

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

1 responsibilities; amending s. 373.0693, F.S.;
2 correcting a cross reference; amending s.
3 373.073, F.S.; revising procedure for
4 appointment of members to the water management
5 district governing boards; providing a
6 timetable; providing criteria for selection;
7 amending s. 373.079, F.S.; requiring the
8 Governor to select a governing board member as
9 chair of the governing board; revising
10 procedure for appointment of district executive
11 directors; providing respective authority of
12 the Governor and governing boards; authorizing
13 employment of governing board ombudsmen;
14 providing for confirmation of executive
15 directors by the Senate; revising duties of
16 governing board legal staff; creating s.
17 373.0831, F.S.; specifying governing board
18 responsibilities for water resource development
19 and responsibilities of other entities for
20 water supply development; providing for
21 priorities for funding; requiring a report;
22 amending s. 373.139, F.S.; authorizing the use
23 of land for multiple purposes; amending s.
24 373.236, F.S.; revising provisions relating to
25 duration of consumptive use permits; requiring
26 compliance reports and permit modification,
27 under certain circumstances; requiring a
28 proposal for reevaluation of certain areas with
29 contaminated water supplies; amending s.
30 373.507, F.S.; revising provisions relating to
31 district and basin audits, budgets, and expense

1 reports; requiring districts to furnish copies
2 of documents to specified entities and to
3 respond to comments; amending s. 373.536, F.S.;
4 providing requirements for notice and
5 advertisement of district budget hearings and
6 workshops; providing requirements for budget
7 identification of administrative and operating
8 expenses; providing for certain analysis of
9 budgets; revising requirements for submittal of
10 tentative budgets; amending s. 373.59, F.S.;
11 deleting obsolete language; correcting a cross
12 reference; authorizing use of interests in
13 property acquired under the Water Management
14 Lands Trust Fund for permissible water resource
15 development and water supply development
16 purposes; amending ss. 186.007, 186.009,
17 373.103, 373.114, 373.418, 373.456, 403.031,
18 and 403.0891, F.S., to conform to the act;
19 repealing ss. 373.026(10), 373.039, and
20 403.061(33), F.S., relating to state water
21 policy and the Florida water plan; repealing s.
22 373.0735, F.S., relating to appointment of
23 members to the governing board of the Southwest
24 Florida Water Management District; providing
25 for grandfathering-in of minimum flows and
26 levels for priority waters in Pasco County and
27 Hillsborough County pursuant to provisions of
28 chapter 96-339, Laws of Florida; providing for
29 application of act to Hillsborough River and
30 the Palm River/Tampa By-Pass Canal; amending s.
31 373.1962, F.S.; providing procedures that a

1 regional water supply authority may use to
2 provide alternative sources of potable water;
3 amending s. 373.1963, F.S.; providing for
4 supplemental report from the West Coast
5 Regional Water Supply Authority; amending s.
6 376.307, F.S.; providing that funds in the
7 Water Quality Assurance Trust Fund may be used
8 for certain subsidies or filters; amending s.
9 373.309, F.S.; authorizing the Department of
10 Health to establish criteria for acceptance of
11 certain tests; prohibiting the payment of
12 severance pay by a water management district to
13 any of its officers or employees, except under
14 specified circumstances; providing a
15 legislative finding; creating the Water
16 Management District Employee Compensation Study
17 Commission; providing its duties; amending s.
18 253.03, F.S.; extending the submerged lands
19 lease for certain properties; amending s.
20 370.06, F.S.; authorizing the department to
21 issue special activity licenses for
22 aquacultural activities involving sturgeon;
23 amending s. 370.092, F.S.; providing for the
24 transport of mullet harvested in Alabama
25 waters; providing for penalties for fishing
26 during periods of license suspension or
27 revocation; amending s. 373.250, F.S.;
28 providing a date for water management districts
29 to submit annual reports to the Legislature;
30 creating s. 370.093, F.S.; prohibiting the
31 harvest of marine life with nets inconsistent

1 with s. 16, Art. X of the State Constitution;
 2 providing for penalties; providing a definition
 3 of the terms "net" and "netting"; authorizing
 4 the Marine Fisheries Commission to adopt
 5 certain rules; amending s. 370.14, F.S.;
 6 providing the Marine Patrol discretion to be
 7 present at the closed-season weighing of
 8 crawfish; creating s. 370.1405, F.S.; providing
 9 for the sale of crawfish during a closed season
 10 under specified reporting requirements;
 11 providing penalties; establishing an
 12 experimental program to assess the utility and
 13 effects of using "tarp" nets to harvest
 14 baitfish; creating s. 403.0882, F.S.; providing
 15 definitions; specifying conditions and
 16 limitations for the discharge of
 17 demineralization concentrate; specifying
 18 conditions for discharge of concentrate from
 19 small water utility businesses; limiting
 20 departmental regulation of such businesses;
 21 providing a permitting schedule for
 22 demineralization facilities; providing an
 23 effective date.
 24

25 Be It Enacted by the Legislature of the State of Florida:
 26

27 Section 1. Present subsection (2) of section 373.016,
 28 Florida Statutes, is amended, subsections (3) and (4) are
 29 renumbered as subsections (4) and (5), respectively, and a new
 30 subsection (2) is added to that section, to read:
 31

373.016 Declaration of policy.--

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

4 ~~(3)(2)~~ It is further declared to be the policy of the
 5 Legislature:

6 (a) To provide for the management of water and related
 7 land resources;

8 (b) To promote the conservation, replenishment,
 9 recapture, enhancement, development, and proper utilization of
 10 surface and ground water;

11 (c) To develop and regulate dams, impoundments,
 12 reservoirs, and other works and to provide water storage for
 13 beneficial purposes;

14 (d) To promote the availability of sufficient water
 15 for all existing and future reasonable-beneficial uses and
 16 natural systems;

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

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

21 ~~(g)(f)~~ To preserve natural resources, fish, and
 22 wildlife;

23 ~~(h)(g)~~ To promote the public policy set forth in s.
 24 403.021;

25 ~~(i)(h)~~ To promote recreational development, protect
 26 public lands, and assist in maintaining the navigability of
 27 rivers and harbors; and

28 ~~(j)(i)~~ Otherwise to promote the health, safety, and
 29 general welfare of the people of this state.
 30
 31

1 In implementing this chapter, the department and the governing
 2 board shall construe and apply the policies in this subsection
 3 as a whole, and no specific policy is to be construed or
 4 applied in isolation from the other policies in this
 5 subsection.

6 Section 2. Section 373.019, Florida Statutes, 1996
 7 Supplement, is amended to read:

8 373.019 Definitions.--When appearing in this chapter
 9 or in any rule, regulation, or order adopted pursuant thereto,
 10 the following words shall, unless the context clearly
 11 indicates otherwise, mean:

12 (1)~~(13)~~ "Coastal waters" means waters of the Atlantic
 13 Ocean or the Gulf of Mexico within the jurisdiction of the
 14 state.

15 (2)~~(1)~~ "Department" means the Department of
 16 Environmental Protection or its successor agency or agencies.

17 (3) "District water management plan" means the
 18 regional water resource plan developed by a governing board
 19 under s. 373.036.

20 (4)~~(6)~~ "Domestic use" means the use of water for the
 21 individual personal household purposes of drinking, bathing,
 22 cooking, or sanitation. All other uses shall not be considered
 23 domestic.

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

26 (6)~~(3)~~ "Governing board" means the governing board of
 27 a water management district.

28 (7)~~(9)~~ "Groundwater" means water beneath the surface
 29 of the ground, whether or not flowing through known and
 30 definite channels.

1 ~~(8)(14)~~ "Impoundment" means any lake, reservoir, pond,
2 or other containment of surface water occupying a bed or
3 depression in the earth's surface and having a discernible
4 shoreline.

5 ~~(9)(18)~~ "Independent scientific peer review" means the
6 review of scientific data, theories, and methodologies by a
7 panel of independent, recognized experts in the fields of
8 hydrology, hydrogeology, limnology, and other scientific
9 disciplines relevant to the matters being reviewed under s.
10 373.042.

11 ~~(10)(7)~~ "Nonregulated use" means any use of water
12 which is exempted from regulation by the provisions of this
13 chapter.

14 ~~(11)(12)~~ "Other watercourse" means any canal, ditch,
15 or other artificial watercourse in which water usually flows
16 in a defined bed or channel. It is not essential that the
17 flowing be uniform or uninterrupted.

18 ~~(12)(5)~~ "Person" means any and all persons, natural or
19 artificial, including any individual, firm, association,
20 organization, partnership, business trust, corporation,
21 company, the United States of America, and the state and all
22 political subdivisions, regions, districts, municipalities,
23 and public agencies thereof. The enumeration herein is not
24 intended to be exclusive or exhaustive.

25 ~~(13)(4)~~ "Reasonable-beneficial use" means the use of
26 water in such quantity as is necessary for economic and
27 efficient utilization for a purpose and in a manner which is
28 both reasonable and consistent with the public interest.

29 (14) "Regional water supply plan" means a detailed
30 water supply plan developed by a governing board under s.
31 373.0361.

1 ~~(15)(11)~~ "Stream" means any river, creek, slough, or
 2 natural watercourse in which water usually flows in a defined
 3 bed or channel. It is not essential that the flowing be
 4 uniform or uninterrupted. The fact that some part of the bed
 5 or channel has been dredged or improved does not prevent the
 6 watercourse from being a stream.

7 ~~(16)(10)~~ "Surface water" means water upon the surface
 8 of the earth, whether contained in bounds created naturally or
 9 artificially or diffused. Water from natural springs shall be
 10 classified as surface water when it exits from the spring onto
 11 the earth's surface.

12 ~~(17)(8)~~ "Water" or "waters in the state" means any and
 13 all water on or beneath the surface of the ground or in the
 14 atmosphere, including natural or artificial watercourses,
 15 lakes, ponds, or diffused surface water and water percolating,
 16 standing, or flowing beneath the surface of the ground, as
 17 well as all coastal waters within the jurisdiction of the
 18 state.

19 ~~(18)(2)~~ "Water management district" means any flood
 20 control, resource management, or water management district
 21 operating under the authority of this chapter.

22 (19) "Water resource development" means the
 23 formulation and implementation of regional water resource
 24 management strategies, including the collection and evaluation
 25 of surface water and groundwater data; structural and
 26 nonstructural programs to protect and manage water resources;
 27 the development of regional water resource implementation
 28 programs; the construction, operation, and maintenance of
 29 major public works facilities to provide for flood control,
 30 surface and underground water storage, and groundwater
 31 recharge augmentation; and related technical assistance to

1 local governments and to government-owned and privately owned
 2 water utilities.

3 (20)~~(16)~~ "State Water resource implementation rule
 4 policy" means the rule authorized by s. 373.036, which sets
 5 ~~comprehensive statewide policy as adopted by the department~~
 6 ~~pursuant to ss. 373.026 and 403.061 setting forth goals,~~
 7 objectives, and guidance for the development and review of
 8 programs, rules, and plans relating to water resources, based
 9 on statutory policies and directives. The waters of the state
 10 are among its most basic resources. Such waters should be
 11 managed to conserve and protect water resources and to realize
 12 the full beneficial use of these resources.

13 (21) "Water supply development" means the planning,
 14 design, construction, operation, and maintenance of public or
 15 private facilities for water collection, production,
 16 treatment, transmission, or distribution for sale, resale, or
 17 end use.

18 (22)~~(17)~~ For the sole purpose of serving as the basis
 19 for the unified statewide methodology adopted pursuant to s.
 20 373.421(1), as amended, "wetlands" means those areas that are
 21 inundated or saturated by surface water or groundwater at a
 22 frequency and a duration sufficient to support, and under
 23 normal circumstances do support, a prevalence of vegetation
 24 typically adapted for life in saturated soils. Soils present
 25 in wetlands generally are classified as hydric or alluvial, or
 26 possess characteristics that are associated with reducing soil
 27 conditions. The prevalent vegetation in wetlands generally
 28 consists of facultative or obligate hydrophytic macrophytes
 29 that are typically adapted to areas having soil conditions
 30 described above. These species, due to morphological,
 31 physiological, or reproductive adaptations, have the ability

1 to grow, reproduce, or persist in aquatic environments or
 2 anaerobic soil conditions. Florida wetlands generally include
 3 swamps, marshes, bayheads, bogs, cypress domes and strands,
 4 sloughs, wet prairies, riverine swamps and marshes, hydric
 5 seepage slopes, tidal marshes, mangrove swamps and other
 6 similar areas. Florida wetlands generally do not include
 7 longleaf or slash pine flatwoods with an understory dominated
 8 by saw palmetto. Upon legislative ratification of the
 9 methodology adopted pursuant to s. 373.421(1), as amended, the
 10 limitation contained herein regarding the purpose of this
 11 definition shall cease to be effective.

