

By the Committee on Natural Resources and Senators
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312-2128A-98

1 A bill to be entitled
2 An act relating to water resource management;
3 amending s. 373.016, F.S.; providing
4 legislative policy relating to state and
5 regional water resource management; encouraging
6 use of water from sources nearest the area of
7 need; providing an exception; amending s.
8 373.196, F.S.; clarifying legislative intent
9 that water resource development is a function
10 of the water management districts; amending s.
11 373.1962, F.S.; providing an exemption for
12 water supply authorities under certain
13 circumstances from certain factors for
14 consumptive use permits; amending s. 373.223,
15 F.S.; directing the Department of Environmental
16 Protection or water management district
17 governing board to consider certain factors
18 when determining the public interest for the
19 transport and use of water across county
20 boundaries or outside the watershed; amending
21 s. 373.229, F.S.; requiring additional
22 information in permit applications for proposed
23 transport and use of water pursuant to s.
24 373.223(2), F.S.; reenacting s. 373.536(5)(c),
25 F.S.; clarifying intent with respect to
26 language inadvertently omitted by legislative
27 action; amending ss. 373.036, 373.209, 373.226,
28 373.421, F.S.; correcting cross-references;
29 providing an effective date.
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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsections (4) and (5) of section 373.016,
2 Florida Statutes, are renumbered as subsections (5) and (6),
3 respectively, and a new subsection (4) is added to said
4 section to read:

5 373.016 Declaration of policy.--

6 (4)(a) Because water constitutes a public resource
7 benefiting the entire state, it is the policy of the
8 Legislature that the waters in the state be managed on a state
9 and regional basis. Consistent with this directive, the
10 Legislature recognizes the need to allocate water throughout
11 the state so as to meet all reasonable-beneficial uses.
12 However, the Legislature acknowledges that such allocations
13 have in the past adversely affected the water resources of
14 certain areas in this state. To protect such water resources
15 and to meet the current and future needs of those areas with
16 abundant water, the Legislature directs the department and the
17 water management districts to encourage the use of water from
18 sources nearest the area of use or application whenever
19 practicable. Such sources shall include all naturally
20 occurring water sources and all alternative water sources,
21 including, but not limited to, desalination, conservation,
22 reuse of nonpotable reclaimed water and stormwater, and
23 aquifer storage and recovery. Reuse of potable reclaimed water
24 and stormwater shall not be subject to the evaluation
25 described in s. 373.223(3)(a)-(f). However, this directive to
26 encourage the use of water, whenever practicable, from sources
27 nearest the area of use or application shall not apply to the
28 transport and direct and indirect use of water within the area
29 encompassed by the Central and Southern Florida Flood Control
30 Project, nor shall it apply anywhere in the state to the

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1 transport and use of water supplied exclusively for bottled
2 water as defined in s. 500.03(1)(d).

3 (b) In establishing the policy outlined in paragraph
4 (a), the Legislature realizes that under certain circumstances
5 the need to transport water from distant sources may be
6 necessary for environmental, technical, or economic reasons.

7 Section 2. Subsection (2) of section 373.196, Florida
8 Statutes, is amended to read:

9 373.196 Legislative findings.--

10 (2) Municipalities and counties are encouraged to
11 create regional water supply authorities as authorized herein.
12 It is further the intent that municipalities, counties, and
13 regional water supply authorities are to have the primary
14 responsibility for water supply, and water management
15 districts and their basin boards are to engage only in those
16 functions that are incidental to the exercise of their flood
17 control and water management powers or that are related to
18 water resource development pursuant to s. 373.0831.

19 Section 3. Subsection (9) is added to section
20 373.1962, Florida Statutes, to read:

21 373.1962 Regional water supply authorities.--

22 (9) Where a water supply authority exists pursuant to
23 s. 373.1962 or s. 373.1963 under a voluntary interlocal
24 agreement that is consistent with requirements in s.
25 373.1963(1) and receives or maintains consumptive use permits
26 under this voluntary agreement consistent with the water
27 supply plan, if any, adopted by the governing board, such
28 authority shall be exempt from consideration by the governing
29 board or department of the factors specified in s.
30 373.223(3)(a)-(f) and the submissions required by s.
31 373.229(3). Such exemptions shall apply only to water sources

1 within the jurisdictional areas of such voluntary water supply
2 interlocal agreements.

