

STORAGE NAME: h1993.grr

DATE: April 13, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES AND REGULATIONS
ANALYSIS**

BILL #: HB 1993

RELATING TO: Onsite Sewage & Disposal System

SPONSOR(S): Representative Alexander

COMPANION BILL(S): SB 2288(s)

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

- (1) COMMITTEE ON HEALTH CARE LICENSING & REGULATION YEAS 11 NAYS 0
 - (2) GOVERNMENTAL RULES AND REGULATIONS
 - (3) WATER & RESOURCE MANAGEMENT
 - (4) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (5)
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I. SUMMARY:

HB 1993 amends s. 381.0065, F.S., to establish the definition of "mean annual flood line," "permanent non-tidal surface water body," "seasonally inundated area," and "tidally influenced surfaced body water," relating to the distance between an onsite sewage disposal system and any area that either permanently or temporarily has visible surface water.

The bill provides clarifies and makes consistent the statutes and rules relating to setbacks for onsite sewage systems from surface waters as defined in the bill. It identifies the types of surface water bodies and how the boundaries of those surface waters are to be measured.

HB 1993 also amends s. 381.0066, F.S., to authorize five dollars from each repair permit fee to go towards a training center for program staff and licensed septic tank contractors. The Department of Health estimates it receives approximately 20,000 repair permits each year thereby providing \$100,000 annually to fund the training program. The department will not experience a revenue loss because it is anticipated that through additional enforcement activities, the department will generate additional revenues to offset revenue allocated to the training program.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 381.0065, F.S., establishes a 75 foot setback from surface water on lots platted after 1971 for onsite sewage treatment and disposal systems. The statute also provides a 15 foot setback from areas that contain standing or flowing water for less than 72 hours after a rainfall. By rule, the Department of Health has established the mean high water line (tidal) and the ordinary high water line (non-tidal) as the boundary line for the setback. The Florida Home Builders Association has filed a rule challenge over this interpretation and the determination of the boundary line, alleging that the department's rule is vague and arbitrary. The department rule provides for county health department staff to establish this boundary using soil and vegetative indicators. On many lots, this determination can be the critical factor in approving or denying a permit application. The statutory setback is necessary to ensure that pathogens and nutrients in the effluent have sufficient contact time with soils to provide treatment and removal before entering surface waters.

The Department of Health coordinates with other federal, state, and local agencies on permitting issues within jurisdictional areas. Applicants in these areas may need to obtain a fill permit from the jurisdictional agency before an onsite system is constructed.

The statute allows a portion of the research surcharge, currently five dollars from each new construction permits, to be used for funding a training center. This surcharge generates \$200,000 each year and all funds are utilized for research related costs.

B. EFFECT OF PROPOSED CHANGES:

The bill defines criteria for the establishment of a "mean annual floodwater line" that would be used as the boundary line for the 75 foot setback from the system to surface waters. Additional language provides a definition of a "permanent non-tidal surface water body." These changes would not explicitly result in a significant change to the setback currently established by county health department staff.

The bill defines "seasonally inundated areas" and establishes a 25 foot setback from the boundary of these areas. These areas could not be inundated with standing or flowing water for just less than 180 days, and not be defined as a permanent water body; which could possibly result in a significant reduction in the setback of these areas.

The bill sets aside five dollars from each repair permit to be used for funding a training center for program staff and licensed septic tank contractors with the intent of earmarking funds for the training center without raising existing permit fees.

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?

Existing rules will be modified to reflect the changes in the substantive law. This bill will affect Chapter 64E-6, F.A.C., relating to sewage treatment and disposal facilities.

(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?

Not Applicable.

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?

Not Applicable.

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

Not Applicable.

5. Family Empowerment:

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

- (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?

Not Applicable.

- 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?

Not Applicable.

- (2) service providers?

Not Applicable.

- (3) government employees/agencies?

Not Applicable.

D. STATUTE(S) AFFECTED:

Sections 381.0065 and 381.0066, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 381.0065, F.S., to provide definitions of "mean annual flood line", "permanent nontidal surface water body", "seasonally inundated area", and "tidally influenced surface water body."

Section 2. Amends s. 381.0066, F.S., to allow the Department of Health to collect fees for services provided with respect to onsite sewage treatment and disposal systems, and providing that five dollars of that fee is allocated to training centers for the program's staff.

Section 3. Provides for an effective date of 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:

<u>Revenues:</u>	1999-00	2000-01
Department of Health		
20,000 estimated repair permits @ \$5		
research charge (county health departments 92%)	\$(100,000)	\$(100,000)
(headquarters 8%)		

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<u>Revenues:</u>		
Department of Health	(\$100,000)	(\$100,000)

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:

None.

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

None.

D. FISCAL COMMENTS:

The bill authorizes five dollars of the repair permit fee to earmarked for a training center for program staff and licensed septic tank contractors. The department reports an average of 20,000 repair permits each year which then generate approximately \$100,000 annually for the training center. This diversion will represent a revenue loss to the department. However, the department has recently established a toll free hotline for reporting unlawful septic tank contracting and it anticipates that the increased revenue from enforcement and permitting will offset this funding without a significant revenue loss to the county health departments.

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 does not reduce the authority of counties or municipalities have to raise revenue in the aggregate.

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

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

V. COMMENTS:

Comments of the Committee on Health Care Licensing and Regulation:

The Department of Health has conducted research studies that indicate that a minimum 50 foot travel distance is necessary to remove viruses and protect public health, versus the 25 foot boundary between seasonally inundated areas and onsite sewage treatment and disposal systems that the bill provides.

Currently, the Department of Health is working with the Florida Home Builder's Association on amendments to this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 5, 1999, the Health Care Licensing & Regulation Committee adopted four amendments that are traveling with the bill which:

Amendment #1 - Deletes the definition of "seasonally inundated area."

Amendment #2 - Deletes language relating to the setback of a system from a seasonally inundated area to conform the bill with the previous amendment.

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Amendment #3 - Deletes additional language to conform the bill with amendment one.

Amendment #4 - Provides that the department is to conduct a study on the issue of seasonally inundated area setbacks and to report that study to the Legislature by February 1, 2000. Provides that the department may be contract with an outside consultant for the study.

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Katina M. Stamat

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

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David M. Greenbaum

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