

STORAGE NAME: h0715.wrm
DATE: March 10, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
WATER & RESOURCE MANAGEMENT
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 715

RELATING TO: Water Resources

SPONSOR(S): Representative Laurent

STATUTE(S) AFFECTED: Amends sections 373.016, 373.0693, 373.073, 373.079, 373.223, 373.236, 373.507, and 373.536, Florida Statutes (F.S.) Creates sections 373.0421 and 373.0831, F.S. Repeals section 373.0735, F.S.

COMPANION BILL(S): HB 1249 (s), SB 1562 (s), HB 1321 (c), HB 1379 (c), SB 1412 (c), and SB 1428 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) WATER & RESOURCE MANAGEMENT
- (2) FINANCE & TAXATION
- (3)
- (4)
- (5)

I. SUMMARY:

HB 715 amends Chapter 373, Florida Statutes (F.S.) to address five major issues: 1) implementation of minimum flows and levels (MFLs); 2) water management district (WMD) accountability; 3) water resource and water supply development; 4) local sources first; and 5) duration of water use permits (WUPs).

1. Implementation of MFLs: HB 715 requires the WMDs to consider changes and structural alterations to wetlands, surface waters, and groundwater, and the effects such changes have had on the water resource when establishing minimum flows and levels (MFLs). The bill further directs the WMDs to implement a recovery or prevention strategy if a water body falls below, or is projected to fall below, a minimum flow or level. The recovery or prevention strategy must include a timetable that will allow for development of additional water supplies concurrent with any reductions in permitted withdrawals.

2. WMD Accountability: HB 715 provides for staggered appointments of WMD governing board members. The bill also provides for more extensive review of WMD financial management, appointment of WMD executive directors by the governor, and it requires additional review of WMD budgets. Additionally, the bill requires attorneys employed by the WMDs to represent the legal interests or position of the governing board.

3. Water Resource and Supply Development: HB 715 directs the WMDs to initiate water resource development to ensure water is available for all existing and future reasonable-beneficial uses and the environment. The bill specifies a number of water resource development activities including non-structural programs to protect and manage water resources as well as the construction, operation, and maintenance of major public works facilities.

4. Local Sources First: HB 715 directs WMDs to consider the availability of local sources when evaluating a WUP application which seeks the transport of water beyond overlying land, across county boundaries, or outside the watershed from which it was taken.

5. Duration of WUPs: HB 715 requires WUPs be issued for 20 years if there is sufficient information to provide reasonable assurance that permit conditions will be met. The bill allows the WMDs to require a 10-year compliance report.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Prior to the 1950's, the most common method of managing water in Florida was to create special single-purpose districts. Examples of special districts which were legislatively created include irrigation districts, water supply districts, sewer districts and water control districts. Florida enacted its first major multi-purpose water management district, the Central and Southern Florida Flood Control District, in 1949 in response to a major flood which had occurred two years earlier. Other multi-purpose districts were created in the mid-1950's, but no single entity was able to supervise or oversee their projects and operations.

In 1955, recognizing that Florida's fragmented approach to handling water issues was incapable of providing a long-term framework for handling future problems, the Florida Legislature created the Florida Water Resources Study Commission. This commission made recommendations which led to the passage of the first major piece of legislation related to water, the 1957 Florida Water Resources Act (the 1957 Act). The 1957 Act established a statewide administrative agency housed within the State Board of Conservation to oversee the development of Florida's water resources. This agency was authorized to issue permits to allow for the capture and use of excess surface and groundwater. It also allowed the agency to establish rules to mandate water conservation in areas of the state where withdrawals were endangering the resource due to the resulting saltwater intrusion.

Despite the 1957 Act, Florida's water problems, including saltwater intrusion, water shortages, destruction of wetlands, and deterioration of water quality, continued to grow through the 1960's and early 1970's. Recognizing the state's continuing water problems, in the early 1970's a group of water law experts at the University of Florida drafted a Model Water Code for Florida. The Code took provisions of the western states' prior appropriations system and provisions of the eastern states riparian system of water law and melded them to create a system of administrative regulation. In 1972, a Governor's task force on resource management recommended that the Legislature adopt the Code. In 1972 the Legislature passed the Florida Water Resources Act (the 1972 act) which included much of the Model Water Code. This act, incorporated in Chapter 373, F.S., marked the beginning of the modern era of water management for Florida and remains largely unchanged as part of Florida law.

