

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 374

SPONSOR: Governmental Oversight and Productivity Committee and Senator Brown-Waite

SUBJECT: Water Management

DATE: January 29, 2002 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|---------------------|
| 1. | <u>Branning</u> | <u>Voigt</u> | <u>NR</u> | <u>Favorable</u> |
| 2. | <u>Wilson</u> | <u>Wilson</u> | <u>GO</u> | <u>Favorable/CS</u> |
| 3. | _____ | _____ | <u>AGG</u> | _____ |
| 4. | _____ | _____ | <u>AG</u> | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill creates the Citrus/Hernando Waterways Restoration Council within the Withlacoochee and Coastal Rivers Basin Boards of the Southwest Florida Water Management District (SWFWMD). The council membership is specified and is appointed by the President of the Senate and the Speaker of the House of Representatives. The council must form two task forces to review and make recommendations on specific waterways. A technical advisory group is created for the council and the task forces. The council's powers and duties are specified. The bill provides:

- (1) for the Citrus/Hernando Waterways Restoration Program; and
- (2) that the Fish and Wildlife Conservation Commission, with assistance from the SWFWMD, and in consultation with the Department of Environmental Protection, shall develop tasks to be undertaken for the enhancement of fish and wildlife habitat.

II. Present Situation:

Florida has more than 1,700 streams, over 7,700 freshwater lakes and abundant wetland systems. Eutrophication is the natural process of aging of lakes. All lakes receive a steady supply of nutrients, particularly nitrogen and phosphorous from rainfall and runoff. Today most Florida lakes receive excessive nutrients in stormwater runoff draining from urban areas and agricultural fields and other sources.

Current general law provides two mechanisms for the management and restoration of lakes and other waterways. The first mechanism, enacted in 1987, is the Surface Water Improvement and

Management Act (SWIM Act, see ss. 373-451-373.4595, F.S.) The second mechanism, enacted in 1999, is the Watershed Protection Act (see Chapter 99-223, Laws of Florida.)

The SWIM Act establishes an interagency, intergovernmental process and criteria for water management districts to develop and implement plans and programs for restoring and protecting water bodies of regional or statewide significance. In developing surface water improvement and management plans for water bodies, the Department of Environmental Protection and the water management districts are directed to cooperate with the Fish and Wildlife Conservation Commission, the Department of Community Affairs, the Department of Agriculture and Consumer Services, and local governments.

Section 373.451, F.S., directed each water management district to develop and maintain a priority list of water bodies within each water management district. For each priority water body, a SWIM restoration plan had to be developed. Section 373.453, F.S., provided that, in developing their respective priority lists, water management districts were to give consideration to certain named water bodies. Those named water bodies include Lake Okeechobee, Biscayne Bay, the Indian River Lagoon system, Tampa Bay, Lake Apopka, and the Lower St. Johns River.

Two reports, 95-20 and 97-58, prepared by the Office of Program Policy Analysis and Government Accountability (OPPAGA) found that the SWIM program had insufficient funding to meet the program's requirements for the 29 water bodies that have SWIM plans.

The Watershed Protection Act (s. 403.067, F.S.) provides a process for establishing the total maximum daily load (TMDL) for water bodies that are considered impaired. The statute directs the Department of Environmental Protection to be the lead agency and to coordinate with local governments, water management districts, the Department of Agriculture and Consumer Services, local soil and water conservation districts, environmental groups, regulated interests, and others in developing the TMDL program.

In developing and implementing the TMDL Program for a water body, the department, in conjunction with a water management district, may develop a watershed or basin management plan. These plans will serve to fully integrate the management strategies available to the state for the purposes of implementing TMDLs and achieving water quality restoration.

In spite of these general law provisions authorizing interagency, intergovernmental processes to develop management and restoration plans for water bodies of regional and statewide significance, some lake-front property owners and users of lakes in Florida have urged legislators to pass separate laws to focus attention on particular lakes or waterways. These waterway-by-waterway enactments track the general laws by calling for an interagency intergovernmental council to be formed to develop management plans for specific lakes. In the final analysis, these work products are competing for the same scarce financial resources that are available for the SWIM Act or the Watershed Protection Act. It's not clear why the number of lake-by-lake enactments are occurring with increased frequency, rather than relying on the general law provisions for managing lake restoration on a statewide priority basis. If this trend continues, the Florida Statutes will be replete with waterway-by-waterway enactments.

III. Effect of Proposed Changes:

The Citrus/Hernando Waterways Restoration Council is created within the Withlacoochee and Coastal Rivers Basin Boards of the SWFWMD. The council shall be coordinated by representatives of the following agencies: the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection, and the SWFWMD. The council is subject to the provisions of chs. 119 and 120, F.S.

Members of the council shall consist of 12 voting members with six appointed by the President of the Senate and six appointed by the Speaker of the House of Representatives. The council shall consist of representatives as follows:

- Waterfront property owners from each county,
- An attorney from each county,
- A member of the Board of Directors of the Chamber of Commerce from each county,
- An environmental engineer from each county,
- An engineer from each county, and
- A person from each county with training in biology or another scientific discipline.

