

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.)

Prepared By: Environmental Preservation and Conservation Committee

BILL: SPB 7062

INTRODUCER: For consideration by Environmental Preservation and Conservation Committee

SUBJECT: Department of Environmental Protection

DATE: February 7, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	_____	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This proposed committee bill would implement several of the legislative changes proposed by the Department of Environmental Protection.

Energy Provisions

- Provides that the sales tax exemption for equipment, machinery, and other materials for renewable energy technologies is available only to the end user of the equipment, machinery, and other materials.
- Provides that the payment of a rebate for certain solar energy systems may be made only to the final purchaser of an eligible system.
- Provides that rebates for a solar energy system are limited to one per type of eligible system per resident, per state fiscal year.
- Provides that the period from 12:01 a.m., October 5, through midnight October 11, 2007, is designated "Energy Efficient Week," and the sales tax may not be collected on the sale of a new energy-efficient product having a selling price of \$1,500 or less per product during that period. This exemption applies only when the energy-efficient product is purchased for noncommercial home or personal use and does not apply when the product is purchased for trade, business, or resale.
- Amends several sections of the Power Plant Siting Act and the Transmission Line Siting Act to clarify certain notice and hearing requirements, and various provisions relating to the completeness of an application, the responsibilities of reviewing agencies, and timeframes for notice of cancellation of a certification hearing.

Air Pollution

- Amends the definition of “regulated air pollutant” to conform to federal requirements. Allows the state to receive approval of its state implementation plan from the Environmental Protection Agency (EPA).
- Provides that certain minor sources of air pollutants are not required to receive the Title V, Clean Air Act permits that are required for major sources of air pollutants.
- Deletes the separate permitting process for air operation and construction permits for citrus juice processing facilities in lieu of the permits required for other Title V, Clean Air Act permittees. This process was never approved by the EPA.
- Deletes certain provisions relating to persons who service and maintain motor vehicle air conditioners that use Freon. Freon is only available as a recycled product for older vehicles.

State Parks

Provides that the violation of certain state park rules will be a civil infraction instead of a criminal infraction. Allows for the imposition of a fine.

Ratification of Wetland Delineation Rule

Ratifies the changes adopted by the Environmental Regulation Commission on February 23, 2006, to the wetland delineation rule to reclassify slash pine and gallberry from an “upland” status to a “facultative” status.

Water Quality Standards in Northwest Florida

Provides that the state water quality standards would not inadvertently apply to stormwater treatment systems permitted in Northwest Florida Water Management District.

This bill substantially amends the following sections of the Florida Statutes: 212.08, 258.007, 373.4142, 373.4211, 377.806, 403.031, 403.0872, 403.50663, 403.50665, 403.508, 403.509, 403.5113, 403.5115, 403.5252, 403.527, 403.5271, 403.5317, and 403.5363.

The bill repeals the following sections of the Florida Statutes: 325.221, 325.222, 325.223, and 403.0875.

II. Present Situation:

Every year, each state agency proposes legislation to address areas of concern that affect the agency or to correct glitches that may exist as a result of legislation passed in a previous year. The Department of Environmental Protection (DEP) has proposed several items that need to be addressed legislatively that affect various programs within the department.

The affected programs proposed to be amended are diverse. They include solar energy programs, state parks, water quality standards in Northwest Florida, ratification of a wetland delineation rule, state clean air standards and programs, the Power Plant Siting Act and the Transmission Line Siting Act, motor vehicle refrigerants, and clean air standards for citrus juice processing facilities.

III. Effect of Proposed Changes:

This proposed committee bill would implement several of the legislative changes proposed by the DEP.

Energy Provisions

In 2006, the Legislature enacted ch. 2006-230, Laws of Florida, the Florida Renewable Energy Technologies and Energy Efficiency Act. The bill addressed many subject areas relating to energy such as the creation of the Florida Energy Commission, issues relating to nuclear power plant siting, alternative energy incentives, certain energy-related reporting requirements, and the streamlining of certain provisions in the Power Plant Siting Act and the Transmission Line Siting Act.

