

At a Hot Topics luncheon meeting on November 10, 2006, LWVCC President Chris Straton discussed “South Florida Water Management District: Protector or Protagonist?” Below are three related documents: (1) the presentation outline distributed at the meeting; (2) Chris’s annotated outline containing some of her talking points; and (3) draft of a Water Management District Issue Paper, which contains relevant background information.

Water Management Districts: Protector or Protagonist?

The Creation Story

1940’s State Committee on Water Resources

1945 State Board of Conservation

1947 Water Survey and Research Division created to focus on conservation and flood control.

1948 U.S. Congress created Central and Southern Florida Flood Control Project

1957 first time permitting included and conservation required in areas subject to saltwater intrusion.

1970 Pollutant Spill Prevention and Control Act

1971

- Banned sewage discharges with less than secondary treatment.
- Environmental Protection Act of 1971 allowed citizens to sue State for failing to enforce environmental laws.
- Conference on Water Management addressed need for land use, growth management and water resources to be handled comprehensively.

1972

- Environmental Land and Water Management Act created Development of Regional Impact (DRI) and Area of Critical State Concern programs

- Land Conservation Act

- Chapter 373 of Florida Statutes

Two tier system of water management with State emphasis headed by Department of Natural Resources/Department of Environmental Protection (DNR/DEP) and regionally headed by 5 water management districts based upon hydrological boundaries.

1997 HB715 “clarified existing law and reordered the priorities of the districts in an attempt to ensure the availability of adequate, dependable and sustainable supplies of water for all existing and future reasonable-beneficial uses.”

The Players

Mission statement: To manage and protect water resources of the region by balancing and improving water quality, flood control, natural systems and water supply.

Operates and maintains approximately 1800 miles of canals and levees, 25 major pumping stations and about 200 larger and 2000 smaller water control structures.

FY2006 Budget of \$1.1 Billion with 1,771 full time employees

Responsibilities include:
Canal and structure operations
Everglades Restoration
Ecosystem Restoration
Emergency Management
Land Resources
Permitting
Simulation Modeling
Watershed Management
Water Supply
Environmental Monitoring
Governing Board

The Drama

Southern Golden Gate Estates
Caloosahatchee
The Flood

The Plot

Taxation without Representation
Budget Oversight and Accountability
Independence of Governing Board members
Responsiveness of Districts to Local Government Concerns

The Conclusion

Water Management Districts: Protector (**Guardian, Prevent Injury**) or Protagonist (**Champion or Character in a Story**)?

The Creation Story

1940's State Committee on Water Resources Governor appointed a state committee to make recommendation for legislation to address corrective measure.

1945 State Board of Conservation *created. Responsibility to manage statewide water resources (board included mining and marine resources in addition to water). Task to look at water supply and use, conservation, storage, drainage and flood control.*

1947 Water Survey and Research Division created *within State Board of Conservation* to focus on conservation and flood control.

1948 U.S. Congress created Central and Southern Florida Flood Control Project *which was followed in 1949 by state legislation to create Central and Southern Florida Flood Control District. This is the predecessor of SFWMD.*

1957 Florida Water Resources Act in which the Department of Water Resources was created as a Division of the State Board of Conservation. In 1961, SFWMD was created. first time permitting included and conservation required in areas subject to saltwater intrusion.

1970 Pollutant Spill Prevention and Control Act

1971

- Banned sewage discharges with less than secondary treatment.
- Environmental Protection Act of 1971 allowed citizens to sue State for failing to enforce environmental laws.
- Conference on Water Management addressed need for land use, growth management and water resources to be handled comprehensively.

