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1 A bill to be entitled
2 An act relating to water policy; amending s. 373.0693,
3 F.S.; redrawing the boundaries of certain water basins;
4 providing for the transfer of assets between such water
5 basins; amending s. 373.451, F.S.; revising legislative
6 intent with respect to the Surface Water Improvement and
7 Management Act; deleting requirement that state and local
8 funds be provided for certain purposes; amending s.
9 373.453, F.S.; revising criteria to be applied in
10 determining the priority of water bodies under surface
11 water and management plans and programs; providing for
12 periodic lists of water bodies of regional or statewide
13 significance; authorizing participation by additional
14 persons in the development of plans and programs; deleting
15 certain reporting requirements; requiring identification
16 of potential funding sources for the plans and programs;
17 requiring review of plans developed by water management
18 districts by various state agencies within a specified
19 time; exempting the approval process for such plans from
20 the rule adoption requirements of chapter 120, F.S.;
21 deleting the requirement that state agencies be on certain
22 advisory committees; authorizing water management
23 districts to enter into contracts with governmental
24 agencies regarding the development and implementation of
25 water improvement and management programs; amending s.
26 373.459, F.S.; providing for appropriation of funds for
27 surface water improvement and management activities by
28 water management districts; providing for release of funds
29 by the Department of Environmental Protection; repealing
30 s. 373.455, F.S., relating to review of surface water



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31 improvement and management plans; repealing s. 373.456,
 32 F.S., relating to approval of surface water improvement
 33 and management plans; repealing s. 373.457, F.S., relating
 34 to implementation of surface water improvement and
 35 management plans and programs; amending ss. 259.101,
 36 373.4136, 403.067, and 403.1835, F.S.; deleting cross
 37 references; providing an effective date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Subsection (11) of section 373.0693, Florida
 42 Statutes, is amended to read:

43 373.0693 Basins; basin boards.--

44 (11)(a) Basins existing within the Southwest Florida Water
 45 Management District, as described in rule 40D-0.061, Florida
 46 Administrative Code, may not be abolished or combined without
 47 the approval of the Legislature, except that the entire area
 48 lying to the East of the Hillsborough County line formerly and
 49 ~~presently located within the Hillsborough Basin is hereby~~
 50 annexed into the Peace River Basin from the Hillsborough Basin
 51 is hereby deannexed from the Peace River Basin and reannexed
 52 into the Hillsborough Basin. Within the Southwest Florida Water
 53 Management District, the entire area lying to the East of the
 54 Hillsborough County line formerly and presently located within
 55 ~~the Alafia Basin is hereby~~ annexed into the Peace River Basin
 56 from the Alafia Basin is hereby deannexed from the Peace River
 57 Basin and reannexed into the Alafia Basin.

58 (b) Assets or liabilities of the basin located in those
 59 areas transferred from the Peace River Basin back into the
 60 Hillsborough and Alafia Basins ~~into the Peace River Basin~~



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61 pursuant to this section, including funds held in trust, shall
 62 be transferred to the Hillsborough and Alafia Basins ~~Peace River~~
 63 ~~Basin~~.

64 Section 2. Subsections (5), (7), and (8) of section
 65 373.451, Florida Statutes, are amended to read:

66 373.451 Short title; legislative findings and intent.--

67 (5) The Legislature finds that many surface water problems
 68 can be and have been corrected and prevented through plans and
 69 programs for surface water improvement and management that are
 70 developed ~~planned, designed,~~ and implemented by the water
 71 management districts, the department, and local governments.

72 (7) It is also the intent of the Legislature that the
 73 department, the water management districts, and others ~~shall~~
 74 ~~conduct or coordinate statewide research by the water management~~
 75 ~~districts or others~~ to provide a better scientific understanding
 76 of the causes and effects of surface water pollution and of the
 77 destruction of natural systems in order to improve and manage
 78 surface waters and associated natural systems.