The 1972 Act created a two-tiered administrative structure. The Department of Natural Resources (and later the Department of Environmental Regulation) was given responsibility for administering Chapter 373, F.S., at the state level, with the day-to-day management functions to be carried out by five newly created regional WMDs. The Department of Environmental Protection (DEP), is now responsible for water protection at the state level.

Section 373.016(3), F.S., expresses the Legislature's intent to vest in the DEP "the power and responsibility to accomplish the conservation, protection, management, and control of the waters of the state . . . with sufficient flexibility and discretion to accomplish these ends through delegation of appropriate powers to the various water management districts." Section 373.016(3), F.S., strongly encourages DEP to

delegate this power "to the greatest extent practicable" to the governing boards of the WMDs, but retains general supervisory authority in DEP. In order to utilize and conserve the waters of the state, DEP also must coordinate with local governments and other state agencies created to deal with water issues. This bifurcation of responsibility reflected the Legislature's understanding of the importance of the establishment of a statewide policy, but also its awareness of the diversity of water problems in different regions of the state and the variety of solutions to those problems.

In 1982, the Legislature provided legislative intent "that future growth and development planning reflect the limitations of the available ground water or other available water supplies" (s. 373.0395, F.S.). To that end, the Legislature mandated that the WMDs develop a groundwater basin resource availability inventory (commonly called a "safe yield study"). This inventory, once completed, must be given to each affected municipality, county, and regional planning agency. These agencies in turn are required to review the inventory for consistency with local government comprehensive plans and consider the inventory in future revisions of the plans.

Part II of Chapter 373, F.S., provides the statutory framework for consumptive use permitting, now called water use permitting. This regulatory system, enacted in 1972, was intended to supplant the common law doctrine of judicially determined water rights. It created what the Florida Supreme Court described as a "comprehensive administrative system of regulation, resource protection and water use permitting." (See Osceola County v. St. Johns River Water Management District, 504 So.2d 385 (1987)).

The law specifically recognizes the state policy to "preserve natural resources, fish and wildlife" (s. 373.016(2)(e), F.S.). This policy can be achieved under Part II of Chapter 373, F.S. through the water use permitting system which regulates human activities that might adversely affect these resources. Each WMD was required by 1983 to implement a consumptive use permit program (s. 373.216, F. S.), which is now called a water use permit (WUP) program. District rules can impose reasonable conditions "to assure that [a] use is consistent with the overall objectives of the district or department and is not harmful to the water resources of the area" (s. 373.219, F.S.). This program does not apply to domestic consumption of water by individual users, or to wells under certain sizes.

In defining the criteria under which a WUP may be issued, the Legislature drew on the common law reasonable use test. It adopted a slightly revised standard known as reasonable-beneficial use, which was incorporated into the law as one of three criteria to be used by the districts in issuing permits. The law defines reasonable-beneficial use as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest" (s. 373.019(4), F.S.).

Section 373.223, F.S., sets forth the standards to be applied in issuing a permit, known as the three-prong test. Any applicant for a permit must establish that the proposed use of water:

- Is a reasonable-beneficial use as defined in section 373.019(4), F.S.;

- Will not interfere with any presently existing legal use of water; and
- Is consistent with the public interest.

When the WUP system was instituted, all existing water users who sought permits within two years after the applicable district adopted its rules were automatically given permits (s. 373.226, F.S.). All new applicants were subject to the three-prong test before being issued permits.

1. Implementation of MFLs:

A major feature of the 1972 Act is the establishment of MFLs (s. 373.042, F.S.). The purpose for the establishment of MFLs is to manage water resources in a manner that preserves the integrity of the hydrologic system while allowing appropriate uses of surface water and groundwater. MFLs are designed to help determine the amount of water a particular source can provide without causing "significant harm" to the water resource, and to facilitate a planning process in which projected demands can be compared to the available supply.

The WMDs have been slow to establish and implement MFLs, for a variety of reasons. However, in recent years the WMDs have made significant progress in establishing MFLs. In its 1996 session the Legislature required the Southwest Florida WMD (SWFWMD) to establish MFLs for priority water bodies (Chapter 96-339, Laws of Florida). SWFWMD has made significant progress in setting MFLs, and is on schedule to meet the statutory deadline of October 1, 1997. Additionally, the Governor's Executive Order 96-297 directed the WMDs to establish MFLs by the end of Fiscal Year 1999 for priority water bodies outside the geographic area specified in Chapter 96-339. The WMDs are expected to meet this deadline as well.

