

THE FLORIDA LEGISLATURE
Sunset Review
OFFICE OF PROGRAM POLICY ANALYSIS
& GOVERNMENT ACCOUNTABILITY



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Key Legislative Contacts

Gary VanLandingham
Director
850-487-0578

Kara Collins-Gomez
Staff Director
Government Operations
850-487-4257

**Florida Government
Accountability Act
Sunset Reviews**

The act establishes the process, criteria, and schedule for the Legislature to assess whether state agencies and advisory committees need to continue to exist.

The following agencies are on the first year schedule for Sunset Reviews to be conducted by July 1, 2008

- Fish and Wildlife Conservation Commission
- Department of Agriculture and Consumer Services
- Department of Citrus, including the Citrus Commission
- Department of Environmental Protection
- Department of Highway Safety and Motor Vehicles
- Water Management Districts

OPPAGA

111 West Madison Street
Suite 312
Tallahassee, Florida 32399
Phone: 850-488-0021
Fax: 850-487-3804

www.oppaga.state.fl.us

OPPAGA Reports on the Water Management Districts - 2000- 2007

2006

The Legislature Could Consider Several Options for Establishing More Uniform Regional Boundaries, Report No. 06-01, January 2006. State entities use a number of different regional structures that were developed over time and for different purposes. Consequently, the boundaries of the state's regional planning councils, water management districts, and Department of Transportation districts are not coterminous. Some stakeholders believe this makes it difficult for individuals and businesses to navigate the state's regulatory and planning processes.

As a starting point for the Legislature's deliberations, this report presents three options for adjusting regional boundaries. These options would entail minimal, moderate, and substantial changes to the boundaries of the regional entities. If the Legislature wishes to pursue mandating boundary changes, it should consider establishing a workgroup of state agencies, local governments, and other stakeholders to consider these and other options and their implications for state and local governments.

2005

Department Strengthens Financial Responsibility Requirements for Phosphate Mining Companies, Report No. 05-27, April 2005. As recommended in our 2003 report, the Legislature and the Department of Environmental Protection have taken steps to strengthen financial responsibility requirements for phosphate

mining companies. These new requirements should better assure that mining companies have sufficient financial resources to close phosphate gypsum stacks, which have caused significant environmental damage in the past.

2003

Water Resource Management Program, Department of Environmental Protection, Report No. 03-12, February 2003. The Water Resource Management Program of the Department of Environmental Protection manages, conserves, and protects the state's ground and surface waters. While the program met its legislative performance standards related to surface water quality and ground water quality and supply, it should be noted that various pollutants threaten Florida's surface and ground waters. To increase the program's effectiveness in protecting the state's waters, several improvements are needed.

- To address threats to surface water quality, the department is in the process of establishing Total Maximum Daily Loads (TMDLs) for impaired surface water bodies. Although its approach to developing TMDLs appears reasonable, we identified several areas in which its processes for identifying impaired water bodies and for evaluating the effectiveness of various practices in reducing pollutant loads needs to be improved.

- The recent bankruptcy of a company that mined phosphate in Florida revealed that the state's financial responsibility requirements do not provide adequate assurance that companies have sufficient resources to correct environmental damage caused by their operations and to close and manage facilities created to store hazardous byproducts. To ensure that the state does not shoulder this financial burden, financial responsibility requirements for phosphate mining companies should be strengthened. The department's recent decision to consider allowing clay settling areas to be used as wetland mitigation sites is very controversial. To ensure the success of such wetland mitigation projects, the department should continue to evaluate wetland mitigation on clay settling areas and ensure that prototype mitigation sites are successful before giving widespread approval to the practice.

2001

Cumulative Impact Consideration in Environmental Resource Permitting, Report No. 01-40, September 2001. Florida law requires that the Department of Environmental Protection and water management districts consider cumulative impacts to surface waters and wetlands within a drainage basin in deciding whether to grant an Environmental Resource Permit.

