

STORAGE NAME: h4027s1z.wrm
DATE: May 18, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Water & Resource Management
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 4027
RELATING TO: Water resource development and supply
SPONSOR(S): Representative Littlefield
COMPANION BILL(S): SB 1622 (c)

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

- (1) Water & Resource Management YEAS 10 NAYS 0
- (2) General Government Appropriations-WITHDRAWN
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

The House passed CS/HB 4027 by a vote of 117-1 on April 28, 1998, and the Senate passed the bill the next day by a vote of 37-0. The governor signed the bill into law on June 10, 1998. CS/HB 4027 was designated chapter 98-402, Laws of Florida.

II. SUMMARY:

As passed by the Legislature, CS/HB 4027 assists in the implementation of the governance restructuring of the West Coast Regional Water Supply Authority (WCRWSA). Specifically, CS/HB 4027 would:

- o Under specific conditions limit the ability of member governments of any regional water supply authority, where an interlocal agreement had been signed pursuant to ss. 163.01 and 373.1962, F.S., to challenge decisions through the Chapter 120, F.S. Included are provisions for member governments to have either waived their rights to challenge or have agreed to participate in alternative dispute resolution.
- o Amend s. 373.1963, F.S., to require that the interlocal agreement comply with certain provisions. Among the more notable provisions, in accordance with s. 4, Art. VIII, of the Florida Constitution, the member governments are authorized to relinquish to WCRWSA their individual rights to develop potable water sources, without the vote of their electors, except as otherwise provided under the terms of the interlocal agreement. Also, member governments could not restrict the use of land for water supply purposes or impose a tax or fee upon WCRWSA in conjunction with water supply.
- o Authorize WCRWSA to use Part II of Chapter 159, F.S., for the financing of water supply facilities.
- o Provide that governmental or quasi-judicial boards or commissions established by local ordinance, general or special law, and whose members either serve on, or are appointed by, a member government, may be bound by the dispute resolution provisions in the agreement.
- o Protect the current authority of the Southwest Florida Water Management District and the Department of Environmental Protection.
- o Amend s. 682.02, F.S., to specifically provide that in written interlocal agreements that parties may agree to arbitrate water use permitting disputes and other matters.
- o Amend s. 768.28, F.S., to provide that regional water supply authorities may indemnify and assume certain liabilities.
- o Specify that certain changes to s. 373.1963, F.S., supersede conflicting statutory provisions, whether in general or special law, applying directly or indirectly to the exclusivity of water supply or withdrawal of water.

CS/HB 4027 also establishes the Miami River Commission, which will serve as the official clearinghouse for all public policy and projects relating to the Miami River (the establishment of the MRC originally in HB 3807).

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CS/HB 4027 would take effect upon becoming law.

I. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Regional Water Supply Authorities:

Section 4, Art. VIII, of the Florida Constitution, allows local governments, by law or resolution, to transfer any function or power to a special district. Section 373.1962, F.S., provides for the creation of regional water supply authorities to develop, recover, store and supply water for county and municipal purposes. It requires that such water supply and development be done so as to reduce adverse environmental impacts of excessive or improper withdrawals of water from concentrated areas. Section 373.1962(1), F.S., provides criteria for the DEP to follow in approving a regional water supply authority agreement. The powers and duties of the authorities include the following:

- levying ad valorem taxes;
- acquiring water and water rights;
- developing, storing and transporting water;
- collecting, treating and recovering wastewater; and
- exercising the power of eminent domain.

West Coast Regional Water Supply Authority

The West Coast Regional Water Supply Authority was created in 1974. It now has the following members: City of St. Petersburg, City of Tampa, and City of New Port Richey (a non-voting member), Hillsborough County, Pinellas County and Pasco County. WCRWSA owns and operates some water supply facilities as well as operating facilities owned by individual member governments. It has executed various water supply contracts with each member government and develops water to sell at cost to those governments. Under the existing organization of WCRWSA, any member government may decline to participate financially in the development of additional water supply capacity, in effect providing a "veto." That is, unless member governments choose to fund water supply development without the financial participation of one or more members who decline to participate, such projects are effectively blocked.

At the present time, WCRWSA operates as the primary wholesale water supplier in the Tampa Bay region. WCRWSA supplies potable water to these six member governments at cost, and these local governments in turn supply water to roughly 1.8 million residents. Currently, WCRWSA possesses a total production capacity of 289.1 million gallons per day, although actual usage for fiscal year 1995 amounted to approximately 216 million gallons per day.