To date, MFLs generally have been implemented through WUPs, conservation measures, and, in the event of severe water shortages, water shortage restrictions. Generally, permit levels are set to prevent "harm" to the water resource (s. 373.219, F.S.). MFLs prevent "significant harm" to the water resource (s. 373.042, F.S.), and emergency water shortage measures are taken to prevent "serious harm" to the water resource (s. 373.246, F.S.).

Concerns exist among some water users regarding what impact the establishment of MFLs will have on existing legal uses. These concerns focus on the issue of whether the limits set by MFLs will be implemented in a manner that will result in cutbacks in permitted withdrawals. Some argue that existing uses should be considered when the MFLs are established, thus protecting existing uses. Conversely, there is also concern that if existing uses are taken into account, those uses that have already had an adverse impact on water resources or ecology would continue, and the establishment of MFLs would not serve the purpose of preventing significant harm.

2. WMD Accountability:

In the 1972 Act, the Legislature recognized that the magnitude and complexity of water resource problems vary by region. As a result, while vesting responsibility in DEP to manage the waters of the state, the Legislature stated its intent that in DEP delegate program responsibilities to the WMDs. The current water management system is regional rather than statewide. The DEP is responsible for administration of Chapter 373, F.S., at the state level, but program responsibilities have largely been delegated to the districts.

The Governor has some supervisory authority over the WMDs by virtue of his power to appoint WMD governing board members. One mechanism for increasing WMD accountability explored in recent years is increasing the Governor's oversight authority. In its 1996 session the Legislature passed a law providing the Governor with the authority to review WMD budgets, and to veto a WMD budget, in whole or in part (Chapter 96-339, Laws of Florida).

3. Water Resource and Supply Development:

The 1972 Act assigned planning a key role in managing the state's water resources and required adoption of a comprehensive plan for the development and use of the state's water resources - the State Water Use Plan. DEP has undertaken development of the plan on three separate occasions but a comprehensive water use plan has not been adopted.

However, water resources planning has not been lacking. In 1979, DEP offered for public comment a "state water use plan" based upon individual water management plans developed by the WMDs. However, that plan was never formally "adopted" as called for in Chapter 373, F. S., and DEP instead attempted to guide water resources planning through adoption of a "state water policy" by rule (Chapter 17-40 now Chapter 62-40, Florida Administrative Code). DEP recently completed the Florida Water Plan, incorporating some requirements of the State Water Use Plan. The Florida Water Plan is based largely upon the WMD water management plans. These plans are the result of a five-year planning effort that also has produced needs and sources assessments, designation of water use caution areas, progress towards establishing MFLs, and other water planning initiatives, including development of regional water supply plans by the South Florida WMD.

To date, the WMDs' primary role in regard to water supply development has been to regulate water use pursuant to Part II, Chapter 373, F.S., and, to a lesser extent, to engage in water supply planning. Section 373.1961, F.S., authorizes, but does not specifically require, the WMDs to engage in a much broader range of water supply activities, including the authority to develop and operate water production and transmission facilities for the purpose of supplying water to counties, municipalities, private utilities, and regional water supply authorities. Generally, the WMDs have not exercised such authority, although the South Florida WMD's operation of the Central and Southern Florida Flood Control Project could be considered a water supply distribution system. The WMDs' role has more typically consisted of water supply planning and technical assistance and, in some cases, financial assistance. For instance, SWFWMD has invested substantial sums of money into water resource development projects through its New Water Source Initiative. SWFWMD projects spending at least \$398 million by FY 2007.

4. Local Sources First:

Current statutes allow for permitted transfers beyond overlying lands, across county boundaries or out of watersheds when such transport is consistent with the public interest. (s. 373.073, F.S.) This section also prohibits local government regulation of consumptive water use. The only present implementation of a local sources first policy is by SWFWMD. SWFWMD implemented a "Local Sources First" policy as part of its 1990-210 Needs and Sources Plan. This policy simply states that "local sources are to be developed to the greatest extent feasible prior to importing water from distant sources."

5. Duration of WUPs:

Section 373.223, F.S., requires applicants for WUPs to meet three criteria prior to obtaining permits: (1) the proposed use of water must be a reasonable-beneficial use (defined as "the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest"); (2) the proposed use must not interfere with any presently existing legal use of water; and (3) the proposed use must be consistent with the public interest.

