

By the Committee on Natural Resources and Senator Laurent

312-1936-99

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A bill to be entitled
An act relating to water resources; creating s.
373.1501, F.S.; providing definitions;
providing legislative findings and intent;
providing for acquisition of certain lands by
eminent domain; requiring land to be acquired
in accordance with state condemnation law;
authorizing the South Florida Water Management
District to act as local sponsor of the Central
and Southern Florida Flood Control Project for
specified project features; providing for
oversight by the Department of Environmental
Protection; requiring specified compliance by
the South Florida Water Management District;
providing requirements for development of
project components; requiring the Department of
Environmental Protection and the water
management district to pursue implementation of
certain project modifications; amending s.
373.026, F.S.; requiring the department to
approve project components; providing an
effective date.

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

Section 1. Section 373.1501, Florida Statutes, is
created to read:

373.1501 South Florida Water Management District as
local sponsor.--

(1) As used in ss. 373.1501 and 373.026(8), the term:

1 (a) "C-111 Project" means the project identified in
2 the Central and Southern Florida Flood Control Project, Real
3 Estate Design Memorandum, Canal 111, South Dade County,
4 Florida.

5 (b) "Department" means the Department of Environmental
6 Protection.

7 (c) "District" means the South Florida Water
8 Management District.

9 (d) "Kissimmee River Restoration Project" means the
10 project identified in the Project Cooperation Agreement
11 between the United States Department of the Army and the South
12 Florida Water Management District dated March 22, 1994.

13 (e) "Project" means the Central and Southern Florida
14 Project.

15 (f) "Project Component" means any structural or
16 operational change, resulting from the restudy, to the Central
17 and Southern Florida Project as it existed and was operated as
18 of January 1, 1999.

19 (g) "Restudy" means the Comprehensive Review Study of
20 the Central and Southern Florida Project, for which federal
21 participation was authorized by the Federal Water Resources
22 Development Acts of 1992 and 1996 together with related
23 Congressional resolutions and for which participation by the
24 South Florida Water Management District is authorized by this
25 section. The term includes all actions undertaken pursuant to
26 the aforementioned authorizations which will result in
27 recommendations for modifications or additions to the Central
28 and Southern Florida Project.

29 (h) "Water Preserve Areas" means those areas located
30 only within Palm Beach and Broward counties that are
31 designated as Water Preserve Areas, as approved by the South

1 Florida Water Management District Governing Board on September
2 11, 1997.

3 (i) "Ten Mile Creek Project" means the Ten Mile Creek
4 Water Preserve Area identified in the Central and Southern
5 Florida Ecosystem Critical Project Letter Report dated April
6 13, 1998.

7 (2) The Legislature finds that the restudy is
8 important for sustaining the environment, economy, and social
9 well-being of South Florida. It is the intent of the
10 Legislature to facilitate and support the restudy through a
11 process concurrent with federal government review and
12 Congressional authorization. It is the further intent of the
13 Legislature that all project components be implemented through
14 the appropriate processes of this chapter and be consistent
15 with the balanced policies and purposes of this chapter and
16 specifically s. 373.016.

17 (3)(a) The Legislature declares that the Kissimmee
18 River Project, the Ten Mile Creek Project, the Water Preserve
19 Areas, and the C-111 Project are in the public interest, for a
20 public purpose, and necessary for the public health and
21 welfare. The governing board of the district is empowered and
22 authorized to acquire fee title or easement by eminent domain
23 for the limited purposes of implementing the Kissimmee River
24 Project, the Ten Mile Creek Project, the Water Preserve Areas,
25 and the C-111 Project. Any acquisition of real property,
26 including by eminent domain, for those objectives constitutes
27 a public purpose for which it is in the public interest to
28 expend public funds. Notwithstanding any provision of law to
29 the contrary, such properties shall not be removed from the
30 district's plan of acquisition, and the use of state funds for
31 these properties is authorized.

1 (b) In the absence of willing sellers, any land
2 necessary for implementation of a project component shall be
3 acquired in accordance with state condemnation law.

4 (4) The district is authorized to act as local sponsor
5 of the project for those project features within the district
6 as provided in this subsection and subject to the oversight of
7 the department as further provided in s. 373.026. The
8 district may:

9 (a) Act as local sponsor for all project features
10 previously authorized by Congress;

11 (b) Continue data gathering, analysis, research, and
12 design of project components and further refine the
13 Comprehensive Plan of the restudy as a guide and framework for
14 identifying other project components;

15 (c) Construct pilot projects that will assist in
16 determining the feasibility of technology included in the
17 Comprehensive Plan of the restudy; and

18 (d) Act as local sponsor for project components.

