

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: SB 1634

INTRODUCER: Senator Lynn

SUBJECT: Water Vending Machines

DATE: March 28, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Favorable
2.	Wood	Yeatman	CA	Pre-meeting
3.			CM	
4.				
5.				
6.				

I. Summary:

The bill repeals the regulation of water vending machines and the permitting of vending machine operators. It deletes provisions for the deposit of fees, enforcement of the state’s water vending machine regulations, penalties, and the preemption of county and municipal water vending regulations. Thus, counties and municipalities may pursue local regulatory ordinances unique to local jurisdictions.

The bill repeals s. 500.459, and amends s. 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.

III. Effect of Proposed Changes:

Section 1 repeals s. 500.459, F.S., relating to the regulation of water vending machines. According to DACS, de-regulation of water vending machines 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.

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.

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 decides to institute new compliance requirements.

C. Government Sector Impact:

The 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.

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.

A positive fiscal impact on state funds is anticipated to occur from the reduction in costs associated with processing permit applications. DACS reports that this reduction would approach \$64,700 per year. The bulleted list below reflects the number of applications processed by DACS last year.

For Fiscal Year 2009-2010 DACS:

- permitted approximately 2,800 water vending firms at a cost of \$35 per permit;
- permitted 309 inspections of water vending machines; and
- collected 673 water samples for testing.

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.)

None.

B. Amendments:

None.