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A bill to be entitled
An act relating to water resource management;
amending s. 373.016, F.S.; providing
legislative policy relating to state and
regional water resource management; encouraging
use of water from sources nearest the area of
need; providing an exception; amending s.
373.196, F.S.; clarifying legislative intent
that water resource development is a function
of the water management districts; amending s.
373.1962, F.S.; providing an exemption for
water supply authorities under certain
circumstances from certain factors for
consumptive use permits; amending s. 373.223,
F.S.; directing the Department of Environmental
Protection or water management district
governing board to consider certain factors
when determining the public interest for the
transport and use of water across county
boundaries or outside the watershed; amending
s. 373.229, F.S.; requiring additional
information in permit applications for proposed
transport and use of water pursuant to s.
373.223(2), F.S.; reenacting s. 373.536(5)(c),
F.S.; clarifying intent with respect to
language inadvertently omitted by legislative
action; amending ss. 373.036, 373.209, 373.226,
373.421, F.S.; correcting cross-references;
providing an effective date.

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)-(g). 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
31 transport and use of water supplied exclusively for bottled

1 water as defined in s. 500.03(1)(d), nor shall it apply to the
2 transport and use of reclaimed water for electrical power
3 production by an electric utility as defined in section
4 366.02(2).

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

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

11 373.196 Legislative findings.--

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

21 Section 3. Subsection (9) is added to section
22 373.1962, Florida Statutes, to read:

23 373.1962 Regional water supply authorities.--

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

1 373.223(3)(a)-(g) and the submissions required by s.
2 373.229(3). Such exemptions shall apply only to water sources
3 within the jurisdictional areas of such voluntary water supply
4 interlocal agreements.

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

9 373.223 Conditions for a permit.--

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

13 (a) Is a reasonable-beneficial use as defined in s.
14 373.019~~(4)~~;

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

17 (c) Is consistent with the public interest.

18 (3) Except for the transport and use of water supplied
19 by the Central and Southern Florida Flood Control Project, and
20 anywhere in the state when the transport and use of water is
21 supplied exclusively for bottled water as defined in s.
22 500.03(1)(d), any water use permit applications pending as of
23 April 1, 1998, with the Northwest Florida Water Management
24 District and self-suppliers of water for which the proposed
25 water source and area of use or application are located on
26 contiguous private properties, when evaluating whether a
27 potential transport and use of ground or surface water across
28 county boundaries is consistent with the public interest,
29 pursuant to subsection (1)(c), the governing board or
30 department shall consider:
31

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

3 (b) All impoundments, streams, groundwater sources, or
4 watercourses that are geographically closer to the area of use
5 or application than the proposed source, and that are
6 technically and economically feasible for the proposed
7 transport and use.

8 (c) All economically and technically feasible
9 alternatives to the proposed source, including, but not
10 limited to, desalination, conservation, reuse of nonpotable
11 reclaimed water and stormwater, and aquifer storage and
12 recovery.

13 (d) The potential environmental impacts that may
14 result from the transport and use of water from the proposed
15 source, and the potential environmental impacts that may
16 result from use of the other water sources identified in
17 paragraphs (b) and (c).

18 (e) Whether existing and reasonably anticipated
19 sources of water and conservation efforts are adequate to
20 supply water for existing legal uses and reasonably
21 anticipated future needs of the water supply planning region
22 in which the proposed water source is located.

23 (f) Consultations with local governments affected by
24 the proposed transport and use.

25 (g) The value of the existing capital investment in
26 water-related infrastructure made by the applicant.

27
28 Where districtwide water supply assessments and regional water
29 supply plans have been prepared pursuant to ss. 373.036 and
30 373.0361, the governing board or the department shall use the
31

1 applicable plans and assessments as the basis for its
2 consideration of the applicable factors in s. 373.223(3).

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

6 373.229 Application for permit.--

7 (3) In addition to the information required in
8 subsection (1), all permit applications filed with the
9 governing board or the department which propose the transport
10 and use of water across county boundaries shall include
11 information pertaining to factors to be considered, pursuant
12 to s. 373.223(3), unless exempt under s. 373.1962(9).

13 Section 6. Paragraph (c) of subsection (5) of section
14 373.536, Florida Statutes, is reenacted to read:

15 373.536 District budget and hearing thereon.--

16 (5)

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

3 1. The millage rates and the percentage increase above
4 the rolled-back rate, together with a summary of the reasons
5 the increase is required, and the percentage increase in
6 taxable value resulting from new construction;

7 2. The salary and benefits, expenses, operating
8 capital outlay, number of authorized positions, and other
9 personal services for the following program areas, including a
10 separate section for lobbying, intergovernmental relations,
11 and advertising:

12 a. District management and administration;

13 b. Implementation through outreach activities;

14 c. Implementation through regulation;

15 d. Implementation through acquisition, restoration,
16 and public works;

17 e. Implementation through operations and maintenance
18 of lands and works;

19 f. Water resources planning and monitoring; and

20 g. A full description and accounting of expenditures
21 for lobbying activities relating to local, regional, state,
22 and federal governmental affairs, whether incurred by district
23 staff or through contractual services and all expenditures for
24 public relations, including all expenditures for public
25 service announcements and advertising in any media.
26

27 In addition to the program areas reported by all water
28 management districts, the South Florida Water Management
29 District shall include in its budget document a separate
30 section on all costs associated with the Everglades
31 Construction Project.

