

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 7137      PCB GAAC 09-03      Water Management Districts  
**SPONSOR(S):** General Government Policy Council, Government Accountability Act Council  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB1898

|              | <b>REFERENCE</b>  | <b>ACTION</b>    | <b>ANALYST</b> | <b>STAFF DIRECTOR</b> |
|--------------|---|------------------|----------------|-----------------------|
| Orig. Comm.: | Government Accountability Act Council                           | 17 Y, 0 N        | Zeiler         | Hansen                |
| 1)           | General Government Policy Council                               | 14 Y, 0 N, As CS | Kliner         | Hamby                 |
| 2)           | Full Appropriations Council on General Government & Health Care |                  |                |                       |
| 3)           |   |                  |                |                       |
| 4)           |   |                  |                |                       |
| 5)           |   |                  |                |                       |

**SUMMARY ANALYSIS**

The Government Accountability Act requires each agency and related advisory councils to be reviewed by the Legislature according to a prescribed ten year schedule. If the Legislature does not take action, the agency will continue to be subject to an annual sunset review each year until the Legislature enacts legislation that continues, modifies, or terminates the agency. While the Water Management Districts (WMD) were scheduled to be reviewed by July 1, 2008, the Legislature did not take final action during the 2008 regular session.

House Bill 7137 (bill) makes a number of changes based upon the review and recommendations that occurred during the sunset review process. The bill:

- Reenacts s. 373.069, F.S., relating to the establishment of the WMDs.
- Provides a finite period that a basin board member may serve beyond expiration of the appointment term and designates the chair of a basin board under specified conditions.
- Reduces the number of members on the Manasota Basin Board.
- Eliminates the Oklawaha River Basin Advisory Board, Lake Panasoffkee restoration program and Lake Panasoffkee Restoration Council.
- Revises the terms of Southwest Florida WMD governing board member appointments to reflect current practice.
- Allows WMD governing boards to conduct meetings via teleconferencing or other communication media technology.
- Requires WMD boards to delegate authority to approve consumptive use and environmental resource permits (ERP) to the executive directors.
- Establishes documentation requirements for water well contractors applying for licensure.
- Establishes the conditions necessary to receive a 50-year consumptive use permit for certain alternative water supply development projects.
- Provides the appropriate legislative substantive committee chair authority to comment and object to WMD tentative budgets.
- Establishes a limitation on the amount of bonds a WMD may have outstanding and requires the approval of the Joint Legislative Budget Commission (LBC) to exceed the bond limitation.
- Revises certain payment in lieu of taxes provisions by expanding eligible lands, annually reviewing population eligibility requirements, narrowing eligible local governments, and removing the application process and deadline.
- Authorizes the reinstatement of payment of lieu taxes for counties that remain below the specified population threshold.

The bill has no fiscal impact on state government and an indeterminate impact on WMDs relating to payment in lieu of taxes payments. The bill has an effective date of July 1, 2009.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

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## 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:

##### ***Overview***

Sections 11.901-11.920, F.S., the "Florida Government Accountability Act," create an agency sunset review process to determine if a public need exists for the continuation of a state agency, its advisory committees, or its programs. The act requires each agency and related advisory councils to be reviewed by the Legislature according to a prescribed ten-year schedule. If the Legislature does not take action before the review date to reenact the agency or its advisory committees, the agency will continue to be subject to an annual sunset review until the Legislature enacts legislation relating to the agency's abolition, continuation, or reorganization.

##### ***Sunset Review Process***

The act requires the appointment of a Joint Legislative Sunset Committee to oversee the review process, obtain public input, and make recommendations to abolish, continue, or reorganize the agency under review.

Two reports are required prior to an agency's review date:

- No later than 2 years preceding the year in which an agency and its advisory committees are scheduled to be reviewed, the agency must provide the Legislature with a preliminary report detailing its programs and activities. Upon receipt of the agency's report, the sunset review committees of the Senate and House of Representatives are required to conduct independent reviews of the agency and its advisory committees. The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General are required to assist the Senate and House of Representatives in the review process.
- No later than March 1 of the year in which an agency is scheduled to be reviewed, the sunset committees of the Senate and House of Representatives are required to provide the President of the Senate and Speaker of the House of Representatives with 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.

## ***Recommendations***

The Joint Legislative Sunset Committee, Senate Committee on Environmental Preservation and OPPAGA have prepared various reports and memorandums regarding the sunset review of the WMDs. Their recommendations are summarized in bullet format below with earliest date first.

