Committee on Environmental Regulation

Wednesday, March 29, 2006
1:00 – 4:00 PM
212 Knott

Allan G. Bense
Speaker

Mitch Needelman
Chair

AGENDA
Environmental Regulation Committee
March 29, 2006
1:00 p.m. – 4:00 p.m.
212 Knott

I. Call to Order/Roll Call

II. Opening Remarks

III. HB 229 CS by Clarke – relating to Exploration, Production, and Storage of Petroleum and Natural Gas

IV. HB 1557 by Brummer – relating to Wekiva Onsite Disposal System Compliance Grant Program

V. HB 1307 by Sands – relating to Management of Mercury Switches in Vehicles

VI. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 229 CS Use of Land for the Exploration, Production, and Storage of Petroleum and Natural Gas
SPONSOR(S): Clarke
TIED BILLS: **IDEN./SIM. BILLS:** SB 2708

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee	11 Y, 0 N, w/CS	Lotspeich	Lotspeich
2) Environmental Regulation Committee		Perkins	Kliner
3) Agriculture & Environment Appropriations Committee			
4) State Resources Council			
5)			

SUMMARY ANALYSIS

The bill directs the Department of Environmental Protection (DEP) to contract for a study relating to risk and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems at bulk product facilities.

The bill also directs the DEP to review and compile existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria.

The DEP is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years to pay the expenses of the study relating to aboveground storage tanks.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Offshore Drilling for Oil and Natural Gas

The Outer Continental Shelf

The Outer Continental Shelf (OCS) consists of the submerged lands, subsoil, and seabed, lying between the seaward extent of the States' jurisdiction and the seaward extent of Federal jurisdiction. The continental shelf is the gently sloping undersea plain between a continent and the deep ocean. The United States OCS has been divided into four leasing regions. They are the Gulf of Mexico OCS Region, the Atlantic OCS Region, the Pacific OCS Region, and the Alaska OCS Region. In 1953, Congress designated the Secretary of the Department of Interior to administer mineral exploration and development of the entire OCS through the Outer Continental Shelf Lands Act (OCSLA). The OCSLA was amended in 1978 directing the secretary to:[1]

- conserve the Nation's natural resources;
- develop natural gas and oil reserves in an orderly and timely manner;
- meet the energy needs of the country;
- protect the human, marine, and coastal environments; and
- receive a fair and equitable return on the resources of the OCS.

State jurisdiction over the OCS is defined as follows:

- Texas and the Gulf coast of Florida are extended 3 marine leagues (approximately 9 nautical miles) seaward from the shoreline.
- Louisiana is extended 3 imperial nautical miles (imperial nautical mile = 6080.2 feet) seaward from the shoreline.
- All other States' seaward limits are extended 3 nautical miles (approximately 3.3 statute miles) seaward from the shoreline.

Federal jurisdiction over the OCS is defined under accepted principles of international law. The seaward limit is defined as the farthest of 200 nautical miles seaward of the shoreline or, if the continental shelf can be shown to exceed 200 nautical miles, a distance not greater than a line 100 nautical miles from the 2,500-meter isobath or a line 350 nautical miles from the shoreline.[2]

The OCS is a significant source of oil and gas for the nation's energy supply. The OCS supplies more than 25 percent of the country's natural gas production and more than 30 percent of total domestic oil production. The offshore areas of the United States contain the majority of future oil and gas

[1] http://www.gomr.mms.gov/homepg/whoismms/whatsocs.html
[2] http://www.gomr.mms.gov/homepg/whoismms/whatsocs.html

resources. It is estimated that 60 percent of the oil and 59 percent of the gas yet to be discovered in the United States are located on the OCS.[3]

The OCS Lands Act requires the Department of Interior (DOI) to prepare a 5-year program that specifies the size, timing and location of areas to be assessed for Federal offshore natural gas and oil leasing. It is the role of DOI to ensure that the U.S. government receives fair market value for acreage made available for leasing and that any oil and gas activities conserve resources, operate safely, and take maximum steps to protect the environment. OCS oil and gas lease sales are held on an area-wide basis with annual sales in the Central and Western Gulf of Mexico with less frequent sales held in the Eastern Gulf of Mexico and offshore Alaska. The program operates along all the coasts of the United States - with oil and gas production occurring on the Gulf of Mexico, Pacific, and Alaska and OCS.[4]

The Minerals Management Service

The Minerals Management Service (MMS), a bureau in the DOI, is the federal agency that manages the nation's natural gas, oil and other mineral resources on the OCS. The MMS also collects, accounts for and disburses more than $8 billion per year in revenues from federal offshore mineral leases. The MMS oversees two major programs: Offshore Minerals and Minerals Revenue Management. The Offshore Minerals program, which manages the mineral resources on the OCS, comprises three regions: Alaska, the Pacific, and the Gulf of Mexico.[5]

The Gulf of Mexico OCS Region is made up of three planning areas along the Gulf Coast - the Western, Central, and Eastern Gulf of Mexico Planning Areas. These areas contain 43 million acres under lease. There are 3,911 offshore production platforms active in the search for natural gas and oil on the Gulf OCS. These production facilities contribute significantly to the nation's energy supply.[6]

Eastern Gulf of Mexico Planning Area[7]

The Eastern Gulf of Mexico Planning Area extends along the Gulf's northeastern coast for some 700 miles, from Baldwin County, Alabama, southward to the Florida Keys. The area encompasses approximately 76 million acres, with water depths ranging from approximately 30 feet to nearly 10,000 feet. The area extends for more than 300 miles seaward of the state/federal boundary (9 miles off the Florida coast).

Since the late 1980's, a limited amount of OCS activity has taken place in the Eastern Gulf of Mexico Planning Area because of administrative deferrals and annual congressional moratoria.

The MMS has estimated that between 6.95 and 9.22 trillion cubic feet of natural gas and 1.57 and 2.78 billion barrels of oil and condensate are contained in the Eastern Gulf of Mexico Planning Area. Drilling for natural gas and oil has been occurring in the Eastern Gulf of Mexico offshore Alabama and Florida for more than three decades. The first of 11 natural gas and oil lease sales held offshore Florida occurred in 1959 and resulted in the issuance of 23 leases. Additional lease sales have been held periodically in the Eastern Gulf from 1973 through 2003. Currently, there are 241 active leases in the Eastern Gulf of Mexico Planning Area.

Exploratory drilling started in the Eastern Gulf of Mexico in the mid-1970's with the drilling of Destin Dome Block 162, located 40 miles south of Panama City, Florida. After two years of drilling and 15 dry holes, exploration stopped. To date, over 54 exploratory wells have been drilled in the Eastern Gulf of Mexico. Thirteen wells discovered natural gas, condensate, and crude oil.

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[3] http://www.mms.gov/offshore/
[4] http://www.mms.gov/offshore/
[5] http://www.mms.gov/aboutmms/
[6] http://www.gomr.mms.gov/homepg/offshore/gulfocs/gulfocs.html
[7] http://www.gomr.mms.gov/homepg/offshore/egom/eastern.html

Three Eastern Gulf lease sales were made in the 1980's and there was renewed industry interest in the Destin Dome area. In the late 1980's, Chevron U.S.A. and Gulfstar made natural gas discoveries in the area.

In October 1995, 73 oil and gas leases located *south* of 26° N. latitude (the approximate latitude of Naples, Florida) were returned to the federal government as part of a litigation settlement. Consequently, no active Federal natural gas and oil leases exist off southwest Florida. Likewise, no active leases exist in the Straits of Florida Planning Area or off Florida's east coast (South Atlantic Planning Area).

In 1996, a development plan was filed by Chevron U.S.A. and partners on the Destin Dome 56 Unit. On July 24, 2000, Chevron U.S.A. and partners filed a lawsuit against the U.S. government for denying the companies "timely and fair review" of plans and permits relating to the Destin Dome 56 Unit. In May 2002, the Department agreed to settle the litigation with the oil companies. The companies -- Chevron, Conoco and Murphy Oil -- relinquished seven of nine leases in the unit that were the subject of the litigation in exchange for $115 million. The remaining two leases, Destin Dome Blocks 56 and 57, are to be held by Murphy and will be suspended until at least 2012, under the terms of the agreement. Murphy agreed not to submit a development plan on the two remaining leases before 2012, the year when the current moratoria will expire. Under the terms of the agreement, the leases can not be developed unless approved by both the federal government and the State of Florida.

Unocal began the first production in the Eastern Gulf Planning Area in mid-February 1999 on Pensacola Block 881. Located approximately 12 miles offshore Alabama, this site involves the production of some 5 million cubic feet of natural gas per day.

In October 1999, Gulfstream Natural Gas Systems (ANR) and Buccaneer Gas Pipeline Company (Transco/Williams) submitted pipeline right-of-way applications to the MMS for the construction of two 400-mile (36-inch) natural gas pipelines spanning the Eastern Gulf of Mexico. The Gulfstream right-of-way was approved by MMS on June 1, 2001. This line went into service in June 2002.

In November 1996, DOI released the OCS Oil and Gas Leasing Program (1997-2002). The program included 16 lease sales, with one sale proposed for the Eastern Gulf of Mexico in 2001. The original sale area was reviewed to be consistent with the State of Florida's opposition to offshore oil and gas activities within 100 miles of its coast. The first steps in the 3-year planning process began on January 25, 1999, with the release of the Call for Interest and Information and the Notice of Intent to Prepare an Environmental Impact Statement. A draft environmental impact statement was released in December 2000 and a final EIS was made available to the public in July 2001.

In July 2001, Sale 181 was adjusted from 5.9 million acres to about 1.5 million acres or 256 blocks. The adjusted area lies more than 100 miles off the Alabama/Florida State line. Twenty-three blocks in this area were under lease at that time. Lease Sale 181 was held on December 5, 2001. MMS awarded leases on 95 tracts involving $340,474,113. Seventeen companies participated in this sale.

On December 10, 2003, Eastern Gulf of Mexico Sale 189 was held. Six companies participated in the lease sale that offered 138 blocks comprising approximately 794,880 acres offshore Alabama. The highest bid received was $2.2 million, submitted by Shell and Nexen.

In an August 22, 2005, DOI news release, it was announced that the MMS is seeking initial public comment on the development of its 2007-2012 five-year leasing plan for energy development on the OCS and accompanying environmental impact statement.[8] This includes the Eastern Gulf of Mexico Planning Area. The announcement stated:

[8] http://www.doi.gov/news/05_News_Releases/050822.htm

"The announcement is the first step in a two-year process to develop the leasing plan. It does not include proposals for new lease sales but instead asks the public for general information and comment not only on energy development but also on other economic and environmental issues in the OCS areas.

'The OCS contains billions of barrels of oil and trillions of cubic feet of natural gas that can be safely produced,' Interior Secretary Gale Norton said. 'With our reliance on imports of foreign oil climbing each year, we would be irresponsible if we did not consider how we might develop these abundant domestic resources.'

Presidential withdrawals or congressional moratoria have placed more than 85 percent of the OCS off the lower 48 states off limits to energy development.

The Bush Administration has repeatedly expressed its support for the existing moratoria, based upon deference to the wishes of the states to determine what activities take place off their coasts.

However, recent energy legislation passed by Congress calls for a comprehensive inventory and analysis of the oil and natural gas resources for all areas of the OCS.

Therefore, as MMS undertakes the process of drafting its proposal, the agency is seeking comment on the potential resources available in all areas of the OCS, recognizing that many of these areas are subject to existing moratoria and will not be fully analyzed for possible leasing. In seeking public comment, Secretary Norton reaffirmed the Bush Administration's pledge not to conduct any new leasing under the 2007-2012 five-year plan within 100 miles of Florida's coast, in the Eastern Gulf of Mexico Planning Area. MMS is also asking the public to comment specifically on whether the existing withdrawals or moratoria should be modified or expanded to include other areas in the OCS; and whether the Interior Department should work with Congress to develop gas-only leases.

The 2007-2012 OCS oil and gas leasing program will be the seventh program prepared since Congress passed the OCS Lands Act in 1978. The Act requires the Secretary of the Interior to prepare and maintain five-year programs for offshore oil and natural gas leasing. The current program runs through June 30, 2007.

Once public comment is received, MMS will develop a draft proposed program followed by a proposed program and draft EIS. The public will have an opportunity to comment on both documents.