12 (23)~~(15)~~ "Works of the district" means those projects
 13 and works, including, but not limited to, structures,
 14 impoundments, wells, streams, and other watercourses, together
 15 with the appurtenant facilities and accompanying lands, which
 16 have been officially adopted by the governing board of the
 17 district as works of the district.

18 Section 3. Section 373.036, Florida Statutes, is
 19 amended to read:

20 373.036 Florida water plan; district water management
 21 plans ~~State water use plan.~~--

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

26 (a) The programs and activities of the department
 27 related to water supply, water quality, flood protection and
 28 floodplain management, and natural systems.

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

30 (c) The district water management plans.

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

18 ~~(1) The department shall proceed as rapidly as~~
 19 ~~possible to study existing water resources in the state; means~~
 20 ~~and methods of conserving and augmenting such waters; existing~~
 21 ~~and contemplated needs and uses of water for protection and~~
 22 ~~procreation of fish and wildlife, irrigation, mining, power~~
 23 ~~development, and domestic, municipal, and industrial uses; and~~
 24 ~~all other related subjects, including drainage, reclamation,~~
 25 ~~flood plain or flood-hazard area zoning, and selection of~~
 26 ~~reservoir sites. The department shall cooperate with the~~
 27 ~~Executive Office of the Governor, or its successor agency,~~
 28 ~~progressively to formulate, as a functional element of a~~
 29 ~~comprehensive state plan, an integrated, coordinated plan for~~
 30 ~~the use and development of the waters of the state, based on~~
 31 ~~the above studies. This plan, with such amendments,~~

1 ~~supplements, and additions as may be necessary from time to~~
2 ~~time, shall be known as the state water use plan.~~

3 (2) DISTRICT WATER MANAGEMENT PLANS.--

4 (a) Each governing board shall develop a district
5 water management plan for water resources within its region,
6 which plan addresses water supply, water quality, flood
7 protection and floodplain management, and natural systems. The
8 district water management plan shall be based on at least a
9 20-year planning period, shall be developed and revised in
10 cooperation with other agencies, regional water supply
11 authorities, units of government, and interested parties, and
12 shall be updated at least once every 5 years. The governing
13 board shall hold a public hearing at least 30 days in advance
14 of completing the development or revision of the district
15 water management plan.

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

18 1. The scientific methodologies for establishing
19 minimum flows and levels under s. 373.042, and all established
20 minimum flows and levels.

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

23 3. Technical data and information prepared under ss.
24 373.0391 and 373.0395.

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

28 a. Existing legal uses, reasonably anticipated future
29 needs, and existing and reasonably anticipated sources of
30 water and conservation efforts; and
31

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1 b. Whether existing and reasonably anticipated sources
 2 of water and conservation efforts are adequate to supply water
 3 for all existing legal uses and reasonably anticipated future
 4 needs and to sustain the water resources and related natural
 5 systems.

6 5. Any completed regional water supply plans.

7 (c) If necessary for implementation, the governing
 8 board shall adopt by rule or order relevant portions of the
 9 district water management plan, to the extent of its statutory
 10 authority.

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

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

17 2.(b) The maximum economic development of the water
 18 resources consistent with other uses.

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

22 4.(d) The quantity of water available for application
 23 to a reasonable-beneficial use.

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

26 ~~6.(f)~~ Presently exercised domestic use and permit
 27 rights.

28 7.(g) The preservation and enhancement of the water
 29 quality of the state ~~and the provisions of the state water~~
 30 ~~quality plan.~~

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

3 ~~(3) During the process of formulating or revising the~~
4 ~~state water use plan, the department shall consult with, and~~
5 ~~carefully evaluate the recommendations of, concerned federal,~~
6 ~~state, and local agencies, particularly the governing boards~~
7 ~~of the water management districts, and other interested~~
8 ~~persons.~~

9 ~~(4) Each governing board is directed to cooperate with~~
10 ~~the department in conducting surveys and investigations of~~
11 ~~water resources, to furnish the department with all available~~
12 ~~data of a technical nature, and to advise and assist the~~
13 ~~department in the formulation and drafting of those portions~~
14 ~~of the state plan applicable to the district.~~

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

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

29 (3)(7) The department and governing board shall give
30 careful consideration to the requirements of public recreation
31 and to the protection and procreation of fish and wildlife.

1 The department or governing board may prohibit or restrict
 2 other future uses on certain designated bodies of water which
 3 may be inconsistent with these objectives.

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

9 ~~(5)(9)~~ The governing board ~~department~~ may designate
 10 certain uses in connection with a particular source of supply
 11 which, because of the nature of the activity or the amount of
 12 water required, would result in an enhancement or improvement
 13 of the water resources of the area. Such uses shall be
 14 preferred over other uses in the event of competing
 15 applications under the permitting systems authorized by this
 16 chapter.

17 ~~(6)(10)~~ The department, in cooperation with the
 18 Executive Office of the Governor, or its successor agency, may
 19 add to the Florida water ~~state water use~~ plan any other
 20 information, directions, or objectives it deems necessary or
 21 desirable for the guidance of the governing boards or other
 22 agencies in the administration and enforcement of this
 23 chapter.

24 Section 4. Section 373.0361, Florida Statutes, is
 25 created to read:

26 373.0361 Regional water supply planning.--

27 (1) By October 1, 1998, the governing board shall
 28 initiate water supply planning for each water supply planning
 29 region identified in the district water management plan under
 30 s. 373.036, where it determines that sources of water are not
 31 adequate for the planning period to supply water for all

1 existing and projected reasonable-beneficial uses and to
2 sustain the water resources and related natural systems. The
3 planning must be conducted in an open public process, in
4 coordination and cooperation with local governments, regional
5 water supply authorities, government-owned and privately owned
6 water utilities, self-suppliers, and other affected and
7 interested parties. A determination by the governing board
8 that initiation of a regional water supply plan for a specific
9 planning region is not needed pursuant to this section shall
10 be subject to s. 120.569. The governing board shall
11 re-evaluate such a determination at least once every five
12 years and shall initiate a regional water supply plan, if
13 needed, pursuant to this subsection.

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

17 (a) A water supply development component that
18 includes:

19 1. A quantification of the water supply needs for all
20 existing and reasonably projected future uses within the
21 planning horizon. The level-of-certainty planning goal
22 associated with identifying the water supply needs of existing
23 and future reasonable-beneficial uses shall be based upon
24 meeting those needs for a 1-in-10 year drought event.

25 2. A list of water source options for water supply
26 development, including traditional and alternative sources,
27 from which local government, government-owned and privately
28 owned utilities, self-suppliers, and others may choose, which
29 will exceed the needs identified in subparagraph 1.

30 3. For each option listed in subparagraph 2., the
31 estimated amount of water available for use and the estimated

1 costs of and potential sources of funding for water supply
 2 development.

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

5 (b) A water resource development component that
 6 includes:

7 1. A listing of those water resource development
 8 projects that support water supply development.

9 2. For each water resource development project listed:

10 a. An estimate of the amount of water to become
 11 available through the project.

12 b. The timetable for implementing or constructing the
 13 project and the estimated costs for implementing, operating,
 14 and maintaining the project.

15 c. Sources of funding and funding needs.

16 d. Who will implement the project and how it will be
 17 implemented.

18 (c) The recovery and prevention strategy described in
 19 s. 373.0421(2).

20 (d) A funding strategy for water resource development
 21 projects, which shall be reasonable and sufficient to pay the
 22 cost of constructing or implementing all of the listed
 23 projects.

24 (e) Consideration of how the options addressed in
 25 paragraphs (a) and (b) serve the public interest or save costs
 26 overall by preventing the loss of natural resources or
 27 avoiding greater future expenditures for water resource
 28 development or water supply development. However, unless
 29 adopted by rule, these considerations do not constitute final
 30 agency action.
 31

1 (f) The technical data and information applicable to
2 the planning region which are contained in the district water
3 management plan and are necessary to support the regional
4 water supply plan.

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

7 (3) Regional water supply plans initiated or completed
8 by July 1, 1997, shall be revised, if necessary, to include a
9 water supply development component and a water resource
10 development component as described in paragraphs (2)(a) and
11 (b).

12 (4) Governing board approval of a regional water
13 supply plan shall not be subject to the rulemaking
14 requirements of Chapter 120. However, any portion of an
15 approved regional water supply plan which affects the
16 substantial interests of a party shall be subject to s.
17 120.569.

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

22 (a) A compilation of the estimated costs of and
23 potential sources of funding for water resource development
24 and water supply development projects, as identified in the
25 water management district regional water supply plans.

26 (b) A description of each district's progress toward
27 achieving its water resource development objectives, as
28 directed by s. 373.0831(3), including the district's
29 implementation of its 5-year water resource development work
30 program.

1 (6) Nothing contained in the water supply
 2 development component of the district water management plan
 3 shall be construed to require local governments,
 4 government-owned or privately owned water utilities,
 5 self-suppliers, or other water suppliers to select a water
 6 supply development option identified in the component merely
 7 because it is identified in the plan. However, this
 8 subsection shall not be construed to limit the authority of
 9 the department or governing board under part II.

10 Section 5. Section 373.042, Florida Statutes, 1996
 11 Supplement, is amended to read:

12 373.042 Minimum flows and levels.--

13 (1) Within each section, or the water management
 14 district as a whole, the department or the governing board
 15 shall establish the following:

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

20 (b) Minimum water level. The minimum water level
 21 shall be the level of groundwater in an aquifer and the level
 22 of surface water at which further withdrawals would be
 23 significantly harmful to the water resources of the area.

24
 25 The minimum flow and minimum water level shall be calculated
 26 by the department and the governing board using the best
 27 information available. When appropriate, minimum flows and
 28 levels may be calculated to reflect seasonal variations. The
 29 department and the governing board shall also consider, and at
 30 their discretion may provide for, the protection of
 31

1 nonconsumptive uses in the establishment of minimum flows and
2 levels.

3
4 (2) By July 1, 1996, the Southwest Florida Water
5 Management District shall amend and submit to the department
6 for review and approval its priority list for the
7 establishment of minimum flows and levels and delineating the
8 order in which the governing board shall establish the minimum
9 flows and levels for surface watercourses, aquifers, and
10 surface water in the counties of Hillsborough, Pasco, and
11 Pinellas. By November 15, 1997, and annually thereafter, each
12 water management district shall submit to the department for
13 review and approval a priority list and schedule for the
14 establishment of minimum flows and levels for surface
15 watercourses, aquifers, and surface waters within the
16 district. The priority list shall also identify those water
17 bodies for which the district will voluntarily undertake
18 independent scientific peer review. By January 1, 1998, and
19 annually thereafter, each water management district shall
20 publish its approved priority list and schedule in the Florida
21 Administrative Weekly.The priority list shall be based upon
22 the importance of the waters to the state or region and the
23 existence of or potential for significant harm to the water
24 resources or ecology of the state or region, and shall include
25 those waters which are experiencing or may reasonably be
26 expected to experience ~~experiencing~~ adverse impacts ~~and those~~
27 ~~waters which are identified as possible new water supply~~
28 ~~sources proposing to withdraw 5 million gallons or more per~~
29 ~~day in the future. The development of~~ The priority list and
30 schedule shall not be subject to any ~~constitute a point of~~
31 ~~entry to an administrative~~ proceeding pursuant to chapter 120.
Except as provided in subsection (3), the development of a

1 priority list and compliance with the schedule for the
2 establishment of minimum flows and levels pursuant to this
3 subsection shall satisfy the requirements of subsection (1).

