

Bill No. CS/HB 1299, 1st Eng.

Amendment No. Barcode 802230

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Laurent moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Effective July 1, 2002, subsection (3) of section 259.101, Florida Statutes, is amended to read:

259.101 Florida Preservation 2000 Act.--

(3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.--Less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, the proceeds of bonds issued pursuant to this act shall be deposited into the Florida Preservation 2000 Trust Fund created by s. 375.045. Beginning in fiscal year 2002-2003, funds from the unencumbered cash balance less approved commitments remaining in the agency subaccounts in the Preservation 2000 Trust Fund may be used by those agencies to fund projects described in paragraphs (3)(a)-(h) of s. 259.105 which meet the criteria for funding pursuant to the Florida Forever Program or the Florida Preservation 2000 Program. Starting in fiscal year

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 2001-2002, from the cash balance less approved commitments
2 encumbered that is remaining in the Florida Preservation 2000
3 Trust Fund, the Legislature shall appropriate up to \$75
4 million from the Florida Preservation 2000 Trust Fund to the
5 Save Our Everglades Trust Fund to be used for the acquisition
6 of lands needed for restoration of the Florida Everglades
7 pursuant to s. 373.470. Furthermore, the remaining cash
8 balances available for the Preservation 2000 programs
9 described in paragraphs (a)-(g) shall be adjusted pro rata for
10 the amount appropriated by the Legislature. Additionally, any
11 cash balances less approved commitments encumbered available
12 to the programs described in paragraphs (a)-(g) at the time
13 the first series of Florida Forever Program bonds is issued
14 and proceeds are deposited into the Florida Forever Trust Fund
15 shall be reserved and remain unavailable for expenditure for
16 projects pursuant to the Florida Preservation 2000 Program
17 until and unless the programs receiving an allocation under
18 the Florida Forever Program described in paragraphs (3)(a)-(h)
19 of s. 259.105, respectively, have encumbered all funds
20 available from the first Florida Forever Program bond issue.
21 To the extent that projects eligible for Preservation 2000
22 funds can also be eligible for Florida Forever funds, the
23 proceeds from Florida Forever bonds may be used to complete
24 transactions begun with Preservation 2000 funds or meet cash
25 needs for property transactions begun in fiscal year
26 2000-2001. The remaining proceeds shall be distributed by the
27 Department of Environmental Protection in the following
28 manner:

29 (a) Fifty percent to the Department of Environmental
30 Protection for the purchase of public lands as described in s.
31 259.032. Of this 50 percent, at least one-fifth shall be used

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 for the acquisition of coastal lands.

2 (b) Thirty percent to the Department of Environmental
3 Protection for the purchase of water management lands pursuant
4 to s. 373.59, to be distributed among the water management
5 districts as provided in that section. Funds received by each
6 district may also be used for acquisition of lands necessary
7 to implement surface water improvement and management plans
8 approved in accordance with s. 373.456 or for acquisition of
9 lands necessary to implement the Everglades Construction
10 Project authorized by s. 373.4592.

11 (c) Ten percent to the Department of Community Affairs
12 to provide land acquisition grants and loans to local
13 governments through the Florida Communities Trust pursuant to
14 part III of chapter 380. From funds allocated to the trust,
15 \$3 million annually shall be used by the Division of State
16 Lands within the Department of Environmental Protection to
17 implement the Green Swamp Land Protection Initiative
18 specifically for the purchase of conservation easements, as
19 defined in s. 380.0677(4), of lands, or severable interests or
20 rights in lands, in the Green Swamp Area of Critical State
21 Concern. From funds allocated to the trust, \$3 million
22 annually shall be used by the Monroe County Comprehensive Plan
23 Land Authority specifically for the purchase of any real
24 property interest in either those lands subject to the Rate of
25 Growth Ordinances adopted by local governments in Monroe
26 County or those lands within the boundary of an approved
27 Conservation and Recreation Lands project located within the
28 Florida Keys or Key West Areas of Critical State Concern;
29 however, title to lands acquired within the boundary of an
30 approved Conservation and Recreation Lands project may, in
31 accordance with an approved joint acquisition agreement, vest

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 in the Board of Trustees of the Internal Improvement Trust
2 Fund. Of the remaining funds allocated to the trust after the
3 above transfers occur, one-half shall be matched by local
4 governments on a dollar-for-dollar basis. To the extent
5 allowed by federal requirements for the use of bond proceeds,
6 the trust shall expend Preservation 2000 funds to carry out
7 the purposes of part III of chapter 380.

