

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 1296

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Saunders

SUBJECT: Review of Water Management Districts

DATE: March 24, 2008      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kiger	Kiger	EP	Fav/CS
2.			GO	
3.			GA	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The committee substitute (CS):

- Reenacts sections 373.069, 373.0693, 373.0695, 373.073, and 373.083, F.S.
- Repeals the Oklawaha River Basin Advisory Council.
- Provides additional guidance for the development of rules related to water well contractor licensing.
- Amends a provision to provide that the chairs of the substantive legislative committees may review and comment on water management districts budgets.
- Allows water management district governing boards to conduct meetings using means of communications media technology.
- Creates the Reclaimed Water Coordination Task Force.

The CS provides that the act shall take effect upon becoming law.

The CS reenacts sections 373.069, 373.0693, 373.0695, 373.073, and 373.083, Florida Statutes.  
 The CS amends sections 373.0693, 373.323, and 373.536, Florida Statutes

## II. Present Situation:

Under the Florida Government Accountability Act, sections 11.901-11.920, F.S., most state agencies and their respective advisory committees are subject to a “sunset” review process to determine whether the agency should be retained, modified, or abolished.

Reviews are accomplished in three steps. First, an agency under review must produce a report providing specific information, as enumerated in s. 11.906, F.S. Upon receipt of the agency information, the Joint Legislative Sunset Committee and the House and Senate committees assigned to act as sunset review committees must review the information submitted and may request studies by the OPPAGA.

Based on the agency submission, the OPAGGA studies, and public input, the Joint Legislative Sunset Committee and the legislative sunset review committees will:

- Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees; and
- Make recommendations on the consolidation, transfer, or reorganization of programs within the state agencies not under review when the programs duplicate functions performed in agencies under review.
- Also, the House and Senate sunset review committees must propose legislation necessary to carry out the committee’s recommendations.

An agency subject to review is scheduled to be abolished on June 30 following the date of the review as specified in s. 11.905, F.S., provided the Legislature finds that all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and that adequate provision has been made to transfer certain duties and obligations to a successor agency. If an agency is not abolished, continued, or reorganized, the agency shall continue to be subject to annual sunset review by the Legislature.

The Senate Committee on Environmental Preservation and Conservation is the primary sunset review committee for reviews of the water management districts. The Senate General Government Appropriations Committee assisted in this review.

The institutional arrangement for managing water in Florida is unique in the United States. Emerging from a series of legislative actions in 1972, five water management districts (districts) were created. They are the Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, Southwest Florida Water Management District, and the South Florida Water Management District. The geographical boundaries for the districts were set up largely on hydrologic boundaries.

Direct oversight for each district’s activities is provided by a Governing Board whose members are appointed by the Governor and subject to confirmation by the Florida Senate. Each Governing Board in turn hires an Executive Director who must also be confirmed by the Florida Senate. In addition, pursuant to s. 373.026(7), F.S., the Department of Environmental Protection

(DEP) is authorized to “exercise general supervisory authority over all water management districts.”

The mission of the districts is to implement the provisions of Chapter 373, Florida Statutes, also known as the Florida Water Resources Act of 1972<sup>1</sup>. In implementing the act, the districts are to seek to manage water and related natural resources to ensure their continued availability while maximizing environmental, economic and recreational benefits.

Central to the mission is maintaining the balance between the water needs of current and future users while protecting and maintaining water and related natural resources which provide the districts with their existing and future water supply. In order to accomplish their missions the districts assume their responsibilities as authorized in Chapter 373, F.S., and other chapters of the Florida Statutes by directing a wide range of programs, initiatives and actions. These include, but are not limited to, flood protection, water use, well construction, environmental resource permitting, water conservation, education, land acquisition, water resource and supply development, and supportive data collection and analysis efforts. As an outgrowth of this the districts have identified what are referred to as the “Areas of Responsibility,” these are:

- ✓ Water Supply
- ✓ Flood Protection
- ✓ Water Quality
- ✓ Natural Systems

Many provisions in Chapter 373, F.S., confer power to the Governing Boards either directly or indirectly through shared responsibility with the DEP. However, s. 373.083, F.S., provides for their general powers and duties. These are:

- Enter into contracts with public agencies, private corporations, or other persons.
- To appoint and remove agents and employees.
- Issue orders to implement or enforce any of the provisions or regulations of Chapter 373, F.S.
- Make surveys and investigations of the water supply and water resources of their respective districts.
- Solicit and accept donations or grants from both public and private sources for any district activity.
- To exercise any delegation and to sub-delegate to district staff.
- Specific delegation of the consumptive use permitting or the environmental resource permitting programs must include a process by which permit denials may be taken to the Governing Board for final action.