In addition to meeting the above requirements, applicants who are competing to use the same water supply must meet other statutory criteria. Section 373.233(1), F.S., currently requires WMD governing boards to approve or modify competing applications for WUPs according to which application best serves the public interest. Section 373.233(2), F.S. allows a governing board to "give preference" to an applicant seeking renewal of a permit over one seeking an initial permit when the two are competing for the same water supply. In effect, the provision allows the applicant who will put the water to the most beneficial use to obtain the permit, but if two or more applicants propose equally beneficial uses of the water, the applicant who is seeking renewal of an existing permit will be awarded the permit. It should be noted that no WMD has ever used this section and made water allocation decisions between competing uses.

Once the governing board has determined whether an applicant qualifies for a WUP, it must establish a duration period for the permit, pursuant to section 373.236, F.S. That provision allows permits to be issued for "any period of time not exceeding 20 years." Under section 373.236(1), F.S., the duration decision may be based on a reasonable system of classification according to source of water supply or type of use, or both. Because WMD staff cannot always determine how significant an impact a proposed water use will have on a water source, or may not have enough data to determine how much water is available from a source without causing significant harm to the water resource, WMD governing boards frequently set permit durations for periods of less than 20 years.

B. EFFECT OF PROPOSED CHANGES:

1. Implementation of MFLs:

HB 715 requires the WMDs (WMDs) to consider changes and structural alterations to wetlands, surface waters and groundwater, and the effects such changes have had on the water resource, when establishing MFLs. This provision would require

the WMDs to consider the effect of structural changes to water bodies, such as dams or channelization of rivers, and it would require the WMDs to consider the impacts of major flood control works such as South Florida's Central and Southern Florida Flood Control Project. In addition to considering the direct alterations caused by structural changes, the WMDs would also be required to consider indirect changes, such as changes to groundwater levels or hydrologically connected wetlands.

The bill further directs the WMDs to implement a recovery or prevention strategy if a water body falls below, or is projected to fall below, its MFL. The recovery or prevention strategy must include a timetable that will allow for development of additional water supplies concurrent with any reductions in permitted withdrawals.

2. WMD Accountability:

HB 715 provides for staggered appointments of WMD governing board members. In the first year of a Governor's four-year term in office the Governor shall appoint three members to the governing board of each WMD. In the second and third years the Governor shall appoint two members to the governing board of each WMD, except for SWFWMD, where the shall appoint three members the SWFWMD board. In the fourth year the Governor shall appoint two members of the governing board in each WMD, including SWFWMD.

HB 715 also provides for each of the WMD executive directors to be appointed by the Governor. Each appointment is to be made from among three recommendations by each respective WMD governing board, and that the initial appointment shall be subject to confirmation by the Senate.

HB 715 requires WMD Basin Boards to prepare post audits, and it requires each WMD provide: 1) the tentative budget, 2) the adopted budget, 3) the past year's expenditures, and 4) the post audit to the Governor, the Speaker of the House, and the President of the Senate, the chairs of the legislative committees with substantive or appropriations jurisdiction, the secretary of DEP, and each county in which it has jurisdiction.

Additionally, the bill requires attorneys employed by the WMDs to represent the legal interests or position of the governing board. Explicitly stating that the attorney is employed by the governing board would place WMD attorneys in the same position as most other attorneys employed in local government. Attorneys employed by a school board, city council, county commission, or another local government board are employed by the board and represent the interests of the board. This would be a change from the way attorneys employed by the WMDs currently appear to operate. Most WMD attorneys appear to consider themselves employed by the organization, as would an attorney hired by an executive agency or a corporation. This view could be consistent with Rule 4-1.13, Rules Regulating the Florida Bar. This rule establishes a general principle that a "lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents." However, section 5 of HB 715 would clearly place WMD attorneys in the employ of the governing board, not the WMD as a whole.

3. Water Resource and Supply Development:

HB 715 directs the WMDs to initiate water resource development to ensure water is available for all existing and future reasonable-beneficial uses and the environment. The bill specifies the WMDs conduct the following water resource development activities:

- formulate and implement regional water resources development strategies and programs;
- collect data and conduct research to improve the use of surface and groundwater resources for water supply purposes;
- implement nonstructural programs to protect and manage water resources;
- provide for the construction, operation, and maintenance of major public works facilities for replenishment, recapture, storage, and enhancement of surface and ground water resources;
- encourage and promote the development of new technology to maximize the reasonable-beneficial use of surface and groundwater resources;
- cooperate with and assist public and private utilities, regional water supply authorities, and public service corporations in the development of water supply delivery systems.

