

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1030

SPONSOR: Natural Resources Committee and Senator Bronson

SUBJECT: Water Quality

DATE: March 13, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill makes certain technical and clarifying amendments to conform Florida's Safe Drinking Water Act to the federal Safe Drinking Water Act. Redefines the terms "public water system," "noncommunity water system," "nontransient noncommunity water system," and "transient noncommunity water system." Authorizes the Department of Environmental Protection to issue permits for altering or extending a public water system based on the size of the system under certain circumstances. Requires suppliers of water to submit periodic operating reports and testing data which may include certain raw water data. Provides for licensure of water distribution system operators. Repeals certain outdated provisions of the Florida Water Pollution Control and Sewage Treatment Plant Grant Act.

This bill amends ss. 403.852, 403.853, 403.8532, 403.854, 403.859, 403.861, 403.865, 403.866, 403.867, 403.871, 403.872, 403.875, 403.88, 403.1832, and 403.1835, F.S.

This bill repeals ss. 403.1821, 403.1822, 403.1823, 403.1826, and 403.1829, F.S.

II. Present Situation:

Under Florida's Safe Drinking Water Act, the Department of Environmental Protection has been granted certain powers and duties. Among other things, s. 403.861, F.S., authorizes the department to:

- Administer and enforce the provision of the act and all rules and orders adopted, issued, or made effective hereunder.
- Issue permits for constructing or operating a public water supply system, based upon the size, type of treatment, or population served by the system.

- Require a fee in an amount sufficient to cover the costs of viewing and acting upon an application for the construction and operation of a public water supply system.
- Adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of the act.
- Require suppliers of water to collect samples of water as required by state primary drinking water regulations, to submit such samples to an appropriate laboratory for analysis, and to keep sampling records as required under the federal act and make such records available to the department upon request.
- Require suppliers of water to submit periodic operating reports and testing data which the department determines are reasonably necessary to ascertain the adequacy of water supply systems.

Recently, there have been reported problems with some water systems of water that is cloudy, dirty, or otherwise contaminated coming from the consumers tap. The department would like to be able to require certain data from public water supply systems regarding the source water or the raw water for the system but does not feel that it has the explicit authority to require such data.

The 1996 federal Safe Drinking Water Act amendments expanded the definition of a regulated public water system to include not only water provided in “pipes” for human consumption, but also water provided through “other constructed conveyances” for human consumption. This change covers open channels used for the transport of water by irrigation districts and other special connections where water is also to be used for human consumption. By broadening the definition, these other conveyances must supply treated drinking water. Florida’s drinking water act provisions do not currently reflect this change.

Currently, there are differences between Florida’s drinking water act and the federal Safe Drinking Water Act regarding certain definitions, particularly those relating to “noncommunity water systems” and “transient noncommunity water systems.” Clarification is needed to eliminate confusion with the definitional differences between Florida’s law and the federal law. There is, however, no substantive difference.

The DEP implements Florida’s water and wastewater Operator Certification Program. This program develops and enforces requirements to ensure that Florida’s public water systems and wastewater facilities are operated by appropriately educated, trained, tested, and licensed personnel. Currently, ch. 403, F.S., requires that only water and wastewater treatment operators obtain certification. However, the federal Safe Drinking Water Act mandates that drinking water distribution system operators also obtain certification. The Environmental Protection Agency may withhold a portion of our Drinking Water State Revolving Fund capitalization grant if our Operator Certification Program does not comport with all federal requirements.

III. Effect of Proposed Changes:

This bill makes a number of technical and housekeeping changes in order to conform Florida’s drinking water law to the federal Safe Drinking Water Act. In addition, it provides for licensure of water distribution system operators.

Section 1. Section 403.852, F.S., is amended to conform certain definitions in Florida's Safe Drinking Water Act to those contained in the federal Safe Drinking Water Act.

- "Public water system" is redefined to mean a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system is either a community water system or a noncommunity water system.
- "Noncommunity water system" means a public water system that is not a community water system. A noncommunity water system is either a nontransient noncommunity water system or a transient noncommunity water system.
- "Nontransient noncommunity water system" means a noncommunity water system that regularly serves at least 25 of the same persons over 6 months per year.
- "Transient noncommunity water system" is defined to mean a noncommunity water system that has at least 15 service connections or regularly serves at least 25 persons daily at least 60 days out of the year but that does not regularly serve 25 or more of the same persons over 6 months per year.

Section 2. Section 403.853, F.S., is amended to provide that the Department of Environmental Protection (DEP) shall enforce the primary and secondary drinking water regulations for nontransient noncommunity water systems and transient noncommunity water systems.

Upon the request of the owner or operator of a transient noncommunity water system serving businesses, other than restaurants or other public food service establishments, and using groundwater as a source of supply, the DEP or a local county health department designated by the DEP, shall perform a sanitary survey of the facility.

Certified operators are not required for certain transient noncommunity water systems.

Section 3. Section 403.8532, F.S., is amended to allow the DEP to make loans to nonprofit transient noncommunity water systems.

Section 4. Section 403.854, F.S., is amended to allow the DEP to waive on a case-by-case basis any disinfection requirement or certified operator requirement applicable to transient noncommunity water systems using ground water as a source of supply under certain specified circumstances.

