

STORAGE NAME: h1509.ep
DATE: March 30, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1509

RELATING TO: Environmental protection

SPONSOR(S): Representative Spratt

STATUTE(S) AFFECTED: Chapters 120, 373, and 403, F.S.

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ENVIRONMENTAL PROTECTION
- (2) GOVERNMENTAL RULES AND REGULATIONS
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

HB 1509 would require persons who file or intend to file objections, raise issues of fact, or allege violations of the provisions of Chapters 373 or 403, F.S. to submit technical or scientific information which supports the objections. Persons who fail to submit the information would be denied standing and may not bring any administrative or judicial action under Chapters 120, 373 or 403, F.S.

The act shall take effect upon becoming law.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 120, F.S. provides any person whose substantial interests are being affected by an agency to file an objection, raise an issue of fact, allege violations of any statutory provisions or agency rules through the filing of a petition for administrative hearing.

Persons must petition the agency within a specified time period and address certain issues in the petition. Issues addressed within a petition include:

- Information on who is filing, whom they are filing against, the agency's file number and the county in which the action is being taken.
- A statement of how and when each person received notice of the agency's proposed action.
- A statement of how the person's substantial interest is affected by the proposed action.
- A statement of the material facts disputed by the person.
- A statement of facts which the person contends would merit the reversal or modification of the agency's proposed action.
- A statement of the specific relief sought by the person.

Under current practices a person will request a hearing and then pull together the information during the discovery process.

Chapter 373, F.S. relates to water resources and regulatory actions related to the: establishment of minimum flows and levels; activities of the water management districts; purchase and management of lands; permits for water consumption; production of water; regulation of wells; management and storage of surface waters; and the Everglades restoration.

Chapter 403, F.S., relates to environmental control issues and regulatory actions related to: water resources restoration and preservation; sewage disposal facilities; hazardous waste; injection wells; air emissions; federal permitting delegations; stormwater management; litter; mining; power plant and transmission line siting; resource recovery and management; dredge and fill; drinking water; mitigation; and job siting.

State agencies with oversight responsibilities under Chapters 373 and 403 include: the department's of Health, Environmental Protection, and Community Affairs. Also affected are local governments with delegated permitting authority and the water management districts.

B. EFFECT OF PROPOSED CHANGES:

The bill would require any person who files or intends to file any objection, raise any issue of fact, or allege any violation of any provision of Chapters 373 or 403, F.S. to submit technical and scientific information which supports such objection, contention, or allegation. A person who fails to comply with this bill would be denied standing to bring any administrative or judicial action under Chapter 120, F.S. or under any provisions provided by Chapters 373 or 403, F.S.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, substantially affected persons would now have to compile and submit technical and scientific information which supports their objections to an agency action upon the filing of a challenge.

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None

(2) what is the cost of such responsibility at the new level/agency?

None

(3) how is the new agency accountable to the people governed?

None

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

NA

- (2) Who makes the decisions?

NA

- (3) Are private alternatives permitted?

NA

- (4) Are families required to participate in a program?

NA

- (5) Are families penalized for not participating in a program?

NA

- b. Does the bill directly affect the legal rights and obligations between family members?

No

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

NA

(2) service providers?

NA

(3) government employees/agencies?

NA

D. SECTION-BY-SECTION RESEARCH:

Section 1: Provides that for any person to file or intend to file an objection to violations of Chapter 373 or 403, F.S., that concurrently with such filing they must submit technical or scientific information which supports the filing or they shall lose standing for the purposes of bringing any administrative or judicial action under Chapters 120, 373 or 403, F.S.

Section 2: Provides that the act shall take effect upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

Additional costs would be associated with the compiling of technical and scientific data to support alleged violations during the initial actions taken by agencies.

Agencies may also realize some cost savings associated with a decrease in administrative hearings. The additional burden for substantially affected persons is anticipated to decrease the number of challenges.

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

Unknown

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

See Fiscal Impact on State Governments, "Recurring Effects."

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Private sector costs may be increased because of the burden of requiring technical and scientific information when submitting a petition for administrative hearing.

2. Direct Private Sector Benefits:

Benefits may be realized with a reduction in the number of administrative hearings.

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of a state tax shared with counties and municipalities.

V. COMMENTS:

The Department of Environmental Protection bill analysis raises a series of issues with regard to the bill. These include:

1. Who will be responsible for making the determination of what is adequate technical or scientific information.
2. What type of technical or scientific material is required.
3. The meaning of the word "person" is unclear. Since no statutory cite is provided it is unknown who this may include. Some definitions include governmental agencies while other do not.
4. Under current guidelines there are only 14 days after an action in which you may file for a hearing. There is concern that this would be an inadequate amount of time to compile the necessary information to file a challenge.
5. The bill runs counter to the intent and requirements of many federally delegated programs.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

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