

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 641 w/CS Southwest Florida Water Management District Governing Board
SPONSOR(S): Troutman
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Lands & Water Resources (Sub)	7 Y, 5 N	Camechis	Lotspeich
2) Natural Resources	19 Y, 0 N w/CS	Camechis	Lotspeich
3)			
4)			
5)			

SUMMARY ANALYSIS

The governing board of the Southwest Florida Water Management District (District) is composed of 11 members each of whom must live within certain areas of the District based upon statutory residency requirements. This bill revises the residency requirements as illustrated below:

Area Within Which Board Member Must Reside	Current Number of Board Members Per Area	Proposed Number of Board Members Per Area
Hillsborough County	2	Same
Pinellas County	2	Same
Hillsborough and Pinellas Counties	1 (at large)	0
Polk County	1	1
County-wide, at large, member	0	1
Manatee County	1	Same
Pasco County	1	Same
Levy, Marion, Citrus Sumter, Hernando, and Lake Counties	1 (at large)	Same
Sarasota, Hardee, DeSoto, Charlotte, and Highlands Counties	1 (at large)	Same
Levy, Sumter, Citrus, Highlands Hernando, Lake, Sarasota, Hardee, DeSoto, Marion, and Charlotte Counties	1 (at large)	Same

This bill does not appear to result in a direct fiscal impact on the state, local governments, or private entities.

A summary of positions expressed by certain interested parties appears on pp. 4-6 of this analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: March 15, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

In 1972, the Legislature divided the state into five water management districts with boundaries based primarily on watershed and hydrologic basins. The Southwest Florida Water Management District (District) encompasses all or part of sixteen counties on the west-central coast of Florida, from Levy County in the north to Charlotte County in the south, and extends from the Gulf of Mexico east to Polk and Highlands counties. The District contains 98 local governments spread over approximately 10,000 square miles, with total population of approximately 4.1 million¹. The District's primary funding source is ad valorem taxes, although revenues are also derived from state and federal appropriations, permit fees, interest earnings, and other sources.

An 11-member board appointed by the Governor and confirmed by the Senate governs the District. Members of the governing board must have significant experience in one or more areas including agriculture, the development industry, local government, government-owned or privately owned water utilities, law, civil engineering, environmental science, hydrology, accounting, or financial businesses.² Board members serve staggered, four-year terms, and each member must live within certain areas of the District based upon statutory residency requirements set forth in s. 373.073(2), F.S., as follows:

Area Within Which A Board Member Must Reside	Current Number of Board Members per Area
Hillsborough County	2
Pinellas County	2
Hillsborough and Pinellas Counties	1 (at large)
Polk County	1
Manatee County	1
Pasco County	1
Levy, Marion, Citrus Sumter, Hernando, and Lake Counties	1 (at large)
Sarasota, Hardee, DeSoto, Charlotte, and Highlands Counties	1 (at large)
Levy, Sumter, Citrus, Highlands Hernando, Lake, Sarasota, Hardee, DeSoto, Marion, and Charlotte Counties	1 (at large)

A county represented by an at-large member of the governing board may not be represented by more than one member.

¹ Projections of Florida Population by County, 2002-2003, Bureau of Economic and Business Research, Jan. 2003.

² s. 373.073(1), F.S.

The following table identifies the population of the five largest counties in the 16-county District, as well as the District's 2004 estimated ad valorem tax income generated by each county:

Area	Population and Percent of Total District Population for FY2003³		Ad Valorem Tax Income to the District and Percent of Total District Income for FY2004⁴ (Excluding revenues generated by basin boards in the District)	
Hillsborough County	1,055,617	(25.49%)	\$ 20,571,915	(23.21%)
Pinellas County	933,994	(22.55%)	\$ 20,149,202	(22.73%)
Hillsborough and Pinellas Counties	1,989,611	(48.03%)	\$ 40,721,117	(45.94%)
Polk County	473,196	(11.43%)	\$ 6,927,088	(7.81%)
Pasco County	361,432	(8.73%)	\$ 5,624,517	(6.34%)
Sarasota County	339,684	(8.20%)	\$13,830,676	(15.60%)

EFFECT OF PROPOSED CHANGES

This bill amends s. 373.073(2), F.S., to revise residency requirements for SWFWMD governing board members. It appears that the revised residency requirements are not implemented until vacancies occur on the governing board. Specifically, the bill eliminates the at-large member from Hillsborough or Pinellas Counties, and replaces that member with a member appointed from any of the 16 counties within the geographical boundaries of the District. The following table illustrates the revised residency requirements:

Area Within Which A Board Member Must Reside	Current Number of Board Members Per Area	Proposed Number of Board Members Per Area
Hillsborough County	2	Same
Pinellas County	2	Same
Hillsborough and Pinellas Counties	1 (at large)	0
Polk County	1	1
County-wide, at large, member	0	1
Manatee County	1	Same
Pasco County	1	Same
Levy, Marion, Citrus Sumter, Hernando, and Lake Counties	1 (at large)	Same
Sarasota, Hardee, DeSoto, Charlotte, and Highlands Counties	1 (at large)	Same
Levy, Sumter, Citrus, Highlands, Hernando, Lake, Sarasota, Hardee, DeSoto, Marion, and Charlotte Counties	1 (at large)	Same

³ Total District population for fiscal year 2003 equaled 4,141,746. *Projections of Florida Population by County, 2002-2003*, Bureau of Economic and Business Research, Jan. 2003.

⁴ These dollar amounts do not include revenues generated by basin boards within the District because those funds are generally spent on projects within each respective basin. Total estimated ad valorem tax income to the District for 2004, not including basin board revenues, equals \$88,650,677. *Southwest Florida Water Management District Tax Roll Summary for FY 2004 Budget, 2003 Certification of Taxable Values*, July 1, 2003.

The bill also requires the Legislative Committee on Intergovernmental Relations to study the composition of the District board to analyze and make recommendations concerning equitable board composition based on quantifiable measures such as an area's water resources, water supply, population, geographical area, and ad valorem contribution. The study will be conducted every 10 years with the initial study to be completed and provided to the Speaker of the House, the President of the Senate, and the Governor prior to February 1, 2005. The bill also provides that any District board member whose term expires between May 30, 2004 and May 30, 2005, will not be replaced prior to May 30, 2005.

C. SECTION DIRECTORY:

- Section 1. Amends s. 373.073, F.S., to revise the residency requirements for the Southwest Florida Water Management District.
- Section 2. Amends s. 373.0693, F.S., to update a cross-reference.
- Section 3. Provides an effective date.

II. 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: None.
- 2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: This bill does not appear to impact the rulemaking authority of any state agency.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Interested parties provided the following comments regarding HB 641:

- ❖ **The Polk County, Board of County Commissioners**, supports the bill and offers the following comments:

The SWFWMD web site describes the Green Swamp in Polk County as the hydrologic heart of Central Florida. The potentiometric high of the Floridan Aquifer is in the Green Swamp near Polk City. Four major river systems flow out of it (Hillsborough, Peace, Withlocoochee and Platlakaha Rivers). Two other rivers, which are drinking water sources downstream, have their head waters in Polk County (Kissimmee and Alafia Rivers). We have more that 550 lakes and the Lakes Wales Ridge is a primary recharge area of the Floridan Aquifer in Central Florida.

Polk County is a donor County in both water and money. We provide water downstream (both underground and on the surface) and give more funds to the Water Management District that (sic) we see returned.

Even with our hydrologic importance, we are limited to only one member of the 11 member Southwest Florida Water Management District Governing Board. By law, five (45%) of the Governing Board members must come from two counties (Pinellas and Hillsborough).

Now, the SWFWMD has declared most of Polk County a Water Use Caution Area. The highest projected water deficits in Central Florida are in Polk County (40 MGD for public potable water supply alone). The primary source of water that has been identified by the SWFWMD to meet the needs of growth is the conversion of agricultural irrigation water, to potable water for development. We have supported the Water Management District as they have directed 100's of millions of dollars to solve the water problems in the Tampa Bay area. Without additional representation on the SWFWMD Governing Board, it is doubtful that we will see the same effort in Polk County.

