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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 17, 1998 Revised: 4/20/97 \_\_\_\_\_

Subject: Water Resource Management

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Branning</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/3 amendments</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

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**I. Summary:**

Committee Substitute for SBs 312 and 2298 provides legislative intent regarding the allocation of water resources and the use of water from sources nearest the area of need, and specifies the factors to be considered by the water management districts and the Department of Environmental Protection in determining whether a proposed transport and use of water across county boundaries or outside the watershed is in the public interest. The area encompassed by the Central and Southern Florida Flood Control Project, and anywhere in the state where the water is transported and used exclusively for bottled water, are not subject to the local sources first considerations of this bill. The CS provides an exemption for water supply authorities under certain circumstances from certain factors for consumptive use permits. Except for the transport and use of water supplied by the Central and Southern Florida Flood Control Project and self suppliers of water for which the proposed water source and area of use or application are located on contiguous private properties, when evaluating whether a potential transport and use of ground or surface water across county boundaries or outside the watershed from which it is taken in consistent with the public interest, the water management district or the Department of Environmental Protection shall consider certain specified factors. The CS provides additional information which must be included in permit applications for the transport and use of water.

The CS amends sections 373.016, 373.196, 373.1962, 373.223, 373.229, 373.536, 373.036, 373.209, 373.226, and 373.421 of the Florida Statutes.

**II. Present Situation:**

Section 373.016, F.S., declares policy for the water resources of the state. Subsection (2) provides that “[t]he department and the governing board shall take into account cumulative

impacts on water resources and manage those resources in a manner to ensure their sustainability.”

Section 373.2295, F.S., provides for the interdistrict transfer of groundwater under certain circumstances. “Interdistrict transfer and use” means a consumptive water use which involves the withdrawal of groundwater from a point within one water management district for use outside the boundaries of that district. In determining if an application is consistent with the public interest as required by s. 373.223, F.S., the projected populations, as contained in the future land use elements of the comprehensive plans adopted pursuant to ch. 163, F.S., by the local governments within which the withdrawal areas and the proposed use areas are located, will be considered together with other evidence presented regarding future needs of those areas. If the proposed interdistrict transfer of groundwater meets the requirements of this chapter, and if the needs of the area where the use will occur and the specific area from which the groundwater will be withdrawn can be satisfied, the permit for the interdistrict transfer and use shall be issued.

Every year for that past several years the Legislature has addressed various aspects of water management, water supply development, and water resource development. One of the most contentious issues yet to be resolved involves the issue of “local sources first.” Under this concept, water users and water managers should first look to the water resources in their immediate geographic area before importing water from other areas. Local water resources are not limited to just local ground or surface water, but also include the use of alternative water sources such as desalination, reverse osmosis, and reclaimed water.

Local sources first is a particularly controversial concept in the region just north of Tampa Bay. A fight has been brewing among certain counties in this region due to alleged over pumping of the wellfields in Pasco County which has led to wetlands, lakes, and wells in the region drying up. Pinellas County, which has no potable groundwater source, relies heavily on the transport of water from the Pasco wellfields. Alternative water supplies such as desalination and reverse osmosis provide more expensive water than water pumped directly from the aquifer.

When the Water Management District Review Commission issued its final report in December of 1995, recommendation number 27 addressed the concept of “local sources first.” The commission’s recommendation proposed to amend s. 373.223, F.S., to provide that:

*Notwithstanding any policies contained in part I of this chapter, when evaluating whether a potential interdistrict or intradistrict transport of ground or surface water is consistent with the public interest, the governing board or the department shall consider:*

- (a) the proximity of the proposed source of water to the area in which it is to be used or applied, and*
- (b) other economically and technically feasible alternatives to the source being proposed, including but not limited to desalination, reuse, stormwater and aquifer storage and recovery.*

The commission's recommendation was not enacted by the Legislature and currently there is no statutory direction or intent to prioritize the use of local water sources first.

### III. Effect of Proposed Changes:

**Section 1** amends s. 373.016, F.S., to provide legislative intent regarding the allocation of water resources. The Legislature recognizes the need to allocate water throughout the state so as to meet all reasonable-beneficial uses. However, the Legislature acknowledges that such allocations have in the past adversely affected the water resources of certain areas of the state. To protect such water resources and to meet the current and future needs of those areas with abundant water, the Legislature directs the Department of Environmental Protection (DEP) and the water management districts (districts) to encourage the use of water from sources nearest the area of use or application whenever practicable. Such sources include all naturally occurring water sources and all alternative water sources including, but not limited to, desalination, conservation, reuse of non-potable reclaimed water and stormwater, and aquifer storage and recovery. Reuse of potable reclaimed water and stormwater shall not be subject to the evaluation described in s. 373.223(3)(a)-(f), F.S. However, this directive would not apply to the transport and use of water within the area encompassed by the Central and Southern Florida Flood Control Project, nor shall it apply anywhere in the state to the transport and use of water supplied exclusively for bottled water as defined in s. 500.03(1)(d), F.S.. The Legislature further recognizes that under certain circumstances 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., relating to legislative intent regarding the creation of water supply authorities, to clarify that the regional water supply authorities are to have the primary responsibility for water, and to clarify that water management districts are to engage only in those functions that are incidental to the exercise of their flood control and water management powers or that are related to water resource development pursuant to s. 373.0831, F.S.

