

STORAGE NAME: s0312z.wrm
DATE: May 20, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Water & Resource Management
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/SB 312
SPONSOR(S): Committee on Natural Resources, Senators Brown-Waite and Laurent, and others
RELATING TO: Water resource management
COMPANION BILL(S): SB 2294 (c), SB 2298 (c), HB 3503 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) NATURAL RESOURCES -- YEAS 9 NAYS 2
- (2) COMMUNITY AFFAIRS -- YEAS 6 NAYS 0
- (3)
- (4)

I. FINAL ACTION STATUS:

On April 29, 1998, the Senate passed CS/SB 312 by a vote of 39-0. The next day the House passed the bill by a vote of 113-3. On May 22, 1998, the bill became law without the Governor's signature and was designated as Chapter 98-88, Laws of Florida.

II. SUMMARY:

Currently, s. 373.223(2), F.S., authorizes the Department of Environmental Protection (DEP) or the water management districts (WMDs) to permit the transfer of water beyond overlying lands, across county boundaries or outside the watershed where water source is located, provided the transfer is in the public interest. In addition to this public interest determination, the transfer of water must comply with the three statutory criteria outlined in s. 373.223(1), F.S.

CS/SB 312 amends s. 373.223, F.S., to incorporate a "local sources first" principle into Florida water law. Specifically, this bill creates s. 373.223(3), F.S., to require the DEP or the WMDs to consider certain factors when evaluating transfers of water across county boundaries. The bill also provides that these agencies shall use water supply plans, where available, as the basis for their consideration of the factors found in the newly created s. 373.223(3), F.S.

In amending s. 373.016, F.S., CS/SB 312 codifies case law interpreting Chapter 373, F.S., to treat water as a public resource benefitting the entire state and which should be managed on a state and regional basis. CS/SB 312 directs the DEP and the WMDs to encourage the taking of water from sources nearest the area of use, whenever practicable. However, CS/SB 312 acknowledges the need to transport water from distant sources for certain reasons. Finally, CS/SB 312 exempts certain water uses, sources and areas of the state from application of the "local sources first" policy now found in s. 373.223(3), F.S.

CS/SB 312 also links the permit information required for transfers across counties to the factors in the "local sources first" policy and corrects several cross-references throughout Chapter 373, F.S.

CS/SB 312 takes effect October 1, 1998

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

"Local Sources First"

Among the many water policy issues facing the Legislature in recent years, the concept of "local sources first" often commands the most attention. The term refers to the principle that water users should first consume water sources within their immediate geographic area, including alternative water sources such as desalination and reclaimed water, before tapping into more remote water sources. Not surprisingly, "local sources first" sparks controversy in an era of growing populations and more expensive water.

The situation in Northern Tampa Bay exemplifies the controversy that surrounds the "local sources first" debate. Here, the residents of Pasco County have watched wetlands, lakes and wells dry up primarily because of pumping by the West Coast Regional Water Supply Authority, which serves as the wholesale water supplier for approximately 1.8 million people. The extent of the environmental damage encouraged Pasco County residents, as well as residents in neighboring counties, to demand that the developed counties use desalinated water or other alternative sources, rather than rely exclusively on groundwater. While cooperation appears possible, the controversy in Northern Tampa Bay over "local sources first" continues.

Because of the interest in "local sources first," Speaker Webster directed the staff of the House Committee on Water and Resource Management to prepare an interim project report on the subject. The report, entitled Discussion of a "Local Sources First" Water Policy for Florida, examines the policy and legal questions surrounding the adoption and implementation of a "local sources first" policy.

The Florida Water Resources Act of 1972

Although the Florida Water Resources Act of 1972, as set forth in Chapter 373, F.S., makes no mention of "local sources first," the act provides a regulatory scheme that addresses many of the environmental and economic considerations that undergird the "local sources first" debate. Under Chapter 373, F.S., the five regional water management districts (WMDs) regulate the consumptive use of water. In issuing consumptive use permits (or water use permits), the WMDs determine whether consumptive use applications meet the criteria in s. 373.223(1), F.S. This section requires that the proposed use of water comply with the following conditions: (a) is a reasonable-beneficial use; (b) will not interfere with any presently existing legal use of water; and (c) is consistent with the public interest. These criteria allow the districts to balance considerations such as environmental harm versus economic efficiency that go to the heart of "local sources first."

The statutory language of Chapter 373, F.S., itself reflects this balancing of water policy objectives. For instance, s. 373.196, F.S., recognizes the need for "cooperative efforts," including water transfers and the development of

alternative water sources, between local governments and state agencies to supply rapidly urbanizing areas with adequate water. Yet, at the same time, s. 373.1961(1)(a), F.S., expresses a legislative policy to avoid environmental harm caused by excessive water withdrawals. This section requires the WMDs to engage in water supply planning "in such manner as will give priority ...[to] conservation and reducing adverse environmental effects of improper or excessive withdrawals of water from concentrated areas." Finally, s. 373.1961(1), F.S., appears to forbid the WMDs from permitting water use in such a way as to deprive any county, where water is withdrawn, of the prior right to the reasonable and beneficial use of water.

Chapter 373, F.S., anticipates many of the difficult policy considerations that are driving the current debate over "local sources first." However, Chapter 373, F.S., does not specifically address "local sources first." In fact, Chapter 373, F.S., in its statutory language and as interpreted by the courts, embodies a state and regional approach to water management. See Section 373.016(1), F.S., (which states that "[t]he waters of the state are among its most basic resources ...[s]uch waters have not heretofore been conserved or fully controlled so as to realize their full beneficial use"). Moreover, in language that goes to the heart of the "local sources first" debate, the Florida Supreme Court in Osceola County v. St. Johns River Water Management District, 504 So. 2d 385, 388 (Fla. 1987) expounded on this state and regional approach:

Nothing in the Water Resources Act indicates a legislative intent that water management districts operate solely as independent provinces, without regard for statewide concerns ... Political boundaries are artificial divisions that may and sometimes should be transcended when planning for the most beneficial use of our state's water resources.

Several statutory provisions providing for the transfer of water bolster the court's conclusion that Chapter 373, F.S., contemplates a state and regional approach to water management. Section 373.223(2), F.S., for example, authorizes the WMDs or the DEP to allow a "holder of a use permit to transport and use ground or surface water beyond overlying land, across county boundaries, or outside the watershed from which it is taken" if the transfer serves the public interest. This same section prohibits local government regulation designed to interfere with such transfers.

Likewise, s. 373.2295, F.S., authorizes the issuance of permits for the transfer of water between the WMDs. Here, the districts would issue an interdistrict transfer permit if the application meets the requirements of Chapter 373, F.S., and if the needs of the area receiving the water and the specific area supply the water can be satisfied. In light of ss. 373.223(2) and 373.2295, F.S., and the relevant cases, Chapter 373, F.S., clearly establishes a state and regional approach to water management.

But state and regional water management does not necessarily preclude a "local sources first" policy. As suggested by the administrative law judge in Charlotte County v. Southwest Florida Water Management District, DOAH No. 94-574RP (Mar. 26, 1997), appeal docketed, No. 97-1626 (Fla. 2d DCA April 22, 1997)

(also known as the "SWUCA case"), Chapter 373, F.S., requires the districts to take a state and regional approach to water management, but it also grants them the discretion to balance many environmental and economic factors. In this case, the administrative law judge struck down Southwest Florida WMD's proposed "local source first" rules. These rules required applicants to demonstrate that the proposed water use employed local resources to the "greatest extent practicable" and that the water resources near the place of demand were not feasible. Concluding that these rules exceeded statutory authority, the judge made the following observation about the district's local resources rules:

In sum, the water use permitting process necessarily involves a balancing of many important, yet sometimes conflicting goals. How much emphasize [sic] to place on the development of local resources before looking to remote sources can be part of the balancing. Chapter 373 accords the District some discretion in this regard ... [but] these local source provisions are invalid because they elevate this consideration to a conclusive criteria without any standards as to how it will be applied.

The Discussion of a "Local Sources First" Water Policy for Florida interim project report, prepared by the staff of the House Committee on Water and Resources Management, arrives at a similar conclusion. After reviewing the relevant case law, including the SWUCA decision quoted above, and the various statutory provisions in Chapter 373, F.S., this report concludes that a flexible policy of "local sources first" is consistent with current Florida water law.

