



1 A bill to be entitled

2 An act relating to water resources; amending s. 159.803,
3 F.S.; revising the definition of "priority project";
4 amending s. 163.3167, F.S.; requiring local governments to
5 include projected water use in comprehensive plans;
6 amending s. 367.081, F.S.; revising procedure for fixing
7 and changing rates to include the recovery of costs of
8 alternative water supply facilities; amending s. 367.0814,
9 F.S.; revising limit on the amount of revenues received by
10 a utility to qualify for staff assistance in changing
11 rates or charges; creating s. 373.227, F.S.; providing for
12 the development of a water conservation guidance manual by
13 the Department of Environmental Protection; providing for
14 purpose and contents of the manual and requirements with
15 respect thereto; requiring the Department of Environmental
16 Protection to adopt the manual by rule by a specified
17 date; providing program requirements for public water
18 supply utilities that choose to design a comprehensive
19 water conservation program based on the water conservation
20 guidance manual; amending s. 373.0361, F.S.; providing for
21 a public workshop on the development of regional water
22 supply plans that include the consideration of population
23 projections; providing for a list of water source options
24 in regional water supply plans; providing additional
25 regional water supply plan components; including
26 conservation measures in regional water supply plans;
27 revising specified reporting requirements of the
28 Department of Environmental Protection; providing that a



29 district water management plan may not be used as criteria
30 for the review of permits for consumptive uses of water
31 unless the plan or applicable portion thereof has been
32 adopted by rule; providing construction; amending s.
33 373.0831, F.S.; revising the criteria by which water
34 supply development projects may receive priority
35 consideration for funding assistance; providing for
36 permitting and funding of a proposed alternative water
37 supply project identified in the relevant approved
38 regional water supply plan; amending s. 373.1961, F.S.;
39 providing funding priority; providing for the
40 establishment of a revolving loan fund for alternative
41 water supply projects; providing conditions for certain
42 projects to receive funding assistance; amending s.
43 373.1963, F.S.; prohibiting the West Coast Regional Water
44 Supply Authority from seeking permits from the South
45 Florida Water Management District for the consumptive use
46 of water from groundwater in a specified area; amending s.
47 373.223, F.S.; requiring the Department of Environmental
48 Protection and the water management districts to submit
49 specified recommendations to the Legislature; creating s.
50 373.2231, F.S.; directing the Southwest Florida Water
51 Management District to conduct a comprehensive study of
52 the cumulative impacts of the existing and projected
53 demands on the water resources of the Peace River
54 watershed; providing for a report; creating s. 373.2234,
55 F.S.; authorizing the governing board of a water
56 management district to adopt rules identifying certain



57 | preferred water supply sources; providing requirements
58 | with respect to such rules; providing construction;
59 | amending s. 373.250, F.S.; authorizing water management
60 | districts to require the use of reclaimed water in lieu of
61 | surface or groundwater when the use of uncommitted
62 | reclaimed water is environmentally, economically, and
63 | technically feasible; providing construction with respect
64 | to such authority; amending s. 373.536, F.S.; expanding
65 | requirements of the 5-year water resource development work
66 | program for water management districts; providing
67 | legislative findings and intent with regard to landscape
68 | irrigation design; requiring water management districts to
69 | develop landscape irrigation and xeriscape design
70 | standards; providing for individual water meters in
71 | certain establishments; providing exceptions; amending s.
72 | 378.212, F.S.; providing for the granting of a variance
73 | from pt. III of ch. 378, F.S., relating to phosphate land
74 | reclamation, for specified reclamation, and from pt. IV of
75 | ch. 373, for certain projects under described
76 | circumstances; amending s. 378.404, F.S.; authorizing the
77 | department to grant variances from the provisions of part
78 | IV of chapter 378 to accommodate reclamation that provides
79 | for water supply development or water resource development
80 | under specified circumstances; amending s. 403.064, F.S.;
81 | revising provisions relating to reuse feasibility studies;
82 | providing for metering use of reclaimed water and volume-
83 | based rates therefor; requiring wastewater utilities to
84 | submit plans for metering use and volume-based rate



85 | structures to the department; creating s. 403.0645, F.S.;

86 | providing for reclaimed water use at state facilities;

87 | requiring reports; amending s. 403.1835, F.S.; authorizing

88 | the Department of Environmental Protection to make

89 | specified deposits for the purpose of enabling below-

90 | market interest rate loans for treatment of polluted

91 | water; providing for development of rate structures for

92 | alternative water supply systems; providing criteria;

93 | amending s. 403.1837, F.S.; deleting certain restrictions

94 | on the issuance of bonds by the Florida Water Pollution

95 | Control Financing Corporation; providing for a study of

96 | the feasibility of discharging reclaimed wastewater into

97 | canals and the aquifer system in a specified area as an

98 | environmentally acceptable means of accomplishing

99 | described objectives; requiring reports; providing

100 | authority for local governments to impose a residential

101 | acquisition fee by ordinance or resolution; prohibiting

102 | imposition of a fee in an area where a fee has been

103 | approved by another local government; providing for a

104 | referendum; providing a fee schedule; providing procedures

105 | for collection of fees; providing for utilization of

106 | funds; requiring the county and municipalities to divide

107 | funds pursuant to agreement; providing a time limit on

108 | local government authorization to impose or collect

109 | certain fees; amending s. 163.01, F.S.; providing

110 | applicability of provisions relating to ownership and

111 | operation of utilities by entities composed of

112 | municipalities and counties; prescribing powers of



113 | counties and specified municipalities with respect to
114 | acquisition of water utilities and wastewater utilities by
115 | separate legal entities composed of municipalities and
116 | counties; authorizing the Public Service Commission to
117 | review the acquisition of a utility by two or more host
118 | governments; providing for a binding arbitration process
119 | under the Public Service Commission to resolve certain
120 | disputes relating to utility acquisition; authorizing the
121 | commission to adopt rules; requiring the Public Service
122 | Commission to establish rules that base the acquisition
123 | price for a host government to acquire a utility on
124 | certain information; amending s. 120.52, F.S.; deleting an
125 | exception from the requirements of ch. 120, F.S., for an
126 | entity created under s. 163.01(7)(g)1., F.S.; amending s.
127 | 367.021, F.S.; excluding an entity created under s.
128 | 163.01(7)(g)1., F.S., from the definition of "governmental
129 | authority"; amending s. 367.071, F.S.; deleting a
130 | provision authorizing a utility to be sold or transferred
131 | prior to approval of the Public Service Commission with a
132 | contingency clause in the contract; providing
133 | severability; providing legislative findings with respect
134 | to loss of property values due to the proximity of a
135 | regional water reservoir; authorizing a cause of action
136 | for a property owner; specifying a period during which a
137 | property owner may present a claim for compensation to the
138 | regional water supply authority that constructs, operates,
139 | and maintains the reservoir; providing requirements for
140 | the offer of compensation by a regional water supply



141 authority; providing for judicial review under the Bert J.
142 Harris, Jr., Private Property Rights Protection Act;
143 providing for an award of costs and attorney's fees;
144 providing for future repeal of the section; providing for
145 applicability; providing effective dates.

146

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

148

149 Section 1. Subsection (5) of section 159.803, Florida
150 Statutes, is amended to read:

151 159.803 Definitions.--As used in this part, the term:

152 (5) "Priority project" means a solid waste disposal
153 facility or a sewage facility, as such terms are defined in s.
154 142 of the Code, or water facility, as defined in s. 142 of the
155 Code, which is operated by a member-owned, not-for-profit
156 utility, or any project which is to be located in an area which
157 is an enterprise zone designated pursuant to s. 290.0065.

158 Section 2. Subsection (13) is added to section 163.3167,
159 Florida Statutes, to read:

160 163.3167 Scope of act.--

161 (13) Each local government shall address in its
162 comprehensive plan, as enumerated in this chapter, the water
163 supply projects necessary to meet and achieve the existing and
164 projected water use demand for the established planning period,
165 considering the applicable plan developed pursuant to s.
166 373.0361.

167 Section 3. Subsection (2) of section 367.081, Florida
168 Statutes, is amended to read:



169 367.081 Rates; procedure for fixing and changing.--
 170 (2)(a)1. The commission shall, either upon request or upon
 171 its own motion, fix rates which are just, reasonable,
 172 compensatory, and not unfairly discriminatory. In every such
 173 proceeding, the commission shall consider the value and quality
 174 of the service and the cost of providing the service, which
 175 shall include, but not be limited to, debt interest; the
 176 requirements of the utility for working capital; maintenance,
 177 depreciation, tax, and operating expenses incurred in the
 178 operation of all property used and useful in the public service;
 179 and a fair return on the investment of the utility in property
 180 used and useful in the public service. Pursuant to s.
 181 373.1961(2)(1), the commission shall allow recovery of the full,
 182 prudently incurred costs of alternative water supply facilities.
 183 However, the commission shall not allow the inclusion of
 184 contributions-in-aid-of-construction in the rate base of any
 185 utility during a rate proceeding, nor shall the commission
 186 impute prospective future contributions-in-aid-of-construction
 187 against the utility's investment in property used and useful in
 188 the public service; and accumulated depreciation on such
 189 contributions-in-aid-of-construction shall not be used to reduce
 190 the rate base, nor shall depreciation on such contributed assets
 191 be considered a cost of providing utility service.
 192 2. For purposes of such proceedings, the commission shall
 193 consider utility property, including land acquired or facilities
 194 constructed or to be constructed within a reasonable time in the
 195 future, not to exceed 24 months after the end of the historic
 196 base year used to set final rates unless a longer period is



197 approved by the commission, to be used and useful in the public
198 service, if:

199 a. Such property is needed to serve current customers;

200 b. Such property is needed to serve customers 5 years
201 after the end of the test year used in the commission's final
202 order on a rate request as provided in subsection (6) at a
203 growth rate for equivalent residential connections not to exceed
204 5 percent per year; or

205 c. Such property is needed to serve customers more than 5
206 full years after the end of the test year used in the
207 commission's final order on a rate request as provided in
208 subsection (6) only to the extent that the utility presents
209 clear and convincing evidence to justify such consideration.
210

211 Notwithstanding the provisions of this paragraph, the commission
212 shall approve rates for service which allow a utility to recover
213 from customers the full amount of environmental compliance
214 costs. Such rates may not include charges for allowances for
215 funds prudently invested or similar charges. For purposes of
216 this requirement, the term "environmental compliance costs"
217 includes all reasonable expenses and fair return on any prudent
218 investment incurred by a utility in complying with the
219 requirements or conditions contained in any permitting,
220 enforcement, or similar decisions of the United States
221 Environmental Protection Agency, the Department of Environmental
222 Protection, a water management district, or any other
223 governmental entity with similar regulatory jurisdiction.



