HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/CS/HB 1083	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	State Affairs Committee; Agriculture & Natural Resources Appropriations Subcommittee; Agriculture & Natural Resources Subcommittee; Eagle; Hudson and others	102 **Y's**	13 **N's**
COMPANION BILLS:	(CS/CS/CS/SB 958)	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/CS/CS/HB 1083 passed the House on April 24, 2013, and subsequently passed the Senate on April 30, 2013. The bill declares that underground storage of natural gas is in the public interest and establishes a regulatory structure providing the following:

- Exempts gas-phase hydrocarbons that are transported into Florida, injected into an underground natural gas storage facility, and later recovered as liquid hydrocarbons from the severance tax on oil production; providing that the severance tax on natural gas applies only to native gas;
- Creates definitions for terms, including Department of Environmental Protection (DEP), lateral storage reservoir boundary, native gas, natural gas storage facility, natural gas storage reservoir, oil and gas, reservoir protective area, shut-in bottom hole pressure, operator, and well site;
- Authorizes DEP to adopt rules, administer and enforce laws, and issue orders regarding the storage, injection, and recovery of gas from a natural gas storage reservoir, and specifies that DEP must promulgate rules before issuing a permit for a natural gas storage facility;
- Declares that DEP is vested with the power and authority to issue permits for natural gas storage facilities and charge a permit application fee, and creates standards and conditions for the issuance of such permits;
- Requires that permits from DEP prior to storing gas in, or recovering gas from, natural gas storage include the name and address of the applicant and specify what must be included in an application for a permit to store gas in a natural gas storage reservoir;
- Provides for the protection of water supplies; provides that a facility operator is responsible for pollution to water supplies;
- Provides for the protection of natural gas storage facilities and storage rights with respect to injected gas;
- Specifies that certain well spacing requirements do not apply to wells associated with a natural gas storage facility;
- Specifies that limitations on the amount of oil and gas taken do not apply to nonnative gas recovered from a permitted natural gas storage facility;
- Specifies that penalties may be applied to any person who violates the law or the provisions of a permit for a natural gas storage facility;
- Specifies that the prohibition of pollution and the cost of clean-up provisions apply to natural gas storage facilities; and
- Specifies that projects for natural gas storage facilities and projects to construct interstate natural gas pipelines subject to certification by the Federal Energy Regulatory Commission are eligible for expedited permitting.

The bill appears to have a significant fiscal impact on state government (See Fiscal Comments). The bill appears to have a positive fiscal impact on local governments (See Fiscal Comments).

The bill was approved by the Governor on June 14, 2013, ch. 2013-205, L.O.F., and will become effective on July 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

The Oil and Gas Program (chapter 377, part 1, F.S., and rules 62C-25 through 30, F.A.C.) is the permitting authority within the Department of Environmental Protection's (DEP's) Mining and Minerals Regulation Program in the Division of Water Resource Management (division). Companies interested in the exploration or production of hydrocarbons in Florida are regulated by the Oil and Gas Program. Primary responsibilities of the program include conservation of oil and gas resources, correlative rights protection, maintenance of health and human safety, and environmental protection. These concerns are addressed through a system of permits and field inspections to insure compliance. Primary duties include permitting geophysical operations (usually seismic prospecting), permitting drilling or operating wells (all separate permits), and tracking activities through the use of a computer database. All permitted activities are inspected by staff of the Oil and Gas Program. Two field offices facilitate these inspections.

DEP is vested with the power and authority to issue permits:

- For the drilling for, exploring for, or production of oil, gas, or other petroleum products that are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products.[1]
- To explore for and extract minerals that are subject to extraction from the land by means other than through a well hole.[2]
- To construct wells for the injection and recovery of any natural gas for temporary storage in subsurface reservoirs.[3]

Before any well in search of oil or gas is drilled, the person desiring to drill the well must notify the division using such form as it may prescribe and must pay a reasonable fee set by rule of DEP not to exceed the actual cost of processing and inspecting for each well. The drilling of any well is prohibited until such notice is given and the fee has been paid and permit granted.[4] Each permit must contain an agreement by the permit-holder that he or she will not prevent inspection by the division personnel at any time.[5] The division, in the exercise of its authority to issue permits, must give consideration to and be guided by certain statutorily specified criteria.[6] Under certain circumstances, before a permit to drill a gas or oil well is granted, the governing authority of the municipality[7] or the county commissioners of the county[8] in which the land is located must have first duly approved the application for the permit by resolution.

