

By the Committee on Judiciary; and 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; providing liability protection  
14          to an owner of private land used as an easement or  
15          other right by a water management district for the  
16          purpose of providing access to lands or water areas  
17          that the water management district makes available to  
18          the public for outdoor recreational activities;  
19          defining the term "park area, district or other lands,  
20          or water areas"; providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Section 373.1395, Florida Statutes, is amended  
25   to read:

26           373.1395 Limitation on liability of water management  
27   district with respect to areas made available to the public for  
28   recreational purposes without charge.—

29           (1) The purpose of this section is to encourage water

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30 management districts to make available land, water areas, and  
31 park areas to the public for outdoor recreational purposes by  
32 limiting their liability to persons going thereon and to third  
33 persons who may be damaged by the acts or omissions of persons  
34 going thereon.

35 (2) Except as provided in subsection (6) ~~(4)~~, a water  
36 management district that provides the public with a park area or  
37 other land or water area for outdoor recreational purposes, or  
38 allows access over or the use of district or other lands or  
39 water areas for recreational purposes, owes no duty of care to  
40 keep that park area, district or other lands, or water areas  
41 ~~land~~ safe for entry or use by others or to give warning to  
42 persons entering or going on that park area, district or other  
43 lands, or water areas ~~land~~ of any hazardous conditions,  
44 structures, or activities thereon. A water management district  
45 that provides the public with a park area, district or other  
46 lands, or water areas ~~land~~ for outdoor recreational purposes, or  
47 that allows access over or the use of a park area, district or  
48 other lands, or water areas, does not, by providing that park  
49 area, district or other lands, or water areas or by allowing  
50 access over or the use of that park area, district or other  
51 lands, or water areas ~~or land~~, extend any assurance that such  
52 park area, district or other lands, or water areas ~~are or land~~  
53 ~~is~~ safe for any purpose, does not incur any duty of care toward  
54 a person who goes on that park area, district or other lands, or  
55 water areas ~~or land~~, and is not responsible for any injury to  
56 persons or property caused by an act or omission of a person who  
57 goes on that park area, district or other lands, or water areas  
58 ~~or land~~. This subsection does not apply if there is any charge

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59 made or usually made for entering or using the park area,  
60 district or other lands, or water areas ~~or land~~, or if any  
61 commercial or other activity from which profit is derived from  
62 the patronage of the public, excluding the temporary sale of  
63 food, beverages, plants, or tee shirts at temporary special  
64 events or nonprofit organizational activities associated with  
65 temporary special events, is conducted on such park area,  
66 district or other lands, or water areas ~~or land~~ or any part  
67 thereof.

68 (3) (a) This section applies to any park area, district or  
69 other lands, or water areas whether the person goes on as an  
70 invitee, licensee, or trespasser or otherwise.

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

80 (4) ~~(3)~~ (a) Except as provided in subsection (6) ~~(4)~~, a water  
81 management district that leases any land or water area to the  
82 state for outdoor recreational purposes, or for access to  
83 outdoor recreational purposes, owes no duty of care to keep that  
84 land or water area safe for entry or use by others or to give  
85 warning to persons entering or going on that land or water of  
86 any hazardous conditions, structures, or activities thereon. A  
87 water management district that leases a land or water area to

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88 the state for outdoor recreational purposes does not, by giving  
89 such lease, extend any assurance that such land or water area is  
90 safe for any purpose, incur any duty of care toward a person who  
91 goes on the leased land or water area, and is not responsible  
92 for any injury to persons or property caused by an act or  
93 omission of a person who goes on the leased land or water area.

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

97 (5) If a water management district has secured an easement  
98 or other right that is being used for the purpose of providing  
99 access through private land to lands or water areas that the  
100 water management district provides or makes available to the  
101 public for outdoor recreational purposes, the owner of the  
102 private land is covered by the liability protection provided in  
103 s. 375.251 with regard to the use of such easement by the  
104 general public or by employees and agents of the water  
105 management district or other regulatory agencies.

106 (6)~~(4)~~ This section does not relieve any water management  
107 district of any liability that would otherwise exist for gross  
108 negligence or a deliberate, willful, or malicious injury to a  
109 person or property. This section does not create or increase the  
110 liability of any water management district or person beyond that  
111 which is authorized by s. 768.28.

112 (7)~~(5)~~ ~~The term "outdoor recreational purposes,"~~ As used in  
113 this section, the term:

114 (a) "Outdoor recreational purposes" includes activities  
115 such as, but not limited to, horseback riding, hunting, fishing,  
116 bicycling, swimming, boating, camping, picnicking, hiking,

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117 pleasure driving, nature study, water skiing, motorcycling, and  
118 visiting historical, archaeological, scenic, or scientific  
119 sites.

120 (b) "Park area, district or other lands, or water areas"  
121 includes, but is not limited to, all park areas, district or  
122 other land, right of ways, and water areas that the water  
123 management district controls, possesses, or maintains, or in  
124 which the water management district has a property or other  
125 interest, whether in fee simple, easement, leasehold, contract,  
126 memorandum of understanding, or otherwise.

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