

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB ANR 10-02 Relating to pollutant discharge prevention and control
SPONSOR(S): Agriculture & Natural Resources Policy Committee
TIED BILLS: SB 1412 **IDEN./SIM. BILLS:** None

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee		Blalock	Reese
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Section 376.17, F.S., requires that the Department of Environmental Protection (DEP) include in its recommendations to each regular session of the Legislature specific recommendations relating to the operation of the Pollutant Discharge Prevention and Control Act (the Act). The Act regulates and requires cleanup of discharges of oil and other pollutants that occur within Florida’s coastal waters. The DEP has made recommendations in the past as the Act was evolving, but it is no longer necessary for the DEP to provide yearly recommendations. This section is outdated and no longer being implemented or enforced as the need for recommendations and revisions has diminished. Therefore, this bill is repealing this section of statute.

The Preapproved Advanced Cleanup Program was established by the Legislature to allow DEP to enter into service contracts with responsible parties in advance of the site's priority ranking if the responsible party agrees to enter into a cost sharing arrangement for the purpose of financing site-rehabilitation of contaminated property. Subsection (5) of the statute also required DEP to submit a report by December 31, 1998, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the progress and level of activity under the program. As December 31, 1998 has passed, this subsection is outdated and ineffective, and therefore, this bill is deleting subsection (5) from s. 376.30713, F.S.

This bill does not appear to have a significant fiscal impact on state or local government.

This bill has an effective date of 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:

Reports to the Legislature Regarding the Operation of the Pollutant Discharge Prevention and Control Act

Background

In 1970, the Florida Legislature created the Pollutant Discharge Prevention and Control Act (the Act). The Act largely parallels provisions of the federal Clean Water Act that prohibit coastal and ocean discharges of pollutants and provides that any person discharging a pollutant into Florida waters is responsible for the immediate cleanup of the substance. Section 376.041, F.S., generally prohibits the discharge of pollutants into or upon any coastal waters, estuaries, tidal flats, beaches, and lands adjoining the seacoast of the state. The term "discharge" as defined in s. 376.031, F.S., includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping that occurs within the territorial limits of the state or outside the territorial limits of the state and affects lands and waters within the territorial limits of the state. Penalties for discharging oil or other pollutants may be as much as \$50,000 per day. Violators are liable for cleanup costs, and can be required to compensate the state for any damage done to the state's natural resources.

Effect of the Bill

Section 376.17, F.S., requires that the Department of Environmental Protection (DEP) include in its recommendations to each regular session of the Legislature specific recommendations relating to the operation of the Act. The DEP has made recommendations in the past as the Act was evolving, but no longer provides annual reports and this section is no longer being enforced as the need for recommendations or revisions has diminished. This section of statute is outdated, ineffective, and no longer being enforced.¹

¹ According to the Department of Environmental Protection, the Pollutant Discharge Prevention and Control Act has been implemented successfully through the years with minimal need for amendments. Three years ago DEP proposed an amendment related to the natural resource damage assessment program in section 376.121, but have not had to propose any other adjustments through the years.

Report on the Progress of the Preapproved Advanced Cleanup Program

Background

Section 376.30713, F.S., authorizes the Department of Environmental Protection (DEP) to enter into service contracts for the purpose of financing site-rehabilitation of contaminated property. Recognizing that “the inability to conduct site rehabilitation in advance of a site's priority ranking may substantially impede or prohibit property transactions or the proper completion of public works projects,” the Legislature established the Preapproved Advanced Cleanup Program (PACP).² Under the PACP, responsible parties may apply for cleanup funding in advance of the site's priority ranking if the responsible party is willing to enter into a cost sharing arrangement.³ Subsection (5) of the PACP required the DEP to submit a report by December 31, 1998, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the progress and level of activity under the provisions of this section. As December 31, 1998 has passed, this subsection is outdated and ineffective.

Effect of the Bill

This bill is deleting section 376.30713(5), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 376.011, F.S., to revise a cross-reference.

Section 2: Repeals s. 376.17, F.S., relating to reports to the legislature.

Section 3: Deletes section 376.30713(5), F.S., relating to the preapproved advanced cleanup reporting requirement.

Section 4: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

² Section 376.30713(1)(a), F.S.

³ Section 376.30713(1)(c)-(d), F.S.

D. FISCAL COMMENTS:

None.

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:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.