

ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

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:

ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

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

ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

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

ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

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  
31

ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

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.

ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

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

5           4. A 5-year capital improvements plan.

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

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



ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

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:

ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

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,

ENROLLED

1998 Legislature  
(ntc)

CS for SB's 312 & 2298, 2nd Engrossed

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.