

By the Council for Smarter Government and Representatives Russell, Byrd, Harrington, Machek, Goodlette, Baxley, Seiler, Fasano, Clarke, Allen, Harrell, Gannon, Carassas, Spratt and Dockery

1                                   A bill to be entitled  
2           An act relating to water supply policy;  
3           amending s. 163.3177, F.S.; specifying  
4           additional requirements for comprehensive plans  
5           relating to water resources, water supplies,  
6           and water supply plans; requiring a  
7           water-use-related element of future land use  
8           plans to be based on data regarding the  
9           availability of sufficient water supplies for  
10          present and future growth; amending s.  
11          163.3191, F.S.; requiring the evaluation and  
12          appraisal report for building water supply  
13          facilities to include a work plan; amending s.  
14          367.022, F.S.; exempting the use of nonpotable  
15          water for fireflow purposes from regulation as  
16          a utility; amending s. 403.064, F.S.; providing  
17          legislative intent regarding reuse of reclaimed  
18          water; revising requirements for feasibility  
19          study and implementation by permit applicants;  
20          providing an exemption from feasibility study  
21          requirements for applicants located in Monroe  
22          County; amending s. 403.1835, F.S.; providing  
23          for low-interest loans to provide certain water  
24          pollution control financial assistance;  
25          requiring water management districts to develop  
26          and distribute certain water sources and  
27          conservation information; repealing s.  
28          403.804(3), F.S., relating to Environmental  
29          Regulation Commission approval of grants for  
30          construction of wastewater or water treatment  
31          works; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

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

7 163.3177 Required and optional elements of  
8 comprehensive plan; studies and surveys.--

9 (3)(a) The comprehensive plan shall contain a capital  
10 improvements element designed to consider the need for and the  
11 location of public facilities in order to encourage the  
12 efficient utilization of such facilities and set forth:

13 1. A component which outlines principles for  
14 construction, extension, or increase in capacity of public  
15 facilities, including potable water facilities compatible with  
16 the applicable regional water supply plan developed pursuant  
17 to s. 373.0361, as well as a component which outlines  
18 principles for correcting existing public facility  
19 deficiencies, which are necessary to implement the  
20 comprehensive plan. The components shall cover at least a  
21 5-year period.

22 2. Estimated public facility costs, including a  
23 delineation of when facilities will be needed, the general  
24 location of the facilities, and projected revenue sources to  
25 fund the facilities.

26 3. Standards to ensure the availability of public  
27 facilities and the adequacy of those facilities including  
28 acceptable levels of service.

29 4. Standards for the management of debt.

30 (4)(a) Coordination of the local comprehensive plan  
31 with the comprehensive plans of adjacent municipalities, the

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

15 (6) In addition to the requirements of subsections  
16 (1)-(5), the comprehensive plan shall include the following  
17 elements:

18 (c) A general sanitary sewer, solid waste, drainage,  
19 potable water, and natural groundwater aquifer recharge  
20 element correlated to principles and guidelines for future  
21 land use, indicating ways to provide for future potable water,  
22 drainage, sanitary sewer, solid waste, and aquifer recharge  
23 protection requirements for the area. The element may be a  
24 detailed engineering plan including a topographic map  
25 depicting areas of prime groundwater recharge. The element  
26 shall describe the problems and needs and the general  
27 facilities that will be required for solution of the problems  
28 and needs. The element shall also include a topographic map  
29 depicting any areas adopted by a regional water management  
30 district as prime groundwater recharge areas for the Floridan  
31 or Biscayne aquifers, pursuant to s. 373.0395. These areas

1 shall be given special consideration when the local government  
2 is engaged in zoning or considering future land use for said  
3 designated areas. For areas served by septic tanks, soil  
4 surveys shall be provided which indicate the suitability of  
5 soils for septic tanks. By July 1, 2007, or the evaluation and  
6 appraisal report adoption deadline established for the local  
7 government pursuant to s. 163.3191(1)(a), whichever date  
8 occurs first, the element must consider the appropriate water  
9 management district's regional water supply plan approved  
10 pursuant to s. 373.0361. The potable water element shall  
11 include a work plan covering at least a 10-year planning  
12 period for building water supply facilities that are  
13 identified in the potable water element as necessary to meet  
14 projected water demand to serve existing and new development  
15 and for which the local government is responsible.

16 (d) A conservation element for the conservation, use,  
17 and protection of natural resources in the area, including  
18 air, water, water recharge areas, wetlands, waterwells,  
19 estuarine marshes, soils, beaches, shores, flood plains,  
20 rivers, bays, lakes, harbors, forests, fisheries and wildlife,  
21 marine habitat, minerals, and other natural and environmental  
22 resources. Local governments shall assess their current, as  
23 well as projected, water needs and sources for at least a  
24 10-year period, considering the appropriate regional water  
25 supply plan approved pursuant to s. 373.0361 or the district  
26 water management plan approved pursuant to s. 373.036(2) in  
27 the absence of an approved regional water supply plan. This  
28 information shall be submitted to the appropriate agencies.  
29 The land use map or map series contained in the future land  
30 use element shall generally identify and depict the following:  
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1           1. Existing and planned waterwells and cones of  
2 influence where applicable.

