

1 A bill to be entitled
2 An act relating to water resources; amending s.
3 373.016, F.S.; revising legislative policy;
4 providing construction and application;
5 amending s. 373.019, F.S.; revising
6 definitions; defining "district water
7 management plan," "Florida water plan,"
8 "regional water supply plan," "water resource
9 development," "water resource implementation
10 rule," and "water supply development;" amending
11 s. 373.036, F.S.; eliminating the state water
12 use plan; providing for development of the
13 Florida water plan, to include the water
14 resource implementation rule; providing
15 procedure for rule amendment; requiring water
16 management district governing boards to develop
17 district water management plans; creating s.
18 373.0361, F.S.; providing requirements for
19 regional water supply plans for regions
20 identified in district water management plans;
21 requiring an annual report; amending s.
22 373.042, F.S.; establishing exclusions from
23 minimum flows and levels requirements; revising
24 minimum flows and levels timing requirements;
25 providing for independent scientific peer
26 review; creating s. 373.0421, F.S.; requiring
27 certain considerations in establishment and
28 implementation of minimum flows and levels;
29 providing for implementation of recovery or
30 prevention strategies; amending s. 373.046,
31 F.S.; providing for interdistrict agreements

1 for implementation of certain regulatory
2 responsibilities; amending s. 373.0693, F.S.;
3 correcting a cross reference; amending s.
4 373.073, F.S.; revising procedure for
5 appointment of members to the water management
6 district governing boards; providing a
7 timetable; amending s. 373.079, F.S.; revising
8 procedure for appointment of district executive
9 directors; providing respective authority of
10 the Governor and governing boards; authorizing
11 employment of governing board ombudsmen;
12 revising duties of governing board legal staff;
13 creating s. 373.0831, F.S.; specifying
14 governing board responsibilities for water
15 resource development and responsibilities of
16 other entities for water supply development;
17 providing for priorities for funding; requiring
18 a report; amending s. 373.223, F.S.; providing
19 requirements in considering authorization to
20 transport ground or surface water under a
21 permit for consumptive use of water; providing
22 restrictions; amending s. 373.236, F.S.;
23 revising provisions relating to duration of
24 consumptive use permits; requiring compliance
25 reports and permit modification, under certain
26 circumstances; requiring a proposal for
27 reevaluation of certain areas with contaminated
28 water supplies; amending s. 373.507, F.S.;
29 revising provisions relating to district and
30 basin audits, budgets, and expense reports;
31 requiring districts to furnish copies of

1 documents to specified entities and to respond
2 to comments; amending s. 373.536, F.S.;
3 providing requirements for notice and
4 advertisement of district budget hearings and
5 workshops; providing requirements for budget
6 identification of administrative and operating
7 expenses; providing for certain analysis of
8 budgets; revising requirements for submittal of
9 tentative budgets; amending s. 373.59, F.S.;
10 deleting obsolete language; correcting a cross
11 reference; authorizing use of interests in
12 property acquired under the Water Management
13 Lands Trust Fund for permittable water resource
14 development and water supply development
15 purposes; amending ss. 186.007, 186.009,
16 373.103, 373.114, 373.418, 373.456, 403.031,
17 and 403.0891, F.S., to conform to the act;
18 repealing ss. 373.026(10), 373.039, and
19 403.061(33), F.S., relating to state water
20 policy and the Florida water plan; repealing s.
21 373.0735, F.S., relating to appointment of
22 members to the governing board of the Southwest
23 Florida Water Management District; providing
24 for grandfathering-in of minimum flows and
25 levels for priority waters in Pasco County and
26 Hillsborough County pursuant to provisions of
27 chapter 96-339, Laws of Florida; providing for
28 application of act to Hillsborough River and
29 the Palm River/Tampa By-Pass Canal; amending s.
30 373.1963, F.S.; providing for supplemental
31

1 report from the West Coast Regional Water
2 Supply Authority; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Present subsection (2) of section 373.016,
7 Florida Statutes, is amended, subsections (3) and (4) are
8 renumbered as subsections (4) and (5), respectively, and a new
9 subsection (2) is added to that section, to read:

10 373.016 Declaration of policy.--

11 (2) The department and the governing board shall take
12 into account cumulative impacts on water resources and manage
13 those resources in a manner to ensure their sustainability.

14 ~~(3)(2)~~ It is further declared to be the policy of the
15 Legislature:

16 (a) To provide for the management of water and related
17 land resources;

18 (b) To promote the conservation, replenishment,
19 recapture, enhancement, development, and proper utilization of
20 surface and ground water;

21 (c) To develop and regulate dams, impoundments,
22 reservoirs, and other works and to provide water storage for
23 beneficial purposes;

24 (d) To promote the availability of sufficient water
25 for all existing and future reasonable-beneficial uses and
26 natural systems;

27 ~~(e)(d)~~ To prevent damage from floods, soil erosion,
28 and excessive drainage;

29 ~~(f)(e)~~ To minimize degradation of water resources
30 caused by the discharge of stormwater;

31

1 ~~(g)(f)~~ To preserve natural resources, fish, and
2 wildlife;

3 ~~(h)(g)~~ To promote the public policy set forth in s.
4 403.021;

5 ~~(i)(h)~~ To promote recreational development, protect
6 public lands, and assist in maintaining the navigability of
7 rivers and harbors; and

8 ~~(j)(i)~~ Otherwise to promote the health, safety, and
9 general welfare of the people of this state.

10
11 In implementing this chapter, the department and the governing
12 board shall construe and apply the policies in this subsection
13 as a whole, and no specific policy is to be construed or
14 applied in isolation from the other policies in this
15 subsection.

16 Section 2. Section 373.019, Florida Statutes, 1996
17 Supplement, is amended to read:

18 373.019 Definitions.--When appearing in this chapter
19 or in any rule, regulation, or order adopted pursuant thereto,
20 the following words shall, unless the context clearly
21 indicates otherwise, mean:

22 ~~(1)(13)~~ "Coastal waters" means waters of the Atlantic
23 Ocean or the Gulf of Mexico within the jurisdiction of the
24 state.

25 ~~(2)(1)~~ "Department" means the Department of
26 Environmental Protection or its successor agency or agencies.

27 ~~(3)~~ "District water management plan" means the
28 regional water resource plan developed by a governing board
29 under s. 373.036.

30 ~~(4)(6)~~ "Domestic use" means the use of water for the
31 individual personal household purposes of drinking, bathing,

1 cooking, or sanitation. All other uses shall not be considered
2 domestic.

3 (5) "Florida water plan" means the state-level water
4 resource plan developed by the department under s. 373.036.

5 (6)~~(3)~~ "Governing board" means the governing board of
6 a water management district.

7 (7)~~(9)~~ "Groundwater" means water beneath the surface
8 of the ground, whether or not flowing through known and
9 definite channels.

10 (8)~~(14)~~ "Impoundment" means any lake, reservoir, pond,
11 or other containment of surface water occupying a bed or
12 depression in the earth's surface and having a discernible
13 shoreline.

14 (9)~~(18)~~ "Independent scientific peer review" means the
15 review of scientific data, theories, and methodologies by a
16 panel of independent, recognized experts in the fields of
17 hydrology, hydrogeology, limnology, and other scientific
18 disciplines relevant to the matters being reviewed under s.
19 373.042.

20 (10)~~(7)~~ "Nonregulated use" means any use of water
21 which is exempted from regulation by the provisions of this
22 chapter.

23 (11)~~(12)~~ "Other watercourse" means any canal, ditch,
24 or other artificial watercourse in which water usually flows
25 in a defined bed or channel. It is not essential that the
26 flowing be uniform or uninterrupted.

27 (12)~~(5)~~ "Person" means any and all persons, natural or
28 artificial, including any individual, firm, association,
29 organization, partnership, business trust, corporation,
30 company, the United States of America, and the state and all
31 political subdivisions, regions, districts, municipalities,

1 and public agencies thereof. The enumeration herein is not
2 intended to be exclusive or exhaustive.

3 (13)~~(4)~~ "Reasonable-beneficial use" means the use of
4 water in such quantity as is necessary for economic and
5 efficient utilization for a purpose and in a manner which is
6 both reasonable and consistent with the public interest.

7 (14) "Regional water supply plan" means a detailed
8 water supply plan developed by a governing board under s.
9 373.0361.

10 (15)~~(11)~~ "Stream" means any river, creek, slough, or
11 natural watercourse in which water usually flows in a defined
12 bed or channel. It is not essential that the flowing be
13 uniform or uninterrupted. The fact that some part of the bed
14 or channel has been dredged or improved does not prevent the
15 watercourse from being a stream.

16 (16)~~(10)~~ "Surface water" means water upon the surface
17 of the earth, whether contained in bounds created naturally or
18 artificially or diffused. Water from natural springs shall be
19 classified as surface water when it exits from the spring onto
20 the earth's surface.

21 (17)~~(8)~~ "Water" or "waters in the state" means any and
22 all water on or beneath the surface of the ground or in the
23 atmosphere, including natural or artificial watercourses,
24 lakes, ponds, or diffused surface water and water percolating,
25 standing, or flowing beneath the surface of the ground, as
26 well as all coastal waters within the jurisdiction of the
27 state.