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

7 373.223 Conditions for a permit.--

8 (1) To obtain a permit pursuant to the provisions of
9 this chapter, the applicant must establish that the proposed
10 use of water:

11 (a) Is a reasonable-beneficial use as defined in s.
12 373.019~~(4)~~;

13 (b) Will not interfere with any presently existing
14 legal use of water; and

15 (c) Is consistent with the public interest.

16 (3) Except for the transport and use of water supplied
17 by the Central and Southern Florida Flood Control Project and
18 self-suppliers of water for which the proposed water source
19 and area of use or application are located on contiguous
20 private properties, when evaluating whether a potential
21 transport and use of ground or surface water across county
22 boundaries or outside the watershed from which it is taken is
23 consistent with the public interest, pursuant to paragraph
24 (c), the governing board or department shall consider:

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

27 (b) All impoundments, streams, groundwater sources, or
28 watercourses that are geographically closer to the area of use
29 or application than the proposed source, and that are
30 technically and economically feasible for the proposed
31 transport and use.

1 (c) All economically and technically feasible
2 alternatives to the proposed source, including, but not
3 limited to, desalination, conservation, reuse of nonpotable
4 reclaimed water and stormwater, and aquifer storage and
5 recovery.

6 (d) The potential environmental impacts that may
7 result from the transport and use of water from the proposed
8 source, and the potential environmental impacts that may
9 result from use of the other water sources identified in
10 paragraphs (a) and (c).

11 (e) Whether existing and reasonably anticipated
12 sources of water and conservation efforts are adequate to
13 supply water for existing legal uses and reasonably
14 anticipated future needs of the water supply planning region
15 in which the proposed water source is located.

16 (f) Consultations with local governments affected by
17 the proposed transport and use.

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19 Where districtwide water supply assessments and regional water
20 supply plans have been prepared pursuant to ss. 373.036 and
21 373.0361, the governing board or the department shall use the
22 applicable plans and assessments as the basis for its
23 consideration of the applicable factors in s. 373.223(3).

24 Section 5. Subsection (3) of section 373.229, Florida
25 Statutes, is renumbered as subsection (4), and a new
26 subsection (3) is added to said section to read:

27 373.229 Application for permit.--

28 (3) In addition to the information required in
29 subsection (1), all permit applications filed with the
30 governing board or the department which propose the transport
31 and use of water across county boundaries or outside the

1 watershed from which it is taken, shall include information
2 pertaining to factors to be considered, pursuant to s.
3 373.223(3), unless exempt under s. 373.1962(9).

4 Section 6. Paragraph (c) of subsection (5) of section
5 373.536, Florida Statutes, is reenacted to read:

6 373.536 District budget and hearing thereon.--

7 (5)

8 (c) Each water management district shall, by August 1
9 of each year, submit for review a tentative budget to the
10 Governor, the President of the Senate, the Speaker of the
11 House of Representatives, the chairs of all legislative
12 committees and subcommittees with substantive or fiscal
13 jurisdiction over water management districts, the secretary of
14 the department, and the governing body of each county in which
15 the district has jurisdiction or derives any funds for the
16 operations of the district. The tentative budget must
17 include, but is not limited to, the following information for
18 the preceding fiscal year and the current fiscal year, and the
19 proposed amounts for the upcoming fiscal year, in a standard
20 format prescribed by the Executive Office of the Governor
21 which is generally consistent with the format prescribed by
22 legislative budget instructions for state agencies and the
23 format requirements of s. 216.031:

24 1. The millage rates and the percentage increase above
25 the rolled-back rate, together with a summary of the reasons
26 the increase is required, and the percentage increase in
27 taxable value resulting from new construction;

28 2. The salary and benefits, expenses, operating
29 capital outlay, number of authorized positions, and other
30 personal services for the following program areas, including a
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1 separate section for lobbying, intergovernmental relations,
2 and advertising:
3 a. District management and administration;
4 b. Implementation through outreach activities;
5 c. Implementation through regulation;
6 d. Implementation through acquisition, restoration,
7 and public works;
8 e. Implementation through operations and maintenance
9 of lands and works;
10 f. Water resources planning and monitoring; and
11 g. A full description and accounting of expenditures
12 for lobbying activities relating to local, regional, state,
13 and federal governmental affairs, whether incurred by district
14 staff or through contractual services and all expenditures for
15 public relations, including all expenditures for public
16 service announcements and advertising in any media.
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18 In addition to the program areas reported by all water
19 management districts, the South Florida Water Management
20 District shall include in its budget document a separate
21 section on all costs associated with the Everglades
22 Construction Project.
23 3. The total amount in the district budget for each
24 area of responsibility listed in paragraph (a) and for water
25 resource development projects identified in the district's
26 regional water supply plans.
27 4. A 5-year capital improvements plan.
28 5. A description of each new, expanded, reduced, or
29 eliminated program.
30 6. A proposed 5-year water resource development work
31 program, that describes the district's implementation strategy