The following is the schedule for the 2007-2012 five-year program:"

Date	Step
August 24, 2005	Solicit comments and information (Federal Register Notice)
Winter 2005	Issue draft proposed program (60-day comment period)
Summer 2006	Issue proposed program and draft EIS (90-day comment period)
Winter 2007	Issue proposed final program and final EIS (60-day waiting period)
Spring 2007	Approve five-year program for July 2007-July 2012

The Exploration and Development Process

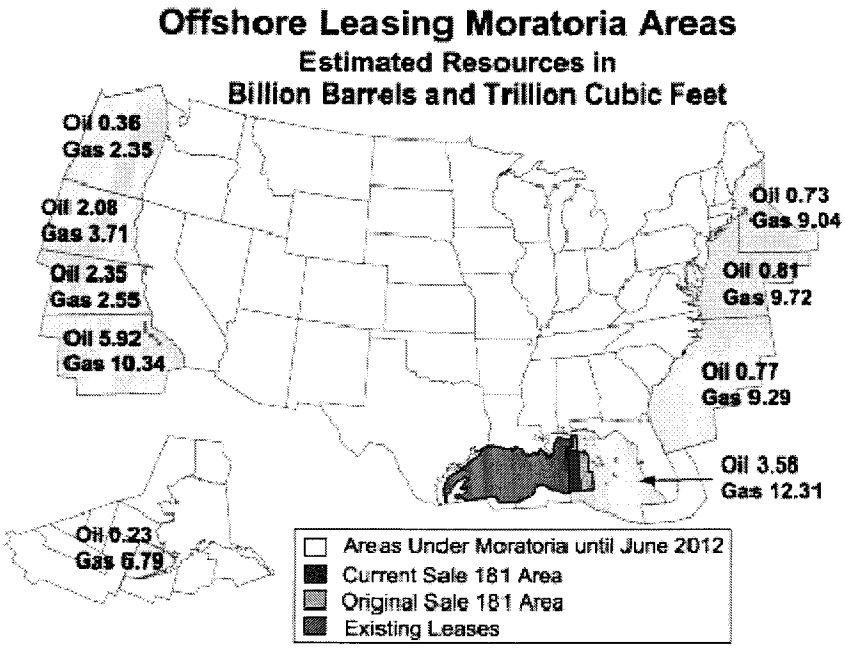
Once a company acquires a lease, the company has to prepare an exploration plan and have it approved by MMS and other federal and state agencies in order to drill a well. Typical exploration plans propose the drilling of one or more exploratory wells. The MMS conducts an environmental review of the impacts of drilling the well. Should a discovery be made, the company may then prepare and file a development plan. The exploration and development plans must be consistent with the affected state's Coastal Zone Management Plan

During exploratory drilling or production operations on the OCS, the MMS inspection program calls for MMS inspectors to review operations and periodically visit and inspect facilities to ensure clean and environmentally safe operations.

To prepare for lease sales and to protect the environment during offshore drilling operations, MMS conducts environmental studies. Several new studies are planned and/or currently underway.[9]

Federal Moratoria

Congress and past Presidents have placed moratoria on offshore drilling and development on the OCS on both the U.S. East and West Coasts. Included in the moratoria is the Eastern Gulf of Mexico. The consequence of the moratoria is to foreclose until at least 2012 any effort to explore for critical oil and gas resources that are estimated to lie beneath these areas. In response to recent sharp increases in fuel and home heating oil, several attempts have been made in Congress to limit or remove these moratoria. The map below illustrates these moratoria areas.[10]



Note: Locations of existing leases offshore California and in Eastern Gulf of Mexico are approximate and intended to be representative only.

Source: Minerals Management Service

[9] http://www.gomr.mms.gov/homepg/offshore/egom/eastern.html
[10] http://api-ep.api.org/issues/index.cfm

Current State Law

Under the provisions of Chapter 253, F.S., the Governor and Cabinet sitting as the Trustees of the Internal Improvement Trust Fund have been granted the powers and duties with regard to the control of private uses of state-owned submerged lands. These state-owned submerged lands extend waterward from the shoreline for approximately 9 miles into the Gulf of Mexico and 3 miles into Atlantic Ocean.[11] Section 253.61, F.S., expressly prohibits the Trustees from granting any "oil or natural gas *lease*" on state-owned submerged lands off the State's west coast. A similar provision in section 377.24, F.S., prohibits the DEP from issuing a *permit* "to drill a well in search of oil or gas" on the same state-owned submerged lands.

Onshore Storage of Petroleum Products

There are currently 11 ports along Florida's coast where petroleum products are shipped into the State. Each of these ports has one or more bulk petroleum storage facilities. The largest such facilities are located at Tampa (11 facilities with 162 million gallons of unleaded gasoline and 65 million gallons of diesel), Port Everglades (13 facilities with 147 million gallons of unleaded gasoline and 51.5 million gallons of diesel), Jacksonville (9 facilities with 95.5 million gallons of unleaded gasoline and 53 million gallons of diesel), Pensacola (2 facilities with 13 million gallons of unleaded gasoline and 3 million gallons of diesel), and Cape Canaveral (1 facility with 12.5 million gallons of unleaded gasoline and 5 million gallons of diesel).

Hurricane Katrina caused significant damage to bulk petroleum storage facilities along the Louisiana coast. According to the U.S. Coast Guard, Hurricane Katrina caused 6 major spills (> 100,000 gallons) at such facilities, 4 medium spills (>10,000 gallons), and 134 minor spills (< 10,000 gallons) in Louisiana. The total volume from all spills was approximately 8 million gallons. As of November 5, 2005, 3.5 million gallons had been recovered, 2 million gallons evaporated, and 2 million gallons naturally dispersed, leaving approximately 400,000 gallons to be addressed.[12]

EFFECT OF PROPOSED CHANGES

Aboveground Storage Tanks Study

The bill requires the DEP to contract for a study that evaluates the exposure risk and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems (tanks, piping, pumps, and related components) at bulk product facilities, as defined in subsection 376.031(3), F.S.

The scope of the study, at a minimum, must include:

- An evaluation of the frequency, strength, and probability estimates for hurricane winds and storm surge on those areas of Florida coasts where existing bulk product facilities are located and where new bulk product facilities are likely to be constructed.
- An evaluation of the need and timing for requirements for the establishment of minimum ballast levels for field-erected aboveground storage tanks at bulk product facilities.
- An evaluation of the need and feasibility for requirements for temporary and permanent anchoring systems.
- An evaluation of the need for potential siting considerations or engineering mitigation that would prevent or limit the installation of new field-erected aboveground storage tank systems at bulk product facilities in areas that are potentially high risk areas for hurricane winds and storm surge.

[11] Section 1, Article II, Florida Constitution
[12] http://www.uscgstormwatch.com/go/doc/1008/87976/

- Identification of all current and proposed industry standards for professionally engineered dike-fields surrounding field-erected aboveground storage tanks at bulk product facilities.

The study is to include recommendations for changes, if needed, to aboveground storage tank system laws and agency rules in order to decrease damage from hurricanes and improve recovery of field-erected aboveground storage tank systems after storm damage. All recommendations must be accompanied by a cost-benefit analysis which is to include an analysis of:

- The costs for modifying existing field-erected aboveground storage tank systems and dike fields, and the costs associated with new construction of field-erected aboveground storage tank systems and dike fields, to meet any proposed new requirements; and
- The potential adverse effect on petroleum inventory capacity in Florida resulting from any proposed new requirements. All industry segments with field-erected aboveground storage tanks shall be included in the petroleum inventory capacity analysis (e.g. petroleum, electric utility, etc.).

The department is required to report the findings and recommendations of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2008.

The DEP is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years to pay the expenses of the study.

Environmental Impacts from Oil and Natural Gas Drilling in the Eastern Gulf of Mexico

The bill also requires the DEP to review and compile existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria.

The bill requires the DEP to immediately request from the appropriate state agencies and private research institutes all available data and information needed by DEP to complete the evaluation. The appropriate state agencies must submit the data and information to the department at the earliest possible date. Private research institutes that may have such data and information are encouraged to submit relevant data and information to DEP to the maximum extent practicable. The DEP's effort are also to include data and information available through appropriate federal executive branch agencies.

The DEP's evaluation must take into consideration current technologies for controlling discharges from oil and gas exploration rigs and production platforms, and must include, but need not be limited to:

- Evaluating the probability of a discharge from oil and gas exploration rigs and production platforms.
- Evaluating the magnitude of any probable discharge from oil and gas exploration rigs and production platforms.
- Evaluating Gulf of Mexico currents and circulation patterns and the likelihood of any probable discharge reaching Florida's coastal waters and shorelines.
- Evaluating the environmental impacts of any probable discharge on the fish and wildlife resources in Florida's coastal waters.

The DEP is required to present to the Governor, the President of the Senate, and the Speaker of the House of Representatives the results of its evaluation within 120 days after the effective date of the act.

C. SECTION DIRECTORY:

Section 1. Directs the DEP to contract for a study relating to risk and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems at bulk product facilities.

Section 2. Provides an appropriation for the study required by Section 1.

Section 3. Directs the DEP to review and compile existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   The DEP is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years to pay the expenses of the study relating to aboveground storage tanks as provided for in Section 1 of the 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, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

The bill does not require the promulgation of rules by nor alter the rulemaking authority of any state agency.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Water and Natural Resources Committee adopted a strike-all amendment to HB 229. The strike-all amendment makes the following changes to the bill:

- Directs the DEP to contract for a study that evaluates the exposure risk and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tanks at bulk product facilities.
- Provides that the DEP is authorized to use up to $250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years to pay the expenses of the study relating to aboveground storage tanks .
- Directs the DEP to review and compile existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria.

This analysis has been revised to reflect the strike-all amendment.

CHAMBER ACTION

The Water & Natural Resources Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the exploration, production, and storage of petroleum and natural gas; directing the Department of Environmental Protection to contract for a study of exposure risks and potential adverse effects of hurricane wind and storm surge on field-erected aboveground storage tank systems at bulk product facilities; providing requirements for the scope of the study; providing an appropriation from the Inland Protection Trust Fund for the cost of the study; directing the department to compile and review existing data and information relating to environmental risks associated with oil and natural gas exploration and production in the eastern Gulf of Mexico; providing requirements and criteria for the evaluation of such risks; requiring the department to submit a report to the Governor and the Legislature; providing an effective date.

24 Be It Enacted by the Legislature of the State of Florida:
25
26 Section 1. Study of exposure risks and potential adverse
27 effects of hurricane wind and storm surge on field-erected
28 aboveground storage tank systems at bulk product facilities.--
29 (1) The Department of Environmental Protection shall
30 contract for a study to evaluate the exposure risks and
31 potential adverse effects of hurricane wind and storm surge on
32 field-erected aboveground storage tank systems, including tanks,
33 piping, pumps, and related components, at bulk product
34 facilities as defined in s. 376.031(3), Florida Statutes. The
35 study's scope shall include, but need not be limited to:
36 (a) Evaluating the frequency, strength, and probability
37 estimates for hurricane winds and storm surge on the coastal
38 areas of the state where existing bulk product facilities are
39 located and where new bulk product facilities are likely to be
40 constructed.
41 (b) Evaluating the need and timing for requirements for
42 the establishment of minimum ballast levels for field-erected
43 aboveground storage tanks at bulk product facilities based on
44 the frequency, strength, and probability estimates for hurricane
45 winds and storm surge, and based on levels calculated by a
46 professional engineer specific to each individual field-erected
47 aboveground storage tank, taking into account the type of tank,
48 the type of product stored, tank diameter, tank height, and
49 other relevant factors.
50 (c) Evaluating the need and feasibility for requirements
51 for:

52 1. Professionally engineered permanent anchoring systems
53 for field-erected aboveground storage tanks in high-risk surge
54 zones.
55 2. Professionally engineered temporary cable tie-down
56 systems, which could be preconstructed or prefabricated and
57 retained in storage until needed, that would not interfere with
58 normal daily operations and that could be set up in advance of
59 an approaching storm.
60 (d) Evaluating the need for potential siting
61 considerations or engineering mitigation that would prevent or
62 limit the installation of new field-erected aboveground storage
63 tank systems at bulk product facilities in areas that are
64 potentially high-risk areas for hurricane winds and storm surge
65 unless the systems are designed and engineered to withstand
66 hurricane winds and storm surge.
67 (e) Identifying all current and proposed industry
68 standards for professionally engineered dike fields surrounding
69 field-erected aboveground storage tanks at bulk product
70 facilities, including standards for materials and designs that
71 will withstand hurricane winds and storm surges yet allow access
72 for emergency firefighting vehicles in accordance with industry
73 reference standards contained in National Fire Protection
74 Association publication NFPA No. 30.
75 (2) The study shall include recommendations for changes,
76 if needed, to aboveground storage tank system laws and agency
77 rules in order to decrease damage from hurricanes and improve
78 recovery of field-erected aboveground storage tank systems after