224 (b) In establishing initial rates for a utility, the
225 commission may project the financial and operational data as set
226 out in paragraph (a) to a point in time when the utility is
227 expected to be operating at a reasonable level of capacity.

228 Section 4. Subsection (1) of section 367.0814, Florida
229 Statutes, is amended to read:

230 367.0814 Staff assistance in changing rates and charges;
231 interim rates.--

232 (1) The commission may establish rules by which a water or
233 wastewater utility whose gross annual revenues are \$200,000
234 ~~\$150,000~~ or less may request and obtain staff assistance for the
235 purpose of changing its rates and charges. A utility may request
236 staff assistance by filing an application with the commission.

237 Section 5. Section 373.227, Florida Statutes, is created
238 to read:

239 373.227 Water conservation guidance manual.--

240 (1) The Legislature recognizes that the proper
241 conservation of water is an important means of achieving the
242 economical and efficient utilization of water necessary to
243 constitute a reasonable-beneficial use. The Legislature
244 encourages the development and use of water conservation
245 measures that are effective, flexible, and affordable. In the
246 context of the use of water for public supply provided by a
247 water utility, the Legislature intends for a variety of
248 conservation measures to be available and used to encourage
249 efficient water use. The Legislature finds that the social,
250 economic, and cultural conditions of this state relating to the
251 use of public water supply vary by geographic region, and thus



252 water utilities must have the flexibility to tailor water
253 conservation measures to best suit their individual
254 circumstances. For purposes of this section, the term "public
255 water supply utility" shall include both publicly owned and
256 privately owned public water supply utilities.

257 (2) In order to implement the findings in subsection (1),
258 the Department of Environmental Protection shall develop a water
259 conservation guidance manual containing a menu of water
260 conservation measures from which public water supply utilities
261 may select in the development of a comprehensive, goal-based
262 water conservation program tailored for their individual service
263 areas that is effective and does not impose undue costs or
264 burdens on customers. The water conservation guidance manual
265 shall promote statewide consistency in the approach to utility
266 conservation while maintaining appropriate flexibility. The
267 manual may contain measures such as: water conservation audits,
268 informative billing practices to educate customers on their
269 patterns of water use, the costs of water, and ways to conserve
270 water; ordinances requiring low-flow plumbing fixtures and
271 efficient landscape irrigation; rebate programs for the
272 installation of water-saving plumbing or appliances; general
273 water conservation educational programs including bill inserts;
274 measures to promote the more effective and efficient reuse of
275 reclaimed water; water conservation or drought rate structures
276 that encourage customers to conserve water through appropriate
277 price signals; and programs to apply utility profits generated
278 through conservation and drought rates to additional water
279 conservation programs or water supply development. The manual



280 shall specifically state that it is the responsibility of the
281 appropriate utility to determine the specific rates it will
282 charge its customers and that the role of the department or
283 water management district is confined to the review of those
284 rate structures to determine whether they encourage water
285 conservation. The water conservation guidance manual shall also
286 state that a utility need not adopt a water conservation or
287 drought rate structure if the utility employs other measures
288 that are equally or more effective. The manual shall provide for
289 different levels of complexity and expected levels of effort in
290 conservation programs depending on the size of the utility.
291 However, all utilities will be expected to have at least basic
292 programs in each of the following areas:

293 (a) Individual metering, to the extent feasible as
294 determined by the utility.

295 (b) Water accounting and loss control.

296 (c) Cost of service accounting.

297 (d) Information programs on water conservation.

298 (e) Landscaping water efficiency programs.

299 (3) The Department of Environmental Protection shall
300 develop the water conservation guidance manual no later than
301 June 15, 2004. The department shall develop the manual in
302 consultation with interested parties, which, at a minimum, shall
303 include representatives from the water management districts,
304 three utilities that are members of the American Water Works
305 Association, two utilities that are members of the Florida Water
306 Environment Association, a representative of the Florida Chamber
307 of Commerce, representatives of counties and municipalities, and



308 representatives of environmental organizations. By December 15,
309 2004, the department shall adopt the water conservation guidance
310 manual by rule. Once the department adopts the water
311 conservation guidance manual by rule, the water management
312 districts may apply the manual and any revisions thereto in the
313 review of water conservation requirements for obtaining a permit
314 pursuant to part II without the need to adopt the manual
315 pursuant to s. 120.54. Once the water conservation guidance
316 manual is adopted by rule, a public water supply utility may
317 choose to comply with the standard water conservation
318 requirements adopted by the appropriate water management
319 district for obtaining a consumptive use permit from that
320 district, or may choose to develop a comprehensive, goal-based
321 water conservation program from the options contained in the
322 manual. If the utility chooses to design a comprehensive water
323 conservation program based on the water conservation guidance
324 manual, the proposed program must include the following:
325 (a) An inventory of water system characteristics and
326 conservation opportunities.
327 (b) Demand forecasts.
328 (c) An explanation of the proposed program.
329 (d) Specific numeric water conservation targets for the
330 utility as a whole and for appropriate customer classes, with a
331 justification of why the numeric targets are appropriate based
332 on that utility's particular customer characteristics and
333 conservation opportunities.
334 (e) A demonstration that the program will promote
335 effective water conservation at least as well as standard water



336 use conservation requirements adopted by the appropriate water
337 management district.

338 (f) A timetable for the utility and the water management
339 district to evaluate progress in meeting the water conservation
340 targets and making needed program modifications.

341 (4) If the utility provides reasonable assurance that the
342 proposed conservation program is consistent with the water
343 conservation guidance manual and contains the elements specified
344 in subsection (3), then the water management district shall
345 approve the proposed program and the program shall satisfy water
346 conservation requirements imposed as a condition of obtaining a
347 permit under part II. The department, in consultation with the
348 parties specified in subsection (3), may periodically amend or
349 revise the water conservation guidance manual rule as
350 appropriate to reflect changed circumstances or new technologies
351 or approaches. The findings and provisions in this section shall
352 not be construed to apply to users of water other than public
353 and private water supply utilities.

354 Section 6. Subsections (1), (2), (5), and (6) of section
355 373.0361, Florida Statutes, are amended to read:

356 373.0361 Regional water supply planning.--

357 (1) By October 1, 1998, the governing board shall initiate
358 water supply planning for each water supply planning region
359 identified in the district water management plan under s.
360 373.036, where it determines that sources of water are not
361 adequate for the planning period to supply water for all
362 existing and projected reasonable-beneficial uses and to sustain
363 the water resources and related natural systems. The planning



364 must be conducted in an open public process, in coordination and
365 cooperation with local governments, regional water supply
366 authorities, government-owned and privately owned water
367 utilities, self-suppliers, and other affected and interested
368 parties. During development but prior to completion of the
369 regional water supply plan, the district must conduct at least
370 one public workshop to discuss the technical data and modeling
371 tools anticipated to be used to support the plan. A
372 determination by the governing board that initiation of a
373 regional water supply plan for a specific planning region is not
374 needed pursuant to this section shall be subject to s. 120.569.
375 The governing board shall reevaluate such a determination at
376 least once every 5 years and shall initiate a regional water
377 supply plan, if needed, pursuant to this subsection.

378 (2) Each regional water supply plan shall be based on at
379 least a 20-year planning period and shall include, but not be
380 limited to:

381 (a) A water supply development component that includes:

382 1. A quantification of the water supply needs for all
383 existing and reasonably projected future uses within the
384 planning horizon. The level-of-certainty planning goal
385 associated with identifying the water supply needs of existing
386 and future reasonable-beneficial uses shall be based upon
387 meeting those needs for a 1-in-10-year drought event. Population
388 projections used for determining public water supply needs shall
389 be based upon the best available data. In determining the best
390 available data, the district shall consider the University of
391 Florida's Bureau of Economic and Business Research (BEBR) medium



392 population projections and any population projection data and
393 analysis submitted by a local government pursuant to the public
394 workshop described in subsection (1) when such data and analysis
395 support the local government's comprehensive plan. Any
396 adjustment of or deviation from the BEBR projections shall be
397 fully described and the original BEBR data shall be presented
398 along with the adjusted data.

399 2. A list of water source options ~~for water supply~~
400 ~~development~~, including traditional and alternative source
401 options ~~sources~~, from which local government, government-owned
402 and privately owned utilities, self-suppliers, and others may
403 choose, for water supply development, the total capacity of
404 which will, in conjunction with water conservation and other
405 demand management measures, exceed the needs identified in
406 subparagraph 1.

407 3. For each option listed in subparagraph 2., the
408 estimated amount of water available for use and the estimated
409 costs of and potential sources of funding for water supply
410 development.

411 4. A list of water supply development projects that meet
412 the criteria in s. 373.0831(4).

413 (b) A water resource development component that includes:

414 1. A listing of those water resource development projects
415 that support water supply development.

416 2. For each water resource development project listed:

417 a. An estimate of the amount of water to become available
418 through the project.



419 b. The timetable for implementing or constructing the
 420 project and the estimated costs for implementing, operating, and
 421 maintaining the project.

422 c. Sources of funding and funding needs.

423 d. Who will implement the project and how it will be
 424 implemented.

425 (c) The recovery and prevention strategy described in s.
 426 373.0421(2).

427 (d) A funding strategy for water resource development
 428 projects, which shall be reasonable and sufficient to pay the
 429 cost of constructing or implementing all of the listed projects.

430 (e) Consideration of how the options addressed in
 431 paragraphs (a) and (b) serve the public interest or save costs
 432 overall by preventing the loss of natural resources or avoiding
 433 greater future expenditures for water resource development or
 434 water supply development. However, unless adopted by rule, these
 435 considerations do not constitute final agency action.

436 (f) The technical data and information applicable to the
 437 planning region which are contained in the district water
 438 management plan and are necessary to support the regional water
 439 supply plan.

