

STORAGE NAME: h1753s1.gg

DATE: April 18, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB 1753

RELATING TO: Environmental Control

SPONSOR(S): The Committee on Finance & Taxation, and Representative Alexander

TIED BILL(S):

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

- (1) ENVIRONMENTAL PROTECTION YEAS 13 NAYS 0
 - (2) AGRICULTURE (W/D)
 - (3) GOVERNMENTAL RULES AND REGULATIONS (W/D)
 - (4) FINANCE & TAXATION YEAS 12 NAYS 0
 - (5) GENERAL GOVERNMENT APPROPRIATIONS
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I. SUMMARY:

CS/HB 1753 creates s. 403.08725, F.S., to address emissions from citrus juice processing facilities. Specific provisions:

- Direct that this new section will supersede current law governing emissions from these facilities.
- Provide emissions limits for these facilities.
- Provide requirements, specifications, and restrictions with respect to air emissions trading.
- Provide requirements for the construction of new facilities or modification of existing facilities.
- Direct that upon passage the bill be submitted to the U.S. Environmental Protection Agency (EPA) for approval.
- Direct the Department of Environmental Protection (DEP) to explore alternatives to traditional methods of regulatory permitting for these types of facilities.
- Allow the DEP to develop pilot projects to test alternative regulatory methods.

The bill would take effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input 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:

B. PRESENT SITUATION:

In 1990, a series of amendments to the Clean Air Act were signed into law by the President. These amendments represented significant changes designed to achieve enhanced air quality goals and cover a wide range of air pollution issues.

In 1992 and 1993, the Legislature passed legislation which enabled the state to administer the federal Clean Air Title V program pursuant to 42 U.S.C. s. 7661a. Section 403.0872, F.S., allows the DEP to issue operation permits for major sources of air pollution. Each permitted source of air pollution must pay an annual operation license fee in an amount determined by the DEP that is sufficient to cover all reasonable direct and indirect costs required to develop and administer the major stationary source air-operation permit program.

Currently thousands of facilities, operations, or sources are subject to air permitting either by the EPA or the DEP or both. Most are subject to Title V permitting because they have air emissions of 100 tons per year or more. Essentially all citrus processing plants in Florida have some type of air permit and most need Title V permits. Many of these need to obtain retroactive Prevention of Significant Deterioration permits (PSD) and perform case-by-case Best Available Control Technology determinations (BACT) for Volatile Organic Compound emissions (VOC). This involves extensive permitting work for both the industry and the department. A comprehensive air sampling study was conducted in 1997 to determine the quantity of VOC emissions from peel dryers. The VOC emissions were over 100 tons per year from the smaller dryers and over 1,000 tons per year for the large plants.

C. EFFECT OF PROPOSED CHANGES:

The bill creates s. 403.08725, F.S., to establish a new method for regulating air emissions from citrus juice processing facilities. These facilities, as defined by the bill, include all units at a plant that processes citrus fruit to produce single-strength or frozen concentrated juice and other related products or byproducts. If covered by this bill, a facility effective July 1, 2002, would be subject to the new provisions in lieu of the current provisions for obtaining air pollution construction and operation permits required under ss. 403.087(1) and 403.0872, F.S.

The bill contains specific subsections related to: emissions limits; emissions determination and reporting; emissions trading; emissions fees; modifications and new construction; rule-making authority; and legislative review.

Emissions Limits

The bill directs that each new and existing facility shall operate within the most stringent emissions limits. Existing facilities would be permitted to operate under the conditions of their Title V permits until October 31, 2002, at which time the provisions of this subsection would supersede.

Additional provisions of this subsection:

- > establish limits for volatile organic compounds;
- > prohibit the use of specific types of fuel oils; and
- > set emissions levels for specific sources, including: citrus peel dryers, pellet coolers, steam boilers, combustion turbines, duct burners, glass plant furnaces, anaerobic reactors, emergency generators, and emission control incinerators.

Emissions Determination and Reporting

Reiterates that all facilities subject to EPA reporting requirements shall continue complying.

Creates a requirement for annual reporting and details what information and testing methods are to be used in determining emissions levels.

Directs that records be kept for a period of five years and that the DEP shall be allowed to inspect these records.

Emissions Trading

This subsection permits facilities that have exceeded an established emission limit to obtain an allowance or credit from another facility that is operating under an established emission limit. An "allowance" means a credit equal to emissions of one ton per year of a specific pollutant. Allowances granted under this bill would be subject to limitations. Limitations to these allowances include that they:

- > Only be obtained from another facility authorized to operate under the provisions of the bill.
- > Are real, excess, and are not resulting from the shutdown of an emissions unit.
- > Be applied on a pollutant specific basis only.
- > Not be used for any other regulatory purpose.

