

Committee Substitute for
Committee Substitute for Senate Bill No. 1078

An act relating to the limitation of liability of water management districts; amending s. 373.1395, F.S.; applying the limitation of liability of a water management district to the water areas of the district; providing that certain commercial activities do not terminate the limitation of liability of a water management district; providing that the protections, immunities, and limitations of liability provided to a water management district apply regardless of whether any claimant or person was engaged in an outdoor recreational purpose at the time of an accident or occurrence; providing liability protection to an owner of private land used as an easement or other right by a water management district for the purpose of providing access to lands or water areas that the water management district makes available to the public for outdoor recreational activities; defining the term “park area, district or other lands, or water areas”; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 373.1395, Florida Statutes, is amended to read:

373.1395 Limitation on liability of water management district with respect to areas made available to the public for recreational purposes without charge.—

(1) The purpose of this section is to encourage water management districts to make available land, water areas, and park areas to the public for outdoor recreational purposes by limiting their liability to persons going thereon and to third persons who may be damaged by the acts or omissions of persons going thereon.

(2) Except as provided in subsection (6) (4), a water management district that provides the public with a park area or other land or water area for outdoor recreational purposes, or allows access over or the use of district or other lands or water areas for recreational purposes, owes no duty of care to keep that park area, district or other lands, or water areas ~~land~~ safe for entry or use by others or to give warning to persons entering or going on that park area, district or other lands, or water areas ~~land~~ of any hazardous conditions, structures, or activities thereon. A water management district that provides the public with a park area, district or other lands, or water areas ~~land~~ for outdoor recreational purposes, or that allows access over or the use of a park area, district or other lands, or water areas, does not, by providing that park area, district or other lands, or water areas or by allowing access over or the use of that park area, district or other lands, or water areas ~~or land~~, extend any assurance that such park area, district or other lands, or water areas ~~are or land~~ is safe for any purpose, does not incur any duty of care toward a person who goes on that park area, district or other lands, or water areas ~~or land~~, and is not responsible for any injury to persons

or property caused by an act or omission of a person who goes on that park area, ~~district or other lands, or water areas or land~~. This subsection does not apply if there is any charge made or usually made for entering or using the park area, ~~district or other lands, or water areas or land~~, or if any commercial or other activity from which profit is derived from the patronage of the public, excluding the temporary sale of food, beverages, plants, or tee shirts at temporary special events or nonprofit organizational activities associated with temporary special events, is conducted on such park area, ~~district or other lands, or water areas or land~~ or any part thereof.

(3)(a) This section applies to any park area, district or other lands, or water areas whether the person goes on as an invitee, licensee, or trespasser or otherwise.

(b) The protections, immunities, and limitations of liability provided in this section to water management districts apply regardless of whether any claimant or person was engaged in an outdoor recreational purpose at the time of an accident or occurrence and applies to park areas, district or other lands, and water areas actually used by the public for recreational activities regardless of whether the park area, district or other lands, or water areas were made available to the public at the time of the accident or occurrence.

(4)(3)(a) Except as provided in subsection (6) (4), a water management district that leases any land or water area to the state for outdoor recreational purposes, or for access to outdoor recreational purposes, owes no duty of care to keep that land or water area safe for entry or use by others or to give warning to persons entering or going on that land or water of any hazardous conditions, structures, or activities thereon. A water management district that leases a land or water area to the state for outdoor recreational purposes does not, by giving such lease, extend any assurance that such land or water area is safe for any purpose, incur any duty of care toward a person who goes on the leased land or water area, and is not responsible for any injury to persons or property caused by an act or omission of a person who goes on the leased land or water area.

(b) This subsection applies to any person going on the leased land or water area whether the person goes as an invitee, licensee, trespasser, or otherwise.

(5) If a water management district has secured an easement or other right that is being used for the purpose of providing access through private land to lands or water areas that the water management district provides or makes available to the public for outdoor recreational purposes, the owner of the private land is covered by the liability protection provided in s. 375.251 with regard to the use of such easement by the general public or by employees and agents of the water management district or other regulatory agencies.

(6)(4) This section does not relieve any water management district of any liability that would otherwise exist for gross negligence or a deliberate, willful, or malicious injury to a person or property. This section does not create or increase the liability of any water management district or person beyond that which is authorized by s. 768.28.

~~(7)(5)~~ The term “outdoor recreational purposes,” As used in this section, the term:

(a) “Outdoor recreational purposes” includes activities such as, but not limited to, horseback riding, hunting, fishing, bicycling, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, motorcycling, and visiting historical, archaeological, scenic, or scientific sites.

(b) “Park area, district or other lands, or water areas” includes, but is not limited to, all park areas, district or other land, right of ways, and water areas that the water management district controls, possesses, or maintains, or in which the water management district has a property or other interest, whether in fee simple, easement, leasehold, contract, memorandum of understanding, or otherwise.

Section 2. This act shall take effect July 1, 2009.

Approved by the Governor June 18, 2009.

Filed in Office Secretary of State June 18, 2009.