1972

- Environmental Land and Water Management Act created Development of Regional Impact (DRI) and Area of Critical State Concern (*Big Cypress Area of Critical State Concern is in Collier County*) programs,
- Land Conservation Act *authorized bonds to buy environmentally endangered land*
- Chapter 373 of Florida Statutes which was a comprehensive water law and established a permit system to regulate the use of water. Two tier system of water management with State emphasis headed by *Department of Natural Resources which became Department of Environmental Protection DNR/DEP* and regionally headed by 5 water management districts based upon hydrological boundaries. *WMD based upon Model Water Code developed by Professors from University of Florida and Southern Methodist University, in response to a growing recognition that the US was heading toward a water crisis. The Code was intended to be a model for eastern states to use in developing a comprehensive water program and took the best features from the eastern riparian system and western appropriation system. Designed to take into account hydrologic relationships among water resources, to provide greater certainty than the highly litigated "reasonable use" approach, to provide the flexibility necessary to make long-range plans for the*

use and conservation of water and elimination of waste and to establish an administrative regulatory system. WMD were to be appointed by Governor and confirmed by the Senate. There would be an Executive Director, legal staff and technical staff. District funding was to come from appropriations, permit fees, bonds and ad valorem taxes assessed by each district. Florida Constitution and Statutes limit the ad valorem tax rates that water management districts can levy.⁵ Districts are South Florida Water Management District (SFWMD), Southwest Florida Water Management District (SWFWMD), Northwest Florida Water Management District (NFWMD), Suwannee River Water Management District (SRWMD), and St. Johns River Water Management District (SJWMD). Water Management Districts are managed by 9 members Governing Board (11 for SWFWMD).

1997 HB715 “clarified existing law and reordered the priorities of the districts in an attempt to ensure the availability of adequate, dependable and sustainable supplies of water for all existing and future reasonable-beneficial uses.” *First time environment was included in priorities.*

The Players

Mission statement: To manage and protect water resources of the region by balancing and improving water quality, flood control, natural systems and water supply.

Operates and maintains approximately 1800 miles of canals and levees, 25 major pumping stations and about 200 larger and 2000 smaller water control structures *throughout a 16 county area...*

FY2006 Budget of \$1.1 Billion with 1,771 full time employees *42% of money comes from ad valorem taxes, 28% from state sources, 15% from certificates of participation, and 10% from balances and fees. 41% of money goes to CERP (Comprehensive Everglades Restoration Plan), 12% to operations & maintenance, and 11% to mission support.*

Responsibilities include:

Canal and structure operations *Program goal is to minimize damage from flooding, provide adequate regional water supply, and protect and restore the environment by optimally operating and maintaining the primary flood control and water supply system.*

Everglades Restoration *Program goal is to restore, preserve and protect South Florida’s ecosystem while providing for other water-related needs of the region, including water supply and flood protection.*

Ecosystem Restoration *initiatives targeting the Everglades, Kissimmee River region, Lake Okeechobee, Indian River Lagoon, Biscayne Bay, and Florida Bay.*

Emergency Management

The Mission of the District's Emergency Management Program is to prevent or minimize, prepare for, respond to, and recover from emergencies or disasters that threaten life or property within the boundaries of the South Florida Water

Management District. These activities ensure that the District can accomplish its mission during adverse conditions. This function was added after Hurricane Andrew.

Land Resources includes land acquisition, land stewardship, recreation, right of way, appraisals, and land surplus evaluation and release.

Permitting mission is to provide fair, consistent and timely review of permit applications in accordance with the adopted rules and criteria of the District, ensure compliance with issued permits, and take enforcement action where necessary.

Simulation Modeling goal is to provide technically sound modeling and scientific services in support of District water resource programs.

Watershed Management reflects the scientific, engineering, planning, implementation and management work needed to restore the Kissimmee-Okeechobee) Everglades ecosystem. Coastal ecosystems and their tributary watershed.

Water Supply WMD works with local and state governments to make sure tat regional as well as local water supplies will meet the needs of today's and tomorrow's resident and visitors, while preserving the natural environmental that have helped to make the region so attractive.

Environmental Monitoring covers over 40 years of data collection. Routine periodic reports include discharge monitoring reports, pesticide monitoring, and wading bird report and rainfall data.