8 (d) Two and nine-tenths percent to the Department of
9 Environmental Protection for the purchase of inholdings and
10 additions to state parks. For the purposes of this paragraph,
11 "state park" means all real property in the state under the
12 jurisdiction of the Division of Recreation and Parks of the
13 department, or which may come under its jurisdiction.

14 (e) Two and nine-tenths percent to the Division of
15 Forestry of the Department of Agriculture and Consumer
16 Services to fund the acquisition of state forest inholdings
17 and additions pursuant to s. 589.07.

18 (f) Two and nine-tenths percent to the Fish and
19 Wildlife Conservation Commission to fund the acquisition of
20 inholdings and additions to lands managed by the commission
21 which are important to the conservation of fish and wildlife.

22 (g) One and three-tenths percent to the Department of
23 Environmental Protection for the Florida Greenways and Trails
24 Program, to acquire greenways and trails or greenways and
25 trails systems pursuant to chapter 260, including, but not
26 limited to, abandoned railroad rights-of-way and the Florida
27 National Scenic Trail.

28
29 Local governments may use federal grants or loans, private
30 donations, or environmental mitigation funds, including
31 environmental mitigation funds required pursuant to s.

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 338.250, for any part or all of any local match required for
2 the purposes described in this subsection. Bond proceeds
3 allocated pursuant to paragraph (c) may be used to purchase
4 lands on the priority lists developed pursuant to s. 259.035.
5 Title to lands purchased pursuant to paragraphs (a), (d), (e),
6 (f), and (g) shall be vested in the Board of Trustees of the
7 Internal Improvement Trust Fund. Title to lands purchased
8 pursuant to paragraph (c) may be vested in the Board of
9 Trustees of the Internal Improvement Trust Fund. The board of
10 trustees shall hold title to land protection agreements and
11 conservation easements that were or will be acquired pursuant
12 to s. 380.0677, and the Southwest Florida Water Management
13 District and the St. Johns River Water Management District
14 shall monitor such agreements and easements within their
15 respective districts until the state assumes this
16 responsibility.

17 Section 2. Paragraph (a) of subsection (3) of section
18 373.139, Florida Statutes, is amended to read:

19 373.139 Acquisition of real property.--

20 (3) The initial 5-year work plan and any subsequent
21 modifications or additions thereto shall be adopted by each
22 water management district after a public hearing. Each water
23 management district shall provide at least 14 days' advance
24 notice of the hearing date and shall separately notify each
25 county commission within which a proposed work plan project or
26 project modification or addition is located of the hearing
27 date.

28 (a) Appraisal reports, offers, and counteroffers are
29 confidential and exempt from the provisions of s. 119.07(1)
30 until an option contract is executed or, if no option contract
31 is executed, until 30 days before a contract or agreement for

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 purchase is considered for approval by the governing board.
2 However, each district may, at its discretion, disclose
3 appraisal reports to private landowners during negotiations
4 for acquisitions using alternatives to fee simple techniques,
5 if the district determines that disclosure of such reports
6 will bring the proposed acquisition to closure. In the event
7 that negotiation is terminated by the district, the ~~title~~
8 ~~information~~, appraisal report, offers, and counteroffers shall
9 become available pursuant to s. 119.07(1). Notwithstanding the
10 provisions of this section and s. 259.041, a district and the
11 Division of State Lands may share and disclose ~~title~~
12 ~~information~~, appraisal reports, appraisal information, offers,
13 and counteroffers when joint acquisition of property is
14 contemplated. A district and the Division of State Lands shall
15 maintain the confidentiality of such ~~title information~~,
16 appraisal reports, appraisal information, offers, and
17 counteroffers in conformance with this section and s. 259.041,
18 except in those cases in which a district and the division
19 have exercised discretion to disclose such information. A
20 district may disclose appraisal information, offers, and
21 counteroffers to a third party who has entered into a
22 contractual agreement with the district to work with or on the
23 behalf of or to assist the district in connection with land
24 acquisitions. The third party shall maintain the
25 confidentiality of such information in conformance with this
26 section. In addition, a district may use, as its own,
27 appraisals obtained by a third party provided the appraiser is
28 selected from the district's list of approved appraisers and
29 the appraisal is reviewed and approved by the district.

30 Section 3. Subsection (4) is added to section 373.236,
31 Florida Statutes, to read:

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 373.236 Duration of permits; compliance reports.--
 2 (4) The department or the water management district
 3 shall consider issuing longer-duration permits to applicants
 4 who implement and provide reasonable assurances of effective
 5 and efficient conservation measures that exceed the average
 6 for the industry or type of water use when there is sufficient
 7 data to provide reasonable assurance that the conditions for
 8 permit issuance will be met for the duration of the permit.
 9 Permits issued for a 10-year duration or longer shall be
 10 subject to the provisions of subsection (3).

