
Research Report

August 2007



Center for Local Government Studies

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Review of Approval Processes in Hillsborough County for Construction Projects Affecting Wetlands

Overview

Florida TaxWatch was requested by Hillsborough County Commission Vice Chairman Ken Hagan to conduct a review on behalf of the taxpayers of Hillsborough County for the presence of potential duplication of services between the Hillsborough County Environmental Protection Commission (HCEPC) and the Southwest Florida Water Management District (SWFWMD). Several years ago, Florida TaxWatch conducted extensive fiscal and management research of Hillsborough County government in collaboration with a Hillsborough County Commission Blue Ribbon Committee for Government Efficiency, resulting in savings of at least \$22 million to the citizens of Hillsborough County.

Of particular interest in the current examination is the redundancy of functions performed by the Wetlands Division of the HCEPC and its counterpart at the SWFWMD. As requested, Florida TaxWatch reviewed the activities of the Wetlands Division of the HCEPC to identify areas where there may be duplication with the activities performed by SWFWMD. Florida TaxWatch research staff led by Senior Research Analyst Chuck Hefren identified the function associated with the permitting process for proposed projects with wetland impacts as similar and potentially duplicative with the permitting function performed by the SWFWMD.

Accordingly, the analysis by Florida TaxWatch was limited to an examination of the activities performed by HCEPC relating the review and approval of applications for construction projects that impact wetlands in Hillsborough County, which Florida TaxWatch estimates required approximately \$1 million of the total HCEPC budget of more than \$16 million to perform.¹

¹ The Wetlands Permitting function of the Wetlands Division performs this activity. HCEPC reported that in FY 2006, the Wetlands Permitting function spent \$1.3 million to perform all of its activities, which included services provided to local governments in Hillsborough County and to the County's Planning and Growth Management Department. HCEPC was unable to allocate the total expenditures by the Wetlands Permitting function among these services. Therefore, based on discussions with HCEPC staff, Florida TaxWatch estimated the cost of these services to be approximately \$300,000, hence the estimate of \$1 million to provide the process of providing written authorization for projects with wetland impacts.

The purpose of this examination was solely to determine whether the benefits associated with having two different government entities perform the construction permitting process for projects with wetland impacts exceeds the total direct costs.

To accomplish this objective, the examination included:

- Comparison of the activities to perform this process;
- Determination of the cost and time to perform these activities; and
- Evaluation of the required mitigation for the approved projects.²

Florida TaxWatch found that the processes used by HCEPC and SWFWMD to review and approve applications for construction projects that impact wetlands produce substantially the same results to taxpayers.³ In addition, both the cost and time required to issue each permit appears to be significantly higher when performed by HCEPC. Florida TaxWatch found that when conducted by HCEPC, the permitting process cost taxpayers 21.7 times more money and took 68 percent longer to complete. Consequently, the evidence clearly demonstrates that while Hillsborough County is statutorily authorized to have HCEPC perform these activities, the additional benefit of this substantially duplicative process does not appear to justify the increased costs to the taxpayers of Hillsborough County.

Hillsborough County Environmental Protection Commission

The Hillsborough County Environmental Protection Commission (HCEPC) is a local agency that was created in 1967 by an Act of the Florida Legislature to protect the air and water quality of Hillsborough County. The HCEPC works to control and regulate activities which are or may reasonably be expected to cause pollution or contamination of air, water, soil and property, or cause excessive and unnecessary noise. Current responsibilities of EPC are handled by five service divisions; [Air](#), [Environmental Resources Management](#), [Waste](#), [Water](#), and [Wetlands](#). Each of these five service divisions conducts investigations of complaints regarding pollution and addresses permitting and other issues in air quality, domestic wastewater, industrial wastewater, surface water quality, solid and hazardous wastes, underground storage tanks, wetland delineation, and artificial reefs.

² Mitigation is defined as an action or series of actions to offset the adverse impacts that would otherwise cause a regulated activity to fail to meet the criteria for approval of the ERP. Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof.