Governing Board consists of 9 members all appointed by Governor Bush. Current members are from U.S. Sugar, Public Relations firms, attorney, finance, media and fishing. Alice Carlson, formerly with WCI and now owner of her own Real Estate Financial Consulting business represents Collier County.

The Drama

Southern Golden Gate Estates
Caloosahatchee
The Flood

The Plot

Taxation without Representation can be addressed by appointing elected officials to governing board, direct election or selection through a nominating council similar to that used for judicial appointments. Appointment of elected officials could result in parochialism rather than big picture. Can argue that it is not taxation without representation since Legislature sets cap for ad valorem. Constitutional issues if move away from appointment in that Florida Constitution included WMD in Executive Department.

Budget Oversight and Accountability rests with Governor only. Legislative overview would require constitutional amendment since Florida Constitution

prohibits state from levying ad valorem taxes. Would require Constitutional Amendment or major rehaul of funding sources for WMD.

Independence of Governing Board members complaints that until recently only requirement was to be property owner and reside in WMD. Now appointees must have “significant experience” in agriculture, the development industry, local government, government-owned or privately owned water utilities, law, civil engineering, environmental science, hydrology, accounting or financial businesses. Therefore, concern that Governing Board is staff driven. Possible solution would be to require more specific water related and local government experience.

Responsiveness of Districts to Local Government Concerns. Complaints that the Governing Board is isolated from the public and local government can be addressed by mandatory local government representation (which is Florida League of Cities policy). Another solution is to utilize Basin Boards more extensively. SWFWMD has 8 basin boards which provide vital links between WMD and local areas. SWFWMD does not utilize Basins to the same extent... Two differences are that SWFWMD does not utilize cooperative funding which seems to lead to cooperation between WMD and local governments. Also, basins are much larger and less likely to reflect local government concerns.

The Conclusion

With 2 members of Collier County Legislative Delegation, one of which served on Governing Board and the other served on Basin Board, opposed to direct election of Governing Board members, other options include

- Legislation which would enhance local government participation*
- Constitutional amendment to create water management district governing board nominating committee*
- Legislation to increase water related and local government experience necessary to be qualified as a WMD governing board members*
- Legislation to require statewide use of basin boards with more areas of responsibility delegated to basin board*

DRAFT

**Water Management District Issue Paper
2007 FAC Legislative Policy Conference
Growth, Environmental, Planning & Agriculture Policy
Committee Meeting**

History of Water Resources and the Water Management Districts in Florida

The issue of water resources first became a statewide concern in the 1940's, when the Governor created the State Committee on Water Resources to study Florida's freshwater and make recommendations for legislation that could address corrective measures. The Committee recognized in its 1945 report that a statewide water resource management program would have to take into consideration several factors collectively, such as water supply and use, conservation, storage, drainage, and flood control.

That same year, the Legislature created the State Board of Conservation, and gave the Board responsibility for managing the state's water resources, in addition to mining and marine concerns. Two years later, the Water Survey and Research Division was created within the Board to focus specifically on conserving water and controlling floods.¹ In 1948, the United States Congress created the Central and Southern Florida Flood Control Project. In 1949, the Legislature created the Central and Southern Flood Control District to manage this project. This was to be the predecessor of the current South Florida Water Management District (SFWMD).²

In 1955, several changes occurred. The Water Survey and Research Division was abolished, and turned its records over to the Florida Geological Survey. The Governor again established the Florida Water Resources Study Commission to address water resources and make recommendations regarding a comprehensive Florida water law. This effort resulted in the Florida Water Resources Act of 1957. The Department of Water Resources was created as a division of the State Board of Conservation. For the

¹ *Water Resources Atlas of Florida*, Institute of Science and Public Affairs, Florida State University, 1998, at 160.

