

1                                   A bill to be entitled  
2           An act relating to growth management; amending  
3           s. 369.301, F.S.; changing the short title;  
4           creating s. 369.3011, F.S.; providing for a  
5           short title; providing legislative intent;  
6           providing definitions; providing for the  
7           designation of the Wekiva River Springshed  
8           Protection Area; creating comprehensive plan  
9           requirements for the area; creating a  
10          integrated planning area for the Wekiva River  
11          Basin; creating comprehensive plan requirements  
12          for transportation, land use, and water  
13          resource in the basin; creating transportation  
14          requirements for road construction in the  
15          basin; providing for planning assistance by the  
16          Department of Community Affairs; describing  
17          duties of the Department of Agriculture and  
18          Consumer Services for the creation of  
19          best-management practices; amending s.  
20          163.3187, F.S.; exempting comprehensive plan  
21          amendments created by this act from the  
22          statutory limit of two amendments per year;  
23          creating s. 373.0425, F.S.; providing for  
24          rulemaking authority for the St. Johns River  
25          Water Management District as it relates to  
26          implementing the provisions of this act;  
27          creating s. 381.0069, F.S.; directing the  
28          Department of Health to develop a program for  
29          the improvement of certain wastewater treatment  
30          systems in the Wekiva River Springshed  
31          Protection Area; amending s. 373.139, F.S.;

1 encouraging the St. Johns River Water  
2 Management District to pursue land acquisition  
3 within the Wekiva Basin; amending s. 369.307,  
4 F.S.; encouraging all agencies to pursue  
5 acquisitions within the Wekiva-Ocala Greenway  
6 Florida Forever project or other additional  
7 lands in the springs recharge area; providing  
8 legislative findings with respect to loss of  
9 property values due to the proximity of a  
10 regional water reservoir; authorizing a cause  
11 of action for a property owner; specifying a  
12 period during which a property owner may  
13 present a claim for compensation to the  
14 regional water supply authority that  
15 constructs, operates, and maintains the  
16 reservoir; providing requirements for the offer  
17 of compensation by a regional water supply  
18 authority; providing for judicial review under  
19 the Bert J. Harris, Jr., Private Property  
20 Rights Protection Act; providing for an award  
21 of costs and attorney's fees; providing for  
22 future repeal of the section; providing for  
23 severability; providing for the repeal of this  
24 act; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. Section 369.301, Florida Statutes, is  
29 amended to read:

30 369.301 Short title.--This part may be cited as the  
31 "Wekiva River Basin and Springs Protection and Planning Act."

1           Section 2. Section 369.3011, Florida Statutes, is  
2 created to read:

3           369.3011 Land use, transportation, and water resources  
4 planning in the Wekiva River Basin.--

5           (1) SHORT TITLE.--This section may be cited as the  
6 "Wekiva River Basin Planning Act."

7           (2) LEGISLATIVE INTENT.--

8           (a) The Legislature recognizes that population growth  
9 and the future transportation and water resource needs of the  
10 central Florida region must be balanced with protection of the  
11 ecosystem of the Wekiva River Basin and finds that these are  
12 issues of legitimate and compelling state interest. The  
13 Legislature, therefore, finds that the recommendations  
14 included in the Final Report, dated January 15, 2003, of the  
15 Wekiva Basin Area Task Force, which was created by Executive  
16 Order 2002-259, are valuable and should be implemented.

17           (b) The Legislature finds that, in addition to the  
18 issues of legitimate and compelling state interest related to  
19 protecting natural resources and meeting the future  
20 transportation needs in and near the Wekiva Basin Area, there  
21 exists a state interest in respecting and recognizing  
22 judicially acknowledged or statutorily and constitutionally  
23 protected property rights. It is the intent of the Legislature  
24 that state agencies and county and municipal governments with  
25 jurisdiction in the area of the Wekiva River Basin establish  
26 policies to guide and coordinate local decisions relating to  
27 growth and development and implement their decisions without  
28 imposing undue restrictions on vested property rights in  
29 violation of the laws and constitutions of this state and of  
30 the United States. Further, the Legislature recognizes  
31 sensitivity to private property rights as stated in s.