1
2 3. The total amount in the district budget for each
3 area of responsibility listed in paragraph (a) and for water
4 resource development projects identified in the district's
5 regional water supply plans.

6 4. A 5-year capital improvements plan.

7 5. A description of each new, expanded, reduced, or
8 eliminated program.

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

1 7. The funding sources, including, but not limited to,
2 ad valorem taxes, Surface Water Improvement and Management
3 Program funds, other state funds, federal funds, and user fees
4 and permit fees for each program area.

5 Section 7. Paragraph (d) of subsection (1) of section
6 373.036, Florida Statutes, is amended to read:

7 373.036 Florida water plan; district water management
8 plans.--

9 (1) FLORIDA WATER PLAN.--In cooperation with the water
10 management districts, regional water supply authorities, and
11 others, the department shall develop the Florida water plan.
12 The Florida water plan shall include, but not be limited to:

13 (d) Goals, objectives, and guidance for the
14 development and review of programs, rules, and plans relating
15 to water resources, based on statutory policies and
16 directives. The state water policy rule, renamed the water
17 resource implementation rule pursuant to s. 373.019(21)+20),
18 shall serve as this part of the plan. Amendments or additions
19 to this part of the Florida water plan shall be adopted by the
20 department as part of the water resource implementation rule.
21 In accordance with s. 373.114, the department shall review
22 rules of the water management districts for consistency with
23 this rule. Amendments to the water resource implementation
24 rule must be adopted by the secretary of the department and be
25 submitted to the President of the Senate and the Speaker of
26 the House of Representatives within 7 days after publication
27 in the Florida Administrative Weekly. Amendments shall not
28 become effective until the conclusion of the next regular
29 session of the Legislature following their adoption.

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

1 373.209 Artesian wells; penalties for violation.--
2 (2) A well is exempt from the provisions of this
3 section unless the Department of Environmental Protection can
4 show that the uncontrolled flow of water from the well does
5 not have a reasonable-beneficial ~~reasonable and beneficial~~
6 use, as defined in s. 373.019~~(4)~~.

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

9 373.226 Existing uses.--
10 (2) The governing board or the department shall issue
11 an initial permit for the continuation of all uses in
12 existence before the effective date of implementation of this
13 part if the existing use is a reasonable-beneficial use as
14 defined in s. 373.019~~(13)~~ and is allowable under the common
15 law of this state.

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

18 373.421 Delineation methods; formal determinations.--
19 (1) By January 1, 1994, the Environmental Regulation
20 Commission shall adopt a unified statewide methodology for the
21 delineation of the extent of wetlands as defined in s.
22 373.019~~(23)~~(23)~~(17)~~. This methodology shall consider regional
23 differences in the types of soils and vegetation that may
24 serve as indicators of the extent of wetlands. This
25 methodology shall also include provisions for determining the
26 extent of surface waters other than wetlands for the purposes
27 of regulation under s. 373.414. This methodology shall not
28 become effective until ratified by the Legislature. Subsequent
29 to legislative ratification, the wetland definition in s.
30 373.019~~(23)~~(23)~~(17)~~ and the adopted wetland methodology shall be
31 binding on the department, the water management districts,

1 local governments, and any other governmental entities. Upon
2 ratification of such wetland methodology, the Legislature
3 preempts the authority of any water management district, state
4 or regional agency, or local government to define wetlands or
5 develop a delineation methodology to implement the definition
6 and determines that the exclusive definition and delineation
7 methodology for wetlands shall be that established pursuant to
8 s. 373.019(23)~~(17)~~ and this section. Upon such legislative
9 ratification, any existing wetlands definition or wetland
10 delineation methodology shall be superseded by the wetland
11 definition and delineation methodology established pursuant to
12 this chapter. Subsequent to legislative ratification, a
13 delineation of the extent of a surface water or wetland by the
14 department or a water management district, pursuant to a
15 formal determination under subsection (2), or pursuant to a
16 permit issued under this part in which the delineation was
17 field-verified by the permitting agency and specifically
18 approved in the permit, shall be binding on all other
19 governmental entities for the duration of the formal
20 determination or permit. All existing rules and methodologies
21 of the department, the water management districts, and local
22 governments, regarding surface water or wetland definition and
23 delineation shall remain in full force and effect until the
24 common methodology rule becomes effective. However, this shall
25 not be construed to limit any power of the department, the
26 water management districts, and local governments to amend or
27 adopt a surface water or wetland definition or delineation
28 methodology until the common methodology rule becomes
29 effective.

30 Section 11. This act shall take effect October 1,
31 1998.