² Maloney, Frank, et al., *A Model Water Code with Commentary*, University of Florida Water Resources Research Center, Publication No. 8, at 123. See also <http://www.sfwmd.gov/site/index.php?id=61>.

first time in Florida's history, this Department had authority to issue permits for withdrawal and use of excess surface water and groundwater. It also had authority to require the conservation of water in areas threatened by saltwater intrusion.³ In 1961, the Legislature created the Southwest Water Management District.⁴

The 1970's brought with it a series of landmark laws that addressed water resources and other environmental and growth management issues. In 1970, the Legislature passed the Pollutant Spill Prevention and Control Act. In addition, voters approved up to \$200 million annually for bonds to finance local sewage treatment facilities. In 1971, the Legislature banned sewage discharges that provided less than secondary treatment, and passed the Environmental Protection Act of 1971, which allowed citizens to sue the State of Florida for failing to enforce its environmental laws. The Governor held a Conference on Water Management, at which it was determined that issues regarding land use, growth management, and water resources could not be separated and handled independently, but should be addressed comprehensively. The Governor appointed a Task Force on Resource Management. Four pieces of legislation resulted from this task force. This is why 1972 is often referred to as the "Year of the Environment" in Florida.⁵

The Environmental Land and Water Management Act created the Development of Regional Impact and Area of Critical State Concern programs. The Comprehensive Planning Act required the development of a State Comprehensive Plan. The Land Conservation Act authorized bonds for acquiring environmentally endangered lands. This Act followed a 1963 constitutional amendment which authorized bonds for "land

³ *Water Resources Atlas of Florida* at 160 – 161.

⁴ Maloney at 123.

⁵ *Water Resources Atlas of Florida* at 161.

acquisition and outdoor recreation development” that was the State’s first effort towards buying land for conservation purposes.⁶ Finally, the Florida Water Resources Act created Chapter 373 of the Florida Statutes. This was a comprehensive water law that established a permit system to regulate the use of water based on a reasonable-beneficial use approach.⁷

This law was based largely on the Model Water Code (Code). The concept of the current statewide water management district structure first arose in the Code. The Code was written in the early 1970’s by professors from the University of Florida and Southern Methodist University, in response to a growing recognition that the United States was heading toward a water crisis. The Code was intended to be a model for eastern states to use in developing a comprehensive water program. It attempted to take the best features from the eastern riparian system (where the right to water is based on owning property adjacent to a waterway) and the western appropriation system (also referred to as the beneficial use doctrine, where an individual’s right to appropriate water is limited to the amount that is used for beneficial purposes). It was designed to take into account hydrologic relationships among water resources, to provide greater certainty than the highly litigated “reasonable use” approach, to provide the flexibility necessary to make long-range plans for the use and conservation of water and elimination of waste, and to establish an administrative regulatory system.⁸

The Code provided for the creation of water management districts, which would be divided along hydrological boundaries such as river basins. Under the Code, each district would have a governing board of five members who were required to own real

⁶ Henderson, Clay. *The Conservation Amendment*, 52 Fla. L. Rev. 285 (2000) at 290.

⁷ *Water Resources Atlas of Florida* at 161.

⁸ Maloney at v – vii.

property in the district and reside in the district. The governing board members were to be appointed by the Governor and confirmed by the Senate, and would serve a term of five years. Governing board members would only be allowed to serve two consecutive terms. This structure was based on the Central and Southern Florida Flood Control District. The experience of that entity had proven this structure to be “basically sound.”⁹ Interestingly, there were no other qualifications to be a governing board member other than property ownership and residence in the district, due to concerns that the number of qualified candidates would be too small.¹⁰

A study of similar water districts conducted in the Great Lakes states revealed that governing boards of those districts were rarely elected. For example, Illinois had established river conservancy districts and water authorities, both of which were made up of appointed board members (although those members were appointed by judges, rather than the Governor). Michigan had created water management districts, also with appointed board members. Here, members were appointed by the Water Management Commission, made up of local government representatives. Minnesota utilized watershed districts, governed by managers who had been appointed by the Minnesota Water Resource Board. Ohio provided for conservatory districts, whose board members were appointed by the district’s Special Court. In each of these states, all of the governing board members or managers were appointed, but in none of these states were they appointed by the Governor.¹¹

The Florida Natural Resources Act created a two-tier system of water management. The effort was headed at the State level by the Department of Natural

⁹ *Id.* at 124.