3           2. Beaches and shores, including estuarine systems.

4           3. Rivers, bays, lakes, flood plains, and harbors.

5           4. Wetlands.

6           5. Minerals and soils.

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8 The land uses identified on such maps shall be consistent with  
9 applicable state law and rules.

10           (h)1. An intergovernmental coordination element  
11 showing relationships and stating principles and guidelines to  
12 be used in the accomplishment of coordination of the adopted  
13 comprehensive plan with the plans of school boards and other  
14 units of local government providing services but not having  
15 regulatory authority over the use of land, with the  
16 comprehensive plans of adjacent municipalities, the county,  
17 adjacent counties, or the region, ~~and~~ with the state  
18 comprehensive plan, and with the applicable regional water  
19 supply plan approved pursuant to s. 373.0361, as the case may  
20 require and as such adopted plans or plans in preparation may  
21 exist. This element of the local comprehensive plan shall  
22 demonstrate consideration of the particular effects of the  
23 local plan, when adopted, upon the development of adjacent  
24 municipalities, the county, adjacent counties, or the region,  
25 or upon the state comprehensive plan, as the case may require.

26           a. The intergovernmental coordination element shall  
27 provide for procedures to identify and implement joint  
28 planning areas, especially for the purpose of annexation,  
29 municipal incorporation, and joint infrastructure service  
30 areas.

1           b. The intergovernmental coordination element shall  
2 provide for recognition of campus master plans prepared  
3 pursuant to s. 240.155.

4           c. The intergovernmental coordination element may  
5 provide for a voluntary dispute resolution process as  
6 established pursuant to s. 186.509 for bringing to closure in  
7 a timely manner intergovernmental disputes. A local  
8 government may develop and use an alternative local dispute  
9 resolution process for this purpose.

10           2. The intergovernmental coordination element shall  
11 further state principles and guidelines to be used in the  
12 accomplishment of coordination of the adopted comprehensive  
13 plan with the plans of school boards and other units of local  
14 government providing facilities and services but not having  
15 regulatory authority over the use of land. In addition, the  
16 intergovernmental coordination element shall describe joint  
17 processes for collaborative planning and decisionmaking on  
18 population projections and public school siting, the location  
19 and extension of public facilities subject to concurrency, and  
20 siting facilities with countywide significance, including  
21 locally unwanted land uses whose nature and identity are  
22 established in an agreement. Within 1 year of adopting their  
23 intergovernmental coordination elements, each county, all the  
24 municipalities within that county, the district school board,  
25 and any unit of local government service providers in that  
26 county shall establish by interlocal or other formal agreement  
27 executed by all affected entities, the joint processes  
28 described in this subparagraph consistent with their adopted  
29 intergovernmental coordination elements.

30           3. To foster coordination between special districts  
31 and local general-purpose governments as local general-purpose

1 governments implement local comprehensive plans, each  
2 independent special district must submit a public facilities  
3 report to the appropriate local government as required by s.  
4 189.415.

5 4. The state land planning agency shall establish a  
6 schedule for phased completion and transmittal of plan  
7 amendments to implement subparagraphs 1., 2., and 3. from all  
8 jurisdictions so as to accomplish their adoption by December  
9 31, 1999. A local government may complete and transmit its  
10 plan amendments to carry out these provisions prior to the  
11 scheduled date established by the state land planning agency.  
12 The plan amendments are exempt from the provisions of s.  
13 163.3187(1).

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

16 163.3191 Evaluation and appraisal of comprehensive  
17 plan.--

18 (2) The report shall present an evaluation and  
19 assessment of the comprehensive plan and shall contain  
20 appropriate statements to update the comprehensive plan,  
21 including, but not limited to, words, maps, illustrations, or  
22 other media, related to:

23 (1) Consideration of the appropriate water management  
24 district's regional water supply plan approved pursuant to s.  
25 373.0361. The potable water element must be revised to include  
26 a work plan covering at least a 10-year planning period for  
27 building water supply facilities that are identified in the  
28 potable water element as necessary to serve existing and new  
29 development and for which the local government is responsible.

30 Section 3. Subsection (11) of section 367.022, Florida  
31 Statutes, is amended to read:

1           367.022 Exemptions.--The following are not subject to  
2 regulation by the commission as a utility nor are they subject  
3 to the provisions of this chapter, except as expressly  
4 provided:

5           (11) Any person providing only nonpotable water for  
6 irrigation or fireflow purposes in a geographic area where  
7 potable water service is available from a governmentally or  
8 privately owned utility or a private well.