1 for the water resource development component of each approved
2 regional water supply plan developed or revised pursuant to s.
3 373.0361. The work program shall address all the elements of
4 the water resource development component in the district's
5 approved regional water supply plans. The office of the
6 Governor, with the assistance of the department, shall review
7 the proposed work program. The review shall include a written
8 evaluation of its consistency with and furtherance of the
9 district's approved regional water supply plans, and adequacy
10 of proposed expenditures. As part of the review, the Executive
11 Office of the Governor and the department shall afford to all
12 interested parties the opportunity to provide written comments
13 on each district's proposed work program. At least 7 days
14 prior to the adoption of its final budget, the governing board
15 shall state in writing to the Executive Office of the Governor
16 which changes recommended in the evaluation it will
17 incorporate into its work program, or specify the reasons for
18 not incorporating the changes. The office of the Governor
19 shall include the district's responses in the written
20 evaluation and shall submit a copy of the evaluation to the
21 Legislature; and

22 7. The funding sources, including, but not limited to,
23 ad valorem taxes, Surface Water Improvement and Management
24 Program funds, other state funds, federal funds, and user fees
25 and permit fees for each program area.

26 Section 7. Paragraph (d) of subsection (1) of section
27 373.036, Florida Statutes, is amended to read:

28 373.036 Florida water plan; district water management
29 plans.--

30 (1) FLORIDA WATER PLAN.--In cooperation with the water
31 management districts, regional water supply authorities, and

1 others, the department shall develop the Florida water plan.
2 The Florida water plan shall include, but not be limited to:
3 (d) Goals, objectives, and guidance for the
4 development and review of programs, rules, and plans relating
5 to water resources, based on statutory policies and
6 directives. The state water policy rule, renamed the water
7 resource implementation rule pursuant to s. 373.019~~(21)~~~~(20)~~,
8 shall serve as this part of the plan. Amendments or additions
9 to this part of the Florida water plan shall be adopted by the
10 department as part of the water resource implementation rule.
11 In accordance with s. 373.114, the department shall review
12 rules of the water management districts for consistency with
13 this rule. Amendments to the water resource implementation
14 rule must be adopted by the secretary of the department and be
15 submitted to the President of the Senate and the Speaker of
16 the House of Representatives within 7 days after publication
17 in the Florida Administrative Weekly. Amendments shall not
18 become effective until the conclusion of the next regular
19 session of the Legislature following their adoption.

20 Section 8. Subsection (2) of section 373.209, Florida
21 Statutes, is amended to read:

22 373.209 Artesian wells; penalties for violation.--

23 (2) A well is exempt from the provisions of this
24 section unless the Department of Environmental Protection can
25 show that the uncontrolled flow of water from the well does
26 not have a reasonable-beneficial ~~reasonable and beneficial~~
27 use, as defined in s. 373.019~~(4)~~.

28 Section 9. Subsection (2) of section 373.226, Florida
29 Statutes, is amended to read:

30 373.226 Existing uses.--

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1 (2) The governing board or the department shall issue
2 an initial permit for the continuation of all uses in
3 existence before the effective date of implementation of this
4 part if the existing use is a reasonable-beneficial use as
5 defined in s. 373.019(~~13~~) and is allowable under the common
6 law of this state.

7 Section 10. Subsection (1) of section 373.421, Florida
8 Statutes, is amended to read:

9 373.421 Delineation methods; formal determinations.--

10 (1) By January 1, 1994, the Environmental Regulation
11 Commission shall adopt a unified statewide methodology for the
12 delineation of the extent of wetlands as defined in s.
13 373.019(23)(~~17~~). This methodology shall consider regional
14 differences in the types of soils and vegetation that may
15 serve as indicators of the extent of wetlands. This
16 methodology shall also include provisions for determining the
17 extent of surface waters other than wetlands for the purposes
18 of regulation under s. 373.414. This methodology shall not
19 become effective until ratified by the Legislature. Subsequent
20 to legislative ratification, the wetland definition in s.
21 373.019(23)(~~17~~) and the adopted wetland methodology shall be
22 binding on the department, the water management districts,
23 local governments, and any other governmental entities. Upon
24 ratification of such wetland methodology, the Legislature
25 preempts the authority of any water management district, state
26 or regional agency, or local government to define wetlands or
27 develop a delineation methodology to implement the definition
28 and determines that the exclusive definition and delineation
29 methodology for wetlands shall be that established pursuant to
30 s. 373.019(23)(~~17~~) and this section. Upon such legislative
31 ratification, any existing wetlands definition or wetland

