

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 0989 Environmental Protection (Bridges & Roads)
SPONSOR(S): Spratt
TIED BILLS: **IDEN./SIM. BILLS:** SB 2200

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Natural Resources</u>		<u>Perkins</u>	<u>Lotspeich</u>
2) _____			
3) _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

The bill expands to the Suwannee River Water Management District the current permit exemption criteria associated with the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges in the Northwest Florida Water Management District, and requires the Department of Environmental Protection to initiate rulemaking to adopt a general permit for these activities that would apply statewide. The general permit will supersede and replace the current statutory exemption.

The bill deletes the requirement for DEP to submit a report to the Governor and the Legislature by March 1, 2004, to evaluate the effects of the permit exemption.

The bill does not appear to have a significant fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Present Situation

Issue – Permit Exceptions (Bridges & Roads)

Section 403.813(2)(t), F.S., provides the criteria required for the exemption of a permit associated with the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway, within the Northwest Florida Water Management District (NFWFMD). A permit can be exempted based on meeting the following criteria:

- The road and associated bridge were in existence and in public use and are maintained by the county as a public road or bridge on or before January 1, 2002;
- The construction activity does not realign the road or expand the number of existing traffic lanes of the existing road;
- The construction activity does not expand the existing width of an existing vehicular bridge in excess of that reasonably necessary to properly connect the bridge with the road repair;
- Best management practices for erosion control are utilized as necessary to prevent water quality violations;
- Roadside swales or other effective means of stormwater treatment are incorporated as part of the project; and
- The dredging or filling of wetlands or water of the state is limited to that which is reasonably necessary for the activity in accordance with generally accepted engineering standards.

An applicant is not required to issue a notice of intent to the Department of Environmental Protection (DEP) for the use of the exemption.

DEP is required to submit a report to the Governor and Legislature by March 1, 2004, to evaluate the effects of this exemption and make recommendations for the exemption to apply statewide.

Currently, section 403.813(3), F.S., provides that the permit exemption criteria established under section 403.813(2), F.S., are superseded by general permits which include the same activities. General permits are issued for those projects or categories of projects which either alone or cumulatively, have a minimal adverse environmental impact.¹ Until such time as general permits are established, the exemption criteria contained within section 403.812(2), F.S., remain in full force and effect. General permits for the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway have not been issued at this point in time.

¹ s. 403.814(1), F.S.

Effect of Proposed Change

Issue – Permit Exceptions (Bridges & Roads)

The bill amends section 403.813(2)(t), F.S., to include the Suwannee River Water Management District (SRWMD) area along with the NFWWMD in reference to the exemption of a permit. The bill requires applicants in both the NFWWMD and SRWMD to give notice of intent to DEP to use the exemption. If the work is to be conducted within the SRWMD, the applicant's notice is required to be provided to DEP 30 days prior to performing any work under the exemption.

The bill requires DEP within 30 days of the proposed amendment becomes law, to initiate rulemaking to adopt a general permit for the repair, stabilization, or paving of existing roads that are maintained by the county and the repair or replacement of bridges that are part of the roadway where such activities do not cause significant adverse impacts to occur. The issuance of a general permit will apply statewide and the general permit will apply to qualified projects pursuant to the division of responsibilities contained within the operating agreements for each of the following Districts :

- Suwannee River Water Management District;
- St. Johns River Water Management District;
- Southwest Florida Water Management District; and
- South Florida Water Management District.

The general permit authorized under the bill will supersede and replace the exemption in section 403.813(2)(t), F.S. pursuant to section 403.813(3), F.S.

The bill deletes the requirement for DEP to submit a report to the Governor and the Legislature by March 1, 2004, to evaluate the effects of this exemption and make recommendations for the exemption to apply statewide. DEP reports that this deletion will be beneficial due to the report requirement being obsolete.

C. SECTION DIRECTORY:

Section 1. Amends s. 403.813(2)(t), F.S., relating to the criteria required for the exemption of a permit associated with the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway.

Section 2. Provides that the act will take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Once the exemption is replaced with a general permit, there may be a slight increase in fees received since no fees are charged for exemptions and the general permit fee is \$100.

2. Expenditures:

Non-recurring Effects:

HB 0319 includes rulemaking authority to implement the bill's provisions. Rulemaking costs will be insignificant and non-recurring. These costs include DEP's efforts to publicize a proposed rule through mail-outs and public workshops around the state, as well as costs associated with publication and process requirements pursuant to Chapter 120, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: The bill will decrease costs incurred by counties in obtaining authorizations for road and bridge repairs and replacements.

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 affect municipal or county government.

2. Other: None.

B. RULE-MAKING AUTHORITY:

DEP will be required to create additional rules for the general permit for road and bridge repairs and replacements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 83: Delete "...this chapter" and insert "...chapter 373."

Comments from DEP:

DEP has observed generally beneficial results from the paving of roads under the exemption. However, DEP indicates that expanding the exemption statewide may result in inadequate natural resource protection and may fail to address flood protection for the general public due to differing rainfall patterns, soil conditions and topography. Adoption of a statewide general permit will allow regional conditions to be addressed while providing the benefits of a streamlined permit process. DEP supports the bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES