HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 373 Boundaries of SWFWMD and SFWMD
SPONSOR(S): Spratt
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Lands & Water Resources (Sub)	10 Y, 0 N	Camechis	Lotspeich
2) Natural Resources	17 Y, 0 N	Camechis	Lotspeich
3) Finance and Tax	20 Y, 0 N	Monroe	Diez-Arguelles
4) Agriculture & Environment Apps. (Sub)	15 Y, 0 N	Dixon	Dixon
5) Appropriations			

SUMMARY ANALYSIS

Currently, Highlands County is geographically divided between the Southwest Florida Water Management District (SWFWMD) and the South Florida Water Management District (SFWMD). This bill revises the statutory boundaries of both districts in order to place all of Highlands County under the jurisdiction of the SFWMD.

The SFWMD will experience an increase in ad valorem revenues of approximately $1.8 million due to increased ad valorem revenues from the transferred portion of Highlands County, with an increase in staffing expenditures of approximately $175,000, and an indeterminable increase in expenditures for projects benefiting Highlands County. SWFWMD will experience an estimated $1.5 million reduction in ad valorem revenues and an indeterminable decrease in staffing expenditures and expenditures related to project dedicated to Highlands County.

The millage rate imposed on residents of Highlands County who move from the SWFWMD to the SFWMD will increase. Assuming 2003 millage rates, those taxpayers will see their millage rate increase from 0.617 mills to 0.697 mills. On property with a taxable value of $100,000, a Highlands County taxpayer who is moved from the SWFWMD to the SFWMD will pay an additional $8.00 in tax annually.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[x]
2. Lower taxes?	Yes[]	No[x]	N/A[]
3. Expand individual freedom?	Yes[]	No[]	N/A[x]
4. Increase personal responsibility?	Yes[]	No[]	N/A[x]
5. Empower families?	Yes[]	No[]	N/A[x]

For any principle that received a "no" above, please explain:

The millage rate imposed on residents of Highlands County who are moved from the SWFWMD to the SFWMD will increase. Assuming 2003 millage rates, those taxpayers will see their millage rate increase from 0.617 mills to 0.697 mills. On property with a taxable value of $100,000, the Highlands County taxpayer will pay an additional $8.00 in tax annually.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

In 1972, the Legislature created five water management districts with expanded responsibilities for regional water resource management and environmental protection.[1] Watersheds and other natural, hydrologic, and geographic features of each area determined the geographic boundary of each district.[2] Highlands County is now geographically divided between two water management districts: the South Florida Water Management District's (SFWMD) and the Southwest Florida Water Management District (SWFWMD).

Highlands County is located in southwest Florida along the southern portion of the 100-mile-long chain of ancient sand hills known as the Lake Wales Ridge.[3] The County contains more than 100 lakes, including Lake Istokpoga, Florida's fifth largest lake, and Lake Annie, one of the oldest freshwater lakes in the world.[4] The majority of the County's population base is centered along the U.S. Hwy 27 corridor, which runs generally north to south through the County along the center of the Lake Wales Ridge (also known as the Highlands Ridge).[5] The boundary of the SWFWMD loosely follows the outline of the Lake Wales Ridge, and includes within the SWFWMD approximately 91% of the County's population base, all three of the principal municipalities in the County, and the majority of the County's lakes.[6] The remainder of the County is situated within the jurisdiction of the SFWMD.[7]

According to the SWFWMD, water withdrawals in that portion of Highlands County which is within the jurisdiction of the SFWMD are minimal compared to the withdrawals from the portion within SWFWMD.[8] Because of the sandy, well-drained soils along the Lake Wales Ridge, citrus production has been prominent in the area since the early 1900s.[9] The SWFWMD reports indicate that the 2002 estimated water withdrawal from the portion of Highlands County within the SWFWMD was 82.046 million gallons per day, with agricultural withdrawals accounting for 84.4% of the withdrawals.[10]

