

By Senator Bronson

312-965-00

1                                   A bill to be entitled  
2           An act relating to water management; amending  
3           s. 373.2295, F.S.; repealing obsolete  
4           provisions relating to applications for  
5           interdistrict transfer and use of groundwater;  
6           providing an effective date.

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

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10           Section 1. Section 373.2295, Florida Statutes, is  
11 amended to read:

12           373.2295 Interdistrict transfers of groundwater.--

13           (1) As used in this section, the term "interdistrict  
14 transfer and use" means a consumptive water use that ~~which~~  
15 involves the withdrawal of groundwater from a point within one  
16 water management district for use outside the boundaries of  
17 that district.

18           (2) To obtain a permit for an interdistrict transfer  
19 and use of groundwater, an applicant must file an application  
20 in accordance with s. 373.229 with the water management  
21 district having jurisdiction over the area from which the  
22 applicant proposes to withdraw groundwater and submit a copy  
23 of the application to the water management district having  
24 jurisdiction over the area where the water is to be used.

25           (3) The governing board of the water management  
26 district where the groundwater is proposed to be withdrawn  
27 shall review the application in accordance with this part, the  
28 rules of the district which relate to consumptive water use  
29 permitting, and other applicable provisions of this chapter.

30           (4) In determining whether ~~if~~ an application is  
31 consistent with the public interest as required by s. 373.223,

1 the projected populations, as contained in the future land use  
2 elements of the comprehensive plans adopted pursuant to  
3 chapter 163 by the local governments within which the  
4 withdrawal areas and the proposed use areas are located, will  
5 be considered together with other evidence presented on future  
6 needs of those areas. If the proposed interdistrict transfer  
7 of groundwater meets the requirements of this chapter, and if  
8 the needs of the area where the use will occur and the  
9 specific area from which the groundwater will be withdrawn can  
10 be satisfied, the permit for the interdistrict transfer and  
11 use shall be issued.

12 (5) In addition to other requirements contained in  
13 this part, the water management district where the groundwater  
14 is proposed to be withdrawn shall:

15 (a) Furnish copies of any application, information,  
16 correspondence, or other related material to the water  
17 management district having jurisdiction over the area where  
18 the water is to be used; and

19 (b) Request comments on the application and the future  
20 water needs of the proposed use area from the water management  
21 district having jurisdiction over the area where the water is  
22 to be used. If comments are received, they must be attached  
23 to the preliminary notice of intended agency action and may  
24 not create a point of entry for review whether issued by the  
25 governing board or district staff.

26 (6) Upon completion of review of the application, the  
27 water management district where the groundwater is proposed to  
28 be withdrawn shall prepare a notice of preliminary intended  
29 agency action which shall include an evaluation of the  
30 application and a recommendation of approval, denial, or  
31 approval with conditions. The notice must ~~shall~~ be furnished

1 to the district where the water is to be used, the applicant,  
2 the Department of Environmental Protection, the local  
3 governments having jurisdiction over the area from which the  
4 groundwater is to be withdrawn and where the water is to be  
5 used, and any person requesting a copy of the notice.

6 (a) Any interested person may, within the time  
7 specified in the notice, notify in writing the district from  
8 where the groundwater is to be withdrawn of such person's  
9 position and comments or objections, if any, to the  
10 preliminary intended action.

11 (b) The filing of the notice of intended agency action  
12 shall toll the time periods contained in s. 120.60 for the  
13 granting or denial of a permit for an interdistrict transfer  
14 and use of groundwater.

15 (c) The preliminary intended agency action and any  
16 comments or objections of interested persons made pursuant to  
17 paragraph (a) must ~~shall~~ be considered by the governing board  
18 of the water management district where the groundwater is  
19 proposed to be withdrawn. Following such consideration, the  
20 governing board shall issue a notice of intended agency  
21 action.

22 (d) Any substantially affected person who submitted a  
23 notification pursuant to paragraph (a) may request review by  
24 the department within 14 days after the filing of the notice  
25 of intended agency action. If no request for review is filed,  
26 the notice of intended agency action shall become the final  
27 order of the governing board.

