

1988

Session Law 88-285

Florida Senate & House of Representatives

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1988 Sessions

LAWS OF FLORIDA CHAPTER NO.

88-0285

PRIME BILL NUMBER

88/H1420 *

TYPE OF BILL

general

SPONSOR

H. Community Affairs Cmt.

PRIME BILL TITLE (short title)

Radon Gas / Regulation

SIMILAR/IDENTICAL BILL SUBSTITUTED BY PRIME BILL: 88/S1158

DOCUMENTATION REPRODUCED

Analysis

PRIME SENATE COMMITTEE:

n/a

()

FINAL SENATE COMMITTEE:

n/a

()

PRIME HOUSE COMMITTEE:

Community Affairs

(X)

FINAL HOUSE COMMITTEE:

Appropriations

()

SUBSTITUTED BILL:

(88/S1158)

(X)

OTHER:

()

NOTE: Consult the Final Legislative Bill Information (from Joint Legislative Management Committee, Division of Legislative Information, 1988) for more detailed bill history data. If prime bill number above is followed by an asterisk (*), it was amended on the floor, and the staff analysis for that bill may not be in accordance with the enacted law. The analyses reproduced here were supplied by the appropriate committee, who is solely responsible for their accuracy and completeness.

ADDITIONAL INFORMATION:

STORAGE NAME: h1420ss.nr
Date: May 19, 1988

HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMUNITY AFFAIRS
(As revised by the Committee on Natural Resources)
(As Revised by the Committee on Finance & Taxation)
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

CS/CS / HB 1420

BILL #: CS/CS/HB 1420 (PCB CA 88-3)

RELATING TO: Radon Protection Programs

SPONSOR(S): Committees on Community Affairs, Natural Resources, Finance and Taxation and Representatives C.F. Jones and others

EFFECTIVE DATE: July 1, 1988 or upon becoming law

COMPANION BILL(S): SB 1158; SB 1006 (Similar)

OTHER COMMITTEES OF REFERENCE: (1) Finance and Taxation

(2) Appropriations

I. SUMMARY:

A. PRESENT SITUATION:

This bill creates a radon protection program for the State of Florida. The events that led to this legislation began when the 1984 Legislature authorized the Department of Health and Rehabilitative Services (DHRS) to establish and enforce a rule for an environmental radiation standard for land which emits radiation. One of the key provisions of this rule which went into effect in February, 1986 was to require the use of radon-resistant building techniques for all new construction occurring in high radon risk areas.

Rule implementation was to follow the issuance of a map delineating the affected area. In March 1986 DHRS released a map based on three considerations: (1) areas previously mined for phosphate, (2) areas where elevated radiation levels have been measured and (3) areas surrounded by lands identified by the two previous criteria underlain by geologic deposits of phosphate ore. The map was jointly prepared by DHRS and DNR and DHRS intended to add areas to the map as additional regions were identified over a three year phase-in period.

However, the 1986 Legislature appropriated \$1 million and provided that the Florida Institute of Phosphate Research (FIPR) conduct a study and use this study as a basis for DHRS to identify all areas of the state affected by radon and to which the rule should be applied.

The Legislature further prohibited DHRS from expending funds to enforce the rule until: (a) the study was completed; (b) the study was evaluated by a Peer Review Committee; and (c) the

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department has used the results of the study as a basis for identifying by rule the affected areas.

The current DHRS rule also requires the use of radon resistant building techniques for new construction, while existing structures are treated with an educational/informational program.

The Peer Review Committee, in its final report (January, 1988) made five basic recommendations that would require:

- (1) radon resistant building codes for new construction;
- (2) notification on real estate sales contracts regarding the health risks due to radon;
- (3) certification of radon measurement and mitigation companies;
- (4) public information services; and
- (5) maintaining the current radon standard (as low as reasonably achievable not to exceed 0.02 working level or 4 picocuries per liter). (See Comments section).

B. EFFECT OF PROPOSED CHANGES:

The bill requires the Department of Health and Rehabilitative Services (DHRS) to administer several radon protection programs. Responsibilities of DHRS include:

- (1) Establishment, by rule, of radiation standards for buildings. Current law requires DHRS to develop, administer, and enforce regulations for radiation from land.
- (2) The administration of the Radon Trust Fund funded by a surcharge on building permits amounting to a one cent per square foot on new construction to pay for research to develop building codes for radon resistant construction. The surcharge is scheduled for repeal upon adoption of the radon resistant building codes and after one year of training on the code has been provided. Legislative review is required prior to repeal.
- (3) A certification program for persons who perform radon testing and mitigation services.
- (4) The initiation and administration of a public information and response program.

The bill requires state university research, training, and service activities on radon to be coordinated by the state Board of Regents through the Office of the Chancellor. Research on radon is to focus on the development of specific recommendations for the development of statewide standards for building codes for radon-resistant buildings and is to result on a draft code for radon-resistant buildings. Such activities are to be carried out in consultation with the Department of Community Affairs. By

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March 1, 1989, the Board of Regents is required to submit a final report, recommendations and draft building code to the Department of Community Affairs, the Governor, the Speaker of the House of Representatives, and the President of the Senate on radon-resistant building construction and mitigation techniques. If the Board of Regents has insufficient data to submit a final report and recommendations, it can submit an interim report on March 1, 1989, and a final report and recommendations on February 1, 1990.

The bill requires the Department of Community Affairs (DCA) to develop, publish, and adopt standards for radon resistant building codes within nine months of receiving the required final report and recommendations from the Board of Regents. This would provide that standards be adopted no later than December 1989 or November 1990, depending on when the Board of Regents' report and recommendations are submitted. DCA is required to provide training on the use and implementation of the standards it develops.