440 (g) The minimum flows and levels established for water
 441 resources within the planning region.

442 (h) Reservations of water adopted by rule pursuant to s.
 443 373.223(4).

444 (i) An analysis, developed in cooperation with the
 445 department, of areas or instances in which the variance
 446 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to



447 create water supply development or water resource development
448 projects.

449
450 Within boundaries of a regional water supply authority, those
451 parts of the water supply development component of the regional
452 water supply plan which deal with or affect public utilities and
453 public water supply shall be developed jointly by such authority
454 and the district for those areas served by the authority and its
455 member governments.

456 (5) ~~By November 15, 1997, and~~ Annually and in conjunction
457 with the reporting requirements of s. 373.536(6)(a)4.

458 ~~thereafter,~~ the department shall submit to the Governor and the
459 Legislature a report on the status of regional water supply
460 planning in each district. The report shall include:

461 (a) A compilation of the estimated costs of and potential
462 sources of funding for water resource development and water
463 supply development projects, as identified in the water
464 management district regional water supply plans.

465 (b) A description of each district's progress toward
466 achieving its water resource development objectives, as directed
467 by s. 373.0831(3), including the district's implementation of
468 its 5-year water resource development work program.

469 (c) An assessment of the overall progress being made to
470 develop water supply that is consistent with regional water
471 supply plans to meet existing and future reasonable-beneficial
472 needs during a 1-in-10-year drought.

473 (6) Nothing contained in the water supply development
474 component of the district water management plan shall be



475 construed to require local governments, government-owned or
476 privately owned water utilities, self-suppliers, or other water
477 suppliers to select a water supply development option identified
478 in the component merely because it is identified in the plan,
479 nor may the plan be used in the review of permits under part II
480 unless the plan, or an applicable portion thereof, has been
481 adopted by rule. However, this subsection does not prohibit a
482 water management district from employing the data or other
483 information used to establish the plan in reviewing permits
484 under part II, nor shall it ~~not~~ be construed to limit the
485 authority of the department or governing board under part II.

486 Section 7. Subsection (3) of section 373.0831, Florida
487 Statutes, is amended, and paragraph (c) is added to subsection
488 (4) of said section, to read:

489 373.0831 Water resource development; water supply
490 development.--

491 (3) The water management districts shall fund and
492 implement water resource development as defined in s. 373.019.
493 The water management districts are encouraged to implement water
494 resource development as expeditiously as possible in areas
495 subject to regional water supply plans. Each governing board
496 shall include in its annual budget the amount needed for the
497 fiscal year to implement water resource development projects, as
498 prioritized in its regional water supply plans.

499 (4)

500 (c) If a proposed alternative water supply development
501 project is identified in the relevant approved regional water
502 supply plan, the project shall receive:



503 1. A 20-year consumptive use permit, if it otherwise meets
504 the permit requirements under ss. 373.223 and 373.236 and rules
505 adopted thereunder.

506 2. Priority funding pursuant to s. 373.1961(2) if the
507 project meets one of two criteria in s. 373.0831(4).

508 Section 8. Subsection (2) of section 373.1961, Florida
509 Statutes, is amended to read:

510 373.1961 Water production.--

511 (2) The Legislature finds that, due to a combination of
512 factors, vastly increased demands have been placed on natural
513 supplies of fresh water, and that, absent increased development
514 of alternative water supplies, such demands may increase in the
515 future. The Legislature also finds that potential exists in the
516 state for the production of significant quantities of
517 alternative water supplies, including reclaimed water, and that
518 water production includes the development of alternative water
519 supplies, including reclaimed water, for appropriate uses. It is
520 the intent of the Legislature that utilities develop reclaimed
521 water systems, where reclaimed water is the most appropriate
522 alternative water supply option, to deliver reclaimed water to
523 as many users as possible through the most cost-effective means,
524 and to construct reclaimed water system infrastructure to their
525 owned or operated properties and facilities where they have
526 reclamation capability. It is also the intent of the Legislature
527 that the water management districts which levy ad valorem taxes
528 for water management purposes should share a percentage of those
529 tax revenues with water providers and users, including local
530 governments, water, wastewater, and reuse utilities, municipal,



531 industrial, and agricultural water users, and other public and
532 private water users, to be used to supplement other funding
533 sources in the development of alternative water supplies. The
534 Legislature finds that public moneys or services provided to
535 private entities for such uses constitute public purposes which
536 are in the public interest. In order to further the development
537 and use of alternative water supply systems, including reclaimed
538 water systems, the Legislature provides the following:

539 (a) The governing boards of the water management districts
540 where water resource caution areas have been designated shall
541 include in their annual budgets an amount for the development of
542 alternative water supply systems, including reclaimed water
543 systems, pursuant to the requirements of this subsection.
544 Beginning in 1996, such amounts shall be made available to water
545 providers and users no later than December 31 of each year,
546 through grants, matching grants, revolving loans, or the use of
547 district lands or facilities pursuant to the requirements of
548 this subsection and guidelines established by the districts. In
549 making grants or loans, funding priority shall be given to
550 projects in accordance with s. 373.0831(4). Without diminishing
551 amounts available through other means described in this
552 paragraph, the governing boards are encouraged to consider
553 establishing revolving loan funds to expand the total funds
554 available to accomplish the objectives of this section. A
555 revolving loan fund created pursuant to this paragraph shall be
556 a nonlapsing fund from which the water management district may
557 make loans with interest rates below prevailing market rates to
558 public or private entities for the purposes described in this



559 section. The governing board may adopt resolutions to establish
560 revolving loan funds which shall specify the details of the
561 administration of the fund, the procedures for applying for
562 loans from the fund, the criteria for awarding loans from the
563 fund, the initial capitalization of the fund, and the goals for
564 future capitalization of the fund in subsequent budget years.
565 Revolving loan funds created pursuant to this paragraph shall be
566 used to expand the total sums and sources of cooperative funding
567 available for the development of alternative water supplies. The
568 Legislature does not intend for the creation of revolving loan
569 trust funds to supplant or otherwise reduce existing sources or
570 amounts of funds currently available through other means.

571 (b) It is the intent of the Legislature that for each
572 reclaimed water utility, or any other utility, which receives
573 funds pursuant to this subsection, the appropriate rate-setting
574 authorities should develop rate structures for all water,
575 wastewater, and reclaimed water and other alternative water
576 supply utilities in the service area of the funded utility,
577 which accomplish the following:

578 1. Provide meaningful progress toward the development and
579 implementation of alternative water supply systems, including
580 reclaimed water systems;

581 2. Promote the conservation of fresh water withdrawn from
582 natural systems;

583 3. Provide for an appropriate distribution of costs for
584 all water, wastewater, and alternative water supply utilities,
585 including reclaimed water utilities, among all of the users of
586 those utilities; and



587 4. Prohibit rate discrimination within classes of utility
588 users.

589 (c) Funding assistance provided by the water management
590 districts for a water reuse system project shall include the
591 following grant or loan conditions for that project when the
592 water management district determines such conditions will
593 encourage water use efficiency:

594 1. Metering of reclaimed water use for the following
595 activities: residential irrigation, agricultural irrigation,
596 industrial uses except for electric utilities as defined in s.
597 366.02(2), golf course irrigation, landscape irrigation,
598 irrigation of other public access areas, commercial and
599 institutional uses such as toilet flushing, and transfers to
600 other reclaimed water utilities.

601 2. Implementation of reclaimed water rate structures based
602 on actual use of reclaimed water for the types of reuse
603 activities listed in subparagraph 1.

604 3. Implementation of education programs to inform the
605 public about water issues, water conservation, and the
606 importance and proper use of reclaimed water.

607 4. Development of location data for key reuse facilities.

608 (d)-(e) In order to be eligible for funding pursuant to
609 this subsection, a project must be consistent with a local
610 government comprehensive plan and the governing body of the
611 local government must require all appropriate new facilities
612 within the project's service area to connect to and use the
613 project's alternative water supplies. The appropriate local
614 government must provide written notification to the appropriate



615 district that the proposed project is consistent with the local
616 government comprehensive plan.

617 (e)~~(d)~~ Any and all revenues disbursed pursuant to this
618 subsection shall be applied only for the payment of capital or
619 infrastructure costs for the construction of alternative water
620 supply systems that provide alternative water supplies.

621 (f)~~(e)~~ By January 1 of each year, the governing boards
622 shall make available written guidelines for the disbursement of
623 revenues pursuant to this subsection. Such guidelines shall
624 include at minimum:

625 1. An application process and a deadline for filing
626 applications annually.

627 2. A process for determining project eligibility pursuant
628 to the requirements of paragraphs (d) ~~(e)~~ and (e) ~~(d)~~.

629 3. A process and criteria for funding projects pursuant to
630 this subsection that cross district boundaries or that serve
631 more than one district.

632 (g)~~(f)~~ The governing board of each water management
633 district shall establish an alternative water supplies grants
634 advisory committee to recommend to the governing board projects
635 for funding pursuant to this subsection. The advisory committee
636 members shall include, but not be limited to, one or more
637 representatives of county, municipal, and investor-owned private
638 utilities, and may include, but not be limited to,
639 representatives of agricultural interests and environmental
640 interests. Each committee member shall represent his or her
641 interest group as a whole and shall not represent any specific
642 entity. The committee shall apply the guidelines and project



643 eligibility criteria established by the governing board in
644 reviewing proposed projects. After one or more hearings to
645 solicit public input on eligible projects, the committee shall
646 rank the eligible projects and shall submit them to the
647 governing board for final funding approval. The advisory
648 committee may submit to the governing board more projects than
649 the available grant money would fund.

650 (h)~~(g)~~ All revenues made available annually pursuant to
651 this subsection must be encumbered annually by the governing
652 board if it approves projects sufficient to expend the available
653 revenues. Funds must be disbursed within 36 months after
654 encumbrance.

655 (i)~~(h)~~ For purposes of this subsection, alternative water
656 supplies are supplies of water that have been reclaimed after
657 one or more public supply, municipal, industrial, commercial, or
658 agricultural uses, or are supplies of stormwater, or brackish or
659 salt water, that have been treated in accordance with applicable
660 rules and standards sufficient to supply the intended use.

