

STORAGE NAME: h0407a.ft
DATE: March 17, 1997

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 407

RELATING TO: Asbestos Removal Programs

SPONSOR(S): Representative Bullard

STATUTE(S) AFFECTED: Section 376.60, F.S.

COMPANION BILL(S): SB 52 (i)

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

- (1) ENVIRONMENTAL PROTECTION YEAS 10 NAYS 0
- (2) FINANCE AND TAXATION YEAS 10 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

HB 407 deletes the \$50 inspection and notification fee for asbestos removal projects for residential dwellings and expands the exemption from such fees to include all colleges and universities. This bill requires the Department of Environmental Protection (DEP) to return 80% of such fees collected in counties with approved local air pollution control programs to the local government annually, if the county requests it. The bill also provides that the return of fees to counties is retroactive to July 1, 1994. Additionally, any fees returned to a county must be used only for asbestos-related program activities. A county may not levy any additional fees for asbestos-removal activities while it receives fees from the 80% returned from the DEP. The bill also provides that if a local program is providing asbestos notification and inspection services and is collecting fees sufficient to support the requirements of the applicable federal law and opts not to receive the state-generated asbestos notification fees, the state may elect to stop collecting the fees in that county.

The bill appropriates \$700,000 from the Air Pollution Control Trust Fund for the purpose of reimbursing local governments pursuant to the 80% return of fees provision.

This bill provides that the act shall take effect on July 1, 1997.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 553.79(11), F.S., requires each building permit for the demolition or renovation of an existing structure to contain an asbestos notification statement and requires the owner or operator to notify the DEP of his intention to remove asbestos, when applicable.

Pursuant to s. 376.60, F.S., the DEP must charge an inspection and notification fee for any asbestos-removal project, not to exceed \$50 for a residential dwelling, \$300 for a small business as defined in s. 288.703(1), F.S., and \$1000 for any other project. The fee provisions specifically do not apply to public schools districts, the state universities, and private schools.

The federal government has delegated to Florida the asbestos-removal program activities mandated under the National Emission Standards for Hazardous Air Pollutants (40 CFR, Part 61, subpart M). Under that program, the DEP is prohibited from charging an inspection fee for residential dwellings. Therefore, the DEP has not collected the \$50 inspection and notification fee for residential dwellings despite state law to the contrary.

Existing law also allows the DEP to contract with local governments to conduct its asbestos-removal programs within their jurisdictions. To date, the DEP has delegated this function to all eight of the counties with approved local air pollution control programs. They include Dade, Broward, Duval, Hillsborough, Palm Beach, Pinellas, Sarasota, and Orange counties. Of these, Dade and Hillsborough counties impose a fee in addition to those imposed by the DEP. Despite the fact that these counties are administering the asbestos-removal programs, under current law the DEP does not have the authority to pass through to those counties the inspection and notification fees it collects pursuant to s. 376.60, F.S.

Any fees collected must be deposited in the asbestos program account in the Air Pollution Control Trust Fund to be used by the DEP to administer its asbestos-removal program.

B. EFFECT OF PROPOSED CHANGES:

HB 407 deletes the \$50 inspection and notification fee for any asbestos-removal project at a residential dwelling. This change merely codifies current DEP practice, since the DEP is prohibited under the terms of the federal delegation agreement to charge such fees. The bill expands the exemption from such fees to include all colleges and universities, rather than just state universities. The bill also exempts from the payment of the inspection and notification fee all persons exempt from licensure requirements under s. 496.004(7), F.S.; this provision makes an existing exemption explicit. This bill requires the DEP to return 80% of the asbestos-removal program inspection and notification fees collected annually in counties with approved local air pollution control programs to the county in which it was collected if the county requests it, and the bill makes reimbursement of such fees retroactive to July 1, 1994. The bill would require any fees returned to a county to be used only for asbestos-related program activities. The bill prohibits a county from levying any additional fees for asbestos-removal activities while it receives fees under the 80% reimbursement provision. Additionally,

the bill gives the state the option of discontinuing collection of fees in a county that continues to collect its own fees and opts not to receive the state-generated asbestos notification fees. The effect is the state can avoid having to charge people double fees for the same service.

