

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1075 Soil and Water Conservation Districts

SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Truenow

TIED BILLS: IDEN./SIM. BILLS: SB 1772

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 1 N, As CS	Mwakyanjala	Darden
2) Agriculture, Conservation & Resiliency Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
4) State Affairs Committee			

SUMMARY ANALYSIS

In 1937, the Florida Legislature enacted ch. 582, F.S., also known as the Soil and Water Conservation Law. This legislation established a state and local partnership with the federal government to protect and restore soil and water resources and to assist private landowners in using conservation practices, authorizing the creation of soil and water conservation districts (SWCD). The purpose of a SWCD is to provide assistance, guidance, and education to landowners, land occupiers, the agricultural industry, and the general public in implementing land and water resource protection practices.

SWCDs are created by landowner petition process and are governed by five-member elected boards. Board members must possess certain qualifications in the agricultural industry to be eligible to serve. Each SWCD board must meet at least once a year. If the board fails to meet, the district is automatically dissolved as of January 1 of the following year.

The bill makes the following changes to the governance and operation of SWCDs:

- Dissolves all existing SWCDs and transfers the assets of each district to respective regional SWCDs created by the bill or the county in which the district is located;
- Reestablishes the Soil and Water Conservation Council and revises the membership, organization, and responsibilities of the council;
- Creates seven regional SWCDs covering the entire state;
- Provides that the boards of the regional districts shall be appointed by the Commissioner of Agriculture, subject to confirmation by the Soil and Water Conservation Council;
- Provides for the assumption of contractual obligations in the event the boundaries of the regional SWCDs are amended; and
- Repeals provisions related to the creation of SWCDs and makes other conforming changes.

The bill may have a fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.¹ Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.² A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.³

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as “dependent” if the governing body of a single county or municipality:

- Serves as the governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district’s governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.⁴

A district is classified as “independent” if it does not meet one of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.⁵

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating a special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.⁶

The Special District Accountability Program within the Department of Commerce (department) is responsible for maintaining and electronically publishing the official list of all special districts.⁷ This list includes all active special districts, as well as a separate list of those districts declared inactive.⁸

Performance Reviews

Current law requires certain special districts to conduct performance reviews to evaluate the programs, activities, and functions of those districts, including:

- The purpose and goals as stated in the district’s charter;
- The district’s goals and objectives for each program and activity, the problem or need that the program or activity was designed to address, the expected benefits of each program and activity, and the performance measures and standards used by the special district to determine if the program or activity achieves the district’s goals and objectives;
- The delivery of services by the district, including alternative methods of providing those services that would reduce costs and improve performance;

¹ See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

² See ss. 189.02(1), 189.031(3), and 190.005(1), F.S. See generally ss. 189.012(6), F.S.

³ Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227> (last visited Nov. 28, 2023).

⁴ S. 189.012(2), F.S.

⁵ S. 189.012(3), F.S.

⁶ Art. VII, s. 9(a), Fla. Const.

⁷ S. 189.061, F.S.

⁸ Ss. 189.061 and 189.062(6), F.S.

- A comparison of similar services provided by the county and municipal governments located wholly or partially within its boundaries, including similarities and differences in services, relative costs and efficiencies, and possible service consolidations;
- The revenues and costs of programs and activities of the district, using data from the current year and the previous three fiscal years;
- The extent to which the district's goals and objectives have been achieved;
- Any performance measures and standards of the district's program and activities using data from the current year and the previous three fiscal years;
- Factors that have contributed to any failure to meet the district's performance measures and standards or achieve the district's goals and objectives; and
- Recommendations for statutory or budgetary changes to improve the district's program operations, reduce costs, or reduce duplication.⁹

All independent special fire control districts and each hospital governed by the governing body of a special district or the board of trustees of a public health trust must conduct a performance review every five years beginning October 1, 2022, and October 1, 2023, respectively.¹⁰

All fire control districts not located within a rural area of opportunity and all hospital districts must contract with an independent entity to conduct the performance review, while the Office of Program Policy Analysis and Government Accountability (OPPAGA) must conduct a performance review of each fire control district located within a rural area of opportunity. The completed performance review must be filed with the governing body of the district, the Auditor General, the President of the Senate, and the Speaker of the House of Representatives no later than nine months from the beginning of the fiscal year in which the report is due.

