

By Senators Brown-Waite and Constantine

10-356C-02

1                                   A bill to be entitled  
2           An act relating to water-supply policy;  
3           amending s. 163.3177, F.S.; requiring local  
4           governments to consider the water management  
5           district's regional water supply plans in the  
6           potable-water element; amending s. 163.3191,  
7           F.S., relating to evaluation and appraisal of  
8           comprehensive plans; requiring an evaluation of  
9           the availability of potable water and whether  
10          future water-supply-development needs are  
11          addressed in the capital-improvements element;  
12          amending s. 403.064, F.S.; requiring the reuse  
13          of reclaimed water when feasible; requiring the  
14          dissemination of public information regarding  
15          the status of major water sources; amending s.  
16          403.1835, F.S.; providing for below-market  
17          interest rate loans to qualified entities;  
18          repealing s. 373.498, F.S., relating to  
19          disbursements from the water resources  
20          development account; amending s. 367.022, F.S.;  
21          providing an exemption from regulation by the  
22          Florida Public Service Commission for certain  
23          water suppliers who provide nonpotable water  
24          for fireflow; repealing s. 403.804(3), F.S.,  
25          relating to obsolete provisions concerning  
26          grants for water and wastewater facilities;  
27          providing an effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:  
30  
31

1           Section 1. Subsection (4) and paragraphs (c), (d), and  
2 (h) of subsection (6) of section 163.3177, Florida Statutes,  
3 are amended to read:

4           163.3177 Required and optional elements of  
5 comprehensive plan; studies and surveys.--

6           (4)(a) Coordination of the local comprehensive plan  
7 with the comprehensive plans of adjacent municipalities, the  
8 county, adjacent counties, or the region; with the appropriate  
9 water management district's regional water supply plans  
10 approved pursuant to s. 373.0361;with adopted rules  
11 pertaining to designated areas of critical state concern; and  
12 with the state comprehensive plan shall be a major objective  
13 of the local comprehensive planning process. To that end, in  
14 the preparation of a comprehensive plan or element thereof,  
15 and in the comprehensive plan or element as adopted, the  
16 governing body shall include a specific policy statement  
17 indicating the relationship of the proposed development of the  
18 area to the comprehensive plans of adjacent municipalities,  
19 the county, adjacent counties, or the region and to the state  
20 comprehensive plan, as the case may require and as such  
21 adopted plans or plans in preparation may exist.

22           (b) When all or a portion of the land in a local  
23 government jurisdiction is or becomes part of a designated  
24 area of critical state concern, the local government shall  
25 clearly identify those portions of the local comprehensive  
26 plan that shall be applicable to the critical area and shall  
27 indicate the relationship of the proposed development of the  
28 area to the rules for the area of critical state concern.

29           (6) In addition to the requirements of subsections  
30 (1)-(5), the comprehensive plan shall include the following  
31 elements:

1           (c) A general sanitary sewer, solid waste, drainage,  
2 potable water, and natural groundwater aquifer recharge  
3 element correlated to principles and guidelines for future  
4 land use, indicating ways to provide for future potable water,  
5 drainage, sanitary sewer, solid waste, and aquifer recharge  
6 protection requirements for the area. The element may be a  
7 detailed engineering plan including a topographic map  
8 depicting areas of prime groundwater recharge. The element  
9 shall describe the problems and needs and the general  
10 facilities that will be required for solution of the problems  
11 and needs. The element shall also include a topographic map  
12 depicting any areas adopted by a regional water management  
13 district as prime groundwater recharge areas for the Floridan  
14 or Biscayne aquifers, pursuant to s. 373.0395. These areas  
15 shall be given special consideration when the local government  
16 is engaged in zoning or considering future land use for said  
17 designated areas. For areas served by septic tanks, soil  
18 surveys shall be provided which indicate the suitability of  
19 soils for septic tanks. By January 1, 2005, or the Evaluation  
20 and Appraisal Report adoption deadline established for the  
21 local government pursuant to s. 163.3191(a), whichever date  
22 occurs first, the element must consider the appropriate water  
23 management district's regional water supply plan approved  
24 pursuant to s. 373.0361. The element must include a work plan,  
25 covering at least a 10-year planning period, for building any  
26 water supply facilities that are identified in the element as  
27 necessary to serve existing and new development and for which  
28 the local government is responsible.