11 Section 4. Subsections (18) and (19) of section
 12 373.414, Florida Statutes, are amended to read:

13 373.414 Additional criteria for activities in surface
 14 waters and wetlands.--

15 (18) The department and each water management district
 16 responsible for implementation of the environmental resource
 17 permitting program shall develop a uniform ~~wetland~~ mitigation
 18 assessment method for wetlands and other surface waters no
 19 ~~later than October 1, 2001~~. The department shall adopt the
 20 uniform ~~wetland~~ mitigation assessment method by rule no later
 21 than July 31, January 31, 2002. The rule shall provide an
 22 exclusive and consistent process for determining the amount of
 23 mitigation required to offset impacts to wetlands and other
 24 surface waters, and, once effective, shall supersede all
 25 rules, ordinances, and variance procedures from ordinances
 26 that determine the amount of mitigation needed to offset such
 27 impacts. Once the department adopts the uniform ~~wetland~~
 28 mitigation assessment method by rule, the uniform ~~wetland~~
 29 mitigation assessment method shall be binding on the
 30 department, the water management districts, local governments,
 31 and any other governmental agencies and shall be the sole

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 means to determine the amount of mitigation needed to offset
2 adverse impacts to wetlands and other surface waters and to
3 award and deduct mitigation bank credits. A water management
4 district and any other governmental agency subject to chapter
5 120 may apply the uniform ~~wetland~~ mitigation assessment method
6 without the need to adopt it pursuant to s. 120.54. It shall
7 be a goal of the department and water management districts
8 that the uniform ~~wetland~~ mitigation assessment method
9 developed be practicable for use within the timeframes
10 provided in the permitting process and result in a consistent
11 process for determining mitigation requirements. It shall be
12 recognized that any such method shall require the application
13 of reasonable scientific judgment. The uniform ~~wetland~~
14 mitigation assessment method must determine the value of
15 functions provided by wetlands and other surface waters
16 considering the current conditions of these areas, utilization
17 by fish and wildlife, location, uniqueness, and hydrologic
18 connection, and, when applied to mitigation banks,~~in addition~~
19 ~~to~~ the factors listed in s. 373.4136(4). The uniform ~~wetland~~
20 mitigation assessment method shall also account for the
21 expected time-lag associated with offsetting impacts and the
22 degree of risk associated with the proposed mitigation. The
23 uniform ~~wetland~~ mitigation assessment method shall account for
24 different ecological communities in different areas of the
25 state. In developing the uniform ~~wetland~~ mitigation assessment
26 method, the department and water management districts shall
27 consult with approved local programs under s. 403.182 which
28 have an established ~~wetland~~ mitigation program for wetlands
29 and other surface waters. The department and water management
30 districts shall consider the recommendations submitted by such
31 approved local programs, including any recommendations

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 relating to the adoption by the department and water
2 management districts of any uniform ~~wetland~~ mitigation
3 methodology that has been adopted and used by an approved
4 local program in its established ~~wetland~~ mitigation program
5 for wetlands and other surface waters. Environmental resource
6 permitting rules may establish categories of permits or
7 thresholds for minor impacts under which the use of the
8 uniform ~~wetland~~ mitigation assessment method will not be
9 required. The application of the uniform ~~wetland~~ mitigation
10 assessment method is not subject to s. 70.001. In the event
11 the rule establishing the uniform wetland mitigation
12 assessment method is deemed to be invalid, the applicable
13 rules related to establishing needed mitigation in existence
14 prior to the adoption of the uniform wetland mitigation
15 assessment method, including those adopted by a county which
16 is an approved local program under s. 403.182, and the method
17 described in paragraph (b) for existing mitigation banks,
18 shall be authorized for use by the department, water
19 management districts, local governments, and other state
20 agencies.

21 (a) In developing the uniform ~~wetland~~ mitigation
22 assessment method, the department shall seek input from the
23 United States Army Corps of Engineers in order to promote
24 consistency in the mitigation assessment methods used by the
25 state and federal permitting programs.

26 (b) An entity which has received a mitigation bank
27 permit prior to the adoption of the uniform ~~wetland~~ mitigation
28 assessment method shall have impact sites assessed, for the
29 purpose of deducting bank credits, using the credit assessment
30 method, including any functional assessment methodology, which
31 was in place when the bank was permitted; unless the entity

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 elects to have its credits redetermined, and thereafter have
2 its credits deducted, using the uniform ~~wetland~~ mitigation
3 assessment method.

