HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Deslatte	Blalock
2) Rulemaking & Regulation Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
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.
- Allows an applicant for a coastal construction permit 90 days to respond to requests for additional information (RAIs).
- Prevents the Department of Environmental Protection (DEP) from requiring sediment quality specifications or turbidity standards more stringent than those provided for in ch. 161 or 373, F.S., and from issuing guidelines that are enforceable as standards without going through rulemaking.
- Establishes a limited exemption from the Strategic Intermodal System adopted level-of-service standards for certain new or redevelopment projects and establishing conditions and criteria.
- 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.
- 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.
- 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.
- Specifies that the renewable fuel standard does not prohibit the sale of unblended fuels for exempted uses.
- Allows certain recently acquired filling stations to have until December 31, 2013 to install secondary containment.

The bill appears to have a negative fiscal impact on state governments, 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 5 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. Creates s. 161.032, F.S., requiring the Department of Environmental Protection (DEP) to review an application for certain permits under the Beach and Shore Preservation Act and request additional information; requiring that the DEP proceed to process the application if an applicant believes that a request for additional information (RAI) is not authorized; allowing applicants 90 days to respond to a RAI; authorizing the DEP to issue permits in advance of the issuance of certain authorizations provided for in the Endangered Species Act.

Current Situation

Under current law, a coastal construction permit must 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[1]. 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 an 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.

[1] Section 161.041, F.S.

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 Secretary's approval prior to issuing the 4th or more RAIs.

Effect of Proposed Changes

The bill creates a coastal construction permit application review process that provides that within 30 days after receipt of a permit application, the DEP must review the application and must request submission of any additional information the DEP is permitted by law to require. If the applicant believes a request for such additional information is not authorized by law or rule, the applicant can request a hearing pursuant to s. 120.57, F.S. Within 30 days after the receipt of the additional information, the DEP must review the additional information and can request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information. If the applicant believes that the additional request for additional information by the DEP is not authorized by law or rule, the DEP, at the applicant's request, must proceed to process the permit application.

The bill also provides that a permit applicant has 90 days after the date of a timely request for additional information to submit the information. If the applicant needs more than 90 days to respond to a request for additional information, the applicant is required to notify the agency processing the permit application in writing of the circumstances, at which time the applicant is to be held in active status for no more than one additional period of up to 90 days. Additional extensions can be granted with a showing of good cause. A showing that the applicant is making a diligent effort to obtain the requested additional information constitutes good cause. Failure of an applicant to provide the timely information by the applicable deadline must result in denial of the application without prejudice.

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

Section 3. Amends s. 161.041(5) and (6), F.S., prohibiting the Department of Environmental Protection (DEP) from requiring certain sediment quality specifications or turbidity standards as a permit condition; providing legislative intent with respect to permitting for beach renurishment projects; directing the DEP to amend specified rules relating to permitting for such projects.

Current Situation

Section 161.014, 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.

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.

Effect of Proposed Changes

The bill amends s. 161.041, F.S., to provide that the DEP cannot require, as a permit condition, sediment quality specifications or turbidity standards more stringent than those provided for in current law. The DEP also is prohibited from issuing guidelines that are enforceable as standards without going through the rulemaking process. The bill also provides that it is the Legislature's intent to simplify the permitting for periodic maintenance of beach renourishment projects previously permitted and restored under the joint coastal permit process. Lastly, the bill requires the DEP to streamline the permitting process, as necessary, for periodic maintenance projects.

Section 4. Amends s. 163.3180, F.S., providing an exemption from level-of-service standards adopted under the Strategic Intermodal System for certain inland multimodal facilities.

Current Situation

Section 163.3180, F.S., provides that sanitary sewer, solid waste, drainage, and potable water are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction. If concurrency is applied to other public facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application. In order for a local government to rescind any optional concurrency provisions, a comprehensive plan amendment is required. An amendment rescinding optional concurrency issues is not subject to state review. The local government comprehensive plan must demonstrate, for required or optional concurrency requirements, that the levels of service adopted can be reasonably met. Infrastructure needed to ensure that adopted level-of-service standards are achieved and maintained for the 5-year period of the capital improvement schedule must be identified. The comprehensive plan must include principles, guidelines, standards, and strategies for the establishment of a concurrency management system

If concurrency is applied to transportation facilities, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service to guide its application. Local governments must use professionally accepted studies to evaluate the appropriate levels of service. Local governments should consider the number of facilities that will be necessary to meet level-of-service demands when determining the appropriate levels of service. The schedule of facilities that are necessary to meet the adopted level of service must be reflected in the capital improvement element. A comprehensive plan that imposes transportation concurrency must contain appropriate amendments to the capital improvements element of the comprehensive plan.