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

16 (4)(a) Upon written request to the department or
17 governing board by a substantially affected person, or by
18 decision of the department or governing board, prior to the
19 establishment of a minimum flow or level and prior to the
20 filing of any petition for administrative hearing related to
21 the minimum flow or level, all scientific or technical data,
22 methodologies, and models, including all scientific and
23 technical assumptions employed in each model, used to
24 establish a minimum flow or level shall be subject to
25 independent scientific peer review. Independent scientific
26 peer review means review by a panel of independent, recognized
27 experts in the fields of hydrology, hydrogeology, limnology,
28 biology, and other scientific disciplines, to the extent
29 relevant to the establishment of the minimum flow or level.

30 (b) If independent scientific peer review is
31 requested, it shall be initiated at an appropriate point

1 agreed upon by the department or governing board and the
2 person or persons requesting the peer review. If no agreement
3 is reached, the department or governing board shall determine
4 the appropriate point at which to initiate peer review. The
5 members of the peer review panel shall be selected within 60
6 days of the point of initiation by agreement of the department
7 or governing board and the person or persons requesting the
8 peer review. If the panel is not selected within the 60-day
9 period, the time limitation may be waived upon the agreement
10 of all parties. If no waiver occurs, the department or
11 governing board may proceed to select the peer review panel.
12 The cost of the peer review shall be borne equally by the
13 district and each party requesting the peer review, to the
14 extent economically feasible. The panel shall submit a final
15 report to the governing board within 120 days after its
16 selection unless the deadline is waived by agreement of all
17 parties. Initiation of peer review pursuant to this paragraph
18 shall toll any applicable deadline under chapter 120 or other
19 law or district rule regarding permitting, rulemaking, or
20 administrative hearings, until 60 days following submittal of
21 the final report. Any such deadlines shall also be tolled for
22 60 days following withdrawal of the request or following
23 agreement of the parties that peer review will no longer be
24 pursued. The department or the governing board shall give
25 significant weight to the final report of the peer review
26 panel when establishing the minimum flow or level.

27 (c) If the final data, methodologies, and models,
28 including all scientific and technical assumptions employed in
29 each model upon which a minimum flow or level is based, have
30 undergone peer review pursuant to this subsection, by request
31 or by decision of the department or governing board, no

1 further peer review shall be required with respect to that
2 minimum flow or level.

3 (d) No minimum flow or level adopted by rule or
4 formally noticed for adoption on or before May 2, 1997, shall
5 be subject to the peer review provided for in this subsection.
6 ~~Prior to the establishment of minimum flows or levels for~~
7 ~~water resources areas identified in subsection (2), and prior~~
8 ~~to filing any petition for administrative hearing, scientific~~
9 ~~or technical data and methodologies, if in dispute, shall,~~
10 ~~upon written request to the governing board by a substantially~~
11 ~~affected person, be subject to independent scientific peer~~
12 ~~review. The members of the peer review panel shall be~~
13 ~~selected by agreement of the parties in interest within 60~~
14 ~~days after receipt of the request. In the event the panel is~~
15 ~~not selected within this time, then, upon the agreement of all~~
16 ~~parties, the time may be waived, or, if no waiver occurs, the~~
17 ~~governing board may proceed to establish the minimum flows and~~
18 ~~levels. The cost of the peer review shall be borne equally by~~
19 ~~the parties selecting the panel, to the extent economically~~
20 ~~feasible. The panel shall conduct at least one public meeting~~
21 ~~of the full panel in accordance with s. 286.011(1) and (6)~~
22 ~~prior to the submission of the final report. The panel shall~~
23 ~~submit a final report to the governing board within 120 days~~
24 ~~after selection. Upon request by all members of the panel and~~
25 ~~agreement of the parties, the time for submittal may be~~
26 ~~extended for up to 30 additional days. In the event the final~~
27 ~~report is not submitted within such time, the governing board~~
28 ~~may proceed to establish the minimum flows and levels pursuant~~
29 ~~to this section. Filing of a request shall toll any applicable~~
30 ~~deadline under chapter 120, or other law or district rule,~~
31 ~~until 60 days following submittal of the final report. Any~~

1 ~~such deadlines shall also be tolled for 60 days following the~~
 2 ~~withdrawal of the request, agreement of the parties that peer~~
 3 ~~review will no longer be pursued, or failure to meet any~~
 4 ~~deadline set forth in this subsection. If the selection of~~
 5 ~~the panel is subject to the requirements of chapter 287, then~~
 6 ~~the panel shall submit its final report to the governing board~~
 7 ~~within 120 days after the completion of the process required~~
 8 ~~pursuant to chapter 287. The governing board shall give~~
 9 ~~significant weight to the final report of the panel in~~
 10 ~~establishing the minimum flow or level, as appropriate. The~~
 11 ~~final report may also be entered into the record by any party~~
 12 ~~to the proceeding in which the minimum flow or level is~~
 13 ~~applicable.~~

14 (5) If a petition for administrative hearing is filed
 15 under chapter 120 challenging the establishment of a the
 16 minimum flow or level ~~flows or levels~~, the report of an the
 17 independent scientific peer review conducted under subsection
 18 (4) is admissible as evidence in the final hearing, and the
 19 administrative law judge ~~hearing officer~~ must render the order
 20 within 120 days after the filing of the petition. The time
 21 limit for rendering the an order shall not be extended except
 22 by agreement of all the parties. To the extent that the
 23 parties agree to the findings of the peer review, they may
 24 stipulate that those findings be incorporated as findings of
 25 fact in the final order.

26 Section 6. Section 373.0421, Florida Statutes, is
 27 created to read:

28 373.0421 Establishment and implementation of minimum
 29 flows and levels.--

30 (1) ESTABLISHMENT.--
 31

1 (a) When establishing minimum flows and levels
2 pursuant to s. 373.042, the department or governing board
3 shall consider changes and structural alterations to
4 watersheds, surface waters, and aquifers and the effects such
5 changes or alterations have had, and the constraints such
6 changes or alterations have placed, on the hydrology of an
7 affected watershed, surface water, or aquifer, provided that
8 nothing in this paragraph shall allow significant harm as
9 provided by s. 373.042(1) caused by withdrawals.

10 (b) Exclusions.--

11 1. The Legislature recognizes that certain water
12 bodies no longer serve their historical hydrologic functions.
13 The Legislature also recognizes that recovery of these water
14 bodies to historical hydrologic conditions may not be
15 economically or technically feasible, and that such recovery
16 effort could cause adverse environmental or hydrologic
17 impacts. Accordingly, the department or governing board may
18 determine that setting a minimum flow or level for such a
19 water body based on its historical condition is not
20 appropriate.

21 2. The department or the governing board is not
22 required to establish minimum flows or levels pursuant to s.
23 373.042 for surface water bodies less than 25 acres in area,
24 unless the water body or bodies, individually or cumulatively,
25 have significant economic, environmental, or hydrologic value.

26 3. The department or the governing board shall not set
27 minimum flows or levels pursuant to s. 373.042 for surface
28 water bodies constructed prior to the requirement for a
29 permit, or pursuant to an exemption, a permit, or a
30 reclamation plan which regulates the size, depth, or function
31 of the surface water body under the provisions of chapter 373,

1 chapter 378, or chapter 403, unless the constructed surface
2 water body is of significant hydrologic value or is an
3 essential element of the water resources of the area.
4

5 The exclusions of this paragraph shall not apply to the
6 Everglades Protection Area, as defined in s. 373.4592(2)(h).

7 (2) If the existing flow or level in a water body is
8 below, or is projected to fall within 20 years below, the
9 applicable minimum flow or level established pursuant to s.
10 373.042, the department or governing board, as part of the
11 regional water supply plan described in s. 373.0361, shall
12 expeditiously implement a recovery or prevention strategy,
13 which includes the development of additional water supplies
14 and other actions, consistent with the authority granted by
15 this chapter, to:

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

18 (b) Prevent the existing flow or level from falling
19 below the established minimum flow or level.
20

21 The recovery or prevention strategy shall include phasing or a
22 timetable which will allow for the provision of sufficient
23 water supplies for all existing and projected
24 reasonable-beneficial uses, including development of
25 additional water supplies and implementation of conservation
26 and other efficiency measures concurrent with to the extent
27 practical, and to offset, reductions in permitted withdrawals,
28 consistent with the provisions of this chapter.

29 (3) The provisions of this section are supplemental to
30 any other specific requirements or authority provided by law.
31

1 Minimum flows and levels shall be reevaluated periodically and
 2 revised as needed.

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

5 373.046 Interagency agreements.--

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

19 Section 8. Paragraph (a) of subsection (8) of section
 20 373.0693, Florida Statutes, is amended to read:

21 373.0693 Basins; basin boards.--

22 (8)(a) At 11:59 p.m. on June 30, 1988, the area
 23 transferred from the Southwest Florida Water Management
 24 District to the St. Johns River Water Management District by
 25 change of boundaries pursuant to chapter 76-243, Laws of
 26 Florida, shall cease to be a subdistrict or basin of the St.
 27 Johns River Water Management District known as the Oklawaha
 28 River Basin and said Oklawaha River Basin shall cease to
 29 exist. However, any recognition of an Oklawaha River Basin or
 30 an Oklawaha River Hydrologic Basin for regulatory purposes
 31 shall be unaffected. The area formerly known as the Oklawaha

Third Engrossed

1 River Basin shall continue to be part of the St. Johns River
 2 Water Management District. There shall be established by the
 3 governing board of the St. Johns River Water Management
 4 District the Oklawaha River Basin Advisory Council to receive
 5 public input and advise the St. Johns River Water Management
 6 District's governing board on water management issues
 7 affecting the Oklawaha River Basin. The Oklawaha River Basin
 8 Advisory Council shall be appointed by action of the St. Johns
 9 River Water Management District's governing board and shall
 10 include one representative from each county which is wholly or
 11 partly included in the Oklawaha River Basin. The St. Johns
 12 River Water Management District's governing board member
 13 currently serving pursuant to s. 373.073(2)(c)3.
 14 ~~373.073(1)(b)3.c.~~, shall serve as chair of the Oklawaha River
 15 Basin Advisory Council. Members of the Oklawaha River Basin
 16 Advisory Council shall receive no compensation for their
 17 services but are entitled to be reimbursed for per diem and
 18 travel expenses as provided in s. 112.061.

19 Section 9. Section 373.073, Florida Statutes, is
 20 amended to read:

21 373.073 Governing board.--

22 (1)(a) The governing board of each water management
 23 district shall be composed of 9 members who shall reside
 24 within the district, except that the Southwest Florida Water
 25 Management District shall be composed of 11 members who shall
 26 reside within the district. Members of the governing boards
 27 shall be appointed by the Governor, subject to confirmation by
 28 the Senate at the next regular session of the Legislature, and
 29 the refusal or failure of the Senate to confirm an appointment
 30 creates a vacancy in the office to which the appointment was
 31 made. The term of office for a governing board member is 4

1 years and commences on March 2 of the year in which the
 2 appointment is made and terminates on March 1 of the 4th
 3 calendar year of the term. Terms of office of governing board
 4 members shall be staggered to help maintain consistency and
 5 continuity in the exercise of governing board duties and to
 6 minimize disruption in district operations.~~The term of office~~
 7 ~~of members of the board shall be 4 years and shall be~~
 8 ~~construed to commence on March 2 preceding the date of~~
 9 ~~appointment and to terminate March 1 of the year of the end of~~
 10 ~~a term. Members of the governing boards continued under this~~
 11 ~~chapter shall be appointed from the district at large as~~
 12 ~~vacancies occur on the governing boards. Such vacancies shall~~
 13 ~~be filled according to the residency requirements of paragraph~~
 14 ~~(b).~~

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

18 1. In the first year of the Governor's term of office,
 19 the Governor shall appoint three members to the governing
 20 board of each district.

21 2. In the second year of the Governor's term of
 22 office, the Governor shall appoint three members to the
 23 governing board of the Southwest Florida Water Management
 24 District and two members to the governing board of each other
 25 district.