28 (18)~~(2)~~ "Water management district" means any flood
29 control, resource management, or water management district
30 operating under the authority of this chapter.

31

1 (19) "Water resource development" means the
2 formulation and implementation of regional water resource
3 management strategies, including the collection and evaluation
4 of surface water and groundwater data; structural and
5 nonstructural programs to protect and manage water resources;
6 the development of regional water resource implementation
7 programs; the construction, operation, and maintenance of
8 major public works facilities to provide for flood control,
9 surface and underground water storage, and groundwater
10 recharge augmentation; and related technical assistance to
11 local governments and to government-owned and privately owned
12 water utilities.

13 ~~(20)(16)~~ "State Water resource implementation rule
14 policy" means the rule authorized by s. 373.036, which sets
15 ~~comprehensive statewide policy as adopted by the department~~
16 ~~pursuant to ss. 373.026 and 403.061 setting forth goals,~~
17 ~~objectives, and guidance for the development and review of~~
18 ~~programs, rules, and plans relating to water resources, based~~
19 on statutory policies and directives. The waters of the state
20 are among its most basic resources. Such waters should be
21 managed to conserve and protect water resources and to realize
22 the full beneficial use of these resources.

23 (21) "Water supply development" means the planning,
24 design, construction, operation, and maintenance of public or
25 private facilities for water collection, production,
26 treatment, transmission, or distribution for sale, resale, or
27 end use.

28 ~~(22)(17)~~ For the sole purpose of serving as the basis
29 for the unified statewide methodology adopted pursuant to s.
30 373.421(1), as amended, "wetlands" means those areas that are
31 inundated or saturated by surface water or groundwater at a

1 frequency and a duration sufficient to support, and under
2 normal circumstances do support, a prevalence of vegetation
3 typically adapted for life in saturated soils. Soils present
4 in wetlands generally are classified as hydric or alluvial, or
5 possess characteristics that are associated with reducing soil
6 conditions. The prevalent vegetation in wetlands generally
7 consists of facultative or obligate hydrophytic macrophytes
8 that are typically adapted to areas having soil conditions
9 described above. These species, due to morphological,
10 physiological, or reproductive adaptations, have the ability
11 to grow, reproduce, or persist in aquatic environments or
12 anaerobic soil conditions. Florida wetlands generally include
13 swamps, marshes, bayheads, bogs, cypress domes and strands,
14 sloughs, wet prairies, riverine swamps and marshes, hydric
15 seepage slopes, tidal marshes, mangrove swamps and other
16 similar areas. Florida wetlands generally do not include
17 longleaf or slash pine flatwoods with an understory dominated
18 by saw palmetto. Upon legislative ratification of the
19 methodology adopted pursuant to s. 373.421(1), as amended, the
20 limitation contained herein regarding the purpose of this
21 definition shall cease to be effective.

22 (23)~~(15)~~ "Works of the district" means those projects
23 and works, including, but not limited to, structures,
24 impoundments, wells, streams, and other watercourses, together
25 with the appurtenant facilities and accompanying lands, which
26 have been officially adopted by the governing board of the
27 district as works of the district.

28 Section 3. Section 373.036, Florida Statutes, is
29 amended to read:

30 373.036 Florida water plan; district water management
31 plans ~~State water use plan.~~--

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

5 (a) The programs and activities of the department
6 related to water supply, water quality, flood protection and
7 floodplain management, and natural systems.

8 (b) The water quality standards of the department.

9 (c) The district water management plans.

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

27 ~~(1) The department shall proceed as rapidly as~~
28 ~~possible to study existing water resources in the state; means~~
29 ~~and methods of conserving and augmenting such waters; existing~~
30 ~~and contemplated needs and uses of water for protection and~~
31 ~~procreation of fish and wildlife, irrigation, mining, power~~

1 ~~development, and domestic, municipal, and industrial uses; and~~
2 ~~all other related subjects, including drainage, reclamation,~~
3 ~~flood plain or flood-hazard area zoning, and selection of~~
4 ~~reservoir sites. The department shall cooperate with the~~
5 ~~Executive Office of the Governor, or its successor agency,~~
6 ~~progressively to formulate, as a functional element of a~~
7 ~~comprehensive state plan, an integrated, coordinated plan for~~
8 ~~the use and development of the waters of the state, based on~~
9 ~~the above studies. This plan, with such amendments,~~
10 ~~supplements, and additions as may be necessary from time to~~
11 ~~time, shall be known as the state water use plan.~~

12 (2) DISTRICT WATER MANAGEMENT PLANS.--

13 (a) Each governing board shall develop a district
14 water management plan for water resources within its region,
15 which plan addresses water supply, water quality, flood
16 protection and floodplain management, and natural systems. The
17 district water management plan shall be based on at least a
18 20-year planning period, shall be developed and revised in
19 cooperation with other agencies, regional water supply
20 authorities, units of government, and interested parties, and
21 shall be updated at least once every 5 years. The governing
22 board shall hold a public hearing at least 30 days in advance
23 of completing the development or revision of the district
24 water management plan.

25 (b) The district water management plan shall include,
26 but not be limited to:

27 1. The scientific methodologies for establishing
28 minimum flows and levels under s. 373.042, and all established
29 minimum flows and levels.

30 2. Identification of one or more water supply planning
31 regions that singly or together encompass the entire district.

1 3. Technical data and information prepared under ss.
2 373.0391 and 373.0395.

3 4. A districtwide water supply assessment, to be
4 completed no later than July 1, 1998, which determines for
5 each water supply planning region:

6 a. Existing legal uses, reasonably anticipated future
7 needs, and existing and reasonably anticipated sources of
8 water and conservation efforts; and

9 b. Whether existing and reasonably anticipated sources
10 of water and conservation efforts are adequate to supply water
11 for all existing legal uses and reasonably anticipated future
12 needs and to sustain the water resources and related natural
13 systems.

14 5. Any completed regional water supply plans.

15 (c) If necessary for implementation, the governing
16 board shall adopt by rule or order relevant portions of the
17 district water management plan, to the extent of its statutory
18 authority.

19 ~~(d)(2)~~ In the formulation of the district water
20 management ~~state water use~~ plan, the governing board
21 ~~department~~ shall give due consideration to:

22 ~~1.(a)~~ The attainment of maximum reasonable-beneficial
23 use of water resources ~~for such purposes as those referred to~~
24 ~~in subsection (1).~~

25 ~~2.(b)~~ The maximum economic development of the water
26 resources consistent with other uses.

27 ~~3.(c)~~ The management ~~control~~ of water resources ~~such~~
28 ~~waters~~ for such purposes as environmental protection,
29 drainage, flood control, and water storage.

30 ~~4.(d)~~ The quantity of water available for application
31 to a reasonable-beneficial use.

1 5.(e) The prevention of wasteful, uneconomical,
2 impractical, or unreasonable uses of water resources.

3 6.(f) Presently exercised domestic use and permit
4 rights.

5 7.(g) The preservation and enhancement of the water
6 quality of the state ~~and the provisions of the state water~~
7 ~~quality plan.~~

8 8.(h) The state water resources policy as expressed by
9 this chapter.

10 ~~(3) During the process of formulating or revising the~~
11 ~~state water use plan, the department shall consult with, and~~
12 ~~carefully evaluate the recommendations of, concerned federal,~~
13 ~~state, and local agencies, particularly the governing boards~~
14 ~~of the water management districts, and other interested~~
15 ~~persons.~~

16 ~~(4) Each governing board is directed to cooperate with~~
17 ~~the department in conducting surveys and investigations of~~
18 ~~water resources, to furnish the department with all available~~
19 ~~data of a technical nature, and to advise and assist the~~
20 ~~department in the formulation and drafting of those portions~~
21 ~~of the state plan applicable to the district.~~

22 ~~(5) The department shall not adopt or modify the state~~
23 ~~water use plan or any portion thereof without first holding a~~
24 ~~public hearing on the matter. At least 90 days in advance of~~
25 ~~such hearing, the department shall notify any affected~~
26 ~~governing boards, and shall give notice of such hearing by~~
27 ~~publication within the affected region pursuant to the~~
28 ~~provisions of chapter 120, except such notice by publication~~
29 ~~shall be extended at least 90 days in advance of such~~
30 ~~hearings.~~

31

1 ~~(6) For the purposes of this plan the department may,~~
2 ~~in consultation with the affected governing board, divide each~~
3 ~~water management district into sections which shall conform as~~
4 ~~nearly as practicable to hydrologically controllable areas and~~
5 ~~describe all water resources within each area.~~

6 (3)(7) The department and governing board shall give
7 careful consideration to the requirements of public recreation
8 and to the protection and procreation of fish and wildlife.
9 The department or governing board may prohibit or restrict
10 other future uses on certain designated bodies of water which
11 may be inconsistent with these objectives.

12 (4)(8) The governing board ~~department~~ may designate
13 certain uses in connection with a particular source of supply
14 which, because of the nature of the activity or the amount of
15 water required, would constitute an undesirable use for which
16 the governing board may deny a permit.