B. EFFECT OF PROPOSED CHANGES:

CS/SB 312 creates s. 373.223(3), F.S., to incorporate a "local sources first" policy into consumptive use permitting. Existing law mandates that the proposed transfer meet the three criteria outlined in s. 373.223(1), F.S. (also known as the "three-prong" test). In addition to the "three-prong" test, CS/SB 312 requires the DEP or the WMDs to evaluate any transport and use of water across county boundaries under additional factors. Thus, applicants seeking permits for the transport of water between counties would need to provide information on the following factors:

- the proximity of the proposed water source to the area of use or application;
- all impoundments, streams, groundwater sources, or watercourses that are geographically closer to the area of use or application than the proposed source, and that are technically and economically feasible for the proposed transport and use;
- all economically and technically feasible alternatives to the proposed source, including, but not limited to, desalination, conservation, reuse of nonpotable reclaimed water and stormwater, and aquifer storage and recovery, with the exception of potable reclaimed water and stormwater ;

-- the potential environmental impacts that may result from the transport and use of water from the proposed source, and the potential environmental impacts that may result from use of the above alternative water sources;

-- whether existing and reasonably anticipated sources of water and conservation efforts are adequate to supply water for existing legal uses and reasonably anticipated future needs of the water supply planning region in which the proposed water source is located;

-- consultations with local governments affected by the proposed transport and use; and

-- the value of the existing capital investments in water-related infrastructure made by the applicant.

Balanced against the required consideration of these factors, CS/SB 312 amends s. 373.016, F.S., to express legislative intent that water constitutes a public resource for the benefit of the entire state. These changes to s. 373.016, F.S., call for a state and regional approach to water management but at the same time direct the DEP and the WMDs to encourage the use of water from sources nearest the area of use, whenever practicable. The bill defines such sources to include naturally occurring water sources and alternative water sources. While CS/SB 312 expresses a policy of encouraging "local sources first" whenever practicable, it nonetheless recognizes the need to transport water from distant sources for environmental, technical, or economic reasons.

To better link consumptive use permitting with water supply planning, CS/SB 312 requires DEP or the WMDs to use districtwide water supply assessments and regional water supply plans -- where available -- as the basis for their consideration of the "local sources first" factors. The linkage also serves to ease the permitting burden on both the applicant and the agency. Additionally, this linkage encourages potential applicants (primarily high volume public suppliers) to commit to the water supply planning process as outlined in ss. 373.036 and 373.0361, F.S.

Similarly, in another effort to unify the components of consumptive use permitting, CS/SB 312 links the permit application information with the factors in the "local sources first" evaluation. The bill amends s. 373.229, F.S., which outlines the permit information required in consumptive use permits, to provide that applicants proposing water transfers across county boundaries supply information on the factors in new s. 373.223(3), F.S. By amending s. 373.229, F.S., the bill ensures that the applicant proposing a transfer of water supplies the information necessary to evaluate whether such a transfer conforms to the public interest.

With regard to transfers of water between counties, CS/SB 312 provides for a number of exemptions from application of the "local sources first" evaluation:

-- Reuse of potable reclaimed water and stormwater ;

-- Water supplied exclusively for bottled water as defined in s. 500.031(1)(d), F.S.;

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- Transport and use of reclaimed water for electrical power production by a electric utility as defined in s. 366.02(2), F.S.;
- Transport and direct and indirect use of water within the area of the Central and Southern Florida Flood Control Project;
- Regional water supply authorities existing pursuant to interlocal agreements and meeting certain requirements (this exemption limited to water sources within the jurisdictional areas of such interlocal agreements);
- Transport and use of water by self-suppliers between contiguous private properties; and
- Any water use permit applications pending as of April 1, 1998 with the Northwest Florida Water Management District

Most prominently, CS/SB 312 exempts the Central and Southern Florida Flood Control Project, which moves surface water over much of South Florida for direct consumption, groundwater recharge, and flood control, from the considerations in s. 373.223(3), F.S. The bill provides for this exemption in s. 373.016, F.S., and in the newly created s. 373.223(3), F.S. Built over 40 years ago, this man-made infrastructure moves water over thousands of square miles for the purposes of water supply, rehydration, flood control and environmental protection. Because this infrastructure essentially converts an area covering more than 16,000 square miles into a single hydrological system, a "local sources first" policy does not logically apply within this system.