As an outgrowth of these general powers and duties, along with delegation agreements with the DEP, district responsibilities have grown over the years. Though the original mission of flood control remains central to their operations, districts now have responsibilities in many environmental arenas. These include:

- Consumptive Use Permitting

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<sup>1</sup> Section 373.016, F.S.

- Environmental Resource Permitting
- Surface Water Improvement and Management
- Uses of district lands, canals, streams or aquifers
- Drainage system construction or operation
- Well construction and well contractor licensing
- Land acquisition and management
- Public education

The districts are funded from many different sources; however, they are unique in that they are granted specific authority to levy ad valorem taxes. Section 9(b), Article VII, of the Florida Constitution provides authority for four of the water management districts to levy up to 1.0 mills for water management purposes. The Northwest Florida Water Management District is capped at 0.05 mills.<sup>2</sup> Subsequent to these constitutional caps the Legislature has placed statutory caps<sup>3</sup> on the districts ad valorem millage rates as follows:

- 0.05 Northwest Florida
- 0.75 Suwannee River
- 0.6 St. Johns River
- 1.0 Southwest Florida<sup>4</sup>
- 0.8 South Florida<sup>5</sup>

**3-YEAR AD VALOREM HISTORY – ALL DISTRICTS**

Districts		05-06 (Actual)			06-07 (Estimated)			07-08 (Adopted)	
	Revenue	Rate	Percent of Total Revenues	Revenue	Rate	Percent of Total Revenues	Revenue	Rate <sup>6</sup>	Percent of Total Revenues
Northwest	\$3,856,429	0.05	9.1%	\$5,254,741	0.05	4.2%	\$5,253,073	0.045	4.3%
Suwannee	\$4,625,245	0.4914	6.4%	\$6,100,000	0.4914	7.2%	\$6,100,000	0.4399	7.4%
St. Johns	\$102,988,016	0.462	66.4%	\$142,469,805	0.462	33.8%	\$144,677,781	0.4158	36.2%
Southwest	\$189,378,159	0.422	68.5%	\$237,543,172	0.422	61.6%	\$237,527,258	0.3866	60.1%
South	\$444,075,931	0.697	43.3%	\$553,009,838	0.697	38.4%	\$549,484,359	0.624	42.8%

In addition to the uniqueness of having ad valorem taxing authority, the districts operate on a Federal fiscal year which begins on October 1 and ends on September 30 unlike the State fiscal year which begins on July 1 and ends of June 30.<sup>7</sup> Each district’s annual work plan and budget development process is specifically governed by s. 373.536, F.S.

<sup>2</sup> 1.00 mill equals \$1.00 per \$1,000 of assessed value. 0.05 mills equals \$0.05 per \$1,000 of assessed value.

<sup>3</sup> Section 373.509(3)(a), Florida Statutes.

<sup>4</sup> This taxing authority is divided evenly between the district and the district’s eight basin boards.

<sup>5</sup> This taxing authority is shared with the Big Cypress Basin, the Okeechobee Basin, and the 0.01 of a mill tied to the Everglades Forever Act.

<sup>6</sup> The lower millage rates reflect the districts compliance with House Bill 1B, enacted on June 21, 2007. The bill required special independent districts including water management districts to establish their ad valorem rates for this fiscal year at 97% of the existing rolled back rate.

<sup>7</sup> According to discussions with those involved with the creation of the districts the use of a Federal fiscal year dates was because the old Central and Southern Florida flood control district was a creation of the federal government as was the Southwest Flood control district. Because of this the federal fiscal year was already in use and by default was maintained.

A significant milestone for the districts in the development of their annual budgets is the submission of their tentative budget on August 1st of each year. The tentative budget is submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House, the chairs of specific legislative committees, the Secretary of DEP, and each county commission within the districts' boundaries.