17 (5)(9) The governing board ~~department~~ may designate
18 certain uses in connection with a particular source of supply
19 which, because of the nature of the activity or the amount of
20 water required, would result in an enhancement or improvement
21 of the water resources of the area. Such uses shall be
22 preferred over other uses in the event of competing
23 applications under the permitting systems authorized by this
24 chapter.

25 (6)(10) The department, in cooperation with the
26 Executive Office of the Governor, or its successor agency, may
27 add to the Florida water ~~state water use~~ plan any other
28 information, directions, or objectives it deems necessary or
29 desirable for the guidance of the governing boards or other
30 agencies in the administration and enforcement of this
31 chapter.

1 Section 4. Section 373.0361, Florida Statutes, is
2 created to read:

3 373.0361 Regional water supply planning.--

4 (1) By October 1, 1998, the governing board shall
5 initiate water supply planning for each water supply planning
6 region identified in the district water management plan under
7 s. 373.036, where it determines that sources of water are not
8 adequate for the planning period to supply water for all
9 existing and projected reasonable-beneficial uses and to
10 sustain the water resources and related natural systems. The
11 planning must be conducted in an open public process, in
12 coordination and cooperation with local governments, regional
13 water supply authorities, government-owned and privately owned
14 water utilities, self-suppliers, and other affected and
15 interested parties. A determination by the governing board
16 that initiation of a regional water supply plan for a specific
17 planning region is not needed pursuant to this section shall
18 be subject to s. 120.569. The governing board shall
19 re-evaluate such a determination at least once every five
20 years and shall initiate a regional water supply plan, if
21 needed, pursuant to this subsection.

22 (2) Each regional water supply plan shall be based on
23 at least a 20-year planning period and shall include, but not
24 be limited to:

25 (a) A water supply development component that
26 includes:

27 1. A quantification of the water supply needs for all
28 existing and reasonably projected future uses within the
29 planning horizon. The level-of-certainty planning goal
30 associated with identifying the water supply needs of existing
31

1 and future reasonable-beneficial uses shall be based upon
2 meeting those needs for a 1-in-10 year drought event.

3 2. A list of water source options for water supply
4 development, including traditional and alternative sources,
5 from which local government, government-owned and privately
6 owned utilities, self-suppliers, and others may choose, which
7 will exceed the needs identified in subparagraph 1.

8 3. For each option listed in subparagraph 2., the
9 estimated amount of water available for use and the estimated
10 costs of and potential sources of funding for water supply
11 development.

12 4. A list of water supply development projects that
13 meet the criteria in s. 373.0831(4).

14 (b) A water resource development component that
15 includes:

16 1. A listing of those water resource development
17 projects that support water supply development.

18 2. For each water resource development project listed:

19 a. An estimate of the amount of water to become
20 available through the project.

21 b. The timetable for implementing or constructing the
22 project and the estimated costs for implementing, operating,
23 and maintaining the project.

24 c. Sources of funding and funding needs.

25 d. Who will implement the project and how it will be
26 implemented.

27 (c) The recovery and prevention strategy described in
28 s. 373.0421(2).

29 (d) A funding strategy for water resource development
30 projects, which shall be reasonable and sufficient to pay the
31

1 cost of constructing or implementing all of the listed
2 projects.

3 (e) Consideration of how the options addressed in
4 paragraphs (a) and (b) serve the public interest or save costs
5 overall by preventing the loss of natural resources or
6 avoiding greater future expenditures for water resource
7 development or water supply development. However, unless
8 adopted by rule, these considerations do not constitute final
9 agency action.

10 (f) The technical data and information applicable to
11 the planning region which are contained in the district water
12 management plan and are necessary to support the regional
13 water supply plan.

14 (g) The minimum flows and levels established for water
15 resources within the planning region.

16 (3) Regional water supply plans initiated or completed
17 by July 1, 1997, shall be revised, if necessary, to include a
18 water supply development component and a water resource
19 development component as described in paragraphs (2)(a) and
20 (b).

21 (4) Governing board approval of a regional water
22 supply plan shall not be subject to the rulemaking
23 requirements of Chapter 120. However, any portion of an
24 approved regional water supply plan which affects the
25 substantial interests of a party shall be subject to s.
26 120.569.

27 (5) By November 15, 1997, and annually thereafter, the
28 department shall submit to the Governor and the Legislature a
29 report on the status of regional water supply planning in each
30 district. The report shall include:

31

1 (a) A compilation of the estimated costs of and
2 potential sources of funding for water resource development
3 and water supply development projects, as identified in the
4 water management district regional water supply plans.

5 (b) A description of each district's progress toward
6 achieving its water resource development objectives, as
7 directed by s. 373.0831(3), including the district's
8 implementation of its 5-year water resource development work
9 program.

10 (6) Nothing contained in the water supply
11 development component of the district water management plan
12 shall be construed to require local governments,
13 government-owned or privately owned water utilities,
14 self-suppliers, or other water suppliers to select a water
15 supply development option identified in the component merely
16 because it is identified in the plan. However, this
17 subsection shall not be construed to limit the authority of
18 the department or governing board under part II.

19 Section 5. Section 373.042, Florida Statutes, 1996
20 Supplement, is amended to read:

21 373.042 Minimum flows and levels.--

22 (1) Within each section, or the water management
23 district as a whole, the department or the governing board
24 shall establish the following:

25 (a) Minimum flow for all surface watercourses in the
26 area. The minimum flow for a given watercourse shall be the
27 limit at which further withdrawals would be significantly
28 harmful to the water resources or ecology of the area.

29 (b) Minimum water level. The minimum water level
30 shall be the level of groundwater in an aquifer and the level
31

1 of surface water at which further withdrawals would be
2 significantly harmful to the water resources of the area.

3
4 The minimum flow and minimum water level shall be calculated
5 by the department and the governing board using the best
6 information available. When appropriate, minimum flows and
7 levels may be calculated to reflect seasonal variations. The
8 department and the governing board shall also consider, and at
9 their discretion may provide for, the protection of
10 nonconsumptive uses in the establishment of minimum flows and
11 levels.

12 (2) By July 1, 1996, the Southwest Florida Water
13 Management District shall amend and submit to the department
14 for review and approval its priority list for the
15 establishment of minimum flows and levels and delineating the
16 order in which the governing board shall establish the minimum
17 flows and levels for surface watercourses, aquifers, and
18 surface water in the counties of Hillsborough, Pasco, and
19 Pinellas. By November 15, 1997, and annually thereafter, each
20 water management district shall submit to the department for
21 review and approval a priority list and schedule for the
22 establishment of minimum flows and levels for surface
23 watercourses, aquifers, and surface waters within the
24 district. The priority list shall also identify those water
25 bodies for which the district will voluntarily undertake
26 independent scientific peer review. By January 1, 1998, and
27 annually thereafter, each water management district shall
28 publish its approved priority list and schedule in the Florida
29 Administrative Weekly.The priority list shall be based upon
30 the importance of the waters to the state or region and the
31 existence of or potential for significant harm to the water

1 resources or ecology of the state or region, and shall include
2 those waters which are experiencing or may reasonably be
3 expected to experience ~~experiencing~~ adverse impacts ~~and those~~
4 ~~waters which are identified as possible new water supply~~
5 ~~sources proposing to withdraw 5 million gallons or more per~~
6 ~~day in the future. The development of The priority list and~~ and
7 schedule shall not be subject to any constitute a point of
8 ~~entry to an administrative~~ proceeding pursuant to chapter 120.
9 Except as provided in subsection (3), the development of a
10 priority list and compliance with the schedule for the
11 establishment of minimum flows and levels pursuant to this
12 subsection shall satisfy the requirements of subsection (1).

13 (3) Minimum flows or levels for priority waters in the
14 Counties of Hillsborough, Pasco, and Pinellas ~~subsection (2)~~
15 shall be established by October 1, 1997. Where a minimum flow
16 or level for the priority waters within those counties has not
17 been established by the applicable deadline, the secretary of
18 the department shall, if requested by the governing body of
19 any local government within whose jurisdiction the affected
20 waters are located, establish the minimum flow or level ~~flows~~
21 ~~and levels~~ in accordance with the procedures established by
22 this section. The department's reasonable costs in
23 establishing a minimum flow or level shall, upon request of
24 the secretary, be reimbursed by the ~~applicable~~ district.

25 (4)(a) Upon written request to the department or
26 governing board by a substantially affected person, or by
27 decision of the department or governing board, prior to the
28 establishment of a minimum flow or level and prior to the
29 filing of any petition for administrative hearing related to
30 the minimum flow or level, all scientific or technical data,
31 methodologies, and models, including all scientific and

1 technical assumptions employed in each model, used to
2 establish a minimum flow or level shall be subject to
3 independent scientific peer review. Independent scientific
4 peer review means review by a panel of independent, recognized
5 experts in the fields of hydrology, hydrogeology, limnology,
6 biology, and other scientific disciplines, to the extent
7 relevant to the establishment of the minimum flow or level.