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[1] s. 373.069, F.S.
[2] SFWMD Website, www.sfwmd.gov/histo/2_history.html.
[3] Highlands County Issues, Missie Barletto, SFWMD, July 7, 2003, p.1.
[4] Id.
[5] Highlands County Issues, p.1.
[6] Highlands County Issues, p.1; Comprehensive Annual Financial Report--Year Ended Sept. 30, 2002, SWFWMD, p.67.
[7] Highlands County Issues, p.1.
[8] SWUCA Recovery Strategy , SWFWMD, Nov. 14, 2003 Draft, Sec. 2, p. 2.
[9] SWUCA Recovery Strategy, Sec. 2, p. 5.
[10] Comprehensive Annual Financial Report--Year Ended Sept. 30, 2002, SWFWMD, p.72.

During the mid to late 1980s, long-term declines in hydrologic conditions were observed in certain geographic regions of the District.[11] Further studies indicated to the SWFWMD that groundwater resources in the District were interdependent and required a basin-wide or regional approach.[12] In 1992, the SWFWMD established the Southern Water Use Caution Area (SWUCA) in order to manage water resources in the Southern West-Central Florida Ground-Water Basin (Basin) in a comprehensive manner. In 1995, an Administrative Law Judge upheld the boundaries of the SWUCA and the scientific justification for establishing those boundaries.[13]

The boundaries of the SWUCA encompass a 5,100-square-mile area in the SWFWMD, including those portions of Highlands County located within the SWFWMD.[14] The Basin was delineated based on persistent groundwater flow lines in the Floridan Aquifer.[15] Groundwater in the Basin is derived from recharge that originates as rain falling over the Basin area and is generally separate from adjacent basins.[16]

The Highlands County Commission has asked SWFWMD for scientific justification as to why the SWFWMD included Highlands County in the Southern Water Use Caution Area (SWUCA) of the District. According to the SWFWMD, the SWUCA boundary was extended to the eastern district border in Highlands County, even though the entire border area is not within the Basin, because withdrawals in that area could affect lake levels in other areas of the Basin.[17] The SWFWMD has futhered explained the scientific justification for extending the SWUCA beyond the Basin's boundaries as follows:

> [T]he upper Floridan Aquifer over much of the SWUCA is stressed, and is a well-contained and higly transmissive aquifer…Groundwater levels in the Highlands County area are affected not only by withdrawals in Highlands County but also by those in adjacent counties, including withdrawals in the South Florida Water Management District. Similarly, groundwater levels in Hardee, DeSoto, and Polk counties are affected by withdrawals in Highlands County. It is this interdependence or cumulative effect of groundwaer users within the SWUCA, and the necessity for withdrawals to be manageed in a comprehensive manner, that requires Highlnads County be included in the SWUCA.[18]

The SWFWMD further explains the factors considered in establishing the SWUCA, and including Highlands County in the SWUCA, as follows:

- There are approximately 9,400 permitted wells in the SWUCA. The overlapping effects of withdrawals from these wells create the basin response that is evident in water levels throughout the basin.

- The eastern boundary of the groundwater basin is delineasted based on a persistent, regional groundwater flow (hydraulic) divide that extends down the Ridge. Because the boundary is not a structural divide, water levels along the boundary are affected by withdrawals on either side of the boundary and the boundary can move slightly from year to year.

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[11] SWUCA Information Report, SWFWMD, April 1998, p. 1.
[12] SWUCA Information Report, p. 2.
[13] Richard S. Owen, AICP, Planning Director, SWFWMD, letter to Bob Bullard, Highlands County Commissioner, January 14, 2004, p. 6.
[14] A "water use caution area" is an area where water resources are, or are expected to become, critical in the next twenty years; SWUCA Information Report, at pp. i, 2.
[15] SWUCA Recovery Strategy, Sec. 2, p. 2.
[16] SWUCA Recovery Strategy, Sec. 2, p. 2.
[17] SWUCA Recovery Strategy, Sec. 2, p. 2.
[18] Richard S. Owen, AICP, Planning Director, SWFWMD, letter to Bob Bullard, Highlands County Commissioner, January 14, 2004, p. 3.