WCRWSA stands at the center of the controversy in the northern Tampa Bay area over widespread environmental damage in Hillsborough and Pasco counties.

Residents in these counties have watched wetlands, lakes and wells dry up primarily because of pumping by WCRWSA. Moreover, questions have arisen about whether WCRWSA can successfully meet the water needs of the Tampa Bay region. These concerns primarily center on whether its existing governance structure prevents effective water management. In response to these concerns and pursuant to legislative directive as embodied in section 373.1963, F.S., the member governments are negotiating a voluntary agreement designed to transform WCRWSA into a more effective regional wholesale water supplier.

Recent Legislative Direction To WCRWSA

Recognizing the need to reorganize WCRWSA, the 1996 Legislature amended s. 373.1963, F.S., to require WCRWSA to develop an evaluation and recommendation addressing a change in its governance structure. This evaluation and recommendation was due to the Speaker of the House and the President of the Senate by February 1, 1997. WCRWSA prepared and sent to the Speaker and the President this evaluation and recommendation in January of 1997.

In light of this report, the 1997 Legislature returned to the issue of the internal governance of WCRWSA. This time the Legislature amended s. 373.1963, F.S., to provide for a **voluntary** interlocal agreement designed to transform WCRWSA into the exclusive wholesale water supplier in the Tampa Bay region. The voluntary interlocal agreement set out in s. 373.1963, F.S., would achieve this transformation of WCRWSA in two basic ways. First, it expands the scope of WCRWSA's authority by requiring member governments to relinquish to WCRWSA their individual rights to develop potable water sources and by establishing WCRWSA as the exclusive wholesale potable water supplier for all members. To this end, the voluntary interlocal agreement provides that WCRWSA shall acquire full or lesser interests in **all regionally significant wholesale water supply facilities** owned by member governments. Finally, s. 373.1963, F.S., requires this voluntary interlocal agreement to set a uniform per gallon wholesale rate and allocate all capital and operation costs for both existing and future facilities to the members based on water usage.

Second, the voluntary interlocal agreement would change the internal governance structure of WCRWSA. Specifically, WCRWSA would be governed by a Board of Commissioners consisting of nine voting members, all of whom would be elected officials. Under the voluntary interlocal agreement, the majority vote of the member governments (and in some cases, the super-majority vote) would bind West Coast in all matters relating to funding of wholesale water supply, production, delivery, and related activities.

Update On Current Negotiations Involving WCRWSA

The WCRWSA member governments are continuing to negotiate an agreement along the lines of the voluntary interlocal agreement provided in s. 373.1963, F.S. Consistent with s. 373.1963, F.S., this agreement is currently drafted to place all water supply facilities producing more than a million gallons a day in WCRWSA's control, except that the City of Tampa can continue to draw surface water from the Hillsborough River and Tampa Bypass Canal. Along with WCRWSA acquiring existing water supply facilities, the member governments have agreed to relinquish their rights to develop potable water supplies. The negotiations over governance also are focused on the development of a master water supply contract to replace

the multitude of existing "water supply entitlement" contracts between WCRWSA and the various member governments. Finally, to acquire the facilities, the member governments have agreed to the use cash or a credit system. Under this credit system, WCRWSA would sell water to the member governments at a uniform wholesale rate from which WCRWSA would deduct the value of whatever water supply facilities the respective member government turned over to WCRWSA. These credits would end after 30 years.

Separate from the governance negotiations, WCRWSA and SWFWMD are discussing a "Partnership Plan" to address the planning and funding of additional water supply sources in the Tampa Bay region. Under the mandates of ss. 373.042 and 373.0421, F.S., SWFWMD must set minimum flows and levels for water resources in the territory of WCRWSA. It is expected that the establishment of these minimum flows and levels will reduce the amount of groundwater available for use by WCRWSA to supply potable water. This "Partnership" agreement between WCRWSA and SWFWMD represents an attempt to address the anticipated impact of reduced groundwater withdrawals and to develop additional water supply sources without resort to further litigation. Pursuant to s. 373.1963(1)(f), F.S., WCRWSA and SWFWMD must develop alternative sources of potable water to meet the needs of the member governments for at least 20 years and for natural systems. WCRWSA and SWFWMD must mutually bear development and construction costs for the above infrastructure.

