

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 23 Water and Wastewater Facility Operators

SPONSOR(S): Infrastructure Strategies Committee, Water Quality, Supply & Treatment Subcommittee, Bell and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 162

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Water Quality, Supply & Treatment Subcommittee	17 Y, 0 N, As CS	Curtin	Curtin
2) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	Byrd	Pigott
3) Infrastructure Strategies Committee	22 Y, 0 N, As CS	Curtin	Harrington

SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) is the primary regulator of public water systems in Florida. DEP derives its authority from the Florida Safe Water Drinking Act and has been delegated authority from the U.S. Environmental Protection Agency to implement the federal Safe Drinking Water Act. Anyone who operates a water treatment plant, a water distribution system, or a domestic wastewater treatment plant must hold a current license issued by DEP.

In order to be licensed as an operator of a water treatment plant, a water distribution system, or a domestic wastewater treatment plant, a person must apply to DEP to take the licensure examination, submit a completed application and the required fee, pass the examination, and meet certain other criteria. Florida does not authorize reciprocity for operators licensed in other states or jurisdictions.

The bill:

- Requires DEP to issue reciprocal licenses to water utility workers licensed in other jurisdictions who meet certain criteria;
- Requires DEP to issue reciprocal licenses to applicants who performed duties comparable to those of water utility workers while serving in the United States Armed Forces who meet certain criteria;
- Requires DEP to award education and operational experience credits to applicants who performed duties comparable to those of water utility workers while serving in the United States Armed Forces who do not otherwise meet the requirements for reciprocal licensure;
- Authorizes DEP, during a declared state of emergency, to issue a temporary reciprocal license to applicants who otherwise meet the criteria for reciprocal licensure;
- Requires DEP to waive the application fee for a temporary reciprocal license issued during a declared state of emergency; and
- Requires DEP to adopt rules to implement s. 403.8721, F.S.

The bill will have an insignificant negative fiscal impact on state government that can be absorbed within existing resources.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Department of Environmental Protection (DEP) is the primary regulator of public water systems in Florida.¹ DEP derives its authority from the Florida Safe Drinking Water Act (Act)² and has been delegated authority from the U.S. Environmental Protection Agency to implement the federal Safe Drinking Water Act.³

Anyone who operates a water treatment plant, a water distribution system, or a domestic wastewater treatment plant must hold a current license issued by DEP.⁴ A water treatment plant collects, treats, and stores water for human consumption,⁵ a water distribution system conveys water for human consumption,⁶ and a domestic wastewater treatment plant treats, stabilizes, or holds domestic waste.⁷ An operator is any person who is onsite and in charge of the actual operation of such plants or systems.⁸

Water Treatment Facilities

A public water system is one that provides water to 25 or more people for at least 60 days each year or serves 15 or more service connections.⁹ These public water systems may be publicly or privately owned and operated.¹⁰

Wastewater Treatment Facilities

DEP regulates over 4,100 active wastewater facilities.¹¹ Approximately 2,100 of these facilities are classified as industrial and approximately 2,000 as domestic wastewater.¹²

Licensure Requirements

In order to be licensed as an operator of a water treatment plant, a water distribution system, or a domestic wastewater treatment plant, a person must apply to DEP to take the licensure examination and submit the required fee¹³, submit a completed application for licensure and the required fee,¹⁴ and meet certain other criteria, including having a high school diploma or its equivalent, successfully completing a training course approved by DEP, and possessing onsite operational experience.¹⁵ DEP is required to issue a license to any applicant who passes the examination and meets the other criteria for licensure.¹⁶

¹ S. 403.852(1), F.S.

² Ss. 403.850-403.892, F.S.

³ Department of Environmental Protection (DEP), *Source & Drinking Water Program*, <https://floridadep.gov/water/source-drinking-water> (last visited Mar. 28, 2023).

⁴ S. 403.867, F.S.

⁵ S. 403.866(6), F.S.

⁶ S. 403.866(5), F.S.

⁷ S. 403.866(2), F.S.

⁸ S. 403.866(3), F.S.

⁹ DEP, *supra* note 3.

¹⁰ *Id.*

¹¹ DEP, *General Facts and Statistics About Wastewater in Florida*, (last updated April 20, 2022) <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Mar, 28, 2023).

¹² *Id.*

¹³ Individuals must submit \$25.00 at the time they submit their application to take the licensure examination. Rule 62-602.600(1), F.A.C.

¹⁴ Individuals applying for a Class A, Class B, or Class C Treatment Plant Operator license must submit \$50.00 at the time they submit their application for licensure, and individuals applying for a Class D Treatment Plant Operator license or a Water Distribution System Operator license must submit \$25.00 at the time they submit their application for licensure. Rule 62-602.600(2), F.A.C.