Section 211.02(1), F.S., provides for a severance tax to be levied upon production of oil within Florida for sale, transport, storage, profit, or commercial use. The tax is measured by the value of the oil produced and saved or sold during a month. The current tax rate for small well oil[9] is 5 percent of the gross value. The tax rate for tertiary oil[10] and mature field recovery oil[11] applies as follows:

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[1] Section 377.242(1), F.S.
[2] Section 377.242(2), F.S.
[3] Section 377.242(3), F.S.
[4] Section 377.24(1), F.S.
[5] Section 377.242, F.S.
[6] Section 377.241, F.S.
[7] Section 377.24(5) and (6), F.S.
[8] Section 377.24(7), F.S.
[9] " Small well oil" is defined in s. 211.01(21), F.S., as oil produced from a well from which less than 100 barrels of oil per day are severed, considering only those days of the month during which production of oil from the well actually occurred.
[10] "Tertiary oil" is defined in s. 211.02(3)(a), F.S., as the excess barrels of oil produced, or estimated to be produced, as a result of the actual use of a tertiary recovery method in a qualified enhanced oil recovery project, over the barrels of oil which could have been

- 9 percent of the gross value of oil on the value of oil $80 and above per barrel.
- 7 percent of the gross value of oil on the value of oil above $60 and below $80 per barrel.
- 1 percent of the gross value of oil on the value of oil $60 and below per barrel.

Currently, Florida has no regulatory provisions for underground natural gas storage facilities.

Underground Natural Gas Storage

Natural gas can be stored for an indefinite period of time. When natural gas reaches its destination, it is not always needed immediately and can be injected into underground storage facilities.[12]

Underground natural gas storage provides pipelines, local distribution companies, producers, and pipeline shippers with an inventory management tool, seasonal supply backup, and access to natural gas needed to avoid imbalances between receipts and deliveries on a pipeline network.[13]

There are three types of underground storage sites used in the United States. They are:

- Depleted natural gas or oil fields (326 sites);[14]
- Aquifers (43 sites);[15] and
- Salt caverns (31 sites).[16]

As of 2007, there were 34 total sites in the Southeast region where natural gas could be stored, which includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.[17]

Any underground storage facility is reconditioned before injection to create a sort of storage vessel underground. Natural gas is injected into the formation, building up pressure as more natural gas is added. The underground formation becomes a sort of pressurized natural gas container. As with newly drilled wells, the higher the pressure in the storage facility, the more readily gas may be extracted. Once the pressure drops to below that of the wellhead, there is no pressure differential left to push the natural gas out of the storage facility. This means that, in any underground storage facility, there is a certain amount of gas that may never be extracted. This is known as physically unrecoverable gas; it is permanently embedded in the formation.[18]

In addition to this physically unrecoverable gas, underground storage facilities contain what is known as "base gas" or "cushion gas." This is the volume of gas that must remain in the storage facility to provide the required pressurization to extract the remaining gas. In the normal operation of the storage facility, this cushion gas remains underground; however, a portion of it may be extracted using specialized compression equipment at the wellhead.[19]

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produced by continued maximum feasible production methods in use prior to the start of tertiary recovery. A "qualified enhanced oil recovery project" means a project for enhancing recovery of oil which meets the requirements of 26 U.S.C. s. 43(c)(2) or substantially similar requirements.

[11] "Mature field recovery oil" is defined in s. 211.01(4), F.S., as the barrels of oil recovered from new wells that begin production after July 1, 2012, in fields that were discovered prior to 1981.

[12] *See* NaturalGas.org at http://www.naturalgas.org/naturalgas/storage.asp

[13] U.S. Energy Information Administration website on 'Underground Natural Gas Storage.' *See* http://www.eia.gov/pub/oil_gas/natural_gas/analysis_publications/ngpipeline/undrgrnd_storage.html

[14] *Id.*

[15] *Id*.

[16] *Id*.

[17] *Id*.

[18] *See* NaturalGas.org at http://www.naturalgas.org/naturalgas/storage.asp

[19] *Id*.