To achieve this goal, SWFWMD plans to integrate the "Partnership" agreement into its recovery strategy for the existing wellfields in Hillsborough, Pasco, and Pinellas counties. In addition, and to help reduce the reliance on groundwater, the "Partnership" agreement envisions annual funding from SWFWMD to WCRWSA and its members for water conservation and reclamation. The "Partnership" agreement also contemplates that SWFWMD would provide WCRWSA with \$183 million for the development of new water sources. Overall, this portion of the agreement aims to bring 85 million gallons per day of new water on line in the next 10 years while reducing pumping from the WCRWSA system from 144 million gallons per day to 90 million gallons per day.

Miami River Commission

The Miami River is a river of historical, commercial, environmental and aesthetic significance. It flows through downtown, historic neighborhoods, public parks and a wide variety of commercial activity. There are 32 privately owned shipping terminals along the Miami River. As the fifth largest seaport in Florida, it handled about \$4 billion in cargo in 1997. Because trade with the Caribbean and Central and South America is projected to increase at a steady rate and the location of the Miami River is ideal for capturing that portion of trade originating in ports such as Caredenas, Mariel, Isabela, and Trinidad, Miami could benefit from increased trade and with that rising numbers of jobs. The Miami River also is the largest tributary to Biscayne Bay, and thus threatens the ecosystem of the bay by carrying high concentrations of pollutants.

At least 36 different agencies, in four different levels of government (federal, state, county, and municipal) have some jurisdiction over the Miami River. The lack of unification results in management obstacles. In 1991, the Dade County Grand Jury conducted a study of the Miami River which focused on governance and accountability,

sources of pollution, and dredging of the Miami River. The Grand Jury recommended that the entire operational and environmental integrity of the river be addressed. In its conclusion, the Grand Jury stated "...more aggressive action needs to be taken. Action, not more studying of the river's problems, needs to occur today. The Miami River needs its priority status increased at all levels within the public and private sector."

In 1997, the Florida Legislature created the Miami River Study Commission to "conduct a comprehensive study and review of the restoration and enhancement of the Miami River and Biscayne Bay." Once again, the recommendations called for specific actions. One of those recommendations is for the creation of the MRC.

B. EFFECT OF PROPOSED CHANGES:

As passed by the Legislature, CS/HB 4027 assists in the implementation of the governance restructuring of WCRWSA. In order to simplify the discussion of the effect of this bill, the changes are roughly grouped into those changes affecting the organization of WCRWSA and those involving external law.

As to those changes related to the organization of WCRWSA, CS/HB 4027 is generally consistent with the existing statutory direction found in ss. 373.1962 and 373.1963, F.S., as well as the recommendations received by the Legislature from WCRWSA. The amended s. 373.1963(1)(b), F.S., provides in accordance with s. 4, Art. VIII, of the Florida Constitution, that the member governments of WCRWSA are authorized to enter into a interlocal agreement with the following terms without the vote of their electors:

-- member governments relinquish to WCRWSA their individual rights to develop potable water sources except as otherwise provided in the interlocal agreement;

-- member governments may not restrict the use of land by WCRWSA for water supply purposes;

-- member governments may not impose any tax or fee upon WCRWSA in conjunction with the production or the supply of water not otherwise provided for in the interlocal agreement;

-- WCRWSA may use the powers of Part II, Chapter 159, F.S., for financing water supply facilities; and

-- member governments and any board or commission associated with member governments agreeing to be bound by the interlocal agreement shall be limited to the procedures in the agreement with regard to action that directly or indirectly restricts the use of lands or other activities related to the production or supply of water.

However, unlike the existing language in s. 373.1963, F.S., CS/HB 4027 requires that if the parties undertake governance that the resultant interlocal agreement **must** comply with certain existing requirements:

- the parties agree that cooperative efforts are mandatory to supply adequate and dependable water without adverse environmental effects upon areas where water is withdrawn;
- WCRWSA shall acquire full or lesser interests in all regionally significant wholesale water supply facilities owned by member governments at an agreed upon price;
- WCRWSA shall charge a uniform wholesale rate to member governments for the wholesale supply of potable water;
- the interlocal agreement may include alternative dispute resolution procedures for water use permitting;
- provisions relating to the "partnership plan" between SWFWMD and WCRWSA; and
- unless otherwise provided in the interlocal agreement, the WCRWSA board shall consist of nine voting members, all of whom must be elected officials (with two from Hillsborough, Pasco and Pinellas counties, respectively; and one from the City of Tampa, the City of New Port Richey, and the City of St. Petersburg, respectively).