79 ~~(8) The state, through the department, shall provide funds~~
 80 ~~to assist with the implementation of the district plans and~~
 81 ~~programs under this act. However, to achieve the goals of this~~
 82 ~~act, cooperation and funding is necessary from the state, the~~
 83 ~~water management districts, and local governments.~~

84 Section 3. Section 373.453, Florida Statutes, is amended
 85 to read:

86 373.453 Surface water improvement and management plans and
 87 programs.--

88 (1)(a) Each water management district, in cooperation with
 89 the department, the Department of Agriculture and Consumer
 90 Services, the Department of Community Affairs, the Fish and



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91 Wildlife Conservation Commission, ~~and~~ local governments, and
 92 others, shall ~~prepare and~~ maintain a list that prioritizes ~~which~~
 93 ~~shall prioritize~~ water bodies of regional or statewide
 94 significance within the ~~each~~ water management district. The list
 95 shall be reviewed and updated every 5 ~~3~~ years. ~~The list shall be~~
 96 ~~based on criteria adopted by rule of the department and shall~~
 97 ~~assign priorities to the water bodies based on their need for~~
 98 ~~protection and restoration.~~

99 (b) Criteria to be used in developing the lists developed
 100 ~~by the department~~ shall include, but ~~need~~ not be limited to,
 101 consideration of violations of water quality standards occurring
 102 in the water body, the amounts of nutrients entering the water
 103 body and the water body's trophic state, water bodies on the
 104 department's list of impaired waters, water bodies with
 105 established total maximum daily loads, the existence of or need
 106 for a continuous aquatic weed control program in the water body,
 107 the biological condition of the water body, reduced fish and
 108 wildlife values, ~~and~~ threats to agricultural and urban water
 109 supplies, threats to ~~and~~ public recreational opportunities,
 110 public input, and the management of the water body through
 111 federal, state, or local water quality programs or plans.

112 (c) In maintaining ~~developing~~ their respective priority
 113 water body lists, water management districts shall give
 114 consideration to the following priority areas:

115 1. The South Florida Water Management District shall give
 116 priority to the restoration needs of Lake Okeechobee, Biscayne
 117 Bay, and the Indian River Lagoon system and their tributaries.

118 2. The Southwest Florida Water Management District shall
 119 give priority to the restoration needs of Tampa Bay and its
 120 tributaries.



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121 3. The St. Johns River Water Management District shall
122 give priority to the restoration needs of Lake Apopka, the Lower
123 St. Johns River, and the Indian River Lagoon system and their
124 tributaries.

125 (2) Unless otherwise provided by law ~~Once the priority~~
126 ~~lists are approved by the department,~~ the water management
127 districts, in cooperation with state agencies, ~~the department,~~
128 ~~the Fish and Wildlife Conservation Commission, the Department of~~
129 ~~Community Affairs, the Department of Agriculture and Consumer~~
130 ~~Services, and local governments, and others,~~ may shall develop
131 surface water improvement and management plans and programs for
132 the water bodies identified ~~based~~ on the priority lists. ~~The~~
133 ~~department shall establish a uniform format for such plans and a~~
134 ~~schedule for reviewing and updating the plans. These Plans~~
135 developed pursuant to this subsection shall include, but not be
136 limited to:

137 (a) A description of the water body system, its historical
138 and current uses, its hydrology, and ~~a history of~~ the conditions
139 which have led to the need for restoration or protection;

140 (b) An identification of all governmental units that have
141 jurisdiction over the water body and its drainage basin within
142 the approved surface water improvement and management plan area,
143 including local, regional, state, and federal units;

144 (c) A description of land uses within the drainage basin
145 of the priority water body ~~within the approved surface water~~
146 ~~improvement and management plan area~~ and those of important
147 tributaries, ~~point and nonpoint sources of pollution, and~~
148 ~~permitted discharge activities;~~

149 (d) Identification ~~A list of the owners~~ of point and
150 nonpoint sources of water pollution that are discharged into the