79 storm damage. All recommendations shall be accompanied by a
80 cost-benefit analysis, which shall include an analysis of:
81 (a) The costs for modifying existing field-erected
82 aboveground storage tank systems and dike fields, and the costs
83 associated with new construction of field-erected aboveground
84 storage tank systems and dike fields, to meet any proposed new
85 requirements.
86 (b) The potential adverse effect on petroleum inventory
87 capacity in the state resulting from any proposed new
88 requirements. All industry segments with field-erected
89 aboveground storage tanks, including, but not limited to, those
90 used for petroleum and electric utility, shall be included in
91 the petroleum inventory capacity analysis.
92 (3) The department shall report the findings and
93 recommendations of the study to the Governor, the President of
94 the Senate, and the Speaker of the House of Representatives by
95 March 1, 2008.
96 (4) The Department of Environmental Protection is
97 authorized to use up to $250,000 from the Inland Protection
98 Trust Fund for the 2006-2007 and 2007-2008 fiscal years for the
99 cost of the study set forth in this section.
100 Section 2. Compilation and review of existing data and
101 information relating to environmental risks associated with oil
102 and natural gas exploration and production in the eastern Gulf
103 of Mexico.--
104 (1) The Department of Environmental Protection shall
105 compile and review existing data and information to evaluate the
106 environmental risks from all activities associated with the

107 possible future exploration for and production of oil and
108 natural gas in the eastern Gulf of Mexico currently subject to
109 federal moratoria. The department shall immediately request from
110 the appropriate state agencies and private research institutes
111 all available data and information necessary to complete this
112 task. The appropriate state agencies must submit the data and
113 information to the department at the earliest possible date, and
114 private research institutes are encouraged to submit relevant
115 data and information to the maximum extent practicable. The
116 department's effort shall include data and information available
117 through appropriate federal executive branch agencies. To the
118 maximum extent practicable, the department's efforts shall take
119 into consideration current technologies for controlling
120 discharges from oil and gas exploration rigs and production
121 platforms and shall include, but need not be limited to:
122 (a) Evaluating the probability of a discharge from oil and
123 gas exploration rigs and production platforms.
124 (b) Evaluating the magnitude of any probable discharge
125 from oil and gas exploration rigs and production platforms.
126 (c) Evaluating the Gulf of Mexico currents and circulation
127 patterns and the likelihood of any probable discharge's reaching
128 the coastal waters and shorelines of the state.
129 (d) Evaluating the environmental impacts of any probable
130 discharge on the fish and wildlife resources in the coastal
131 waters of the state.
132 (2) The department shall report the findings of the
133 evaluation to the Governor, the President of the Senate, and the

134 Speaker of the House of Representatives within 120 days after
135 the effective date of this act.
136 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1557 Wekiva Onsite Disposal System Compliance Grant Program
SPONSOR(S): Brummer
TIED BILLS: **IDEN./SIM. BILLS:** SB 1794

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee		Kliner	Kliner
2) Health Care Appropriations Committee			
3) State Resources Council			
4)			
5)			

SUMMARY ANALYSIS

This bill creates the Wekiva Onsite Disposal System Compliance Grant Program in the Department of Health (DOH). The program would provide grants of up to $10,000 per property to low-income property owners who are using onsite sewage treatment disposal systems in the Wekiva Study Area or the Wekiva River Protection Area. The purpose of the grant program is to assist the property owners in complying with rules developed by DOH, the Department of Environmental Protection (DEP), or the St. Johns Water Management District to enforce compliance with onsite disposal system standards.

The bill allows any property owner in the identified areas with an income less than or equal to 200 percent of the federal poverty level (FPL)[1] to qualify for the grant to offset the cost of constructing, reconstructing, altering, repairing, or modifying any new or existing onsite disposal system to comply with adopted rules. The bill specifies that the grant is in the form of a rebate to the property owner for documented costs associated with complying with the adopted rules.

The bill also authorizes DOH to adopt rules for creating forms, implementing procedures, and establishing requirements for the application process and for disbursing grants under this bill and for documenting compliance costs incurred by the property owner.

The bill appropriates an unspecified amount of General Revenue funds to DOH to provide grants to applicants under the program.

[1] The benchmark should refer to the federal poverty guidelines, not the federal poverty levels.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: This bill creates a grant program in DOH that will increase workload and costs for DOH.

The bill provides property owners in the identified areas with an income less than or equal to 200 percent of the federal poverty level to qualify for the grant to offset the cost of constructing, reconstructing, altering, repairing, or modifying any new or existing onsite disposal system.

Promote personal responsibility: The grant program is to assist certain property owners in defraying costs associated with updating, replacing, repairing, or replacing onsite waste disposal systems in the Wekiva River protection Area.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Federal Clean Water Act and Wastewater Discharge

The federal Water Pollution Control Act of 1972, commonly referred to as the Clean Water Act (CWA)[2], established the basic framework for pollution control in the nation's water bodies. Its primary goal was to have the nation's water bodies clean and useful. By setting national standards and regulations for the discharge of pollution, the CWA was intended to restore and protect the health of the nation's water bodies.

The CWA established the foundation for wastewater discharge control in the United States. According to the Environmental Protection Agency, (EPA) the CWA's primary objective is to "restore and maintain the chemical, physical and biological integrity of the nation's waters."[3] The CWA established a control program for ensuring that communities have clean water by regulating the release of contaminants into our country's waterways. Permits that limit the amount of pollutants discharged are required of all municipal and industrial wastewater dischargers under the National Pollutant Discharge Elimination System (NPDES) permit program. In addition, a construction grants program was set up to assist publicly owned wastewater treatment works build the improvements required to meet these new limits.

According to the EPA, over 75 percent of the nation's population is served by centralized wastewater collection and treatment systems. The remaining population uses septic or other onsite systems. Approximately 16,000 municipal wastewater treatment facilities are in operation nationwide. The CWA requires that municipal wastewater treatment plant discharges meet a minimum of 'secondary treatment'. Over 30 percent of the wastewater treatment facilities today produce cleaner discharges by providing even greater levels of treatment than secondary.

Central Wastewater Collection and Treatment[4]

The most common form of pollution control in the United States consists of a system of sewers and wastewater treatment plants. The sewers collect municipal wastewater from homes, businesses, and industries and deliver it to facilities for treatment before it is discharged to water bodies or land, or reused. Conventional wastewater collection systems transport sewage from homes or other sources

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[2] Public Law 92-500
[3] http://www.epa.gov/owm/primer.pdf
[4] EPA primer on municipal systems at http://www.epa.gov/owm/primer.pdf

by gravity flow through buried piping systems to a central treatment facility. These systems are usually reliable and consume no power. However, the slope requirements to maintain adequate flow by gravity may require deep excavations in hilly or flat terrain, as well as the addition of sewage pump stations, which can significantly increase the cost of conventional collection systems. Manholes and other sewer appurtenances also add substantial costs to conventional collection systems.

Cities began to install wastewater collection systems in the late nineteenth century because of an increasing awareness of waterborne disease and the popularity of indoor plumbing and flush toilets. In the year 2000 approximately 208 million people in the U.S. were served by centralized collection.

On-site Systems

Generally, septic systems are used to treat and dispose of relatively small volumes of wastewater, usually from houses and businesses that are located relatively close together. Septic systems are also called onsite wastewater treatment systems, decentralized wastewater treatment systems, on-lot systems, individual sewage disposal systems, cluster systems, package plants, and private sewage systems. Systems are considered "decentralized" because they do not involve central wastewater collection and treatment.

According to the EPA, the typical septic treatment system includes a septic tank, which digests organic matter and separates matter that floats (e.g., oils and grease) and settling solids from the wastewater. Soil-based systems discharge the liquid (effluent) from the septic tank into a series of perforated pipes buried in a leach field, leaching chambers, or other special units designed to slowly release the effluent into the soil or surface water, sometimes referred to as a drainage field.

Alternative systems use pumps or gravity to help septic tank effluent trickle through sand, organic matter (e.g., peat, sawdust), constructed wetlands, or other media to remove or neutralize pollutants like disease-causing pathogens, nitrogen, phosphorus, and other contaminants. Some alternative systems are designed to evaporate wastewater or disinfect it before it is discharged to the soil or surface waters.[5] The EPA developed guidelines to assist communities in establishing comprehensive management programs for onsite/decentralized wastewater systems to improve water quality and protect public health. The voluntary guidelines address the sensitivity of the environment in the community and the complexity of the system used. The five model management programs are:

- System inventory and awareness of maintenance needs.
- Management through maintenance contracts.
- Management through operating permits.
- Utility operation and maintenance.
- Utility ownership and management.[6]

According to the U.S. Census Bureau, approximately 26 million homes (one-fourth of all homes) in America are served by decentralized wastewater treatment systems. The Census Bureau reports that the distribution and density of septic systems vary widely by region and state, from a high of about 55 percent in Vermont to a low of around 10 percent in California. The New England states have the highest proportion of homes served by septic systems: New Hampshire and Maine both report that about one-half of all homes are served by individual systems. More than one-third of the homes in the southeastern states depend on these systems, including approximately 48 percent in North Carolina and about 40 percent in both Kentucky and South Carolina. More than 60 million people in the nation are served by septic systems. About one-third of all new development is served by septic or other decentralized treatment systems.[7] According to the Florida Department of Health, 31 percent of the Florida population is served by an estimated 2.3 million onsite sewage treatment and disposal systems

[5] http://cfpub2.epa.gov/owm/septic/home.cfm - Frequently Asked Questions
[6] http://www.epa.gov/owm/septic/pubs/septic_guidelines_factsheet.pdf
[7] http://cfpub2.epa.gov/owm/septic/faqs.cfm?program_id=70#358

(OSTDS). These systems discharge over 426 million gallons of treated effluent per day into the subsurface soil environment.[8]

In Florida, the effect of waste disposal, whether through an on-site system or a centralized system, will implicate laws relating to the Total Maximum Daily Load Program (TMDL), which describes the amount of each pollutant a water body can receive without violating state water quality standards.

TMDL Program

Section 305(b) of the CWA requires states to submit to Congress a biennial report on the water quality of their lakes, streams, and rivers. A partial list of water bodies that qualify as "impaired" (i.e., do not meet specific pollutant limits for their designated uses) must be submitted to the U.S. Environmental Protection Agency (EPA) under section 303(d) of the CWA. States are required to develop total maximum daily loads (TMDL) for each pollutant that exceeds the legal limits for that water body. Section 303(d) and the development of TMDLs were generally ignored by the states until numerous lawsuits were filed by environmental groups.[9]

Currently, DEP develops and implements TMDLs through a watershed-based management approach that addresses the state's 52 major hydrologic basins into five groups. Each basin group is subject to a five phase TMDL cycle on a rotating basis. Phase 1 is a preliminary evaluation of the quality of a water body, phase two is monitoring and assessing to verify water quality impairments, phase 3 is the development and adoption of TMDLs for waters verified as impaired, phase 4 is the development of basin management action plans to achieve the TMDL, and phase 5 is the implementation of the plan and monitoring of results.

In the 2005 Regular Session, the TMDL program was amended to authorize DEP to develop basin management action plans (BMAP) as part of the development and implementation of a TMDL for a water body. The law requires plans to integrate appropriate management strategies available to the state through existing water quality protection programs to achieve the TMDL, restore designated uses of the water body, provide for phased implementation of strategies, establish a schedule for implementing strategies, establish a basis for evaluating the plan's effectiveness, identify feasible funding strategies, and equitably allocate pollutant reductions to basins as a whole or to each point or non-point source. The bill provides that plans may provide pollutant load reduction credits to pollution dischargers that have implemented strategies to reduce pollutant loads.[10]

The law creates incentives to participate in the BMAP process and establishes a more direct linkage between the actions specified in the BMAP and activities regulated by DEP. Consistent with the existing provisions in s. 403.067, F. S., non-point sources are still managed through a non-regulatory, incentive-based program. However, in order to promote the same predictable pollution reduction performance among non-regulated entities as exists for permitted entities, the law provides the following:

- Non-regulated activities are not eligible for the incentives associated with the presumption of compliance with state water quality standards and the waiver of liability for pollution if adopted best management practices are not properly and timely implemented.
- Non-regulated activities that choose not to implement adopted best management practices must demonstrate compliance with applicable water quality standards.
- DEP is authorized to take enforcement actions where a party fails to properly implement best management practices or provide data demonstrating compliance with water quality standards.

[8] http://www.doh.state.fl.us/environment/ostds/intro.htm
[9] Florida implements the TMDL program in s. 403.067, Florida Statutes.
[10] House of Representatives State Resources Council Staff Analysis for CS/HB 1839, 2005 Regular Session

The Wekiva River Basin

The Wekiva Basin, consisting of the Wekiva River, the St. Johns River, and their tributaries, along with associated lands in central Florida, is part of a wildlife corridor that connects northwest Orange County with the Ocala National Forest. The Wekiva River and its tributaries have been designated an Outstanding Florida Water, a National and Scenic River, a Florida Wild and Scenic River, and a Florida Aquatic Preserve. The river is a spring-fed system associated with 19 springs that are connected to the Florida Aquifer. Eleven of these springs are second and third magnitude springs, meaning those springs discharge 10 to 100 cubic feet of water per second or 1 to 10 cubic feet of water per second, respectively.

