

By the Committee on Water & Resource Management and
Representatives K. Pruitt, Argenziano and Casey

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.
8 373.019, F.S.; defining "donor area"; amending
9 s. 373.196, F.S.; clarifying legislative intent
10 that water resource development is a function
11 of the water management districts; amending s.
12 373.223, F.S.; directing the Department of
13 Environmental Protection or water management
14 district governing board to give significant
15 weight to certain factors when determining the
16 public interest for the transport and use of
17 water across county boundaries or outside the
18 watershed; amending s. 373.229, F.S.; requiring
19 additional information in permit applications
20 for proposed transport and use of water
21 pursuant to s. 373.223(2), F.S.; reenacting s.
22 373.536(5)(c), F.S.; clarifying intent with
23 respect to language inadvertently omitted by
24 legislative action; amending ss. 373.036,
25 373.209, 373.226, and 373.421, F.S.; correcting
26 cross references; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsections (4) and (5) of section 373.016,
31 Florida Statutes, are renumbered as subsections (5) and (6),

1 respectively, and a new subsection (4) is added to said
2 section to read:
3 373.016 Declaration of policy.--
4 (4)(a) Because water constitutes a public resource
5 benefiting the entire state, it is the policy of the
6 Legislature that the waters in the state be managed on a state
7 and regional basis. Consistent with this directive, the
8 Legislature recognizes the need to allocate water throughout
9 the state so as to meet all reasonable-beneficial uses.
10 However, the Legislature acknowledges that such allocations
11 have in the past adversely affected the water resources of
12 certain areas in this state. To protect such water resources
13 and to meet the current and future needs of those areas with
14 abundant water, the Legislature directs the department and the
15 water management districts to encourage the use of water from
16 sources nearest the area of use or application, whenever
17 practicable. Such sources shall include all naturally
18 occurring water sources and all alternative water sources,
19 including, but not limited to, desalination, reuse of
20 reclaimed water and stormwater, conservation, and aquifer
21 storage and recovery. However, this directive to encourage the
22 use of water from sources nearest the area of use or
23 application, whenever practicable, shall not apply to the
24 transport and use of water within the area encompassed by the
25 Central and Southern Florida Flood Control Project.

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

30 Section 2. Subsections (5) through (23) of section
31 373.019, Florida Statutes, are renumbered as subsections (6)

1 through (24), respectively, and a new subsection (5) is added
2 to said section to read:

3 373.019 Definitions.--When appearing in this chapter
4 or in any rule, regulation, or order adopted pursuant thereto,
5 the following words shall, unless the context clearly
6 indicates otherwise, mean:

7 (5) "Donor area" means the county, groundwater basin
8 where appropriate and where mapped, or the watershed wherein
9 the proposed source of water for a transport and use regulated
10 under s. 373.223(2) is located. For the purposes of this
11 definition, "watershed" means the United States Geological
12 Survey hydrologic cataloging units listed in the January 1993
13 "Final Report of the District Water Management Plan
14 Conventions for Surface Water Basin and Floodplain Mapping."

15 Section 3. Subsection (2) of section 373.196, Florida
16 Statutes, is amended to read:

17 373.196 Legislative findings.--

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

27 Section 4. Paragraph (a) of subsection (1) and
28 subsection (2) of section 373.223, Florida Statutes, are
29 amended to read:

30 373.223 Conditions for a permit.--

31

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

4 (a) Is a reasonable-beneficial use as defined in s.
5 373.019~~(4)~~;

6 (2) The governing board or the department may
7 authorize the holder of a use permit to transport and use
8 ground or surface water beyond overlying land, across county
9 boundaries, or outside the watershed from which it is taken if
10 the governing board or department determines that such
11 transport and use is consistent with the public interest, and
12 no local government shall adopt or enforce any law, ordinance,
13 rule, regulation, or order to the contrary. Except for the
14 transport and use of water supplied by the Central and
15 Southern Florida Flood Control Project, when evaluating
16 whether a potential transport and use of ground or surface
17 water across county boundaries or outside the watershed from
18 which it is taken is consistent with the public interest, the
19 governing board or department shall give significant weight to
20 the following factors:

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

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

28 (c) All economically and technically feasible
29 alternatives to the proposed source, including, but not
30 limited to, desalination, reuse of reclaimed water and
31 stormwater, and aquifer storage and recovery.