³ Wetlands are those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Wetlands are important components of the water resource because they often serve as spawning, nursery and feeding habitats for many species of fish and wildlife, and because they often provide important flood storage, nutrient cycling, recreational, and water quality functions.

In FY 2006, the HCEPC spent \$16.2 million to accomplish these activities and functions. The operations of the HCEPC are supervised by the Board of Environmental Protection Commission, which consists of the same seven members who also serve on the Hillsborough Board of County Commissioners.

The Wetlands Division of the HCEPC performs a variety of functions to help ensure that wetland ecosystems are protected. These include:

- Inspections and Compliance – Ensures that the requirements of associated projects undergoing wetland restoration and mitigation are adhered to.
- Aerial Reviews - An advisory service to inform the public of whether there may or may not be wetlands on a given piece of property.
- Wetlands Assessment and Permitting - Performs preemptive reviews of proposed land development plans in order to eliminate or reduce direct, secondary, or cumulative wetland impacts.

To help accomplish its mission, the Wetlands Assessment and Permitting function performs several activities, including ensuring that wetlands delineations surveys, which identify the size of a given project area containing wetlands are accurate. This information is used by the Hillsborough County Planning and Growth Management Department (PGMD) when making determinations regarding the rezoning of property to allow for development. The Wetlands Assessment and Permitting group also provides services to the Tampa Bay Port Authority and to cities in Hillsborough County.⁴ Florida TaxWatch finds that these services are not duplicative with those performed by SWFWMD and provide benefit to the taxpayers of Hillsborough County.

However, Florida TaxWatch has determined that the process conducted after the rezoning decision has been made, during which projects with wetlands are reviewed and issued written authorization to proceed, is largely duplicative with the Environmental Resource Permitting Activity process performed by SWFWMD.

In addition to providing the aforementioned services to the PGMD and local governmental entities, the Wetlands Assessment and Permitting function reviews proposed construction projects affecting wetlands and provides written authorizations to proceed with the proposed project only if reasonable use of the land cannot be accomplished without affecting the wetland, and only if the environmental benefits provided by the affected wetland are adequately protected or mitigated.⁵ These written authorizations are usually a part of the overall subdivision or

⁴ HCEPC reported that the Wetlands Division provides an environmental assessment for the Tampa Port Authority permit process, and conducts development reviews for the City of Tampa, the City of Temple Terrace and the City of Plant City.

⁵ As specified in Chapter 1-11, Wetlands, of the Rules of the Environmental Protection Commission of Hillsborough County.

commercial development review process that is managed by the Hillsborough County Planning and Growth Management Department.⁶

HCEPC reports that the objective of these reviews is to preserve the essential character of wetland properties by encouraging their use only for purposes which are compatible with their natural function and environmental benefits, or to require mitigation when reasonable use of the property is otherwise unavailable.⁷ The HCEPC meets this objective by performing preemptive reviews of proposed land development plans in order to eliminate or reduce direct, secondary, or cumulative wetland impacts.

For those proposed projects with unavoidable wetland impact, the HCEPC requires mitigation that has equal or better ecological value as compared to the affected wetland prior to impacts. The HCEPC also requires that the entire mitigation area be confined within the geographic boundaries of Hillsborough County.⁸

Southwest Florida Water Management District

As shown in Exhibit 1 (page 6), the Southwest Florida Water Management District's (SWFWMD) area of operation encompasses all or parts of 15 counties in the western part of central Florida, which includes all of Hillsborough County. The mission of the SWFWMD is to manage water and related natural resources to ensure their continued availability while maximizing environmental, economic and recreational benefits. Central to the mission is maintaining the balance between the water needs of current and future users, while protecting and maintaining water and related natural resources which provide the SWFWMD with its existing and future water supply.

Activities and functions performed by SWFWMD include flood protection, water use, well construction, water conservation, land acquisition, water resource and supply development and environmental resource permitting.⁹ In FY 2006, SWFWMD spent \$333.8 million to perform these activities and functions.

The SWFWMD Division of Resource Regulation is responsible for processing Environmental Resource Permits (ERP). SWFWMD requires that an ERP be obtained before beginning any construction activity that would affect wetlands, alter surface water flows, or contribute to water pollution.

