



904742

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2010	.	
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The Committee on Governmental Oversight and Accountability
(Fasano) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 298.66, Florida Statutes, is amended to
read:

298.66 Obstruction of drainage canals, etc., prohibited;
damages; penalties.—

(1) A ~~Ne~~ person may not willfully, or otherwise, obstruct
any public canal, drain, ditch or watercourse or damage or
destroy any public drainage works constructed in, or maintained
by, a any district.



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13 (2)~~(1)~~ Any person who ~~shall~~ willfully obstructs ~~obstruct~~
14 any public canal, drain, ditch or watercourse or damages or
15 destroys ~~shall damage or destroy~~ any public drainage works
16 constructed in, or maintained by, a ~~any~~ district is, ~~shall be~~
17 liable to any person injured thereby for the full amount of the
18 injury occasioned to any land or crops or other property by
19 reason of such misconduct, and is ~~shall be~~ liable to the
20 district constructing the drainage ~~said~~ work for double the cost
21 of removing the ~~such~~ obstruction or repairing the ~~such~~ damage.

22 (3)~~(2)~~ Any person who ~~Whoever shall~~ willfully, or
23 otherwise, obstructs ~~obstruct~~ any public canal, drain, ditch, or
24 watercourse, impedes or obstructs ~~or impede or obstruct~~ the flow
25 of water therein, or damages or destroys ~~shall damage or destroy~~
26 any public drainage works constructed in, or maintained by, a
27 any district commits ~~shall be guilty of~~ a felony of the third
28 degree, punishable as provided in s. 775.082, s. 775.083, or s.
29 775.084.

30 Section 2. Subsection (4) of section 373.079, Florida
31 Statutes, is amended to read:

32 373.079 Members of governing board; oath of office; staff.—

33 (4)~~(a)~~ The governing board of the district shall ~~is~~
34 authorized to employ:

35 (a) An executive director, ombudsman, and such engineers,
36 other professional persons, and other personnel and assistants
37 as it deems necessary and under such terms and conditions as it
38 may determine and to terminate such employment. The appointment
39 of an executive director by the governing board is subject to
40 approval by the Governor and must be initially confirmed by the
41 ~~Florida~~ Senate. The governing board may delegate all or part of



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42 its authority under this paragraph to the executive director.
43 However, the governing board shall delegate to the executive
44 director ~~all of~~ its authority to take final action on permit
45 applications under ~~part II or~~ part IV or petitions for variances
46 or waivers of permitting requirements under ~~part II or~~ part IV,
47 except for denials of such actions as provided in s. 373.083(5).
48 The governing board must provide a process for referring the
49 denial of such application or petition to the governing board
50 for the purpose of taking final action. The executive director
51 may execute such delegated authority through designated staff
52 members. Such delegations are ~~shall not be~~ subject to ~~the~~
53 rulemaking under ~~requirements of~~ chapter 120. The executive
54 director must be confirmed by the Senate upon employment and
55 must be confirmed or reconfirmed by the Senate during the second
56 regular session of the Legislature following a gubernatorial
57 election.

58 ~~(b)1. The governing board of each water management district~~
59 ~~shall employ~~ An inspector general, who shall report directly to
60 the board. However, the governing boards of the Suwannee River
61 Water Management District and the Northwest Florida Water
62 Management District may jointly employ an inspector general, or
63 provide for inspector general services by interagency agreement
64 with a state agency or water management district inspector
65 general.

66 ~~2.~~ An inspector general must have the same qualifications
67 ~~prescribed~~ and perform the applicable duties of state agency
68 inspectors general as provided in s. 20.055.