The bill also includes:

- (1) Requirements for mandatory testing of public and private schools and certain health care facilities.
- (2) Provisions for the formation of a coordinating council to serve as an advisory body to DCA on the development of radon-resistant building construction and mitigation techniques and to DHRS on the development and implementation of a public information program on radon or radon progeny.
- (3) A requirement for notification to buyers or renters on real estate documents or forms regarding the dangers of radon gas;
- (4) A preclusion of local governments to adopt and enforce ordinances relating to environmental radiation occurring as the result of or precursor to radon. Within thirty days of receiving the required final report and recommendations of the Board of Regents, DCA is required to recommend to the Governor, the Speaker of the House of Representatives, and the President of the Senate that the local government preclusion be retained, modified, or eliminated.
- (5) An initial appropriation from the General Revenue Fund for the agencies to begin the certification program and the program activities necessary to meet the mandatory code completion dates and provide the interim training. An appropriation is also made to the Board of Regents to coordinate state university research and to provide funding for university research on radon-resistant building construction techniques.

C. SECTION-BY-SECTION ANALYSIS:

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Section 1 -- Amends s. 404.056(1), F.S., to allow DHRS to establish, by rule, radiation standards for buildings; provides definition of "building."

- o Establishes requirements for the state Board of Regents regarding coordination of state university research on radon; requires the Board of Regents to submit a final report and recommendations to the Department of Community Affairs, the Governor, the Speaker of the House of Representatives, and the President of the Senate on radon-resistant building construction and mitigation techniques by certain dates.
- o Establishes the Florida Coordinating Council on Radon Protection to serve as an advisory body to DCA on the development of radon-resistant building construction and mitigation techniques and to DHRS on the development and implementation of a public information program on radon or radon progeny; provides for membership representative of two state agencies, state universities, the environmental or health community, local government, and phosphate, building, architectural, and real estate industry interests;
- o Establishes the Radon Trust Fund to fund certain radon protection programs. Establishes a one-cent per square foot surcharge on building permits (to be reviewed by the Legislature and repealed when radon resistant building codes are adopted and after one year of training on the codes has been provided), to be collected locally, to supplement the certification and public information programs at DHRS; to fund, through DCA, the radon resistant building code development; requires fees from the mandatory certification program to be deposited into the trust fund.
- o Authorizes DHRS to establish a certification program for radon testers and mitigators, to be implemented January 1, 1989; to maintain a record of test results including levels detected, location and age of structure and description of building and keep the records confidential; to examine the business records and test procedures of certified persons; to establish fees (\$200 to \$900) which will be deposited in the Radon Trust Fund; and to impose penalties for violations.
- o Initiates public information programs through DHRS to inform the public concerning radon gas and radon progeny.
- o Requires testing of all public and private school buildings or school sites for grades K-12, and all state-owned, operated, regulated or licensed 24 hour care facilities and all licensed day care centers for children or minors. Requires that these measurements be completed and reported to DHRS by July 1, 1990 and repeated every five years. The provisions of confidentiality do not apply to this subsection. No trust fund moneys are to be used to carry out the testing programs.

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- o Requires notification beginning January 1, 1989, concerning radon gas on at least one document, form or application executed at the time of, or prior to, contract for sale and purchase of a building, or execution of a rental agreement of a building.

Section 2 -- Requires DCA to develop, publish, and adopt and provide training on standards for a radon-resistant building code within one year of receiving the required final report and recommendations from the Board of Regents. Within two years of adoption of standards or at least biennially thereafter, the DCA shall update and adopt standards based on the most current research.

- o Authorizes funds from the Radon Trust Fund to be used for code development and implementation and to be used for contracts with the Board of Regents for radon-related research.
- o Precludes local governments from adopting and enforcing ordinances relating to environmental radiation occurring as the result of or precursor to radon; requires DCA, within thirty days of receiving the required final report and recommendations of the Board of Regents, to recommend to the Governor, the Speaker of the House of Representatives, and the President of the Senate that the local government preclusion be retained, modified, or eliminated.

Section 3 -- Provides for repeal and sunset review of the Florida Coordinating Council on Radon Protection; provides for repeal of the Board of Regents functions after submittal of its required final report and recommendations on radon-resistant building construction and mitigation techniques.

Section 4 -- Appropriates \$235,902 and 6 Career Service positions to DHRS for the purpose of establishing the certification program which must be in place January 1, 1989. This amount is to be repaid to General Revenue from the Radon Trust Fund by December 31, 1988.

Section 5 -- Appropriates \$110,000 and 2 Career Service positions to DCA for initial code development programs, to be repaid to the General Revenue Fund from the Radon Trust Fund by December 31, 1988.

Section 6 -- Appropriates \$500,000 to the Board of Regents to carry out its responsibilities under the bill, to be repaid to the General Revenue Fund from the Radon Trust Fund by December 31, 1988.

Section 7 -- Provides an effective date of July 1, 1988, or upon becoming law, whichever occurs later.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

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According to figures obtained from the Bureau of Economic and Research Development, College of Business Administration, University of Florida (see Attachment "A"), the building permit surcharge is expected to generate approximately \$3.75 million per year for the Radon Trust Fund.

The Certification Fee is expected to generate approximately \$60,000 for the Radon Trust Fund the first year.

