

By the Committee on Natural Resources; and Senator Laurent

312-2085-02

1 A bill to be entitled
2 An act relating to alternative water supplies;
3 amending s. 373.139, F.S.; providing that title
4 information is not confidential; amending s.
5 373.236, F.S.; encouraging water conservation;
6 amending s. 373.414, F.S.; requiring that the
7 Department of Environmental Protection adopt a
8 uniform mitigation assessment method by rule by
9 July 31, 2002; amending s. 378.212, F.S.;
10 providing water resource enhancements as a
11 basis for a variance; amending s. 403.1835,
12 F.S.; providing for below-market interest rate
13 loans for water treatment; creating s.
14 403.5205, F.S.; providing legislative findings;
15 providing additional conditions for locating
16 simple cycle turbine electric plants; providing
17 eligibility for cooperative-funding assistance
18 for activities designed to promote alternative
19 water supplies; amending s. 403.813, F.S.;
20 providing requirements for exemptions for
21 maintenance dredging; providing legislative
22 intent for public education of water resources;
23 providing for a study of the conveyance of
24 reclaimed water in specified canals; amending
25 s. 373.0831, F.S.; revising the criteria by
26 which water supply development projects may
27 receive priority consideration for funding
28 assistance; repealing s. 373.498, F.S.,
29 relating to an obsolete account; providing an
30 effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Paragraph (a) of subsection (3) of section
4 373.139, Florida Statutes, is amended to read:

5 373.139 Acquisition of real property.--

6 (3) The initial 5-year work plan and any subsequent
7 modifications or additions thereto shall be adopted by each
8 water management district after a public hearing. Each water
9 management district shall provide at least 14 days' advance
10 notice of the hearing date and shall separately notify each
11 county commission within which a proposed work plan project or
12 project modification or addition is located of the hearing
13 date.

14 (a) Appraisal reports, offers, and counteroffers are
15 confidential and exempt from the provisions of s. 119.07(1)
16 until an option contract is executed or, if no option contract
17 is executed, until 30 days before a contract or agreement for
18 purchase is considered for approval by the governing board.
19 However, each district may, at its discretion, disclose
20 appraisal reports to private landowners during negotiations
21 for acquisitions using alternatives to fee simple techniques,
22 if the district determines that disclosure of such reports
23 will bring the proposed acquisition to closure. In the event
24 that negotiation is terminated by the district, the ~~title~~
25 ~~information~~, appraisal report, offers, and counteroffers shall
26 become available pursuant to s. 119.07(1). Notwithstanding the
27 provisions of this section and s. 259.041, a district and the
28 Division of State Lands may share and disclose ~~title~~
29 ~~information~~, appraisal reports, appraisal information, offers,
30 and counteroffers when joint acquisition of property is
31 contemplated. A district and the Division of State Lands shall

1 maintain the confidentiality of such ~~title information,~~
2 appraisal reports, appraisal information, offers, and
3 counteroffers in conformance with this section and s. 259.041,
4 except in those cases in which a district and the division
5 have exercised discretion to disclose such information. A
6 district may disclose appraisal information, offers, and
7 counteroffers to a third party who has entered into a
8 contractual agreement with the district to work with or on the
9 behalf of or to assist the district in connection with land
10 acquisitions. The third party shall maintain the
11 confidentiality of such information in conformance with this
12 section. In addition, a district may use, as its own,
13 appraisals obtained by a third party provided the appraiser is
14 selected from the district's list of approved appraisers and
15 the appraisal is reviewed and approved by the district.

16 Section 2. Subsection (4) is added to section 373.236,
17 Florida Statutes, to read:

18 373.236 Duration of permits; compliance reports.--

19 (4) The department or the water management district
20 shall consider issuing longer-duration permits to applicants
21 who implement and provide reasonable assurances of effective
22 and efficient conservation measures that exceed the average
23 for the industry or type of water use when there is sufficient
24 data to provide reasonable assurance that the conditions for
25 permit issuance will be met for the duration of the permit.
26 Permits issued for a 10-year duration or longer shall be
27 subject to the provisions of subsection (3).