CS/HB 4027 also repeals s. 373.1963(5), F.S. When requested by a member government of the West Coast Regional Water Supply Authority, this section requires SWFWMD to review whether a water withdrawal within the jurisdictional boundaries of the member government is in compliance with applicable permits and regulations.

With regard to external changes, CS/HB 4027 amends a number of sections of law in order to ensure the effective implementation of the governance restructuring. First, the bill amends s. 120.52(12), F.S., to exclude from the definition of "party," for purposes of the Florida APA, a member government to the extent that an interlocal agreement under ss. 163.01 and 373.1962, F.S., exists in which the member government agrees that its substantial interests are not affected or that it is bound by alternative dispute resolution. CS/HB 4027 provides that the exclusion is limited to only those particular types of disputes or controversies identified in an interlocal agreement.

The bill also amends s. 682.02, F.S. It specifically provides that in any written interlocal agreement under ss. 163.01 and 373.1962, F.S., that parties may agree to arbitrate any controversy between them concerning water use permitting and other matters.

The third and final external change relates to s. 768.28, F.S., which provides for the waiver of sovereign immunity. Basically, CS/HB 4027 provides that s. 768.28(18), F.S., does not preclude a regional water supply authority from the

indemnification and assumption of the liabilities associated with property acquired from member governments and arising from acts or omissions of the authority in performing the interlocal agreement.

Also, CS/HB 4027 adds that nothing in subsection (1) of s. 373.1963, F.S., shall modify the rights or responsibilities of SWFWMD or DEP pursuant to Chapters 373 and 403, F.S., and as otherwise set forth by statutes.

CS/HB 4027 provides that the provisions of the act supersede any conflicting provisions contained in all other general or special laws as they apply directly or indirectly to the exclusivity of water supply or withdrawal of water, including provisions relating to environmental effects. Moreover, the bill declares that its provisions are intended to be a complete revision of all laws related to a water supply authority created under ss. 373.1962 and 373.1963, F.S.

The very last portion of CS/HB 4027 establishes the Miami River Commission (MRC) to serve as the official clearinghouse for all public policy and projects relating to the Miami River to unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues. This bill will not affect or supersede the regulatory authority of any governmental agency or any local government and any responsibilities of any governmental entity relating to the Miami River will stay with such entity. However, any governmental entity may delegate specifically defined authority to the MRC, and the MRC may accept that authority. The MRC is authorized to seek and receive funding to implement river improvement projects of the MRC.

The MRC will have a managing director who has the responsibility to implement plans and programs and a working group consisting of all governmental agencies that have jurisdiction in the Miami River area, as well as representatives from business and civic associations. There also will be a policy committee comprised of the Governor, the chair of the Dade County legislative delegation, the chair of the governing board of the South Florida Water Management District, the Miami-Dade County State Attorney, the Mayor of Miami, the Mayor of Miami-Dade County, a commissioner of the City of Miami Commission, a commissioner of the Miami-Dade County Commission, the chair of the Miami River Marine Group, the chair of the Marine Council, the Executive Director of the Downtown Development Authority, and the chair of the Greater Miami Chamber of Commerce; two representatives, selected from the Spring Garden Neighborhood Association, the Grove Park Neighborhood Association, and the Miami River Neighborhood Enhancement Corporation, one appointed by the city commission and one appointed by the county commission, selected from a list of three names submitted by each such organization; one representative from an environmental or civic association, appointed by the Governor; and three members-at-large, who shall be persons who have a demonstrated history of involvement on the Miami River through business, residence, or volunteer activity, one appointed by the Governor, one appointed by the city commission, and one appointed by the county commission. All members shall be voting members.

The policy committee is to also include a member of the United States Congressional delegation and the Captain of the Port of Miami as a representative of the United States Coast Guard, as nonvoting, ex-officio members. The policy committee is to have specific powers and duties, including, but not limited to:

Consolidating existing programs into a coordinated strategic plan for the improvement of the Miami River, addressing environmental, economic, social, recreational, and aesthetic issues. The committee is to monitor and regularly revise the plan.