Permit Surcharge	\$3.75	million
Certification Fee	<u>\$.06</u>	<u>million</u>
Radon Trust Fund - total	\$3.81	million

2. Recurring or Annualized Continuation Effects:

Recurring or annualized continuation effects will be dependent upon the volume of construction starts. It is, however, estimated that the following will be generated for the Radon Trust Fund:

	<u>Amount</u> <u>Year 1</u>	<u>Amount</u> <u>Year 2</u>	<u>Amount</u> <u>Year 3</u>
Permit Surcharge	\$3,750,000	\$3,750,000	\$3,750,000
Certification Fees	<u>60,000</u>	<u>70,000</u>	<u>77,000</u>
<u>TOTALS</u>	\$3,810,000	\$3,820,000	\$3,827,000

3. Long Run Effects Other Than Normal Growth:

None on General Revenue Fund.

4. Appropriations Consequences:

DHRS: \$235,902 from the General Revenue Fund to be repaid from the Radon Trust Fund by December 31, 1988.

DCA: \$110,000 from the General Revenue Fund to be repaid from the Radon Trust Fund by December 1, 1988.

Board of Regents: \$500,000 from the General Revenue Fund to be repaid from the Radon Trust Fund by December 1, 1988.

This bill provides that all programs and activities be funded from the Radon Trust Fund over a 3 to 3 1/2 year schedule. The first 6 months of start-up money for both DHRS and DCA programs would come from an appropriation from the General Revenue Fund with a pay-back provision to occur December 31, 1988.

(NOTE: Cost figures prepared by the Committee on Community Affairs, except that \$500,000 originally provided for research by the DCA has

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been deducted from the first-year DCA cost estimates.)

The anticipated costs for the first six months for DCA amount to \$110,000 which will fund initial program activities necessary to meet the mandated completion date for a radon resistant building code. The balance of the first year expense will be funded from the Radon Trust Fund. The costs for DCA to implement code development and training programs for the next 3 to 3 1/2 years, funded from the Radon Trust Fund, are as follows:

	<u>Amount</u> <u>Year 1</u>	<u>Amount</u> <u>Year 2</u>	<u>Amount</u> <u>Year 3</u>	<u>Amount</u> <u>Year 4</u>
Non-recurring:				
OCO	\$ 9,014			
OPS (contracts)	1,100,000	1,340,000	740,000	30,000
Recurring:				
Salary	68,398	71,818	75,409	79,179
OCO	2,000	2,000	2,000	2,000
Expense	23,932	23,932	23,932	33,932
Transfer (Indirect Costs)	42,797	44,937	47,183	49,542
Transfer (pay back GR)	<u>110,000</u>	<u> </u>	<u> </u>	<u> </u>
<u>TOTALS (DCA)</u>	<u>\$1,347,127</u>	<u>\$1,482,687</u>	<u>\$ 888,524</u>	<u>\$194,653</u>

DHRS anticipates costs to initiate and administer the certification program for the first six months to be \$235,902. The balance of the first year expenses will be funded from the Radon Trust Fund. The costs for DHRS to implement and administer the radon protection programs for the next 2 1/2 to 3 years, funded from the Radon Trust Fund, are as follows:

	<u>Amount</u> <u>Year 1</u>	<u>Amount</u> <u>Year 2</u>	<u>Amount</u> <u>Year 3</u>
Salaries	\$270,538	\$313,991	\$323,410
OPS	70,000	-0-	-0-
Expenses	240,956	253,171	278,488
OCO	<u>\$229,548</u>	<u>-0-</u>	<u>-0-</u>
<u>TOTALS (DHRS)</u>	<u>\$811,042</u>	<u>\$567,162</u>	<u>\$601,898</u>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

The unit of local government responsible for collecting a building permit fee will be required to collect, and transmit to the state quarterly, the building permit surcharge required by

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this legislation. The unit of local government is allowed to retain up to 5 percent of the surcharge collected (approximately \$.2 million) to cover administrative costs.

2. Recurring or Annualized Continuation Effects:

Approximately \$.2 million of the surcharge annually collected by the unit of local government will be retained for administrative costs associated with the collection and remittance of the surcharge. The permit surcharge is to be repealed in approximately 3 1/2 years.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

An increase amounting to one cent per square foot on building permits will be required as a result of this bill. This amounts to a \$15 surcharge on a building permit for a 1,500 square foot dwelling.

2. Direct Private Sector Benefits:

This surcharge will enable research to be done for adoption of a radon resistant building code.

The certification program will provide public protection from possible fraudulent activities of businesses engaged in radon testing and mitigation.

3. Effects on Competition, Private Enterprise, and Employment Markets:

Testing and mitigation companies certified under the DHRS certification program will be serving an untapped market. Persons providing these services will be able to use their certification to their advantage in the open marketplace.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

The long range consequences of this bill will be eventual adoption of a radon resistant building code to provide protection from elevated radon levels in buildings. In addition, the public information and public response programs administered by DHRS will provide new information and knowledge about radon to the public on a continuing basis. The mandatory notification statement to be provided on real estate transaction documents and rental agreements will ensure that members of the public engaging

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in real estate transactions are aware that radon may be a health risk.

The long term consequences of testing public and private schools and certain care facilities will ensure the identification of those facilities in need of remediation efforts and will provide the data necessary to formulate a remediation strategy.

The long term consequences of the certification of radon testing and mitigation companies will be to provide assurances to the public that the persons performing these functions are capable and knowledgeable about radon testing and mitigation.

One of the goals of the State Comprehensive Plan is to "cultivate good health for all its citizens, promote individual responsibility for good health, by . . . providing for stringent regulations and enforcement to prevent exposure of humans to environmental toxins, carcinogens, and radiation."

In addition, the State Comprehensive Plan, "encourages private sector participation in decisions affecting health care costs." This legislation meets those two goals.