OPPAGA has also been directed to conduct performance reviews of all independent MCDs and soil and water conservation districts (SWCDs).¹¹ These reviews must be submitted to the President of the Senate and the Speaker of the House of Representatives by September 30, 2023, and September 30, 2024, respectively.

Soil and Water Conservation Districts

History and Purpose of SWCD

In response to the 1930's Dust Bowl disaster,¹² in 1935, the United States Congress declared soil and water conservation a national policy and priority, intending to elicit the active support of landowners on a local level. Shortly thereafter, in 1937, the Florida Legislature enacted ch. 582, F.S., also known as the Soil and Water Conservation Law.¹³ This legislation established a state and local partnership with the federal government to protect and restore soil and water resources and to assist private landowners in using conservation practices, providing for the creation of SWCD.¹⁴ The purpose of SWCDs is to provide assistance, guidance, and education to landowners, land occupiers, the agricultural industry, and the general public in implementing land and water resource protection practices.¹⁵ The overall goal of creating SWCD was to promote the efficient use of soil and water resources by protecting water quality and preventing floodwater and sediment damage.¹⁶

⁹ S. 189.0695(1), F.S.

¹⁰ S. 189.0695(2), F.S.

¹¹ S. 189.0695(3), F.S.

¹² "[N]ame given to the drought-stricken Southern Plains regions of the United States, which suffered severe dust storms during a dry period in the 1930s. . . . By 1934, an estimated 35 million acres of formerly cultivated land had been rendered useless for farming, while another 125 million acres . . . was rapidly losing its topsoil." History, *Dust Bowl*, (Apr. 24, 2023), <https://www.history.com/topics/great-depression/dust-bowl> (last visited Jan. 23, 2024).

¹³ Ch. 18144, Laws of Fla. (1937); Association of Florida Conservation Districts, *History of Conservation Districts*, <https://afcd.us/history/> (last visited Jan. 23, 2024).

¹⁴ Association of Florida Conservation Districts, *Florida Soil and Water Conservation District Supervisor Handbook* (2018), <https://www.afcd.us/files/9bf1184a6/florida-soil-and-water-conservation-district-supervisor-handbook.pdf> (last visited Jan. 23, 2024).

¹⁵ S. 582.02(4), F.S.

¹⁶ Michael T. Olexa, Tatiana Borisova, and Jarrett Davis, *Handbook of Florida Water Regulation: Soil and Water Conservation Districts*, Institute of Food and Agricultural Sciences, University of Florida, <https://edis.ifas.ufl.edu/pdf%5CFE%5CFE101700.pdf> (last visited Jan. 23, 2024).

Creation of SWCD

Any 10 percent of landowners within the territory of a proposed SWCD may petition the Department of Agriculture and Consumer Services (DACS) to organize a SWCD. The petition must include the following:

- The proposed name of the SWCD;
- That there is a need, in the interest of the public health, safety, and welfare, for a SWCD to function in the territory;
- A description of the territory proposed to be organized as a SWCD; and
- A request that DACS define the boundaries for such SWCD, hold a referendum within the territory on the question of the creation of a SWCD in the territory, and determine that such a district be created.¹⁷

Within 30 days of such petition being filed, DACS must give notice and hold a meeting of affected landowners to discuss the desirability and necessity of creating such a SWCD, the appropriate boundaries, and the accuracy and completeness of the petition.¹⁸ If, after the first hearing, it is determined the SWCD should include areas outside of the initial petition, a second hearing must be held and noticed throughout the entire area, including the additional area, considered for inclusion in the district. After both hearings, DACS must determine whether there is a need for a SWCD and either grant or deny the petition. A new petition regarding the same or substantially same territory cannot be refiled for six months after a denial.