- ❖ **The Pinellas County, Board of County Commissioners**, is not taking a position on the bill.
- ❖ **The Hillsborough County, Board of County Commissioners**, unanimously voted to oppose SB 1180, which is substantively identical to HB 641, stating that “the legislation would create an unreasonable disparity in the representation on the SWFWMD Governing Board, potentially jeopardizing the funding necessary to complete the regional reclaimed water initiatives that will meet the regional water demands for the next twenty years including initiatives recently approved by both the SWFWMD’s Governing Board and the Tampa Bay Water Board of Directors.”
- ❖ **The Sarasota County, Board of County Commissioners**, representative provided the following comments:

Sarasota County is not directly affected by changes proposed in Senate Bill 1180 and its companion, House Bill 641. These bills would transfer one seat on the Southwest Florida Water Management District (SWFWMD) Governing Board from Hillsborough and Pinellas Counties to Polk County. However, we are concerned about such a change to the SWFWMD Governing Board without a thorough understanding of the equity in representation within SWFWMD’s jurisdictional boundaries. There is absolutely no data or rationale that can provide any clear justification for the change. Polk County already has one dedicated Governing Board seat. Yet, as you know, Sarasota County does not have a dedicated seat on the Governing Board although we have the third largest tax base in the District after Hillsborough and Pinellas, and our tax-payers are contributing 15.6% of SWFWMD’s revenue in 2004 as compared to Polk County

at 7.81%. To transfer representation from one area to another without that thorough analysis of equity across all of SWFWMD's jurisdiction is simply not justified. The role of SWFWMD's Governing Board is to protect our water resources, while meeting the needs of a growing population and intensification of agriculture and other industrial activities. Their role requires a delicate balance of perspectives. We believe that any change in the SWFWMD Governing Board makeup and/or philosophy should only be made after a thorough review and appropriate justification well documented by an analysis of these perspectives. The justifications that have been provided by the Polk County interests in support of this bill may appear valid on their surface. However, one could just as easily take those same justifications and apply most of them to nearly every county in the District. The only factor not transferrable is one of geography; some counties are coastal counties and some counties are interior counties - an irrefutable fact. In the final analysis, we all need and want - more cheap water. The real reason behind these bills - not stated - is that one county wants more cheap water for more development without necessarily considering the needs of the entire District.

- ❖ **The Pasco County, Board of County Commissioners**, voted unanimously to oppose the bill. **The City Council of the City of St. Petersburg** passed a Resolution in opposition to SB 1180 for the same reasons offered by the basin boards quoted above.
- ❖ **The City of Tampa** expressed opposition to SB 1180, which is substantively identical to HB 641. In a letter to Senator Les Miller and Senator Victor Crist expressing the City of Tampa's position, Pam Iorio, Mayor of the City of Tampa, indicated that she "fears[s] the passage of SB 1180 may jeopardize the funding necessary to complete the region's reclaimed water initiatives in an environmentally sound manner."
- ❖ **The Alafia River Basin Board, the Northwest Hillsborough Basin Board, and the Hillsborough River Basin Board** within the District recently adopted Resolutions in opposition to Senate Bill 1180, which is substantively identical to HB 641, citing the following reasons as the basis for their opposition:
 - ◆ Hillsborough and Pinellas Counties generate approximately 51% of SWFWMD revenue, while Polk County generates approximately 7%;
 - ◆ Hillsborough and Pinellas Counties contain approximately 47% of SWFWMD's population, while Polk County contains approximately 11%;
 - ◆ Transfer of the seat to Polk County would result in clearly disproportionate representation on the SWFWMD Governing Board, based on revenue contributed and population represented.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 4, 2004, the Subcommittee on Public Lands & Water Resources recommended one amendment for adoption by the Committee on Natural Resources. Currently, the Governor must appoint one at-large District board member who resides in the area consisting of Hillsborough and Pinellas Counties. The amendment, offered by Rep. Troutman, adds Polk County to the area in which that board member must reside. Thus, the Governor is required to appoint one at-large District board member who resides in the area consisting of Hillsborough, Pinellas, and Polk Counties.

On March 11, 2004, the Committee on Natural Resources adopted two amendments as follows:

Amendment by Rep Kendrick: Requires one member to be appointed from any of the 16 counties within the geographical area of the District.

Amendment by Rep Seiler: Requires the Legislative Committee on Intergovernmental Relations to study the composition of the District board to analyze and make recommendations concerning equitable board composition based on quantifiable measures such as an area's water resources, water supply, population, geographical area, and ad valorem contribution. The study will be conducted every 10 years with the initial study to be completed and provided to the Speaker of the House, the President of the Senate, and the Governor prior to February 1, 2005. The bill also provides that any District board member whose term expires between May 30, 2004 and May 30, 2005, will not be replaced prior to May 30, 2005.