"Working gas" is the volume of natural gas in the storage reservoir that can be extracted during the normal operation of the storage facility. This is the natural gas that is being stored and withdrawn (the capacity of storage facilities normally refers to their working gas capacity). At the beginning of a withdrawal cycle, the pressure inside the storage facility is at its highest; meaning working gas can be withdrawn at a high rate. As the volume of gas inside the storage facility drops, pressure (and thus deliverability) in the storage facility also decreases. Periodically, underground storage facility operators may reclassify portions of working gas as base gas after evaluating the operation of their facilities.[20]

Under the Natural Gas Act,[21] the Federal Energy Regulatory Commission (FERC) determines the rate-setting methods for interstate pipeline companies, sets rules for business practices, and is responsible for authorizing the siting, construction, and operations of interstate pipelines, natural gas storage fields, and liquefied natural gas facilities. The Natural Gas Act does not apply to the production, gathering, or local distribution of natural gas.

Effect of Proposed Changes

The bill names this act the "Florida Underground Natural Gas Storage Act."

The bill exempts gas-phase hydrocarbons that are transported into the state and injected into a natural gas storage facility from the severance tax on oil production. The bill also provides that the severance tax on natural gas applies only to "native gas"[22] as defined in s. 377.19, F.S.

The bill declares that underground storage of natural gas is in the public interest because underground storage:

- Promotes conservation of natural gas;
- Makes gas more readily available to the domestic, commercial, and industrial consumers of Florida; and
- Allows the accumulation of large quantities of gas in reserve for orderly withdrawal during emergencies or periods of peak demand.

The bill amends s. 377.18, F.S., to specify that control and regulation of gas only applies to native gas.

The bill amends s. 377.19, F.S., adding new definitions for the following terms:

- "Department," which means the Department of Environmental Protection
- "Lateral storage reservoir boundary," which means the projection up to the land surface of the maximum horizontal extent of the gas volume contained in a natural gas storage reservoir.
- "Native gas," which means gas that occurs naturally within Florida and does not include gas that is produced outside the state, transported to Florida, and injected into a permitted natural gas storage facility.
- "Natural gas storage facility," which means an underground reservoir from which oil or gas has previously been produced and which is used or to be used for the underground storage of natural gas, and any surface or subsurface structure, or infrastructure, except wells. The term also includes a right or appurtenance necessary or useful in the operation of the facility for the underground storage of natural gas, including any necessary or reasonable reservoir protective area as designated for the purpose of ensuring the safe operation of the storage of natural gas or protecting the natural gas storage facility from pollution, invasion, escape, or migration of gas, or any subsequent extension thereof.

[20] *Id*.
[21] Natural Gas Act, 15 U.S.C., § 717 et seq.
[22] Native gas is defined as gas that occurs naturally within Florida and does not include gas produced outside the state, transported to Florida, and injected into a permitted natural gas storage facility.

- "Natural gas storage reservoir," which means a pool or field from which oil or gas have previously been produced and which is suitable for or capable of being made suitable for the injection, storage, and recovery of gas, as identified in a permit application submitted to DEP under s. 377.2407, F.S.
- "Oil and gas," which has the same meaning as the term "oil or gas."
- "Operator," which means the entity who, as part of a natural gas storage facility, injects, or is engaged in the work of preparing to inject, gas into a natural gas storage reservoir; or who stores gas in, or removes gas from, a natural gas storage reservoir.
- "Reservoir protective area," which means the area extending up to and including 2,000 feet surrounding a natural gas storage reservoir.
- "Shut-in bottom hole pressure," which means the pressure at the bottom of a well when all valves are closed and no oil or gas has been allowed to escape for at least 24 hours.
- "Well site," which means the general area around a well, which area has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas, or to inject gas into and recover gas from a natural gas storage facility.

The bill amends s. 377.21, F.S., to specify that the division has the jurisdiction and authority to administer and enforce laws relating to the storage of gas in and recovery of gas from natural gas storage reservoirs.

The bill amends s. 377.22, F.S., authorizing DEP to issue orders and adopt rules with regard to:

- The injection of gas into and recovery of gas from a natural gas storage reservoir.
- Protecting the integrity of natural gas storage reservoirs.
- Requiring and carrying out a reasonable program of monitoring or inspection of all injecting wells.
- Preventing wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring natural gas storage reservoirs.
- Regulating the storage and recovery of gas injected into natural gas storage facilities.

The bill amends s. 377.24, F.S., specifying that before drilling a well in search of oil or gas, or before storing gas in or recovering gas from a natural gas storage reservoir, the person who desires to drill for, store, or recover gas, or drill for oil or gas must notify the division. The storing and recovering of gas are prohibited until notice is given, a fee is paid, and the permit is granted. An application for the storing of gas in and recovering of gas from a natural gas storage reservoir must include the address of the applicant.

