

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 209 Big Cypress Basin

**SPONSOR(S):** Environment, Agriculture & Flooding Subcommittee, Botana and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 406

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	11 Y, 6 N, As CS	Gawin	Moore
2) Ways & Means Committee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Big Cypress Basin (BCB) is a watershed basin within the South Florida Water Management District (SFWMD) that currently encompasses all of Collier County and part of Monroe County. The BCB is governed by the BCB Board, which must have at least five members who reside within the BCB area.

The BCB boundaries can be changed by the SFWMD Governing Board. In 2020, the Legislature directed the SFWMD to conduct a study to determine the most appropriate geographic boundaries for the BCB. The completed BCB Boundary Delineation Study and recommendations were submitted to the Legislature on January 12, 2021.

Water management districts (WMDs) have the authority to levy ad valorem taxes on property within their district. Each WMD is partly financed by ad valorem taxes paid by those who reside within the district, and each WMD has a different maximum total millage rate. The maximum millage rate for the SFWMD is .80 mill.

The bill revises the membership of the BCB board by requiring the board to consist of individuals from Collier and Lee Counties who reside within the BCB. In addition, the bill removes the requirement that the Governor appoint no fewer than five individuals to the board and instead requires the Governor to appoint exactly five individuals.

At 11:59pm on July 1, 2021, the bill requires the SFWMD Governing Board to establish the boundary of the BCB as the scientific boundary recommended in the BCB Boundary Delineation Study, except that the new basin boundary may only include counties that have at least 25 percent of their jurisdiction delineated within the boundary.

The bill requires the SFWMD to ensure that the ad valorem taxes levied within the counties that comprise the BCB are used for projects and flood control operations and maintenance within the counties in which they were collected.

The bill may have an indeterminate fiscal impact on the state. See Fiscal Comments section.

# FULL ANALYSIS

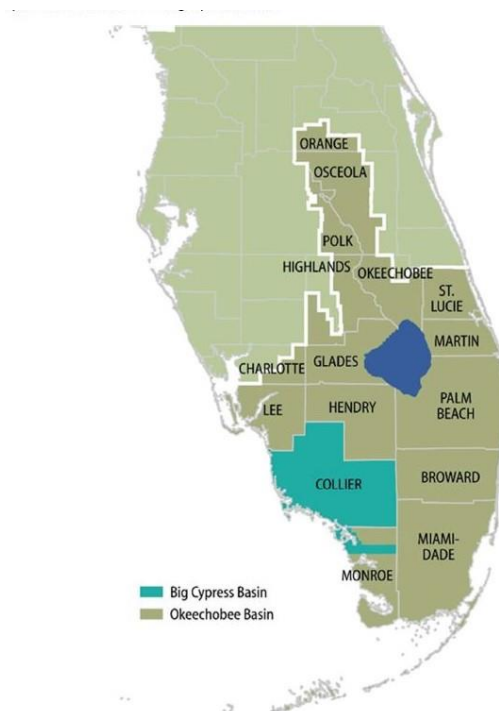
## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### South Florida Water Management District (SFWMD)

The SFWMD is a regional governmental agency that manages the water resources in the southern half of the state, covering 16 counties from Orlando to the Florida Keys and serving a population of 8.7 million residents.<sup>1</sup> The SFWMD is responsible for managing and protecting South Florida's water resources by balancing and improving flood control, water supply, water quality, and natural systems. Water management district (WMD) governing boards may designate subdistricts or basins within the district and may revise the boundaries by resolution.<sup>2</sup> The SFWMD encompasses two major watershed basins, the Okeechobee Basin and the Big Cypress Basin (BCB), as depicted in the map below. The BCB includes Collier County and part of Monroe County.<sup>3</sup> The rest of the geographic area within the SFWMD boundaries comprises the Okeechobee Basin.<sup>4</sup> The SFWMD Governing Board can change the boundaries of the BCB,<sup>5</sup> but may not eliminate it.<sup>6</sup>



##### The BCB

The BCB includes a network of 153 miles of primary canals, 45 water control structures, and three back pumps that provide flood control during the wet season and protect regional water supplies and environmental resources from over-drainage during the dry season.<sup>7</sup> In addition to drainage

<sup>1</sup> SFWMD, *Who We Are*, <https://www.sfwmd.gov/who-we-are> (last visited Feb. 25, 2021).

<sup>2</sup> Section 373.0693(1), F.S.

<sup>3</sup> SFWMD, *Big Cypress Basin*, <https://www.sfwmd.gov/who-we-are/bcb> (last visited Feb. 25, 2021). The initial boundaries of the basin are provided in s. 373.0693(9), F.S.

<sup>4</sup> SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 79 (Jan. 15, 2021), available at [https://www.sfwmd.gov/sites/default/files/documents/South\\_Florida\\_Water\\_Management\\_District\\_FY2021-22\\_Preliminary\\_Budget.pdf](https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf) (last visited Feb. 25, 2021).

<sup>5</sup> Rule 40E-21.691(5)(d), F.A.C.

<sup>6</sup> Section 373.0693(9)(c), F.S.

<sup>7</sup> SFWMD, *Big Cypress Basin (BCB) 2019-2020 Budget*, [https://www.sfwmd.gov/sites/default/files/documents/factsheet\\_BCBbudget\\_2019-2020.pdf](https://www.sfwmd.gov/sites/default/files/documents/factsheet_BCBbudget_2019-2020.pdf) (last visited Mar. 1, 2021).

responsibilities, the BCB assists local governments and water utilities in developing alternative water supplies and implementing stormwater management programs to improve water quality.<sup>8</sup>

#### *BCB Board*

The BCB is governed by the BCB Board (board). The board oversees water resource issues and sets the BCB regional policy, budget, and millage rate.<sup>9</sup> Members of the board are appointed by the Governor and must be approved by the Senate.<sup>10</sup> The board must have at least five members who reside within the area.<sup>11</sup> The SFWMD governing board member appointed to represent the southwest region also serves as the chairman of the board.<sup>12</sup>

#### *Big Cypress Basin Delineation Study*

In 2020, the Legislature directed the SFWMD to conduct a study to determine the most appropriate geographic boundaries for the BCB.<sup>13</sup> The Legislature specified that the proposed boundaries must be based solely on the common watershed within the BCB and must be scientifically supported.<sup>14</sup> The completed study and recommendations were submitted to the Governor and the Legislature on January 12, 2021.<sup>15</sup> The BCB Boundary Delineation Study used the following information to form the new boundary:

- Current boundary lines;
- Geographic information systems topography data;
- Aerial photography;
- Road maps;
- Field visits;
- Permits that may alter or describe drainage patterns;
- Soil maps; and
- Historical documents.<sup>16</sup>

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<sup>8</sup> SFWMD, Big Cypress Basin Strategic Plan, 3, [https://www.sfwmd.gov/sites/default/files/documents/2018\\_strategic\\_plan\\_bcb.pdf](https://www.sfwmd.gov/sites/default/files/documents/2018_strategic_plan_bcb.pdf) (last visited Feb. 25, 2021).

<sup>9</sup> SFWMD, *Big Cypress Basin Board*, <https://www.sfwmd.gov/who-we-are/governing-board/big-cypress-basin-board> (last visited Jan. 28, 2021). Section 109.001(10), F.S., defines a “mill” as one one-thousandth of a United States dollar. “Millage” may apply to a single levy of taxes or to the cumulative of all levies.

<sup>10</sup> Section 373.0963(9), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> SFWMD, *Big Cypress Basin*, <https://www.sfwmd.gov/who-we-are/bcb> (last visited Feb. 02, 2021).

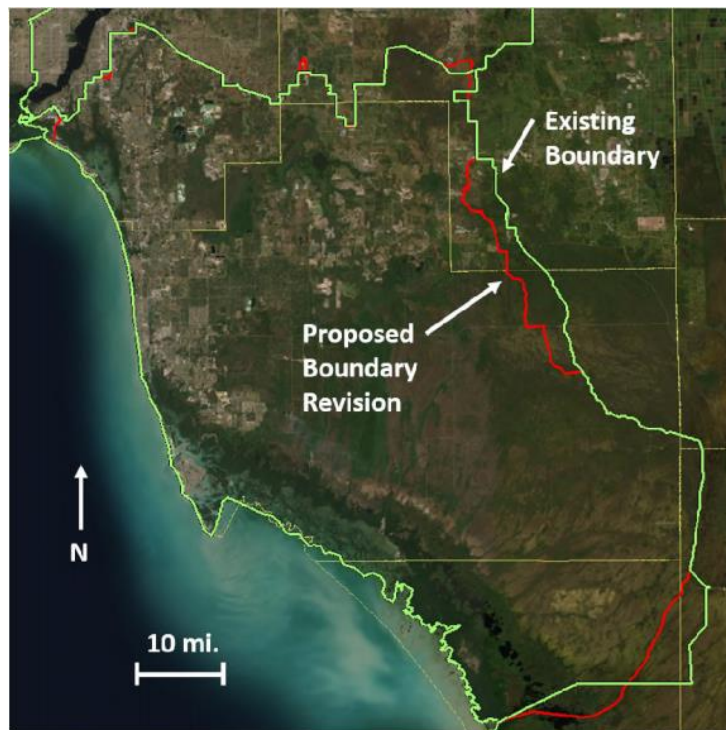
<sup>13</sup> Chapter 2020-111, Laws of Fla.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> SFWMD, *Big Cypress Basin Boundary (BCB) Delineation* (Dec. 2020), pp. 5-7 (on file with the Environment, Agriculture & Flooding Subcommittee).

