

STORAGE NAME: h4559b.wrm

DATE: April 16, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
WATER & RESOURCE MANAGEMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4559 (PCB GG 98-05)

RELATING TO: Water Management Districts

SPONSOR(S): Committee on General Government Appropriations and Rep. Ken Pruitt

COMPANION BILL(S): SB 2562 (s)

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

- (1) GENERAL GOVERNMENT APPROPRIATIONS YEAS 10 NAYS 0
- (2) WATER & RESOURCE MANAGEMENT YEAS 7 NAYS 0
- (3)
- (4)
- (5)

I. SUMMARY:

HB 4559 (formerly PCB GG 98-05) establishes a process by which the Legislature, beginning in fiscal year 1999-2000, establishes program priorities for the five water management district (WMD) budgets. The program priorities may vary for each district and are to be based on the statutorily mandated programs and activities of the districts and the particular needs within each district in the four areas of responsibility listed in existing statutes.

The bill requires each WMD to incorporate the applicable program priorities in the development of its budget.

As part the current statutorily required review of WMD budgets, the Executive Office of the Governor is required to determine whether each district's budget is consistent with the applicable program priorities.

By September 15, 1999, and annually thereafter, the Executive Office of the Governor is required to notify in writing the President of the Senate, the Speaker of the House, and the chairs of the substantive and fiscal committees having jurisdiction over WMD activities as to all determinations made pursuant to this act.

Based on the existing statutory authority granted the Executive Office of the Governor to approve or disapprove, in whole or in part, the budget of each WMD, the bill directs the Governor to disapprove those portions of a WMD's budget that it determines are inconsistent with the applicable program priorities.

HB 4559 does not change the statutory timelines, notice or meeting requirements, pursuant to s. 200.065, F.S., for WMDs and other local governmental entities that levy ad valorem taxes. Nor does it substantially change the existing process for WMD reporting requirements and budgetary review by the Office of the Governor.

Traveling with the bill is an amendment that allows surveyors to use a computerized Global Positioning System to survey the landward extent of wetland. This system is in wide use in Florida for a number of surveying purposes, but is not acceptable for wetlands delineation purposes because it is not specifically mentioned in statute.

HB 4559 would take effect October 31, 1998.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Background

The Florida Water Resources Act of 1972 created a two-tiered administrative system to manage and regulate water resources in the state. At the state level, the Department of Natural Resources (now the Department of Environmental Protection or DEP) directed to develop statewide water policies, collect water-related information, and exercise general supervision over five water management districts (WMDs). Established on the basis of the five hydro-geological basins in Florida four years after passage of the Act, the WMDs were delegated most of the regulatory and planning responsibilities related to water resources. The five WMDs, 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.

The WMDs 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. In addition, the WMDs have stormwater and water quality responsibilities under Chapter 403, F.S.

DEP, at its discretion, also has vested the following powers and duties to the WMDs:

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. Most of these "works" are flood control structures.
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.
5. Prepare, in cooperation with DEP, that part of the state water use plan applicable to the 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 by the Governor, and confirmed by the Florida Senate, from within the district for a term of four years.

Section 9 Article VII of the State Constitution specifies that special districts (which includes WMDs) may be authorized by general law -- passed by the Legislature -- to levy ad valorem taxes. The constitution also has established a 1-mill cap for all of the WMDs except for the Northwest Florida WMD, where the constitutional cap is 0.05 mill. In the statutory implementing language, the statutory limits on WMD millage rates are:

- 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

Some of the WMDs have been subdivided into the basins, with their own appointed basin boards that utilize WMD staff to, among other duties, develop plans, projects and water control facilities to serve specific basin needs that are part of the overall district systems. Each basin board can levy ad valorem taxes within its individual basin, but at no time can property owners in each county within a WMD be taxed at a rate exceeding the constitutional or statutory water management district millage caps.

Recent issues of WMD governance

In 1994, the Legislature passed a bill creating the Water Management District Review Commission, a 21-member group appointed by the Governor, the President of the Senate and the Speaker of the House of Representatives, to perform a comprehensive analysis of Florida's regional water management system. Over a period of 16 months, the commission convened throughout the state to hear testimony and collect information about the WMDs' budgets, activities and responsibilities. Prior to the 1996 legislative session, the review commission issued its "Bridge Over Troubled Water" report, listing its findings and 80 recommendations for either statutory or administrative changes.