661 (j)~~(i)~~ This subsection shall not be subject to the
662 rulemaking requirements of chapter 120.

663 (k)~~(j)~~ By January 30 of each year, each water management
664 district shall submit an annual report to the Governor, the
665 President of the Senate, and the Speaker of the House of
666 Representatives which accounts for the disbursement of all budgeted
667 amounts pursuant to this subsection. Such report shall describe
668 all projects funded and shall account separately for moneys
669 provided through grants, matching grants, revolving loans, and
670 the use of district lands or facilities.



671 ~~(1)(k)~~ The Florida Public Service Commission shall allow
672 entities under its jurisdiction constructing alternative water
673 supply facilities, including but not limited to aquifer storage
674 and recovery wells, to recover the full, prudently incurred cost
675 of such facilities through their rate structure. Every component
676 of an alternative water supply facility constructed by an
677 investor-owned utility shall be recovered in current rates.

678 Section 9. Subsection (9) is added to section 373.1963,
679 Florida Statutes, to read:

680 373.1963 Assistance to West Coast Regional Water Supply
681 Authority.--

682 (9) It is the intent of the Legislature that wetland areas
683 in northeastern Hillsborough County which have not yet been
684 adversely impacted by groundwater withdrawals for consumptive
685 use not be subject to groundwater withdrawals by the development
686 of wellfields by the authority. In order to protect the
687 wetlands in this area, the authority is hereby prohibited from
688 seeking permits from the Southwest Florida Water Management
689 District for the consumptive use of water from groundwater in
690 northeastern Hillsborough County north of Knights Griffin Road
691 and east of State Road 39.

692 Section 10. Subsection (5) is added to section 373.223,
693 Florida Statutes, to read:

694 373.223 Conditions for a permit.--

695 (5) The Legislature finds that the issuance of consumptive
696 use permits has a direct relation to efficient and effective
697 water resource development. The Legislature further finds that
698 the management of consumptive use permits has a direct relation



699 to efficient and effective water supply development. To help
700 identify the changes necessary to better utilize these permits,
701 the Legislature directs that the Department of Environmental
702 Protection and each water management district submit
703 recommendations to the appropriate substantive committees of
704 each house of the Legislature by December 1, 2003. The
705 recommendations shall identify alternative methods of extending
706 the use of existing water resources, including, but not limited
707 to, the potential rights of existing permit holders to share
708 water allocated under a consumptive use permit. The department
709 and the districts are encouraged to use public hearings to
710 gather information and shall include information provided by
711 basin boards and regional water supply authorities.

712 Section 11. Section 373.2231, Florida Statutes, is created
713 to read:

714 373.2231 Peace River comprehensive study.--The Legislature
715 acknowledges that there are many and varied demands on the
716 available water supplies on the Peace River watershed from
717 industry, agriculture, and commercial and residential
718 development. The cumulative impact of all these demands has the
719 potential to significantly reduce the fresh water flows and
720 levels in the Peace River. Accordingly, the Legislature hereby
721 directs the Southwest Florida Water Management District to
722 conduct a comprehensive study of the cumulative impacts of the
723 existing and projected demands on the water resources of the
724 Peace River watershed. The study shall be completed and a report
725 of the study submitted to the Governor, the President of the



726 Senate, and the Speaker of the House of Representatives by June
727 1, 2004.

728 Section 12. Section 373.2234, Florida Statutes, is created
729 to read:

730 373.2234 Preferred water supply sources.--The governing
731 board of the district is authorized to adopt rules identifying
732 preferred water supply sources for which there is sufficient
733 data to establish that the source can be used to provide a
734 substantial new water supply to meet existing and reasonably
735 anticipated water needs in a water supply planning region
736 identified pursuant to s. 373.0361(1) while sustaining the water
737 resources and related natural systems. Such rules shall, at a
738 minimum, contain a description of the source and an assessment
739 of the water the source is projected to produce. If a
740 consumptive use permit applicant proposes to use such a source
741 consistent with the assessment, the proposed use shall be
742 subject to the provisions of s. 373.223(1), but such proposed
743 use shall be a factor deemed to be consistent with the public
744 interest pursuant to s. 373.223(1)(c). A consumptive use permit
745 issued approving the use of such a source shall be for at least
746 20 years and may be subject to the provisions of s. 373.226(3).
747 However, nothing in this section shall be construed to provide
748 that the use of nonpreferred sources must receive a permit
749 duration of less than 20 years or that such nonpreferred sources
750 are not consistent with the public interest.

751 Section 13. Paragraph (c) is added to subsection (2) of
752 section 373.250, Florida Statutes, to read:

753 373.250 Reuse of reclaimed water.--



754 (2)
755 (c) A water management district may require the use of
756 reclaimed water in lieu of surface water or groundwater when the
757 use of uncommitted reclaimed water is environmentally,
758 economically, and technically feasible. However, while
759 recognizing that the state's surface water and groundwater are
760 public resources, nothing in this paragraph shall be construed
761 to give a water management district the authority to require a
762 provider of reclaimed water to redirect reclaimed water from one
763 user to another or to provide uncommitted water to a specific
764 user if such water is anticipated to be used by the provider, or
765 a different user selected by the provider, within a reasonable
766 amount of time.

767 Section 14. Paragraph (a) of subsection (6) of section
768 373.536, Florida Statutes, is amended to read:

769 373.536 District budget and hearing thereon.--

770 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
771 WATER RESOURCE DEVELOPMENT WORK PROGRAM.--

772 (a) Each district must, by the date specified for each
773 item, furnish copies of the following documents to the Governor,
774 the President of the Senate, the Speaker of the House of
775 Representatives, the chairs of all legislative committees and
776 subcommittees having substantive or fiscal jurisdiction over the
777 districts, as determined by the President of the Senate or the
778 Speaker of the House of Representatives as applicable, the
779 secretary of the department, and the governing board of each
780 county in which the district has jurisdiction or derives any
781 funds for the operations of the district:



782 1. The adopted budget, to be furnished within 10 days
783 after its adoption.

784 2. A financial audit of its accounts and records, to be
785 furnished within 10 days after its acceptance by the governing
786 board. The audit must be conducted in accordance with the
787 provisions of s. 11.45 and the rules adopted thereunder. In
788 addition to the entities named above, the district must provide
789 a copy of the audit to the Auditor General within 10 days after
790 its acceptance by the governing board.

791 3. A 5-year capital improvements plan, to be furnished
792 within 45 days after the adoption of the final budget. The plan
793 must include expected sources of revenue for planned
794 improvements and must be prepared in a manner comparable to the
795 fixed capital outlay format set forth in s. 216.043.

796 4. A 5-year water resource development work program to be
797 furnished within 45 days after the adoption of the final budget.
798 The program must describe the district's implementation strategy
799 for the water resource development component of each approved
800 regional water supply plan developed or revised under s.
801 373.0361. The work program must address all the elements of the
802 water resource development component in the district's approved
803 regional water supply plans and must identify which projects in
804 the work program will provide water, explain how each water
805 resource development project will produce additional water
806 available for consumptive uses, estimate the quantity of water
807 to be produced by each project, and provide an assessment of the
808 contribution of the district's regional water supply plans in
809 providing sufficient water to meet the water supply needs of



810 existing and future reasonable-beneficial uses for a 1-in-10-
811 year drought event. Within 45 days after its submittal, the
812 department shall review the proposed work program and submit its
813 findings, questions, and comments to the district. The review
814 must include a written evaluation of the program's consistency
815 with the furtherance of the district's approved regional water
816 supply plans, and the adequacy of proposed expenditures. As part
817 of the review, the department shall give interested parties the
818 opportunity to provide written comments on each district's
819 proposed work program. Within 60 days after receipt of the
820 department's evaluation, the governing board shall state in
821 writing to the department which changes recommended in the
822 evaluation it will incorporate into its work program or specify
823 the reasons for not incorporating the changes. The department
824 shall include the district's responses in a final evaluation
825 report and shall submit a copy of the report to the Governor,
826 the President of the Senate, and the Speaker of the House of
827 Representatives.

828 (b) If any entity listed in paragraph (a) provides written
829 comments to the district regarding any document furnished under
830 this subsection, the district must respond to the comments in
831 writing and furnish copies of the comments and written responses
832 to the other entities.

833 Section 15. Landscape irrigation design.--

834 (1) The Legislature finds that multiple areas throughout
835 the state have been identified by water management districts as
836 water resource caution areas, which indicates that in the near
837 future water demand in those areas will exceed the current



838 available water supply and that conservation is one of the
839 mechanisms by which future water demand will be met.

840 (2) The Legislature finds that landscape irrigation
841 comprises a significant portion of water use and that the
842 current typical landscape irrigation system and xeriscape
843 designs offer significant potential water conservation benefits.

844 (3) It is the intent of the Legislature to improve
845 landscape irrigation water use efficiency by ensuring landscape
846 irrigation systems meet or exceed minimum design criteria.

847 (4) The water management districts shall develop and adopt
848 by rule landscape irrigation and xeriscape design standards for
849 new construction that incorporate a landscape irrigation system.
850 The standards shall be based on the irrigation code defined in
851 the Florida Building Code, Plumber's Volume, Appendix F. Such
852 design standards should promote the effective and efficient use
853 of irrigation water and include a consideration of local
854 demographic, hydrologic, and other considerations as they apply
855 to landscape irrigation water use. When adopting an ordinance or
856 regulation, local governments shall use these approved
857 irrigation design standards.

858 (5) The water management districts shall work with the
859 Florida Chapter of the American Society of Landscape Architects,
860 the Florida Irrigation Society, the Florida Nurserymen and
861 Growers Association, the Department of Agriculture and Consumer
862 Services, the Institute of Food and Agricultural Sciences, the
863 Department of Environmental Protection, the Florida League of
864 Cities, and the Florida Association of Counties to develop
865 scientifically-based model guidelines for urban, commercial, and



866 residential landscape irrigation, including drip irrigation, for
867 plants, trees, sod, and other landscaping. Local governments
868 shall use the scientific information when developing landscape
869 irrigation ordinances or guidelines. Every 3 years, the
870 agencies and entities specified in this subsection shall review
871 the model guidelines to determine whether new research findings
872 require a change or modification of the guidelines.

