

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1091  
**SPONSOR(S):** Attkisson  
**TIED BILLS:**

Financial Assistance for Contaminated Petroleum Storage Sites

**IDEN./SIM. BILLS:** SB 666, SB 2018

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Environmental Protection</u>	<u>7 Y, 0 N</u>	<u>Kliner</u>	<u>Kliner</u>
2) <u>Environment &amp; Natural Resources Council</u>	<u></u>	<u>Kliner / Perkins</u>	<u>Dixon / Hamby</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
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### SUMMARY ANALYSIS

The bill amends revises the Innocent Victim Petroleum Storage System Restoration Program, to provide that a transfer of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor does not disqualify the site from participating in the Program. It also clarifies that the current property owner must have acquired the property prior to July 1, 1990.

The provisions of the bill will allow an unknown number of petroleum contaminated sites to remain eligible for state-funded cleanups which may otherwise become ineligible under current law. The average cost to clean a site is approximately \$400,000. The Department of Environmental Protection (DEP) has several cases involving trusts or inheritances that can be resolved by this proposed bill.

**There is an amendment traveling with the bill. The amendment is described in "Section IV. Amendment/Council Substitute Changes" of the analysis.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill will reopen the closed Innocent Victim Petroleum Storage System Restoration Program to allow an unknown number of petroleum contaminated sites to be eligible for state-funded cleanups which average about \$400,000 per site. It is unknown how many sites would qualify if this provision passes, but the DEP has several cases involving trusts or inheritances that can be resolved by this proposed bill.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

In 2005, the Legislature created the Innocent Victim Petroleum Storage System Restoration Program, providing state assistance for cleaning contaminated sites to property owners of contaminated sites that were acquired prior to July 1, 1990. To be eligible for cleanup, the site must have ceased operating as a petroleum storage or retail business prior to January 1, 1985. Section 376.30715, F.S., provides:

A contaminated site acquired prior to July 1, 1990, which has ceased operating as a petroleum storage or retail business prior to January 1, 1985, is eligible for financial assistance pursuant to s. 376.305(6), notwithstanding s. 376.305(6)(a). Eligible sites shall be ranked in accordance with s. 376.3071(5).

The term "acquired" is not defined in Section 376.031, F.S. As a result, the term acquired has caused considerable debate in understanding the eligibility requirements of the Innocent Victim Petroleum Storage System Restoration Program. The debate has arisen when an owner of a contaminated property has, after July 1, 1990, transferred the property into a revocable trust or inherited the property as a surviving spouse. DEP has determined that moving the property into a revocable trust or a surviving spouse inheriting the property does constitute a change in ownership.

##### **Effect of Proposed Change**

The bill provides that a conveyance of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor does not disqualify an applicant from participating in the Innocent Victim Petroleum Storage System Restoration Program. The bill specifies the current property owner must have acquired the property prior to July 1, 1990.

#### C. SECTION DIRECTORY:

Section 1: amends s. 376.30715, F.S., the Innocent Victim Petroleum Storage System Restoration Program, to provide that a conveyance of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor does not disqualify an applicant from participating in the Program. This section also clarifies that the current property owner must have acquired the property prior to July 1, 1990.

Section 2: provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will enable certain transfers of title to an unknown but finite number of contaminated property sites to remain eligible for state-funded cleanup relating to petroleum contamination.

### D. FISCAL COMMENTS:

The provisions of the bill will allow an unknown number of petroleum contaminated sites to remain eligible for state-funded cleanups that may otherwise become ineligible under current law. The average cost to clean a site is approximately \$400,000. The DEP has several cases involving trusts or inheritances that can be resolved by this proposed bill.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

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

#### 2. Other:

None noted.

### B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

There is a reference error in the bill on line 24. The reference to s. 376.3071(5), F.S., is incorrect as this section deals with site selection and cleanup criteria. It has nothing to do with eligibility and

financing. The correct citation should be s. 376.305(6), F.S., which is where the financial assistance authority is located for the Innocent Victim Petroleum Storage System Restoration Program. Staff recommends an amendment to correct this cite reference.

D. STATEMENT OF THE SPONSOR

No Statement Submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 12, 2008, the Environmental Protection Committee adopted one amendment that corrects a statutory cross-reference.