1 (d) The potential environmental impacts that may
2 result from the transport and use of water from the proposed
3 source.

4 (e) Whether the transport and use of water from the
5 donor area will jeopardize the current and future
6 reasonable-beneficial uses of the donor area, such as, in the
7 case of a county, impeding the ability of the donor area to
8 provide water to the population projected to be served under
9 its most recent comprehensive plan or amendment thereto.

10 (f) Consultations with local governments affected by
11 the proposed transport and use.

12
13 The department and the water management districts shall adopt
14 rules to apply these criteria to water use applications.
15 Where the department or the governing boards evaluate water
16 use applications on the basis of these criteria, such
17 applications shall be assessed in a manner consistent with the
18 legislative intent expressed in s. 373.016(4). In any rules
19 implementing this subsection, the burden rests with the
20 applicant to prove by a preponderance of the evidence that the
21 proposed transport and use satisfies these criteria.

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

25 373.229 Application for permit.--

26 (3) In addition to the information required in
27 subsection (1), all permit applications filed with the
28 governing board or the department that propose the transport
29 and use of water across county boundaries or outside the
30 watershed from which it is taken, pursuant to s. 373.223(2),
31 shall contain the following items:

1 (a) A description of the proposed water source in
2 relation to the area of use or application.

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

8 (c) The availability of any other economically and
9 technically feasible alternative water sources, including, but
10 not limited to, desalination, reuse of reclaimed water and
11 stormwater, and aquifer storage and recovery.

12 (d) The potential environmental impacts that may
13 result from the proposed transport and use of water from the
14 proposed source.

15 (e) Whether the transport and use of water from the
16 donor area will jeopardize the current and future
17 reasonable-beneficial uses of the donor area, such as, in the
18 case of a county, impeding the ability of the donor area to
19 provide water to the population projected to be served under
20 its most recent comprehensive plan or amendment thereto.

21 Section 6. Paragraph (c) of subsection (5) of section
22 373.536, Florida Statutes, is reenacted to read:

23 373.536 District budget and hearing thereon.--

24 (5)

25 (c) Each water management district shall, by August 1
26 of each year, submit for review a tentative budget to the
27 Governor, the President of the Senate, the Speaker of the
28 House of Representatives, the chairs of all legislative
29 committees and subcommittees with substantive or fiscal
30 jurisdiction over water management districts, the secretary of
31 the department, and the governing body of each county in which

1 the district has jurisdiction or derives any funds for the
2 operations of the district. The tentative budget must
3 include, but is not limited to, the following information for
4 the preceding fiscal year and the current fiscal year, and the
5 proposed amounts for the upcoming fiscal year, in a standard
6 format prescribed by the Executive Office of the Governor
7 which is generally consistent with the format prescribed by
8 legislative budget instructions for state agencies and the
9 format requirements of s. 216.031:

10 1. The millage rates and the percentage increase above
11 the rolled-back rate, together with a summary of the reasons
12 the increase is required, and the percentage increase in
13 taxable value resulting from new construction;

14 2. The salary and benefits, expenses, operating
15 capital outlay, number of authorized positions, and other
16 personal services for the following program areas, including a
17 separate section for lobbying, intergovernmental relations,
18 and advertising:

19 a. District management and administration;
20 b. Implementation through outreach activities;
21 c. Implementation through regulation;
22 d. Implementation through acquisition, restoration,
23 and public works;
24 e. Implementation through operations and maintenance
25 of lands and works;
26 f. Water resources planning and monitoring; and
27 g. A full description and accounting of expenditures
28 for lobbying activities relating to local, regional, state,
29 and federal governmental affairs, whether incurred by district
30 staff or through contractual services and all expenditures for
31

1 public relations, including all expenditures for public
2 service announcements and advertising in any media.

3

4 In addition to the program areas reported by all water
5 management districts, the South Florida Water Management
6 District shall include in its budget document a separate
7 section on all costs associated with the Everglades
8 Construction Project.

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

13 4. A 5-year capital improvements plan.

14 5. A description of each new, expanded, reduced, or
15 eliminated program.