873 Section 16. Water metering.--Where economically and
874 logistically feasible, individual water meters shall be required
875 for each new separate occupancy unit of commercial
876 establishments; multifamily residential buildings; condominiums
877 and cooperatives; marinas; and trailer, mobile home, and
878 recreational vehicle parks for which construction is commenced
879 after July 1, 2003. The applicable water utility is not required
880 to assume ownership, maintenance, or billing responsibility for
881 any submeters resulting from such individual metering. A utility
882 may require a master meter at such establishments for purposes
883 of billing a single entity, whereupon the entity may in turn
884 bill the owners of the individual submeters. Individual water
885 meters shall not be required:

886 (1) In those portions of a commercial establishment where
887 the floor space dimensions or physical configuration of the
888 units is subject to alteration as evidenced by nonstructural
889 element partition walls, unless the utility determines that
890 adequate provisions can be made to modify the metering to
891 accurately reflect such alterations.

892 (2) For water used in specialized-use housing such as
893 hospitals, nursing homes, assisted living facilities,



894 convalescent homes, facilities certified under chapter 651,
895 Florida Statutes, government financed or subsidized housing for
896 the elderly or disabled, college dormitories, convents, sorority
897 houses, fraternity houses, motels, hotels, or similar
898 facilities.

899 (3) For separate specifically designated areas for
900 overnight occupancy at trailer, mobile home, and recreational
901 vehicle parks where permanent residency is not established and
902 for marinas where living on board is prohibited by ordinance,
903 deed restriction, or other permanent means.

904 (4) For sites in mobile home parks that were permitted for
905 occupancy by the Department of Health prior to July 1, 2003.

906 (5) For timeshare developments, provided that all of the
907 occupancy units are committed to a timeshare plan as defined in
908 and regulated by chapter 721, Florida Statutes, and none of the
909 occupancy units is used for permanent occupancy.

910 Section 17. Paragraph (g) is added to subsection (1) of
911 section 378.212, Florida Statutes, to read:

912 378.212 Variances.--

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

917 (g) To accommodate reclamation that provides water supply
918 development or water resource development not inconsistent with
919 the applicable regional water supply plan approved pursuant to
920 s. 373.0361, provided adverse impacts are not caused to the
921 water resources in the basin. A variance may also be granted



922 from the requirements of part IV of chapter 373, or the rules
923 adopted thereunder, when a project provides an improvement in
924 water availability in the basin and does not cause adverse
925 impacts to water resources in the basin.

926 Section 18. Subsection (9) is added to section 378.404,
927 Florida Statutes, to read:

928 378.404 Department of Environmental Protection; powers and
929 duties.--The department shall have the following powers and
930 duties:

931 (9) To grant variances from the provisions of this part to
932 accommodate reclamation that provides for water supply
933 development or water resource development not inconsistent with
934 the applicable regional water supply plan approved pursuant to
935 s. 373.0361, appropriate stormwater management, improved
936 wildlife habitat, recreation, or a mixture thereof, provided
937 adverse impacts are not caused to the water resources in the
938 basin and public health and safety are not adversely affected.

939 Section 19. Subsections (1) and (6) of section 403.064,
940 Florida Statutes, are amended, and subsection (16) is added to
941 said section, to read:

942 403.064 Reuse of reclaimed water.--

943 (1) The encouragement and promotion of water conservation,
944 and reuse of reclaimed water, as defined by the department, are
945 state objectives and are considered to be in the public
946 interest. The Legislature finds that the reuse of reclaimed
947 water is a critical component of meeting the state's existing
948 and future water supply needs while sustaining natural systems.
949 The Legislature further finds that for those wastewater



950 treatment plants permitted and operated under an approved reuse
951 program by the department, the reclaimed water shall be
952 considered environmentally acceptable and not a threat to public
953 health and safety. The Legislature encourages the development of
954 incentive-based programs for reuse implementation.

955 (6) A reuse feasibility study prepared under subsection
956 (2) satisfies a water management district requirement to conduct
957 a reuse feasibility study imposed on a local government or
958 utility that has responsibility for wastewater management. The
959 data included in the study and the study's conclusions shall be
960 given significant consideration by the applicant and the
961 appropriate water management district in an analysis of the
962 economic, environmental, and technical feasibility of providing
963 reclaimed water for reuse under part II of chapter 373, and
964 shall be presumed relevant to the determination of feasibility.
965 A water management district shall not require a separate study
966 when a reuse feasibility study has been completed under
967 subsection (2).

968 (16) Utilities implementing reuse projects are encouraged,
969 except in the case of use by electric utilities as defined in s.
970 366.02(2), to meter use of reclaimed water by all end users and,
971 to charge for the use of reclaimed water based on the actual
972 volume used when such metering and charges can be shown to
973 encourage water conservation. Metering and the use of volume-
974 based rates are effective water management tools for the
975 following reuse activities: residential irrigation, agricultural
976 irrigation, industrial uses, golf course irrigation, landscape
977 irrigation, irrigation of other public access areas, commercial



978 and institutional uses such as toilet flushing, and transfers to
979 other reclaimed water utilities. Beginning with the submittal
980 due on January 1, 2004, each domestic wastewater utility that
981 provides reclaimed water for the reuse activities listed in this
982 section shall include a summary of its metering and rate
983 structure as part of its annual reuse report to the department.

984 Section 20. Section 403.0645, Florida Statutes, is created
985 to read:

986 403.0645 Reclaimed water use at state facilities.--

987 (1) The encouragement and promotion of reuse of reclaimed
988 water has been established as a state objective in ss. 373.250
989 and 403.064. Reuse has become an integral part of water and
990 wastewater management in Florida, and Florida is recognized as a
991 national leader in water reuse.

992 (2) The state and various state agencies and water
993 management districts should take a leadership role in using
994 reclaimed water in lieu of other water sources. Use of reclaimed
995 water by state agencies and facilities will conserve potable
996 water and will serve an important public education function.

997 (3) All state agencies and water management districts are
998 directed to use reclaimed water to the greatest extent
999 practicable for landscape irrigation, toilet flushing, aesthetic
1000 features such as decorative ponds and fountains, cooling water,
1001 and other useful purposes allowed by department rules at state
1002 facilities, including, but not limited to, parks, rest areas,
1003 visitor welcome centers, buildings, college campuses, and other
1004 facilities.



1005 (4) Each state agency and water management district shall
 1006 submit to the Secretary of Environmental Protection by February
 1007 1 of each year a summary of activities designed to utilize
 1008 reclaimed water at its facilities along with a summary of the
 1009 amounts of reclaimed water actually used for beneficial
 1010 purposes.

1011 Section 21. Paragraph (b) of subsection (3) of section
 1012 403.1835, Florida Statutes, is amended, and subsection (12) is
 1013 added to said section, to read:

1014 403.1835 Water pollution control financial assistance.--

1015 (3) The department may provide financial assistance
 1016 through any program authorized under s. 603 of the Federal Water
 1017 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as
 1018 amended, including, but not limited to, making grants and loans,
 1019 providing loan guarantees, purchasing loan insurance or other
 1020 credit enhancements, and buying or refinancing local debt. This
 1021 financial assistance must be administered in accordance with
 1022 this section and applicable federal authorities. The department
 1023 shall administer all programs operated from funds secured
 1024 through the activities of the Florida Water Pollution Control
 1025 Financing Corporation under s. 403.1837, to fulfill the purposes
 1026 of this section.

1027 (b) The department may make or request the corporation to
 1028 make loans, grants, and deposits to other entities eligible to
 1029 participate in the financial assistance programs authorized
 1030 under the Federal Water Pollution Control Act, or as a result of
 1031 other federal action, which entities may pledge any revenue
 1032 available to them to repay any funds borrowed. Notwithstanding



1033 s. 18.10, the department may make deposits to financial
1034 institutions that earn less than the prevailing rate for United
1035 States Treasury securities with corresponding maturities for the
1036 purpose of enabling such financial institutions to make below-
1037 market interest rate loans to entities qualified to receive
1038 loans under this section and the rules of the department.

1039 (12)(a) It is the intent of the Legislature that for each
1040 reclaimed water utility or any other utility that receives funds
1041 pursuant to this subsection, the appropriate rate-setting
1042 authorities should develop rate structures for all water,
1043 wastewater, and reclaimed water and other alternative water
1044 supply utilities in the service area of the funded utility which
1045 accomplish the following:

1046 1. Provide meaningful progress toward the development and
1047 implementation of alternative water supply systems, including
1048 reclaimed water systems.

1049 2. Promote the conservation of fresh water withdrawn from
1050 natural systems.

1051 3. Provide for an appropriate distribution of costs for
1052 all water, wastewater, and alternative water supply utilities,
1053 including reclaimed water utilities, among all of the users of
1054 those utilities.

1055 (b) Funding assistance provided for a water reuse system
1056 project shall include the following loan conditions for that
1057 project where such conditions will encourage water use
1058 efficiency:

1059 1. Metering of reclaimed water use for the following
1060 activities: residential irrigation, agricultural irrigation,



1061 industrial uses except for electric utilities as defined in s.
 1062 366.02(2), golf course irrigation, landscape irrigation,
 1063 irrigation of other public access areas, and commercial uses.

1064 2. Implementation of reclaimed water rate structures based
 1065 on actual use of reclaimed water for the reuse types listed in
 1066 subparagraph 1.

1067 3. Implementation of education programs to inform the
 1068 public about water issues, water conservation, and the
 1069 importance and proper use of reclaimed water.

1070 Section 22. Subsection (6) of section 403.1837, Florida
 1071 Statutes, is amended to read:

1072 403.1837 Florida Water Pollution Control Financing
 1073 Corporation.--

1074 (6) The corporation may issue and incur notes, bonds,
 1075 certificates of indebtedness, or other obligations or evidences
 1076 of indebtedness payable from and secured by amounts received
 1077 from payment of loans and other moneys received by the
 1078 corporation, including, but not limited to, amounts payable to
 1079 the corporation by the department under a service contract
 1080 entered into under subsection (5). ~~The corporation may not issue~~
 1081 ~~bonds in excess of an amount authorized by general law or an~~
 1082 ~~appropriations act except to refund previously issued bonds. The~~
 1083 ~~corporation may issue bonds in amounts not exceeding \$50 million~~
 1084 ~~in fiscal year 2000-2001, \$75 million in fiscal year 2001-2002,~~
 1085 ~~and \$100 million in fiscal year 2002-2003.~~ The proceeds of the
 1086 bonds may be used for the purpose of providing funds for
 1087 projects and activities provided for in subsection (1) or for
 1088 refunding bonds previously issued by the corporation. The



1089 corporation may select a financing team and issue obligations
1090 through competitive bidding or negotiated contracts, whichever
1091 is most cost-effective. Any such indebtedness of the corporation
1092 does not constitute a debt or obligation of the state or a
1093 pledge of the faith and credit or taxing power of the state.

