

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Environmental Preservation and Conservation Committee

BILL: SB 1798

INTRODUCER: Senator Fasano

SUBJECT: Expedited Permitting

DATE: March 29, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	Favorable
2.			CA	
3.			CM	
4.			GA	
5.				
6.				

I. Summary:

The bill creates s. 380.0657, F.S., requiring that the Department of Environmental Protection (DEP) and the water management districts establish an expedited wetlands and environmental permitting process for targeted industry businesses¹.

The bill creates section 380.0657, Florida Statutes.

II. Present Situation:

The DEP and water management districts regulate activities that impact surface waters and wetlands through several programs including the Environmental Resource Permit (ERP) and Wetland Resource Permit (WRP) programs.

The ERP program² is in effect throughout the state, with the exception of the geographic area covered by the Northwest Florida Water Management District (NFWFMD)(rule development is underway to implement ERP in the NFWFMD³), and regulates activities involving the alteration of surface water flow. These include new activities in uplands that generate stormwater runoff, as well as dredging and filling wetlands and other surface waters. The program regulates everything from construction of single family residences in wetlands, convenience stores in the uplands, dredging and filling for any purpose in wetlands and other surface waters (including maintenance dredging), construction of roads located in uplands and

¹ As defined in s. 288.106, F.S.

² Rule 62-330, F.A.C.

³ Proposed Rule 62-346, F.A.C.

wetlands, and agricultural alterations that impede or divert the flow of surface waters. All ERP permits are issued in one of the DEP district offices and in the St. Johns River, Suwannee River, South Florida, and Southwest Florida Water Management Districts. Operating Agreements between the DEP and the water management districts identify which agency will process any given application. Under those agreements, the DEP generally reviews and takes actions on applications involving:

- Solid waste, hazardous waste, domestic waste and industrial waste facilities.
- Mining, except borrow pits that do not involve on-site material grading or sorting.
- Power plants, transmission and communication cables and lines, and natural gas and petroleum exploration, production, and distribution lines and facilities.
- Docking facilities and attendant structures and dredging that are not part of a larger plan of residential or commercial development.
- Navigational dredging conducted by governmental entities, except when part of a larger project that a water management district has the responsibility to permit.
- Systems serving only one single-family dwelling unit or residential unit not part of a larger common plan of development.
- Systems located in whole or in part seaward of the coastal construction control line.
- Seaports.
- Smaller, separate water-related activities not part of a larger plan of development, such as boat ramps, mooring buoys, and artificial reefs.

The water management districts review and take action on all the other ERP applications⁴.

The WRP program, in effect only within the NFWFMD, regulates any dredging, filling, or construction in, on, or over waters and wetlands that are connected, either naturally or artificially, to named waters. Named waters include the Gulf of Mexico, bays, bayous, sounds, estuaries, lagoons, rivers, streams, and natural lakes that are not wholly owned by one person other than the State. Within the WRP program, the DEP regulates stormwater and dredge and fill activities, while the NFWFMD operates a management and storage of surface water permit program and regulates silviculture activities affecting water resources. Pursuant to s. 373.4145, F.S., rule development is underway that will implement the ERP program in place of the current WRP in the NFWFMD.

Under s. 373.4141, F.S., the DEP or water management district shall, within 30 days of receipt of any application for permit under Part IV of Chapter 373, review such application and request any additional information required by law. Within 30 days of receipt of additional information, the DEP or water management district shall review such information and request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information. A permit shall be approved or denied within 90 days after the receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

⁴ DEP ERP program information and agreements provided at <http://dep.state.fl.us/water/wetlands/erp/wmd.htm>

Pursuant to s. 288.106, F.S., a target industry business means a corporate headquarters business or any business that is engaged in one of the target industries identified by the following criteria developed by the Office of Tourism, Trade and Economic Development (office) in consultation with Enterprise Florida, Inc.:

- Future Growth – Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to Florida’s growing access to international markets or to replacing imports.
- Stability – The industry should not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather. The industry should also be relatively resistant to recession, so that the demand for products of this industry is not necessarily subject to decline during an economic downturn.
- High Wage – The industry should pay relatively high wages compared to statewide or area averages.
- Market and resource independent – The location of industry businesses should not be dependent on Florida markets or resources as indicated by industry analysis. Special consideration should be given to the development of strong industrial clusters which include defense and homeland security businesses.
- Industrial base diversification and strengthening – The industry should contribute toward expanding or diversifying the state’s or area’s economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economics by adding value to basic products or building regional industrial clusters as indicated by industry analysis.
- Economic benefits – The industry should have strong positive impacts on or benefits to the state and regional economies.

A target industry business may not include:

- Any industry engaged in retail activities.
- Any electrical utility company.
- Any phosphate or other solid minerals severance, mining, or processing operation.
- Any oil or gas exploration or production operation.
- Any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

The office, in consultation with Enterprise Florida, Inc., shall develop a list of such target industries annually and submit such a list as part of the final agency legislative budget request

III. Effect of Proposed Changes:

Section 1. Creates s. 380.0657, F.S., requiring the DEP or water management districts adopt an expedited ERP or WRP process for economic development projects defined as a target industry business.

Section 2. Provides that the act shall take effect July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Certain businesses identified as target industry businesses may benefit from expedited permitting offered by this bill.

C. Government Sector Impact:

The DEP states it cannot determine, analyze, or prepare for the fiscal impact of expediting ERP and wetland resource permits for target industry businesses. It is likely there will be minimal impact to the water management districts.

VI. Technical Deficiencies:

Pursuant to s. 373.4141, F.S., the DEP and water management districts shall approve or deny any ERP or WRP within 90 days from receipt of the original application, last item of timely requested additional material, or the applicant's written request to begin processing the permit application. The bill does not specify to what degree permits are to be expedited.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
