

By Representative Argenio

1 A bill to be entitled
2 An act relating to the South Florida Water
3 Management District; amending s. 373.1501,
4 F.S.; providing definitions; providing
5 legislative findings and intent; providing for
6 acquisition of certain lands by eminent domain
7 by the South Florida Water Management District;
8 providing for state funds to be used for
9 acquisition; requiring land to be acquired in
10 accordance with state condemnation law;
11 amending s. 259.105, F.S.; authorizing
12 expenditure of Florida Forever funds for
13 acquisition of certain lands; amending s.
14 373.026, F.S.; conforming cross references;
15 authorizing the Board of Trustees of the
16 Internal Improvement Trust Fund to acquire
17 certain lands from funds in the Conservation
18 and Recreation Land Trust Fund and the Save Our
19 Rivers Trust Fund, to be managed by the South
20 Florida Water Management District; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 373.1501, Florida Statutes, is
26 amended to read:

27 373.1501 South Florida Water Management District as
28 local sponsor.--

29 (1) As used in this section and s. 373.026(8), the
30 term:

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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) "Pal-Mar Project" means the acquisition of lands
14 known as the Pal-Mar Lands, adjacent or contiguous with lands
15 adjacent to the St. Lucie River for the purpose of
16 establishing an overflow basin for the river resulting from
17 the release of waters from Lake Okeechobee into the St. Lucie
18 River.

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

21 (g)~~(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 (h)~~(g)~~ "Restudy" means the Comprehensive Review Study
26 of 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 which will result in
2 recommendations for modifications or additions to the Central
3 and Southern Florida Project.

4 (i)~~(h)~~ "Water Preserve Areas" means those areas
5 located 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 (j)~~(i)~~ "Ten Mile Creek Project" means the Ten Mile
10 Creek Water Preserve Area identified in the Central and
11 Southern Florida Ecosystem Critical Project Letter Report
12 dated April 13, 1998.

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

26 (3) The Legislature declares that the Kissimmee River
27 Project, the Ten Mile Creek Project, the Water Preserve Areas,
28 and the C-111 Project are in the public interest, for a public
29 purpose, and necessary for the public health and welfare. The
30 governing board of the district is empowered and authorized to
31 acquire fee title or easement by eminent domain for the

1 limited purposes of implementing the Kissimmee River Project,
2 the Ten Mile Creek Project, the Water Preserve Areas, and the
3 C-111 Project. Any acquisition of real property, including by
4 eminent domain, for those objectives constitutes a public
5 purpose for which it is in the public interest to expend
6 public funds. Notwithstanding any provision of law to the
7 contrary, such properties shall not be removed from the
8 district's plan of acquisition, and the use of state funds for
9 these properties is authorized. In the absence of willing
10 sellers, any land necessary for implementing the projects in
11 this subsection shall be acquired in accordance with state
12 condemnation law pursuant to chapters 73 and 74.

13 (4) The Legislature declares that the Pal-Mar Project
14 is in the public interest, for a public purpose, and necessary
15 for the public health and welfare. Notwithstanding any
16 provision of law to the contrary, the governing board of the
17 district is empowered and authorized to acquire fee title or
18 easement by eminent domain for the limited purposes of
19 implementing the Pal-Mar Project. Any acquisition of real
20 property, including by eminent domain, for those objectives
21 constitutes a public purpose for which it is in the public
22 interest to expend public funds. Notwithstanding any provision
23 of law to the contrary, such properties shall not be removed
24 from the district's plan of acquisition, and the use of state
25 funds for these properties is authorized. In the absence of
26 willing sellers, any land necessary for implementing the
27 Pal-Mar Project shall be acquired in accordance with state
28 condemnation law pursuant to chapters 73 and 74.

29 ~~(5)~~(4) The district is authorized to act as local
30 sponsor of the project for those project features within the
31 district as provided in this subsection and subject to the

1 oversight of the department as further provided in s. 373.026.
2 The district may:
3 (a) Act as local sponsor for all project features
4 previously authorized by Congress;
5 (b) Continue data gathering, analysis, research, and
6 design of project components, participate in preconstruction
7 engineering and design documents for project components, and
8 further refine the Comprehensive Plan of the restudy as a
9 guide and framework for identifying other project components;
10 (c) Construct pilot projects that will assist in
11 determining the feasibility of technology included in the
12 Comprehensive Plan of the restudy; and
13 (d) Act as local sponsor for project components.
14 (6)~~(5)~~ In its role as local sponsor for the project,
15 the district shall comply with its responsibilities under this
16 chapter and implement project components through appropriate
17 provisions of this chapter. In the development of project
18 components, the district shall:
19 (a) Analyze and evaluate all needs to be met in a
20 comprehensive manner and consider all applicable water
21 resource issues, including water supply, water quality, flood
22 protection, threatened and endangered species, and other
23 natural system and habitat needs;
24 (b) Determine with reasonable certainty that all
25 project components are feasible based upon standard
26 engineering practices and technologies and are the most
27 efficient and cost-effective of feasible alternatives or
28 combination of alternatives, consistent with restudy purposes,
29 implementation of project components, and operation of the
30 project;
31