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151 ~~each water body and its important tributaries tributary thereto~~
 152 ~~and that adversely affect the public interest, including~~
 153 ~~separate lists of those sources that are:~~

- 154 ~~1. Operating without a permit;~~
 155 ~~2. Operating with a temporary operating permit; and~~
 156 ~~3. Presently violating effluent limits or water quality~~
 157 ~~standards.~~

158
 159 ~~The plan shall also include recommendations and schedules for~~
 160 ~~bringing all sources into compliance with state standards when~~
 161 ~~not contrary to the public interest. This paragraph does not~~
 162 ~~authorize any existing or future violation of any applicable~~
 163 ~~statute, regulation, or permit requirement, and does not~~
 164 ~~diminish the authority of the department or the water management~~
 165 ~~district;~~

166 (e) A description of strategies and a schedule for related
 167 management actions ~~potential strategies~~ for restoring or
 168 protecting the water body to Class III or better, including
 169 those needed to help achieve state-adopted total maximum daily
 170 loads for the water body;

171 ~~(f) A listing of studies that are being or have been~~
 172 ~~prepared for the water body;~~

173 ~~(g) A description of the research and feasibility studies~~
 174 ~~which will be performed to determine the particular strategy or~~
 175 ~~strategies to restore or protect the water body;~~

176 ~~(f)(h)~~ A description of the management actions ~~measures~~
 177 needed to ~~manage and~~ maintain the water body once it has been
 178 restored and to prevent future degradation; and

179 ~~(i) A schedule for restoration and protection of the water~~
 180 ~~body; and~~



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181 ~~(g)~~(j) An estimate of the funding needed to carry out the
182 restoration or protection strategies and a listing of available
183 and potential funding sources and amounts.

184 (3) ~~Each water management district shall be responsible~~
185 ~~for planning and coordinating restoration or protection~~
186 ~~strategies for the priority water bodies within the district~~
187 ~~which have been approved by the department as water bodies of~~
188 ~~regional and statewide significance in need of protection or~~
189 ~~restoration.~~ The governing board of the appropriate water
190 management district shall hold at least one public hearing and
191 public workshop ~~workshops~~ in the vicinity of a priority ~~the~~
192 water body for which a plan is being developed to obtain ~~under~~
193 ~~consideration as may be necessary for obtaining public input~~
194 ~~prior to finalizing the surface water improvement and management~~
195 plan ~~plans~~ for the water body ~~bodies on the priority list.~~ The
196 water management district shall then forward a copy of the plan
197 ~~plans~~ to the department, the Fish and Wildlife Conservation
198 Commission, the Department of Agriculture and Consumer Services,
199 ~~and~~ to the appropriate local governmental units for their review and
200 comment within 45 calendar days after the date the plan is
201 forwarded to them. The department shall specifically comment on
202 the likelihood that implementing the plan will significantly
203 improve or protect water quality and associated natural systems.
204 At the end of the 45-day review period, the water management
205 district may proceed to approve the plan, whether or not
206 comments have been submitted. Approval of a surface water
207 improvement and management plan is not subject to the rule
208 adoption requirements of chapter 120.

209 (4) Plans shall be updated as necessary to ensure that
210 they effectively address the restoration and protection needs of



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211 the priority water bodies and that they reflect current
212 scientific understandings and budgetary adjustments. If a
213 district determines that modifications of or additions to a plan
214 are necessary, such modifications or additions shall be subject
215 to the review process established in this section. Each
216 ~~September 1, the water management districts shall submit a~~
217 ~~funding proposal for the next state fiscal year to the~~
218 ~~department for its review and approval. The proposal shall~~
219 ~~specify the activities that need state funding and the amounts~~
220 ~~of funding, and shall describe the specific restoration or~~
221 ~~protection activities proposed. The department shall review~~
222 ~~water management district funding proposals and shall consider~~
223 ~~them in making its annual budget request.~~

224 (5) The governing board of each water management district
225 is encouraged to appoint advisory committees as necessary to
226 assist in formulating and evaluating strategies for water body
227 protection and restoration activities and to increase public
228 awareness and intergovernmental cooperation. Such committees
229 should include representatives of ~~the Fish and Wildlife~~
230 ~~Conservation Commission, the Department of Agriculture and~~
231 ~~Consumer Services,~~ appropriate local governments, state and
232 federal agencies, existing advisory councils for the priority
233 ~~subject~~ water body, and representatives of the public who use
234 the water body.