Among its findings was that while authority for legislative and gubernatorial oversight exists within the current statutory framework, "constructive application of those oversight prerogatives has not been sufficient to address citizens' perceptions that districts are "out of control." The review commission recommended that House and Senate each create a special standing committee devoted to overseeing water resource issues, and that the legislative appropriations committees annually review and comment on the WMDs' proposed budgets.

In the 1996 legislative session, substantial changes to s. 373.536, F.S., were adopted. The Executive Office of the Governor was given the authority to veto all or part of WMD budgets, and an extensive budget review process was established that required the WMDs to provide the Governor and the Legislature with detailed information on how they spent their money.

House and Senate members in 1997 filed bills to revamp the WMDs into state agencies; none passed the Legislature. However, the major water legislation that passed in 1997 - CS/HB 715, et al (Chapter 97-160, Laws of Florida) -- included many provisions

directing the WMDs to identify in their budgets those funds spent for water resource development.

Over the interim before the 1998 session, interest remained high among several members wanting to revisit the issue of legislative oversight of WMD budgets. HB 4559 is the result of members' interest.

B. EFFECT OF PROPOSED CHANGES:

HB 4559 would establish a process for legislative oversight and development of WMD budgets. Beginning in fiscal year 1999-2000, the process would be modified as follows:

- The Legislature would statutorily adopt or modify program priorities for each water management district budget.
- The priorities for each WMD may be different, based on the statutorily-mandated programs and activities of the districts and the particular needs within each district in the four areas of responsibility as listed in section 373.536 (5)(a), F.S.
- Each WMD shall incorporate the Legislature's program priorities in the development of its fiscal year 1999-2000 and subsequent budgets.
- As part of its review of water management district budgets, the Executive Office of the Governor shall determine whether each district's budget is consistent with the applicable program priorities. In determining whether a district's budget is consistent with the applicable program priorities, the Executive Office of the Governor shall take into consideration comments on or objections to the proposed budget by the public and members of the Legislature, including comments and objections submitted by the House and Senate appropriations chairs, and the district's need to address natural disasters, other unforeseen circumstances, or issues of substantial concern to the citizens of the region.
- By September 15, 1999, and annually thereafter, the Executive Office of the Governor shall notify in writing the President of the Senate, the Speaker of the House, and the chairs of the substantive and fiscal committees having jurisdiction over water management district activities as to all determinations made.
- Based on the existing statutory authority granted the Executive Office of the Governor to approve or disapprove, in whole or in part, the budget of each water management district, and in accordance with the existing statutory processes, the Executive Office of the Governor shall disapprove those portions of a water management district's budget that it determines are inconsistent with the applicable program priorities.

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?

Yes. HB 4559 would give the Legislature more oversight of WMD budgets.

(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?

N/A

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

N/A

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

N/A

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:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

The bill grants the Legislature authority to guide development of the WMDs' annual budgets.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 373.536, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 373.536, F.S. Creates additional oversight process, beginning in fiscal year 1999-2000, whereby the Legislature sets program priorities for WMDs budgets.

Section 2: Provides that this act shall take effect October 31, 1998.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

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:

None.

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:

Indeterminate.

2. Direct Private Sector Benefits:

Indeterminate. Property owners, privately owned utilities or private businesses may see a reduction in ad valorem taxes or permitting fees if the Legislature shifts the focus of a WMD's responsibilities.

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

Indeterminate.

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to a research discussion of HB 4559 because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 4559 does not reduce the revenue-raising authority of counties or municipalities.

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

HB 4559 does not reduce state tax revenues shared with local governments.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Water and Resource Management, at its April 16, 1998, meeting, adopted an amendment that allows surveyors to use surveys developed from computerized Global Positioning Systems (similar to GIS) when measuring the extent of wetlands. The amendment will trail HB 4559, which the committee adopted by a vote of 7-0.

VII. SIGNATURES:

COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Cynthia P. Kelly

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