For similar reasons, CS/SB 312 amends s. 373.1962, F.S., to provide an exemption from the "local sources first" evaluation for regional water supply authorities. Created with the execution of an interlocal agreement by two or more local governments, regional water supply authorities are statutorily required to transport water in an environmentally safe and efficient manner. CS/SB 312 sets out certain conditions to ensure those qualifying authorities are truly functioning as a regional water supplier. For instance, a qualifying authority must exist pursuant to an interlocal agreement that is consistent with s. 373.1963(1)(b) and must receive or maintain consumptive use permits under such an interlocal agreement. Finally, CS/SB 312 limits the exemption only when the regional water supply authority proposes to use water sources within the jurisdictional area of its interlocal agreement. Currently, only the West Coast Regional Water Supply Authority appears to qualify for this exemption.

To encourage the use of alternative water sources, both the reuse of potable reclaimed water and stormwater and the use of reclaimed water for electrical power production are exempt. Also, water supplied exclusively for bottled water as defined in s. 500.031(1)(d), F.S., and any water use permit applications pending as of April 1, 1998, with the Northwest Florida Water Management District are likewise exempt. Apparently, these exemptions are intended to protect particular projects seeking consumptive use permits from application of the "local sources first" policy. The final exemption in CS/SB 312 removes the transfer of water by self-suppliers between contiguous private properties; this generally will affect agricultural, mining and energy-generating interests.

In light of these numerous exemptions, the question arises as the number and type of applicants potentially affected by the "local sources first" consideration now contained in s. 373.223(3), F.S. Yet, even companion bills to CS/SB 312 with their broader "local sources first" policies would not have imposed on many water users because most users obtain their water from "local" sources. Taken together, the exemptions in CS/SB 312 appear to exclude, among the few water users potentially impacted, most categories of water users, including agricultural, industrial and many public suppliers. Based on discussions with the WMDs, it appears that CS/SB 312 will apply only to a limited number of high-volume public suppliers -- although the future may bring an increasing number of water users within the scope of the bill as coastal aquifers become more stressed.

In addition to changes relating to transfer of water between counties, CS/SB 312 provides for a number of other changes, mostly corrections to cross-references. However, at the request of Statutory Revision, the bill also reenacts s. 373.536(5)(c), F.S., to incorporate footnote language. This provision spells out requirements for WMD budgeting and related public hearings.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The bill increases the responsibilities of the DEP or the WMDs by requiring these agencies to evaluate transfers of water across county boundaries under certain specified factors. As a result of these responsibilities, the DEP or WMDs must develop, at the very least, permitting procedures to facilitate the evaluation mandated by CS/SB 312.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No. However, because CS/SB 312 provides DEP and the WMDs with additional factors to deny the use of existing water sources, this bill appears to increase the likelihood that public water utilities may be required to develop alternative water sources, leading to higher taxes in order to finance the construction of such capital infrastructure .

- b. Does the bill require or authorize an increase in any fees?

No. However, because CS/SB 312 may indirectly lead to the development of alternative water sources, local water rates may be increased to finance such capital expenditures.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. By requiring the DEP or the WMDs to evaluate certain transfers of water on the basis of new factors, CS/SB 312 arguably increases the level of governmental interference with such transfers of water.

5. Family Empowerment:

Not applicable.

D. STATUTE(S) AFFECTED:

Sections 373.016, 373.036, 373.196, 373.1962, 373.209, 373.223, 373.226, 373.229, 373.421, and 373.536(5)(c), F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 373.016, F.S., to provide a new subsection to explain that water constitutes a public resource benefiting the entire state and that water is to be managed on a state and regional basis. Recognizes the need to allocate water throughout the state to meet all reasonable-beneficial uses. Directs the DEP and the WMDs to encourage the use of water from sources nearest the area of use or application, whenever practicable. Provides that sources shall include all naturally occurring water sources and alternative water sources. Exempts reuse of potable reclaimed water and stormwater from the evaluation in s. 373.223(3)(a)-(g), F.S. Provides that the policy of encouraging the use of water from sources nearest the area of use, whenever practicable, shall not apply to the transport and direct and indirect use of water within the area encompassed by the Central and Southern Florida Flood Control Project, nor the use of water supplied exclusively for bottled water as defined in s. 500.03(1)(d), F.S., nor shall it apply to transport and use of reclaimed water for electrical power production by an electric utility as defined in section 366.02(2), F.S. Recognizes that under certain circumstances that the need to transport water from distant sources may be necessary for environmental, technical, or economic reasons.

