

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1521 w/CS Renewable Energy

SPONSOR(S): Paul

TIED BILLS: none

IDEN./SIM. BILLS: CS/CS/SB 1492

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Natural Resources</u>	<u>16 Y, 0 N w/CS</u>	<u>Perkins</u>	<u>Lotspeich</u>
2) <u>State Administration</u>	<u></u>	<u>Bond</u>	<u>Everhart</u>
3) <u>Transportation & Econ. Dev. Apps. (Sub)</u>	<u></u>	<u></u>	<u></u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Florida Energy Office is the name given to the office responsible for various energy related programs in state government. Those programs are statutorily placed within the Department of Community Affairs. Last year, the Governor assigned the duties, responsibilities, and employees of these programs to the Department of Environmental Protection, who executed a memorandum of agreement with the Department of Community Affairs regarding the transfer and the payment of expenses, salaries and benefits.

This bill with CS statutorily recognizes the transfer of programs related to the Florida Energy Office from the Department of Community Affairs to the Department of Environmental Protection.

This bill with CS also creates the Florida Renewable Energy Research and Development Institute, requires the State Fire Marshall to adopt statewide uniform fire safety standards for hydrogen fueling stations, and repeals several energy programs.

This bill with CS does not appear to have a fiscal impact on local governments. The Department of Environmental Protection estimates that this bill will have a minimal negative fiscal impact on state government expenditures. There are concerns regarding this estimate, see Fiscal Comments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1521b.sa.doc

DATE: April 13, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

This bill creates the Florida Renewable Energy Research and Development Institute, requires the State Fire Marshall to adopt new regulations, requires the Department of Environmental Protection to assume new duties, requires the Department of Environmental Protection to conduct a feasibility study regarding the creation of a direct support organization, and requires a new report.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Energy Office was administratively created within the Department of Community Affairs to house the various energy-related state programs. On June 20, 2003, the Governor ordered that those functions be assumed by the Department of Environmental Protection. The two agencies have executed an agreement whereby the Department of Environmental Protection assumed the administration of the programs of the Florida Energy Office, including supervision of employees. The Department of Community Affairs continues to process payroll and other payables for the programs through the Department of Community Affairs budget.

Effect of Bill

This bill with CS transfers various energy-related programs, collected under the administrative title of the Florida Energy Office, from the Department of Community Affairs to the Department of Environmental Protection, to conform to the change instituted through an executive Memorandum of Agreement. Statutory duties of the Department of Environmental Protection include administration of the:

- Petroleum Overcharge Litigation recovery funds.
- Solar Energy Center.
- Southern States Energy Compact.
- Clean Fuel Act.
- Portions of federal energy programs delegated to the state.
- Development and use of renewable energy.
- State energy conservation programs.

This bill with CS creates a new section of ch. 403, F.S., requiring the Department of Environmental Protection to:

- Perform or coordinate the functions of federal energy programs that are delegated to the state.
- Analyze existing and proposed federal energy programs and make recommendations regarding those programs to the Governor.
- Coordinate efforts to seek federal support or other support for state energy activities.
- Coordinate multiagency energy conservation programs and plans.
- Promote the development and use of renewable energy.
- Promote the development and use of solar energy resources.
- Promote energy conservation in all energy use sectors.
- Index, gather, and distribute all information related to energy programs in state universities; in private universities; in federal, state, and local government agencies; and in private industry.
- Coordinate energy-related programs of state government.
- Develop, coordinate, and promote a comprehensive research plan for state programs.
- Study the feasibility of creating a direct support organization to facilitate funding for research, demonstrations, and commercialization of advanced energy technologies. By February 1, 2005, the department shall submit a report on the feasibility to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

This bill with CS bill establishes the Florida Renewable Energy Research and Development Institute (Institute), a public institute to be placed within a university in the state chosen by the Department of Environmental Protection. The Institute is created to serve as the basic applied research institute for the commercialization and application of renewable energy technology. The institute will facilitate the research of renewable energy, coordinate the alternative energy activities of the state's research and education institutions, and identify problems and propose solutions on issues affecting renewable energy, including making public policy recommendations. The bill does not specify how this institute is to be funded.

This bill with CS also:

- Includes photovoltaic solar energy production to the provisions regarding solar energy.
- Changes the Clean Fuel Florida Advisory Board to remove the Secretary of the Department of Community Affairs, or his or her designee, from the Board; and to add the Secretary of the Department of Environmental Protection, or his or her designee, to the Board.
- Requires that an applicant for a permit to construct and operate a power plant fueled by solid waste must demonstrate that the county where there plant is to be sited has achieved statutory waste reduction goals.¹

¹ Those goals are found in s. 403.706(4), F.S.

- Requires the State Fire Marshal to establish uniform firesafety standards for hydrogen fueling stations. The State Fire Marshal is directed to adopt the current version of National Fire Protection Association codes related to hydrogen fueling stations. Equipment utilizing hydrogen must be listed by a nationally recognized testing laboratory.

This bill with CS repeals statutes which require the following programs:

- The energy data collection program, which program requires every person engaged in an energy-related business to report on energy extraction, use, transportation, and reserves. The Department of Community Affairs is required to collect and compile the data. There is a related public records exemption that is repealed. There is also a related misdemeanor offense for failure to submit required information, or for submitting false information.²
- The petroleum allocation program, which program provides for the state to allocate petroleum resources pursuant to a federal allocation plan. There is a related public records exemption that is also repealed.³
- The energy emergency contingency plan program, which requires the Department of Community Affairs to develop a plan to deal with a serious shortage of energy supplies.⁴

C. SECTION DIRECTORY:

Section 1 amends s. 366.82, F.S., to delete references to s. 377.703, F.S., (Department of Community Affairs functions related to energy emergency contingency plan; federal and state conservation programs), which section is repealed by this bill.

