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CHAMBER ACTION

The Committee on Natural Resources recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to water resources; amending s. 373.223, F.S.; revising provisions relating to water reservations; defining "independent scientific peer review"; providing for selection and duties of an independent scientific peer review panel; providing for a report; providing for applicability; providing exceptions; providing for rules; providing for administrative hearings; providing for a water recovery or prevention plan and for implementation thereof; amending s. 373.250, F.S.; authorizing water management districts to require use of uncommitted reclaimed water under certain circumstances and with certain limitations; amending s. 403.064, F.S.; requiring that the conclusions of a reuse feasibility study be considered in analyzing the feasibility of providing reclaimed water for reuse; providing an effective date.

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



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29 Section 1. Subsection (4) of section 373.223, Florida
30 Statutes, is amended to read:

31 373.223 Conditions for a permit.--

32 (4)(a) The governing board or the department, by rule
33 ~~regulation~~, may reserve from use by permit applicants, water in
34 such locations and quantities, and for such seasons of the year,
35 as in its judgment may be required for the protection of fish
36 and wildlife or the public health and safety. Such reservations
37 shall be subject to periodic review and revision at least every
38 5 years, in conjunction with the district's review of regional
39 water supply plans in the light of changed conditions, and
40 revised if necessary. However, all presently existing legal uses
41 of water shall be protected so long as such use is not contrary
42 to the public interest.

43 (b) By July 1, 2004, or the next required update to the
44 applicable water management district's regional water supply
45 plan, whichever occurs first, and at least every 5 years
46 thereafter, each water management district that intends to
47 establish water reservations shall set forth in its regional
48 water supply plan approved pursuant to s. 373.0361 a priority
49 list and schedule for the establishment of its proposed
50 reservations, as well as an explanation of the reasons and
51 conditions supporting the need for those reservations. The
52 priority list and schedule shall also identify those
53 reservations for which the district will voluntarily undertake
54 independent scientific peer review. However, nothing in this
55 subsection shall preclude a water management district from



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56 adopting a rule establishing a water reservation for a water
57 body or an area not shown on the priority list or schedule.

58 (c) Upon written request to the department or the
59 governing board by a substantially affected person, or by
60 decision of the department or the governing board, prior to the
61 establishment of a reservation of water and prior to the filing
62 of any petition for an administrative hearing related to a
63 reservation of water, all scientific or technical data,
64 methodologies, and models, including all scientific and
65 technical assumptions employed in each model, used to establish
66 the water reservation shall be subject to independent scientific
67 peer review. "Independent scientific peer review" means a review
68 by a panel of independent, recognized experts in the fields of
69 hydrology, hydrogeology, limnology, biology, and other
70 scientific disciplines, to the extent relevant to the
71 establishment of the reservation.

72 (d) If independent scientific peer review is requested, it
73 shall be initiated at an appropriate point agreed upon by the
74 department or the governing board and the person or persons
75 requesting the peer review. If no agreement is reached, the
76 department or the governing board shall determine the
77 appropriate point at which to initiate the peer review. The
78 members of the peer review panel shall be selected within 60
79 days after the point of initiation by agreement of the
80 department or the governing board and the person or persons
81 requesting the peer review. If the peer review panel is not
82 selected within the 60-day period, the time limitation may be
83 waived upon the agreement of all parties. If no waiver occurs,



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84 the department or the governing board may proceed to select the
85 peer review panel. The cost of the peer review shall be borne
86 equally by the district and each party requesting the peer
87 review to the extent economically feasible. The peer review
88 panel shall submit a final report to the governing board within
89 120 days after its selection unless the deadline is waived by
90 agreement of all parties. Initiation of the peer review pursuant
91 to this paragraph shall toll any applicable deadline under
92 chapter 120 or any other law or district rule regarding
93 permitting, rulemaking, or administrative hearings, until 60
94 days following submittal of the peer review panel's final
95 report. Any such deadlines shall also be tolled for 60 days
96 following withdrawal of the request or following agreement of
97 the parties that the peer review will no longer be pursued. The
98 department or the governing board shall give significant weight
99 to the final report of the peer review panel when establishing
100 the water reservation.

101 (e) If the final data, methodologies, and models,
102 including all scientific and technical assumptions employed in
103 each model upon which a water reservation is based, have
104 undergone the peer review pursuant to this subsection, by
105 request or by decision of the department or the governing board,
106 no further peer review shall be required with respect to that
107 water reservation.