⁶ Other activities included in this overall subdivision or commercial development review process include pre-application reviews, wetland delineation reviews, rezoning reviews, preliminary plat reviews, wetland impact request reviews, construction plan reviews, as-build drawing reviews, and final plat reviews.

⁷ As authorized in Section 403.182, Florida Statutes.

⁸ An applicant for wetland impacts may also obtain mitigation for wetland impacts by purchasing mitigation credits from a fully permitted wetland mitigation bank or through the use of an offsite regional mitigation area. HCEPC requires that all reasonable attempts be made to locate this mitigation effort within the geographic boundaries of Hillsborough County.

⁹ As authorized by Part IV of Chapter 373, *Florida Statutes*.

SWFWMD reports that the objective of its review is to ensure that the resulting ERP will authorize projects that are neither harmful to the water resources in the area served nor inconsistent with the public interest. It is the intent that the permitting process results in zero net loss of wetlands or other surface water functions.¹⁰ In addition, the process is designed to ensure that the quality and quantity of wetlands and other surface waters is not adversely impacted.¹¹

To receive approval for an ERP, a system cannot cause a net adverse impact on wetland functions and other surface water functions which is not offset by mitigation. The assessment of impacts is based on a review of pertinent scientific literature, ecologic and hydrologic information, and field inspection. When adverse impacts to a proposed project are identified, the ERP process requires that design modifications to reduce or eliminate adverse impacts be explored and adopted when practicable.

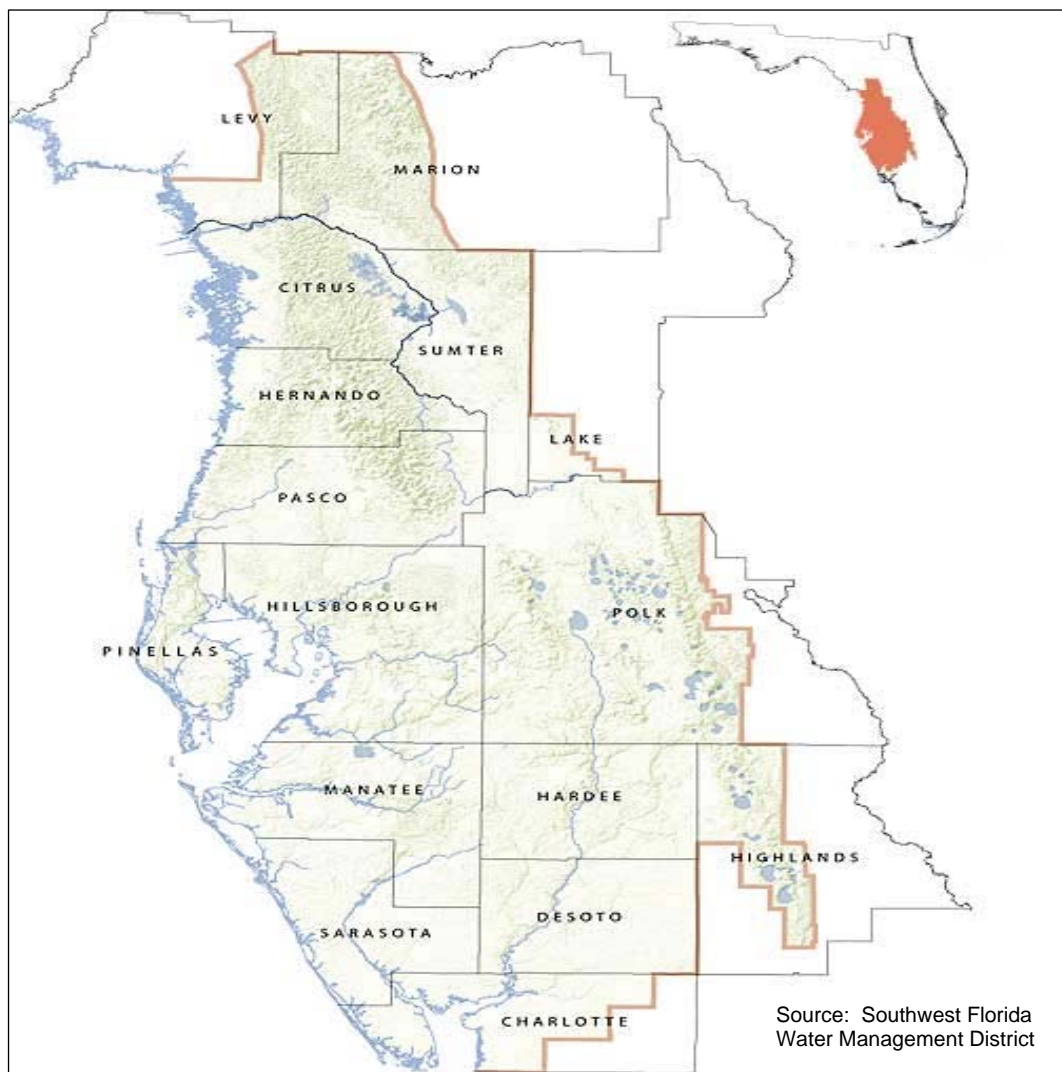
Any adverse impacts remaining after practicable design modifications have been implemented may be offset by mitigation. An applicant may propose mitigation, or SWFWMD may require mitigation, to offset any anticipated adverse impacts. The amount of mitigation area is calculated to compensate for the assessed loss of environmental quality that would result from the project. SWFWMD requires that the mitigation area be in the same drainage basin as the impacted wetlands.¹²

