

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The legislature will review the water management districts' millage rates each year and set the amount of revenue each can raise.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Water Management District Millage Rates

Article VII, Section 9(b) of the Florida Constitution provides that ad valorem taxes may be levied for water management purposes in amounts no greater than 0.05 mills for the northwest portion of the state and no greater than 1.0 mill for the remainder of the state.

The legislature has created five water management districts.¹ The legislature has declared that the millage authorized for water management purposes by the state constitution shall only be levied by the five water management districts.² The districts may levy ad valorem taxes on property within the district solely for the purposes of water management as set forth by the legislature.³

The legislature has authorized millage rates for the districts that are equal to or less than the maximum allowed by the state constitution.⁴ The current maximum total millage rate for each district is:

1. Northwest Florida Water Management District: 0.05 mill.
2. Suwannee River Water Management District: 0.75 mill.
3. St. Johns River Water Management District: 0.6 mill.
4. Southwest Florida Water Management District: 1.0 mill.
5. South Florida Water Management District: 0.80 mill.

The water management districts are special taxing districts.⁵ A special taxing district may not be created with general taxing authority, and may be empowered to levy only those taxes bearing a substantial relation to the special purpose of the taxing district.⁶

The legislature has determined that the ad valorem taxes which the water management districts are authorized to levy are in proportion to the benefits to be derived by the real estate within the districts.⁷

Water Management District Budget Review

Background

The process for the adoption of water management district budgets originated in 1949 with the creation of flood control districts under Chapter 378, F.S.⁸ Under that process, the fiscal year for the flood

¹ Section 373.069, F.S.

² Paragraph 373.503(2)(a), F.S.

³ Paragraph 373.503(3)(a), F.S.

⁴ Id.

⁵ Paragraph 189.403(6), F.S.

⁶ Crowder v. Phillips, 146 Fla. 440, 1 So. 2d 629 (1941); State ex rel. City of Gainesville v. St. Johns River Water Management Dist., 408 So. 2d 1067 (Fla. Dist. Ct. App. 1st Dist. 1982).

⁷ Subsection 373.503(4), F.S.

⁸ s. 28, ch. 25209, 1949 Laws of Florida

control districts was July 1 through June 30. No executive or legislative branch review of the budgets was provided for in statute. In 1972, the Water Resources Act of 1972 created the five water management districts and incorporated the budget review provisions of Chapter 378, F.S., into Part V of Chapter 373, F.S., creating section 373.536, F.S.⁹ No change was made to the fiscal year or to the review process.

As part of an omnibus finance and taxation bill in 1974 addressing numerous issues relating to ad valorem taxation, the fiscal year for the water management districts was changed to October 1 through September 30.¹⁰

In 1991, subsection (5) was added to s. 373.536, F.S., to require that all water management district “tentative” budgets be submitted to the Department of Environmental Regulation (the predecessor agency to the current Department of Environmental Protection) by August 5 of each year.¹¹ The DER was to review the budgets and submit comments to the governing board and to the Governor by September 5. Prior to December 15, the DER was to file with the Governor and the legislature a report summarizing “the expenditures of the districts by program area.”

Paragraph 373.536(5)(a), F.S., was amended in 1993 to require that the tentative budgets also be submitted to the Governor’s Office and the chairs of the appropriations committees in the Senate and House by August 5.¹² Paragraph 373.536(5)(b), F.S., was also amended in order to allow the Governor’s Office and the appropriations chairs to submit comments to the district governing boards by September 5.

In 1994, the legislature created the Water Management District Review Commission to perform a comprehensive review of Florida’s water management system including consideration of ways to improve financial and programmatic accountability of districts and potential revision of the districts’ budget development and adoption procedures.¹³ The Commission made several recommendations including:

- The Governor should approve or reject the annual budget of each water management district.
- The Executive Office of the Governor should establish permanent position(s) to review the financial and programmatic activities of Florida’s five water management districts. The position(s) should further serve as Executive Branch liaison to, and coordinate appropriate review deadlines and notices with, the legislative committees having substantive and appropriation jurisdiction over water management districts.
- Each district should provide a copy of its proposed budget, the past year’s expenditures, and its annual in-house financial audit to the Governor, the President of the Senate, the Speaker of the House, the chairs of all legislative committees and sub-committees with substantive or appropriation jurisdiction over water management districts, the Secretary of the Department of Environmental Protection, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district (“the entities”). The district should [shall] respond in writing to each comment received from any of the entities, and should [shall] furnish copies of those comments and written responses to all entities.

