

By Senator Constantine

9-835-01

1 A bill to be entitled
 2 An act relating to water management; creating
 3 s. 373.1502, F.S.; creating the Comprehensive
 4 Everglades Restoration Plan Regulation Act;
 5 providing an expedited permitting program for
 6 project components as part of the comprehensive
 7 plan; amending s. 373.026, F.S.; providing that
 8 state funds for land purchases are authorized
 9 if contained within the Florida Forever Water
 10 Management District Work Plan; amending s.
 11 373.470, F.S.; revising the due date for the
 12 annual comprehensive plan report; amending s.
 13 403.088, F.S.; providing standards for the
 14 permitting of construction, operation, and
 15 maintenance of facilities in the South Florida
 16 ecosystem; providing an effective date.

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

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 20 Section 1. Section 373.1502, Florida Statutes, is
 21 created to read:

22 373.1502 Regulation of comprehensive plan project
 23 components.--

24 (1) SHORT TITLE.--This section may be cited as the
 25 "Comprehensive Everglades Restoration Plan Regulation Act."

26 (2) FINDINGS; INTENT.--

27 (a) The Legislature finds that implementation of the
 28 comprehensive plan, as defined in s. 373.470(2)(a), is in the
 29 public interest and is necessary for achieving the
 30 water-related needs of South Florida, including water quality,
 31 water supply, flood protection, and natural systems.

1 (b) The Legislature intends to provide efficient and
2 effective permitting of project components, taking into
3 account all other statutory responsibilities the department
4 and the South Florida Water Management District are required
5 to consider.

6 (3) REGULATION OF COMPREHENSIVE PLAN STRUCTURES AND
7 FACILITIES.--

8 (a) This subsection applies to all project components
9 identified in the comprehensive plan unless the project
10 component is otherwise subject to ss. 373.4592, 373.4595, or
11 the department's rules on reuse of reclaimed water. Permits
12 issued under this subsection are in lieu of all other permits
13 required under this chapter or chapter 403, except for permits
14 issued under any delegated or approved federal program.

15 (b) The department shall issue a permit for a term of
16 5 years for the construction, operation, modification, or
17 maintenance of a project component upon submission of a
18 complete permit application. If the department is the entity
19 responsible for the construction, operation, modification, or
20 maintenance of any individual project component, the district
21 shall act on the department's permit application under this
22 subsection. The permit application must provide reasonable
23 assurances that:

24 1. The project component will achieve the design
25 objectives set forth in the detailed design documents
26 submitted as part of the application.

27 2. Operation of the project component will meet state
28 water quality standards to the maximum extent practicable. If
29 state water quality standards will not be met, operation of
30 the project component must result in equal or better water
31 quality.

1 3. Discharges from the project component will not pose
2 a serious danger to public health, safety, or welfare.

3 4. Any impacts to wetlands or threatened or endangered
4 species resulting from implementation of the project component
5 will be minimized and mitigated as appropriate.

6 (c) Construction activities for comprehensive plan
7 project components may be initiated upon submission of a
8 complete permit application but before final agency action or
9 notice of intended agency action. However, a permit must be
10 obtained before the commencement or modification of operation.

11 (d) Permits issued under this subsection must contain
12 reasonable conditions to ensure that water quality resulting
13 from construction and operation of project components is
14 adequately and accurately monitored.

15 (e) Permits issued under this subsection may:

16 1. Authorize construction, operation, modification,
17 and maintenance of individual or multiple project components
18 under a single permit;

19 2. Include any standard conditions provided by
20 department rule which are appropriate and consistent with this
21 subsection; or

22 3. Establish reporting requirements that are
23 consolidated with other reports if all reporting requirements
24 are met.

25 (f) The permitting entity shall require a processing
26 fee in an amount sufficient to cover the costs of reviewing
27 and acting upon any application for a permit under this
28 section and to cover the costs of surveillance and other field
29 services and related support activities associated with any
30 permit issued under this section.

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1 (g) At least 60 days before the expiration of any
2 permit issued under this subsection, the permittee may apply
3 for a renewal for a term of 5 years. Such submittals are
4 considered timely and sufficient under s. 120.60(4). Permits
5 issued under this subsection may be modified upon review and
6 approval by the department or district, as appropriate.

7 Section 2. Paragraph (c) of subsection (8) of section
8 373.026, Florida Statutes, is amended to read:

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

21 (8)

22 (c) Notwithstanding paragraph (b), the use of state
23 funds for land purchases from willing sellers is authorized
24 for projects within the district's approved 5-year plan of
25 acquisition pursuant to s. 373.59 or within the South Florida
26 Water Management District's approved Florida Forever Water
27 Management District Work Plan pursuant to s. 373.199.

28 Section 3. Subsection (7) of section 373.470, Florida
29 Statutes, is amended to read:

30 373.470 Everglades restoration.--

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1 (7) ANNUAL REPORT.--To provide enhanced oversight of
2 and accountability for the financial commitments established
3 under this section and the progress made in the implementation
4 of the comprehensive plan, the following information must be
5 prepared annually:

6 (a) The district, in cooperation with the department,
7 shall provide the following information as it relates to
8 implementation of the comprehensive plan:

9 1. An identification of funds, by source and amount,
10 received by the state and by each local sponsor during the
11 fiscal year.