IV. COMMENTS:

The steps necessary to adopt a statewide radon resistant building code will require time and money for the proper research to be completed and for the codes to be published. The Committee on Community Affairs found that since scientifically reliable data is not available for codification, this bill should preclude local governments from adopting and enforcing ordinances relating to environmental radiation occurring as a result of or precursor to radon.

The establishment of a surcharge on building permits, to fund the Radon Trust Fund, will provide the money necessary for the research and development of programs required to develop and publish a radon resistant building code and protect the public from elevated levels of indoor radon. When a statewide radon-resistant building code is adopted, the surcharge will be subject to legislative review and repeal.

The certification of radon gas and radon progeny testers and mitigators will provide public protection from persons who might take unfair advantage of the public. DHRS must have the initial certification program in place by January 1, 1989. In addition, by January 1, 1989, persons executing a form, document, or application for sale and purchase of a building or a rental agreement, must be provided notification regarding radon gas on the form, document, or application.

The mandatory testing of public and private schools (K-12) and certain licensed care facilities will assist in identifying the appropriate places where mitigation efforts should be directed because of the potential adverse effects of radon progeny on young children.

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At the present time, DHRS intends to maintain, by rule, the current exposure standards to levels that are "as low as reasonably achievable" not to exceed 0.02 working level or 4 picocuries per liter. According to the department, there is no safe level of radon, but before changing the standard there must be some assurances that mitigation technology and new construction technology will reduce and maintain the level below the current standard. Since the technology is not yet developed, the department suggests that the standard remain as is with continuing emphasis on reducing levels to the same as or below background levels.

V. AMENDMENTS:

None.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

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Staff Director:

Mario L. Taylor

NATURAL RESOURCES:

Prepared by:

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APPROPRIATIONS:

Prepared by:

Staff Director:

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STORAGE NAME: h1420s-f.ca
Date: June 24, 1988

HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMUNITY AFFAIRS
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/CS/HB 1420 (PCB CA 88-3)

RELATING TO: Radon Protection Programs

SPONSOR(S): Committees on Community Affairs, Natural Resources,
Finance & Taxation; Rep. Jones & others

EFFECTIVE DATE: July 1, 1988 or upon becoming law

DATE BECAME LAW: July 5, 1988

CHAPTER #: 88-285, Laws of Florida

COMPANION BILL(S): SB 1158 & 1006

OTHER COMMITTEES OF REFERENCE: (1) Natural Resources, Finance & Taxation
(2) Appropriations

I. SUMMARY:

This bill originated as a proposed committee bill in the House Committee on Community Affairs and establishes a radon protection program for the State of Florida. It passed both houses and became ch. 88-285, Laws of Florida.

A. PRESENT SITUATION:

The events that led to this legislation began when the 1984 Legislature authorized the Department of Health and Rehabilitative Services (DHRS) to establish and enforce a rule for an environmental radiation standard for land which emits radiation. One of the key provisions of this rule which went into effect in February, 1986 was to require the use of radon-resistant building techniques for all new construction occurring in high radon risk areas.

Rule implementation was to follow the issuance of a map delineating the affected area. In March 1986 DHRS released a map based on three considerations: (1) areas previously mined for phosphate, (2) areas where elevated radiation levels have been measured and (3) areas surrounded by lands identified by the two previous criteria underlain by geologic deposits of phosphate ore. The map was jointly prepared by DHRS and the Department of Natural Resources (DNR) and DHRS intended to add

areas to the map as additional regions were identified over a three year phase-in period.

However, the 1986 Legislature appropriated \$1 million and provided that the Florida Institute of Phosphate Research (FIPR) conduct a study and use this study as a basis for DHRS to identify all areas of the state affected by radon and to which the rule should be applied.

The Legislature further prohibited DHRS from expending funds to enforce the rule until: (a) the study was completed; (b) the study was evaluated by a Peer Review Committee; and (c) the department has used the results of the study as a basis for identifying by rule the affected areas.

The current DHRS rule also requires the use of radon resistant building techniques for new construction, while existing structures are treated with an educational/informational program.

The Peer Review Committee, in its final report (January, 1988) made five basic recommendations that would require:

- (1) radon resistant building codes for new construction;
- (2) notification on real estate sales contracts regarding the health risks due to radon;
- (3) certification of radon measurement and mitigation companies;
- (4) public information services; and
- (5) maintaining the current radon standard (as low as reasonably achievable not to exceed 0.02 working level or 4 picocuries per liter). (See Comments section).

B. EFFECT OF PROPOSED CHANGES:

The bill requires the Department of Health and Rehabilitative Services (DHRS) to administer several radon protection programs. Responsibilities of DHRS include:

- (1) Establishment, by rule, of radiation standards for buildings. Current law requires DHRS to develop, administer, and enforce regulations for radiation from land.
- (2) The administration of the Radon Trust Fund funded by a surcharge on building permits amounting to a one cent per square foot on new construction to pay for research to develop building codes for radon resistant construction. The surcharge is scheduled for repeal upon adoption of the radon resistant building codes and after one year of training on the code has been provided. Legislative review is required prior to repeal.

- (3) A certification program for persons who perform radon testing and mitigation services.
- (4) The initiation and administration of a public information and response program.

The bill requires state university research, training, and service activities on radon to be coordinated by the state Board of Regents through the Office of the Chancellor. Research on radon is to focus on the development of specific recommendations for the development of statewide standards for building codes for radon-resistant buildings and is to result in a draft code for radon-resistant buildings. Such activities are to be carried out in consultation with the Department of Community Affairs. By March 1, 1989, the Board of Regents is required to submit a final report, recommendations and draft building code to the Department of Community Affairs, the Governor, the Speaker of the House of Representatives, and the President of the Senate on radon-resistant building construction and mitigation techniques. If the Board of Regents has insufficient data to submit a final report and recommendations, it can submit an interim report on March 1, 1989, and a final report and recommendations on February 1, 1990.