The current BCB boundaries (green) and proposed BCB boundaries (red) are indicated in the graphic below:<sup>17</sup>



### Ad Valorem Taxes

WMDs have the authority to levy ad valorem taxes on property within their district.<sup>18</sup> Each WMD is partly financed by ad valorem taxes paid by those who reside within the district, and each WMD has a different maximum total millage rate. The maximum millage rate for the SFWMD is .80 mill,<sup>19</sup> but district policy is to levy rolled-back rates.<sup>20</sup>

Because basin boards have the authority to set millage rates, the rate can vary by basin. The apportionment rate for the SFWMD is a maximum of 40 percent for district purposes and a maximum of 60 percent for basin purposes.<sup>21</sup> The total millage rate for the BCB for the 2020-2021 fiscal year is 0.2255, which includes 0.1103 towards the SFWMD and 0.1152 for the BCB.<sup>22</sup> The total millage rate for the Okeechobee Basin for the 2020-2021 fiscal year is 0.2675, which includes the Everglades Construction Project<sup>23</sup> rate of .0380, the Okeechobee Basin rate of 0.1192, and the SFWMD rate of 0.1103.<sup>24</sup> Approximately 76 percent of the revenue that funds the BCB budget comes from ad valorem taxes.<sup>25</sup>

### **Effect of the Bill**

<sup>17</sup> *Id.* at 25.

<sup>18</sup> Section 373.503(3), F.S.; *See* s. 373.0695, F.S., outlining basin board authorized expenditures.

<sup>19</sup> Section 373.503(3)(a)(5), F.S.

<sup>20</sup> Section 200.065(1), F.S.

<sup>21</sup> Section 373.503(3)(b), F.S.

<sup>22</sup> SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 80 (Jan. 15, 2021), [https://www.sfwmd.gov/sites/default/files/documents/South\\_Florida\\_Water\\_Management\\_District\\_FY2021-22\\_Preliminary\\_Budget.pdf](https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf) (last visited Feb. 025, 2021).

<sup>23</sup> Section 373.4592(4)(a), F.S.

<sup>24</sup> SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 80 (Jan. 15, 2021), [https://www.sfwmd.gov/sites/default/files/documents/South\\_Florida\\_Water\\_Management\\_District\\_FY2021-22\\_Preliminary\\_Budget.pdf](https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf) (last visited Feb. 025, 2021).

<sup>25</sup> SFWMD, *Fiscal Year 2021-2022 Preliminary Budget Submission*, 80 (Jan. 15, 2021), [https://www.sfwmd.gov/sites/default/files/documents/South\\_Florida\\_Water\\_Management\\_District\\_FY2021-22\\_Preliminary\\_Budget.pdf](https://www.sfwmd.gov/sites/default/files/documents/South_Florida_Water_Management_District_FY2021-22_Preliminary_Budget.pdf) (last visited Feb. 25, 2021).

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**B. SECTION DIRECTORY:**

- Section 1. Amends s. 373.0693, F.S., relating to BCB boundaries, board membership, and counties included within the BCB area.
- Section 2. Amends s. 373.503, F.S. relating to ad valorem taxes levied and distributed within BCB counties.
- Section 3. Reenacts s. 373.0697, F.S., relating to basin taxes.
- Section 4. Provides an effective date of July 1, 2021.

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

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

- 1. Revenues:  
See Fiscal Comments.
- 2. Expenditures:  
None.

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

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

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may have an indeterminate fiscal impact on private residents in areas of land transferred from the Okeechobee Basin to the BCB because residents in those areas will see decreased property tax rates. If any areas of land are transferred from the BCB to the Okeechobee Basin under the bill, residents in those areas will see increased property tax rates.

**D. FISCAL COMMENTS:**

The Okeechobee Basin may experience an impact to its ad valorem tax revenues due to the revised boundaries. The overall impact to the SFWMD budget is indeterminate.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

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

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

SFWMD may have to update r. 40E-21.691 F.A.C. to reflect the new boundary of the BCB. This can be done under the current rule-making authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 3, 2021, the Environment, Agriculture & Flooding Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment revised the percentage of a county that must be within the scientific BCB boundary to be included in the BCB and required ad valorem taxes levied within the counties in the BCB to be used for flooding control and maintenance in addition to projects.

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.