1 163.3167(8) to not limit or modify rights of any person to  
2 complete any development that has been authorized as a  
3 development of regional impact pursuant to chapter 380 or who  
4 has been issued a final local development order and  
5 development has commenced and is continuing in good faith as  
6 of the effective date of this act.

7 (c) The Legislature finds that the water resources and  
8 ecosystems of the Wekiva River Basin and the associated  
9 springshed areas that sustain the spring-fed Wekiva River and  
10 tributaries are of irreplaceable value to the quality of life  
11 and well-being of the people of the State of Florida. The  
12 Legislature further finds that greater intensities of  
13 development facilitated by the construction of major  
14 transportation facilities through the Wekiva River Basin and  
15 associated springshed areas may, unless properly designed,  
16 present serious threats to the continuing existence of the  
17 hydrological functions of the springs. It is the intent of the  
18 Legislature that regional transportation facilities be  
19 located, designed, and constructed in a manner that assures  
20 the protection of the Wekiva River Basin ecosystem. To  
21 accomplish these purposes, the Legislature directs that the  
22 completion of transportation improvements, including, but not  
23 limited to, the Wekiva Parkway and U.S. 441 Bypass, be  
24 accomplished in the context of a well-coordinated plan that  
25 simultaneously assures that the natural resources of the  
26 Wekiva River Basin, including the springshed, are protected  
27 against adverse impacts.

28 (3) DEFINITIONS.--As used in this section, the term:

29 (a) "Springshed" means the geographic area that  
30 contributes groundwater and surface water to the Wekiva River  
31 Springs systems.

1           (b) "U.S. 441 Bypass" means an expressway system  
2 connector designed and constructed as part of an extension of  
3 State Road 429 that begins at the Maitland Boulevard Extension  
4 Interchange and links to the Wekiva Parkway at a system  
5 interchange and continues in a northwesterly direction into  
6 Lake County.

7           (c) "Wekiva Parkway" means any limited access highway  
8 or expressway constructed between State Road 429 and  
9 Interstate 4.

10           (4) DESIGNATION OF THE WEKIVA RIVER SPRINGSHED  
11 PROTECTION AREA.--

12           (a) The Governor and Cabinet, sitting as the  
13 Administration Commission, shall establish by rule a Wekiva  
14 River Springshed Protection Area, which shall complement the  
15 Wekiva River Protection Area as defined in s. 369.303(9). Not  
16 later than September 30, 2003, the state land planning agency  
17 shall begin this process by giving notice of negotiated  
18 rulemaking, pursuant to s. 120.54(2)(d), for the purpose of  
19 recommending to the Administration Commission boundaries for  
20 the Wekiva River Springshed Protection Area.

21           (b) The boundary for the Wekiva River Springshed  
22 Protection Area shall be based upon, but need not be limited  
23 to, the following criteria:

24           1. The Wekiva River Springshed Protection Area must  
25 encompass an area no larger than the Wekiva River Springshed.

26           2. The boundary of the Wekiva River Springshed  
27 Protection Area shall be based upon the best available data  
28 from the St. Johns River Water Management District, the  
29 Department of Environmental Protection, the Department of  
30 Agriculture and Consumer Services, and other sources.

31

1           3. The boundary of the Wekiva River Springshed  
2 Protection Area shall be established in a manner that ensures  
3 predictability and uniformity of implementation, which may  
4 require aligning boundaries with recognizable geographic  
5 features that are not subject to change.

6           (c) Within 45 days after receipt of the recommended  
7 boundaries, the Governor and Cabinet, sitting as the  
8 Administration Commission shall adopt, modify, or reject the  
9 recommendation and shall by rule establish the boundaries of  
10 the Wekiva River Springshed Protection Area.

11           (5) COMPREHENSIVE PLAN REQUIREMENTS FOR THE WEKIVA  
12 RIVER SPRINGSHED PROTECTION AREA.--

13           (a) The state land planning agency, in consultation  
14 with the Department of Environmental Protection, the St. Johns  
15 River Water Management District, and the Department of  
16 Agriculture and Consumer Services, shall, not less than 60  
17 days prior to the next regular legislative session, adopt by  
18 negotiated rule pursuant to s. 120.54(2)(d) minimum criteria  
19 for land use strategies and development standards within the  
20 Wekiva River Springshed Protection Area. Such rules shall not  
21 be subject to rule challenges under s. 120.56(2) or to drawout  
22 proceedings under s. 120.54(3)(c)2. Such rules shall become  
23 effective only after they have been submitted to the President  
24 of the Senate and the Speaker of the House of Representatives  
25 for review by the Legislature. In its review, the Legislature  
26 may accept, reject, modify, or take no action relative to the  
27 rules. The agency shall conform the rules to the changes made  
28 by the Legislature or, if no action was taken, the agency  
29 rules shall become effective.

30           (b) The rules for the land use strategies and  
31 development standards, which shall be in addition to the

- 1 current statutory requirements, shall protect the quality and  
2 quantity of recharge that replenishes and maintains spring  
3 flows for the Wekiva River. Land use strategies and  
4 development controls shall apply throughout the Wekiva River  
5 Springshed Protection Area and shall include, but need not be  
6 limited to, the following:
- 7 1. Ensuring appropriate drainage, wastewater  
8 treatment, and water supply to support new or existing  
9 development;
  - 10 2. Locating low-impact land uses near the Wekiva River  
11 Springs. Low-impact land uses include preservation,  
12 conservation, passive recreation, unimproved rangeland,  
13 silviculture, and rural residential;
  - 14 3. Minimizing impervious surfaces to reduce runoff and  
15 retain recharge;
  - 16 4. Maintaining open space and natural recharge areas  
17 to protect groundwater resources and wildlife habitat through  
18 standards for open space, impervious surface coverage, and  
19 clustering; transfer of land use credits or development  
20 rights; and land acquisition, purchase of development rights,  
21 and conservation easements;
  - 22 5. Managing stormwater impacts to reduce runoff and  
23 maintain water quality of recharge;
  - 24 6. Providing enhanced wastewater treatment for septic  
25 tanks, central treatment systems, and a septic tank  
26 maintenance program;
  - 27 7. Using landscape design and maintenance to reduce  
28 impacts from chemicals and conserve water resources, including  
29 golf course design and maintenance;
  - 30 8. Siting, constructing, and maintaining golf courses  
31 using special management zones, integrated pest management,

1 and a natural resource management plan to prevent, manage, and  
2 monitor potential impacts to water resources; and

3 9. Adopting local programs for public education and  
4 partnerships with property owners, consideration of land or  
5 development rights acquisition, and cooperative management of  
6 public owned lands, economic development, and ecotourism.

7 (c) Within 1 year after the ratification of the rules  
8 for land use strategies and development standards for the  
9 Wekiva River Springshed Protection Area, or after approval of  
10 the rules as part of any comprehensive plan amendment that  
11 proposes to increase the density or intensity of development  
12 within the Wekiva River Springshed Protection Area, whichever  
13 occurs first, a local government must adopt the comprehensive  
14 plan amendments required by this subsection. A local  
15 government may not amend its comprehensive plan if it does not  
16 adopt the amendments as required by this subsection. The  
17 Administration Commission may impose the sanctions provided by  
18 s. 163.3184(11) against any local government that fails to  
19 adopt the comprehensive plan amendments required by this  
20 subsection, using the procedure in s. 163.3191(11). All  
21 existing local governments are required to adopt the  
22 comprehensive plan amendments required by this subsection as  
23 amendments to their respective comprehensive plans. Any  
24 municipality incorporated within the Wekiva River Springshed  
25 Protection Area after the effective date of this act shall  
26 include applicable portions of the comprehensive plan  
27 amendments required by this subsection in the initial  
28 transmittal and adoption of its local government comprehensive  
29 plan.

