

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 933

West-Central Florida Water Restoration Action Plan

**SPONSOR(S):** McKeel

**TIED BILLS:**

**IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture & Natural Resources Policy Committee	17 Y, 0 N	Deslatte	Reese
2) General Government Policy Council		Deslatte	Hamby
3) Natural Resources Appropriations Committee			
4) Full Appropriations Council on General Government & Health Care			
5)			

### SUMMARY ANALYSIS

The bill directs the Southwest Florida Water Management District (SWFWMD) to implement the West-Central Florida Water Restoration Action Plan (WRAP), which is defined as the SWFWMD's regional environmental restoration and water resource sustainability program for the Southern Water Use Caution Area (SWUCA). The bill declares implementation of the WRAP is necessary to meet the minimum flow requirement for the Upper Peace River, slow saltwater intrusion, provide for improved lake levels and water quality along the Lake Wales Ridge, and ensure sufficient water supplies for all existing and projected reasonable and beneficial uses. The bill also finds that implementation of components of the Southern Water Use Caution Area Recovery Strategy, which are contained in the WRAP, is for the benefit of the public health, safety, and welfare and is in the public interest. The bill defines the Southern Water Use Caution Area Recovery Strategy as the SWFWMD's regulatory, planning, and financial strategy for ensuring that adequate water supplies are available to meet growing demands while protecting and restoring the water and related natural resources of the area.

The bill declares sufficient research has been conducted and sufficient plans developed to immediately expand and accelerate programs to sustain the water resources and related natural systems in the SWUCA and finds that a continuing source of funding is needed to effectively implement the WRAP. The plan must be implemented in a manner that furthers progressive strategies for the management of water resources, is watershed-based, provides for consideration of water quality issues, and includes monitoring, the development and implementation of best management practices (BMPs), and structural and nonstructural projects, including public works projects. The SWFWMD must coordinate its implementation of the plan with regional water supply authorities, public and private partnerships, and local, state, and federal partners in order to maximize opportunities for the most efficient and timely expenditures of public funds. There are five initiatives to the WRAP (explained in the Effects of Proposed Changes Section of the bill).

The Governor's budget recommendation for the FY 09-10 includes \$15 million for the WRAP. The SWFWMD is required to implement the WRAP pursuant to the provisions of the bill. The SWFWMD and project partners have invested more than \$80 million toward the recovery effort and the SWFWMD anticipates the cost to complete the WRAP to be \$1.8 billion over the next 17 years. Of these costs, the SWFWMD anticipates that approximately one-third will need to be derived from state or federal sources over the 17-year course of this plan.

The bill has an effective date of July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Current legislative findings:

The SWUCA encompasses approximately 5,100 square miles, including all or part of eight counties in the southern portion of the SWFWMD. In response to growing demands from public supply, agriculture, mining, power generation and recreational uses, groundwater withdrawals steadily increased for nearly a century before peaking in the mid-1970s. These withdrawals resulted in declines in aquifer levels throughout the groundwater basin, which in some areas exceeded 50 feet. Although groundwater withdrawals have since stabilized as a result of management efforts, depressed aquifer levels continue to cause saltwater intrusion and contribute to reduced flows in the upper Peace River and lowered lake levels of some of the more "leaky" lakes in the upland areas of Polk and Highlands counties.

In response to these concerns and in compliance with s. 373.036, F.S., the SWFWMD determined that regional water supply planning was needed to ensure sustainable growth in terms of water resources. Florida law requires regional water supply planning in areas where the SWFWMD determines that sources of water are not adequate for all existing and projected reasonable-beneficial uses and to sustain the water resources and related natural systems. Regional water supply planning includes quantification of the water needs during a 1-in-10-year drought event for all existing and projected reasonable and beneficial uses within a planning horizon of not less than 20 years. The required planning also includes development of water supply options, including traditional and alternative sources, from which local governments, government-owned and privately owned utilities, self-suppliers and others may choose. The quantities available through the various options must exceed the identified needs.