If DACS grants a petition for creation of a SWCD, it must then determine whether the creation of such a district is administratively practicable and feasible.¹⁹ The department holds a referendum within the proposed district at which all owners of land lying within the boundaries of the territory are eligible to vote. Additionally, DACS takes into account a variety of economic and social factors that may be relevant to the determination, but may not determine that the creation of a SWCD is administratively practicable and feasible unless at least a majority of the votes cast at the referendum are in favor of the creation of the district.²⁰

If DACS determines that the operation of the proposed SWCD within the defined boundaries is administratively practicable and feasible, an application must be filed with the Department of State accompanied by a statement from DACS certifying that the proper proceedings were taken upon the filing of the initial petition for creation.²¹ The Department of State, pending any issues with the name chosen for the district, records the application and statement and issues a certificate of the due organization of the district and records the certificate.²²

As of January 23, 2024, there were 53 active SWCDs statewide.²³

Soil and Water Conservation Council

Within DACS is the Soil and Water Conservation Council (Council).²⁴ The Council is composed of seven members appointed by the Commissioner of Agriculture (Commissioner) who have been involved in the practice of soil or water conservation, or in the development or implementation of interim measures or best management practices related to soil or water conservation. The members must have been engaged in agriculture or an occupation related to the agricultural industry for at least five

¹⁷ S. 582.10(1)(a)-(d), F.S.

¹⁸ S. 582.11, F.S.

¹⁹ S. 582.12, F.S.; DACS pays all expenses for the issuance of required notices and the conduct of hearings and referenda. S. 582.13, F.S.

²⁰ S. 582.14, F.S.

²¹ S. 582.15(1), F.S.

²² S. 582.15(2), F.S.

²³ Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at <https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited Jan. 23, 2024).

²⁴ S. 582.06(1), F.S.

years prior to their appointment. Members of the Council may be removed by the Governor for neglect of duty or malfeasance in office.²⁵

The Council is organized as an advisory committee under DACS and conducts meetings and keeps records pursuant to those provisions.²⁶ The Council accepts and reviews requests for creating or dissolving SWCDs and make recommendations to the commissioner on if a district should be created or dissolved.²⁷

Governing Board of SWCD

The governing body of a SWCD consists of five supervisors serving staggered four-year terms.²⁸ Elections for supervisors are held every two years during the general election. The office of the supervisor is a non-partisan office. Each supervisor must qualify as required in the election law.²⁹ A supervisor holds office until a successor has been elected and qualified.³⁰ The Governor may remove any supervisor, upon notice and hearing, for neglect or malfeasance in office, but for no other reason.³¹ Supervisors do not receive compensation but may be reimbursed for travel expenses.³²

Powers of SWCD

SWCD and the supervisors have the power to:

- Conduct surveys, studies, and research relating to soil and water resources and publish and disseminate the results of such surveys, studies, research, and related information;³³
- Conduct agricultural best management practices demonstration projects and projects for the conservation, protection, and restoration of soil and water resources;³⁴
- Cooperate or enter into agreements with any special district, municipality, county, water management district, state or federal agency, governmental or otherwise, or owner or occupier of lands;³⁵
- Obtain options upon and acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; maintain, administer, and improve any properties acquired, receive income from such properties and expend such income in carrying out soil and water conservation; and sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of soil and water conservation;³⁶
- Make available to landowners agricultural and engineering machinery and equipment, and other materials and equipment, that will assist landowners in carrying out conservation operations;³⁷
- Construct, improve, operate, and maintain such structures as may be necessary or convenient for the performance of any conservation operations;³⁸
- Sue and be sued in the name of the district, have a seal, make and execute contracts, borrow money, and execute promissory notes;³⁹
- Use the services of the county agricultural agents and their offices; and
- Employ additional permanent and temporary staff.⁴⁰

SWCD Activities

²⁵ S. 582.06(2)(c), F.S.