8 (b) If independent scientific peer review is
9 requested, it shall be initiated at an appropriate point
10 agreed upon by the department or governing board and the
11 person or persons requesting the peer review. If no agreement
12 is reached, the department or governing board shall determine
13 the appropriate point at which to initiate peer review. The
14 members of the peer review panel shall be selected within 60
15 days of the point of initiation by agreement of the department
16 or governing board and the person or persons requesting the
17 peer review. If the panel is not selected within the 60-day
18 period, the time limitation may be waived upon the agreement
19 of all parties. If no waiver occurs, the department or
20 governing board may proceed to select the peer review panel.
21 The cost of the peer review shall be borne equally by the
22 district and each party requesting the peer review, to the
23 extent economically feasible. The panel shall submit a final
24 report to the governing board within 120 days after its
25 selection unless the deadline is waived by agreement of all
26 parties. Initiation of peer review pursuant to this paragraph
27 shall toll any applicable deadline under chapter 120 or other
28 law or district rule regarding permitting, rulemaking, or
29 administrative hearings, until 60 days following submittal of
30 the final report. Any such deadlines shall also be tolled for
31 60 days following withdrawal of the request or following

1 agreement of the parties that peer review will no longer be
2 pursued. The department or the governing board shall give
3 significant weight to the final report of the peer review
4 panel when establishing the minimum flow or level.

5 (c) If the final data, methodologies, and models,
6 including all scientific and technical assumptions employed in
7 each model upon which a minimum flow or level is based, have
8 undergone peer review pursuant to this subsection, by request
9 or by decision of the department or governing board, no
10 further peer review shall be required with respect to that
11 minimum flow or level.

12 (d) No minimum flow or level adopted by rule or
13 formally noticed for adoption on or before May 2, 1997, shall
14 be subject to the peer review provided for in this subsection.
15 ~~Prior to the establishment of minimum flows or levels for~~
16 ~~water resources areas identified in subsection (2), and prior~~
17 ~~to filing any petition for administrative hearing, scientific~~
18 ~~or technical data and methodologies, if in dispute, shall,~~
19 ~~upon written request to the governing board by a substantially~~
20 ~~affected person, be subject to independent scientific peer~~
21 ~~review. The members of the peer review panel shall be~~
22 ~~selected by agreement of the parties in interest within 60~~
23 ~~days after receipt of the request. In the event the panel is~~
24 ~~not selected within this time, then, upon the agreement of all~~
25 ~~parties, the time may be waived, or, if no waiver occurs, the~~
26 ~~governing board may proceed to establish the minimum flows and~~
27 ~~levels. The cost of the peer review shall be borne equally by~~
28 ~~the parties selecting the panel, to the extent economically~~
29 ~~feasible. The panel shall conduct at least one public meeting~~
30 ~~of the full panel in accordance with s. 286.011(1) and (6)~~
31 ~~prior to the submission of the final report. The panel shall~~

1 ~~submit a final report to the governing board within 120 days~~
2 ~~after selection. Upon request by all members of the panel and~~
3 ~~agreement of the parties, the time for submittal may be~~
4 ~~extended for up to 30 additional days. In the event the final~~
5 ~~report is not submitted within such time, the governing board~~
6 ~~may proceed to establish the minimum flows and levels pursuant~~
7 ~~to this section. Filing of a request shall toll any applicable~~
8 ~~deadline under chapter 120, or other law or district rule,~~
9 ~~until 60 days following submittal of the final report. Any~~
10 ~~such deadlines shall also be tolled for 60 days following the~~
11 ~~withdrawal of the request, agreement of the parties that peer~~
12 ~~review will no longer be pursued, or failure to meet any~~
13 ~~deadline set forth in this subsection. If the selection of~~
14 ~~the panel is subject to the requirements of chapter 287, then~~
15 ~~the panel shall submit its final report to the governing board~~
16 ~~within 120 days after the completion of the process required~~
17 ~~pursuant to chapter 287. The governing board shall give~~
18 ~~significant weight to the final report of the panel in~~
19 ~~establishing the minimum flow or level, as appropriate. The~~
20 ~~final report may also be entered into the record by any party~~
21 ~~to the proceeding in which the minimum flow or level is~~
22 ~~applicable.~~

23 (5) If a petition for administrative hearing is filed
24 under chapter 120 challenging the establishment of a the
25 minimum flow or level ~~flows or levels~~, the report of an the
26 independent scientific peer review conducted under subsection
27 (4) is admissible as evidence in the final hearing, and the
28 administrative law judge ~~hearing officer~~ must render the order
29 within 120 days after the filing of the petition. The time
30 limit for rendering the ~~an~~ order shall not be extended except
31 by agreement of all the parties. To the extent that the

1 parties agree to the findings of the peer review, they may
2 stipulate that those findings be incorporated as findings of
3 fact in the final order.

4 Section 6. Section 373.0421, Florida Statutes, is
5 created to read:

6 373.0421 Establishment and implementation of minimum
7 flows and levels.--

8 (1) ESTABLISHMENT.--

9 (a) When establishing minimum flows and levels
10 pursuant to s. 373.042, the department or governing board
11 shall consider changes and structural alterations to
12 watersheds, surface waters, and aquifers and the effects such
13 changes or alterations have had, and the constraints such
14 changes or alterations have placed, on the hydrology of an
15 affected watershed, surface water, or aquifer, provided that
16 nothing in this paragraph shall allow significant harm as
17 provided by s. 373.042(1) caused by withdrawals.

18 (b) Exclusions.--

19 1. The Legislature recognizes that certain water
20 bodies no longer serve their historical hydrologic functions.
21 The Legislature also recognizes that recovery of these water
22 bodies to historical hydrologic conditions may not be
23 economically or technically feasible, and that such recovery
24 effort could cause adverse environmental or hydrologic
25 impacts. Accordingly, the department or governing board may
26 determine that setting a minimum flow or level for such a
27 water body based on its historical condition is not
28 appropriate.

29 2. The department or the governing board is not
30 required to establish minimum flows or levels pursuant to s.
31 373.042 for surface water bodies less than 25 acres in area,

1 unless the water body or bodies, individually or cumulatively,
2 have significant economic, environmental, or hydrologic value.

3 3. The department or the governing board shall not set
4 minimum flows or levels pursuant to s. 373.042 for surface
5 water bodies constructed prior to the requirement for a
6 permit, or pursuant to an exemption, a permit, or a
7 reclamation plan which regulates the size, depth, or function
8 of the surface water body under the provisions of chapter 373,
9 chapter 378, or chapter 403, unless the constructed surface
10 water body is of significant hydrologic value or is an
11 essential element of the water resources of the area.

12
13 The exclusions of subparagraphs 2 and 3 shall not apply to the
14 Everglades Protection Area, as defined in s. 373.4592(2)(h).

15 (2) If the existing flow or level in a water body is
16 below, or is projected to fall within 20 years below, the
17 applicable minimum flow or level established pursuant to s.
18 373.042, the department or governing board, as part of the
19 regional water supply plan described in s. 373.0361, shall
20 expeditiously implement a recovery or prevention strategy,
21 which includes the development of additional water supplies
22 and other actions, consistent with the authority granted by
23 this chapter, to:

24 (a) Achieve recovery to the established minimum flow
25 or level as soon as practicable; or

26 (b) Prevent the existing flow or level from falling
27 below the established minimum flow or level.

28
29 The recovery or prevention strategy shall include phasing or a
30 timetable which will allow for the provision of sufficient
31 water supplies for all existing and projected

1 reasonable-beneficial uses, including development of
2 additional water supplies and implementation of conservation
3 and other efficiency measures concurrent with to the extent
4 practical, and to offset, reductions in permitted withdrawals,
5 consistent with the provisions of this chapter.

6 (3) The provisions of this section are supplemental to
7 any other specific requirements or authority provided by law.
8 Minimum flows and levels shall be reevaluated periodically and
9 revised as needed.

10 Section 7. Subsection (6) is added to section 373.046,
11 Florida Statutes, 1996 Supplement, to read:

12 373.046 Interagency agreements.--

13 (6) When the geographic area of a project or local
14 government crosses water management district boundaries, the
15 affected districts may designate a single affected district by
16 interagency agreement to implement in that area, under the
17 rules of the designated district, all or part of the
18 applicable regulatory responsibilities under chapter 373.
19 Interagency agreements entered into under this subsection
20 which apply to the geographic area of a local government must
21 have the concurrence of the affected local government. The
22 application under this subsection, by rule, of any existing
23 district rule that was adopted or formally noticed for
24 adoption on or before May 11, 1995, is not subject to s.
25 70.001.