4 ~~(19) The Office of Program Policy Analysis and~~
5 ~~Government Accountability shall study the cumulative impact~~
6 ~~consideration required by subsection (8) and issue a report by~~
7 ~~July 1, 2001. The study shall address the justification for~~
8 ~~the cumulative impact consideration, changes that can provide~~
9 ~~clarity and certainty in the cumulative impact consideration,~~
10 ~~and whether a practicable, consistent, and equitable~~
11 ~~methodology can be developed for considering cumulative~~
12 ~~impacts within the environmental resource permitting program.~~

13 Section 5. Paragraph (g) is added to subsection (1) of
14 section 378.212, Florida Statutes, to read:

15 378.212 Variances.--

16 (1) Upon application, the secretary may grant a
17 variance from the provisions of this part or the rules adopted
18 pursuant thereto. Variances and renewals thereof may be
19 granted for any one of the following reasons:

20 (g) To accommodate reclamation that provides water
21 supply development or water resource development consistent
22 with the regional water supply plan approved pursuant to s.
23 373.0361, provided that regional water resources are not
24 adversely affected.

25 Section 6. Subsection (11) of section 403.067, Florida
26 Statutes, is amended to read:

27 403.067 Establishment and implementation of total
28 maximum daily loads.--

29 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

30 (a) The department shall not implement, without prior
31 legislative approval, any additional regulatory authority

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
2 130, if such implementation would result in water quality
3 discharge regulation of activities not currently subject to
4 regulation.

5 (b) Interim measures, best management practices, or
6 other measures may be developed and voluntarily implemented
7 pursuant to paragraph (7)(c) or paragraph (7)(d) for any water
8 body or segment for which a total maximum daily load or
9 allocation has not been established. The implementation of
10 such pollution control programs may be considered by the
11 department in the determination made pursuant to subsection
12 (4).

13 Section 7. Section 373.2505, Florida Statutes, is
14 created to read:

15 373.2505 Permitting requirements for alternative water
16 facilities and electric power plants.--

17 (1) The Legislature finds that the recent increase in
18 proposed electric power plants that are not subject to the
19 regulatory-review requirements of the Florida Electrical Power
20 Plant Siting Act creates both potential problems and
21 water-supply opportunities. The continued proliferation of
22 inland plants may result in environmental and
23 growth-management problems for the counties in which they are
24 located and can affect the patterns of urban development and
25 demands on water resources if improperly located and
26 inadequately regulated.

27 (2)(a) Electric power plants of any generating
28 technology are encouraged to locate in coastal counties where
29 they can be colocated with reverse-osmosis facilities or other
30 similar technologies to desalinate water resources to help
31 meet potable-water-supply needs. Entities having existing

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 electric power plant sites located in coastal counties are
2 encouraged to evaluate modifications, expansions, or additions
3 that would be colocated with reverse-osmosis or other similar
4 technologies to desalinate water resources to help meet
5 potable-water-supply needs.

6 (b) Reverse-osmosis facilities or other similar
7 desalination technologies that are proposed to be colocated
8 with electric power plants are eligible to receive cooperative
9 funding assistance from water management districts created
10 under chapter 373 for those that have cooperative-funding
11 assistance programs for activities designed to promote
12 alternative water supplies.

13 (3) Notwithstanding other permitting requirements
14 imposed by law, construction permit applications for a new
15 electric plant unrelated to an existing electric power plant
16 site located anywhere within the interior counties immediately
17 contiguous to the most impacted area within the Eastern Tampa
18 Bay water caution area must demonstrate that the sole source
19 of its cooling water will be provided by the reuse of
20 reclaimed wastewater or another nonpotable water source in
21 order to assure protection of groundwater and surface water
22 resources.

23 Section 8. Paragraph (f) of subsection (2) of section
24 403.813, Florida Statutes, is amended to read:

25 403.813 Permits issued at district centers;
26 exceptions.--

27 (2) No permit under this chapter, chapter 373, chapter
28 61-691, Laws of Florida, or chapter 25214 or chapter 25270,
29 1949, Laws of Florida, shall be required for activities
30 associated with the following types of projects; however,
31 nothing in this subsection relieves an applicant from any

