

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 406

INTRODUCER: Environment and Natural Resources Committee and Senator Rodrigues

SUBJECT: Big Cypress Basin

DATE: April 7, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------|
| 1. | <u>Anderson</u> | <u>Rogers</u> | <u>EN</u> | <u>Fav/CS</u> |
| 2. | <u>Reagan</u> | <u>Betta</u> | <u>AEG</u> | <u>Pre-meeting</u> |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 406 revises provisions relating to the Big Cypress Basin within the South Florida Water Management District (SFWMD). The bill:

- Revises the membership of the Big Cypress Basin governing board;
- Requires the governing board of the SFWMD to establish the boundary of the Big Cypress Basin as the scientific boundary recommended in the Big Cypress Basin Boundary Delineation study, except that the new basin boundary may include only counties that have at least 25 percent of their jurisdiction delineated within the boundary; and
- Requires that the SFWMD ensure that basin ad valorem taxes that are levied in counties within the Big Cypress Basin are used for projects and flood control operations and maintenance within the counties in which they are collected.

The bill has no impact on state funds. The SFWMD states the bill will reduce available annual funding by \$8.9 million for future operation and maintenance of the Central & Southern Florida (C&SF) Project flood control system; the operation and maintenance of the Comprehensive Everglades Restoration Plan (CERP) features, Northern Everglades features, Restoration Strategies features, and administration of the Big Cypress Basin.

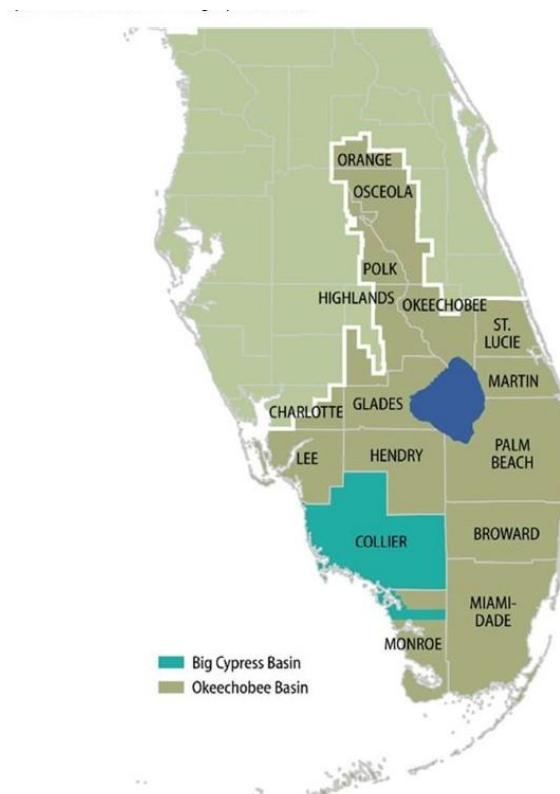
The bill takes effect July 1, 2021.

II. Present Situation:

South Florida Water Management District (SFWMD)

The SFWMD is a regional governmental agency that manages the water resources in the southern half of the state, covering 16 counties from Orlando to the Florida Keys and serving a population of 8.7 million residents.¹ The SFWMD is responsible for managing and protecting South Florida's water resources by balancing and improving flood control, water supply, water quality, and natural systems.

Water management district governing boards may designate sub-districts or basins within the district and may revise the boundaries by resolution.² The SFWMD encompasses two major watershed basins, the Okeechobee Basin and the Big Cypress Basin. The Big Cypress Basin includes Collier County and part of Monroe County.³ The rest of the geographic area within the SFWMD boundaries comprises the Okeechobee Basin, as indicated in the map below.⁴



¹ South Florida Water Management District (SFWMD), *Who We Are*, <https://www.sfwmd.gov/who-we-are> (last visited Feb. 2, 2021).

² Section 373.0693(1), F.S.

³ SFWMD, *Big Cypress Basin*, <https://www.sfwmd.gov/who-we-are/bcb> (last visited Feb. 2, 2021). The initial boundaries of the basin are provided in s. 373.0693(9), F.S.

⁴ SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 79 (Jan. 15, 2021), available at https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf.

Big Cypress Basin

The Big Cypress Basin was established in 1977 and was charged with providing conservation, preservation, and enhancement of water resources in the region.⁵ In 1979, an agreement with Collier County transferred the primary flood control system operation and maintenance responsibilities to the Big Cypress Basin. This agreement has been renewed every 10 years, and today the Big Cypress Basin provides flood control in cooperation with Collier County.⁶

The Big Cypress Basin is responsible for operating and maintaining 153 miles of primary canals, 45 water control structures, and four back pumps providing flood control during the wet season and protecting regional water supplies and environmental resources from over-drainage during the dry season.⁷ The Big Cypress Basin also provides capital improvements to water management infrastructure and assists local governments and water utilities in developing alternative water supplies and implementing stormwater management programs.⁸

