

1                                   A bill to be entitled  
2           An act relating to alternative water supplies;  
3           providing for the funding of projects under the  
4           Florida Forever Program and the Florida  
5           Preservation 2000 Program; amending s. 373.139,  
6           F.S.; providing that title information is not  
7           confidential; amending s. 373.236, F.S.;  
8           encouraging water conservation; amending s.  
9           373.414, F.S.; requiring that the Department of  
10          Environmental Protection adopt a uniform  
11          mitigation assessment method by rule by July  
12          31, 2002; amending s. 378.212, F.S.; providing  
13          water resource enhancements as a basis for a  
14          variance; amending s. 403.067, F.S.;  
15          authorizing the development of interim measures  
16          or best-management practices for specified  
17          water bodies or segments for which total  
18          maximum daily loads or allocations have not yet  
19          been established; creating s. 373.2505, F.S.;  
20          prescribing permitting requirements for  
21          alternative water facilities and electric power  
22          plants; amending s. 403.813, F.S.; providing  
23          requirements for exemptions for maintenance  
24          dredging; providing legislative intent for  
25          public education of water resources; providing  
26          for a study of the conveyance of reclaimed  
27          water in specified canals; amending s.  
28          373.0831, F.S.; revising the criteria by which  
29          water supply development projects may receive  
30          priority consideration for funding assistance;  
31          repealing s. 373.498, F.S., relating to an

1           obsolete account; amending s. 215.981, F.S.;  
2           revising provisions relating to annual audits;  
3           amending s. 373.114, F.S.; providing that  
4           certain water management district orders and  
5           rules are not subject to specified review;  
6           amending s. 403.412, F.S., the "Environmental  
7           Protection Act of 1971"; revising requirements  
8           for initiating specified proceedings under that  
9           act; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Effective July 1, 2002, subsection (3) of  
14 section 259.101, Florida Statutes, is amended to read:

15           259.101 Florida Preservation 2000 Act.--

16           (3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.--Less the  
17 costs of issuance, the costs of funding reserve accounts, and  
18 other costs with respect to the bonds, the proceeds of bonds  
19 issued pursuant to this act shall be deposited into the  
20 Florida Preservation 2000 Trust Fund created by s. 375.045.  
21 Beginning in fiscal year 2002-2003, funds from the  
22 unencumbered cash balance less approved commitments remaining  
23 in the agency subaccounts in the Preservation 2000 Trust Fund  
24 may be used by those agencies to fund projects described in  
25 paragraphs (3)(a)-(h) of s. 259.105 which meet the criteria  
26 for funding pursuant to the Florida Forever Program or the  
27 Florida Preservation 2000 Program.Starting in fiscal year  
28 2001-2002, from the cash balance less approved commitments  
29 encumbered that is remaining in the Florida Preservation 2000  
30 Trust Fund, the Legislature shall appropriate up to \$75  
31 million from the Florida Preservation 2000 Trust Fund to the

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

25       (a) Fifty percent to the Department of Environmental  
26 Protection for the purchase of public lands as described in s.  
27 259.032. Of this 50 percent, at least one-fifth shall be used  
28 for the acquisition of coastal lands.

29       (b) Thirty percent to the Department of Environmental  
30 Protection for the purchase of water management lands pursuant  
31 to s. 373.59, to be distributed among the water management

1 districts as provided in that section. Funds received by each  
2 district may also be used for acquisition of lands necessary  
3 to implement surface water improvement and management plans  
4 approved in accordance with s. 373.456 or for acquisition of  
5 lands necessary to implement the Everglades Construction  
6 Project authorized by s. 373.4592.

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

1 allowed by federal requirements for the use of bond proceeds,  
2 the trust shall expend Preservation 2000 funds to carry out  
3 the purposes of part III of chapter 380.

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

10 (e) Two and nine-tenths percent to the Division of  
11 Forestry of the Department of Agriculture and Consumer  
12 Services to fund the acquisition of state forest inholdings  
13 and additions pursuant to s. 589.07.

14 (f) Two and nine-tenths percent to the Fish and  
15 Wildlife Conservation Commission to fund the acquisition of  
16 inholdings and additions to lands managed by the commission  
17 which are important to the conservation of fish and wildlife.

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

24  
25 Local governments may use federal grants or loans, private  
26 donations, or environmental mitigation funds, including  
27 environmental mitigation funds required pursuant to s.  
28 338.250, for any part or all of any local match required for  
29 the purposes described in this subsection. Bond proceeds  
30 allocated pursuant to paragraph (c) may be used to purchase  
31 lands on the priority lists developed pursuant to s. 259.035.

1 Title to lands purchased pursuant to paragraphs (a), (d), (e),  
2 (f), and (g) shall be vested in the Board of Trustees of the  
3 Internal Improvement Trust Fund. Title to lands purchased  
4 pursuant to paragraph (c) may be vested in the Board of  
5 Trustees of the Internal Improvement Trust Fund. The board of  
6 trustees shall hold title to land protection agreements and  
7 conservation easements that were or will be acquired pursuant  
8 to s. 380.0677, and the Southwest Florida Water Management  
9 District and the St. Johns River Water Management District  
10 shall monitor such agreements and easements within their  
11 respective districts until the state assumes this  
12 responsibility.