1 (c) Determine with reasonable certainty that all
2 project components are consistent with applicable law and
3 regulations, and can be permitted and operated as proposed.
4 For purposes of such determination:
5 1. The district shall convene a preapplication
6 conference with all state and federal agencies with applicable
7 regulatory jurisdiction;
8 2. State agencies with applicable regulatory
9 jurisdiction shall participate in the preapplication
10 conference and provide information necessary for the
11 district's determination; and
12 3. The district shall request that federal agencies
13 with applicable regulatory jurisdiction participate in the
14 preapplication conference and provide information necessary
15 for the district's determination;
16 (d) Consistent with this chapter, the purposes for the
17 restudy provided in the Water Resources Development Act of
18 1996, and other applicable federal law, provide reasonable
19 assurances that the quantity of water available to existing
20 legal users shall not be diminished by implementation of
21 project components so as to adversely impact existing legal
22 users, that existing levels of service for flood protection
23 will not be diminished outside the geographic area of the
24 project component, and that water management practices will
25 continue to adapt to meet the needs of the restored natural
26 environment.
27 (e) Ensure that implementation of project components
28 is coordinated with existing utilities and public
29 infrastructure and that impacts to and relocation of existing
30 utility or public infrastructure are minimized.
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1 (7)~~(6)~~ The department and the district shall
2 expeditiously pursue implementation of project modifications
3 previously authorized by Congress or the Legislature,
4 including the Everglades Construction Project. Project
5 components should complement and should not delay project
6 modifications previously authorized.

7 (8)~~(7)~~ Notwithstanding any provision of this section,
8 nothing herein shall be construed to modify or supplant the
9 authority of the district or the department to prevent harm to
10 the water resources as provided in this chapter.

11 (9)~~(8)~~ Final agency action with regard to any project
12 component subject to s. 373.026(8)(b) shall be taken by the
13 department. Actions taken by the district pursuant to
14 subsection (5) shall not be considered final agency action.
15 Any petition for formal proceedings filed pursuant to ss.
16 120.569 and 120.57 shall require a hearing under the summary
17 hearing provisions of s. 120.574, which shall be mandatory.
18 The final hearing under this section shall be held within 30
19 days after receipt of the petition by the Division of
20 Administrative Hearings.

21 Section 2. Paragraph (a) of subsection (3) of section
22 259.105, Florida Statutes, is amended to read:

23 259.105 The Florida Forever Act.--

24 (3) Less the costs of issuing and the costs of funding
25 reserve accounts and other costs associated with bonds, the
26 proceeds of bonds issued pursuant to this section shall be
27 deposited into the Florida Forever Trust Fund created by s.
28 259.1051. The proceeds shall be distributed by the Department
29 of Environmental Protection in the following manner:

30 (a) Thirty-five percent to the Department of
31 Environmental Protection for the acquisition of lands and

1 capital project expenditures necessary to implement the water
2 management districts' priority lists developed pursuant to s.
3 373.199. The funds are to be distributed to the water
4 management districts as provided in subsection (11). A
5 minimum of 50 percent of the total funds provided over the
6 life of the Florida Forever program pursuant to this paragraph
7 shall be used for the acquisition of lands. Funds received by
8 the South Florida Water Management District may also be used
9 for the acquisition of lands authorized by s. 373.1501(4).

10 Section 3. Paragraph (b) of subsection (8) of section
11 373.026, Florida Statutes, is amended to read:

12 373.026 General powers and duties of the
13 department.--The department, or its successor agency, shall be
14 responsible for the administration of this chapter at the
15 state level. However, it is the policy of the state that, to
16 the greatest extent possible, the department may enter into
17 interagency or interlocal agreements with any other state
18 agency, any water management district, or any local government
19 conducting programs related to or materially affecting the
20 water resources of the state. All such agreements shall be
21 subject to the provisions of s. 373.046. In addition to its
22 other powers and duties, the department shall, to the greatest
23 extent possible:

24 (8)

25 (b) To ensure to the greatest extent possible that
26 project components will go forward as planned, the department
27 shall collaborate with the district in the restudy. Before
28 any project component is submitted to Congress for
29 authorization or receives an additional appropriation of state
30 funds, the department must approve, or approve with
31 amendments, each project component within 60 days following

