

STORAGE NAME: h2091s1.wrm

DATE: April 13, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
WATER & RESOURCE MANAGEMENT
ANALYSIS**

BILL #: CS/HB 2091

RELATING TO: Lake Region Lakes Management District

SPONSOR(S): Committee on Water & Resource Management and Representative Edwards

TIED BILL(S):

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

- (1) WATER & RESOURCE MANAGEMENT YEAS 10 NAYS 0
 - (2) COMMUNITY AFFAIRS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 2091 is a general law of local application affecting the Lake Region Lakes Management District. The bill proposes to amend s. 373.406, F.S., to provide that when performing certain activities, the District is exempt from the permitting requirements of Part IV, Chapter 373, relating to the management and storage of surface waters.

CS/HB 2091 provides that the Lakes Management District must notify the Southwest Florida Water Management District when undertaking activities qualifying for a permit exemption. Further, the bill provides that the area of the Lakes Management District which falls within the jurisdiction of the St. Johns River Water Management District is not eligible for permit exemptions.

CS/HB 2091 is subject to the requirements of section 11, Article III, of the State Constitution, which provides that no general law of local application pertaining to a subject prohibited by general law, may be enacted by the Legislature, unless passed by a three-fifths vote of the membership of each House. Pursuant to Chapter 298, Florida Statutes, the Legislature is prohibited from enacting legislation granting additional authority to a water control district.

CS/HB 2091 does not appear to trigger local-government mandate issues. The bill has an indeterminate fiscal impact, and would take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Lake Region Lakes Management District

The Winter Haven Lake Region Boat Course District was created as a public corporation by special act, chapter 8378, Laws of Florida, 1919. The charter of the District was substantially revised in chapter 90-499, Laws of Florida. At that time, the district was established as an independent special district, and the name was changed to the Lake Region Lakes Management District.

Lake Region Lakes controls a chain of 16 lakes joined through navigable canals, and 36 independent lakes which are joined by drainage systems. Lake Region Lakes operates nine water control structures (dams and pipes with sluice gates.) It has the authority to acquire, construct, operate, maintain and protect a system of boat canals, dams, locks and other proper and necessary works, in connection therewith, for the purpose of protecting, maintaining and improving the water quality in the lakes and canals; promoting access to the lakes and the public convenience, utility and welfare; and maintaining navigable water levels in the lakes and canals within or adjacent to the district.

Chapter 373

In 1972, the Florida Legislature enacted the "Water Resources Act" (chapter 373, Florida Statutes) to create a comprehensive administrative system of water regulation in Florida. In Part I of Chapter 373, the Legislature created the five water management districts, whose duties include flood protection and surface water regulation, as well as environmental resource permitting, and water quality protection and enhancement. Part IV of Chapter 373 regulates the management and storage of surface waters in the state.

Section 373.413, F.S., establishes the permit requirements for the construction or alteration of stormwater management systems, dams, and other works which will not be harmful to the water resources of the district. Persons wishing to construct or alter a stormwater management system, an impoundment, a dam, or other structure must apply to the governing board of a water management district, or the Department of Environmental Protection (DEP), for the necessary permits.

Section 373.414, F.S., establishes additional criteria to be considered by DEP or a water management district, when determining if a proposed activity will be harmful to the region's water resources. An applicant must provide reasonable assurances that state water

quality standards for lakes, rivers, and streams, as well as other water bodies, will be maintained. Further, the applicant must provide assurances that activities over or on wetlands, or in surface waters, will be in the public interest. Subsection (1) of s. 373.414, F.S., provides the criteria which must be considered by DEP or a water management district to determine if a proposed activity is clearly in the public interest.

Finally, s. 373.406, F.S., provides exemptions from the permitting requirements of Part IV, Chapter 373, F.S.

Chapter 298

Section 298.76, F.S., provides that pursuant to the authority granted to the Legislature in s. 11(a)(21), Article III, of the State Constitution, no general law of local application can be enacted by the Legislature to grant additional authority, powers, rights, or privileges to any water control district formed pursuant to the provisions of Chapter 298, F.S.

Section 11(a)(21), Article III, Florida Constitution

Section 11(a)(21), Article III, of the State Constitution, provides that there shall be no general law of local application enacted on a subject prohibited by general law, unless the proposed general law of local application is passed with a three-fifths vote of the membership of each house of the Legislature.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 2091 proposes to amend s. 373.406, F.S., to provide that the Lake Region Lakes Management District is not required to obtain a permit to perform the following duties:

- o Install up to two 24-inch pipes or their equivalent for lake-level management purposes, so long as the pipes are incorporated with a structure, and are operated based on a water management district's adopted lake-levels program.
- o Remove pipes or other restrictions if such items are too small for or restrict the flow of water in a ditch.
- o Add or change the inverts of pipes located in ditch crossovers when the existing crossovers restrict the flow of water in an existing ditch.

CS/HB 2091 further provides that the Lakes Management District must notify the Southwest Florida Water Management District when it is performing activities eligible for a permit exemption. Also, the bill provides that the area of the Lakes Management District that falls within the jurisdiction of the St. Johns River Water Management District is not eligible for permit exemptions.

D. SECTION-BY-SECTION ANALYSIS:

None.

III. 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 Southwest Florida Water Management District may see a decrease in permitting revenues.

2. Expenditures:

The Lake Region Lakes Management District may see a decrease in expenditures related to permit applications.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Lake Region Lakes Management District is authorized to levy up to 1 mill of ad valorem taxes to pay for the expense of performing the duties established in its charter. The District's current tax is approximately \$.40 for every \$1,000 of taxable value. It is possible that existing and future residents of the District may see a minimal ad valorem increase to pay for the performance of the duties referred to in CS/HB 2091.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 2091 does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/HB 2091 does not reduce the authority that municipalities or counties have to raise revenues.

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

CS/HB 2091 does not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

CS/HB 2091 is subject to the provisions of s. 11(a)(21), Article III, of the State Constitution, and will require a three-fifths vote by each House of the Legislature to become law.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

HB 987, by Representative Alexander, is a local bill filed to expand the boundaries of the Lake Regions Lake Management District. If enacted into law, a portion of the District's expanded boundary will fall within the St. Johns River Water Management District.

SB 1138, the Senate companion to HB 2091, was heard by the Senate Natural Resources Committee, on March 22, as a local bill. The committee adopted an amendment that requires the District to notify the Southwest Florida Water Management District when it is performing activities exempt from permitting requirements under the provisions of the bill. The Senate amendment also provides that the area within the Lake Region Lakes Water Management District that falls under the jurisdiction of the St. Johns River Water Management District is not subject to the permitting exemptions authorized in the proposed bill. The amendment is traveling with the bill, which is now in Senate Rules and Calendar.

It is expected that an amendment will be offered to HB 2091 to include the provisions of the amended Senate bill.

HB 2091 does not specify that the permit exemptions authorized in the bill are limited to work performed on property owned or controlled by the district. However, the District's charter provides that works performed outside of its geographical boundaries, but within the drainage basins containing lakes in the District, must be approved by the governing body having jurisdiction over the area involved.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 12, 2000, the Committee on Water & Resource Management adopted an amendment that conformed HB 2091 to SB 1138 by providing the following:

- o The Lakes Management District is required to notify the Southwest Florida Water Management District when performing activities eligible for permit exemptions.
- o The area of the Lakes Management District falling within the jurisdiction of the St. Johns River Water Management District is not eligible for permit exemptions.

The sponsor of the bill asked that it be made into a committee substitute.

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VII. SIGNATURES:

COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

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Karon A. Molloy

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