

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SPB 7048

INTRODUCER: Environmental Preservation and Conservation Committee

SUBJECT: Review of Water Management Districts

DATE: February 11, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kiger	Kiger	EP	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill reenacts section 373.069, F.S.

The bill provides that the act shall take effect upon becoming law.

II. Present Situation:

Under the Florida Government Accountability Act, sections 11.901-11.920, F.S., most state agencies and their respective advisory committees are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished.

Reviews are accomplished in three steps. First, an agency under review must produce a report providing specific information, as enumerated in s. 11.906, F.S. Upon receipt of the agency information, the Joint Legislative Sunset Committee and the House and Senate committees assigned to act as sunset review committees must review the information submitted and may request studies by the OPPAGA.

Based on the agency submission, the OPAGGA studies, and public input, the Joint Legislative Sunset Committee and the legislative sunset review committees will:

- Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees; and

- Make recommendations on the consolidation, transfer, or reorganization of programs within the state agencies not under review when the programs duplicate functions performed in agencies under review.
- Also, the House and Senate sunset review committees must propose legislation necessary to carry out the committee's recommendations.

An agency subject to review is scheduled to be abolished on June 30 following the date of the review as specified in s. 11.905, F.S., provided the Legislature finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency. If an agency is not abolished, continued, or reorganized, the agency shall continue to be subject to annual sunset review by the Legislature.

The Senate Committee on Environmental Preservation and Conservation is the primary sunset review committee for reviews of the water management districts. The Senate General Government Appropriations Committee assisted in this review.

The institutional arrangement for managing water in Florida is unique in the United States. Emerging from a series of legislative actions in 1972, five water management districts were created. They are the Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, Southwest Florida Water Management District, and the South Florida Water Management District. The geographical boundaries for the districts were set up largely on hydrologic boundaries.

Direct oversight for each district's activities is provided by a Governing Board whose members are appointed by the Governor and subject to confirmation by the Florida Senate. Each Governing Board in turn hires an Executive Director who must also be confirmed by the Florida Senate. In addition, pursuant to s. 373.026(7), F.S., the Department of Environmental Protection (DEP) is authorized to "exercise general supervisory authority over all water management districts."

The mission of the districts is to implement the provisions of Chapter 373, Florida Statutes, also known as the Florida Water Resources Act of 1972¹. In implementing the act, the districts are to seek to manage water and related natural resources to ensure their continued availability while maximizing environmental, economic and recreational benefits.

Central to the mission is maintaining the balance between the water needs of current and future users while protecting and maintaining water and related natural resources which provide the districts with their existing and future water supply. In order to accomplish their missions the districts assume their responsibilities as authorized in Chapter 373, F.S., and other chapters of the Florida Statutes by directing a wide range of programs, initiatives and actions. These include, but are not limited to, flood protection, water use, well construction, environmental resource permitting, water conservation, education, land acquisition, water resource and supply development, and supportive data collection and analysis efforts. As an outgrowth of this the districts have identified what are referred to as the "Areas of Responsibility," these are:

¹ Section 373.016, F.S.

- ✓ Water Supply
- ✓ Flood Protection
- ✓ Water Quality
- ✓ Natural Systems

Many provisions in Chapter 373, F.S., confer power to the Governing Boards either directly or indirectly through shared responsibility with the DEP. However, s. 373.083, F.S., provides for their general powers and duties. These are:

- Enter into contracts with public agencies, private corporations, or other persons.
- To appoint and remove agents and employees.
- Issue orders to implement or enforce any of the provisions or regulations of Chapter 373, F.S.
- Make surveys and investigations of the water supply and water resources of their respective districts.
- Solicit and accept donations or grants from both public and private sources for any district activity.
- To exercise any delegation and to sub-delegate to district staff.
- Specific delegation of the consumptive use permitting or the environmental resource permitting programs must include a process by which permit denials may be taken to the Governing Board for final action.