The Wekiva Basin Area Task Force

On September 26, 2002, Governor Bush established the "Wekiva Basin Area Task Force" in order to balance the transportation needs associated with this projected growth and protection of the Wekiva Basin.[11] The task force was charged with evaluating and providing recommendations for appropriate highway routes connecting State Road 429 to Interstate 4 (while providing the greatest protection to the Wekiva Basin), in addition to evaluating and providing recommendations for the potential expansion of roads and corridors within the Wekiva Basin. The task force was charged with considering, among other issues, land acquisition, springshed protection, innovative road design, protection of rural character, protection of habitat, utilization of financial resources, and the adequacy of local governments relating to transportation corridors.[12] The Task Force completed its work in 2003, and provided over a dozen recommendations in its final report. Legislation to implement the Task Force's recommendations was considered during the 2003 Legislative Session, but did not pass.[13]

The Wekiva Parkway and Protection Act of 2004 (Ch. 2004-384, L.O.F.)

On July 1, 2003, Governor Bush issued Executive Order No. 03-112, creating a 28-member Wekiva River Basin Coordinating Committee. Membership of the committee included the Commissioner of Agriculture, the Secretaries of the Department of Community Affairs, the Department of Environmental Protection, and the Department of Transportation, the Executive Directors of the St. Johns River Water Management District (SJRWMD), the Florida Fish and Wildlife Conservation Commission, and the East Central Florida Regional Planning Council. The Committee also included eight appointed individuals with balanced representation from citizen groups, the agricultural community, property owners, and environmental or conservation organizations.

The Committee was charged with considering the recommendations of the Wekiva Basin Area Task Force, and to consider the use of innovative planning and development strategies, such as rural land stewardship and other mechanisms for concentrating development in appropriate areas, and the use of the latest science-based information and methods, performance-based-planning strategies, and development standards. In addition, the Committee was to address issues of compatibility with the existing comprehensive plans and land development regulations of those local governments with jurisdiction over lands located within the Wekiva River Protection Area.[14]

The Wekiva River Basin Coordinating Committee issued its final report on March 16, 2004. The Committee's recommendations were adopted and passed into law (ch. 2004-384, L.O.F.). The law created part III of ch. 369, F.S., consisting of ss. 369.314-369.324, F.S., as the Wekiva Parkway and Protection Act. Some of the major provisions of the law include:

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[11] See Executive Order No. 2002-259.

[12] Wekiva Basin Area Task Force, Final Report: Recommendations for Planning and Locating the Wekiva Parkway While Preserving the Wekiva River Basin Ecosystem, January 15, 2003. See links at http://www.dca.state.fl.us/fdcp/dcp/wekiva/wekivatf/index.cfm

[13] CS/SB 1956 passed the Senate, however, HB 1333 died in committee.

[14] Executive Order Number 03-112, July 1, 2003, may be found at http://www.dep.state.fl.us/secretary/news/2003/july/0701_eo.htm

- Statements of legislative findings and intent.
- A legal description of the Wekiva Study Area, including the majority of the land within the Wekiva Study Area which contributes groundwater recharge to the Wekiva River and springs (counties and municipalities located within the Wekiva Study Area include: Lake County and the municipalities of Eustis and Mount Dora; Orange County and the municipalities of Apopka, Eatonville, Maitland, Oakland, Ocoee, Orlando and Winter Garden; and Seminole County and the municipalities of Lake Mary, Longwood and Altamonte Springs).
- Guiding principles for the Wekiva Parkway Design Features and Construction.
- A requirement that the Department of Transportation (DOT), the Department of Environmental Protection (DEP), the St. Johns River Water Management District, the Orlando-Orange County Expressway Authority, and other land acquisition entities cooperate and establish funding responsibilities and partnerships by agreement, to the extent funds are available to the various entities, to develop the Wekiva Study Area.
- A requirement that DOT, subject to an appropriation by the Legislature, purchase lands in the Wekiva Study Area necessary for the construction of the Wekiva Parkway and the preservation of environmentally sensitive lands.
- Requirements for several studies and rule making related to the development and protection of the Wekiva Study Area, including looking at methods to reduce nitrates from leeching into the watershed from onsite sewage treatment and disposal systems.

Wekiva Basin Onsite Sewage Treatment and Disposal System Study

Within the Wekiva Parkway and Protection Act, several studies are listed. One of the studies required DOH, in consultation with DEP, to study the efficacy and applicability of onsite disposal system standards needed to achieve nitrogen reductions protective of groundwater quality within the Wekiva Study Area including publicly owned lands and report to the Governor and the Department of Community Affairs. The Department of Health published the Wekiva Basin Onsite Sewage Treatment and Disposal System Study report on December 1, 2004.[15]

The study found that the Wekiva Study Area is underlaid by a karst geology characterized by limestone or dolostone bedrock with caves and springs. The report states that onsite sewage treatment and disposal systems have been used for many years as a relatively low maintenance, low cost method of safely treating and disposing of human waste, and that there are an estimated 87,000 septic tanks used for onsite sewage disposal by property owners in the Wekiva Study Area. The typical, conventional onsite sewage treatment and disposal system consists of a septic tank distribution piping, and drainfield.[16] The treatment process begins in the septic tank. The septic tank is designed to skim off fats, oils, and greases; settle out the larger solids; and partially treat the sewage through breakdown by anaerobic bacteria. The waste then leaves the tank through the distribution piping and is distributed into the soil by the drainfield. Unsaturated soil surrounding the drainfield is extremely effective at removing disease-causing viruses, bacteria, and parasites.

The study concluded that in areas where development densities are low, the overall costs of onsite sewage treatment and disposal systems are less than a central sewer system and that onsite sewage treatment and disposal systems can provide protection of the environment and the public health that is comparable to a central sewer system.[17]

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[15] http://www.doh.state.fl.us/environment/ostds/wekiva/wekivastudyrtp.pdf

[16] According to the report, a family of four will discharge approximately 25 pounds of nitrogen per year into the drainfield of a conventional onsite sewage treatment and disposal system. A conventional system costs from $5,500 to $7,500. A comparable system that also reduces nitrates costs from $7,500 to $9,000.

[17] The report considered utilizing a more stringent level of wastewater treatment, including, but not limited to, the use of multiple tanks to combine aerobic and anaerobic treatment to reduce the level of nitrates.

Based on these findings, DOH provided the following recommendations:

- Set a discharge limit of 10 milligrams per liter of total nitrogen for new systems, systems being modified, and for existing systems in the primary and secondary Wekiva Study Area protection zones.
- Prohibit the land spreading of septage (raw, untreated solids and liquids) and grease trap waste in the Wekiva Study Area. Septage waste would be required to be disposed of at wastewater treatment plants.
- Evaluate the economic feasibility of sewering versus nutrient removal upgrades to existing onsite sewage treatment and disposal systems. A phased-in approach to replacing the remaining existing systems should be developed with a target completion date of 2010.
- Establish new regional wastewater management entities or modify existing ones to oversee the maintenance of all wastewater discharged from onsite sewage treatment and disposal systems in the study area. These programs should take the privatization approach and contract with existing licensed septic tank contractors.

Proposed Rule 64E-6.001

In June 2005, based on the recommendations of the Wekiva Basin Onsite Sewage Treatment and Disposal System Study, DOH proposed a rule to limit nitrogen input from onsite sewage treatment and disposal systems within the Wekiva Study Area to 10 mg/L. The rule language was modified and republished in November 2005. The proposed rule came under considerable opposition from those who questioned the findings and recommendations in the study, including property owners and builders. Specifically, stakeholders raised concerns whether sufficient data exists on the extent to which onsite sewage treatment and disposal systems directly contribute to increased nitrogen levels in the Wekiva watershed. Based on the lack of a causal link between the systems and nitrogen levels, they argue that the cost of upgrading or replacing conventional systems is not justified.

Further, in a letter dated March 1, 2006, the chair of DOH's Technical Review and Advisory Panel (TRAP)[18] reported that the proposed rule could affect up to 55,000 existing homes and any new construction in the Wekiva Study Area. TRAP estimates that the cost of installing a nitrogen reduction system could be up to $15,000 per household, and a capital/operating/maintenance cost of $189 a month. In the letter, the TRAP panel made the following comments and recommendations regarding the Wekiva and OSTDS:

- The Legislature should appropriate the necessary monies to fund a study to be conducted by the state to identify and quantify the various sources of nitrogen within the Wekiva Study Area (as it is typically done in determining appropriate solutions) and to identify cost-effective options for reducing source impacts. In this regard, the TRAP voted to support legislation during the 2006 legislative session to achieve funding for such outcomes.
- Suggested to the Department of Health to bring back a model proposal for a statewide operation and maintenance program for OSTDS.
- Expressed support for a mandatory once every 5-years pump out of all OSTDS within the Wekiva Study Area and upgrading of all failing systems to present standards if state monies were made available for such upgrades.
- Agreed to assemble a work group to come up with other recommendations or alternatives for improvements in OSTDS that could result in overall reduction of nitrogen from these systems.

[18] The Technical Review and Advisory Panel (TRAP) is established in s. 381.0068, F.S., for the purpose of assisting DOH in rulemaking and decision making that affects the regulation, location, and technology of onsite sewage treatment and disposal systems in Florida.

Federal Poverty Threshold

There are two slightly different versions of the federal poverty measure:

- The poverty thresholds, and
- The poverty guidelines.

The poverty thresholds are the original version of the federal poverty measure. They are updated each year by the Census Bureau. The thresholds are used mainly for statistical purposes — for instance, preparing estimates of the number of Americans in poverty each year. (In other words, all official poverty population figures are calculated using the poverty thresholds, not the guidelines.) Poverty thresholds since 1980 and weighted average poverty thresholds since 1959 are available on the Census Bureau's Web site.
The poverty guidelines are the other version of the federal poverty measure. They are issued each year in the Federal Register by the Department of Health and Human Services (HHS). The guidelines are a simplification of the poverty thresholds for use for administrative purposes — for instance, determining financial eligibility for certain federal programs.[19]

2005 HHS Poverty Guidelines

Persons in Family Unit	48 Contiguous States and D.C.	Alaska	Hawaii
1	$ 9,570	$11,950	$11,010
2	12,830	16,030	14,760
3	16,090	20,110	18,510
4	19,350	24,190	22,260
5	22,610	28,270	26,010
6	25,870	32,350	29,760
7	29,130	36,430	33,510
8	32,390	40,510	37,260
For each additional person, add	3,260	4,080	3,750

SOURCE: *Federal Register*, Vol. 70, No. 33, February 18, 2005, pp. 8373-8375.

Effects of Proposed Changes

This bill creates the Wekiva Onsite Disposal System Compliance Grant Program in the Department of Health (DOH). The program would provide grants of up to $10,000 per property to low-income property owners who are using onsite sewage treatment disposal systems in the Wekiva Study Area or the Wekiva River Protection Area. The purpose of the grant program is to assist the property owners in complying with rules developed by DOH, the Department of Environmental Protection (DEP), or the St. Johns Water Management District to enforce compliance with onsite disposal system standards.

[19] http://aspe.hhs.gov/poverty/05poverty.shtml The poverty guidelines are sometimes loosely referred to as the "federal poverty level" (FPL), but that phrase is ambiguous and should be avoided, especially in situations (e.g., legislative or administrative) where precision is important.

The bill allows any property owner in the identified areas with an income less than or equal to 200 percent of the federal poverty level (FPL) to qualify for the grant to offset the cost of constructing, reconstructing, altering, repairing, or modifying any new or existing onsite disposal system to comply with adopted rules. The bill provides that the grant shall be in the form of a rebate to the property owner for documented costs associated with complying with the adopted rules.

The bill also authorizes DOH to adopt rules for creating forms, implementing procedures, and establishing requirements for the application process and for disbursing grants under this bill and for documenting compliance costs incurred by the property owner.

The bill appropriates an unspecified amount of General Revenue funds to DOH to provide grants to applicants under the program.

C. SECTION DIRECTORY:

Section 1. Creates the Wekiva Onsite Disposal System Compliance Grant Program in DOH and specifies that:

- The purpose of the program is to provide grants to low-income property owners in the Wekiva Study Area or the Wekiva River Protection Area using onsite disposal systems to comply with regulatory rules for onsite disposal systems.
- The grants may go to any property owner in this area with an income less than or equal to 200 percent of the FPL for the purpose of constructing, reconstructing, altering, repairing, or modifying any new or existing onsite disposal system in order to comply with regulatory rules.
- The amount of the grant is limited to $10,000 per property and the amount will be adjusted for inflation each calendar year.
- The grant shall be in the form of a rebate to the property owner for costs incurred in complying with requirements for such systems.
- The Department of Health shall adopt rules providing forms, procedures, and requirements for applying for and disbursing grants under the program.

