Issue Summary: HB 1385 – Petroleum Contamination Site Cleanup

Problem Statement:
The Petroleum Cleanup Program, administered by the Florida Department of Environmental Protection (DEP), prioritizes, assesses, and provides for the cleanup of sites contaminated by discharges of petroleum and petroleum products from stationary petroleum storage systems. The DEP must require removal of the contaminant source, if warranted and cost-effective, at each site eligible for restoration funding. Once source removal is completed, DEP may reevaluate the site to determine the degree of active cleanup needed to continue site rehabilitation. DEP has no authority to establish a long-term natural reduction monitoring category to determine whether natural processes can significantly degrade petroleum contamination to cleanup target levels established by rule. Therefore, DEP uses active remediation techniques to improve sites to cleanup target levels.

The department prioritizes sites for cleanup using a scoring system based upon the DEP's projections on how many sites can be funded for cleanup using available appropriations. Over 3,000 sites are eligible for state funding scored a 10 or less. When certain conditions are met, DEP issues a finding of no further action for these low-scored sites. However, DEP has no authority to expend appropriated dollars to assess sites below the established score range even though cleanup target levels may not have been achieved. Parties responsible for sites eligible for state funded cleanup are reluctant or unable to spend their own dollars to apply for the non-reimbursable voluntary cleanup. Therefore, low scored sites that could be reassessed and possibly removed from the list of sites yet to be activated remain in the backlog.

Background:
The bill allows DEP to establish a category for sites within the Petroleum Cleanup Program where the effects of petroleum contamination will reduce naturally overtime and requires DEP evaluate whether monitoring is cost-effective and will adequately protect public health and the environment. The bill prohibits a local government from denying a building permit based solely on the presence of petroleum contamination for any construction, repairs, or renovations performed in conjunction with tank upgrade activities to an existing retail fuel facility if the facility was fully operational before the building permit was requested and if the construction, repair, or renovation is performed by a licensed contractor.

The bill also establishes a low-scored site initiative for sites with a priority ranking score of 10 points or less and provides conditions for voluntary participation. The bill authorizes DEP to spend no more than $10 million per FY from the funds currently authorized from the Inland Protection Trust Fund in DEP to assess low scored sites. Funds will be made available on a first-come, first-served basis and will be limited to 10 sites in each FY for each responsible party or property owner. Finally, the bill extends the date by which certain fuel service station facilities must upgrade their fuel tanks.

Governor's Veto
The Governor's veto message raised concerns regarding prohibiting a local government from denying a building permit based solely on the presence of petroleum contamination for any construction, repairs, or renovations performed in conjunction with tank upgrade activities to an existing retail fuel facility if the facility was fully operational before the building permit was

requested and if the construction, repair, or renovation is performed by a licensed contractor. It also expresses concern with allowing the use of up $10 million for sites that do not pose the greatest risk to the public.

Effect of Override:
The Governor's DEP was actively involved in drafting the legislation. The DEP will be able to use available appropriations for both active and passive remediation techniques and to assess low scored sites to minimize or eliminate contamination threats to public health and the environment in an improved, efficient and effective manner. State-funded contaminated sites that are in the backlog will become active sooner thereby reducing the backlog of over 8,800 sites that qualify for state funding.

The limitation on local regulations was negotiated with local governments.

The objection to the use of up to $10 million for sites that do not pose the greatest risk to the public ignores his own DEP conclusion that the legislation will allow DEP to use available appropriations for both active and passive remediation techniques and to assess low scored sites to minimize or eliminate contamination threats to public health and the environment in an improved, efficient and effective manner. In addition, state-funded contaminated sites that are in the backlog will become active sooner, thereby reducing the backlog of over 8,800 sites that qualify for state funding.