

STORAGE NAME: h2207z.ep
DATE: June 14, 2000

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

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

BILL #: HB 2207 (PCB EP 00-02)

RELATING TO: Aquatic Plants RAB

SPONSOR(S): Committee on Environmental Protection and Representative Dockery

TIED BILL(S):

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

- (1) ENVIRONMENTAL PROTECTION YEAS 10 NAYS 0
 - (2) GOVERNMENTAL RULES & REGULATIONS YEAS 8 NAYS 0
 - (3)
 - (4)
 - (5)
-

I.

This bill provides that the Department of Environmental Protection has the authority to adopt rules requiring revegetation on a site where excessive collection of invasive aquatic plants has occurred.

This bill has no fiscal impact.

This act shall take effect upon becoming law.

(On May 5, 2000 HB 2207 died on the Calendar. However, the companion bill, SB 674 passed, CH 2000-146).

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

Section 120.536(1), F.S., of the Administrative Procedure Act, provides that: "a grant of rulemaking authority is necessary, but not sufficient to allow an agency to adopt a rule; specific law to be implemented is also required. An agency may only adopt rules that implement or interpret the specific powers and duties granted by the enabling statute."

In an effort to ensure compliance with the Administrative Procedure Act, s. 120.536(2)(b), F.S., states that each agency shall provide to the Administrative Procedures Committee, rules or partial rules that were adopted by June 18, 1999, which exceed rulemaking authority. Furthermore, under this section, the Legislature is to, during the 2000 Session, consider whether legislation authorizing the rules should be enacted. Lastly, by January 1, 2001, the agencies are to repeal each rule or portion of a rule that exceeds rulemaking authority.

The Department of Environmental Protection has identified Rule 62C-52.008(2)(e), F.A.C., as exceeding statutory authority. This rule states that the department is to provide appropriate corrective action to prevent the spread of noxious or prohibited aquatic plants, including requiring revegetation of a site in sovereign lands where excessive collection has occurred.

Presently s. 369.25, F.S., which sets forth the department's enforcement powers, does not include revegetation of a site where excessive collection has occurred and therefore, this rule exceeds current rulemaking authority.

C. EFFECT OF PROPOSED CHANGES:

Section 369.25(3), F.S., is amended to provide the authority for the department to adopt rules requiring revegetation of a site on sovereignty lands where excessive collection has occurred, so that 62C-52.008(2)(e), F.A.C., would no longer be in violation of rulemaking authority.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

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:

N/A

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.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

Rule making authority is created in s. 369.25, F.S., to provide for Rule 62C-52.008(2), F.A.C., which is already in existence.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

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Staff Director:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON ENVIRONMENTAL PROTECTION:

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