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?

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?

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:

- 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?

Potentially, yes. The bill gives the state the option to discontinue collection of the \$50 inspection and notification fee in counties (currently Hillsborough and Dade) that collect a similar fee.

- 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?

Not applicable.

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:

The bill does not purport to provide such services.

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

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

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

Not applicable.

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

Not applicable.

- 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:

The bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 376.60, F.S., to delete the \$50 inspection and notification fee for asbestos-removal projects at residential dwellings and expands the exemptions from such fees to include all colleges and universities. The bill also exempts from the payment of the inspection and notification fee all persons exempt from licensure requirements under s. 496.004(7) F.S. Requires the DEP to return 80% of such fees collected in counties with approved local air pollution control programs to the local government annually, if the county requests it. Requires that such fees returned to counties be used only for asbestos-related program activities. Prohibits counties from levying additional fees for asbestos-removal activities if the counties receive fees from the 80% returned from the DEP. Provides that the return of fees to counties is retroactive to July 1, 1994. Provides that if a local program is providing asbestos notification and inspection services and is collecting fees sufficient to support the requirements of the applicable federal law and opts not to receive the state-generated asbestos notification fees, the state may elect to stop collecting the fees in that county.

Section 2: Appropriates \$700,000 from the Air Pollution Control Trust Fund for the purpose of reimbursing local governments 80% of the fees collected as described in this bill.

Section 3: Provides that the act shall take effect July 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	<u>1997-98</u>
<u>Revenues:</u>	-0-
<u>Expenditures:</u>	
Air Pollution Control TF	\$588,000

2. Recurring Effects:

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>
<u>Revenues:</u>	-0-	-0-	-0-
<u>Expenditures:</u>			
Department of Environmental Protection			
Air Pollution Control TF	\$112,000*	\$112,000*	\$112,000*

(*The DEP staff provided this figure and explained that it was based on the six counties other than Hillsborough and Dade continuing to request the 80% reimbursement from the state-generated fees. The DEP anticipates that Hillsborough and Dade will elect to continue collecting their own fees through their local programs and will not request the 80% reimbursement from the state.)

(Note: An insignificant, indeterminate amount will be lost annually from the Air Pollution Control TF because private universities and military schools that currently pay fees will now be exempt.)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>
<u>Revenues:</u>	-0-	-0-	-0-
<u>Expenditures:</u>			
Department of Environmental Protection			
Air Pollution Control TF	\$700,000	\$112,000	\$112,000

(Note: An insignificant, indeterminate amount will be lost annually from the Air Pollution Control TF because private universities and military schools that currently pay fees will now be exempt.)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>
<u>Revenues:</u>	\$588,000*	-0-	-0-

(*This money will be divided between Dade, Hillsborough, Pinellas, Duval, Orange, Sarasota, Broward and Palm Beach Counties based on the fees the state collected in each county dating back to July 1, 1994.)

<u>Expenditures:</u>	-0-	-0-	-0-
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2. Recurring Effects:

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>
<u>Revenues:</u>	\$112,000	\$112,000	\$112,000
<u>Expenditures:</u>	-0-	-0-	-0-

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:

Private universities and military schools that currently pay fees will now be exempt. Asbestos contractors who currently pay duplicate inspection fees in Hillsborough and Dade Counties will only have to pay once if the state elects not to collect fees in those counties.

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 take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill prohibits counties from imposing an additional fee for asbestos removal while it receives fees under the asbestos removal program provided in the bill. The prohibition on fees is contingent on county request to be in the program, and, therefore, is not subject to the provisions of Article VII, section 18 of the Florida Constitution.

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

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

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V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

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