108 (f) No reservation of water adopted by rule or formally
109 noticed for adoption on or before July 1, 2003, shall be subject
110 to this subsection.



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111 (g) Notwithstanding any other provision of this section to
112 the contrary, to assist in implementing the comprehensive plan
113 as defined in s. 373.470(2)(a) and achieving the purposes
114 identified in s. 373.470(3)(b), the governing board of the South
115 Florida Water Management District, upon completion of a project
116 implementation report as required by s. 373.470(3)(c) and the
117 approval of said report pursuant to s. 373.026(8)(b), may by
118 rule reserve water for the natural system and determine regional
119 water availability for other uses to be made available by the
120 project component. The rule shall state when the quantities are
121 anticipated to become available and how the reserved water and
122 quantities of water for other uses will be adjusted if the
123 actual water made available is different than the quantity
124 anticipated. Once a project component is constructed and in
125 operation, the reservation and quantities of water made
126 available for other uses shall be reviewed and modified, as
127 necessary, based upon the performance of the project component.

128 (h) If a petition for administrative hearing is filed
129 under chapter 120 challenging the establishment of the
130 reservation of water, the report of an independent scientific
131 peer review conducted under this subsection is admissible as
132 evidence in the final hearing. To the extent that the parties
133 agree to the findings of the peer review, they may stipulate
134 that those findings shall be incorporated as findings of fact in
135 the final order.

136 (i) If the department or the governing board determines
137 after adoption of the reservation of water by rule that the
138 water needed for the reservation is already allocated to



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139 existing legal users, or that there is otherwise inadequate
140 water to meet the reservation and the demands of existing legal
141 uses and projected uses determined pursuant to the analysis
142 required by s. 373.0361, then the department or the governing
143 board, as part of a regional water supply plan described in s.
144 373.0361, shall expeditiously implement a water recovery or
145 prevention plan that shall include the development of additional
146 water supplies and other actions, consistent with the authority
147 granted by this chapter, to:

- 148 1. Provide water needed for the reservation; or
149 2. Develop new or additional water sources to meet the
150 needs of existing legal uses and projected uses that may be
151 affected by the reservation.

152
153 This recovery plan shall include phasing or a timetable for
154 implementing the reservation that will allow for the provision
155 of sufficient water supplies for all existing and projected
156 reasonable-beneficial uses, including development of additional
157 water supplies and implementation of conservation and other
158 efficiency measures.

159 Section 2. Subsection (2) of section 373.250, Florida
160 Statutes, is amended to read:

161 373.250 Reuse of reclaimed water.--

162 (2)(a) For purposes of this section, "uncommitted" means
163 the average amount of reclaimed water produced during the three
164 lowest-flow months minus the amount of reclaimed water that a
165 reclaimed water provider is contractually obligated to provide
166 to a customer or user.



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167 (b) Reclaimed water may be presumed available to a
168 consumptive use permit applicant when a utility exists which
169 provides reclaimed water, which has uncommitted reclaimed water
170 capacity, and which has distribution facilities, which are
171 initially provided by the utility at its cost, to the site of
172 the affected applicant's proposed use.

173 (c) A water management district may require the use of
174 uncommitted reclaimed water in lieu of surface water or
175 groundwater when the use of reclaimed water is environmentally,
176 economically, and technically feasible. However, nothing in this
177 paragraph shall be construed to give a water management district
178 the authority to require a provider of reclaimed water to
179 redirect reclaimed water from one user to another or to provide
180 uncommitted water to a specific user if such water is
181 anticipated to be used by the provider, or a different user
182 selected by the provider, within a reasonable amount of time.

183 Section 3. Subsection (6) of section 403.064, Florida
184 Statutes, is amended to read:

185 403.064 Reuse of reclaimed water.--

186 (6) A reuse feasibility study prepared under subsection
187 (2) satisfies a water management district requirement to conduct
188 a reuse feasibility study imposed on a local government or
189 utility that has responsibility for wastewater management, and
190 the conclusions of the reuse feasibility study shall be given
191 significant consideration in an analysis of the feasibility of
192 providing reclaimed water for reuse under part II of chapter
193 373.

194 Section 4. This act shall take effect upon becoming a law.