The bill creates s. 377.2407, F.S., establishing the permitting requirements to store gas in a natural gas storage reservoir. The bill specifies that before drilling a well to inject gas into and recover gas from a natural gas storage reservoir, the person who desires to conduct such operation must apply to DEP in the manner described below using such form as DEP may prescribe to obtain a natural gas facility permit. DEP must also require an applicant seeking to obtain such a permit to pay a reasonable permit application fee in an amount necessary to cover the costs associated with receiving, processing, issuing, and recertifying the permit application, and inspecting for compliance with the permit.

The bill also specifies that each permit application must contain:

- A detailed, three-dimensional description of the natural gas storage reservoir, including geologic-based descriptions of the reservoir boundaries, and the horizontal and vertical dimensions.
- A geographic description of the lateral storage reservoir boundary.
- A general description and location of all injection, recovery, and observation wells.
- A description of the reservoir protective area.

- Information demonstrating that the proposed natural gas storage reservoir is suitable for the storage and recovery of gas.
- Information identifying all reasonably known abandoned or active wells within the natural gas storage facility.
- A field-monitoring plan that requires, at a minimum, monthly field inspections of all wells that are part of the natural gas storage facility.
- A monitoring and testing plan for the well integrity.
- A well inspection plan that requires, at a minimum, the inspection of all wells that are part of the natural gas storage facility and plugged wells within the natural gas storage facility boundary.
- A spill prevention and response plan.
- A well spacing plan.
- An operating plan for the natural gas storage reservoir, which must include gas capacities, anticipated operating conditions, and maximum storage pressure.
- A gas migration response plan.
- A location plat and general facility map surveyed and prepared by a registered land surveyor licensed under chapter 472, F.S.

DEP can require the applicant to provide additional information that is deemed necessary to permit the development of the natural gas storage facility. Each well related to the natural gas storage facility must be authorized and permitted individually upon the applicant satisfying applicable well construction and operation criteria; however, notwithstanding any other provision under this chapter, well spacing requirements do not apply.

The bill amends s. 377.241, F.S., to specify that the division must give consideration for activities and operations concerning a natural gas storage facility, and that the nature, structure, and proposed use of the natural gas storage reservoir is suitable for the storage and recovery of gas without adverse effect to public health or safety or the environment.

The bill amends s. 377.242, F.S., to specify that DEP is vested with the power and authority to issue permits to establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for storage in natural gas storage reservoirs.

The bill creates s. 377.2431, F.S., to provide conditions for granting permits for natural gas storage facilities. A natural gas storage facility permit must authorize the construction and operation of a natural gas storage facility and must be issued for the life of the facility, subject to recertification every 10 years. Before issuing or recertifying a permit, DEP must require satisfactory evidence of the following:

- The applicant has implemented, or is in the process of implementing, programs for the control and mitigation of pollution related to oil, petroleum products or their byproducts, and other pollutants.
- The applicant or operator has acquired a lawful right to drill, explore, or develop a natural gas storage reservoir from owners of at least 75 percent of the storage rights within the natural gas storage reservoir, or the applicant or operator has obtained a certificate of public convenience and necessity for the natural gas storage reservoir from the Federal Energy Regulatory Commission, pursuant to the Natural Gas Act, 15 U.S.C. ss. 717 et seq.
- The applicant has used all reasonable means to identify known wells that have been drilled into or through the natural gas storage reservoir or the reservoir protective area to determine the status of the wells and whether inactive or abandoned wells have been properly plugged. For any well that has not been properly plugged, before conducting injection operations and after issuance of the permit, the applicant must plug or recondition the well to ensure the integrity of the storage reservoir or the reservoir protective area.
- The applicant has tested the quality of water produced by all water supply wells within the lateral boundary of the natural gas storage facility and complied with all requirements under s.

377.2432, F.S. The applicant must provide to DEP and the owner of the water supply well a written copy of the water quality data collected.
- A determination has been made regarding whether native gas or oil will be severed from below the soil or water of Florida in the recovery of injected gas. If native gas or oil will be severed, the applicant or operator must acquire a lawful right to develop the native gas or oil before injecting gas into the natural gas storage reservoir.

The bill also provides that the applicant must maintain records of well pressures recorded monthly, and monthly volumes of gas injected into and withdrawn from the reservoir. These records must be maintained at the natural gas storage facility and must be made available for inspection by DEP at any reasonable time.