19 (5) In its role as local sponsor for the project, the
20 district shall comply with its responsibilities under this
21 chapter and implement project components through appropriate
22 provisions of this chapter. In the development of project
23 components, the district shall:

24 (a) Analyze and evaluate all needs to be met in a
25 comprehensive manner and consider all applicable water
26 resource issues, including water supply, water quality, flood
27 protection, endangered species, and other natural system and
28 habitat needs;

29 (b) Determine with reasonable certainty that all
30 project components are feasible based upon standard
31 engineering practices and technologies and are the most

1 efficient and cost-effective of feasible alternatives or
2 combination of alternatives, consistent with restudy purposes,
3 implementation of project components, and operation of the
4 project;

5 (c) Determine with reasonable certainty that all
6 project components are consistent with applicable law and
7 regulations, and can be permitted and operated as proposed.

8 For purposes of such determination:

9 1. The district shall convene a preapplication
10 conference with all state and federal agencies with applicable
11 regulatory jurisdiction;

12 2. State agencies with applicable regulatory
13 jurisdiction shall participate in the preapplication
14 conference and provide information necessary for the
15 district's determination; and

16 3. The district shall request that federal agencies
17 with applicable regulatory jurisdiction participate in the
18 preapplication conference and provide information necessary
19 for the district's determination;

20 (d) Provide reasonable assurances that the quantity of
21 water available to existing legal users shall not be
22 diminished by implementation of project components so as to
23 adversely impact existing legal users, that existing levels of
24 service for flood protection will not be diminished outside
25 the geographic area of the project component, and that water
26 management practices will continue to adapt to meet the needs
27 of the restored natural environment, consistent with chapter
28 373 and federal law; and

29 (e) Ensure that implementation of project components
30 is coordinated with existing utilities and public

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1 infrastructure and that impacts to and relocation of existing
2 utility or public infrastructure are avoided or minimized.

3 (5) The department and the district shall
4 expeditiously pursue implementation of project modifications
5 previously authorized by Congress or the Legislature,
6 including the Everglades Construction Project. Project
7 components should complement rather than replace and should
8 not delay project modifications previously authorized.

9 (6) Notwithstanding any provision of this section,
10 nothing herein shall be construed to modify or supplant the
11 authority of the district or the department to prevent harm to
12 the water resources as provided in this chapter.

13 (7) Final agency action with regard to any project
14 component subject to s. 373.026(8)(b) shall be taken by the
15 department. Actions taken by the district pursuant to s.
16 373.1501(5) shall not be considered final agency action.

17 Section 2. Subsection (8) of section 373.026, Florida
18 Statutes, is amended to read:

19 373.026 General powers and duties of the
20 department.--The department, or its successor agency, shall be
21 responsible for the administration of this chapter at the
22 state level. However, it is the policy of the state that, to
23 the greatest extent possible, the department may enter into
24 interagency or interlocal agreements with any other state
25 agency, any water management district, or any local government
26 conducting programs related to or materially affecting the
27 water resources of the state. All such agreements shall be
28 subject to the provisions of s. 373.046. In addition to its
29 other powers and duties, the department shall, to the greatest
30 extent possible:

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1 (8)(a) Provide such coordination, cooperation, or
2 approval necessary to the effectuation of any plan or project
3 of the Federal Government in connection with or concerning the
4 waters in the state. Unless otherwise provided by state or
5 federal law, the department shall, subject to confirmation by
6 the Legislature, have the power to approve or disapprove such
7 federal plans or projects on behalf of the state. If such plan
8 or project is for a coastal inlet, the department shall first
9 determine the impact of the plan or project on the sandy
10 beaches in the state. If the department determines that the
11 plan will have a significant adverse impact on the sandy
12 beaches, the department may not approve the plan or project
13 unless it is revised to mitigate those impacts.

14 (b) To ensure to the greatest extent possible that
15 project components will go forward as planned, the department
16 shall collaborate with the district in the restudy. Before
17 any project component is submitted to Congress for
18 authorization or receives an additional appropriation of state
19 funds, the department must approve, or approve with
20 amendments, each project component within 60 days following
21 formal submittal of the project component to the department.
22 Department approval shall be based upon a determination of the
23 district's compliance with s. 373.1501(5). Once a project
24 component is approved, all requests for an additional
25 appropriation of state funds needed to implement the project
26 component shall be submitted to the department which shall be
27 included in the department's annual request to the Governor.