1094 Section 23. The Legislature finds that, within the area
1095 identified in the Lower East Coast Regional Water Supply Plan
1096 approved by the South Florida Water Management District pursuant
1097 to s. 373.0361, Florida Statutes, the groundwater levels can
1098 benefit from augmentation. The Legislature finds that the direct
1099 or indirect discharge of reclaimed water into canals and the
1100 aquifer system for transport and subsequent reuse may provide an
1101 environmentally acceptable means to augment water supplies and
1102 enhance natural systems; however, the Legislature also
1103 recognizes that there are water quality and water quantity
1104 issues that must be better understood and resolved. In addition,
1105 there are cost savings possible by collocating enclosed conduits
1106 for conveyance of water for reuse in this area within canal
1107 rights-of-way that should be investigated. Toward that end, the
1108 Department of Environmental Protection, in consultation with the
1109 South Florida Water Management District, Southeast Florida
1110 utilities, affected local governments, including local
1111 governments with principal responsibility for the operation and
1112 maintenance of a water control system capable of conveying
1113 reclaimed wastewater for reuse, representatives of the
1114 environmental and engineering communities, public health
1115 professionals, and individuals having expertise in water
1116 quality, shall conduct a study to investigate the feasibility of



1117 discharging reclaimed wastewater into canals and the aquifer
1118 system as an environmentally acceptable means of augmenting
1119 groundwater supplies, enhancing natural systems, and conveying
1120 reuse water within enclosed conduits within the canal right-of-
1121 way. The study shall include an assessment of the water quality,
1122 water supply, public health, technical, and legal implications
1123 related to the canal discharge and collocation concepts. The
1124 department shall issue a preliminary written report containing
1125 draft findings and recommendations for public comment by
1126 November 1, 2003. The department shall provide a written report
1127 on the results of its study to the Governor and the relevant
1128 substantive committees of the House of Representatives and the
1129 Senate by January 31, 2004. Nothing in this section shall be
1130 used to alter the purpose of the Comprehensive Everglades
1131 Restoration Plan or the implementation of the Water Resources
1132 Development Act of 2000.

1133 Section 24. Authority to adopt ordinance or resolution;
1134 amount of fee; referendum; disbursement.--

1135 (1) Any local government that contains an area or part of
1136 an area designated as an area of critical state concern under s.
1137 380.05, Florida Statutes, may adopt a resolution or ordinance
1138 for imposition and collection of a residential acquisition fee
1139 in the area of critical state concern. A local government may
1140 not adopt an ordinance or resolution to collect a residential
1141 acquisition fee in any area where another local government has
1142 already passed an ordinance or resolution imposing the fee
1143 unless the fee has expired or has failed to be approved by the
1144 electorate. The fee shall be assessed in accordance with the



1145 schedule set forth in subsection (2) of section 24. The
1146 authorization provided in this section shall be construed to be
1147 general law authorization pursuant to s. 1, Art. VII of the
1148 State Constitution.

1149 (2) Such ordinance or resolution must be approved by a
1150 majority of the qualified electors in the affected area of
1151 critical state concern. The ordinance or resolution for fee
1152 adoption must establish the date, time, and place of the
1153 referendum and provide appropriate ballot language, including,
1154 but not limited to, the fee schedule set forth in subsection (2)
1155 of section 24.

1156 (3) Any fees imposed and collected pursuant to this act
1157 shall be deposited into a residential acquisition fund to be
1158 established by ordinance or resolution of the governing body of
1159 the local government imposing the fee. The fund shall be
1160 maintained and administered by the clerk of the court. Six
1161 months after the initial collection, and quarterly thereafter,
1162 the clerk shall remit the proceeds accrued in the residential
1163 acquisition fund, less reasonable administrative costs of the
1164 clerk amounting to no more than \$5 per transaction, to the local
1165 government imposing the fee.

1166 Section 25. Applicability of fee; fee schedule.--

1167 (1) The residential acquisition fee shall be imposed at
1168 closing or upon the sale of a single-family residential or
1169 multifamily residential property on a sliding scale based on
1170 purchase price of the property. Commercial, governmental, and
1171 unimproved properties are not subject to the provisions of this



1172 act. Refinancing of residential loans is not subject to the
 1173 provisions of this act.

1174 (2) The fee is based on the following schedule:

1176 SCHEDULE OF FEES

| <u>PURCHASE PRICE OF PROPERTY</u> | <u>PERCENTAGE OF FEE</u> |
|--|--------------------------|
| <u>Properties purchased at \$249,999 or less.....</u> | <u>0%</u> |
| <u>Properties purchased at \$250,000 to \$499,999.....</u> | <u>1.00%</u> |
| <u>Properties purchased at \$500,000 to \$999,999.....</u> | <u>1.50%</u> |
| <u>Properties purchased at \$1,000,000 to \$1,999,999...</u> | <u>1.75%</u> |
| <u>Properties purchased at \$2,000,000 or more.....</u> | <u>2.00%</u> |

1185 Section 26. Collection of fee.--At the time of closing or
 1186 upon the sale of a single-family residential or a multifamily
 1187 residential property, the closing agent, the representative of
 1188 the closing agent, or the seller must collect and remit the fee
 1189 to the clerk. The closing agent, the representative of the
 1190 closing agent, or the seller must provide a space on the buyer
 1191 and seller disbursement statement or an addendum accompanying
 1192 the buyer and seller disbursement statement identifying the fee
 1193 and must disclose the amount of the fee to the prospective
 1194 buyer.

1195 Section 27. Utilization of funds.--Funds received by the
 1196 local government pursuant to this act shall be used for the
 1197 creation of or improvements to wastewater or stormwater
 1198 facilities. Division of funds between the county and
 1199 municipalities in areas of critical state concern shall be in



1200 accordance with any existing agreement between the county and
 1201 municipalities addressing priorities for uses established in
 1202 this act. Funds collected under this act may be used to complete
 1203 projects currently underway or projects undertaken pursuant to
 1204 this act.

1205 Section 28. A local government's authorization to impose
 1206 or collect the fee authorized under this act shall expire 10
 1207 years after the termination of the designation of the area of
 1208 critical state concern pursuant to s. 380.05, Florida Statutes,
 1209 in which the local government is located.

1210 Section 29. Paragraph (g) of subsection (7) of section
 1211 163.01, Florida Statutes, is amended to read:

1212 163.01 Florida Interlocal Cooperation Act of 1969.--

1213 (7)

1214 (g)1. Notwithstanding any other provisions of this
 1215 section, any separate legal entity created under this section,
 1216 the membership of which is limited to municipalities and
 1217 counties of the state, may acquire, own, construct, improve,
 1218 operate, and manage public facilities, or finance facilities on
 1219 behalf of any person, relating to a governmental function or
 1220 purpose, including, but not limited to, wastewater facilities,
 1221 water or alternative water supply facilities, and water reuse
 1222 facilities, which may serve populations within or outside of the
 1223 members of the entity. Notwithstanding s. 367.171(7), any
 1224 separate legal entity created under this paragraph is not
 1225 subject to Public Service Commission jurisdiction, except when a
 1226 host government specifically requests binding arbitration
 1227 services through the commission under subparagraphs 4. and 5.



1228 and as is otherwise provided for in general law. The separate
1229 legal entity ~~and~~ may not provide utility services within the
1230 service area of an existing utility system unless it has
1231 received the consent of the utility.

1232 2. For purposes of this paragraph, the term "utility"
1233 means a water or wastewater utility and includes every person,
1234 separate legal entity, lessee, trustee, or receiver owning,
1235 operating, managing, or controlling a system, or proposing
1236 construction of a system, who is providing, or proposes to
1237 provide, water or wastewater service to the public for
1238 compensation. For purposes of this paragraph, the term "system"
1239 means each separate water or wastewater facility providing
1240 service. For purposes of this paragraph, the term "host
1241 government" means either the governing body of the county, if
1242 the largest number of equivalent residential connections
1243 currently served by a system of the utility is located in the
1244 unincorporated area, or the governing body of a municipality, if
1245 the largest number of equivalent residential connections
1246 currently served by a system of the utility is located within
1247 that municipality's boundaries. For purposes of this paragraph,
1248 the term "separate legal entity" may mean any entity created by
1249 interlocal agreement the membership of which is limited to two
1250 or more municipalities or counties of the state, but which
1251 entity is legally separate and apart from any of its member
1252 governments. A separate legal entity that seeks to acquire any
1253 utility must notify the host government in writing by certified
1254 mail about the contemplated acquisition not less than 90 days
1255 before any proposed transfer of ownership, use, or possession of



1256 any utility assets by such separate legal entity. The potential
1257 acquisition notice must be provided to the legislative head of
1258 the governing body of the host government and to its chief
1259 administrative officer and must provide the name and address of
1260 a contact person for the separate legal entity and information
1261 identified in s. 367.071(4)(a) concerning the contemplated
1262 acquisition.