26 3. In the third year of the Governor's term of office,
 27 the Governor shall appoint three members to the governing
 28 board of the Southwest Florida Water Management District and
 29 two members to the governing board of each other district.
 30
 31

Third Engrossed

1 4. In the fourth year of the Governor's term of
 2 office, the Governor shall appoint two members to the
 3 governing board of each district.
 4

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

16 (2)(b) Membership on governing boards shall be
 17 selected from candidates who have significant experience in
 18 one or more of the following areas, including, but not limited
 19 to: agriculture, the development industry, local government,
 20 government-owned or privately-owned water utilities, law,
 21 civil engineering, environmental science, hydrology,
 22 accounting, or financial businesses.Notwithstanding the
 23 provisions of any other general or special law to the
 24 contrary, vacancies in the governing boards of the water
 25 management districts shall be filled according to the
 26 following residency requirements, representing areas
 27 designated by the United States Water Resources Council in
 28 United States Geological Survey, River Basin and Hydrological
 29 Unit Map of Florida--1975, Map Series No. 72:

30 (a)†. Northwest Florida Water Management District:

31 1.a. One member shall reside in the area generally
 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

Third Engrossed

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. Subsection (2), paragraph (a) of
18 subsection (4), and subsection (5) of section 373.079, Florida
19 Statutes, are amended to read:

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

22 (2) Immediately after their appointment, and every 2
23 years thereafter, ~~members composing~~ the governing board shall
24 meet at some convenient place and choose ~~one of their number~~
25 ~~as chair of the board,~~ and some suitable person, who may or
26 may not be a member of the governing board, and who may be
27 required to execute bond for the faithful performance of his
28 or her duties as the governing board may determine, as
29 secretary. Such board shall adopt a seal with a suitable
30 device and shall keep a well-bound book entitled, in effect,
31 "Record of Governing Board of District," in which shall

1 be recorded minutes of all meetings, resolutions, proceedings,
2 certificates, bonds given by all employees, and any and all
3 corporate acts, which book shall at reasonable times be open
4 to the inspection of any citizen of this state or taxpayer in
5 the district or his or her agent or attorney.

6 (4)(a) The governing board of the district is
7 authorized to employ an executive director, ombudsman, and
8 such engineers, other professional persons, and other
9 personnel and assistants as it deems necessary and under such
10 terms and conditions as it may determine and to terminate such
11 employment. The appointment of an executive director by the
12 governing board is subject to approval by the Governor and
13 must be initially confirmed by the Florida Senate. The
14 governing board may delegate all or part of its authority
15 under this paragraph to the executive director. The executive
16 director must be confirmed by the Senate upon employment and
17 must be confirmed or reconfirmed by the Senate during the
18 second regular session of the Legislature following a
19 gubernatorial election.

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

22 (a) Providing legal counsel to the governing board on
23 matters relating to the exercise of its powers and duties and
24 to the executive director and district staff on matters
25 relating to the day-to-day operations of the district;

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

28 (c) Otherwise assisting in the administration of the
29 provisions of this chapter.
30
31

Third Engrossed

1 Attorneys employed by the district must represent the legal
2 interest or position of the governing board.

3 Section 11. Section 373.0831, Florida Statutes, is
4 created to read:

5 373.0831 Water resource development; water supply
6 development.--

7 (1) The Legislature finds that:

8 (a) The proper role of the water management districts
9 in water supply is primarily planning and water resource
10 development, but this does not preclude them from providing
11 assistance with water supply development.

12 (b) The proper role of local government, regional
13 water supply authorities, and government-owned and privately
14 owned water utilities in water supply is primarily water
15 supply development, but this does not preclude them from
16 providing assistance with water resource development.

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

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

22 (a) Sufficient water be available for all existing and
23 future reasonable-beneficial uses and the natural systems, and
24 that the adverse effects of competition for water supplies be
25 avoided.

26 (b) Water management districts take the lead in
27 identifying and implementing water resource development
28 projects, and be responsible for securing necessary funding
29 for regionally significant water resource development
30 projects.

1 (c) Local governments, regional water supply
2 authorities, and government-owned and privately owned water
3 utilities take the lead in securing funds for and implementing
4 water supply development projects. Generally, direct
5 beneficiaries of water supply development projects should pay
6 the costs of the projects from which they benefit, and water
7 supply development projects should continue to be paid for
8 through local funding sources.

9 (d) Water supply development be conducted in
10 coordination with water management district regional water
11 supply planning and water resource development.

12 (3) The water management districts shall fund and
13 implement water resource development as defined in s. 373.019.
14 Each governing board shall include in its annual budget the
15 amount needed for the fiscal year to implement water resource
16 development projects, as prioritized in its regional water
17 supply plans.

18 (4)(a) Water supply development projects which are
19 consistent with the relevant regional water supply plans and
20 which meet one or more of the following criteria shall receive
21 priority consideration for state or water management district
22 funding assistance:

23 1. The project supports establishment of a dependable,
24 sustainable supply of water which is not otherwise financially
25 feasible;

26 2. The project provides substantial environmental
27 benefits by preventing or limiting adverse water resource
28 impacts, but require funding assistance to be economically
29 competitive with other options; or
30

31

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

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

9 Section 12. Subsection (5) of section 373.139, Florida
 10 Statutes, 1996 Supplement, is amended to read:

11 373.139 Acquisition of real property.--

12 (5) Lands acquired for the purposes enumerated in
 13 subsection (2) may also be used for recreational purposes, and
 14 whenever practicable such lands shall be open to the general
 15 public for recreational uses. Except when prohibited by a
 16 covenant or condition described in s. 373.056(2), lands owned,
 17 managed, and controlled by the district may be used for
 18 multiple purposes, including, but not limited to, agriculture,
 19 silviculture, and water supply, as well as boating and other
 20 recreational uses.

21 Section 13. Section 373.236, Florida Statutes, is
 22 amended to read:

23 373.236 Duration of permits.--

24 (1) Permits shall ~~may~~ be granted for a any period of
 25 ~~time not exceeding~~ 20 years, if requested for that period of
 26 time, if there is sufficient data to provide reasonable
 27 assurance that the conditions for permit issuance will be met
 28 for the duration of the permit; otherwise permits may be
 29 issued for shorter durations which reflect the period for
 30 which such reasonable assurances can be provided. The
 31 governing board or the department may base the duration of

1 permits on a reasonable system of classification according to
2 source of supply or type of use, or both.

3 (2) The governing board or the department may
4 authorize a permit of duration of up to 50 years in the case
5 of a municipality or other governmental body or of a public
6 works or public service corporation where such a period is
7 required to provide for the retirement of bonds for the
8 construction of waterworks and waste disposal facilities.

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

27 Section 14. By January 1, 1998, the Department of
28 Environmental Protection, in coordination with the appropriate
29 water management districts and the Department of Health, shall
30 transmit to the Speaker of the House of Representatives, the
31 President of the Senate, and the Governor a proposal for

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

19 Section 15. Effective October 1, 1997, section
 20 373.507, Florida Statutes, is amended to read:

21 373.507 Districts and basins; postaudits, budgets,
 22 ~~basins, and taxing authorities; budget and expense reports;~~
 23 ~~audits.--~~

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

30 (2) Each district and basin referred to in this
 31 chapter must, ~~basin, and taxing authority shall~~ make provision

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1 for an annual postaudit of its financial accounts. The
 2 postaudit must ~~These postaudits shall~~ be made in accordance
 3 with the rules of the Auditor General adopted under
 4 ~~promulgated pursuant to~~ ss. 166.241 and 11.47.

5 (3)(a) Each district referred to in this chapter must
 6 furnish copies of the following documents to the Governor, the
 7 President of the Senate, the Speaker of the House of
 8 Representatives, the chairs of all legislative committees and
 9 subcommittees with substantive or fiscal jurisdiction over
 10 districts, as determined by the President or Speaker as
 11 applicable, the secretary of the department, and the governing
 12 body of each county in which the district has jurisdiction or
 13 derives any funds for the operations of the district:

- 14 1. The tentative budget.
- 15 2. The adopted budget.
- 16 3. The past year's expenditures.
- 17 4. The postaudit described in subsection (2).

18 (b) The documents must be furnished by the earlier of
 19 10 days following completion of each document or as otherwise
 20 provided by law.

21 (c) If any entity in paragraph (a) provides written
 22 comments to the district regarding any document furnished, the
 23 district must respond to the comments in writing and furnish
 24 copies of the comments and written responses to the other
 25 entities.

26 Section 16. Effective October 1, 1997, subsections (1)
 27 and (3), and paragraphs (a) and (c) of subsection (5), of
 28 section 373.536, Florida Statutes, 1996 Supplement, are
 29 amended to read:

30 373.536 District budget and hearing thereon.--
 31

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

1 administrative and operating expenses must be identified in
 2 the budget and allocated among district programs.

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

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

25 (c) Each water management district shall, by August 1
 26 5 of each year, submit for review a tentative budget to the
 27 Governor, the President of the Senate, the Speaker of the
 28 House of Representatives, the chairs of all legislative
 29 committees and subcommittees with substantive or fiscal
 30 jurisdiction over water management districts, the secretary of
 31 the department, and the governing body of each county in which

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1 the district has jurisdiction or derives any funds for the
 2 operations of the district. The tentative budget, which must
 3 include to the Department of Environmental Protection, the
 4 Executive Office of the Governor, and the chairs of the
 5 appropriations committees of the Legislature for review a
 6 tentative budget that includes, but is not limited to, the
 7 following information for the preceding fiscal year and the
 8 current fiscal year, and the proposed amounts for the upcoming
 9 fiscal year, in a standard format prescribed by the Executive
 10 Office of the Governor ~~department~~ which is generally
 11 consistent with the format prescribed by legislative budget
 12 instructions for state agencies and the format requirements of
 13 s. 216.031:

14 1. The millage rates and the percentage increase above
 15 the rolled-back rate, together with a summary of the reasons
 16 the increase is required, and the percentage increase in
 17 taxable value resulting from new construction;

18 2. ~~For each program area,~~The salary and benefits,
 19 expenses, operating capital outlay, number of authorized
 20 positions, and other personal services for the following
 21 program areas, including a separate section for lobbying,
 22 intergovernmental relations, and advertising:

23 a. District management and administration;

24 b. Implementation through outreach activities;

25 c. Implementation through regulation;

26 d. Implementation through acquisition, restoration,
 27 and public works;

28 e. Implementation through operations and maintenance
 29 of lands and works;

30 f. Water resources planning and monitoring; and
 31

1 g. A full description and accounting of expenditures
 2 for lobbying activities relating to local, regional, state,
 3 and federal governmental affairs, whether incurred by district
 4 staff or through contractual services and all expenditures for
 5 public relations, including all expenditures for public
 6 service announcements and advertising in any media.

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

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

17 ~~4.3-~~ A description of each new, expanded, reduced, or
 18 eliminated program.~~†~~

19 5. A proposed five-year water resource development
 20 work program, that describes the district's implementation
 21 strategy for the water resource development component of each
 22 approved regional water supply plan developed or revised
 23 pursuant to s. 373.0361. The work program shall address all
 24 the elements of the water resource development component in
 25 the district's approved regional water supply plans. The
 26 Office of the Governor, with the assistance of the department,
 27 shall review the proposed work program. The review shall
 28 include a written evaluation of its consistency with and
 29 furtherance of the district's approved regional water supply
 30 plans, and adequacy of proposed expenditures. As part of the
 31 review, the Executive Office of the Governor and the

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1 department shall afford to all interested parties the
 2 opportunity to provide written comments on each district's
 3 proposed work program. At least seven days prior to the
 4 adoption of its final budget, the governing board shall state
 5 in writing to the Executive Office of the Governor which
 6 changes recommended in the evaluation it will incorporate into
 7 its work program, or specify the reasons for not incorporating
 8 the changes. The Office of the Governor shall include the
 9 district's responses in the written evaluation and shall
 10 submit a copy of the evaluation to the Legislature; and

11 6.5. The funding sources, including, but not limited
 12 to, ad valorem taxes, Surface Water Improvement and Management
 13 Program funds, other state funds, federal funds, and user fees
 14 and permit fees for each program area.