Preparing an integrated financial plan to be modeled after the South Florida Ecosystem Restoration Working Group.

Providing technical assistance and political support for implementing each element of the strategic and financial plans.

Accepting any specifically defined authority delegated to the committee by any level of government.

Publicizing a semiannual report.

Through these duties, the committee will serve to unite all the different governmental agencies, businesses and residents in the area and will provide a leader in Miami River projects.

CS/HB 4027 places two significant limitations on the ability of the MRC to set policy relating to the Miami River. First, the bill prohibits the MRC from taking any action or policy position that impacts or diminishes the level of currently permitted commercial activity on the Miami River or its riverfront properties unless passed by a unanimous vote of the appointed members of the commission then in office. The second limitation restricts the MRC in a similar fashion. The MRC shall not adopt any policy position or take any action to suggest or promote additional fees, taxes, charges, or other financial obligation on owners of riverfront properties or shipping companies or operators unless passed by a unanimous vote of all appointed members of the commission then in office.

Finally, CS/HB 4027 terminates the MRC on July 1, 2003, unless the Legislature after review of the effectiveness of the commission determines that it should be continued and reenacts provisions to do so.

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?

Assuming the parties execute the interlocal agreement, then member governments would lose the right to impose land use restrictions and tax or charge WCRWSA with regard to water supply activities.

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

Yes. Assuming the responsibility for the production of water from local governments, WCRWSA would manage a regional wholesale water supply system serving the people of the northern Tampa Bay area.

- (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?

Subject to the conditions of an interlocal agreement, the right of certain local governments to produce water would transfer to WCRWSA.

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

Indeterminate.

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

Under the terms of governance restructuring, the WCRWSA board would be comprised of elected officials who would represent the local government jurisdictions to be served.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

Not applicable.

4. Individual Freedom:

Not applicable.

5. Family Empowerment:

Not applicable.

D. STATUTE(S) AFFECTED:

Sections 120.52(12), 373.1963(1), 373.1963(5), 682.02, and 768.28(18), F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 120.52(12), F.S., to exclude from the definition of "party" as used in the Florida APA a member government of a regional water supply authority or a governmental or quasi-judicial board or commission established by local ordinance or special or general law where the governing membership of said board or commission is shared with, in whole or in part, or appointed by a member government of a regional water supply authority in proceedings under ss. 120.569, 120.57, or 120.68, to the extent that an interlocal agreement under ss. 163.01 and 373.1962, F.S., exists in which the member government has agreed that its substantial interests are not affected by the proceedings or that it is to be bound by alternative dispute resolution in lieu of participating in the proceedings. Specifies that this exclusion applies only to those particular types of disputes or controversies, if any, identified in an interlocal agreement.

Section 2: Amends s. 373.1963, F.S., to authorize the implementation of changes in governance recommended by WCRWSA in its reports to the Legislature. Repeals s. 373.1963(5), F.S., that requires SWFWMD to review a water withdrawal within the jurisdictional boundaries of a member government of the West Coast Regional Water Supply Authority when requested to determine if the withdrawal is in compliance with applicable permits and regulations. Eliminates a reference to a supplemental report to be submitted to the President of the Senate and the Speaker of the House of Representatives. Provides that WCRWSA and its member governments may reconstitute WCRWSA's governance under a

voluntary interlocal agreement. Requires that the interlocal agreement comply with certain existing provisions in law. Provides that in accordance with s. 4, Art. VIII, of the Florida Constitution and notwithstanding s. 163.01, F.S., that the interlocal agreement may include the following terms, which are considered approved by the parties without a vote of their electors, upon execution of the interlocal agreement by all member governments and upon satisfaction of all conditions precedent in the interlocal agreement. Provides that the interlocal agreement may include procedures for resolving their parties' differences regarding water management district proposed agency action in the water use permitting process within the authority. Eliminates provision stating that nothing herein or in said proceedings shall affect the rights of participants under Chapter 120. Provides that nothing in this section shall be construed to modify the rights or responsibilities of the authority, its member governments, except as otherwise provided herein, or the Southwest Florida Water Management or the department pursuant to Chapters 373 or 403 and as otherwise set forth by statutes. Provides that the provisions of this section supersede any conflicting provisions contained in all other general or special laws or provisions thereof as they may apply directly or indirectly to the exclusivity of water supply or withdrawal of water, including provisions relating to the environmental effects, if any, in conjunction with the production and supply of potable water. Provides that provisions of this section are intended to be a complete revision of all laws related to a water supply authority created under ss. 373.1962 and 373.1963, F.S.