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 requirement to obtain permission to use or occupy lands owned
2 by the Board of Trustees of the Internal Improvement Trust
3 Fund or any water management district in its governmental or
4 proprietary capacity or from complying with applicable local
5 pollution control programs authorized under this chapter or
6 other requirements of county and municipal governments:
7 (f) The performance of maintenance dredging of
8 existing manmade canals, channels, intake and discharge
9 structures, and previously dredged portions of natural water
10 bodies within drainage rights-of-way or drainage easements
11 which have been recorded in the public records of the county,
12 where the spoil material is to be removed and deposited on a
13 self-contained, upland spoil site which will prevent the
14 escape of the spoil material into the waters of the state,
15 provided that no more dredging is to be performed than is
16 necessary to restore the canals, channels, and intake and
17 discharge structures, and previously dredged portions of
18 natural water bodies, to original design specifications or
19 configurations, provided that the work is conducted in
20 compliance with s. 370.12(2)(d), provided that no significant
21 impacts occur to previously undisturbed natural areas, and
22 provided that control devices for return flow and best
23 management practices for erosion and sediment control are
24 utilized to prevent bank erosion and scouring and to prevent
25 turbidity, dredged material, and toxic or deleterious
26 substances from discharging into adjacent waters during
27 maintenance dredging. Further, for maintenance dredging of
28 previously dredged portions of natural water bodies within
29 recorded drainage rights-of-way or drainage easements, an
30 entity that seeks an exemption must notify the department or
31 water management district, as applicable, at least 30 days

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 prior to dredging and provide documentation of original design
2 specifications or configurations where such exist. This
3 exemption applies to all canals and previously dredged
4 portions of natural water bodies within recorded drainage
5 rights-of-way or drainage easements constructed prior to April
6 3, 1970, and to those canals and previously dredged portions
7 of natural water bodies constructed on or after April 3, 1970,
8 pursuant to all necessary state permits. This exemption does
9 not apply to the removal of a natural or manmade barrier
10 separating a canal or canal system from adjacent waters. When
11 no previous permit has been issued by the Board of Trustees of
12 the Internal Improvement Trust Fund or the United States Army
13 Corps of Engineers for construction or maintenance dredging of
14 the existing manmade canal or intake or discharge structure,
15 such maintenance dredging shall be limited to a depth of no
16 more than 5 feet below mean low water. The Board of Trustees
17 of the Internal Improvement Trust Fund may fix and recover
18 from the permittee an amount equal to the difference between
19 the fair market value and the actual cost of the maintenance
20 dredging for material removed during such maintenance
21 dredging. However, no charge shall be exacted by the state for
22 material removed during such maintenance dredging by a public
23 port authority. The removing party may subsequently sell such
24 material; however, proceeds from such sale that exceed the
25 costs of maintenance dredging shall be remitted to the state
26 and deposited in the Internal Improvement Trust Fund.

27 Section 9. In order to aid in the development of a
28 better understanding of the unique surface and groundwater
29 resources of this state, the water management districts shall
30 develop an information program designed to provide information
31 on existing hydrologic conditions of major surface and

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 groundwater sources in this state and suggestions for good
2 conservation practices within those areas. The program shall
3 be developed no later than December 31, 2002. Beginning
4 January 1, 2003, and on a regular basis no less than every 6
5 months thereafter, the information developed pursuant to this
6 section shall be distributed to every member of the Florida
7 Senate and the Florida House of Representatives and to local
8 print and broadcast news organizations. Each water management
9 district shall be responsible for the distribution of this
10 information within its established geographic area.

11 Section 10. The Legislature finds that within the area
12 identified in the Lower East Coast Regional Water Supply Plan
13 approved by the South Florida Water Management District
14 pursuant to section 373.0361, Florida Statutes, the
15 groundwater levels can benefit from augmentation. The
16 Legislature finds that the discharge of reclaimed water into
17 canals for transport and subsequent reuse may provide an
18 environmentally acceptable means to augment water supplies and
19 enhance natural systems; however, the Legislature also
20 recognizes that there are water quality and water quantity
21 issues that must be better understood and resolved. In
22 addition, there are cost-savings possible by collocating
23 enclosed conduits for conveyance of water for reuse in this
24 area within canal right-of-way that should be investigated.
25 Toward that end, the Department of Environmental Protection,
26 in consultation with the South Florida Water Management
27 District, Southeast Florida utilities, affected local
28 governments, including local governments with principal
29 responsibility for the operation and maintenance of a water
30 control system capable of conveying reclaimed wastewater for
31 reuse, representatives of the environmental and engineering

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 communities, public health professionals, and individuals
2 having expertise in water quality, shall conduct a study to
3 investigate the feasibility of discharging reclaimed
4 wastewater to canals as an environmentally acceptable means of
5 augmenting ground water supplies, enhancing natural systems,
6 and conveying reuse water within enclosed conduits within the
7 canal right-of-way. The study shall include an assessment of
8 the water quality, water supply, public health, technical, and
9 legal implications related to the canal discharge and
10 colocation concepts. The department shall issue a preliminary
11 written report containing draft findings and recommendations
12 for public comment by November 1, 2002. The department shall
13 provide a written report on the results of its study to the
14 Governor and the substantive committees of the House of
15 Representatives and the Senate by January 31, 2003. Nothing
16 in this section shall be used to alter the purpose of the
17 Comprehensive Everglades Restoration Plan or the
18 implementation of the Water Resources Development Act of 2000.