### OPPAGA–December 2007 (Governance)

- Require the Legislative Budget Commission to review and comment on WMD budgets.
- Revise the dates for the WMD budget review process to match the state fiscal year.
- Direct the WMDs with basin boards to assess the value of the basin boards.
- Eliminate the WMDs' authority to designate basin boards.
- Require the election of WMD governing board members.

### OPPAGA–January 2008 (Land Management)

- Increase cooperative agreements with other agencies to perform some of the WMDs' conservation land management activities.
- Increase vehicle access to and availability of recreational activities on WMDs' lands.
- Limit WMDs' land management activities to mission critical activities.
- Establish and report comprehensive performance information.
- Centralize the WMDs' land management activities under Department of Environmental Protection (DEP).

### OPPAGA –February 2008 (WMD Budgets)

- Increase less-than-fee acquisitions, allowing the WMDs to acquire and protect resources at a reduced cost and allowing the land to remain in private ownership.
- Lease WMDs' lands for purposes including agriculture, silviculture, livestock grazing, and hunting.
- Limit land management activities to only mission critical functions such as prescribed burning and restoring natural water flow, reducing funding for expanding public access and recreational activities such as improving access roads and recreational facilities (e.g., campgrounds and trails).
- Increase cooperative land management agreements, shifting land management activities to other agencies (e.g., Department of Agriculture and Consumer Services, DEP, Fish and Wildlife Conservation Commission, local governments, or federal agencies).
- Increase use of volunteers and inmate labor for land management activities (e.g., trail development, trash removal, and removal of invasive nonnative plants)
- Review permitting criteria, delegating additional authority to staff in taking final action on permit applications. Denials of permit applications would remain a governing board final action.
- Reprioritize compliance activities, reducing the amount of regulatory compliance activities conducted through a risk-based approach to emphasize public safety and protection of environmentally sensitive areas.
- Delay or eliminate land acquisition programs.
- Sell lands that are no longer needed for the purposes for which they were acquired.
- Reduce, delay or eliminate funding for water supply and water restoration projects.

- Modify water-related tax structures to reduce reliance on ad valorem tax revenue.
- Charge fees for access to and use of WMD-owned lands.
- Institute a re-inspection fee for continued non-compliance with permit conditions and WMD regulations.
- Merge Northwest Florida and Suwannee River WMDs.
- Modify permit fees to avoid reliance on local ad valorem tax revenues.

#### OPPAGA–February 2008 (Environmental Resource Permitting (ERP))

- Mandate the WMDs to increase efforts to educate permit applicants on the regulatory requirements in order to expedite the permitting process.
- Adjust permit fees to avoid ad valorem tax subsidization of the activity.
- Mandate the permitting agencies (WMDs and DEP) increase coordination and move toward a ‘one-stop permitting’ process

#### Joint Legislative Sunset Committee–March 2008

- Change the WMDs’ tentative budget submission date from August 1 to February 15.
- Assess the feasibility of consolidating the Southwest Florida WMDs eight basin boards into three regional basins based on ground water.
- Abolish four advisory councils (Ocklawaha River, Harris Chain of Lakes, Lake Panasofkee, and Citrus/Hernando Waterways).

#### Senate Committee on Environmental Preservation and Conservation–February 2008

- Continue the WMDs.
- Repeal the following advisory councils: Harris Chain of Lakes, Ocklawaha River Basin, Lake Panasoffkee Restoration, and Citrus/Hernando Waterways.
- Continue the appointment of Governing Board members and consider amending current statutes concerning general Governing Board issues to:
  - Require that all Governing Board appointments reflect the population demographics of the WMD.
  - Reduce the Southwest Florida Governing Board back to its original configuration of nine members.
  - Reduce the number of Governing Board members from nine to seven for the Northwest Florida and Suwannee River WMDs.
  - Reapportion the current Governing Board for Southwest Florida and South Florida to accurately reflect population shifts in those WMDs.
  - Require that the legislatively established statutory ad valorem caps sunset every five years.
  - Require the WMDs’ budgets to be done on a state fiscal year.
  - Require the WMDs to make budget presentations during the annual Regular Session of the Legislature.
  - Require the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission to adopt the WMDs’ budgets.