Local governments that implement transportation concurrency must:

- Consult with the Department of Transportation when proposed plan amendments affect facilities on the strategic intermodal system[2].
- Exempt public transit facilities from concurrency.
- Allow an applicant for a development-of-regional-impact development order, a rezoning, or other land use development permit to satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06, F.S., when applicable, if certain conditions are met.

Section 339.61, F.S., establishes the Florida Strategic Intermodal System (SIS), which was created in 2003 to enhance Florida's economic competitiveness by focusing state resources on the transportation facilities most critical for statewide and interregional travel.

Section 339.62, F.S., provides that the SIS must consist of appropriate components of:

- The Florida Intrastate Highway System;
- The National Highway System;
- Airport, seaport, and spaceport facilities;
- Rail lines and rail facilities;
- Selected intermodal facilities; passenger and freight terminals; and appropriate components of the State Highway System, county road system, city street system, inland waterways, and local public transit systems that serve as existing or planned connectors between the components listed above; and
- Existing or planned corridors that serve a statewide or interregional purpose.

Section 339.64, F.S, requires the Department of Transportation to develop the SIS Plan to be updated at least once every 5 years. The SIS Plan must include the following:

- A needs assessment.
- A project prioritization process.
- A map of facilities designated as Strategic Intermodal System facilities; facilities that are emerging in importance that are likely to become part of the system in the future; and planned facilities that will meet the established criteria.
- A finance plan based on reasonable projections of anticipated revenues, including both 10-year and 20-year cost-feasible components.
- An assessment of the impacts of proposed improvements to Strategic Intermodal System corridors on military installations that are either located directly on the Strategic Intermodal System or located on the Strategic Highway Network or Strategic Rail Corridor Network.

Effect of Proposed Changes

The bill amends s. 163.318, F.S., to provide for a limited exemption from the Strategic Intermodal System adopted level-of-service standards for new or redevelopment projects consistent with local comprehensive plans as inland multimodal facilities receiving or sending cargo for distribution and providing cargo storage, consolidation, repackaging, and transfer of goods, and which can include other intermodal terminals, related transportation facilities, warehousing and distribution facilities, and

[2] A strategic intermodal systems is a transportation systems that: is made up of facilities and services of statewide and interregional significance; contains all forms of transportation for moving both people and goods, including linkages that provide for smooth and efficient transfers between modes and major facilities; and integrates individual facilities, services, forms of transportation (modes) and linkages into a single, integrated transportation network. Florida Department of Transportation website, http://www.dot.state.fl.us/planning/sis/

associated office space, light industrial, manufacturing, and assembly uses. The exemption applies only if the project meets all of the following criteria:

- The project will not cause the adopted level-of-service standards for the Strategic Intermodal System facilities to be exceeded by more than 150 percent within the first five years of the project's development.
- The project, upon completion, would result in the creation of at least 50 full-time jobs.
- The project is compatible with existing and planned adjacent land uses.
- The project is consistent with local and regional economic development goals or plans.
- The project is proximate to regionally significant road and rail transportation facilities.
- The project is proximate to a community having an unemployment rate, as of the date of the development order application, which is 10 percent or more above the statewide reported average.
- The local government has a plan, developed in consultation with the Department of Transportation, for mitigating any impacts to the strategic intermodal system.

Section 6. 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[3].

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 7. 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 which have exceptional biological, aesthetic, and scientific value, be set aside forever as aquatic preserves or sanctuaries for the benefit of future generations[4]. 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 in order 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 preserves' 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),

[3] Section 218.075, F.S.
[4] Section 258.36, F.S.

and oil and gas well drilling is prohibited. This prohibition does not prohibit the state 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[5].

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[6].

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 (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 8. 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"[7]. 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 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 Web site 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)[8].

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

[5] Administrative rules applicable to aquatic preserves generally may be found in Chapter 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.
[6] Department of Environmental Protection website, http://www.dep.state.fl.us/coastal/
[7] http://www.floridalcir.gov/UserContent/docs/File/reports/marina07.pdf
[8] See http://www.flwaterpermits.com/

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 9. 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 proceeds 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 10. 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 that occur 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 limited as well. Wetland impacts allowed in general permits usually range from 5,000 square feet to one 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 ch. 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 11. 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.[9] 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[10].

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 in order 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[11].

[9] 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.
[10] 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.
[11] Section 373.441, F.S.

Effect of Proposed Changes

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

Section 12. 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 (fund) with the intent that it serve as a repository for funds which will enable the department to respond without delay to incidents of inland contamination related to the storage of petroleum and petroleum products in order to protect the public health, safety, and welfare and to minimize environmental damage.[12] Section 376.3071(4), F.S., directs the Department of Environmental Protection (DEP) 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.