1263 3. Within 90 days following receipt of the notice, the
1264 host government may adopt a resolution to become a member of the
1265 separate legal entity; adopt a resolution to approve the utility
1266 acquisition; adopt a resolution to prohibit the utility
1267 acquisition by the separate legal entity if the host government
1268 determines that the proposed acquisition is not in the public
1269 interest; request in writing an automatic 45-day extension of
1270 the 90-day period in order to allow sufficient time for the host
1271 government to evaluate the proposed acquisition; or take no
1272 action to agenda the proposed acquisition for discussion at a
1273 public meeting, which shall be construed as denial of the
1274 proposed acquisition. If a host government adopts a prohibition
1275 resolution, the separate legal entity may not acquire the
1276 utility within that host government's territory without specific
1277 consent of the host government by future resolution. If a host
1278 government adopts a membership resolution, the separate legal
1279 entity must accept the host government as a member before any
1280 transfer of ownership, use, or possession of the utility or the
1281 utility facilities on the same basis as its existing members. If
1282 a host government does not adopt a prohibition resolution or an
1283 approval resolution, does not provide a written request for an



1284 extension of the 90-day notice period, and takes no action to
1285 initiate judicial proceedings regarding the proposed
1286 acquisition, the separate legal entity may proceed to acquire
1287 the utility after the 90-day notice period without further
1288 notice, except as otherwise agreed upon by the separate legal
1289 entity and the host government. In utility acquisitions
1290 involving two or more host governments, the Public Service
1291 Commission shall consider whether the sale, assignment, or
1292 transfer of the utility is in the public interest pursuant to
1293 the provisions of s. 367.071(1).

1294 4. In addition to the host government's right to review as
1295 fair and reasonable the rates, charges, customer
1296 classifications, and terms of service that will be in place at
1297 the time of acquisition, the host government has the right to
1298 review and approve as fair and reasonable any later changes
1299 proposed by the separate legal entity to the rates, charges,
1300 customer classifications, and terms of service, before adoption
1301 by the separate legal entity. In addition, the host government
1302 has the right to review and approve any changes to the financing
1303 of such facilities which may result in increased costs to
1304 customers. Such right of review and approval by the host
1305 government is subject to the obligation of the separate legal
1306 entity to establish rates and charges that comply with the
1307 requirements contained in any resolution or trust agreement
1308 relating to the issuance of bonds to acquire and improve the
1309 affected utility, and such right does not affect the obligation
1310 of the separate legal entity to set rates at a level sufficient
1311 to pay debt service on its obligations issued in relation to the



1312 host government utility. In order to facilitate review of
1313 proposed changes by such host government, the separate legal
1314 entity must notify the host government in writing by certified
1315 mail about the proposed changes not less than 90 days before it
1316 implements any changes. The notice of proposed changes must be
1317 provided to the legislative head of the governing body of each
1318 host government and to its chief administrative officer and must
1319 provide the name and address of a contact person for the
1320 separate legal entity and information identified in s.
1321 367.081(2)(a)1. as it applies to publicly owned utilities about
1322 the proposed changes. If after review the host government
1323 believes that the proposed changes are in the public interest,
1324 the host government may pass a resolution approving the proposed
1325 changes. If, after review, the host government believes that the
1326 proposed changes are not in the public interest, the host
1327 government may enter into negotiation with the separate legal
1328 entity to resolve those concerns. If no agreement is reached
1329 within 30 days after the host government's determination that
1330 the proposed changes are not in the public interest, the host
1331 government may request and, if requested, shall receive binding
1332 arbitration services through the Public Service Commission to
1333 resolve the dispute with the separate legal entity. The
1334 commission shall develop and adopt administrative rules
1335 governing the arbitration process and establishing fees for this
1336 dispute-resolution service.

1337 5. After the acquisition or construction of any utility
1338 systems by a separate legal entity created under this
1339 subsection, revenues or any other income may not be transferred



1340 or paid to a member of a separate legal entity, or to any other
1341 county or municipality, from user fees or other charges or
1342 revenues generated from customers that are not physically
1343 located within the jurisdictional or service delivery boundaries
1344 of the member, county, or municipality receiving the transfer or
1345 payment. Any transfer or payment to a member or other local
1346 government must be solely from user fees or other charges or
1347 revenues generated from customers that are physically located
1348 within the jurisdictional or service delivery boundaries of the
1349 member or local government receiving the transfer or payment.

1350 6. The host government is guaranteed the right to acquire
1351 any utility or utility system that it hosts owned by the
1352 separate legal entity. In those instances when the separate
1353 legal entity and the host government cannot agree on the terms
1354 and conditions of the acquisition, the host government may
1355 request and, if requested, shall receive binding arbitration
1356 services through the Public Service Commission to resolve the
1357 disputed acquisition terms. The commission shall develop and
1358 adopt administrative rules governing the arbitration process and
1359 establishing the fees for these services. In developing and
1360 adopting its rules governing the acquisition price for a given
1361 host government to acquire the utility or utility system located
1362 within its jurisdiction, the Public Service Commission shall, to
1363 the greatest extent possible, base the acquisition price on the
1364 same percentage to the total bonded indebtedness of the separate
1365 legal entity upon acquiring the utility as the acquired system's
1366 rate base was to the utility's total rate base at the time
1367 transferred from a regulated utility to the separate legal



1368 entity. This paragraph is an alternative provision otherwise
1369 provided by law as authorized in s. 4, Art. VIII of the State
1370 Constitution for any transfer of power as a result of an
1371 acquisition of a utility by a separate legal entity from a
1372 municipality, county, or special district.

1373 7. The entity may finance or refinance the acquisition,
1374 construction, expansion, and improvement of such facilities
1375 relating to a governmental function or purpose through the
1376 issuance of its bonds, notes, or other obligations under this
1377 section or as otherwise authorized by law. Except as limited by
1378 the terms and conditions of the utility acquisition agreement,
1379 as approved by the applicable host government, the entity has
1380 all the powers provided by the interlocal agreement under which
1381 it is created or which are necessary to finance, own, operate,
1382 or manage the public facility, including, without limitation,
1383 the power to establish rates, charges, and fees for products or
1384 services provided by it, the power to levy special assessments,
1385 the power to sell or finance all or a portion of such facility,
1386 and the power to contract with a public or private entity to
1387 manage and operate such facilities or to provide or receive
1388 facilities, services, or products. Except as may be limited by
1389 the interlocal agreement under which the entity is created, all
1390 of the privileges, benefits, powers, and terms of s. 125.01,
1391 relating to counties, and s. 166.021, relating to
1392 municipalities, are fully applicable to the entity. However,
1393 neither the entity nor any of its members on behalf of the
1394 entity may exercise the power of eminent domain over the
1395 facilities or property of any existing water or wastewater plant



1396 utility system, nor may the entity acquire title to any water or
1397 wastewater plant utility facilities, other facilities, or
1398 property which was acquired by the use of eminent domain after
1399 the effective date of this act. Bonds, notes, and other
1400 obligations issued by the entity are issued on behalf of the
1401 public agencies that are members of the entity.

1402 8.2- Except as limited by the terms and conditions of the
1403 utility acquisition agreement, as approved by the applicable
1404 host government, any entity created under this section may also
1405 issue bond anticipation notes in connection with the
1406 authorization, issuance, and sale of bonds. The bonds may be
1407 issued as serial bonds or as term bonds or both. Any entity may
1408 issue capital appreciation bonds or variable rate bonds. Any
1409 bonds, notes, or other obligations must be authorized by
1410 resolution of the governing body of the entity and bear the date
1411 or dates; mature at the time or times, not exceeding 40 years
1412 from their respective dates; bear interest at the rate or rates;
1413 be payable at the time or times; be in the denomination; be in
1414 the form; carry the registration privileges; be executed in the
1415 manner; be payable from the sources and in the medium or payment
1416 and at the place; and be subject to the terms of redemption,
1417 including redemption prior to maturity, as the resolution may
1418 provide. If any officer whose signature, or a facsimile of whose
1419 signature, appears on any bonds, notes, or other obligations
1420 ceases to be an officer before the delivery of the bonds, notes,
1421 or other obligations, the signature or facsimile is valid and
1422 sufficient for all purposes as if he or she had remained in
1423 office until the delivery. The bonds, notes, or other



1424 obligations may be sold at public or private sale for such price
1425 as the governing body of the entity shall determine. Pending
1426 preparation of the definitive bonds, the entity may issue
1427 interim certificates, which shall be exchanged for the
1428 definitive bonds. The bonds may be secured by a form of credit
1429 enhancement, if any, as the entity deems appropriate. The bonds
1430 may be secured by an indenture of trust or trust agreement. In
1431 addition, the governing body of the legal entity may delegate,
1432 to an officer, official, or agent of the legal entity as the
1433 governing body of the legal entity may select, the power to
1434 determine the time; manner of sale, public or private;
1435 maturities; rate of interest, which may be fixed or may vary at
1436 the time and in accordance with a specified formula or method of
1437 determination; and other terms and conditions as may be deemed
1438 appropriate by the officer, official, or agent so designated by
1439 the governing body of the legal entity. However, the amount and
1440 maturity of the bonds, notes, or other obligations and the
1441 interest rate of the bonds, notes, or other obligations must be
1442 within the limits prescribed by the governing body of the legal
1443 entity and its resolution delegating to an officer, official, or
1444 agent the power to authorize the issuance and sale of the bonds,
1445 notes, or other obligations.

1446 9.3- Bonds, notes, or other obligations issued under this
1447 paragraph ~~subparagraph 1-~~ may be validated as provided in
1448 chapter 75. The complaint in any action to validate the bonds,
1449 notes, or other obligations must be filed only in the Circuit
1450 Court for Leon County. The notice required to be published by s.
1451 75.06 must be published in Leon County and in each county that



1452 is a member of the entity issuing the bonds, notes, or other
1453 obligations, or in which a member of the entity is located, and
1454 the complaint and order of the circuit court must be served only
1455 on the State Attorney of the Second Judicial Circuit and on the
1456 state attorney of each circuit in each county that is a member
1457 of the entity issuing the bonds, notes, or other obligations or
1458 in which a member of the entity is located. Section 75.04(2)
1459 does not apply to a complaint for validation brought by the
1460 legal entity.

1461 ~~10.4.~~ The accomplishment of the authorized purposes of a
1462 legal entity created under this paragraph is in all respects for
1463 the benefit of the people of the state, for the increase of
1464 their commerce and prosperity, and for the improvement of their
1465 health and living conditions. Since the legal entity will
1466 perform essential governmental functions in accomplishing its
1467 purposes, the legal entity is not required to pay any taxes or
1468 assessments of any kind whatsoever upon any property acquired or
1469 used by it for such purposes or upon any revenues at any time
1470 received by it. The bonds, notes, and other obligations of an
1471 entity, their transfer and the income therefrom, including any
1472 profits made on the sale thereof, are at all times free from
1473 taxation of any kind by the state or by any political
1474 subdivision or other agency or instrumentality thereof. The
1475 exemption granted in this subparagraph is not applicable to any
1476 tax imposed by chapter 220 on interest, income, or profits on
1477 debt obligations owned by corporations.