The bill requires the Department of Community Affairs (DCA) to develop, publish, and adopt standards for radon resistant building codes within one year of receiving the required final report and recommendations from the Board of Regents. This would provide that standards be adopted no later than March, 1990 or February 1991, depending on when the Board of Regents' report and recommendations are submitted. DCA is required to provide training on the use and implementation of the standards it develops. Within two years of adoption, and at least biennially thereafter, DCA will update and adopt standards based on the most current research.

The bill also includes:

- (1) Requirements for mandatory testing of public and private schools and certain health care facilities.
- (2) Provisions for the formation of a coordinating council to serve as an advisory body to DCA on the development of radon-resistant building construction and mitigation techniques and to DHRS on the development and implementation of a public information program on radon or radon progeny.
- (3) A requirement for notification to buyers or renters on real estate documents or forms regarding the dangers of radon gas;
- (4) A preclusion of local governments to adopt and enforce ordinances relating to environmental radiation occurring as the result of or precursor to radon. Within thirty days of

receiving the required final report and recommendations of the Board of Regents, DCA is required to recommend to the Governor, the Speaker of the House of Representatives, and the President of the Senate that the local government preclusion be retained, modified, or eliminated.

- (5) An initial appropriation from the General Revenue Fund for the agencies to begin the certification program and the program activities necessary to meet the mandatory code completion dates and provide the interim training. An appropriation is also made to the Board of Regents to coordinate state university research and to provide funding for university research on radon-resistant building construction techniques.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 -- Amends s. 404.056(1), F.S., to allow DHRS to establish, by rule, radiation standards for buildings; provides definition of "building."

- Establishes requirements for the state Board of Regents regarding coordination of state university research on radon; requires the Board of Regents to submit a final report, recommendations and a draft building code on radon resistant construction and mitigation techniques to the Department of Community Affairs, the Governor, the Speaker of the House of Representatives, and the President of the Senate by certain dates.
- Establishes the 21-member Florida Coordinating Council on Radon Protection to serve as an advisory body to DCA on the development of radon-resistant building construction and mitigation techniques and to DHRS on the development and implementation of a public information program on radon or radon progeny; provides for membership representative of three state agencies, state universities, the environmental and health communities, local government, and phosphate, building, architectural, and real estate industry interests; provides that within 90 days of the effective date of the act, the council shall meet for an organizational session.
- Establishes the Radon Trust Fund to fund certain radon protection programs. Establishes a one-cent per square foot surcharge on building permits (to be reviewed by the Legislature and repealed when radon resistant building codes are adopted and after one year of training on the codes has been provided); to be collected locally, to supplement the certification and public information programs at DHRS; to fund the radon resistant building code development required of the Board of Regents and DCA; requires fees from the mandatory certification program to be deposited into the trust fund.

- Authorizes DHRS to establish a certification program for radon testers and mitigators, to be implemented January 1, 1989; to maintain a record of test results including levels detected, location and age of structure and description of building and keep the records confidential; to examine the business records and test procedures of certified persons; to establish fees (\$200 to \$900) which will be deposited in the Radon Trust Fund; and to impose penalties for violations.
- Initiates public information programs through DHRS to inform the public concerning radon gas and radon progeny.
- Requires testing of all public and private school buildings or school sites for grades K-12, and all state-owned, operated, regulated or licensed 24 hour care facilities and all licensed day care centers for children or minors. Requires that these measurements be completed and reported to DHRS by July 1, 1990 and repeated every five years. Tests conducted prior to the enactment of this law, may be accepted by DHRS as long as the tests meet DHRS standards and the school or facility certifies this in writing to the department. The provisions of confidentiality do not apply to this subsection. No trust fund moneys are to be used to carry out the testing programs.
- Requires notification beginning January 1, 1989, concerning radon gas on at least one document, form or application executed at the time of, or prior to, contract for sale and purchase of a building, or execution of a rental agreement of a building.

Section 2 -- Requires DCA to develop, publish, adopt and provide training on standards for a radon-resistant building code within one year of receiving the required final report and recommendations from the Board of Regents. Within two years of adoption of standards, and at least biennially thereafter, the department shall update and adopt standards based on the most current research.

- Authorizes funds from the Radon Trust Fund to be used for code development and implementation and to be used for contracts with the Board of Regents for radon-related research.
- Precludes local governments from adopting and enforcing ordinances relating to environmental radiation occurring as the result of or precursor to radon; requires DCA, within thirty days of receiving the required final report and recommendations of the Board of Regents, to recommend to the Governor, the Speaker of the House of Representatives, and the President of the Senate that the local government preclusion be retained, modified, or eliminated.

Section 3 -- Provides for repeal and sunset review of the Florida Coordinating Council on Radon Protection; provides for repeal of the Board of Regents functions after submittal of its required final report and recommendations on radon-resistant building construction and mitigation techniques.

Section 4 -- Appropriates \$811,042 and 11 Career Service positions to DHRS for the purpose of establishing the certification program which must be in place January 1, 1989. This amount is to be repaid to General Revenue from the Radon Trust Fund by December 31, 1988.

Section 5 -- Appropriates \$1,929,521 and 2 Career Service positions to DCA for initial code development programs, to be repaid to the General Revenue Fund from the Radon Trust Fund by December 31, 1988.

Section 6 -- Appropriates \$500,000 to the Board of Regents to carry out its responsibilities under the bill, to be repaid to the General Revenue Fund by DCA from the Radon Trust Fund by December 31, 1988.