²⁶ S. 582.06(2)(a), F.S. *See also* s. 570.232, F.S. (procedures for DACS advisory committees).

²⁷ S. 582.06(2)(b), F.S.

²⁸ S. 582.18(1), F.S.

²⁹ S.582.18(2), F.S. *See* ch. 99, F.S., *passim*.

³⁰ S. 582.19(2), F.S.

³¹ S. 582.19(4), F.S.

³² S. 582.19(2), F.S.

³³ S. 582.20(1), F.S.

³⁴ S. 582.20(2), F.S.

³⁵ S. 582.20(3), F.S.

³⁶ S. 582.20(4), F.S.

³⁷ S. 582.20(5), F.S.

³⁸ S. 582.20(6), F.S.

³⁹ S. 582.20(8), F.S.

⁴⁰ S. 582.20(9), F.S.

Some activities of SWCD include:

- Cooperative programs such as best management practices projects and Farm Bill programs like the Environmental Quality Incentives Program, Agricultural Conservation Easement Program, and Regional Conservation Partnership Programs;
- Conservation projects focusing on water quality improvement, habitat restoration, and administering cost-share funds to help farmers and other landowners implement conservation practices;
- Demonstration projects focusing on irrigation, drainage, tailwater recovery, erosion control, and waste management;
- Educational workshops on topics like water quality and quantity, pesticide and fertilizer management, watershed engineering, wetlands, soil characteristics, soil tillage techniques, plan identification, invasive plant control, farm ponds, and agricultural production;
- Mobile Irrigation Labs to evaluate agricultural irrigation systems; and
- Planning and rulemaking at the county, regional, state, and federal levels.⁴¹

Dissolution of SWCD

The process to dissolve a SWCD that has been in existence for at least five years may be started by a petition signed by at least 10 percent of the landowners with the district filing a dissolution petition with DACS.⁴² The department may hold public meetings concerning the petition, but must give notice of a referendum within 60 days of receipt of the petition. The SWCD is dissolved if two-thirds or more of the qualified voters in a referendum have voted for dissolution.⁴³

Alternatively, the Commissioner may dissolve a district if:

- The Council reviews and recommends to the Commissioner that the continued operation of the district is not administratively practicable and feasible;
- The district fails to comply with any special district audit or financial reporting requirements and DACS's inspector general reviews and confirms in writing that the district has failed to comply with such requirements; or
- DACS receives a resolution adopted by the supervisors of the district requesting that the Commissioner issue a certificate determining that the continued operation of the district is not administratively practicable and feasible.⁴⁴

If any of the requirements for dissolution are met, DACS must publish notice of a proposed certification determining that the continued operation of the district is not administratively practicable and feasible at least once a week for two weeks in a newspaper of general circulation within the county or counties in which the district is located.⁴⁵ The notice must include the name of the district, a general description of its territory, and require any comments or objections to the certification, as well any claims against assets of the district, be filed with FACS within 60 days of the last publication. Once the supervisors of a SWCD receive notification from DACS that the department has determined that the continued operation of the district is not practicable or feasible the supervisors must proceed to terminate the affairs of the district.⁴⁶

The supervisors must dispose of all the property belonging to the SWCD at public auction and transfer the proceeds of such sale to the State Treasury, which funds must be used to liquidate any legal obligations the district may have at the time of its discontinuance.⁴⁷ The supervisors are then required to file an application with the Department of State for discontinuance of the district. The Department of State must then issue a certificate of dissolution to the supervisors. Upon issuance of a certificate of

⁴¹ *Supra* note 14, at 5.

⁴² S. 582.30(1), F.S.

⁴³ S. 582.30(2), F.S.

⁴⁴ S. 582.30(3), F.S.

⁴⁵ S. 582.30(4), F.S.

⁴⁶ S. 582.31, F.S.

