

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 559

Mosquito Control Districts

SPONSOR(S): Schultz

TIED BILLS:

IDEN./SIM. BILLS: SB 924

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture & Natural Resources Policy Committee		Kaiser	Reese
2) Military & Local Affairs Policy Committee			
3) General Government Policy Council			
4) Finance & Tax Council			
5)			

SUMMARY ANALYSIS

The bill requires the board of commissioners (board) of a mosquito control district (district) containing an Outstanding Florida Water (OFW), in consultation with the Department of Agriculture and Consumer Services (department) and the appropriate water management district, to determine if the activities of the district have had any adverse effects on said waters. If so, the board, working with the water management district, must develop a plan that the board finds to be both technically and economically feasible for the mitigation of such adverse effects.

The bill requires the district to adopt a mitigation plan by July 1, 2010, and implement the plan beginning in the 2010-2011 FY.

Lastly, the bill authorizes the board to levy currently authorized ad valorem taxes¹ to fulfill the requirements of this legislation.

It appears that the fiscal impact of this legislation could be significant; however, it has not yet been reviewed by the Revenue Estimating Conference. The effective date of this legislation is July 1, 2009.

¹ Section 388.221, F.S.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION:

Mosquito Control Districts

Chapter 388, F.S., guides the Department of Agriculture and Consumer Services (department) in the oversight of mosquito control in the state. The chapter also provides for the creation and powers and operations of mosquito control districts. According to the "Official List of Special Districts" maintained by the Department of Community Affairs, there are currently seventeen chapter 388, F.S., mosquito control special districts. Of these, three are dependent special taxing districts and fourteen are independent. According to the Institute of Food and Agricultural Science at the University of Florida, there are currently 61 local mosquito control programs in the state comprised of cities, towns, counties or portions thereof. The special taxing districts are created for the purpose of controlling arthropods². The mosquito control districts are charged with managing the actual extermination of the arthropods, with the department advising the districts as to the best and most effective measures to be used in arthropod control.

Each district is governed by a board of commissioners (board) elected on a nonpartisan basis by the electors of the district. The law allows the Board of County Commissioners to serve as a district board as well. The board is vested with the authority to do any and all things necessary to control and eliminate mosquitoes and other arthropods that threaten public health in the state. By July 15 of each year, the board must submit a tentative budget to the department to determine eligibility for state aid. The board also has the authority to levy a special ad valorem tax on all real and personal taxable property in the district for the purpose of controlling and/or eliminating mosquitoes and arthropods that pose a threat to public health. The law³ limits the tax to 10 mills or less. For dependent districts, any tax imposed falls under the county's 10 mill cap as well.

Outstanding Florida Waters

Current law⁴ authorizes the Department of Environmental Protection (DEP) to "...establish rules which provide for a special category of water bodies within the state, to be referred to as "Outstanding Florida Waters (OFW)," which shall be worthy of special protection because of their natural attributes..."

² Section 388.011(1), F.S., defines arthropod as those insects of public health or nuisance importance, including all mosquitoes, midges, sand flies, dog flies, yellow flies, and house flies.

³ Section 388.221, F.S.

⁴ Section 403.061(27), F.S.

“Special Waters” OFWs include 41 of Florida’s 1700 rivers, several lakes and lake chains, several estuarine areas and the Florida Keys.

Anyone who wishes to do so may propose waters for an OFW designation by submitting a petition to the DEP, in accordance with Chapter 120 of the Florida Statutes. At least one public workshop is held in the affected area. All local, county, or municipal governments and state legislators whose districts or jurisdictions include all or part of the affected area are noticed, in writing by the Secretary of the DEP, 60 days in advance of the workshop. In addition, public notice is given via a newspaper of general circulation at least 60 days prior to the public workshop. The DEP prepares an economic impact analysis providing a general analysis of the impact on growth and development including such factors as impacts on planned or potential industrial, agricultural, or other development or expansion. The proposal is voted on by the Florida Environmental Regulation Commission, a seven-member citizens’ body, at a public hearing held in the affected area.

EFFECT OF PROPOSED CHANGES:

The bill requires the board of a mosquito control district containing an OFW, in consultation with the department and the appropriate water management district, to determine if the activities of the district have had any adverse effects on said waters. If so, the board, working with the water management district, must develop a plan that the board finds to be both technically and economically feasible for the mitigation of such adverse effects.

The bill requires the district to adopt a mitigation plan by July 1, 2010, and implement the plan beginning in the 2010-2011 fiscal year of the district.

And lastly, the bill authorizes the board to levy currently authorized ad valorem taxes⁵ to fulfill the requirements of this legislation.

B. SECTION DIRECTORY:

Section 1: Creates s. 388.296, F.S.; requires the Board of Commissioners of a mosquito control district, in consultation with others, to determine if district activities have had adverse effects on Outstanding Florida Waters; requires Board of Commissioners, in consultation with the appropriate water management district, to develop a plan for mitigating such adverse effects; provides dates certain for adoption and implementation of mitigation plan; and, authorizes taxes to be levied.

Section 2: Provides an effective date of July 1, 2009.

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:

None

2. Expenditures:

⁵ Section 388.221, F.S.

See Fiscal Comments below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill authorizes the mosquito control districts to levy currently authorized ad valorem taxes to implement the provisions of the bill. The increase in taxes would be borne by the taxpayers in the district.

D. FISCAL COMMENTS:

Mosquito control districts will bear the costs of implementation of this legislation. Without clarification of "adverse effects," it is difficult to estimate the potential costs to the districts. A study commissioned by the mosquito control district in Lee County is one example of potential costs. The district contracted with an environmental consulting firm to study the impacts of one larvacide in one area of the district at a cost of \$745,000.⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandate provision may apply because some dependent mosquito control districts may bear the costs of implementing this legislation. In such cases, the bill would have the effect of requiring affected counties to expend funds. The Revenue Estimating Conference has not yet determined if the fiscal impact is significant or if an exemption to the mandate provision applies.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Division of Agricultural Environmental Services (division) within the Department of Agriculture and Consumer Services expresses concerns regarding some parts of the legislation. The bill fails to define "adverse effects," which presents a problem in knowing what to look for and then design a mitigation plan that is "technically and economically feasible" to counteract said effects. The division further states the determination process could be quite costly since any potential "adverse effect" must be evaluated.

Secondly, without a definition for "adverse effects," the division may not have the expertise to assist the mosquito control districts in the determination without additional professional staff.

Lastly, the rapid turn-around time (less than one year) required for development and implementation of a mitigation plan will require contracting, perhaps on an emergency basis, with environmental and consulting firms, thus resulting in additional costs to the mosquito control districts.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

⁶ Information provided by the Division of Agricultural Environmental Services of the Department of Agriculture and Consumer Services.