¹⁰ *Id.* at 127.

¹¹ *Id.* at 126 – 127.

Resources (or DNR, now the Department of Environmental Protection, or DEP). Regionally, the effort was to be led by five water management districts created along hydrological, rather than political, boundaries. Since that time, the water management district structure has remained substantially the same. Each district has a nine-member governing board that is appointed by the Governor and confirmed by the Senate for four-year terms, with the exception of the Southwest Florida Water Management District, which has 11 governing board members. Each district also has an Executive Director, legal staff, and technical staff. District funding comes from appropriations, permit fees, bonds, and ad valorem taxes assessed by each district.¹² The Florida Constitution and Statutes limit the ad valorem tax rates that water management districts can levy, but four of the districts use ad valorem taxes as their primary funding source. The Northwest Florida Water Management District must rely more heavily on other sources of funding, as its taxing authority is severely restricted.¹³ The framework of the water management districts has only been modified significantly once since 1972. In 1997, HB 715 “clarified existing law and reordered the priorities of the [water management] districts in an attempt to ensure the availability of adequate, dependable, and sustainable supplies of water for all existing and future reasonable-beneficial uses.”¹⁴

Concerns with the Water Management District Structure and Possible Solutions

Initially, the water management districts were tasked with safeguarding people and property from flooding, providing them with a safe and sufficient water supply,

¹² *Id.*

¹³ Penman Parker, Marcia and Sally Bond Mann. *Water Management Reform: Mission Impossible?* 70-OCT Fla. B.J. 20 (1996), at 22. The Florida Constitution provides that the Northwest Florida Water Management District may only levy up to .05 mill, while the other four Districts may levy up to 1 mill.

¹⁴ Mann, Sally Bond. *More Than a Drop in the Bucket: Water Resources Act II*, 71-NOV. Fla. B.J. 30 (1997) at 30.

preventing saltwater intrusion, encouraging the development of urban and agricultural areas, and sustaining fish and wildlife.¹⁵ Over the years, the responsibilities of the districts have expanded significantly to “include flood protection, regulation of consumptive uses of water, permitting of water wells, environmental resource permitting, water supply planning and development, aquatic plant management and control, some water quality regulation, and the acquisition and management of environmentally sensitive or water resource-related lands.”¹⁶

This expanded role has been accompanied by “complaints regarding controversial district actions [and] operations.”¹⁷ The taxing authority of the water management districts has been controversial over the years, since the governing board members are appointed by the Governor, rather than elected by the citizens. This is seen by some as taxation without representation. Another concern is that there is little accountability regarding how the water management districts utilize their funding, since only the Governor, rather than the Legislature, has oversight of their budgets. There is also a perception that district policies and decisions are staff-driven, rather than being made by the governing board. Additionally, some Counties feel that the water management districts are not responsive to local government concerns.

In response to these and other concerns, in 1994 the Legislature created the Water Management District Review Commission (the Commission).¹⁸ The Commission examined the financial structure and budgeting of the water management districts, in

¹⁵ Penman Parker at 21.

¹⁶ *Id.* at 26.

¹⁷ *Id.* at 23.

¹⁸ *Id.* See also 1994 Fla. Laws ch. 94-270.

addition to district responsibilities and operations, land acquisition, planning and management, and district governance and oversight issues.¹⁹

Taxation Without Representation

The ability of water management districts to levy ad valorem taxes has been sharply criticized by some as taxation without representation. The Commission discussed several possible solutions to this problem. Those suggestions included the appointment of elected officials to serve on governing boards, the direct election of governing board members, and the selection of governing board members through a nominating council, similar to judges. The Commission did not ultimately recommend the election of governing board members or the use of a nominating council. Presumably, such a council would be made up at least in part by individuals with water-related expertise. In theory, this could potentially lead to a better range of qualified appointees. However, such a council would also increase the level of bureaucracy involved in appointing governing board members.

