

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 149

Florida Institute of Phosphate Research

SPONSOR(S): McKeel

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee		Thompson	Reese
2)	Economic Development Policy Committee			
3)	State Universities & Private Colleges Appropriations Committee			
4)	General Government Policy Council			
5)				

SUMMARY ANALYSIS

The bill expands the mission of the Florida Institute of Phosphate Research (FIPR), allowing research to be conducted outside of the scope of the phosphate industry, combining FIPR with the University of South Florida (USF) Polytechnic. The bill, in part:

- Provides for a revised name, the Florida Institute of Polytechnic and Phosphate Research (FIPPR), to reflect the affiliation between FIPR and USF Polytechnic.
- Expands the FIPR board of directors and revises the qualifications the Governor is required to consider when appointing the members of the FIPPR board of directors.
- Authorizes the FIPPR to promote the economic development of the state through application and commercialization of research.
- Authorizes the FIPPR to assist the University of South Florida in education, research, commercialization, and business incubation activities.
- Authorizes the FIPPR to establish methods for better and more efficient practices for commercial and industrial activities, including phosphogypsum disposal.
- Authorizes the FIPPR to enter into mutually satisfactory contracts.
- Authorizes the FIPPR to maintain and expand its public library.
- Directs the FIPPR to make available to the public the results of its activities.
- Directs the FIPPR to conduct its operations transparently and in the public interest and to prioritize its research and studies.
- Directs the FIPPR to provide sufficient laboratory facilities and equipment, making practical use of the existing State University System facilities and equipment.
- Directs the FIPPR to secure funding from public, private, foreign, and domestic sources for carrying out the research activities specified in this section.
- Directs the FIPPR to take actions necessary to promote the application and commercialization of its technologies, knowledge, and intellectual property.
- Specifies that expenditures from the Phosphate Research Trust Fund may only be administered for carrying out the phosphate research activities provided for in this section. Funds received by the proposed FIPPR for work products resulting from phosphate research activities are directed to be deposited in the Phosphate Research Trust Fund.

Many of the bill's provisions will have no direct fiscal impacts. Some of the provisions are expected to have an indirect fiscal impact on state and local governments and on the private sector. For details, see the FISCAL COMMENTS section of the analysis.

The effective date of this bill is July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Institute of Phosphate Research

The United States is the largest producer and consumer of phosphate rock in the world and the leading producer and supplier of phosphate fertilizers in the world, providing approximately 75 percent of the nation's phosphate supply and approximately 25 percent of the world supply. Phosphate companies own or have mineral rights to almost 450,000 acres in Florida. Ninety percent of the phosphate rock mined in the state, is used to make fertilizer. Of the remaining 10 percent, half is used in animal feed supplements. Phosphate is also used in a variety of products, including vitamins, soft drinks, toothpaste, light bulbs, film, bone china, flame resistant fabric, optical glass, and other consumer goods. There is no substitute or synthetic for phosphorus, which is essential for life in all growing things, plants and animals alike.¹

In 1978, the Florida Legislature created the Florida Institute of Phosphate Research (FIPR)² to study phosphate issues and to be a resource to provide phosphate information to the industry and the general public. Current law³ directs the FIPR to conduct, or cause to be conducted, studies that would improve phosphate industry efficiency, reduce its use of water and energy resources, and enhance efforts to reclaim the land that mining and processing affects. The law requires the FIPR to educate and inform Florida citizens about the industry, its effects, and the FIPR's research findings as well as general scientific knowledge concerning the industry.

The FIPR is a state research organization located in Bartow, Florida and is administratively attached to the University of South Florida (USF). USF provides administrative services to the Institute including accounting, payroll, personnel, legal and travel services, and in return, the FIPR pays a fee to USF for these services. However, USF does not participate in oversight of the Institute. This is a function of the FIPR Board of Directors.

The FIPR has a staff of 25 full-time and part-time employees and is governed by a 5-member board of directors appointed by the Governor. The membership of the board is as follows:

¹ Phosphate Fact Sheet – Florida Phosphate Council

² s. 378.101, F.S.

³ Id.

- One member from the faculty of a university within the State University System;
- One member from a major conservation group in Florida;
- One member from state government, and
- Two members from the phosphate mining or processing industry.

Current law⁴ requires the Governor to make these appointments on the basis of their ability to set priorities for phosphate research. The appointees are tasked with giving direction to phosphate research efforts that address problems of the industry in which the public has substantial interest. Members serve 3-year terms and may be reappointed.