28 (c) Notwithstanding paragraph (b), the use of state
29 funds for land purchases from willing sellers is authorized
30 for projects within the district's approved 5-year plan of
31 acquisition pursuant to s. 373.59.

1 (d) The Executive Office of the Governor, pursuant to
2 its duties under s. 373.536(5) to approve or disapprove, in
3 whole or in part, the budget of each water management
4 district, shall review all proposed expenditures for project
5 components in the district's budget.

6 (e)~~(b)~~ The department, subject to confirmation by the
7 Legislature, shall act on behalf of the state in the
8 negotiation and consummation of any agreement or compact with
9 another state or states concerning waters of the state.

10 Section 3. This act shall take effect July 1, 1999.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1672

4 The bill now includes the following definitions:

- 5 - "C-111 Project" means the project identified in the
6 Central and Southern Florida Flood Control Project, Real
7 Estate Design Memorandum, Canal 111, South Dade County,
8 Florida.
- 9 - "Department" means the Department of Environmental
10 Protection.
- 11 - "District" means the South Florida Water Management
12 District.
- 13 - "Kissimmee River Restoration Project" means the project
14 identified in the Project Cooperation Agreement between
15 the United States Department of the Army and the South
16 Florida Water Management District, dated March 22, 1994.
- 17 - "Project" means the Central and Southern Florida
18 Project.
- 19 - "Project Component" means any structural or operational
20 change, resulting from the restudy, to the Central and
21 Southern Florida Project as it existed and was operated
22 as of January 1, 1999.
- 23 - "Restudy" means the Comprehensive Review Study of the
24 Central and Southern Florida Project, for which federal
25 participation was authorized by the Federal Water
26 Resources Development Acts of 1992 and 1996 together
27 with related Congressional resolutions and for which
28 participation by the South Florida Water Management
29 District is authorized by this section. The term
30 includes all actions undertaken pursuant to the
31 aforementioned authorizations that will result in
recommendations for modifications or additions to the
Central and Southern Florida Project.
- "Water Preserve Areas" means those areas located only
within Palm Beach and Broward counties that are
designated as Water Preserve Areas, as approved by the
South Florida Water Management District Governing Board
on September 11, 1997.
- "Ten Mile Creek Project" means the Ten Mile Creek Water
Preserve Area identified in the Central and Southern
Florida Ecosystem Critical Project Letter Report, dated
April 13, 1998.

The bill provides a legislative declaration that the Kissimmee River Project, the Ten Mile Creek Project, the Water Preserve Areas, and the C-111 Project are in the public interest, for a public purpose, and are necessary for the public health and welfare. The governing board of the SFWMD is empowered and authorized to acquire fee title or easement by eminent domain for the limited purposes of implementing the Kissimmee River

1 Project, the Ten Mile Creek Project, the Water Preserve Areas,
2 and the C-111 Project. Any acquisition of real property,
3 including by eminent domain, for those objectives constitutes
4 a public purpose for which it is in the public interest to
5 expend public funds. Notwithstanding any provision of law to
6 the contrary, such acquisition and the use of state funds for
7 these properties is authorized.

8 In order to determine that all project components are
9 consistent with applicable law and regulations, and can be
10 permitted and operated as proposed, the SFWMD must convene a
11 preapplication conference with all state and federal agencies
12 with applicable regulatory jurisdictions. State agencies with
13 applicable regulatory jurisdiction must participate in the
14 preapplication conference and provide information necessary
15 for the district's determination, and the district must
16 request that federal agencies with applicable regulatory
17 jurisdiction participate in the preapplication conference and
18 provide information necessary for the district's
19 determination.

20 The bill provides that final agency action with regard to any
21 project component subject to s. 373.026(8)(b), F.S., shall be
22 taken by the department; however, actions taken by the SFWMD
23 pursuant to s. 373.1501(5) shall not be considered final
24 agency action.

25 The DEP is directed to collaborate with the SFWMD in the
26 Restudy and must approve, or approve with amendments, each
27 project component within 60 days following formal submittal of
28 the project component to the department. Once a project
29 component is approved, all requests for an additional
30 appropriation of state funds needed to implement the project
31 component shall be submitted to the DEP which shall include
them in the DEP's annual request to the Governor.

The bill provides that the use of state funds for land
purchases from willing sellers is authorized for projects
within the SFWMD's approved 5-year plan of acquisition
pursuant to s. 373.59, F.S.

A requirement for legislative review of project components is
deleted.

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