Section 2: Amends s. 373.196, F.S., to add water resource development, pursuant to s. 373.0831, to the responsibilities of the WMDs and their basin boards.

Section 3: Amends s. 373.1962, F.S., to provide that a regional water supply authority existing pursuant to s. 373.1962 or s. 373.1963, F.S., under a interlocal agreement consistent with the requirements of s. 373.1963(1)(b), F.S., and receiving or maintaining consumptive use permits under such an agreement consistent with the water supply plan, if any, adopted by the governing board shall be exempt from consideration of the factors specified in s. 373.223(3)(a)-(g), F.S., and the submissions required by s. 373.229(3), F.S. Limits this exemption to only those water sources within the jurisdictional areas of such water supply interlocal agreements.

Section 4: Amends s. 373.223, F.S., to correct a cross-reference. Provides that the WMDs or the DEP, when evaluating whether a

potential transport and use of water across county boundaries is consistent with the public interest, pursuant to s. 373.223(1)(c), F.S., shall consider certain factors, except the following are exempt: water supplied by the Central and Southern Florida Flood Control Project; the use of water supplied exclusively for bottled water as defined in s. 500.03(1)(d), F.S.; any water use applications pending as of April 1, 1998, with the Northwest Florida WMD; and self-suppliers of water for which the proposed water source and area of use are located on contiguous private properties. Provides for the consideration of the "local sources first" factors. Requires the DEP and the WMDs to use districtwide water supply assessments and regional water supply plans, where available, as the basis for their consideration of the applicable factors in s. 373.223(3), F.S.

Section 5: Amends s. 373.229, F.S., to require certain information for all permit applications filed with the WMDs or the DEP that propose the transport and use of water across county boundaries.

Section 6: Reenacts s. 373.536(5)(c), F.S., relating to district budgeting and budget hearings to incorporate a Statutory Revision footnote.

Sections 7-10: Corrects cross-references.

Section 11: Provides that this act shall take effect October 1, 1998.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Indeterminate. However, because CS/SB 312 may potentially require the development of alternative water sources, local governments may seek annual funding from the state in order to develop such infrastructure.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

A. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate. CS/SB 312 may require some local governments to spend funds in order to develop the capital infrastructure associated with alternative sources of water.

2. Recurring Effects:

Indeterminate. CS/SB 312 may require some local governments to spend funds on the operation and maintenance of alternative water source information.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate. CS/SB 312 may potentially lead to an increase in the overall cost of water, which would affect consumers. Also, for those proposed transfers of water between counties, CS/SB 312 may increase the costs of permitting in the form of additional consultant/attorney fees.

2. Direct Private Sector Benefits:

Indeterminate. Because CS/SB 312 may potentially lead to a greater development of alternative water sources, those firms designing and constructing such infrastructure may experience increased business. CS/SB 312 may enhance the business for environmental engineers and others who advise on consumptive use permitting issues.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

C. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/SB 312 does not impose any mandatory condition on local governments and, therefore, does not invoke Article VII, Section 18 of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of local governments.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

The principle of "local sources first" stands at the center of a brewing controversy over the proper direction of Florida water law. "Local sources first" raises important legal and policy questions. Among the more significant questions, does the principle of "local sources first" conflict with the legislative intent expressed in Chapter 373, F.S., to provide a state and regional water management approach? CS/SB 312 appears to address this question by affirming that water constitutes a public resource to be managed on a state and regional basis. Along the same lines, although CS/SB 312 directs the DEP and the WMDs to encourage the use of sources nearest the area of use, it limits the application of the policy to whenever practicable, and explicitly reaffirms the need to transport water from distant sources under certain circumstances.

CS/SB 312 also brings into question the relationship between the principle of "local sources first" and the consumptive use criteria in s. 373.223(1), F.S. Section 373.223(1), F.S., requires that all consumptive uses -- including transfers proposed under an amended s. 373.223(2), F.S. -- constitute a reasonable-beneficial use, not interfere with existing water uses, and conform to the public interest. This "three-prong" test forms the centerpiece of consumptive use permitting. Consequently, the question arises as to whether CS/SB 312 somehow upsets the pre-eminent position the "three-prong" test holds in regulating water use. Because CS/SB 312 merely refines the public interest determination for those transfers of water between counties or watersheds, it appears to recognize that the "three-prong" test applies with equal force to **all** water allocations.