**Section 3** amends s. 373.1962, F.S., to provide that where a water supply authority exists pursuant to s. 373.1962 or s. 373.1963, F.S., under a voluntary interlocal agreement which is consistent with the requirements in s. 373.1963(1), F.S., and receives or maintains consumptive use permits under this voluntary agreement consistent with the water supply plan, if any, adopted by the governing board, then such authorities shall be exempt from consideration by the governing board or the DEP of the factors specified in paragraphs (a)-(f) of s. 373.223(3), F.S., and the submissions required by s. 373.229(3), F.S. The exemptions shall only apply to water sources within the jurisdictional areas of such voluntary water supply interlocal agreements.

**Section 4** amends s. 373.223, F.S., to provide that in order to obtain a consumptive use permit, the applicant must meet the following three criteria, also known as the "three-prong test":

- The proposed use of water is a reasonable-beneficial use as defined in s. 373.019(4), F.S.;

- The proposed use of water will not interfere with any presently existing legal use of water; and
- The proposed use of water is consistent with the public interest.

In addition to the above, the CS provides that, except for the transport and use of water supplied by the Central and Southern Florida Flood Control Project and self suppliers of water for which the proposed water source and area of use or application are located on contiguous private properties, when evaluating whether a potential transport and use of ground or surface water across county boundaries or outside the watershed from which it is taken is consistent with the public interest, the district or the DEP shall consider:

- 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 non-potable reclaimed water and stormwater, and aquifer storage and recovery.
- 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 other water sources identified in paragraphs (b) and (c) of s. 373.223(3), F.S.
- 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.

Where districtwide water supply assessments and regional water supply plans have been prepared pursuant to ss. 373.036 and 373.0361, F.S., the governing board or the department shall use the applicable plans and assessments as the basis for its consideration of the applicable factors in s. 373.223(3), F.S.

**Section 5** amends s. 373.229, F.S., which currently provides that all applications for consumptive use permits shall contain:

- The name of the applicant and his or her address or, in the case of a corporation, the address of its principal business office;
- The date of filing;

- The date set for a hearing, if any;
- The source of the water supply;
- The quantity of water applied for;
- The use to be made of the water and any limitation thereon;
- The place of use;
- The location of the well or point of diversion; and
- Such other information as the district or the DEP may deem necessary.

The CS provides that in addition to the above information, all permit applications filed with the district or the DEP which propose the transport and use of water across county boundaries or outside the watershed from which it is taken, shall include information pertaining to factors to be considered, pursuant to s. 373.223(3), F.S., unless exempt under s. 373.1962(9), F.S.

**Section 6** reenacts s. 373.536(5)(c), F.S., which requires the submission of water management districts' tentative budgets to the Governor, the Legislature, the secretary of the department and each county in which the district has jurisdiction.

**Section 7** amends s. 373.036, F.S., relating to the Florida water plan and district water management plans, to correct a cross-reference.

**Section 8** amends s. 373.209, F.S., by changing the phrase "reasonable and beneficial" to "reasonable-beneficial" when describing the use of a well which is regulated under this section.

**Section 9** amends s. 373.226, F.S., to correct a cross-reference.

**Section 10** amends s. 373.421, F.S., to correct cross-references.

**Section 11** provides an effective date of October 1, 1998.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the DEP or the water management district finds that it is in the public interest to use local water sources first, including alternative water sources, in lieu of transporting water from a neighboring wellfield, the cost of providing water to that area could increase; therefore subjecting the residents of that area and other area water users to higher water costs.

By requiring that local water sources and alternative water sources be used before transporting water, residents in and around lakes and wetlands that have experienced significant drops in water levels could benefit if the water levels can be restored due to reduced pumping in the wellfields.

Entities that design and construct alternative water supply systems such as desalination plants and reverse osmosis plants could benefit due to an increased demand for such technology.

C. Government Sector Impact:

The cost to the local government of providing water for its residents could increase significantly if the government must rely primarily on local sources or alternative water supply sources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Community Affairs:

Excepts the transport of water for bottled water supply from the "local sources first" considerations by the governing board or department when determining whether to grant a permit.

#2 by Community Affairs:

Exempts the transport and use of reclaimed water for electrical power production by an electric utility from the "local sources first" considerations outlined in the bill.

#3 by Community Affairs:

Inserts the words "if applicable" to modify the requirements for an interlocal agreement pursuant to s. 373.1962, F.S. The effect of this amendment is unclear.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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