¹⁰ This goal shall not include projects that are exempt by statute or rule or which are authorized by a noticed general permit.

¹¹ Adverse impacts are evaluated based on the impact to the abundance and diversity of fish, wildlife and listed species; and the habitat of fish, wildlife and listed species.

¹² Hillsborough County contains parts of the Little Manatee River, Alafia River, Hillsborough River, and Tampa Bay Drainage Basins.

Exhibit 1: The Southwest Florida Water Management District includes all of Hillsborough County



SWFWMD Performance

In FY 2006, SWFWMD reported issuing 830 Environmental Resource Permits (ERP) for projects in Hillsborough County. Of these 830 ERPs, 145 had associated wetland impacts. The complexity of the Environmental Resource Permitting process varies by project. According to Richard Owen, Deputy Executive Director for the Resource Regulation Division, projects with associated wetland impacts tend to be more complicated and are therefore more costly. Other project characteristics such as the size of the project and the nature of the location also affect the amount of effort and cost to conduct the process. SWFWMD reported that they do not track processing costs on a permit-by-permit basis, thus Florida TaxWatch was unable to determine the direct cost to process only the 145 ERPs with associated wetland impacts.

SWFWMD estimated a total direct cost of \$1,148,258 associated in the issuance of 830 ERPs in FY 2006.¹³ Based on issuance of 830 ERPs in FY 2006, the average direct cost for SWFWMD to issue an ERP is estimated to be \$1,383. As previously indicated, the average direct cost to issue ERPs for projects with associated wetland impacts is probably higher.

For the 145 ERPs issued in FY 2006 that had associated wetland impacts, the average amount of time to process these permits was 209 days, ranging from 32 to 620 days. These projects had 70.08 acres of impacted wetlands and a required mitigation area of 322.45 acres, resulting in a mitigation ratio of 4.60.

HCEPC Performance

In FY 2006, HCEPC reported that it provided written authorizations to conduct proposed development affecting wetlands for 33 projects. Florida TaxWatch estimates the total direct cost of approximately \$1 million was associated in the issuance of these written authorizations in FY 2006. Based on issuance of 33 written authorizations to conduct proposed development affecting wetlands in FY 2006, the average direct cost for HCEPC to provide written authorization is estimated at approximately \$30,000.¹⁴

The HCEPC reported that for the 33 projects that had identified wetlands impacts and received written authorization, a total of 39.56 acres of wetlands were impacted, which required a mitigation area of 147.35 acres for a mitigation ratio of 3.72. The average amount of time from submission of the application to issuance of a written authorization was 353 days for these projects, ranging from 43 to 1047 days.