⁴⁷ *Id.*

dissolution, the title to all property owned by the preexisting SWCD transfers to the local general-purpose government, which also assumes all indebtedness of the SWCD.⁴⁸

Executive Branch Entities

Chapter 20, F.S., authorizes the creation of different entities within the executive branch to assist agencies in performing their duties more efficiently and effectively. These entities include commissions, committees or task forces, coordinating councils, and advisory councils. These entities are statutorily defined:

- “Commission,” unless otherwise required by the State Constitution, means a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.⁴⁹
- “Committee” or “task force” means an *advisory body* created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.⁵⁰
- “Coordinating Council” means an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.⁵¹
- “Council” or “advisory council” means an *advisory body* created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.⁵²

Agency Advisory Bodies and Related Entities

Each executive agency advisory body, commission, board of trustees, or any other collegial body created as an adjunct to the agency, must be established, evaluated, or maintained in accordance with the following provisions:

- Must be necessary and beneficial to the furtherance of a public purpose.
- Must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of a public purpose. The executive agency to which it is made an adjunct, must advise the Legislature when it ceases to be essential to the furtherance of a public purpose.
- The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of advisory bodies, commissions, boards of trustees, and other collegial bodies established as adjuncts to executive agencies.
- An advisory body, commission, board of trustees, or other collegial body may not be created or reestablished unless:
 - Its members are appointed to four-year staggered terms, unless expressly provided otherwise in the State Constitution.
 - Its members serve without additional compensation or honorarium and are only authorized to receive per diem and reimbursement for travel expenses, unless expressly provided otherwise by specific statutory enactment.
 - Members of an entity, other than a commission or board of trustees, must be appointed by the Governor, a department head, an executive director, or a Cabinet officer.
 - Its powers and responsibilities conform with the definitions for governmental units.
- Members of a commission or board of trustees must be appointed by the Governor unless otherwise provided by law, confirmed by the Senate, and are subject to the dual-office-holding prohibition of s. 5(a), Art. II of the State Constitution.⁵³

⁴⁸ S. 189.076(2), F.S.

⁴⁹ S. 20.03(4), F.S.

⁵⁰ S. 20.03(5), F.S.

⁵¹ S. 20.03(6), F.S.

⁵² S. 20.03(7), F.S.

⁵³ S. 20.052(1)-(5), F.S.

All meetings and records of the entity are public, unless an exemption is specifically provided by law.⁵⁴

Effect of Proposed Changes

Soil and Water Conservation Districts

The bill dissolves the following SWCDs and transfers all assets and liabilities to their respective regional SWCD created by the bill:

- Alachua SWCD;
- Bradford SWCD;
- Brevard SWCD;
- Broward SWCD;
- Charlotte SWCD;
- Chipola River SWCD;
- Clay SWCD;
- Choctawhatchee River SWCD;
- Collier SWCD;
- Dixie SWCD;
- Duval SWCD;
- Escambia SWCD;
- Franklin SWCD;
- Gadsden SWCD;
- Gilchrist SWCD;
- Hamilton County SWCD;
- Hardee SWCD;
- Highlands SWCD;
- Hillsborough Soil SWCD;
- Holmes Creek SWCD;
- Indian River SWCD;
- Jackson SWCD;
- Jefferson SWCD;
- Lafayette SWCD;
- Lake SWCD;
- Leon SWCD;
- Levy SWCD;
- Manatee River SWCD;
- Marion SWCD;
- Nassau SWCD;
- Okeechobee SWCD;
- Orange Hill SWCD;
- Orange SWCD;
- Osceola SWCD;
- Palm Beach SWCD;
- Peace River SWCD;
- Putnam SWCD;
- Santa Fe SWCD;
- Sarasota SWCD;
- Seminole SWCD;
- South Dade SWCD;
- St. Johns SWCD;
- St. Lucie SWCD;
- Sumter SWCD;

- Suwannee County Conservation District;
- Tupelo SWCD;
- Volusia SWCD;
- Wakulla SWCD; and
- Yellow River SWCD.

