Agriculture & Natural Resources Appropriations Subcommittee

Meeting Packet

January 25, 2012
9:00 AM – 10:30 AM
Reed Hall

Dean Cannon
Speaker

Trudi K. Williams
Chair

AGENDA

Agriculture & Natural Resources Appropriations Subcommittee
January 25, 2012
9:00 a.m. – 10:30 a.m.
Reed Hall

I. Call to Order/Roll Call

II. Opening Remarks

III. Chair's Budget Proposal for FY 2012-13

IV. PCB ANRAS 12-01—License to Carry a Concealed Weapon or Firearm

V. CS/HB 749—Consumer Services by Young

VI. CS/CS/503—Environmental Regulation by Patronis

VII. Closing Remarks/Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANRAS 12-01 License to Carry a Concealed Weapon or Firearm
SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Appropriations Subcommittee		Lolley	Massengale

SUMMARY ANALYSIS

To obtain a concealed weapons or firearms license, a person must complete an application with the Division of Licensing of the Department of Agriculture and Consumer Services, meet specific criteria, and submit a nonrefundable license fee not to exceed $85 if he or she has not previously been issued a statewide license, or a nonrefundable license fee not to exceed $70 for renewal of a statewide license. Costs for processing a required set of fingerprints are borne by the applicant and are in addition to the application fee.

Currently, the fees charged by the Department of Agriculture and Consumer Services are $75 for a new license and $65 for a renewal license. A $42 background check is included in the total fee that new applicants and renewal applicants pay. All fees received are deposited in the Division of Licensing Trust Fund and as appropriated are used to administer the provisions of s. 790.06, F.S.

The bill amends s. 790.06, F.S., to reduce the maximum fee allowable for new a license from $85 to $70, and a renewal license from $70 to $60. Because the actual fees charged are $75 and $65, respectively, the result is a $5 reduction for both.

Qualified individuals applying for an initial license or a renewal license to carry a concealed weapon or firearm will see a reduction in the cost of the license, which may stimulate an increase in the demand for a license, and thus, could result in an increase in commercial firearm sales.

Although the fee reduction has a significant fiscal impact on state government revenues, the estimated cash balance of $22.7 million for next fiscal year in the Division of Licensing Trust Fund is well able to absorb the reduction for many years when the reduction would be more than offset by very strong revenues deferred from prior years' new and renewal licenses, as well as future years' revenue.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 790.06(5), F.S., specifies that the applicant for a license to carry a concealed weapon or firearm must submit to the department:

- A complete application described in s. 790.06(4), F.S.;
- A nonrefundable license fee not to exceed $85, if he or she has not previously been issued a statewide license or a nonrefundable license fee not to exceed $70 for renewal of a statewide license.
- A full set of fingerprints of the applicant administered by a law enforcement agency or the Division of Licensing of the Department of Agriculture and Consumer Services.
- A photocopy of a certificate or an affidavit or document showing that the applicant passed an approved firearm competency course or class; and
- A full frontal view color photograph of the applicant taken within the preceding 30 days.

Currently, the fees charged by the Department of Agriculture and Consumer Services are $75 for a new license and $65 for a renewal license. A $42 background check is included in the total fee that new applicants and renewal applicants pay. All fees received are deposited in the Division of Licensing Trust Fund and as appropriated are used to administer the provisions of s. 790.06, F.S.

Section 493.6117, F.S. specifies that the unencumbered balance in the trust fund at the beginning of the year shall not exceed $100,000, and any excess shall be transferred to the General Revenue Fund unallocated. Notwithstanding the provision in s. 493.6117, F.S., however, ss. 790.06(13), and 215.32(2)(b)4., F.S., state that all moneys collected [in the Division of Licensing Trust Fund] shall not revert to the General Revenue Fund.

The actual cash balance for last fiscal year ending June 30, 2011, was $14.7 million. The cash balance for the current fiscal year is estimated to be $20.4 million, and next fiscal year is estimated to be $22.7 million. The cash balance includes deferred revenue because a license is valid for a period of 7 years from the date of issuance, that is, 86 percent of each dollar collected is not applied to cover expenditures until the subsequent 6 years of the license.

In 2008, the Legislature extended the license renewal period from 5 years to 7 years.[1]

Effect of Proposed Changes

The bill amends s. 790.06, F.S., to reduce the maximum fee allowable for new a license from $85 to $70, and a renewal license from $70 to $60. Because the actual fees charged are $75 and $65, respectively, the result is a $5 reduction for both.

B. SECTION DIRECTORY:

Section 1. Amends s. 790.06, F.S., relating to licensure fees for carrying a concealed weapon or firearm.

Section 2. Provides an effective date of July 1, 2012.

[1] s. 1, ch. 08-105 L.O.F.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 2012-13	FY 2013-14	FY 2014-15
Division of Licensing Trust Fund	($949,970)	($663,005)	($684,400)
General Revenue Fund 4% Service Charge	($37,999)	($26,520)	($27,376)

The above revenue reductions in the Division of Licensing Trust Fund are based on projections of new applicants and existing licensees estimated to renew.

2. Expenditures:

According to the Department of Agriculture and Consumer Services, the $5 reduction would have no impact on day-to-day operations; however, printed license application forms, pamphlets, website information, and downloadable forms would have to be revised to reflect the change.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Not applicable.

2. Expenditures:

Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Qualified individuals applying for an initial license or a renewal license to carry a concealed weapon or firearm will see a reduction in the cost of the license.

The reduced fee to apply and receive a concealed weapon or firearm license may stimulate an increase in the demand for a license, which could result in an increase in commercial firearm sales.

D. FISCAL COMMENTS:

Concealed weapon renewal volume and the associated revenue are forecast to increase substantially for Fiscal Year 2015-16 through Fiscal Year 2017-18, as the first wave of 7-year licensees from 2008 and after renew their licenses. As a result of the $5 decrease in fees, the reduction in estimated annual revenues would be $1.2 million, $1.4 million and $1.3 million for Fiscal Years 2015-16, 2016-17, and 2017-18, respectively.

According to the Department of Agriculture and Consumer Services, the deferred revenue from a $5 fee reduction would not be realized until subsequent years when the reduction would be more than offset by very strong revenues deferred from prior years' new and renewal licenses, as well as future year's revenue.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department has sufficient direction in the bill and rulemaking authority to implement the change in statute.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to a license to carry a concealed weapon or firearm; amending s. 790.06, F.S.; reducing specified nonrefundable license fees; providing an effective date.

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

Section 1. Paragraph (b) of subsection (5) of section 790.06, Florida Statutes, is amended to read:

790.06 License to carry concealed weapon or firearm.—

(5) The applicant shall submit to the Department of Agriculture and Consumer Services:

(b) A nonrefundable license fee not to exceed $70 ~~$85~~, if he or she has not previously been issued a statewide license, or a nonrefundable license fee not to exceed $60 ~~$70~~ for renewal of a statewide license. Costs for processing the set of fingerprints as required in paragraph (c) shall be borne by the applicant. However, an individual holding an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," "correctional officer," or "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) is exempt from the licensing requirements of this section. If any individual holding an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," a "correctional officer," or a "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or

(9) wishes to receive a concealed weapons or firearms license, such person is exempt from the background investigation and all background investigation fees, but shall pay the current license fees regularly required to be paid by nonexempt applicants. Further, a law enforcement officer, a correctional officer, or a correctional probation officer as defined in s. 943.10(1), (2), or (3) is exempt from the required fees and background investigation for a period of 1 year subsequent to the date of retirement of said officer as a law enforcement officer, a correctional officer, or a correctional probation officer.

Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 749 Consumer Services
SPONSOR(S): Business & Consumer Affairs Subcommittee and Young
TIED BILLS: **IDEN./SIM. BILLS:** SB 888

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	15 Y, 0 N, As CS	Livingston	Creamer
2) Agriculture & Natural Resources Appropriations Subcommittee		Lolley	Massengale
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The mission of the Florida Department of Agriculture and Consumer Services is to "safeguard the public and support Florida's agricultural economy." The bill contains modifications to several regulatory and consumer activities under the jurisdiction of the department.

Specifically the bill:

- Removes the Division of Standards from the organizational structure of the department and adds conforming terminology specifying the powers and duties of the Division of Consumer Services.
- Authorizes the department to waive license renewal fees, not to exceed 2 years, if the General Inspection Trust Fund contains funds that exceed the amount required to cover the necessary functions of the Board of Professional Surveyors and Mappers.
- Authorizes the Board of Professional Surveyors and Mappers to include all inactive and delinquent licensees with active licensees should a special assessment fee be collected to eliminate a cash deficit; or if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the profession.
- Adds a criminal penalty of a third degree felony for surveyors and mappers giving false information while applying for a license.
- Directs the department to work cooperatively with the Department of Revenue relating to an "automated method" for disclosing surveyor and mapper license information relating to family desertion and nonsupport of dependent children.
- Allows waiver of firearm training requirements of private investigative, private security, or repossession services pursuant to documentation that supports competence of skills and education.
- Eliminates the fee required for the placement on the no sale list and provides for administrative penalties.
- Removes reference to the use of a social security number as a form of identification and allows the use of "or other valid form of identification" for an applicant for a license as commercial telephone sellers and salespersons.
- Replaces the outdated term "occupational license" with the term "business tax receipt."
- Requires a registrant of a brand of antifreeze not in production for distribution in this state to submit a notarized affidavit attesting to the fact that the brand is not in production for distribution.
- Specifies that notification of cancellation of insurance coverage for household moving services be provided at least 10 days prior to cancellation.
- Authorizes the temporary waiver of requirements for maintaining power generators at motor fuel dispensing facilities if the generators are to be used in an emergency or major disaster situation in another state.
- Replaces criminal sanctions with administrative and monetary sanctions for violations of requirements for the sale of brake fluids.

The bill appears to have an insignificant fiscal impact on state funds and no impact on local government. Although likely to be an insignificant fiscal impact, the Criminal Justice Impact Conference has not met to determine the fiscal impact of the third degree felony penalty in s. 472.0357, F.S., for surveyors and mappers who give false information while applying for a license.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The website of the Florida Department of Agriculture and Consumer Services states that the mission of the department is to safeguard the public and support Florida's agricultural economy by:

- Ensuring the safety and wholesomeness of food and other consumer products through inspection and testing programs;
- Protecting consumers from unfair and deceptive business practices and providing consumer information;
- Assisting Florida's farmers and agricultural industries with the production and promotion of agricultural products; and
- Conserving and protecting the state's agricultural and natural resources by reducing wildfires, promoting environmentally safe agricultural practices, and managing public lands.[1]

The bill includes modifications to several regulatory and consumer activities under the jurisdiction of the department.

Division of Standards

Present situation

The website of the Division of Standards states that the division is authorized to protect consumers from unfair and unsafe business practices across a wide range of products, including gasoline, brake fluid, antifreeze, liquefied petroleum gas, amusement rides and weighing and measuring devices.[2]

Proposed changes

The bill removes the Division of Standards from the organizational structure of the department. The bill amends sections 20.14, 501.911, 526.51, 526.53, 570.29, 570.46, and 570.47, F.S., to conform.

The bill also amends s. 570.544, F.S., to add conforming terminology specifying the expansion of powers and duties of the Division of Consumer Services.

Business Tax Receipts

Present situation

The term local "occupational license" was removed by the 2006 Legislature in the "Local Business Tax Act" (ch. 2006-152, L.O.F.). This term was replaced with the reference to the term "business tax receipt.

Proposed changes

The bill makes replaces the term "occupational license" with the term "business tax receipt." The bill amends sections 501.015, 559.904, 559.928, and 559.935, F.S., to conform references.

[1] http://www.freshfromflorida.com/about_fdacs.html, last visited January 3, 2012
[2] http://www.freshfromflorida.com/standard/, last visited January 3, 2012.

Professional Surveyors and Mappers

Present situation

Pursuant to chapter 2009-66, Laws of Florida, effective October 1, 2009, the regulation of professional surveyors and mappers by the Board of Professional Surveyors and Mappers was transferred from the Department of Business and Professional Regulation (DBPR) to the Department of Agriculture and Consumer Services. The provisions of chapter 472, F.S., were cross referenced and the rules of the board have been transferred from under the umbrella of DBPR to the umbrella of the department.

Applicants must be approved by the board before taking the examination for state licensure. All applicants take the Florida Jurisdictional Multiple Choice examination.

Proposed changes

Numerous provisions of chapter 472, F.S., are addressed relating to oversight of the board and the department. These provisions were inadvertently omitted when the Board of Professional Surveyors and Mappers was transferred to the department. The bill:

- Amends s. 472.005, F.S., to redefine the term "license" to mean "a registration, certificate, or license issued by the department pursuant to this chapter and defines "consumer member" and "licensee."
- Amends s. 472.006, F.S., to direct the department to work cooperatively on licensee matters with the Department of Revenue relating to an "automated method" for periodically disclosing information relating to licensees found not to be in compliance with a support order, subpoena, order to show cause, or written agreement, to provide for reinstatement of a denied or suspended license, and to relieve the department of certain liability associated with the denial or suspension of a license.
- Amends s. 472,011, F.S., to authorize the department to waive license renewal fees, not to exceed 2 years, if the General Inspection Trust Fund contains funds that exceed the amount required to cover the necessary functions of the board.
- Further amends s. 472.011, F.S., to allow the board, by rule, to assess and collect a special assessment fee at any time from all inactive and delinquent licensees, along with active licensees, in an amount sufficient to maintain financial resources as determined by the board.
- Amends s. 472.015, F.S., to authorize the department to require that licensure applicants provide social security numbers when applying for initial issuance or renewal of a license.
- Amends s. 472.018, F.S., to require continuing education providers to electronically submit to the department information regarding the completion of continuing education courses. The information must be submitted electronically by the provider to the department within 30 calendar days after completion and before the renewal date. The department is required to establish a system to monitor licensee compliance with continuing education requirements and to determine the continuing education status of each licensee.
- Further amends s. 472.018, F.S., to authorize the department to refuse to renew a license until the licensee has satisfied all applicable continuing education requirements and the department or the board is authorized to impose additional penalties pursuant to the chapter or rules adopted pursuant to the chapter.
- Amends s. 472.0203, F.S., to specify that a licensure renewal notification may be sent by the department to the licensee by electronic means if the licensee has provided an e-mail address.
- Creates s. 472.0337, F.S., to statutorily authorize the department to administer oaths, take depositions, and issue subpoenas for the purpose of an investigation or other proceedings.
- Amends s.472.0351, F.S., to revise what actions constitute actionable licensure violations and the circumstances where a licensee can be disciplined and to clarify the ability of the board to discipline licenses and impose license restrictions as disciplinary penalties.
- Creates s. 472.0357, F.S., to provide a criminal penalty of a third degree felony for giving false information while applying for a license.

Security Industry

Present situation

The security industry is regulated by the Division of Licensing within the department. This industry includes private security, private investigative and recovery services which are offered to the public. Additionally, the division manages concealed weapon and firearm licenses.

Generally, applicants for licensure must be at least 18 years of age, be of good moral character, not have a disqualifying criminal history or a disqualifying history of mental illness, drug or alcohol abuse and must be authorized to work in this country. Each applicant must disclose contact and background information and submit to a federal background check.

Proposed changes

The bill amends s. 493.6105 and 493.6113, F.S., to authorize the department to waive firearms training requirements for the initial licensure and the renewal licensure of private investigative, private security, or repossession services pursuant to documentation that demonstrates competence of skills and education in relation to the duties authorized under the applicable license. Documentation includes proof that the applicant:

- Is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the preceding 2 years;
- Is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the preceding 2 years; or
- Provides proof of having completed requalification training during the preceding 2 years and the applicant possess a valid firearm certificate among those specified in s. 493.6105(6)(a). This subparagraph references:
    - 1. The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms certification.
    - 2. The National Rifle Association Private Security Firearm Instructor Certificate.
    - 3. A firearms instructor certificate issued by a federal law enforcement agency.

The bill amends ss. 493.6118 and 493.6120, F.S., to expand the authority of the department to take disciplinary action against certain additional license classes and training facility licensees.

Telephone Solicitation

Present situation

Section 501.059, F.S., specifies, in part, that a user of residential, mobile, or telephonic paging devices desiring to be placed on a "no sales solicitation calls" listing indicating that the consumer does not wish to receive unsolicited telephonic sales calls may notify the department and be placed on the no sales list and pay a fee of $10 for initial listing. The listing may be renewed annually for each consumer upon payment of a $5 continuation fee.

A telephone solicitor is prohibited from making an unsolicited telephonic sales call to a consumer if the number for that telephone appears on the no sales solicitation list published by the department.

Proposed changes

The bill does the following:

- Amends s. 501.059, F.S., to eliminate the fee required for the placement on the no sale list.
- This section is further amended to require the department to include placement on the Florida list if the Federal Trade Commission establishes a national no sales list and includes Florida subscribers who object to receiving solicitations.
- Creates an administrative fine in the amount of $1,000 for a violation of this section as an alternative to civil penalties.

Present situation

Part IV of chapter 501, F.S., is cited as the Florida Telemarketing Act. "Commercial telephone solicitation" means an unsolicited telephone call to a person initiated by a commercial telephone seller or salesperson, or an automated dialing machine for the purpose of inducing the person to purchase or invest in consumer goods or services.

"Commercial telephone seller" means any person who engages in commercial telephone solicitation on his or her own behalf or through salespersons. A commercial telephone seller does not include a salesperson. A commercial telephone seller includes, but is not limited to, owners, operators, officers, directors, partners, or other individuals engaged in the management activities of a business entity. Commercial telephone sellers must be licensed by the department unless specifically exempted from regulation.

"Salesperson" means any individual employed, appointed, or authorized by a commercial telephone seller and are also licensed by the department.

Proposed changes

The bill amends ss. 501.605 and 501.607, F.S., to remove reference to the use of a social security number as a form of identification and allows the use of "or other valid form of identification" for an applicant for a license as commercial telephone sellers and salespersons.

Antifreeze Registration

Present situation

Currently sections 501.91-501.923, F.S., are cited as the "Antifreeze Act of 1978." Each brand of antifreeze distributed in this state must be registered with the department prior to distribution. The department is authorized to have access to places where antifreeze is stored, or distributed, in order to inspect antifreeze products and to take samples for analysis.

Proposed changes

The bill requires that a registrant of a brand of antifreeze that is not in production for distribution in this state must submit a notarized affidavit attesting to the fact that the brand is not in production for distribution.

Household Moving Services

Present situation

Movers and moving brokers must register with the department annually. The department issues a certificate of registration for registrants to display. The department requires disclosure of contact information and copies of contracts offered to the public.

Movers must maintain liability insurance or post a $25,000 security. They must also maintain motor vehicle insurance. Moving brokers must post $25,000 security.

Proposed changes

The bill amends s. 507.04, F.S., to specify that notification of cancellation of insurance coverage for household moving services be provided to the department at least 10 days prior to cancellation of coverage.

Emergency Fuel Generators

Present situation

Currently s. 526.143, F.S., provides for the availability of alternate generated power capacity for motor fuel dispensing facilities. This section specifies that each motor fuel terminal facility and each motor fuel wholesaler facility must be capable of operating using an alternate generated power source for a minimum of 72 hours. The facility must have the additional power source available for operation no later than 36 hours after a major disaster.

Proposed changes

The bill amends s. 526.143, F.S., to authorize the department to temporarily waive requirements for maintaining generators if the generators are to be used in preparation for or response to an emergency or major disaster in another state. The waiver may be modified or terminated by the department if the Governor of Florida declares an emergency in this state.

Sale of Brake Fluid

Present situation

Currently, part II of chapter 526, F.S., provides for the approval of the sale of brake fluids in the state by the department. Application for registration must be made by a manufacturer, packer, distributor, seller, or other responsible person. Upon approval of the application, the department registers the brand name of the brake fluid and issues to the applicant an annual permit authorizing the sale of the product.

All new product applications must be accompanied by a certified report from an independent testing laboratory setting forth the analysis of the brake fluid which may not be less than the specifications established by the department for brake fluids.

Proposed changes

The bill:

- Amends s. 526.50, F.S., to define "brand" to mean the product name appearing on the container label and "formula" to mean the chemical mixture or composition of the product.
- Amends s. 526.51, F.S., to provide criteria for re-registering a previously registered brand and formula combination of brake fluid and to provide for a fine for late submission of the application for re-registration and required documentation.
- Amends s. 526.53, F.S., to authorize stop-sale orders for brake fluid to be served by the department on the owner of the brand name, the distributor, or other entity responsible for selling or distributing the brake fluid product.
- Amends s. 526.55, F.S., to replace criminal sanctions with administrative and monetary sanctions for violations of the sale of brake fluids. Violations include:
    - (1) To sell any brake fluid that is adulterated or misbranded, not registered, or on which a permit has not been issued.
    - (2) For anyone to remove any stop-sale order placed on a product by the department, or any product upon which a stop-sale order has been placed.

Miscellaneous Provision

Present situation

Section 366.85, F.S., specifies that the Division of Consumer Services is the agency responsible for "consumer conciliatory conferences" if such conferences are required pursuant to federal law. The division is also 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.

Proposed changes

The bill repeals the statutory responsibility for the division to conduct consumer conciliatory conferences and prepare conference reports relating to energy conservation resources.

B. SECTION DIRECTORY:

Section 1 amends s. 20.14, F.S., to delete reference to the Division of Standards.

Section 2 repeals s. 366.85, F.S., relating to public utilities energy conservation conferences.

Section 3 amends s. 472.005, F.S., to define terms relating to licensure of surveyors and mappers.

Section 4 amends s., 472.006, F.S., to authorize automated information exchange with the Department of Revenue.

Section 5 amends s. 472.011, F.S., to transfer authority for special fee assessments.

Section 6 amends s. 472.0131, F.S., to clarify timelines for review of examination results.

Section 7 amends s. 472.015, F.S., to clarify several licensure procedures.

Section 8 amends s. 472.018, F.S., to provide for electronic exchange of continuing education information.

Section 9 amends s. 472.0202, F.S., to correct a technical cross reference.

Section 10 amends s. 472.0203, F.S., to provide for electronic exchange of license renewal information.

Section 11 amends s. 472.025, F.S., to make technical references relating to document seals.

Section 12 amends s. 472.0337, F.S., to expand actions which may result in disciplinary action.

Section 13 amends s. 472.0351, F.S., to revise actions that constitute disciplinary violations.

Section 14 amends s. 472.0357, F.S., to create a felony penalty for deliberately providing false information.

Section 15 amends s. 493.6105, F.S., to allow waivers of firearms training requirements.

Section 16 amends s. 493.6113, F.S., to allow waivers of firearms training requirements.

Section 17 amends s. 493.6118, F.S., to provide for disciplinary action to be taken against certain additional license classes.

Section 18 amends s. 493.6120, F.S., to expand those licensees subject to disciplinary action.

Section 19 amends s. 501.015, F.S., to make statutory changes by replacing the outdated term "occupational license" with the term "business tax receipt."

Section 20 amends s. 501.017, F.S., to make grammatical changes.

Section 21 amends s. 501.059, F.S., to eliminate the fee charged for the placement on the "no sales solicitation list" and provides for administrative penalties.

Section 22 amends s. 501.605, F.S., to delete the social security number application requirement from commercial telephone solicitors.