28 Section 3. Subsections (18) and (19) of section
29 373.414, Florida Statutes, are amended to read:

30 373.414 Additional criteria for activities in surface
31 waters and wetlands.--

1 (18) The department and each water management district
2 responsible for implementation of the environmental resource
3 permitting program shall develop a uniform ~~wetland~~ mitigation
4 assessment method for wetlands and other surface waters ~~no~~
5 ~~later than October 1, 2001~~. The department shall adopt the
6 uniform ~~wetland~~ mitigation assessment method by rule no later
7 than July 31, January 31, 2002. The rule shall provide an
8 exclusive and consistent process for determining the amount of
9 mitigation required to offset impacts to wetlands and other
10 surface waters, and, once effective, shall supersede all
11 rules, ordinances, and variance procedures from ordinances
12 that determine the amount of mitigation needed to offset such
13 impacts. Once the department adopts the uniform ~~wetland~~
14 mitigation assessment method by rule, the uniform ~~wetland~~
15 mitigation assessment method shall be binding on the
16 department, the water management districts, local governments,
17 and any other governmental agencies and shall be the sole
18 means to determine the amount of mitigation needed to offset
19 adverse impacts to wetlands and other surface waters and to
20 award and deduct mitigation bank credits. A water management
21 district and any other governmental agency subject to chapter
22 120 may apply the uniform ~~wetland~~ mitigation assessment method
23 without the need to adopt it pursuant to s. 120.54. It shall
24 be a goal of the department and water management districts
25 that the uniform ~~wetland~~ mitigation assessment method
26 developed be practicable for use within the timeframes
27 provided in the permitting process and result in a consistent
28 process for determining mitigation requirements. It shall be
29 recognized that any such method shall require the application
30 of reasonable scientific judgment. The uniform ~~wetland~~
31 mitigation assessment method must determine the value of

1 functions provided by wetlands and other surface waters
2 considering the current conditions of these areas, utilization
3 by fish and wildlife, location, uniqueness, and hydrologic
4 connection, and, when applied to mitigation banks,~~in addition~~
5 ~~to~~ the factors listed in s. 373.4136(4). The uniform ~~wetland~~
6 mitigation assessment method shall also account for the
7 expected time-lag associated with offsetting impacts and the
8 degree of risk associated with the proposed mitigation. The
9 uniform ~~wetland~~ mitigation assessment method shall account for
10 different ecological communities in different areas of the
11 state. In developing the uniform ~~wetland~~ mitigation assessment
12 method, the department and water management districts shall
13 consult with approved local programs under s. 403.182 which
14 have an established ~~wetland~~ mitigation program for wetlands
15 and other surface waters. The department and water management
16 districts shall consider the recommendations submitted by such
17 approved local programs, including any recommendations
18 relating to the adoption by the department and water
19 management districts of any uniform ~~wetland~~ mitigation
20 methodology that has been adopted and used by an approved
21 local program in its established ~~wetland~~ mitigation program
22 for wetlands and other surface waters. Environmental resource
23 permitting rules may establish categories of permits or
24 thresholds for minor impacts under which the use of the
25 uniform ~~wetland~~ mitigation assessment method will not be
26 required. The application of the uniform ~~wetland~~ mitigation
27 assessment method is not subject to s. 70.001. In the event
28 the rule establishing the uniform wetland mitigation
29 assessment method is deemed to be invalid, the applicable
30 rules related to establishing needed mitigation in existence
31 prior to the adoption of the uniform wetland mitigation

1 assessment method, including those adopted by a county which
2 is an approved local program under s. 403.182, and the method
3 described in paragraph (b) for existing mitigation banks,
4 shall be authorized for use by the department, water
5 management districts, local governments, and other state
6 agencies.

7 (a) In developing the uniform ~~wetland~~ mitigation
8 assessment method, the department shall seek input from the
9 United States Army Corps of Engineers in order to promote
10 consistency in the mitigation assessment methods used by the
11 state and federal permitting programs.

12 (b) An entity which has received a mitigation bank
13 permit prior to the adoption of the uniform ~~wetland~~ mitigation
14 assessment method shall have impact sites assessed, for the
15 purpose of deducting bank credits, using the credit assessment
16 method, including any functional assessment methodology, which
17 was in place when the bank was permitted; unless the entity
18 elects to have its credits redetermined, and thereafter have
19 its credits deducted, using the uniform ~~wetland~~ mitigation
20 assessment method.