29           (d) A conservation element for the conservation, use,  
30 and protection of natural resources in the area, including  
31 air, water, water recharge areas, wetlands, waterwells,

1 estuarine marshes, soils, beaches, shores, flood plains,  
2 rivers, bays, lakes, harbors, forests, fisheries and wildlife,  
3 marine habitat, minerals, and other natural and environmental  
4 resources. Local governments shall assess their current, as  
5 well as projected, water needs and sources for at least a  
6 10-year period, considering the appropriate regional water  
7 supply plan approved pursuant to s. 373.0361 or the district  
8 water management plan adopted pursuant to s. 373.036(2), in  
9 the absence of an approved regional water supply plan. This  
10 information shall be submitted to the appropriate agencies.  
11 The land use map or map series contained in the future land  
12 use element shall generally identify and depict the following:

- 13 1. Existing and planned waterwells and cones of  
14 influence where applicable.
- 15 2. Beaches and shores, including estuarine systems.
- 16 3. Rivers, bays, lakes, flood plains, and harbors.
- 17 4. Wetlands.
- 18 5. Minerals and soils.

19  
20 The land uses identified on such maps shall be consistent with  
21 applicable state law and rules.

22 (h)1. An intergovernmental coordination element  
23 showing relationships and stating principles and guidelines to  
24 be used in the accomplishment of coordination of the adopted  
25 comprehensive plan with the plans of school boards and other  
26 units of local government providing services but not having  
27 regulatory authority over the use of land, with the  
28 comprehensive plans of adjacent municipalities, the county,  
29 adjacent counties, or the region, ~~and~~ with the state  
30 comprehensive plan, and with the applicable regional water  
31 supply plan approved pursuant to s. 373.0361, as the case may

1 require and as such adopted plans or plans in preparation may  
2 exist. This element of the local comprehensive plan shall  
3 demonstrate consideration of the particular effects of the  
4 local plan, when adopted, upon the development of adjacent  
5 municipalities, the county, adjacent counties, or the region,  
6 or upon the state comprehensive plan, as the case may require.

7         a. The intergovernmental coordination element shall  
8 provide for procedures to identify and implement joint  
9 planning areas, especially for the purpose of annexation,  
10 municipal incorporation, and joint infrastructure service  
11 areas.

12         b. The intergovernmental coordination element shall  
13 provide for recognition of campus master plans prepared  
14 pursuant to s. 240.155.

15         c. The intergovernmental coordination element may  
16 provide for a voluntary dispute resolution process as  
17 established pursuant to s. 186.509 for bringing to closure in  
18 a timely manner intergovernmental disputes. A local  
19 government may develop and use an alternative local dispute  
20 resolution process for this purpose.

21         2. The intergovernmental coordination element shall  
22 further state principles and guidelines to be used in the  
23 accomplishment of coordination of the adopted comprehensive  
24 plan with the plans of school boards and other units of local  
25 government providing facilities and services but not having  
26 regulatory authority over the use of land. In addition, the  
27 intergovernmental coordination element shall describe joint  
28 processes for collaborative planning and decisionmaking on  
29 population projections and public school siting, the location  
30 and extension of public facilities subject to concurrency, and  
31 siting facilities with countywide significance, including

1 locally unwanted land uses whose nature and identity are  
2 established in an agreement. Within 1 year of adopting their  
3 intergovernmental coordination elements, each county, all the  
4 municipalities within that county, the district school board,  
5 and any unit of local government service providers in that  
6 county shall establish by interlocal or other formal agreement  
7 executed by all affected entities, the joint processes  
8 described in this subparagraph consistent with their adopted  
9 intergovernmental coordination elements.