69 Section 3. Subsection (5) of section 373.083, Florida
70 Statutes, is amended to read:



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71 373.083 General powers and duties of the governing board.-
72 In addition to other powers and duties allowed it by law, the
73 governing board is authorized to:

74 (5) Execute any of the powers, duties, and functions vested
75 in the governing board through a member ~~or members thereof~~, the
76 executive director, or other district staff as designated by the
77 governing board. The governing board may establish the scope and
78 terms of any delegation. However, if the governing board
79 delegates ~~shall delegate~~ to the executive director ~~all of its~~
80 authority to take final action on permit applications under part
81 II ~~or part IV~~ or petitions for variances or waivers of
82 permitting requirements under part II ~~or part IV~~, and the
83 executive director may execute such delegated authority through
84 designated staff. Such delegations are ~~shall~~ not ~~be~~ subject to
85 the rulemaking under ~~requirements of~~ chapter 120. However, the
86 governing board must ~~shall~~ provide a process for referring a ~~any~~
87 denial of such application or petition to the governing board
88 for the purpose of taking ~~to take~~ final action. ~~Such process~~
89 ~~shall expressly prohibit any member of a governing board from~~
90 ~~intervening in any manner during the review of an application~~
91 ~~prior to such application being referred to the governing board~~
92 ~~for final action.~~ The authority to delegate under ~~in~~ this
93 subsection is supplemental to any other provision of this
94 chapter granting authority to the governing board to delegate
95 specific powers, duties, or functions.

96 Section 4. Subsection (1) of section 373.085, Florida
97 Statutes, is amended to read:

98 373.085 Use of works or land by other districts or private
99 persons.-



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100 (1) Consistent with district and state procurement
101 procedures, the governing board may ~~has authority to~~ prescribe
102 the manner in which local works provided by other districts or
103 by private persons will connect with and make use of the works
104 or land of the district, ~~to~~ issue permits therefor, and ~~to~~
105 cancel the permits for noncompliance with the conditions thereof
106 or for other cause. It is unlawful to connect with or make use
107 of the works or land of the district without consent in writing
108 from its governing board, and the board may ~~has authority to~~
109 prevent or, if done, estop or terminate the same. The use of the
110 works or land of the district for access is governed by this
111 section and is not subject to ~~the provisions of~~ s. 704.01.
112 However, any land or works of the district which have
113 historically been used for public access to the ocean by means
114 of the North New River Canal and its tributaries may not be
115 closed for this purpose unless the district can demonstrate that
116 significant harm to the resource would result from such public
117 use. In order to promote water quantity and resource
118 development, projects that improve flood control, and
119 conservation of lands, the districts and other governmental
120 agencies shall encourage public-private partnerships by
121 collaborating, if possible, with those partnerships when
122 procuring materials for infrastructure and restoration works.

123 Section 5. Subsection (5) is added to section 373.118,
124 Florida Statutes, to read:

125 373.118 General permits; delegation.—

126 (5) To improve efficiency, the governing board may delegate
127 by rule its powers and duties pertaining to general permits to
128 the executive director. The executive director may execute such



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129 delegated authority through designated staff. However, when
130 delegating the authority to take final action on permit
131 applications under part II or part IV or petitions for variances
132 or waivers of permitting requirements under part II or part IV,
133 the governing board must provide a process for referring a
134 denial of such application or petition to the governing board
135 for the purpose of taking final action. Such delegations are not
136 subject to rulemaking under chapter 120.

137 Section 6. This act shall take effect July 1, 2010.

138
139 ===== T I T L E A M E N D M E N T =====

140 And the title is amended as follows:

141 Delete everything before the enacting clause
142 and insert:

143 A bill to be entitled
144 An act relating to water management districts;
145 amending s. 298.66, F.S.; revising provisions relating
146 to the obstruction of public canals and drainage
147 works; amending s. 373.079, F.S.; revising the
148 requirement that the district governing board delegate
149 its authority to take final actions to the executive
150 director; requiring the board to provide a process for
151 referring denials to the board for final action;
152 amending s. 373.083, F.S.; revising the board's
153 authority to delegate final actions to the executive
154 director; amending s. 373.085, F.S.; requiring the
155 districts and other governmental agencies to encourage
156 public-private partnerships in order to promote water
157 supply development and conservation of lands; amending



158 s. 373.118, F.S.; requiring the board to provide a
159 process for referring certain delegated actions to the
160 governing board for final action; providing an
161 effective date.