Pursuant to s. 373.536, F.S., the Executive Office of the Governor upon receipt of the tentative budget has the authority to "approve or disapprove, in whole or in part, the budget of each water management district..." The Governor must submit his recommendations to the districts 5 days prior to their final adoption hearing which is usually held in the final 10 days of September. If the Governor has disapproved a specific budget item, it shall not be in the final approved budget.

Concurrent to the review by the Governor's Office, the statute also provides that, by September 5<sup>th</sup>, the House and Senate appropriations chairs may comment and raise objections to the provisions in the tentative budgets. In response to these comments, the Governing Boards are required to make them part of the public record at the meeting in which the final budget is adopted.

While each district has many specific activities, s. 373.536, F.S., requires them to be rolled into one of six defined program areas. These six program areas are:

- Water Resources Planning and Monitoring
- Acquisition, Restoration, and Public Works
- Operation and Maintenance of Lands and Works
- Regulation
- Outreach
- District Management and Administration

The Florida Statutes contain a number of provisions that provide for the creation of various advisory bodies or councils designed to assist the districts in carrying out some of their various duties and responsibilities. One such advisory council is the Oklawaha River Basin Advisory Council created pursuant to s. 373.0693(8)(a), F.S. The Council was created in 1988 to replace the then existing Oklawaha River Basin Board, which had been created as a separate taxing entity within the St. Johns River Water Management District. The Council was established to advise the district governing board on water management issues affecting the Oklawaha River Basin. The Council has been inactive and not met in over 10 years.

Part III, Chapter 373, F.S., establishes the authority for the state to regulate water wells. Originally placed with the DEP and then delegated to the districts in 1984, the statutes direct that established construction standards and reporting requirements be implemented by rule in order to ensure that newly constructed water wells do not cause uncontrolled water flow or degrade water quality. The districts also issue licenses to water well contractors to ensure their understanding of state and district water well rules and regulations. During the past year, the districts sought to update their licensing requirements to add additional specificity for water well contractors to meet prior to being able to sit for their licensure examination. The Joint Administrative Procedures Committee raised an objection that the proposed changes were outside the rule making provisions currently in law.

Section 120.54, F.S., provides for uniform rules of procedures that are to be utilized by state agencies in conducting their business. As a part of these, the agencies are authorized to utilize communications media technology to allow for remote participation by certain officials. Because the districts are not state agencies they cannot avail themselves of this option. During times of natural disasters and given that many governing board members may live some distance from the districts' headquarters their have been problems with being able to physically assemble the governing board members in order to allow the districts to conduct the necessary business.

The state of Florida has made significant investment in moving toward water reuse as a means for managing domestic wastewater, conserving water, and managing water resources. Reclaimed water has played a significant role in water supply and will continue to do so into the future. Over the past number of years, utilities, local governments, the water management districts, and state agencies have implemented water reuse programs, with the focus on increasing the volumes of reclaimed water used and in promoting public acceptance of reclaimed water. For Florida, implementation of water reuse has proven effective in reducing or avoiding adverse impacts on surface waters associated with surface water discharges.

Sections 403.064(1) and 373.250(1), F.S., encourage and promote water reuse as formal state objectives. These sections further conclude that water reuse programs designed and operated in compliance with Florida's rules governing reuse are deemed protective of public health and environmental quality.

### III. Effect of Proposed Changes:

**Section 1:** Provides that ss. 373.069, 373.0693, 373.0695, 373.073, and 373.083, F.S., relating to the water management districts and basin boards, are reenacted.

**Section 2:** Repeals language in s. 373.0693, F.S., which created that Oklawaha River Basin Advisory Council.

**Section 3:** Amends s. 373.323, F.S., relating to the licensure of water well contractors. Specific provisions create new requirements for individuals to meet prior to being able to take the water well contractor licensure examination. These include:

Evidence of the length of time they have been engaged in water well business. Such evidence shall be attested to by at least three letters by any of the following: water well contractors, water well drillers, water well parts and equipment vendors, or water well inspectors.

Providing a list of at least 10 water wells that they have worked on. The list shall detail the name and address of the well owner, the location, primary use and depth and diameter of the well, and the approximate date when such work was completed. The wells included on this list must have been worked on in the previous 5 years and at least 7 of them must have been constructed by the applicant.

