

STORAGE NAME: s1412s1z.ep
DATE: July 24, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #2000-309, Laws of Florida,

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
ENVIRONMENTAL PROTECTION
FINAL ANALYSIS**

BILL #: CS/SB 1412
RELATING TO: Healthy Beaches
SPONSOR(S): Senators Childers and Latvala
TIED BILL(S):

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

- (1) HEALTH, AGING, & LONG-TERM CARE YEAS 6 NAYS 0
 - (2) FISCAL POLICY YEAS 5 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

CS/SB 1412, 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.

CS/SB 1412 authorizes 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 also provides a \$745,000 appropriation to the Department of Environmental Protection to be transferred to the Department of Health to conduct a 2-year "Healthy Beaches" study in the coastal waters of Escambia and Santa Rosa Counties and the Tampa Bay area of Pinellas County.

The act takes effect July 1, 2000.

NOTES:

On May 5, 2000, HB 1193, the companion bill to CS/SB 1412, died on the calendar at the end of session.

On June 16, 2000, the Governor vetoed the \$745,000 appropriation for the "Healthy Beaches" study provided for in Section 6 of the act.

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:

CS/SB 1412 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, to declare health advisories, and conduct a study of water quality at beaches. Specific provisions include:

- o 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.
- o 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.
- o Directing the Department of Health to perform a 3-year study to determine the water quality at beaches throughout the state.

In addition, CS/SB 1412 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.

CS/SB 1412 authorizes 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 provides a \$745,000 appropriation to the Department of Environmental Protection to be transferred to the Department of Health to conduct a 2-year "Healthy Beaches" study in the coastal waters of Escambia and Santa Rosa Counties and the Tampa Bay area of Pinellas County.

CS/SB provides that the act shall take effect July 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 514.011, F.S., to add waters along coastal and intracoastal beaches and shores to the definition of “public bathing places.”

Section 2. 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. It also directs the Department of Health to perform a 3-year study to determine the water quality at beaches throughout the state. The study is funded by a nonrecurring appropriation of \$600,000 by the Legislature.

Section 3. Amends 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.

Section 4. Amends s. 514.031, F.S., to exempt coastal and intracoastal beaches from the operating permit requirements applicable to public swimming pools and bathing places.

Section 5. Directs the Department of Health to create an interagency technical advisory committee to oversee the studies and advise on rulemaking.

Section 6. Provides a \$745,000 appropriation to the Department of Environmental Protection to be transferred to the Department of Health to conduct a 2-year “Healthy Beaches” study in the coastal waters of Escambia and Santa Rosa Counties and the Tampa Bay area of Pinellas County.

Section 7. Provides that the act shall take effect 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 have a \$1,345,000 fiscal impact. Of this amount, \$745,000 is appropriated to the Department of Environmental Protection to be transferred to the Department of Health for a 2-year “Healthy Beaches” study of the coastal waters of Escambia and Santa Rosa Counties and the Tampa Bay area of Pinellas County. An additional \$600,000 was included in the General Appropriations Act 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.

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:

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.

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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:

VII. SIGNATURES:

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**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON ENVIRONMENTAL
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