The 2000 Legislature directed OPPAGA to study the cumulative impact consideration within the Environmental Resource Permitting Program. Our review addressed the justification for the consideration; whether changes would provide greater clarity and certainty in the consideration, and whether a practicable, consistent, and equitable methodology for considering cumulative impacts could be developed.

We concluded that the cumulative impact consideration is conceptually justified because despite regulatory efforts, surface waters and wetlands continue to be degraded or lost; however, weaknesses in design and implementation limit the cumulative impact consideration's effectiveness; a consistent, equitable, and practical methodology for considering cumulative impacts at the individual project level is not available; and changes to the process would add clarity and certainty in applying the consideration, but would not address fundamental problems.

Given the weaknesses of the cumulative impact consideration in current environmental permitting, we recommend that the Legislature, regulatory agencies, and local governments adopt an integrated planning approach for proactively addressing cumulative impacts to surface waters and wetlands.

2000

Wastewater Reuse Reduces Discharges and Provides Alternative Water Supplies, Report No. 00-04, August 2000. Reuse of wastewater has significantly reduced the discharge of effluent into the environment, and its implementation will continue to grow at a steady rate. Reclaimed water is also an important alternative water source, helping water users reduce withdrawals of traditional water supplies by about 4%.

Reuse could be further expanded, but the implications of such policies need to be considered. Reuse is not widely used in southeastern Florida and could serve as an effective, but costly, alternative to ocean outfalls and underground injection disposal of wastewater. Water management districts could use their regulatory authority to require users to assume the additional cost of using reclaimed water when feasible.

Issues relating to the allocation and pricing of reclaimed water are likely to increase in future years and may ultimately require reconsideration of regulatory policies.

Wetland Mitigation, Report No. 99-40, March 2000. Florida Law directed OPPAGA to review wetland mitigation options defined in state law. These options include onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks. The Department of Environmental Protection and four water management districts jointly administer the Environmental Resource Permit Program. The program regulates activities that alter the landscape and disrupt water flow to wetland areas and surface waters. Our review focused on the effectiveness of the current mitigation options in offsetting adverse impacts to wetlands and wetland functions, including the consideration of cumulative impacts; the cost of the various mitigation options; and statutory or rule changes needed to increase the effectiveness of mitigation strategies.

We concluded that the state has made improvements to regulatory practices and permit conditions. However, the department and the districts need to take additional measures to ensure that mitigation fully offsets functions lost at impacted wetlands. We made several recommendations. The Legislature should require the department and the districts to develop and adopt a statewide mitigation assessment methodology by June 30, 2001. Independent third parties should approve memorandums of agreement for public offsite regional mitigation areas, specifying the responsibilities of all parties involved and contain specific requirements. The Legislature should require the department and the districts to provide additional regulatory guidance for cumulative impact assessment and, where necessary, redelineate drainage basins. The Legislature should amend state law to require the department and districts to develop rules addressing a new mitigation option for single-family landowners. The Legislature should amend state law to require the department and the districts to each file an annual report of permitted wetland activities following certain criteria.

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



Where does OPPAGA get its work?

- Presiding officers
- Legislation or Proviso in the General Appropriations Act
- Legislative Auditing Committee
- Member requests approved by presiding officers

What does OPPAGA provide?

- **Research memoranda** answer specific issues or questions for leadership, members, or committees; these papers provide a non-public forum to fine-tune ideas as they are confidential to the requesting member and his or her presiding officer. In Fiscal Year 2005-06 OPPAGA issued 100 research assistance memoranda.
- **Reports** deliver program evaluation, policy analysis, and justification reviews of state programs to assist members with overseeing government operations and developing policy choices. Progress reports inform the Legislature whether agencies have corrected identified problems. In Fiscal Year 2005-06, OPPAGA issued 77 reports and made 53 presentations to legislative committees on these reports.
- **Florida Government Accountability Report (FGAR)** offers descriptive, evaluative, and performance information about more than 200 state programs. This nationally unique, award-winning encyclopedia of state government is available on-line and in print for all members' capitol and district offices.
- **The Florida Monitor Weekly** provides summaries and links to new reports and articles of interest to Florida policy makers through a weekly electronic newsletter.