

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 2120

SPONSOR: Judiciary and Natural Resources Committees and Senator Garcia

SUBJECT: The Efficient Administration of Government

DATE: April 23, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gee	Voigt	NR	Favorable/CS
2.	Wilson	Wilson	GO	Favorable
3.	Matthews	Johnson	JU	Favorable/CS
4.				
5.				
6.				

**I. Summary:**

This bill authorizes water management districts to solicit donations, lease specified personal property, obtain and enforce patents, copyrights, and trademarks, bar certain contractors from doing business with the district, and limit or alter contract damages.

This bill amends ss. 373.083, and 373.093, F.S. It creates ss. 373.608, 373.610, and 373.611, F.S.

**II. Present Situation:**

The state's five regional water management districts (WMDs) have wide-ranging responsibilities. In addition to flood control and surface water regulation, the WMDs' responsibilities include environmental resource permitting; water quantity and water quality regulation; and the acquisition and management of lands for resource protection, conservation, and recreation.

The WMDs primary source of funds is the levy of ad valorem taxes. The WMDs vary greatly regarding funding needs and capability, from the Suwannee River WMD's current budget of \$24.9 million to the South Florida WMD's budget of \$604 million. Although the WMDs generally have similar missions, the South Florida WMD (SFWMD) has the mammoth task of funding and overseeing the Comprehensive Everglades Restoration Plan (CERP). The CERP is a nearly 40-year project to restore the Everglades and provide flood control and sufficient water for all users in the South Florida Ecosystem. The CERP is expected to cost at least \$7.8 billion. The SFWMD is to provide much of the funding. The SFWMD is seeking to increase its non-tax revenues and reduce expenditures and has identified statutory changes that the district believes would help do that.

Section 373.083(4), F.S., permits a WMD governing board to accept donations or grants of funds or services, but does not specifically authorize the board to solicit such funds or services.

Section 373.093(4), F.S., authorizes a WMD governing board to lease its lands and interest in lands. The SFWMD owns several communication towers and similar structures in remote areas which it believes could be leased. It currently has no specific statutory authorization to do so.

Currently, the Department of State is authorized to obtain and enforce patents for state agencies. Similarly, state universities may obtain and enforce patents, copyrights, and trademarks. The WMDs do not have such authority. Although the WMDs formerly were authorized to copyright software created by their employees, that authorization was repealed on October 1, 2000. The SFWMD reports that the WMDs employ numerous engineers and scientists, some of whom have developed creative computer software or other devices. The SFWMD applied for four copyrights for computer software during the year 2000. In the past, when the SFWMD has failed to copyright computer programs, outside consultants have made some slight changes to district-developed programs, copyrighted them and sold them to the public for profit. If the software is sold to the public, the SFWMD believes the WMDs should recoup the costs of developing the software. Similarly, a district should recoup the costs incurred in developing inventions.

Under s. 287.042(1)(b), F.S., the Department of Management Services may remove from its vendor list any source of supply which fails to fulfill any of its duties specified in a contract with the state. Section 672.719, F.S., provides that damages resulting from a breach of contract may be limited or altered by agreement of the parties involved. Neither statute is applicable to the WMDs.

### III. Effect of Proposed Changes:

**Section 1.** Section 373.083(4), F.S., is amended to authorize WMD governing boards to solicit donations, grants of funds, or services from public and private sources for the planning and implementation of the WMDs' responsibilities.

**Section 2.** Section 373.093, F.S., is amended to authorize a WMD governing board to lease existing communications towers and other similar structures that the district owns or which it may hereafter acquire for the best price and terms obtainable, to be determined by the board.

**Section 3.** Section 373.608, F.S., is created to authorize a WMD governing board to:

- Perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products and to enforce its rights therein. Each district shall consider contributions by district personnel in the development of trademarks, copyrights, and patents and shall enter into written contracts with such personnel in each trademark, copyright, or patent.
- License, lease, assign, or otherwise give written consent to any person, firm, or corporation for the manufacture or use of such district work products on a royalty basis or for such other consideration as the applicable governing board considers proper.
- Take any action necessary, including legal action, to protect such district work products against improper or unlawful use or infringement.

- Enforce the collection of any sums due the district for the manufacture or use of such district work products by another party.
- Sell any of such district work products and execute all instruments necessary to consummate such sale.
- Do other acts necessary for the execution of powers and duties conferred upon the districts in this section, including adopting rules to administer this section.

**Section 4.** Section 373.610, F.S., is created to require a WMD to suspend, on a temporary or permanent basis, a contractor from doing work with the district if such contractor has materially breached its contract with the district. The district shall adopt rules to administer the provisions of this section to specify the circumstances and conditions that constitute a materially breached contract and conditions that constitute the period for temporary or permanent suspensions and for reinstatement.

**Section 5.** Section 373.611, F.S., is created. It provides that, in order to promote the cost-effective procurement of commodities and contractual services by the WMDs, a district may enter into contracts to limit or alter the measure of damages recoverable from a vendor consistent with s. 672.719, F.S.

**Section 6.** This act will take effect 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:**

There is no direct, determinable impact on the public.

##### **C. Government Sector Impact:**

While there is no specific impact on government, the SFWMD believes the bill will, over time, increase revenues and efficiency.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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