235 (6) The water management districts may contract with
236 appropriate state, local, and regional agencies and others to
237 perform various tasks associated with the development and
238 implementation of ~~the~~ surface water improvement and management
239 plans and programs.



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240 Section 4. Section 373.459, Florida Statutes, is amended
241 to read:

242 373.459 Funds for surface water improvement and
243 management.--

244 (1) Legislative appropriations provided to the water
245 management districts for surface water improvement and
246 management activities shall be available for detailed planning
247 and plan and program implementation.

248 (2)~~(1)~~ The Ecosystem Management and Restoration Trust Fund
249 shall be used for the deposit of funds appropriated by the
250 Legislature for the purposes of ss. 373.451-373.4595. The
251 department shall administer all funds appropriated to or
252 received for surface water improvement and management
253 activities. Expenditure of the moneys shall be limited to the
254 costs of detailed planning ~~for~~ and plan and program
255 implementation of programs prepared for priority surface water
256 bodies waters. Moneys from the fund shall not be expended for
257 planning for, or construction or expansion of, treatment
258 facilities for domestic or industrial waste disposal.

259 (3)~~(2)~~ The ~~secretary of the~~ department shall authorize the
260 release of money from the fund in accordance with the provisions
261 of s. 373.501(2) and procedures in s. 373.59(4) and (5) within
262 30 days after receipt of a request adopted by the governing
263 board of a water management district or by the executive
264 director when authority has been delegated by the governing
265 board, certifying that the money is needed for detailed planning
266 for or implementation of plans approved pursuant to ss. 373.453,
267 373.455, and 373.456. A water management district may not
268 receive more than 50 percent of the moneys appropriated to the
269 fund for the purposes of ss. 373.451-373.4595 in any fiscal year



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270 ~~unless otherwise provided for by law. Each year after funds are~~
271 ~~appropriated, each water management district shall receive the~~
272 ~~amount requested pursuant to s. 373.453(4) or 10 percent of the~~
273 ~~money appropriated for the purposes of ss. 373.451-373.4595,~~
274 ~~whichever is less. The department shall allocate the remaining~~
275 ~~money in the appropriation for such purposes annually, based~~
276 ~~upon the specific needs of the districts. The department, at its~~
277 ~~discretion, may include any funds allocated to a district for~~
278 ~~such purposes in previous years which remain unencumbered by the~~
279 ~~district on July 1, to the amount of money to be distributed~~
280 ~~based upon specific needs of the districts.~~

281 ~~(3) The amount of money that may be released to a water~~
282 ~~management district from the fund for approved plans, or~~
283 ~~continuations of approved plans, to improve and manage the~~
284 ~~surface waters described in ss. 373.451-373.4595 is limited to~~
285 ~~not more than 60 percent of the amount of money necessary for~~
286 ~~the approved plans of the South Florida Water Management~~
287 ~~District, the Southwest Florida Water Management District, and~~
288 ~~the St. Johns River Water Management District, and not more than~~
289 ~~80 percent of the amount of money necessary for the approved~~
290 ~~plans of the Northwest Florida Water Management District and the~~
291 ~~Suwannee River Water Management District. The remaining funds~~
292 ~~necessary for the approved plans shall be provided by the~~
293 ~~district.~~

294 (4) Moneys in the fund that ~~which~~ are not needed to meet
295 current obligations incurred under this section shall be
296 transferred to the State Board of Administration, to the credit
297 of the trust fund, to be invested in the manner provided by law.
298 Interest received on such investments shall be credited to the
299 trust fund.



