

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 402

INTRODUCER: Environmental Preservation and Conservation Committee, Senators Fasano and Gaetz

SUBJECT: Expedited permitting process for economic development projects

DATE: April 15, 2008 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Molloy</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	<u>CM</u>	_____
4.	_____	_____	<u>GA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This committee substitute (CS) creates the Mike McHugh Act, an expedited permitting process for economic development projects. Requires the Department of Environmental Protection (DEP) or the appropriate water management district to adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of “target industry business.” Provides for a mandatory pre-application review process. Provides the time period in which permits must be issued.

The CS creates s. 380.0657, F.S.

II. Present Situation:

Environmental Resource Permit Program - Florida has several programs that regulate most land alterations throughout the state. One such program is the Environmental Resource Permit (ERP) program. The ERP program:

- Is designed to ensure that activities in uplands, wetlands and other surface waters do not degrade water quality or degrade habitat for aquatic or wetland dependent wildlife.
- Addresses dredging, filling, and construction in wetlands and other surface water, as well as stormwater and surface water management systems in uplands.
- Permits activities in open water, including docks and marinas.
- Requires submerged lands authorization for any construction on or use of submerged lands owned by the state.¹

Most of the ERP permits are issued by the water management districts. However, the Department of Environmental Protection (DEP) issues the ERP permits relating to solid waste, hazardous waste, domestic waste, and industrial waste facilities; mining; power plants and transmission lines; docks that are not part of a larger plan of residential or commercial development (largely single family); systems located in whole or in part seaward of the coastal construction control line; seaport; and boat ramps, mooring buoys, and artificial reefs. The DEP also has a relationship with the U.S. Army Corps of Engineers regarding necessary federal dredge and fill permits. The DEP has developed a joint application for the ERP permit to include authorization to use state-owned submerged lands and the federal dredge and fill permit.

Section 373.4141, F.S., provides that a permit under part IV of ch. 373, F.S., including ERP and wetland resource permits, shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application. Currently, wetland resource permits and ERP permits may be expedited in at least seven instances:

- s. 373.4141(3), F.S. — requires applications for permits associated with affordable housing, including ERP and wetland resource permits, to be expedited to a greater degree than other projects.
- s. 373.4592, F.S. — provides various references to expediting the Everglades, Lake Okeechobee, Caloosahatchee and St. Lucie River permits and activities.
- s. 403.0752, F.S. — creates the Ecosystem Management Agreement program and allows the DEP to offer expedited permitting as an incentive under an ecosystem management agreement. This would include ERP and wetland resource permits, though the statute does not specify the degree to which a permit must be expedited.
- Various provisions in ch. 403, F.S., relating to power plant siting allow for an ERP portion of the review to be expedited.
- s. 403.973, F.S. — provides for an expedited permitting program for certain economic development projects. To be eligible, an applicant business must be creating either 100 jobs, 50 jobs if the business is located in an enterprise zone or in a county of a certain population; or on a case-by-case basis at the request of a county or municipal government. The program includes ERP and wetland resource permits, though it does not specify the degree to which a permit must be expedited.
- s. 337.0261, F.S. — provides expedited permitting for aggregate mining.
- s. 380.0655, F.S. — provides for expedited permitting for marinas with 10 percent or more of the slips open to the public.

¹ Description of programs found at <http://www.dep.state.fl.us/water/>.

Target Industries – Section 288.106, F.S., provides that a target industry business is a corporate headquarters business or any business in one of the target industries meeting the following criteria which was developed by the Office of Tourism, Trade and Economic Development (OTTED) in the Executive Office of the Governor:

- Future growth – Industry forecasts should indicate a strong expectation of growth in both employment and output.
- Stability – Industry should not be subject to periodic layoffs and should be recession-proof.
- High Wage – Industry should pay relatively high wages compared to statewide or area averages.
- Market and resource independent – Location of business should not be dependent on Florida markets or resources.
- Industrial base diversification and strengthening – Industry should contribute to the expansion or diversification of the state or the area's economic base.
- Economic benefits – Industry should have strong positive benefits to the state or regional economies.

The target industry list is developed annually by OTTED, in consultation with Enterprise Florida, and submitted as part of the legislative budget request. Types of industries include:

- Manufacturing facilities such as pharmaceutical or computer and electronic product manufacturing,
- Finance and insurance services such as non-depository credit institutions or insurance carriers.
- Wholesale trades such as business-to-business electronic marketing.
- Information industries such as sound recording, film production and post-production, and publishing industries.
- Professional, scientific, and technical service industries such as computer programming and software, or research and development.
- Administrative and support services such as customer care centers and credit bureaus.
- Management services.

III. Effect of Proposed Changes:

The CS creates s. 380.0657, F.S., the Mike McHugh Act, to provide an expedited permitting process for economic development projects. The DEP and, as appropriate, the water management districts, shall adopt programs to expedite the processing of wetland resource and ERP permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, F.S., with the exception of those projects requiring approval by the Board of Trustees of the Internal Improvement Trust Fund. A municipality or county shall provide an identified business with a municipal or county commission resolution identifying the business as a targeted industry business.

A mandatory pre-application review process is required to reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and

governmental entity, site planning and development, site suitability and limitation, facility design, and steps the applicant can take to ensure expeditious permit application review.

Permit applications pursuant to this section shall be approved or denied within 45 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

The CS would take effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Certain businesses, if classified as targeted industry businesses, would be eligible for expedited permits under the provisions of this CS, thereby creating possible savings for the private sector for costs associated with permitting.

C. Government Sector Impact:

To be eligible for incentives, a business must be designated as a target industry business by a county or municipality. The number of businesses designated by a county or municipality to receive incentives under this CS could vary substantially. Currently, counties and municipalities do not designate target industry businesses, making it difficult to estimate the number of projects that this bill may affect. The CS would require the municipality or county to identify in a resolution that the business is a targeted industry business.

Because the CS provides that a permit must be issued within 45 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application, there may be significantly increased workload on the DEP or water management district permitting

staff. Due to the uncertainty of the number of permits affected, the increase in workload and fiscal impact on the DEP cannot be determined at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Mike McHugh is the director of Business Development in Hernando County. According to information received from the CS sponsor, it is named after him because it was his original idea to expedite these permits and would help him and others attract business to the state of Florida.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation Committee on April 3, 2008:

The CS provides for a mandatory pre-application review process to reduce permitting conflicts. A permit application must be approved or denied within 45 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

- B. **Amendments:**

None.