

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 761 Inventories of Critical Wetlands

SPONSOR(S): Truenow and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 882

FINAL HOUSE FLOOR ACTION: 111 Y's 2 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 761 passed the House on March 7, 2022, as CS/CS/SB 882.

Wetlands are areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soils. Wetlands are vital to the health of the environment because they remove and filter pollutants. Wetland plants and soils trap and take up pollutants, which helps keep water suitable for swimming, fishing, and drinking. Wetlands also support a wide array of fish and wildlife, which in turn supports the commercial fishing industry, tourism, and other recreation industries.

The Department of Environmental Protection (DEP) is charged with carrying out state policy that addresses the cumulative impacts on water resources and ensuring sustainable management of these resources. Part of this responsibility requires DEP to develop an annual Florida Water Plan in cooperation with the state's five regional water management districts (WMDs), regional water supply authorities, and others. The plan provides an overview of DEP and WMD responsibilities and efforts to maintain and improve the state's water resources and includes a district water management plan developed by each WMD.

The bill requires each WMD, as part of its district water management plan and in cooperation with local governments, to develop a list of critical wetlands to be acquired using funds from the Land Acquisition Trust Fund and specifies the criteria that the WMD must consider in designating such wetlands.

The bill may have an insignificant negative fiscal impact on the state that can be absorbed within existing resources.

The bill was approved by the Governor on April 27, 2022, ch. 2022-76, L.O.F., and will become effective on July 1, 2022.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Wetlands

Wetlands are areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soils.¹ Wetlands are vital to the health of the environment because they remove and filter pollutants. Wetland plants and soils trap and take up pollutants, which helps keep water suitable for swimming, fishing, and drinking.²

The depth of water on wetlands varies, and they often serve as temporary storage for surplus water, thereby reducing flooding. Wetlands also support a wide array of fish and wildlife, which in turn supports the commercial fishing industry, tourism, and other recreation industries.³ Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps, and other similar areas.⁴

Florida Water Plan

The Department of Environmental Protection (DEP) is charged with carrying out state policy that addresses the cumulative impacts on water resources and ensuring sustainable management of these resources.⁵ Part of this responsibility requires DEP to develop an annual Florida Water Plan in cooperation with the state's five regional water management districts (WMDs),⁶ regional water supply authorities, and others.⁷ The plan provides an overview of DEP's and the WMDs' responsibilities and efforts to maintain and improve the state's water resources and must include⁸:

- The programs and activities of DEP related to water supply, water quality, flood protection and floodplain management, and natural systems;
- DEP's water quality standards;
- The WMDs' district water management plans⁹; and
- Goals, objectives, and guidance for development and review of programs, rules, and plans relating to water resources.

District Water Management Plans

Each WMD is required to develop a district water management plan for water resources within its region that is included in the Florida Water Plan. The plan must address water supply, water quality, flood protection and flood plain management, and natural systems. The plan must be based on at least a 20-year planning period and must be updated at least once every five years. A WMD governing board must hold a public hearing 30 days in advance of completing the development or revision of the district water management plan.¹⁰

¹ Section 373.019(27), F.S.

² Department of Environmental Protection (DEP), *DEP 101: Wetlands*, <https://floridadep.gov/comm/press-office/content/dep-101-wetlands> (last visited Jan. 10, 2022).

³ *Id.*

⁴ Section 373.019(27), F.S.

⁵ Section 373.016 (2), F.S.

⁶ The state's five regional water management districts are the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District.

⁷ Section 373.036, F.S.

⁸ Section 373.036(1), F.S.

⁹ Section 373.019(5), F.S.

¹⁰ Section 373.036(2)(a), F.S.

A district water management plan must include¹¹:

- The scientific methodologies for establishing minimum flows and levels and all established minimum flows and levels;
- Identification of one or more water supply planning regions that singly or together encompass the entire district;
- Technical data and information;
- A districtwide water supply assessment; and
- Any completed regional water supply plans.

In the formulation of the district water management plan, the WMD must consider¹²:

- The attainment of maximum reasonable-beneficial use¹³ of water resources;
- The maximum economic development of water resources consistent with other uses;
- The management of water resources for such purposes as environmental protection, drainage, flood control, and water storage;
- The quantity of water available for application to reasonable-beneficial use;
- The prevention of wasteful, uneconomical, impractical, or unreasonable uses of water resources;
- Presently exercised domestic use and permit rights;
- The preservation and enhancement of water quality; and
- The state water resources policy.

At its option, a WMD may substitute an annual strategic plan for the requirement to develop a district water management plan and annual report.¹⁴

Land Acquisition Trust Fund

The Land Acquisition Trust Fund (LATF) is established by section 28, Article X of the State Constitution and is administered by DEP. Funds in the LATF may be expended for the following purposes:

- To finance or refinance the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands, including wetlands, forests, and fish and wildlife habitat;
- Wildlife management areas;
- Lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems;
- Lands in the Everglades Agricultural Area and the Everglades Protection Area,
- Beaches and shores;
- Outdoor recreation lands, including recreational trails, parks, and urban open space;
- Rural landscapes;
- Working farms and ranches;
- Historic or geologic sites; and
- Together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.¹⁵

¹¹ Section 373.036(2)(b)1.-5., F.S.

¹² Section 373.036(2)(d), F.S.

¹³ Section 373.019(16), F.S., defines "reasonable-beneficial use" as the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner that is both reasonable and consistent with the public interest.

¹⁴ Section 373.036(2)(e)1.-4., F.S.

¹⁵ Art. X, s. 28, FLA. CONST.

Effect of the Bill

The bill requires each WMD, as part of its district water management plan and in cooperation with local governments, to develop a list of critical wetlands to be acquired using funds from the LATF. The WMD must consider the following criteria in designating a wetland for inclusion on the list:

- The ecological value of the wetland as determined by the physical and biological components of the environmental system;
- The effect of the wetland on water quality and flood mitigation;
- The ecosystem restoration value of the wetland; and
- The inherent susceptibility of the wetland to development due to its geographical locations or natural aesthetics.

The bill requires that before adopting or amending its list of critical wetlands, each WMD must notify property owners whose property the WMD is contemplating including on the list. An owner who wishes to remove their property from the list must submit a letter to the WMD requesting such removal. The letter must sufficiently identify the property to the WMD, which must approve a removal requires that meets these requirements at its next regularly scheduled meeting.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an insignificant negative fiscal impact on WMDs that can be absorbed within their existing resources associated with developing a list of critical wetlands.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.