

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 2616

SPONSOR: Natural Resources Committee and Senator Atwater

SUBJECT: Water Management District Employees, Appointees and Contractors

DATE: April 6, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Molloy</u>	<u>Kiger</u>	<u>NR</u>	<u>Fav/CS</u>
2.	<u>Dodson</u>	<u>Skelton</u>	<u>HP</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>CJ</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill authorizes the water management districts (districts) to conduct employment screening, including a criminal history record check and fingerprinting, for an employee, appointee, employment applicant, or for any private contractor, employee of a contractor, vendor, repair person or delivery person having access to any public facility or any publicly operated facility within the water management district's jurisdiction if the district finds the facility is critical to security or safety.

This bill creates section 373.6055, Florida Statutes.

II. Present Situation:

Chapter 110, F.S.

Section 110.127, F.S., authorizes employing agencies to designate employee positions that, because of the special trust or responsibility or sensitive location of those positions, require that persons occupying those positions be subject to a security background check, including fingerprinting, as a condition of employment. For purposes of the chapter, "employing agencies" is defined as any agency authorized to employ personnel to carry out the responsibilities of the agency under the provisions of chapter 20, F.S., or other statutory authority.

Chapter 435, F.S.

Section 435.03, F.S., provides for Level 1 screening standards for employees required by law to be screened as a condition of employment. Level 1 screenings include employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE). An employment disqualification list is established for persons applying for

Level 1 positions. Such persons may not have been found guilty of offenses such as aggravated assault, vehicular homicide, elder abuse or neglect, aggravated battery and kidnapping.

Section 435.04, F.S., provides for Level 2 screening standards for employment which includes fingerprinting, as well as employment history checks and statewide criminal correspondence checks. An employment disqualification list is also established for Level 2 positions and includes additional offenses such as negligent treatment of children, resisting arrest with violence, aiding in an escape, and depriving a law enforcement officer of means of protection.

Chapter 943, F.S.

Under chapter 943, F.S., the FDLE is the state's central repository for criminal record information and has the 3rd largest computerized criminal history file in the nation which contains criminal history records on more than 4 million offenders. The FDLE maintains and provides access to criminal history information which is commonly used for security and background screening of individuals.

Protection of Water Supplies and Water Facilities

The protection of water supplies and water supply facilities has gained significance since September, 2001. Because of water's importance to the public health and safety, increased security measures at water system components and infrastructure are necessary to ensure water quantity, water quality, and water delivery, and to prevent disruption of essential water services.

III. Effect of Proposed Changes:

Section 1. Creates s. 373.6055, F.S., to provide that each water management district is authorized to conduct employment screening of any employee or appointee which the water management finds is critical to security or public safety. Each district also is authorized to conduct employment screening of any private contractor, employee of a private contractor, vendor, repair person, or delivery person who has access to any public facility or publicly operated facility under the jurisdiction of the water management district if the district determines the facility is critical to security or safety.

Provides that each person applying for or continuing employment in any position found by the district to be critical to security or public safety may be fingerprinted. Requires fingerprints for such persons to be submitted to the Department of Law Enforcement for a state criminal history record check. Requires fingerprints of such persons also must be submitted to the Federal Bureau of Investigation for a national criminal history record check.

Authorizes the use of information received from state and national criminal history record checks in determining eligibility for employment or appointment, and in determining eligibility for continued employment. Provides that criminal background checks authorized in this section do not preempt or prevent other background screening including criminal history background checks that a water management district may undertake.

Section 2. Provides that the act shall take effect upon becoming a law.

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:

According to the South Florida Water Management District, the private sector will bear the costs of screening or fingerprinting private contractors, employees of private contractors, vendors, repair persons, or delivery persons with access to facilities that the water management districts have designated as critical or secure facilities. Also, many of the private sector contractors doing business with the district also do business with local governments and have already been fingerprinted.

C. Government Sector Impact:

The South Florida Water Management District expects that this bill will have no fiscal impact on other state agencies and will have a minimal impact on the district as the fingerprinting provisions of the bill are permissive, and the costs of employment screening will be absorbed by the district.

Costs for the district are estimated as follows:

Total district employees: approximately 1800

Total number of employees to be fingerprinted: approximately 180 (10%)

Cost per employee: \$27

Total non-recurring cost: \$4,680

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill authorizes the water management districts to conduct a criminal investigation on any private contractor, an employee of a private contractor, vendor, repair person, or delivery person with access to any public facility or publicly operated facility which the water management district finds is critical to security or safety

VIII. Amendments:

On April 16, 2004, the Committee on Home Defense, Public Security, and Ports adopted a strike everything amendment that clarifies the process for water management districts to conduct fingerprint based criminal history checks of current or prospective employees and others with regular access to restricted access areas. Water management districts with structures or facilities designated as “tier one” critical infrastructure by the Federal Bureau of Investigation are *required* to conduct the criminal history checks while water management districts without such tier one infrastructures are authorized to conduct the checks.

Water management district security plans for buildings, facilities, and structures must identify criminal convictions or other criminal history factors that disqualify a person from either initial employment or restricted area access. The amendment provides that any person who has within the past 7 years been convicted of certain offenses does not qualify for employment or access to a restricted area. A person must remain conviction-free for a period of 7 years after release from incarceration before he or she may qualify for employment or restricted area access.