Section 5. Section 403.859, F.S., is amended to provide that failure by a supplier of water to comply with certain permit requirements is a violation of Florida's Safe Drinking Water Act.

Section 6. Section 403.861, F.S., authorizes the DEP to issue permits for constructing, altering, extending, or operating a public water system, based on the size of the system, the type of treatment provided by the system, or population served by the system. The department may issue a permit for a public water system based upon review of a preliminary design report or plans and specifications, and a completed permit application form and other required information, all as set forth in department rule. The DEP may also review and approve record drawings prior to

allowing operation of any new, altered, or extended public water system for which a valid permit has been issued.

The DEP is authorized to require suppliers of water to submit periodic operating reports and testing data that the department determines are reasonably necessary to ascertain the adequacy of water supply systems. This information may include raw water data to determine whether additional treatment will be required to ensure that water at the consumer's tap meets applicable drinking-water standards and action levels.

Section 7. Section 403.865, F.S., is amended to provide legislative intent regarding qualified personnel to operate water distribution systems.

Section 8. Section 403.866, F.S., is amended to redefine "operator" to include water distribution system operators. "Water distribution system" is redefined to mean those components of a public water system used in conveying water for human consumption from the water treatment plant to the consumer's property, including pipes, tanks, pumps and other constructed conveyances.

Section 9. Section 403.867, F.S., is amended to require licensure of water distribution system operators.

Section 10. Section 403.871, F.S., is amended to require the DEP to establish operator license fees in an amount sufficient to cover the department's entire cost of administration. The fees for the license application and the license renewal shall be non-refundable. The fee caps of \$100 are deleted.

Section 11. Section 403.872, F.S., is amended to require any person desiring to be licensed as a water distribution system operator must apply to the department and take the licensure examination. An applicant who passes the examination must also meet certain other licensure requirements specified in this section.

Section 12. Section 403.875, F.S., is amended to provide that a person may not perform the duties of a water distribution system operator without a license nor may that person use the name or title of "water distribution system operator" without a license. A facility may not hire an unlicensed person to perform the duties of a water distribution system operator.

Section 13. Section 403.88, F.S., is amended to allow the DEP to establish the levels of certification and staffing requirements for water treatment plant, water distribution system, and wastewater treatment plant operators.

A water treatment plant operator's license is also valid as a water distribution system license of the same classification or lower.

Section 14. Section 403.1832, F.S., is amended to correct a cross reference.

Section 15. Section 403.1835, F.S., is amended to redefine "local government" as any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing acting jointly in connection with a project having jurisdiction over

collection, transmission, treatment, or disposal of sewage, industrial wastes, stormwater, or other wastes and includes a district or authority the principal responsibility of which is to provide airport, industrial or research park, or port facilities to the public. Currently, s. 403.1835, F.S., references the definition of “local government” that is found in s. 403.1822(3), F.S. This bill repeals s. 403.1822, F.S.; therefore the definition of “local government” that was in s. 403.1822(3), F.S., is republished in s. 403.1835, F.S.

Section 16. Sections 403.1821, 403.1822, 403.1823, 403.1826, and 403.1829, F.S., are repealed. These are provisions in the old “Florida Water Pollution Control and Sewage Treatment Plant Grant Act.” This is an antiquated program that is no longer being used. These provisions stem from the 1970s when EPA provided “pass-through” funds for sewer facilities to Florida. The EPA no longer provides funds in this manner.

Section 17. This act takes effect July 1, 2001.

IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. **Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

This bill establishes a new license and a corresponding fee for water distribution system operators.

Currently, license fees for water treatment plant and domestic wastewater treatment plant operators are statutorily capped at \$100. This bill deletes that statutory cap.

B. Private Sector Impact:

The definitional changes in the bill are intended to conform to the provisions of the federal Safe Drinking Water Act. They are not expected to have a substantive effect on the regulation of public water systems.

Persons seeking to work as water distribution system operators would have to be licensed and pass an examination and pay a fee. To the extent a license suggests more professionalism, higher wage demands could result. It is not known how many persons

would be licensed under this provision. If a person is already licensed as a water treatment plant operator, that person would not be required to obtain an additional license.

C. Government Sector Impact:

The definitional changes and the change to regulate constructed conveyances and not just pipelines are needed to remain in compliance with the provisions of the federal Safe Drinking Water Act. Because Florida has assumed primacy from the EPA, the statute must be broadened to include constructed conveyances. Failure to make the change could affect the primacy agreement the Department of Environmental Protection has with the EPA. This will have no significant impact since Florida does not use conveyances other than piped water to supply drinking water.

The federal Safe Drinking Water Act requires that water distribution system operators be certified. Florida must provide for such certification to remain in compliance with that act. If Florida does not amend its law to provide for such certification, the EPA may withhold a portion of the Drinking Water State Revolving Fund capitalization grant that Florida receives.

Currently, the license fees for water and wastewater operators is statutorily capped at \$100. The DEP sets the fee by rule. Actual fees currently are \$75. These fees are presently sufficient to administer the program using agency personnel. However, the cap may hinder the department's ability to outsource this program. Under the bill, there would be no statutory cap on license fees and would allow more flexibility for contracting or outsourcing these activities. Eliminating the statutory cap would ensure that the fees would be sufficient to cover the future costs of administration.

The DEP anticipates that this new licensure requirement could be handled using existing fiscal and staff resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.