Of particular interest to consumers, ch. 2006-230, Laws of Florida, provided for rebate programs for certain solar energy systems and a tax holiday from the sales tax on new energy-efficient appliances and products. This bill provides that:

- The sales tax exemption for equipment, machinery, and other materials for renewable energy technologies is available only to the end user of the equipment, machinery, and other materials.
- The payment of a rebate for certain solar energy systems may be made only to the final purchaser of an eligible system.
- Rebates for a solar energy system are limited to one per type of eligible system per resident, per state fiscal year.
- The period from 12:01 a.m., October 5, through midnight October 11, 2007, is designated “Energy Efficient Week,” and the sales tax may not be collected on the sale of a new energy-efficient product having a selling price of \$1,500 or less per product during that period. This exemption applies only when the energy-efficient product is purchased for noncommercial home or personal use and does not apply when the product is purchased for trade, business, or resale.

Several sections of the Power Plant Siting Act and the Transmission Line Siting Act are amended to clarify certain notice and hearing requirements, and various provisions relating to the completeness of an application, the responsibilities of reviewing agencies, and timeframes for notice of cancellation of a certification hearing.

Air Pollution

Each state has certain responsibilities under the federal Clean Air Act. The U.S. Environmental Protection Agency (EPA) requires each state to submit a state implementation plan. This plan is a collection of the regulations used by the state to reduce air pollution. The EPA must approve these state implementation plans.

The DEP has indicated that the definition of “regulated air pollutant” in s. 403.031(19), F.S., needs to be amended in order for the state to receive approval of its state implementation plan from the EPA. Currently, the Florida definition does not include ozone depleting substances. This bill would amend s. 403.031(19), F.S., to conform to the federal requirements.

On December 19, 2005, the EPA amended 40 C.F.R., Part 70, which implements the Title V air permitting program of the Clean Air Act. The EPA amendments removed certain categories of minor hazardous air pollutant-emitting sources from the requirements of having to obtain a Title V major source air operation permit. In Florida, this primarily affects drycleaners. This bill would amend s. 403.0871, F.S., to remove the major source air operation permitting requirements for these minor sources.

Section 403.08725, F.S., provides for a separate permitting process for air operation and construction permits for citrus juice processing facilities in lieu of the permits required under s. 403.0872, F.S., for major sources of air pollution under Title V of the Clean Air Act. Before s. 403.08725, F.S., could apply to the citrus juice processing facilities, the EPA had to approve the use of these provisions. The EPA never approved these provisions as an alternative to the Title V permits and as a result the provision effectively became obsolete as of July 15, 2005. This bill repeals s. 403.08725, F.S., relating to the air permits for citrus juice processing facilities.

Chapter 325, F.S., relates to motor vehicle refrigerants and emissions. In 1990, the Legislature passed ch. 90-290, L.O.F., to require that any person who installs or services motor vehicle air conditioners must use approved refrigerant recycling equipment to prevent the release of chlorofluorocarbons into the atmosphere. The 1990 legislation put Florida's law in compliance with federal regulations in 40 C.F.R., part 82. Chlorofluorocarbons or CFCs are manmade compounds that have the effect of destroying ozone molecules and depleting the ozone layer. The federal government mandated that production and importation of Class I CFC refrigerants, including CFC-12 (Freon), cease in the U.S. after December 31, 1995. This class of refrigerants has been replaced with newer Class III refrigerants that are less harmful to the environment. The newer Class III refrigerants are now exclusively used in new motor vehicles. The older CFC-12 (Freon) is still available for use in older vehicles as a recycled product, but will become unavailable sometime in the future.

The DEP has repealed all of its CFC requirements in rule 62-281, F.A.C., and has transferred all the CFC date to the EPA for their federal program. The remaining language in rule 62-281, F.A.C., adopts the federal regulations in 40 C.F.R., part 82, by reference. This bill would repeal ss. 325.221, 325.222, and 325.223, F.S. This would effectively allow the federal regulations under 40 C.F.R., part 82 to become the overriding regulation for motor vehicle refrigerants in Florida.