Section 23 amends s. 501.607, F.S., to delete the social security number application requirement for commercial telephone salespersons.

Section 24 amends s. 501.911, F.S., to remove reference to the Division of Standards.

Section 25 amends s. 501.913, F.S., to specify who is responsible for registration of a brand of antifreeze.

Section 26 amends s. 507.04, F.S., to require 10 days notice of cancellation of insurance by household movers.

Section 27 amends s. 525.07, F.S., to make grammatical changes to procedures to follow while repairing a petroleum measuring device.

Section 28 amends s. 526.143, F.S., to authorize approval procedures for using power generators in emergency situations in other states.

Section 29 amends s. 526.50, F.S., to create definitions for "brand" and "formula" of brake fluid.

Section 30 amends s. 526.51, F.S., to remove reference to the Division of Standards and to provide criteria for re-registering a previously registered brand and formula combination of brake fluid.

Section 31 amends s. 526.52, F.S., to expand the list of approved quality standards for brake fluid.

Section 32 amends s. 526.53, F.S., to remove reference to the Division of Standards.

Section 33 amends s. 526.55, F.S., to replace criminal sanctions with administrative and monetary sanctions for violations relating to the sale of brake fluid.

Section 34 amends s. 539.001, F.S., to make grammatical changes for notification of the change of address for pawnbroker businesses.

Section 35 amends s. 559.805, F.S., to delete the social security number requirement for business opportunity applications.

Section 36 amends s. 559.904, F.S., to make statutory changes by replacing the outdated term "occupational license" with the term "business tax receipt."

Section 37 repeals s. 559.922, F.S., to remove language authorizing financial assistance for motor vehicle repair training.

Section 38 amends s. 559.928, F.S., to makes statutory changes by replacing the outdated term "occupational license" with the term "business tax receipt."

Section 39 amends s. 559.9285 F.S., to correct a cross reference.

Section 40 amends s. 559.935, F.S., to make statutory changes by replacing the outdated term "occupational license" with the term "business tax receipt."

Section 41 amends s. 570.29, F.S., to remove reference to the Division of Standards.

Section 42 repeals s. 570.46, F.S., to remove reference to the Division of Standards.

Section 43 repeals s. 570.47, F.S., to remove reference to the Division of Standards.

Section 44 amends s. 570.544, F.S., to reference chapters of the statutes specifying the powers and duties of the Division of Consumer Services and make grammatical corrections.

Section 45 amends s. 616.242, F.S., to correct a grammatical reference.

Section 46 provides for an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

By amending s.526.55, F.S., the department may receive increased revenues as a result of changing penalties from misdemeanor charges for violations involving the sale of brake fluid to an administrative fine of up to $5,000. Although the fiscal impact is indeterminate, the department indicates that any revenues collected would be insignificant.

Telephone Solicitation	**FY 2011-12**	**FY 2012-13**	**FY 2013-14**
General Inspection Trust Fund			
Initial Fees	$85,600	$0	$0
Renewal Fees	$445,000	$0	$0
Do Not Call List	$85,500	85,500	85,500
Administrative Fines*	$3,700	$485,000	$485,000
Total GITF Revenue	**$619,800**	**$570,500**	**$570,500**
General Revenue Fund		($3,958)	($3,958)

*As a result of eliminating the fees, an increase in the number of subscribers is expected. The Bureau of Mediation and Enforcement estimates 9,700 complaints annually with 10 percent resulting in an administrative fine.

2. Expenditures:

Telephone Solicitation	**FY 2011-12**	**FY 2012-13**	**FY 2013-14**
General Inspection Trust Fund			
Salaries & Benefits	$192,561	$192,561	$192,561
Expenses	$63,649	$38,450	$38,450
Contracted Services	$10,363	$3,309	$3,309
Data Processing	$29,700	$29,700	$29,700
GR 8% Service Charge	$49,598	$45,640	$45,640
Indirect Administrative Costs	$273,929	$260,840	$260,840
Total GITF Expenditures	**$619,800**	**$570,500**	**$570,500**

Although likely to be an insignificant fiscal impact, the Criminal Justice Impact Conference has not met to determine the fiscal impact of the third degree felony penalty in s. 472.0357, F.S., for surveyors and mappers who give false information while applying for a license.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By amending ss. 493.6105 and 493.6113, F.S., a waiver of the firearms training requirement for a first time or renewing applicant of a Class "G" license who is a federal law enforcement officer that has undergone proper firearms training will allow the applicant to qualify and remain eligible for a Class "G" license at a minimum expense and inconvenience.

By amending s. 501.059, F.S., persons desiring to be on the "no sales solicitation calls" listing will no longer be required to pay an initial fee or an annual renewal fee.

D. FISCAL COMMENTS:

The bill amends s. 472.011, F.S., to authorize the department to waive license renewal fees by rule when the General Inspection Trust Fund contains funds that exceed the amount required to cover the necessary functions of the Board of Professional Surveyors and Mappers. According to the Department of Agriculture and Consumer Services, licensing revenue is just adequate to cover the costs of the program, and therefore, it is unlikely that there would be any fee reduction.

Currently, the board is authorized by rule to assess and collect a one-time fee from each active and each voluntary inactive licensee in an amount necessary to eliminate a cash deficit or to maintain financial integrity. The bill amends s. 472.011, F.S., to authorize the board to include all inactive and delinquent licensees should a special assessment be collected, potentially increasing the number of licensees assessed; however, the amount cannot be determined.

The bill amends ss. 472.006 and 472.018, F.S., directing the department to implement an automated method for disclosing information relating to licensees and to establish a system to monitor licensee compliance with continuing education requirements. Both sections codify what is current policy, and thus, would not affect state funds..

The bill amends s. 526.51, F.S. to specify criteria for re-registering a previously registered brand and formula combination of brake fluid and to provide for a penalty of $25 for late submission of the application for re-registration and required documentation. The department included this to be consistent with the other commodities tested, but does not expect increased revenues.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that the counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

Not applicable.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to consumer services; amending s. 20.14, F.S.; deleting provisions establishing the Division of Standards within the Department of Agriculture and Consumer Services; repealing s. 366.85, F.S., relating to responsibilities of the department for compliance with certain federal requirements related to consumer conciliatory conferences and energy conservation products, services, and loans; amending s. 472.005, F.S.; redefining the term "license" and defining the terms "consumer member" and "licensee" for purposes of provisions governing surveyors and mappers; amending s. 472.006, F.S.; directing the Department of Agriculture and Consumer Services to work cooperatively with the Department of Revenue to implement an automated method of disclosing information related to licensees; authorizing the Department of Agriculture and Consumer Services to suspend or deny the license of any licensee found not to be in compliance with a support order, subpoena, order to show cause, or written agreement; providing for reinstatement of a denied or suspended license; relieving the department of certain liability associated with the denial or suspension of a license; amending s. 472.011, F.S.; authorizing the department to waive license renewal fees for land surveyors and mappers under certain circumstances; authorizing the

collection of an existing special assessment from inactive and delinquent licensees; amending s. 472.0131, F.S., relating to examinations; making technical changes; amending s. 472.015, F.S.; authorizing the department to require land surveyors or mappers to submit their social security numbers when applying for initial licensure or license renewal; providing conditions under which an application is deemed received; providing conditions under which the department may issue a license by endorsement; requiring an applicant to provide his or her social security number as required pursuant to federal law; specifying how a social security number may be used; amending s. 472.018, F.S., relating to continuing education; making technical changes; requiring that continuing education providers electronically provide certain information to the department; providing timeframes for reporting; requiring that the department establish a system to monitor licensee compliance with continuing education requirements; defining the term "monitor"; authorizing the department to refuse to renew a license until the applicant satisfies continuing education requirements; authorizing the department or board to impose additional penalties against applicants who fail to satisfy additional requirements; amending s. 472.0202, F.S.; conforming a cross-reference; amending s. 472.0203, F.S.; providing for license renewal

notification by the department to be sent electronically to the licensee's last known e-mail address; amending s. 472.025, F.S.; providing that a professional surveyor or mapper whose license is revoked or suspended must return his or her seal to the executive director of the board, rather than to the secretary; creating s. 472.0337, F.S.; authorizing the department to administer oaths, take depositions, make inspections, issue and serve subpoenas and other process, and compel the attendance of witnesses and production of certain documents; providing for challenges to and enforcement of subpoenas and orders; amending s. 472.0351, F.S.; revising grounds for discipline; eliminating certain actions by a licensee which are grounds for disciplinary action; specifying what constitutes an action against a license in another state, territory, or country; specifying that the board may enter an order against a surveyor or mapper who committed certain violations before obtaining a license; authorizing the board to require corrective action; prohibiting the department from issuing to or renewing the license of a person or business entity that has been assessed a fine, interest, costs, or attorney fees associated with an investigation or prosecution until the person pays them in full or complies with or satisfies all terms and conditions of the final order; creating s. 472.0357, F.S.; providing penalties for knowingly

giving false information in the course of applying for or obtaining a license; amending s. 493.6105, F.S.; authorizing the Department of Agriculture and Consumer Services to waive firearms training requirements for the initial licensure of private investigative, private security, or repossession services under certain circumstances; amending s. 493.6113, F.S.; authorizing the department to waive firearms training requirements for license renewal of private investigative, private security, and repossession services under certain circumstances; amending s. 493.6118, F.S.; providing for disciplinary action to be taken against certain additional license classes and schools or training facilities for private investigators and private security and repossession services; amending s. 493.6120, F.S.; providing for penalty provisions to apply to certain additional license classes and schools or training facilities for private investigators and private security and repossession services; amending s. 501.015, F.S., relating to the regulation of health studios; substituting the term "local business tax receipt" for the term "local occupational license"; amending s. 501.017, F.S.; making technical changes; clarifying that certain notice be provided in a health studio contract in at least 10-point boldface type; amending s. 501.059, F.S.; deleting requirement that telephone subscribers pay an initial listing charge for

including their telephone numbers on the state's no sales solicitation calls listing; specifying the period that a subscriber's listing remains active; requiring the department to include certain listings from a national database on the state's listing; authorizing the department to impose administrative fines for violations; specifying that administrative proceedings are subject to the Administrative Procedure Act; requiring telecommunications companies to inform their customers of certain telephone solicitation requirements; deleting requirement that the Florida Public Service Commission adopt certain rules; amending s. 501.605, F.S.; providing that an applicant for a commercial telephone seller license may provide other valid forms of identification in lieu of a valid driver license number; removing the requirement that the applicant provide his or her social security number on the application; amending s. 501.607, F.S.; providing that an applicant for a telemarketing salesperson's license may provide other valid forms of identification in lieu of a driver license number; amending s. 501.911, F.S.; revising provisions for administration of the Antifreeze Act of 1978, to conform; amending s. 501.913, F.S.; requiring the registrant of a brand of antifreeze to assume full responsibility for the registration; requiring that a registrant of a brand of antifreeze not in production for distribution in this state must submit a notarized

affidavit attesting to specified information; requiring that a certain sample size of each brand of antifreeze accompany the application for registration; amending s. 507.04, F.S.; requiring that the Department of Agriculture and Consumer Services be notified at least 10 days before any changes are made in the insurance coverage of a household moving service; amending s. 525.07, F.S.; revising required contents of seal clasps applied by meter mechanics after repair and adjustment of petroleum fuel measuring devices; amending s. 526.143, F.S.; authorizing the department to temporarily waive certain requirements for generators at retail motor fuel outlets which are used in preparation or response to an emergency or major disaster in another state; amending s. 526.50, F.S., relating to the sale of brake fluid; defining the terms "brand" and "formula"; amending s. 526.51, F.S.; conforming terminology; providing criteria for reregistering a previously registered brand and formula combination of brake fluid; providing for a fine for late submission of the application for reregistration and required materials; requiring a registrant to submit a notarized affidavit attesting that specified conditions have been satisfied if a registered brand and formula combination is not in production for distribution in this state; amending s. 526.52, F.S.; providing alternative criteria under which a brand of brake

fluid may satisfy branding requirements; amending s. 526.53, F.S.; conforming terminology; requiring that stop-sale orders be served by the department on the owner of the brand name, the distributor, or other entity responsible for selling or distributing the product; providing that the department's representative, with the consent of the department, may dispose of certain unregistered brake fluid; amending s. 526.55, F.S.; replacing criminal sanctions with administrative and monetary sanctions for violations of laws regulating the sale of brake fluid; amending s. 539.001, F.S.; eliminating the requirement that a pawnshop provide the Department of Agriculture and Consumer Services notice of a change in its location by certified or registered mail; amending s. 559.805, F.S.; eliminating a requirement that sellers of business opportunities provide the department with the social security numbers of their independent agents; amending s. 559.904, F.S., relating to the regulation of motor vehicle repair shops; substituting the term "business tax receipt" for the term "occupational license"; repealing s. 559.922, F.S., relating to the use of motor vehicle repair shop registration fees to provide financial assistance to motor vehicle repair shop employees who undertake certain technical training or courses; amending s. 559.928, F.S., relating to the regulation of sellers of travel; substituting the term "business tax

receipt" for the term "occupational license"; eliminating a requirement that an independent travel agent provide his or her social security number to the department; amending s. 559.9285, F.S.; conforming a cross-reference; amending s. 559.935, F.S., relating to an exemption from regulation provided for certain sellers of travel; substituting the term "business tax receipt" for the term "occupational license"; amending s. 570.29, F.S., relating to departmental divisions; conforming terminology; repealing ss. 570.46 and 570.47, F.S., relating to the powers and duties of the Division of Standards and the qualifications and duties of the director of the division; amending s. 570.544, F.S.; revising the powers and duties of the director of the Division of Consumer Services; amending s. 616.242, F.S.; removing an obsolete reference to the Bureau of Fair Rides Inspection; providing an effective date.

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

Section 1. Paragraph (1) of subsection (2) of section 20.14, Florida Statutes, is amended to read:

20.14 Department of Agriculture and Consumer Services.—There is created a Department of Agriculture and Consumer Services.

(2) The following divisions of the Department of Agriculture and Consumer Services are established:

~~(1) Standards.~~

Section 2. Section 366.85, Florida Statutes, is repealed.

Section 3. Subsection (7) of section 472.005, Florida Statutes, is amended, and subsections (15) and (16) are added to that section, to read:

472.005 Definitions.—As used in ss. 472.001-472.037:

(7) The term "license" means a registration, certificate, or license issued by the department pursuant to this chapter ~~the registration of surveyors and mappers or the certification of businesses to practice surveying and mapping in this state~~.

(15) "Consumer member" means a person appointed to serve on the board who is not, and never has been, a professional surveyor or mapper in any jurisdiction or a member of any closely related profession regulated by the board.

(16) "Licensee" means any person or business entity that has been issued, pursuant to this chapter, a registration, certificate, or license by the department.

Section 4. Subsection (12) is added to section 472.006, Florida Statutes, to read:

472.006 Department; powers and duties.—The department shall:

(12) Work cooperatively with the Department of Revenue to implement an automated method for periodically disclosing information relating to current licensees to the Department of Revenue in order to further the public policy of reducing the state's financial burden as a result of family desertion and nonsupport of dependent children as provided in s. 409.2551. The department shall, if directed by the court or the Department of

Revenue, pursuant to s. 409.2598, suspend or deny the license of any licensee who is found to not be in compliance with a support order, subpoena, order to show cause, or written agreement entered into by the licensee with the Department of Revenue. The department shall issue or reinstate the license without additional charge to the licensee if notified by the court or the Department of Revenue that the licensee has complied with the terms of the support order. The department is not liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

Section 5. Subsections (1) and (12) of section 472.011, Florida Statutes, are amended to read:

472.011 Fees.—

(1) The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, recordmaking and recordkeeping, and applications for providers of continuing education. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement ss. 472.001-472.037 and the provisions of law with respect to the regulation of surveyors and mappers. If the department determines, based on estimates of available revenue collected pursuant to this section, that the General Inspection Trust Fund contains funds that exceed the amount required to cover the necessary functions of the board, the department shall, by rule, waive the license renewal fees for

licensees under this chapter for a period not to exceed 2 years.

(12) The board may, by rule, assess and collect a special assessment ~~one-time fee~~ from each active, inactive, and delinquent ~~each voluntary inactive~~ licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of this profession as required in this subsection.

Section 6. Subsection (3) of section 472.0131, Florida Statutes, is amended to read:

472.0131 Examinations; development; administration.—

(3) Except for national examinations approved and administered pursuant to paragraph (1)(d), the department shall provide procedures for applicants who have taken and failed an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly on his or her last examination or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of his or her examination grades.

Section 7. Subsection (1) and paragraph (b) of subsection (6) of section 472.015, Florida Statutes, are amended, and subsection (15) is added to that section, to read:

472.015 Licensure.—

(1) Notwithstanding any other law, the department is the sole authority for determining the contents of any documents to be submitted for initial licensure and licensure renewal. The

~~Such~~ documents may contain information including, as appropriate: demographics, social security number, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, signature notarization, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, continuing education requirements, and ongoing education monitoring. The applicant shall supplement his or her application ~~may be supplemented~~ as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. An application is received for the purposes of s. 120.60 upon receipt by the department of the application, submitted in the format prescribed by the department, the application fee set by the board, and any other documentation or fee required by law or rule to be submitted with the application in order for the application to be complete.

(6)

(b) The department may ~~shall~~ not issue a license by endorsement to any applicant who is under investigation in this state or any other state or any other jurisdiction ~~another state~~ for any act that would constitute a violation of this ~~ss. 472.001-472.037 or~~ chapter ~~455~~ until ~~such time as~~ the investigation is complete and disciplinary proceedings have been terminated.

(15) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each person applying for initial licensure or license renewal shall provide his or her social security number. Use of social security numbers obtained through this requirement is limited to the purpose of administering the Title IV-D program for child support enforcement, use by the department, and use as otherwise provided by law.

Section 8. Subsection (1) of section 472.018, Florida Statutes, is amended, and subsections (13), (14), and (15) are added to that section, to read:

472.018 Continuing education.—The department may not renew a license until the licensee submits proof satisfactory to the board that during the 2 years before ~~prior to~~ her or his application for renewal the licensee has completed at least 24 hours of continuing education.

(1) The board shall adopt rules to establish the criteria and course content for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours may ~~can~~ be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board must require that any pro bono services be approved in advance in order to receive credit for continuing education under this section. The board shall use the standard ~~for determining indigency shall be that~~ recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services in

determining indigency. The board may adopt rules that may provide ~~for approval by the board~~ that a part of the continuing education hours may ~~can~~ be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board~~, or the department when there is no board,~~ may adopt ~~make~~ rules to define underserved and critical need areas. The department shall adopt rules for the administration of continuing education requirements adopted by the board ~~or the department when there is no board~~.

(13) Each continuing education provider shall provide to the department, in an electronic format determined by the department, information regarding the continuing education status of licensees which the department determines is necessary to carry out its duties under this chapter. After a licensee completes a course, the information must be submitted electronically by the continuing education provider to the department within 30 calendar days after completion. However, beginning on the 30th day before the renewal deadline or before the renewal date, whichever occurs sooner, the continuing education provider shall electronically report such information to the department within 10 business days after completion.

(14) The department shall establish a system to monitor licensee compliance with continuing education requirements and to determine the continuing education status of each licensee. As used in this subsection, the term "monitor" means the act of determining, for each licensee, whether the licensee is in full compliance with applicable continuing education requirements as of the date of the licensee's application for license renewal.

(15) The department may refuse to renew a license until the licensee has satisfied all applicable continuing education requirements. This subsection does not preclude the department or board from imposing additional penalties pursuant to this chapter or rules adopted pursuant this chapter.

Section 9. Subsection (1) of section 472.0202, Florida Statutes, is amended to read:

472.0202 Inactive and delinquent status.—

(1) A licensee may practice a profession only if the licensee has an active status license. A licensee who practices a profession without an active status license is in violation of this section and s. 472.0351 ~~472.033~~, and the board may impose discipline on the licensee.

Section 10. Subsection (3) is added to section 472.0203, Florida Statutes, to read:

472.0203 Renewal and cancellation notices.—

(3) Notwithstanding any other law, a licensure renewal notification required to be sent to the last known address of record may be sent by the department to the licensee by electronic means if the licensee has provided an e-mail address to the department.

Section 11. Subsection (2) of section 472.025, Florida Statutes, is amended to read:

472.025 Seals.—

(2) It is unlawful for a ~~any~~ person to stamp, seal, or digitally sign a ~~any~~ document with a seal or digital signature after his or her certificate of registration has expired or been revoked or suspended, unless such certificate of registration

has been reinstated or reissued. When a ~~the~~ certificate of registration ~~of a registrant~~ has been revoked or suspended by the board, the registrant shall, within ~~a period of~~ 30 days after the revocation or suspension has become effective, surrender his or her seal to the executive director ~~secretary~~ of the board and confirm to the executive director ~~secretary~~ the cancellation of the registrant's digital signature in accordance with ss. 668.001-668.006. If ~~In the event~~ the registrant's certificate has been suspended for a period of time, his or her seal shall be returned to him or her upon expiration of the suspension period.

Section 12. Section 472.0337, Florida Statutes, is created to read:

472.0337 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of an investigation or proceeding conducted by the department, the department shall administer oaths, take depositions, make inspections, issue subpoenas which must be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. Challenges to, and enforcement of, the subpoenas and orders shall be conducted as provided in s. 120.569.

Section 13. Section 472.0351, Florida Statutes, is amended to read:

472.0351 Grounds for discipline; penalties; enforcement.—

(1) The following acts ~~shall~~ constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(a) Violation of any provision of s. 472.031;

(b) Attempting to procure a license to practice surveying and mapping by bribery or fraudulent misrepresentations;

(c) Having a license to practice surveying and mapping revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for a violation that constitutes a violation under the laws of this state. The acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of charges against the license by a licensing authority is an action against the license;

(d) Being convicted or found guilty of, or entering a plea of guilty, no contest, or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of surveying and mapping or the ability to practice surveying and mapping;

(e) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records ~~shall~~ include only those that are signed in the capacity of a registered surveyor and mapper;

(f) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content;

(g) Upon proof that the licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct, in the

practice of surveying and mapping;

(h) Failing to perform a ~~any~~ statutory or legal obligation placed upon a licensed surveyor and mapper; violating a ~~any~~ provision of this chapter, a rule of the board or department, or a lawful order of the board or department ~~previously entered in a disciplinary hearing~~; or failing to comply with a lawfully issued subpoena of the department;

(i) Practicing on a revoked, suspended, inactive, or delinquent license;

~~(j) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession;~~

~~(k) Intentionally violating any rule adopted by the board or the department, as appropriate;~~

~~(l) Having a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law;~~

(j) ~~(m)~~ Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee;

(k) ~~(n)~~ Failing to report to the department any person who the licensee knows is in violation of this chapter or the rules of the department or the board;

(l) ~~(o)~~ Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice surveying

and mapping contrary to this chapter or the rules of the department or the board;

(m) ~~(p)~~ Making deceptive, untrue, or fraudulent representations in or related to the practice of professional surveying or mapping ~~a profession~~ or employing a trick or scheme in or related to the practice of professional surveying or mapping ~~a profession~~;

(n) ~~(q)~~ Exercising influence on the client for the purpose of financial gain of the licensee or a third party;

(o) ~~(r)~~ Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform;

(p) ~~(s)~~ Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization when required to perform them; or

~~(t) Violating this chapter, the applicable professional practice act, a rule of the department or the board, or a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department; or~~

(q) ~~(u)~~ Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(2) If ~~When~~ the board finds a ~~any~~ surveyor or mapper guilty of any of the grounds set forth in subsection (1) or a

violation of this chapter which occurred before obtaining a license, the board ~~it~~ may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure, or approval of an application for licensure with restrictions.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the surveyor or mapper on probation for a period of time and subject to such conditions as the board may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(f) Restriction of the authorized scope of practice by the surveyor or mapper.