1478 Section 30. Subsection (1) of section 120.52, Florida
1479 Statutes, is amended to read:



1480 120.52 Definitions.--As used in this act:

1481 (1) "Agency" means:

1482 (a) The Governor in the exercise of all executive powers

1483 other than those derived from the constitution.

1484 (b) Each:

1485 1. State officer and state department, and each

1486 departmental unit described in s. 20.04.

1487 2. Authority, including a regional water supply authority.

1488 3. Board.

1489 4. Commission, including the Commission on Ethics and the

1490 Fish and Wildlife Conservation Commission when acting pursuant

1491 to statutory authority derived from the Legislature.

1492 5. Regional planning agency.

1493 6. Multicounty special district with a majority of its

1494 governing board comprised of nonelected persons.

1495 7. Educational units.

1496 8. Entity described in chapters 163, 373, 380, and 582 and

1497 s. 186.504.

1498 (c) Each other unit of government in the state, including

1499 counties and municipalities, to the extent they are expressly

1500 made subject to this act by general or special law or existing

1501 judicial decisions.

1502

1503

1504 This definition does not include any legal entity or agency

1505 created in whole or in part pursuant to chapter 361, part II, an

1506 expressway authority pursuant to chapter 348, any legal or

1507 administrative entity created by an interlocal agreement



1508 pursuant to s. 163.01(7), except those created pursuant to s.
 1509 163.01(7)(g)1., unless any party to such agreement is otherwise
 1510 an agency as defined in this subsection, or any multicounty
 1511 special district with a majority of its governing board
 1512 comprised of elected persons; however, this definition shall
 1513 include a regional water supply authority.

1514 Section 31. Subsection (7) of section 367.021, Florida
 1515 Statutes, is amended to read:

1516 367.021 Definitions.--As used in this chapter, the
 1517 following words or terms shall have the meanings indicated:

1518 (7) "Governmental authority" means a political
 1519 subdivision, as defined by s. 1.01(8), a regional water supply
 1520 authority created pursuant to s. 373.1962, or a nonprofit
 1521 corporation formed for the purpose of acting on behalf of a
 1522 political subdivision with respect to a water or wastewater
 1523 facility; however, this definition shall exclude a separate
 1524 legal entity created pursuant to s. 163.01(7)(g)1.

1525 Section 32. Subsections (1) and (4) of section 367.071,
 1526 Florida Statutes, are amended to read:

1527 367.071 Sale, assignment, or transfer of certificate of
 1528 authorization, facilities, or control.--

1529 (1) A ~~No~~ utility may not ~~shall~~ sell, assign, or transfer
 1530 its certificate of authorization, facilities or any portion
 1531 thereof, or majority organizational control without
 1532 determination and approval of the commission that the proposed
 1533 sale, assignment, or transfer is in the public interest and that
 1534 the buyer, assignee, or transferee will fulfill the commitments,
 1535 obligations, and representations of the utility. ~~However, a~~



1536 ~~sale, assignment, or transfer of its certificate of~~
1537 ~~authorization, facilities or any portion thereof, or majority~~
1538 ~~organizational control may occur prior to commission approval if~~
1539 ~~the contract for sale, assignment, or transfer is made~~
1540 ~~contingent upon commission approval.~~

1541 (4) An application shall be disposed of as provided in s.
1542 367.045, except that:

1543 (a) The sale of facilities, in whole or part, to a
1544 governmental authority, as defined in s. 367.021(7), shall be
1545 approved as a matter of right; however, the governmental
1546 authority shall, prior to taking any official action, obtain
1547 from the utility or commission with respect to the facilities to
1548 be sold the most recent available income and expense statement,
1549 balance sheet, and statement of rate base for regulatory
1550 purposes and contributions-in-aid-of-construction. Any request
1551 for rate relief pending before the commission at the time of
1552 sale is deemed to have been withdrawn. Interim rates, if
1553 previously approved by the commission, must be discontinued, and
1554 any money collected pursuant to interim rate relief must be
1555 refunded to the customers of the utility with interest.

1556 (b) When paragraph (a) does not apply, the commission
1557 shall amend the certificate of authorization as necessary to
1558 reflect the change resulting from the sale, assignment, or
1559 transfer.

1560 Section 33. If any provision of this act or the
1561 application thereof to any person or circumstance is held
1562 invalid, the invalidity does not affect other provisions or
1563 applications of this act which can be given effect without the



1564 invalid provision or application, and to this end the provisions
1565 of this act are declared severable.

1566 Section 34. Private property rights and regional
1567 reservoirs.--

1568 (1) The Legislature finds that construction of a regional
1569 reservoir designed to store more than 10 billion gallons of
1570 water may inordinately burden nearby real property because of
1571 the proximity of the reservoir and may result in a loss of value
1572 for the property owner. Therefore, a regional water supply
1573 authority, serving three or fewer counties, that is authorized
1574 to construct, operate, and maintain such a regional reservoir
1575 shall be deemed a governmental entity under section 70.001,
1576 Florida Statutes, the Bert J. Harris, Jr., Private Property
1577 Rights Protection Act, for purposes of this section.

1578 (2) This section provides a cause of action for the
1579 actions of a regional water supply authority, in siting and
1580 constructing a reservoir as described in subsection (1), that
1581 may not rise to the level of a taking under the State
1582 Constitution or the United States Constitution. This section may
1583 not necessarily be construed under the case law regarding
1584 takings if the action of a regional water supply authority does
1585 not rise to the level of a taking. The provisions of this
1586 section are cumulative and do not abrogate any other remedy
1587 lawfully available, including any remedy lawfully available for
1588 the actions of a regional water supply authority that rise to
1589 the level of a taking. However, a regional water supply
1590 authority may not be liable more than once for compensation due



1591 to an action of the regional water supply authority that results
1592 in a loss of value for a subject real property.

1593 (3) Each owner of real property located within 10,000 feet
1594 of the the center of the footprint of a regional reservoir, as
1595 described in subsection(1), or 5,500 feet from the exterior of
1596 the berm of such reservoir, may present a claim for compensation
1597 in writing to the head of the regional water supply authority on
1598 or before December 31, 2004, for a loss in property value
1599 resulting from the proximity of the reservoir. For each claim
1600 presented under this section, section 70.001, Florida Statutes,
1601 applies, except when there is conflict with this section, the
1602 provisions of this section shall govern.

1603 (a) The property owner must submit along with the claim a
1604 bona fide, valid appraisal that supports the claim and
1605 demonstrates the loss in fair market value to the real property.

1606 (b) A claim under this section shall be presented only to
1607 the regional water supply authority that is authorized to
1608 construct, operate, and maintain the reservoir.

1609 (4) The Legislature recognizes that construction and
1610 maintenance of a regional reservoir may not necessarily
1611 interfere with allowable uses of real property near the
1612 reservoir. However, the siting and construction of the reservoir
1613 may result in an actual loss to the fair market value of real
1614 property located within 10,000 feet of the center of the
1615 footprint of the reservoir, or 5,500 feet from the exterior of
1616 the berm, because of the proximity of the reservoir. Therefore,
1617 any offer of compensation by the regional water supply authority
1618 shall be based solely on the loss of value for the property



1619 owner as a result of the proximity of the reservoir and not on
 1620 the effects the reservoir has on existing uses or on a vested
 1621 right to a specific use of real property.

1622 (a) Notwithstanding section 70.001, Florida Statutes, the
 1623 regional water supply authority to whom a claim is presented
 1624 shall, not later than 180 days after receiving such claim:

1625 1. Make a written offer to purchase the real property if
 1626 there is more than a 50-percent loss in value to the real
 1627 property as a result of the proximity of the reservoir and if
 1628 the property owner is a willing seller;

1629 2. Make a written offer to purchase an interest in rights
 1630 of use which may become transferable development rights to be
 1631 held, sold, or otherwise disposed of by the regional water
 1632 supply authority; or

1633 3. Terminate negotiations.

1634 (b) An offer by the regional water supply authority to
 1635 purchase the property in fee or purchase an interest in rights
 1636 of use under this section shall cover the cost of the appraisal
 1637 required in subsection (3).

1638 (5) During the 180-day period, unless the property owner
 1639 accepts a written offer for purchase pursuant to subparagraph
 1640 (4)(a)1. or 2., the regional water supply authority shall issue
 1641 a final decision stating that:

1642 (a) The real property has a loss in value due to an
 1643 inordinate burden on the property resulting from the proximity
 1644 of the reservoir and the regional water supply authority and
 1645 property owner cannot reach agreement on the amount of
 1646 compensation; or



1647 (b) The property owner has failed to establish a basis for
1648 relief under the provisions of this section and section 70.001,
1649 Florida Statutes.

1650

1651

1652 Failure of the regional water supply authority to issue a final
1653 decision as required by this subsection shall cause the written
1654 offer or termination of negotiations required in subsection (4)
1655 to operate as a final decision. As a matter of law, this final
1656 decision constitutes the last prerequisite to judicial review of
1657 the merits for the purposes of the judicial proceeding provided
1658 for in section 70.001, Florida Statutes.

1659 (6) The circuit court, for purposes of this section, shall
1660 determine whether, considering the written offer and final
1661 decision, the regional water supply authority has inordinately
1662 burdened the subject real property. Following a determination
1663 that the regional water supply authority has inordinately
1664 burdened the real property, the court shall impanel a jury to
1665 determine the total amount of compensation to the property owner
1666 for the loss in value due to the inordinate burden to the
1667 subject real property.

1668 (7) Pursuant to section 70.001, Florida Statutes, the
1669 court may award reasonable costs and attorney's fees and the
1670 court shall determine the amount. If the court awards the
1671 property owner reasonable costs and attorney's fees, the costs
1672 shall include the cost of the appraisal required in
1673 subsection(3).



1674 (8) This section shall take effect July 1, 2003, and is
1675 repealed effective January 1, 2005. However, the repeal of this
1676 section shall not affect a claim filed on or before December 31,
1677 2004.

1678 Section 35. Except as otherwise expressly provided in this
1679 act, this act shall take effect upon becoming a law and shall
1680 apply to all contracts pending on that date.

1681