The maximum storage pressure for a natural gas storage reservoir must be the highest shut-in wellhead pressure found to exist during the production history of the reservoir, unless a higher pressure is established by DEP based on testing of caprock and pool containment. The methods used for determining the higher pressure must be approved by DEP. If the shut-in wellhead pressure of the original discovery or of the highest production is not known, or a higher pressure has not been established through a method approved by DEP, the maximum storage reservoir pressure must be limited to a freshwater hydrostatic gradient.

A permit cannot be issued for a natural gas storage facility that includes a natural gas storage reservoir located beneath an underground source of drinking water unless the applicant demonstrates that the injection, storage, or recovery of natural gas will not cause or allow natural gas to migrate into the underground source of drinking water; in any offshore location in the Gulf of Mexico, the Straits of Florida, or the Atlantic Ocean; or in any solution-mined cavern within a salt formation.

A natural gas storage facility permit issued by DEP must contain a condition that requires the permittee to obtain the lawful right to develop a natural gas storage reservoir from the owners of 100 percent of the storage rights within the natural gas storage reservoir.

The bill creates s. 377.2432, F.S., to specify certain requirements for the protection of water supplies. The bill specifies that any operator of a natural gas storage facility who affects a public or private underground water supply by pollution or diminution must restore or replace the affected supply with an alternate source of water adequate in quantity and quality for the purposes served by the supply. DEP must ensure that the quality of the restored or replaced water is comparable to the quality of the water before it was affected by the operator.

Unless rebutted by a defense listed below, a natural gas storage facility operator is presumed responsible for pollution of an underground water supply if:

- The water supply is within the lateral boundary of the natural gas storage facility; and
- The pollution occurred within 6 months after completion of drilling or alteration of any well under or associated with the natural gas storage facility permit, or the initial injection of gas into the natural gas storage reservoir, whichever is later.

If the affected underground water supply is within the rebuttable presumption area described above and the rebuttable presumption applies, the natural gas storage facility operator must provide a temporary water supply if the water user is without a readily available alternative source of water at no cost to the owner or user of the affected water supply. The temporary water supply must be adequate in quantity and quality for the purposes served by the affected supply.

The bill specifies that a natural gas storage facility operator rebuts the presumption described above by affirmatively proving any of the following:

- The pollution existed before the drilling or alteration activity as determined by a predrilling or prealteration survey.
- The landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey.
- The water supply well is not within the lateral boundary of the natural gas storage facility.
- The pollution occurred more than 6 months after completion of drilling or alteration of any well under or associated with the natural gas storage facility permit.
- The pollution occurred as the result of a cause other than activities authorized under the natural gas storage facility permit.

A natural gas storage facility operator electing to preserve an affirmative defense as provided above must retain an independent certified laboratory to conduct a predrilling or prealteration survey of the water supply. A copy of survey results must be submitted to DEP and the landowner or water purveyor in the manner prescribed by DEP.

A natural gas storage facility operator must provide written notice to the landowner or water purveyor indicating that the established presumption may be void if the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey. Proof of written notice to the landowner or water purveyor must be provided to DEP for the operator to retain the protections.

These provisions in the bill do not prevent a landowner or water purveyor who claims pollution or diminution of a water supply from seeking any other remedy at law or in equity.

The bill creates s. 377.2433, F.S., to provide for protection of natural gas storage facilities and remedies. DEP cannot authorize the drilling of any well into or through a permitted natural gas storage reservoir or reservoir protective area, except upon conditions deemed by DEP to be sufficient to prevent the loss, migration, or escape of gas from the natural gas storage reservoir. DEP must provide written notice to the natural gas storage facility operator of any application filed with DEP and any agency action taken related to drilling a well into or through a permitted natural gas storage facility boundary or reservoir protective area.

As a condition for the issuance of a permit by DEP, an applicant seeking to drill a well into or through a permitted natural gas storage facility boundary or reservoir protective area must provide the affected natural gas storage facility operator a reasonable right of entry to observe and monitor all drilling activities.

DEP must require by permit condition that any well drilled into or through a permitted natural gas storage reservoir or reservoir protective area is cased and cemented in a manner sufficient to protect the integrity of the natural gas storage reservoir.

The bill creates s. 377.2434, F.S., to specify certain property rights in injected natural gas. The bill provides that all natural gas that has previously been reduced to possession and that is subsequently injected into a natural gas storage facility is at all times the property of the injector or the injector's heirs, successors, or assigns, whether owned by the injector or stored under contract.