(g) Corrective action.

(3) The department shall reissue the license of a disciplined surveyor or mapper upon certification by the board that he or she has complied with all of the terms and conditions set forth in the final order.

(4)(a) In addition to any other discipline imposed pursuant to this section, the board may assess costs and attorney ~~attorneys~~ fees related to the investigation and prosecution of the case.

(b) In any case where the board or the department imposes

a fine or assessment and the fine or assessment is not paid within a reasonable time, which may ~~such reasonable time to~~ be prescribed in the rules of the board or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(c) The department may not issue to or renew the license of any person or business entity against which the board has assessed a fine, interest, costs, or attorney fees associated with an investigation and prosecution until the person or business entity has paid the full amount due or complies with or satisfies all terms and conditions of the final order.

~~(5) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this chapter, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.~~

(5) ~~(6)~~ If the board determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish, by rule, requirements for reapplication by applicants whose licenses have been permanently revoked. Such requirements may include, but are ~~shall~~ not ~~be~~ limited to, satisfying current requirements for an initial license.

Section 14. Section 472.0357, Florida Statutes, is created to read:

472.0357 Penalty for giving false information.—In addition to, or in lieu of, any other disciplinary action imposed pursuant to s. 472.0351, a person who knowingly gives false information in the course of applying for or obtaining a license from the department or the board, or who attempts to obtain or obtains a license from the department or the board by knowingly providing misleading statements or misrepresentations commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 15. Subsection (5) of section 493.6105, Florida Statutes, is amended to read:

493.6105 Initial application for license.—

(5) In addition to the requirements outlined in subsection (3), an applicant for a Class "G" license must satisfy minimum training criteria for firearms established by rule of the department, which training criteria includes, but is not limited to, 28 hours of range and classroom training taught and administered by a Class "K" licensee; however, no more than 8 hours of such training shall consist of range training. The department may waive the foregoing firearms training requirement if:

(a) The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission or has successfully completed the training required for certification within the last 12 months.

(b) The applicant provides proof that he or she is

currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency.

(c) The applicant submits a valid firearm certificate among those specified in paragraph (6)(a). ~~If the applicant submits proof that he or she is an active law enforcement officer currently certified under the Criminal Justice Standards and Training Commission or has completed the training required for that certification within the last 12 months, or if the applicant submits one of the certificates specified in paragraph (6)(a), the department may waive the foregoing firearms training requirement.~~

Section 16. Paragraph (b) of subsection (3) of section 493.6113, Florida Statutes, is amended to read:

493.6113 Renewal application for licensure.—

(3) Each licensee is responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the prescribed license fee.

(b) Each Class "G" licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms recertification training taught by a Class "K" licensee and has complied with such other health and training requirements which the department may adopt by rule. If proof of a minimum of 4 hours of annual firearms recertification training cannot be provided, the renewal applicant shall complete the minimum number of hours of range and classroom training required at the time of initial

licensure. The department may waive the foregoing firearms training requirement if:

1. The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous 2 years of the licensure period.

2. The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous 2 years of the licensure period.

3. The applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a) and provides proof of having completed requalification training during the previous 2 years of the licensure period.

Section 17. Subsection (6) of section 493.6118, Florida Statutes, is amended to read:

493.6118 Grounds for disciplinary action.—

(6) The agency or Class "DS" or "RS" license and the approval or license of each officer, partner, or owner of the agency, school, or training facility are automatically suspended upon entry of a final order imposing an administrative fine against the agency, school, or training facility, until the fine is paid, if 30 calendar days have elapsed since the entry of the final order. All owners and corporate or agency officers or partners are jointly and severally liable for ~~agency~~ fines

levied against the agency, school, or training facility. ~~Neither~~ The agency or Class "DS" or "RS" license or the approval or license of any officer, partner, or owner of the agency, school, or training facility may not be renewed, and ~~nor may~~ an application may not be approved, if the owner, licensee, or applicant is liable for an outstanding administrative fine imposed under this chapter. An individual's approval or license becomes automatically suspended if a fine imposed against the individual or his or her agency is not paid within 30 days after the date of the final order, and remains suspended until the fine is paid. Notwithstanding the provisions of this subsection, an individual's approval or license may not be suspended and ~~nor may~~ an application may not be denied if ~~when~~ the licensee or the applicant has an appeal from a final order pending in any appellate court.

Section 18. Subsection (4) of section 493.6120, Florida Statutes, is amended to read:

493.6120 Violations; penalty.—

(4) A ~~Any~~ person who was an owner, officer, partner, or manager of a licensed agency or a Class "DS" or "RS" school or training facility at the time of any activity that is the basis for revocation of the agency or branch office license or the school or training facility license and who knew or should have known of the activity, shall have his or her personal licenses or approval suspended for 3 years and may not have any financial interest in or be employed in any capacity by a licensed agency or a school or training facility during the period of suspension.

Section 19. Subsection (7) of section 501.015, Florida Statutes, is amended to read:

501.015 Health studios; registration requirements and fees.—Each health studio shall:

(7) A ~~Any~~ person applying for or renewing a local business tax receipt ~~occupational license~~ to engage in business as a health studio must exhibit an active registration certificate from the Department of Agriculture and Consumer Services before the local business tax receipt ~~occupational license~~ may be issued or reissued.

Section 20. Subsection (1) of section 501.017, Florida Statutes, is amended to read:

501.017 Health studios; contracts.—

(1) Each ~~Every~~ contract for the sale of future health studio services which is paid for in advance or which the buyer agrees to pay for in future installment payments shall be in writing and shall contain, contractual provisions to the contrary notwithstanding, in immediate proximity to the space reserved in the contract for the signature of the buyer, and in at least 10-point boldfaced type, language substantially equivalent to the following:

(a) A provision for the penalty-free cancellation of the contract within 3 days, exclusive of holidays and weekends, of its making, upon the mailing or delivery of written notice to the health studio, and refund upon such notice of all moneys paid under the contract, except that the health studio may retain an amount computed by dividing the number of complete days in the contract term or, if appropriate, the number of

occasions health studio services are to be rendered into the total contract price and multiplying the result by the number of complete days that have passed since the making of the contract or, if appropriate, by the number of occasions that health studio services have been rendered. A refund shall be issued within 30 days after receipt of the notice of cancellation made within the 3-day provision.

(b)1. A provision for the cancellation and refund of the contract if the contracting business location of the health studio goes out of business, or moves its facilities more than 5 driving miles from the business location designated in the ~~such~~ contract and fails to provide, within 30 days, a facility of equal quality located within 5 driving miles of the business location designated in the ~~such~~ contract at no additional cost to the buyer.

2. A provision that notice of intent to cancel by the buyer shall be given in writing to the health studio. The ~~Such a~~ notice of cancellation from the consumer terminates ~~shall also terminate~~ automatically the consumer's obligation to any entity to whom the health studio has subrogated or assigned the consumer's contract. If the health studio wishes to enforce the ~~such~~ contract after receipt of the notice ~~such showing~~, it may request the department to determine the sufficiency of the notice ~~showing~~.

3. A provision that if the department determines that a refund is due the buyer, the refund shall be an amount computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks

remaining in the contract term. The business location of a health studio may ~~shall~~ not be deemed out of business when temporarily closed for repair and renovation of the premises:

a. Upon sale, for not more than 14 consecutive days; or

b. During ownership, for not more than 7 consecutive days and not more than two periods of 7 consecutive days in any calendar year.

A refund shall be issued within 30 days after receipt of the notice of cancellation made pursuant to this paragraph.

(c) A provision in the disclosure statement advising the buyer to contact the department for information within 60 days should the health studio go out of business.

(d) A provision for the cancellation of the contract if the buyer dies or becomes physically unable to avail himself or herself of a substantial portion of those services which he or she used from the commencement of the contract until the time of disability, with refund of funds paid or accepted in payment of the contract in an amount computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term. The contract may require a buyer or the buyer's estate seeking relief under this paragraph to provide proof of disability or death. A physical disability sufficient to warrant cancellation of the contract by the buyer is ~~shall be~~ established if the buyer furnishes to the health studio a certification of such disability by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 to the

extent the diagnosis or treatment of the disability is within the physician's scope of practice. A refund shall be issued within 30 days after receipt of the notice of cancellation made pursuant to this paragraph.

(e) A provision that the initial contract will not be for a period in excess of 36 months, and thereafter shall only be renewable annually. A ~~Such~~ renewal contract ~~contracts~~ may not be executed and the fee therefor paid until 60 days or less before the previous ~~preceding~~ contract expires.

(f) A provision that if the health studio requires a buyer to furnish identification upon entry to the facility and as a condition of using the services of the health studio, the health studio shall provide the buyer with the means of such identification.

Section 21. Paragraphs (e) through (i) of subsection (1) of section 501.059, Florida Statutes, are redesignated as paragraphs (d) through (h), respectively, and present paragraph (d) of subsection (1) and subsections (3), (8), and (10) of that section are amended to read:

501.059 Telephone solicitation.—

(1) As used in this section:

~~(d) "Commission" means the Florida Public Service Commission.~~

(3)(a) If any residential, mobile, or telephonic paging device telephone subscriber notifies the department of his or her desire ~~desiring~~ to be placed on a "no sales solicitation calls" listing indicating that the subscriber does not wish to receive unsolicited telephonic sales calls, ~~may notify~~ the

department shall place the subscriber ~~and be placed~~ on that listing for 5 years ~~upon receipt by the department of a $10 initial listing charge. This listing shall be renewed by the department annually for each consumer upon receipt of a renewal notice and a $5 assessment~~.

(b) The department shall update its "no sales solicitation calls" listing upon receipt of initial consumer subscriptions or renewals and provide this listing for a fee to telephone solicitors upon request.

(c) All fees imposed pursuant to this section shall be deposited in the General Inspection Trust Fund for the administration of this section.

(d) If the Federal Trade Commission, pursuant to 15 U.S.C. s. 6102(a), establishes a national database that lists the telephone numbers of subscribers who object to receiving telephone solicitations, the department shall include those listings from the national database which relate to Florida in the listing established under this section.

(8)(a) The department shall investigate any complaints received concerning violations of this section. If, after investigating any complaint, the department finds that there has been a violation of this section, the department or the Department of Legal Affairs may bring an action to impose a civil penalty and to seek other relief, including injunctive relief, as the court deems appropriate against the telephone solicitor. The civil penalty may ~~shall~~ not exceed $10,000 per violation and shall be deposited in the General Inspection Trust Fund if the action or proceeding was brought by the department,

or the Legal Affairs Revolving Trust Fund if the action or proceeding was brought by the Department of Legal Affairs. This civil penalty may be recovered in any action brought under this part by the department, or the department may terminate any investigation or action upon agreement by the person to pay a stipulated civil penalty. The department or the court may waive any civil penalty if the person has previously made full restitution or reimbursement or has paid actual damages to the consumers who have been injured by the violation.

(b) The department may, as an alternative to the civil penalties provided in paragraph (a), impose an administrative fine not to exceed $1,000 for each act or omission that constitutes a violation of this section. An administrative proceeding that could result in the entry of an order imposing an administrative penalty must be conducted in accordance with chapter 120.

(10) ~~The commission shall by rule ensure that~~ Telecommunications companies shall inform their customers of the provisions of this section. The notification may be made by:

(a) Annual inserts in the billing statements mailed to customers; and

(b) Conspicuous publication of the notice in the consumer information pages of the local telephone directories.

Section 22. Paragraphs (a) and (l) of subsection (2) of section 501.605, Florida Statutes, are amended to read:

501.605 Licensure of commercial telephone sellers.—

(2) An applicant for a license as a commercial telephone seller must submit to the department, in such form as it

prescribes, a written application for the license. The application must set forth the following information:

(a) The true name, date of birth, driver ~~driver's~~ license number or other valid form of identification, ~~social security number,~~ and home address of the applicant, including each name under which he or she intends to do business.

(l) The true name, current home address, date of birth, ~~social security number,~~ and all other names by which known, or previously known, of each:

1. Principal officer, director, trustee, shareholder, owner, or partner of the applicant, and of each other person responsible for the management of the business of the applicant.

2. Office manager or other person principally responsible for a location from which the applicant will do business.

3. Salesperson or other person to be employed by the applicant.

The application shall be accompanied by a copy of any: Script, outline, or presentation the applicant will require or suggest a salesperson to use when soliciting, or, if no such document is used, a statement to that effect; sales information or literature to be provided by the applicant to a salesperson; and sales information or literature to be provided by the applicant to a purchaser in connection with any solicitation.

Section 23. Paragraph (a) of subsection (1) of section 501.607, Florida Statutes, is amended to read:

501.607 Licensure of salespersons.—

(1) An applicant for a license as a salesperson must

submit to the department, in such form as it prescribes, a written application for a license. The application must set forth the following information:

(a) The true name, date of birth, driver ~~driver's~~ license number or other valid form of identification, ~~social security number,~~ and home address of the applicant.

Section 24. Section 501.911, Florida Statutes, is amended to read:

501.911 Administration of act.—Sections 501.91-501.923 shall be administered by ~~the Division of Standards of~~ the Department of Agriculture and Consumer Services.

Section 25. Subsections (1) and (2) of section 501.913, Florida Statutes, are amended to read:

501.913 Registration.—

(1) Each brand of antifreeze to be distributed in this state shall be registered with the department before ~~prior to~~ distribution. The person whose name appears on the label, the manufacturer, or the packager shall make application to the department on forms provided by the department no later than July 1 of each year. The registrant assumes, by application to register the brand, full responsibility for the registration, quality, and quantity of the product sold, offered, or exposed for sale in this state. If a registered brand is not in production for distribution in this state and to ensure any remaining product that is still available for sale in the state is properly registered, the registrant must submit a notarized affidavit on company letterhead to the department certifying that:

(a) The stated brand is no longer in production;

(b) The stated brand will not be distributed in this state; and

(c) All existing product of the stated brand will be removed by the registrant from the state within 30 days after expiration of the registration or the registrant will reregister the brand for two subsequent registration periods.

If production resumes, the brand must be reregistered before it is distributed in this state.

(2) The completed application shall be accompanied by:

(a) Specimens or facsimiles of the label for each brand of antifreeze;

(b) An application fee of $200 for each brand; and

(c) A properly labeled sample of between 1 and 2 gallons for each brand of antifreeze.

Section 26. Subsection (3) of section 507.04, Florida Statutes, is amended to read:

507.04 Required insurance coverages; liability limitations; valuation coverage.—

(3) INSURANCE COVERAGES.—The insurance coverages required under paragraph (1)(a) and subsection (2) must be issued by an insurance company or carrier licensed to transact business in this state under the Florida Insurance Code as designated in s. 624.01. The department shall require a mover to present a certificate of insurance of the required coverages before issuance or renewal of a registration certificate under s. 507.03. The department shall be named as a certificateholder in

the certificate and must be notified at least 10 ~~30~~ days before cancellation of ~~any changes in~~ insurance coverage.

Section 27. Subsection (7) of section 525.07, Florida Statutes, is amended to read:

525.07 Powers and duties of department; inspections; unlawful acts.—

(7) It is unlawful for any person to break, cut, or remove any seal applied by the department to a petroleum fuel measuring device or container. If ~~When~~ it becomes necessary to repair and adjust a petroleum fuel measuring device during the absence of an inspector of the department, the seal on the meter adjustment may be broken by a person who is registered with the department as a meter mechanic. After repairs and adjustments have been made, the adjusting mechanism must immediately be resealed by the registered meter mechanic with a seal clasp bearing at least ~~the name of the company or~~ the name or initials of the registered mechanic. The registered mechanic shall immediately notify the department of this action.

Section 28. Subsection (5) of section 526.143, Florida Statutes, is amended to read:

526.143 Alternate generated power capacity for motor fuel dispensing facilities.—

(5)(a) Each corporation or other entity that owns 10 or more motor fuel retail outlets located within a single county shall maintain at least one portable generator that is capable of providing an alternate generated power source as required under subsection (2) for every 10 outlets. If an entity owns more than 10 outlets or a multiple of 10 outlets plus an

additional 6 outlets, the entity must provide one additional generator to accommodate such additional outlets. Each portable generator must be stored within this state, or may be stored in another state if located within 250 miles of this state, and must be available for use in an affected location within 24 hours after a disaster.

(b) Each corporation or other entity that owns 10 or more motor fuel retail outlets located within a single domestic security region, as determined pursuant to s. 943.0312(1), and that does not own additional outlets located outside the domestic security region shall maintain a written document of agreement with one or more similarly equipped entities for the use of portable generators that may be used to meet the requirements of paragraph (a) and that are located within this state but outside the affected domestic security region. The agreement may be reciprocal, may allow for payment for services rendered by the providing entity, and must guarantee the availability of the portable generators to an affected location within 24 hours after a disaster.

(c) Upon written request, the department may temporarily waive the requirements in paragraphs (a) and (b) if the generators are used in preparation for or response to an emergency or major disaster in another state. The waiver shall be in writing and include a beginning and ending date. The waiver may provide additional conditions as deemed necessary by the department. The waiver may be modified or terminated by the department if the Governor declares an emergency.

(d) ~~(c)~~ For purposes of this section, ownership of a motor

fuel retail outlet is ~~shall be~~ the owner of record of the fuel storage systems operating at the location, as identified in the Department of Environmental Protection underground storage facilities registry pursuant to s. 376.303(1).

Section 29. Subsections (8) and (9) are added to section 526.50, Florida Statutes, to read:

526.50 Definition of terms.—As used in this part:

(8) "Brand" means the product name appearing on the label of a container of brake fluid.

(9) "Formula" means the name of the chemical mixture or composition of the brake fluid product.

Section 30. Subsections (1) and (3) of section 526.51, Florida Statutes, are amended to read:

526.51 Registration; renewal and fees; departmental expenses; cancellation or refusal to issue or renew.—

(1)(a) Application for registration of each brand of brake fluid shall be made on forms ~~to be~~ supplied by the department. The applicant shall give his or her name and address and the brand name of the brake fluid, state that he or she owns the brand name and has complete control over the product sold thereunder in this state ~~Florida~~, and provide the name and address of the resident agent in this state ~~Florida~~. If the applicant does not own the brand name but wishes to register the product with the department, a notarized affidavit that gives the applicant full authorization to register the brand name and that is signed by the owner of the brand name must accompany the application for registration. The affidavit must include all affected brand names, the owner's company or corporate name and

address, the applicant's company or corporate name and address, and a statement from the owner authorizing the applicant to register the product with the department. The owner of the brand name shall maintain complete control over each product sold under that brand name in this state. All first-time ~~new product~~ applications for a brand and formula combination must be accompanied by a certified report from an independent testing laboratory, setting forth the analysis of the brake fluid which shows ~~shall show~~ its quality to be not less than the specifications established by the department for brake fluids. A sample of not less than 24 fluid ounces of brake fluid shall be submitted, in a container or containers, with labels representing exactly how the containers of brake fluid will be labeled when sold, and the sample and container shall be analyzed and inspected by the department ~~Division of Standards~~ in order that compliance with the department's specifications and labeling requirements may be verified. Upon approval of the application, the department shall register the brand name of the brake fluid and issue to the applicant a permit authorizing the registrant to sell the brake fluid in this state during the permit year specified in the permit.

(b) Each applicant shall pay a fee of $100 with each application. A permit may be renewed by application to the department, accompanied by a renewal fee of $50 on or before the last day of the permit year immediately preceding the permit year for which application is made for renewal of registration. To reregister a previously registered brand and formula combination, an applicant must submit a completed application

and all materials as required in this section to the department before the first day of the permit year. A brand and formula combination for which a completed application and all materials required in this section are not received before the first day of the permit year may not be registered with the department until a completed application and all materials required in this section have been received and approved. If the brand and formula combination was previously registered with the department and a fee, application, or materials required in this section are received after the first day of the permit year, ~~To any fee not paid when due, there shall accrue~~ a penalty of $25 accrues, which shall be added to the ~~renewal~~ fee. Renewals shall ~~will~~ be accepted only on brake fluids that have no change in formula, composition, or brand name. Any change in formula, composition, or brand name of any brake fluid constitutes a new product that must be registered in accordance with this part.

(c) In order to ensure that any remaining product still available for sale in this state is properly registered, if a registered brand and formula combination is no longer in production for distribution in this state, the registrant must submit a notarized affidavit on company letterhead to the department certifying that:

1. The stated brand and formula combination is no longer in production;

2. The stated brand and formula combination will not be distributed in this state; and

3. All existing product of the stated brand and formula combination will be removed by the registrant from the state

within 30 days after the expiration of the registration or that the registrant will reregister the brand and formula combination for two subsequent registration periods.

If production resumes, the brand and formula combination must be reregistered before it is again distributed in this state.

(3) The department may cancel or~~,~~ refuse to issue ~~or refuse to renew~~ any registration and permit after due notice and opportunity to be heard if it finds that the brake fluid is adulterated or misbranded or that the registrant has failed to comply with the provisions of this part or the rules adopted pursuant to this section ~~and regulations promulgated thereunder~~.

Section 31. Paragraph (a) of subsection (3) of section 526.52, Florida Statutes, is amended to read:

526.52 Specifications; adulteration and misbranding.—

(3) Brake fluid is deemed to be misbranded:

(a) If its container does not bear on its side or top a label on which is printed the name and place of business of the registrant of the product, the words "brake fluid," and a statement that the product therein equals or exceeds the minimum specification of the Society of Automotive Engineers for brake fluid, heavy-duty-type, the United States Department of Transportation Motor Vehicle Safety Standard No. 116, or other specified standard identified in department rule. ~~By regulation~~ The department may require by rule that the duty-type classification appear on the label.

Section 32. Subsections (1) and (2) of section 526.53, Florida Statutes, are amended to read:

526.53 Enforcement; inspection and analysis, stop-sale and disposition, regulations.—

(1) The department shall enforce the provisions of this part through the department ~~Division of Standards~~, and may sample, inspect, analyze, and test any brake fluid manufactured, packed, or sold within this state. The department shall have free access during business hours to all premises, buildings, vehicles, cars, or vessels used in the manufacture, packing, storage, sale, or transportation of brake fluid, and may open any box, carton, parcel, or container of brake fluid and take samples for inspection and analysis or for evidence.

(2)(a) If ~~When~~ any brake fluid is sold in violation of any of the provisions of this part, all such brake fluid of the same brand name ~~on the same premises on which the violation occurred~~ shall be placed under a stop-sale order by the department by serving the owner of the brand name, the distributor, or other entity responsible for selling or distributing the product in this state with the stop-sale order. The department shall withdraw its stop-sale order upon the removal of the violation or upon voluntary destruction of the product, or other disposal approved by the department, under the supervision of the department.

