

STORAGE NAME: h2091s1z.wrm
DATE: May 9, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
WATER & RESOURCE MANAGEMENT
FINAL ANALYSIS**

BILL #: CS/HB 2091

RELATING TO: Lake Region Lakes Management District

SPONSOR(S): Committee on Water & Resource Management and Representative Edwards

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) WATER & RESOURCE MANAGEMENT YEAS 10 NAYS 0
 - (2) COMMUNITY AFFAIRS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

CS/HB 2091, a general law of local application, proposed to amend s. 373.406, F.S., to provide that when performing certain activities, the Lake Regions Lake Management District would be exempt from the permitting requirements of Part IV, Chapter 373, relating to the management and storage of surface waters.

CS/HB 2091 provided that the Lakes Management District must notify the Southwest Florida Water Management District when undertaking activities qualifying for a permit exemption. Further, the bill provided that the area of the Lakes Management District which falls within the jurisdiction of the St. Johns River Water Management District would not be eligible for permit exemptions.

CS/HB 2091 was subject to the requirements of section 11, Article III, of the State Constitution, which provides that no general law of local application pertaining to a subject prohibited by general law, may be enacted by the Legislature, unless passed by a three-fifths vote of the membership of each House. Pursuant to Chapter 298, Florida Statutes, the Legislature is prohibited from enacting legislation granting additional authority to a water control district.

CS/HB 2091 did not appear to trigger local-government mandate issues. The bill had an indeterminate fiscal impact, and would have take effect upon becoming a law.

(NOTE: CS/HB 2091 died pending review under House Rule 113 when the Legislature adjourned on May 5, 2000.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. PRESENT SITUATION:

Lake Region Lakes Management District

The Winter Haven Lake Region Boat Course District was created as a public corporation by special act, chapter 8378, Laws of Florida, 1919. The charter of the District was substantially revised in chapter 90-499, Laws of Florida. At that time, the district was established as an independent special district, and the name was changed to the Lake Region Lakes Management District.

Lake Region Lakes controls a chain of 16 lakes joined through navigable canals, and 36 independent lakes which are joined by drainage systems. Lake Region Lakes operates nine water control structures (dams and pipes with sluice gates.) It has the authority to acquire, construct, operate, maintain and protect a system of boat canals, dams, locks and other proper and necessary works, in connection therewith, for the purpose of protecting, maintaining and improving the water quality in the lakes and canals; promoting access to the lakes and the public convenience, utility and welfare; and maintaining navigable water levels in the lakes and canals within or adjacent to the district.

Chapter 373

In 1972, the Florida Legislature enacted the "Water Resources Act" (chapter 373, Florida Statutes) to create a comprehensive administrative system of water regulation in Florida. In Part I of Chapter 373, the Legislature created the five water management districts, whose duties include flood protection and surface water regulation, as well as environmental resource permitting, and water quality protection and enhancement. Part IV of Chapter 373 regulates the management and storage of surface waters in the state.

Section 373.413, F.S., establishes the permit requirements for the construction or alteration of stormwater management systems, dams, and other works which will not be harmful to the water resources of the district. Persons wishing to construct or alter a stormwater management system, an impoundment, a dam, or other structure must apply to the governing board of a water management district, or the Department of Environmental Protection (DEP), for the necessary permits.

Section 373.414, F.S., establishes additional criteria to be considered by DEP or a water management district, when determining if a proposed activity will be harmful to the region's water resources. An applicant must provide reasonable assurances that state water

quality standards for lakes, rivers, and streams, as well as other water bodies, will be maintained. Further, the applicant must provide assurances that activities over or on wetlands, or in surface waters, will be in the public interest. Subsection (1) of s. 373.414, F.S., provides the criteria which must be considered by DEP or a water management district to determine if a proposed activity is clearly in the public interest.

Finally, s. 373.406, F.S., provides exemptions from the permitting requirements of Part IV, Chapter 373, F.S.