[12] Section 376.3071, F.S.

Section 376.3071(5), F.S., provides for 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., provides for 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;
- 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;
- 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, the 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 clarifies 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 13. Amends s. 376.30715, F.S., providing that the transaction 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 provide that the transfer of title for a petroleum contaminated site to a child 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 provides that applicants previously denied coverage may reapply.

Section 14. 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 15. 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,[13] 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

[13] 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.

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% of the federal poverty level.[14] 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) provided 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 resolution subjecting owners to the requirements of the evaluation program and submitted a copy of the resolution to the DEP.

Section 16. 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 provide that for existing installations as defined by rule 62-520.200(10), F.A.C.[15], 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.

[14] 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.

[15] 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.

Section 17. 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., provides 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., provides 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.[16]

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:

- 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 18. 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.

[16] 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.

- 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 19. 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 one 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 provides that sludge from an industrial waste treatment works that meets the exemption requirements for industrial byproducts is not to be considered a solid waste as defined under s. 403.703, F.S.

Section 20. 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 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.
- 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 provides 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 also provides that any permit issued to a solid waste management facility that is designed with a leachate control system that meets the DEP's requirements must be issued for a term of 20 years unless the applicant requests a lesser permit term. 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.

Section 21. 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).

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[17]. 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 two 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 22. 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 it 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 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

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

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.[18] 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.[19]

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.[20] A noncommunity water system is either a nontransient noncommunity system or a transient noncommunity water system.[21] A nontransient noncommunity water system serves at least 25 of the same persons over six months per year.[22] 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 six months per year.[23]

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[24] and state secondary drinking water regulations patterned after the national drinking water regulations.[25] The DEP is to also 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.[26] 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.[27] 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.[28] 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

The bill provides 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

[18] Section 403.852(2), F.S.
[19] Section 403.853(2), F.S.
[20] Section 403.852(3), F.S.
[21] Section 403.852(4), F.S.
[22] Section 403.852(17), F.S.
[23] Section 403.852(18), F.S.
[24] Section 403.853(1)(a) 1, F.S.
[25] Section 403.853(1)(a) 2, F.S.
[26] Section 403.853(1)(b), F.S.
[27] Section 403.852(12), F.S.
[28] Section 403.852(13), F.S.

perform a sanitary survey, and upon receipt of satisfactory results, the DEP must reduce the monitoring and reporting requirements.

Section 23. 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 which 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, 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; provides that the standard form of the MOA will be used only if the local government participates in the expedited review process.

Section 24. Amends s. 526.203, F.S., specifying that the renewable fuel standard does not prohibit the sale of unblended fuels for exempted uses.

Current Situation

The Federal Energy Independence and Security Act of 2007, signed into law on December 19, 2007, set the renewable fuels standard (RFS) minimum annual goal for renewable fuel use at 9.0 billion gallons in 2008 and 36 billion gallons by 2022. Beginning in 2016, all of the fuel increase in the RFS target must be met by advanced biofuels, defined as fuels derived from other than corn starch[29].

Motor gasoline and diesel fuel, both fossil fuels, make up more than 87 percent of Florida's transportation energy costs, with aviation fuel accounting for less than ten percent. There are approximately 50 ethanol fueling stations open to the public selling E10 (90 percent gasoline and 10 percent ethanol) in Florida.

[29] U.S. Department of Energy's website: http://www.eere.energy.gov/afdc/incentives_laws_security.html.

The Legislature passed a comprehensive energy bill in 2008 that, in part, established the Florida Renewable Fuel Standard Act (Act). The bill provided the following definitions:

- “Fuel ethanol” means an anhydrous denatured alcohol produced by the conversion of carbohydrates meeting the specifications as adopted by the Department of Agriculture and Consumer Services.
- "Blended gasoline" means a mixture of ninety percent gasoline and ten percent fuel ethanol meeting the specifications as adopted by the Department of Agriculture and Consumer Services. The ten percent fuel ethanol portion may be derived from any agricultural source.
- "Unblended gasoline" means gasoline that has not been blended with fuel ethanol meeting the specifications as adopted by the Department of Agriculture and Consumer Services.
- “10 percent” means 9-10 percent ethanol by volume.

The bill provided that on and after December 31, 2010, all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler is to contain, at a minimum, 10 percent of agriculturally derived, denatured ethanol fuel by volume.