21 ~~(19) The Office of Program Policy Analysis and~~
22 ~~Government Accountability shall study the cumulative impact~~
23 ~~consideration required by subsection (8) and issue a report by~~
24 ~~July 1, 2001. The study shall address the justification for~~
25 ~~the cumulative impact consideration, changes that can provide~~
26 ~~clarity and certainty in the cumulative impact consideration,~~
27 ~~and whether a practicable, consistent, and equitable~~
28 ~~methodology can be developed for considering cumulative~~
29 ~~impacts within the environmental resource permitting program.~~

30 Section 4. Paragraph (g) is added to subsection (1) of
31 section 378.212, Florida Statutes, to read:

1 378.212 Variances.--

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

6 (g) To accommodate reclamation that provides water
7 supply development or water resource development consistent
8 with the regional water supply plan approved pursuant to s.
9 373.0361, provided that regional water resources are not
10 adversely affected.

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 having corresponding
5 maturities in order to enable such financial institutions to
6 make below-market interest rate loans to entities qualified to
7 receive loans under this section and the rules of the
8 department.

9 Section 6. Section 403.5205, Florida Statutes, is
10 created to read:

11 403.5205 Permitting requirements for simple cycle
12 turbine plants.--

13 (1) The Legislature finds that the recent rapid
14 expansion of proposed electric power plants that use simple
15 cycle turbine processes are not subject to the
16 regulatory-review requirements of the Florida Electrical Power
17 Plant Siting Act. The continued proliferation of these types
18 of plants will result in growth management problems for the
19 counties in which they are located and affect the patterns of
20 urban development and demands on water resources.

21 (2)(a) Plants are encouraged to locate in coastal
22 counties where they can be combined with reverse-osmosis
23 facilities or other similar technologies to desalinate water
24 resources to help meet potable water-supply needs.

25 (b) Plants that are proposed to be combined with
26 reverse-osmosis facilities or other similar desalination
27 technologies are eligible to receive cooperative-funding
28 assistance from water management districts created under
29 chapter 373 for those that have cooperative-funding-assistance
30 programs for activities designed to promote alternative water
31 supplies.

1 (3) Notwithstanding other requirements for permitting
2 required by law, construction permit applications for simple
3 cycle turbine electric plants located in a water-use caution
4 area must also demonstrate compliance with the following
5 conditions:

6 (a) A plant may not be located within 1 mile of
7 another existing electric generating plant whether it uses a
8 simple cycle turbine or other technology.

9 (b) A plant must demonstrate that the sole source of
10 its cooling water will be provided by the reuse of reclaimed
11 waste water or another nonpotable water source to assure
12 protection of groundwater and surface water resources.

13 Section 7. Paragraph (f) of subsection (2) of section
14 403.813, Florida Statutes, is amended to read:

15 403.813 Permits issued at district centers;
16 exceptions.--

17 (2) No permit under this chapter, chapter 373, chapter
18 61-691, Laws of Florida, or chapter 25214 or chapter 25270,
19 1949, Laws of Florida, shall be required for activities
20 associated with the following types of projects; however,
21 nothing in this subsection relieves an applicant from any
22 requirement to obtain permission to use or occupy lands owned
23 by the Board of Trustees of the Internal Improvement Trust
24 Fund or any water management district in its governmental or
25 proprietary capacity or from complying with applicable local
26 pollution control programs authorized under this chapter or
27 other requirements of county and municipal governments:

28 (f) The performance of maintenance dredging of
29 existing manmade canals, channels, intake and discharge
30 structures, and previously dredged portions of natural water
31 bodies within drainage rights-of-way or drainage easements