9           Section 4. Section 403.064, Florida Statutes, is  
10 amended to read:

11           403.064 Reuse of reclaimed water.--

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

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

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- 1           (a) Evaluation of monetary costs and benefits for  
2 several levels and types of reuse.
- 3           (b) Evaluation of water savings if reuse is  
4 implemented.
- 5           (c) Evaluation of rates and fees necessary to  
6 implement reuse.
- 7           (d) Evaluation of environmental and water resource  
8 benefits associated with reuse.
- 9           (e) Evaluation of economic, environmental, and  
10 technical constraints.
- 11           (f) A schedule for implementation of reuse. The  
12 schedule shall consider phased implementation.
- 13           (3) The permit applicant shall prepare a plan of study  
14 for the reuse feasibility study consistent with the reuse  
15 feasibility study guidelines adopted by department rule. The  
16 plan of study shall include detailed descriptions of  
17 applicable treatment and water supply alternatives to be  
18 evaluated and the methods of analysis to be used. The plan of  
19 study shall be submitted to the department for review and  
20 approval.
- 21           ~~(4)(3)~~ The study required under subsection (2) shall  
22 be performed by the applicant, and the applicant shall  
23 determine the ~~applicant's determination of~~ feasibility of  
24 reuse based upon the results of the study ~~is final~~ if the  
25 study complies with the requirements of subsections ~~subsection~~  
26 (2) and (3).
- 27           ~~(5)(4)~~ A reuse feasibility study is not required if:  
28           (a) The domestic wastewater treatment facility has an  
29 existing or proposed permitted or design capacity less than  
30 0.1 million gallons per day; ~~or~~
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1           (b) The permitted reuse capacity equals or exceeds the  
2 total permitted capacity of the domestic wastewater treatment  
3 facility; or-

4           (c) The applicant is located within an area as defined  
5 by s. 7.44. Any applicant exempt under this paragraph may  
6 elect to utilize the provisions of this section.

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

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

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

30           ~~(9)(8)~~ Local governments may and are encouraged to  
31 implement programs for the reuse of reclaimed water. Nothing

1 in this chapter shall be construed to prohibit or preempt such  
2 local reuse programs.

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

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

13 (12)~~(11)~~ In issuing consumptive use permits, the  
14 permitting agency shall consider the local reuse program.

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

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

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

1 (b) This subsection applies only to domestic  
2 wastewater treatment facilities located within, serving a  
3 population located within, or discharging within a water  
4 resource caution area.

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

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

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

25 Section 5. Paragraph (b) of subsection (3) of section  
26 403.1835, Florida Statutes, is amended to read:

27 403.1835 Water pollution control financial  
28 assistance.--

29 (3) The department may provide financial assistance  
30 through any program authorized under s. 603 of the Federal  
31 Water Pollution Control Act (Clean Water Act), Pub. L. No.

1 92-500, as amended, including, but not limited to, making  
2 grants and loans, providing loan guarantees, purchasing loan  
3 insurance or other credit enhancements, and buying or  
4 refinancing local debt. This financial assistance must be  
5 administered in accordance with this section and applicable  
6 federal authorities. The department shall administer all  
7 programs operated from funds secured through the activities of  
8 the Florida Water Pollution Control Financing Corporation  
9 under s. 403.1837, to fulfill the purposes of this section.

10 (b) The department may make or request the corporation  
11 to make loans, grants, and deposits to other entities eligible  
12 to participate in the financial assistance programs authorized  
13 under the Federal Water Pollution Control Act, or as a result  
14 of other federal action, which entities may pledge any revenue  
15 available to them to repay any funds borrowed. Notwithstanding  
16 s. 18.10, the department may make deposits to financial  
17 institutions that earn less than the prevailing rate for  
18 United States Treasury securities with corresponding  
19 maturities for the purpose of enabling such financial  
20 institutions to make below-market interest rate loans to  
21 entities qualified to receive loans under this section and the  
22 rules of the department.

23 Section 6. In order to aid in the development of a  
24 better understanding of the unique surface and groundwater  
25 resources of this state, the water management districts shall  
26 develop an information program designed to provide information  
27 on existing hydrologic conditions of major surface and  
28 groundwater sources in this state and suggestions for good  
29 conservation practices within those areas. The program shall  
30 be developed no later than December 31, 2002. Beginning  
31 January 1, 2003, and on a regular basis no less than every 6

1 months thereafter, the information developed pursuant to this  
2 section shall be distributed to every member of the Florida  
3 Senate and the Florida House of Representatives and to local  
4 print and broadcast news organizations. Each water management  
5 district shall be responsible for the distribution of this  
6 information within its established geographic area.

7 Section 7. Subsection (3) of s. 403.804, Florida  
8 Statutes, is repealed.

9 Section 8. This act shall take effect upon becoming a  
10 law.

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