- Provide authority for the Governing Boards to utilize communications technology for conducting board meetings.
- Establish uniform statutory guidelines for the delegation of administrative board decisions to the Executive Director.
- Direct OPPAGA to evaluate and make recommendations on the relative merits and modifications needed to meet agency performance measures.
- Retain the Water Resources Planning and Monitoring Program and consider:
  - Directing the WMDs to redesign performance measures for Minimum Flows and Levels in order to ensure they more accurately reflect the costs of their establishment.
  - Directing the WMDs to redesign performance measures used to reflect the cost of collecting hydrological data to ensure that all WMDs are using the same methodology.
  - Directing the WMDs to eliminate the “Other Water Resources Planning and Monitoring Activity” from the budget.
- Retain the Acquisition, Restoration and Public Works Program and consider:
  - Commissioning an interim report or OPPAGA study to determine the potential efficiencies that could be realized by merging certain land acquisition practices among state agencies and the WMDs.
  - Directing the WMDs to replace the current performance measure with one that provides cost and production information by specific water supply or water resource development project.
  - Commissioning an interim report or OPPAGA study to determine the potential for combining the SWIM program and the TMDL program.
  - Directing the WMDs to eliminate the following activities from the budget: “Other Cooperative Projects,” “Facilities Construction and Major Renovations,” and “Other Acquisition and Restoration Activities.”
- Retain the Operation and Maintenance of Lands and Works Program and consider:
  - Amending the statute that details the permissible uses of lands acquired under Florida Forever or other acquisition efforts to correct an apparent duplication that details their potential use for water resource and water supply development projects.
  - Directing the WMDs to eliminate the “Facilities” activity from the budget.
- Retain the Regulation Program and consider:
  - Requiring that the issuance of Consumptive Use Permits (CUP) and ERPs be delegated to the Executive Director.
  - Establishing permit fee baselines for CUPs and ERPs.
  - Commissioning an interim report or OPPAGA study to determine if efficiencies or financial benefits can be realized by creating a uniform method for the WMDs to implement the “Water Well Construction, Permitting, and Licensing” activity.
  - Amending the statutes to require the delegation of the ERP program to local governments provided certain conditions are satisfied.
  - Directing the WMDs to evaluate and modify the process for tracking permit costs for water well permits.

- Adopting a Joint Resolution to raise the constitutional millage cap for the Northwest Florida WMD from 0.05 mills to 1.00 mills and implementing legislation to raise the statutory cap to 0.20 mills.
- Amending the Underground Injection Control statutory provisions to conform them to federal law and the state program.
- Retain the Outreach and Public Education Program and consider:
  - Directing the WMDs to merge the “Water Resources Education,” “Public Information,” and “Public Relations” activities into a single activity.
  - Directing the WMDs and the DEP to evaluate current outreach efforts to determine if a statewide approach could provide greater efficiency.
  - Amending statutes to permit the WMDs to utilize electronic posting of certain rule development and procurement solicitations.
  - Amending statutes to eliminate an existing cap on certain expenditures for promotion, advertisement, and improvement of the programs and objectives of the WMDs, or clarifying what specific types of expenditures are included under this provision.
  - Directing the WMDs to eliminate the “Other Outreach Activities” activity from the budget.
- Consider the following options concerning Basin Boards:
  - Repeal the boards and modify the statutes to prohibit them from being established.
  - Allow the ex-officio WMD governing board members to vote.
  - Merge the Alafia River, Hillsborough River, Northwest Hillsborough, and Pinellas-Anclote River basins.
  - Repeal the Green Swamp Basin and the Okeechobee Basin.

#### Senate Committee on Environmental Preservation and Conservation—October 2008

The Senate issued a revised report containing all of the recommendations of the of the February report with the addition of the following general governing board issue: The Legislature should adopt a procedure, modeled after the Public Service Commission Nominating Council, for selecting governing board members.

#### ***House Bill 7137***

#### Water Management Districts and Governing Boards

The mission of the WMDs is to implement the provisions of Chapter 373, F.S., also known as the Florida Water Resources Act of 1972 (act). Direct oversight for each WMD’s activities is provided by a governing board whose members are appointed by the Governor and subject to confirmation by the Florida Senate. Each board, in turn, hires an executive director who must also be confirmed by the Florida Senate. Members must be selected from candidates who have significant experience in one or more of the following areas, including, but not limited to: agriculture, the development industry, local government, government-owned or privately owned water utilities, law, civil engineering, environmental science, hydrology, accounting, or financial business. Vacancies are to be filled according to specified residency requirements.