The most probable reason that the Commission did not make this recommendation is that it determined that the water management district structure was not a form of taxation without representation, since the Legislature retains control over the statutory millage cap for each district. The logic here is that, if the water management districts do not adequately account for their use of taxpayer dollars, the Legislature could reduce their statutory millage caps, potentially to zero. While that might be highly unlikely, it is at least possible that the millage caps could be reduced to send a message.

Also, the Commission found that appointed governing board members would do a better job of managing regional resources for the benefit of the entire region, whereas

¹⁹ *Id.*

elected officials would more than likely be expected to represent the interests of a limited group of residents from only one area of the region. The Commission did recommend that appointments be staggered, so that governing board decisions would be more consistent and efficient.²⁰ Today, gubernatorial appointments are staggered.²¹ This avoids a situation where all of the governing board members are new and inexperienced at the same time.

There are important considerations to take into account in adopting a policy supporting the direct election of governing board members. Most significant is the fact that switching to elected governing board members presents a constitutional separation of powers problem. The water management districts are an executive department under Article IV, Section 6 of the Florida Constitution. Under this provision, the Governor has the power to appoint governing board members. Any change to this appointment power would require a historically significant constitutional amendment which would likely be seen as a direct challenge to the power of the Governor.

There are other concerns in addition to the constitutional problem presented by the election of governing board members. Even assuming that the constitutional issue could be resolved, it is highly unlikely that any Governor would sign a bill to allow for the election, rather than gubernatorial appointment, of governing board members. It will also be difficult to find members of the Legislature who would support this policy position. Additionally, adoption of a policy such as this could be seen by the districts as a confrontational policy shift, which could create further strained relationships.

²⁰ Penman Parker at 24.

²¹ Section 373.073, Florida Statutes.

Budget Oversight and Accountability

In 1994, when the Commission was convened, water management districts had to meet certain statutory budget requirements, but ultimately the districts were not required to justify their budgets. Some had suggested that the Legislature be granted budget oversight of the districts, similar to other governmental entities. However, there was concern that this would create a separation of powers problem, as district budgets are based in part on ad valorem taxes. The Florida Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property.²² Essentially, this could be interpreted as an action of the Legislature to circumvent this prohibition.

In St. Johns River Water Management District v. Deseret Ranches, 421 So. 2d 1067 (Fla. 1982), the Florida Supreme court found that, while water resource issues may be state issues, they are not exclusively so. Water management districts are not prohibited from levying ad valorem taxes simply because the state may also have an interest in water resources. However, if the Legislature were to have budget oversight over the water management districts, this could be interpreted as the Legislature taking control of ad valorem taxes to further the State's water resource objectives, and would likely be challenged as unconstitutional. This is why the Commission recommended that the Governor approve water management district budgets, to provide some oversight, while avoiding a constitutional problem.

While recommending legislative oversight of district budgets is one alternative, the constitutional implications must be considered. This course of action might

²² See Fla. Const. art. VII, Section 1(a).

necessitate an overhaul of district funding, to avoid a constitutional challenge, which would be a very difficult and complicated task.

Independence of Governing Board Members

There is a perception among some that water management district policies and decisions are staff-driven, rather than made by the governing board. While the Commission did not specifically address this concern, it recognized that governing board members were not required to have any experience in water issues, or any other specific expertise. One suggested solution to this problem was to require the Governor to appoint governing board members with expertise in water-related issues. This ultimately was not a formal recommendation of the Commission.

However, today there are additional requirements for governing board members. Section 373.073(2), Florida Statutes, provides that appointees must have “significant experience” in agriculture, the development industry, local government, government-owned or privately owned water utilities, law, civil engineering, environmental science, hydrology, accounting, or financial businesses. However, there is no requirement that an appointee must have specific expertise in water or local government issues. One possible policy change would be to support more specific water-related and local government experience for governing board members.