26 Section 8. Paragraph (a) of subsection (8) of section
27 373.0693, Florida Statutes, is amended to read:

28 373.0693 Basins; basin boards.--

29 (8)(a) At 11:59 p.m. on June 30, 1988, the area
30 transferred from the Southwest Florida Water Management
31 District to the St. Johns River Water Management District by

1 change of boundaries pursuant to chapter 76-243, Laws of
2 Florida, shall cease to be a subdistrict or basin of the St.
3 Johns River Water Management District known as the Oklawaha
4 River Basin and said Oklawaha River Basin shall cease to
5 exist. However, any recognition of an Oklawaha River Basin or
6 an Oklawaha River Hydrologic Basin for regulatory purposes
7 shall be unaffected. The area formerly known as the Oklawaha
8 River Basin shall continue to be part of the St. Johns River
9 Water Management District. There shall be established by the
10 governing board of the St. Johns River Water Management
11 District the Oklawaha River Basin Advisory Council to receive
12 public input and advise the St. Johns River Water Management
13 District's governing board on water management issues
14 affecting the Oklawaha River Basin. The Oklawaha River Basin
15 Advisory Council shall be appointed by action of the St. Johns
16 River Water Management District's governing board and shall
17 include one representative from each county which is wholly or
18 partly included in the Oklawaha River Basin. The St. Johns
19 River Water Management District's governing board member
20 currently serving pursuant to s. 373.073(2)(c)3.
21 ~~373.073(1)(b)3.c.~~, shall serve as chair of the Oklawaha River
22 Basin Advisory Council. Members of the Oklawaha River Basin
23 Advisory Council shall receive no compensation for their
24 services but are entitled to be reimbursed for per diem and
25 travel expenses as provided in s. 112.061.

26 Section 9. Section 373.073, Florida Statutes, is
27 amended to read:

28 373.073 Governing board.--

29 (1)(a) The governing board of each water management
30 district shall be composed of 9 members who shall reside
31 within the district, except that the Southwest Florida Water

1 Management District shall be composed of 11 members who shall
2 reside within the district. Members of the governing boards
3 shall be appointed by the Governor, subject to confirmation by
4 the Senate at the next regular session of the Legislature, and
5 the refusal or failure of the Senate to confirm an appointment
6 creates a vacancy in the office to which the appointment was
7 made. The term of office for a governing board member is 4
8 years and commences on March 2 of the year in which the
9 appointment is made and terminates on March 1 of the 4th
10 calendar year of the term. Terms of office of governing board
11 members shall be staggered to help maintain consistency and
12 continuity in the exercise of governing board duties and to
13 minimize disruption in district operations.~~The term of office~~
14 ~~of members of the board shall be 4 years and shall be~~
15 ~~construed to commence on March 2 preceding the date of~~
16 ~~appointment and to terminate March 1 of the year of the end of~~
17 ~~a term. Members of the governing boards continued under this~~
18 ~~chapter shall be appointed from the district at large as~~
19 ~~vacancies occur on the governing boards. Such vacancies shall~~
20 ~~be filled according to the residency requirements of paragraph~~
21 ~~(b).~~

22 (b) Commencing January 1, 1999, the Governor shall
23 appoint the following number of governing board members in
24 each year of the Governor's 4-year term of office:

25 1. In the first year of the Governor's term of office,
26 the Governor shall appoint three members to the governing
27 board of each district.

28 2. In the second year of the Governor's term of
29 office, the Governor shall appoint three members to the
30 governing board of the Southwest Florida Water Management
31

1 District and two members to the governing board of each other
2 district.

3 3. In the third year of the Governor's term of office,
4 the Governor shall appoint three members to the governing
5 board of the Southwest Florida Water Management District and
6 two members to the governing board of each other district.

7 4. In the fourth year of the Governor's term of
8 office, the Governor shall appoint two members to the
9 governing board of each district.

10
11 For any governing board vacancy that occurs before the date
12 scheduled for the office to be filled under this paragraph,
13 the Governor shall appoint a person meeting residency
14 requirements of subsection (2) for a term that will expire on
15 the date scheduled for the term of that office to terminate
16 under this subsection. In addition to the residency
17 requirements for the governing boards as provided by
18 subsection (2), the Governor shall consider appointing
19 governing board members to represent an equitable
20 cross-section of regional interests and technical expertise.

21 (2)(b) Notwithstanding the provisions of any other
22 general or special law to the contrary, vacancies in the
23 governing boards of the water management districts shall be
24 filled according to the following residency requirements,
25 representing areas designated by the United States Water
26 Resources Council in United States Geological Survey, River
27 Basin and Hydrological Unit Map of Florida--1975, Map Series
28 No. 72:

29 (a)1. Northwest Florida Water Management District:

30 1.a. One member shall reside in the area generally
31 designated as the "Perdido River Basin-Perdido Bay Coastal

1 Area-Lower Conecuh River-Escambia River Basin" hydrologic
2 units and that portion of the "Escambia Bay Coastal Area"
3 hydrologic unit which lies west of Pensacola Bay and Escambia
4 Bay.

5 ~~2.b.~~ One member shall reside in the area generally
6 designated as the "Blackwater River Basin-Yellow River
7 Basin-Choctawhatchee Bay Coastal Area" hydrologic units and
8 that portion of the "Escambia Bay Coastal Area" hydrologic
9 unit which lies east of Pensacola Bay and Escambia Bay.

10 ~~3.c.~~ One member shall reside in the area generally
11 designated as the "Choctawhatchee River Basin-St. Andrews Bay
12 Coastal Area" hydrologic units.

13 ~~4.d.~~ One member shall reside in the area generally
14 designated as the "Lower Chattahoochee-Apalachicola
15 River-Chipola River Basin-Coastal Area between Ochlockonee
16 River Apalachicola Rivers-Apalachicola Bay coastal area and
17 offshore islands" hydrologic units.

18 ~~5.e.~~ One member shall reside in the area generally
19 designated as the "Ochlockonee River Basin-St. Marks and
20 Wakulla Rivers and coastal area between Aucilla and
21 Ochlockonee River Basin" hydrologic units.

22 ~~6.f.~~ Four members shall be appointed at large, except
23 that no county shall have more than two members on the
24 governing board.

25 ~~(b)2.~~ Suwannee River Water Management District:

26 ~~1.a.~~ One member shall reside in the area generally
27 designated as the "Aucilla River Basin" hydrologic unit.

28 ~~2.b.~~ One member shall reside in the area generally
29 designated as the "Coastal Area between Suwannee and Aucilla
30 Rivers" hydrologic unit.

31

1 3.c. One member shall reside in the area generally
2 designated as the "Withlacoochee River Basin-Alapaha River
3 Basin-Suwannee River Basin above the Withlacoochee River"
4 hydrologic units.

5 4.d. One member shall reside in the area generally
6 designated as the "Suwannee River Basin below the
7 Withlacoochee River excluding the Santa Fe River Basin"
8 hydrologic unit.

9 5.e. One member shall reside in the area generally
10 designated as the "Santa Fe Basin-Waccasassa River and coastal
11 area between Withlacoochee and Suwannee River" hydrologic
12 units.

13 6.f. Four members shall be appointed at large, except
14 that no county shall have more than two members on the
15 governing board.

16 (c)3. St. Johns River Water Management District:

17 1.a. One member shall reside in the area generally
18 designated as the "St. Mary River Basin-Coastal area between
19 St. Marys and St. Johns Rivers" hydrologic units.

20 2.b. One member shall reside in the area generally
21 designated as the "St. Johns River Basin below Oklawaha
22 River-Coastal area between the St. Johns River and Ponce de
23 Leon Inlet" hydrologic units.

24 3.c. One member shall reside in the area generally
25 designated as the "Oklawaha River Basin" hydrologic unit.

26 4.d. One member shall reside in the area generally
27 designated as the "St. Johns River Basin above the Oklawaha
28 River" hydrologic unit.

29 5.e. One member shall reside in the area generally
30 designated as the "Coastal area between Ponce de Leon Inlet
31

1 and Sebastian Inlet-Coastal area Sebastian Inlet to St. Lucie
2 River" hydrologic units.

3 6.f. Four members shall be appointed at large, except
4 that no county shall have more than two members on the
5 governing board.

6 (d)4. South Florida Water Management District:

7 1.a. Two members shall reside in Dade County.

8 2.b. One member shall reside in Broward County.

9 3.c. One member shall reside in Palm Beach County.

10 4.d. One member shall reside in Collier County, Lee
11 County, Hendry County, or Charlotte County.

12 5.e. One member shall reside in Glades County,
13 Okeechobee County, Highlands County, Polk County, Orange
14 County, or Osceola County.

15 6.f. Two members, appointed at large, shall reside in
16 an area consisting of St. Lucie, Martin, Palm Beach, Broward,
17 Dade, and Monroe Counties.

18 7.g. One member, appointed at large, shall reside in
19 an area consisting of Collier, Lee, Charlotte, Hendry, Glades,
20 Osceola, Okeechobee, Polk, Highlands, and Orange Counties.

21 8.h. No county shall have more than three members on
22 the governing board.

23 (e)5. Southwest Florida Water Management District:

24 1.a. Two members shall reside in Hillsborough County.

25 2.b. One member shall reside in the area consisting of
26 Hillsborough and Pinellas Counties.

27 3.c. Two members shall reside in Pinellas County.

28 4.d. One member shall reside in Manatee County.

29 5.e. One member shall reside in Polk County.

30 6.f. One member shall reside in Pasco County.

31

1 ~~7.g.~~ One member shall be appointed at large from Levy,
2 Marion, Citrus, Sumter, Hernando, and Lake Counties.