Section 2. Appropriates an unspecified amount of General Revenue funds to DOH to administer the program and provide grants to applicants under the program.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures:

DOH	FY 06-07	FY 07-08
	$258,794	$257,307

DOH reports it requires an Environmental Health Program Consultant (SES Pay Grade 425) to administer the program. The base bi-weekly salary for this position would be $1,640.55 (or a base of $42,654.30 annually), with benefits. To administer the grant program there would be recurring costs including application reviews, grant disbursements, mailing, and travel.

The anticipated amount needed for the grant program is based on the current number of repair permits annually in the Wekiva Study Area (583) and percentage of Orange County residents at

200 percent of the federal poverty level from the 2000 census (31.1 percent) for a total of 182 grants per year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Low-income private property owners' costs associated with installing new or modifying existing onsite sewage treatment and disposal systems would be offset by a grant award.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

B. RULE-MAKING AUTHORITY:

The bill authorizes the DOH to adopt rules providing forms, procedures and requirements for applying for grants, and to adopt rules for the department to disburse funds and to document compliance costs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The term "poverty guidelines" are sometimes loosely referred to as the "federal poverty level" as is used in the bill. The guidelines, however, is a statement of financial eligibility for assistance programs while the poverty level is a measurement of overall numbers of persons who fall into that threshold. Staff recommends a clarifying amendment to change "poverty level" in the bill for "poverty guidelines."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

1 A bill to be entitled
2 An act relating to the Wekiva Onsite Disposal System
3 Compliance Grant Program; creating the program in the
4 Department of Health; providing purposes; authorizing
5 certain property owners in certain areas of the Wekiva
6 basin to apply for grants for certain purposes; providing
7 grant limitations; providing for annual adjustments of the
8 amount of the grants; providing for the grant as a rebate
9 of costs incurred; requiring documentation of costs;
10 requiring the department to adopt rules to administer the
11 grant program; providing an appropriation; providing an
12 effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Wekiva Onsite Disposal System Compliance Grant
17 Program.--
18 (1) The Wekiva Onsite Disposal System Compliance Grant
19 Program is established in the Department of Health, to be
20 administered by the department. The purpose of the program is to
21 provide grants to low-income property owners in the Wekiva Study
22 Area or the Wekiva River Protection Area using onsite disposal
23 systems to assist the property owner in complying with rules for
24 onsite disposal systems developed by the Department of Health,
25 the Department of Environmental Protection, or the St. Johns
26 River Water Management District to enforce compliance with
27 onsite disposal system standards.

28 (2) Any property owner in the Wekiva Study Area or the
29 Wekiva River Protection Area having an income less than or equal
30 to 200 percent of the federal poverty level who is required by
31 rule of the Department of Health, the Department of
32 Environmental Protection, or the St. Johns River Water
33 Management District to construct, reconstruct, alter, repair, or
34 modify any new or existing onsite disposal system on such
35 property may apply to the Department of Health for a grant to
36 assist the owner with the cost of compliance.
37 (3) The amount of the grant is limited to $10,000 per
38 property and shall be increased each calendar year by the change
39 in the annual average of the "materials and components for
40 construction" series of the producer price index, as calculated
41 and published by the United States Department of Labor, Bureau
42 of Statistics, from the previous calendar year.
43 (4) The grant shall be in the form of a rebate to the
44 property owner for costs incurred in complying with requirements
45 for onsite disposal systems. The property owner shall provide to
46 the Department of Health in the application for a grant
47 documentation of costs incurred in complying with requirements
48 for such systems.
49 (5) The Department of Health shall adopt rules providing
50 forms, procedures, and requirements for applying for and
51 disbursing grants under this section and for documenting
52 compliance costs incurred.
53 Section 2. The sum of $ is appropriated from the
54 General Revenue Fund to the Department of Health of which $
55 is to the department to administer the Wekiva Onsite Disposal

56 System Compliance Grant Program and $ is to provide
57 grants to applicants under the program.
58 Section 3. This act shall take effect July 1, 2006.

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Environmental Regulation
2 Representative(s) Brummer offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause, and insert:
6 Section 1. Wekiva Onsite Sewage Treatment and Disposal
7 System Compliance Grant Program.--
8 (1) The Wekiva Onsite Sewage Treatment and Disposal System
9 Compliance Grant Program is created within the Department of
10 Health, to be administered by the Department of Health. The
11 purpose of the program is to provide grants to low-income
12 property owners in the Wekiva Study Area or the Wekiva River
13 Protection Area using onsite sewage treatment and disposal
14 systems to assist the property owner in complying with rules for
15 onsite sewage treatment and disposal systems developed by the
16 Department of Health, the Department of Environmental
17 Protection, or the St. Johns River Water Management District to
18 enforce compliance with onsite sewage treatment and disposal
19 system standards.
20 (2) Any property owner in the Wekiva Study Area or the
21 Wekiva River Protection Area having an income less than or equal

22 to 200 percent of the federal poverty level who is required by
23 rule of the Department of Health, the Department of
24 Environmental Protection, or the St. Johns River Water
25 Management District to construct, reconstruct, alter, repair, or
26 modify any new or existing onsite sewage treatment and disposal
27 system on such property may apply to the Department of Health
28 for a grant to assist the owner with the cost of compliance.
29 (3) The amount of the grant is limited to $10,000 per
30 property and shall be increased each calendar year by the change
31 in the annual average of the "materials and components for
32 construction" series of the producer price index, as calculated
33 and published by the United States Department of Labor, Bureau
34 of Statistics, from the previous calendar year.
35 (4) The grant shall be in the form of a rebate to the
36 property owner for costs incurred in complying with requirements
37 for onsite sewage treatment and disposal systems. The property
38 owner shall provide to the Department of Health in the
39 application for a grant documentation of costs incurred in
40 complying with requirements for such systems.
41 (5) The Department of Health shall adopt rules pursuant to
42 ss. 120.536(1) and 120.54 providing forms, procedures, and
43 requirements for applying for and disbursing grants under this
44 section and for documenting compliance costs incurred.
45 Section 2. (1)(a) The Department of Environmental
46 Protection shall conduct a study to determine the various
47 sources of nitrogen input into the Wekiva River and associated
48 springs contributing water to the river. The Department of
49 Environmental Protection shall prepare a report recommending
50 actions to be taken by the Department of Environmental
51 Protection, the Department of Health, and the St. Johns Water

52 Management District that will provide the best use of economic
53 resources to reduce nitrogen inputs into the river and
54 associated springs.
55 (b) The Department of Environmental Protection shall
56 contract for a study by an independent entity of sources of
57 input of nitrogen from onsite sewage treatment and disposal
58 systems into the Wekiva River and associated springs. The study
59 shall measure the concentration of nitrates in the soil 10 feet
60 and 20 feet below the drainage field of the onsite sewage
61 treatment and disposal systems. The contract shall require the
62 entity to submit a report to the Department of Environmental
63 Protection describing the locations of such sources and amounts
64 contributed by such sources and containing recommendations to
65 reduce or eliminate nitrogen inputs from such sources.
66 (c) The Department of Environmental Protection shall
67 submit copies of the reports to the President of the Senate and
68 the Speaker of the House of Representatives before the 2007
69 Regular Session of the Legislature.
70 (2) The Department of Health shall develop proposed rules
71 for a model proposal applying to operation and maintenance of
72 onsite sewage treatment and disposal systems within the Wekiva
73 Study Area or the Wekiva River Protection Area. At a minimum,
74 the rules shall require each property owner in the Wekiva Study
75 Area or the Wekiva River Protection Area having an onsite sewage
76 treatment and disposal system to pump out the system at least
77 once every 5 years.
78 Section 3. (1) The sum of $ is appropriated from
79 the General Revenue Fund to the Department of Health of which
80 $ shall be used by the Department of Health to
81 administer the Wekiva Onsite Sewage Treatment and Disposal

82 System Compliance Grant Program and $ shall be used to
83 provide grants to applicants under the program.
84 (2) The sum of $ is appropriated from the
85 General Revenue Fund to the Department of Environmental
86 Protection, of which $ shall be used by the
87 Department of Environmental Protection to conduct the study
88 required under paragraph (1)(a) of section 2 and $
89 shall be used for purposes of the independent study the
90 Department of Environmental Protection is required to contract
91 for under paragraph (1)(b) of section 2.
92 Section 4. This act shall take effect July 1, 2006.
93
94 ========== T I T L E A M E N D M E N T ==========
95 Remove the entire title and insert:
96 A bill to be entitled
97 An act relating to the Wekiva Onsite Sewage Treatment and
98 Disposal System Compliance Grant Program; creating the
99 program in the Department of Health; providing purposes;
100 authorizing certain property owners in certain areas of
101 the Wekiva basin to apply for grants for certain purposes;
102 providing grant limitations; providing for annual
103 adjustments of the amount of the grants; providing for the
104 grant as a rebate of costs incurred; requiring
105 documentation of costs; requiring the Department of Health
106 to adopt rules to administer the grant program; requiring
107 the Department of Environmental Protection to conduct a
108 study and contract for an independent study of nitrogen
109 inputs into the Wekiva River and associated springs;
110 requiring reports; providing report requirements;
111 requiring the Department of Environmental Protection to

112 submit copies of the reports to the Legislature; requiring
113 the Department of Health to develop proposed rules for a
114 model proposal applying to operation and maintenance of
115 onsite sewage treatment and disposal systems in certain
116 areas; specifying a rule criterion; providing
117 appropriations; providing an effective date.
118

HB 1307

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1307 Management of Mercury Switches in Vehicles
SPONSOR(S): Sands and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2446

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee		Perkins	Kliner
2) Finance & Tax Committee			
3) State Resources Council			
4)			
5)			

SUMMARY ANALYSIS

The bill's purpose is to reduce mercury contamination in the environment by removing mercury switches from end-of-life vehicles[1] and by creating a new regulatory program within the Department of Environmental Protection (DEP) to collect and recover mercury switches that are removed from end-of-life vehicles. The bill requires vehicle manufacturers to implement a plan for the proper management of these switches and to pay vehicle recyclers and DEP for each switch that is removed and recycled.

Fiscal Impact: The bill provides vehicle manufacturers to pay DEP $1 per switch for program administration costs. The target capture rate in the legislation is 90 percent of mercury switches. If 90 percent of the mercury switches estimated to be in vehicles are scrapped annually, an estimated 260,000 to 370,000 switches could be removed and collected. This would yield annual revenues to the state of between $260,000 and $370,000.

[1] End-of-life vehicle means a vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or scrap recycling facility for recycling.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill establishes a new regulatory program within DEP to collect and recover mercury switches that are removed from end-of-life vehicles. DEP program administration would be managed by existing staff.

Ensure Lower Taxes: The bill requires vehicle manufacturers to pay $6 for each mercury switch that is removed ($5 to vehicle recyclers + $1 fee to DEP) which is estimated to cost between $1,560,000 and $2,220,000 depending on the quantity of switches removed.

Safeguard Individual Liberty: The bill establishes a new regulatory program within DEP to collect and recover mercury switches that are removed from end-of-life vehicles. The private sector would benefit from reduced mercury emissions from the scrap recycling facilities resulting in improved public health and protection of the environment

Promote Personal Responsibility: The bill requires vehicle manufacturers to pay $6 for each mercury switch that is removed ($5 to vehicle recyclers + $1 fee to DEP) which is estimated to cost between $1,560,000 and $2,220,000 depending on quantity of switches removed.

B. EFFECT OF PROPOSED CHANGES:

Mercury Switches

Mercury is a naturally occurring element that is found in air, water and soil. It exists in several forms: elemental or metallic mercury, inorganic mercury compounds, and organic mercury compounds. Humans cannot create or destroy mercury. Pure mercury is a liquid metal, sometimes referred to as quicksilver that volatizes readily. It has traditionally been used to make products like thermometers, switches, and some light bulbs. Burning hazardous wastes, producing chlorine, breaking mercury products, and spilling mercury, as well as the improper treatment and disposal of products or wastes containing mercury, can also release it into the environment.[2]

There are two major usages of mercury switches in automobiles: convenience lighting tilt switches and anti-lock braking system (ABS) control module switches. Lighting switches constitute about 90 percent of the switches in use and ABS control module switches the remaining 10 percent. While foreign automobile manufacturers never used such mercury switches, the U.S. manufacturers did use mercury switches until phasing them out completely after the 2003 model year. There are non-mercury alternatives available for these mercury switch applications that are in use in cars manufactured after 2003.[3]

Section 403.7186(2), F.S., prohibits the incineration or disposal of mercury-containing devices, including mercury switches removed from vehicles. DEP's Green Yards Program, developed in connection with the Florida Auto Dismantlers and Recyclers Association (FADRA), teaches salvage yards to use voluntary Best Management Practices, including the removal and proper management of mercury vehicle switches. DEP has several compliance assistance documents that address the removal and proper management of these switches. As of January 2006, 10 states have enacted legislation pertaining to the removal of mercury switches from scrap vehicles. Six states (AR, ME, NJ, NC, PA, RI) provide financial incentives for switch removal and removal is mandatory except in Pennsylvania. Four other states (CO, MI, MN, TX) do not provide financial incentives for switch

[2] http://www.epa.gov/mercury/about.htm
[3] 2006 DEP HB 1307 Bill Analysis

removal and removal is voluntary except in Minnesota. At least 11 other states have proposed such legislation according to the Environmental Council of the States (ECOS) Quicksilver Caucus 2005 Compendium of State Mercury Activities.

