

By the Committee on Natural Resources and Senator Constantine

312-1632-01

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 restoring, preserving,
30 and protecting the south Florida ecosystem, providing for the
31 protection of water quality in and the reduction of the loss

1 of fresh water from the Everglades, and providing such
2 features as are necessary to meet the other water-related
3 needs of the region, including flood control, the enhancement
4 of water supplies, and other objectives served by the project.

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

10 (3) REGULATION OF COMPREHENSIVE PLAN STRUCTURES AND
11 FACILITIES.--

12 (a) This subsection applies to all project components,
13 as defined in s. 373.1501, identified in the comprehensive
14 plan unless the project component is otherwise subject to ss.
15 373.4592, 373.4595, or the department's rules on reuse of
16 reclaimed water. Permits issued under this subsection are in
17 lieu of all other permits required under this chapter or
18 chapter 403, except for permits issued under any delegated or
19 approved federal program.

20 (b) The department shall issue a permit for a term of
21 5 years for the construction, operation, modification, or
22 maintenance of a project component based on the criteria set
23 forth in this section. If the department is the entity
24 responsible for the construction, operation, modification, or
25 maintenance of any individual project component, the district
26 shall issue a permit for a term of 5 years based on the
27 criteria set forth in this section. The permit application
28 must provide reasonable assurances that:

29 1. The project component will achieve the design
30 objectives set forth in the detailed design documents
31 submitted as part of the application.

1 2. State water quality standards will be met to the
2 maximum extent practicable. Under no circumstances shall the
3 project component cause or contribute to violation of state
4 water quality standards.

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

7 4. Any impacts to wetlands or threatened or endangered
8 species resulting from implementation of the project component
9 will be avoided, minimized and mitigated as appropriate.

10 (c) Construction activities for comprehensive plan
11 project components may be initiated upon submission of a
12 permit application and completion of the department's approval
13 under s. 373.1501, but before final agency action or notice of
14 intended agency action. However, a permit must be obtained
15 before the commencement or modification of operation.

16 (d) Permits issued under this subsection must contain
17 reasonable conditions to ensure that water quality resulting
18 from construction and operation of project components is
19 adequately and accurately monitored.

20 (e) Permits issued under this subsection may:

21 1. Authorize construction, operation, modification,
22 and maintenance of individual or multiple project components
23 under a single permit;

24 2. Include any standard conditions provided by
25 department rule which are appropriate and consistent with this
26 subsection; or

27 3. Establish reporting requirements that are
28 consolidated with other reports if all reporting requirements
29 are met.

30 (f) The permitting entity shall require a processing
31 fee in an amount sufficient to cover the costs of reviewing

1 and acting upon any application for a permit under this
2 section and to cover the costs of surveillance associated with
3 any permit issued under this section.

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

10 Section 2. Paragraph (c) 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 (c) Notwithstanding paragraph (b), the use of state
26 funds for land purchases from willing sellers is authorized
27 for projects within the district's approved 5-year plan of
28 acquisition pursuant to s. 373.59 or within the South Florida
29 Water Management District's approved Florida Forever Water
30 Management District Work Plan pursuant to s. 373.199.

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

3 373.470 Everglades restoration.--

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

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

12 1. An identification of funds, by source and amount,
13 received by the state and by each local sponsor during the
14 fiscal year.

15 2. An itemization of expenditures, by source and
16 amount, made by the state and by each local sponsor during the
17 fiscal year.

18 3. A description of the purpose for which the funds
19 were expended.

20 4. The unencumbered balance of funds remaining in
21 trust funds or other accounts designated for implementation of
22 the comprehensive plan.

23 5. A schedule of anticipated expenditures for the next
24 fiscal year.

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

29 1. A description of all expenditures, by source and
30 amount, from the Conservation and Recreation Lands Trust Fund,
31 the Land Acquisition Trust Fund, the Preservation 2000 Trust

1 Fund, the Florida Forever Trust Fund, the Save Our Everglades
2 Trust Fund, and other named funds or accounts for the
3 acquisition or construction of project components or other
4 features or facilities that benefit the comprehensive plan.

5 2. A description of the purposes for which the funds
6 were expended.

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

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

16
17 The information required in paragraphs (a), (b), and (c) shall
18 be provided annually in a single report to the Governor, the
19 President of the Senate, and the Speaker of the House of
20 Representatives, and copies of the report must be made
21 available to the public. The initial report is due by November
22 30, 2000, and each annual report thereafter is due by January
23 31 ~~November 30~~.

24 Section 4. Paragraph (g) of subsection (2) of section
25 403.088, Florida Statutes, is amended to read:

26 403.088 Water pollution operation permits;
27 conditions.--

28 (2)

29 (g) The Legislature finds that the restoration of the
30 South Florida ecosystem ~~Everglades Protection Area, including~~
31 ~~the construction, operation, and maintenance of stormwater~~

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

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

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

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

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

28 3. Prior to granting a contested motion for interim
29 construction, operation, or maintenance of a facility
30 regulated or otherwise permitted ~~authorized~~ by s. 373.1501, s.
31 373.1502, s. 373.4595, or s. 373.4592, the administrative law

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

15 Section 5. This act shall take effect upon becoming a
16 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1524

4 Committee Substitute for SB 1524 contains the following
5 changes:

- 6 - The Legislature's findings and intent have been modified
7 regarding the implementation of the comprehensive plan
8 to specify that it is necessary for restoring,
9 preserving, and protecting the south Florida ecosystem,
10 providing for the protection of water quality in and the
11 reduction of the loss of fresh water from the
12 Everglades, and providing such features as are necessary
13 to meet the other water-related needs of the region,
14 including flood control, the enhancement of water
15 supplies, and other objectives served by the project.
- 16 - Project components are defined as set out in s.
17 373.1501, F.S.
- 18 - The CS clarifies that the DEP will issue five-year
19 permits based on the criteria set out in s. 373.1502,
20 F.S.
- 21 - The CS prohibits a project component from causing or
22 contributing to violation of state water quality
23 standards.
- 24 - Impacts to wetlands or listed species are to be avoided
25 wherever possible.
- 26 - Construction activities for CERP project components may
27 be initiated upon submission of a permit application and
28 completion of the DEP's approval under s. 373.1501, F.S.