3 ~~8.h.~~ One member shall be appointed at large from
4 Sarasota, Hardee, DeSoto, Charlotte, and Highlands Counties.

5 ~~9.i.~~ One member shall be appointed at large from Levy,
6 Marion, Citrus, Sumter, Hernando, Lake, Sarasota, Hardee,
7 DeSoto, Charlotte, and Highlands Counties.

8
9 No county described in subparagraph 7., subparagraph 8., or
10 subparagraph 9.~~sub-subparagraphs g., h., or i.~~ shall have
11 more than one member on the governing board.

12 ~~(2) Members of the governing boards shall be appointed~~
13 ~~by the Governor, subject to confirmation by the Senate at the~~
14 ~~next regular session of the Legislature, and the refusal or~~
15 ~~failure of the Senate to confirm an appointment shall create a~~
16 ~~vacancy in the office to which the appointment was made.~~

17 Section 10. Paragraph (a) of subsection (4) and
18 subsection (5) of section 373.079, Florida Statutes, are
19 amended to read:

20 373.079 Members of governing board; oath of office;
21 staff.--

22 (4)(a) The governing board of the district is
23 authorized to employ an executive director, ombudsman, and
24 such engineers, other professional persons, and other
25 personnel and assistants as it deems necessary and under such
26 terms and conditions as it may determine and to terminate such
27 employment. The appointment of an executive director by the
28 governing board is subject to approval by the Governor and
29 must be initially confirmed by the Florida Senate. The
30 governing board may delegate all or part of its authority
31 under this paragraph to the executive director. The executive

1 director must be confirmed by the Senate upon employment and
2 must be confirmed or reconfirmed by the Senate during the
3 second regular session of the Legislature following a
4 gubernatorial election.

5 (5) The governing board may employ a legal staff for
6 the purposes of:

7 (a) Providing legal counsel to the governing board on
8 matters relating to the exercise of its powers and duties and
9 to the executive director and district staff on matters
10 relating to the day-to-day operations of the district;

11 (b) Representing it in all proceedings of an
12 administrative or judicial nature; and

13 (c) Otherwise assisting in the administration of the
14 provisions of this chapter.

15
16 Attorneys employed by the district must represent the legal
17 interest or position of the governing board.

18 Section 11. Section 373.0831, Florida Statutes, is
19 created to read:

20 373.0831 Water resource development; water supply
21 development.--

22 (1) The Legislature finds that:

23 (a) The proper role of the water management districts
24 in water supply is primarily planning and water resource
25 development, but this does not preclude them from providing
26 assistance with water supply development.

27 (b) The proper role of local government, regional
28 water supply authorities, and government-owned and privately
29 owned water utilities in water supply is primarily water
30 supply development, but this does not preclude them from
31 providing assistance with water resource development.

1 (c) Water resource development and water supply
2 development must receive priority attention, where needed, to
3 increase the availability of sufficient water for all existing
4 and future reasonable-beneficial uses and natural systems.

5 (2) It is the intent of the Legislature that:

6 (a) Sufficient water be available for all existing and
7 future reasonable-beneficial uses and the natural systems, and
8 that the adverse effects of competition for water supplies be
9 avoided.

10 (b) Water management districts take the lead in
11 identifying and implementing water resource development
12 projects, and be responsible for securing necessary funding
13 for regionally significant water resource development
14 projects.

15 (c) Local governments, regional water supply
16 authorities, and government-owned and privately owned water
17 utilities take the lead in securing funds for and implementing
18 water supply development projects. Generally, direct
19 beneficiaries of water supply development projects should pay
20 the costs of the projects from which they benefit, and water
21 supply development projects should continue to be paid for
22 through local funding sources. A water resource development
23 project or water supply development project may not be
24 capitalized from donor county millage revenues when the land
25 for the project was purchased through the Conservation and
26 Recreational Lands Trust Fund and it is anticipated that the
27 project is designed primarily for intercounty transport of
28 ground or surface water.

29 (d) Water supply development be conducted in
30 coordination with water management district regional water
31 supply planning and water resource development.

1 (3) The water management districts shall fund and
2 implement water resource development as defined in s. 373.019.
3 Each governing board shall include in its annual budget the
4 amount needed for the fiscal year to implement water resource
5 development projects, as prioritized in its regional water
6 supply plans.

7 (4)(a) Water supply development projects which are
8 consistent with the relevant regional water supply plans and
9 which meet one or more of the following criteria shall receive
10 priority consideration for state or water management district
11 funding assistance:

12 1. The project supports establishment of a dependable,
13 sustainable supply of water which is not otherwise financially
14 feasible;

15 2. The project provides substantial environmental
16 benefits by preventing or limiting adverse water resource
17 impacts, but require funding assistance to be economically
18 competitive with other options; or

19 3. The project significantly implements reuse,
20 storage, recharge, or conservation of water in a manner that
21 contributes to the sustainability of regional water sources.

22 (b) Water supply development projects which meet the
23 criteria in paragraph (a) and also bring about replacement of
24 existing sources in order to help implement a minimum flow or
25 level shall be given first consideration for state or water
26 management district funding assistance.

27 Section 12. Subsection (2) of section 373.223, Florida
28 Statutes, is amended to read:

29 373.223 Conditions for a permit.--

30 (2) The governing board or the department may
31 authorize the holder of a use permit to transport and use

1 ground or surface water beyond overlying land, across county
2 boundaries, or outside the watershed from which it is taken if
3 the governing board or department determines that such
4 transport and use is consistent with the public interest, and
5 no local government shall adopt or enforce any law, ordinance,
6 rule, regulation, or order to the contrary. Except for the
7 Central and Southern Florida Flood Control Project, when
8 evaluating whether such a potential transport of ground or
9 surface water is consistent with the public interest, the
10 governing board or department may give significant weight to:

11 (a) The proximity of the proposed source of water to
12 the area in which it is to be used or applied.

13 (b) Other environmentally, economically, and
14 technically feasible alternatives to the source being
15 proposed, including, but not limited to, desalination, reuse,
16 stormwater, and aquifer storage and recovery.

17 (c) Cumulative impacts due to groundwater withdrawal.

18 (d) Affected local governments.

19

20 The governing board may also consider whether or not a
21 regional water supply authority supplies water in the area. A
22 permit decision by the governing board based on these
23 considerations shall not affect any perfected legal challenge
24 under chapter 120, an administrative challenge under chapter
25 120, or a judicial challenge, filed prior to the effective
26 date of this act.

27 Section 13. Section 373.236, Florida Statutes, is
28 amended to read:

29 373.236 Duration of permits.--

30 (1) Permits shall ~~may~~ be granted for a any ~~any~~ period of
31 ~~time not exceeding~~ 20 years, if requested for that period of

1 time, if there is sufficient data to provide reasonable
2 assurance that the conditions for permit issuance will be met
3 for the duration of the permit; otherwise permits may be
4 issued for shorter durations which reflect the period for
5 which such reasonable assurances can be provided. The
6 governing board or the department may base the duration of
7 permits on a reasonable system of classification according to
8 source of supply or type of use, or both.

9 (2) The governing board or the department may
10 authorize a permit of duration of up to 50 years in the case
11 of a municipality or other governmental body or of a public
12 works or public service corporation where such a period is
13 required to provide for the retirement of bonds for the
14 construction of waterworks and waste disposal facilities.

15 (3) Where necessary to maintain reasonable assurance
16 that the conditions for issuance of a 20-year permit can
17 continue to be met, the governing board or department, in
18 addition to any conditions required pursuant to s. 373.219,
19 may require a compliance report by the permittee every 5 years
20 during the term of a permit. This report shall contain
21 sufficient data to maintain reasonable assurance that the
22 initial conditions for permit issuance are met. Following
23 review of this report, the governing board or the department
24 may modify the permit to ensure that the use meets the
25 conditions for issuance. Permit modifications pursuant to
26 this subsection shall not be subject to competing
27 applications, provided there is no increase in the permitted
28 allocation or permit duration, and no change in source, except
29 for changes in source requested by the district. This
30 subsection shall not be construed to limit the existing
31

1 authority of the department or the governing board to modify
2 or revoke a consumptive use permit.

3 Section 14. By January 1, 1998, the Department of
4 Environmental Protection, in coordination with the appropriate
5 water management districts and the Department of Health, shall
6 transmit to the Speaker of the House of Representatives, the
7 President of the Senate, and the Governor a proposal for
8 reevaluating areas of the state which were previously
9 delineated by the Department of Environmental Protection
10 pursuant to s. 376.309(1)(e), Florida Statutes, as having
11 contaminated water supplies, including contamination from
12 ethylene dibromide, in order to ascertain whether or not the
13 contamination has been reduced to levels which do not pose a
14 threat to human health and to determine if the delineated
15 areas should be redrawn or removed. The proposal shall
16 reflect a systematic approach to the reevaluation, with an
17 emphasis on determining the current state of contamination,
18 potential remedies, the adequacy of existing remedies such as
19 requirements for grouting of well-casing, and relief to
20 affected citizens. The proposal shall also include estimates
21 of cost and recommendations as to available funding sources
22 for the reevaluation. Any deletion from, addition to, or
23 redrawing of the delineation areas shall be based on the
24 scientific evidence of the reevaluation conducted under this
25 subparagraph.

