes the health, safety, and general welfare of the people
2 of the state and serves as essential governmental functions
3 and a paramount public purpose.

4 (9) The corporation is exempt from taxation and
5 assessments of any nature whatsoever upon its income and any
6 property, assets, or revenues acquired, received, or used in
7 the furtherance of the purposes provided in this chapter. The
8 obligations of the corporation incurred pursuant to subsection
9 (5) and the interest and income thereon and all security
10 agreements, letters of credit, liquidity facilities, or other
11 obligations or instruments arising out of, entered into in
12 connection therewith, or given to secure payment thereof are
13 exempt from all taxation, provided such exemption does not
14 apply to any tax imposed by chapter 220 on the interest,
15 income, or profits on debt obligations owned by corporations.

16 (10) The corporation shall validate obligations to be
17 incurred pursuant to subsection (5) and the validity and
18 enforceability of any service contracts providing for payments
19 pledged to the payment thereof by proceedings under chapter
20 75. The validation complaint shall be filed only in the
21 Circuit Court for Leon County. The notice required to be
22 published by s. 75.06 shall be published in Leon County and
23 the complaint and order of the circuit court shall be served
24 only on the State Attorney for the Second Judicial Circuit.
25 Sections 75.04(2) and 75.06(2) shall not apply to a complaint
26 for validation filed as authorized in this subsection. The
27 validation of at least the first obligations incurred pursuant
28 to subsection (5) shall be appealed to the Supreme Court, to
29 be handled on an expedited basis.

30 (11) The corporation shall not be deemed to be a
31 special district for purposes of chapter 189 or a unit of

Bill No. SB 1318

Barcode 070346

1 local government for purposes of part III of chapter 218. The
2 provisions of chapters 120 and 215, except the limitation on
3 interest rates provided by s. 215.84 which applies to
4 obligations of the corporation issued pursuant to this
5 section, and part I of chapter 287, except ss. 287.0582 and
6 287.0641, shall not apply to this section, the corporation
7 created hereby, the service contracts entered into pursuant to
8 this section, or to debt obligations issued by the corporation
9 as contemplated in this section.

10 (12) In no event shall any of the benefits or earnings
11 of the corporation inure to the benefit of any private person.

12 (13) Upon dissolution of the corporation, title to all
13 property owned by the corporation shall revert to the state.

14 (14) The corporation may contract with the State Board
15 of Administration to serve as trustee with respect to debt
16 obligations issued by the corporation as contemplated by this
17 section and to hold, administer, and invest proceeds of such
18 debt obligations and other funds of the corporation and to
19 perform other services required by the corporation. The State
20 Board of Administration may perform such services and may
21 contract with others to provide all or a part of such services
22 and to recover its and such other costs and expenses thereof.

23 Section 4. Section 376.30715, Florida Statutes, is
24 created to read:

25 376.30715 Innocent Victim Petroleum Storage System
26 Restoration.--A contaminated site acquired prior to July 1,
27 1990, which has ceased operating as a petroleum storage or
28 retail business prior to January 1, 1985 is eligible for
29 financial assistance pursuant to s. 376.305(6),
30 notwithstanding s. 376.305(6)(a). Eligible sites shall be
31 ranked in accordance with s. 376.2071(5).

Bill No. SB 1318

Barcode 070346

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

Section 5. This act shall take effect July 1, 2005.