Chapter 373, F.S., confers power to the WMD boards either directly or indirectly through shared responsibility with the DEP. Specifically, s. 373.083, F.S., provides for their general powers and duties. These are to:

- 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 WMDs.
- Solicit and accept donations or grants from both public and private sources for any WMD activity.
- Exercise any delegation and to sub-delegate to WMD staff.

Such delegation of the CUP or the ERP programs must include a process by which permit denials may be taken to the Governing Board for final action.

In implementing the act, the WMDs 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. In addition to responsibilities authorized in Chapter 373, F.S., the WMD have been assigned a wide range of additional programs, initiatives and actions. Though the original mission of flood control remains central to their operations, WMDs now have responsibilities in many environmental arenas. These include:

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

The bill reenacts s. 373.069, F.S., which creates Florida's five WMDs.

The bill amends s. 373.073(1)(b), F.S., and makes technical changes regarding the number of Southwest Florida WMD governing board members a governor may appoint each year during their term of office.

### Permit Delegation

Currently, governing boards, at their own discretion, are authorized to delegate the all or part their authority to take certain actions on both CUPs and ERPs.

The bill amends ss. 373.079(4)(a) and 373.083(5), F.S., requiring the governing boards of WMDs to delegate to the executive director the authority to take final action to approve permit applications, petitions for variances and waivers of permitting requirements for CUPs under part II, chapter 373, F.S., and for the management and storage of surface water under part IV, chapter 373, F.S., (ERPs). Governing board members are to expressly prohibit themselves from intervening in any manner during the review of permit applications. The governing boards maintain the authority to deny such permits. Section 373.118, F.S., which authorizes the delegation to the executive director of the governing board's authority to approve or deny general permits, is repealed. Delegation authority for general permits is authorized in the broader delegation requirement established in ss. 373.079(4)(a) and 373.083(5), F.S.

## Water Management District Budget Review and Fiscal Year

The process for the adoption of WMD budgets originated in 1949 with the creation of flood control districts under Chapter 378, F.S. The Water Resources Act of 1972 created the five WMDs and incorporated the budget review provisions of Chapter 378, F.S., into Part V of Chapter 373, F.S., and creating section 373.536, F.S. No change was made to the fiscal year or to the review process. In 1991, subsection (5) was added to s. 373.536, F.S., to require that all WMD “tentative” budgets be submitted to the Department of Environmental Regulation (DER) (the predecessor agency to the current DEP) by August 5 of each year. The DER was to review the budgets and submit comments to the governing board and to the Governor by September 5. Prior to December 15, the DER was to file with the Governor and the Legislature a report summarizing “the expenditures of the WMDs by program area.” Paragraph 373.536(5)(a), F.S., was amended in 1993 to require that the tentative budgets also be submitted to the Governor’s Office and the chairs of the appropriations committees in the Senate and House by August 5. Paragraph 373.536(5)(b), F.S., was also amended to allow the Governor’s Office and the appropriations chairs to submit comments to the WMD governing boards by September 5. Section 373.536, F.S., was amended in 1996 to authorize the Governor to “approve or disapprove, in whole or in part, the budget of each water management district.” The Governor was also required to “develop a process to facilitate review and communication regarding water management district budgets.” The stakeholders involved with the work of the Water Management District Review Commission drafted language that resulted in 1997 legislation. The 1997 legislation further amended s. 373.536, F.S., to require that the tentative budgets be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of all substantive and fiscal committees, as well as to the Secretary of the Department of Environmental Protection, and the governing body of each county in which the WMD has jurisdiction or derives any funds for its operations.

Under current law, the fiscal year for the WMDs is from October 1 through September 30. In this fiscal year cycle, the first step is for the budget officer of each WMD to submit to the governing board of the district by July 15 a tentative budget for the fiscal year beginning October 1. By August 1, a copy of the tentative budget is to be provided by the WMD to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of all substantive and fiscal committees. The House and Senate appropriations chairs may submit comments and objections on the proposed budgets to the WMDs by September 5. In its adoption of the final budget, the governing board must include a written response to any comments or objections of the appropriation chairs. The record of the governing board meeting adopting the final budget is required to be transmitted to the Governor, and the chairs of the appropriation committees. Before December 15, the Governor’s Office is required to file with the Legislature a report that summarizes its review of the tentative budgets.