Similarly, some think that CS/SB 312 may undermine the discretion of the DEP and the WMDs to determine what water uses best meet the "three-prong" test. Apparently, the second concern centers around the assumed proliferation in third-party opposition to the permitting of the transfers of water. Specifically, the concern stems from whether CS/SB 312 provides third parties with new grounds of standing to challenge the issuance of permits (e.g., preservation of future reasonable-beneficial uses). Given that Chapter 373, F.S., already may require that the WMDs consider the water needs of impacted areas, CS/SB 312 does not appear to provide a new basis for standing. Nevertheless, third parties may attempt to seize upon language requiring consideration of future reasonable-beneficial uses for the purpose of alleging standing.

Lastly, some concern has been raised about whether Chapter 70, F.S. (also known as the "Bert J. Harris, Jr., Private Property Rights Protection Act") may thwart the implementation of CS/SB 312. This act provides that where a specific governmental action inordinately burdens an existing use of real property, that the property owner is entitled to relief, including compensation for the actual loss of fair market value. Apparently, the concern stems from the fact that a WMD may, for instance, deny an applicant seeking a water use permit for a golf course on the basis of the proposed factors in CS/SB 312. Such a denial could conceivably block or severely restrict that land use or even another reasonably foreseeable land use. While this scenario may be possible, it does not appear to result exclusively from the "local sources first" principle embodied in CS/SB 312. The same denial of a water use permit for the golf course could also result from application of the present "three-prong" test.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 14, 1998, the Senate Committee on Natural Resources combined SBs 312 and 2298 into CS/SB 312 by a vote of 9-2. Later, on April 20, 1998, the Senate Committee on Community Affairs approved CS/SB 312 by a vote of 6-0. In the April 20, 1998, vote of approval, the Committee on Community Affairs approved 3 amendments to CS/SB 312. Those amendments were as follows:

- exempting the transport and use of water supplied exclusively for bottled water as defined in s. 500.03(1)(d), F.S.;
- exempting the transport and use of reclaimed water for electrical power production by an electric utility as defined in s. 366.02(2), F.S.; and
- clarifying that the requirement that an interlocal agreement creating a regional water supply authority be consistent with s. 373.1963(1), F.S., would only apply **if applicable**.

On April 28, 1998, CS/SB 312 was placed on Special Order Calendar where the following amendments were adopted:

- exempting the transport and use of water supplied exclusively for bottled water as defined in s. 500.03(1)(d), F.S.;
- exempting the transport and use of reclaimed water for electrical power production by an electric utility as defined in s. 366.02(2), F.S.;
- clarifying that the exemption for regional water supply authorities only applied to those authorities existing under an interlocal agreement that is consistent with the requirements of s. 373.1963(1)(b), F.S.;
- exempting any water use permit applications pending as of April 1, 1998, with the Northwest Florida Water Management District;

- deleting transport of water across watersheds as one of the conditions for triggering a "local sources first" evaluation; and
- adding the following factor to the "local sources first" evaluation: the value of existing capital investment in water-related infrastructure made by the applicant.

As to the Senate's adoption of these amendments, the amendment deleting watershed from CS/SB 312 was apparently intended to make water transport across county boundaries the catalyst for a "local sources first" evaluation. The amendment relating to the consideration of existing water-related infrastructure made by the applicant appears to have been included in the bill to help the Peace River-Manasota Regional Water Supply Authority through the "local sources first" evaluation. Finally, the change to the regional water supply authority exemption appears to clarify that interlocal agreements need only be consistent with the requirements of s. 373.1963(1), F.S., **as provided for in the interlocal agreement.**

Then on April 29, 1998, the Senate passed CS/SB 312 by a vote of 39-0. Also, on April 29, 1998, several amendments to the bill were adopted. These amendments made various technical, cross-reference changes to the bill. Later, on April 30, 1998, the House passed CS/SB 312 without any further amendments by a vote of 113-3.

VII. SIGNATURES:

COMMITTEE ON Water & Resource Management:

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