The gas may not be subject to the right of the owner of the surface of the lands or of any mineral interest therein, under which the natural gas storage facilities lie, or to the right of any person, other than the injector or the injector's heirs, successors, or assigns, to waste or otherwise interfere with or exercise control over such gas, to produce, to take, or to reduce to possession, by means of the law of capture or otherwise. This section does not affect the ownership of hydrocarbons occurring naturally within Florida or the right of the owner of the surface of the lands or of any mineral interest therein to drill or bore through the natural gas storage facilities in a manner that will protect the facilities against pollution or the escape of stored natural gas.

For natural gas that has migrated to an adjoining property or to a stratum, or portion thereof, that has not been condemned or otherwise purchased:

- The injector or the injector's heirs, successors, or assigns:
  - May not lose title to or possession of the gas if the injector or the injector's heirs, successors, or assigns can prove by a preponderance of the evidence that the gas was originally injected into the underground storage; and
  - Have the right to conduct tests on any existing wells on adjoining property as may be reasonable to determine ownership of the gas, but the tests are solely at the injector's risk and expense.
- The owner of the stratum and the owner of the surface are entitled to compensation, including compensation for use of or damage to the surface or substratum, as provided by law.

The bill amends s. 377.25, F.S., providing that well spacing requirements do not apply to wells associated with a natural gas storage facility.

The bill amends s. 377.28, F.S., providing for DEP to consider the need for the operation as a unit of an entire field, or of any pool or pools, or portions for the storage of natural gas. DEP must issue an order requiring unit operation if it finds that the additional recovery of oil or gas does not adversely interfere with the storage or recovery of natural gas within a natural gas storage reservoir.

The bill amends s. 377.30, F.S., to specify that the limitations on the amount of oil and gas taken do not apply to nonnative gas recovered from a permitted natural gas storage facility.

The bill amends s. 377.34, F.S., specifying that the division may enforce laws, rules, and orders against those engaged in the storing or recovering of natural gas.

The bill amends s. 377.37, F.S., specifying that penalties may be applied to any person who violates the law or the provisions of a permit for a natural gas storage facility.

The bill amends s. 377.371, F.S., specifying that the storage of gas in a natural gas storage facility cannot pollute land or water; damage aquatic or marine life, wildlife, birds, or public or private property; or allow an extraneous matter to enter or damage any mineral or freshwater-bearing formation. If the storage of natural gas does result in water pollution, and the pollution damages or threatens to damage human, animal, or plant life; public or private property; or any mineral or water-bearing formation, the person is liable to the state for all costs of cleanup or other damage incurred by the state. However, a person conducting the storage cannot be held liable if the person proves that the prohibited discharge was the result of:

- An act of war.
- An act of government, whether state, federal, or municipal.
- An act of God, which means an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.
- An act or omission of a third party without regard to whether such act or omission was or was not negligent.

The bill amends s. 403.973, F.S., to specify that projects for natural gas storage facilities permitted under chapter 377, F.S., are eligible for the expedited permitting process. The bill also specifies that projects to construct interstate natural gas pipelines subject to certification by the Federal Energy Regulatory Commission are eligible for expedited permitting.

Lastly, the bill specifies that DEP must adopt rules relating to natural gas storage before issuing a natural gas storage facility permit.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments Section.

2. Expenditures:

   See Fiscal Comments Section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill appears to have a positive fiscal impact on local governments as a result of local utilities benefitting from the increased availability of natural gas and potentially lower energy prices.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The amount of the fee for the permit developed by the department would be dependent upon the number of applicants and the costs associated with the regulation of natural gas storage as outlined in the bill. The number of applicants is unknown, but expected to be low and costs associated with regulation are likely to be significant. The low number of applicants coupled with the potentially high cost of regulation could result in a substantial fee for the permit developed by the department.

There should be a net positive fiscal impact on pipeline companies and private utility customers by providing more gas at peak times. The bill may also result in additional jobs where a natural gas storage facility is located.

D. FISCAL COMMENTS:

DEP is directed to expand rulemaking, hold public workshops, train staff, review applicants, and issue permits for underground natural gas storage resulting in significant costs to DEP. However, these costs would be offset by fees authorized in the bill. The fees required to offset costs incurred by DEP will depend on how many potential applicants apply and the costs associated with regulation of natural gas storage as outlined in the bill.

An applicant seeking to obtain a natural gas storage facility permit is required to pay an application permit fee that will cover costs associated with receiving, processing, issuing, and recertifying the permit application and inspecting for compliance with the permit. The permit application fee should provide DEP with sufficient revenue for the development of rules and the permitting process required for the regulation of a natural gas storage facility.