10           3. To foster coordination between special districts  
11 and local general-purpose governments as local general-purpose  
12 governments implement local comprehensive plans, each  
13 independent special district must submit a public facilities  
14 report to the appropriate local government as required by s.  
15 189.415.

16           4. The state land planning agency shall establish a  
17 schedule for phased completion and transmittal of plan  
18 amendments to implement subparagraphs 1., 2., and 3. from all  
19 jurisdictions so as to accomplish their adoption by December  
20 31, 1999. A local government may complete and transmit its  
21 plan amendments to carry out these provisions prior to the  
22 scheduled date established by the state land planning agency.  
23 The plan amendments are exempt from the provisions of s.  
24 163.3187(1).

25           Section 2. Paragraph (1) is added to subsection (2) of  
26 section 163.3191, Florida Statutes, to read:

27           163.3191 Evaluation and appraisal of comprehensive  
28 plan.--

29           (2) The report shall present an evaluation and  
30 assessment of the comprehensive plan and shall contain  
31 appropriate statements to update the comprehensive plan,

1 including, but not limited to, words, maps, illustrations, or  
2 other media, related to:

3 (1) The appropriate water management district's  
4 regional water supply plan approved pursuant to s. 373.0361.  
5 The potable water element must be revised to include a work  
6 plan, covering at least a 10-year planning period for building  
7 any water supply facilities that are identified in the element  
8 as necessary to serve existing and new development and for  
9 which the local government is responsible.

10 Section 3. Section 403.064, Florida Statutes, is  
11 amended to read:

12 403.064 Reuse of reclaimed water.--

13 (1) The encouragement and promotion of water  
14 conservation, and reuse of reclaimed water, as defined by the  
15 department, are state objectives and are considered to be in  
16 the public interest. The Legislature finds that the reuse of  
17 reclaimed water is a critical component of meeting the state's  
18 existing and future water supply needs while sustaining  
19 natural systems.The Legislature further finds that for those  
20 wastewater treatment plants permitted and operated under an  
21 approved reuse program by the department, the reclaimed water  
22 shall be considered environmentally acceptable and not a  
23 threat to public health and safety.

24 (2) All applicants for permits to construct or operate  
25 a domestic wastewater treatment facility located within,  
26 serving a population located within, or discharging within a  
27 water resource caution area shall prepare a reuse feasibility  
28 study as part of their application for the permit. Reuse  
29 feasibility studies shall be prepared in accordance with  
30 department guidelines adopted by rule and shall include, but  
31 are not limited to:

1 (a) Evaluation of monetary costs and benefits for  
2 several levels and types of reuse.

3 (b) Evaluation of water savings if reuse is  
4 implemented.

5 (c) Evaluation of rates and fees necessary to  
6 implement reuse.

7 (d) Evaluation of environmental and water resource  
8 benefits associated with reuse.

9 (e) Evaluation of economic, environmental, and  
10 technical constraints.

11 (f) A schedule for implementation of reuse. The  
12 schedule shall consider phased implementation.

13 (3) The permit applicant shall prepare a plan of study  
14 for the reuse feasibility study consistent with the reuse  
15 feasibility study guidelines adopted by department rule. The  
16 plan of study shall include detailed descriptions of  
17 applicable treatment and water supply alternatives to be  
18 evaluated and the methods of analysis to be used. The plan of  
19 study shall be submitted to the department for review and  
20 approval.

21 ~~(4)(3)~~ The study required under subsection (2) shall  
22 be performed by the applicant, and the applicant shall  
23 determine the feasibility of reuse based upon the results of  
24 the study, applicant's determination of feasibility is final  
25 if the study complies with the requirements of subsections  
26 subsection (2) and (3).

27 ~~(5)(4)~~ A reuse feasibility study is not required if:

28 (a) The domestic wastewater treatment facility has an  
29 existing or proposed permitted or design capacity less than  
30 0.1 million gallons per day; or  
31



1 (b) The permitted reuse capacity equals or exceeds the  
2 total permitted capacity of the domestic wastewater treatment  
3 facility.