(b) In addition to being subject to the stop-sale procedures ~~above~~, unregistered brake fluid shall be held by the department or its representative, at a place to be designated in the stop-sale order, until properly registered and released in writing by the department or its representative. If application has not been made for registration of such product within 30

days after issue of the stop-sale order, the department or, with the consent of the department, the representative may give the product that meets legal specifications ~~such product shall be disposed of by the department~~ to any tax-supported institution or agency of the state. If application has not been made for registration of the product within 30 days after issuance of the stop-order sale and the product fails to meet legal specifications, the product may be disposed of as ~~if the brake fluid meets legal specifications or by other disposal~~ authorized by rule of the department ~~if it fails to meet legal specifications~~.

Section 33. Section 526.55, Florida Statutes, is amended to read:

526.55 Violation and penalties.—

(1) It is unlawful:

(a) ~~(1)~~ To sell any brake fluid that is adulterated or misbranded, not registered or on which a permit has not been issued.

(b) ~~(2)~~ For anyone to remove any stop-sale order placed on a product by the department, or any product upon which a stop-sale order has been placed.

(2) If the department finds that a person has violated or is operating in violation of ss. 526.50-526.56 or the rules or orders adopted thereunder, the department may, by order:

(a) Issue a notice of noncompliance pursuant to s. 120.695;

(b) Impose an administrative fine not to exceed $5,000 for each violation;

(c) Direct that the person cease and desist specified activities;

(d) Revoke or suspend a registration, or refuse to register a product; or

(e) Place the registrant on probation for a period of time, subject to conditions as the department may specify.

(3) The administrative proceedings seeking entry of an order imposing any of the penalties specified in subsection (2) are governed by chapter 120.

(4) If a registrant is found to be in violation of ss. 526.50-526.56 and fails to pay a fine within 30 days after imposition of the fine, the department may suspend all registrations issued to the registrant by the department until the fine is paid.

(5) All fines collected by the department under this section shall be deposited into the General Inspection Trust Fund.

~~(3) Any person who violates any of the provisions of this part or any rule or regulation promulgated thereunder shall, 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.~~

Section 34. Paragraph (b) of subsection (3) of section 539.001, Florida Statutes, is amended to read:

539.001 The Florida Pawnbroking Act.—

(3) LICENSE REQUIRED.—

(b) A licensee who seeks to move a pawnshop to another location must give written notice ~~30 days' prior written notice~~ to the agency at least 30 days before the move ~~by certified or registered mail, return receipt requested~~, and the agency must ~~then~~ amend the license to indicate the new location. The licensee must also give such written notice to the appropriate law enforcement official.

Section 35. Subsection (1) of section 559.805, Florida Statutes, is amended to read:

559.805 Filings with the department; disclosure of advertisement identification number.—

(1) Every seller of a business opportunity shall annually file with the department a copy of the disclosure statement required by s. 559.803 before ~~prior to~~ placing an advertisement or making any other representation designed to offer to, sell to, or solicit an offer to buy a business opportunity from a prospective purchaser in this state and shall update this filing by reporting any material change in the required information within 30 days after the material change occurs. An advertisement is not placed in the state merely because the publisher circulates, or there is circulated on his or her behalf in the state, any bona fide newspaper or other publication of general, regular, and paid circulation which has had more than two-thirds of its circulation during the past 12 months outside the state or because a radio or television program originating outside the state is received in the state. If the seller is required by s. 559.807 to provide a bond or establish a trust account or guaranteed letter of credit, he or

she shall contemporaneously file with the department a copy of the bond, a copy of the formal notification by the depository that the trust account is established, or a copy of the guaranteed letter of credit. Every seller of a business opportunity shall file with the department a list of independent agents who will engage in the offer or sale of business opportunities on behalf of the seller in this state. This list must be kept current and shall include the following information: name, home and business address, telephone number, present employer, ~~social security number,~~ and birth date. A ~~No~~ person may not ~~shall be allowed to~~ offer or sell business opportunities unless the required information has been provided to the department.

Section 36. Subsection (7) of section 559.904, Florida Statutes, is amended to read:

559.904 Motor vehicle repair shop registration; application; exemption.—

(7) Any person applying for or renewing a local business tax receipt ~~occupational license on or after October 1, 1993,~~ to engage in business as a motor vehicle repair shop must exhibit an active registration certificate from the department before the local business tax receipt ~~occupational license~~ may be issued or renewed.

Section 37. Section 559.922, Florida Statutes, is repealed.

Section 38. Subsections (1), (3), and (4) of section 559.928, Florida Statutes, are amended to read:

559.928 Registration.—

(1) Each seller of travel shall annually register with the department, providing: its legal business or trade name, mailing address, and business locations; the full names, addresses, and telephone numbers of its owners or corporate officers and directors and the Florida agent of the corporation; a statement whether it is a domestic or foreign corporation, its state and date of incorporation, its charter number, and, if a foreign corporation, the date it registered with this state ~~the State of Florida~~, and business tax receipt ~~occupational license~~ where applicable; the date on which a seller of travel registered its fictitious name if the seller of travel is operating under a fictitious or trade name; the name of all other corporations, business entities, and trade names through which each owner of the seller of travel operated, was known, or did business as a seller of travel within the preceding 5 years; a list of all authorized independent agents, including the agent's trade name, full name, mailing address, business address, and telephone numbers; the business location and address of each branch office and full name and address of the manager or supervisor; the certification required under s. 559.9285; and proof of purchase of adequate bond as required in this part. A certificate evidencing proof of registration shall be issued by the department and must be prominently displayed in the seller of travel's primary place of business.

(3) Each independent agent shall annually file an affidavit with the department prior to engaging in business in this state. This affidavit must include the independent agent's full name, legal business or trade name, mailing address,

business address, telephone number, ~~social security number,~~ and the name ~~or names~~ and address ~~addresses~~ of each seller of travel represented by the independent agent. A letter evidencing proof of filing must be issued by the department and must be prominently displayed in the independent agent's primary place of business. Each independent agent must also submit an annual registration fee of $50. All moneys collected pursuant to the imposition of the fee shall be deposited by the Chief Financial Officer into the General Inspection Trust Fund of the Department of Agriculture and Consumer Services for the sole purpose of administrating this part. As used in this subsection, the term "independent agent" means a person who represents a seller of travel by soliciting persons on its behalf; who has a written contract with a seller of travel which is operating in compliance with this part and any rules adopted thereunder; who does not receive a fee, commission, or other valuable consideration directly from the purchaser for the seller of travel; who does not at any time have any unissued ticket stock or travel documents in his or her possession; and who does not have the ability to issue tickets, vacation certificates, or any other travel document. The term "independent agent" does not include an affiliate of the seller of travel, as that term is used in s. 559.935(3), or the employees of the seller of travel or of such affiliates.

(4) Any person applying for or renewing a local business tax receipt ~~occupational license~~ to engage in business as a seller of travel must exhibit a current registration certificate from the department before the local business tax receipt

~~occupational license~~ may be issued or reissued.

Section 39. Paragraph (c) of subsection (3) of section 559.9285, Florida Statutes, is amended to read:

559.9285 Certification of business activities.—

(3) The department shall specify by rule the form of each certification under this section which shall include the following information:

(c) The legal name, any trade names or fictitious names, mailing address, physical address, telephone number or numbers, facsimile number or numbers, and all Internet and electronic contact information of every other commercial entity with which the certifying party engages in business or commerce that is related in any way to the certifying party's business or commerce with any terrorist state. The information disclosed pursuant to this paragraph does not constitute customer lists, customer names, or trade secrets protected under s. 570.544(8) ~~570.544(7)~~.

Section 40. Subsection (6) of section 559.935, Florida Statutes, is amended to read:

559.935 Exemptions.—

(6) The department shall request from the Airlines Reporting Corporation any information necessary to implement the provisions of subsection (2). Persons claiming an exemption under subsection (2) or subsection (3) must show a letter of exemption from the department before a local business tax receipt ~~occupational license~~ to engage in business as a seller of travel may be issued or reissued. If the department fails to issue a letter of exemption on a timely basis, the seller of

travel shall submit to the department, through certified mail, an affidavit containing her or his name and address and an explanation of the exemption sought. Such affidavit may be used in lieu of a letter of exemption for the purpose of obtaining a business tax receipt ~~an occupational license~~. In any civil or criminal proceeding, the burden of proving an exemption under this section is ~~shall be~~ on the person claiming such exemption. A letter of exemption issued by the department may ~~shall~~ not be used in, and has ~~shall have~~ no bearing on, such proceedings.

Section 41. Subsection (12) of section 570.29, Florida Statutes, is amended to read:

570.29 Departmental divisions.—The department shall include the following divisions:

~~(12) Standards.~~

Section 42. Sections 570.46 and 570.47, Florida Statutes, are repealed.

Section 43. Section 570.544, Florida Statutes, is amended to read:

570.544 Division of Consumer Services; director; powers; processing of complaints; records.—

(1) The director of the Division of Consumer Services shall be appointed by and serve at the pleasure of the commissioner.

(2) The director shall supervise, direct, and coordinate the activities of the division and shall, under the direction of the department, enforce the provisions of chapters 472, 496, 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849.

(3)~~(2)~~ The Division of Consumer Services may:

(a) Conduct studies and make analyses of matters affecting the interests of consumers.

(b) Study the operation of laws for consumer protection.

(c) Advise and make recommendations to the various state agencies concerned with matters affecting consumers.

(d) Assist, advise, and cooperate with local, state, or federal agencies and officials in order to promote the interests of consumers.

(e) Make use of the testing and laboratory facilities of the department for the detection of consumer fraud.

(f) Report to the appropriate law enforcement officers any information concerning violation of consumer protection laws.

(g) Assist, develop, and conduct programs of consumer education and consumer information through publications and other informational and educational material prepared for dissemination to the public, in order to increase the competence of consumers.

(h) Organize and hold conferences on problems affecting consumers.

(i) Recommend programs to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services.

(4) ~~(3)~~ In addition to the powers, duties, and responsibilities authorized by this or any other chapter, the Division of Consumer Services shall serve as a clearinghouse for matters relating to consumer protection, consumer information, and consumer services generally. It shall receive complaints and

grievances from consumers and promptly transmit them to the ~~that~~ agency most directly concerned in order that the complaint or grievance may be expeditiously handled in the best interests of the complaining consumer. If no agency exists, the Division of Consumer Services shall seek a settlement of the complaint using formal or informal methods of mediation and conciliation and may seek any other resolution of the matter in accordance with its jurisdiction.

(5) ~~(4)~~ If any complaint received by the Division of Consumer Services concerns matters that ~~which~~ involve concurrent jurisdiction in more than one agency, duplicate copies of the complaint shall be referred to those offices deemed to have concurrent jurisdiction.

(6) ~~(5)~~(a) Any agency, office, bureau, division, or board of state government receiving a complaint that ~~which~~ deals with consumer fraud or consumer protection and that ~~which~~ is not within the jurisdiction of the receiving agency, office, bureau, division, or board originally receiving it, shall immediately refer the complaint to the Division of Consumer Services.

(b) Upon receipt of such a complaint, the Division of Consumer Services shall make a determination of the proper jurisdiction to which the complaint relates and shall immediately refer the complaint to the agency, office, bureau, division, or board that ~~which~~ does have the proper regulatory or enforcement authority to deal with it.

(7) ~~(6)~~ The office or agency to which a complaint has been referred shall within 30 days acknowledge receipt of the complaint. If an office or agency receiving a complaint

determines that the matter presents a prima facie case for criminal prosecution or if the complaint cannot be settled at the administrative level, the complaint together with all supporting evidence shall be transmitted to the Department of Legal Affairs or other appropriate enforcement agency with a recommendation for civil or criminal action warranted by the evidence.

(8) ~~(7)~~ The records of the Division of Consumer Services are public records. However, customer lists, customer names, and trade secrets are confidential and exempt from the provisions of s. 119.07(1). Disclosure necessary to enforcement procedures does ~~shall~~ not violate ~~be construed as violative of~~ this prohibition.

(9) ~~(8) It shall be the duty of~~ The Division of Consumer Services shall ~~to~~ maintain records and compile summaries and analyses of consumer complaints and their eventual disposition, which data may serve as a basis for recommendations to the Legislature and to state regulatory agencies.

Section 44. Paragraph (a) of subsection (8) of section 616.242, Florida Statutes, is amended to read:

616.242 Safety standards for amusement rides.—

(8) FEES.—

(a) The department shall by rule establish fees to cover the costs and expenditures associated with the fair rides inspection program ~~Bureau of Fair Rides Inspection~~, including all direct and indirect costs. If there is not sufficient general revenue appropriated by the Legislature, the industry shall pay for the remaining cost of the program. The fees must

be deposited in the General Inspection Trust Fund.

Section 45. This act shall take effect July 1, 2012.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Agriculture & Natural Resources Appropriations Subcommittee

Representative Young offered the following:

Amendment (with title amendment)

Remove lines 587-597

T I T L E A M E N D M E N T

Remove lines 83-86 and insert:

and conditions of the final order; amending s. 493.6105, F.S.;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 503 Environmental Regulation
SPONSOR(S): Patronis
TIED BILLS: None **IDEN./SIM. BILLS:** SB 716

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 1 N, As CS	Deslatte	Blalock
2) Rulemaking & Regulation Subcommittee	12 Y, 3 N, As CS	Miller	Rubottom
3) Agriculture & Natural Resources Appropriations Subcommittee		Helpling	Massengale
4) State Affairs Committee			

SUMMARY ANALYSIS

The bill creates, amends, and revises numerous provisions relating to development, construction, operating, and building permits; permit application requirements and procedures; programmatic general permits and regional general permits; and permits for certain projects. Specifically the bill:

- Prohibits a county or municipality from conditioning the approval for a development permit on an applicant obtaining a permit or approval from any other state or federal agency.
- Specifies that terms and conditions for coastal construction permit applications must be set forth by rule; requires the DEP to cite certain provisions in a request for additional information; prohibits the DEP from issuing guidelines that are enforceable as standards without going through rulemaking; provides legislative intent with respect to permitting for periodic maintenance of certain beach nourishment and inlet management projects; provides conditions under which the DEP is authorized to issue permits in advance of the issuance of incidental take authorizations as provided under the Endangered Species Act.
- Includes entities created by special act or local ordinance or interlocal agreement by counties or municipalities for purposes of DEP and Water Management Districts (WMDs) reduced or waived permit processing fees.
- Exempts a municipality from showing extreme hardship for sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve, and allows dredging and filling for the purpose of creating a waterfront promenade.
- Expands the use of internet-based self-certification services for certain exemptions and general permits.
- Excludes injection wells authorized under the State Underground Injection Control Program from regulation under chapter 373, part III, F.S.
- Requires action on certain permit applications within 60 days of receipt of last timely requested material; precludes state agencies from delaying action because of pending approval from other local, state, or federal agencies.
- Provides for the DEP to obtain an expanded state programmatic general permit from the federal government for certain activities in waters of the U.S. governed by the Clean Water Act and Rivers and Harbors Act.
- Excludes expenditures associated with program deductibles, copayments, and limited contamination assessment reports from state restoration funds available for low-scored site initiatives.
- Provides that the transfer of title for a petroleum contaminated site to a child of the owner or a corporate entity created by the owner to hold title for the site does not disqualify the site from financial assistance.
- Provides expedited permitting for any inland multimodal facility receiving and/or sending cargo to and/or from Florida ports.

- Exempts owners of onsite sewage treatment and disposal systems from the evaluation and assessment program unless the board of county commissioners has adopted a resolution to the contrary.
- Requires the DEP to establish reasonable zones of mixing for discharges into specified waters.
- Clarifies circumstances in which the DEP can revoke certain air and water pollution permits issued under Chapter 403, F.S., for stationary installations.
- Excludes the term sludge from a waste treatment works from the definition of solid waste under certain circumstances.
- Exempts the new solid waste disposal areas at an already permitted facility from having to be specifically authorized in a permit if monitored by an existing or modified groundwater monitoring plan. Extends the duration of all permits issued to solid waste management facilities that are designed with a leachate control system. Authorizes extended duration for permits issued for solid waste management facilities designed without a leachate control system which meet certain criteria.
- Provides rulemaking authority for certain agency responsibilities.
- Creates a solid waste landfill closure account within the Solid Waste Management Trust fund to provide funding for closing and long-term care of qualifying landfill facilities.
- Authorizes DEP to require owners or operators of solid waste management facilities to provide financial assurances for the cost of completing corrective actions ordered by the agency.
- Provides a general permit for a surface water management system under 10 acres may be authorized without agency action.
- Adds groundwater usage and services to religious institutions to the definition of transient noncommunity water systems.
- Provides for the creation of regional action teams for expedited permitting for certain businesses.
- Expands the definition of blended gasoline, defines the term 'renewable fuel', and authorizes the sale of unblended fuels for certain uses.

The bill appears to have an indeterminant negative fiscal impact on state government, and appears to have both negative and positive fiscal impacts on local governments. See Fiscal Comments Section for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 1 amends s. 125.022, F.S., and Section 3 amends s. 166.033, F.S., prohibiting a county or municipality from requiring as a condition of approval for a development permit that an applicant obtain a permit or approval from any other state or federal agency.

Current Situation

Some in the development community say there have been instances when the approval of a local government development permit was conditioned on the applicant first acquiring permit approval from a state or federal agency, regardless of whether the development proposal required state or federal approval.

Effect of Proposed Changes

The bill prohibits a county or a municipality from conditioning the approval for a development permit on an applicant obtaining a permit or approval from any other state or federal agency, unless the agency has issued a notice of intent to deny the federal or state permit prior to the county action on the local development permit. The bill also provides that the issuance of a development permit by a county or municipality does not create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create liability on the part of the local government for the applicant's failure to obtain requisite state or federal approval. Counties may attach this disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits

must be obtained prior to development. This provision does not prohibit a county from providing information to an applicant regarding what other state or federal permits may be applicable.

Section 2. Amends s. 161.041, F.S., providing requirements for application for permits; prohibiting the DEP from issuing specified guidelines unless adopted by rule; requiring the DEP to cite certain provisions in a request for additional information; providing legislative intent with respect to permitting for periodic maintenance of certain beach nourishment and inlet management projects; directing the DEP to amend specified rules for permitting of such projects; providing conditions under which the DEP is authorized to issue permits in advance of the issuance of incidental take authorizations as provided under the Endangered Species Act.

Current Situation

Section 161.041, F.S., requires that a coastal construction permit be obtained from the DEP 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 inlet 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. Applications for coastal construction permits are made on terms and conditions as DEP requires by rule.

The DEP can authorize an excavation or erection of a structure at any coastal location upon receipt of an application from a property or riparian owner and upon consideration of facts and circumstances, including:

- Adequate engineering data concerning inlet and shoreline stability and storm tides related to shoreline topography;
- Design features of the proposed structures or activities; and
- Potential impacts of the location of such structures or activities, including potential cumulative effects of any proposed structures or activities upon such beach-dune system or coastal inlet, which, in the opinion of the department, clearly justify such a permit.

The DEP can also require engineer certifications as necessary to assure the adequacy of the design and construction of permitted projects. In addition, the DEP is authorized, as a condition to the granting of a coastal construction permit, to require mitigation, financial or other assurances acceptable to the DEP to assure performance of conditions of a permit, or to enter into contractual agreements to best assure compliance with any permit conditions. Biological and environmental monitoring conditions included in the permit must be based upon clearly defined scientific principles.

Current law also provides that the permit application is not considered "complete" until the agency determines that it has all of the information it needs to approve or deny the application. To obtain additional information that the DEP needs (and is not contained in the original permit application) to make a decision on whether to issue a permit, the DEP will submit a request for additional information (RAI) to the applicant for this information. The DEP is required to approve or deny every application within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law. However, there is no time limit in current law on when the applicant must respond to the RAI, nor is there a limit to the number of times the agency may request additional information before deeming an application complete.

In 2011, the Secretary of the DEP established an RAI policy for the permitting process with the following guidelines:

- 1st RAI-will require a mandatory review by the permitting supervisor. The RAI can be signed by the permit processor or the permitting supervisor.
- 2nd RAI-must be signed by the program administrator.

- 3rd RAI-must be signed by the district director or bureau chief. In addition, each district and division must submit a monthly report through the Deputy Secretary for Regulatory Programs of the 3rd RAIs issued and an explanation of why the RAI was issued.
- 4th RAI or more-will require the DEP Secretary's approval prior to issuing the 4th or more RAIs.

Effect of Proposed Changes

The bill amends s. 161.041, F.S., to provide that applications for all permits under the statutory section must be made to the DEP upon such terms and conditions as set forth by rule. If the DEP requests additional information as part of the permit process, the DEP must cite applicable statutory and rule provisions that justify any item listed in the request for additional information.

The bill also provides that the DEP may not issue guidelines that are enforceable as standards for beach management, inlet management, and other erosion control projects without adopting guidelines by rule.

The bill states the intent of the Legislature is to simplify the permitting process for periodic maintenance of certain projects and directs the DEP to amend certain chapters of the Florida Administrative Code (F.A.C.) to streamline the permitting process for periodic beach maintenance projects and inlet sand bypassing activities. A detailed review of a previously permitted project is not required if there have been no substantial changes in project scope of the project and past performance of the project indicates that it has performed according to design expectations.

Lastly, the bill authorizes the DEP to issue a coastal construction permit in advance of the issuance of any incidental take authorization as provided under the Endangered Species Act and its implementing regulations if the permit and authorization include a condition requiring that authorized activities not begin until the incidental take authorization is issued.

Section 4. Amends s. 218.075, F.S., authorizing the Department of Environmental Protection (DEP) and Water Management Districts (WMDs) to reduce or waive permit processing fees for certain entities.

Current Situation

Section 218.075, F.S., provides that the DEP or a WMD can reduce or waive permit processing fees for counties with a population of 50,000 or less until that county exceeds a population of 75,000, and for municipalities with a population of 25,000 or less. Fee reductions or waivers are approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to certain factors.[1]

Effect of Proposed Change

The bill amends s. 218.075, F.S., to include entities created by a special act or local ordinance or interlocal agreement by counties or municipalities for purposes of the DEP and WMD reduced or waived permit processing fees.

Section 5. Amends s. 258.397, F.S., exempting a municipality from the requirement to showing extreme hardship for sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve if the project is proposed under this section.

Current Situation

In 1975, the Florida Legislature enacted the Aquatic Preserve Act with the intent that the state-owned submerged lands in areas that have exceptional biological, aesthetic, and scientific value be set aside

[1] Section 218.075, F.S.

forever as aquatic preserves or sanctuaries for the benefit of future generations.[2] Florida statutes define an aquatic preserve as an exceptional area of submerged lands and its associated waters set aside for being maintained essentially in its natural or existing condition.

The state restricts certain activities in aquatic preserves to conserve their unique biological, aesthetic and scientific value. Section 258.42, F.S., prohibits the Board of Trustees of the Internal Improvement Trust Fund (BOT) from approving the sale, lease, or transfer of sovereignty submerged lands except when the transaction is in the public interest.