The Big Cypress Basin board sets the basin's regional policy, budget, and millage rate.⁹ The SFWMD governing board has the authority to revise the boundaries of the Big Cypress Basin, but may not abolish the basin.¹⁰ Members of the Big Cypress Basin board are appointed by the Governor and must be approved by the Florida Senate.¹¹ The Big Cypress Basin board must have at least five members.¹² The SFWMD governing board member appointed to represent the Southwest region also serves as the chairman of the Big Cypress Basin board.¹³

Ad Valorem Taxation

Water management district activities are partly financed by ad valorem property taxes paid by those who reside within the district.¹⁴ Property tax, or millage, rates are set by each taxing authority and vary throughout the state. Water management district governing boards adopt the budget and millage rates. Article VII, Section 9 of the Florida Constitution prescribes maximum millage rates for water management districts and additional limits are imposed by statute.¹⁵ The maximum millage for the SFWMD is 0.8 mill,¹⁶ but district policy is to levy rolled-back rates.¹⁷

⁵ Chapter 76-243, Laws of Fla. See also SFWMD, *Big Cypress Basin Strategic Plan 2018-2023*, 3, available at https://www.sfwmd.gov/sites/default/files/documents/2018_strategic_plan_bcb.pdf.

⁶ *Id.*

⁷ SFWMD, *Big Cypress Basin 2019-2020 Budget*, available at https://www.sfwmd.gov/sites/default/files/documents/factsheet_BCBbudget_2019-2020.pdf.

⁸ SFWMD, *Big Cypress Basin Strategic Plan 2018-2023*, 3, available at https://www.sfwmd.gov/sites/default/files/documents/2018_strategic_plan_bcb.pdf.

⁹ SFWMD, *Big Cypress Basin Board*, <https://www.sfwmd.gov/who-we-are/governing-board/big-cypress-basin-board> (last visited Feb. 2, 2021).

¹⁰ Section 373.0693(9)(c), F.S.

¹¹ Section 373.0693(4), F.S.

¹² Section 373.0693(9), F.S.

¹³ SFWMD, *Big Cypress Basin*, <https://www.sfwmd.gov/who-we-are/bcb> (last visited Feb. 2, 2021).

¹⁴ Section 373.503(1), F.S.

¹⁵ Section 373.503(3)(a), F.S.

¹⁶ *Id.*

¹⁷ Section 200.065(1), F.S.

The total millage rate for the Big Cypress Basin in the 2020-2021 Fiscal Year was 0.2255, which applies to Collier County and the portion of mainland Monroe County that is in the Big Cypress Basin.¹⁸ The total millage rate is comprised of the district-wide millage rate of 0.1103 and the Big Cypress Basin millage rate of 0.1152. The millage rate for the Okeechobee Basin in the 2020-2021 Fiscal Year was 0.2675, which applies to 15 of the SFWMD's 16 counties.¹⁹ The total millage rate is comprised of the district-wide millage rate of 0.1103, the Okeechobee Basin millage rate of 0.1192, and the Everglades Construction Project millage rate of 0.0380.²⁰

For the 2020-2021 Fiscal Year, \$288.3 million of the SFWMD's budget is provided by ad valorem taxes.²¹ The apportionment of ad valorem tax revenues within the SFWMD is a maximum of 40 percent for district purposes and a maximum of 60 percent for basin purposes.²² The Big Cypress Basin budget approved by the SFWMD governing board was \$14.3 million for the 2020-2021 Fiscal Year.²³ Approximately 76 percent of the revenue that funds the Big Cypress Basin budget comes from ad valorem taxes.²⁴

Big Cypress Basin Boundary Delineation Study

Pursuant to Specific Appropriation 1606 in the 2020 General Appropriations Act, the SFWMD was instructed to conduct a study to recommend the most appropriate geographic boundaries for the Big Cypress Basin. The Legislature required that the proposed boundaries be based solely upon the common watershed within the Big Cypress Basin and be scientifically supported.²⁵ The completed study and recommendations were due to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2021.²⁶ The map below shows the proposed boundaries recommended in the study.²⁷

¹⁸ SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 80 (Jan. 15, 2021), available at https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf. This tax rate represents \$22.55 per \$100,000 of taxable value.

¹⁹ *Id.* This tax rate represents \$26.95 per \$100,000 of taxable value.

²⁰ *Id.*

²¹ *Id.* at 56.

²² Section 373.503(3)(b), F.S.

²³ SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 257 (Jan. 15, 2021), available at https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf.

²⁴ SFWMD, *Big Cypress Basin 2019-2020 Budget*, available at

https://www.sfwmd.gov/sites/default/files/documents/factsheet_BCBbudget_2019-2020.pdf.

²⁵ The study states that a science-based approach to watershed delineation establishes the boundary lines based on physical laws and environmental features of the landscape, including land elevation, land use, man-made improvements to drainage features, animal habitats, and subsurface properties of aquifers. SFWMD Hydrology and Hydraulics Bureau, *Big Cypress Basin Boundary Delineation*, 2 (Dec. 2020) (on file with the Senate Committee on Environment and Natural Resources).

²⁶ Ch. 2020-111, Laws of Fla. See p. 240, available at http://laws.flrules.org/files/Ch_2020-111.pdf.