19 Section 11. Subsection (4) of section 373.0831,
20 Florida Statutes, is amended to read:

21 373.0831 Water resource development; water supply
22 development.--

23 (4)(a) Water supply development projects which are
24 consistent with the relevant regional water supply plans and
25 which meet at least one ~~or more~~ of the following criteria
26 shall receive priority consideration for state or water
27 management district funding assistance:

28 1. The project supports establishment of a dependable,
29 sustainable supply of water which is not otherwise financially
30 feasible;

31 2. The project provides substantial environmental

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 benefits by preventing or limiting adverse water resource
2 impacts, but requires funding assistance to be economically
3 competitive with other options; or

4 3. The project significantly implements reuse,
5 storage, recharge, or conservation of water in a manner that
6 contributes to the efficient use and sustainability of
7 regional water supply sources.

8 (b) Water supply development projects which meet the
9 criteria in paragraph (a) and also bring about replacement of
10 existing sources in order to help implement a minimum flow or
11 level shall be given first consideration for state or water
12 management district funding assistance.

13 (c) If a proposed alternative water supply project is
14 identified in the relevant approved regional water supply
15 plan, the project shall be eligible for at least one of the
16 following:

17 1. A 20-year consumptive use permit, if it otherwise
18 meets the permit requirements under s. 373.223 and s. 373.236
19 and rules adopted thereunder;

20 2. Consideration for priority funding pursuant to s.
21 373.1961(2) with the implementation of the water resource
22 development component of the proposed project.

23 Section 12. Section 373.498, Florida Statutes, is
24 repealed.

25 Section 13. Section 215.981, Florida Statutes, is
26 amended to read:

27 215.981 Audits of state agency direct-support
28 organizations and citizen support organizations.--Each
29 direct-support organization and each citizen support
30 organization, created or authorized pursuant to law, and
31 created, approved, or administered by a state agency, other

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 than a university, district board of trustees of a community
2 college, or district school board, shall provide for an annual
3 financial audit of its accounts and records to be conducted by
4 an independent certified public accountant in accordance with
5 rules adopted by the Auditor General pursuant to s. 11.45(8)
6 and the state agency that created, approved, or administers
7 the direct-support organization or citizen support
8 organization, whenever the organization's annual expenses
9 exceed \$100,000. The audit report shall be submitted within 9
10 months after the end of the fiscal year to the Auditor General
11 and to the state agency responsible for creation,
12 administration, or approval of the direct-support organization
13 or citizen support organization. Such state agency, the
14 Auditor General, and the Office of Program Policy Analysis and
15 Government Accountability shall have the authority to require
16 and receive from the organization or from the independent
17 auditor any records relative to the operation of the
18 organization.

19 Section 14. Subsection (1) of section 373.114, Florida
20 Statutes, is amended to read:

21 373.114 Land and Water Adjudicatory Commission; review
22 of district rules and orders; department review of district
23 rules.--

24 (1) Except as provided in subsection (2), the Governor
25 and Cabinet, sitting as the Land and Water Adjudicatory
26 Commission, have the exclusive authority to review any order
27 or rule of a water management district, other than a rule
28 relating to an internal procedure of the district or a final
29 order resulting from an evidentiary hearing held under s.
30 120.569 or s. 120.57 or a rule that has been adopted after
31 issuance of a final order resulting from an evidentiary

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 hearing held under s. 120.56, to ensure consistency with the
2 provisions and purposes of this chapter. Subsequent to the
3 legislative ratification of the delineation methodology
4 pursuant to s. 373.421(1), this subsection also shall apply to
5 an order of the department, or a local government exercising
6 delegated authority, pursuant to ss. 373.403-373.443, except
7 an order pertaining to activities or operations subject to
8 conceptual plan approval pursuant to chapter 378 or a final
9 order resulting from an evidentiary hearing held under s.
10 120.569 or s. 120.57.