Section 2 transfers s. 377.601, F.S., to s. 403.43, F.S., and amends the legislative intent therein.

Section 3 transfers s. 377.704, F.S., to s. 403.433, F.S., relating to the appropriation of funds from the settlement of petroleum overcharge limitation.

Section 4 transfers s. 377.705, F.S., to s. 403.44, F.S., relating to the Solar Energy Center and the development of solar energy standards. The section also is amended to add references to photovoltaic solar energy.

Section 5 transfers s. 377.709, F.S., to s. 366.052, F.S., relating to the funding of solid waste facilities that generate electricity.⁵

Section 6 transfers s. 377.71, F.S., to s. 403.46, F.S., relating to the Southern States Energy Compact.

Section 7 transfers s. 377.711, F.S., to s. 403.461, F.S., relating to the Southern States Energy Board that manages the Southern State Energy Compact, transferring administrative responsibility for the state's participation on the Board from the former Department of Commerce to the Department of Environmental Protection..

² According to a representative of the Florida Energy Office (April 13, 2004), the federal government requires the same information, and the Florida Energy Office simply collects a copy of the federal form. The representative indicated that the Florida Energy Office has no current use for the information.

³ According to a representative of the Florida Energy Office (April 13, 2004), this program is defunct.

⁴ According to a representative of the Florida Energy Office (April 13, 2004), this planning function is not conducted by the Florida Energy Office, but is conducted by the Division of Emergency Management of the Department of Community Affairs.

⁵ Programs within ch. 377, F.S., are administered by the Department of Community Affairs, except that the program referenced in s. 377.709, F.S., is administered by the Public Service Commission. The provisions are better housed in ch. 366, F.S., which relates to programs administered by the Public Service Commission.

Section 8 transfers s. 377.712, F.S., to s. 403.462, F.S., regarding the state's participation in the Southern States Energy Compact.

Section 9 amends s. 403.42, F.S., to effectively transfer regulatory responsibility for the Clean Fuel Act from the Department of Community Affairs to the Department of Environmental Protection.

Section 10 creates s. 403.431, F.S., to provide definitions applicable to ss. 403.43 through 403.432, F.S.

Section 11 creates s. 403.432, F.S., to specify the functions of the Department of Environmental Protection regarding the state energy program.

Section 12 creates s. 403.45, F.S., to establish the Florida Renewable Energy Research and Development Institute.

Section 13 amends s. 403.7061(3), F.S., to revise the requirements for a waste-to-energy facility permit.

Section 14 amends s. 403.973, F.S., to amend a cross-reference to conform to other changes in this bill.

Section 15 amends s. 288.041, F.S., to effectively transfer regulation of solar energy policy from the Department of Community Affairs to the Department of Environmental Protection.

Section 16 transfers by a Type II transfer the Solar Energy Program and the Clean Fuel Florida Advisory Board from the Department of Community Affairs to the Department of Environmental Protection.

Section 17 amends s. 633.022, F.S., to require the State Fire Marshall to promulgate rules regarding hydrogen fuel stations.

Section 18 repeals ss. 377.602, 377.603, 377.604, 377.605, 377.606, 377.607, 377.608, 377.701, and 377.703, F.S. This repeals the energy data collection program, the petroleum allocation program, the energy emergency contingency plan, and the coordination of federal and state energy conservation programs.

Section 19 provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. This bill does not affect a state government revenue source.

2. Expenditures:

The bill with CS requires the State Fire Marshal to promulgate rules that adopt uniform statewide standards for hydrogen fueling stations and authorizes the State Fire Marshall to require any equipment utilizing hydrogen be listed by a nationally recognized testing laboratory. Rule-making costs will be insignificant and non-recurring.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not affect local governments.

2. Expenditures:

None. This bill does not affect local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill provides for the transfer of the Florida Energy Office from the Department of Community Affairs to the Department of Environmental Protection. The transfer involves \$556,455 (4.0 FTE's).

The fiscal estimate provided by the Department of Environmental Protection does not account for the cost of creating the Florida Renewable Energy Research and Development Institute, nor does it account for the savings resulting from elimination of the energy data collection program, the petroleum allocation program, the energy emergency contingency plan, and the coordination of federal and state energy conservation programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill with CS requires the State Fire Marshal to promulgate rules applicable to hydrogen fueling stations, and related equipment. The grant of rulemaking authority appears appropriate and limited.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Subsection (3) of s. 403.43, as amended by this bill (lines 134-141), contains no text.

The bill does not specify whether the newly created ss. 403.43, 403.431, 403.432, and 403.45, are to be in Part I of ch. 403, F.S., which includes ss. 403.011-.42, F.S., in Part II of ch. 403, F.S., which includes ss. 403.501-.539, F.S., or whether a new Part II is to be created for the new sections and the following parts of the chapter renumbered. It appears that the intent is that the newly created sections are to be included in Part I.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 23, 2004, the Committee on Natural Resources favorably adopted 3 amendments to HB 1521:

- Amendment No. 1 – technical correction to replace the year “2200” with the year “2020” on line 177.
- Amendment No. 2 – specifies any accounting audits performed be conducted by a qualified certified public account licensed in this state.
- Amendment No. 3 - revises a permit requirement for a waste-to-energy facility.