SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 30, 1998 Revised: _____ _____ _____ _____

Subject: Water Control Districts

	Analyst	Staff Director	Reference	Action
1.	Green	Voigt	NR	Favorable/CS
2.	Schmith	Yeatman	CA	Favorable
3.			WM	
4.				
5.				

I. Summary:

The bill deletes the definition of "water control district" and revises the definition of the term "water control plan"; provides for landowner vote of fractional acreage; amends quorum requirements; provides for the appointment of a supervisor; eliminates surety bond requirements for district engineers; provides criteria for awarding construction contracts; prohibits water control districts from condemning or acquiring land based on the commissioner's report assessing benefits and damages; revises requirements for the development and amendment of district water control plans; revises use of the district engineer's annual report; provides for the determination of benefits and damages; revises notice and report requirements; provides that the approval of a district water control plan and assessments is final unless court action is brought within 30 days after approval; revises notice requirements; provides that district bonds may be payable from assessments on more than one unit; and repeals the districts' discretion to assess a parcel of land less than one acre as a full acre.

This bill amends the following sections of the Florida Statutes: 298.005, 298.11, 298.12, 298.16, 298.22, 298.225, 298.26, 298.301, 298.329, and 298.353. This bill repeals section 298.337, Florida Statutes.

II. Present Situation:

Water control districts were originally established primarily to serve needs related to agriculture, but their responsibilities have been expanded due to increases in urban growth and population. These responsibilities have grown to include stormwater drainage and other related concerns. Today, there are nearly 100 water control districts in the State of Florida.
Chapter 94-240, L.O.F., created the Water Management District Review Commission and directed the commission to perform a comprehensive review of Florida's five water management

districts. The commission's report, "Bridge Over Troubled Water: Recommendations of the Water Management District Review Commission," recommended specific changes regarding water control districts.

In 1997, the Legislature substantially revised provisions of chapter 298, F.S. Oversight for these districts was moved from the Department of Environmental Protection to the water management districts and the Governor. The water control districts must meet certain minimum specified criteria by the year 2000. New facilities or modifications to existing facilities described in the water control plan or plan amendment must be consistent with those portions of the district water management plans of the jurisdictional water management district which have been implemented by rule. The water control plan or plan amendment must be reviewed by the jurisdictional water management district for consistency with the district water management plan. The water control district must review the water control plan every five years. The revisions also provided the following: guidelines for the adoption of the water control plan and notice requirements, the levy of non-ad valorem assessments to operate and maintain the district works and activities, the issuance of bonds in certain circumstances, and penalties and enforcement of delinquent assessments.

Following the substantive revisions enacted by the 1997 Legislature, various districts, during the implementation of these revisions, noted several sections in chapter 298, F.S., that require minor amendments to be more effective.

III. Effect of Proposed Changes:

Section 1. Deletes the definition of "water control district" in s. 298.005, F.S., and amends the definition of "water control plan." "Water control district" is deleted because it is redundant to, and slightly conflicts with, s. 298.001, F.S., which defines a water control district as any water management district or drainage district created pursuant to chapter 298, F.S., or a water management district created by special act to operate under the authority of this chapter. "Water control plan" is amended to include a "plan of improvement" along with a "plan of reclamation" or a "water management plan," and clarifies that these plans are included within the meaning of "water control plan," rather than alternative descriptions thereof.

Section 2. Amends s. 298.11, F.S., to entitle landowners to one additional vote for any fraction of an acre greater than ½ acre. The bill further provides that owners and proxy holders of district acreage who are present at a duly noticed landowner's meeting constitute a quorum for the purposes of an election. Reference to the Governor's authority to appoint board members in the absence of a quorum is deleted as that authority is set forth in s. 298.12, F.S.

Section 3. Amends s. 298.12, F.S., to remove the requirement that the Governor appoint the supervisor "in like manner as prescribed in s. 298.11, F.S." to conform with the deletions in section 2. Together, these provisions allow the Governor to continue to appoint a supervisor, upon failure of the landowners to elect such a supervisor, but remove the requirement for written notice to be provided to the Governor in the event of such failure.

Section 4. Eliminates the surety bond requirement for district engineers in s. 298.16, F.S., and renames the chief engineer as district engineer.

Section 5. Amends s. 298.22, F.S., to clarify the districts' authority to operate, maintain, repair and replace, in addition to constructing, any and all works and improvements necessary to execute the water control plan. This section is further amended to provide that contracts for construction of district facilities must be awarded under s. 255.20, F.S., which provides competitively awarding contracts for public construction and improvements, and applicable general law. Finally, this section is amended to allow acquisition of lands for use by the district as identified by the engineer's report and plan rather than the commissioners' report to conform with the 1997 amendments eliminating the commissioners' report.

Section 6. Revises requirements for the development and amendment of district water control plans in s. 298.225, F.S. As a result of this provision, a water control plan will no longer be required to have the following: copies of any agreements between the water control district and other governmental entities, the engineer's report prepared for plan adoption or revision, or the water control district's budget and revenue sources for the current year. A district's water control plan, however, may contain information from a district's facilities plan prepared pursuant to s. 189.415, F.S. which satisfies any of the other listed requirements for a plan. This section also requires the board of supervisors to submit the proposed plan or amendment to the jurisdictional water management district for review. The water management district must review the proposed plan or amendment within 90 days after receipt for consistency with applicable water resource plans and policies and recommend any proposed changes to the board.

Section 7. Amends s. 298.26, F.S., to conform with section 6, providing that the district engineer's annual report is not a part of the water control plan, and replacing the term "chief engineer" with "district engineer."

Section 8. Amends s. 298.301, F.S., to provide for the determination of benefits and damages that will accrue to each subdivision of land (according to ownership) resulting from implementing the proposed plan or plan amendment. This section also authorizes initiation of the plan adoption process at a special meeting, in addition to a regular meeting, and provides that approval of any engineer's report and plan or plan amendment is final unless appealed within 30 days.

Section 9. Corrects a statutory cross-reference in s. 298.329, F.S., necessitated by the creation of a new subsection (4) in section 6 of the bill.

Section 10. Revises notice requirements in s. 298.353, F.S. This provision requires notices, where water control plans are applicable to one or more units, to owners of land within the affected unit or municipalities within whose boundaries unit lands are located. The bill provides that district bonds may be payable from assessments on more than one unit.

Section 11. Repeals s. 298.337, F.S., granting water control districts discretion on whether to assess a parcel of land less than one acre as a full acre.

Section 12. Provides an effective date upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.