

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: CS/SB 162

INTRODUCER: Environment and Natural Resources Committee and Senator Collins

SUBJECT: Water and Wastewater Facility Operators

DATE: March 20, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	Fav/CS
2.			RI	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 162 requires the Department of Environmental Protection (DEP) to issue reciprocal licenses to water utility workers licensed in other jurisdictions and other applicants that meet certain requirements. The bill directs DEP to award education and operational experience credits to applicants who have performed comparable duties in the United States Armed Forces but who do not meet the other requirements for a reciprocal license.

The bill also provides that, during a declared state of emergency, DEP:

- May issue a temporary license to applicants who otherwise meet the requirements for licensure reciprocity; and
- Must waive the application fee for a temporary operator license.

II. Present Situation:

Water Treatment Facilities

The Department of Environmental Protection (DEP) has the primary role of regulating public water systems in Florida.¹ A public water system is one that provides water to 25 or more people for at least 60 days each year or serves 15 or more service connections. These public water systems may be publicly or privately owned and operated. Smaller water systems that provide

¹ DEP, *Source and Drinking Water Program*, <https://floridadep.gov/water/source-drinking-water> (last visited Mar. 14, 2023).

water for public consumption, but which do not fall under the above definition, are regulated by the Department of Health and the county health departments.²

Public drinking water systems use different water treatment methods to provide safe drinking water to local communities.³ Public water systems often use a series of water treatment steps that include coagulation,⁴ flocculation,⁵ sedimentation, filtration, and disinfection.⁶

Wastewater Treatment Facilities

The proper treatment and disposal or reuse of wastewater is a crucial part of protecting Florida's water resources.⁷ Each person in Florida generates about 100 gallons of domestic wastewater each day.⁸ This wastewater must be managed to protect public health, water quality, recreation, fish and wildlife, and the aesthetic appeal of our waterways.⁹ Domestic wastewater in Florida is treated either by on-site sewage treatment and disposal systems (OSTDSs or septic tanks) or by centralized domestic (municipal) wastewater treatment facilities.¹⁰ The majority of the state's domestic wastewater is treated by larger centralized treatment facilities, which are the regulatory responsibility of DEP's Wastewater Management Program.¹¹ DEP also regulates smaller domestic wastewater treatment facilities, known as "package plants," as well as networked, distributed wastewater treatment systems.¹²

DEP is responsible for permitting and compliance activities for the state's approximately 2,000 domestic wastewater treatment facilities.¹³ DEP's Wastewater Management Program is responsible for the development and administration of rules and policy for proper treatment of wastewater from domestic facilities.¹⁴

² *Id.*

³ U.S. Centers for Disease Control and Prevention (CDC), *Water Treatment*, https://www.cdc.gov/healthywater/drinking/public/water_treatment.html (last visited Mar. 14, 2023).

⁴ Coagulation is often the first step in water treatment. During coagulation, chemicals with a positive charge are added to the water. The positive charge neutralizes the negative charge of dirt and other dissolved particles in the water. When this occurs, the particles bind with the chemicals to form slightly larger particles. *Id.*

⁵ Flocculation follows the coagulation step. Flocculation is the gentle mixing of the water to form larger, heavier particles called flocs. Often, water treatment plants will add additional chemicals during this step to help the flocs form. *Id.*

⁶ *Id.*

⁷ DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Mar. 14, 2023).

⁸ DEP, *Domestic Wastewater Program*, <https://floridadep.gov/water/domestic-wastewater> (last visited Mar. 14, 2023).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ DEP, *General Facts and Statistics about Wastewater in Florida*.

¹⁴ DEP, *Domestic Wastewater Program*.

Licensure Requirements

DEP is the primary regulator of public water systems in Florida.¹⁵ DEP derives its authority from the Florida Safe Drinking Water Act¹⁶ and has been delegated authority from the U.S. Environmental Protection Agency to implement the federal Safe Drinking Water Act.¹⁷

State law provides that a person may not perform the duties of an operator of a water treatment plant, water distribution system, or domestic wastewater treatment plant unless he or she holds a current operator's license issued by DEP.¹⁸ A water treatment plant collects, treats, and stores water for human consumption,¹⁹ a water distribution system conveys water for human consumption,²⁰ and a domestic wastewater treatment plant treats, stabilizes, or holds domestic waste.²¹ An operator is any person, including the owner, who is onsite and in charge of the actual operation of such plants or systems.²²

To become a licensed operator, a person must apply to DEP to take the licensure examination, submit a completed application for licensure, remit all required fees,²³ and meet certain other criteria, including having a high school diploma or its equivalent, successfully completing a training course approved by DEP, and possessing onsite operational experience.²⁴ The Department of Veteran Affairs offers reimbursement of fees associated with professional licensure exams to qualified veterans.²⁵

Licensure Reciprocity

Ensuring a pool of qualified and certified operators is essential in addressing the workforce needs of water utilities.²⁶ However, because licensing standards vary by state and an operator license is typically only valid in the state in which it is issued, it can be challenging to recruit new out-of-state operators.²⁷ This may be particularly problematic as the workforce becomes more mobile and workers change jobs and move across state lines more frequently.²⁸ Most states offer

¹⁵ Section 403.852(1), F.S.

¹⁶ Sections 403.850 – 403.892, F.S.

¹⁷ DEP, *Source and Drinking Water Program*, <https://floridadep.gov/water/source-drinking-water> (last visited Mar. 14, 2023).