This section of the bill requires the WMDs to “ensure sufficient water is available for all existing and future reasonable beneficial uses and the environment . . .” This creates a situation where the WMDs are required to provide water for uses which meet the legal requirements of the reasonable-beneficial use test. While this provision could require the WMDs to provide water for all reasonable-beneficial uses, and could be interpreted to imply the WMDs are required to bear all costs associated with water resource development, it does not specifically require WMDs to finance these projects.

4. Local Sources First:

HB 715 directs the WMDs to consider the availability of local sources when evaluating a WUP application which seeks the transport of water beyond overlying land, across county boundaries, or outside the watershed from which it was taken. Specifically, the bill directs the WMDs to consider the following factors when determining whether the proposed transport is consistent with the public interest:

- the proximity of the proposed source of water to the area in which it is to be used; and
- other environmentally, economically, and technically feasible alternatives to the source being proposed, including desalination, reuse, stormwater, and aquifer storage and recovery.

5. Duration of WUPs:

HB 715 requires WUPs be issued for 20 years if there is sufficient information to provide reasonable assurance that permit conditions will be met. The bill allows the WMDs to require a 10-year compliance report when it is necessary to maintain reasonable assurance that the conditions of the permit can continue to be met. The WMD may modify the permit after receipt of the compliance report. Permit modifications based on the 10-year compliance report shall not subject the permit to competition from other uses, if there is no increase in water allocation or permit duration.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The water resources development provisions of HB 715 (section 6) require the WMDs to "ensure sufficient water is available for all existing and future reasonable-beneficial uses and the environment . . ." These activities, identified in section 6, include planning, research, and construction and maintenance of public works projects. Some WMDs have already initiated programs to develop water resources, such as SWFWMD's New Water Source Initiative.

(3) any entitlement to a government service or benefit?

The water resources development provisions of the bill require the WMDs to "ensure sufficient water is available for all existing and future reasonable-beneficial uses and the environment . . ." This could be interpreted to require the WMDs to provide water for all uses which meet the legal requirements of the reasonable-beneficial use test. However, this requirement should be viewed in the context of the planning requirements in Part I, Chapter 373, F.S. When the water resources development requirements are considered in context with the other provisions of Part I, Chapter 373, F.S., section 6 only creates a requirement that the WMDs engage in water resource development to the extent necessary to provide for the reasonable-beneficial uses identified through the planning mechanisms provided in Part I, Chapter 373, F.S.

- b. If an agency or program is eliminated or reduced:

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

If the WMDs are required to bear the cost of ensuring water is available for all existing and future reasonable-beneficial uses these costs will be borne by the landowners in the WMDs through ad valorem taxes. The WMDs which do not already levy their maximum ad valorem tax rate may raise ad valorem taxes to pay for these additional costs.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

This principal applies primarily to the requirement in the bill that the WMDs conduct water resource development (section 6). While HB 715 could imply that the WMDs bear the cost of water resource development, the bill is silent on this issue. Most WMDs activities are funded through ad valorem taxes. If water resource development is also funded through ad valorem taxes, all landowners in a WMD would bear the cost of water resource development. The beneficiaries of water resource development would not directly bear the cost. They would only bear the cost to the extent they paid ad valorem taxes in the WMD.

4. Individual Freedom:

Not applicable.

5. Family Empowerment:

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 373.016, F.S., the declaration of policy, to include replenishment, recapture, and enhancement of surface or groundwater, and promotion of the availability of sufficient water for all existing and future reasonable-beneficial uses and the environment. Also requires DEP and the WMDs to construe and apply the policies in the subsection as a whole.

Section 2: Creates s. 373.0421, F.S. to require the WMDs to consider changes and structural alterations to wetlands, surface waters, and groundwater, and the effects such changes have had on the water resource when establishing MFLs. Directs the WMDs to implement a recovery or prevention strategy if a water body falls below, or is projected to fall below, an MFL. The recovery or prevention strategy must include a timetable that will allow for development of additional water supplies concurrent with any reductions in permitted withdrawals.

Section 3: Amends s. 373.0693, F.S. to conform a cross-reference with statutory changes made in section 4 of the bill.

Section 4: Amends s. 373.073, F.S. to provide for staggered appointment of governing board members, commencing January 1, 1999.

