

STORAGE NAME: h1133s1z.ep
DATE: May 23, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
ENVIRONMENTAL PROTECTION
FINAL ANALYSIS**

BILL #: CS/HB 1133

RELATING TO: Environmental Control

SPONSOR(S): Committee on Environmental Protection; and Representative(s): Eggelletion and Others

TIED BILL(S): None

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

- (1) ENVIRONMENTAL PROTECTION YEAS 14 NAYS 0
- (2) COLLEGES & UNIVERSITIES YEAS 7 NAYS 0
- (3) EDUCATION APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

This bill establishes the State University System Hazardous Substance Compliance Assistance Center to be located at the Florida State University Geophysical Fluid Dynamics Institute. The purpose of the Center is to educate and assist institutions of the State University System (SUS) in achieving and maintaining compliance with both state and federal hazardous waste regulations in order to avoid fines and reduce risks to students, staff, faculty, and the general public.

The Center is directed to perform the following tasks: (1) Design and implement a computerized onsite hazardous substances inventory and waste management system for the institutions of the SUS; (2) Provide outreach, education, and training programs for contractors and small business vendors regarding compliance with federal and state hazardous waste regulations; (3) Cooperate with other pollution prevention and recycling programs within the SUS; (4) Assist in curriculum development regarding the proper management and disposal of hazardous substances; (5) Provide SUS institutions with engineering and technical assistance in modeling soil and groundwater contamination; and, (6) Provide technical assistance to independent colleges and universities in the state.

The bill creates two full time employee positions to be entitled the Director and Assistant Director of the Services of the State University System Hazardous Substance Compliance Assistance Center. The bill specifies the qualifications for the director's position.

The bill provides for an annual appropriation of \$1 million from the General Revenue Fund to the FSU Geophysical Fluid Dynamics Institute for the purpose of carrying out the provisions of the act.

This bill takes effect upon becoming law.

(On May 5, 2000, this bill died in the Committee on Education Appropriation. There was no senate companion.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain: CS/HB 1133 establishes the State University System Hazardous Substance Compliance Assistance Center. The purpose of the Center is to educate and assist institutions of the State University System (SUS) in achieving and maintaining compliance with both state and federal hazardous waste regulations. The Center is also directed to provide outreach, education, training programs, and technical assistance to a number of entities.

Comments received from representatives of the SUS suggest that a number of the tasks assigned to the newly created center are currently being performed by the Departments of Environmental Health and Safety on each university campus. In addition, the outreach duties assigned to the new center may duplicate some of the work currently performed by the Florida Center for Hazardous and Solid Waste Management, a Type I Center, which is housed at the University of Florida.

B. PRESENT SITUATION:

The Department of Environmental Protection reports that since 1990 there have been 93 violations of state and federal hazardous waste regulations (including the Resource Conservation and Recovery Act) at five of the ten state universities resulting in assessments of \$162,420 in penalties. There were 75 violations of generator requirements and 18 violations of treatment, storage, or disposal facility requirements. Three of the five universities had violations that resulted in their being classified as "high priority violators." Examples of the violations include mishandling and improper disposal of waste in chemistry labs and wastes from site renovations.

LAWS RELATING TO HAZARDOUS MATERIALS

Currently, hazardous materials are governed by various state and federal laws. Hazardous substances are usually toxic, corrosive, explosive, or chemically reactive and hazardous to health. Hazardous waste is any hazardous material that is disposed of which would cause threat to human health or the environment. Not all hazardous materials or substances are hazardous waste.

Various state laws apply to the hazardous waste generator. In s. 403.726, F.S., the Legislature recognizes that hazardous waste which has been improperly generated, transported, disposed of, stored, or treated may pose a threat to public health, safety, and welfare and the environment.

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Currently, the agencies and institutions are to notify the department of the type and quantity of each hazardous material that is generated under s. 403.74, F.S. Under this section, each institution is to develop written plans for management of the disposal of hazardous material and plans for spill prevention.