Regional water supply plans also include establishment of minimum flows and levels for priority water bodies pursuant to s. 373.036, F.S. A minimum flow for a watercourse is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area. A minimum level is the level in an aquifer or surface water body, such as a lake, at which further withdrawals would be significantly harmful to the water resources of the area. If the existing flow or level of a water body is below, or is projected to fall below the applicable minimum flow or level within 20 years, then as part of the regional water supply plan the SWFWMD must expeditiously implement a recovery or prevention strategy. This strategy must include the development of additional water supplies and other actions to

achieve recovery to the established minimum flow or level as soon as practicable, or prevent the existing flow or level from falling below the established minimum flow or level. The recovery or prevention strategy must include phasing or a timetable, which will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses. This includes development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, and to the extent practical, to offset reductions in permitted withdrawals.

### **Effect of Proposed Changes**

The bill defines the "Central Florida Coordination Area" to mean all of Polk, Osceola, Orange and Seminole Counties, and southern Lake County, as designated by the SWFWMD, the South Florida Water Management District (SFWMD), and the St. Johns River Water Management District (SJRWMD).

The bill directs the SWFWMD to implement the WRAP, which is defined as the SWFWMD's regional environmental restoration and water resource sustainability program for the SWUCA. The bill declares implementation of the WRAP is necessary to meet the minimum flow requirement for the Upper Peace River, slow saltwater intrusion, provide for improved lake levels and water quality along the Lake Wales Ridge, and ensure sufficient water supplies for all existing and projected reasonable and beneficial uses. The bill also finds that implementation of components of the Southern Water Use Caution Area Recovery Strategy, which are contained in the WRAP, is for the benefit of the public health, safety, and welfare and is in the public interest. The bill defines the Southern Water Use Caution Area Recovery Strategy as the SWFWMD's regulatory, planning, and financial strategy for ensuring that adequate water supplies are available to meet growing demands while protecting and restoring the water and related natural resources of the area.

The bill declares sufficient research has been conducted and sufficient plans developed to immediately expand and accelerate programs to sustain the water resources and related natural systems in the SWUCA and finds that a continuing source of funding is needed to effectively implement the WRAP. The plan must be implemented in a manner that furthers progressive strategies for the management of water resources, is watershed-based, provides for consideration of water quality issues, and includes monitoring, the development and implementation of best management practices (BMPs), and structural and nonstructural projects, including public works projects. The SWFWMD must coordinate its implementation of the plan with regional water supply authorities, public and private partnerships, and local, state, and federal partners in order to maximize opportunities for the most efficient and timely expenditures of public funds. There are five initiatives to the WRAP:

#### **Central West Coast Surface Water Enhancement Initiative**

The purpose of this initiative is to make available additional surface waters for public supply through restoration of surface waters, natural water flows, and freshwater wetland communities. The initiative is designed to allow ground water withdrawals to be limited in order to slow the rate of saltwater intrusion. This will be an ongoing program in cooperation with the Peace River-Manasota Regional Water Supply Authority created under s. 373.1962, F.S.

#### **The Facilitating Agricultural Resource Management Systems Initiative**

The purpose of this initiative is to expedite the implementation of production-scale, BMPs in the agricultural sector which will result in reductions in groundwater withdrawals and improvements in water quality, water resources, and ecology. The initiative is a cost-share reimbursement program to provide funding incentives to agricultural landowners for the implementation of BMP practices. The initiative shall be implemented by the SWFWMD in cooperation with the Department of Agriculture and Consumer Services. Cooperative funding programs approved by the governing board shall not be subject to the rulemaking requirements of chapter 120. However, any portion of an approved program which affects the substantial interests of a party shall be subject to s. 120.569, F.S.

#### **Ridge Lakes Restoration Initiative**

The purpose of this initiative includes the protection and enhancement of water quality through stormwater treatment in approximately 130 lakes located along the Lake Wales Ridge in Polk and Highlands Counties, which quality is threatened by stormwater runoff, wastewater effluent, fertilizer

applications, groundwater pollution, degradation of shoreline habitats, and hydrologic alterations. The initiative shall be accomplished through the construction of systems designed to treat stormwater runoff that threatens the water quality of such lakes. The systems will include swales, retention basins and long infiltration basins, if feasible.

