

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: CS/SB 1952

INTRODUCER: Committee on Environmental Preservation and Conservation and Senator Detert

SUBJECT: Water Resources

DATE: March 22, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Kiger	EP	Fav/CS
2.	Wilson	Wilson	GO	Fav/2 amendments
3.			GA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input checked="" type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute (CS) substantially amends ss. 373.0693 and 373.171 of the Florida Statutes.

The CS would provide some technical revisions and clarifications to the basin board section of Chapter 373, F.S., related to board constitution and voting conditions for basin board chairs. It also provides that cooperative funding programs are not subject to rulemaking.

The CS provides for an effective date of July 1, 2010.

II. Present Situation:

Basin boards are unique to the Southwest Florida Water Management District (SWFWMD) and the South Florida Water Management District (SFWMD). However, the SWFWMD maintains seven basin boards and the SFWMD only one. These boards provide guidance for local programs and projects that are specific to the watershed basin they protect. Currently, "[e]ach basin shall be under the control of a basin board which shall be composed of not less than three members,

but shall include one representative from each of the counties included in the basin."¹ The districts interpret this provision to mean that, in the absence of at least one representative from each county, the basin board would not be properly constituted. When not properly constituted, a basin board would not be able to transact official business until the Governor's Office appointed people to fill the vacancies. While vacancies of this kind occur from time to time, if it were to coincide with the budget and tax levy process, it is possible that a basin board would not be able to establish its annual budget or to request its annual tax levy. The basin boards ensure that local concerns within the districts are addressed effectively. Each board has half of the districts' millage capacity to fund innovative projects that address water supply, flood protection, water quality and natural systems issues in its watershed. Basin board members are appointed by the Governor and must be confirmed by the Senate.

Regarding Governing Board Policy 110-8, the Governing Board Chair sometimes appoints more than one Governing Board member to serve as chair of a basin board, on a rotating basis. However, this practice is inconsistent with subsection 373.0693(6), F.S. Further, nothing in s. 373.0693, F.S., indicates the actual status of the basin chairs with respect to voting, the establishment of a quorum or counting towards basin board constitution.

Lastly, SB 2080, signed into law by the Governor in 2009, addresses cooperative funding programs. However, it was placed in statute so that it only applied to cooperative funding in the Southern Water Use Caution Area (SWUCA), instead of to cooperative funding programs in general. Cooperative funding is not considered a regulatory program. It is a cost-share program for local governments for projects that develop sustainable water resources, provide flood protection and enhance conservation efforts. Therefore, if a district needed to adopt rules for all of the procedures and policies in a cooperative funding program, it would be unable to adapt or modify the program as necessary. It was not the intent of the Legislature to limit the application of this provision to the SWUCA only.

III. Effect of Proposed Changes:

Section 1 amends s. 373.0693, F.S. The changes provide that a member of the governing board serving as chair of a basin board would be a regular, voting member of the basin board and would be counted for purposes of establishing a quorum. In the event a vacancy occurs and a successor is not appointed within 180 days, the remaining members of the basin board would be able to continue to transact official business provided a quorum of the whole authorized number of members of the board is present. This would provide continuity in basin board operations, particularly during budget and tax time. The CS also provides for the appointment of more than one basin board chair from among the members of the Governing Board, to be consistent with Governing Board practice and policy.

The CS removes obsolete language referring to the annexation of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District by the SWFWMD. It also deletes reference to a procedure for tie votes that will no longer be necessary given the other revisions in this section.

¹ §373.0693(2), *Fla. Stat.* (2009)

This section also contains technical and conforming changes.

Section 2 amends s. 373.171, F.S., to clarify that all districts' cooperative funding programs are not subject to the rule making requirements of chapter 120, F.S. However, they are still subject to the provisions of s. 120.569, F.S., which allow affected individuals to challenge district decisions.

Section 3 provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There will be negligible impacts to the private sector.

C. Government Sector Impact:

Additional efficiencies and continuity in the operation of the basin boards will be realized; however, the fiscal impact is indeterminate.

VI. Technical Deficiencies:

Section 2 makes a general reference to "cooperative funding programs," a term which exists with specificity only in ss. 373.0363(4)(b), F.S. The ch. 120, F.S., exemption in that subsection is limited to the "Facilitating Agricultural Resource Management Initiative," a subcomponent of the Southern Water Use Caution Area Recovery Strategy. That embedded exemption is not otherwise repealed as a result of this change.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation on March 9, 2010:

The purpose of the strike all amendment was to address stylistic, technical and conforming changes to make the Senate and House of Representatives bills identical. There are no substantive changes in the CS.

- B. Amendments:

Barcode 363504 by Governmental Oversight and Accountability on March 23, 2010:

Amends s. 373.1961, F.S., to permit funds deposited in the Water Protection and Sustainability Program Trust Fund to the credit of the Northwest Florida and Suwannee River Water Management districts, respectively, to be used for water projects, including the protection of springs.

Barcode 346436 by Governmental Oversight and Accountability on March 23, 2010:

Amends ss. 373.228 and 373.246, F.S., to provide specific legal authority to local governments for the enforcement of landscape irrigation restrictions or water shortage emergency orders that implement water management districts rules or orders.