- The Ridge areas in the SWUCA, including Highlands County, contain numerous lakes and karst features and contribute large quantities of recharge to the underlying aquifers through these features. Approximately two-thirds of groundwater recharge in the SWUCA occurs in the Ridge areas.

- Because of the sandy, well-drained soils along the Ridge, citrus agriculture has been prominent in the area since the early 1900s. Groundwater withdrawals are concentrated along the Ridge to support the irrigation of mostly citrus agriculture that exists in close proximity to the numerous lakes and karst features in the area.

- The cumulative effects of withdrawals in the region, together with local withdrawals in the vicinity of the lakes, is to induce additional recharge to occur in the Ridge areas, and thereby affect lake levels.[19]

There are three aquifer systems present in the SWUCA: the surficial, intermediate, and Floridan. Approximately 85%-90% of all groundwater withdrawn in the SWUCA is groundwater pumped to the surface from the Floridan Aquifer, the deepest of the three aquifers.[20] According to the SWFWMD, recharge to these aquifer systems occurs from rainfall that percolates into the aquifers primarily along the upland areas of Highlands and Polk Counties[21] due to the relatively thin barrier between the surface and the Floridan Aquifer.[22] The district also asserts that, due to the well-confined, highly transmissive nature of the Floridan Aquifer, effects of "withdrawals can extend radially outward tens of miles"[23] so that withdrawals at a single point in the SWUCA may affect water levels over large areas.[24]

Although groundwater withdrawals have stabilized since the mid-1970s, the SWFWMD asserts that depressed aquifer levels caused by historic over-withdrawals continue to cause saltwater intrusion in the Floridan Aquifer along the coast, and continue to reduce flows in the upper Peace River and lower levels of some lakes in the upland areas of Polk and Highlands County.[25] The Floridian Aquifer groundwater levels generally declined from 2000 to mid-year 2001, when a recovery began and was aided by the 2002-2003 El Niño event; however, permitting regulations are developed to address local effects and longer-term trends in water use, and do not change based on year-to-year water level changes.[26]

In November 2003, the SWFWMD published a draft *Southern Water Use Caution Area Recovery Strategy* and anticipates adopting the report as well as associated rule revisions in the first half of 2004.[27]The document outlines the District's strategy for ensuring that adequate water supplies are available to meet growing demands, while at the same time protecting and restoring the water and related natural resources of the area.[28] The goals of the strategy are to: restore minimum levels to priority lakes in the Lake Wales Ridge; restore minimum flows to the upper Peace River; reduce the rate of saltwater intrusion in coastal Hillsborough, Manatee and Sarasota counties; ensure sufficient water supplies for all existing and projected reasonable-beneficial uses; and protect investments of existing water use permittees.[29]

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[19] Richard S. Owen, AICP, Planning Director, SWFWMD, letter to Bob Bullard, Highlands County Commissioner, January 14, 2004, p. 6.
[20] SWUCA Recovery Strategy, Sec. 2, p. 3; Water Resources Atlas of Florida, 1998, at p. 244.
[21] SWUCA Recovery Strategy, Sec. 2, p. 3.
[22] SWUCA Information Report, SWFWMD, Apr. 1998, p. 5.
[23] SWUCA Recovery Strategy, Sec. 2, p. 3.
[24] SWUCA Information Report at p. i.
[25] SWUCA Recovery Strategy, Sec. 1, p. 1.; SWUCA Information Report at p. i.
[26] Richard S. Owen, AICP, Planning Director, SWFWMD, letter to Bob Bullard, Highlands County Commissioner, January 14, 2004, p. 4.
[27] David S. Moore, Executive Director, SWFWMD, Memorandum to the SWFWMD Governing Board Members, December 1, 2003, p. 1.
[28] http://www.swfwmd.state.fl.us/waterman/swuca/SWUCA.html
[29] http://www.swfwmd.state.fl.us/waterman/swuca/SWUCA.html

EFFECT OF PROPOSED CHANGES

This bill revises the statutory boundaries of the Southwest Florida Water Management District (SWFWMD) and the South Florida Water Management District (SFWMD) in order to place all of Highlands County under the jurisdiction of the SFWMD.

