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- b. Article in the News Press dated March 28, 2011 (Vice Mayor Denham)

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Law could foul waters, some say

Written by

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If passed, two bills in the Florida Legislature dealing with fertilizer use would make a mess of state waterways, environmentalists say.

House Bill 457 and Senate Bill 606 would not allow local governments to develop their own ordinances regulating how and when fertilizer is used, and all existing local fertilizer ordinances would be void.

Instead, all counties and municipalities in the state would be forced to follow a Department of Environmental Protection model for fertilizer use.

Many local governments, including Lee County, Sanibel, Cape Coral, Fort Myers Beach, Bonita Springs and Naples, have developed stricter fertilizer ordinances than the DEP model.

"The county's view is that we totally support local governments being able to pass ordinances to protect waterways," said Kurt Harclerode, operations manager with the county's Division of Natural Resources. "It's less expensive to do source control than to clean the water after the fact."

Last week, the House bill passed the House Community and Military Affairs Subcommittee in an 8-7 vote; the measure has two more committee stops in the House and two more in the Senate.

"The reason I think this is the best way to go is by the very nature of the size of our water bodies," said House bill co-sponsor Rep. Clay Ingram, R-Pensacola. "Bays, estuaries, watersheds are larger than a single city. I'm not against more stringent rules sometimes. It's a matter of using good science.

"I want to make it clear that we'll continue to work with cities and counties, and I think we can come to an agreement everyone can live with."

Not strict enough

At issue are the nutrients in fertilizers - nitrogen and phosphorus - which can cause algal blooms in waterways.

In the past decade, area waterways have

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experienced massive blooms of micro- and macroalgae. Algal blooms can smother sea grasses and cause fish kills; red drift algae can pile up on area beaches.

All of the area fertilizer ordinances are stricter than the state's model ordinance.

For example, local ordinances prohibit the use of fertilizers containing nitrogen and phosphorus during the rainy season.

Under the state model, fertilizers containing nitrogen and phosphorus wouldn't be allowed during the "prohibited application period," defined as when the National Weather Service has issued a flood watch or warning, tropical storm watch or warning or a hurricane watch or warning, or "if heavy rain is likely."

"That would be difficult to enforce or for a homeowner to even know," Harclerode said. "It's hard to tell people, 'Don't fertilize today because at 2 o'clock we're going to have a heavy storm.' The one-size-fits-all model doesn't work."

Eugene McDowell, service manager of Tony's Pest Control in Fort Myers and Cape Coral, likes the state's model.

"It's a good thing," he said. "It has sound science behind it. The counties and municipalities seem like they have more environmental hound dogs out there going by personal opinion."

Impact on tourism

Sanibel Vice Mayor Mick Denham pointed out that a recent study by FGCU and other universities and organizations shows excess nitrogen causes algal blooms in the Caloosahatchee River and estuary.

"When we've had bad bouts of drift algae in the past, tourists have checked into hotels, seen the algae and checked out again," Denham said. "It has had a significant impact on tourism."

Fertilizer is one of the "fastest growing forms of nitrogen on the planet," said Brian Lapointe, a research professor at Florida Atlantic University in Boca Raton, who has studied the relationship between nutrients and algae for 30 years.

"You often hear guys say there's no science to support that, and blah blah blah," he said. "The fact is there's lots of science to support it. The science is solid."

Local governments should be allowed to regulate fertilizer use, Lapointe said, as long as they base the ordinances on good

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science.

"I'm totally in favor of that," he said. "What has been done on Sanibel and in Lee County is great. You all are some of the first to move in that direction. It shows you've clearly done due diligence."

Another issue, Denham said, is that the United States Environmental Protection Agency is expected by August 2012 to impose numeric standards to define the concentrations of nutrients that will be allowed to flow into coastal waters.

"Sometime in the future, the feds are going to come down on cities and counties and say we've got to improve water quality," Denham said. "We can be penalized for not complying. Our ordinances are the only tools cities and counties have to protect the quality of the water."