²⁷ SFWMD Hydrology and Hydraulics Bureau, *Big Cypress Basin Boundary Delineation*, 25 (Dec. 2020) (on file with the Senate Committee on Environment and Natural Resources).

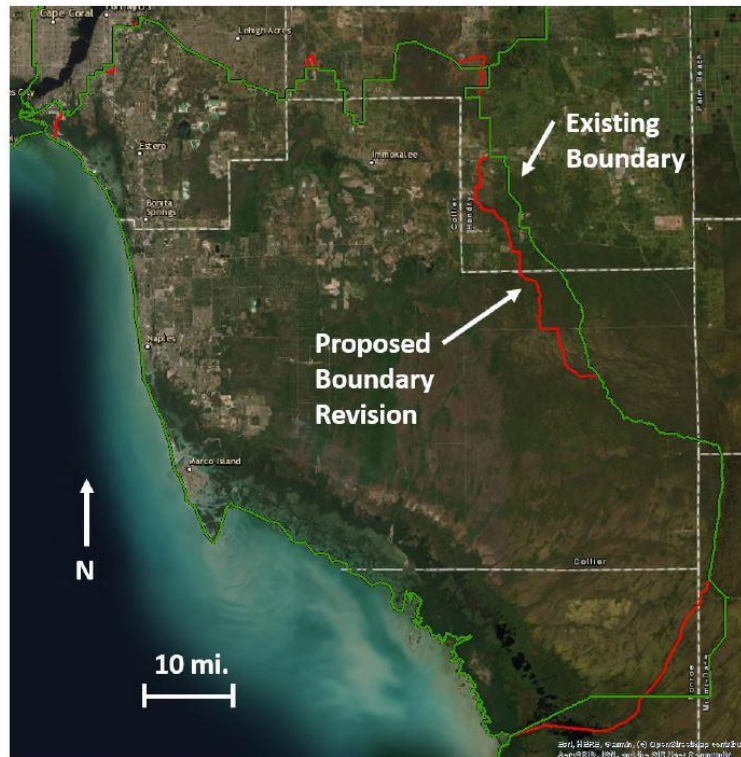


Figure 19. Full set of proposed revisions to existing Big Cypress Basin sub-basin boundary delineation. The green line represents the existing BCS sub-basin boundary, and the red line represents the proposed revisions to the boundary.

III. Effect of Proposed Changes:

Section 1 revises the membership of the Big Cypress Basin governing board. The bill requires the Governor to appoint five persons from Collier and Lee County who reside within the Big Cypress Basin. The bill deletes language that required the Governor to appoint at least five persons who reside in the Big Cypress Basin area.

The bill requires that at 11:59 p.m. on July 1, 2021, the governing board of the SFWMD establish the boundary of the Big Cypress Basin as the scientific boundary recommended in the Big Cypress Basin Boundary Delineation study that the SFWMD completed pursuant to the 2020 General Appropriations Act.²⁸ The bill provides an exception that the new basin boundary may include only counties that have at least 25 percent of their jurisdiction delineated within the boundary.

The bill also deletes obsolete language.

Section 2 revises ad valorem taxation within the SFWMD to require the district to ensure that:

- Apportionment of ad valorem tax revenue within the district meets existing statutory requirements that state that a maximum of 40 percent of revenues are used for district purposes and a maximum of 60 percent of revenues are used for basin purposes; and

²⁸ Ch. 2020-111, Laws of Fla. See p. 240, available at http://laws.flrules.org/files/Ch_2020-111.pdf.

- Basin ad valorem taxes levied within the counties that comprise the Big Cypress Basin are used for projects and flood control operations and maintenance within the counties in which they were collected.

Section 3 reenacts s. 373.0697, F.S., relating to basin taxes, to incorporate the amendments made in section 2 of the bill.

Section 4 states that the act takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that any areas of land are transferred from the Okeechobee Basin to the Big Cypress Basin under the bill, residents in those areas will see decreased property tax rates. If any areas of land are transferred from the Big Cypress Basin to the Okeechobee Basin under the bill, residents in those areas will see increased property tax rates.

C. Government Sector Impact:

According to the SFWMD, the bill results in the reduction of ad valorem collections and narrows the statutorily authorized usage of ad valorem revenue. The SFWMD states the bill reduces \$8.9 million in annual recurring ad valorem revenue necessary for operation

and maintenance of the Central & Southern Florida (C&SF) Project flood control system; the operation and maintenance of the Comprehensive Everglades Restoration Plan (CERP) features, Northern Everglades features, Restoration Strategies features, and administration of the Big Cypress Basin.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.0693 and 373.503.

This bill reenacts section 373.0697 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources on February 15, 2021:

The committee substitute:

- Revises the bill to reflect the actual date the Big Cypress Boundary Delineation study was presented to the Legislature.
- Provides that the new Big Cypress Basin boundary may include only counties that have at least 25 percent of their jurisdiction delineated within the boundary, revised from 50 percent in the underlying bill.
- Requires the South Florida Water Management District to ensure that the basin ad valorem taxes that are levied in the Big Cypress Basin be used for flood control operations and maintenance, as well as projects, within the counties in which the taxes were collected.

B. Amendments:

None.