1 | which have been recorded in the public records of the county,
2 | where the spoil material is to be removed and deposited on a
3 | self-contained, upland spoil site which will prevent the
4 | escape of the spoil material into the waters of the state,
5 | provided that no more dredging is to be performed than is
6 | necessary to restore the canals, channels, and intake and
7 | discharge structures, and previously dredged portions of
8 | natural water bodies, to original design specifications or
9 | configurations, provided that the work is conducted in
10 | compliance with s. 370.12(2)(d), provided that no significant
11 | impacts occur to previously undisturbed natural areas, and
12 | provided that control devices for return flow and best
13 | management practices for erosion and sediment control are
14 | utilized to prevent bank erosion and scouring and to prevent
15 | turbidity, dredged material, and toxic or deleterious
16 | substances from discharging into adjacent waters during
17 | maintenance dredging. Further, for maintenance dredging of
18 | previously dredged portions of natural water bodies within
19 | recorded drainage rights-of-way or drainage easements, an
20 | entity that seeks an exemption must notify the department or
21 | water management district, as applicable, at least 30 days
22 | prior to dredging and provide documentation of original design
23 | specifications or configurations where such exist. This
24 | exemption applies to all canals and previously dredged
25 | portions of natural water bodies within recorded drainage
26 | rights-of-way or drainage easements constructed prior to April
27 | 3, 1970, and to those canals and previously dredged portions
28 | of natural water bodies constructed on or after April 3, 1970,
29 | pursuant to all necessary state permits. This exemption does
30 | not apply to the removal of a natural or manmade barrier
31 | separating a canal or canal system from adjacent waters. When

1 no previous permit has been issued by the Board of Trustees of
2 the Internal Improvement Trust Fund or the United States Army
3 Corps of Engineers for construction or maintenance dredging of
4 the existing manmade canal or intake or discharge structure,
5 such maintenance dredging shall be limited to a depth of no
6 more than 5 feet below mean low water. The Board of Trustees
7 of the Internal Improvement Trust Fund may fix and recover
8 from the permittee an amount equal to the difference between
9 the fair market value and the actual cost of the maintenance
10 dredging for material removed during such maintenance
11 dredging. However, no charge shall be exacted by the state for
12 material removed during such maintenance dredging by a public
13 port authority. The removing party may subsequently sell such
14 material; however, proceeds from such sale that exceed the
15 costs of maintenance dredging shall be remitted to the state
16 and deposited in the Internal Improvement Trust Fund.

17 Section 8. In order to aid in the development of a
18 better understanding of the unique surface and groundwater
19 resources of this state, the water management districts shall
20 develop an information program designed to provide information
21 on existing hydrologic conditions of major surface and
22 groundwater sources in this state and suggestions for good
23 conservation practices within those areas. The program shall
24 be developed no later than December 31, 2002. Beginning
25 January 1, 2003, and on a regular basis no less than every 6
26 months thereafter, the information developed pursuant to this
27 section shall be distributed to every member of the Florida
28 Senate and the Florida House of Representatives and to local
29 print and broadcast news organizations. Each water management
30 district shall be responsible for the distribution of this
31 information within its established geographic area.

1 Section 9. The Legislature finds that within the area
2 identified in the Lower East Coast Regional Water Supply Plan
3 approved by the South Florida Water Management District
4 pursuant to section 373.0361, Florida Statutes, the
5 groundwater levels can benefit from augmentation. The
6 Legislature finds that the discharge of reclaimed water into
7 canals for transport and subsequent reuse may provide an
8 environmentally acceptable means to augment water supplies and
9 enhance natural systems; however, the Legislature also
10 recognizes that there are water quality and water quantity
11 issues that must be better understood and resolved. In
12 addition, there are cost-savings possible by collocating
13 enclosed conduits for conveyance of water for reuse in this
14 area within canal right-of-way that should be investigated.
15 Toward that end, the Department of Environmental Protection,
16 in consultation with the South Florida Water Management
17 District, Southeast Florida utilities, affected local
18 governments, including local governments with principal
19 responsibility for the operation and maintenance of a water
20 control system capable of conveying reclaimed wastewater for
21 reuse, representatives of the environmental and engineering
22 communities, public health professionals, and individuals
23 having expertise in water quality, shall conduct a study to
24 investigate the feasibility of discharging reclaimed
25 wastewater to canals as an environmentally acceptable means of
26 augmenting ground water supplies, enhancing natural systems,
27 and conveying reuse water within enclosed conduits within the
28 canal right-of-way. The study shall include an assessment of
29 the water quality, water supply, public health, technical, and
30 legal implications related to the canal discharge and
31 colocation concepts. The department shall issue a preliminary

1 written report containing draft findings and recommendations
2 for public comment by November 1, 2002. The department shall
3 provide a written report on the results of its study to the
4 Governor and the substantive committees of the House of
5 Representatives and the Senate by January 31, 2003. Nothing
6 in this section shall be used to alter the purpose of the
7 Comprehensive Everglades Restoration Plan or the
8 implementation of the Water Resources Development Act of 2000.