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Singleton dumps fertilizer into tractor. Tempco works with Personal Touch Landscaping which has the contract at some Gateway communities / ANDREW WEST/news-press.com

Fertilizer fundamentals

Here are key points of most fertilizer ordinances. These are not the complete ordinances.

- Fertilizers containing nitrogen and phosphorus cannot be applied during the rainy season, June 1 through Sept. 30.
- During the rest of the year, use of fertilizers containing phosphorus and nitrogen is limited, with any nitrogen being partly in a slow-release form. The nitrogen content of landscape fertilizer must be at least 50 percent slow-release nitrogen.
- Fertilizer may not contain more than 20 percent nitrogen, with no less than 5 percent as slow-release nitrogen.
- Fertilizer shall not contain more than 2 percent phosphorus.
- Fertilizer application rates shall not exceed 2 pounds nitrogen per 1,000 square feet.
- No more than 4 pounds of nitrogen per 1,000 square feet in any calendar year.
- Only four applications are allowed per year.
- Fertilizer may not be applied within 100 yards of a body of water.
- Deflector shields are required on spreaders**.
- Cupping and bumping cannot be used or blown into ditches, drains and water bodies or onto roads or sidewalks.
- Fertilizer cannot be applied when a flood watch or warning, tropical storm watch or warning, or hurricane watch or warning is in effect.
- Fertilizer cannot be applied to impervious surfaces.
- Fertilizer cannot be dumped into a storm drain.
- Retail businesses selling fertilizer must post a notice in a conspicuous location near the fertilizer notifying customers of the limitations on the use of fertilizer containing greater than 2 percent phosphorus and the 50 percent minimum slow-release nitrogen requirement.

	Lee County	Broward Springs	Maple	Sanibel	Fernandina Beach	Cape Coral
Fertilizers containing nitrogen and phosphorus cannot be applied during the rainy season, June 1 through Sept. 30.	●	●	●	●	●	●
During the rest of the year, use of fertilizers containing phosphorus and nitrogen is limited, with any nitrogen being partly in a slow-release form. The nitrogen content of landscape fertilizer must be at least 50 percent slow-release nitrogen.	●	●	●	●	●	●
Fertilizer may not contain more than 20 percent nitrogen, with no less than 5 percent as slow-release nitrogen.	●	●	●	●	●	●
Fertilizer shall not contain more than 2 percent phosphorus.	●	●	●	●	●	●
Fertilizer application rates shall not exceed 2 pounds nitrogen per 1,000 square feet.	●	●	●	●	●	●
No more than 4 pounds of nitrogen per 1,000 square feet in any calendar year.	●	●	●	●	●	●
Only four applications are allowed per year.	●	●	●	●	●	●
Fertilizer may not be applied within 100 yards of a body of water.	10	15	10	25	3	15'
Deflector shields are required on spreaders**.	●	●	●	●	●	●
Cupping and bumping cannot be used or blown into ditches, drains and water bodies or onto roads or sidewalks.	●	●	●	●	●	●
Fertilizer cannot be applied when a flood watch or warning, tropical storm watch or warning, or hurricane watch or warning is in effect.	●	●	●	●	●	●
Fertilizer cannot be applied to impervious surfaces.	●	●	●	●	●	●
Fertilizer cannot be dumped into a storm drain.	●	●	●	●	●	●
Retail businesses selling fertilizer must post a notice in a conspicuous location near the fertilizer notifying customers of the limitations on the use of fertilizer containing greater than 2 percent phosphorus and the 50 percent minimum slow-release nitrogen requirement.	●	●	●	●	●	●

* Fertilizer containing nitrogen and phosphorus may be used within 100 yards of the hopper and fertilizer with water only applied to that 100 yards.

** Deflector shields are required when applying fertilizer near water or impervious surfaces.

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