

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

**BILL:** SB 1686

**SPONSOR:** Senator Bronson

**SUBJECT:** Water Management Districts

**DATE:** March 23, 2000                      **REVISED:** 03-27-00                      \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This bill authorizes a water management district governing board to delegate its powers to district staff. It also revises the criteria for determining the cumulative impacts on surface water and wetlands.

This bill substantially amends ss. 373.083 and 373.414 of the Florida Statutes.

**II. Present Situation:**

Pursuant to s. 20.05(1)(b), F.S., the head of any state department has authority, without being relieved of responsibility, to execute any of the powers, duties, and functions vested in the department or in any administrative unit thereof through administrative units and through assistants and deputies designated by the head of the department from time to time, unless the head of the department is explicitly required by law to perform the same without delegation. There is no similar provision in the Florida Statutes granting general authority to a water management district (WMD) governing board to delegate its powers and duties to district staff. This lack of authority results in governing boards having to make myriad authorizations that are typically delegated to staff by state agency heads.

As part of the RAB process, the WMDs identified rules of all WMDs except the Northwest Florida WMD that authorized district staff to grant general permits (a general permit is typically for an activity having minimal impacts). Because these rules do not have sufficient statutory authorization, SB 670 has been introduced to specifically authorize district staff to grant only general permits. SB 1686 authorizes a WMD governing board to delegate any of its authorities.

The St. Johns River WMD reports that, in addressing the cumulative impacts of activities proposed to be permitted in surface waters and wetlands, the district interprets its rules to the effect that if a permit applicant proposes mitigation within the same drainage basin as the adverse effects to be mitigated and the mitigation completely offsets the adverse effects, the activity is

considered to have met cumulative impact requirements in that basin. An administrative challenge has been made to the district's interpretation of the rule, requesting that the district initiate rulemaking to clarify the issue. This bill incorporates the district's methodology into the Florida Statutes. It has been reported that all the WMDs and the Department of Environmental Protection (DEP) currently make the same interpretation of their rules as does the St. Johns River WMD.

**III. Effect of Proposed Changes:**

**Section 1.** Section 373.083, F.S., is amended to permit a WMD governing board to execute any of its powers, duties, and functions through the executive director and other district staff as designated by the governing board. This authority is supplemental to any other provision of ch. 373, F.S., granting authority to the governing board to delegate specific powers, duties, and functions.

**Section 2.** Section 373.414, F.S., is amended to provide that if an applicant proposes mitigation within the same drainage basin as the adverse effects to be mitigated, and if the mitigation offsets these adverse effects, the governing board and the DEP shall consider the regulated activity to meet the requirements of s. 373.414(8)(a), F.S., which requires that the cumulative impacts be considered in evaluating a permit for activities in surface waters and wetlands. The bill also provides that the enactment of this change in s. 373.414(8)(b), F.S., may not be construed to prohibit mitigation outside the drainage basin which offsets the adverse effects within the drainage basin.

**Section 3.** This act shall take effect upon becoming a law.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

There should be no impact, as all five WMDs and the DEP currently evaluate permits in the manner required in this bill. Increasing the efficiency of WMD governing boards could benefit the public in terms of quicker permit decisions.

**C. Government Sector Impact:**

Authorizing WMD governing boards to delegate routine decision-making should result in increased efficiency for the governing boards and allow certain decisions to be made more timely without having to wait for the next monthly meeting of the governing board.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Natural Resources:

The amendment revises the provision authorizing water management district governing boards to delegate their responsibilities. The amendment authorizes a governing board to execute any of the powers, duties, and functions vested in the governing board through a member or members thereof, the executive director, or other district staff as designated by the governing board. However, if the governing board delegates the authority to take final action on permit applications under part II or part IV, or petitions for variances or waivers of permitting requirements under part II or part IV, the governing board shall provide a process for referring any denial of such application or petition to the governing board to take final action. The authority in this subsection is supplemental to any other provision of this chapter granting authority to the governing board to delegate specific powers, duties or functions.