

By the Committee on General Government Appropriations and
 Representatives Putnam, Dockery and Alexander

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 South Florida
 18 Water Management District to pursue
 19 implementation of certain project
 20 modifications; providing for construction of
 21 the act; requiring final agency action to be
 22 taken by the department; amending s. 373.026,
 23 F.S.; requiring the department to approve
 24 project components; authorizing the use of
 25 state funds for specified land purchases;
 26 requiring the Executive Office of the Governor
 27 to review proposed expenditures for project
 28 components; providing an effective date.
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 30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 373.1501, Florida Statutes, is
2 created to read:

3 373.1501 South Florida Water Management District as
4 local sponsor.--

5 (1) Definitions.--As used in this section and s.
6 373.026(8):

7 (a) "C-111 Project" means the project identified in
8 the Central and Southern Florida Flood Control Project, Real
9 Estate Design Memorandum, Canal 111, South Dade County,
10 Florida.

11 (b) "Department" means the Department of Environmental
12 Protection.

13 (c) "District" means the South Florida Water
14 Management District.

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

19 (e) "Project" means the Central and Southern Florida
20 Project.

21 (f) "Project component" means any structural or
22 operational change, resulting from the restudy, to the Central
23 and Southern Florida Project as it existed and was operated as
24 of January 1, 1999.

25 (g) "Restudy" means the Comprehensive Review Study of
26 the Central and Southern Florida Project, for which federal
27 participation was authorized by the Federal Water Resources
28 Development Acts of 1992 and 1996, together with related
29 Congressional resolutions, and for which participation by the
30 South Florida Water Management District is authorized by this
31 section. The term includes all actions undertaken pursuant to

1 the aforementioned authorizations that will result in
2 recommendations for modifications or additions to the Central
3 and Southern Florida Project.

4 (h) "Water preserve areas" means those areas located
5 only within Palm Beach and Broward Counties that are
6 designated as water preserve areas, as approved by the South
7 Florida Water Management District Governing Board on September
8 11, 1997.

9 (i) "Ten Mile Creek Project" means the Ten Mile Creek
10 Water Preserve Area identified in the Central and Southern
11 Florida Ecosystem Critical Project Letter Report, dated April
12 13, 1998.

13 (2) The Legislature finds that the restudy is
14 important for sustaining the environment, economy, and social
15 well-being of South Florida. It is the intent of the
16 Legislature to facilitate and support the restudy through a
17 process concurrent with Federal Government review and
18 Congressional authorization. It is the further intent of the
19 Legislature that all project components be implemented through
20 the appropriate processes of this chapter and be consistent
21 with the balanced policies and purposes of this chapter and
22 specifically s. 373.016.

23 (3) The Legislature declares that the Kissimmee River
24 Restoration Project, the Ten Mile Creek Project, the water
25 preserve areas, and the C-111 Project are in the public
26 interest, for a public purpose, and are necessary for the
27 public health and welfare. The governing board of the district
28 is empowered and authorized to acquire fee title or easements
29 by eminent domain for the limited purposes of implementing the
30 Kissimmee River Restoration Project, the Ten Mile Creek
31 Project, the water preserve areas, and the C-111 Project. Any

1 acquisition of real property, including by eminent domain, for
2 those objectives constitutes a public purpose for which it is
3 in the public interest to expend public funds. Notwithstanding
4 any provision of law to the contrary, such properties shall
5 not be removed from the district's plan of acquisition and the
6 use of state funds for these properties is authorized. In the
7 absence of willing sellers, any land necessary for
8 implementation of the projects in this subsection shall be
9 acquired in accordance with state condemnation law.

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

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

17 (b) Continue data gathering, analysis, research, and
18 design of project components, participate in pre-construction
19 engineering and design documents for project components, and
20 further refine the comprehensive plan of the restudy as a
21 guide and framework for identifying other project components;

22 (c) Construct pilot projects that will assist in
23 determining the feasibility of technology included in the
24 comprehensive plan of the restudy; and

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

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

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

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

13 (c) Determine with reasonable certainty that all
14 project components are consistent with applicable law and
15 regulations, and can be permitted and operated as proposed.
16 For purposes of such determination:

17 1. The district shall convene a preapplication
18 conference with all state and federal agencies with applicable
19 regulatory jurisdiction;

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

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

28 (d) Consistent with chapter 373 and federal law,
29 provide reasonable assurances that the quantity of water
30 available to existing legal users shall not be diminished by
31 implementation of project components so as to adversely impact

1 existing legal users, that existing levels of service for
2 flood protection will not be diminished outside the geographic
3 area of the project component, and that water management
4 practices will continue to adapt to meet the needs of the
5 restored natural environment; and

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

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

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

20 (8) Final agency action with regard to any project
21 component subject to s. 373.026(8)(b) shall be taken by the
22 department. Actions taken by the district pursuant to
23 subsection (5) shall not be considered final agency action.

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

26 373.026 General powers and duties of the
27 department.--The department, or its successor agency, shall be
28 responsible for the administration of this chapter at the
29 state level. However, it is the policy of the state that, to
30 the greatest extent possible, the department may enter into
31 interagency or interlocal agreements with any other state

1 agency, any water management district, or any local government
2 conducting programs related to or materially affecting the
3 water resources of the state. All such agreements shall be
4 subject to the provisions of s. 373.046. In addition to its
5 other powers and duties, the department shall, to the greatest
6 extent possible:

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

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

1 component shall be submitted to the department and such
2 requests shall be included in the department's annual request
3 to the Governor.

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

8 (d) The Executive office of the Governor, pursuant to
9 its duties under s. 373.536(5) to approve or disapprove, in
10 whole or in part, the budget of each water management
11 district, shall review all proposed expenditures for project
12 components in the district's budget.

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

17 Section 3. This act shall take effect upon becoming a
18 law.

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