

**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 1634

INTRODUCER: Community Affairs Committee and Senator Lynn

SUBJECT: Water Vending Machines

DATE: April 11, 2011                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	<b>Favorable</b>
2.	Wood	Yeatman	CA	<b>Fav/CS</b>
3.			CM	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The Committee Substitute (CS or bill) deletes provisions requiring the permitting of water vending machines and vending machine operators. It authorizes cities and counties to regulate the operation of water vending machines. Present standards for water vending machine operation remain substantially unchanged while removing the statewide licensing and permitting process.

The bill substantially amends ss. 500.459 and 500.511, of the Florida Statutes.

**II. Present Situation:**

The Department of Agriculture and Consumer Services (DACS), inspects and collects samples for all water vending machines in Florida. For Fiscal Year 2009-2010, DACS:

- permitted approximately 2,800 water vending firms at a cost of \$35 per permit;
- inspected 309 water vending machines; and
- collected 673 vended water samples for testing of which 14 tested positive for coliforms (a known indicator organism) which detects contaminants capable of causing severe illness and/or death if consumed.

The permitting and inspection processes were developed to provide a reasonable level of assurance to the general public that products offered through this venue meet acceptable standards, are routinely tested and inspected, and ensure products are safe for human consumption.

The legislative intent of s. 500.459, F.S., was to protect public health through licensing of and establishing standards for water vending machines in Florida. DACS is statutorily responsible for the permitting and regulation of Florida's water vending machines. This responsibility is found directly in s. 500.459, F.S., as well as in the definition of "food" in s. 500.03(1)(l) which includes drinks and beverages intended for human consumption.

### III. Effect of Proposed Changes:

**Section 1** amends s. 500.459, F.S., relating to the regulation of water vending machines. The section removes licensing from the legislative statement of intent in s. 500.459(1), F.S. The definition of vended water found in s. 500.459(2)(b), F.S., is amended to exclude vended water from the definition of food in s. 500.03(1)(l), F.S. This removes the DACS from any regulatory role relating to vended water that would remain as it relates to their role in regulating any food, including drinks, which is intended for human consumption.<sup>1</sup>

This section retains the list of standards currently found in statute. Cities and counties will be allowed, but not required, to regulate water vending machines as well as to enforce the statewide minimum operating standards.

The CS has statewide minimum standards without providing for statewide permitting, inspection, or sample collection. The DACS analysis stated that the bill "may compromise the wholesomeness of water products offered for sale to the general public creating a significant public health risk. The absence of permitting, inspection, and sample collection activities, will not ensure adherence to industry-acceptable operating standards designed to prevent contamination of water products offered to the general public through vending machines. Additionally, the introduction of other water-borne pathogens may likely increase and could result in more frequent outbreaks of sickness and/or deaths of Floridians."<sup>2</sup>

Current rules already established by DACS regarding treatment and postdisinfection remain in effect.

**Section 2** amends s. 500.511, F.S., to remove the provisions relating to fees, enforcement and preemption of regulation of water vending machines to the state. DACS has stated that if adopted, regulation will no longer be preempted to the state and it will allow city and county jurisdictions to pursue local ordinances requiring permitting with fees, inspections and regulations unique to each local jurisdiction.

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<sup>1</sup> Email from Grace Lovett, Director, Department of Agriculture and Consumer Services Office of Legislative Affairs, to Kristina Wiggins, Legislative Analyst, Florida Senate Committee on Environmental Preservation and Conservation (Apr. 7, 2011) (on file with the Senate Committee on Community Affairs).

<sup>2</sup> Department of Agriculture and Consumer Services, *Senate Bill 1634 Analysis* (Mar. 7, 2011) (on file with the Senate Committee on Community Affairs).

**Section 3** creates an effective date of July 1, 2011.

**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:

Industries associated with providing inspections may see an increase in business if the cities and counties in which the business resides decide to institute new compliance requirements.

C. Government Sector Impact:

The current fee for a Water Vending Operating Permit is \$35 per machine. There is also a \$10 epidemiology surcharge per operator collected for the Florida Department of Health (DOH). The bill is anticipated to have a negative fiscal impact on state trust funds from the reduction in fees associated with permitting and operating water vending machines. DACS estimates this reduction to be \$95,000 per fiscal year based on the \$35 fee paid to DACS for each water vending machine. This would be partially offset by a reduction in costs associated with processing permit applications of approximately \$64,700, for a net negative impact of approximately \$30,300.<sup>3</sup>

Additionally, the DACS reports that there are 106 “firm operators” that are issued a permit. Therefore, based on a \$10 surcharge currently collected by DACS and transferred to DOH from each operator, this bill would have a negative fiscal impact on DOH trust funds of \$1,060.

Local governments would not be required to regulate water vending machines. If a county or municipality does decide to inspect water vending machines and/or collect

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<sup>3</sup> Department of Agriculture and Consumer Services, *Senate Bill 1634 Analysis* (Mar. 7, 2011) (on file with the Senate Committee on Community Affairs).

water samples, they will bear the cost. The fiscal impact could be positive or negative for each county or municipality depending upon the size of any permitting fee they choose to set.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**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 Community Affairs on April 11, 2011:**

- Removes licensing from statement of legislative intent.
- Excludes “vended water” from the definition of food found in s. 500.03(1)(1), F.S.
- Authorizes counties and municipalities to regulate and enforce water vending machine operation.
- Retains current operating standards as statewide minimum operating standards.
- Makes conforming changes.

**B. Amendments:**

None.