

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 651 w/CS Environmental Health/Portable Restroom Contracting
SPONSOR(S): Bowen
TIED BILLS: None. **IDEN./SIM. BILLS:** CS/CS/SB 368(s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Standards (Sub)	10 Y, 0 N	Garner	Collins
2) Health Care	22 Y, 0 N w/CS	Garner	Collins
3) Finance & Tax	21 Y, 0N	Levin	Diez-Arguelles
4) Health Appropriations (Sub)			
5) Appropriations			

SUMMARY ANALYSIS

In 2001, the Legislature directed the Department of Health's Technical Review and Advisory Panel (TRAP) to advise it on the need for licensing the portable restroom industry. The report recommends that Chapter 381, F.S., be amended to require persons providing portable restroom services to be registered with the Department of Health (DOH), and that Chapter 489, F.S., be amended to include minimum qualifications, education, examination, and continuing education requirements for registration.

HB 651 w/CS enacts the recommendations of the report by:

- Requiring the registration of portable restroom contractors with the Department of Health;
- Authorizing rulemaking by DOH for registration, education, and ethical standards for these contractors;
- Establishing eligibility requirements for contractors to become registered;
- Authorizing the Department of Health to prescribe rules for renewing registration;
- Allowing the practice of or the offer to practice portable restroom contracting services by registrants through a parent corporation, corporation, subsidiary of a corporation, or partnership offering portable restroom contracting services to the public based on certain standards;
- Providing for the suspension or revocation of registration;
- Establishing fees for registration;
- Providing for fines and allows the Department of Health to deny a registration, authorization, or the renewal of a registration if requirements are not met;
- Giving the Department of Health the authority to regulate, permit and inspect portable restrooms, mobile restrooms, mobile shower trailers, and portable or stationary holding tanks, and the companies that provide and service such facilities;
- Giving department personnel the authority to enter, at any reasonable time, the business premises of any portable restroom contractor to determine compliance;
- Giving the department the authority to issue citations, but also the authority to reduce or waive any fine imposed by the citation;
- Providing for the deposit of any fines it collects in the county health department trust fund; and
- Continuing the surcharge on new onsite sewage treatment and disposal system construction permits.

The Department of Health estimates there will be between \$16,000 - \$19,000 in annual fee revenue from the required regulation and \$200,000 per year from the continuation of the \$5 fee on construction permits

The bill provides an effective date of July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0651e.ft.doc
DATE: March 30, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

1. The bill creates a licensing process for portable restroom contractors and services which parallel the existing registration language for septic tank contractors. This expands the regulatory role of the Department of Health.
2. The bill provides for the collection of fees to offset the cost of registration and the continuation of a \$5 new system construction permit fee to be used for research purposes. However, the Department of Health estimates that these fees will not completely offset the cost of the regulatory activity (see Fiscal Analysis section for more detail).
3. The bill provides minimum standards and licensing requirements in order to be classified as a “portable restroom contractor.”

B. EFFECT OF PROPOSED CHANGES:

The Department of Health (DOH) currently has the authority to permit and inspect portable restroom services, but does not have the authority to license portable restroom contractors and services as it does septic tank contractors and services. The bill creates the regulatory authority for DOH to register and license portable restroom contractors in a similar manner as septic tank contractors.

THE SUNRISE ACT: REGULATION OF NEW PROFESSIONS

Section 11.62(3), F.S., requires the Legislature to consider specific factors in determining whether to regulate a new profession or occupation. The act requires that all legislation proposing regulation of a previously unregulated profession or occupation be reviewed by the Legislature based on a showing of the following:

- That substantial risk of harm to the public is a risk of no regulation which is recognizable and not remote;
- That the skills the profession requires are specialized and readily measurable;
- That the regulation will not have an unreasonable effect on job creation or job retention;
- That other forms of regulation do not or cannot adequately protect the public; and
- That the overall cost effectiveness and economic impact of the proposed regulation is favorable.

In addition, the act requires that, upon request, the proponents of regulation of a previously unregulated profession provide the agency that is proposed to have jurisdiction over the regulation and the legislative committees of reference information concerning the effect of proposed legislation.

REPORT ON THE PORTABLE RESTROOM INDUSTRY

In 2001, the Legislature directed the Department of Health's Technical Review and Advisory Panel (TRAP) to advise it on the need for licensing the portable restroom industry. The TRAP report was presented to the Legislature in December 2001.

The TRAP report recommends that portable restroom contractors be licensed by DOH in the same manner as septic tank contractors. The report includes the following findings:

- The qualifications for persons operating portable restroom service companies should be similar to the qualifications for septic tank contractors as they both handle "onsite wastewater systems."
- The educational background of persons operating portable restroom service companies should be the same as the educational background for septic tank contractors.
- The work experience, while of similar duration, includes experience in the placement, maintenance and removal of portable restrooms and the handling, transport, treatment, and disposal of portable restroom waste.
- Continuing education for persons providing portable restroom services should be specifically focused on the applicable state rules, public health, personal hygiene, and environmental requirements of the location, permitting, and service of portable restrooms and the proper handling, transport, treatment, and disposal of portable restroom waste.
- The waste from portable restrooms differs from the waste from septic tanks in that it has not undergone anaerobic digestion and has had chemical preservatives added and these differences require different treatment and disposal procedures.