State Parks

Section 258.007, F.S., authorizes the Division of Recreation and Parks to adopt rules to provide for punishment of violations of state park rules as a misdemeanor. Currently, if a ticket is written for a violation of minor park infractions, such as tying a tent rope to a tree instead of a stake, this becomes a criminal infraction with a corresponding criminal record. This bill would make such park violations punishable as a civil infraction and would allow the assessment of a fine not to exceed \$500 per violation.

Ratification of Wetland Delineation Rule

Section 373.4211, F.S., provides that the wetland delineation rule approved by the Environmental Regulation Commission (ERC) and any future amendments to the rule must be

ratified by the Legislature. On February 23, 2006, the ERC approved amendments to the wetland plant list that is used in the delineation of wetlands. The amendment changes *Pinus elliottii* (slash pine) and *Ilex glabra* (gallberry) from an “upland” status to a “facultative” (neutral indicator) status. There is scientific consensus that slash pine and gallberry grow and thrive in a wide range of hydrologic conditions in both natural and manmade habitats. The rule change will allow the treatment of slash pine and gallberry within the landscape as a neutral factor when determining the boundaries of wetlands. This change reduces the current differences that exist between the state and federal wetland methodologies—a step toward streamlining the state and federal programs. In order for this change to be effective, the Legislature must ratify the change. This bill would provide such ratification.

Water Quality Standards in Northwest Florida

Section 373.4142, F.S., is amended to assure that state water quality standards would not inadvertently apply to stormwater systems permitted in the Northwest Florida Water Management District after the adoption of the stormwater environmental resource permit rules pursuant to s. 373.4145, F.S. Without this change, water quality standards would apply to stormwater systems in the Northwest district; thereby prohibiting the issuance of permits for these systems. This provision would provide consistency statewide and put the Northwest Florida Water Management District on a par with the rest of the districts with regard to the permitting of stormwater systems.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This bill provides an exemption from the sales and use tax on the sale, for noncommercial home or personal use, of energy-efficient products having a selling price of \$1,500 or less per product during the period from 12:01 a.m., October 5, through midnight, October 11, 2007. The DEP has estimated that the estimated fiscal impact of this exemption would be \$2.5 million.

B. Private Sector Impact:**Energy**

Consumers purchasing specified energy-efficient products during the week from October 5, 2007 to October 11, 2007 would not have to pay the sales tax on these items.

Air Pollution

The repeal of the alternate process for air operation permits for citrus juice processing facilities would not have an impact on this industry. This program was required to have EPA approval before it could be used. It was never approved by the EPA and therefore became obsolete as of July 15, 2005. These facilities would continue to be regulated under the provisions relating to Title V air operation permits.

The change to delete certain minor sources of air pollution from having to receive Title V permits would benefit primarily the following: drycleaners, halogenated solvent degreasers, chrome electroplaters, ethylene oxide sterilizers, and secondary aluminum smelters. In Florida, drycleaning facilities would benefit most from the change.

State Parks

Violators of minor state park rules would no longer be subject to criminal penalties. Instead, they would be subject to a fine, not to exceed \$500.

Ratification of Wetland Rule

This could lead to better coordination between the state wetland delineation rules and the federal wetland delineation rules. Regulatory confusion could be reduced and this change would aid in the streamlining of wetland permitting.

Water Quality Standards in Northwest Florida

This bill would prevent the unintended consequence of having stormwater facilities in Northwest Florida subject to water quality standards and therefore unable to be permitted as stormwater facilities. The fiscal impact to public and private construction without the amendment in this bill could be significant.

C. Government Sector Impact:

Generally, the impact to local and state government is insignificant. All wetlands in Florida are delineated using the same methodology. Other provisions in the bill either clarify certain provisions or delete obsolete provisions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