The bill also dissolves the following SWCDs and transfers the assets and liabilities of those districts as follows:

- Baker SWCD, transferred to Baker County;
- Blackwater SWCD, transferred to Santa Rosa County;
- Glades SWCD, transferred to Glades County;
- Hendry SWCD, transferred to Hendry County;
- Madison SWCD, transferred to Madison County;
- Martin SWCD, transferred to Martin County;
- Polk SWCD, transferred to Polk County;
- Taylor SWCD, transferred to Taylor County; and
- Union SWCD, transferred to Union County.

The bill provides that as of 11:59 p.m. on June 30, 2024, the state shall be divided into seven regional SWCDs:

- West Emerald Coast SWCD, consisting of Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington Counties;
- East Emerald Coast SWCD, consisting of Franklin, Gadsden, Hamilton, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties;
- North Central SWCD, consisting of Alachua, Baker, Bradford, Columbia, Dixie, Gilchrist, Lafayette, Suwannee, and Union Counties;
- Northeast SWCD, consisting of Citrus, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, St. Johns, and Volusia Counties;
- West Central SWCD, consisting of Desoto, Hardee, Hernando, Highlands, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties;
- East Central SWCD, consisting of Brevard, Indian River, Lake, Martin, Okeechobee, Orange, Osceola, Seminole, St. Lucie, and Sumter Counties; and
- South Florida SWCD, consisting of Broward, Charlotte, Collier, Dade, Glades, Hendry, Lee, Monroe, and Palm Beach Counties.

The bill requires the regional SWCDs to provide services to their region in proportion to contributions the previous SWCDs made to the region upon its dissolution and transfer to the regional SWCD through June 30, 2026.

The bill provides that if the boundaries of the district are changed, all contractual obligations associated with the area being transferred move to the new district. The bill provides that if the contractual obligations are to the federal government, the change may only take effect upon federal approval of the assumption of contractual duties.

The bill provides that the governing board of each district shall consist of at least one member each from a minimum of seven counties with the district. Members are appointed by the Commissioner, subject to confirmation by the Council at their next quarterly meeting following the appointment. Members serve a four-year term.

The bill provides that the Commissioner shall take initial appointments to the governing board beginning on the effective date of the bill, but that such appointments sunset on the second Wednesday in January.

The bill contains another series of provisions concerning district governing board members providing that each district shall be governed by a board of seven members who reside with the district with no more than one supervisor from each county within the district.

The bill requires supervisors to be someone who is:

- Actively engaged in, or retired after 10 years of being engaged in, agricultural operations;
- Employed by an agricultural producer for a minimum of five years; or
- The owner, lessee, or actively employed on land classified as agricultural.

The bill provides that a nominee for a district board must submit an affirmation of qualifications similar to the one currently required for elected members of SWCD boards.

The bill requires all district boards to meet at least annually and provides that members may be compensated for per diem and travel expenses up to a \$1,000 annual limit.

The bill revises the powers of district boards to allow districts to conduct projects within the boundaries of another district with the approval of the Commissioner, Council and the other district.

The bill provides that the Commissioner may suspend a supervisor for neglect of duty or malfeasance.

The bill provides that if a district is dissolved for failure to meet, the assets of the district will be reassigned by DACS to another district for similar work.

The bill provides the following definitions:

- “Agriculture” as the science and art of production of plants and animals useful to humans, including the preparation of plant and animal products for human use and their disposal by marketing or otherwise. The term includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.
- “Agricultural operations” or “agricultural purposes” as the following activities:
 - Raising, growing, harvesting, or storing of crops, including, but not limited to, soil preparation and crop production services such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services;
 - Feeding, breeding, or managing livestock, equine, or poultry;
 - Producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys;
 - Producing plants, trees, fowl, equine, or other animals;
 - Producing aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products;
 - Processing poultry;
 - Slaughtering poultry and other animals; and
 - Manufacturing dairy products.

The bill provides that the terms “agricultural operations” or “agricultural purposes” do not include constructing, installing, altering, repairing, dismantling, or demolishing real property structures or fixtures, including, but not limited to, grain bins, irrigation equipment, and fencing.