Electric arc furnace operators[4] that smelt scrap steel will be subject to the U.S. Environmental Protection Agency's (EPA) proposed rule on stricter mercury emissions limits for electric arc furnace operations, which is currently targeted for proposal later in 2006 and final adoption in 2007. Much of the feedstock of these facilities is automobile scrap, some of which currently contains mercury vehicle switches that produce mercury emissions from the furnaces. According to DEP's Division of Air Resources Management, there are two electric arc furnaces in Florida (Jacksonville and Archer). The Jacksonville facility is known to receive and process many scrap vehicle hulks from Florida vehicle recyclers.

National Vehicle Mercury Switch Recovery Program:

On March 7, 2006 representatives from the vehicle manufacturers, steelmakers, vehicle dismantlers, vehicle shredders, environmental community, states and the U.S. Environmental Protection Agency (US EPA) reached agreement on a statement of principles detailing the elements of a national program for recovering mercury switches from scrap cars and light trucks before they are shredded for recycling. The parties are now working to complete a formal agreement. It is not clear how states with legislative or voluntary vehicle switch removal programs will be able to participate in the national program as the program in its present conceptual form is for states that have no legislative or voluntary switch removal programs.[5] The statement of principles detailing the elements of a national program for recovering mercury switches from scrap cars and light trucks before they are shredded for recycling is listed below:

National Mercury Switch Recovery Program
Statement of Principles for Agreement

March 7, 2006

Final Version

1. The parties are committing to create the National Mercury Switch Recovery Program (NMSRP). They agree that recovery of mercury switches prior to crushing and shredding of end-of-life vehicles is the most effective way in which to reduce mercury which otherwise would be emitted into the environment.
2. The NMSRP is a collaborative program involving the vehicle manufacturers, steelmakers, vehicle dismantlers, vehicle crushers, auto shredders, brokers, environmental community, state representatives and the US EPA.
3. The goal of the NMSRP is to significantly reduce air emissions of mercury from steel making facilities that utilize auto shred by substantially reducing the number of mercury-containing switches in scrap automobiles before they are crushed and shredded for recycling.
4. Vehicle manufacturers will have the lead responsibility for providing information, education, and outreach regarding switch removal. They are responsible for collection of switches and transporting them to retorters for proper recycling or disposal and will assume liability for the switches once they are collected. They will also establish a database to track switch recovery by program participants and help evaluate overall program performance.
5. Participating dismantlers and others processing end-of-life vehicles will recover mercury switches and submit them to the Program.
6. Steelmakers will strongly encourage their suppliers and others in the supply chain to support and participate in the NMSRP. In anticipation of EPA's proposed steel industry Area Source and other regulations (e.g. Iron and Steel MACT rule) that will require steelmaking facilities to reduce mercury in

[4] "scrap recycling facilities" under the proposed legislation
[5] Id.

scrap feedstock by developing and implementing scrap work practice standards, individual steelmakers will take steps consistent with such regulatory requirements and the NMSRP to minimize the presence of mercury in auto shred. These steps include notifying relevant suppliers that such individual steelmakers, pursuant to the program, intend to utilize in their respective operations, to the maximum extent possible, scrap from which mercury switches have been removed and to adapt their respective purchasing practices to that end.

7. All organizational participants in the NMSRP will support implementation of the Program through public endorsements and by encouraging their members to participate.

8. The US EPA will take the NMSRP into serious consideration when developing an area source regulation for Electric Arc Furnaces (EAFs) and other relevant regulations.

9. The vehicle manufacturers and steelmakers will create a three-year, $4 million dollar implementation fund in support of the Program. They each will contribute half of the funding and no additional funding for this fund is required or contemplated. The fund will support the implementation of the NMSRP through incentive payments to those recovering switches.

10. Aggressive mercury recovery goals and programmatic performance metrics have been identified for the Program. Performance will be assessed on a regular basis by all of the participating parties. Participants will work to continuously enhance the Program's performance on an ongoing basis.

11. In each state where the NMSRP is being implemented, the parties to this agreement will work collaboratively to develop an implementation plan that will provide for regular evaluation of progress and mid-course corrections to improve performance.

12. The NMSRP will be implemented until 2017 based on estimates that 90% of the vehicles containing mercury switches will be retired by that time. If the mercury switch issue becomes an insignificant contribution to the environment before that time, the program may end. If the mercury switch issue continues to be significant after that date, the program may be extended.

Effect of Proposed Change

The bill creates section 403.7187, F.S., and is cited as the "Mercury Switch Recovery Act" The purpose of the bill is to reduce mercury contamination in the environment by removing mercury switches from end-of-life vehicles and by creating a program to collect and recover mercury switches that are removed from end-of-life vehicles in Florida. The bill provides various definitions relating to mercury switches and the scrap recycling industry for vehicles.

Mercury Minimization Plan

The bill requires by October 1, 2006, each manufacturer to submit a mercury minimization plan to DEP for review and approval. The plan must be developed in consultation with DEP and include components for each vehicle that contains one or more mercury switches that was produced, is in production, or is planned for production, to include:

- Vehicle make, model, and year of production
- Location of each mercury switch
- System to mark the vehicle to indicate to the recycler or scrap recycling facility if the vehicle contains a mercury switch
- Description of safe and sound methods for removing mercury switches from end-of-life vehicles
- Educational materials to assist a vehicle recycler or scrap recycling facility on the safe removal methods for mercury switches
- Recommend method for achieving a capture rate of at least 90 percent of mercury switches unless the switch is inaccessible due to significant damage to the vehicle in the area surrounding the mercury switch.
- Recommend method for storing and shipping mercury switches.
- Recommended storage methods for mercury switches in the absence of an environmentally appropriate manner specified.

- Provisions to ensure that existing infrastructure to recycle end-of-life vehicles is used to the extent practicable. Any plan that does not use existing infrastructure must provide reasons for establishing a separate infrastructure.
- Recommended method for implementing the plan.
- Recommended method for financing the plan to ensure efficient payments to vehicle recyclers, scrap recycling facilities, and DEP for such mercury switch removal and disposal.

DEP may conduct hearings to evaluate the steps manufacturers are taking to design vehicles and their components for recycling and to recommend legislative action to promote vehicle recycling for purposes of preserving scarce resources and ensuring the safe and efficient reduction of solid waste.

DEP Review of Mercury Minimization Plan

The bill provides that DEP, in consultation with representatives of vehicle recyclers, scrap recycling facilities or other stakeholders, if needed, approve or disapprove the mercury minimization plan no later than 120 days after receipt. DEP's approval or partial approval of the mercury minimization plan is conditioned upon DEP's reasonable assurance that implementation of the plan will, in a manner that is environmentally safe, result in removal of mercury switches from end-of-life vehicles and that a program will be created to collect and recover the mercury switches.

The bill provides no later than 30 days after:

- Approval of a mercury minimization plan, each manufacturer submitting a plan shall begin, and thereafter, shall continue, implementation of the plan.
- Partial approval of a mercury minimization plan, each manufacture submitting a plan shall begin, and thereafter, shall continue, implementation of the plan.

The bill provides that if all or part of the plan is disapproved, DEP shall provide written comments stating reasons for the disapproval. Each manufacture shall resubmit within 30 days after receipt from DEP a revised plan that is consistent with DEP's comments. The bill provides that no later than 30 days after DEP approval or partial approval of the revised plan, each manufacture submitting a plan shall begin, and thereafter shall continue, implementation of such plan. DEP may request a modification of an approved plan and within 60 days after such request, the manufacture shall submit an amendment to the plan which is consistent with the request. The bill provides DEP 30 days to approve or disapprove the amendment.

Reports

The bill requires one year after a mercury minimization plan is approved by DEP, and annually thereafter, each manufacturer responsible for implementing the plan submit to DEP a written report concerning implementation of the plan. The report must include the following information:

- A statement of the number of mercury switches collected, the number of end-of-life vehicles processed for recycling, and the number of vehicles that contain mercury switches.
- A description of how many mercury switches have been managed.
- A description of the amounts paid to cover the costs of implementing the mercury minimization plan.[6]

The bill requires one year after a mercury minimization plan is approved by DEP, and annually thereafter, each manufacturer responsible for implementing the plan submit to DEP a written report concerning the steps being taken by manufacturers to design vehicles and their components for recycling. The report must include, but not be limited to the following information:

[6] Note: DEP may discontinue the annual report requirement if it finds that mercury switches in end-of-life vehicles produced or imported no longer pose a significant threat to the environment or to public health.

- A list of each component that contains mercury which is included in each vehicle produced or imported by each manufacture for the current model year, the next model year, and each of the prior three model years.
- Design changes that each manufacturer has implemented or is implementing to ensure that each vehicle the manufacturer produces or imports is designed to be recycled in a safe, cost-effective, and environmentally sound manner using existing technology and infrastructure to include:
    - Each complaint or report that the manufacturer has received within the last 12 months from a vehicle recycler, scrap recycling facility, or a governmental entity.
    - Any fact or circumstance that is known to the manufacturer about the design or component feature that poses risk to the environment or public health or that makes a vehicle produced or imported by the manufacturer of such vehicle uneconomical to recycle.
    - Each design change the manufacturer has implemented or is implementing to reduce such environmental or public health risk and the year any such change will eliminate the risk.

Mercury Switch Removal

The bill provides that beginning 30 days after approval of each mercury minimization plan, a vehicle recycler that conveys ownership of an end-of-life vehicle to a scrap recycling facility remove each mercury switch before delivery to the facility. A mercury switch that is inaccessible due to significant damage to the area surrounding the switch, does not need to be removed prior to delivery, if the damage is noted on the business records of the vehicle recycler. A person may not represent that a mercury switch has been removed unless that person has actually removed or arranged for another person to remove the switch. The bill provides that a scrap recycling facility may accept delivery of an end-of-life vehicle when a mercury switch has not been removed if the vehicle has not been flattened, crushed, or baled and is not in violation. A person who receives a vehicle that has been flattened, crushed, or baled is not in violation if the switch is found in the vehicle after such receipt. The bill requires a vehicle recycler or scrap recycling facility that removes a mercury switch maintain a written record of the make and model of each vehicle from which a mercury switch has been removed and the number of mercury switches collected.

The bill requires the vehicle recycler or scrap recycling facility that removes a mercury switch ensure that the switch is collected, stored, transported, and handled in accordance with the following:

- Approved mercury minimization plan
- DEP rules concerning universal waste[7]

Mercury Switch Compensation

The bill requires each vehicle manufacturer for each vehicle that is produced or imported by a manufacturer and after production of vehicle recycling records provide:

- As partial compensation for the labor or other costs to remove the mercury switches, pay $5 to the recycler or facility for each switch the recycler has removed.
- As partial compensation for the costs to administer the program, pay $1 to the DEP for each mercury switch removed by the recycler or facility.
- A reimbursement to such recycler or facility for expenses incurred in recycling, storing, or disposing of mercury switches, including, but not limited to, expenses to ship switches to recycling, storage, or disposal facilities, to purchase packaging in which to transport switches to such facilities, or to prepare or distribute educational materials to recyclers and scarp recycling facilities.

[7] rule 62-730.185, F.A.C.

Note: Such compensation or reimbursement must be made without regard to when the switch was removed or when an expense is incurred.

The bill requires by August 1, 2006, individually or as a group of manufacturers, provide to each vehicle recycler and scrap recycling facility, containers in which the mercury switches can be safely stored until such time as vehicle recyclers and scrap recycling facilities are reimbursed. The bill requires each manufacturer to indemnify, defend, and hold harmless each vehicle recycler and scrap recycling facility for any liability arising from the release of mercury from mercury switches.

The DEP is authorized to adopt rules to implement the provisions of this bill that confer duties upon DEP.

C. SECTION DIRECTORY:

Section 1. Creates section 403.7187, F.S., relating to mercury switch removal, collection, and recovery.

Section 2. Provides the act shall take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Revenue of $1 per switch for program administration costs would be paid to DEP by the vehicle manufacturers. The target capture rate in the legislation is 90 percent of mercury switches. If 90 percent of the mercury switches estimated to be in vehicles are scrapped annually, an estimated 260,000 to 370,000 switches could be removed and collected. This would yield annual revenues to the state of between $260,000 and $370,000.