Section 5: Amends s. 373.079, F.S. to provide that each of the WMD executive directors shall be appointed by the Governor. Provides that each appointment shall be made from among three recommendations by each respective WMD governing board, and that the initial appointment shall be subject to confirmation by the Senate. Provides that attorneys employed by the WMDs to represent the legal interests or position of the governing board.

Section 6: Creates s. 373.0831, F.S. directing the WMDs to initiate water resource development to ensure water is available for all existing and future reasonable-beneficial uses and the environment. Specifies what constitutes water resource development activities.

Section 7: Amends s. 373.223, F.S. to direct the WMDs to consider the availability of local sources when evaluating a WUP application which seeks the transport of water beyond overlying land, across county boundaries, or outside the watershed from which it was taken.

Section 8: Amends s. 373.236, F.S. to require WUPs be issued for 20 years if there is sufficient information to provide reasonable assurance that permit conditions will be met. Allows the WMDs to require a 10-year compliance report when it is necessary to maintain reasonable assurance that the conditions of the permit can continue to be met and to modify the permit after receipt of the compliance report. Provides that permit modifications based on the compliance report shall not subject the permit to competition from other uses, if there is no increase permit allocation or duration.

Section 8: Amends s. 373.236, F.S. to require that WUPs be issued for 20 years if there is sufficient information to provide reasonable assurance that permit conditions will be met. Allows the WMDs to require a 10-year compliance report if necessary to maintain reasonable assurance that permit conditions are met. Provides that permit modifications made based on the compliance report shall not be subject to competing applications.

Section 9: Amends s. 373.507, F.S. to require WMD Basin Boards to prepare post audits. Provides that each WMD provide 1) the tentative budget, 2) the adopted budget, 3) the past year's expenditures, and 4) the post audit to the Governor, the Speaker of the House, and the President of the Senate, the chairs of the legislative committees with substantive or appropriations jurisdiction, the secretary of DEP, and each county in which it has jurisdiction.

Section 10: Amends 373.536, F.S. to provide notice provisions for WMD budget hearings. Requires WMDs to specifically identify administrative and operating expenses in the budget, and allocated among WMD activities and programs in proportion to the time, personnel, and resources devoted to specific activities or programs. Requires the WMDs to submit by August 1 or each year a tentative budget to the Governor, the Speaker of the House, and the President of the Senate, the chairs of the legislative committees with substantive or appropriations jurisdiction, the secretary of DEP, and each county in which it has jurisdiction.

Section 11: Repeals s. 373.0735 effective January 1, 1999.

Section 12: Provides that this act shall take effect October 1, 1997, unless otherwise provided herein.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The water resource development provisions (section 6) could have a significant recurring fiscal impact on the WMDs. The size of the fiscal impact cannot be determined at this time. This is, in part, because the bill does not specify who will bear the cost of the water resource development. For instance, section 6 requires the WMDs to "provide for the construction, operation, and maintenance of major public works facilities for replenishment, recapture, storage, and enhancement of surface and groundwater resource in the district." If the WMD pay for these major public works facilities out of their ad valorem tax revenues the fiscal impact on the WMDs will be substantial. However, if these public works programs are paid for through another funding mechanism, or cost sharing with the direct beneficiaries of the project, the fiscal impact will not be as great.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

If the WMDs are required to bear the cost of ensuing water is available for all existing and future reasonable-beneficial uses these costs will be borne by the land-owners in the WMDs through ad valorem taxes. The WMDs which do not already levy their maximum ad valorem tax rate may raise ad valorem taxes to pay for these additional costs.

2. Direct Private Sector Benefits:

Indeterminate. Many provisions of the bill are expected to be beneficial to the private sector. First, the requirement that implementation MFLs be phased in could benefit the private sector, because in the event that a reduction in water withdrawals from a particular source is necessary in order to avoid violation of an MFL, the reduction cannot be implemented until the WMD develops an alternative water source.

Additionally, the longer duration permits could benefit the private sector by reducing the number of permit renewal applications a water user may be required to file over time. The requirement that the WMDs ensure water for all reasonable-beneficial uses could also help the private sector by ensuring that water will always be available. Also, The longer duration permits (section 9) will provide business with a longer period in which to recover the capital investments necessary to utilize the water.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate. The requirement that WMDs provide water for all existing and future beneficial uses will eliminate any potential for completion between water uses for a finite supply of water.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Not applicable.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

None.

V. COMMENTS:

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON WATER & RESOURCE MANAGEMENT:

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