

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1503
SPONSOR(S): Aubuchon
TIED BILLS:

Management of Wastewater

IDEN./SIM. BILLS: SB 1634

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Environmental Protection</u>	<u>8 Y, 0 N</u>	<u>Deslatte</u>	<u>Kliner</u>
2) <u>Environment & Natural Resources Council</u>	<u></u>	<u>Deslatte / Perkins</u>	<u>Dixon / Hamby</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill requires the Wastewater Compliance Evaluation Section of the Department of Environmental Protection (DEP) to identify the source of any bacteria contamination which results in a health advisory that prohibits swimming in beach waters. The bill also requires the DEP, within 5 days after discovering that a wastewater facility is in violation, to notify each county and municipality within a 5-mile radius of the facility. The notice must be provided in writing for each violation discovered.

According to the DEP, complying with the bill's provisions will require the DEP to add 25 FTEs and 4 OPS positions at an expense of \$2,725,736 to implement the provisions contained within the bill. The bill does not appear to have a fiscal impact on local governments.

The bill has an effective date of July 1, 2008.

There is an amendment traveling with the bill. The amendment is described in "Section IV. Amendment/Council Substitute Changes" of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill requires the Wastewater Compliance Evaluation Section of DEP to identify the source of any bacterial contamination which results in a health advisory that prohibits swimming in beach waters. The bill also requires DEP, within five days of discovering that a wastewater facility is in violation, to notify each county and municipality within a 5-mile radius of the facility. The notice must be in writing for each violation discovered.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The DEP regulates wastewater treatment facilities in accordance with the statutory authority established in Chapter 403, F.S., and Chapter 62 of the Florida Administrative Code (FAC). The wastewater facilities that pose the greatest threat of bacteria contamination are the facilities which collect and treat sewage. The majority of these types of facilities are owned and operated by municipal governments. As part of their operating permit, these facilities are required to monitor and report effluent quality to the DEP on a regular basis. The facilities are also inspected on a routine schedule. All wastewater facilities are required to immediately report any non-compliance, including any spills from their collection system, to the DEP and provide a written report within five days indicating the corrective actions taken to correct the violation. Facilities are able to provide the required notification by calling a 24-hour, toll-free hotline operated by the State Warning Point. When a spill directly affects surface waters or if it poses a threat to the public health, then the State Warning Point and/or the DEP also notifies the Department of Health (DOH). Once properly resolved, the facility should no longer continue being a significant source of bacteria contamination.

Other significant sources of bacteria, which do not have nearly the amount of monitoring or over-sight as the DEP has over wastewater facilities, would be privately owned septic tanks, marinas and storm water runoff. These sources also pose a threat to beach waters.

The Wastewater Compliance Evaluation (WCE) Section serves to facilitate statewide coordination of compliance and enforcement activities as well as to promote better information management for the state's permitted domestic and industrial wastewater facilities. In fulfilling these roles, the WCE coordinates development and use of several wastewater information management systems. These systems are vital for tracking wastewater facility compliance and evaluating regulatory compliance for wastewater facilities on a statewide basis. These information systems include not only those specifically dedicated to tracking compliance and enforcement activities, but also those systems dedicated to maintaining an accurate inventory of wastewater facilities in the state.

Effects of Proposed Changes

The bill requires the Wastewater Compliance Evaluation Section of the DEP to identify the source of any bacteria contamination which results in a health advisory that prohibits swimming in beach waters. The bill also requires the DEP, within 5 days after discovering that a wastewater facility is in violation, to notify each county and municipality within a 5-mile radius of the facility. The notice must be provided in writing for each violation discovered.

C. SECTION DIRECTORY:

Section 1: Amends s. 514.023, F.S., requiring the Wastewater Compliance Evaluation Section of DEP to identify sewage contaminant sources when certain health advisories prohibiting swimming in beach waters are issued.

Section 2. Amends s. 514.023, F.S., requiring DEP to notify certain counties and municipalities after discovering that a wastewater facility is in violation of laws concerning pollution control.

Section 3. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

DEP:

<u>Staffing for Source Identification</u> 16 FTEs and 1 OPS (1 year)	<u>Non-recurring</u> \$528,208	<u>Recurring</u> \$1,482,420
<u>Staffing for Violation Notification</u> 9 FTEs and 3 OPS (1 year)	<u>Non-recurring</u> \$278,492	<u>Recurring</u> \$436,616
Totals:	\$806,700	\$1,919,036

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The DEP reports existing wastewater facilities must already report and promptly correct any effluent quality exceedances.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

DEP provided the following comments:

The proposed language implies that when a health advisory that prohibits swimming is issued by the Department of Health (DOH), it is always attributable to a single source domestic wastewater treatment facility (i.e. sewage treatment plant). This is not the case. Although STPs and their associated collection systems can be a source of bacteria in the environment, individually owned septic tanks, marinas, stormwater runoff and wildlife are known to be significant sources of bacteria contamination in the environment. In fact, according to DOH, the county which has had the most swim advisories or warnings in the state since 2000 is Taylor County. This is believed to be due to failing septic systems in the area of the swim advisories. In cases where STPs are the known source of sewage that results in a swim advisory, it rarely requires investigation to make that determination. That is because wastewater facilities are required to immediately report any non-compliance to the DEP and provide a written report within five days indicating the corrective actions taken to correct the violation. Non-compliance that results in bacteria contamination from a STP is usually related to an inadvertent, but significant, spill from the collection system. Spills can occur due to a variety of reasons: power failure, grease clog, aging infrastructure, etc. Immediate response to a spill by the utility is essential along with immediate notification to the appropriate state agencies. Facilities provide this required notification by calling a 24-hour, toll-free hotline operated by the State Warning Point. When a spill directly affects surface waters or if it poses a threat to the public health, then the SWP and/or DEP also notify DOH. The provision the DEP "shall" identify the source of the sewage contaminants creates a statutory requirement that, in many cases, will be impossible to meet. In many cases, the source of bacteria related to a health advisory may not be attributable to a single source but may be due to a combination of several factors (e.g. failing septic systems, stormwater runoff, wildlife, etc.) Therefore, identifying a source for all the health advisories issued every year may not be possible. According to the information provided by DOH (referenced above), they have issued, on average 600 health advisories per year in the first five years of their Healthy Beach Monitoring Program.

D. STATEMENT OF THE SPONSOR

No Sponsor Statement Submitted

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 19, 2008, the Committee on Environmental Protection passed HB 1503 favorably with a strike all amendment.

The strike all amendment requires the Wastewater Compliance Evaluation Section of the Department of Environmental Protection to investigate wastewater treatment facilities within one mile of the closed beach to determine if a waste water treatment facility experienced an incident which may have contributed to the contamination when a health advisory that prohibits swimming in beach waters is issued by the Department of Health on the basis of a finding of fecal coliform in the water sample.