26 Section 15. Section 373.507, Florida Statutes, is
27 amended to read:

28 373.507 Districts and basins; postaudits, budgets,
29 ~~basins, and taxing authorities; budget and expense reports;~~
30 ~~audits.--~~

31

1 (1) Each district and basin referred to in this
2 chapter ~~must shall~~ furnish a detailed copy of its budget and
3 past year's expenditures to the Governor, the Legislature, and
4 the governing body of each county in which the ~~district or~~
5 basin has jurisdiction or derives any funds for the operations
6 of the ~~district or~~ basin.

7 (2) Each district and basin referred to in this
8 chapter ~~must, basin, and taxing authority shall~~ make provision
9 for an annual postaudit of its financial accounts. The
10 postaudit must ~~These postaudits shall~~ be made in accordance
11 with the rules of the Auditor General adopted under
12 ~~promulgated pursuant to~~ ss. 166.241 and 11.47.

13 (3)(a) Each district referred to in this chapter must
14 furnish copies of the following documents to the Governor, the
15 President of the Senate, the Speaker of the House of
16 Representatives, the chairs of all legislative committees and
17 subcommittees with substantive or fiscal jurisdiction over
18 districts, as determined by the President or Speaker as
19 applicable, the secretary of the department, and the governing
20 body of each county in which the district has jurisdiction or
21 derives any funds for the operations of the district:

- 22 1. The tentative budget.
- 23 2. The adopted budget.
- 24 3. The past year's expenditures.
- 25 4. The postaudit described in subsection (2).

26 (b) The documents must be furnished by the earlier of
27 10 days following completion of each document or as otherwise
28 provided by law.

29 (c) If any entity in paragraph (a) provides written
30 comments to the district regarding any document furnished, the
31 district must respond to the comments in writing and furnish

1 copies of the comments and written responses to the other
2 entities.

3 Section 16. Subsections (1) and (3), and paragraphs
4 (a) and (c) of subsection (5), of section 373.536, Florida
5 Statutes, 1996 Supplement, are amended to read:

6 373.536 District budget and hearing thereon.--

7 (1) The fiscal year of districts created under the
8 provisions of this chapter shall extend from October 1 of one
9 year through September 30 of the following year. The budget
10 officer of the district shall, on or before July 15 of each
11 year, submit for consideration by the governing board of the
12 district a tentative budget for the district covering its
13 proposed operation and requirements for the ensuing fiscal
14 year. Unless alternative notice requirements are otherwise
15 provided by law, notice of all budget hearings conducted by
16 the governing board or district staff must be published in a
17 newspaper of general circulation in each county in which the
18 district lies not less than 5 days nor more than 15 days
19 before the hearing. Budget workshops conducted for the public
20 and not governed by s. 200.065 must be advertised in a
21 newspaper of general circulation in the community or area in
22 which the workshop will occur not less than 5 days nor more
23 than 15 days before the workshop. The tentative budget shall
24 be adopted in accordance with the provisions of s. 200.065;
25 however, if the mailing of the notice of proposed property
26 taxes is delayed beyond September 3 in any county in which the
27 district lies, the district shall advertise its intention to
28 adopt a tentative budget and millage rate, pursuant to s.
29 200.065(3)(g), in a newspaper of general paid circulation in
30 that county. The budget shall set forth, classified by object
31 and purpose, and by fund if so designated, the proposed

1 expenditures of the district for bonds or other debt, for
2 construction, for acquisition of land, for operation and
3 maintenance of the district works, for the conduct of the
4 affairs of the district generally, and for other purposes, to
5 which may be added an amount to be held as a reserve. District
6 administrative and operating expenses must be identified in
7 the budget and allocated among district programs.

8 (3) As provided in s. 200.065(2)(d), the board shall
9 publish one or more notices of its intention to finally adopt
10 a budget for the district for the ensuing fiscal year. The
11 notice shall appear adjacent to an advertisement which shall
12 set forth the tentative budget in full. The notice and
13 advertisement shall be published in one or more newspapers
14 having a combined general circulation in the counties having
15 land in the district. Districts may include explanatory
16 phrases and examples in budget advertisements published under
17 s. 200.065 to clarify or illustrate the effect that the
18 district budget may have on ad valorem taxes.

19 (5)(a) The Executive Office of the Governor is
20 authorized to approve or disapprove, in whole or in part, the
21 budget of each water management district and shall analyze
22 each budget as to the adequacy of fiscal resources available
23 to the district and the adequacy of district expenditures
24 related to water supply, including water resource development
25 projects identified in the district's regional water supply
26 plans; water quality; flood protection and floodplain
27 management; and natural systems. This analysis shall be based
28 on the particular needs within each water management district
29 in those four areas of responsibility.

30 (c) Each water management district shall, by August 1
31 5 of each year, submit for review a tentative budget to the

1 Governor, the President of the Senate, the Speaker of the
2 House of Representatives, the chairs of all legislative
3 committees and subcommittees with substantive or fiscal
4 jurisdiction over water management districts, the secretary of
5 the department, and the governing body of each county in which
6 the district has jurisdiction or derives any funds for the
7 operations of the district. The tentative budget, which must
8 ~~include to the Department of Environmental Protection, the~~
9 ~~Executive Office of the Governor, and the chairs of the~~
10 ~~appropriations committees of the Legislature for review a~~
11 ~~tentative budget that includes, but is not limited to, the~~
12 following information for the preceding fiscal year and the
13 current fiscal year, and the proposed amounts for the upcoming
14 fiscal year, in a standard format prescribed by the Executive
15 Office of the Governor ~~department~~ which is generally
16 consistent with the format prescribed by legislative budget
17 instructions for state agencies and the format requirements of
18 s. 216.031:

19 1. The millage rates and the percentage increase above
20 the rolled-back rate, together with a summary of the reasons
21 the increase is required, and the percentage increase in
22 taxable value resulting from new construction;

23 2. For each program area, the salary and benefits,
24 expenses, operating capital outlay, number of authorized
25 positions, and other personal services;

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

30 ~~4.3-~~ A description of each new, expanded, reduced, or
31 eliminated program;

1 ~~5.4.~~ A 5-year capital improvements plan; ~~and~~
2 6. A proposed five-year water resource development
3 work program, that describes the district's implementation
4 strategy for the water resource development component of each
5 approved regional water supply plan developed or revised
6 pursuant to s. 373.0361. The work program shall address all
7 the elements of the water resource development component in
8 the district's approved regional water supply plans. The
9 Office of the Governor, with the assistance of the department,
10 shall review the proposed work program. The review shall
11 include a written evaluation of its consistency with and
12 furtherance of the district's approved regional water supply
13 plans, and adequacy of proposed expenditures. As part of the
14 review, the Executive Office of the Governor and the
15 department shall afford to all interested parties the
16 opportunity to provide written comments on each district's
17 proposed work program. At least seven days prior to the
18 adoption of its final budget, the governing board shall state
19 in writing to the Executive Office of the Governor which
20 changes recommended in the evaluation it will incorporate into
21 its work program, or specify the reasons for not incorporating
22 the changes. The Office of the Governor shall include the
23 district's responses in the written evaluation and shall
24 submit a copy of the evaluation to the Legislature; and
25 ~~7.5.~~ The funding sources, including, but not limited
26 to, ad valorem taxes, Surface Water Improvement and Management
27 Program funds, other state funds, federal funds, and user fees
28 and permit fees for each program area.
29 ~~(d) The department shall, by September 5 of the year~~
30 ~~in which the budget is submitted, after taking into account~~
31 ~~continuing and proposed program needs, provide its review and~~

1 ~~comments to the governing board and the Governor.~~ By
2 September 5 of the year in which the budget is submitted, ~~the~~
3 ~~Executive Office of the Governor and the House and Senate~~
4 appropriations chairs may transmit to each district comments
5 and objections to the proposed budgets. Each district
6 governing board shall include a response to such comments and
7 objections in the record of the governing board meeting where
8 final adoption of the budget takes place, and the record of
9 this meeting shall be transmitted to the Executive Office of
10 the Governor, the department, and the chairs of the House and
11 Senate appropriations committees.

12 (e) The Executive Office of the Governor ~~department~~
13 shall annually, on or before December 15, file with the
14 ~~Governor and the~~ Legislature a report that summarizes the
15 expenditures of the water management districts by program area
16 and identifies the districts that are not in compliance with
17 the reporting requirements of this section. State funds shall
18 be withheld from a water management district that fails to
19 comply with these reporting requirements.