9 Section 10. Subsection (4) of section 373.0831,
10 Florida Statutes, is amended to read:

11 373.0831 Water resource development; water supply
12 development.--

13 (4)(a) Water supply development projects which are
14 consistent with the relevant regional water supply plans and
15 which meet at least one ~~or more~~ of the following criteria
16 shall receive priority consideration for state or water
17 management district funding assistance:

18 1. The project supports establishment of a dependable,
19 sustainable supply of water which is not otherwise financially
20 feasible;

21 2. The project provides substantial environmental
22 benefits by preventing or limiting adverse water resource
23 impacts, but requires funding assistance to be economically
24 competitive with other options; or

25 3. The project significantly implements reuse,
26 storage, recharge, or conservation of water in a manner that
27 contributes to the efficient use and sustainability of
28 regional water supply sources.

29 (b) Water supply development projects which meet the
30 criteria in paragraph (a) and also bring about replacement of
31 existing sources in order to help implement a minimum flow or

1 level shall be given first consideration for state or water
2 management district funding assistance.

3 (c) If a proposed alternative water supply project is
4 identified in the relevant approved regional water supply
5 plan, the project shall be eligible for at least one of the
6 following:

7 1. A consumptive use permit with at least a 10-year
8 duration, if it otherwise meets the requirements for permit
9 issuance under s. 373.223 and rules adopted thereunder;

10 2. Consideration for priority funding pursuant to s.
11 373.1961(2) with the implementation of the water resource
12 development component of the proposed project.

13 Section 11. Section 373.498, Florida Statutes, is
14 repealed.

15 Section 12. 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 Senate Bill 2122

4 The committee substitute deletes section 1 from the original
5 bill which would have allowed Florida Forever funds to be used
6 for facilities that treat, store, transport, or distribute
reclaimed water or stormwater for reuse. Other changes
include:

- 7 1. Providing that title information on lands purchased by
8 the water management districts is not considered
confidential.
- 9 2. Requiring the Department of Environmental Protection
10 (DEP) or the water management district to consider
11 issuing longer duration consumptive use permits to
12 applicants who implement and provide reasonable
assurances of effective and efficient conservation
measures that exceed the average for the industry or
type of water use.
- 13 3. Extends the date by which the DEP must adopt a wetland
14 mitigation assessment method rule to July 31, 2002.
15 Deletes an obsolete provision requiring the Office of
Program Policy Analysis and Government Accountability to
conduct a cumulative impact study.
- 16 4. Allows the secretary of DEP to grant a variance from the
17 provisions relating to mine reclamation to accommodate
18 reclamation that provides water supply development or
water resource development consistent with the regional
water supply plan.
- 19 5. Authorizes DEP to make deposits to financial
20 institutions which earn less than the prevailing rate
21 for U.S. Treasury securities with corresponding
22 maturities for the purpose of enabling those financial
institutions to make below-market interest rate loans to
entities qualified to receive loans through the Water
Pollution Control Financial Assistance Program.
- 23 6. Provides permitting requirements for simple cycle
24 turbine plants. Such plants are encouraged to locate in
25 coastal counties where they can be combined with
reverse-osmosis facilities or other similar technologies
26 to desalinate water resources to help meet potable water
supply needs.
- 27 7. Clarifies the permit exemption for maintenance dredging
28 activities to allow for better management of return flow
waters.
- 29 8. Requires the DEP, in consultation with the South Florida
30 Water Management District and other specified entities
31 to conduct a study to investigate the feasibility of
discharging reclaimed wastewater to canals as an
environmentally acceptable means of augmenting ground
water supplies, enhancing natural systems, and conveying
reuse water with enclosed conduits within canal

- 1 rights-of-way.
- 2 9. Provides that water supply development projects which
3 are consistent with the relevant regional water supply
4 plans and which meet at least one of several stated
5 statutory criteria shall receive priority consideration
6 for state or water management district funding
7 assistance.
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- 10 10. Repeals s. 373.498, F.S., relating to disbursement from
11 an obsolete water resources development account.
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