

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1405 w/CS Water Management Districts  
**SPONSOR(S):** Machek; Cantens; Rubio  
**TIED BILLS:** none **IDEN./SIM. BILLS:** CS/SB 2260

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Lands &amp; Water Resources (Sub)</u>	<u>10 Y, 0 N</u>	<u>McKinnon</u>	<u>Lotspeich</u>
2) <u>Natural Resources</u>	<u>17 Y, 0 N</u>	<u>McKinnon</u>	<u>Lotspeich</u>
3) <u>State Administration</u>	<u></u>	<u>Bond</u>	<u>Everhart</u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

Current law allows all but the Southwest Florida Water Management District (SWFWMD) to move basin board boundaries within the water management district. This bill removes the restriction applicable only to SWFWMD, allowing SWFWMD to move basin board boundaries within the SWFWMD area without legislative approval.

This bill also amends the Surface Water Improvement and Management Act, known as SWIM, to:

- Remove most of the SWIM review and approval functions of the Department of Environmental Protection (DEP) with regard to the development of SWIM priority lists and plans;
- Simplify the SWIM plan review functions of state agencies and local governments;
- Authorize rather than require the development of SWIM plans;
- Modify SWIM plan contents;
- Remove the current SWIM funding provisions and formula.

This bill retains the requirement that the water management districts maintain and update a list of SWIM priority water bodies, provides additional considerations for identifying those water bodies, and requires the South Florida Water Management District to add the Lake Worth Basin to its list of priority areas.

This bill does not appear to have a fiscal impact on state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1405c.sa.doc  
**DATE:** April 17, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain: Not applicable.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background - Southwest Florida Water Management District (SWFWMD) basin boundary lines**

Section 373.0693(1), F.S., authorizes water management district governing boards to designate subdistricts or basins within the districts by resolution. Under that section, the governing boards may change the boundaries or create new basins, also by resolution. However, this authority is limited by other provisions within s. 373.0693, F.S. For instance, paragraph (1)(a) of that section requires subdistricts or basins established in the St. Johns River Water Management District to be approved by the Legislature. Similarly, paragraph (11)(a) of that section requires that the Southwest Florida Water Management District (SWFWMD) receive approval of the Legislature before it may combine or abolish basins described in district rules. The statutory restriction on abolishing or combining basins in SWFWMD stems from past conflicts between the governing board and the basin boards, at a time during which the governing board contemplated abolishing the basin boards altogether.

Section 373.0693(11)(a) also defines the current boundaries of the Peace River Basin within the Southwest Florida Water Management District. The delineation includes certain portions of Polk County. Polk County has requested that the boundary be changed to more accurately reflect the scientific surface water boundary associated with the Peace River, Hillsborough River, and Alafia River basins.

##### **Background -The Surface Water Improvement and Management (SWIM) Act**

The 1987 Legislature enacted the Surface Water Improvement and Management Act (SWIM) to restore and protect waterbodies of statewide and regional significance. The SWIM Program has forged partnerships among regional, local, and state agencies to implement projects to improve water quality, restore wetlands, restore fisheries, control invasive plants, and provide environmental education.

The SWIM Act directs water management districts to prepare lists of priority waterbodies every three years and develop waterbody plans. The plans are reviewed by the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, the Department of Community Affairs, and local governments. The DEP approves both the lists and the plans. The SWIM Act names Lake Apopka, Tampa Bay, Lake Okeechobee, Biscayne Bay, Indian River Lagoon, and Lower St. Johns River as priorities; however, water management districts may list other priority waterbodies. At present, 30 waterbodies have plans approved under the SWIM Act. In the past five years, 14 plans have been developed or updated, and approved by the DEP. The districts' priority lists contain many additional waterbodies for which no plans were developed because of lack of funds.

Under the SWIM Act, by September 1 of each year, water management districts are to submit funding proposals for the next state fiscal year to the DEP for consideration in making its annual budget requests. Funds are to be deposited in the Ecosystem Management and Restoration Trust Fund and administered by the DEP. The Act sets forth how funds are to be allocated among the districts and requires matching funds from the districts.