¹⁸ Section 403.867, F.S.

¹⁹ Section 403.866(6), F.S.

²⁰ Section 403.866(5), F.S.

²¹ Section 403.866(2), F.S.

²² Section 403.866(3), F.S.

²³ Individuals must submit \$25 at the time they submit their application to take the licensure examination. Fla. Admin. Code R. 62-602.600(1). Individuals applying for a Class A, Class B, or Class C Treatment Plant Operator license must submit \$50 at the time they submit their application for licensure, and individuals applying for a Class D Treatment Plant Operator license or a Water Distribution System Operator license must submit \$25. Fla. Admin. Code R. 62-602.600(2).

²⁴ Section 403.872, F.S.; Fla. Admin. Code R. 62-602.300.

²⁵ DEP, *Water and Domestic Wastewater Operator Certification Program*, <https://floridadep.gov/water/certification-restoration/content/water-and-domestic-wastewater-operator-certification-program> (last visited Mar. 14, 2023).

²⁶ Jeff Oxenford and Jim Ginley, American Water Works Association, *Operator Licensing Requirements Across the United States*, 2 (2018), available at https://www.awwa.org/Portals/0/AWWA/ETS/Resources/Final_Report_Compiled_2.19.18.pdf?ver=2019-02-18-142536-257.

²⁷ *Id.* at 4.

²⁸ *Id.* at 12.

reciprocity to make it easier for an operator who already holds a license in one state to obtain a license in another state.²⁹

Florida does not offer reciprocal licensure to individuals who are licensed in other states or jurisdictions. Florida is one of only three states that do not offer reciprocal licensure for operators of water treatment plants or water distribution systems and one of two states that do not offer reciprocal licensure to operators of domestic wastewater facilities.³⁰

III. Effect of Proposed Changes:

Section 1 amends s. 403.865, F.S., regarding water and wastewater facility personnel, to include the following legislative findings:

- Water and wastewater services are essential to the health and well-being of all citizens; and
- Water and wastewater facility personnel are essential first responders.

Section 2 amends s. 403.867, F.S., which provides that a person may not perform the duties of an operator of a water treatment plant, water distribution system, or domestic wastewater treatment plant unless he or she holds a current operator's license issued by DEP. The bill changes this requirement by providing that an operator must hold an *active and valid operator* license issued by DEP under s. 403.872, F.S., which provides the requirements for licensure, or s. 403.8721, F.S., which is created by this bill.

Section 3 creates s. 403.8721, F.S., to establish requirements for licensure by reciprocity. The bill directs DEP to issue a license by reciprocity to any applicant who meets all of the following requirements:

- Is a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator and holds an active and valid license from another state, the Federal Government, a territory or tribal government that has been designated as the primary agency by the U.S. Environmental Protection Agency, or any unit thereof for which the licensure requirements, including education and operational experience, are comparable to or exceed Florida's licensure requirements;
- Has passed a licensure examination comparable to the licensure examination of DEP, subject to approval by DEP;
- Is not the subject of a disciplinary or enforcement action outside this state at the time of application for reciprocal licensure;
- Submits a completed application for reciprocal licensure and any required supporting documentation; and
- Remits the application fee.

The bill also directs DEP to issue a license by reciprocity to any applicant who has performed duties comparable to a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator while serving in the U.S. Armed Forces for which the requirements for performing the duties, including education and operational experience, are

²⁹ See generally American Water Works Association, *Operator certification requirements catalogued for all 50 states* (2018), <https://www.awwa.org/AWWA-Articles/operator-certification-requirements-catalogued-for-all-50-states> (last visited Mar. 14, 2023).

³⁰ Oxenford, *Operator Licensing Requirements Across the United States* at 8.

comparable to or exceed Florida's licensure requirements. Such applicants must meet the following requirements:

- Has passed a skill assessment or competency examination comparable to DEP's licensure exam;
- Is not subject to a disciplinary or enforcement action at the time of application for reciprocal licensure;
- Submits a completed application for reciprocal licensure and any required supporting documentation; and
- Remits the application fee.

If an applicant does not meet these requirements, DEP must award education and operational experience credits for licensure under s. 403.872, F.S., which provides the requirements for licensure in Florida.

The bill also provides that, during a declared state of emergency, DEP:

- May issue a temporary license to applicants who otherwise meet the requirements for licensure reciprocity; and
- Must waive the application fee for a temporary operator license.

Section 3 provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an insignificant negative fiscal impact on DEP because the bill requires DEP to waive the application fee for a temporary reciprocal license issued during a declared state of emergency. In addition, the bill may have a negative fiscal impact on DEP related to reviewing the licensure examinations of other jurisdictions and determining whether those examinations are comparable to DEP's licensure examination. DEP estimates year one non-recurring expenses of \$11,000 and \$184,000 in annual recurring expenses associated with salary and benefits to implement the program, including public outreach and staff training.³¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.865 and 403.867.

The bill creates section 403.8721 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources on March 20, 2023:

The amendment reorganizes the bill language to clarify that only applicants who have performed comparable duties in the United States Armed Forces are eligible for education and operational experience credits.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³¹ Email from Alex Kernan, Director of Legislative and Governmental Affairs, DEP, to Senate Committee on Environment and Natural Resources (Mar. 14, 2023) (email on file with the Senate Committee on Environment and Natural Resources).