13 Section 2. Paragraph (a) of subsection (3) of section  
14 373.139, Florida Statutes, is amended to read:

15 373.139 Acquisition of real property.--

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

24 (a) Appraisal reports, offers, and counteroffers are  
25 confidential and exempt from the provisions of s. 119.07(1)  
26 until an option contract is executed or, if no option contract  
27 is executed, until 30 days before a contract or agreement for  
28 purchase is considered for approval by the governing board.  
29 However, each district may, at its discretion, disclose  
30 appraisal reports to private landowners during negotiations  
31 for acquisitions using alternatives to fee simple techniques,

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

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

28 373.236 Duration of permits; compliance reports.--

29 (4) The department or the water management district  
30 shall consider issuing longer-duration permits to applicants  
31 who implement and provide reasonable assurances of effective

1 and efficient conservation measures that exceed the average  
2 for the industry or type of water use when there is sufficient  
3 data to provide reasonable assurance that the conditions for  
4 permit issuance will be met for the duration of the permit.  
5 Permits issued for a 10-year duration or longer shall be  
6 subject to the provisions of subsection (3).

7 Section 4. Subsections (18) and (19) of section  
8 373.414, Florida Statutes, are amended to read:

9 373.414 Additional criteria for activities in surface  
10 waters and wetlands.--

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



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

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

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

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

31

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

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

12           378.212 Variances.--

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

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

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

24           403.067 Establishment and implementation of total  
25 maximum daily loads.--

26           (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

27           (a) The department shall not implement, without prior  
28 legislative approval, any additional regulatory authority  
29 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part  
30 130, if such implementation would result in water quality  
31

1 discharge regulation of activities not currently subject to  
2 regulation.

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

11 Section 7. Section 373.2505, Florida Statutes, is  
12 created to read:

13 373.2505 Permitting requirements for alternative water  
14 facilities and electric power plants.--

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

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

1 that would be colocated with reverse-osmosis or other similar  
2 technologies to desalinate water resources to help meet  
3 potable-water-supply needs.

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

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

21 Section 8. Paragraph (f) of subsection (2) of section  
22 403.813, Florida Statutes, is amended to read:

23 403.813 Permits issued at district centers;  
24 exceptions.--

25 (2) No permit under this chapter, chapter 373, chapter  
26 61-691, Laws of Florida, or chapter 25214 or chapter 25270,  
27 1949, Laws of Florida, shall be required for activities  
28 associated with the following types of projects; however,  
29 nothing in this subsection relieves an applicant from any  
30 requirement to obtain permission to use or occupy lands owned  
31 by the Board of Trustees of the Internal Improvement Trust

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

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

25           Section 9. In order to aid in the development of a  
26 better understanding of the unique surface and groundwater  
27 resources of this state, the water management districts shall  
28 develop an information program designed to provide information  
29 on existing hydrologic conditions of major surface and  
30 groundwater sources in this state and suggestions for good  
31 conservation practices within those areas. The program shall

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

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



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

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

19 373.0831 Water resource development; water supply  
20 development.--

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

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

29 2. The project provides substantial environmental  
30 benefits by preventing or limiting adverse water resource  
31

1 impacts, but requires funding assistance to be economically  
2 competitive with other options; or

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

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

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

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

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

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

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

26 215.981 Audits of state agency direct-support  
27 organizations and citizen support organizations.--Each  
28 direct-support organization and each citizen support  
29 organization, created or authorized pursuant to law, and  
30 created, approved, or administered by a state agency, other  
31 than a university, district board of trustees of a community

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

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

20 373.114 Land and Water Adjudicatory Commission; review  
21 of district rules and orders; department review of district  
22 rules.--

23 (1) Except as provided in subsection (2), the Governor  
24 and Cabinet, sitting as the Land and Water Adjudicatory  
25 Commission, have the exclusive authority to review any order  
26 or rule of a water management district, other than a rule  
27 relating to an internal procedure of the district or a final  
28 order resulting from an evidentiary hearing held under s.  
29 120.569 or s. 120.57 or a rule that has been adopted after  
30 issuance of a final order resulting from an evidentiary  
31 hearing held under s. 120.56, to ensure consistency with the

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

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

1 from the standpoint of agency precedent. The party requesting  
2 the commission to review an order must allege with  
3 particularity, and the commission must find, that:

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

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

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

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

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

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

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 |

1           Section 15. Subsection (5) of section 403.412, Florida  
2 Statutes, is amended, present subsection (6) is renumbered as  
3 subsection (8), and new subsections (6) and (7) are added to  
4 said section to read:

5           403.412 Environmental Protection Act.--

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



1 activity, conduct, or product to be licensed or permitted  
2 affects the petitioner's use or enjoyment of air, water, or  
3 natural resources protected by this chapter.

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

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

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