Section 3: Amends s. 682.02, F.S., so that the section applies to written interlocal agreements under ss. 163.01 and 373.1962, F.S., in which two or more parties agree to submit to arbitration any controversy between them concerning water use permit applications and other matters, regardless of whether or not the water management district with jurisdiction over the subject application is a party to the interlocal agreement or a participant in the arbitration.

Section 4: Amends s. 768.28(18), F.S., to provide that the restrictions of this subsection do not prevent a regional water supply authority from indemnifying and assuming the liabilities of its member governments for obligations arising from past acts or omissions at or with property acquired from a member government by the authority and arising from the acts or omissions of the authority in performing activities contemplated by an interlocal agreement. Provides such indemnification may not be considered to increase or otherwise waive the limits of liability to third-party claimants established by this section.

Section 5: Creates the Miami River Commission. Provides for a policy committee, a managing director, and a working group. Specifies membership of the committee and provides powers and duties of the committee.

Section 6: Provides that no action or policy position that would impact or diminish currently permitted levels of commercial activity on the Miami River or its riverfront properties shall be adopted by the MRC unless passed by a unanimous vote of the appointed members of the commission then in office. Provides that no action or policy position suggesting, proposing or otherwise promoting additional fees, taxes, charges, etc. on the owners of riverfront property or shipping companies or operators shall be adopted by the MRC unless passed by a unanimous vote of the appointed members of the commission then in office.

Section 7: Provides that the MRC shall terminate on July 1, 2003, unless the Legislature determines that the commission should be continued and reenacts provisions providing for the commission's continuation.

Section 8: Provides that this act shall take effect upon becoming a law.

II. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Future requests may be made to the Legislature for funding the MRC's operations.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate. However, there are likely to be one-time fiscal impacts associated with the transfer of responsibility and infrastructure to WCRWSA from six local governments.

2. Recurring Effects:

Indeterminate. However, the loss of the rights to tax or charge water supply activities by WCRWSA may affect the member governments, depending upon the extent of WCRWSA's activities within their jurisdiction. (The interlocal agreement currently under negotiation attempts to address this issue.)

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

Indeterminate. However, if the interlocal agreement becomes a reality, customers in certain local government jurisdiction may see higher water.

2. Direct Private Sector Benefits:

Indeterminate. However, if the interlocal agreement becomes a reality, customers in certain local government jurisdictions may see lower water.

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

Indeterminate.

D. **FISCAL COMMENTS:**

None.

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

A. **APPLICABILITY OF THE MANDATES PROVISION:**

Because CS/HB 4027 does not impose any mandatory condition on local governments, the bill does not trigger Article VII, Section 18 of the Florida Constitution.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

CS/HB 4027 does not affect the revenue raising authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989.

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

CS/HB 4027 does not reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1,

IV. COMMENTS:

House Bill Drafting raised concerns about whether CS/HB 3807, which originally provided for the establishment of the MRC, violated Article 11, Section 5 of the Florida Constitution. This constitutional provision prohibits any person from holding more than one public office at one time. If service with the MRC actually constitutes the "holding of public office," then many members of the MRC designated in the bill would in fact violate the prohibition on

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holding dual public office. Because the Senate later amended CS/HB 3807 onto CS/HB 4027, the same concern about the prohibition on holding dual public office may apply to CS/HB 4027.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 30, 1998, members of the House Committee on Water and Resource Management unanimously adopted HB 4027 as a CS. On that same date, the Committee adopted two amendments to HB 4027.

The first amendment was a strike-everything amendment that modified the bill in order to make the necessary legislative changes to implement the governance restructuring of WCRWSA, as explained above. The committee also adopted an amendment to the amendment to make a technical change to the bill.

On April 28, 1998, the House passed CS/HB 4027 without any amendments by a vote of 117-1. Yet, on April 29, 1998, the Senate adopted an amendment to CS/HB 4027. In effect, this amendment engrafted CS/HB 3807, which provides for the establishment of the Miami River Commission, to the bill. Later, on April 29, 1998, the Senate passed CS/HB 4027 by a vote of 37-0.

VI. SIGNATURES:

COMMITTEE ON Water & Resource Management:

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Legislative Research Director:

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