28 (7) Notwithstanding the provisions of chapter 120, the  
29 department shall, within 30 days after its receipt of a  
30 request for review of the water management district's action,  
31 approve, deny, or modify the water management district's

1 action on the proposed interdistrict transfer and use of  
2 groundwater. The department shall issue a notice of its  
3 intended action. Any substantially affected person who  
4 requested review pursuant to paragraph (6)(a) may request an  
5 administrative hearing pursuant to chapter 120 within 14 days  
6 after notice of the department's intended action. The parties  
7 to such proceeding shall include, at a minimum, the affected  
8 water management districts and the applicant. The proceedings  
9 initiated by a petition under ss. 120.569 and 120.57,  
10 following the department's issuance of a notice of intended  
11 agency action, is the exclusive proceeding authorized for the  
12 review of agency action on the interdistrict transfer and use  
13 of groundwater. This procedure is to give effect to the  
14 legislative intent that this section provide a single,  
15 efficient, simplified, coordinated permitting process for the  
16 interdistrict transfer and use of groundwater.

17 (8) The department shall issue a final order which is  
18 subject to review pursuant to s. 120.68 or s. 373.114.

19 (9) In administering this part, the department or the  
20 water management districts may enter into interagency  
21 agreements. However, such agreements are not subject to the  
22 provisions of s. 373.046 and chapter 120.

23 (10) The state hereby preempts any regulation of the  
24 interdistrict transfer and use of groundwater. If any  
25 provision of this section is in conflict with any other  
26 provision or restriction under any law, administrative rule,  
27 or ordinance, this section shall govern and such law, rule, or  
28 ordinance shall be deemed superseded for the purposes of this  
29 section. A water management district or the department may  
30 not adopt special rules which prohibit or restrict  
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1 interdistrict transfer and use of groundwater in a manner  
2 inconsistent with this section.

3 ~~(11) Any applicant who has submitted an application~~  
4 ~~for interdistrict transfer and use of groundwater which is~~  
5 ~~pending on July 11, 1987, may have the application considered~~  
6 ~~pursuant to this section. New permits are not required for~~  
7 ~~interdistrict transfers existing on July 11, 1987, for the~~  
8 ~~duration of the permits issued for such uses.~~

9 (11)~~(12)~~ If, after the final order of the department  
10 or final agency action under this section, the proposed use of  
11 the site designated in the application for groundwater  
12 production, treatment, or transmission facilities does not  
13 conform with the existing zoning ordinances, a rezoning  
14 application may be submitted. If local authorities deny the  
15 application for rezoning, the applicant may appeal this  
16 decision to the Land and Water Adjudicatory Commission, which  
17 shall authorize a variance or nonconforming use to the  
18 existing comprehensive plan and zoning ordinances, unless the  
19 commission determines after notice and hearing that such  
20 variance or nonconforming use is contrary to the public  
21 interest.

22 (12)~~(13)~~ The permit required under this section and  
23 other sections of this chapter and chapter 403 are the sole  
24 permits required for interdistrict transfer and use of  
25 groundwater, and such permits are in lieu of any license,  
26 permit, or similar document required by any state agency or  
27 political subdivision pursuant to chapter 163, chapter 380, or  
28 chapter 381, and the Florida Transportation Code.

29 (13)~~(14)~~ When a consumptive use permit under this  
30 section is granted for water use beyond the boundaries of a  
31 local government from which or through which the groundwater

1 is withdrawn or transferred and a local government denies a  
2 permit required under chapter 125 or chapter 153 for a  
3 facility or any infrastructure which produces, treats,  
4 transmits, or distributes such groundwater, the person or unit  
5 of government applying for the permit under chapter 125 or  
6 chapter 153 may appeal the denial to the Land and Water  
7 Adjudicatory Commission. The commission shall review the local  
8 government action for consistency with this chapter and the  
9 interdistrict groundwater transfer permit and may reverse,  
10 modify, or approve the local government's action.

11 Section 2. This act shall take effect upon becoming a  
12 law.

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15 SENATE SUMMARY

16 Repeals an obsolete provision relating to applications  
17 for the transfer and use of groundwater between water  
18 management districts.  
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