

By Senator Latvala

19-326B-98

1 A bill to be entitled
2 An act relating to water resource management;
3 amending s. 373.016, F.S.; declaring the policy
4 of state and regional water management;
5 encouraging use of water from sources nearest
6 the area of need; amending s. 373.019, F.S.;
7 defining the term "water source"; amending s.
8 373.223, F.S.; allowing the Department of
9 Environmental Protection or the water
10 management district governing boards to
11 consider additional factors when determining
12 the public interest of the transport and use of
13 water beyond overlying land; amending s.
14 373.026, F.S.; requiring legislative approval
15 prior to actions on the Central and Southern
16 Florida Flood Control Project Restudy;
17 providing an effective date.

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

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21 Section 1. Present subsections (4) and (5) of section
22 373.016, Florida Statutes, are redesignated as subsections (5)
23 and (6), respectively, and a new subsection (4) is added to
24 that section, to read:

25 373.016 Declaration of policy.--

26 (4)(a) The Legislature recognizes that water is a
27 public resource benefiting the entire state, and water rights
28 are usufructuary rights conferred by the reasonable-beneficial
29 use of water and not conferred by land ownership. The
30 Legislature recognizes the need to allocate water throughout
31 the state to provide for all reasonable-beneficial uses of

1 water. However, the Legislature acknowledges that protection
2 of water resources may require limitations on the transport of
3 water outside of the source watershed, drainage basin, or
4 other hydrologic unit. When necessary to protect the water
5 resources of the state, the Legislature directs the Department
6 of Environmental Protection and water management districts to
7 encourage the use of water from sources nearest the area of
8 use whenever practicable.

9 (b) The Legislature recognizes that under certain
10 circumstances the transport of water from distant sources may
11 be necessary for environmental, technical, or economic
12 reasons. Also, local governments should work cooperatively to
13 provide for local and regional public water supplies. Regional
14 water supply development and regional water resource
15 development can be essential for serving regional public water
16 supply needs. Accordingly, the Legislature does not intend the
17 policy statements in paragraph (a) to in any way limit the
18 ability of water utilities to provide safe, reliable, and
19 affordable water to the residents of the state.

20 Section 2. Subsection (24) is added to section
21 373.019, Florida Statutes, to read:

22 373.019 Definitions.--When appearing in this chapter
23 or in any rule, regulation, or order adopted pursuant thereto,
24 the following words shall, unless the context clearly
25 indicates otherwise, mean:

26 (24) "Water source" means any economically and
27 technically feasible source of water, including, but not
28 limited to, impoundments, streams, groundwater sources,
29 watercourses, desalination, reclaimed water, treated
30 stormwater, and aquifer storage and recovery.

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1 Section 3. Subsection (2) of section 373.223, Florida
2 Statutes, is amended and present subsection (3) is
3 redesignated as subsection (7), and new subsections (3), (4),
4 (5) and (6) are added to that section to read:

5 373.223 Conditions for a permit.--

6 (2) The governing board or the department may
7 authorize the holder of a use permit to transport and use
8 ~~ground or surface~~ water beyond overlying land, ~~across county~~
9 ~~boundaries, or outside the watershed from which it is taken~~ if
10 the governing board or department determines that such
11 transport and use is consistent with the public interest, and
12 no local government shall adopt or enforce any law, ordinance,
13 rule, regulation, or order to the contrary.

14 (3) When the department or the governing board reviews
15 an application for transport and use of water beyond the
16 overlying land, the governing board or department may consider
17 the following factors when determining if the proposed use is
18 consistent with the public interest under subsection (2):

19 (a) The proximity of the proposed water source to the
20 area of use or application.

21 (b) Any water sources that are geographically closer
22 to the area of use or application than the proposed source
23 that have been determined by the applicant to be technically
24 and economically feasible for the proposed transport and use.

25 (c) The potential environmental impacts that may
26 result from the transport and use of water from the proposed
27 source.

28 (d) The potential environmental impacts that may
29 result from use of the other water sources identified in
30 paragraph (b).

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1 (e) Consultations with local governments affected by
2 the proposed transport and use.

3 (4) In addition to the information required in s.
4 373.229, the department or governing board may require the
5 following additional information when determining if a
6 proposed use is consistent with the public interest under
7 subsection (2):

8 (a) A description of the proposed water source in
9 relation to the area of use or application.

10 (b) Identification of any water sources that are
11 geographically closer to the area of use or application than
12 the proposed source that the applicant has found to be
13 technically and economically feasible for the proposed
14 transport and use.

15 (c) The potential environmental impacts that may
16 result from the proposed transport and use of water from the
17 proposed source.

18 (d) The potential environmental impacts that may
19 result from the use of the water sources identified in
20 paragraph (b).

21 (5) When local governments have voluntarily entered
22 into an interlocal agreement under s. 373.1962 and the
23 regional water supply authority is applying for a permit,
24 where the proposed water source and the proposed water use are
25 both within the regional water supply authority, the permit
26 application is not subject to subsections (2), (3), and (4).

27 (6) The department and the governing board may adopt
28 rules to administer subsections (2), (3), and (4). Each permit
29 application considered under this section must be considered
30 on a case-by-case basis consistent with the legislative intent
31 expressed in s. 373.016(4).

1 Section 4. Subsection (8) of section 373.026, Florida
2 Statutes, is amended to read:

3 373.026 General powers and duties of the department.--

4 (8)(a) Provide such coordination, cooperation, or
5 approval necessary to the effectuation of any plan or project
6 of the Federal Government in connection with or concerning the
7 waters in the state. Unless otherwise provided by state or
8 federal law, the department shall, subject to confirmation by
9 the Legislature, have the power to approve or disapprove such
10 federal plans or projects on behalf of the state. If such plan
11 or project is for a coastal inlet, the department shall first
12 determine the impact of the plan or project on the sandy
13 beaches in the state. If the department determines that the
14 plan will have a significant adverse impact on the sandy
15 beaches, the department may not approve the plan or project
16 unless it is revised to mitigate those impacts.

17 (b) The department, subject to confirmation by the
18 Legislature, shall act on behalf of the state in the
19 negotiation and consummation of any agreement or compact with
20 another state or states concerning waters of the state.

21 (c) For the Central and Southern Florida Flood Control
22 Project Restudy, prior to any action of the state or the South
23 Florida Water Management District, including the decision to
24 seek congressional authority, or act as local sponsor in
25 regard to the restudy, the Legislature must approve any
26 coordination, cooperation, plan, or expenditure of funds
27 necessary to the effectuation of any project contained in the
28 Restudy and the participation by the South Florida Water
29 Management District as local sponsor in regard to the restudy.
30 In implementing this paragraph, the department and the
31 Governor shall provide appropriate recommendations to the

1 President of the Senate and the Speaker of the House of
2 Representatives.

3 Section 5. This act shall take effect October 1, 1998.
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6 SENATE SUMMARY

7 Declares that the policy of state and regional water
8 management is to encourage the use of water from sources
9 nearest the area of need. Defines the term "water
10 Protection or water management districts to consider
11 additional factors when determining the public interest
12 of the transport and use of water beyond overlying land.
13 Requiring legislative approval on any coordination,
14 cooperation, plan, or expenditure of funds to effectuate
15 actions relating to the restudy of the Central and
16 Southern Florida Flood Control Project.
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