4 (6)~~(5)~~ A reuse feasibility study prepared under  
5 subsection (2) satisfies a water management district  
6 requirement to conduct a reuse feasibility study imposed on a  
7 local government or utility that has responsibility for  
8 wastewater management.

9 (7)~~(6)~~ Local governments may allow the use of  
10 reclaimed water for inside activities, including, but not  
11 limited to, toilet flushing, fire protection, and decorative  
12 water features, as well as for outdoor uses, provided the  
13 reclaimed water is from domestic wastewater treatment  
14 facilities which are permitted, constructed, and operated in  
15 accordance with department rules.

16 (8)~~(7)~~ Permits issued by the department for domestic  
17 wastewater treatment facilities shall be consistent with  
18 requirements for reuse included in applicable consumptive use  
19 permits issued by the water management district, if such  
20 requirements are consistent with department rules governing  
21 reuse of reclaimed water. This subsection applies only to  
22 domestic wastewater treatment facilities which are located  
23 within, or serve a population located within, or discharge  
24 within water resource caution areas and are owned, operated,  
25 or controlled by a local government or utility which has  
26 responsibility for water supply and wastewater management.

27 (9)~~(8)~~ Local governments may and are encouraged to  
28 implement programs for the reuse of reclaimed water. Nothing  
29 in this chapter shall be construed to prohibit or preempt such  
30 local reuse programs.

31

1           (10)~~(9)~~ A local government that implements a reuse  
2 program under this section shall be allowed to allocate the  
3 costs in a reasonable manner.

4           (11)~~(10)~~ Pursuant to chapter 367, the Florida Public  
5 Service Commission shall allow entities under its jurisdiction  
6 which conduct studies or implement reuse projects, including,  
7 but not limited to, any study required by subsection (2) or  
8 facilities used for reliability purposes for a reclaimed water  
9 reuse system, to recover the full, prudently incurred cost of  
10 such studies and facilities through their rate structure.

11           (12)~~(11)~~ In issuing consumptive use permits, the  
12 permitting agency shall consider the local reuse program.

13           (13)~~(12)~~ A local government shall require a developer,  
14 as a condition for obtaining a development order, to comply  
15 with the local reuse program.

16           (14)~~(13)~~ ~~If, After conducting a feasibility study~~  
17 ~~under subsection (2), an applicant determines that reuse of~~  
18 ~~reclaimed water is feasible, domestic wastewater treatment~~  
19 ~~facilities that dispose of effluent by Class I deep well~~  
20 ~~injection, as defined in 40 C.F.R. part 144.6(a), must~~  
21 ~~implement reuse according to the schedule for implementation~~  
22 ~~contained in the study conducted under subsection (2), to the~~  
23 ~~degree that reuse is determined feasible, based upon the~~  
24 applicant's reuse feasibility study. Applicable permits issued  
25 by the department shall be consistent with the requirements of  
26 this subsection.

27           (a) This subsection does not limit the use of a Class  
28 I deep well injection facility as backup for a reclaimed water  
29 reuse system.

30           (b) This subsection applies only to domestic  
31 wastewater treatment facilities located within, serving a

1 population located within, or discharging within a water  
2 resource caution area.

3 ~~(15)(14) If, After conducting a feasibility study~~  
4 ~~under subsection (2), an applicant determines that reuse of~~  
5 ~~reclaimed water is feasible,~~ domestic wastewater treatment  
6 facilities that dispose of effluent by surface water  
7 discharges or by land application methods must implement reuse  
8 ~~according to the schedule for implementation contained in the~~  
9 ~~study conducted under subsection (2),~~ to the degree that reuse  
10 is ~~determined~~ feasible, based upon the applicant's reuse  
11 feasibility study. This subsection does not apply to surface  
12 water discharges or land application systems which are  
13 currently categorized as reuse under department rules.

