

STORAGE NAME: h1417a.wrm

DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
WATER & RESOURCE MANAGEMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HJR 1417

RELATING TO: Executive departments and taxation

SPONSOR(S): Representative Bronson and others

STATUTE(S) AFFECTED: Section 6 of Article IV and Section 1 of Article VIII of the State Constitution

COMPANION BILL(S): SB 1266 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) WATER & RESOURCE MANAGEMENT YEAS 6 NAYS 1
- (2) RULES, RESOLUTIONS & ETHICS
- (3) FINANCE & TAXATION
- (4) GENERAL GOVERNMENT (FISCAL)
- (5)

I. SUMMARY:

This joint resolution amends the state constitution to create five additional departments within the executive branch of state government, and allows the state to levy an ad valorem tax for water management purposes. These amendments could be used to move all five water management districts, created under s. 373.069, F.S., to the executive branch of state government. The joint resolution is silent on how such a reorganization would be implemented.

This joint resolution amends Art. IV, Sec. 6, and Art. VII, Sec. 1(a), of the Florida Constitution.

The proposed amendments would not be effective until approved by the electorate.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

1. WATER MANAGEMENT DISTRICTS

In December 1976, the Legislature divided the state into five water management districts. The five districts created pursuant to s. 373.069, F.S., are:

- Northwest Florida Water Management District
- Suwannee River Water Management District
- St. Johns River Water Management District
- Southwest Florida Water Management District
- South Florida Water Management District.

Each water management district has a governing board comprised of nine members, except the Southwest Florida Water Management District which has eleven members. All members of the governing board are appointed from within the district for a term of four years. The governing boards are authorized to:

- Contract with public agencies, private corporations, or other persons; sue and be sued; and appoint and remove agents and employees, including specialists and consultants.
- Issue orders to implement or enforce any of the provisions of Chapter 373, F.S., or regulations thereunder.
- Make surveys and investigations of the water supply and resources of the district and cooperate with other governmental agencies in similar activities.

The Department of Environmental Protection (DEP), at its discretion, also may vest the following powers and duties to the governing boards:

1. Administer and enforce all provisions of Chapter 373, F.S. including the permit systems established in parts II (Permitting of Consumptive Uses of Water), III (Regulation of Wells), and IV (Management and Storage of Surface Water) of the chapter, consistent with state water policy.
2. Cooperate with the United States in the manner provided by Congress for flood control, reclamation, conservation, and for purposes of protecting the inhabitants, the land, and other property within the district from the effects of a surplus or deficiency of water when the same may be beneficial to the public health, welfare, safety, and utility.
3. Plan, construct, operate, and maintain works of the district.
4. Determine, establish, and control the level of waters to be maintained in all canals, lakes, rivers, channels, reservoirs, streams, or other bodies of water controlled by the district.

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5. At the discretion of the governing board, expend for purposes of promotion, advertisement, and improvement of the program and objectives a yearly sum not to exceed .25 percent of the moneys collected by taxation within the district.
6. Exercise additional powers and authority necessary to perform duties in accordance with federal laws, the laws of Chapter 373, F.S., and other Florida Statutes, and to decide and dispose of such matters not specifically defined in or covered by statute.
7. Prepare, in cooperation with DEP, that part of the state water use plan applicable to the district.
8. In the event the governing board determines that the local government's program for regulating storm water permitting and surface water management is acceptable, the governing board may delegate to local government by rule the power and duty to administer and enforce any of the statutes, rules, or regulations relating to storm water permitting or surface water management that the district is authorized or required to administer.

The water management districts are the primary agencies responsible for implementation of Chapter 373, F.S., including the water use permitting programs. They also have been delegated responsibility for much of the Environmental Resource Permitting (ERP) program, except in the Northwest Florida Water Management District where DEP issues all the ERPs.

The governing boards are authorized to subdivide basins into smaller basins to be governed by basin boards appointed by the Governor, and subject to confirmation of the Senate. Basin boards are authorized to:

1. Prepare engineering plans for development of water resources of the basin and conduct public hearings on such plans.
2. Develop and prepare secondary water control facilities for the guidance of subdrainage districts and private land owners in the development of their respective systems connecting to the primary system.
3. Prepare the annual budget for the basin and submit the budget to the governing board for inclusion in the district budget.
4. Consider and pre-approve final construction plans of the district for works to be constructed in the basin.
5. Administer affairs of the basin.
6. Plan for and provide water supply and transmission facilities at the request of a county, municipality, private utility, or regional water supply authority, to such entities within or serving the basin.

The basin boards, at request of the governing board of the district, may levy ad valorem taxes within the basin to finance the following basin functions:

- Engineering studies or works of the basin.

- Payment for preparation of final plans and specifications for construction of basin works executed by the district.
- Payment of costs of construction of works of the basin executed by the district.
- Payment for maintenance and operation of basin works carried out by the district.
- Administrative and regulatory activities of the basin.
- Payment for real property interests for works of the basin.
- Payment of costs for roads, bridge, railroad, and utilities modifications and changes resulting from basin works.