If the boundaries of the SFWMD are expanded to include the portion of Highlands County currently in the SWFWMD, permit requirements applicable to water users in that portion of Highlands County will change to the permit requirements applied by the SFWMD. However, it is unclear whether the proposed changes will affect water resources in the SWFWMD.

The SFWMD provided the following comments on the effect of the proposed changes in this bill.

- Users in the [SFWMD] are afforded a 1-in-10 level of certainty allocation, which results in a larger allocation than what is given by the SWFWMD's 5-in-10 based allocation. While the allocations are different on paper, evaluation of actual pumpage data suggests the actual volume of use per acre is the same for both districts. This is because use is driven by actual rainfall conditions and economic factors which compel business efficiencies.
- A potential disadvantage of the larger allocation given by the SFWMD is that you still have to meet water resource protection criteria. This may result in greater set-backs away from wetlands than would occur with a smaller allocation.
- Water use accounting in SFWMD must be approved by staff and can consist of meters or flow clocks. Approval is given provided the water use accounting method is accurate within +/-10% and calibrated every 5 years. In SWFWMD, meters are required in order to measure water use; meter values must be +/-5% in Southern Water Use Caution Area (SWUCA).
- Both districts issue permits based on a set of conditions of issuance that are derived from statutory direction (Chapter 373 Part II) and from Department rules (Chapter 62-40 F.A.C.). While specific technical criteria may vary between districts, the general requirement of preventing harm to the water resources is upheld as a requirement of law.
- The current WMD boundaries are not consistent with surface and groundwater hydrology. A more accurate boundary would be to put all of the land in Highlands County east of US 27 into the SFWMD but leave the current boundary configuration west of the highway as is.[30]

No comments were received from the SWFWMD on the effect of the proposed changes.

C. SECTION DIRECTORY:

Section 1. Amends s. 373.069, F.S., to revise the boundaries of the SWFWMD and the SFWMD.

Section 2. Amends s. 373.0691, F.S., to require the transfer of certain property and rights from the SWFWMD to the SFWMD.

Section 3. Provides an effective date.

[30] Written Comments provided by Palmer Mason, SFWMD, on February 5, 2004.

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:

Assuming 2003 millages rates, the boundary change will result in a loss of $1.5 million dollars in ad valorem revenue for SWFWMD and an increase of $1.8 million in ad valorem revenue for SFWMD.

2. Expenditures:

Indeterminate based upon the information provided by the water management districts. While the increase in expenditures by SFWMD is outlined below, any decrease in expenditures by SWFWMD is undetermined.

According to the SFWMD, approximately 54 Environmental Resource Permit applications for Highlands County will transfer to the SFWMD, requiring the addition of the following permitting and compliance staff positions:

Engineer FTE:	.75
Biologist FTE:	.75
Compliance FTE:	.5
TOTAL FTE	2
TOTAL COST	$150,000

In addition, SFWMD anticipates the following increases in expenditures:

Overhead	$10,000
Computer Equipment	$10,000
Helicopter Inspections	$5,000
TOTAL	$25,000

According to the SWFWMD, total budgeted projects in or directly benefiting Highlands County for FY 2004 total $828,162.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The millage rate imposed on residents of Highlands County who move from the SWFWMD to the SFWMD will increase. Assuming 2003 millage rates, those taxpayers will see their millage rate increase from 0.617 mills to 0.697 mills. On property with a net taxable value of $100,000, the Highlands County taxpayer will pay an additional $8.00 in tax annually.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY:

This bill does not revise the rulemaking provisions of any state agency.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.