14 Applicable permits issued by the department shall be  
15 consistent with the requirements of this subsection.

16 (a) This subsection does not limit the use of a  
17 surface water discharge or land application facility as backup  
18 for a reclaimed water reuse system.

19 (b) This subsection applies only to domestic  
20 wastewater treatment facilities located within, serving a  
21 population located within, or discharging within a water  
22 resource caution area.

23 Section 4. As a result of ongoing drought conditions  
24 throughout the state and in order to aid in the development of  
25 a better understanding of this state's unique surface and  
26 ground water sources, it is the intent of the Legislature that  
27 the water management districts undertake a coordinated effort  
28 to develop an illustrative public service program that depicts  
29 the current status of major surface and ground water sources.  
30 This program must be designed to provide information  
31 concerning existing hydrologic conditions and appropriate

1 conservation measures. It is the intent of the Legislature  
2 that the districts develop partnerships with the local media  
3 to assist in the dissemination of this information. Further,  
4 it is the intent of the Legislature that this program be  
5 developed and made available no later than December 31, 2002.  
6 Beginning January 1, 2003, and on a regular basis, no less  
7 than every 6 months thereafter, the information developed  
8 pursuant to this section must be submitted to the appropriate  
9 legislative committees with substantive jurisdiction over the  
10 water management districts.

11 Section 5. Paragraph (b) of subsection (3) of section  
12 403.1835, Florida Statutes, is amended to read:

13 403.1835 Water pollution control financial  
14 assistance.--

15 (3) The department may provide financial assistance  
16 through any program authorized under s. 603 of the Federal  
17 Water Pollution Control Act (Clean Water Act), Pub. L. No.  
18 92-500, as amended, including, but not limited to, making  
19 grants and loans, providing loan guarantees, purchasing loan  
20 insurance or other credit enhancements, and buying or  
21 refinancing local debt. This financial assistance must be  
22 administered in accordance with this section and applicable  
23 federal authorities. The department shall administer all  
24 programs operated from funds secured through the activities of  
25 the Florida Water Pollution Control Financing Corporation  
26 under s. 403.1837, to fulfill the purposes of this section.

27 (b) The department may make or request the corporation  
28 to make loans, grants, and deposits to other entities eligible  
29 to participate in the financial assistance programs authorized  
30 under the Federal Water Pollution Control Act, or as a result  
31 of other federal action, which entities may pledge any revenue

1 available to them to repay any funds borrowed. Notwithstanding  
2 s. 18.10, the department may make deposits to financial  
3 institutions which earn less than the prevailing rate for  
4 United States Treasury securities with corresponding  
5 maturities for the purpose of enabling those financial  
6 institutions to make below-market interest rate loans to  
7 entities qualified to receive loans under this section and the  
8 rules of the department.

9 Section 6. Subsection (11) of section 367.022, Florida  
10 Statutes, is amended to read:

11 367.022 Exemptions.--The following are not subject to  
12 regulation by the commission as a utility nor are they subject  
13 to the provisions of this chapter, except as expressly  
14 provided:

15 (11) Any person providing only nonpotable water for  
16 irrigation or fireflow purposes in a geographic area where  
17 potable water service is available from a governmentally or  
18 privately owned utility or a private well.

19 Section 7. Section 373.498 and subsection (3) of  
20 section 403.804, Florida Statutes, are repealed.

21 Section 8. This act shall take effect upon becoming a  
22 law.

23  
24 \*\*\*\*\*

25 SENATE SUMMARY

26 Requires local governments to consider water-supply data  
27 and analysis in the potable-water element and  
28 capital-improvements element of the local government  
29 comprehensive plan. Requires the use of reclaimed water  
30 when feasible. Declares legislative intent to develop an  
31 illustrative public-service program that gives the status  
of major water sources. Provides for below-market  
interest rate loans for water-pollution-control projects.  
Repeals obsolete provisions relating to grants for water  
and wastewater treatment facilities and disbursements  
from the water resources development account.