

STORAGE NAME: h1193a.hhs

DATE: April 26, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH AND HUMAN SERVICES APPROPRIATIONS
ANALYSIS**

BILL #: HB 1193

RELATING TO: Healthy Beaches

SPONSOR(S): Representatives 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 YEAS 9 NAYS 0
 - (3) GOVERNMENTAL RULES & REGULATIONS YEAS 7 NAYS 0
 - (4) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 10 NAYS 0
 - (5)
-

I. SUMMARY:

HB 1193, the "Healthy Beaches Florida Act," amends s. 514.011, 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 or department) 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. Also provided is an appropriation of \$745,000 to Pinellas County in order to conduct a 2-year "healthy beaches" study, in coordination with the department, in the Tampa Bay area. The purpose of the study is to determine which indicators are best suited for evaluating the condition of Florida's beach waters and to establish a model to help predict when possible water quality problems will occur.

NOTE: On March 30, 2000, the Committee on Environmental Protection adopted a strike-everything amendment which is traveling with the bill. The amendment exempts coastal and intracoastal beaches from the construction plans approval requirements applicable to public swimming pools and bathing places and exempts coastal and intracoastal beaches from the operating permit requirements applicable to public swimming pools and bathing places. It also expands the 2-year pilot study to include Escambia and Santa Rosa Counties. Furthermore, it directs the Department of Health to create an interagency technical advisory committee to oversee the studies and advise on rulemaking and provides for membership and organization of the committee.

The fiscal impact of \$1.345 million for the amendment is the same as for the original bill. The effective date is July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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:

Less Government

This bill provides rulemaking authority to the Department of Health.

B. PRESENT SITUATION:

The Pilot Beach Water Sampling Program was developed by the Department of Health to ensure public safety and combat negative media reports stating that Florida is a state with multiple "bum beaches." The department conducted studies which monitored 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, the department does not have the authority to develop statewide water quality standards for saltwater beaches, but is able to develop such standards for freshwater public bathing places. Florida has 35 counties with coastal access and only 12 are currently testing water quality. A variety of standards are being used.

The Department of Environmental Protection 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 Department of Environmental Protection rules in 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 saltwater or brackish water beaches.

In chapter 514, F.S., the Department of Health 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 the Department of Health to assign the functions of reviewing applications; reviewing plans for construction, development, or modification of swimming pools and bathing places; and conducting inspections for and issuing 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 review, plan review, and the issuance of initial operating permits, the Department of Health 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, and reissuance and renewal of operating permits.

C. EFFECT OF PROPOSED CHANGES:

HB 1193 declares that it is the intent of the Legislature to develop proper standards and protocols to ensure the health, safety, and welfare of persons using Florida beaches and recreational waters.

The bill 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.

The bill creates 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 include:

- Authorizing the department 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 time frames for sampling of these waters; and
- Permitting the department 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 nonrecurring legislative appropriation, is to be undertaken by the Department of Health and is to be a 3-year study to determine the water quality at our saltwater or brackish beaches throughout the state.

The second, will be conducted by Pinellas County in coordination with the Department of Health, and will be a 2-year study of the Tampa Bay area 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 short title for the "Healthy Beaches Florida Act."

Section 2. Provides legislative intent.

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

Section 4. Creates s. 514.023, F.S., which authorizes the Department of Health 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. The department is permitted to issue health advisories if beach water fails to meet the standards 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 saltwater and brackish waters.

Section 5. Directs the Department of Health to perform a 3-year study to determine the water quality at beaches throughout the state. The study is contingent on the nonrecurring appropriation of \$600,000 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:**

None.

2. **Expenditures:**

The two studies directed by the bill would have a \$1,345,000 fiscal impact. Of this amount, \$745,000 is appropriated in the bill from general revenue to the Department of Health for a 2-year “Healthy Beaches” study of the Tampa Bay area of Pinellas County. An additional \$600,000 is contingent upon legislative appropriation for a study to determine the water quality at beaches throughout the state. The bill does not appropriate funds for enforcement of the rules established by the Department of Health.

B. **FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. **Revenues:**

None.

2. **Expenditures:**

Those counties that have coastal or intracoastal beaches would have to adapt their beach water sampling to match the standards adopted by the Department of Health. Those counties would no longer be responsible for issuing health advisories.

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C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will assist in restoring public confidence in the quality of the waters at Florida beaches and will assist state and local governments 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:

The Conference Subcommittee for Health and Human Services Appropriations has recommended \$525,000 in recurring funds for beach monitoring in Escambia, Pinellas, and Dade counties.

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:

None.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the Department of Health to adopt rules to protect the health, safety, and welfare of persons using the beach waters of the state. The rules shall establish health standards and prescribe procedures and time frames for bacteriological sampling of beach waters.

C. OTHER COMMENTS:

None.

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. The differences between the original bill and the amendment include:

- The amendment modifies 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;
- The amendment modifies s. 514.031, F.S., to exempt coastal and intracoastal beaches from the operating permit requirements applicable to public swimming pools and bathing places;
- The original bill established a “healthy beaches” pilot study of the Tampa Bay area of Pinellas County. The amendment expands the pilot study to include Escambia and Santa Rosa Counties;
- The amendment directs the Department of Health to create an interagency technical advisory committee to oversee the studies and advise on rulemaking and provides for membership and organization of the committee; and
- The amendment removes the “whereas” clauses, short title, and legislative intent, and makes other technical changes.

On April 26, 2000, the Committee on Health and Human Services Appropriations adopted an amendment appropriating \$600,000 from the Ecosystem Management and Restoration Trust Fund for the Department of Environmental Protection to transfer to the Department of Health to implement this act,

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Beatriz Ramos

Staff Director:

Wayne S. Kiger

AS REVISED BY THE COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

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Lucretia Shaw Collins

AS FURTHER REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

Prepared by:

Shari Z. Whittier

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APPROPRIATIONS:

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Staff Director:

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