Only minimal or maintenance dredging may be permitted in a preserve and any alteration of the preserve's physical conditions is restricted unless the alteration enhances the quality or utility of the preserve or the public health generally. Minerals may not be mined (with the exception of oyster shells), and oil and gas well drilling is prohibited. The state is not prohibited from leasing the oil and gas rights and permitting drilling from outside the preserve to explore for oil and gas if approved by the BOT. Docking facilities and even structures for shore protection are restricted as to size and location.[3]

Section 258.397, F.S., provides that in the Biscayne Bay Aquatic Preserve, no further sale, transfer, or lease of sovereignty submerged lands in the preserve will be approved or consummated by the BOT, except upon a showing of extreme hardship on the part of the applicant and a determination by the BOT that such sale, transfer, or lease is in the public interest. Furthermore, no further dredging or filling of submerged lands of the preserve will be approved or tolerated by the BOT except under certain conditions.

The Department of Environmental Protection's (DEP's) Office of Coastal and Aquatic Managed Areas oversees the management of Florida's 41 aquatic preserves, three National Estuarine Research Reserves (NERR), one National Marine Sanctuary and the Coral Reef Conservation Program. These protected areas comprise more than 4 million acres of the most valuable submerged lands and select coastal uplands in Florida.[4]

Effect of Proposed Change

The bill exempts a municipality from showing extreme hardship for sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve if the project is for purposes authorized under s. 258.397 F.S., and adds, as a permissible dredging and filling activity in the preserve, such dredging and filling as is necessary for the creation of public waterfront promenades.

Section 6. Amends s. 373.026, F.S., expanding the use of Internet-based self-certifications.

Current Situation

The Florida Legislative Committee on Intergovernmental Relations (LCIR) in March 2007, issued an interim project report titled "Improving Consistency and Predictability in Dock and Marina Permitting."[5] This report concluded a 2-year project to review current permitting practices and identify opportunities to improve the consistency and predictability in the permitting of water related facilities in Florida. Recommendation 3, 4, and 5 of the LCIR report suggested that the Department of Environmental Protection (DEP) expand the use of the Internet for permitting and certification purposes.

The DEP currently accepts certain types of permit applications on-line and provides an online self-certification process for private docks associated with detached individual single-family homes on the adjacent uplands, provided the dock being constructed is the sole dock on the parcel. Through this

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[2] Section 258.36, F.S.

[3] Administrative rules applicable to aquatic preserves generally may be found in Rule 18-20.004, F.A.C., Management Policies, Standards and Criteria. However, every aquatic preserve in the state has specific restrictions and policies that are set out in the Florida Administrative Code.

[4] Department of Environmental Protection website, http://www.dep.state.fl.us/coastal/

[5] http://www.floridalcir.gov/UserContent/docs/File/reports/marina07.pdf

electronic process, one may immediately determine whether a private single family dock can be constructed without further notice or review by the DEP. This includes notification of qualification for the Army Core of Engineers (COE) State Programmatic General Permit (SPGP IV). In addition, Florida's five water management districts (WMDs) have designed and support a shared permitting portal. This portal is designed to direct the user to the appropriate WMD's website for obtaining information regarding the WMD's permitting programs, applying for permits, and submitting permit compliance information. The WMDs issue several types of permits. The three most common deal with how much water is used (consumptive use permits), the construction of wells (well construction permits), and how new development affects water resources (environmental resource permits).[6]

According to the LCIR report, interviews with stakeholder groups indicated some local governments often do not accept self-certification for permit-exempt projects identified in statute, rule, or listed in the DEP's Self-Certification Process for Single-Family Docks. Some local governments require a "signature" from the DEP permit review staff to verify the exempt status of the projects submitted under Self-Certification, notwithstanding the fact that current law neither requires nor provides for a "signature" from the DEP as an alternative or as supplemental to self-certification.

Effect of Proposed Change

The bill authorizes the DEP and WMDs to expand the use of internet-based self-certification services for appropriate exemptions and general permits issued by the DEP and the WMDs, providing such expansion is economically feasible. In addition to expanding the use of internet based self certification services for appropriate exemptions and general permits, the DEP and WMDs are directed to identify and develop general permits for activities currently requiring individual review that could be expedited through the use of professional certifications.

Section 7. Amends s. 373.306, F.S., excluding injection wells authorized under the State Underground Injection Control Program from regulation under Chapter 373, Part III, F.S.

Current Situation

Chapter 373, part III, F.S., regulates the construction, repair, and abandonment of water wells[7] in Florida.[8] The definition of "well" presently could apply to certain injection wells. An injection well is a well into which fluids are being or will be injected, by gravity flow or under pressure.[9] Florida regulates injection wells under the State Underground Injection Control Program,[10] comprising a comprehensive chapter of the Florida Administrative Code[11] adopted primarily under the authority of ss. 403.061 and 403.087, F.S. The state program in turn is approved and accepted by the U.S. Environmental Protection Agency[12] under the authority of the Safe Drinking Water Act.[13]

Effect of Proposed Change

The bill limits the scope of the regulation of wells by excluding injection wells that are authorized under the State Underground Injection Control Program.

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[6] See http://www.flwaterpermits.com/

[7] "Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition, development, or artificial recharge of groundwater, but such term does not include any well for the purpose of obtaining or prospecting for oil, natural gas, minerals, or products of mining or quarrying; for inserting media to dispose of oil brines or to repressure oil-bearing or natural gas-bearing formation; for storing petroleum, natural gas, or other products; or for temporary dewatering of subsurface formations for mining, quarrying, or construction purposes. Section 373.03(7), F.S.

[8] Section 373.306, F.S.

[9] Rule 62-528.200(39), Florida Administrative Code (F.A.C.).

[10] Rule 62-528.110(1), F.A.C.

[11] Chapter 62-528, F.A.C.

[12] 40 C.F.R., Part 147, Subpart K.

[13] 42 U.S.C. Part C, ss. 300h – 300h-8.

Section 8. Amends s. 373.4141, F.S., reducing the amount of time the Department of Environmental Protection (DEP) or a water management district (WMD) has to approve a permit from 90 to 60 days after receipt of original application or last item of timely requested additional material; providing that a state agency cannot require, as a condition of approval for a environmental resource permit, that an applicant obtain permit approval from local, state or federal agencies without statutory authority.

Current Situation

Under part IV of chapter 373, F.S., the DEP and the WMDs issue environmental resource permits (ERPs) to any person seeking to construct or alter any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works. Section 373.4141, F.S., provides that upon receipt of an application for an ERP, the DEP is required within 30 days to examine the application and request submittal of all additional information the DEP or WMD is permitted by law to require. If the applicant believes any request for additional information (RAI) is not authorized by law or rule, the applicant may request a hearing pursuant to s. 120.57, F.S. Within 30 days after receipt of such additional information, the DEP or WMD must review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the DEP or WMD for such additional information is not authorized by law or rule, the DEP or WMD, at the applicant's request, shall proceed to process the permit application. A permit must 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.

In 2011, the Secretary of the DEP established an RAI policy for the permitting process with the following guidelines:

- 1st RAI-will require a mandatory review by the permitting supervisor. The RAI can be signed by the permit processor or the permitting supervisor.
- 2nd RAI-must be signed by the program administrator.
- 3rd RAI-must be signed by the district director or bureau chief. In addition, each district and division must submit a monthly report through the Deputy Secretary for Regulatory Programs of the 3rd RAIs issued and an explanation of why the RAI was issued.
- 4th RAI or more-will require the DEP Secretary's approval prior to issuing the 4th or more RAIs.

Effect of Proposed Changes

The bill amends s. 373.4141, F.S., by providing that a permit shall be approved, denied, or subject to a notice of proposed agency action within 60 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. The bill also provides that a state agency or an agency of the state cannot require, as a condition of approval for an ERP or as an item to complete a pending ERP application, that an applicant obtain a permit or approval from other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 9. Amends s. 373.4144, F.S., providing for the expansion of the use of State Programmatic General Permits (SPGP).

Current Situation

Regulation of Florida's wetlands includes permitting by both the state and federal government. The federal wetland regulatory program is administered under two federal laws. The first is Section 10 of the Rivers and Harbors Act of 1899 (Act). This Act prohibits the construction of any bridge, dam, dike, or causeway over or in navigable waterways of the U.S. without Congressional approval. The second law is the Clean Water Act (CWA). In 1972, Congress substantially amended the federal Water Pollution Control Act and initiated the CWA. Section 404 of the CWA is the foundation for federal regulation of some activities occurring in or near the nation's wetlands. The regulatory plan is intended to control

discharge from dredge or fill materials into wetlands and other water bodies throughout the United States.

Under section 404 of the CWA and section 10 of the Rivers and Harbors Act, the U.S. Army Corps of Engineers (COE) and the U.S. Environmental Protection Agency (EPA) share responsibility for implementing a permitting program for dredging and filling wetland areas. The COE administers the permitting provisions of both federal laws, with EPA oversight, in effect combining Clean Water Act and Rivers and Harbor Act permits into a single action. The COE issues two types of permits: general and individual. An individual permit is required for potentially significant impacts. It is reviewed by the COE, which evaluates applications under a public interest review, as well as the environmental criteria set forth in the CWA Section 404(b)(1) Guidelines. Under the general permit, there are three types of classification: nationwide, regional, and state. The use of a nationwide permit is limited and generally addresses storm drain lines, utility lines, bank stabilization, and maintenance activities. A regional permit will state what fill actions are allowed, what mitigation is necessary, how to get an individual project authorized, and how long it will take. National and regional permits are issued by the COE in Florida, although the COE could authorize Florida to issue regional permits on its behalf.

The third permit is a SPGP. This permit is limited to similar classes of projects that have minimal individual and cumulative impacts. Due to the class limitations, the complexity and physical size of projects are also limited. Wetland impacts allowed in general permits usually range from 5,000 square feet to 1 acre. Activities covered by the current SPGP include: construction of shoreline stabilization activities; boat ramps and boat launch areas and structures associated with such ramps or launch areas; docks, piers, marinas, and associated facilities; maintenance dredging of canals and channels; selected regulatory exemptions; and selected ERP noticed general permits. Monroe County and those counties within the jurisdiction of the Northwest Florida WMD are excluded from the SPGP permit.

Under current law, the Department of Environmental Protection (DEP) works with the COE to streamline the issuance of both the state and federal permits for work in wetlands and other surface waters in Florida. The SPGP process allows the DEP or WMD to grant both the ERP and the federal permit, instead of requiring both agencies to process the application.

The general permit process is supposed to eliminate individual review by the COE and allow certain activities to proceed with little or no delay. In most instances, anyone complying with the conditions of the general permit can receive project specific authorization; however, this is not always the case. Since the general permit authorizes the issuance of federal permits, federal resource agency coordination requirements remain. If a permit impacts a listed species, the permit must be forwarded to the COE for coordination with federal resource agencies.

Effect of Proposed Changes

The bill authorizes the DEP to obtain issuance of an expanded SPGP or a series of regional general permits from the COE for categories of activities in waters of the U.S. governed by the Clean Water Act and Rivers and Harbors Act of 1899, which are similar in nature, which will only cause minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment. In appropriate cases, the need for a separate individual approval from the COE would be eliminated.

The bill directs the DEP to not seek issuance of or take any action pursuant to such permits unless the conditions are at least as protective of the environment and natural resources as existing state law under part IV of chapter 373, F.S., and federal law under the Clean Water and the Rivers and Harbors Act of 1899.

The bill authorizes the DEP and WMDs to implement a voluntary SPGP for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the COE if the general permit is at least as protective of the environment and natural resources as existing state law under part IV of ch. 373, F.S., and federal law under the Clean Water Act

and Rivers and Harbors Act of 1899. The bill would not preclude the DEP from pursuing a series of regional general permits for construction activities in wetlands or surface waters.

Section 10. Amends s. 373.441, F.S., requiring that certain counties or municipalities apply by a specified date to the Department of Environmental Protection (DEP) or water management districts (WMDs) for authority to issue certain state permits; providing that following such delegation, the DEP or WMD can not regulate activities that are subject to the delegation; clarifying the authority of local governments to adopt pollution control programs under certain conditions; providing applicability with respect to solid mineral mining.

Current Situation

Florida Statutes and Florida Administrative Code (F.A.C.) sections authorize and provide procedures and considerations for the DEP to delegate the Environmental Resource Permit (ERP) program to local governments.[14] Delegation allows the local government to review and approve or deny the state permits at the same time the local authorizations are granted or denied. Current law directs that the rules must "seek to increase governmental efficiency" and "maintain environmental standards." Delegations can be granted only where:

- The local government can demonstrate that delegation would further the goal of providing an efficient, effective, and streamlined permitting program; and
- The local government can demonstrate that it has the financial, technical, and administrative capabilities and desire to effectively and efficiently implement and enforce the program, and protection of environmental resources will be maintained.[15]

Any denial by the DEP of a local government's request for a delegation of authority must provide specific detail of those statutory or rule provisions that were not satisfied. Such detail must also include specific actions that can be taken to allow for the delegation of authority. A local government, upon being denied a request for a delegation of authority, can petition the Governor and Cabinet for a review of the request. The Governor and Cabinet can reverse the decision of the department and may provide any necessary conditions to allow the delegation of authority to occur.[16]

Effect of Proposed Changes

The bill specifies that any county or municipality having a population of 400,000 or more that implements a local pollution control program regulating all or a portion of the wetlands or surface waters throughout its geographic boundary must apply for delegation of state environmental resource permitting authority on or before January 1, 2014. If a county or municipality fails to receive delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for delegation or by January 1, 2016, at the latest, it may not require permits that in part or in full are substantially similar to the requirements needed to obtain an environmental resource permit. A county or municipality that has received delegation before January 1, 2014, does not have to reapply. The DEP must grant or deny an application for delegation within 2 years after receipt of the application. If an application for delegation is denied, any available legal challenge to such denial will toll the preemption deadline until resolution of the legal challenge. Upon delegation to a qualified local government, the DEP and WMD cannot regulate the activities subject to the delegation within that jurisdiction unless regulation is required pursuant to the terms of the delegation agreement.

In addition, the bill specifies that this provision does not apply to ERP or reclamation applications for solid mineral mining, and does not prohibit the application of local government regulations to any new

[14] In an effort to place the planning and regulatory program into the hands of the local governments, s. 373.441, F.S., and its implementing rule, chapter 62-344, F.A.C., provide delegation authority.
[15] Chapter 62-344 of the Florida Administrative Code provides a guide to local governments in the application process, as well as the criteria that will be used to approve or deny a delegation request.
[16] Section 373.441, F.S.

solid mineral mine or any proposed addition to, change to, or expansion of an existing solid mineral mine.

Section 11. Amends s. 376.3071, F.S., providing that program deductibles, copayments, and contamination assessment report requirements do not apply to expenditures under the low-scored initiative within the Inland Protection Trust Fund.

Current Situation

The Legislature created the Inland Protection Trust Fund with the intent that it serve as a repository for funds that will enable the department to respond without delay to incidents of inland contamination related to the storage of petroleum and petroleum products to protect the public health, safety, and welfare and to minimize environmental damage.[17] Section 376.3071(4), F.S., directs the Department of Environmental Protection (DEP) to obligate moneys available in the fund whenever incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare to provide for:

- Prompt investigation and assessment of contamination sites.
- Expeditious restoration or replacement of potable water supplies.
- Rehabilitation of contamination sites.
- Maintenance and monitoring of contamination sites.
- Payment of expenses incurred by the department in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from the activities described in this subsection.
- Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints and costs associated with public information and education activities.
- Establishment and implementation of the compliance verification program.
- Activities related to removal and replacement of petroleum storage systems.
- Reasonable costs of restoring property as nearly as practicable to the conditions which existed prior to activities associated with contamination assessment or remedial action.
- Repayment of loans to the fund.
- Expenditure of sums from the fund to cover ineligible sites or costs if the department deems it necessary to do so.

Section 376.3071(5), F.S., provides the site selection and cleanup criteria that the department uses in determining the priority ranking for sites seeking state funded rehabilitation. The priority ranking is based upon a scoring system for state-conducted cleanup at petroleum contamination sites based upon factors that include, but need not be limited to:

- The degree to which human health, safety, or welfare may be affected by exposure to the contamination;
- The size of the population or area affected by the contamination;
- The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water; and
- The effect of the contamination on the environment.

Section 376.3071(11), F.S., authorizes a low-scored site initiative for sites with a priority ranking score of 10 points or less and provides conditions for voluntary participation, including:

- Upon reassessment pursuant to DEP rule, the site retains a priority ranking score of 10 points or less;

[17] Section 376.3071, F.S.

- No excessively contaminated soil, as defined by DEP rule, exists onsite as a result of a release of petroleum products;
- A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable;
- The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment;
- The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated; and
- Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by DEP rule, or human exposure is limited by appropriate institutional or engineering controls.

If these conditions are met, DEP must issue a No Further Action determination, which means minimal contamination exists onsite and that contamination is not a threat to human health or the environment. If no contamination is detected, the DEP may issue a site rehabilitation completion order (SRCO). Sites that are eligible must be voluntarily initiated by the source property owner or responsible party for the contamination. For sites eligible for state restoration funding, the DEP may pre-approve the costs of the site assessment, including 6 months of groundwater monitoring, not to exceed $30,000 for each site. The DEP may not pay the costs associated with the establishment of institutional or engineering controls. Assessment work must be completed no later than 6 months after the DEP issues its approval.

Effect of Proposed Change

The bill specifies that program deductibles, copayments, and contamination assessment report requirements do not apply to expenditures under the low-scored site initiative within the Inland Protection Trust Fund.

Section 12. Amends s. 376.30715, F.S., providing that the transfer of title for a petroleum contaminated site to a child or a corporate entity created by the owner to hold title for the site does not disqualify the site from financial assistance.

Current Situation

In 2005, the Legislature created the Innocent Victim Petroleum Storage System Restoration Program to provide state clean-up assistance to property owners of petroleum-contaminated sites that were acquired prior to July 1, 1990. To be eligible for clean up, the site must have ceased operating as a petroleum storage or retail business prior to January 1, 1985. A conveyance of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor, does not disqualify the site from participating in the Innocent Victim Petroleum Storage System Restoration Program. The current property owner of the contaminated site must have acquired the property prior to July 1, 1990.

Effect of Proposed Changes

The bill amends s. 376.30715, F.S., to specify that the transfer of title for a petroleum contaminated site to a child of the owner or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance. The bill also specifies that applicants previously denied coverage may reapply.

Section 13. Amends s. 380.0657, F.S., authorizing certain inland multimodal facilities for expedited permitting.

Current Situation

Section 380.0657, F.S., provides that the Department of Environmental Protection (DEP) and the water management districts (WMDs) are required to adopt programs to expedite the processing of wetland

resource and environmental resource permits when such permits are for the purpose of economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, F.S.

Pursuant to s. 288.106(1)(q), F.S., a "target industry business" means a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by Division of Strategic Business Development in consultation with Enterprise Florida, Inc.:

- Future growth—Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services.
- Stability—The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not typically subject to decline during an economic downturn.
- High wage—The industry should pay relatively high wages compared to statewide or area averages.
- Market and resource independent—The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis, except for businesses in the renewable energy industry.
- Industrial base diversification and strengthening—The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis. Special consideration should also be given to the development of strong industrial clusters that include defense and homeland security businesses.
- Positive economic impact—The industry is expected to have strong positive economic impacts on or benefits to the state or regional economies. Special consideration should be given to industries that facilitate the development of the state as a hub for domestic and global trade and logistics.

Effect of Proposed Changes

The bill amends s. 380.0657, F.S., to include any inland multimodal facility receiving or sending cargo to or from Florida ports as a type of economic development project that should receive expedited processing of water resource and environmental resource permits.

Section 14. Amends s. 381.0065, F.S., limiting applicability of the onsite sewage treatment and disposal system evaluation and assessment program.

Current Situation

During the 2010 legislative session, the Legislature passed HB 550, which, in part, created an onsite sewage treatment and disposal system evaluation program (program) to be administered by the Department of Health (DOH) beginning January 1, 2011. The purpose of the program is to assess the fundamental operational condition of septic systems and identify failures within the systems. Section 381.0065(5), F.S., directs the DOH to adopt rules implementing the program standards, procedures, and requirements, including a schedule for a 5-year evaluation cycle, requirements for the pump-out of a system or repair of a failing system, enforcement procedures for failure of a system owner to obtain an evaluation of the system, and failure of a contractor to timely submit evaluation results to the DOH and the system owner. The DOH must ensure statewide implementation of the program by January 1, 2016.

The program requires the owner of a septic system, excluding a system that is required to obtain an operating permit,[18] to have the system evaluated at least once every 5 years to assess the fundamental operational condition of the system, and identify any system failures. The evaluation must include a tank and drain field evaluation, a written assessment of the condition of the system, and, if necessary, a disclosure statement. A septic system owner must pay the cost of the evaluation as well as a 5-year evaluation report fee of not less than $15, or more than $30, which is collected by the person conducting the septic system evaluation and remitted to the DOH. The actual cost of an evaluation, as well as the cost of any necessary remedial actions, is one of the issues currently under review by the DOH.

Owners of septic systems are responsible for paying the cost of any required pump-out, repair, or replacement, and cannot request partial evaluation or the omission of portions of the evaluation. Each evaluation or pump-out must be performed by a registered septic tank contractor of master septic tank contractor, a licensed professional engineer with wastewater treatment system experience, or an environmental health professional certified in the area of onsite sewage treatment and disposal system evaluation. Prior to any evaluation deadline, the DOH must provide a minimum 60 days notice to owners that their systems must be evaluated by that deadline.

Systems being evaluated that were installed prior to January 1, 1983, must meet a minimum 6-inch separation from the bottom of the drain field to the wettest season water table elevation. All drain field repairs, replacements, or modifications to systems installed prior to January 1, 1983, must meet a minimum 12-inch separation from the bottom of the drain field to the wettest season water table elevation. Systems being evaluated that were installed after January 1, 1983, must meet a minimum 12-inch separation from bottom of drain field to the wettest season water table elevation, and all drain field repairs, replacements, or modifications to these systems must meet a minimum 24-inch separation from bottom of drain field to the wettest season water table elevation.

A pump-out of a septic system is not required if documentation of a pump-out or a permitted new installation, repair, or modification of the system within the previous 5 years is provided, and the documentation states the capacity of the tank and indicates that the condition of the tank is not a sanitary or public health nuisance as defined by DOH rule.

Beginning on January 1, 2012, the DOH is directed to administer a grant program to assist low-income owners of septic systems to defray some of the cost of complying with the requirements of the evaluation program. A grant can be awarded to an owner for the purpose of inspecting, pumping, repairing, or replacing a system serving a single-family residence occupied by an owner with a family income of less than or equal to 133 percent of the federal poverty level.[19] At least $1, but no more than $5, of the evaluation report fee described above must be used to fund the grant program.

During the 2010 November special session, SB 2A was passed to change the initial implementation date of the statewide septic tank evaluation program from January 1, 2011 to July 1, 2011. However, the DOH has not adopted a rule to implement the program. During the 2011 legislative session, Senate Bill 2002 (implementing bill to the General Appropriations Act) specified that before the implementation of the onsite sewage treatment and disposal system evaluation program, described in s. 381.0065(5)(a), F.S., the DOH must submit a plan for approval by the Legislative Budget Commission, which includes an estimate of agency workload and funding needs. The DOH may not expend funds in the evaluation program until the 2012 legislative session.