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300 Section 5. Sections 373.455, 373.456, and 373.457, Florida
 301 Statutes, are repealed.

302 Section 6. Paragraph (b) of subsection (3) of section
 303 259.101, Florida Statutes, is amended to read:

304 259.101 Florida Preservation 2000 Act.--

305 (3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.--Less the
 306 costs of issuance, the costs of funding reserve accounts, and
 307 other costs with respect to the bonds, the proceeds of bonds
 308 issued pursuant to this act shall be deposited into the Florida
 309 Preservation 2000 Trust Fund created by s. 375.045. In fiscal
 310 year 2000-2001, for each Florida Preservation 2000 program
 311 described in paragraphs (a)-(g), that portion of each program's
 312 total remaining cash balance which, as of June 30, 2000, is in
 313 excess of that program's total remaining appropriation balances
 314 shall be redistributed by the department and deposited into the
 315 Save Our Everglades Trust Fund for land acquisition. For
 316 purposes of calculating the total remaining cash balances for
 317 this redistribution, the Florida Preservation 2000 Series 2000
 318 bond proceeds, including interest thereon, and the fiscal year
 319 1999-2000 General Appropriations Act amounts shall be deducted
 320 from the remaining cash and appropriation balances,
 321 respectively. The remaining proceeds shall be distributed by the
 322 Department of Environmental Protection in the following manner:

323 (b) Thirty percent to the Department of Environmental
 324 Protection for the purchase of water management lands pursuant
 325 to s. 373.59, to be distributed among the water management
 326 districts as provided in that section. Funds received by each
 327 district may also be used for acquisition of lands necessary to
 328 implement surface water improvement and management plans
 329 ~~approved in accordance with s. 373.456~~ or for acquisition of



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330 lands necessary to implement the Everglades Construction Project
 331 authorized by s. 373.4592.

332
 333 Local governments may use federal grants or loans, private
 334 donations, or environmental mitigation funds, including
 335 environmental mitigation funds required pursuant to s. 338.250,
 336 for any part or all of any local match required for the purposes
 337 described in this subsection. Bond proceeds allocated pursuant
 338 to paragraph (c) may be used to purchase lands on the priority
 339 lists developed pursuant to s. 259.035. Title to lands purchased
 340 pursuant to paragraphs (a), (d), (e), (f), and (g) shall be
 341 vested in the Board of Trustees of the Internal Improvement
 342 Trust Fund. Title to lands purchased pursuant to paragraph (c)
 343 may be vested in the Board of Trustees of the Internal
 344 Improvement Trust Fund. The board of trustees shall hold title
 345 to land protection agreements and conservation easements that
 346 were or will be acquired pursuant to s. 380.0677, and the
 347 Southwest Florida Water Management District and the St. Johns
 348 River Water Management District shall monitor such agreements
 349 and easements within their respective districts until the state
 350 assumes this responsibility.

351 Section 7. Paragraph (a) of subsection (6) of section
 352 373.4136, Florida Statutes, is amended to read:

353 373.4136 Establishment and operation of mitigation
 354 banks.--

355 (6) MITIGATION SERVICE AREA.--The department or water
 356 management district shall establish a mitigation service area
 357 for each mitigation bank permit. The department or water
 358 management district shall notify and consider comments received
 359 on the proposed mitigation service area from each local



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360 government within the proposed mitigation service area. Except
361 as provided herein, mitigation credits may be withdrawn and used
362 only to offset adverse impacts in the mitigation service area.
363 The boundaries of the mitigation service area shall depend upon
364 the geographic area where the mitigation bank could reasonably
365 be expected to offset adverse impacts. Mitigation service areas
366 may overlap, and mitigation service areas for two or more
367 mitigation banks may be approved for a regional watershed.

