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**DATE:** April 6, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION  
ANALYSIS**

**BILL #:** HB 1043  
**RELATING TO:** Sewer and Water Systems  
**SPONSOR(S):** Representative(s) Kilmer  
**TIED BILL(S):**

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

- (1) HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 10 NAYS 1
  - (2) FISCAL POLICY & RESOURCES
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
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I. SUMMARY:

HB 1043 creates a five-year priority system for the Department of Environmental Protection (DEP) to follow when the agency is administering grant programs or disbursing other funds for the purposes of establishing or upgrading sewer and water systems, and stormwater systems. The bill provides that notwithstanding any other provision of law, funding priority will be given to projects in communities that are under a DEP consent order for inadequate sewer, water or stormwater facilities, or to projects in communities that are under a DEP moratorium inhibiting development of adequate housing, or other economic development activities.

HB 1043 further provides that after the meeting the priority project funding needs, the DEP must use 50 percent of any remaining funds for projects in rural areas of critical economic concern. The agency is directed to report to the Legislature and the Governor by each January 1 on the identity of and funding for projects authorized under the bill. HB 1043 does not identify a source of funds, and it does not contain any appropriation to the agency to implement the provisions of the bill.

HB 1043 proposes to take effect on July 1, 2001. However, the provisions of the bill stand repealed on June 30, 2006.

(On April 5, 2001, the House Committee on Natural Resources & Environmental Protection adopted a "strike-everything" amendment that is traveling with the bill. Please see the Amendment Section of this bill analysis for an explanation of that amendment.)

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:

HB 1043 does not provide for less government because it directs the DEP to administer grants programs and other financial disbursements in accordance with the priority provisions established in the bill. Further, the bill directs that the DEP must award funding to prioritized projects, notwithstanding any other provision of law.

B. PRESENT SITUATION:

The **Florida Water Pollution Control and Sewage Treatment Plant Grant Act** (ss. 403.1821-403.1832, F.S.) authorizes the DEP to make grants to local government agencies for construction of sewage treatment facilities. Local governments are required to provide 45 percent of eligible project costs. Although no current funding is available, the provisions of the Act were used when the EPA provided pass-through funds to states for local governments.

Section 403.1834, F.S., authorizes **the issuance of state bonds to finance or refinance the construction of water supply and distribution facilities, stormwater control and treatment facilities, air and water pollution control and abatement facilities, and solid waste disposal facilities.** The bonds are payable from pledged revenues provided under the authority of s. 14, Article VII, of the State Constitution, and the full faith and credit of a local government and the state. The Division of Bond Finance of the State Board of Administration is authorized to determine the bond issue, but the principal amount may not exceed \$300 million in any state fiscal year. The DEP is provided with the authority to determine what facilities will receive financing.

**Section 403.1835, F.S., provides financial assistance for water pollution control projects** in the form of loans or grants through programs authorized under the Federal Clean Water Act. Eligible projects include wastewater and stormwater management systems using federal and state matching funds through the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund. At least 15 percent of the funds must be held in reserve to be used by small communities. The DEP is authorized to make grants to financially disadvantaged small communities.

**The Florida Water Pollution Control Financing Corporation** is created in s. 403.1837, F.S., as a nonprofit public-benefit corporation for the purpose of financing or refinancing the costs of water pollution control projects authorized in s. 403.1835, F.S. For this fiscal year, the Corporation is authorized to issue bonds not exceeding \$50 million. In fiscal year 2001-2002, the bond amount cannot exceed \$75 million, and in fiscal year 2002-2003, the bond amount cannot exceed \$100 million.

**The Small Community Sewer Construction Assistance Act** is created in s. 403.1838, F.S., to use specifically appropriated funds to award grants to assist financially disadvantaged small communities with sewer facility needs. Under this section, "financially disadvantaged small community" is a city with a population of 7,500 or less, and a per capita annual income that is less than the state per capita annual income. The DEP may award grants of up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection systems. The grants are awarded under rules developed and adopted by the Environmental Regulation Commission. For the 2000 grant cycle, grant proposals received by DEP totaled more than \$200 million. For this fiscal year, the agency has budgeted just over \$2 million.