Effect of Proposed Changes

The bill amends s. 381.0065, F.S., exempting owners of onsite sewage treatment and disposal systems from the evaluation and assessment program unless the board of county commissioners has adopted a

[18] Systems that require an operating permit are typically large scale complex commercial systems and anaerobic systems. Typical residential septic systems require a permit for installation, but not an annual operating permit.

[19] Depending on the size of a family, 133% of the federal poverty level equals a yearly income of between $14,404 and $49,223. https://www.cms.gov/MedicaidEligibility/07_IncomeandResourceGuidelines.asp.

resolution subjecting owners to the requirements of the evaluation program and submitted a copy of the resolution to the DEP.

Section 15. Amends s. 403.061, F.S., requiring the Department of Environmental Protection (DEP) to establish reasonable zones of mixing for discharges into specified waters and providing certain discharges do not create liability for site cleanup.

Current Situation

Section 403.061, F.S., authorizes the DEP with the power and the duty to control and prohibit pollution of air and water. The DEP is required to adopt rules to establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and standards for the abatement of excessive and unnecessary noise. The DEP is also authorized to establish reasonable zones of mixing for discharges into waters.

Effect of Proposed Changes

The bill amends s. 403.061, F.S., to specify that for existing installations as defined by Rule 62-520.200(10), F.A.C.,[20] zones of discharge to groundwater are authorized to a facility or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to chapter 403 or 376, F.S., for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup.

Section 16. Amends s. 403.087, F.S., revising conditions under which the Department of Environmental Protection (DEP) is authorized to revoke permits.

Current Situation

Section 403.087(1), F.S., specifies that a stationary installation that is reasonably expected to be a source of air or water pollution must not be operated, maintained, constructed, expanded, or modified without an appropriate and valid permit issued by the DEP, unless exempted by DEP rule.

Section 403.087(7), F.S., specifies that the DEP may revoke permits issued pursuant to this section for the following reasons:

- The permit holder has submitted false or inaccurate information on the application;
- The permit holder has violated law, the DEP's orders, rules, or regulations, or permit conditions;
- The permit holder has failed to submit operational reports or other information required by the DEP's rule or regulation;
- The permit holder has refused lawful inspection under s. 403.091, F.S.[21]

Effect of Proposed Changes

The bill amends s. 403.087(7), F.S., by limiting, in the follow manner, the reasons described above for which the DEP can revoke a permit:

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[20] The term "existing installations" is defined in Rule 62-520.200(10), F.A.C., to mean any installation which had filed a complete application for a water discharge permit on or before January 1, 1983, or which submitted a groundwater monitoring plan no later than six months after the date required for that type of installation as listed in Rule 17-4.245, F.A.C. (1983), and a plan was subsequently approved by the department; or which was in fact an installation reasonably expected to release contaminants into the groundwater on or before July 1, 1982, and operated consistently with statutes and rules relating to groundwater discharge in effect at the time of operation.

[21] Section 403.091(c), F.S., states that no person shall refuse reasonable entry or access to any authorized representative of the DEP who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

- Specifies that inaccurate or false information must relate directly to the application for the permit;
- Specifies that the failure to submit operational reports and other information required by the DEP only applies to those reports or information which directly relate to the permit and where the applicant has refused to correct or cure such violations when requested to do so; and
- Specifies that the refusal of a lawful inspection only pertains to the facility authorized by the permit.

Section 17. Amends s. 403.1838, F.S., relating to the Small Community Sewer Construction Assistance Act

Current Situation

Section 403.1838, F.S., establishes the Small Community Sewer Construction Assistance Act (Act), and directs the Department of Environmental Protection (DEP) to use funds specifically appropriated to assist financially disadvantaged small communities with their needs for adequate sewer facilities. For the purposes of the Act, the term "financially disadvantaged small community" means a municipality with a population of 7,500 or less, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce. The DEP is authorized to provide grants, from funds specifically appropriated for this purpose, to financially disadvantaged small communities for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses. The Act also provides that the rules implementing the grant program must:

- Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permittable, and implementable.
- Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.
- Require grant applications to be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.
- Establish a system to determine eligibility of grant applications.
- Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution abatement.
- Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.
- Provide for termination of grants when program requirements are not met.

Effect of Proposed Changes

The bill amends s. 403.1838, F.S., by expanding the population ceiling from 7,500 to 10,000 for communities eligible to apply for grants under the Small Community Sewer Construction Assistance Act.

Section 18. Amends s. 403.7045, F.S., providing that sludge from an industrial waste treatment works meets certain exemption requirements.

Current Situation

Section 403.708(1)(a), F.S., states that no person can place or deposit any solid waste in or on the land or waters located within the state except in a manner approved by the DEP. Section 403.703, F.S., defines "solid waste" as sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental

operations. "Sludge" includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

While virtually all discarded materials are considered solid waste, the following wastes or activities are not regulated under the Act if they are otherwise regulated by the DEP or the federal government pursuant to s. 403.7045, F.S.:

- Nuclear material, except for certain mixtures of hazardous waste and radioactive waste.
- Suspended solids or dissolved materials in domestic sewage effluent or irrigation return flows or other point source discharges.
- Air emissions.
- Drilling fluids and wastes associated with oil and natural gas exploration.
- Recovered materials (defined to include only metal, paper, glass, plastic, textiles, or rubber materials), if a majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within one year, if the recovered materials or byproducts are managed so that they do not pose a pollution threat and are not considered hazardous waste, and if the facility managing the materials is registered as required by s. 403.7046, F.S.
- Industrial byproducts, if a majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within 1 year, and if the recovered materials or byproducts are managed so that they do not pose a pollution threat, do not cause a significant threat to public health, and are not considered hazardous waste.

Effect of Proposed Change

The bill specifies that sludge from an industrial waste treatment works meeting the exemption requirements for industrial byproducts is not to be considered a solid waste as defined under s. 403.703, F.S.

Section 19. Amends s. 403.707, F.S., deletes the public nuisance condition for issuing permits for a solid waste management facility; exempts new solid waste disposal areas at an already permitted facility from having to be specifically authorized in a permit if monitored by an existing or modified monitoring plan; extends the duration of all permits issued to solid waste management facilities that meet specified criteria.

Current Situation

Currently, a solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without valid permits issued by the Department of Environmental Protection (DEP). Permits for solid waste management facilities are subject to all requirements applicable generally to permits for potential sources of air or water pollution.[22] A permit for a source of water pollution must be renewed every 10 years.[23] DEP is required to set applicable permit fees and review those fees at least every 5 years, increasing them (within the fee caps set in statute) if necessary according to the Consumer Price Index or similar inflation indicator.[24]

Permits under s. 403.707, F.S., are not required for the following, if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations or orders:

- Disposal by persons of solid waste resulting from their own activities on their property, if such waste is ordinary household waste or rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations.

[22] Section 403.707(3), F.S., incorporates the permitting requirements of ss. 403.087 and 403.088, F.S.
[23] Section 403.087(1), F.S.
[24] Section 403.087(6)(a), F.S.

- Storage in containers by persons of solid waste resulting from their own activities on their property, if the solid waste is collected at least once a week.
- Disposal by persons of solid waste resulting from their own activities on their property if the environmental effects of such disposal on groundwater and surface waters are addressed or authorized by a site certification order issued under part II or a permit issued by the DEP under chapter 403, F.S., or rules adopted pursuant to this chapter; or addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the DEP.

Effect of Proposed Changes

The bill deletes the public nuisance requirements in s. 403.707(2), F.S., which provides that a permit is not required if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations, or orders.

The bill specifies that if a facility has a permit authorizing disposal activity, new areas where solid waste is being disposed of which are monitored by an existing or modified groundwater monitoring plan are not required to be specifically authorized in a permit or other certification.

The bill extends to 20 years the term of a permit issued for a solid waste management facility designed with a leachate control system that meets the DEP's requirements unless the applicant requests a shorter term. For these facilities, the statutory limitations on reviewing and adjusting fees are excluded and existing permit fees for qualifying solid waste management facilities must be prorated to the permit term authorized under current law. This provision applies to all qualifying solid waste management facilities that apply for an operating or construction permit or renew an existing operating or construction permit on or after July 1, 2012. Permits for solid waste facilities without leachate control systems meeting DEP requirements shall be renewed every 10 years, unless a shorter time is requested by the applicant, upon meeting additional statutory requirements. DEP is expressly authorized to adopt rules implementing the changes in the bill.

Section 20. Amends s. 403.709, F.S., creating the solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for closing solid waste management facilities under certain conditions.

Current Situation

The Solid Waste Management Trust Fund is administered by DEP and funded by certain annual revenues, including registration fees, fines, and penalties imposed by ss. 403.75 – 403.769 and s. 526.01, F.S.[25] The statute specifies a range of uses each of which must receive either a minimum or maximum percentage from the trust fund:

- Up to 40% for certain solid waste activities of DEP and other state agencies;
- Up to 4.5% for research and training programs;
- Up to 11% for supplements to the Dept. of Agriculture and Consumer Services for mosquito control;
- Up to 4.5% for litter prevention; and
- A *minimum* of 40% for the solid waste management grant program, relating to recycling and waste reduction.[26]

Where trust fund assets are used to clean up an accumulation of tires at a site, DEP is required to recover all sums expended from the site owner or the person responsible for the accumulation, jointly

[25] Section 403.759, F.S.
[26] Section 403.709(1)(a)-(e), F.S.

and severally.[27] DEP is also authorized to seek a lien on the real property and the waste tires equal to the amount necessary to clean up the site, including costs and attorney's fees.[28]

Effect of Proposed Changes

The bill creates s. 403.709(5), F.S., to create the solid waste landfill closure account within the trust fund. This account is intended to provide funding for the closing and long-term care of a former solid waste management facility under the following criteria:

- The facility was permitted by DEP;
- The permit holder provided insurance as proof of financial assurance for closing the facility;
- The facility was abandoned or DEP ordered it to be closed; and
- Closure will comply substantially with a DEP-approved closure plan.

DEP must have a reasonable expectation that the insurer issuing the policy will provide or reimburse most of the funds needed for closure and long-term care of the facility; any funds so reimbursed must be deposited into the account.

Certain issues in this section may require clarification. There is no requirement that the insurer be authorized to do business in Florida.[29] The bill is unclear whether the allocation of the trust fund under s. 403.709(1), F.S., may be adjusted by DEP to provide funding under the new subsection if needed. The phrase "reasonable expectation" may not provide sufficient guidance for DEP to determine if a proffered insurance plan will adequately protect the interests of the trust fund.

Section 21. Amends s. 403.7125, F.S., authorizing DEP by rule to require financial assurance for the cost of complying with corrective action ordered by the Agency.

Current Situation

Owners and operators of landfills are jointly and severally liable for the improper operation and resulting closure of the facility.[30] To offset potential liabilities where the landfill is owned or operated by a local, state, or federal governmental entity, the owner or operator must establish and collect a fee, surcharge, or other revenue source in an amount necessary to ensure adequate funds are available in the event the landfill must be closed. The funds collected must be deposited in an interest-bearing escrow account maintained by the owner or operator.[31] Alternatively, owners or operators may provide DEP with a financial assurance of funds for the closure of the facility, in the form of a surety bond, certificates of deposit, or other specified financial instruments.[32]

Effect of Proposed Change

The bill creates a new subsection (5) mandating that DEP adopt a rule requiring owners/operators of solid waste management facilities taking waste after October 9, 1993, to provide financial assurance for necessary costs if DEP orders the facility take corrective action for violations of water quality standards. The assurance may be of the same type as listed in existing subsection (3).

Section 22. Amends s. 403.814, F.S., providing for the issuance of general permits for certain surface water management systems without agency action of the Department of Environmental Protection (DEP) or a water management district (WMD).

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[27] Section 403.709(2), F.S.
[28] Section 403.709(3), F.S.
[29] For example, licensed sellers of travel must post an assurance which may be a surety bond; the surety company must be authorized to conduct such business in Florida. Section 559.929(1), F.S.
[30] Section 403.7125(1), F.S.
[31] Section 403.7125(2), F.S.
[32] Section 403.7125(3), F.S.

Current Situation

Currently, the DEP is authorized to adopt rules establishing and providing for a program of general permits for projects, which have, either singly or cumulatively, a minimal adverse environmental effect. Such rules must specify design or performance criteria which, if applied, would result in compliance with appropriate standards. Any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the DEP without any agency action by the DEP.[33] Projects include, but are not limited to:

- Construction and modification of boat ramps of certain sizes.
- Installation and repair of riprap at the base of existing seawalls.
- Installation of culverts associated with stormwater discharge facilities.
- Construction and modification of certain utility and public roadway construction activities.

Effect of Proposed Changes

The bill amends current law to require the DEP to grant a general permit for the construction, alteration, and maintenance of surface water management systems serving a total project area of up to 10 acres. The construction of such a system can proceed without an agency action by the DEP or WMD if:

- The total project area is less than 10 acres;
- The total project area involves less than 2 acres of impervious surface;
- No activities will impact wetlands or other surface waters;
- No activities are conducted in, on, or over wetlands or other surface waters;
- Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner; and
- The project is not part of a larger common plan of development or sale.
- The project does not:
    - Cause adverse water quantity or flooding impacts to receiving water and adjacent lands;
    - Cause adverse impacts to existing surface water storage and conveyance capabilities;
    - Cause a violation of state water quality standards; or
    - Cause an adverse impact to the maintenance of surface or groundwater levels or surface water flows established pursuant to s. 373.042, F.S., or a work of the district established pursuant to s. 373.086, F.S.; and
- The surface water management system design plans are signed and sealed by a Florida registered professional who attests that the system will perform and function as proposed and has been designed in accordance with appropriate, generally accepted performance standards and scientific principles.

Section 23. Amends s. 403.853, F.S., adding groundwater usage and services to religious institutions to the definition of transient noncommunity water systems for the purpose of obtaining a sanitary survey related to drinking water standards and possible reduction in monitoring requirements.

Current Situation

Under the Federal Safe Drinking Water Act, the Environmental Protection Agency (EPA) has promulgated national primary drinking water regulation for contaminants that may adversely affect human health, if the contaminant is likely to occur in public water systems often and at levels of public health concern, and if EPA's Administrator decides that regulating the contaminant will meaningfully reduce health risks for those served by public water systems. The federal act also authorizes states to assume the implementation and enforcement of the federal act. In 1977, Florida adopted the Florida Safe Drinking Water Act (FSDWA), which is jointly administered by the Florida Department of Environmental Protection (DEP), in a lead-agency role, and the Florida Department of Health (DOH), in

[33] Section 403.814(1), F.S.

a supportive role with specific duties and responsibilities of its own. The DOH and its agents have general supervision and control over all private water systems and public water systems not covered or included in the FSDWA. Every county health department in Florida has a minimum degree of mandatory participation in the FSDWA. This minimal level of participation is supportive in nature because most of the county health departments do not have sufficient staff or capability to be fully responsible for the program. In those counties where the county health department is without adequate capability, the appropriate DEP office is heavily involved in administering all aspects of the program.

Under the FSDWA, a regulated "public water system" is a system that provides water for human consumption through pipes or other constructed conveyances, and such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.[34] The only exception is for those systems which, in addition to meeting the criteria for being a public water system, also meet all four additional criteria which form the basis for exemption.[35]

Public water systems are either community or noncommunity. A community water system serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.[36] A noncommunity water system is either a nontransient noncommunity system or a transient noncommunity water system.[37] A nontransient noncommunity water system serves at least 25 of the same persons over 6 months per year.[38] A transient noncommunity water system has at least 15 service connections or regularly serves at least 25 persons daily at least 60 days out of the year, but does not regularly serve 25 or more of the same persons for more than 6 months per year.[39]

Under the FSDWA, the DEP is required to adopt and enforce 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[40] and state secondary drinking water regulations patterned after the national drinking water regulations.[41] The DEP also is to adopt and enforce primary and secondary drinking water regulations for nontransient noncommunity water systems and transient noncommunity water systems, which shall be no more stringent than the corresponding national primary or secondary drinking water regulations in effect at such time, except that nontransient, noncommunity systems shall monitor and comply with additional primary drinking water regulations as determined by the DEP.[42] A "primary drinking water regulation" is a rule that applies to public water systems; specifies contaminants that may have an adverse effect on the health of the public; specifies a maximum contaminant level for each contaminant or a treatment technique to reduce the level of the contaminant; and contains criteria and procedures to assure a supply of drinking water that dependably complies with maximum contaminant levels, including monitoring and inspection procedures.[43] A "secondary drinking water regulation" is a rule that applies to public water systems and specifies maximum contaminant levels, and such regulations may vary according to geographic and other circumstances.[44] Upon the request of the owner or operator of a transient noncommunity water system serving businesses, other than restaurants or other public food service establishments, and using groundwater as a source of supply, the DEP, or a local county health department designated by the DEP, shall perform a sanitary survey of the facility. Upon receipt of satisfactory survey results according to DEP criteria, the DEP shall reduce the requirements of such owner or operator from monitoring and reporting on a quarterly basis to performing these functions on an annual basis.

Effect of Proposed Change

[34] Section 403.852(2), F.S.
[35] Section 403.853(2), F.S.
[36] Section 403.852(3), F.S.
[37] Section 403.852(4), F.S.
[38] Section 403.852(17), F.S.
[39] Section 403.852(18), F.S.
[40] Section 403.853(1)(a) 1, F.S.
[41] Section 403.853(1)(a) 2, F.S.
[42] Section 403.853(1)(b), F.S.
[43] Section 403.852(12), F.S.
[44] Section 403.852(13), F.S.

The bill specifies that the DEP, or a local county health department designated by the DEP, is authorized at the request of the owner or operator of a transient noncommunity water systems using groundwater as a source of supply and serving religious institutions (except those with school or day care services) to perform a sanitary survey, and upon receipt of satisfactory results, the DEP must reduce the monitoring and reporting requirements.

Section 24. Amends s. 403.973, F.S., providing for the creation of regional action teams for expedited permitting for businesses that will house one or more other businesses or operations that would collectively create at least 50 jobs and clarifying the process and use of Memorandum of Agreement (MOA).

Current Situation

Section 403.973, F.S., provides for expedited permitting and a process for amendments to comprehensive plans for certain projects that are identified to encourage and facilitate the location and expansion of those types of economic development projects that offer job creation and high wages, strengthen and diversify the state's economy, and have been thoughtfully planned to take into consideration the protection of the state's environment.

Under s. 403.973, F.S., the secretary of the Department of Environmental Protection (DEP) must direct the creation of regional permit action teams for the purpose of expediting the review of permit applications and local comprehensive plan amendments submitted by:

- Businesses creating at least 50 jobs; or
- Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county have a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

Regional Permit Action Teams are established by a Memoranda of Agreement (MOA) with the secretary of DEP directing the creation of these teams. The MOA is between the secretary and the applicant with input solicited from the Department of Transportation; Department of Agriculture & Consumer Services; the Florida Fish & Wildlife Conservation Commission; the Regional Planning Councils; and the WMDs. The MOA accommodates participation by federal agencies, as necessary. At a local government's option, a special MOA may be developed on a case-by-case basis to allow some or all local development permits or orders to be covered under the expedited review. Implementation of the local government MOA requires a noticed public workshop and hearing.

The MOA may provide for the waiver or modification of procedural rules prescribing forms, fees, procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are party to the MOA. A MOA must, to the extent feasible, provide for proceedings and hearings otherwise held separately by the parties of the MOA to be combined into one proceeding or held jointly and at one location. Such waivers or modifications are not available for permit applications governed by federally delegated or approved permitting programs, the requirements of which would prohibit, or be inconsistent with, such a waiver or modification.

The MOA guidelines may include, but are not limited to, the following:

- A central contact point for filing permit applications and local comprehensive plan amendments and for obtaining information on permit and local comprehensive plan amendment requirements.
- Identification of the individual or individuals within each respective agency who will be responsible for processing the expedited permit application or local comprehensive plan amendment for that agency.
- A mandatory pre-application review process to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment

review. As a part of this process, the first interagency meeting to discuss a project shall be held within 14 days after the secretary's determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the secretary's determination that the project is eligible for expedited review.

- The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies.
- Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184, F.S., from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph.
- Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

Appeals of expedited permitting projects are subject to the summary hearing provisions of s. 120.574, F.S. The administrative law judge's recommended order is not the final state agency action unless the participating agencies of the state opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action. Where one state agency action is challenged, the agency of the state shall issue the final order within 45 working days of receipt of the administrative law judge's recommended order. In those proceedings where the more than one state agency action is challenged, the governor shall issue the final order within 45 working days of receipt of the administrative law judge's recommended order.

Expedited permitting provides a special assistance process for Rural Economic Development Initiative (REDI) counties. The Department of Economic Opportunity, working with REDI and the regional permitting teams, is to provide technical assistance in preparing permit applications for rural counties. This additional assistance may include providing guidance in land development regulations and permitting processes, and working cooperatively with state, regional and local entities to identify areas within these counties that may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

Effect of Proposed Changes

The bill revises the structure and process for expedited permitting of targeted industries. The bill adds commercial or industrial development projects that will be occupied by businesses that would individually or collectively create at least 50 jobs to activities qualifying for expedited review; requires regional teams to be established through the execution of a project-specific MOA; and specifies that the standard form of the MOA will be used only if the local government participates in the expedited review process.

Section 25. Amends s. 526.203, F.S., expanding the state Renewable Fuel Standard to include other renewable fuel and clarifies that the state Renewable Fuel Standard does not prohibit the sale of unblended fuel for exempted purposes.

Current Situation

In FY 2010-2011, Florida consumed approximately 8.2 billion gallons of gasoline,[45] and is the third largest consumer of gasoline in the nation.[46] From January through August of 2011, approximately 2.65 billion gallons of unblended gasoline and approximately 7 billion gallons of blended gasoline (9 to 10 percent ethanol) were sold in the state.[47] [48] According to the Florida Biofuels Association, there are

[45] Fuel Tax Distributions spreadsheet found on Department of Revenue website: http://dor.myflorida.com/dor/taxes/fuel.
[46] Texas and California lead Florida in amount of gasoline consumed.
[47] By terminal suppliers, importers, blenders, and wholesalers.

several commercial advanced biofuel ethanol projects in development that encompass a total investment in excess of $1 billion in capital.[49] The state has invested approximately $39 million in grant awards for the development of ethanol since 2006.[50]

Federal Renewable Fuel Standard

The federal government requires the U.S. Environmental Protection Agency (EPA) to develop and implement regulations to ensure that transportation fuel sold in the United States contains a minimum volume of renewable fuel, through a Renewable Fuel Standard (RFS). The RFS program was created under the Energy Policy Act of 2005, which established the first renewable fuel volume mandate in the United States. Originally, the program required 7.5 billion gallons of renewable fuel to be blended into gasoline by 2012.[51] However, the federal Energy Independence and Security Act of 2007, signed into law on December 19, 2007, set the renewable fuel standard minimum annual goal for renewable fuel use at 9 billion gallons in 2008 and 36 billion gallons by 2022.[52]

Florida Renewable Fuel Standard Act (Act)

In 2008, the Legislature passed the Florida Renewable Fuel Standard Act (ss. 526.201-526.207, F.S.), which provided findings that "it is vital to the public interest and to the state's economy to establish a market and the necessary infrastructure for renewable fuels in this state by requiring that all gasoline offered for sale in this state include a percentage of agriculturally derived, denatured ethanol." Further, "that the use of renewable fuel reduces greenhouse gas emissions and dependence on imports of foreign oil, improves the health and quality of life for Floridians, and stimulates economic development and the creation of a sustainable industry that combines agricultural production with state-of-the-art technology."[53]

Based on these findings, the Legislature established the standard that, beginning December 31, 2010, all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler shall be blended gasoline.[54] The act does not address retail sales of gasoline.