The bill amends s. 373.536(5)(e), F.S., and allows the appropriate substantive committee chairs to provide to each WMD comments and objections to their proposed budget. Comments and objections are submitted in the same manner that currently exists for appropriation chairs.

### Basin Boards

Section 373.073(1)(a), F.S., allows a governing board member to continue to serve 180 days beyond the term of appointment when no successor has been appointed. Currently, basin board members may serve indefinitely beyond their term of appointment when no successor has been appointed. The bill amends s. 373.0693(3), F.S., and provides the identical 180-day time-limitation on the time a basin board member may serve beyond the term of appointment

The bill amends s. 373.0693(6), F.S., and lowers the number of members on the Manasota basin board from six to four, two from Manatee County and two from Sarasota County.



Currently, a governing board member residing within a basin or, if no member resides, a governing board member designated by the chair of the governing board may sit as the “ex-officio” chair of a basin board. The bill amends s. 373.0693(6), F.S., removing the “ex-officio” designation and elevates the status of the governing board member designating the chair of the basin board to one with full voting rights.

### Obsolete Boards and Councils

The bill repeals the portion of s. 373.069(8)(a), F.S., which established the Oklawaha River Basin Advisory Board (board). The board was created to advise the WMD’s governing board on water management issues affecting the Ocklawaha River Basin has achieved its purpose and is no longer active.

The Lake Panasoffkee restoration program and the related Lake Panasoffkee Restoration Council are abolished through the repeal of ss. 373.465 and 373.466, F.S. According to the Southwest Florida Water Management District, the statutory tasks of the program and the council have been completed.

### Payment in Lieu of Taxes (PILT)

PILT is a form of compensation to local governments to hold them financially harmless as the state has purchased vast acreage of lands for conservation purposes and permanently removed such land from the taxing authority of the local government. These land purchases are perceived to have a greater impact on smaller counties because their tax base, and the state and its WMDs have been able to purchase larger tracts of conservation land in smaller counties because of the availability of lands that meet conservation goals.

Currently, the DEP and WMDs make PILT payments to qualifying counties and local governments located within an eligible county from funds in the Conservation and Recreational Lands Trust Fund (CARL) or the Water Management Lands Trust Fund (WMLTF), respectively. Eligible lands include lands acquired under Florida Forever (s. 259.105, F.S.), its predecessor Florida Preservation 2000 (s. 259.101, F.S.), and for Everglades restoration (s. 373.470, F.S.). A qualifying county has a population of less than 150,000 as determined by s. 11.031, F.S. (the last official federal decennial census). For s. 373.59, F.S., purposes, a local government includes municipalities, the county school board, mosquito control districts, and any other local government entity that levies ad valorem taxes. The PILT amount is based on the average amount of taxes actually paid on the property for the three years preceding the acquisition. Local governments are required to apply for PILT by January 31 the year following acquisition and eligibility determination is on a parcel-by-parcel basis.

During the 2008 session, legislation was enacted (ch. 2008-229, Laws of Florida) to amend ss. 259.032(12)(e) and 373.59(10)(e), F.S., removing a ten consecutive payment limitation on PILT, thereby extending the payment to the eligible local government until the population threshold was met or exceeded.

Section 373.59(10)(b), F.S., provides the ten non-consecutive PILT payment limitation for properties purchased for conservation purposes but are leased or reserved and have remained subject to ad valorem taxation. This remaining provision is inconsistent with the changes made by Senate Bill 542.

The bill amends s. 373.59(10), F.S., and revises the PILT provisions for the Water Management Lands Trust Funds making all lands acquired for WMD purposes eligible for PILT from the Water Management Lands Trust Fund. The bill limits the calculation of tax losses to ad valorem tax losses. The bill limits payments to counties and municipalities within eligible counties, narrowing local government entities eligible for PILT. The population of eligible counties is to be reviewed annually and will be based on population estimates currently utilized in revenue-sharing formulas pursuant to s. 189.901, F.S. The provision that provides the ten non-consecutive PILT payment limitations for properties purchased for

conservation purposes, but are leased or reserved and remained subject to ad valorem taxation, is revised to extend PILT until the population threshold is met or exceeded. The requirement for an eligible county to apply for PILT within a specified time frame is repealed. The PILT application process for local governments is reinstated, and extends the annual application deadline from January 31st to May 31st. In addition, the bill reinstates county school boards as eligible recipient of PILT (special districts remain removed as eligible recipient).