Section 7 -- Provides an effective date of July 1, 1988, or upon becoming law, whichever occurs later.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: FY 88-89 FY 89-90 FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

EXPENDITURES:

Department of Community Affairs			
Operating Capital Outlay	\$ 12,478	2,000	2,000
DHRS			
Operating Capital Outlay	229,548	0	0
Other Personal Services	70,000	0	0
Board of Regents			
Lump Sum	500,000	0	0

2. Recurring or Annualized Continuation Effects:

EXPENDITURES:

Department of Community Affairs			
Salaries and Benefits (2 FTE)	68,398	71,818	75,409
Other Personal Services	1,692,135	1,373,742	775,428
Expenses	93,607	113,607	193,607
Indirect Costs	62,903	66,049	69,351
Sub-total	1,917,043	1,625,216	1,113,795

DHRS:			
Salaries and Benefits (11 FTE)	270,538	313,991	323,410
Expenses	240,956	253,171	278,488
Sub-total	511,494	567,162	601,898

REVENUES:			
DHRS			
Radon Trust Fund			
Permit Surcharge	3,750,000	3,750,000	3,750,000
Certification Fees	60,000	70,000	77,000
Sub-total	3,810,000	3,820,000	3,827,000

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

EXPENDITURES:			
Department of Community affairs			
General Revenue Fund	110,000	0	0
Radon Trust Fund	1,929,521	1,627,216	1,115,795
DHRS			
General Revenue Fund	235,902	0	0
Radon Trust Fund	811,042	567,162	601,898
State University System			
Board of Regents			
General Revenue Fund	500,000	0	0
Total			
General Revenue Fund	845,902	0	0
Radon Trust Fund	2,740,563	2,194,378	1,717,693

REVENUES:			
DHRS			
Radon Trust Fund	\$3,810,000	\$3,820,000	\$3,827,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

The unit of local government responsible for collecting a building permit fee will be required to collect, and transmit to the state quarterly, the building permit surcharge required by the bill. The unit of local government is allowed to retain up to 5 percent of the surcharge collected annually (approximately \$200,000 annually)

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

An increase of one cent per square foot on building permits will be borne mostly by the private sector.

2. Direct Private Sector Benefits:

The monies generated by the increase in the fee for building permits will facilitate research on adoption of a radon resistant building code. The certification program will also provide public protection from possible fraudulent activities of those involved in radon testing and mitigation of its harmful effects.

3. Effects on Competition, Private Enterprise, and Employment Markets:

Testing and mitigation companies certified under the DHRS certification program will be serving a potentially very lucrative market. Persons providing these services may be able to use their certification to their competitive advantage.

D. FISCAL COMMENTS:

Projected revenues are contingent on construction starts and could vary depending on economic conditions.

All the monies appropriated in the bill from the General Revenue Fund to the DHRS, Department of Community Affairs, and the Board of Regents must be repaid to the General Revenue Fund from the Radon Trust Fund by December 31, 1988.

III. LONG RANGE CONSEQUENCES:

The long range consequences of this bill will be eventual adoption of a radon resistant building code to provide protection from elevated radon levels in buildings. In addition, the public information and public response programs administered by DHRS will provide new information and knowledge about radon to the public on a continuing basis. The mandatory notification statement to be provided on real

estate transaction documents and rental agreements will ensure that members of the public engaging in real estate transactions are aware that radon may be a health risk.

The long term consequences of testing public and private schools and certain care facilities will ensure the identification of those facilities in need of remediation efforts and will provide the data necessary to formulate a remediation strategy.

The long term consequences of the certification of radon testing and mitigation companies will be to provide assurances to the public that the persons performing these functions are capable and knowledgeable about radon testing and mitigation.

One of the goals of the State Comprehensive Plan is to . . . "cultivate good health for all its citizens, promote individual responsibility for good health, by . . . providing for stringent regulations and enforcement to prevent exposure of humans to environmental toxins, carcinogens, and radiation."

In addition, the State Comprehensive Plan, "encourages private sector participation in decisions affecting health care costs." This legislation meets those two goals.

IV. COMMENTS:

The steps necessary to adopt a statewide radon resistant building code will require time and money for the proper research to be completed and for the codes to be published. The Committee on Community Affairs found that since scientifically reliable data is not available for codification, this bill should preclude local governments from adopting and enforcing ordinances relating to environmental radiation occurring as a result of or precursor to radon.

The establishment of a surcharge on building permits, to fund the Radon Trust Fund, will provide the money necessary for the research and development of programs required to develop and publish a radon resistant building code and protect the public from elevated levels of indoor radon. When a statewide radon-resistant building code is adopted, the surcharge will be subject to legislative review and repeal.

The certification of radon gas and radon progeny testers and mitigators will provide public protection from persons who might take unfair advantage of the public. DHRS must have the initial certification program in place by January 1, 1989. In addition, by January 1, 1989, persons executing a form, document, or application for sale and purchase of a building or a rental agreement, must be provided notification regarding radon gas on the form, document, or application.

The mandatory testing of public and private schools (K-12) and certain licensed care facilities will assist in identifying the

appropriate places where mitigation efforts should be directed because of the potential adverse effects of radon progeny on young children.

