

MEMORANDUM

TO: Governing Board Members

FROM: Robert M. Brown, Director, Water Resource Regulation Department

DATE: June 2, 2009

SUBJECT: Amendment to Section 101-41 of the District Policies Code relating to Agency Administration

Recommendation

Staff recommends approval of an amendment to Section 101-41 relating to Agency Administration with an effective date of July 1, 2009, provided Senate Bill 2080 becomes law.

Background

During the 2009 Legislative Session, Senate Bill 2080 passed, amending sections 373.083(5) and 373.079(4)(a) of the Florida Statutes as follows:

373.083 General powers and duties of the governing board.

In addition to other powers and duties allowed it by law, the governing board is authorized to:

(5) Execute any of the powers, duties, and functions vested in the governing board through a member or members thereof, the executive director, or other district staff as designated by the governing board. The governing board may establish the scope and terms of any delegation. The ~~However, if the governing board shall delegate to the executive director all of its delegates the authority to take final action on permit applications under part II or part IV, or petitions for variances or waivers of permitting requirements under part II or part IV, and the executive director may execute such delegated authority through designated staff.~~

Such delegations shall not be subject to the rulemaking requirements of chapter 120. However, the governing board shall provide a process for referring any denial of such application or petition to the governing board to take final action. Such process shall expressly prohibit any member of a governing board from intervening in any manner during the review of an application prior to such application being referred to the governing board for final action. The authority in this subsection is supplemental to any other provision of this chapter granting authority to the governing board to delegate specific powers, duties, or functions.

373.079 Members of governing board; oath of office; staff.

(4)(a) The governing board of the district is authorized to employ an executive director, ombudsman, and such engineers, other professional persons, and other personnel and assistants as it deems necessary and under such terms and conditions as it may determine and to terminate such employment. The appointment of an executive director by the governing board is subject to approval by the Governor and must be initially confirmed by the Florida Senate. The governing board may delegate all or part of its authority under this paragraph to the executive director. However, the governing board shall delegate to the executive director all of its authority to take final action on permit applications under part II or part IV, or petitions for variances or waivers of permitting requirements under part II or part IV, except for denials of such actions as provided in s. 373.083(5). The executive director may execute such delegated authority through designated staff members. Such delegations shall not be subject to the rulemaking requirements of chapter 120. The executive director must be confirmed by the Senate upon employment and must be confirmed or reconfirmed by the Senate during the second regular session of the Legislature following a gubernatorial election.

Senate Bill 2080 has not yet been presented to the Governor for consideration. Once presented, within fifteen days, the Governor must sign the bill, veto the bill, or allow the bill to become law without signature. Unless the bill is vetoed, it will become effective July 1, 2009.

Discussion

The recent statutory amendments require the Governing Board to delegate the Board's authority to act on permit applications under Part II of Chapter 373 (consumptive use permits "CUPs") or part IV of Chapter 373 (environmental resource permits "ERPs"), or petitions for variances or waivers of CUP or ERP requirements.

As a result of these statutory amendments, staff recommends Subsection 101-41(a)(3) of the District Policies Code relating to Agency Administration be amended to reflect that the Governing Board delegates to the Executive Director and General Counsel the authority to issue permit applications for environmental resource and consumptive use permits sought by the District.

The recommended effective date of the delegation amendment of July 1, 2009, corresponds to the effective date of Senate Bill 2080, provided it becomes law.

Staff Contact: Robert M. Brown, Director, Environmental Resource Regulation Department (x6283)

RMB/SGW/pm