   DEP program administration would be managed by existing staff. Revenue could be expended to promote the program to vehicle recyclers and dismantlers.[8]

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Vehicle Manufacturers: Manufacturers would pay $6 for each switch that is removed ($5 to vehicle recyclers + $1 fee to DEP) which is estimated to cost between $1,560,000 and $2,220,000 depending on quantity of switches removed. Cost Detail: At the 90 percent collection target in the proposed legislation, this would yield an annual cost to manufacturers of between $1,560,000 (260,000 switches x $6) and $2,220,000 (370,000 switches x $6).[9]

[8] 2006 DEP HB 1307 Bill Analysis
[9] Id.

Manufacturers would pay for the transportation and recycling of the collected switches which is estimated to cost between $720 and $22,200 annually depending on recycling costs and quantity of switches removed. Manufacturers would provide collection containers to the vehicle dismantlers and recyclers. Based on costs of $4.56 - $8.61 per collection container (including shipping to the vehicle recyclers), this is estimated to cost manufacturers between $3,600 and $7,800 to provide containers to Florida's estimated 800-900 vehicle recyclers.[10]

Vehicle Recyclers: A New Jersey study estimated it would cost $2-$3 to locate, remove and document a switch, assuming labor and overhead rates of $25-$40/hour. Under the proposed legislation, the vehicle recyclers would receive $5/switch, resulting in a zero cost or possibly $1-$2/switch revenue.[11]

The private sector would benefit from reduced mercury emissions from the electric arc (scrap recycling facilities) resulting in improved public health and protection of the environment.[12]

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other: None.

B. RULE-MAKING AUTHORITY:

The DEP is authorized to adopt rules to implement the provisions of this bill that confer duties upon DEP.

C. DRAFTING ISSUES OR OTHER COMMENTS:

<u>DEP Comments:</u>

The bill in effect establishes a new regulatory program within DEP.

The removal of mercury from scrap vehicles that are smelted in electric arc furnaces (scrap recycling facilities) to produce recycled steel would reduce mercury air emissions from the furnaces. The reduction of mercury in the environment would improve public health and protect the environment.

While automobile manufacturers have provided a list of which models and model years utilized a mercury switch, it is difficult to determine how many of these automobiles are actually scrapped in a particular year.

The "mercury switch" definition in the bill includes mercury switches used in convenience light switches in vehicles but does not include mercury switches used in anti-lock braking system (ABS) control modules. Fewer mercury switches are used in anti-lock braking system applications than in

[10] Id.
[11] Id.
[12] Id.

convenience lighting applications. The locating and removal of switches from anti-lock braking system modules is more difficult and time consuming than for convenience lighting applications.

Some vehicles now contain a mercury-containing lamp as a headlight. This bill does not address that. Maine's legislation requires the removal of mercury headlamps as well as lighting and ABS mercury switches.

The "mercury switch" definition requires that the vehicle recycler must remove the pellet from the switch assembly. Due to concerns for potential breakage, consideration should be given to not requiring the vehicle recyclers to remove the pellet but to be able to simply remove the switch assembly and still receive the $5 fee for removing the assembly. This may result in an increase in transportation and recycling costs.

The mercury minimization plan requirement for vehicle marking may be unnecessary. Since both foreign and domestic vehicle manufacturers no longer use mercury switches, it seems unnecessary to require them to mark new vehicles. It would be impractical to require manufacturers to identify, find and mark vehicles that are now on the road and that contain a mercury switch. Marking existing vehicles would likely entail a fairly extensive and expensive recall.

A manufacturer must submit its mercury minimization plan by October 1, 2006. The department has another 120 days after receipt to approve or disapprove all or part of that plan. It is likely that a manufacturer's mercury minimization plan would not be approved until January 1, 2007, or later since disapproved plans have 30 or 60 day response clocks for both the manufacturer's modifications and the department's review. The manufacturer must implement its plan not later than 30 days after approval. However, the manufacturers must provide collection containers to each vehicle recycler and scrap recycling facility by August 1, 2006. This August 1, 2006, date for delivery of collection containers should be reconsidered as it is too close to the July 1, 2006, effective date of the act, and it occurs before the mercury minimization plans are submitted and approved.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

1 A bill to be entitled
2 An act relating to management of mercury switches in
3 vehicles; creating s. 403.7187, F.S.; providing a short
4 title; providing a statement of purpose; providing
5 definitions; requiring submittal of a mercury minimization
6 plan to the Department of Environmental Protection by
7 certain manufacturers or importers of vehicles containing
8 a mercury switch; establishing minimum requirements for a
9 mercury minimization plan; establishing standards and
10 procedures for the department to approve or disapprove all
11 or part of a mercury minimization plan; requiring
12 implementation of an approved plan or a part thereof by
13 the manufacturers or importers; providing for modification
14 of an approved plan; requiring a vehicle recycler or a
15 scrap recycling facility to remove mercury switches from
16 vehicles and keep records; providing requirements for the
17 management of the removed switches; prohibiting a person
18 from representing that a mercury switch has been removed
19 from a vehicle unless certain conditions are met; applying
20 certain exemptions when a person receives a vehicle that
21 is flattened, crushed, or baled; requiring certain
22 manufacturers or importers of vehicles containing mercury
23 switches to submit an annual report to the Department of
24 Environmental Protection regarding implementation of the
25 approved mercury minimization plan; providing requirements
26 for the contents of such report; authorizing the
27 department to discontinue such report requirement under
28 certain conditions; authorizing the department to conduct

29 hearings regarding the recycling of vehicles; requiring
30 certain manufacturers or importers to submit an annual
31 report to the Department of Environmental Protection
32 regarding the design of vehicles to facilitate recycling;
33 providing requirements for the contents of such report;
34 requiring certain manufacturers or importers of vehicles
35 to make payments concerning mercury switch removal to a
36 vehicle recycler, a scrap recycling facility, and the
37 Department of Environmental Protection; directing certain
38 manufacturers or importers of vehicles to provide to
39 vehicle recyclers and scrap recycling facilities
40 containers for storing mercury switches; providing for
41 indemnification of a vehicle recycler or scrap recycling
42 facility by certain manufacturers or importers of vehicles
43 under certain conditions; authorizing the Department of
44 Environmental Protection to adopt rules; providing an
45 effective date.
46
47 Be It Enacted by the Legislature of the State of Florida:
48
49 Section 1. Section 403.7187, Florida Statutes, is created
50 to read:
51 403.7187 Mercury switch removal, collection, and
52 recovery.--
53 (1) This section may be cited as the "Mercury Switch
54 Recovery Act."
55 (2) The purpose of this section is to reduce mercury in
56 the environment by removing mercury switches from end-of-life

57 vehicles and by creating a program to collect and recover
58 mercury switches that are removed from end-of-life vehicles in
59 this state.
60 (3) As used in this section, the term:
61 (a) "Capture rate" means the percentage of mercury
62 switches that are removed, collected, and recovered in a
63 calendar year in this state in relation to the number of mercury
64 switches available for removal from end-of-life vehicles in this
65 state for that year.
66 (b) "Department" means the Department of Environmental
67 Protection.
68 (c) "End-of-life vehicle" means a vehicle that is sold,
69 given, or otherwise conveyed to a vehicle recycler or scrap
70 recycling facility for recycling.
71 (d) "Manufacturer" means the last person in the production
72 or assembly process of a new vehicle that uses mercury switches
73 or, in the case of an imported vehicle, the importer of the
74 vehicle or a successor of such importer.
75 (e) "Mercury minimization plan" means a plan that provides
76 for the systematic collection, removal, and recovery of mercury
77 switches from end-of-life vehicles.
78 (f) "Mercury switch" means each mercury-containing
79 capsule, commonly known as a "bullet," that is part of a
80 convenience light switch assembly on a vehicle.
81 (g) "Person" means an individual, corporation, company,
82 firm, partnership, association, trust, joint-stock company or
83 trust, venture, or municipal, state, or federal government or
84 agency, or any other legal entity, however organized.

85 (h) "Scrap recycling facility" means a person who is
86 engaged in a business that uses machinery and equipment to
87 process and manufacture scrap metal into prepared grades and
88 that primarily produces scrap iron, scrap steel, or nonferrous
89 metallic scrap for sale for remelting purposes.
90 (i) "Vehicle" means a passenger automobile or passenger
91 car, station wagon, truck, van, or sport utility vehicle having
92 a gross vehicle weight rating of less than 12,000 pounds.
93 (j) "Vehicle recycler" means a person engaged in the
94 business of acquiring, dismantling, or destroying six or more
95 end-of-life vehicles in a calendar year.
96 (4) By October 1, 2006, each manufacturer shall,
97 individually or as part of a group of manufacturers, submit a
98 mercury minimization plan to the department for review and
99 approval. The plan must be developed in consultation with the
100 department and must, at a minimum, include:
101 (a) For each vehicle that contains one or more mercury
102 switches and that was produced, is in production, or is planned
103 for production, a description of:
104 1. The make, model, and year of the vehicle.
105 2. Each mercury switch in the vehicle, including, but not
106 limited to, the location of the switch. If a manufacturer is
107 uncertain whether a convenience light switch assembly in a
108 vehicle that such manufacturer is producing, or plans to
109 produce, contains a mercury switch, a switch is presumed to be a
110 mercury switch.
111 3. A system to mark the vehicle to indicate to a vehicle
112 recycler or scrap recycling facility that may process the

113 vehicle for shredding or crushing the presence or absence of
114 each mercury switch.
115 (b) A description of the safe and environmentally sound
116 methods for removing mercury switches from end-of-life vehicles.
117 (c) Educational materials to assist a vehicle recycler or
118 scrap recycling facility in undertaking a safe and
119 environmentally sound method for the removal of mercury switches
120 from end-of-life vehicles, including, but not limited to,
121 information concerning the hazards and proper handling of
122 mercury.
123 (d) A recommended method for achieving a capture rate of
124 at least 90 percent, which is consistent with the principle that
125 a mercury switch must be removed, collected, and recovered from
126 each vehicle described pursuant to paragraph (a) unless the
127 switch is inaccessible due to significant damage to the end-of-
128 life vehicle in the area surrounding the switch.
129 (e) A recommended method for storing and shipping mercury
130 switches that are removed from end-of-life vehicles, including,
131 but not limited to, a method of packaging and shipping the
132 switches to a facility that is authorized to recycle, store, or
133 dispose of them in an environmentally appropriate manner.
134 (f) A recommended method for storing the mercury switches
135 that are removed from end-of-life vehicles if a technology to
136 manage the switches in an environmentally appropriate manner is
137 unavailable.
138 (g) Provisions to ensure that existing infrastructure to
139 recycle end-of-life vehicles is used to the extent practicable.
140 A plan that does not use such existing infrastructure must state

141 reasons for establishing a separate infrastructure.
142 (h) A recommended method of implementing the plan.
143 (i) A recommended method of financing the plan that
144 includes financing by each manufacturer. The method must ensure
145 prompt payment to vehicle recyclers, scrap recycling facilities,
146 and the department for the costs associated with the removal and
147 disposal of mercury switches, which method includes, but is not
148 limited to, payment in the amounts specified in paragraph
149 (10)(a).
150 (5) No later than 120 days after receipt of a mercury
151 minimization plan, the department shall approve or disapprove
152 the plan in whole or in part. The department may approve a plan
153 or part of a plan only when it has reasonable assurance that
154 implementation of the plan or part of the plan will, in a manner
155 that is environmentally safe, result in removal of mercury
156 switches from end-of-life vehicles and that a program will be
157 created to collect and recover the mercury switches that are
158 removed. A plan or part of a plan that is not disapproved within
159 the 120-day period is deemed approved subject to any
160 modifications required by the department. The department may
161 solicit input from representatives of vehicle recyclers, scrap
162 recycling facilities, or other stakeholders concerning a plan
163 that is under review.
164 (a) No later than 30 days after approval of a mercury
165 minimization plan, each manufacturer submitting the plan shall
166 begin, and thereafter shall continue, implementation of the
167 plan.
168 (b) No later than 30 days after approval of part of a

169 mercury minimization plan, each manufacturer submitting a plan
170 shall begin, and thereafter shall continue, implementation of
171 the approved part of the plan.
172 (c) If all or part of a mercury minimization plan is
173 disapproved, the department shall provide written comments
174 stating the reasons for the disapproval, and each manufacturer
175 submitting a disapproved plan or part of a plan shall, alone or
176 as part of a group of manufacturers, submit a revised plan or
177 part of a plan that is consistent with the department's
178 comments. The revised plan or part of the plan must be submitted
179 within 30 days after the date of the disapproval, and the
180 department shall approve or disapprove the revised plan or part
181 of the plan no later than 30 days after receipt. No later than
182 30 days after approval of the revised plan or part of the plan,
183 each manufacturer submitting a plan or part of a plan shall
184 begin, and thereafter shall continue, implementation of the plan
185 or part of the plan.
186 (6) The department may request modification of an approved
187 mercury minimization plan if it finds that the plan's terms or
188 manner of implementation fails to provide reasonable assurance
189 that implementation of the plan will, in a manner that is
190 environmentally safe, result in removal of mercury switches from
191 end-of-life vehicles and creation of a program to collect and
192 recover the mercury switches that are removed. Within 60 days
193 after the date of any such request, a manufacturer shall submit
194 an amendment to the plan which is consistent with the request.
195 The department shall approve or disapprove the amendment within
196 30 days after receipt. An amendment that is not disapproved