11 (a) Such review may be initiated by the department or
12 by a party to the proceeding below by filing a request for
13 review with the Land and Water Adjudicatory Commission and
14 serving a copy on the department and on any person named in
15 the rule or order within 20 days after adoption of the rule or
16 the rendering of the order. For the purposes of this section,
17 the term "party" means any affected person who submitted oral
18 or written testimony, sworn or unsworn, of a substantive
19 nature which stated with particularity objections to or
20 support for the rule or order that are cognizable within the
21 scope of the provisions and purposes of this chapter, ~~or any~~
22 ~~person who participated as a party in a proceeding instituted~~
23 ~~pursuant to chapter 120.~~ In order for the commission to
24 accept a request for review initiated by a party below, with
25 regard to a specific order, three ~~four~~ members of the
26 commission must determine on the basis of the record below
27 that the activity authorized by the order would substantially
28 affect natural resources of statewide or regional
29 significance. Review of an order may also be accepted if three
30 ~~four~~ members of the commission determine that the order raises
31 issues of policy, statutory interpretation, or rule

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 interpretation that have regional or statewide significance
2 from the standpoint of agency precedent. The party requesting
3 the commission to review an order must allege with
4 particularity, and the commission must find, that:

5 1. The order is in conflict with statutory
6 requirements; or

7 2. The order is in conflict with the requirements of a
8 duly adopted rule.

9 (b) Review by the Land and Water Adjudicatory
10 Commission is appellate in nature and shall be based solely on
11 the record below unless the commission determines that a
12 remand for a formal evidentiary proceeding is necessary to
13 develop additional findings of fact. If there ~~is~~ was no
14 evidentiary administrative proceeding resulting from a remand
15 or referral for findings of fact by the commission, then
16 below, the facts contained in the proposed agency action or
17 proposed water management district action, including any
18 technical staff report, shall be deemed undisputed. The
19 matter shall be heard by the commission not more than 60 days
20 after receipt of the request for review, unless waived by the
21 parties; provided, however, such time limit shall be tolled by
22 a referral or remand pursuant to this paragraph. The
23 commission may refer a request for review to the Division of
24 Administrative Hearings for the production of findings of
25 fact, limited to those needed to render the decision
26 requested, to supplement the record, if a majority of the
27 commission determines that supplementary findings of fact are
28 essential to determine the consistency of a rule or order with
29 the provisions and purposes of this chapter. Alternatively,
30 the commission may remand the matter to the agency below for
31 additional findings of fact, limited to those needed to render

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 the decision requested, to supplement the record, if a
2 majority of the commission determines that supplementary
3 findings of fact are essential to determine the consistency of
4 a rule or order with the provisions and purposes of this
5 chapter. Such proceedings must be conducted and the findings
6 transmitted to the commission within 90 days of the remand or
7 referral.

8 (c) If the Land and Water Adjudicatory Commission
9 determines that a rule of a water management district is not
10 consistent with the provisions and purposes of this chapter,
11 it may require the water management district to initiate
12 rulemaking proceedings to amend or repeal the rule. If the
13 commission determines that an order is not consistent with the
14 provisions and purposes of this chapter, the commission may
15 rescind or modify the order or remand the proceeding for
16 further action consistent with the order of the Land and Water
17 Adjudicatory Commission only if the commission determines that
18 the activity authorized by the order would substantially
19 affect natural resources of statewide or regional
20 significance. In the case of an order which does not itself
21 substantially affect natural resources of statewide or
22 regional significance, but which raises issues of policy that
23 have regional or statewide significance from the standpoint of
24 agency precedent, the commission may direct the district to
25 initiate rulemaking to amend its rules to assure that future
26 actions are consistent with the provisions and purposes of
27 this chapter without modifying the order.

28 (d) In a review under this section of a construction
29 permit issued pursuant to a conceptual permit under part IV,
30 which conceptual permit is issued after July 1, 1993, a party
31 to the review may not raise an issue which was or could have

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 been raised in a review of the conceptual permit under this
2 section.

3 (e) A request for review under this section shall not
4 be a precondition to the seeking of judicial review pursuant
5 to s. 120.68 or the seeking of an administrative determination
6 of rule validity pursuant to s. 120.56.

7 (f) The Florida Land and Water Adjudicatory Commission
8 may adopt rules to set forth its procedures for reviewing an
9 order or rule of a water management district consistent with
10 the provisions of this section.

11 (g) For the purpose of this section, it shall be
12 presumed that activity authorized by an order will not affect
13 resources of statewide or regional significance if the
14 proposed activity:

- 15 1. Occupies an area less than 10 acres in size, and
- 16 2. Does not create impervious surfaces greater than 2
17 acres in size, and
- 18 3. Is not located within 550 feet of the shoreline of
19 a named body of water designated as Outstanding Florida
20 Waters, and
- 21 4. Does not adversely affect threatened or endangered
22 species.

23
24 This paragraph shall not operate to hold that any activity
25 that exceeds these limits is presumed to affect resources of
26 statewide or regional significance. The determination of
27 whether an activity will substantially affect resources of
28 statewide or regional significance shall be made on a
29 case-by-case basis, based upon facts contained in the record
30 below.