"Blended gasoline" is defined as a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol, by volume, that meets the specifications as adopted by the Department of Agriculture and Consumer Services. The fuel ethanol portion may be derived from any agricultural source. "Fuel ethanol" means an anhydrous denatured alcohol produced by the conversion of carbohydrates that meets the specifications as adopted by the department.[55] The act does not include other types of renewable fuel in the standard.

The act provides specific exemptions from the standard.[56] They include the following:

- Fuel used in aircraft;
- Fuel sold for use in boats and similar watercraft;
- Fuel sold to a blender;
- Fuel sold for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, or small engines;

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[48] Department of Revenue correspondence, December 2, 2011.
[49] These include, but are not limited to: INEOS – New Planet BioEnergy; Highlands EnviroFuels, LLC; Vercipia Biofuels/BP Biofuels; Algenol; Petro Algae; LS9; and Southeast Renewable Fuels, LLC.
[50] Correspondence with the Department of Agriculture and Consumer Services, December 5, 2011.
[51] See the EPA website: http://www.epa.gov/otaq/fuels/renewablefuels.
[52] *EPA Proposes 2012 Renewable Fuel Standards and 2013 Biomass-Based Diesel Volume,* EPA-420-F-11-018, Office of Transportation and Air Quality, June 2011, p. 1.
[53] Section 526.202, F.S.
[54] Section 526.203(2), F.S.
[55] Section 526.203(1), F.S.
[56] Section 526.203(3), F.S.

- Fuel unable to comply due to requirements of the United States Environmental Protection Agency;
- Fuel transferred between terminals
- Fuel exported from the state in accordance with s. 206.052, F.S.;
- Fuel qualifying for any exemption in accordance with Chapter 206, F.S.;
- Fuel for a railroad locomotive; and
- Fuel for equipment, including vehicle or vessel, covered by a warranty that would be voided, if explicitly stated in writing by the vehicle or vessel manufacturer, if the equipment were to be operated using fuel meeting the requirements of the act.

Effect of Proposed Changes

The bill expands the renewable fuel standard by including "other renewable fuel" in the definition of "blended gasoline." "Renewable fuel" is defined in the bill to mean "a fuel produced from renewable biomass that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel." "Biomass" is defined in Florida law as "a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas."[57]

The bill, in effect, may capture future renewable products, such as biobutanol,[58] that can be compatibly blended with gasoline and requires that the "other renewable fuel" meet the specifications as adopted by the Department of Agriculture and Consumer Services. This section of law applies to gasoline only. Therefore, the expansion does not include biodiesel or biomass-based diesel, which cannot be blended with gasoline.

The bill clarifies that the state Renewable Fuel Standard does not prohibit the sale of unblended fuel for exempted uses. [See above list of exemptions.] Although these exemptions are enumerated in statute, there has been confusion over whether the law prevents retailers from selling unblended gas. The law does not address retailers. This addition to the section is provided to add clarification that unblended gasoline can be sold for exempted purposes, without penalty.

Section 26. Provides an effective date.

This act shall take effect on July 1, 2012.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.022, F.S., prohibiting a county from requiring as a condition of approval for a development permit that an applicant obtain a permit or approval from any other state or federal agency; authorizing a county to attach certain disclaimers to the issuance of a development permit.

Section 2. Amends s. 161.041, F.S., specifying certain requirements related to the coastal construction permit application process.

Section 3. Amends s. 166.033, F.S., prohibiting a municipality from requiring as a condition of approval for a development permit that an applicant obtain a permit or approval from any other state or federal agency; authorizing a county to attach certain disclaimers to the issuance of a development permit.

Section 4. Amends s. 218.075, F.S., to include entities created by special act or local ordinance or interlocal agreement by counties or municipalities for purposes of the DEP and WMD reduced or waived permit processing fees

[57] Section 366.91(2)(a), F.S.

[58] Biobutanol is a four-carbon alcohol derived mainly from the fermentation of the sugars in organic feedstocks. (http://alternativefuels.about.com/od/thedifferenttypes/a/biobutanol.htm)

Section 5. Amends s. 258.397, F.S., to exempt a municipality from being required to show extreme hardship for sale, transfer, or lease of sovereign submerged lands in the Biscayne Bay Aquatic Preserve and adds as permissible activity dredging and filling for creation of public waterfront promenades in the Aquatic Preserve.

Section 6. Amends s. 373.026, F.S., expanding the use of internet-based self-certification services.

Section 7. Amends s. 373.306, F.S., exempting injection wells authorized under the State Underground Injection Control Program from regulation under Chapter 373, Part III, F.S.

Section 8. Amends s. 373.4141, F.S., providing for applicants to timely respond to RAIs for ERP applications.

Section 9. Amends s. 373.4144, F.S., providing legislative intent in the coordination of regulatory duties among state and federal agencies; requiring that the DEP report annually to the Legislature on efforts to expand the state programmatic general permit or regional general permits; providing for a voluntary state programmatic general permit for certain dredge and fill activities.

Section 10. Amends s. 373.441, F.S., directing the DEP and water management districts to regulate activities pursuant to delegation agreements.

Section 11. Amends s. 376.3071, F.S., clarifying that that program deductibles, copayments, and contamination assessment report requirements do not apply as expenditures under the low-scored site initiative within the Inland Protection Trust Fund.

Section 12. Amends s. 376.30715, F.S., providing that the transfer of title for a petroleum contaminated site to a child of the owner or a corporate entity created by the owner to hold title for the site does not disqualify the site from financial assistance.

Section 13. Amends s. 380.0657, F.S., authorizing expedited permitting for certain inland multimodal facilities.

Section 14. Amends s. 381.0065, F.S., limiting applicability of the onsite sewage treatment and disposal system evaluation and assessment program

Section 15. Amends s. 403.061, F.S., requiring the DEP to establish reasonable zones of mixing for discharges into specified waters and providing certain discharges do not create liability for site cleanup.

Section 16. Amends s. 403.087, F.S., revising conditions under which the DEP is authorized to revoke a permit.

Section 17. Amends s. 403.1838, F.S., expanding the population ceiling from 7,500 to 10,000 for communities eligible to apply for grants under the Small Community Sewer Construction Assistance Act

Section 18. Amends s. 403.7045, F.S., providing that sludge from an industrial waste treatment works that meets certain exemption requirements will not be considered to be a solid waste as defined under s. 403.703(32), F.S.

Section 19. Amends s. 403.707, F.S., providing that permits for solid waste management facilities with a leachate control system shall be for 20 years or less as requested by the applicant, permits for those without a leachate control system shall be for 10 years or less, and the permit fees shall be prorated for the effective period of the permit.

Section 20. Amends s. 403.709, F.S., creating the solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for closing solid waste management facilities under certain conditions.

Section 21. Amends s. 403.7125, F.S., requiring owners/operators of certain solid waste management facilities taking waste to provide financial assurance for necessary costs if DEP orders the facility take corrective action for violations of water quality standards.

Section 22. Amends s. 403.814, F.S., providing for issuance of general permits for certain surface water management systems without action by the DEP or water management districts; specifies conditions for those permits.

Section 23. Amends s. 403.853(6), F.S., adding groundwater usage and services to religious institutions to the definition of transient noncommunity water systems.

Section 24. Amends s. 403.973, F.S., authorizing expedited permitting for certain commercial or industrial development projects; providing for a project-specific memorandum of agreement to apply to a project subject to expedited permitting; providing for review of the expedited permitting by the Secretary of the DEP instead of OTTED.

Section 25. Amends s. 526.203, F.S., revising the definitions for 'blended gasoline' and 'unblended gasoline'; defining the term 'renewable fuel'; and authorizing the sale of unblended fuels for certain uses.

Section 26. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Department of Environmental Protection provided the following recurring effects:

   - There will be an unknown insignificant impact to the Permit Fee Trust Fund associated with reducing or waiving permit processing fees for entities created by special acts, local ordinances, and interlocal agreements by low-population counties based on the low number of such entities.

2. Expenditures:

   Extending the length of solid waste permits to 20 years may result in reductions in the amount of time dedicated to permit review.

   The provisions of section 20 require an as yet to be determined appropriation, which may result in a significant negative fiscal impact to the Solid Waste Management Trust Fund.

   The Department of Environmental Protection provided the following recurring effects:

   - Expanding the eligibility criteria for the Innocent Victim Petroleum Storage System Restoration will likely result in more sites being eligible to participate in the state-funded cleanup program. The number of additional sites that may be eligible is unknown. The cost of each such cleanup averages $380,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill expands the population ceiling from 7,000 to 10,000 for communities that are eligible to apply for grants under the Small Community Sewer Construction Assistance Act, which will allow for more municipalities to receive grants for sewage facilities.

The Department of Environmental Protection provided the following:

- Local governments that have their environmental regulatory programs preempted will notice a cost savings from program elimination.
- When a local government is a permit applicant, increased availability of Internet based self certifications and general permits should reduce permitting costs.
- When a local government is an ERP permit applicant, shortened permitting time frames might reduce costs to obtain a permit if overall permit times are actually reduced, and the provisions do not result in additional permit denials or the need for time frame waivers.
- Local governments that operate solid waste management facilities would have permit fees reduced to one-quarter of current costs. Local governments that operate landfills that have caused environmental impacts would be relieved of the costs of addressing these impacts.
- Entities created by special acts, local ordinances or interlocal agreements of certain local governments will pay fewer permit fees so the savings would likely be passed on to the local government but without knowing how many of these entities exist, the actual effect is unknown.

2. Expenditures:

Local governments providing drinking water to their citizens will likely incur additional costs to remove contaminants from drinking water sources if those responsible for discharging the contaminants are not liable for those costs.

Any county or municipality having a population of 400,000 or more that implements a local pollution control program regulating all or a portion of the wetlands or surface waters must apply for delegation of a state ERP authority. Those counties or municipalities could incur additional costs for having to apply for delegation.

According to the DEP analysis, additional costs will be required to apply for delegation of the ERP permitting program if a county wishes to maintain an existing environmental regulatory program.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Producers of other types of renewable fuel (other than ethanol) may see an increase in demand for renewable fuel products and may experience facilitated lending as a result of the expanded Renewable Fuel Standard.

The Department of Environmental Protection provided the following private sector benefits:

- Increased availability of internet-based self-certifications and general permits should reduce permitting costs.
- Shortened ERP permitting time frames might reduce costs to obtain a permit if overall permit times are actually reduced, and the provisions do not result in additional permit denials or the need for time frame waivers.
- Owners or operators of transient noncommunity water systems using groundwater as a source of supply and serving religious institutions may see reduced costs from reduced monitoring and reporting requirements.

D. FISCAL COMMENTS:

Under the bill, owners of onsite sewage treatment and disposal systems would be exempt from the evaluation and assessment program pursuant to s. 381.0065, F.S., unless the board of county commissioners has adopted a resolution subjecting owners to the requirements of the evaluation program. Therefore, owners of septic systems in counties where the boards of county commissioners have not adopted such a resolution would not be subject to any costs resulting from the evaluation and assessment program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill directs DEP to implement the legislative intent to "simplify" certain permitting processes by amending existing rules to "streamline" the permitting process. To adopt a rule an agency must have an express grant of authority to implement a specific law by rulemaking.[59] The grant of rulemaking authority itself need not be detailed.[60] The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[61] As the bill does not further refine the use of "simplify" and "streamline," the standard will be for DEP to implement these terms using their ordinary and customary meanings. Where a law requires rules to implement its provisions the responsible agency must draft and formally propose such rules within 180 days from the effective date of the act, unless the act provides otherwise.[62]

C. DRAFTING ISSUES OR OTHER COMMENTS:

Certain issues in Section 20, the amendment to s. 403.709, F.S., may require clarification. There is no requirement that the insurer be authorized to do business in Florida.[63] The bill is unclear whether the allocation of the Solid Waste Management Trust Fund under s. 403.709(1), F.S., may be adjusted by DEP to provide funding under the new subsection if needed. The phrase "reasonable expectation" may not provide sufficient guidance for DEP to determine if a proffered insurance plan will adequately protect the interests of the trust fund.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 11, 2012, the Rulemaking & Regulation Subcommittee adopted two amendments and passed CS/HB 503 as a committee substitute (CS/CS).

Amendment 1 revised s. 373.306, F.S., by excluding injection wells authorized under the State Underground Injection Control Program from the regulation of wells under Chapter 373, Part III, F.S.

Amendment 2 revised language in three statutes:

- Added language to s. 403.707, F.S., providing that permits for solid waste management facilities with a leachate control system shall be for 20 years or less as requested by the applicant, permits for those without a leachate control system shall be for 10 years or less, and the permit fees shall be prorated for the effective period of the permit.

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[59] Section 120.52(8) & s. 120.536(1), F.S.
[60] *Save the Manatee Club, Inc.*, supra at 599.
[61] *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).
[62] Section 120.54(1)(b), F.S.
[63] For example, licensed sellers of travel must post an assurance which may be a surety bond; the surety company must be authorized to conduct such business in Florida. Section 559.929(1), F.S.

- Amended s. 403.709, F.S., to create the solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for closing solid waste management facilities under certain conditions.

- Amended s. 403.7125, F.S., to require owners/operators of certain solid waste management facilities taking waste to provide financial assurance for necessary costs if DEP orders the facility take corrective action for violations of water quality standards.

This analysis is drawn to CS/CS/HB 503.

A bill to be entitled

An act relating to environmental regulation; amending s. 125.022, F.S.; prohibiting a county from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of processing a development permit under certain conditions; authorizing a county to attach certain disclaimers to the issuance of a development permit; amending s. 161.041, F.S.; providing requirements for application for permits under the Beach and Shore Preservation Act; prohibiting the Department of Environmental Protection from issuing specified guidelines unless adopted by rule; requiring the department to cite certain provisions in a request for additional information; providing legislative intent with respect to permitting for periodic maintenance of certain beach nourishment and inlet management projects; directing the department to amend specified rules relating to permitting for such projects; providing conditions under which the department is authorized to issue such permits in advance of the issuance of incidental take authorizations as provided under the Endangered Species Act; amending s. 166.033, F.S.; prohibiting a municipality from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of processing a development permit under certain conditions; authorizing a municipality to attach certain

disclaimers to the issuance of a development permit; amending s. 218.075, F.S.; providing for the reduction or waiver of permit processing fees relating to projects that serve a public purpose for certain entities created by special act, local ordinance, or interlocal agreement; amending s. 258.397, F.S.; providing an exemption from a showing of extreme hardship relating to the sale, transfer, or lease of sovereignty submerged lands in the Biscayne Bay Aquatic Preserve for certain municipal applicants; providing for additional dredging and filling activities in the preserve; amending s. 373.026, F.S.; requiring the department to expand its use of Internet-based self-certification services for exemptions and permits issued by the department and water management districts; amending s. 373.306, F.S.; exempting underground injection control wells from part III of chapter 373, F.S., relating to regulation of wells; amending s. 373.4141, F.S.; reducing the time within which a permit must be approved, denied, or subject to notice of proposed agency action; prohibiting a state agency or an agency of the state from requiring additional permits or approval from a local, state, or federal agency without explicit authority; amending s. 373.4144, F.S.; providing legislative intent with respect to the coordination of regulatory duties among specified state and federal agencies; encouraging expanded use of the state

programmatic general permit or regional general permits; providing for a voluntary state programmatic general permit for certain dredge and fill activities; amending s. 373.441, F.S.; requiring that certain counties or municipalities apply by a specified date to the department or water management district for authority to require certain permits; providing that following such delegation, the department or district may not regulate activities that are subject to the delegation; clarifying the authority of local governments to adopt pollution control programs under certain conditions; providing applicability with respect to solid mineral mining; amending s. 376.3071, F.S.; exempting program deductibles, copayments, and certain assessment report requirements from expenditures under the low-scored site initiative; amending s. 376.30715, F.S.; providing that the transfer of a contaminated site from an owner to a child of the owner or corporate entity does not disqualify the site from the innocent victim petroleum storage system restoration financial assistance program; authorizing certain applicants to reapply for financial assistance; amending s. 380.0657, F.S.; authorizing expedited permitting for certain inland multimodal facilities that individually or collectively will create a minimum number of jobs; amending s. 381.0065, F.S.; limiting applicability of the onsite sewage treatment and disposal system

evaluation and assessment program; amending s. 403.061, F.S.; requiring the department to establish reasonable zones of mixing for discharges into specified waters; providing that exceedance of certain groundwater standards does not create liability for site cleanup; providing that exceedance of soil cleanup target levels is not a basis for enforcement or cleanup; amending s. 403.087, F.S.; revising conditions under which the department is authorized to revoke permits for sources of air and water pollution; amending s. 403.1838, F.S.; revising the definition of the term "financially disadvantaged small community" for the purposes of the Small Community Sewer Construction Assistance Act; amending s. 403.7045, F.S.; providing conditions under which sludge from an industrial waste treatment works is not solid waste; amending s. 403.707, F.S.; exempting the disposal of solid waste monitored by certain groundwater monitoring plans from specific authorization; specifying a permit term for solid waste management facilities designed with leachate control systems that meet department requirements; requiring permit fees to be adjusted; providing applicability; specifying a permit term for solid waste management facilities that do not have leachate control systems meeting department requirements under certain conditions; authorizing the department to adopt rules; providing that the department is not required to submit the

rules to the Environmental Regulation Commission for approval; requiring permit fee caps to be prorated; amending s. 403.709, F.S.; creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to fund the closing and long-term care of solid waste facilities under certain circumstances; requiring the department to deposit certain funds into the solid waste landfill closure account; amending s. 403.7125, F.S.; requiring the department to require by rule that owners or operators of solid waste management facilities receiving waste after October 9, 1993, provide financial assurance for the cost of completing certain corrective actions; amending s. 403.814, F.S.; providing for issuance of general permits for the construction, alteration, and maintenance of certain surface water management systems without the action of the department or a water management district; specifying conditions for the general permits; amending s. 403.853, F.S.; providing for the department, or a local county health department designated by the department, to perform sanitary surveys for certain transient noncommunity water systems; amending s. 403.973, F.S.; authorizing expedited permitting for certain commercial or industrial development projects that individually or collectively will create a minimum number of jobs; providing for a project-specific memorandum of agreement to apply to a project subject to expedited

permitting; clarifying the authority of the department to enter final orders for the issuance of certain licenses; revising criteria for the review of certain sites; amending s. 526.203, F.S.; revising the definitions of the terms "blended gasoline" and "unblended gasoline"; defining the term "renewable fuel"; authorizing the sale of unblended fuels for certain uses; providing an effective date.

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

Section 1. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—When a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the same meaning as in s. 163.3164. A county may not require as a condition of processing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a notice of intent to deny the federal or state permit before the county action on the local development permit. Issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for

issuance of the permit if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency. A county may attach such a disclaimer to the issuance of a development permit, and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 2. Subsections (5), (6), and (7) are added to section 161.041, Florida Statutes, to read:

161.041 Permits required.—

(5) Application for permits shall be made to the department upon such terms and conditions as set forth by rule.

(a) If the department requests additional information as part of the permit process, the department must cite applicable statutory and rule provisions that justify each item listed in the request for additional information.

(b) The department may not issue guidelines that are enforceable as standards for beach management, inlet management, and other erosion control projects without adopting such guidelines by rule.

(6) The Legislature intends to simplify the permitting process for the periodic maintenance of previously permitted and constructed beach nourishment and inlet management projects under the joint coastal permit process. A detailed review of a previously permitted project is not required if there have been no substantial changes in the scope of the project and past

performance of the project indicates that it has performed according to design expectations. The department shall amend chapters 62B-41 and 62B-49 of the Florida Administrative Code to streamline the permitting process for periodic beach maintenance projects and inlet sand bypassing activities.

(7) Notwithstanding any other provision of law, the department may issue a permit pursuant to this part in advance of the issuance of an incidental take authorization as provided under the Endangered Species Act and its implementing regulations if the permit and authorization include a condition requiring that authorized activities not begin until the incidental take authorization is issued.

Section 3. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the same meaning as in s. 163.3164. A municipality may not require as a condition of processing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a notice of intent to deny the federal or state permit before the municipal action on the local development permit. Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency

and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency. A municipality may attach such a disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 4. Section 218.075, Florida Statutes, is amended to read:

218.075 Reduction or waiver of permit processing fees.—Notwithstanding any other provision of law, the Department of Environmental Protection and the water management districts shall reduce or waive permit processing fees for counties with a population of 50,000 or less on April 1, 1994, until such counties exceed a population of 75,000 and municipalities with a population of 25,000 or less, or for an entity created by special act, local ordinance, or interlocal agreement of such counties or municipalities, or for any county or municipality not included within a metropolitan statistical area. Fee reductions or waivers shall be approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

(1) Per capita taxable value is less than the statewide

average for the current fiscal year;

(2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;

(3) Any condition specified in s. 218.503(1) which results in the county or municipality being in a state of financial emergency;

(4) Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality or a third party under contract with a county or municipality or an entity created by special act, local ordinance, or interlocal agreement and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee shall not exceed $100.

Section 5. Paragraphs (a) and (b) of subsection (3) of section 258.397, Florida Statutes, are amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(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 may not ~~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. A municipal applicant proposing a project under paragraph (b) is exempt from showing extreme hardship.

(b) ~~No further~~ Dredging or filling of submerged lands of the preserve may not ~~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 constituted as a public necessity or for preservation of the bay according to the expressed intent of this section.

2. Such other alteration of physical conditions, including the placement of riprap, as may be necessary to enhance the quality and 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 only 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 and utility of the preserve. This subparagraph does ~~shall~~ not authorize 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, islands, and spoil banks, the dredging of which would enhance the aesthetic and environmental quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

5. Such dredging and filling as is necessary for the creation of public waterfront promenades.

Any dredging or filling under this subsection or improvements under subsection (5) may ~~shall~~ be approved only after public notice as provided by s. 253.115.

Section 6. Subsection (10) is added to section 373.026, Florida Statutes, to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if such

expansion is economically feasible. In addition to expanding the use of Internet-based self-certification services for appropriate exemptions and general permits, the department and water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 7. Section 373.306, Florida Statutes, is amended to read:

373.306 Scope.—

(1) A ~~No~~ person may not ~~shall~~ construct, repair, abandon, or cause to be constructed, repaired, or abandoned, any water well contrary to ~~the provisions of~~ this part and applicable rules and regulations.

(2) This part does ~~shall~~ not apply to:

(a) Equipment used temporarily for dewatering purposes.