### Bonding

The WMDs are provided the authority to issue bonds and revenue bonds for specified purposes. General obligation bonds pledge the faith and credit of the governing board of the WMD and may be used to carry out the purposes of the act. Revenue bonds are prohibited from pledging the full faith and credit of the WMD or the WMD's power to levy ad valorem tax. Revenue bonds may be used to carry out the purposes of the act or to finance any capital or other project for the purposes permitted by the State Constitution. Article 7, section 12, Florida Constitution, authorizes WMDs to issue bonds payable from ad valorem taxation when authorized by law and approved by a vote of the electors who are owners of freeholds therein not wholly exempt from taxation.

The bill creates a new subsection (5) to s. 373.584, F.S., and establishes a limitation on the amount of bonds, both general obligation bonds and revenue bonds, issued pursuant to ss. 373.563 and 373.584, F.S., respectively, a WMD may have outstanding at any point in time. A WMD may issue bonds up to an amount where the annual debt service payments for all bonds outstanding does not exceed twenty percent of the annual ad valorem tax revenues of the WMD, unless otherwise approved by the LBC. A WMD may seek the approval of the LBC to exceed the twenty percent threshold. The LBC is authorized to review the financial soundness of the WMD and determine whether bonds may be issued by the WMD in excess of the threshold. A WMD is prohibited from taking any actions regarding the issuance of bonds in excess of the twenty percent limitation without the prior approval of the LBC. The bill also provides that bonds issued prior to January 1, 2009, are exempt from these provisions and are not to be included in the calculation of the twenty percent limitation.

### Licensure of Water Well Contractors

Currently, water well contractors are required to obtain a license from the WMD to conduct business. To obtain a license requires passing an examination prepared by the DEP. In order to take the exam, a completed application must be filed with a WMD and an applicant must meet certain requirements, including:

- The applicant is at least 18 years old.
- The applicant has at least two years experience constructing, repairing or abandoning wells.
- The applicant has completed the application and paid the application fee.

The bill amends s. 373.323(3), F.S. and revises the licensure qualifications for water well contractors. Applicants for a water well contractor's license must demonstrate proof of the required 2 years experience by providing evidence of the length of time the applicant has been engaged in the construction, repair, or abandonment of water wells. Such evidence shall be attested to by at least three letters from any of the following:

- Water well contractors.
- Water well drillers.
- Water well parts and equipment vendors.
- Water well inspectors.

A list of at least ten water wells that the applicant has constructed, repaired, or abandoned within the preceding five years must also be submitted. Of these wells, at least seven must have been constructed by the applicant. The list must also include:

- The name and address of the owner of each well.
- The location, primary use, and depth and diameter of each well the applicant has constructed, repaired, or abandoned.
- The approximate date the construction, repair, or abandonment of each well was completed.

#### Consumptive Use Permit (CUP) Durations

Currently, the DEP and the WMDs may issue a CUP for a period of 20 years if requested, provided there is sufficient data that provides reasonable assurance that the conditions of the permit will be met during the duration of the permit. A CUP may be issued for period of up to 50 years if the related construction bonds for waterworks and waste disposal facilities require a longer period. In addition, the DEP and the WMD may require compliance reporting every 5 years as a condition of the permit. CUPs for the development of alternative water supplies must be granted for periods of at least 20 years and require compliance reporting.

The bill creates a new subsection (6) to s. 373.236, F.S., and provides a mechanism for a private landowner who has modest water needs presently, to dedicate large tracts of land or to fund construction for alternative water supply projects and have some assurance that as his or her water needs increase in the future, he or she will have access to that water. A landowner that makes extraordinary contributions to an alternative water supply development project may enter into an agreement with a local government, regional water supply authority, or water utility to provide for future water needs. That governmental entity would then apply for a CUP with a duration of up to 50 years. The CUP is subject to all of the regulatory safeguards and water management district scrutiny imposed on all CUPs. For instance, the agreement between the landowner and the public utility must be part of the package examined by the WMD in its consideration for the duration of the permit. A private landowner is not permitted to directly or indirectly hold the permit.

The bill also provides that a permit that is issued for a renewable energy generating facility or for cultivating agricultural products for renewable energy on lands of 1,000 acres or more, shall be for a term of at least 25 years provided the applicant can provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Such a permit may be subject to revocation of the permit, however, if the water source is not used for a period of four years or more.