15 (d) ~~The department shall, by September 5 of the year~~
 16 ~~in which the budget is submitted, after taking into account~~
 17 ~~continuing and proposed program needs, provide its review and~~
 18 ~~comments to the governing board and the Governor. By~~
 19 ~~September 5 of the year in which the budget is submitted, the~~
 20 ~~Executive Office of the Governor and the House and Senate~~
 21 ~~appropriations chairs may transmit to each district comments~~
 22 ~~and objections to the proposed budgets. Each district~~
 23 ~~governing board shall include a response to such comments and~~
 24 ~~objections in the record of the governing board meeting where~~
 25 ~~final adoption of the budget takes place, and the record of~~
 26 ~~this meeting shall be transmitted to the Executive Office of~~
 27 ~~the Governor, the department, and the chairs of the House and~~
 28 ~~Senate appropriations committees.~~

29 (e) The Executive Office of the Governor ~~department~~
 30 shall annually, on or before December 15, file with the
 31 ~~Governor and the Legislature~~ a report that summarizes the

1 expenditures of the water management districts by program area
 2 and identifies the districts that are not in compliance with
 3 the reporting requirements of this section. State funds shall
 4 be withheld from a water management district that fails to
 5 comply with these reporting requirements.

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

9 373.59 Water Management Lands Trust Fund.--

10 (1) There is established within the Department of
 11 Environmental Protection the Water Management Lands Trust Fund
 12 to be used as a nonlapsing fund for the purposes of this
 13 section. The moneys in this fund are hereby continually
 14 appropriated for the purposes of land acquisition, management,
 15 maintenance, capital improvements, payments in lieu of taxes,
 16 and administration of the fund in accordance with the
 17 provisions of this section. ~~In addition, for fiscal year~~
 18 ~~1995-1996, moneys in the fund that are not revenues from the~~
 19 ~~sale of any bonds and that are not required for debt service~~
 20 ~~for any bond issue may be used to fund activities authorized~~
 21 ~~under the Surface Water Improvement and Management Act,~~
 22 ~~pursuant to ss. 373.451-373.4595, and for the control of~~
 23 ~~aquatic weeds pursuant to part II of chapter 369.~~ Up to 25
 24 percent of the moneys in the fund may be allocated annually to
 25 the districts for management, maintenance, and capital
 26 improvements pursuant to subsection (8) ~~(7)~~.

27 (4)(a) Moneys from the Water Management Lands Trust
 28 Fund shall be used for acquiring the fee or other interest in
 29 lands necessary for water management, water supply, and the
 30 conservation and protection of water resources, except that
 31 such moneys shall not be used for the acquisition of

1 rights-of-way for canals or pipelines. Such moneys shall also
 2 be used for management, maintenance, and capital improvements.
 3 Interests in real property acquired by the districts under
 4 this section may be used for permittable water resource
 5 development and water supply development purposes under the
 6 following conditions: the minimum flows and levels of priority
 7 water bodies on such lands have been established; the project
 8 complies with all conditions for issuance of a permit under
 9 part II of chapter 373; and the project is compatible with the
 10 purposes for which the land was acquired. Lands acquired with
 11 moneys from the fund shall be managed and maintained in an
 12 environmentally acceptable manner and, to the extent
 13 practicable, in such a way as to restore and protect their
 14 natural state and condition.

15 Section 18. Paragraph (b) of subsection (4) of section
 16 186.007, Florida Statutes, is amended to read:

17 186.007 State comprehensive plan; preparation;
 18 revision.--

19 (4)

20 (b) The purpose of the growth management portion of
 21 the state comprehensive plan is to establish clear, concise,
 22 and direct goals, objectives, and policies related to land
 23 development, water resources, transportation, and related
 24 topics. In doing so, the plan should, where possible, draw
 25 upon the work that agencies have invested in the state land
 26 development plan, the Florida Transportation Plan, the Florida
 27 water ~~state water use~~ plan, and similar planning documents.

28 Section 19. Paragraph (n) of subsection (2) of section
 29 186.009, Florida Statutes, is amended to read:

30 186.009 Growth management portion of the state
 31 comprehensive plan.--

1 (2) The growth management portion of the state
2 comprehensive plan shall:

3 (n) Set forth recommendations on how to integrate the
4 Florida water ~~state water use~~ plan required by s. 373.036, the
5 state land development plan required by s. 380.031(17), and
6 transportation plans required by chapter 339.
7

8 The growth management portion of the state comprehensive plan
9 shall not include a land use map.

10 Section 20. Subsections (1) and (7) of section
11 373.103, Florida Statutes, are amended to read:

12 373.103 Powers which may be vested in the governing
13 board at the department's discretion.--In addition to the
14 other powers and duties allowed it by law, the governing board
15 of a water management district may be specifically authorized
16 by the department to:

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

21 (7) Prepare, in cooperation with the department, that
22 part of the Florida water ~~state water use~~ plan applicable to
23 the district.
24

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

27 373.114 Land and Water Adjudicatory Commission; review
28 of district rules and orders; department review of district
29 rules.--

30 (2) The department shall have the exclusive authority
31 to review rules of the water management districts, other than
rules relating to internal management of the districts, to

1 ensure consistency with the ~~state~~ water resource
 2 implementation rule ~~policy~~ as set forth in the rules of the
 3 department. Within 30 days after adoption or revision of any
 4 water management district rule, the department shall initiate
 5 a review of such rule pursuant to this section.

6 (a) Within 30 days after adoption of a rule, any
 7 affected person may request that a hearing be held before the
 8 secretary of the department, at which hearing evidence and
 9 argument may be presented relating to the consistency of the
 10 rule with the state water resource implementation rule ~~policy~~,
 11 by filing a request for hearing with the department and
 12 serving a copy on the water management district.

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

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

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

23 373.418 Rulemaking; preservation of existing
 24 authority.--

25 (3) The department or governing boards may adopt such
 26 rules as are necessary to implement the provisions of this
 27 part. Such rules shall be consistent with the state water
 28 resource implementation rule ~~policy~~ and shall not allow harm
 29 to water resources or be contrary to the policy set forth in
 30 s. 373.016.
 31

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

3 373.456 Approval of surface water improvement and
4 management plans.--

5 (2) The department shall have the exclusive authority
6 to review the plan to ensure consistency with the ~~state~~ water
7 resource implementation rule ~~policy~~ and the State
8 Comprehensive Plan.

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

11 403.031 Definitions.--In construing this chapter, or
12 rules and regulations adopted pursuant hereto, the following
13 words, phrases, or terms, unless the context otherwise
14 indicates, have the following meanings:

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

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

28 403.0891 State, regional, and local stormwater
29 management plans and programs.--The department, the water
30 management districts, and local governments shall have the
31

1 responsibility for the development of mutually compatible
2 stormwater management programs.

3 (1) The department shall include goals in the ~~state~~
4 water resource implementation rule ~~policy~~ for the proper
5 management of stormwater.

6 (3)(a) Each local government required by chapter 163
7 to submit a comprehensive plan, whose plan is submitted after
8 July 1, 1992, and the others when updated after July 1, 1992,
9 in the development of its stormwater management program
10 described by elements within its comprehensive plan shall
11 consider the state water resource implementation rule ~~policy~~,
12 district stormwater management goals, plans approved pursuant
13 to the Surface Water Improvement and Management Act, ss.
14 373.451-373.4595, and technical assistance information
15 provided by the water management districts pursuant to s.
16 373.0391.

17 Section 26. Subsection (10) of section 373.026,
18 section 373.039, and subsection (33) of section 403.061,
19 Florida Statutes, are repealed.

20 Section 27. Effective January 1, 1999, section
21 373.0735, Florida Statutes, is repealed.

22 Section 28. Nothing in sections 5 and 6 of this act
23 shall be construed to:

24 (1) Modify the order or dates by which the Southwest
25 Florida Water Management District will establish minimum flows
26 and levels for water bodies in Hillsborough, Pasco, and
27 Pinellas counties as listed pursuant to chapter 96-339, Laws
28 of Florida.

29 (2) Modify the peer review process for the
30 establishment of minimum flows and levels in Hillsborough,
31

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1 Pasco, and Pinellas counties created by chapter 96-339, Laws
 2 of Florida.

4 As it relates only to the counties of Hillsborough, Pasco, and
 5 Pinellas, in the event of conflict between section
 6 373.0421(2), Florida Statutes, created by this act and
 7 statutory and case law existing immediately prior to the
 8 effective date of this act, the prior law shall govern;
 9 provided, however, that the establishment and implementation
 10 of minimum flows for the Hillsborough River and the Palm
 11 River/Tampa By-Pass Canal shall be governed by sections 5 and
 12 6 of this act.

13 Section 29. Present subsections (3), (4), (5), (6),
 14 and (7) of section 373.1962, Florida Statutes, are
 15 redesignated as subsections (4), (5), (6), (7), and (8),
 16 respectively, and a new subsection (3) is added to that
 17 section, to read:

18 373.1962 Regional water supply authorities.--

19 (3) A regional water supply authority is authorized to
 20 develop, construct, operate, maintain, or contract for
 21 alternative sources of potable water, including desalinated
 22 water, and pipelines to interconnect authority sources and
 23 facilities, either by itself or jointly with a water
 24 management district; however, such alternative potable water
 25 sources, facilities, and pipelines may also be privately
 26 developed, constructed, owned, operated, and maintained, in
 27 which event an authority and a water management district are
 28 authorized to pledge and contribute their funds to reduce the
 29 wholesale cost of water from such alternative sources of
 30 potable water supplied by an authority to its member
 31 governments.

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1 Section 30. Subsection (1) of section 373.1963,
2 Florida Statutes, is amended to read:

3 373.1963 Assistance to West Coast Regional Water
4 Supply Authority.--

5 (1) It is the intent of the Legislature to encourage
6 and facilitate the implementation of changes in governance
7 recommended by the West Coast Regional Water Supply Authority
8 in its report to the Legislature dated February 1, 1997. The
9 authority shall submit a supplemental report to the President
10 of the Senate and the Speaker of the House of Representatives
11 on the status of implementing its prior recommendations for
12 changes in governance by January 5, 1998. The authority may
13 reconstitute its governance in a manner consistent with its
14 report to the Legislature, and with the provisions set forth
15 herein, under a voluntary interlocal agreement with a term of
16 not less than 20 years, which substantially provides as
17 follows:

18 (a) The authority and its member governments agree
19 that cooperative efforts are mandatory to meet their water
20 needs in a manner that will provide adequate and dependable
21 supplies of water where needed without resulting in adverse
22 environmental effects upon the areas from which the water is
23 withdrawn or otherwise produced.

24 (b) To the extent provided in the interlocal
25 agreement, and to the extent permitted by law:

26 1. All member governments shall relinquish to the
27 authority their individual rights to develop potable water
28 supply sources;

29 2. The authority shall be the sole and exclusive
30 wholesale potable water supplier for all member governments;

31 and

1 3. The authority shall have the absolute and
2 unequivocal obligation to meet the wholesale needs of the
3 member governments for potable water.

4 (c) The authority shall acquire full or lesser
5 interests in all regionally significant member government
6 wholesale water supply facilities and tangible assets and each
7 member government shall convey such interests in the
8 facilities and assets to the authority, at an agreed value.

9 (d) The authority shall charge a uniform per gallon
10 wholesale rate to member governments for the wholesale supply
11 of potable water. All capital, operation, maintenance, and
12 administrative costs for existing facilities and acquired
13 facilities, authority master water plan facilities, and other
14 future projects must be allocated to member governments based
15 on water usage at the uniform per gallon wholesale rate.

16 (e) To the extent provided in the interlocal agreement
17 and to the extent permitted by law, member governments shall
18 develop procedures for resolving their differences regarding
19 water management district proposed agency action in the water
20 use permitting process within the authority. Such procedures
21 should minimize the potential for litigation and include
22 alternative dispute resolution. Nothing herein or in said
23 procedures shall affect the rights of participants under
24 chapter 120.

25 (f) Upon execution of the voluntary interlocal
26 agreement provided for herein, the authority shall jointly
27 develop with the Southwest Florida Water Management District
28 alternative sources of potable water and transmission pipeline
29 to interconnect regionally significant water supply sources
30 and facilities of the authority in amounts sufficient to meet
31 the needs of all member governments for a period of at least

1 20 years and for natural systems. Nothing herein, however,
 2 shall preclude the authority and its member governments from
 3 developing traditional water sources pursuant to the voluntary
 4 interlocal agreement. Development and construction costs for
 5 alternative source facilities, which may include a
 6 desalination facility and significant regional interconnects,
 7 must be borne as mutually agreed to by both the authority and
 8 the Southwest Florida Water Management District. Nothing
 9 herein shall preclude authority or district cost-sharing with
 10 private entities for the construction or ownership of
 11 alternative source facilities. By December 31, 1997, the
 12 authority and the Southwest Florida Water Management District
 13 shall:

14 1. Enter into a mutually acceptable agreement
 15 detailing the development and implementation of directives
 16 contained in this paragraph; or

17 2. Jointly prepare and submit to the President of the
 18 Senate and the Speaker of the House of Representatives a
 19 report describing the progress made and impediments
 20 encountered in their attempts to implement the water resource
 21 development and water supply development directives contained
 22 in this paragraph.

