

STORAGE NAME: h0801.wrm

DATE: March 2, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
WATER & RESOURCE MANAGEMENT
ANALYSIS**

BILL #: HB 801

RELATING TO: Local government comprehensive plans

SPONSOR(S): Representative Putnam

COMPANION BILL(S):

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

- (1) WATER & RESOURCE MANAGEMENT
 - (2) COMMUNITY AFFAIRS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

HB 801 attempts to clarify the scope of the Department of Community Affairs' (DCA's) review of local government comprehensive plan amendments related to wastewater treatment, so that the agency's evaluation focuses on the growth management and planning issues that are within DCA's purview.

The bill acknowledges that DCA has the responsibility to review and evaluate amendments to the "general sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge" element in local government comprehensive plans, pursuant to s. 163.3177(6), Florida Statutes (F.S.) However, DCA would be precluded from requiring more stringent standards or conditions than those imposed by the Department of Health regarding the location, installation, and use of onsite sewage treatment and disposal systems (OSTDS), more commonly called septic tanks. Nor would DCA be able to require the use of publicly owned or investor owned sewerage systems, or other types of sewerage treatment systems, as an alternative to the proposed use of OSTDS, which otherwise would be permissible under chapter 380, F.S., which governs the Department of Health, and related rules.

The Department of Health would have the sole authority and responsibility for determining the site suitability for OSTDS, pursuant to authority in chapter 381, F.S.

The bill has no fiscal impact on state tax revenues.

HB 801 takes effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 381.0065(3), F.S., authorizes the Department of Health to promulgate rules establishing minimum standards for the use of onsite sewage treatment and disposal systems (OSTDS), and to conduct site evaluations to determine their suitability for OSTDS. Local governments may by local ordinance enact more restrictive OSTDS standards.

Meanwhile, the Department of Community Affairs (DCA) is charged pursuant to chapter 163, F.S., with the review and evaluation of local government comprehensive plans that are designed to guide development within individual communities. Each "comp plan" includes a number of elements, or chapters, on how the county or city plans to address issues, including capital infrastructure, conservation and recreation, transportation, and water/wastewater services. Section 163.3177(6)(c), F.S. specifies that the element for general sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge "describe the problems and needs and the general facilities that will be required for solution of the problems and needs." The paragraph also specifies that, "For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks."

Last year, HB 4475 was introduced to address concerns that DCA, when evaluating comp plan amendments, has acted outside its purview in requiring local governments to enact more restrictive wastewater standards to address issues more appropriately under the jurisdiction of the Department of Health. As it progressed through the Legislature, the DCA-related provisions of HB 4475 were removed, and the bill became law (chapter 98-120, Laws of Florida) without the Governor's signature.

B. EFFECT OF PROPOSED CHANGES:

HB 801 would:

- o Specify that the suitability of soils for septic tanks shall be determined pursuant to the provisions of s. 381.0065, F.S., and any rules promulgated to support that section.
- o Prevent DCA, when reviewing comp plan amendments, from requiring more stringent standards or conditions than those imposed by the Department of Health regarding the location, installation, and use of OSTDS.
- o Prevent DCA from requiring the use of publicly owned or investor owned sewerage systems, or other types of sewerage treatment systems, as an alternative to the proposed use of OSTDS, which otherwise would be permissible under chapter 380, F.S., and related rules.

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?
N/A
 - (2) what is the cost of such responsibility at the new level/agency?
N/A
 - (3) how is the new agency accountable to the people governed?
N/A

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?

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:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- 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?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 163.3177(6)(c) and s. 381.0065(1), F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 163.3177(6)(c), F.S., to delete requirement that local government comprehensive plans include soil surveys in communities served by septic tanks. Specifies instead that the suitability of soils for septic tanks shall be established pursuant to s. 381.0065, F.S., and associated rules.

Section 2: Amends s. 381.0065(1), F.S., to acknowledge the Department of Community Affairs' responsibility to review and evaluate comprehensive plan amendments related to the general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element, pursuant to the agency's authority under Chapter 163. Prevents the department from requiring the use of standards or conditions more stringent than those of the Department of Health regarding the location, installation and use of onsite sewage treatment and disposal systems (OSTDS). Specifies that the department may not require the use of publicly owned or investor-owned sewerage systems, or of other sewerage treatment process as an alternative to OSTDS, which would otherwise be permissible under this section and rules.

Section 3: Provides that this act shall take 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:

None.

3. Long Run Effects Other Than Normal Growth:

Indeterminate, but likely minimal.

4. Total Revenues and Expenditures:

None.

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:

Indeterminate. Local governments would benefit financially to the extent that they may not be required by DCA to provide wastewater treatment connections to areas as a condition of DCA approving their comprehensive plan amendments for higher densities or change of land use.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Private property owners wishing to develop in areas under DCA's comp plan review may be allowed to use septic tank systems, rather than be required to hook into potentially more expensive sewerage systems or utilize other wastewater treatment alternatives.

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

Indeterminate.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 801 does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 801 does not reduce the authority that municipalities or counties have to raise revenues.

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

HB 801 does not reduce state tax revenues shared with counties and municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Staff Director:

Joyce Pugh

Joyce Pugh