

By Senator Baker

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1 A bill to be entitled
2 An act relating to the limitation of liability of
3 water management districts; amending s. 373.1395,
4 F.S.; applying the limitation of liability of a water
5 management district to the water areas of the
6 district; providing that certain commercial activities
7 do not terminate the limitation of liability of a
8 water management district; providing that the
9 protections, immunities, and limitations of liability
10 provided to a water management district apply
11 regardless of whether any claimant or person was
12 engaged in a recreational activity at the time of an
13 accident or occurrence; defining the term "park area,
14 district or other lands, or water areas"; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Section 373.1395, Florida Statutes, is amended
20 to read:

21 373.1395 Limitation on liability of water management
22 district with respect to areas made available to the public for
23 recreational purposes without charge.—

24 (1) The purpose of this section is to encourage water
25 management districts to make available land, water areas, and
26 park areas to the public for outdoor recreational purposes by
27 limiting their liability to persons going thereon and to third
28 persons who may be damaged by the acts or omissions of persons
29 going thereon.

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30 (2) Except as provided in subsection (5) ~~(4)~~, a water
31 management district that provides the public with a park area or
32 other land or water area for outdoor recreational purposes, or
33 allows access over or the use of district or other lands, or
34 water areas for recreational purposes, owes no duty of care to
35 keep that park area, district or other lands, or water areas,
36 ~~land~~ safe for entry or use by others or to give warning to
37 persons entering or going on that park area, district or other
38 lands, or water areas ~~land~~ of any hazardous conditions,
39 structures, or activities thereon. A water management district
40 that provides the public with a park area, district or other
41 lands, or water areas ~~land~~ for outdoor recreational purposes, or
42 that allows access over or the use of a park area, district or
43 other lands, or water areas does not, by providing that park
44 area, district or other lands, or water areas or by allowing
45 access over or the use of that park area, district or other
46 lands, or water areas ~~or land~~, extend any assurance that such
47 park area, district or other lands, or water areas are ~~or land~~
48 ~~is~~ safe for any purpose, does not incur any duty of care toward
49 a person who goes on that park area, district or other lands, or
50 water areas ~~or land~~, and is not responsible for any injury to
51 persons or property caused by an act or omission of a person who
52 goes on that park area, district or other lands, or water areas
53 ~~or land~~. This subsection does not apply if there is any charge
54 made or usually made directly by the water management district
55 to the public for entering or using the park area, district or
56 other lands, or water areas ~~or land~~, or if any commercial or
57 other activity from which profit is derived from the patronage
58 of the public, excluding the sale of food, beverages, plants, or

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59 tee shirts or nonprofit organizational activities, is conducted
60 on such park area, district or other lands, or water areas ~~or~~
61 ~~land~~ or any part thereof.

62 (3) (a) This subsection applies to any park area, district
63 or other lands, or water areas whether the person goes on as an
64 invitee, licensee, or trespasser or otherwise.

65 (b) The protections, immunities, and limitations of
66 liability provided in this section to water management districts
67 apply regardless of whether any claimant or person was engaged
68 in a recreational activity at the time of an accident or
69 occurrence and applies to park areas, district or other lands,
70 and water areas actually used by the public for recreational
71 activities regardless of whether the park area, district or
72 other lands, or water areas were made available to the public at
73 the time of the accident or occurrence.

74 (4) ~~(3)~~ (a) Except as provided in subsection (5) ~~(4)~~, a water
75 management district that leases any land or water area to the
76 state for outdoor recreational purposes, or for access to
77 outdoor recreational purposes, owes no duty of care to keep that
78 land or water area safe for entry or use by others or to give
79 warning to persons entering or going on that land or water of
80 any hazardous conditions, structures, or activities thereon. A
81 water management district that leases a land or water area to
82 the state for outdoor recreational purposes does not, by giving
83 such lease, extend any assurance that such land or water area is
84 safe for any purpose, incur any duty of care toward a person who
85 goes on the leased land or water area, and is not responsible
86 for any injury to persons or property caused by an act or
87 omission of a person who goes on the leased land or water area.

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88 (b) This subsection applies to any person going on the
89 leased land or water area whether the person goes as an invitee,
90 licensee, trespasser, or otherwise.

91 (5)~~(4)~~ This section does not relieve any water management
92 district of any liability that would otherwise exist for gross
93 negligence or a deliberate, willful, or malicious injury to a
94 person or property. This section does not create or increase the
95 liability of any water management district or person beyond that
96 which is authorized by s. 768.28.

97 (6)~~(5)~~ ~~The term "outdoor recreational purposes,"~~ As used in
98 this section, the term:

99 (a) "Outdoor recreational purposes" includes activities
100 such as, but not limited to, horseback riding, hunting, fishing,
101 bicycling, swimming, boating, camping, picnicking, hiking,
102 pleasure driving, nature study, water skiing, motorcycling, and
103 visiting historical, archaeological, scenic, or scientific
104 sites.

105 (b) "Park area, district or other lands, or water areas"
106 includes, but is not limited to, all park areas, district or
107 other land, right of ways, and water areas that the water
108 management district controls, possesses, or maintains, or in
109 which the water management district has a property or other
110 interest, whether in fee simple, easement, leasehold, contract,
111 memorandum of understanding, or otherwise.

112 Section 2. This act shall take effect July 1, 2009.