20 Section 17. Subsection (1) and paragraph (a) of
21 subsection (4) of section 373.59, Florida Statutes, 1996
22 Supplement, are amended to read:

23 373.59 Water Management Lands Trust Fund.--

24 (1) There is established within the Department of
25 Environmental Protection the Water Management Lands Trust Fund
26 to be used as a nonlapsing fund for the purposes of this
27 section. The moneys in this fund are hereby continually
28 appropriated for the purposes of land acquisition, management,
29 maintenance, capital improvements, payments in lieu of taxes,
30 and administration of the fund in accordance with the
31 provisions of this section. ~~In addition, for fiscal year~~

1 ~~1995-1996, moneys in the fund that are not revenues from the~~
2 ~~sale of any bonds and that are not required for debt service~~
3 ~~for any bond issue may be used to fund activities authorized~~
4 ~~under the Surface Water Improvement and Management Act,~~
5 ~~pursuant to ss. 373.451-373.4595, and for the control of~~
6 ~~aquatic weeds pursuant to part II of chapter 369.~~Up to 25
7 percent of the moneys in the fund may be allocated annually to
8 the districts for management, maintenance, and capital
9 improvements pursuant to subsection (8) ~~(7)~~.

10 (4)(a) Moneys from the Water Management Lands Trust
11 Fund shall be used for acquiring the fee or other interest in
12 lands necessary for water management, water supply, and the
13 conservation and protection of water resources, except that
14 such moneys shall not be used for the acquisition of
15 rights-of-way for canals or pipelines. Such moneys shall also
16 be used for management, maintenance, and capital improvements.
17 Interests in real property acquired by the districts under
18 this section may be used for permittable water resource
19 development and water supply development purposes under the
20 following conditions: the minimum flows and levels of priority
21 water bodies on such lands have been established; the project
22 complies with all conditions for issuance of a permit under
23 part II of chapter 373; and the project is compatible with the
24 purposes for which the land was acquired. Lands acquired with
25 moneys from the fund shall be managed and maintained in an
26 environmentally acceptable manner and, to the extent
27 practicable, in such a way as to restore and protect their
28 natural state and condition.

29 Section 18. Paragraph (b) of subsection (4) of section
30 186.007, Florida Statutes, is amended to read:
31

1 186.007 State comprehensive plan; preparation;
2 revision.--
3 (4)
4 (b) The purpose of the growth management portion of
5 the state comprehensive plan is to establish clear, concise,
6 and direct goals, objectives, and policies related to land
7 development, water resources, transportation, and related
8 topics. In doing so, the plan should, where possible, draw
9 upon the work that agencies have invested in the state land
10 development plan, the Florida Transportation Plan, the Florida
11 water ~~state water use~~ plan, and similar planning documents.
12 Section 19. Paragraph (n) of subsection (2) of section
13 186.009, Florida Statutes, is amended to read:
14 186.009 Growth management portion of the state
15 comprehensive plan.--
16 (2) The growth management portion of the state
17 comprehensive plan shall:
18 (n) Set forth recommendations on how to integrate the
19 Florida water ~~state water use~~ plan required by s. 373.036, the
20 state land development plan required by s. 380.031(17), and
21 transportation plans required by chapter 339.
22
23 The growth management portion of the state comprehensive plan
24 shall not include a land use map.
25 Section 20. Subsections (1) and (7) of section
26 373.103, Florida Statutes, are amended to read:
27 373.103 Powers which may be vested in the governing
28 board at the department's discretion.--In addition to the
29 other powers and duties allowed it by law, the governing board
30 of a water management district may be specifically authorized
31 by the department to:

1 (1) Administer and enforce all provisions of this
2 chapter, including the permit systems established in parts II,
3 III, and IV of this chapter, consistent with the state water
4 resource implementation rule ~~policy~~.

5 (7) Prepare, in cooperation with the department, that
6 part of the Florida water ~~state water use~~ plan applicable to
7 the district.

8 Section 21. Subsection (2) of section 373.114, Florida
9 Statutes, is amended to read:

10 373.114 Land and Water Adjudicatory Commission; review
11 of district rules and orders; department review of district
12 rules.--

13 (2) The department shall have the exclusive authority
14 to review rules of the water management districts, other than
15 rules relating to internal management of the districts, to
16 ensure consistency with the ~~state water~~ resource
17 implementation rule ~~policy~~ as set forth in the rules of the
18 department. Within 30 days after adoption or revision of any
19 water management district rule, the department shall initiate
20 a review of such rule pursuant to this section.

21 (a) Within 30 days after adoption of a rule, any
22 affected person may request that a hearing be held before the
23 secretary of the department, at which hearing evidence and
24 argument may be presented relating to the consistency of the
25 rule with the state water resource implementation rule ~~policy~~,
26 by filing a request for hearing with the department and
27 serving a copy on the water management district.

28 (b) If the department determines that the rule is
29 inconsistent with the ~~state water~~ resource implementation rule
30 ~~policy~~, it may order the water management district to initiate
31 rulemaking proceedings to amend or repeal the rule.

1 (c) An order of the department requiring amendment or
2 repeal of a rule may be appealed to the Land and Water
3 Adjudicatory Commission by the water management district or
4 any other party to the proceeding before the secretary.

5 Section 22. Subsection (3) of section 373.418, Florida
6 Statutes, is amended to read:

7 373.418 Rulemaking; preservation of existing
8 authority.--

9 (3) The department or governing boards may adopt such
10 rules as are necessary to implement the provisions of this
11 part. Such rules shall be consistent with the ~~state~~ water
12 resource implementation rule policy and shall not allow harm
13 to water resources or be contrary to the policy set forth in
14 s. 373.016.

15 Section 23. Subsection (2) of section 373.456, Florida
16 Statutes, is amended to read:

17 373.456 Approval of surface water improvement and
18 management plans.--

19 (2) The department shall have the exclusive authority
20 to review the plan to ensure consistency with the ~~state~~ water
21 resource implementation rule policy and the State
22 Comprehensive Plan.

23 Section 24. Subsection (14) of section 403.031,
24 Florida Statutes, 1996 Supplement, is amended to read:

25 403.031 Definitions.--In construing this chapter, or
26 rules and regulations adopted pursuant hereto, the following
27 words, phrases, or terms, unless the context otherwise
28 indicates, have the following meanings:

29 (14) "State water resource implementation rule policy"
30 means the rule authorized by s. 373.036, which sets
31 ~~comprehensive statewide policy as adopted by the department~~

1 ~~pursuant to ss. 373.026 and 403.061, setting~~ forth goals,
2 objectives, and guidance for the development and review of
3 programs, rules, and plans relating to water resources, based
4 on statutory policies and directives. The waters of the state
5 are among its most basic resources. Such waters should be
6 managed to conserve and protect water resources and to realize
7 the full beneficial use of these resources.

8 Section 25. Subsection (1) and paragraph (a) of
9 subsection (3) of section 403.0891, Florida Statutes, are
10 amended to read:

11 403.0891 State, regional, and local stormwater
12 management plans and programs.--The department, the water
13 management districts, and local governments shall have the
14 responsibility for the development of mutually compatible
15 stormwater management programs.

16 (1) The department shall include goals in the ~~state~~
17 water resource implementation rule ~~policy~~ for the proper
18 management of stormwater.

19 (3)(a) Each local government required by chapter 163
20 to submit a comprehensive plan, whose plan is submitted after
21 July 1, 1992, and the others when updated after July 1, 1992,
22 in the development of its stormwater management program
23 described by elements within its comprehensive plan shall
24 consider the state water resource implementation rule ~~policy~~,
25 district stormwater management goals, plans approved pursuant
26 to the Surface Water Improvement and Management Act, ss.
27 373.451-373.4595, and technical assistance information
28 provided by the water management districts pursuant to s.
29 373.0391.

30
31

1 Section 26. Subsection (10) of section 373.026,
2 section 373.039, and subsection (33) of section 403.061,
3 Florida Statutes, are repealed.

4 Section 27. Effective January 1, 1999, section
5 373.0735, Florida Statutes, is repealed.

6 Section 28. Notwithstanding the provisions of sections
7 10 and 11 of this act, the establishment and implementation of
8 minimum flows and levels for priority waters in Pasco County
9 and Hillsborough County listed pursuant to chapter 96-339,
10 Laws of Florida, and peer review of the scientific or
11 technical data and methodologies utilized in establishing said
12 minimum flows and levels shall be governed by the provisions
13 of chapter 96-339, Laws of Florida. The establishment and
14 implementation of minimum flows for the Hillsborough River and
15 the Palm River/Tampa By-Pass Canal shall be governed by the
16 provisions of this act.

17 Section 29. Section 373.1963(1), Florida Statutes,
18 1996 Supplement, is substantially amended to read:

19 373.1963 Assistance to West Coast Regional Water
20 Supply Authority.--

21 (1) It is the intent of the Legislature to encourage
22 and facilitate the implementation of the changes in governance
23 recommended by the West Coast Regional Water Supply Authority
24 in its report to the Legislature dated February 1, 1997. The
25 Authority shall submit a supplemental report to the Speaker of
26 the House of Representatives and the President of the Senate
27 on the status of implementing its prior recommendations for
28 changes in governance by January 5, 1998. The Authority is
29 authorized to reconstitute its governance under a voluntary
30 interlocal agreement with a term of not less than 20 years.

31

1 Section 30. Except as otherwise provided herein, this
2 act shall take effect October 1, 1997.

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