23
 24 Nothing in this subsection shall be construed to modify the
 25 rights or responsibilities of the Authority, its member
 26 governments or the Southwest Florida Water Management District
 27 as otherwise set forth by statutes.

28 (g) Unless otherwise provided in the interlocal
 29 agreement, the authority shall be governed by a Board of
 30 Commissioners consisting of 9 voting members, all of whom must
 31 be elected officers, as follows:

1 1. Three members from Hillsborough County who must be
 2 selected by the county commission, provided, however, that one
 3 members hall be selected by the Mayor of Tampa in the event
 4 that the City of Tampa elects to be a member of the authority;

5 2. Three members from Pasco County, two of whom must
 6 be selected by the county commission and one of whom must be
 7 selected by the City Council of New Port Richey;

8 3. Three members from Pinellas County, two of whom
 9 must be selected by the county commission and one of whom must
 10 be selected by the City Council of St. Petersburg.

11
 12 Except as otherwise provided in this section or in the
 13 voluntary interlocal agreement between the member governments,
 14 a majority vote shall bind the authority and its member
 15 governments in all matters relating to the funding of
 16 wholesale water supply, production, delivery, and related
 17 activities.

18 ~~(1) It is the intent of the Legislature that the West~~
 19 ~~Coast Regional Water Supply Authority established pursuant to~~
 20 ~~s. 373.1962 shall develop an evaluation and recommendation of~~
 21 ~~the following:~~

22 ~~(a) Authority membership and voting;~~

23 ~~(b) Funding options and implementation, including~~
 24 ~~membership responsibility apportionment;~~

25 ~~(c) A water supply development plan based on a 20-year~~
 26 ~~planning horizon;~~

27 ~~(d) Facilities ownership and management;~~

28 ~~(e) Governing board membership, terms,~~
 29 ~~responsibilities, and officers; and~~

30
 31

1 ~~(f) Utilization of .10 mills of basin board ad valorem~~
2 ~~taxing authority, were the Legislature or the water management~~
3 ~~district to make such funding available to the authority.~~

4
5 ~~The authority shall submit a report to the Speaker of the~~
6 ~~House of Representatives and the President of the Senate on~~
7 ~~the elements described in this subsection by February 1, 1997.~~
8 ~~This report may include proposed necessary statutory~~
9 ~~amendments to implement the recommendations of the authority.~~

10 Section 31. Paragraph (e) of subsection (1) of section
11 376.307, Florida Statutes, 1996 Supplement, is amended to
12 read:

13 376.307 Water Quality Assurance Trust Fund.--

14 (1) The Water Quality Assurance Trust Fund is intended
15 to serve as a broad-based fund for use in responding to
16 incidents of contamination that pose a serious danger to the
17 quality of groundwater and surfacewater resources or otherwise
18 pose a serious danger to the public health, safety, or
19 welfare. Moneys in this fund may be used:

20 (e) To restore or replace contaminated private potable
21 water wells or water systems. However, funds used as provided
22 in this paragraph must be expended for water supply systems or
23 filters for contaminated potable water wells only as follows:

24 1. Persons who have contaminated potable water wells
25 that were permitted and constructed after January 1, 1989, in
26 accordance with standards adopted under s. 373.309 are
27 eligible for:

28 a. Subsidies to connect to existing water supply
29 systems or extensions thereof. However, the subsidy may not
30 exceed the present worth of the 10-year cost of providing and
31

1 maintaining filters for residents served by the connections;

2 or

3
4 b. Filters and filter maintenance to provide treatment
5 for water from contaminated wells sufficient to ensure its
6 potability. However, a filter may not be provided for a
7 potable water well designed to provide water to a household
8 that is part of a subdivision or development of a size that
9 would, according to the department, be more effectively served
10 by a water supply system, if the subdivision or development
11 received its development order after January 1, 1989.

12 2. Subsidies to develop new water supply systems to be
13 permitted and constructed after January 1, 1989, in accordance
14 with standards adopted pursuant to s. 373.309 because of
15 actual or potential contamination of potable water wells.
16 However, a subsidy may not exceed one-half of the present
17 worth of the 10-year cost of providing and maintaining filters
18 for the residents to be served by the system.

19 3. The most cost-effective remedy, as determined by
20 the department, for wells drilled before January 1, 1989.

21 4. Persons permitting and constructing potable water
22 wells on or after July 1, 1997, in accordance with standards
23 adopted pursuant to s. 373.309 because of actual or potential
24 contamination, may be eligible for:

25 a. Subsidies or filters as identified in
26 sub-subparagraphs 1.a. and b.; or

27 b. Subsidies for any increased costs associated with
28 potable water well construction pursuant to s.
29 373.309(1)(e)4., provided that no such subsidy shall exceed
30 one-half the cost of the well including testing, or one-half
31 the present worth of the 10-year cost of providing and
maintaining filters for the residents to be served by said

1 well, whichever is less, provided that the household is not
 2 part of a subdivision or development of a size that would,
 3 according to the department, be more effectively served by a
 4 water supply system, if such subdivision or development
 5 received its development order on or after July 1, 1997.

6 Section 32. Paragraph (e) of subsection (1) of section
 7 373.309, Florida Statutes, 1996 Supplement, is amended to
 8 read:

9 373.309 Authority to adopt rules and procedures.--

10 (1) The department shall adopt, and may from time to
 11 time amend, rules governing the location, construction,
 12 repair, and abandonment of water wells and shall be
 13 responsible for the administration of this part. With respect
 14 thereto, the department shall:

15 (e) Encourage prevention of potable water well
 16 contamination and promote cost-effective remediation of
 17 contaminated potable water supplies by use of the Water
 18 Quality Assurance Trust Fund as provided in s. 376.307(1)(e)
 19 and establish by rule:

20 1. Delineation of areas of groundwater contamination
 21 for implementation of well location and construction, testing,
 22 permitting, and clearance requirements as set forth in
 23 subparagraphs 2., 3., 4., 5., and 6. The department shall make
 24 available to water management districts, regional planning
 25 councils, the Department of Health ~~and Rehabilitative~~
 26 ~~Services~~, and county building and zoning departments, maps or
 27 other information on areas of contamination, including areas
 28 of ethylene dibromide contamination. Such maps or other
 29 information shall be made available to property owners,
 30 realtors, real estate associations, property appraisers, and
 31

1 other interested persons upon request and upon payment of
2 appropriate costs.

3 2. Requirements for testing for suspected
4 contamination in areas of known contamination, as a
5 prerequisite for clearance of a water well for drinking
6 purposes. The department is authorized to establish criteria
7 for acceptance of water quality testing results from the
8 Department of Health and laboratories certified by the
9 Department of Health, and is authorized to establish
10 requirements for sample collection quality assurance.

11 3. Requirements for mandatory connection to available
12 potable water systems in areas of known contamination, wherein
13 the department may prohibit the permitting and construction of
14 new potable water wells.

15 4. Location and construction standards for public and
16 all other potable water wells permitted in areas of
17 contamination. Such standards shall be designed to minimize
18 the effects of such contamination.

19 5. A procedure for permitting all potable water wells
20 in areas of known contamination. Any new water well that is to
21 be used for drinking water purposes and that does not meet
22 construction standards pursuant to subparagraph 4. must be
23 abandoned and plugged by the owner. Water management districts
24 shall implement, through delegation from the department, the
25 permitting and enforcement responsibilities of this
26 subparagraph.

27 6. A procedure for clearing for use all potable water
28 wells, except wells that serve a public water supply system,
29 in areas of known contamination. If contaminants are found
30 upon testing pursuant to subparagraph 2., a well may not be
31 cleared for use without a filter or other means of preventing

1 the users of the well from being exposed to deleterious
 2 amounts of contaminants. The Department of Health ~~and~~
 3 ~~Rehabilitative Services~~ shall implement the responsibilities
 4 of this subparagraph.

5 7. Fees to be paid for well construction permits and
 6 clearance for use. The fees shall be based on the actual costs
 7 incurred by the water management districts, the Department of
 8 Health ~~and Rehabilitative Services~~, or other political
 9 subdivisions in carrying out the responsibilities related to
 10 potable water well permitting and clearance for use. The fees
 11 shall provide revenue to cover all such costs and shall be set
 12 according to the following schedule:

13 a. The well construction permit fee may not exceed
 14 \$500.

15 b. The clearance fee may not exceed \$50.

16 8. Procedures for implementing well-location,
 17 construction, testing, permitting, and clearance requirements
 18 as set forth in subparagraphs 2.-6. within areas that research
 19 or monitoring data indicate are vulnerable to contamination
 20 with nitrate, or areas in which the department provides a
 21 subsidy for restoration or replacement of contaminated
 22 drinking water supplies through extending existing water lines
 23 or developing new water supply systems pursuant to s.
 24 376.307(1)(e). The department shall consult with the Florida
 25 Ground Water Association in the process of developing rules
 26 pursuant to this subparagraph.

27
 28 All fees and funds collected by each delegated entity pursuant
 29 to this part shall be deposited in the appropriate operating
 30 account of that entity.
 31

1 Section 33. (1) As used in this section, "severance
2 pay" means the actual or constructive compensation, in salary,
3 benefits, or perquisites, of an officer or employee of a water
4 management district, or any subdivision or agency thereof, for
5 employment services yet to be rendered for a term greater than
6 4 weeks before or immediately following termination of
7 employment. The term does not include:

8 (a) Earned and accrued annual, sick, compensatory, and
9 administrative leave.

10 (b) Early retirement provisions established in an
11 actuarially funded pension plan subject to part VII of chapter
12 112, Florida Statutes.

13 (2) After July 1, 1997, a water management district,
14 or any agency or subdivision thereof, may not pay to any of
15 its officers or employees severance pay, except under any of
16 the following conditions:

17 (a) The severance pay is authorized in an employment
18 contract or collective bargaining agreement providing for it
19 and in effect on July 1, 1997. Collective bargaining
20 agreements or employment contracts extended or entered on or
21 after July 1, 1997, may not contain any provision for
22 severance pay. However, employees classified as managerial,
23 executive, or exempt in the district's personnel plan who
24 serve at the convenience of the district are subject to the
25 provisions of this section beginning July 1, 1997.

26 (b) The severance pay is paid from wholly private
27 funds available to the district in the ordinary course of
28 business, the payment and receipt of which would not otherwise
29 violate any provision of part III of chapter 112, Florida
30 Statutes.

1 (c) The severance pay is administered under the
2 auspices of part II of chapter 112, Florida Statutes, on
3 behalf of an agency outside this state and would be permitted
4 under that agency's personnel system.

5 (d) The severance pay represents the settlement of an
6 employment dispute; however, such a settlement may not contain
7 any provisions that limit the ability of any party to the
8 settlement to discuss the dispute or settlement.

9 (3) This section does not operate to create an
10 entitlement to severance pay in the absence of its
11 authorization by a water management district.

12 Section 34. (1) The Legislature finds that there
13 currently exist actual or perceived differences in the
14 salaries of certain water management district employees and
15 the salaries of state or other general-purpose local
16 government employees performing the same or similar job
17 functions. The Legislature further finds that section
18 373.079(4) and (5), Florida Statutes, provide the governing
19 boards of the water management districts significant
20 discretion in determining the compensation of its employees.

21 (2) The Legislature directs the Office of Program
22 Policy Analysis and Government Accountability to prepare or
23 cause to be prepared with consultants a study of water
24 management district employee compensation plans and present
25 its findings and recommendations in a report to remedy any
26 actual or perceived discrepancies between the salaries of
27 state or other general purpose local government employees and
28 employees of the water management districts created pursuant
29 to chapter 372. The report shall be presented to the Governor,
30 the President of the Senate, and the Speaker of the House of
31 Representatives by January 30, 1998.