Facilities located in an area designated as a nonattainment area, by the EPA, for a specific pollutant shall not be allowed to acquire allowances for that pollutant.

Emissions Fees

Facilities that are eligible to operate under the provisions of this bill will pay annual emissions fees in the same amount to which they are subject under the DEP's Title V

program. Beginning on July 1, 2002, the fees shall be computed as the emissions limits established by this bill multiplied by the actual operation rates, heat input, and hours of operation of each new and existing source for the previous calendar year.

For the purposes of determining the emissions for fee purposes any allowances traded away shall be deducted and any allowances acquired shall be included.

Modification and New Construction

Any facility authorized to operate which seeks to build a new facility or modify its operations will be required to comply with the requirements as detailed in this bill. Facilities operating within an area of nonattainment will also be required to operate under additional limits established pursuant to department rules.

Any facility that becomes subject to federal acid rain regulations would be prohibited from operating under the provisions of this bill.

Rules

This subsection of the bill grants the DEP the specific authority to adopt and implement rules under Chapter 120, F.S.

Legislative Review

Directs that by March, 2004, the DEP in consultation with the citrus industry shall provide a report to the Legislature concerning the implementation of this bill.

The bill contains two additional sections. The first would require that the department submit the language of the bill to the EPA as a revision of the state's implementation plan and our approved Title V program. Should the EPA not approve one or both of these revisions then that portion of the bill affected would not be implemented.

The final section of the bill grants authority to the department to explore alternatives to traditional methods of regulatory permitting for citrus juice processing facilities, provided such methods do not increase pollution emissions. The department is required to submit a report detailing any pilot prior to seeking enactment by the Legislature.

D. SECTION-BY-SECTION ANALYSIS:

See Section II. C. Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

The DEP estimates that provisions of the bill would save an estimated \$250,000 in one-time permit processing costs to the agency and an additional \$100,000 every five years in permit renewal work.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the DEP, the legislation would not add any additional costs to the industry. They would continue, as a whole, to be subject to \$250,000 in annual Title V fees. In addition, it is anticipated that the industry will expend in excess of \$10 million in updating and retrofitting to meet the air emissions standards.

The legislation would eliminate the re-permitting costs and the initial cost of a PSD for the industry. Projected savings would be \$25,000 per year for re-permitting and a one-time savings of up to \$500,000 for the PSD.

The creation of an emissions trading program would allow the industry to use a market-based approach to reducing emissions and thus reduce costs for those operators whom perform below the emissions targets.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

The DEP anticipates that the bill will result in lower overall emissions from the citrus processing industry than currently are being achieved. Additionally, the department expects that it will lessen the administrative burden both for the industry and themselves.

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 23, 2000, the Committee on Environmental Protection adopted a strike-everything amendment that is traveling with the bill. Substantive changes contained in the amendment include:

- > Restricting the application of the bill to citrus plants permitted by July 1, 2000. New plants will be required to go through PSD and Title V permitting. The original bill applies to existing and new plants.
- > Allowing maximum sulfur content for oil burned at plants where gas is not available to be 1% and for standby fuel to be 1.5%. The original bill limited sulfur in oil for all situations to 0.5%.
- > Clarifying that more stringent standards are to be applied to new facilities.
- > Establishing that by October 31, 2002, overall oil recovery would be 50% and after EPA approval it would be 65%. The original bill stated 65% by October 31, 2002, regardless of EPA approval.
- > Increasing allowable visible emissions for flares and lime storage silos from 5% each to 20% and 10%, respectively.
- > Creating a new provision that provides for the exempting from testing standards units in which fuel oil is fired less than 400 hours per year.
- > Providing additional methods for calculating oil recovery. The original bill only had one method.
- > Providing specific rather than general rule making authority for the department concerning methods for determining oil recovery.

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- > Allowing for a plant in an ozone non-attainment area to sell allowances to plants outside of the area, but not to buy allowances. This was not in the original bill.
- > Allowing the department to explore alternatives to traditional permitting and to examine specific limited pilot projects to test new compliance measures. The original bill limited these alternatives only to citrus juice processing facilities.
- > Moving a provision of the bill, relating to exemptions from the Administrative Procedures Act, from Chapter 403, Florida Statutes, to Chapter 120, Florida Statutes.

Three amendments to the amendments were adopted by Finance & Taxation on April 5, 2000. These amendments:

- > Corrected a typographical error, stating that visible emissions from Lime Storage Silos shall not exceed 10% rather than 5%.
- > Rewrote language allowing DEP to explore alternative permitting methods to require DEP to report to the Legislature before implementing any pilot project.
- > Created a new section, which authorizes the Department to issue a separate Acid Rain permit for a facility, at the request of the applicant.

These amendments were all incorporated into the Committee Substitute.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

Wayne S. Kiger

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AS FURTHER REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

Prepared by:

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AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT
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