

1 A bill to be entitled
2 An act relating to water resources; creating s.
3 373.1501, F.S.; providing definitions;
4 providing legislative findings and intent;
5 providing for acquisition of certain lands by
6 eminent domain; requiring land to be acquired
7 in accordance with state condemnation law;
8 authorizing the South Florida Water Management
9 District to act as local sponsor of the Central
10 and Southern Florida Flood Control Project for
11 specified project features; providing for
12 oversight by the Department of Environmental
13 Protection; requiring specified compliance by
14 the South Florida Water Management District;
15 providing requirements for development of
16 project components; requiring the Department of
17 Environmental Protection and the water
18 management district to pursue implementation of
19 certain project modifications; providing
20 requirements for expedited summary hearing
21 procedures; amending s. 373.026, F.S.;
22 requiring the department to approve project
23 components; providing an effective date.

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

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

29 373.1501 South Florida Water Management District as
30 local sponsor.--

31 (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 restoring the Everglades ecosystem and
9 sustaining the environment, economy, and social well-being of
10 South Florida. It is the intent of the Legislature to
11 facilitate and support the restudy through a process
12 concurrent with Federal Government review and Congressional
13 authorization. Nothing in this section is intended in any way
14 to limit federal agencies or Congress in the exercise of their
15 duties and responsibilities. It is further the intent of the
16 Legislature that all project components be implemented through
17 the appropriate processes of this chapter and be consistent
18 with the balanced policies and purposes of this chapter,
19 specifically s. 373.016.

20 (3) The Legislature declares that the Kissimmee River
21 Project, the Ten Mile Creek Project, the Water Preserve Areas,
22 and the C-111 Project are in the public interest, for a public
23 purpose, and necessary for the public health and welfare. The
24 governing board of the district is empowered and authorized to
25 acquire fee title or easement by eminent domain for the
26 limited purposes of implementing the Kissimmee River Project,
27 the Ten Mile Creek Project, the Water Preserve Areas, and the
28 C-111 Project. Any acquisition of real property, including by
29 eminent domain, for those objectives constitutes a public
30 purpose for which it is in the public interest to expend
31 public funds. Notwithstanding any provision of law to the

1 contrary, such properties shall not be removed from the
2 district's plan of acquisition, and the use of state funds for
3 these properties is authorized. In the absence of willing
4 sellers, any land necessary for implementing the projects in
5 this subsection shall be acquired in accordance with state
6 condemnation law pursuant to chapters 73 and 74.

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

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

14 (b) Continue data gathering, analysis, research, and
15 design of project components, participate in preconstruction
16 engineering and design documents for project components, and
17 further refine the Comprehensive Plan of the restudy as a
18 guide and framework for identifying other project components;

19 (c) Construct pilot projects that will assist in
20 determining the feasibility of technology included in the
21 Comprehensive Plan of the restudy; and

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

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

28 (a) Analyze and evaluate all needs to be met in a
29 comprehensive manner and consider all applicable water
30 resource issues, including water supply, water quality, flood
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1 protection, threatened and endangered species, and other
2 natural system and habitat needs;

3 (b) Determine with reasonable certainty that all
4 project components are feasible based upon standard
5 engineering practices and technologies and are the most
6 efficient and cost-effective of feasible alternatives or
7 combination of alternatives, consistent with restudy purposes,
8 implementation of project components, and operation of the
9 project;

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

13 For purposes of such determination:

14 1. The district shall convene a preapplication
15 conference with all state and federal agencies with applicable
16 regulatory jurisdiction;

17 2. State agencies with applicable regulatory
18 jurisdiction shall participate in the preapplication
19 conference and provide information necessary for the
20 district's determination; and

21 3. The district shall request that federal agencies
22 with applicable regulatory jurisdiction participate in the
23 preapplication conference and provide information necessary
24 for the district's determination;

25 (d) Consistent with chapter 373, the purposes for the
26 restudy provided in the Water Resources Development Act of
27 1996, and other applicable federal law, provide reasonable
28 assurances that the quantity of water available to existing
29 legal users shall not be diminished by implementation of
30 project components so as to adversely impact existing legal
31 users, that existing levels of service for flood protection

1 will not be diminished outside the geographic area of the
2 project component, and that water management practices will
3 continue to adapt to meet the needs of the restored natural
4 environment.

5 (e) Ensure that implementation of project components
6 is coordinated with existing utilities and public
7 infrastructure and that impacts to and relocation of existing
8 utility or public infrastructure are minimized.

9 (6) The department and the district shall
10 expeditiously pursue implementation of project modifications
11 previously authorized by Congress or the Legislature,
12 including the Everglades Construction Project. Project
13 components should complement and should not delay project
14 modifications previously authorized.

15 (7) Notwithstanding any provision of this section,
16 nothing herein shall be construed to modify or supplant the
17 authority of the district or the department to prevent harm to
18 the water resources as provided in this chapter.

19 (8) Final agency action with regard to any project
20 component subject to s. 373.026(8)(b) shall be taken by the
21 department. Actions taken by the district pursuant to s.
22 373.1501(5) shall not be considered final agency action. Any
23 petition for formal proceedings filed pursuant to ss. 120.569
24 and 120.57 shall require a hearing under the summary hearing
25 provisions of s. 120.574, which shall be mandatory. The final
26 hearing under this section shall be held within 30 days after
27 receipt of the petition by the Division of Administrative
28 Hearings.

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

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1 373.026 General powers and duties of the
2 department.--The department, or its successor agency, shall be
3 responsible for the administration of this chapter at the
4 state level. However, it is the policy of the state that, to
5 the greatest extent possible, the department may enter into
6 interagency or interlocal agreements with any other state
7 agency, any water management district, or any local government
8 conducting programs related to or materially affecting the
9 water resources of the state. All such agreements shall be
10 subject to the provisions of s. 373.046. In addition to its
11 other powers and duties, the department shall, to the greatest
12 extent possible:

13 (8)(a) Provide such coordination, cooperation, or
14 approval necessary to the effectuation of any plan or project
15 of the Federal Government in connection with or concerning the
16 waters in the state. Unless otherwise provided by state or
17 federal law, the department shall, subject to confirmation by
18 the Legislature, have the power to approve or disapprove such
19 federal plans or projects on behalf of the state. If such plan
20 or project is for a coastal inlet, the department shall first
21 determine the impact of the plan or project on the sandy
22 beaches in the state. If the department determines that the
23 plan will have a significant adverse impact on the sandy
24 beaches, the department may not approve the plan or project
25 unless it is revised to mitigate those impacts.

26 (b) To ensure to the greatest extent possible that
27 project components will go forward as planned, the department
28 shall collaborate with the district in the restudy. Before
29 any project component is submitted to Congress for
30 authorization or receives an additional appropriation of state
31 funds, the department must approve, or approve with

1 amendments, each project component within 60 days following
2 formal submittal of the project component to the department.
3 Department approval shall be based upon a determination of the
4 district's compliance with s. 373.1501(5). Once a project
5 component is approved, all requests for an additional
6 appropriation of state funds needed to implement the project
7 component shall be submitted to the department and such
8 requests shall be included in the department's annual request
9 to the Governor.

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

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

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

23 Section 3. This act shall take effect upon becoming a
24 law.