¹⁵ S. 403.872(1)-(2), (4), F.S.; Rule 62-602.300, F.A.C.

¹⁶ S. 403.872(3), F.S.

Florida does not offer reciprocal licensure to individuals who are licensed in other states or jurisdictions to operate water treatment plants, water distribution systems, or domestic wastewater facilities. Florida is one of two states that do not allow reciprocal licensure for operators of water treatment plants or water distribution systems.¹⁷ In addition, Florida is the only state that does not offer reciprocal licensure to operators of domestic wastewater facilities.¹⁸

Effect of the Bill

This bill revises legislative findings in the Florida Safe Drinking Water Act¹⁹ to specify that water and wastewater services are essential to the health and wellbeing of all citizens and that water and wastewater facility personnel are essential first responders. The bill defines the term water and wastewater facility personnel.

The bill requires DEP to issue a reciprocal license to water treatment plant operators, water distribution system operators, or domestic wastewater treatment plant operators who, at a minimum:

- hold an active and valid license from another jurisdiction with licensure requirements, including education and operational experience, that are comparable to or exceed Florida's licensure requirements;
- have passed a licensure examination comparable to the licensure examination of DEP, subject to approval by DEP;
- are not the subject of a disciplinary or enforcement action in another jurisdiction at the time of application for reciprocal licensure;
- submit a completed application for reciprocal licensure and any required supporting documentation; and
- remit the application fee.

The bill requires DEP to issue a reciprocal license to applicants who:

- have performed duties comparable to those of a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator while serving in the United States Armed Forces for which the requirements for performing the duties, including education and operational experience, are comparable to or exceed Florida's licensure requirements;
- have passed a skill assessment or competency examination comparable the licensure examination of DEP, subject to approval by DEP;
- are not the subject of a disciplinary or enforcement action at the time of application for reciprocal licensure;
- submit a completed application for reciprocal licensure and any required supporting documentation; and
- remit the application fee.

The bill further requires DEP to award education and operational experience credits to applicants who performed duties comparable to those of an operator while serving in the United States Armed Forces who do not otherwise meet the requirements for reciprocal licensure.

The bill authorizes DEP, during a declared state of emergency, to issue a temporary reciprocal water treatment plant operator license, water distribution system operator license, or domestic wastewater treatment plant operator license to individuals who meet the requirements s. 403.8721(1) or (2), F.S. The bill also requires DEP to waive the application fee for temporary reciprocal licenses issued during a declared state of emergency.

¹⁷ Jeff Oxenford and Jim Ginley, *Operator Licensing Requirements Across the United States*, American Water Works Ass'n, (Feb. 2018), at 84; Okla. Stat. tit. 59 § 1107A.2. (2022); email from Owen Laswell, Public Information Officer II, Nebraska Dep't of Env't and Energy, RE: Nebraska reciprocity inquiry (Feb. 15, 2023).

¹⁸ Jeff Oxenford and Jim Ginley, *Operator Licensing Requirements Across the United States*, American Water Works Ass'n, (Feb. 2018), at 66; Neb. Rev. Stat. § 81-15, 140 (2022).

¹⁹ Ss. 403.850-403.892, F.S.

The bill requires DEP to adopt rules to implement s. 403.8721, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 403.865, F.S., related to water and wastewater facility personnel.

Section 2. Amends s. 403.867, F.S., to conform a provision.

Section 3. Creates s. 403.8721, F.S., related to requirements for licensure by reciprocity.

Section 4. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an insignificant negative fiscal impact on state government because the bill requires DEP to waive the application fee for a temporary reciprocal license issued during a declared state of emergency.

2. Expenditures:

The bill may have a negative fiscal impact on DEP related to reviewing the licensure examinations of other jurisdictions and determining whether those examinations are comparable to DEP's licensure examination. DEP estimates year one non-recurring expenses of \$11,000 for equipment and \$184,000 in recurring operating expenses associated with an additional two (2) full-time equivalent positions to operate the program. A review of DEP's vacant positions shows there are sufficient existing vacancies from which resources can be redirected to implement the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DEP to adopt rules to implement s. 403.8721, F.S. DEP appears to have sufficient rulemaking authority to adopt the rules required by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 22, 2023, the Water Quality, Supply & Treatment Subcommittee considered one amendment, which was adopted, and reported the bill favorably as a committee substitute. The amendment defines the term drinking water and wastewater personnel, and requires DEP to adopt rules to implement s. 403.8721, F.S.

On March 27, 2023, the Infrastructure Strategies Committee considered one amendment, which was adopted, and reported the bill favorably as a committee substitute. The amendment defines the term water and wastewater facility personnel.

The staff analysis has been updated to reflect the committee substitute.