As an outgrowth of these general powers and duties, along with delegation agreements with the DEP, district responsibilities have grown over the years. Though the original mission of flood control remains central to their operations, districts now have responsibilities in many environmental arenas. These include:

- Consumptive Use Permitting
- Environmental Resource Permitting
- Surface Water Improvement and Management
- Uses of district lands, canals, streams or aquifers
- Drainage system construction or operation
- Well construction and well contractor licensing
- Land acquisition and management
- Public education

The districts are funded from many different sources; however, they are unique in that they are granted specific authority to levy ad valorem taxes. Section 9(b), Article VII, of the Florida Constitution provides authority for four of the water management districts to levy up to 1.0 mills for water management purposes. The Northwest Florida Water Management District is capped at 0.05 mills.² Subsequent to these constitutional caps the Legislature has placed statutory caps³ on the districts ad valorem millage rates as follows:

² 1.00 mill equals \$1.00 per \$1,000 of assessed value. 0.05 mills equals \$0.05 per \$1,000 of assessed value.

³ Section 373.509(3)(a), Florida Statutes.

- 0.05 Northwest Florida
- 0.75 Suwannee River
- 0.6 St. Johns River
- 1.0 Southwest Florida⁴
- 0.8 South Florida⁵

3-YEAR AD VALOREM HISTORY – ALL DISTRICTS

Districts	05-06 (Actual)			06-07 (Actual)			07-08 (Est.)			08-09 (Adopted)		
	Revenue	Rate	Percent of Total Revenues	Revenue	Rate	Percent of Total Revenues	Revenue	Rate ⁶	Percent of Total Revenues	Revenue	Rate	Percent of Total Revenues
Northwest	\$3.9	0.05	9%	\$4.9	0.05	12%	\$5.3	0.045	4%	\$5.0	0.045	4%
Suwannee	\$4.6	0.4914	6%	\$6.1	0.4914	7%	\$6.1	0.4399	7%	\$6.0	0.4399	9%
St. Johns	\$102.9	0.462	66%	\$142.5	0.462	34%	\$144.7	0.4158	36%	\$136.6	0.4158	36%
Southwest	\$189.4	0.422	69%	\$237.5	0.422	77%	\$237.5	0.3866	62%	\$216.1	0.3866	58%
South	\$444.1	0.697	43%	\$553.0	0.697	38%	\$549.5	0.624	43%	\$525.25	0.624	18%

In addition to the uniqueness of having ad valorem taxing authority, the districts operate on a Federal fiscal year which begins on October 1 and ends on September 30 unlike the State fiscal year which begins on July 1 and ends of June 30.⁷ Each district’s annual work plan and budget development process is specifically governed by s. 373.536, F.S.

A significant milestone for the districts in the development of their annual budgets is the submission of their tentative budget on August 1st of each year. The tentative budget is submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House, the chairs of specific legislative committees, the Secretary of DEP, and each county commission within the districts’ boundaries.

Pursuant to s. 373.536, F.S., the Executive Office of the Governor upon receipt of the tentative budget has the authority to “approve or disapprove, in whole or in part, the budget of each water management district...” The Governor must submit his recommendations to the districts 5 days prior to their final adoption hearing which is usually held in the final 10 days of September. If the Governor has disapproved a specific budget item, it shall not be in the final approved budget.

Concurrent to the review by the Governor’s Office, the statute also provides that, by September 5th, the House and Senate appropriations chairs may comment and raise objections to the provisions in the tentative budgets. In response to these comments, the Governing Boards are required to make them part of the public record at the meeting in which the final budget is adopted.

⁴ This taxing authority is divided evenly between the district and the district’s eight basin boards.

⁵ This taxing authority is shared with the Big Cypress Basin, the Okeechobee Basin, and the 0.01 of a mill tied to the Everglades Forever Act.

⁶ The lower millage rates reflect the districts compliance with House Bill 1B, enacted on June 21, 2007. The bill required special independent districts including water management districts to establish their ad valorem rates for this fiscal year at 97% of the existing rolled back rate.

⁷ According to discussions with those involved with the creation of the districts the use of a Federal fiscal year dates was because the old Central and Southern Florida flood control district was a creation of the federal government as was the Southwest Flood control district. Because of this the federal fiscal year was already in use and by default was maintained.

While each district has many specific activities, s. 373.536, F.S., requires them to be rolled into one of six defined program areas. These six program areas are:

- Water Resources Planning and Monitoring
- Acquisition, Restoration, and Public Works
- Operation and Maintenance of Lands and Works
- Regulation
- Outreach
- District Management and Administration

III. Effect of Proposed Changes:

Section 1: Provides that s. 373.069 F.S., relating to the water management districts and basin boards, are reenacted.

Section 2: Provides that this act shall take effect upon becoming law.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

C. Government Sector Impact:

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