In addition, current law requires a permit holder to provide compliance reports every 5 years to demonstrate that the initial conditions for the permit issuance are still viable. The bill provides a continual duty to maintain a reasonable assurance that the conditions for the permit issuance are met each review period.

The bill is effective July 1, 2009.

#### B. SECTION DIRECTORY:

- Section 1. Reenacts s. 373.069, F.S., relating to the creation of the water management districts.
- Section 2. Amends ss. 373.0693(3), 373.0693(6), 373.0693(7), and 373.0693(8)(a) F.S., relating to the basin boards. The bill provides a finite period a basin board member may serve beyond expiration of his or her appointment term, removes the "ex officio" designation, grants full voting privileges to basin board chairs, reduces the number of members on the Manasota Basin Board, and abolishes the Oklawaha River Basin Advisory Council.

- Section 3. Amends s. 373.073(1)(b), F.S., relating to governing boards and revises the number governing board appointments the Governor makes each year for the Southwest Florida Water Management District.
- Section 4. Amends ss. 373.079(4) and (7), F.S., relating to governing boards, delegates the governing board's authority to approve consumptive use permits and environmental resource permits to the executive director, and allows governing boards and related boards and committees to meet by electronic means.
- Section 5. Amends s. 373.083(5), F.S., relating to the general powers and duties of governing boards and delegates the governing board's authority to approve consumptive use permits and environmental resource permits to the executive director.
- Section 6. Repeals the provisions of s. 373.118(4), F.S., relating to the general permits, delegation and renumbers s. 373.118(5), F.S., as s. 373.118(4), F.S. The statutory provision was rendered obsolete based on above mentioned delegation of the governing board's authority.
- Section 7. Amends s. 373.323(3), F.S., relating to the licensure of water well contractors and establishes documentation requirements for licensure.
- Section 8. Creates s. 373.236(6) and (7), F.S. relating to the duration of consumptive use permits and authorizes the water management districts to enter into agreements with private parties in the development of alternative water supply projects. In addition, a permit issued for a renewable energy generating facility shall be granted for a term of at least 25 years.
- Section 9. Amends subsection (4) of s. 373.243, F.S., to provide that a holder of a consumptive use permit issued pursuant to s. 373.236(7) is subject to a revocation of the permit for non-use of the resource is for a period of more than four years.
- Section 10. Amends s. 373.536(5)(e), F.S., relating to water management district budgets and allows for comments and objections by appropriate substantive committees.
- Section 11. Creates s. 373.584(5), F.S., relating to revenue bonds and establishes a debt limitation threshold and process to exceeding the limitation threshold.
- Section 12. Amends s. 373.59(10), F.S., relating to the Water Management Lands Trust Fund and revises statutory provisions regarding payment in lieu of taxes.
- Section 13. Amends s.373.5905, F.S. relating to the reinstatement of payment in lieu of taxes and allows for the reinstatement of payments beginning July 1, 2009.
- Section 14. Repeals ss. 373.465 and 373.466, F.S., eliminating the Lake Panasoffkee restoration program and its related council.
- Section 15. Provides an effective date.

## **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:

The bill has an undetermined fiscal impact on local governments.

2. Expenditures:

The bill has an undetermined fiscal impact on the WMDs and depends on funding made available in the Water Management Lands Trust Fund.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The cost of obtaining and providing documentation evidencing an applicant's experience will add a new cost for applicants for a water well contractor's license. The cost is expected to be minimal.

D. FISCAL COMMENTS:

The bill revises payment in lieu of tax provisions, allowing additional land to qualify for payments, narrowing eligible local governments, limiting the calculation of tax losses to ad valorem taxes, and allowing the population threshold to be reviewed annually. The intent is to offset any additional payments with monies that would have been payments made to counties who are no longer eligible because of population growth.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable, the bill does not appear to affect municipal or county governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 20, 2009, the General Government Policy Council adopted two amendments offered by the bill's sponsor. The first amendment provides that a permit that is issued for a renewable energy generating facility or for cultivating agricultural products for renewable energy on lands of 1,000 acres or more, shall be for a term of at least 25 years provided the applicant can provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Such a permit may be subject to revocation of the permit, however, if the water source is not used for a period of four years or more.

The second amendment reinstates the payment in lieu of taxes (PILT) application process for local governments, and extends the annual application deadline from January 31st to May 31st. In addition, it reinstates county school boards as eligible recipient of PILT (special districts remain removed as eligible recipient).