**Section 4:** Amends s. 373.536, F.S. to provide that the appropriate substantive legislative committee chairs may provide comments and objections to the proposed budgets of the water management districts.

**Section 5:** Amends s. 373.079, F.S. to allow the water management district governing boards to conduct meetings by means of communications media technology pursuant to the uniform rules of procedure in s. 120.54, F.S.

**Section 6:** Creates the Reclaimed Water Coordination Task Force for the purposes of evaluating the regulation and the use of reclaimed water and proposing a statewide uniform approach for the use of reclaimed water as applied to processes related to water-use permitting and water shortages.

The task force shall be comprised of the following members:

- The President of the Senate and the Speaker of the House of Representatives shall each appoint one member from their respective chambers, who shall co-chair the task force.
- The Secretary of Environmental Protection, or designee.
- The Commissioner of Agriculture, or designee.
- The executive director of the South Florida Water Management District, or designee.
- The executive director of the Southwest Florida Water Management District, or designee.
- The executive director of the St. Johns River Water Management District, or designee.
- The executive director of the Suwannee River Water Management District, or designee.
- The executive director of the Northwest Florida Water Management District, or designee.
- The executive director of the Florida Nursery Growers and Landscape Association, or designee.
- The executive director of the Florida Sugar Cane League, or designee.
- In addition to the previous appointments, the President of the Senate and the Speaker of the House of Representatives shall each appoint:
  - Three members who are employees of a local government producing reclaimed water for reuse by the public.
  - A representative of a not-for-profit environmental advocacy organization.
  - A representative from a company that is a self-supplier of water.

The CS also provides that the DEP's clerical and professional staff shall provide administrative support to the task force. The task force may also request support from the clerical and professional staff of the standing committees of the Senate and the House of Representatives.

The goals assigned to the task force are as follows:

- Determine the role of the use of reclaimed water as applied to processes related to the water-use permitting and water shortage.

- Assess the appropriate roles of local governments and water management districts in regulating the use of reclaimed water.
- Consider how the use of reclaimed water could be promoted in areas in which new or increased water withdrawals have been limited by law through the use of offsets or other similar incentives.
- Evaluate the most effective means of supplementing reclaimed water supplies during peak demands in order to improve reliability and promote widespread adoption of reclaimed water.
- Consider the most effective means of incorporating any recommended statewide policy changes.

The DEP and each district shall encourage the use of pilot projects for the purpose of obtaining data and operating experience regarding various types of reuse and irrigation systems.

A report shall be submitted by the task force to the Governor, the President of the Senate, and the Speaker of the House of Representatives which summarizes the task force's findings and recommendations. The report shall be submitted on or before January 31, 2009.

DEP and the districts are directed, and all other agencies and local governments are requested, to render assistance to and cooperate with the task force.

The CS sets the task force to dissolve on January 31, 2009.

**Section 7:** Provides that this act shall take effect upon becoming law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.



**B. Private Sector Impact:**

By adding specific requirements for those seeking to sit for the water well contractors licensing exam a new cost will be realized in having to obtain certain pieces of documentation. The cost is expected to be minimal.

**C. Government Sector Impact:**

DEP is charged with providing support for the Reclaimed Water Coordination Task Force. The fiscal impact is indeterminate at this time, however, that agency has been asked for data concerning this.

**VI. Technical Deficiencies:**

The CS does not provide for per diem or travel expenses. If the task force will be operating without reimbursement, then that is not clearly stated.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Environmental Preservation and Conservation Committee on March 27, 2008:**

The committee substitute (CS):

- Reenacts sections 373.069, 373.0693, 373.0695, 373.073, and 373.083, F.S. relating to the creation and power and duties of the water management districts and basin boards.
- Repeals the Oklawaha River Basin Advisory Council.
- Provides additional guidance for the development of rules related to water well contractor licensing.
- Amends a provision to provide that the chairs of the substantive legislative committees may review and comment on water management districts budgets.
- Allows water management district governing boards to conduct meetings using means of communications media technology.
- Creates the Reclaimed Water Coordination Task Force for the purposes of recommending clear direction as to the relative roles of local governments and water management districts with regard to the regulation of the use of reclaimed water and proposing a statewide uniform approach to the consideration of use of reclaimed water as applied to processes related to water-use permitting and water shortages.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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