(b) ~~or to~~ The process used in dewatering.

(c) Wells authorized pursuant to ss. 403.061 and 403.087 under the State Underground Injection Control Program identified in Rule 62-528.110, Florida Administrative Code.

Section 8. Subsection (2) of section 373.4141, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

373.4141 Permits; processing.—

(2) A permit shall be approved, ~~or~~ denied, or subject to a notice of proposed agency action within 60 ~~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.

(4) A state agency or an agency of the state may not require as a condition of approval for a permit or as an item to complete a pending permit application that an applicant obtain a permit or approval from any other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 9. Section 373.4144, Florida Statutes, is amended to read:

373.4144 Federal environmental permitting.—

(1) It is the intent of the Legislature to:

(a) Facilitate coordination and a more efficient process of implementing regulatory duties and functions between the Department of Environmental Protection, the water management districts, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies.

(b) Authorize the Department of Environmental Protection to obtain issuance by the United States Army Corps of Engineers, pursuant to state and federal law and as set forth in this section, of an expanded state programmatic general permit, or a series of regional general permits, for categories of activities in waters of the United States governed by the Clean Water Act and in navigable waters under the Rivers and Harbors Act of 1899 which are similar in nature, which will cause only minimal adverse environmental effects when performed separately, and

which will have only minimal cumulative adverse effects on the environment.

(c) Use the mechanism of such a state general permit or such regional general permits to eliminate overlapping federal regulations and state rules that seek to protect the same resource and to avoid duplication of permitting between the United States Army Corps of Engineers and the department for minor work located in waters of the United States, including navigable waters, thus eliminating, in appropriate cases, the need for a separate individual approval from the United States Army Corps of Engineers while ensuring the most stringent protection of wetland resources.

(d) Direct the department not to seek issuance of or take any action pursuant to any such permit or permits unless such conditions are at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. ~~The department is directed to develop, on or before October 1, 2005, a mechanism or plan to consolidate, to the maximum extent practicable, the federal and state wetland permitting programs. It is the intent of the Legislature that all dredge and fill activities impacting 10 acres or less of wetlands or waters, including navigable waters, be processed by the state as part of the environmental resource permitting program implemented by the department and the water management districts. The resulting mechanism or plan shall analyze and propose the development of an expanded state programmatic general permit program in conjunction with the United States~~

~~Army Corps of Engineers pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899. Alternatively, or in combination with an expanded state programmatic general permit, the mechanism or plan may propose the creation of a series of regional general permits issued by the United States Army Corps of Engineers pursuant to the referenced statutes. All of the regional general permits must be administered by the department or the water management districts or their designees.~~

(2) In order to effectuate efficient wetland permitting and avoid duplication, the department and water management districts are authorized to implement a voluntary state programmatic general permit for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the United States Army Corps of Engineers, if the general permit is at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. ~~The department is directed to file with the Speaker of the House of Representatives and the President of the Senate a report proposing any required federal and state statutory changes that would be necessary to accomplish the directives listed in this section and to coordinate with the Florida Congressional Delegation on any necessary changes to federal law to implement the directives.~~

(3) ~~Nothing in~~ This section may not ~~shall~~ be construed to preclude the department from pursuing a series of regional

general permits for construction activities in wetlands or surface waters or complete assumption of federal permitting programs regulating the discharge of dredged or fill material pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899, so long as the assumption encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.

Section 10. Present subsections (3), (4), and (5) of section 373.441, Florida Statutes, are renumbered as subsections (7), (8), and (9), respectively, and new subsections (3), (4), (5), and (6) are added to that section to read:

373.441 Role of counties, municipalities, and local pollution control programs in permit processing; delegation.—

(3) A county or municipality having a population of 400,000 or more that implements a local pollution control program regulating all or a portion of the wetlands or surface waters throughout its geographic boundary must apply for delegation of state environmental resource permitting authority on or before January 1, 2014. If such a county or municipality fails to receive delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for delegation or by January 1, 2016, at the latest, it may not require permits that in part or in full are substantially similar to the requirements needed to obtain an environmental resource permit. A county or municipality that has received delegation before January 1,

2014, does not need to reapply.

(4) The department is responsible for all delegations of state environmental resource permitting authority to local governments. The department must grant or deny an application for delegation submitted by a county or municipality that meets the criteria in subsection (3) within 2 years after the receipt of the application. If an application for delegation is denied, any available legal challenge to such denial shall toll the preemption deadline until resolution of the legal challenge. Upon delegation to a qualified local government, the department and water management district may not regulate the activities subject to the delegation within that jurisdiction.

(5) This section does not prohibit or limit a local government that meets the criteria in subsection (3) from regulating wetlands or surface waters after January 1, 2014, if the local government receives delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for delegation.

(6) Notwithstanding subsections (3), (4), and (5), this section does not apply to environmental resource permitting or reclamation applications for solid mineral mining and does not prohibit the application of local government regulations to any new solid mineral mine or any proposed addition to, change to, or expansion of an existing solid mineral mine.

Section 11. Paragraph (b) of subsection (11) of section 376.3071, Florida Statutes, is amended to read:

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

(11)

(b) Low-scored site initiative.—Notwithstanding s. 376.30711, any site with a priority ranking score of 10 points or less may voluntarily participate in the low-scored site initiative, whether or not the site is eligible for state restoration funding.

1. To participate in the low-scored site initiative, the responsible party or property owner must affirmatively demonstrate that the following conditions are met:

a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 10 points or less.

b. No excessively contaminated soil, as defined by department rule, exists onsite as a result of a release of petroleum products.

c. A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable.

d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.

e. The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.

f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.

2. Upon affirmative demonstration of the conditions under subparagraph 1., the department shall issue a determination of "No Further Action." Such determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to human health or the environment. If no contamination is detected, the department may issue a site rehabilitation completion order.

3. Sites that are eligible for state restoration funding may receive payment of preapproved costs for the low-scored site initiative as follows:

a. A responsible party or property owner may submit an assessment plan designed to affirmatively demonstrate that the site meets the conditions under subparagraph 1. Notwithstanding the priority ranking score of the site, the department may preapprove the cost of the assessment pursuant to s. 376.30711, including 6 months of groundwater monitoring, not to exceed $30,000 for each site. The department may not pay the costs associated with the establishment of institutional or engineering controls.

b. The assessment work shall be completed no later than 6 months after the department issues its approval.

c. No more than $10 million for the low-scored site initiative may ~~shall~~ be encumbered from the Inland Protection Trust Fund in any fiscal year. Funds shall be made available on a first-come, first-served basis and shall be limited to 10 sites in each fiscal year for each responsible party or property owner.

d. Program deductibles, copayments, and the limited

contamination assessment report requirements under paragraph (13)(c) do not apply to expenditures under this paragraph.

Section 12. Section 376.30715, Florida Statutes, is amended to read:

376.30715 Innocent victim petroleum storage system restoration.—A contaminated site acquired by the current owner prior to July 1, 1990, which has ceased operating as a petroleum storage or retail business prior to January 1, 1985, is eligible for financial assistance pursuant to s. 376.305(6), notwithstanding s. 376.305(6)(a). For purposes of this section, the term "acquired" means the acquisition of title to the property; however, a subsequent transfer of the property to a spouse or child of the owner, a surviving spouse or child of the owner in trust or free of trust, ~~or~~ a revocable trust created for the benefit of the settlor, or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance pursuant to s. 376.305(6) and applicants previously denied coverage may reapply. Eligible sites shall be ranked in accordance with s. 376.3071(5).

Section 13. Subsection (1) of section 380.0657, Florida Statutes, is amended to read:

380.0657 Expedited permitting process for economic development projects.—

(1) The Department of Environmental Protection and, as appropriate, the water management districts created under chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality

or county as meeting the definition of target industry businesses under s. 288.106, or any inland multimodal facility receiving or sending cargo to or from Florida ports, with the exception of those projects requiring approval by the Board of Trustees of the Internal Improvement Trust Fund.

Section 14. Paragraph (j) is added to subsection (5) of section 381.0065, Florida Statutes, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(5) EVALUATION AND ASSESSMENT.—

(j) This subsection only applies to owners of onsite sewage treatment and disposal systems in a county in which the board of county commissioners has adopted a resolution subjecting owners to the requirements of the program and submitted a copy of the resolution to the department.

Section 15. Subsection (11) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(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 reasonable zones of mixing for discharges into waters. For existing installations as defined by rule 62-520.200(10), Florida Administrative Code, effective July 12, 2009, zones of discharge

to groundwater are authorized to a facility's or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to this chapter or chapter 376 for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup.

(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) ~~No~~ Mixing zones ~~zone~~ for point source discharges are not ~~shall be~~ permitted in Outstanding Florida Waters except for:

1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;

3. 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; and

4. The discharge of demineralization concentrate which has been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.

~~Nothing in~~ This act may not be ~~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. 316.272(1).

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 16. Subsection (7) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(7) A permit issued pursuant to this section does ~~shall~~

not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder has:

(a) ~~Has~~ Submitted false or inaccurate information in the ~~his or her~~ application for the permit;

(b) ~~Has~~ Violated law, department orders, rules, ~~or regulations,~~ or ~~permit~~ conditions;

(c) ~~Has~~ Failed to submit operational reports or other information required by department rule which directly relate to the permit and has refused to correct or cure such violations when requested to do so ~~or regulation~~; or

(d) ~~Has~~ Refused lawful inspection under s. 403.091 at the facility authorized by the permit.

Section 17. Subsection (2) of section 403.1838, Florida Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(2) The department shall use funds specifically appropriated to award grants under this section to assist financially disadvantaged small communities with their needs for adequate sewer facilities. For purposes of this section, the term "financially disadvantaged small community" means a municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer ~~less~~, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.

Section 18. Paragraph (f) of subsection (1) of section 403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year.

2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused.

3. The industrial byproducts are not hazardous wastes as defined under s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment works that meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703(32).

Section 19. Subsections (2) and (3) of section 403.707, Florida Statutes, are amended to read:

403.707 Permits.—

(2) Except as provided in s. 403.722(6), a permit under this section is not required for the following~~, if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate~~

~~other state or local laws, ordinances, rules, regulations, or orders~~:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, if such waste is ordinary household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations. Disposal of materials that could create a public nuisance or adversely affect the environment or public health, such as white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners' ~~homeowners~~ or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, if the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department under this chapter or rules adopted pursuant to this chapter; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. If a facility has a permit authorizing disposal activity, new areas where solid waste is being disposed of which

are monitored by an existing or modified groundwater monitoring plan are not required to be specifically authorized in a permit or other certification.

(d) Disposal by persons of solid waste resulting from their own activities on their own property, if such disposal occurred prior to October 1, 1988.

(e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning if a public nuisance or any condition adversely affecting the environment or the public health is not created by the open burning and state or federal ambient air quality standards are not violated.

(f) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining any other required permits, and does not affect a person's responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(g) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3)(a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(b) A permit, including a general permit, issued to a

solid waste management facility that is designed with a leachate control system meeting department requirements shall be issued for a term of 20 years unless the applicant requests a shorter permit term. Notwithstanding the limitations of s. 403.087(6)(a), existing permit fees for a qualifying solid waste management facility shall be adjusted to reflect the permit term authorized by this section. This paragraph applies to a qualifying solid waste management facility that applies for an operating or construction permit or renews an existing operating or construction permit on or after October 1, 2012.

(c) A permit, including a general permit, but not including a registration, issued to a solid waste management facility that does not have a leachate control system meeting department requirements shall be renewed for a term of 10 years, unless the applicant requests a shorter permit term, if the following conditions are met:

1. The applicant has conducted the regulated activity at the same site for which the renewal is sought for at least 4 years and 6 months before the date that the permit application is received by the department; and

2. At the time of applying for the renewal permit:

a. The applicant is not subject to a notice of violation, consent order, or administrative order issued by the department for violation of an applicable law or rule;

b. The department has not notified the applicant that it is required to implement assessment or evaluation monitoring as a result of exceedances of applicable groundwater standards or criteria or, if applicable, the applicant is completing

corrective actions in accordance with applicable department rules; and

c. The applicant is in compliance with the applicable financial assurance requirements.

(d) The department may adopt rules to administer this subsection. However, the department is not required to submit such rules to the Environmental Regulation Commission for approval. Notwithstanding the limitations of s. 403.087(6)(a), permit fee caps for solid waste management facilities shall be prorated to reflect the extended permit term authorized by this subsection.

Section 20. Subsection (5) is added to section 403.709, Florida Statutes, 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.

(5) A solid waste landfill closure account is created within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities, if:

(a) The facility had or has a department permit to operate the facility;

(b) The permittee provided proof of financial assurance for closure in the form of an insurance certificate;

(c) The facility has been deemed to be abandoned or has been ordered to close by the department; and

(d) Closure will be accomplished in substantial accordance with a closure plan approved by the department.

The department has a reasonable expectation that the insurance company issuing the closure insurance policy will provide or reimburse most or all of the funds required to complete closing and long-term care of the facility. If the insurance company reimburses the department for the costs of closing or long-term care of the facility, the department shall deposit the funds into the solid waste landfill closure account.

Section 21. Section 403.7125, Florida Statutes, is amended to read:

403.7125 Financial assurance ~~for closure~~.—

(1) Every owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law. As used in this section, the term "owner or operator" means any owner of record of any interest in land wherein a landfill is or has been located and any person or corporation that owns a majority interest in any other corporation that is the owner or operator of a landfill.

(2) The owner or operator of a landfill owned or operated by a local or state government or the Federal Government shall establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill. However, the disposal of solid waste by persons on their own property, as described in s. 403.707(2), is exempt from this section.

(a) The revenue-producing mechanism must produce revenue at a rate sufficient to generate funds to meet state and federal

landfill closure requirements.

(b) The revenue shall be deposited in an interest-bearing escrow account to be held and administered by the owner or operator. The owner or operator shall file with the department an annual audit of the account. The audit shall be conducted by an independent certified public accountant. Failure to collect or report such revenue, except as allowed in subsection (3), is a noncriminal violation punishable by a fine of not more than $5,000 for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for planning and construction of resource recovery or landfill facilities. Any moneys remaining in the account after paying for proper and complete closure, as determined by the department, shall, if the owner or operator does not operate a landfill, be deposited by the owner or operator into the general fund or the appropriate solid waste fund of the local government of jurisdiction.

(c) The revenue generated under this subsection and any accumulated interest thereon may be applied to the payment of, or pledged as security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with state and federal landfill closure requirements. Such application or pledge may be made directly in the proceedings authorizing such bonds or in an agreement with an insurer of bonds to assure such insurer of additional security therefor.

(d) The provisions of s. 212.055 which relate to raising

of revenues for landfill closure or long-term maintenance do not relieve a landfill owner or operator from the obligations of this section.

(e) The owner or operator of any landfill that had established an escrow account in accordance with this section and the conditions of its permit prior to January 1, 2007, may continue to use that escrow account to provide financial assurance for closure of that landfill, even if that landfill is not owned or operated by a local or state government or the Federal Government.

(3) An owner or operator of a landfill owned or operated by a local or state government or by the Federal Government may provide financial assurance to the department in lieu of the requirements of subsection (2). An owner or operator of any other landfill, or any other solid waste management facility designated by department rule, shall provide financial assurance to the department for the closure of the facility. Such financial assurance may include surety bonds, certificates of deposit, securities, letters of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with applicable closure requirements. The owner or operator shall estimate such costs to the satisfaction of the department.

(4) This section does not repeal, limit, or abrogate any other law authorizing local governments to fix, levy, or charge rates, fees, or charges for the purpose of complying with state and federal landfill closure requirements.

(5) The department shall by rule require that the owner or

operator of a solid waste management facility that receives waste after October 9, 1993, and that is required by department rule to undertake corrective actions for violations of water quality standards provide financial assurance for the cost of completing such corrective actions. The same financial assurance mechanisms that are available for closure costs shall be available for costs associated with undertaking corrective actions.

(6) ~~(5)~~ The department shall adopt rules to implement this section.

Section 22. Subsection (12) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(12) A general permit shall be granted for the construction, alteration, and maintenance of a surface water management system serving a total project area of up to 10 acres. The construction of such a system may proceed without any agency action by the department or water management district if:

(a) The total project area is less than 10 acres;

(b) The total project area involves less than 2 acres of impervious surface;

(c) No activities will impact wetlands or other surface waters;

(d) No activities are conducted in, on, or over wetlands or other surface waters;

(e) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;

(f) The project is not part of a larger common plan, development, or sale;

(g) 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; and

(h) The surface water management system design plans are signed and sealed by a Florida registered professional who attests that the system will perform and function as proposed and has been designed in accordance with appropriate, generally accepted performance standards and scientific principles.

Section 23. Subsection (6) of section 403.853, Florida Statutes, is amended to read:

403.853 Drinking water standards.—

(6) Upon the request of the owner or operator of a transient noncommunity water system using groundwater as a source of supply and serving religious institutions or businesses, other than restaurants or other public food service establishments or religious institutions with school or day care services~~, and using groundwater as a source of supply~~, the department, or a local county health department designated by the department, shall perform a sanitary survey of the facility.

Upon receipt of satisfactory survey results according to department criteria, the department shall reduce the requirements of such owner or operator from monitoring and reporting on a quarterly basis to performing these functions on an annual basis. Any revised monitoring and reporting schedule approved by the department under this subsection shall apply until such time as a violation of applicable state or federal primary drinking water standards is determined by the system owner or operator, by the department, or by an agency designated by the department, after a random or routine sanitary survey. Certified operators are not required for transient noncommunity water systems of the type and size covered by this subsection. Any reports required of such system shall be limited to the minimum as required by federal law. When not contrary to the provisions of federal law, the department may, upon request and by rule, waive additional provisions of state drinking water regulations for such systems.

Section 24. Paragraph (a) of subsection (3) and subsections (4), (5), (10), (11), (14), (15), and (18) of section 403.973, Florida Statutes, are amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)(a) The secretary shall direct the creation of regional permit action teams for the purpose of expediting review of permit applications and local comprehensive plan amendments submitted by:

1. Businesses creating at least 50 jobs <u>or a commercial or industrial development project that will be occupied by</u>

businesses that would individually or collectively create at least 50 jobs; or

2. Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county having a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

(4) The regional teams shall be established through the execution of a project-specific memoranda of agreement developed and executed by the applicant and the secretary, with input solicited from ~~the Department of Economic Opportunity and~~ the respective heads of the Department of Transportation and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, appropriate regional planning councils, appropriate water management districts, and voluntarily participating municipalities and counties. The memoranda of agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

(5) In order to facilitate local government's option to participate in this expedited review process, the secretary shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement. The standard form of the memorandum of agreement shall be used only if the local government participates in the expedited

review process. In the absence of local government participation, only the project-specific memorandum of agreement executed pursuant to subsection (4) applies. A local government shall hold a duly noticed public workshop to review and explain to the public the expedited permitting process and the terms and conditions of the standard form memorandum of agreement.

(10) The memoranda of agreement may provide for the waiver or modification of procedural rules prescribing forms, fees, procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are members of the regional permit action team ~~party to the memoranda of agreement~~. Notwithstanding any other provision of law to the contrary, a memorandum of agreement must to the extent feasible provide for proceedings and hearings otherwise held separately ~~by the parties to the memorandum of agreement~~ to be combined into one proceeding or held jointly and at one location. Such waivers or modifications are not authorized ~~shall not be available~~ for permit applications governed by federally delegated or approved permitting programs, the requirements of which would prohibit, or be inconsistent with, such a waiver or modification.

(11) The ~~standard form for~~ memoranda of agreement shall include guidelines to be used in working with state, regional, and local permitting authorities. Guidelines may include, but are not limited to, the following:

(a) A central contact point for filing permit applications and local comprehensive plan amendments and for obtaining information on permit and local comprehensive plan amendment

requirements.+

(b) Identification of the individual or individuals within each respective agency who will be responsible for processing the expedited permit application or local comprehensive plan amendment for that agency.+

(c) A mandatory preapplication review process to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment review. As a part of this process, the first interagency meeting to discuss a project shall be held within 14 days after the secretary's determination that the project is eligible for expedited review. Subsequent interagency meetings may be scheduled to accommodate the needs of participating local governments that are unable to meet public notice requirements for executing a memorandum of agreement within this timeframe. This accommodation may not exceed 45 days from the secretary's determination that the project is eligible for expedited review.+

(d) The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies.+

(e) Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application

for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184 from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph.~~; and~~

(f) Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

(14)(a) Challenges to state agency action in the expedited permitting process for projects processed under this section are subject to the summary hearing provisions of s. 120.574, except that the administrative law judge's decision, as provided in s. 120.574(2)(f), shall be in the form of a recommended order and do not constitute the final action of the state agency. In those proceedings where the action of only one agency of the state other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. For ~~This~~

~~paragraph does not apply to~~ the issuance of department licenses required under any federally delegated or approved permit program~~. In such instances~~, the department, and not the Governor, shall enter the final order. The participating agencies of the state may opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action.

(b) Projects identified in paragraph (3)(f) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(15) The Department of Economic Opportunity, working with the agencies providing cooperative assistance and input regarding the memoranda of agreement, shall review sites proposed for the location of facilities that the Department of Economic Opportunity has certified to be eligible for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the Department of Economic Opportunity, the agencies shall provide to the Department of Economic Opportunity a statement as to each site's necessary permits under local, state, and federal law and an identification of significant permitting issues, which if unresolved, may result in the denial of an agency permit or

approval or any significant delay caused by the permitting process.

(18) The Department of Economic Opportunity, working with the Rural Economic Development Initiative ~~and the agencies participating in the memoranda of agreement~~, shall provide technical assistance in preparing permit applications and local comprehensive plan amendments for counties having a population of fewer than 75,000 residents, or counties having fewer than 125,000 residents which are contiguous to counties having fewer than 75,000 residents. Additional assistance may include, but not be limited to, guidance in land development regulations and permitting processes, working cooperatively with state, regional, and local entities to identify areas within these counties which may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

Section 25. Subsection (1) of section 526.203, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

526.203 Renewable fuel standard.—

(1) DEFINITIONS.—As used in this act:

(a) "Blender," "importer," "terminal supplier," and "wholesaler" are defined as provided in s. 206.01.

(b) "Blended gasoline" means a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol <u>or other renewable fuel</u>, by volume, that meets the specifications as adopted by the department. The fuel ethanol portion may be derived from any agricultural source.

(c) "Fuel ethanol" means an anhydrous denatured alcohol produced by the conversion of carbohydrates that meets the specifications as adopted by the department.

(d) "Renewable fuel" means a fuel produced from renewable biomass that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

(e) ~~(d)~~ "Unblended gasoline" means gasoline that has not been blended ~~with fuel ethanol~~ and that meets the specifications as adopted by the department.

(5) SALE OF UNBLENDED FUELS.—This section does not prohibit the sale of unblended fuels for the uses exempted under subsection (3).

Section 26. This act shall take effect July 1, 2012.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Agriculture & Natural Resources Appropriations Subcommittee

Representative Patronis offered the following:

Amendment (with title amendment)

Remove lines 824-848

T I T L E A M E N D M E N T

Remove lines 115-121 and insert:

amending s. 403.7125, F.S.; requiring the