The FIPR also serves as a phosphate-related information resource. The FIPR's research concentrates on the following areas: chemical processing of phosphate rock into fertilizer (including studies on the byproduct phosphogypsum), beneficiation or mineral processing to separate clay and sand from the phosphate rock, reclamation of mined lands, mining processes, and public and environmental health (including radiation) issues.⁵ Other FIPR activities include intensive summer workshops for teachers, conferences and seminars, maintaining an extensive library of information on phosphate, providing mini-grants to develop phosphate teaching units, and various other strategic projects and technical advisory committees.⁶

The University of South Florida Polytechnic

The 2008 Legislature designated the Lakeland campus of USF as the "University of South Florida Polytechnic."⁷ The USF Polytechnic is the newest of four campuses in the USF system. According to the USF Polytechnic website, it is the state's only polytechnic and provides upper level undergraduate and graduate students with an opportunity for applied learning and research in a personalized setting: small class sizes, convenient locations, innovative programs and flexible formats.

Merriam-Webster.com defines polytechnic as, "relating to or devoted to instruction in many technical arts or applied sciences." Similarly, the USF Polytechnic model offers degrees and certificates in many different degree programs and certificate programs, providing a multi-disciplinary focus, with real-world application.⁸

Under current law,⁹ USF Polytechnic is a separate organizational and budget entity from USF. USF Polytechnic is required to have a campus board and a campus executive director. The campus board is comprised of four residents of the Lakeland campus service area appointed by the president of USF and one member of the USF board of trustees selected by that board. Members of the campus board serve 4-year terms and may be reappointed for one term. USF Polytechnic is administered by a campus executive officer appointed by the USF president.

Proposed Changes

Generally, the bill expands the mission of the FIPR, allowing research to be conducted in additional areas outside of the scope of the phosphate industry. The bill locates FIPR at the USF Polytechnic and provides for a revised name, the Florida Institute of Polytechnic and Phosphate Research (FIPPR), to reflect said affiliation. The bill amends s. 378.102, F.S., to reflect these name changes in the short title and definition of "Institute."

The bill creates the FIPPR board of directors by expanding the FIPR board of directors to include a member from USF Polytechnic and a member from a statewide or regional economic development group. Subsequently, the bill revises the qualifications the Governor is required to consider when

⁴ Id.

⁵ Florida Senate Interim Report 2005-154, Activities Related to the Closure of Phosphate Mining Operations and the Uses of Phosphate Mining Byproducts and Closed Phosphate Lands, December 2004.

⁶ Florida Senate Interim Report 2009-316, The Florida Institute of Phosphate Research, October, 2008.

⁷ s. 1004.345, F.S.

⁸ <http://www.poly.usf.edu/>

⁹ s. 1004.345, F.S.

appointing the members of the proposed FIPPR board of directors to include the ability to set priorities for commercialization.

The bill authorizes the proposed FIPPR to:

- Promote the economic development of the state through the application and commercialization of research and other work products;
- Assist the University of South Florida in education, research, commercialization, and business incubation activities;
- Conduct or cause to be conducted environmental studies related to radiation and water supply and consumption, or other environmental or health effects of commercial and industrial activities, including phosphate mining and reclamation, as may from time to time be deemed reasonably necessary by the FIPPR for the health, safety, and welfare of the citizens of this state and particularly the citizens of the regions where phosphate mining or processing occurs;
- Conduct or cause to be conducted studies of reclamation alternatives and technologies in commercial and industrial activities, including phosphate mining and processing and wetlands reclamation;
- Conduct or cause to be conducted a thorough and comprehensive study of phosphatic clay and phosphogypsum disposal and utilization as a part of phosphate mining and processing, together with all environmental or related land uses;
- Establish methods for better and more efficient practices for commercial and industrial activities, including phosphate mining and processing, as it may determine most beneficial to the economy, environment, and way of life of the citizens of the state;
- Enter into any mutually satisfactory contract with any firm, institution, corporation, or government agency, both domestic and foreign, as may be reasonably required or desired in carrying out the research, studies, and commercialization activities specified in this section;
- Maintain and expand a public library with special collections related to its research activities;
- Make available to the public the results of its research and commercialization activities so that the research efforts will result in the public being better informed as to the effects of commercial and industrial activities, including phosphate mining and processing;
- Educate the public about the science related to topics and issues that are within its areas of expertise;
- Hold public hearings and consult with representatives of the phosphate industry and other industries related to institute research and all other interested parties, to assign priorities for its research and studies, to make public from time to time its intentions as to future research and study, and to allocate its resources and personnel for such research and studies as it may determine from time to time to be in the public interest;
- Provide suitable and sufficient laboratory facilities and equipment, making practical use of the existing laboratory facilities and equipment of the State University System and other facilities as may be available, for carrying out the research activities specified in this section;
- Secure funding from public, private, foreign, and domestic sources for carrying out the research activities specified in this section; and
- Take actions necessary to promote the application and commercialization of its technologies, knowledge, and intellectual property, providing consulting services, establishing public-private partnerships, and obtaining equity stakes in and fostering the growth of business entities in the development and commercialization of its technologies.