**Section 403.8532, F.S.**, authorizes a revolving loan program to provide infrastructure financing, technical assistance and source water protection programs to help public drinking water systems that meet and maintain compliance with the state and federal Clean Drinking Water Acts. Federal and state matching monies are available for loans. At least 15 percent of the funds are reserved for qualifying small public water systems, and up to 15 percent of funds are available to qualifying financially disadvantaged communities. No public water system can receive more than 25 percent of the total funds available, and the minimum loan amount is \$75,000. All funds for the program are deposited into the Drinking Water Revolving Loan Fund.

C. EFFECT OF PROPOSED CHANGES:

Please see "Section-By-Section Analysis".

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Provides that notwithstanding any other provision of law, and to the fullest extent possible, the DEP must administer grant programs and other authorized disbursements of funds for the purposes of establishing or upgrading sewer and water systems, and stormwater systems as follows:

- Priority must be given to projects in communities with a millage rate of 8.5 mills or higher that are under a DEP consent order for inadequate sewer and water facilities, or stormwater facilities, and
- Priority must be given to projects in communities with a millage rate of 8.5 mills or higher, that are under a DEP moratorium inhibiting the development of adequate housing for residents, or other economic development activities.

Provides that 50 percent of funds remaining after priority projects are funded must be used for projects in communities in rural areas of critical economic concern. Provides that by each January 1, the DEP will report to the Legislature and the Governor on the identify of and amount of funding awarded to priority projects under the provisions of the bill. Provides that the provisions of the bill will stand repealed on June 30, 2006.

**Section 2.** Provides that the bill will take effect on July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Revenues are not expected to increase under the provisions of this bill.

2. Expenditures:

HB 1043 does not affect the amount of funds expended by the DEP for wastewater, stormwater, and sewer treatment facilities. However, the bill does affect the way the DEP distributes program funding.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Since the bill requires DEP to fund projects notwithstanding any other provision of law, local governments may not have to expend funds set aside as matching-monies for projects related to sewer, water, and stormwater treatment facilities.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The private sector may feel a direct economic impact from the provisions of HB 1043 due to the priority funding given to projects meeting the necessary criteria.

D. FISCAL COMMENTS:

HB 1043 creates a new program within the DEP for the administration of grants for sewer, water, and stormwater treatment facilities. The bill provides that notwithstanding any other provisions of law, including statutory requirements related to the funding of sewer, water and stormwater treatment facilities, only the projects meeting the criteria established in the legislation will receive priority consideration for funding.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 1043 does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 1043 does not reduce the authority that municipalities or counties have to raise revenues.

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

HB 1043 does not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The "strike-everything" amendment adopted by the Committee on Natural Resources & Environmental Protection conforms HB 1043 to SB 628 filed by Senator Mitchell. Senator Mitchell is also the sponsor of SB 630 that creates the Water and Wastewater Treatment Grant Program Trust Fund. Amendments traveling with SB 630 rename the trust fund as the Small Community Sewer Construction Assistance Trust Fund. HB 1043 provides that funding for the Grant program is deposited into the Small Community Sewer Construction Trust Fund. However, no bill creating a trust fund has been filed in the House.

Also, members of the House Natural Resources & Environmental Protection Committee expressed concerns that funding for the program created in HB 1043 is transferred from the Solid Waste Trust Fund. Since the House has already passed an appropriations bill for fiscal year 2001-2002 and is moving into the conference process with the Senate, it is likely that the passage of HB 1043 would create funding conflicts.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 5, 2001, the House Committee on Natural Resources & Environmental Protection adopted one "strike-everything" amendment that provides the following:

- Amends the Small Community Sewer Construction Assistance Grant to clarify eligibility criteria and authorize cities or counties located within a rural area of critical economic concern to be considered as "financially disadvantaged small communities" for the purposes of the grant program.
- Provides that consideration shall be given to applicants from areas under a consent order, or under other state or federal regulatory action.
- Transfers approximately \$15 million of sales tax revenues formerly going into the Solid Waste Trust Fund, into the Small Community Sewer Construction Trust Fund, effective October 1, 2001.

VII. SIGNATURES:

COMMITTEE ON HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

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