The following are exempted from the act:

- Fuel used in aircraft;
- Fuel sold at marinas and mooring docks 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;
- Fuel unable to comply due to requirements of the United States Environmental Protection Agency;
- Fuel bulk 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 at an electric power plant that is regulated by the United States Nuclear Regulatory Commission unless such commission has approved the use of fuel meeting the requirements of the act;
- Fuel for a railroad locomotive; or
- 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 it were to be operated using fuel meeting the requirements of the act.

Effect of Proposed Changes

The bill specifies that s. 526.203, F.S., does not prohibit the sale of unblended fuels for the uses exempted above.

Section 25. Installation of fuel tank upgrades to secondary containment systems.

Current Situation

Florida law requires that all gas station owners with single-wall underground fuel tanks and pipes to upgrade to double-wall tanks or stop selling gas by December 31, 2009. During a 2010 special session, the legislature overrode the veto by then-Governor Crist of HB 1385, which provided in part that “any entity that has entered into a consent order with the Department of Environmental Protection (DEP) by June 30, 2010 will now be required to complete all of the upgrades by September 30, 2011.” Most gas station owners that decided to remain in operation met the deadline for upgrading their underground tanks. However, there were also a number of gas station owners that decided to sell their businesses instead of paying the $100,000-300,000 cost of performing the upgrades. Other business persons in Florida saw this as an investment opportunity and bought up these out of compliance gas stations as the

deadline loomed, but have not been able to perform the necessary tank upgrades in time to meet the deadline.

Effect of Proposed Changes

The bill provides that any fuel service station that changed ownership interest through a bona fide sale of the property between January 1, 2009, and December 31, 2009, is not required to complete the fuel tank upgrades required under current law until December 31, 2013.

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. Creates s. 161.032, F.S., providing for applicants to timely respond to RAIs for beach applications.

Section 3. Amends s. 161.041, F.S., specifying that authorized expedited permitting applies to provisions governing beaches and shores and surface water management and storage.

Section 4. Amends s. 163.3180, F.S., providing an exemption to the level-of-service standards adopted under the Strategic Intermodal System for certain inland multimodal facilities.

Section 5. 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 6. 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

Section 7. Amends s. 258.397, F.S., to exempt a municipality from showing extreme hardship for sale, transfer, or lease of sovereignty 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 8. Amends s. 373.026, F.S., expanding the use of internet-based self-certification services.

Section 9. Amends s. 373.4141, F.S., providing for applicants to timely respond to RAIs for ERP applications.

Section 10. 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 11. Amends s. 373.441, F.S., directing the DEP and water management districts to regulate activities pursuant to delegation agreements.

Section 12. Amends s. 376.3071, F.S., clarifying that that program deductibles, copayments, and contamination assessment report requirements do not applies as expenditures under the low-scored site initiative within the Inland Protection Trust Fund.

Section 13. 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.

Section 14. Amends s. 380.0657, F.S., authorizing expedited permitting for certain inland multimodal facilities.

Section 15. Amends s. 381.0065, F.S.; limiting applicability of the onsite sewage treatment and disposal system evaluation and assessment program

Section 16. 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 17. Amends s. 403.087, F.S., revising conditions under which the DEP is authorized to revoke a permit.

Section 18. 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 19. Amends s. 403.7045, F.S., providing that sludge form 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 20. Amends s. 403.707, F.S., providing that a permit for a solid waste management facility shall be for 20 years as established by the applicant or a lesser period if requested by the applicant.

Section 21. 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 22. Amends s. 403.853(6), F.S., Adding groundwater usage and services to religious institutions to the definition of transient noncommunity water systems.

Section 23. 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 24. Amends s. 526.203, F.S., specifying that the renewable fuel standard does not prohibit the sale of unblended fuels for exempted uses.

Section 25. Allows certain recently acquired filling stations to have until December 31, 2012 to install secondary containment.

Section 26. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

Recurring Effects: The Department of Environmental Protection provided the following:

- There will be an unknown 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.
- 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.
- Extending the length of solid waste permits to 20 years may result in reductions in the amount of time dedicated to permit review.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: 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 clocks 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 timeclock 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.

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.

2. Expenditures:

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.

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.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: The Department of Environmental Protection provided the following:

Direct Private Sector Benefits:

- Increased availability of Internet based self certifications and general permits should reduce permitting costs.

- Shortened ERP permitting time clocks 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 timeclock waivers.
- Owners or operators of transient non-community 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 board of county commissioners has 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:

Section 16, which grants zones of discharge for most discharges and exempt the discharger from liability for any subsequent clean-up, either on or off-site, may conflict with Article 2, Section 7 of the Florida Constitution, which states that “adequate protection shall be made by law for the abatement of air and water pollution…and for the conservation and protection of natural resources.”

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None