1 delineation methodology shall be superseded by the wetland
2 definition and delineation methodology established pursuant to
3 this chapter. Subsequent to legislative ratification, a
4 delineation of the extent of a surface water or wetland by the
5 department or a water management district, pursuant to a
6 formal determination under subsection (2), or pursuant to a
7 permit issued under this part in which the delineation was
8 field-verified by the permitting agency and specifically
9 approved in the permit, shall be binding on all other
10 governmental entities for the duration of the formal
11 determination or permit. All existing rules and methodologies
12 of the department, the water management districts, and local
13 governments, regarding surface water or wetland definition and
14 delineation shall remain in full force and effect until the
15 common methodology rule becomes effective. However, this shall
16 not be construed to limit any power of the department, the
17 water management districts, and local governments to amend or
18 adopt a surface water or wetland definition or delineation
19 methodology until the common methodology rule becomes
20 effective.

21 Section 11. This act shall take effect October 1,
22 1998.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 312 and 2298

4 This committee substitute combines SB 312 and SB 2298 and uses
5 SB 2298 as the base bill.

6 Section 373.016, F.S., is amended to provide that it is the
7 policy of the Legislature to encourage the use of water from
8 sources nearest the area of use or application whenever
9 practicable. Sources shall include all naturally occurring
10 water sources, including, but not limited to, desalination,
11 conservation, and aquifer storage and recovery. Reuse of
12 potable reclaimed water and reuse of nonpotable reclaimed
13 water and stormwater shall not be subject to the evaluation
14 described in s. 373.223(3)(a)-(f), F.S. This directive to
15 encourage the use of water, whenever practicable, from sources
16 nearest the area of use or application shall not apply to the
17 transport and direct or indirect use of water within the area
18 encompassed by the Central and Southern Florida Flood Control
19 Project, nor shall it apply anywhere in the state to the
20 transport and use of water supplied exclusively for bottled
21 water as defined in s. 500.03(1)(d), F.S.

22 The definition for "donor area" and all references to donor
23 area have been deleted from the bill.

24 Section 373.1962, F.S., is amended to provide that where a
25 water supply authority exists pursuant to s. 373.1962 or s.
26 373.1963(1), F.S., and receives or maintains consumptive use
27 permits under this voluntary agreement consistent with the
28 water supply plan, if any, adopted by the governing board,
29 then such authorities shall be exempt from consideration by
30 the governing board or the Department of environmental
31 Protection of the factors specified in s. 373.223(3)(a)-(f),
F.S., and the submissions required by s. 373.229(3), F.S. The
exemption shall only apply to water sources within the
jurisdictional areas of voluntary water supply interlocal
agreements.

22 A new subsection (3) is added to s. 373.223, F.S., to provide
23 that, except for the transport and use of water supplied by
24 the Central and Southern Florida Flood Control Project and
25 self suppliers of water for which the proposed water source
26 and area of use or application are located on contiguous
27 private properties, when evaluating whether a potential
28 transport and use of ground or surface water across county
29 boundaries or outside the watershed from which it is taken is
30 consistent with the public interest, the governing board or
31 the department shall consider:

1. The proximity of the proposed water source to the area of use or application.
2. 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.

- 1 3. All economically and technically feasible alternatives to
2 the proposed source, including, but not limited to,
3 desalination, conservation, reuse of nonpotable reclaimed
4 water and stormwater, and aquifer storage and recovery.
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6 4. The potential environmental impacts that may result from
7 the transport and use of water from the proposed source,
8 and the potential environmental impacts that may result
9 from use of the other water sources identified in (2) and
10 (3) above.
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12 5. Whether existing and reasonably anticipated sources of
13 water and conservation efforts are adequate to supply
14 water fro existing legal uses and reasonably anticipated
15 future needs of the water supply planning region in which
16 the proposed water source is located.
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18 Where districtwide water supply assessments and regional water
19 supply plans have been prepared, the governing board or the
20 department shall use the applicable plans and assessments as
21 the basis for its consideration of the applicable factors
22 identified above.
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24 Section 373.229, F.S., is amended to require additional
25 information in the consumptive use permit. The additional
26 information pertains to the factors to be considered which are
27 identified above.
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