1 (3) There is hereby appropriated \$50,000 from the
 2 Water Management Lands Trust Fund for fiscal year 1997-98 to
 3 the Office of Program Policy Analysis and Government
 4 Accountability to implement the provisions relating to the
 5 employee compensation study.

6 Section 35. Subsection (6) of section 373.250, Florida
 7 Statutes, is amended to read:

8 373.250 Reuse of reclaimed water.--

9 (6) Each water management district shall submit to the
 10 Legislature, by June 1 ~~January 30~~ of each year, an annual
 11 report which describes the district's progress in promoting
 12 the reuse of reclaimed water. The report shall include, but
 13 not be limited to:

14 (a) The number of permits issued during the year which
 15 required reuse of reclaimed water and, by categories, the
 16 percentages of reuse required.

17 (b) The number of permits issued during the year which
 18 did not require the reuse of reclaimed water and, of those
 19 permits, the number which reasonably could have required
 20 reuse.

21 (c) In the second and subsequent annual reports, a
 22 statistical comparison of reuse required through consumptive
 23 use permitting between the current and preceding years.

24 (d) A comparison of the volume of reclaimed water
 25 available in the district to the volume of reclaimed water
 26 required to be reused through consumptive use permits.

27 (e) A comparison of the volume of reuse of reclaimed
 28 water required in water resource caution areas through
 29 consumptive use permitting to the volume required in other
 30 areas in the district through consumptive use permitting.
 31

1 (f) An explanation of the factors the district
2 considered when determining how much, if any, reuse of
3 reclaimed water to require through consumptive use permitting.

4 (g) A description of the district's efforts to work in
5 cooperation with local government and private domestic
6 wastewater treatment facilities to increase the reuse of
7 reclaimed water. The districts, in consultation with the
8 department, shall devise a uniform format for the report
9 required by this subsection and for presenting the information
10 provided in the report.

11 Section 36. Paragraph (c) is added to subsection (7)
12 of section 253.03, Florida Statutes, 1996 Supplement, to read:

13 253.03 Board of trustees to administer state lands;
14 lands enumerated.--

15 (7)

16 (c) Structures which are listed in or are eligible for
17 the National Register of Historic Places or the State
18 Inventory of Historic Places and which have a submerged land
19 lease, or have been grandfathered-in to use sovereignty
20 submerged lands until January 1, 1998, pursuant to chapter
21 18-21.00405, Florida Administrative Code, shall be allowed to
22 apply for an extension of such lease, regardless of the fact
23 that the present landholder is not an adjacent riparian
24 landowner.

25 Section 37. Paragraph (b) of subsection (4) of section
26 370.06, Florida Statutes, 1996 Supplement, is added to read:

27 370.06 Licenses.--

28 (4) SPECIAL ACTIVITY LICENSES.--

29 (a) Any person who seeks to use special gear or
30 equipment in harvesting saltwater species must purchase a
31 special activity license as specified by law to engage in such

1 activities. The department may issue special activity
 2 licenses, in accordance with s. 370.071, to permit the
 3 cultivation of oysters, clams, mussels, and crabs when such
 4 aquaculture activities relate to quality control, sanitation,
 5 and public health regulations. The department may prescribe
 6 by rule special terms, conditions, and restrictions for any
 7 special activity license.

8 (b) The department is authorized to issue special
 9 activity licenses in accordance with s. 370.06 and s. 370.31,
 10 to permit the importation, possession, and aquaculture of
 11 anadromous sturgeon. The special activity license shall
 12 provide for best management practices to prevent the release
 13 and escape of cultured anadromous sturgeon and to protect
 14 indigenous populations of saltwater species from
 15 sturgeon-borne disease.

16 Section 38. Subsections (3) and (4) of section
 17 370.092, Florida Statutes, 1996 Supplement, are amended to
 18 read:

19 370.092 Carriage of proscribed nets across Florida
 20 waters.--

21 (3)(a) It shall be a major violation pursuant to this
 22 section and shall be punished as provided in subsection (4)
 23 for any person, firm, or corporation to be simultaneously in
 24 possession of any species of mullet in excess of the
 25 recreational daily bag limit and any gill or other entangling
 26 net as defined in s. 16(c), Art. X of the State Constitution.
 27 Simultaneous possession under this provision shall include
 28 possession of mullet and gill or other entangling nets on
 29 separate vessels or vehicles where such vessels or vehicles
 30 are operated in coordination with one another including
 31 vessels towed behind a main vessel. This subsection does not

1 prohibit a resident of this state from transporting on land,
 2 from Alabama to this state, a commercial quantity of mullet
 3 together with a gill net if:

4 1. The person possesses a valid commercial fishing
 5 license that is issued by the State of Alabama and that allows
 6 the person to use a gill net to legally harvest mullet in
 7 commercial quantities from Alabama waters.

8 2. The person possesses a trip ticket issued in
 9 Alabama and filled out to match the quantity of mullet being
 10 transported, and the person is able to present such trip
 11 ticket immediately upon entering this state.

12 3. The mullet are to be sold to a wholesale saltwater
 13 products dealer located in Escambia County or Santa Rosa
 14 County, which dealer also possesses a valid seafood dealer's
 15 license issued by the State of Alabama. The dealer's name
 16 must be clearly indicated on the trip ticket.

17 4. The mullet being transported are totally removed
 18 from any net also being transported.

19 (b) It shall be a major violation pursuant to this
 20 section for any person to be in possession of any species of
 21 trout, snook, or redfish which is three fish in excess of the
 22 recreational or commercial daily bag limit.

23 (4)(a) In addition to being subject to the other
 24 penalties provided in this chapter, any violation of s. 16,
 25 Art. X of the State Constitution, paragraph (3)(a), or any
 26 rules of the Marine Fisheries Commission which implement the
 27 gear prohibitions and restrictions specified therein shall be
 28 considered a major violation; and any person, firm, or
 29 corporation receiving any judicial disposition other than
 30 acquittal or dismissal of such violation shall be subject to
 31 the following additional penalties:

1 1. For a first major violation within a 7-year period,
2 a civil penalty of \$2,500 and suspension of all saltwater
3 products license privileges for 90 calendar days following
4 final disposition shall be imposed.

5 2. For a second major violation under this paragraph
6 charged within 7 years of a previous judicial disposition,
7 which results in a second judicial disposition other than
8 acquittal or dismissal, a civil penalty of \$5,000 and
9 suspension of all saltwater products license privileges for 12
10 months shall be imposed.

11 3. For a third and subsequent major violation under
12 this paragraph, charged within a 7-year period, resulting in a
13 third or subsequent judicial disposition other than acquittal
14 or dismissal, a civil penalty of \$5,000, lifetime revocation
15 of the saltwater products license, and forfeiture of all gear
16 and equipment used in the violation shall be imposed.

17
18 A court may suspend, defer or withhold adjudication of guilt
19 or imposition of sentence only for any first violation of s.
20 16, Art. X of the State Constitution, or any rule or statute
21 implementing its restrictions, determined by a court only
22 after consideration of competent evidence of mitigating
23 circumstances to be a nonflagrant or minor violation of those
24 restrictions upon the use of nets. Any violation of s. 16,
25 Art. X of the State Constitution, or any rule or statute
26 implementing its restrictions, occurring within a 7-year
27 period commencing upon the conclusion of any judicial
28 proceeding resulting in any outcome other than acquittal shall
29 be punished as a second, third, or subsequent violation
30 accordingly.
31

1 (b) During the period of suspension or revocation of
 2 saltwater license privileges under this section, the licensee
 3 may not participate in the taking or harvesting or attempt the
 4 taking or harvesting of saltwater products from any vessel
 5 within the waters of the state, or any other activity
 6 requiring a license, permit, or certificate issued pursuant to
 7 this chapter. Any person who violates this paragraph is:

8 1. Upon a first or second conviction, to be punished
 9 as provided by s. 370.021(2)(a) and (b).

10 2. Upon a third or subsequent conviction, guilty of a
 11 felony of the third degree, punishable as provided in s.
 12 775.082, s. 775.083, or s. 775.084.

13 (c) Upon reinstatement of saltwater license privileges
 14 suspended pursuant to a violation of this section, a licensee
 15 owning or operating a vessel containing or otherwise
 16 transporting in or on Florida waters any gill net or other
 17 entangling net, or containing or otherwise transporting in
 18 nearshore and inshore Florida waters any net containing more
 19 than 500 square feet of mesh area shall remain restricted for
 20 a period of 12 months following reinstatement, to operation
 21 under the following conditions:

22 1. Vessels subject to this reinstatement period shall
 23 be restricted to the corridors established by department rule.

24 2. A violation of the reinstatement period provisions
 25 shall be punishable pursuant to s. 370.021(2)(a) and (b).

26 (d) Rescission and revocation proceedings under this
 27 section shall be governed by chapter 120.

28 Section 39. Section 370.093, Florida Statutes, is
 29 created to read:

30 370.093 Illegal use of nets.--
 31

1 (1) It is unlawful to take or harvest, or to attempt
2 to take or harvest, any marine life in Florida waters with any
3 net that is not consistent with the provisions of s. 16, Art.
4 X of the State Constitution.

5 (2)(a) Beginning July 1, 1998, it is also unlawful to
6 take or harvest, or to attempt to take or harvest, any marine
7 life in Florida waters with any net, as defined in subsection
8 (3) and any attachments to such net, that combined are larger
9 than 500 square feet and have not been expressly authorized
10 for such use by rule of the Marine Fisheries Commission under
11 s. 370.027. The use of currently legal shrimp trawls and
12 purse seines outside nearshore and inshore Florida waters
13 shall continue to be legal until the Commission implements
14 rules regulating those types of gear.

15 (b) The use of gill or entangling nets of any size is
16 prohibited, as such nets are defined in s. 16, Art. X of the
17 State Constitution. Any net constructed wholly or partially
18 of monofilament or multifilament material, other than a hand
19 thrown cast net, or a hand-held landing or dip net, shall be
20 considered to be an entangling net within the prohibition of
21 S. 16, Art. X of the state constitution unless specifically
22 authorized by rule of the commission. Multifilament material
23 shall not be defined to include nets constructed of braided or
24 twisted nylon, cotton, linen twine, or polypropylene twine.

25 (c) This subsection shall not be construed to apply to
26 aquaculture activities licenses issued pursuant to s. 370.26.

27 (3) As used in s. 16, Art. X of the State Constitution
28 and this subsection, the term "net" or "netting" must be
29 broadly construed to include all manner or combination of mesh
30 or webbing or any other solid or semi-solid fabric or other
31

1 material used to comprise a device that is used to take or
 2 harvest marine life.

3 (4) Upon the arrest of any person for violation of
 4 this subsection, the arresting officer shall seize the nets
 5 illegally used. Upon conviction of the offender, the arresting
 6 authority shall destroy the nets.

7 (5) Any person who violates this section shall be
 8 punished as provided in s. 370.092(4).

9 (6) The Marine Fisheries Commission is granted
 10 authority to adopt rules pursuant to ss. 370.025 and 370.027
 11 implementing the prohibitions and restrictions of s. 16, Art.
 12 X of the State Constitution.

13 Section 40. Subsection (8) of section 370.14, Florida
 14 Statutes, 1996 Supplement, is amended to read:

15 370.14 Crawfish; regulation.--

16 (8)(a) By a special permit granted by the Division of
 17 Law Enforcement, a Florida-licensed seafood dealer may
 18 lawfully import, process, and package saltwater crawfish or
 19 uncooked tails of the species *Panulirus argus* during the
 20 closed season. However, crawfish landed under special permit
 21 shall not be sold in the state.

22 (b) The licensed seafood dealer importing any such
 23 crawfish under the permit shall, 12 hours prior to the time
 24 the seagoing vessel or airplane delivering such imported
 25 crawfish enters the state, notify the Division of Law
 26 Enforcement as to the seagoing vessel's name or the airplane's
 27 registration number and its captain, location, and point of
 28 destination.