The bill removes the term “qualified elector” and revises the term “supervisor” to reflect changes in the bill making that position appointed rather than elected. The bill repeals all statutes relating to the creation of SWCDs to reflect the above changes.

Soil and Water Conservation Council

The bill both the powers and membership of the Council. The bill provides that the Council is established because it is in the best interest of the state that public agencies responsible for and involved in the development and implementation of best management practices, agricultural water quality, and water supply policy and planning work together to reduce duplication of effort, foster maximum efficient use of existing resources, and advise and assist the agencies involved.

The bill provides that the Council is created adjunct to DACS and consists, starting with appointments in the 2024-2025 fiscal year, with a seven-member board appointed by the Commissioner. The Commissioner must appoint one member from each of the seven SWCD regions. The bill provides that initial appointments to the board sunset on the second Wednesday of January.

The bill provides that the following persons shall serve ex officio in an advisory capacity to the Council:

- The Secretary of Environmental Protection.
- The executive director of the Fish and Wildlife Conservation Commission.
- The associate dean of research of the Florida Medical Entomological Research Laboratory at the University of Florida Institute of Food and Agricultural Sciences.
- The state conservationist for the United States Department of Agriculture, Natural Resources Conservation Service.
- The president of the Florida Farm Bureau.
- Two supervisors nominated by the Association of Florida Conservation Districts, two representatives of Florida environmental groups, and two private citizens who are landowners or producers enrolled in best management practices.
- Such other representatives of state or federal agencies as the Council deems desirable.

The bill provides that the Council is to be chaired by the Commissioner or the Commissioner's designee. The bill provides that a quorum will be a majority of the members of the Council. The chair is responsible for recording and distributing to the members a summary of the proceedings of all Council meetings. The Council is required to meet at least three times a year. The bill allows the Council to create subcommittees but requires the first subcommittee to be the Subcommittee on Managed Marshes (SMM). SMM is to provide technical assistance and guidance on basin management action plans and research proposals, taking into account the total maximum daily load reduction implications and natural resource interests.

The bill provides the following responsibilities to the Council:

- Develop and implement guidelines and strategies to assist DACS in developing agricultural best management practices to improve water quality and water use efficiency while promoting the sustainability of agriculture;
- Develop and update commodity specific best management practices manuals that are adopted by rule;
- Develop and recommend to DACS a request for proposal process for research;
- Collaborates with partners in the development, implementation, and evaluation of statewide water policy as it relates to water supply and water quality;
- Identify potential funding sources for research or implementation projects and evaluate and prioritize proposals upon request by the funding source;
- Prepare and present reports, as needed, on activities in the state to other governmental organizations, as appropriate;
- Accept and review requests for creating or dissolving SWCDs and shall, by a majority vote, recommend, by resolution, to the commissioner that a district be created or dissolved pursuant to the request, or that the request be denied; and
- Provide a recommendation to the Commissioner whether to remove a supervisor for neglect of duty or malfeasance in office only after notice, hearing, and thorough review when requested by the Governor, Commerce, or a district.

B. SECTION DIRECTORY:

Section 1: Dissolves certain SWCDs and transfers their assets and liabilities to their respective regional SWCDs.

Section 2: Dissolves certain SWCDs and transfers their assets and liabilities to specific counties.

Section 3: Amends s. 582.01, F.S., relating to definitions used within ch. 582, F.S.

Section 4: Amends s. 582.055, F.S., relating to powers and duties of FDACS.

