

STORAGE NAME: h1523.nrep.doc

DATE: February 11, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
NATURAL RESOURCES & ENVIRONMENTAL PROTECTION
ANALYSIS**

BILL #: HB 1523

RELATING TO: Brownfield Site Remediation

SPONSOR(S): Representative(s) Prieguez

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION
- (2) FISCAL RESPONSIBILITY COUNCIL
- (3)
- (4)
- (5)

I. SUMMARY:

HB 1523 amends chapter law by transferring any undisbursed or unencumbered funds at the end of the fiscal year from the Quick-Response Training Program, brownfield redevelopment bonus refunds, and the General Appropriations Acts for cleanup of state-owned lands to be used as grants for assessment and remediation of brownfield sites pursuant to s. 376.80, F.S.. Eligible projects that have been designated prior to July 1, 1997 by the United States Environmental Agency for brownfield pilot projects shall receive on a pro rata basis an amount not to exceed \$500,000 per project.

HB 1523 shall take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Legislature created the Brownfields Redevelopment Program in 1997. Brownfield sites are abandoned, idled, or underused industrial and commercial properties where expansion or development is complicated by actual or perceived environmental contamination. The Brownfields Redevelopment Program was intended to achieve the following goals:

- o reduce public health and environmental hazards on existing commercial and industrial sites;
- o help prevent the premature development of farmland, open space areas, and natural areas;
- o reduce public costs for installing new water, sewer, and highway infrastructure;
- o encourage responsible persons to implement cleanup plans without the use of taxpayer funds;
- o rehabilitate sites through clear, predictable remediation standards based on the actual risk that contaminated sites pose to the environment and public health;
- o address environmental and health consequences of hazardous sites on minority and poverty populations;
- o provide for public participation in program development; and
- o create jobs, reduce blight through economic revitalization in local communities, and increase capital investment and the local tax base.

According to Office of Program Policy Analysis and Government Accountability (OPPAGA) the program is a voluntary cleanup program in that cleanup actions are initiated by landowners and developers rather than by government regulatory actions. While the program provides various financial and regulatory incentives and assistance, landowners and developers are responsible for ensuring that the contamination at the site has been properly remediated. Under the program, local governments designate parcels to be included in a brownfield area. Local governments must also form advisory committees as a means to obtain public participation in designating brownfield areas. Currently, local governments have designated 45 brownfield areas in Florida encompassing 66,959 acres.

In the 1997 General Appropriations Act (GAA,) the legislature appropriated \$3,000,000 for Brownfields Redevelopment Grants, \$2,300,000 of which was distributed to the seven federal EPA-designated brownfields in Florida with the remainder distributed pro rata to the five Florida entities that applied for, but did not receive, EPA brownfields designation. This grant money was disbursed through the Governor's Office of Tourism, Trade and Economic Development (OTTED). The OTTED is also responsible for disbursing the Brownfield Redevelopment Bonus Refunds. It should be noted that designation by EPA as a brownfield pilot project is separate and distinct from designation by a local government in Florida as a "Brownfield Area." The twelve recipients of the OTTED brownfields grant

money are also not automatically designated as Florida Brownfield Areas. They must still seek local government designation by resolution and comply with applicable eligibility criteria and public notice/hearing requirements to derive the benefits of the law, including liability protection, application of the Risk Based Corrective Action (RBCA) cleanup criteria rule, and any available incentives.

Since the passage of the Brownfields Redevelopment Act in 1997, the legislature has created a number of incentives to encourage program participation such as the Brownfield Area Loan Guarantee Program, the Brownfield Property Ownership Clearance Assistance Revolving Loan Trust Fund, and the Voluntary Cleanup Tax Credit. To date, participation in these incentive programs has been fairly limited.