Responsiveness of Districts to Local Government Concerns

One common criticism is that the water management districts are not responsive to the concerns of the local governments and communities within their districts. To address this concern, the Florida League of Cities currently has a policy that would support mandatory local government representation on the governing boards. This is one

fairly simple way to support an increased awareness of local government issues among governing board members. Another interesting concept is that of basin boards, in conjunction with a cooperative funding program. One district in particular, the Southwest Florida Water Management District (SWFWMD) operates in a unique manner that arguably does a better job of taking local concerns into account.

Basin boards are authorized by Section 373.0693 of the Florida Statutes. Currently, the SWFWMD utilizes basin boards for eight of the nine basins located in its jurisdiction. The Green Swamp is the one basin that is managed directly by the governing board, due to its hydrologic significance for the entire district. The basin boards “provide guidance for local programs that are specific to the basins they protect... [and] offer a local perspective to water management projects and programs.”²³ The boards are made up of volunteers who are appointed by the Governor and confirmed by the Senate. One basin board member is also a member of the governing board. They represent varied interests, including agriculture, urban and rural areas, recreation, business and other industries, and the public, all groups that have a stake in maintaining our water resources. They create an important link between the SWFWMD and the communities located in Southwest Florida.²⁴

The basin boards have proven to be an effective tool for managing water resources effectively. Planning takes place for each individual basin. This follows the trend that EPA has established and most state agencies, including DEP, have also followed. The boards are a “vehicle to enhance environmental protection efforts that look at entire watersheds, including the land, water, and plants and animals within them.

²³ <http://www.swfwmd.state.fl.us/about/basinboards/>.

²⁴ <http://www.swfwmd.state.fl.us/about/isspapers/basinboards.html>.

The basin boards... identify key issues and establish priorities in the basin for... water supply, flood protection, water quality, and natural systems.”²⁵ Basin boards use the cooperative funding program to work with local governments and others on water projects that have a positive impact in the community. Through this program, the district provides 50 percent of the necessary funding, and the local government or other entity matches that funding.²⁶ The basin board has authority to levy .5 mill in ad valorem tax. The Green Swamp Basin, which affects the entire district, also has authority to levy .5 mill, for a total of 1 mill. Because basin board funding stays in the basin, there is a dedicated source of funding to address water supply issues in each watershed, and residents of each area of the district have more assurance that they are getting something concrete out of their tax dollars, rather than funds being focused on one watershed at the expense of another.

The SFWMD utilizes basin boards to a certain extent, but not to the degree of the SWFWMD. Section 373.0693, Florida Statutes, creates the Big Cypress Basin and the Okeechobee Basin. The Big Cypress Basin includes Collier County and part of Monroe County. It has its own board members. Its boundaries may be changed, but by statute, it may not be abolished.²⁷ The Okeechobee Basin is governed by the SFWMD governing board. The Okeechobee Basin may be divided into smaller basins, whose board members would be appointed by the Governor.²⁸ The most significant difference in South Florida is that it does not utilize the cooperative funding program, and the basin boards are much larger areas that are not as able to focus on local concerns. The

²⁵ <http://www.swfwmd.state.fl.us/about/basinboards/>.

²⁶ *Id.*

²⁷ See Section 373.0693(9)(c), Florida Statutes.

²⁸ See Section 373.0693(10)(a) & (b), Florida Statutes.

cooperative funding program seems to have led to enhanced cooperation between the water management district and local governments in the SWFWMD. Given the success of this program in the SWFWMD, it would make sense to utilize a similar approach, perhaps statewide, or perhaps only in the SFWMD, where water supply issues seem to be the most problematic.

Conclusion

Many concerns have been raised over the current structure of the water management districts in Florida. Several possible solutions have been discussed. Suggested changes include the direct election of governing board members, legislative oversight of the water management districts' budgets, a requirement that governing board members have more specific expertise in water-related and local government issues, mandatory local government representation on governing boards (such as requiring that one governing board member be a former local government elected official or have prior local government experience), and expanding the use of basin boards to ensure that local concerns are addressed. Many of these suggested changes will have political consequences, so it is important that any recommended changes be carefully weighed before adopting a new policy regarding water governance.