368 (a) In determining the boundaries of the mitigation
369 service area, the department or the water management district
370 shall consider the characteristics, size, and location of the
371 mitigation bank and, at a minimum, the extent to which the
372 mitigation bank:

373 1. Contributes to a regional integrated ecological
374 network;

375 2. Will significantly enhance the water quality or
376 restoration of an offsite receiving water body that is
377 designated as an Outstanding Florida Water, a Wild and Scenic
378 River, an aquatic preserve, a water body designated in a plan
379 adopted pursuant to ~~s. 373.456~~ of the Surface Water Improvement
380 and Management Act, or a nationally designated estuarine
381 preserve;

382 3. Will provide for the long-term viability of endangered
383 or threatened species or species of special concern;

384 4. Is consistent with the objectives of a regional
385 management plan adopted or endorsed by the department or water
386 management districts; and

387 5. Can reasonably be expected to offset specific types of
388 wetland impacts within a specific geographic area. A mitigation



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389 bank need not be able to offset all expected impacts within its
390 service area.

391 Section 8. Paragraph (b) of subsection (3) and paragraph
392 (a) of subsection (7) of section 403.067, Florida Statutes, are
393 amended to read:

394 403.067 Establishment and implementation of total maximum
395 daily loads.--

396 (3) ASSESSMENT.--

397 (b) The department shall adopt by rule a methodology for
398 determining those waters which are impaired. The rule shall
399 provide for consideration as to whether water quality standards
400 codified in chapter 62-302, Florida Administrative Code, are
401 being exceeded, based on objective and credible data, studies
402 and reports, including surface water improvement and management
403 plans approved by water management districts ~~under s. 373.456~~
404 and pollutant load reduction goals developed according to
405 department rule. Such rule also shall set forth:

- 406 1. Water quality sample collection and analysis
- 407 requirements, accounting for ambient background conditions,
- 408 seasonal and other natural variations;
- 409 2. Approved methodologies;
- 410 3. Quality assurance and quality control protocols;
- 411 4. Data modeling; and
- 412 5. Other appropriate water quality assessment measures.

413 (7) IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

414 (a) The department shall be the lead agency in
415 coordinating the implementation of the total maximum daily loads
416 through water quality protection programs. Application of a
417 total maximum daily load by a water management district shall be
418 consistent with this section and shall not require the issuance



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419 of an order or a separate action pursuant to s. 120.536(1) or s.
 420 120.54 for adoption of the calculation and allocation previously
 421 established by the department. Such programs may include, but
 422 are not limited to:

- 423 1. Permitting and other existing regulatory programs;
- 424 2. Nonregulatory and incentive-based programs, including
 425 best management practices, cost sharing, waste minimization,
 426 pollution prevention, and public education;
- 427 3. Other water quality management and restoration
 428 activities, for example surface water improvement and management
 429 plans approved by water management districts ~~under s. 373.456~~ or
 430 watershed or basin management plans developed pursuant to this
 431 subsection;
- 432 4. Pollutant trading or other equitable economically based
 433 agreements;
- 434 5. Public works including capital facilities; or
- 435 6. Land acquisition.

436 Section 9. Paragraph (e) of subsection (7) of section
 437 403.1835, Florida Statutes, is amended to read:

438 403.1835 Water pollution control financial assistance.--

439 (7) Eligible projects must be given priority according to
 440 the extent each project is intended to remove, mitigate, or
 441 prevent adverse effects on surface or ground water quality and
 442 public health. The relative costs of achieving environmental and
 443 public health benefits must be taken into consideration during
 444 the department's assignment of project priorities. The
 445 department shall adopt a priority system by rule. In developing
 446 the priority system, the department shall give priority to
 447 projects that:



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448 (e) Assist in the implementation of surface water
449 improvement and management plans ~~approved under s. 373.456~~ and
450 pollutant load reduction goals developed under state water
451 policy;

452 Section 10. This act shall take effect upon becoming a
453 law.