The proposed bill provides direct grant awards rather than an incentive. Of the three types of funds listed, only the funds appropriated in the GAA for cleanup of state-owned lands come from the Department's budget (\$2,000,000 each year appropriated in FY 2000-01 and 2001-02). The Quick-Response Training Program and the Brownfields Redevelopment Bonus Refunds are both administered by the OTTED. The proposed bill language is very similar to language that was passed as part of the 2000 Brownfields legislation (see Ch. 2000-317, L.O.F., Section 23). However, the 2000 legislation was a one time grant award from the listed program funds for any unencumbered funds remaining undisbursed on June 30, 2001. The 2000 legislation did not directly affect the Department because they had no unencumbered funds appropriated for the cleanup of state-owned lands remaining undisbursed on June 30, 2001.

The following seven Federal Brownfield Areas were eligible for the OTTED grant monies in 2000 and would also be eligible under the proposed bill language: Miami, Clearwater, Gainesville, Jacksonville, Miami-Dade County, St. Petersburg and Tallahassee. Last fiscal year the above seven communities received a portion of the \$600,000 remaining unencumbered in the bonus refund account. However, OTTED staff believe that there will be significantly less money unencumbered for this fiscal year. Based on discussions with the OTTED staff, there were implementation problems associated with the 2000 grant awards. Due to the timing of the awards, they had difficulty in determining how much money was remaining unencumbered and undisbursed as of June 30, 2001, and executing grant agreements (i.e., signed contracts) by the same date, to avoid having the money revert the next day on July 1, 2001 when the new fiscal year began.

C. EFFECT OF PROPOSED CHANGES:

HB 1523 changes the following:

Any unencumbered funds remaining undisbursed on or at the close of the fiscal year on June 30, from the following would be used for brownfield remediation:

- o the Quick-Response Training Program,
- o brownfield redevelopment bonus refunds,
- o General Appropriations Act for cleanup of state-owned lands

Eligible projects that have been designated prior to July 1, 1997 by the United States Environmental Protection Agency for brownfield pilot projects shall receive on a pro rata basis an amount not to exceed \$500,000 per project.

SECTION-BY-SECTION ANALYSIS:

Section 1: Amends chapter law by transferring any undisbursed or unencumbered funds at the end of the fiscal year from the Quick-Response Training Program, brownfield redevelopment bonus refunds, and the General Appropriations Acts for cleanup of state-owned lands to be used as grants for assessment and remediation of brownfield sites pursuant to s. 376.80, F.S.. Eligible projects that have been designated prior to July 1, 1997 by the United States Environmental

Protection Agency for brownfield pilot projects shall receive on a pro rata basis an amount not to exceed \$500,000 per project.

Section 2: This act shall take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Grant monies awarded to the various local governments would result in environmental cleanup at contaminated brownfield sites, and eventual redevelopment of the area along with possible job creation.

D. FISCAL COMMENTS:

The Department of Environmental Protection (DEP) fiscal concerns are:

- That the bill cutoff date for the fixed capital outlay (FCO) appropriation as to when the department would determine if it had unencumbered funds remaining undisbursed. One possible interpretation of the current bill language is that since there is no cutoff date for the state-owned lands cleanup money, the language must be implemented upon the effective date of the law. The bill includes a July 1, 2002 effective date; and on that day the department's entire \$2,000,000 FY 2002-2003 appropriation for state-owned lands cleanup (assuming it is appropriated in this year's GAA) would be unencumbered and undisbursed. The Department staff believe this is not the intent of the proposed HB 1523, but the existing wording could be problematic.
- That HB 1523 provision for a June 30 cutoff date could be interpreted to mean that the June 30 cutoff applies to all three categories of funding including the state-owned lands cleanup program. If passed, this bill would create a conflict with the intended flexibility of an FCO appropriation by forcing the Department to encumber and disburse all of the state-owned lands cleanup funds by June 30.

- That HB 1523 bill language would require the department and OTTED to disburse grant awards with little or no direction regarding grant money spending criteria, and face possible audit criticisms in the future regarding management of the grants.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

Noah C. McKinnon III

Wayne Kiger