The Commission had a 1996 legislative package to implement its recommendations. While the bulk of the recommendations failed to pass, s. 373.536, F.S., was amended in 1996 to authorize the Governor to “approve or disapprove, in whole or in part, the budget of each water management district.”¹⁴ The

⁹ s. 25, ch. 72-299, Laws of Florida

¹⁰ s. 18, ch. 74-234, Laws of Florida

¹¹ s. 9, ch. 91-288, Laws of Florida

¹² s. 24, ch. 93-213, Laws of Florida

¹³ ch. 94-270, Laws of Florida

¹⁴ s. 5, ch. 96-339, Laws of Florida

Governor was also required to “develop a process to facilitate review and communication regarding water management district budgets.”

The stakeholders involved with the work of the Water Management District Review Commission continued to work on the concepts and language during the 1996-97 interim. This work resulted in legislation in 1997. The 1997 legislation further amended s. 373.536, F.S., to require that the tentative budgets be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of all substantive and fiscal committees, as well as to the Secretary of the Department of Environmental Protection, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district.¹⁵

Current Law

Under current law, the fiscal year for the water management districts is from October 1 through September 30.¹⁶ In this fiscal year cycle, the first step is for the budget officer of each water management district to submit to the governing board of the district by July 15 a tentative budget for the fiscal year beginning October 1.¹⁷

By August 1, a copy of the tentative budget is to be provided by the district to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of all substantive and fiscal committees.¹⁸ The House and Senate appropriations chairs may submit comments and objections on the proposed budgets to the districts by September 5.¹⁹ In its adoption of the final budget, the governing board must include a written response to any comments or objections of the appropriation chairs. The record of the governing board meeting adopting the final budget is required to be transmitted to the Governor, and the chairs of the appropriation committees.²⁰

Before December 15, the Governor’s Office is required to file with the legislature a report that summarizes its review of the tentative budgets.²¹

EFFECT OF PROPOSED CHANGES

Millage Rates

The bill provides that in order to insure that the taxes authorized by Chapter 373, F.S., continue to be in proportion to the benefits derived of real estate within the districts, the legislature is required to annually review the authorized millage rate for each district and annually set the amount of revenue authorized to be raised by each district from the taxes authorized by Chapter 373, F.S. However, the maximum millage rate for each district cannot exceed the rate currently established in subsection 373.503(3), F.S.

Should the legislature not set the revenue in any year by July 1, the bill contains a contingency provision allowing the districts to raise revenues equal to those authorized in the preceding fiscal year with an adjustment for the percentage change in the Consumer Price Index for the preceding fiscal year.

¹⁵ s. 16, ch. 97-160, Laws of Florida

¹⁶ Subsection 373.536(1), F.S.

¹⁷ Subsection 373.536(2), F.S.

¹⁸ Paragraph 373.536(5)(c), F.S.

¹⁹ Paragraph 373.536(5)(e), F.S.

²⁰ Id.

²¹ Paragraph 373.536(5)(f), F.S.

Budget Review

In order to facilitate the legislature's annual review of the millage rate, the bill revises the water management district fiscal year to have it run concurrent with the state fiscal year; that is, from July 1 through June 30.

The bill removes the current requirement that the tentative budget be submitted to the governing board by July 15, and changes from August 1 to February 1 the date by which the tentative budgets are to be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of all substantive and fiscal committees.

The bill also changes the date by which the Governor's Office must submit its report summarizing the district budgets from December 15 to September 15.

C. SECTION DIRECTORY:

Section 1. Amends section 373.503, F.S., relating to water management districts millage rates.

Section 2. Amends section 373.536, F.S., relating to the fiscal year of the water management districts.

Section 3. Provides that each district should begin planning for the change in fiscal year.

Section 4. 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:

See Fiscal Comments

2. Expenditures:

See Fiscal Comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill provides for the legislature to annually review the millage rates and set the amount of revenue the five water management districts can raise. This could have the impact of lowering property taxes or raising property taxes within the water management districts.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

No rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None