The department is authorized under s. 403.726, F.S., to abate or reduce any imminent hazard caused by such hazardous substance. The department is authorized to use funds from the Water Quality Trust Fund to finance such actions, and these expenditures are recoverable pursuant to s. 376.307, F.S. The department is further authorized to seek an assessment of fines against the generator. Under s. 403.121, F.S., the department may institute an action to recover damages and to recover a penalty of not more than \$10,000 per offense. Conversely, the department is authorized to institute an action in its own name to abate the imminent hazard and recover a civil penalty of not more than \$25,000 for each day of a continued violation.

Under federal law, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), commonly known as the Superfund, was enacted by Congress on December 11, 1980. This federal law created a tax on the chemical and petroleum industries and provided federal authority to respond directly to releases of hazardous substances which may endanger public health or the environment. This tax has collected approximately \$1.6 billion which was applied toward cleaning abandoned or uncontrolled hazardous waste sites. Under this law, requirements for closed and abandoned waste sites are set forth; the person responsible for the release is charged with liability; and where no responsible party can be found, federal funding is allocated for the clean up.

Congress enacted the Resource Conservation and Recovery Act (RCRA) in 1984. This act requires the clean up of contamination in the environment from improper waste management practices which have released pollutants into soil, ground water, surface water and air. RCRA requires the responsible parties that are seeking a permit for storage or disposal of hazardous wastes to clean up environmental contaminants at their sites regardless of the time of the release. This clean up is termed "corrective action". Florida runs its own corrective action program which mirrors RCRA.

A responsible party may be fined under either of these laws for noncompliance and improper management or disposal of hazardous wastes.

STATE UNIVERSITY SYSTEM

Section 240.209(3)(f), F.S., directs the Board of Regents to establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan.

Section 240.227, F.S., designates the president as the chief administrative officer of the university and as such is responsible for the operation and administration of the university. The president is charged with administering the personnel programs established by the Board of Regents. The statutorily-prescribed powers and duties of the president include the responsibility to appoint university personnel and provide for the compensation and other conditions of employment consistent with applicable collective bargaining agreements. The president must manage the property and financial resources of the university; organize the university to efficiently and effectively achieve the goals of the university; and periodically review the operations of the university to determine whether the rules and policies of the Board of Regents and the universities are being followed and to determine how effectively and efficiently the university is being administered.

Representatives of the SUS report that nine of the state universities have departments of Environmental Health & Safety (EHS) that are responsible for hazardous waste management. The tenth university has an individual assigned this responsibility. The directors of these offices comprise the State University System Interinstitutional Environmental Health and Safety Committee which meets twice a year to advise the SUS Administrative Vice-Presidents on policy involving health and safety issues at the universities.

RESEARCH ACTIVITIES RELATING TO SOLID AND HAZARDOUS WASTE MANAGEMENT

The provisions of s. 240.5325, F.S., direct the Board of Regents to coordinate research, training, and service activities related to solid and hazardous waste management conducted by state universities. Proposals for research contracts and grants; public service assignments; and responses to requests for information and technical assistance by state and local government, business, and industry must be addressed by a formal Type I Center process involving an advisory board of university personnel appointed by the Chancellor and chaired and directed by an individual appointed by the chancellor. The Chancellor has designated the University of Florida (UF) as the host institution for the Center.

According to information provided by UF, the Center's functions include responding to the state's waste management research needs by coordinating and sponsoring research efforts at Florida's universities; responding to requests for information and technical assistance from state and local government, business, and industry; and responding to public education and public service needs. The Center's research program is designed to meet two major objectives: (1) develop and test innovative, low-cost, and environmentally sound methods and strategies for managing Florida's solid and hazardous wastes and (2) transfer research results to the public and private sectors for practical solutions to Florida's waste management problems.

C. EFFECT OF PROPOSED CHANGES:

This bill establishes the State University System Hazardous Substance Compliance Assistance Center to be located at the Florida State University Geophysical Fluid Dynamics Institute. The purpose of the Center is to educate and assist institutions of State University System (SUS) in achieving and maintaining compliance with both state and federal hazardous waste regulations. Representatives of the SUS report that these types of activities are already being performed at each university by the Environmental Health & Safety (EH&S) Departments.

This center would cooperate with other pollution prevention and recycling programs within the State University System and provide a computerized onsite hazardous substances inventory and a waste management system for institutions of the SUS. This center would also help the SUS institutions develop their own curriculum on proper management and disposal of hazardous substances. The universities report that many of the SUS EH&S departments currently have a computerized system in place and expressed concerns that such systems need to be institution-specific because of the different permits and the different in-house systems of collection, storage, and tracking procedures and forms.