However, a basin ad valorem tax cannot be levied within the basin until the annual budget and required tax levy has been approved by formal action of the basin board. Additionally, no county in the district can be taxed at a rate exceeding the constitutional or statutory water management district tax caps. The constitutional cap, in Section 9 Article VII of the State Constitution, is set at 1 mill, except in the Northwest Florida Water Management District, where the constitutional cap is 0.05 mill. The statutory caps, in s. 373.501, F.S., are as follows:

- Northwest Florida Water Management District: 0.05 mil
- Suwannee River Water Management District: 0.75 mil
- St. Johns River Water Management District: 0.6 mil
- Southwest Florida Water Management District: 1.0 mil
- South Florida Water Management District: 0.8 mil

2. PROCEDURE FOR PROPOSED AMENDMENTS TO THE CONSTITUTION

An amendment to a section or revisions to one or more articles of the State Constitution may be proposed by joint resolution and agreed to by three-fifths of the membership of each house of the Legislature. The journal of each chamber will contain the full text of the joint resolution and the vote of each member voting. (Art. XI, Sec. 1, Fla. Const.)

After the proposed amendment or revisions to the constitution pass both chambers, the amendment or revisions will be filed with the secretary of state and submitted for a vote to the electors at the next general election held more than 90 days after the joint resolution filing. Pursuant to law enacted by the affirmative vote of three-fourths of the membership of each chamber of the Legislature and limited to a single amendment or revision, the amendment or revision may be submitted for a vote at a special election held more than 90 days after filing. (Art. XI, Sec. 5(a), Fla. Const.)

The proposed amendment or revisions along with the date to be submitted to the electors must be noticed and published in one newspaper of general circulation in each county in which a newspaper is published. The notice will appear once in the 10th week, and once in the sixth week immediately preceding the week in which the election is to be held. (Art. XI, Sec. 5(b), Fla. Const.)

If the proposed amendment or revisions are approved by vote of the electors, the amendment or revisions to the constitution become effective on the first Tuesday after the first Monday in January following the election, or on another date as may be specified in the amendment or revisions. (Art. XI, Sec. 5(c), Florida Constitution)

B. EFFECT OF PROPOSED CHANGES:

The proposed amendment to Article IV, Section 6, State Constitution, will raise the number of executive departments of state government from the current twenty-five to thirty.

Amendment of Article VII, Section 1, State Constitution, would permit the levy of ad valorem taxes by the state government for water management purposes only. This proposed amendment would not change the constitutional ad valorem tax caps in the Northwest Florida Water Management District or elsewhere in the state.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

If the proposed amendments were implemented by moving the water management districts into the executive branch, presumably the executive agencies would have same responsibilities as the existing water management districts.

- (2) what is the cost of such responsibility at the new level/agency?

If the proposed amendments were implemented by moving the water management districts into the executive branch, the reorganization of the water management districts, alone, would not increase or decrease the cost of water management programs.

- (3) how is the new agency accountable to the people governed?

If the proposed amendments were implemented by moving the water management districts into the executive branch, the Legislature and the Governor would have direct oversight and budgetary control over the water management districts.

2. Lower Taxes:

Not applicable.

3. Personal Responsibility:

Not applicable.

4. Individual Freedom:

Not applicable.

5. Family Empowerment:

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Article IV, Section 6: Amends this section of the State Constitution to increase the maximum number of executive departments from 25 to 30.

Article VII, Section 1: Amends this section of the State Constitution to authorize the state to levy an ad valorem tax for water management purposes.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

indeterminate.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

The proposed constitutional amendment to allow the state to levy an ad valorem tax for water management purposes raises a number of fiscal questions. The principal questions are which aspect of state government would levy the tax, how would it be collected, and how would it be appropriated? Would the Legislature levy the tax and

appropriate the revenue? These questions will need to be resolved though implementing legislation if the amendments are passed by the electorate.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Not applicable.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

None.

V. COMMENTS:

The intent of the proposed constitutional amendments appears to be to move the water management districts into the executive branch of government, and under more direct control of the Governor and the Legislature. However, these amendments alone would not achieve this goal. Implementing legislation would be necessary to actually effectuate the reorganization of the water management districts and to specify how the state would levy the ad valorem tax.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A "strike-everything-after-the-enacting-clause" amendment was offered in the April 15, 1996 meeting of the Committee on Water and Resource Management. The amendment clarified that the five new executive departments created by the proposed constitutional amendment would be the Department of Northwest Florida Water Management, Department of Suwannee River Water Management, Department of St. Johns River Water Management, the Department of Southwest Florida Water Management, and the Department of South Florida Water Management. In addition, the amendment specifies that the state ad valorem tax authorized by the proposed constitutional amendment would only be for water management purposes established by the five water management departments listed above.

VII. SIGNATURES:

COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

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