

II. Present Situation:

Basins / Basin Boards

Section 373.0693, F.S., which regulates basins and basin boards, provides that basins existing with the SWFWMD, as described in rule 40D-0.061, Florida Administrative Code, cannot be abolished or combined without approval of the Legislature. Certain portions of the Hillsborough River Basin and the Alafia River Basin, lying east of the Hillsborough County line (Polk County) were annexed into the Peace River Basin, which stops at the county line separating Hillsborough and Polk Counties. However, the Hillsborough River Basin and the Alafia River Basin both originate in Polk County. De-annexing the portions which were annexed into the Peace River Basin will more accurately reflect the actual watershed boundaries, and will allow Polk County to have a vote on each of the Hillsborough and Alafia River Basins.

Surface Water Improvement and Management (SWIM) Act

In 1987, the Legislature enacted Chapter 87-97, Laws of Florida, to create the SWIM Act. In the SWIM Act, the Legislature expressed findings that the water quality of many surface water bodies in the state was degraded, or in danger of becoming degraded. The Legislature found that the natural systems associated with the surface waters had been so altered that they could no longer function to provide habitat for native fish and plants, or to provide safe drinking water. Each of the five water management districts was required to prepare a SWIM plan for the surface waters of the district to include an assessment of the surface waters, a priority designation for the surface waters based on criteria established in the bill, and descriptions for programs to improve and manage the priority surface waters.

Every 3 years, the water management districts, in coordination with the DEP, the Department of Agriculture & Consumer Services, the Department of Community Affairs, the Fish & Wildlife Conservation Commission, and local governments, must prepare a list prioritizing water bodies of regional or statewide significance. This list must be based on criteria adopted by rule of the DEP, and must establish priority based on the need for protection and restoration. Once the lists have been approved by DEP and the other participants, SWIM plans are developed based on the priority lists. A SWIM Plan must include a description of the water body, identification of all governmental units with jurisdiction over the water body and its drainage basin, a description of the land uses, a list of the point and nonpoint sources of pollution that discharge into the water body, strategies and potential strategies for restoring or protecting the water body to Class III or better, restoration and protection schedules, and funding estimates. Each agency reviewing a SWIM plan has the opportunity to recommend modifications or additions.

After the governing board of a water management district considers the comments and recommendations of the reviewing entities, the governing board must approve the SWIM Plan. Within 15 days of approval, the approved Plan must be submitted to DEP for review to ensure consistency with the state's Water Resource Implementation Rule and the State Comprehensive Plan. Within 30 days after receipt of an approved Plan, the DEP must determine consistency. If consistency is determined, the water management district must publish notice in the Florida Administrative Weekly. The Plan is considered effective, and is considered as final agency action of the governing board on the date of the advertisement.

SWIM Funding

In the SWIM Act, the Legislature created the Surface Water Improvement and Management Trust Fund, renamed the Ecosystem Management and Restoration Trust Fund in 1996. The SWIM Trust Fund was funded by general revenue appropriated by the Legislature on an annual basis, using funding proposals submitted by the five water management districts and considered by DEP when submitting its annual legislative budget request. Originally, the SWIM program provided 80 percent of funding with a 20 percent district match, but the match requirement for the South Florida Water Management District, the Southwest Florida Water Management District, and the St. Johns River Water Management District was changed to a 60/40 split.

The Legislature has not funded the SWIM Act out of general revenue for many years. In 1996, the Legislature transferred funds from the State Transportation Trust Fund to fund SWIM projects. In 1997, funds were appropriated from the Solid Waste Management Trust Fund. Most recently, the Legislature created a competitive grant program to fund water quality improvement and water restoration projects beginning in fiscal year 2003-2004. The grant program, funded at \$20 million the first year, will be administered by DEP, and will be available to local governments, water management districts, and special districts. Financially disadvantaged small local governments must receive 20 percent of the funds and are not required to provide matching money.

III. Effect of Proposed Changes:

Section 373.0693, F.S., is amended to delete requirements that Basins within the SWFWMD may not be abolished or combined without the approval of the Legislature.

Section 373.561, F.S., is amended to revise legislative intent with regard to the SWIM Act. Provisions that require the state, through the DEP, to provide funds to assist with the implementation of district SWIM plans are repealed.

Section 373.453, F.S., is amended to provide that the list for priority water bodies of regional or statewide significance will be reviewed and updated every 5 years instead of every 3 years. The South Florida Water Management District is directed to add the Lake Worth Lagoon as a priority area which must be considered by the District when preparing the priority water body list. The criteria used to develop the lists is amended to include water bodies on DEP's list of impaired waters, water bodies for which total daily maximum loads (TMDLs) have been established, the management of the water body through federal, state, or local water quality programs or plans, and public input. SWIM plan requirements are amended to include schedules for related management actions for restoring or protecting a water body to Class III or better, including those needed to achieve TMDLs established for the water body, and a list of available and potential funding sources and amounts.

Section 373.459, F.S., is amended to provide that legislative SWIM appropriations to the water management districts must be available for detailed planning, and plan and program implementation.

Sections 259.101, 373.4136, 403.067, and 403.1835, F.S., are amended to correct cross-references.

Section 373.455, F.S., relating to the governing board and DEP approval of district SWIM plans is repealed. Section 373.456, F.S., relating to governing board and DEP approval of SWIM plans is repealed. Section 373.457, F.S., relating to implementation of SWIM plans is repealed. All three provisions are incorporated into other sections of the bill.

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:

None.

C. Government Sector Impact:

The South Florida Water Management District estimates that this bill will have a positive fiscal impact of \$1.5 million due to the elimination of duplicative reporting requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.