The council members from each county are to form two separate county task forces from the council to review and make recommendations on specific waterways. The Hernando County Task Force shall develop plans for the restoration of the Weeki Wachee River and Springs. The Citrus County Task Force shall develop plans for the restoration of the Tsala-Apopka Chain of Lakes.

There shall be a technical advisory group to the council and the two county task forces which shall consist of one representative each from the SWFWMD, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Coastal Rivers Basin Board, the Withlacoochee River Basin Board, and the United States Army Corps of Engineers, each of whom shall be appointed by his or her respective agency, and each of whom, with the exception of the representatives from the Withlacoochee River Basin Board and Coastal Rivers Basin Board, shall have had training in biology or another scientific discipline.

Immediately after appointment, the council shall meet and organize by electing a chair, a vice chair, and a secretary, whose terms shall be for 2 years each. Council officers shall not serve consecutive terms. Each council member shall be a voting member. Additionally, the two county task forces shall elect a chair and a secretary whose terms shall be for 2 years each.

The council or the county task forces shall meet at the call of its chair, at the request of six of its members, or at the request of the chair of the governing board of the SWFWMD.

The council shall have the powers and duties to:

- Review audits and all data specifically related to lake and river restoration techniques and sport fish population recovery strategies, including data and strategies for shoreline restoration, sand and other sediment control and removal, exotic species management,

floating tussock (grass) management or removal, navigation, water quality, and fish and wildlife habitat improvement, particularly as they may apply to the Citrus/Hernando waterways.

- Evaluate whether additional studies are needed.
- Explore all possible sources of funding to conduct the restoration activities.

The SWFWMD shall act as the lead entity for the purpose of providing staff and administrative support to assist the council in carrying out the provisions of this act.

Members of the council shall receive no compensation for their services, but are entitled to be reimbursed for per diem and travel expenses incurred during execution of their official duties, as provided in s. 112.061, F.S. State and federal agencies shall be responsible for the per diem and travel expenses of their respective appointees to the council, and the SWFWMD shall be responsible for per diem and travel expenses of other appointees to the council.

The Citrus/Hernando Waterways Restoration Program:

- (1) The Fish and Wildlife Conservation Commission and the SWFWMD, in conjunction with the Department of Environmental Protection, pertinent local governments, and the Citrus/Hernando Waterways Restoration Council, shall review existing restoration proposals to determine which ones are the most environmentally sound and economically feasible methods of improving the fish and wildlife habitat and natural systems of the Citrus/Hernando waterways.
- (2) To initiate the Citrus/Hernando Waterways restoration program recommended by the Citrus/Hernando Waterways Restoration Council, the Fish and Wildlife Conservation Commission, with assistance from the SWFWMD and in consultation and by agreement with the Department of Environmental Protection and pertinent local governments, shall develop tasks to be undertaken by those entities for the enhancement of fish and wildlife habitat. These tasks must include:
 - (a) Evaluate different methodologies for removing the extensive tussocks and buildup of organic matter along the shoreline and of the aquatic vegetation in the lake.
 - (b) Conduct additional studies as recommended by the Citrus/Hernando Waterways Restoration Council.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that the council is able to develop an action plan and sources of funding for restoration of waterways in Citrus and Hernando Counties, property owners around the waterways may benefit in terms of increased market values of their land. Area residents would benefit from restored waterways in terms of better recreational opportunities.

C. Government Sector Impact:

State agencies such as the Department of Environmental Protection, Fish and Wildlife Conservation Commission, and the Department of Agriculture and Consumer Services already participate in a variety of interagency work groups for the 29 SWIM water bodies. This bill creates another interagency work group requiring staff hours and travel expenses. The above-mentioned reports prepared by OPPAGA found that the SWIM program had insufficient funding to meet the program's requirements for the 29 water bodies that have SWIM Plans.

The OPPAGA reports recommended that the scope of the SWIM program be limited to fit funding levels. It is likely that future program activities of the various existing SWIM water bodies in the SWFWMD and restoration actions proposed by the previously created Lake Panasoffkee Council and the new Citrus/Hernando Waterways Restoration Council will be competing for the same limited financial resources. Experience with SWIM projects and similar restoration activities have shown that these activities require multi-year funding commitments once they begin.

Furthermore, the Watershed Protection Act enacted in 1999 requires the participation of these same state agencies and water management district in the development of watershed management plans for impaired water bodies and will compete for the same financial resources. Methods of funding these activities are unclear at this time.

It should be noted that changes in the Documentary Stamp Tax laws, effective July 1, 2001, are estimated to provide approximately \$5 million annually to the Fish and Wildlife Conservation Commission for lake restoration activities. The commission plans to use these funds on a priority basis for assisting lakes of regional and statewide significance.

It is not clear why the number of lake-by-lake or county-by-county enactments for restoration of water bodies are occurring with increased frequency, rather than relying on

the existing general law provisions for managing waterway restoration on a statewide priority basis. These localized enactments duplicate the intended purposes of the general laws established to respond to these problems.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The council is nominally an advisory body but the bill requires it to abide by the Administrative Procedures Act, ch. 120, F.S. This may be somewhat overbroad given that the council can only recommend a plan to other governmental authorities which, themselves, are charged with its funding or execution in whole or in part.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