197 within the 30-day period is deemed approved.
198 (7)(a) Beginning 30 days after approval of each mercury
199 minimization plan, a vehicle recycler that sells, gives, or
200 otherwise conveys ownership of an end-of-life vehicle identified
201 in the plan to a scrap recycling facility must remove each
202 mercury switch from the vehicle before delivery to the facility.
203 (b) A mercury switch that is inaccessible due to
204 significant damage to the area surrounding the switch need not
205 be removed before such delivery if the damage is noted on the
206 normal business records of the vehicle recycler.
207 (c) A scrap recycling facility may accept delivery of such
208 an end-of-life vehicle when each mercury switch has not been
209 removed if the vehicle has not been intentionally flattened,
210 crushed, or baled.
211 (d) A vehicle recycler or scrap recycling facility that
212 removes a mercury switch from an end-of-life vehicle must
213 maintain, and make available to the department upon request, a
214 written record of the make and model of each vehicle from which
215 a mercury switch has been removed and the number of mercury
216 switches collected.
217 (e) A vehicle recycler or scrap recycling facility that
218 removes a mercury switch must ensure that the switch is
219 thereafter collected, stored, transported, and handled in
220 accordance with:
221 1. The approved mercury minimization plan; and
222 2. The rules of the department concerning universal waste
223 as set forth in rule 62-730.185, Florida Administrative Code.
224 (f) A person may not represent that a mercury switch is

225 removed from an end-of-life vehicle being sold, given, or
226 otherwise conveyed for recycling unless that person has removed,
227 or arranged for another person to remove, the switch.
228 (g) A person who receives an end-of-life vehicle that has
229 been intentionally flattened, crushed, or baled is not in
230 violation of this section if a mercury switch is found in the
231 vehicle after such receipt.
232 (8) One year after a mercury minimization plan is approved
233 by the department, and annually thereafter, each manufacturer
234 responsible for implementing the plan shall submit to the
235 department, individually or as part of a group of manufacturers,
236 a written report concerning implementation of the plan. The
237 department may discontinue the requirement for the annual report
238 by a particular manufacture if it finds that the mercury
239 switches in end-of-life vehicles produced or imported by the
240 manufacturer no longer pose a significant threat to the
241 environment or to public health. The report must include, but
242 need not be limited to:
243 (a) A statement of the number of mercury switches
244 collected, the number of end-of-life vehicles processed for
245 recycling, and the number of such vehicles that contain mercury
246 switches;
247 (b) A description of how the mercury switches have been
248 managed; and
249 (c) A description of the amounts paid to cover the costs
250 of implementing the mercury minimization plan.
251 (9) The department may conduct hearings to evaluate the
252 steps manufacturers are taking to design vehicles and their

253 components for recycling and to recommend legislative action to
254 promote vehicle recycling for purposes of preserving scarce
255 resources and ensuring the safe and efficient reduction of solid
256 waste. One year after a mercury minimization plan is approved by
257 the department, and annually thereafter, each manufacturer
258 responsible for implementing the plan shall submit to the
259 department, individually or as part of a group of manufacturers,
260 a written report concerning the steps being taken by
261 manufacturers to design vehicles and their components for
262 recycling. The report must include, but need not be limited to:
263 (a) A list of each component that contains mercury which
264 is included in each vehicle produced or imported by each
265 manufacturer for the current model year, the next model year,
266 and each of the prior 3 model years;
267 (b) Each design change that each manufacturer has
268 implemented or is implementing to reduce or eliminate the
269 mercury in each component on the list created pursuant to
270 paragraph (a) and the year mercury will be eliminated from such
271 component;
272 (c) Each policy or practice that each manufacturer has
273 implemented or is implementing to ensure that each vehicle the
274 manufacturer produces or imports is designed to be recycled in a
275 safe, cost-effective, and environmentally sound manner using
276 existing technology and infrastructure; and
277 (d) A list of:
278 1. Each complaint or report that the manufacturer has
279 received within the last 12 months from a vehicle recycler or
280 its representative, a scrap recycling facility or its

281 representative, or a governmental entity;
282 2. Any other fact or circumstance that is known to the
283 manufacturer, including, but not limited to, a design or
284 component feature, that poses risks to the environment or public
285 health or that makes a vehicle produced or imported by the
286 manufacturer or a component of such a vehicle uneconomical to
287 recycle; and
288 3. Each design or manufacturing change the manufacturer
289 has implemented or is implementing to reduce or remove any such
290 environmental or public health risk and the year any such change
291 will eliminate the risk.
292 (10) Each manufacturer shall:
293 (a) For each vehicle that is produced or imported by that
294 manufacturer, and after production by a vehicle recycler or
295 scrap recycling facility of the records specified in paragraph
296 (8)(c), promptly:
297 1. As partial compensation for the labor or other costs to
298 remove the mercury switches, pay $5 to the recycler for each
299 switch the recycler has removed and to such facility for each
300 mercury switch the facility has removed.
301 2. As partial compensation for costs to administer this
302 section, pay $1 to the department for each mercury switch
303 removed by the recycler or facility.
304 3. Reimburse each such recycler or facility for expenses
305 incurred in recycling, storing, or disposing of mercury
306 switches, including, but not limited to, expenses to ship
307 switches to recycling, storage, or disposal facilities, to
308 purchase packaging in which to transport switches to such

309 facilities, or to prepare or distribute educational materials
310 required pursuant to this section to vehicle recyclers and scrap
311 recycling facilities.
312
313 Such compensation or reimbursement must be made without regard
314 to when a switch is removed or when an expense is incurred.
315 (b) By August 1, 2006, individually or as part of a group
316 of manufacturers, provide to each vehicle recycler and scrap
317 recycling facility one or more containers in which the mercury
318 switches that the recycler or facility has removed from an end-
319 of-life vehicle can be safely stored until such time as vehicle
320 recyclers and scrap recycling facilities are reimbursed pursuant
321 to paragraph (a).
322 (c) Indemnify, defend, and hold harmless each vehicle
323 recycler and scrap recycling facility for any liability arising
324 from the release of the mercury from the mercury switches after
325 the switches are transferred free on board to the manufacturer
326 or an agent of the manufacturer or a person under contract with
327 the manufacturer.
328 (11) The department is authorized to adopt rules pursuant
329 to ss. 120.536(1) and 120.54 to implement the provisions of this
330 section that confer duties upon the department.
331 Section 2. This act shall take effect July 1, 2006.

Committee on Environmental Regulation

Wednesday, March 29, 2006
2:00 – 4:00 PM
212 Knott

Addendum A (03.29.06, 8:00 a.m.)

Allan G. Bense
Speaker

Mitch Needelman
Chair

Bill No. **1557**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Environmental Regulation
2 Committee
3 Representative(s) Brummer offered the following:
4
5 **Amendment (with title amendments)**
6 Remove everything after the enacting clause, and insert:
7 Section 1. Wekiva Onsite Sewage Treatment and Disposal
8 System Compliance Grant Program.--
9 (1) The Wekiva Onsite Sewage Treatment and Disposal System
10 Compliance Grant Program is created within the Department of
11 Health, to be administered by the Department of Health. The
12 purpose of the program is to provide grants to low-income
13 property owners in the Wekiva Study Area or the Wekiva River
14 Protection Area using onsite sewage treatment and disposal
15 systems to assist the property owner in complying with rules for
16 onsite sewage treatment and disposal systems developed by the
17 Department of Health, the Department of Environmental
18 Protection, or the St. Johns River Water Management District to
19 enforce compliance with onsite sewage treatment and disposal
20 system standards.

21 (2) Any property owner in the Wekiva Study Area or the
22 Wekiva River Protection Area having an income less than or equal
23 to 200 percent of the federal poverty guidelines who is required
24 by rule of the Department of Health, the Department of
25 Environmental Protection, or the St. Johns River Water
26 Management District to construct, reconstruct, alter, repair, or
27 modify any new or existing onsite sewage treatment and disposal
28 system on such property may apply to the Department of Health
29 for a grant to assist the owner with the cost of compliance.
30 (3) The amount of the grant is limited to $10,000 per
31 property and shall be increased each calendar year by the change
32 in the annual average of the "materials and components for
33 construction" series of the producer price index, as calculated
34 and published by the United States Department of Labor, Bureau
35 of Statistics, from the previous calendar year.
36 (4) The grant shall be in the form of a rebate to the
37 property owner for costs incurred in complying with requirements
38 for onsite sewage treatment and disposal systems. The property
39 owner shall provide to the Department of Health in the
40 application for a grant documentation of costs incurred in
41 complying with requirements for such systems.
42 (5) The Department of Health shall adopt rules pursuant to
43 ss. 120.536(1) and 120.54 providing forms, procedures, and
44 requirements for applying for and disbursing grants under this
45 section and for documenting compliance costs incurred.
46 Section 2. (1)(a) The Department of Environmental
47 Protection shall conduct a study to determine the various
48 sources of nitrogen input into the Wekiva River and associated
49 springs contributing water to the river. The Department of
50 Environmental Protection shall prepare a report recommending

51 actions to be taken by the Department of Environmental
52 Protection, and the St. Johns Water Management District that
53 will provide the best use of economic resources to reduce
54 nitrogen inputs into the river and associated springs.
55 (b) The Department of Health shall contract for a study by
56 an independent entity of sources of input of nitrogen from
57 onsite sewage treatment and disposal systems into the Wekiva
58 River and associated springs. The study shall measure the
59 concentration of nitrates in the soil 10 feet and 20 feet below
60 the drainage field of the onsite sewage treatment and disposal
61 systems. The contract shall require the entity to submit a
62 report to the Department of Health describing the locations of
63 such sources and amounts contributed by such sources and
64 containing recommendations to reduce or eliminate nitrogen
65 inputs from such sources.
66 (c) The Department of Environmental Protection and the
67 Department of Health shall submit copies of the reports to the
68 President of the Senate and the Speaker of the House of
69 Representatives before the 2007 Regular Session of the
70 Legislature.
71 (2) The Department of Health shall develop proposed rules
72 for a model proposal applying to operation and maintenance of
73 onsite sewage treatment and disposal systems within the Wekiva
74 Study Area or the Wekiva River Protection Area. At a minimum,
75 the rules shall require each property owner in the Wekiva Study
76 Area or the Wekiva River Protection Area having an onsite sewage
77 treatment and disposal system to pump out the system at least
78 once every 5 years.
79 Section 3. (1) The sum of $ is appropriated from
80 the General Revenue Fund to the Department of Health of which

81 $ shall be used by the Department of Health to
82 administer the Wekiva Onsite Sewage Treatment and Disposal
83 System Compliance Grant Program and $ shall be used to
84 provide grants to applicants under the program.
85 (2)(a) The sum of $ is appropriated from the
86 General Revenue Fund to the Department of Environmental
87 Protection to be used by the Department of Environmental
88 Protection to conduct the study required under paragraph (1)(a)
89 of section 2.
90 (b) The sum of $ is appropriated from the
91 General Revenue Fund to the Department of Health to be used for
92 purposes of the independent study the Department of Health is
93 required to contract for under paragraph (1)(b) of section 2.
94 Section 4. This act shall take effect July 1, 2006.
95
96 ========== T I T L E A M E N D M E N T ==========
97 Remove the entire title and insert:
98 A bill to be entitled
99 An act relating to the Wekiva Onsite Sewage Treatment and
100 Disposal System Compliance Grant Program; creating the
101 program in the Department of Health; providing purposes;
102 authorizing certain property owners in certain areas of
103 the Wekiva basin to apply for grants for certain purposes;
104 providing grant limitations; providing for annual
105 adjustments of the amount of the grants; providing for the
106 grant as a rebate of costs incurred; requiring
107 documentation of costs; requiring the Department of Health
108 to adopt rules to administer the grant program; requiring
109 the Department of Environmental Protection to conduct a
110 study of sources of nitrogen input into the Wekiva River

111 and associated springs; requiring the Department of Health
112 to contract for an independent study of sources of
113 nitrogen input into the Wekiva River and associated
114 springs; requiring reports; providing report requirements;
115 requiring the Department of Environmental Protection and
116 Department of Health to submit copies of the reports to
117 the Legislature; requiring the Department of Health to
118 develop proposed rules for a model proposal applying to
119 operation and maintenance of onsite sewage treatment and
120 disposal systems in certain areas; specifying a rule
121 criterion; providing appropriations; providing an
122 effective date.
123