#### Upper Peace River Watershed Restoration Initiative

The purpose of this initiative is to improve the quality of waters and ecosystems in the watershed of the Upper Peace River by recharging aquifers, restoring the flow of surface waters, and restoring the capacity of natural systems to store surface waters. The Legislature finds that such improvements are necessary because the quantity and quality of the fresh water that flows to the basin of the Peace River and Charlotte Harbor are adversely affected by the significant alteration and degradation of the watershed of the Upper Peace river. Restoration of the Upper Peace River watershed is also a critical component of Charlotte Harbor National Estuary Program's Comprehensive Conservation and Management Plan, the SWFWMD's Surface Water Improvement and Management Plan, and the Southern Water Use Caution Area Recovery Strategy. In addition to the initiative's other purposes, this component will provide a critical link to a major greenway that extends from the lower southwest coast of Florida through the watershed of the Peace River and the Green Swamp and further north to the Ocala National Forest.

#### Central Florida Water Resources Development Initiative

This initiative's purpose is to create and implement a long-term plan that takes a comprehensive approach to limit ground water withdrawals in the SWUCA, which includes the identification and development of alternative water supplies for Polk County. The project components developed pursuant to this initiative are eligible for state and regional funding under s. 373.196, F.S., as an alternative water supply, as defined in s. 373.019, F.S., or as a supplemental water supply under the rules of the SWFWMD or the SFWMD. The initiative shall be implemented by the SWFWMD as an ongoing program in cooperation with Polk County and the SFWMD.

As part of the required consolidated annual report, the SWFWMD may include:

- A summary of the conditions of the SWUCA, including the status of the WRAP components; and
- An annual accounting of the expenditure of funds. The accounting must, at a minimum, provide details of expenditures separately by plan component and any subparts of a plan component, and include specific information about amount and use of funds from federal, state, or local government sources. In detailing the use of these funds, the SWFWMD must indicate those designated to meet requirements for matching funds.

The SWFWMD shall submit the WRAP developed to the President of the Senate and the Speaker of the House of Representatives prior to the 2010 regular legislative session for review. If the Legislature takes no action on the plan during the 2010 regular legislative session, the plan shall be deemed approved and may be implemented.

#### **B. SECTION DIRECTORY:**

**Section 1.** Creates s. 373.0363, F.S., providing definitions; providing legislative findings; requiring the Southwest Florida Water Management SWFWMD to implement the West-Central Florida Water Restoration Action Plan; providing criteria governing the implementation of the plan; requiring that the SWFWMD coordinate with regional water supply authorities and governmental partners to maximize opportunities concerning the efficient expenditure of public funds; specifying the plan's purpose; specifying the initiatives that are included in the plan; providing criteria governing implementation of the Central West Coast Surface Water Enhancement Initiative, the Facilitating Agricultural Resource Management Systems Initiative, the Ridge Lakes Restoration Initiative, the Upper Peace River Watershed Restoration Initiative, and the Central Florida Water Resource Development Initiative and certain components or projects included in such initiatives; providing for the Southwest Florida Water Management SWFWMD to include specified criteria concerning implementation of the plan, regional conditions, and the use of funds in specified annual reports; requiring that the Southwest Florida Water management SWFWMD develop and submit a plan to the Legislature; providing for approval implementation.

**Section 2.** Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None

2. Expenditures:

None

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None

2. Expenditures:

None

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

According to the SWFWMD, water is critical to our future and is a huge economic driver to both the region and state. In addition, the WRAP will provide significant environmental restoration as well as additional water supplies to meet the growing demands of the region

### **D. FISCAL COMMENTS:**

The Governor's budget recommendation for the FY 09-10 includes \$15 million for the WRAP. The SWFWMD and project partners have invested more than \$80 million toward the recovery effort and the SWFWMD anticipates the cost to complete the WRAP to be \$1.8 billion over the next 17 years. Of these costs, the SWFWMD anticipates that approximately one-third will need to be derived from state or federal sources over the 17-year course of this plan.

The bill provides that project components within the Central Florida Water Resource Development Initiative are eligible for state and regional funding relating to alternative water supply or supplemental water supply.

The bill clarifies that the Facilitating Agricultural Resource Management Systems Initiative is a cost share reimbursement program implemented by the Department of Agriculture and Consumer Services which provides funding incentives to agricultural landowners for the implementation of best management practices.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**