Additionally, the bill specifies that expenditures from the Phosphate Research Trust Fund may only be administered for carrying out the phosphate research activities provided for in this section. Funds received by the proposed FIPPR for work products resulting from phosphate research activities are directed to be deposited in the Phosphate Research Trust Fund.

B. SECTION DIRECTORY:

Section 1. Amends s. 378.101, F.S.; renaming the Florida Institute of Phosphate Research, revising provisions relating to the powers and duties of the institute, authorizing the institute to secure funding from certain sources, requiring the deposit of certain proceeds into the Phosphate Research Trust Fund, revising provisions relating to the appointment and number of the board of directors.

Section 2. Amends s. 378.102, F.S.; conforming terminology.

Section 3. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments section, parts b), c), and d).

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments section, parts b), c), and d).

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments section parts b), c), and d).

D. FISCAL COMMENTS:

a) The severance taxation of solid minerals, including phosphate, was enacted into law in 1971. The tax rates and the disposition of these revenues have been amended since that time. Currently, the FIPR is funded through the Phosphate Research Trust Fund (Trust Fund), which is established in Section 211.3103, F.S., as part of the distribution of severance tax revenues.

The law¹⁰ establishes the per ton severed tax rate at \$1.945 (9.3 percent of the severance tax revenues) and levies a surcharge of \$1.38 per ton severed until the surcharge revenue reaches a \$60 million threshold. Beginning July 1, of the fiscal year following the date on which the surcharge revenue reaches the \$60 million threshold, the per ton severed tax rate is to be reduced to \$1.51 (6.6 percent of the severance tax revenues). The surcharge revenue is designated for the closure of the Piney Point and Mulberry sites¹¹ and for approved reclamation of nonmandatory lands.

According to the Department of Environmental Protection (DEP), as of November 4, 2009, the surcharge revenues have not reached \$60 million. The DEP suggests that if mining continues at the current rate, the surcharge has a reasonable possibility of hitting \$60 million by June 30, 2010.

¹⁰ s. 211.3103, F.S.

¹¹ Mulberry Phosphates in Polk County and Piney Point in Manatee County are both former phosphate fertilizer chemical processing plants that closed in December 1999. Each site contains a process water problem associated with phosphogypsum stacks. Phosphogypsum is the radioactive byproduct of phosphate production, thus, the water used in the process can be harmful to the environment and costly in the industrial and reclamation process.

According to the Department of Revenue, the total surcharge collected as of October 22, 2009 was \$32,752,059.50. It's anticipated that \$60 million will be reached around October, 2010.

Since fiscal year 2004-05, program expenditures have exceeded the Trust Fund revenues.¹² In order to cover the difference, the Trust Fund's cash balance is being depleted. According to the FIPR, the cash balance in the Trust Fund as of September 1, 2009, was \$9,603,489.56.

The bill directs funds received from specified phosphate research activities provided for in this section to be deposited in the Trust Fund and that all expenditures from the Trust Fund be administered for carrying out said activities.

b) The bill authorizes the FIPPR to expand its mission to include commercial and industrial activity related research. This could create positive fiscal impacts on the private sector and state and local governments.

c) The bill authorizes the FIPPR to enter into contracts in carrying out the research, studies, and commercialization activities specified in this section and to secure funding from public, private, foreign, and domestic sources for such activities. These methods could lead to developments that may create positive fiscal impacts on the private sector and state and local governments.

d) The bill authorizes the FIPPR to provide consulting services, establish public-private partnerships, and to obtain equity stakes in and foster the growth of involved businesses. These practices could lead to developments that may create positive fiscal impacts on the private sector and state and local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

¹² Florida Senate Interim Report 2009-316, The Florida Institute of Phosphate Research, October, 2008.