Long-term funding for SWIM has not been sufficient to achieve the goals of SWIM plans. For several years, little to no funds were appropriated for SWIM priority waterbodies, yet local concern over water resources continued to increase for SWIM waterbodies and other surface waters. While the Legislature has not funded the SWIM Program as a whole, it has chosen to identify specific line item appropriations for water projects that no longer focus solely on SWIM priority waterbodies. In those cases where line item appropriations are provided to a SWIM waterbody, funds are not administered through the funding provisions of the SWIM Act, and are no longer tied to water management district matching funds.

Several water management districts maintain relatively strong SWIM programs, and the program carries important name recognition. However, the existing statutory SWIM funding provisions and processes are not used now and the planning process has been criticized in the past as being overly bureaucratic.

### **Effect of Bill**

This bill removes the requirement of legislative approval for the movement of the basin board boundaries within the SWFWMD as it relates to annexed portions of Polk County into Hillsborough River Basin and the Alafia River Basin from the Peace River Basin.

This bill revises the SWIM Act to remove most of the priority list and plan review and approval requirements. It retains the requirement to have a priority list of surface water bodies and provides criteria for listing. It also retains the statutory designation of certain SWIM waterbodies. The bill eliminates the requirement for the water management districts to develop SWIM plans, but authorizes them to do so and provides essential plan contents, along with a streamlined plan review process. In addition, the bill deletes the detailed funding allocation procedures and fund allocation formula. These changes are a response to the lack of funding specifically for SWIM and to the advent of various local and state water quality programs that have supplanted the SWIM program in some areas. The revisions allow the water management districts to continue their well-recognized SWIM programs, but eliminate much of the existing process.

### **C. SECTION DIRECTORY:**

Section 1. Amends s. 373.0693, F.S., to remove the requirement of legislative approval for the movement of the basin board boundaries within the SWFWMD as it relates to annexed portions of Polk County into Hillsborough River Basin and the Alafia River Basin from the Peace River Basin.

Section 2. Amends s. 373.451, F.S., to revise the legislative intent in the SWIM Act.

Section 3. Amends s. 373.453, F.S., to revise SWIM priority listing criteria.

Section 4. Amends s. 373.459, F.S., to state that legislative appropriations for SWIM activities may also be expended for detailed planning and plan and program implementation.

Section 5. Repeals s. 373.455, F.S., relating to the review of SWIM plans; s. 373.456, F.S., relating to the approval of SWIM plans; and s. 373.457, F.S., relating to the implementation of SWIM plans. By this change, detailed SWIM plans become permissive, not mandatory.

Section 6. Amends s. 259.101, F.S., to delete a cross-reference to a repealed SWIM Act section.

Section 7. Amends s. 373.4136, F.S., to delete a cross-reference to a repealed SWIM Act section.

Section 8. Amends s. 403.067, F.S., to delete cross-references to a repealed SWIM Act section.

Section 9. Amends s. 403.1835, F.S., to delete a cross-reference to a repealed SWIM Act section.

Section 10. Provides that the act shall take effect upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues: None.
2. Expenditures: None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: None.
2. Expenditures: None.

### **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.
2. Other: None.

### **B. RULE-MAKING AUTHORITY:**

This bill reduces the rulemaking required of Water Management Districts.

This bill may create an administrative law issue at line 95 by the inclusion of "others" when describing the persons that may be involved in determining the priority list. Including others may give legal standing to any person to challenge a list through the administrative process.

### **C. DRAFTING ISSUES OR OTHER COMMENTS: None.**

## **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On April 9, 2003 the House Committee on Natural Resources favorably adopted six amendments to HB 1405 that do the following:

- Removes the requirement of legislative approval for the movement of the basin board boundaries within the SWFWMD as it relates to annexed portions of Polk County into Hillsborough River Basin and the Alafia River Basin from the Peace River Basin.
- Requires each water management district to maintain a list which prioritizes water bodies of regional or statewide significance and adds the Lake Worth Lagoon to the South Florida Water Management Districts list.
- Insures there is an opportunity to challenge SWIM plans.
- Provides technical conforming amendments.