

By the Committee on Governmental Oversight and Accountability;  
and Senators Baker and Dean

585-04975-10

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1                   A bill to be entitled  
2           An act relating to water management districts;  
3           amending s. 298.66, F.S.; revising provisions relating  
4           to the obstruction of public canals and drainage  
5           works; amending s. 373.079, F.S.; revising the  
6           requirement that the district governing board delegate  
7           its authority to take final actions to the executive  
8           director; requiring the board to provide a process for  
9           referring denials to the board for final action;  
10          amending s. 373.083, F.S.; revising the board's  
11          authority to delegate final actions to the executive  
12          director; amending s. 373.085, F.S.; requiring the  
13          districts and other governmental agencies to encourage  
14          public-private partnerships in order to promote water  
15          supply development and conservation of lands; amending  
16          s. 373.118, F.S.; requiring the board to provide a  
17          process for referring certain delegated actions to the  
18          governing board for final action; providing an  
19          effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23           Section 1. Section 298.66, Florida Statutes, is amended to  
24           read:

25           298.66 Obstruction of drainage canals, etc., prohibited;  
26           damages; penalties.—

27           (1) A ~~no~~ person may not willfully, or otherwise, obstruct  
28           any public canal, drain, ditch or watercourse or damage or  
29           destroy any public drainage works constructed in, or maintained

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30 by, a any district.

31 (2)-(1) Any person who ~~shall~~ willfully obstructs ~~obstruct~~  
32 any public canal, drain, ditch or watercourse or damages or  
33 destroys ~~shall damage or destroy~~ any public drainage works  
34 constructed in, or maintained by, a any district is, ~~shall be~~  
35 liable to any person injured thereby for the full amount of the  
36 injury occasioned to any land or crops or other property by  
37 reason of such misconduct, and is ~~shall be~~ liable to the  
38 district constructing the drainage ~~said~~ work for double the cost  
39 of removing the such obstruction or repairing the such damage.

40 (3)-(2) Any person who ~~Whoever shall~~ willfully, or  
41 otherwise, obstructs ~~obstruct~~ any public canal, drain, ditch, or  
42 watercourse, impedes or obstructs ~~or impede or obstruct~~ the flow  
43 of water therein, or damages or destroys ~~shall damage or destroy~~  
44 any public drainage works constructed in, or maintained by, a  
45 any district commits ~~shall be guilty of~~ a felony of the third  
46 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
47 775.084.

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

50 373.079 Members of governing board; oath of office; staff.-

51 (4)-(a) The governing board of the district shall ~~is~~  
52 authorized to employ:

53 (a) An executive director, ombudsman, and such engineers,  
54 other professional persons, and other personnel and assistants  
55 as it deems necessary and under such terms and conditions as it  
56 may determine and to terminate such employment. The appointment  
57 of an executive director by the governing board is subject to  
58 approval by the Governor and must be initially confirmed by the

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59 Florida Senate. The governing board may delegate all or part of  
60 its authority under this paragraph to the executive director.  
61 However, the governing board shall delegate to the executive  
62 director ~~all of~~ its authority to take final action on permit  
63 applications under ~~part II or~~ part IV or petitions for variances  
64 or waivers of permitting requirements under ~~part II or~~ part IV,  
65 except for denials of such actions as provided in s. 373.083(5).  
66 The governing board must provide a process for referring the  
67 denial of such application or petition to the governing board  
68 for the purpose of taking final action. The executive director  
69 may execute such delegated authority through designated staff  
70 members. Such delegations are ~~shall not be~~ subject to the  
71 rulemaking under ~~requirements of~~ chapter 120. The executive  
72 director must be confirmed by the Senate upon employment and  
73 must be confirmed or reconfirmed by the Senate during the second  
74 regular session of the Legislature following a gubernatorial  
75 election.

76 ~~(b)1. The governing board of each water management district~~  
77 ~~shall employ~~ An inspector general, who shall report directly to  
78 the board. However, the governing boards of the Suwannee River  
79 Water Management District and the Northwest Florida Water  
80 Management District may jointly employ an inspector general, or  
81 provide for inspector general services by interagency agreement  
82 with a state agency or water management district inspector  
83 general.

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

87 Section 3. Subsection (5) of section 373.083, Florida

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88 Statutes, is amended to read:

89 373.083 General powers and duties of the governing board.-  
90 In addition to other powers and duties allowed it by law, the  
91 governing board is authorized to:

92 (5) Execute any of the powers, duties, and functions vested  
93 in the governing board through a member ~~or members thereof~~, the  
94 executive director, or other district staff as designated by the  
95 governing board. The governing board may establish the scope and  
96 terms of any delegation. However, if the governing board  
97 delegates ~~shall delegate~~ to the executive director ~~all of its~~  
98 authority to take final action on permit applications under part  
99 II ~~or part IV~~ or petitions for variances or waivers of  
100 permitting requirements under part II ~~or part IV~~, and the  
101 executive director may execute such delegated authority through  
102 designated staff. Such delegations are ~~shall~~ not ~~be~~ subject to  
103 the rulemaking under ~~requirements of~~ chapter 120. However, the  
104 governing board must ~~shall~~ provide a process for referring a any  
105 denial of such application or petition to the governing board  
106 for the purpose of taking ~~to take~~ final action. ~~Such process~~  
107 ~~shall expressly prohibit any member of a governing board from~~  
108 ~~intervening in any manner during the review of an application~~  
109 ~~prior to such application being referred to the governing board~~  
110 ~~for final action.~~ The authority to delegate under ~~in~~ this  
111 subsection is supplemental to any other provision of this  
112 chapter granting authority to the governing board to delegate  
113 specific powers, duties, or functions.

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

116 373.085 Use of works or land by other districts or private

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117 persons.-

118 (1) The governing board may ~~has authority to~~ prescribe the  
119 manner in which local works provided by other districts or by  
120 private persons will connect with and make use of the works or  
121 land of the district, ~~to~~ issue permits therefor, and ~~to~~ cancel  
122 the permits for noncompliance with the conditions thereof or for  
123 other cause. It is unlawful to connect with or make use of the  
124 works or land of the district without consent in writing from  
125 its governing board, and the board may ~~has authority to~~ prevent  
126 or, if done, estop or terminate the same. The use of the works  
127 or land of the district for access is governed by this section  
128 and is not subject to ~~the provisions of~~ s. 704.01. However, any  
129 land or works of the district which have historically been used  
130 for public access to the ocean by means of the North New River  
131 Canal and its tributaries may not be closed for this purpose  
132 unless the district can demonstrate that significant harm to the  
133 resource would result from such public use. In order to promote  
134 water quantity and resource development, projects that improve  
135 flood control, and the conservation of lands, the districts and  
136 other governmental agencies shall encourage public-private  
137 partnerships by collaborating, if possible, with those  
138 partnerships when procuring materials for infrastructure and  
139 restoration works, consistent with district and state  
140 procurement procedures.

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

143 373.118 General permits; delegation.-

144 (5) To improve efficiency, the governing board may delegate  
145 by rule its powers and duties pertaining to general permits to

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146 the executive director. The executive director may execute such  
147 delegated authority through designated staff. However, when  
148 delegating the authority to take final action on permit  
149 applications under part II or part IV or petitions for variances  
150 or waivers of permitting requirements under part II or part IV,  
151 the governing board must provide a process for referring a  
152 denial of such application or petition to the governing board  
153 for the purpose of taking final action. Such delegations are not  
154 subject to rulemaking under chapter 120.

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