

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Environmental Preservation Committee

BILL: SB 1988

SPONSOR: Senator Saunders

SUBJECT: Water Management Activities

DATE: April 1, 2005

REVISED: 4/5/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Baum	Kiger	EP	Fav/ 1 amendment
2.			RI	
3.				
4.				
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

The bill authorizes the Department of Environmental Protection (DEP) and the governing boards of water management districts to require certification of certain professionals for activities regulated under chapter 373, chapter 376, any permitting program delegated to a water management district by a state agency, or to undertake corrective actions of those activities. The cost of such certifications by the professional shall be borne by the permittee or the person ordered to correct the permitted activity.

Additionally, the bill provides that if a permit or license, or the performance of an activity regulated under the Water Resources Act, requires the services of a professional geologist, the DEP or the governing board of a water management district may require that a licensed geologist sign and seal any documents and reports submitted in connection with the permit application or regulated activity. In doing so, the bill explicitly authorizes geologists to perform services within their professional purview and sign and seal documents governed by the Water Resources Act.

This bill creates sections 373.1165, F.S., and 373.1175, F.S.

II. Present Situation:

Chapter 373, F.S., requires that professional engineers perform services and sign and seal water

resource related documents as requested by DEP or a governing board of a water management district. Currently, professional geologists are not authorized to perform services and sign and seal water resource related documents because their profession was not specifically recognized at the time of passage of Chapter 373, F.S. Subsequent to the passage of Chapter 373, F.S., professional geologists became regulated under Chapter 492, F.S.; however, Chapter 373, F.S., has not been amended to authorize professional geologists to perform services or sign and seal water resource related documents.

DEP reports that section 403.0877, F.S., recognizes the professional geologist as an appropriate professional to conduct work under Chapter 373; F.S., however, this section of statute is subject to interpretation and as a result often excludes professional geologists from performing services under Chapter 373, F.S. The present situation also results in professional geologists not being able to submit proposals for projects that Chapter 492, F.S., recognizes they are licensed to perform. This restriction on “who can perform this work under Chapter 373, F.S.,” causes financial hardship both on the affected geologists and those needing geology related work performed.

III. Effect of Proposed Changes:

This bill creates sections 373.1165, F.S., and 373.1175, F.S., known as “Water Management Activities.”

Section 373.1165, F.S., relates to the certification by professionals regulated by the Department of Business and Professional Regulation. Provisions will:

- Provide that a water management district or DEP shall not interpret subsection (1) to give specific authority to either entity to require certification for an activity that is not within the definition or scope of practice of the following regulated professions:

Engineers licensed under chapter 471, F.S.

Landscape architects licensed under part II of chapter 481, F.S.

Geologists licensed under chapter 494, F.S.

Surveyors and mappers licensed under chapter 472, F.S.

- Provide that DEP or a governing board of a water management district may require, by rule, in conjunction with an application for a permit or license under chapter 373, chapter 376, or any permitting program delegated to a water management district by a state agency, or to undertake corrective action of such activity program ordered by the department or a water management district, which requires the services of a professional as listed in subsection (1), the following:

Certifications by the professional as are necessary to ensure that the proposed activity or corrective action is designated, constructed, operated, and maintained in accordance with applicable law and rules of the department or district in

conformity with proper and sound design principles, or other such certifications by the professionals as may be necessary to ensure compliance with the applicable law or rules of the department or district.

That the professional certify upon completion of the permitted or licensed activity or corrective action that such activity or corrective action has, to the best of his or her knowledge, been completed in substantial conformance with the plans and specifications approved by the department or board.

- Provide that the cost of certifications by the professional shall be borne by the permittee or the person ordered to correct the permitted activity.
- Provide that a permitted or licensed activity or corrective action that is required to be certified upon completion of the activity or action may not be placed into use or operation until the professional's certificate is filed with the DEP or board.

Section 373.1175, F.S., relates to the signing and sealing by professional geologists. Provisions will:

- Provide that if an application for a permit or license, or the performance of an activity regulated under Chapter 373, F.S., requires the services of a professional geologist, DEP or the governing board of a water management district may require that a professional geologist licensed under Chapter 492, F.S. sign and seal any documents and reports in connection with the permit application or regulated activity.
- Provide that the cost of such signing and sealing by a professional geologist shall be borne by the permit applicant or permittee.
- Provide that nothing in the creation of section 373.1175, F.S., is designed to prevent or prohibit the continued practice by professional engineers.

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:

The bill allows licensed professionals to sign and seal their own work as opposed to assuming liability for work outside of their qualified field of expertise, which could result in costly law suits. Further, professional geologists and professional engineers will now be able to compete for contracts that they are professionally qualified to perform.

C. Government Sector Impact:

There may be a savings because professional geologists and professional engineers will now be able to compete for contracts that they are professionally qualified to perform. Moreover, with the appropriate professional able to perform the work, there may be less corrective action required, which may result in a cost savings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

Barcode 650690 by Environmental Preservation:

The amendment adopted by the Committee deletes section 1 of the bill, intended to create section 373.1165, F.S., which relates to the certification by professionals regulated by the Department of Business and Professional Regulation. The title of the bill is changed to reflect the amendment.

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