This center would provide engineering and technical assistance in modeling soil and groundwater contamination in addition to other technical assistance to independent and state colleges and universities, depending on the available resources.

Furthermore, this bill directs that this center is to provide education, training and outreach programs to contractors of the SUS regarding compliance with state and federal hazardous waste regulations. The Florida Center for Solid and Hazardous Waste Management is responsible for responding to requests for information and technical assistance from state and local government, business, and industry and responding to public education and public service needs. It is not clear if the activities of the two centers would be duplicative.

Lastly, this bill creates two full time positions to be entitled the Director and Assistant Director of the Services of the State University System Hazardous Substance Compliance Assistance Center. The bill requires the director be appointed by a dean and the assistant director to be appointed by the director. Specifically providing hiring authority to someone other than the university president appears to reduce the authority provided the president in s. 240.227, F.S., which directs the president to appoint university personnel and provide for compensation and other conditions of employment.

The qualifications of the director are prescribed by law. The Director is to have ten years of experience in federal and state hazardous waste regulatory compliance; experience in coordinating waste programs and experience in teaching environmental regulatory compliance courses. Including job qualifications in the bill appears to depart from the provisions of s. 240.209, F.S., which direct the Board of Regents to establish and maintain systemwide personnel programs for the all SUS employees, including a systemwide personnel classification and pay plan.

An annual appropriation of \$1 million is to be made from the General Revenue Fund to the FSU Geophysical Fluid Dynamics Institute to implement the provisions of the bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 403.741, F.S., and establishes the State University System Hazardous Substance Compliance Assistance Center at FSU for the purpose of educating institutions on how to comply with state and federal hazardous substance laws.

Changes hazardous "materials" to hazardous "substances" for a broader and more inclusive definition.

This center is to design and implement a computerized onsite hazardous inventory and waste management system for the state educational institutions; provide outreach programs and education to contractors of the university system regarding compliance with state and federal hazardous waste regulations; cooperate with other pollution prevention and recycling programs within the SUS; assist SUS institutions in developing their own curriculum for hazardous substance management and disposal; provide engineering and technical assistance in modeling soil and groundwater contamination to SUS institutions and provide technical assistance to independent and state colleges and universities depending upon resources.

Section 2: Creates into Chapter law, two full time employee positions to be entitled the Director and Assistant Director of the Services of the State University System Hazardous Substance Compliance Assistance Center; requires the director to be appointed by the Dean of the College of Arts & Science at Florida State University; provides minimum qualifications for the Director; requires the assistant director to be appointed by the director.

Section 3: Provides that an annual appropriation of \$1 million is to be made from the General Revenue Fund to the FSU Geophysical Fluid Dynamics Institute to implement this hazardous substance act.

Section 4: Provides that this act is to take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

This bill appropriates \$1 million on an annual basis from the General Revenue Fund to the FSU Geophysical Fluid Dynamics Institute to implement this hazardous waste center.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

This center may save the State University System the money it must spend each year to pay fines which it currently receives for noncompliance with state and federal hazardous waste laws.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

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

V. COMMENTS:

None.

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 14, 2000, the Committee on Environmental Protection adopted a strike everything amendment to HB 1133 and then passed the bill as a committee substitute. This committee substitute differs from the original bill in the following ways, it:

- changes the title to "University Hazardous Substance Compliance Assistance Center";
- changes the location of the center from FAMU-FSU College of Engineering to the FSU Geophysical Fluid Dynamics Institute;
- uses the term hazardous "substance" instead of hazardous "material" for a broad and more encompassing meaning;
- directs that the center provide technical assistance to independent colleges and state universities depending upon resources;
- creates two new positions, a Director and Assistant Director, and provides for the Director's required credentials;
- provides that an annual appropriation is to go to the FSU Geophysical Fluid Dynamics Institute.

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VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Christine Hoke, J.D.

Staff Director:

Wayne Kiger

AS REVISED BY THE COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Betty H. Tilton, Ph.D.

Staff Director:

Betty H. Tilton, Ph.D.

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Christine Hoke, J.D.

Staff Director:

Wayne Kiger