Chapter 298

Section 298.76, F.S., provides that pursuant to the authority granted to the Legislature in s. 11(a)(21), Article III, of the State Constitution, no general law of local application can be enacted by the Legislature to grant additional authority, powers, rights, or privileges to any water control district formed pursuant to the provisions of Chapter 298, F.S.

Section 11(a)(21), Article III, Florida Constitution

Section 11(a)(21), Article III, of the State Constitution, provides that there shall be no general law of local application enacted on a subject prohibited by general law, unless the proposed general law of local application is passed with a three-fifths vote of the membership of each house of the Legislature.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 2091 would have amended s. 373.406, F.S., to provide that the Lake Region Lakes Management District is not required to obtain a permit to perform the following duties:

- o Install up to two 24-inch pipes or their equivalent for lake-level management purposes, so long as the pipes are incorporated with a structure, and are operated based on a water management district's adopted lake-levels program.
- o Remove pipes or other restrictions if such items are too small for or restrict the flow of water in a ditch.
- o Add or change the inverts of pipes located in ditch crossovers when the existing crossovers restrict the flow of water in an existing ditch.

CS/HB 2091 would have further provided that the Lakes Management District must notify the Southwest Florida Water Management District when it is performing activities eligible for a permit exemption. Also, the the area of the Lakes Management District that falls within the jurisdiction of the St. Johns River Water Management District would not have been eligible for permit exemptions.

D. SECTION-BY-SECTION ANALYSIS:

None.

III. 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:

If the CS/HB 2091 had passed, the Southwest Florida Water Management District might have seen a decrease in permit revenues.

2. Expenditures:

If the CS/HB 2091 had passed, the Lake Region Lakes Management District might have seen a decrease in expenditures related to permit applications.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Lake Region Lakes Management District is authorized to levy up to 1 mill of ad valorem taxes to pay for the expense of performing the duties established in its charter. The current tax is approximately \$.40 for every \$1,000 of taxable value. If the CS/HB 2091 had passed, existing and future residents of the District might have seen a minimal ad valorem tax increase to pay for the performance of the district duties authorized in the bill.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 2091 did not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/HB 2091 did not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

CS/HB 2091 did not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

CS/HB 2091 was subject to the provisions of s. 11(a)(21), Article III, of the State Constitution, and will require a three-fifths vote by each House of the Legislature to become law.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

HB 987, by Representative Alexander, was a local bill filed to expand the boundaries of the Lake Regions Lake Management District. If enacted into law, a portion of the District's expanded boundary will fall within the St. Johns River Water Management District.

SB 1138, the Senate companion to HB 2091, was heard by the Senate Natural Resources Committee, on March 22, as a local bill. The committee adopted an amendment that required the District to notify the Southwest Florida Water Management District when it is performing activities exempt from permitting requirements under the provisions of the bill. The Senate amendment also provided that the area within the Lake Region Lakes Water Management District that falls under the jurisdiction of the St. Johns River Water Management District was not subject to the permitting exemptions authorized in the proposed bill. The amendment was traveling with the bill, which is now in Senate Rules and Calendar.

It was expected that an amendment would be offered to HB 2091 to include the provisions of the amended Senate bill.

HB 2091 did not specify that the permit exemptions authorized in the bill are limited to work performed on property owned or controlled by the district. However, the District's charter provides that works performed outside of its geographical boundaries, but within the drainage basins containing lakes in the District, must be approved by the governing body having jurisdiction over the area involved.

Final Comments of the Committee on Water & Resource Management

The CS/HB 2091 died pending review of the committee substitute under House Rule 113. The companion bill, SB 1138, died in House Messages.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 12, 2000, the Committee on Water & Resource Management adopted an amendment that conformed HB 2091 to SB 1138 by providing the following:

- o The Lakes Management District was required to notify the Southwest Florida Water Management District when performing activities eligible for permit exemptions.
- o The area of the Lakes Management District falling within the jurisdiction of the St. Johns River Water Management District was not eligible for permit exemptions.

The sponsor of the bill asked that it be made into a committee substitute.

VII. SIGNATURES:

COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Staff Director:

Karon A. Molloy

Joyce Pugh

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Staff Director:

Karon A. Molloy

Joyce Pugh