16 6. A proposed 5-year water resource development work
17 program, that describes the district's implementation strategy
18 for the water resource development component of each approved
19 regional water supply plan developed or revised pursuant to s.
20 373.0361. The work program shall address all the elements of
21 the water resource development component in the district's
22 approved regional water supply plans. The office of the
23 Governor, with the assistance of the department, shall review
24 the proposed work program. The review shall include a written
25 evaluation of its consistency with and furtherance of the
26 district's approved regional water supply plans, and adequacy
27 of proposed expenditures. As part of the review, the Executive
28 Office of the Governor and the department shall afford to all
29 interested parties the opportunity to provide written comments
30 on each district's proposed work program. At least 7 days
31 prior to the adoption of its final budget, the governing board

1 shall state in writing to the Executive Office of the Governor
2 which changes recommended in the evaluation it will
3 incorporate into its work program, or specify the reasons for
4 not incorporating the changes. The office of the Governor
5 shall include the district's responses in the written
6 evaluation and shall submit a copy of the evaluation to the
7 Legislature; and

8 7. The funding sources, including, but not limited to,
9 ad valorem taxes, Surface Water Improvement and Management
10 Program funds, other state funds, federal funds, and user fees
11 and permit fees for each program area.

12 Section 7. Paragraph (d) of subsection (1) of section
13 373.036, Florida Statutes, is amended to read:

14 373.036 Florida water plan; district water management
15 plans.--

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

20 (d) Goals, objectives, and guidance for the
21 development and review of programs, rules, and plans relating
22 to water resources, based on statutory policies and
23 directives. The state water policy rule, renamed the water
24 resource implementation rule pursuant to s. 373.019(21)(~~20~~),
25 shall serve as this part of the plan. Amendments or additions
26 to this part of the Florida water plan shall be adopted by the
27 department as part of the water resource implementation rule.
28 In accordance with s. 373.114, the department shall review
29 rules of the water management districts for consistency with
30 this rule. Amendments to the water resource implementation
31 rule must be adopted by the secretary of the department and be

1 submitted to the President of the Senate and the Speaker of
2 the House of Representatives within 7 days after publication
3 in the Florida Administrative Weekly. Amendments shall not
4 become effective until the conclusion of the next regular
5 session of the Legislature following their adoption.

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

8 373.209 Artesian wells; penalties for violation.--

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

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

16 373.226 Existing uses.--

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

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

25 373.421 Delineation methods; formal determinations.--

26 (1) By January 1, 1994, the Environmental Regulation
27 Commission shall adopt a unified statewide methodology for the
28 delineation of the extent of wetlands as defined in s.
29 373.019~~(23)~~~~(17)~~. This methodology shall consider regional
30 differences in the types of soils and vegetation that may
31 serve as indicators of the extent of wetlands. This

1 methodology shall also include provisions for determining the
2 extent of surface waters other than wetlands for the purposes
3 of regulation under s. 373.414. This methodology shall not
4 become effective until ratified by the Legislature. Subsequent
5 to legislative ratification, the wetland definition in s.
6 373.019(23)~~(17)~~ and the adopted wetland methodology shall be
7 binding on the department, the water management districts,
8 local governments, and any other governmental entities. Upon
9 ratification of such wetland methodology, the Legislature
10 preempts the authority of any water management district, state
11 or regional agency, or local government to define wetlands or
12 develop a delineation methodology to implement the definition
13 and determines that the exclusive definition and delineation
14 methodology for wetlands shall be that established pursuant to
15 s. 373.019(23)~~(17)~~ and this section. Upon such legislative
16 ratification, any existing wetlands definition or wetland
17 delineation methodology shall be superseded by the wetland
18 definition and delineation methodology established pursuant to
19 this chapter. Subsequent to legislative ratification, a
20 delineation of the extent of a surface water or wetland by the
21 department or a water management district, pursuant to a
22 formal determination under subsection (2), or pursuant to a
23 permit issued under this part in which the delineation was
24 field-verified by the permitting agency and specifically
25 approved in the permit, shall be binding on all other
26 governmental entities for the duration of the formal
27 determination or permit. All existing rules and methodologies
28 of the department, the water management districts, and local
29 governments, regarding surface water or wetland definition and
30 delineation shall remain in full force and effect until the
31 common methodology rule becomes effective. However, this shall

1 not be construed to limit any power of the department, the
2 water management districts, and local governments to amend or
3 adopt a surface water or wetland definition or delineation
4 methodology until the common methodology rule becomes
5 effective.

6 Section 11. This act shall take effect upon becoming a
7 law.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31