12 2. An itemization of expenditures, by source and
13 amount, made by the state and by each local sponsor during the
14 fiscal year.

15 3. A description of the purpose for which the funds
16 were expended.

17 4. The unencumbered balance of funds remaining in
18 trust funds or other accounts designated for implementation of
19 the comprehensive plan.

20 5. A schedule of anticipated expenditures for the next
21 fiscal year.

22 (b) The department shall prepare a detailed report on
23 all funds expended by the state and credited toward the
24 state's share of funding for implementation of the
25 comprehensive plan. The report shall include:

26 1. A description of all expenditures, by source and
27 amount, from the Conservation and Recreation Lands Trust Fund,
28 the Land Acquisition Trust Fund, the Preservation 2000 Trust
29 Fund, the Florida Forever Trust Fund, the Save Our Everglades
30 Trust Fund, and other named funds or accounts for the
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1 acquisition or construction of project components or other
2 features or facilities that benefit the comprehensive plan.

3 2. A description of the purposes for which the funds
4 were expended.

5 3. The unencumbered fiscal-year-end balance that
6 remains in each trust fund or account identified in
7 subparagraph 1.

8 (c) The district, in cooperation with the department,
9 shall provide a detailed report on progress made in the
10 implementation of the comprehensive plan, including the status
11 of all project components initiated after the effective date
12 of this act or the date of the last report prepared under this
13 subsection, whichever is later.

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15 The information required in paragraphs (a), (b), and (c) shall
16 be provided annually in a single report to the Governor, the
17 President of the Senate, and the Speaker of the House of
18 Representatives, and copies of the report must be made
19 available to the public. The initial report is due by November
20 30, 2000, and each annual report thereafter is due by January
21 31 ~~November 30~~.

22 Section 4. Paragraph (g) of subsection (2) of section
23 403.088, Florida Statutes, is amended to read:

24 403.088 Water pollution operation permits;
25 conditions.--

26 (2)

27 (g) The Legislature finds that the restoration of the
28 South Florida ecosystem ~~Everglades Protection Area, including~~
29 ~~the construction, operation, and maintenance of stormwater~~
30 ~~treatment areas (STAs)~~ is in the public interest. Accordingly,
31 whenever a facility to be constructed, operated, or maintained

1 in accordance with s. 373.1501, s. 373.1502, s. 373.4595, or
2 s. 373.4592 is subjected to permitting requirements pursuant
3 to chapter 373 or this chapter, and the issuance of the
4 initial permit for a new source, a new discharger, or a
5 recommencing discharger is subjected to a request for hearing
6 pursuant to s. 120.569, the administrative law judge may, upon
7 motion by the permittee, issue a recommended order to the
8 secretary who, within 5 days, shall issue an order authorizing
9 the interim construction, operation, and maintenance of the
10 facility if it complies with all uncontested conditions of the
11 proposed permit and all other conditions recommended by the
12 administrative law judge during the period until the final
13 agency action on the permit.

14 1. An order authorizing such interim construction,
15 operation, and maintenance shall be granted if requested by
16 motion and no party opposes it.

17 2. If a party to the administrative hearing pursuant
18 to ss. 120.569 and 120.57 opposes the motion, the
19 administrative law judge shall issue a recommended order
20 granting the motion if the administrative law judge finds
21 that:

22 a. The facility is likely to receive the permit; and

23 b. The environment will not be irreparably harmed by
24 the construction, operation, or maintenance of the facility
25 pending final agency action on the permit.

26 3. Prior to granting a contested motion for interim
27 construction, operation, or maintenance of a facility
28 regulated or otherwise permitted ~~authorized~~ by s. 373.1501, s.
29 373.1502, s. 373.4595, or s. 373.4592, the administrative law
30 judge shall conduct a hearing using the summary hearing
31 process defined in s. 120.574, which shall be mandatory for

1 motions made pursuant to this paragraph. Notwithstanding the
2 provisions of s. 120.574(1), summary hearing proceedings for
3 these facilities shall begin within 30 days of the motion made
4 by the permittee. Within 15 days of the conclusion of the
5 summary proceeding, the administrative law judge shall issue a
6 recommended order either denying or approving interim
7 construction, operation, or maintenance of the facility, which
8 shall be submitted to the secretary who shall within 5 days
9 thereafter, enter an order granting or denying interim
10 construction operation or maintenance of the facility. The
11 order shall remain in effect until final agency action is
12 taken on the permit.

13 Section 5. This act shall take effect upon becoming a
14 law.

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17 SENATE SUMMARY

18 Creates the Comprehensive Everglades Restoration Plan
19 Regulation Act providing an expedited permitting program
20 for project components. Authorizes the use of state funds
21 for land purchases contained in the Florida Forever Water
22 Management District Plan. Revises the due date for the
23 annual comprehensive plan report. Provides standards for
24 permitting of construction, operation, and maintenance of
25 facilities in the South Florida ecosystem.
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