At the present time, DHRS intends to maintain, by rule, the current exposure standards to levels that are "as low as reasonably achievable" not to exceed 0.02 working level or 4 picocuries per liter. According to the department, there is no safe level of radon, but before changing the standard there must be some assurances that mitigation technology and new construction technology will reduce and maintain the level below the current standard. Since the technology is not yet developed, the department suggests that the standard remain as is with continuing emphasis on reducing levels to the same as or below background levels.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Joan H. Umberger
Joan H. Umberger

Staff Director:

Mario L. Taylor
Mario L. Taylor

NATURAL RESOURCES:

Prepared by:

David Hawley

Barry Kling

FINANCE & TAXATION:

Prepared by:

Linda Lettera

Staff Director:

Henry C. Cain

APPROPRIATIONS:

Prepared by:

Frank Morgan

Staff Director:

James A. Zingalie

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Williams</u>	<u>Wilson</u>	1. <u>HRS</u>	<u>Fav/CS</u>
2. <u>-</u>	<u>Beggs</u>	2. <u>FTC</u>	<u>Withdrawn</u>
3. <u>Eccles</u>	<u>Smith</u>	3. <u>AP</u>	
4. _____		4. _____	

SUBJECT:

Radon Gas/Regulation

BILL NO. AND SPONSOR:

CS/SBs 1158 & 1006 by
Committee on HRS and
Senators Myers and MalchonI. SUMMARY:

A. Present Situation:

The 1984 Legislature authorized the Department of Health and Rehabilitative Services (HRS) in section 404.056, F.S., to establish and enforce by rule environmental radiation standards for land which emits radiation. The key provisions of the rule, which went into effect in February 1986, were the establishment of a standard, the requirement to use radon-resistant building techniques for all new construction occurring in high radon risk areas, and the provision for a radon education/information program to be conducted through the county public health units.

Rule implementation was to follow the issuance of a map delineating the affected areas. In March 1986, HRS released a map which was jointly prepared with the Department of Natural Resources. The Department of HRS intended to add areas to the map as additional regions were identified over a three year period.

However, the 1986 Legislature appropriated \$1 million and provided that the Florida Institute of Phosphate Research conduct a study which would serve as the basis for HRS to identify all areas of the state affected by radon and to which the rule should be applied. The Legislature further prohibited HRS from expending funds to enforce the rule until: (1) the study was completed; (2) the study was evaluated by a Peer Review Committee; and (3) HRS had used the results of the study as a basis for identifying by rule the affected areas. The statewide study was completed in November 1987, and the Peer Review Committee issued its report in January 1988, the recommendations of which are incorporated into Committee Substitute for Senate Bills 1158 & 1006.

B. Effect of Proposed Changes:

Committee Substitute for Senate Bills 1158 & 1006 creates a radon protection program for the State of Florida. This program consists of: a Department of HRS rule establishing radiation standards for buildings rather than land; state university research, training, and service activities on radon to be coordinated by the Board of Regents through the Office of the Chancellor, resulting in a final report, recommendations, and draft code for radon resistant building; a radon coordinating council; a funding mechanism through a surcharge on building permits; the Department of HRS certification of radon testing and mitigation services; a public information program; mandatory testing of public and private schools and certain health care facilities; notification in real estate documents regarding radon gas; the development, publication, and adoption of standards for radon resistant buildings; the

preclusion of local governments from adopting and enforcing their own ordinances establishing building regulations; and an initial appropriation for research, initiating the certification programs, meeting the mandatory code completion date, and providing interim training.

Sectional Analysis

Section 1. Amends section 404.056(1), F.S., and provides for:

- Establishment by HRS rule of radiation standards for buildings rather than land and a definition for "building";
- Requirement for the state Board of Regents to coordinate state university research on radon and to submit a final report, recommendations, and a draft code for radon resistant buildings to the Department of Community Affairs (DCA), the Governor, the Speaker of the House of Representatives, and the President of the Senate on radon-resistant building construction and mitigation techniques by March 1, 1989. Requires the Board of Regents to carry out its activities in consultation with DCA. If the Board has insufficient data to submit a final report on that date, it may submit an interim report on that date and a final report on February 1, 1990.
- Establishment of the Florida Coordinating Council on Radon Protection to serve as an advisory body to the Department of Community Affairs on the development of radon-resistant building construction and mitigation techniques and to HRS on the development and implementation of a public information program on radon or radon progeny; provides for membership representatives of two state agencies; state universities; the environmental or health community; local government; phosphate, building, architectural, and real estate industry; voluntary health agencies; and consumer, public interests;
- Establishment of a funding mechanism through a surcharge on building permits of one cent per square foot on new construction and on the basis of the square footage being added, altered, or renovated for existing buildings, effective July 1, 1988 (to be repealed and reviewed by the Legislature when radon resistant building codes are adopted), to be collected locally, to supplement the certification and public information programs of HRS; to fund, through DCA, the radon resistant building code development; requires fees from the mandatory certification program to be deposited into the Radon Trust Fund;
- Creation of a Radon Trust Fund to be administered by HRS in which the surcharge monies will be deposited;
- Authorization for HRS to certify persons who perform radon measurement or mitigation services by January 1, 1989;
- Requirement for reporting to HRS of radon measurements and confidentiality of results;
- Establishment of fees (\$200 to \$900) for certification or recertification which will be deposited into the Radon Trust Fund;
- Imposition of penalties for violations of the certification program for radon testers and investigators;
- Initiation and administration of a public information and response program conducted by HRS concerning radon gas and radon progeny;

- Requirement that testing be performed on all public and private school buildings or school sites for grades K-12, all state-owned, operated, regulated or licensed 24-hour care facilities, and all licensed day care centers for children or minors. Requires that these measurements be completed and reported to the Department of HRS by July 1, 1990, and repeated every five years;
- Exemption from the provisions of confidentiality for buildings that require mandatory testing;
- Prohibition of the use of Radon Trust Fund money to carry out testing programs; and
- Separate and prominent notification to buyers or renters on real estate documents or forms regarding radon by January 1, 1989.

