

STORAGE NAME: h0151s1.wrm

DATE: February 3, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
WATER & RESOURCE MANAGEMENT
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 151

RELATING TO: Water Quality

SPONSOR(S): Committee on Water & Resource Management and Representative Bainter

STATUTE(S) AFFECTED: Sections 373.307 and 376.309, Florida Statutes

COMPANION BILL(S): None

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

- (1) WATER & RESOURCE MANAGEMENT YEAS 11 NAYS 0
- (2) GENERAL GOVERNMENT (Fiscal)
- (3)
- (4)
- (5)

I. SUMMARY:

CS/HB 151 requires the State of Florida to subsidize expenses imposed on private citizens by Rule 62-524, Florida Administrative Code (F.A.C.), entitled New Potable Water Well Permitting in Delineated Areas. These expenses include the costs associated with the construction and testing of new potable water wells in areas where groundwater contamination is known to exist. The bill also instructs the Department of Environmental Protection (DEP) to develop criteria for acceptance of tests for potable water contaminants completed by private labs which are certified by the Department of Health (formerly the Department of Health and Rehabilitative Services).

The state expenditures required by CS/HB 151 would come from the Water Quality Assurance Trust Fund. No additional appropriation for these costs is included in this bill.

The bill is effective upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Pursuant to s. 373.309, Florida Statutes (F.S.), areas of known groundwater contamination have been delineated by DEP. Within these areas strict permitting, construction and testing requirements are applied to new potable water wells by DEP, water management districts (WMD) and the Department of Health. These requirements have been in place since 1991. DEP has recently adopted rules which delineate larger areas, primarily because of contamination by the pesticide ethylene dibromide (EDB).

Private citizens, businesses, and developers installing new potable water wells are required to bear the costs associated with the regulatory requirements in the delineated areas to ensure drinking water is not contaminated. These costs include WMD permit fees, protective well construction costs, and well sampling and testing costs. DEP has received complaints from private citizens and local governments about the cost of meeting the more stringent permit requirements. According to DEP staff, s. 376.307, F.S., does not give the agency the authority to subsidize permit costs. However, the statute does provide authority for DEP to subsidize the purchase of treatment devices and connections to water systems where potable water wells are contaminated. Additionally, DEP is authorized to subsidize new water systems in designated areas.

The existing subsidy program is funded through the Water Quality Assurance Trust Fund, pursuant to s. 376.307, F.S. This trust fund receives monies from excise taxes on solvents, lubricants, and other substances that pose a threat to Florida's groundwater, plus fines, penalties and other charges associated with violations of state laws designed to protect the state's groundwater resources. Section 376.307, F.S., provides a list of activities for which the Water Quality Assurance Trust Fund may be used:

1. To carry out assessment, cleanup, restoration, monitoring and maintenance of releases of pollutants which threaten water resources, including dry-cleaning products, pursuant to ss. 376.30-376.319, F.S.
2. Restoration or replacement of potable water supplies.
3. Response actions carried out pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).
4. Restoration or replacement of potable water wells which meet certain criteria.

At present, DEP requires sampling and testing of potable water wells in delineated areas to be completed by DEP staff. Some private labs are certified by the Department of Health to conduct testing for EDB and other contaminants pursuant to the requirements of the Florida Safe Drinking Water Act. However, because of quality-control concerns, DEP does not allow testing by these labs.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 151 would require the state to subsidize expenses imposed on private citizens pursuant to chapter 62-524, F.A.C. This would include one-half of the increased cost of a resident's new drinking water well in areas where groundwater is contaminated, including testing for contaminants. Alternatively, the state could pay one-half of the present worth of the 10-year cost of providing and maintaining filters on an existing well, if this measure is less expensive. The payment plan would not include households that are part of subdivisions or developments that the DEP finds would be better served by a public water supply system.

CS/HB 151 does not include a specific appropriation to pay for these costs. The funds for the subsidy required from this bill would come from the Water Quality Assurance Trust Fund. However, at present, the DEP can only use trust fund money appropriated for the existing subsidy program to pay for the additional costs.

The bill would also direct DEP to develop criteria for acceptance of tests for drinking water contaminants by private laboratories which are certified by the Department of Health. This provision would allow laboratories certified by the Department of Health to do drinking water testing, and to provide testing for DEP if the labs meet quality-assurance and quality-control requirements established by DEP for field sampling and analysis of compounds such as EDB.

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?

No.

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

Yes. This bill would expand a state program which subsidizes permitting and construction of potable water wells in areas where groundwater is contaminated.

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?

Not applicable.

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

Not applicable.

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

Not applicable.

2. Lower Taxes:

Not applicable.

3. Personal Responsibility:

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

No. Currently, the homeowner, business owner, or developer in a delineated area is required to bear the costs imposed by chapter 62-524, F.A.C., to ensure safe potable water wells. These costs may include construction of a new protective well or installation of a filter, if a public water supply is not available. CS/HB 151 shifts up to one-half of these costs to the state. However, the program is funded through excise taxes on substances which can cause groundwater contamination, thus further shifting the cost to the consumers and producers of those substances.

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

Yes. The bill only provides compensation for one half the cost of construction of the well. The individual is responsible for the remaining costs.

4. Individual Freedom:

Not applicable.

5. Family Empowerment:

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 376.307, F.S., to require the state to pay one-half the increased cost of an individual's new drinking water well in areas where groundwater is contaminated, including testing for contaminants. Provides as an alternative the state paying one-half of the present worth of the 10-year cost of providing and maintaining filters on an existing well if this measure is less expensive.

Section 2: Amends s. 373.309, F.S., to direct DEP to develop criteria for acceptance of tests for drinking water contamination by private laboratories.

Section 3: Provides that the bill takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Based on an estimate of 400 wells permitted annually, DEP estimates an annual fiscal impact of up to \$1,200,000. Itemized expenses per well include:

WMD permit	\$ 500.00
construction	\$ 1,000 to 5,150.00
sampling	\$ 50.00
analytical	\$ 100 to 200.00
clearance	\$ 50.00

Subtotal:	\$ 6,000.00 (maximum)
DEP's 1/2 share:	\$ 3,000.00 (maximum)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Estimated expenditure of up to \$1,200,000 per annum.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

This bill would decrease the cost to the private sector of potable water wells for new construction in areas where groundwater contamination exists and a public water supply is not readily available. The exact reduction in cost would vary depending on the lowest cost alternative for providing safe potable water. DEP has estimated the cost reduction to be about \$3,000 for construction of new wells when this was the least-cost alternative.

The provision of the bill directing DEP to establish criteria for accepting tests from private sector labs may economically benefit labs able to meet DEP's criteria. Additionally, if private sector testing decreases the time required to test potable water wells, and accordingly decreases the amount of time necessary to obtain new potable water well permits in delineated areas, this would be beneficial to private sector permit applicants.

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

The reduction in the cost of potable water wells for new construction in areas where groundwater contamination exists and a public water supply is not readily available may increase growth and employment opportunities in rural areas where groundwater contamination exists.

The provision of the bill directing DEP to establish criteria for accepting testing from private sector labs may increase competition and private enterprise by allowing more labs to compete for business associated with compliance testing for new potable water well permits.

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D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Not applicable.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None.

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

None.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The amendments adopted by the Committee changed a date and changed references to the Department of Health and Rehabilitative Services to the new Department of Health.

VII. SIGNATURES:

COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Legislative Research Director:

Charles R. Fletcher

Joyce Pugh