- Section 5: Amends s. 582.06, F.S., relating to the Council.
- Section 6: Amends s. 582.10, F.S., relating to the creation of SWCDs.
- Section 7: Amends s. 582.16, F.S., relating to changes of SWCD boundaries.
- Section 8: Amends s. 582.18, F.S., relating to appointment of supervisors of SWCDs.
- Section 9: Creates s. 582.181, F.S., relating to the governing boards of SWCDs.
- Section 10: Amends s. 582.19, F.S., relating to the qualifications and tenure of supervisors.
- Section 11: Amends s. 582.195, F.S., relating to meetings of supervisors.
- Section 12: Creates s. 582.196, F.S., relating to supervisor compensation.
- Section 13: Creates s. 582.20, F.S., relating to powers of SWCDs and supervisors.
- Section 14: Amends s. 582.295, F.S., relating to automatic dissolution of SWCDs.
- Section 15: Amends s. 582.30, F.S., relating to discontinuance of SWCDs.
- Section 16: Repeals s. 582.11, F.S., relating to hearing upon question of creation.
- Section 17: Repeals s. 582.12, F.S., relating to referendum for creation.
- Section 18: Repeals s. 582.13, F.S., relating to expenses of referendum.
- Section 19: Repeals s. 582.14, F.S., relating to results of referendum.
- Section 20: Repeals s. 582.15, F.S., relating to organization of district.
- Section 21: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may increase expenditures by DACS relating to implementing the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate impact on local government expenditures as duties are transferred from existing SWCDs to regional SWCDs created by the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Dual Officeholding

Article II, s. 5(a) of the Florida Constitution provides that no person shall hold more than one office⁵⁵ under the government of the state and the counties and municipalities therein, except that an officer may serve on a statutory body having only advisory powers. Section 20.03, F.S., defines an advisory council as an advisory body “created by a specific statutory enactment” that provides “recommendations and policy alternatives.” The Council, as reestablished by the bill, possesses powers that would likely not be considered advisory in nature, including confirming the members of the seven regional SWCDs and developing best management practices that the Council would adopt by rule. Therefore, it appears that an officer appointed to the Council could be subject to the prohibition on dual officeholding.

B. RULE-MAKING AUTHORITY:

The bill gives the Soil and Water Conservation Council the authority to adopt rules concerning commodity specific best management practices manuals.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Lines 102-104, 117-119, and 120-122 of the bill attempt to dissolve three SWCDs, the Baker SWCD, Martin SWCD, and Polk SWCD, which have already been dissolved.⁵⁶

Lines 327-329 of the bill divide the state into seven regional SWCDs at 11:59 p.m. on June 30, 2024. This date is before the effective date of the bill (July 1, 2024) and appears to be unnecessary, as the districts would be created upon the bill taking effect.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Local Administration, Federal Affairs, & Special Districts Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. The amendments:

⁵⁵ The term “office” implies “a delegation of a portion of the sovereign power to, and the possession of it by, the person filling the office, while an “employment” does not comprehend a delegation of any part of the sovereign authority. The term “office” embraces the idea of tenure, duration, and duties in exercising some portion of the sovereign power, conferred or defined by law and not by contract. An employment does not authorize the exercise in one’s own right of any sovereign power or any prescribed independent authority of a governmental nature; and this constitutes, perhaps, the most decisive difference between an employment and an office . . .” *State ex rel. Holloway v. Sheats*, 83 So. 508, 509 (Fla. 1919); *see also State ex rel. Clyatt v. Hocker*, 22 So. 721 (Fla. 1897); *see also*, Office of the Attorney General, *Dual Office-Holding* (updated April 2018), <https://www.myfloridalegal.com/files/pdf/page/4FF72ECF62927EEA85256CC6007B4517/DualOfficeHoldingPamplet.pdf> (last visited Jan. 24, 2024).

⁵⁶ *See* Dept. of Commerce, *Official List of Special District- All Dissolved Special District*, <https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts> (last visited Jan. 23, 2024).

- Transfers the assets and liabilities of dissolved SWCDs to their respective regional SWCDs created by the bill;
- Requires supervisors of SWCDs to meet once per calendar year;
- Renames the South West Soil and Water Conservation District created by the bill to the South Florida Soil and Water Conservation District, and
- Requires regional SWCDs to provide services in their region in proportion to contributions the previous SWCDs made to the region upon its dissolution and transfer to the regional SWCD through June 30, 2026.

The analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs, & Special Districts Subcommittee.