Section 2. Creates section 553.98, F.S., and provides for:

- Establishment of a twelve month period after receipt of the final report from the Board of Regents (required by Section 1.) by which time the DCA must develop, publish and adopt standards for radon resistant building codes and construction standards for radon mitigation in existing buildings, and after adoption of these standards, provide training on the use of such standards. Requirement that within two years from the date of adoption of standards for the adoption of building codes and at least biennially thereafter, DCA shall update adopted standards based on the most current research;
- Provision of funds from the Radon Trust Fund to be used for code development and for contracting with the Board of Regents for radon-related research; and
- Preclusion of local governments from adopting and enforcing their own ordinances relating to environmental radiation occurring as the result of, or precursor to, radon and requirement that DCA, within thirty days of receiving the required final report and recommendations of the Board of Regents, shall recommend to the Governor, the Speaker of the House of Representatives, and the President of the Senate that the local government preclusion be retained, modified, or eliminated.

Section 3. Provides for repeal of the Board of Regents' functions on February 1, 1990, and for repeal and sunset review of the Florida Coordinating Council on Radon Protection by October 1, 1994.

Section 4. Appropriates \$235,902 and six career service positions to HRS for the purpose of establishing the certification program which must be in place January 1, 1989. This amount is to be repaid to the General Revenue Fund from the Radon Trust Fund by December 31, 1988.

Section 5. Appropriates \$110,000 and two career service positions to DCA for initial code development programs, to be repaid to the General Revenue Fund from the Radon Trust Fund by December 31, 1988.

Section 6. Appropriates \$500,000 to the Board of Regents to carry out its responsibilities under the bill, to be repaid to the General Revenue Fund from the Radon Trust Fund by December 31, 1988.

Section 7. Provides an effective date of July 1, 1988 or upon becoming law, whichever occurs later.

II. ECONOMIC IMPACT AND FISCAL NOTE:**A. Public:**

The public and the building industry will experience a slight increase in fees paid for building permits as a result of this bill. A one penny per square foot surcharge on building permit fees is to be collected at the local level and remitted to the Radon Trust Fund to be administered by HRS. For an average building or dwelling of 1,500 square feet this amounts to a \$15 surcharge on a building permit.

The building industry and the public will benefit to the extent that interim guidelines for new construction being developed by DCA during the first six months of the research and development program will provide some reliable radon resistant building guidelines to follow until future codes are developed. The surcharge will be subject to a legislative review upon adoption of radon resistant building codes which DCA must provide by January 1, 1992.

As a result of the certification program, persons engaging in radon testing and mitigation of buildings for radon gas will be required to pay certification and recertification fees ranging from a minimum of \$200 to a maximum of \$900. It is estimated that 300 persons will apply for such certification in the first year of this program.

Administrators of private schools (K-12) and certain care facilities will be required to measure radon levels in their facilities every five years beginning July 1, 1990. It is estimated that the testing cost for each facility will be from \$15 to \$40. Any mitigation costs are indeterminate.

B. Government:

This committee substitute provides that all programs and activities be funded from the Radon Trust Fund over a 3 to 3 1/2 year schedule. The first six months start-up moneys for both HRS and DCA programs have been appropriated from General Revenue with pay-back by December 31, 1988.

An appropriation of \$500,000 is provided to the Board of Regents from the General Revenue Fund to be repaid from the Radon Trust Fund by December 1, 1988.

The anticipated costs for the first six months for DCA amount to \$110,000 and two career service positions to meet the mandated completion date for a radon resistant building code. The balance of the first years expense will be funded from the Radon Trust Fund. The cost projections for the next 3 to 3 1/2 years will be funded from the Radon Trust Fund. Information provided by DCA indicates that revenue received as a result of the surcharge on building permits will be adequate to cover the 3 1/2 year code development program costs.

The Department of HRS anticipates the costs to initiate and administer the certification program for the first six months to be \$235,902, which will fund six career service positions and equipment. The balance of the first year's expenses will be funded from the Radon Trust Fund. The cost projections for the next 2 1/2 to 3 years will be funded from the Radon Trust Fund. Information provided by HRS indicates that revenue received as a result of the certification fees and building permit surcharge will adequately fund the programs.

Local school boards and administrators of certain state owned or operated care facilities will be required to measure the radon levels in their facilities every five years beginning July 1, 1990. It is estimated that the cost for each facility will be from \$15 to \$40. This cost can be reduced by school

boards by using the same testing device in several schools.
Any mitigation costs are indeterminant.

III. COMMENTS:

The steps necessary to adopt a statewide radon resistant building code will require time and money for the proper research to be done. In the interim until radon resistant building codes are developed, builders and those contemplating building need guidelines and advice concerning the best available building techniques.

The certification of radon gas and radon progeny testers and mitigators will provide public protection from fraudulent and unscrupulous persons who might take unfair advantage of the public. The Department of HRS must have the initial certification program in place by January 1, 1989.

The mandatory testing of public and private schools (K-12) and certain licensed care facilities will assist in identifying the appropriate places where mitigation efforts should be directed because of the potential adverse effects of radon progeny on young children.

At the present time, HRS intends to maintain, by rule, the current exposure standards to levels that are "as low as reasonably achievable" not to exceed 0.02 working level or 4 picocuries per liter. According to HRS, there is no safe level of radon, but before changing the standard there must be some assurances that mitigation technology and new construction technology will reduce and maintain the level below the current standard. Since the technology is not yet developed, HRS suggests that the standard remain as is with continuing emphasis on reducing levels to the same as or below background levels.

IV. AMENDMENTS:

None.