¹³ SWFWMD reported that these cost also include expenses related to ERP compliance activities, such as reviews of project monitoring reports during the construction phase of the project. Based on a Memorandum of Agreement between the SWFWMD and HCEPC, for permits issued after the effective date of October 19, 2005, SWFWMD delegates responsibility to HCEPC for monitoring compliance with ERP mitigation requirements after completion of construction for all wetland impacts occurring in Hillsborough County.

¹⁴ The Wetlands Permitting function of the Wetlands Division performs this activity. HCEPC reported that in FY 2006, the Wetlands Permitting function spent \$1.3 million to perform all of its activities, which included services provided to local governments in Hillsborough County and to the County's Planning and Growth Management Department. HCEPC was unable to allocate the total expenditures by the Wetlands Permitting function among these services. Therefore, based on discussions with HCEPC staff, Florida TaxWatch estimated that the cost these services to be approximately \$300K, hence our estimate of \$1 million to provide the process of providing written authorization for projects with wetland impacts.

Exhibit 2: In Fiscal Year 2006, both SWFWMD and the HCEPC approved applications for construction projects that impacted wetlands in Hillsborough County

	Number of Permits Issued	Wetlands impacted (acres)	Mitigation Area (acres)	Mitigation Ratio	Average Direct Cost	Average Days to Process
SWFWMD	145	70.08	322.45	4.60	\$1,383	209
HCEPC	33	39.56	147.35	3.72	\$30,000	353

Source: Florida TaxWatch analysis of data provided by SWFWMD and HCEPC

Conclusions

Based on our analysis of the activities and outcomes associated with the processes to approve construction projects that impact wetlands in Hillsborough County, Florida TaxWatch has concluded that the costs associated with the process used by HCEPC to review and approve these projects does not justify the limited additional value derived to taxpayers. SWFWMD exempts some wetlands, such as those occurring in ditches, from its calculation of impacted wetlands, which may result in HCEPC identifying a greater amount of impacted wetlands for some projects. But SWFWMD appears to also require a correspondingly greater number of required acres of mitigation for each acre of wetlands identified as impacted than HCEPC, which at least partially offsets any impact associated with SWFWMD exemptions of impacted wetlands.

In addition, the HCEPC appears to take a much longer period of time to review and approve each application. This additional time (on average, 144 days, or 68 percent longer) results in overall delays and increased costs to complete authorized projects. Finally, our examination revealed that the average cost to authorize a project that impacts wetlands is nearly 22 times greater than the average cost to perform essentially the same function by SWFWMD.

Florida TaxWatch commends the taxpayers of Hillsborough County for their commitment to fund the HCEPC. As indicated throughout of this report, this organization provides a variety of functions and activities that continue to improve the environment and quality of life for the citizens of Hillsborough County. Streamlining the permitting process for projects with wetland impacts so that this function is performed only by SWFWMD would save upwards of \$1 million of the group's \$1.3 million budget or 1/16th of the total HCEPC budget, and save an equal or greater amount of time, which translates to money and jobs that strengthen the County's economy. Florida TaxWatch finds that in so doing, the citizens of Hillsborough County would retain the essential functions, services and benefits of the HCEPC that are not provided by SWFWMD, while continuing to provide the rigorous standard of environmental stewardship to which they have become accustomed.

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Florida TaxWatch is a statewide, non-profit, non-partisan taxpayer research institute and government watchdog that over its 28 year history has become widely recognized as the watchdog of citizens' hard-earned tax dollars. Its mission is to provide the citizens of Florida and public officials with high quality, independent research and education on government revenues, expenditures, taxation, public policies, and programs, and to increase the productivity and accountability of Florida Government.

Florida TaxWatch's research recommends productivity enhancements and explains the statewide impact of economic and tax and spend policies and practices on citizens and businesses. Florida TaxWatch has worked diligently and effectively to help state government shape responsible fiscal and public policy that adds value and benefit to taxpayers.

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