CONTINUATION OF THE SURCHARGE FOR NEW ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEMS

Section 381.0066(2)(k), F.S., requires an additional fee of \$5 to be added to each new onsite sewage treatment and disposal system permit issued during fiscal years 1996–2004. The fee is to be used for onsite sewage research, demonstration, and training projects.

Most recently, the fee supported the evaluation of advanced treatment options for onsite systems in the Florida Keys. In addition, over the years, other research projects funded by the fee have included:

- Impact of Onsite Sewage Disposal Systems on Surface and Ground Water Quality;
- The Impact of Florida's Growth on the Use of Onsite Sewage Disposal Systems;
- Risk Assessment of Onsite Sewage Disposal Systems for Selected Florida Hydrologic Regions;
- Unsaturated Zone Monitoring Below Subsurface Wastewater Systems Serving Individual Homes in Florida;
- Performance Monitoring and Ground Water Quality Impacts of Onsite Sewage Disposal Systems Subdivision Developments;
- Viral Study Summary;
- Onsite Sewage Disposal System Research on the Northern Periphery of Lake Okeechobee;
- An Investigation of the Surface Water Contamination Potential from Onsite Sewage Disposal Systems in Turkey Creek Sub-basin of the Indian River Lagoon Basin; and
- The Capability of Fine Sandy Soil for Septic Tank Effluent Treatment.

The fee enables DOH to seek federal grants for research requiring matching funds. The fee is currently set to expire June 30, 2004 and the fee is extended indefinitely by this bill.

C. SECTION DIRECTORY:

Section 1. Creates s. 381.0069, F.S., to provide definitions for “department,” “portable restroom,” and “portable restroom contractor;” requires a portable restroom contractor to be registered with the department and clarifies that this provision does not prohibit plumbing contractors and septic tank contractors from engaging in the profession for which they are licensed; establishes the administration of this section, registration qualifications, and examination requirements for portable restroom contractors; requires the department to develop rules for registration renewal; allows the practice of or the offer to practice portable restroom contracting services by registrants through a parent corporation, corporation, subsidiary of a corporation, or partnership offering portable restroom contracting services to the public based on certain standards; provides for the suspension or revocation of registration; establishes fees for the registration and regulation of portable restroom contractors; establishes penalties for violations of this section; and provides the department with the authority to deny a registration, authorization or registration renewal if certain conditions are not met.

Section 2. Amends s. 381.0061(1), F.S., to allow the department to impose a fine for violation of portable restroom contracting requirements.

Section 3. Amends s. 381.0065(3), F.S., to authorize the department to regulate, permit and inspect portable restrooms, mobile restrooms, mobile shower trailers, and portable or stationary holding tanks, and the companies that provide and service such facilities; gives department personnel the authority to enter, at any reasonable time, the business premises of any portable restroom contractor to determine compliance; and gives the department the authority to issue citations, but also the authority to reduce or waive any fine imposed by the citation.

Section 4. Amends s. 381.0066(2), F.S., to continue indefinitely the \$5 surcharge for new onsite sewage treatment and disposal systems.

Section 5. Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Estimated Revenues as provided by the DOH	Year 1	Year 2
150 exams @ \$25 each	\$3,750	\$0
150 registrations @ \$50 each	7,500	0
15 exams @ \$25 each	0	375
15 registrations @ \$50 each	0	750
75 authorizations @ \$100 each*	7,500	7,500
150 renewals @ \$50 each	0	7,500
TOTAL Estimated Revenues	\$18,750	\$16,125

* The revenue shown for authorizations has been prorated to reflect an annual amount.

2. Expenditures:

Non-Recurring or First Year Start Up Expenses	Year 1	
Rule promulgation	\$10,000	
Examination development	2,000	
Travel for training	5,000	
Examination administration	2,000	
File cabinets 2 @ \$600	1,200	
TOTAL Non-Recurring	\$20,200	
Recurring Expenses	Year 1	Year 2
Printing	\$5,000	\$5,000
Mailing	1,200	1,200
Travel for training	3,000	3,000
Examination administration	2,000	2,000
Office supplies	385	385
Travel for enforcement	3,000	3,000
TOTAL Recurring Expenses	\$14,585	\$14,585
TOTAL Non-Recurring and Recurring Expenses	\$34,785	\$14,585

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expenses to the industry will include travel and training fees paid to the private sector, and registration and examination fees paid to the Department of Health.

D. FISCAL COMMENTS:

DOH estimates that the continuation of the \$5 research fee for onsite sewage treatment and disposal sites will generate approximately \$200,000 annually to support onsite sewage program research.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill provides rulemaking authority to the Department of Health to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 4, 2004, the Subcommittee on Health Standards adopted an amendment to the bill, and then reported the bill favorably to the Committee on Health Care. The amendment:

- Replaces the language pertaining to the Department of Health's ability to suspend or revoke a registration for a portable restroom contractor if he or she has committed any one of four violations.

On March 10, 2004, the Committee on Health Care adopted the amendment recommended by the subcommittee and reported the bill favorably with a committee substitute.