29 (c) At the time the crawfish cargo is delivered to the
 30 permit holder's place of business, the crawfish cargo shall be
 31 weighed ~~in the presence of the marine patrol officer, and~~

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1 shall be available for inspection by the Department of
 2 Environmental Protection. A signed receipt of such quantity in
 3 pounds shall be forwarded furnished to ~~said officer, which~~
 4 ~~receipt shall be filed by the marine patrol officer with the~~
 5 Division of Law Enforcement's local Florida Marine Patrol
 6 office within 48 hours after shipment weigh-in completion. If
 7 requested by the department, the weigh-in process will be
 8 delayed up to 4 hours to allow for a department representative
 9 to be present during the process ~~Enforcement.~~

10 (d) Within 48 hours after shipment weigh-in completion
 11 ~~from the time the receipt is given to the marine patrol~~
 12 ~~officer,~~ the permit holder shall submit to the Division of Law
 13 Enforcement, on forms provided by the division, a sworn report
 14 of the quantity in pounds of the saltwater crawfish received,
 15 which report shall include the location of said crawfish and a
 16 sworn statement that said crawfish were taken at least 50
 17 miles from Florida's shoreline. The landing of crawfish or
 18 crawfish tails from which the eggs, swimmerettes, or pleopods
 19 have been removed; the falsification of information as to area
 20 from which crawfish were obtained; or the failure to file the
 21 report called for in this section shall be grounds to revoke
 22 the permit.

23 (e) Each permit holder shall keep throughout the period
 24 of the closed season copies of the bill of sale or invoices
 25 covering each transaction involving crawfish imported under
 26 this permit. Such invoices and bills shall be kept available
 27 at all times for inspection by the division.

28 Section 41. Effective October 1, 1997, section
 29 370.1405, Florida Statutes, is created to read:

30 370.1405 Crawfish reports by dealers during closed
 31 season required.--

1 (1) Within 3 days after the commencement of the closed
2 season for the taking of saltwater crawfish, each and every
3 seafood dealer, either retail or wholesale, intending to
4 possess crawfish, crawfish tails, or crawfish meat during
5 closed season shall submit to the Department of Environmental
6 Protection, on forms provided by the department, a sworn
7 report of the quantity, in pounds, of saltwater whole
8 crawfish, crawfish tails, and crawfish meat in the dealer's
9 name or possession as of the date the season closed. This
10 report shall state the location and number of pounds of whole
11 crawfish, crawfish tails, and crawfish meat. The department
12 shall not accept any reports not delivered or postmarked by
13 midnight of the 3rd calendar day after the commencement of the
14 closed season, and any stocks of crawfish reported therein are
15 declared a nuisance and may be seized by the department.

16 (2) Failure to submit a report as described in
17 subsection (1) or reporting a greater or lesser amount of
18 whole crawfish, crawfish tails, or crawfish meat than is
19 actually in the dealer's possession or name is a major
20 violation of this chapter, punishable as provided in s.
21 370.021(2), s. 370.07(6)(b), or both. The department shall
22 seize the entire supply of unreported or falsely reported
23 whole crawfish, crawfish tails, or crawfish meat, and shall
24 carry the same before the court for disposal. The dealer shall
25 post a cash bond in the amount of the fair value of the entire
26 quantity of unreported or falsely reported crawfish as
27 determined by the judge. After posting the cash bond, the
28 dealer shall have 24 hours to transport said products outside
29 the limits of Florida for sale as provided by s. 370.061.
30 Otherwise, the product shall be declared a nuisance and
31 disposed of by the department according to law.

1 (3) All dealers having reported stocks of crawfish may
2 sell or offer to sell such stocks of crawfish; however, such
3 dealers shall submit an additional report on the last day of
4 each month during the duration of the closed season. Reports
5 shall be made on forms supplied by the department. Each dealer
6 shall state on this report the number of pounds sold during
7 the report period and the pounds remaining on hand. In every
8 case, the amount of crawfish sold and the amount reported on
9 hand shall equal the amount remaining on hand in the last
10 submitted report. Reports postmarked later than midnight on
11 the 3rd calendar day of each month during the duration of the
12 closed season will not be accepted by the department. Dealers
13 for which late supplementary reports are not accepted by the
14 department, must show just cause why their entire stock of
15 whole crawfish, crawfish tails, or crawfish meat should not be
16 seized by the department. Whenever a dealer fails to make the
17 monthly supplementary report as described in this subsection,
18 the dealer may be subject to the following civil penalties as
19 follows:

20 (a) For a first violation, the department shall assess
21 a civil penalty of \$500.

22 (b) For a second violation within the same crawfish
23 closed season, the department shall assess a civil penalty of
24 \$1,000.

25 (c) For a third violation within the same crawfish
26 closed season, the department shall assess a civil penalty of
27 \$2,500 and may seize said dealer's entire stock of whole
28 crawfish, crawfish tails, or crawfish meat and carry the same
29 before the court for disposal. The dealer shall post a cash
30 bond in the amount of the fair value of the entire remaining
31 quantity of crawfish as determined by the judge. After posting

1 the cash bond, a dealer shall have 24 hours to transport said
 2 products outside the limits of Florida for sale as provided by
 3 s. 370.061. Otherwise, the product shall be declared a
 4 nuisance and disposed of by the department according to law.

5 (4) All seafood dealers shall at all times during the
 6 closed season make their stocks of whole crawfish, crawfish
 7 tails, or crawfish meat available for inspection by the
 8 department.

9 (5) Each dealer in whole crawfish, crawfish tails, or
 10 crawfish meat shall keep throughout the period of the crawfish
 11 closed season copies of the bill of sale or invoice covering
 12 each transaction involving whole crawfish, crawfish tails, or
 13 crawfish meat. Such invoices and bills shall be kept available
 14 at all times for inspection by the department.

15 Section 42. (1) Notwithstanding the provisions of
 16 section 370.093(3), Florida Statutes, there is hereby
 17 established a 3-year pilot program that allows for
 18 participation by Saltwater Products License holders with purse
 19 seine endorsements during the years 1995 or 1996 located in
 20 the counties of Wakulla, Franklin, Gulf, Bay, Walton, and
 21 Okaloosa. Priority shall be given to such Saltwater Products
 22 License holders with landings in 1996 as recorded on Florida
 23 DEP trip tickets of one or more of the following baitfish
 24 species: Spanish sardines, cigar minnows, thread herring, chub
 25 mackerel, anchovy, little tunny, menhaden, blue runner, and
 26 ladyfish. No more than 7 such licenses shall be issued which
 27 allow for and shall be limited to the following:

28 (a) These licenses shall be issued only for the use of
 29 baitfish purse seines, not exceeding 600 yards in length, to
 30 be used in the nearshore and inshore waters, modified to
 31 employ solid tarpaulin material in conjunction with 500 square

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1 feet of traditional seine mesh netting in the State of Florida
 2 in and south of the counties of Wakulla, Franklin, Gulf, Bay,
 3 Walton, and Okaloosa. Only one purse seine per license shall
 4 be allowed.

5 (b) Each licensee shall post a bond of \$50,000 payable
 6 to the State of Florida as security to pay for any
 7 environmental damage or cleanup of material caused by this
 8 fishing gear of the licensee.

9 (2) The Marine Fisheries Commission shall establish
 10 limits on annual harvest levels for the area, for each of the
 11 baitfish species that are the subject of this section, based
 12 on maintaining healthy scientific and biological levels of
 13 stock abundance of those certain baitfish species by allowing
 14 annual harvest of the baitfish species in the program area
 15 limited by the Florida Marine Fisheries Commission not to
 16 exceed 50 percent of the annual average of reported landings
 17 which occurred over the 3 years prior to July 1, 1995.

18 Section 43. Section 403.0882, Florida Statutes, is
 19 created to read:

20 403.0882 Discharge of demineralization concentrate.--

21 (1) For the purposes of this section, the term:

22 (a) "Demineralization concentrate" means the
 23 concentrated byproduct formed by demineralization.

24 (b) "Demineralization" means the use of reverse
 25 osmosis, ion exchange, membrane softening, ultra filtration,
 26 and other similar processes to remove materials from water for
 27 the production of potable water for human consumption.

28 (c) "Small water utility business" means any facility
 29 that distributes potable water to two or more customers with a
 30 concentrate discharge of less than 50,000 gallons per day.
 31

1 (2) The department shall classify the discharge of
 2 demineralization concentrate as a potable water byproduct
 3 rather than as an industrial wastewater. Except as otherwise
 4 provided in this section, the discharge of demineralization
 5 concentrate shall be permitted according to the same
 6 requirements as an industrial wastewater under this chapter.

7 (3)(a) The discharge of demineralization concentrate
 8 from small water utility businesses meeting the standards set
 9 forth in this section and s. 403.086(4) shall be presumed to
 10 be allowable and permittable in all waters in the state at a
 11 reasonably accessible point where such discharge results in
 12 minimal negative impact as demonstrated by the permit
 13 applicant. The presumption may be overcome only by a
 14 demonstration that one or more of the following conditions is
 15 present:

16 1. The discharge will be made directly into an
 17 Outstanding Florida Water, except as provided in chapter
 18 90-262, Laws of Florida;

19 2. The discharge will be made directly to Class I or
 20 Class II waters;

21 3. The discharge will be made to a water body having a
 22 total maximum daily load established by the department and the
 23 discharge will cause or contribute to a violation of the
 24 established load;

25 4. The discharge fails to meet the requirements of the
 26 antidegradation policy contained in the department rules;

27 5. The discharge will be made to a sole-source aquifer
 28 as defined in department rules; or

29 6. The discharge fails to meet applicable surfacewater
 30 and groundwater quality standards.
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1 (b) If one or more of the conditions in subparagraphs
 2 (a)1.-6. has been demonstrated, the department may:

- 3 1. Require more stringent effluent limitations;
 4 2. Require relocation of the discharge point or a
 5 change in the method of discharge;
 6 3. Limit the duration or volume of the discharge; or
 7 4. Prohibit the discharge if there is no alternative
 8 that meets the conditions of subparagraphs 1.-3.

9 (4)(a) Discharge of demineralization concentrate from
 10 facilities used for the production of potable water to
 11 domestic wastewater treatment plant effluent disposal, not
 12 including reuse systems, shall be presumed allowable if the
 13 discharge of concentrate to the wastewater treatment facility
 14 is at no time greater than 20 percent of the annual average
 15 daily flow of that facility;

16 (b) Discharge of demineralization concentrate from
 17 facilities used for the production of potable water to
 18 domestic wastewater reuse systems, including drain fields,
 19 percolation ponds, absorption fields, and spray irrigation
 20 sites, shall be allowable if the applicant demonstrates
 21 through the engineering report that the blend will meet water
 22 quality standards and protect public health, site vegetation,
 23 and the ability of the reuse system, including land
 24 application, to function as intended.

25 (5) For facilities owned by small water utility
 26 businesses, the following conditions apply:

27 (a) A mixing zone with a radius that is not in excess
 28 of two times the natural water depth at the point of discharge
 29 for acute toxicity, or a 200-foot radius for chronic toxicity,
 30 and that provides for a minimum of 4 to 1 dilution within the
 31 mixing zone for acute toxicity under all conditions, shall be

1 presumed allowable in the permitting of discharge of
 2 concentrate from facilities used for demineralization for
 3 potable water production.

4 (b) The department shall not:

5 1. Require such businesses to perform toxicity testing
 6 at other than the time of permit application, permit renewal,
 7 or any requested permit modification, unless the initial
 8 toxicity test or any subsequent toxicity test performed by the
 9 department does not meet toxicity requirements.

10 2. Require such businesses to obtain a
 11 water-quality-based effluent limitation determination.

12 (6) Demineralization facilities may apply for permits
 13 under this section according to the following schedule:

14 (a) For facilities providing potable water service to
 15 more than 2,000 equivalent residential customers, no later
 16 than 18 months after the effective date of this section.

17 (b) For facilities providing potable water service to
 18 1,000 or more but not more than 2,000 residential equivalent
 19 customers, no later than 24 months after the effective date of
 20 this section.

21 (c) For facilities providing potable water service to
 22 fewer than 1,000 equivalent residential customers, or small
 23 water utility businesses, no later than 36 months after the
 24 effective date of this section.

25 (7) The department may adopt rules for the regulation
 26 of demineralization and to implement the provisions of this
 27 section.

28 Section 44. Except as otherwise provided herein, this
 29 act shall take effect July 1, 1997.
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