

STORAGE NAME: h1193a.ep
DATE: March 31, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
ANALYSIS**

BILL #: HB 1193

RELATING TO: Healthy Beaches

SPONSOR(S): Representative(s): Hafner; Melvin and Others

TIED BILL(S):

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

- (1) ENVIRONMENTAL PROTECTION YEAS 14 NAYS 0
 - (2) HEALTH CARE LICENSING & REGULATION
 - (3) GOVERNMENTAL RULES & REGULATION
 - (4) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (5)
-

I. SUMMARY:

HB 1193, the "Healthy Beaches Florida Act", amends ss. 514.011, 514.03, F.S., and creates s. 514.023, F.S. The bill provides legislative intent and addresses the regulation of water quality of public beaches in Florida. The bill adds coastal and intracoastal waters to the statutory definition of public bathing places and permits the Department of Health (DOH) to adopt and enforce rules to protect the health of persons using beach waters of the state, including establishment of health standards, procedures, and time frames for bacteriological sampling of beach waters. The bill permits the department to issue health advisories if the quality of beach water fails to meet standards established by the department, and specifies that the issuance of health advisories related to beach water sampling is preempted to the state. HB 1193 authorizes, subject to a legislative appropriation, a nonrecurring sum of \$600,000 to the Department of Health to perform a 3 year study to determine the water quality at beaches throughout the state and to determine which indicator organism and the levels of such organism are best suited with respect to bacteriological sampling to determine the safety of beach waters. Also provided, is an appropriation of \$745,000 to Pinellas County in order to conduct a 2 year study, in coordination with the department, in the Tampa Bay area. The purpose of the study is to establish a statewide model to help predict when possible water quality problems will occur.

HB 1193 has a fiscal impact of \$1,345,000.

The bill will take effect July 1, 2000.

On March 30, 2000, the Committee on Environmental Protection heard the bill and adopted one strike everything amendment that is traveling with the bill. See "Amendments or Committee Substitute Changes" section for discussion of the changes proposed by the amendment.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

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

B. PRESENT SITUATION:

The Pilot Beach Water Sampling Program was developed by DOH to ensure public safety and combat negative media reports stating that Florida is a state with multiple "bum beaches." DOH conducted studies which monitor the amount of bacteria found in the beach water sampled from various locations around the state. The majority of the results were reported in the good range, which is a recognized safe bacterial level for the majority of the bathers; however, there were incidences of less than optimal results throughout the testing counties.

At present, DOH does not have the authority to develop statewide water quality standards for saltwater beaches, but is able for freshwater. Florida has 35 counties with coastal access and only 12 are currently testing. A variety of standards are being used.

The Department of Environmental Protection (DEP) and the Environmental Regulation Commission have the authority under chapter 403, F.S., to set water quality standards for state waters. Water quality standards currently applicable to saltwater beaches are located in the DEP rules at chapter 62-302, Florida Administrative Code, Surface Water Quality Standards.

Chapter 514, F.S., governs regulation of public swimming and bathing places in Florida. The statute defines public and private pools, public bathing places, and portable pools. A "public bathing place" is defined as a body of water for swimming, diving, and recreational bathing, used by the public, whether or not a fee is charged. The statute does not specifically address salt or brackish water beaches.

In chapter 514, F.S., DOH is authorized to adopt and enforce rules to protect the health, safety and welfare of persons using public swimming pools and bathing places, and is required to review such rules, at a minimum, biennially. Standards shall include, among other things, source of water supply, bacteriological, chemical and physical quality of water in the pool or bathing area, and measures to ensure the safety of bathers.

Section 514.025, F.S., requires that DOH assign the functions of reviewing applications, and plans for construction, development or modification of swimming pools and bathing places, conducting inspections for and issuance of initial operating permits to county health departments which are staffed with qualified engineering personnel. If county health

departments are not assigned the functions of application and plan review and the issuance of initial operating permits, DOH is required to be responsible for such functions. After the initial operating permit is issued the county health department is required to assume full responsibility for routine surveillance, complaint investigations, enforcement procedures, reissuance and renewal of operating permits.

C. EFFECT OF PROPOSED CHANGES:

Declares that it is the intent of the Legislature that proper standards and protocols be developed to ensure the health, safety, and welfare of persons using Florida beaches and recreational waters.

Amends s. 514.011, F.S., to expand the definition of "public bathing place" to include waters along the coastal and intracoastal beaches and shores of the state.

Creates a new statutory provision (s. 514.023, F.S.) to give the Department of Health the authority to establish health standards for beach waters and declare health advisories. Specific provisions:

- > Authorize the DOH to adopt rules to protect the health, safety, and welfare of persons using the beach waters of the state. The rules are to specifically address health standards and prescribe procedures and timeframes for sampling of these waters.
- > Permit the DOH to issue health advisories if the quality of beach waters fails to meet established standards. In addition, this provision specifically preempts to the state the authority to issue health advisories concerning beach waters.

The bill creates two studies. One, contingent upon a \$600,000 legislative appropriation, is to be undertaken by the DOH and is to be a three-year study to determine the water quality at our beaches throughout the state. The second, will be conducted by Pinellas County in coordination with the DOH, and will be a two-year study of the Tampa Bay waters. This study is to determine what indicators are best suited for evaluating the condition of beach waters and to develop a predictive model. A \$745,000 appropriation is directed for this study.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates the title of, the "Healthy Beaches Florida Act."

Section 2. Provides legislative intent.

Section 3. Amends s. 514.011, F.S., to add waters along costal and intracoastal beaches and shores to the definition of "public bathing places."

Section 4. Creates s. 514.023, F.S., which allows DOH to adopt and enforce rules to protect the health, safety and welfare of persons using beach waters of the state. The rules must establish health standards and prescribe procedures and time frames for bacteriological sampling of beach waters. DOH is permitted to issue health advisories if beach water fails to meet standards DOH has developed. The function of issuing beach health advisories is preempted to the state. Beach waters are defined as waters along coastal and intracoastal beaches and shores, including both salt and brackish waters.

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Section 5. Directs the department to perform a 3 year study to determine the water quality at beaches throughout the state. The study is contingent on the appropriation of \$600,000 nonrecurring by the Legislature.

Section 6. Provides a \$745,000 appropriation to Pinellas County to conduct a 2 year study, in coordination with the department, in the Tampa Bay area.

Section 7. Establishes an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

The two studies directed by the bill would have a \$1,345,000 one-time appropriations impact. The bill does not specify where these funds are to be taken from.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will assist in either restoring public confidence in the quality of the waters at Florida beaches or assist state and local government in identifying and mitigating beach water pollution problems. As such it has the potential to increase tourism and commerce in coastal and beach areas of the state.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 30, 2000 the Committee on Environmental Protection adopted a strike everything amendment which will travel with the bill. The committee passed this bill unanimously.

Changes made by the strike everything amendment:

- amend s. 514.03, F.S., to exempt coastal and intracoastal beaches from the construction plans approval requirements applicable to public swimming pools and bathing places;
- amend s. 514.031, F.S., to exempt coastal and intracoastal beaches from the operating permit requirements applicable to public swimming pools and bathing places; and
- the original bill established a pilot study of the Tampa Bay area of Pinellas county, and the amendment expands the pilot to include Escambia and Santa Rosa counties.
- directs the department to create an interagency technical advisory committee to oversee the studies and advise on rulemaking.
- remove the "whereas" clauses and legislative intent.

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VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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