31 Section 15. Subsection (5) of section 403.412, Florida

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 Statutes, is amended, present subsection (6) is renumbered as
2 subsection (8), and new subsections (6) and (7) are added to
3 said section to read:

4 403.412 Environmental Protection Act.--

5 (5) In any administrative, licensing, or other
6 proceedings authorized by law for the protection of the air,
7 water, or other natural resources of the state from pollution,
8 impairment, or destruction, the Department of Legal Affairs, a
9 political subdivision or municipality of the state, or a
10 citizen of the state shall have standing to intervene as a
11 party on the filing of a verified pleading asserting that the
12 activity, conduct, or product to be licensed or permitted has
13 or will have the effect of impairing, polluting, or otherwise
14 injuring the air, water, or other natural resources of the
15 state. As used in this section and as it relates to citizens,
16 the term "intervene" means to join an ongoing s. 120.569 or s.
17 120.57 proceeding; this section does not authorize a citizen
18 to institute, initiate, petition for, or request a proceeding
19 under s. 120.569 or s. 120.57. Nothing herein limits or
20 prohibits a citizen whose substantial interests will be
21 determined or affected by a proposed agency action from
22 initiating a formal administrative proceeding under s. 120.569
23 or s. 120.57. A citizen's substantial interests will be
24 considered to be determined or affected if the party
25 demonstrates it may suffer an injury in fact which is of
26 sufficient immediacy and is of the type and nature intended to
27 be protected by this chapter. No demonstration of special
28 injury different in kind from the general public at large is
29 required. A sufficient demonstration of a substantial interest
30 may be made by a petitioner who establishes that the proposed
31 activity, conduct, or product to be licensed or permitted

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 affects the petitioner's use or enjoyment of air, water, or
2 natural resources protected by this chapter.

3 (6) Any corporation not for profit which has at least
4 25 current members residing within the county where the
5 activity is proposed, and which was formed for the purpose of
6 the protection of the environment, fish and wildlife
7 resources, and protection of air and water quality, may
8 initiate a hearing pursuant to s. 120.569 or s. 120.57,
9 provided that the corporation not for profit was formed at
10 least one year prior to the date of the filing of the
11 application for a permit, license, or authorization that is
12 the subject of the notice of proposed agency action.

13 (7) In a matter pertaining to a federally delegated or
14 approved program, a citizen of the state may initiate an
15 administrative proceeding under this subsection if the citizen
16 meets the standing requirements for judicial review of a case
17 or controversy pursuant to Article III of the United States
18 Constitution.

19 Section 16. This act shall take effect upon becoming a
20 law.

21
22

23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26

27 and insert:

28

A bill to be entitled

29

An act relating to alternative water supplies;

30

providing funding of projects under the Florida

31

Forever Program and the Florida Preservation

Bill No. CS/HB 1299, 1st Eng.

Amendment No. ____ Barcode 802230

1 2000 Program; amending s. 373.139, F.S. ;
2 providing that title information is not
3 confidential; amending s. 373.236, F.S. ;
4 encouraging water conservation; amending s.
5 373.414, F.S. ; requiring that the Department of
6 Environmental Protection adopt a uniform
7 mitigation assessment method by rule by July
8 31, 2002; amending s. 378.212, F.S. ; providing
9 water resource enhancements as a basis for a
10 variance; amending s. 403.067, F.S. ;
11 authorizing the development of interim measures
12 or best-management practices for specified
13 water bodies or segments for which total
14 maximum daily loads or allocations have not yet
15 been established; creating s. 403.5205, F.S. ;
16 prescribing permitting requirements for
17 alternative water facilities and electric power
18 plants; amending s. 403.813, F.S. ; providing
19 requirements for exemptions for maintenance
20 dredging; providing legislative intent for
21 public education of water resources; providing
22 for a study of the conveyance of reclaimed
23 water in specified canals; amending s.
24 373.0831, F.S. ; revising the criteria by which
25 water supply development projects may receive
26 priority consideration for funding assistance;
27 repealing s. 373.498, F.S. , relating to an
28 obsolete account; amending s. 215.981, F.S. ;
29 revising provisions relating to annual audits;
30 amending s. 373.114, F.S. ; providing that
31 certain water management district orders and

Bill No. CS/HB 1299, 1st Eng.
Amendment No. ____ Barcode 802230

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rules are not subject to specified review;
amending s. 403.412, F.S.; the "Environmental
Protection Act of 1971"; revising requirements
for initiating specified proceedings under that
act; providing an effective date.