30 (d) After legislative ratification of the rules for  
31 land use strategies and springshed protection, the state land



1 planning agency shall review the local comprehensive plans,  
2 and all amendments, which are applicable to portions of the  
3 Wekiva River Springshed Protection Area for compliance with  
4 the provisions of this subsection in addition to its review of  
5 local comprehensive plans and amendments for compliance as  
6 defined in s. 163.3184. All procedures and penalties described  
7 in s. 163.3184 shall be applicable to this review.

8 (6) WEKIVA RIVER BASIN TRANSPORTATION; LAND USE AND  
9 WATER RESOURCES INTEGRATED PLANNING AREA DEFINED.--

10 (a) The state land planning agency, in collaboration  
11 with affected local governments, other state and regional  
12 agencies, appropriate federal agencies, and interested parties  
13 shall coordinate the development of an integrated plan for  
14 future transportation, land use, and water resource needs in  
15 the area of the Wekiva River Basin. Affected local governments  
16 shall incorporate the integrated plan in their respective  
17 comprehensive plans by amendment pursuant to paragraph (7)(b).  
18 The integrated plan for the future transportation, land use,  
19 and water resources in the area of the Wekiva River Basin  
20 shall include the following lands in Lake and Orange  
21 Counties: Township 18 South, Range 27 East, Sections 22-27,  
22 34-36; and Township 19 South, Range 27 East, Sections 1-3,  
23 10-15, 24, 25, 36; and Township 19 South, Range 28 East,  
24 Sections 6, 7, 18, 19, 29, 30-32; and Township 20 South, Range  
25 27 East, Sections 1, 2, 11-14, 23-26, 35, 36; and Township 20  
26 South, Range 28 East, Sections 4-9, 16-18, less and except  
27 those lands located in the Wekiva River Protection Area  
28 defined in s. 369.303(9).

29 (b) During the period of time between the effective  
30 date of this act and the adoption of the plan amendments  
31 required in subsections (5) and (7), a local government with

1 jurisdiction in the area defined in paragraph (a) shall not  
2 amend its comprehensive plan to increase the density or  
3 intensity of development.

4 (c) Notwithstanding paragraph (b), a local government  
5 may amend its plan as needed to plan, design, engineer, and  
6 acquire the right-of-way for the Wekiva Parkway or the U.S.  
7 441 Bypass.

8 (d) This section shall not be construed to limit any  
9 local government's authority to implement its current  
10 comprehensive plan, including the ability to approve  
11 development consistent with its current comprehensive plan and  
12 provide public facilities and services as provided in the  
13 5-year capital improvement element, or consistent with a joint  
14 planning agreement.

15 (7) COMPREHENSIVE PLAN REQUIREMENTS FOR THE WEKIVA  
16 BASIN INTEGRATED TRANSPORTATION, LAND USE, AND WATER RESOURCE  
17 PLANNING AREA.--

18 (a) The purpose of the integrated plan for future  
19 transportation, land use, and water resource needs is to  
20 assist affected local governments in completing the planning  
21 needed to prepare for the construction and related mitigation  
22 of the Wekiva Parkway and the U.S. 441 Bypass and further  
23 protection of the Wekiva River Springshed. The state land  
24 planning agency shall coordinate development of this plan with  
25 the Department of Environmental Protection, the St. Johns  
26 River Water Management District, the Department of  
27 Transportation, the Fish and Wildlife Conservation Commission,  
28 the Department of Agriculture and Consumer Services, the East  
29 Central Florida Regional Planning Council, the Orlando-Orange  
30 County Expressway Authority, the Seminole County Expressway  
31 Authority, appropriate federal agencies, interest groups

1 represented on the Wekiva Basin Area Task Force, and other  
2 interested parties.

3 (b) By December 31, 2004, or as part of any  
4 comprehensive plan amendment that proposes to increase the  
5 density or intensity of development within the integrated  
6 planning area, whichever comes first, a local government must  
7 adopt the comprehensive plan amendments required by this  
8 subsection. These plan amendments shall consider, but need not  
9 be limited to, the following:

10 1. A detailed land use plan that considers the overall  
11 types, intensities, and densities of development now permitted  
12 by the applicable local comprehensive plan as of the effective  
13 date of this act. However, flexibility is available to convert  
14 between land use categories such that groundwater recharge  
15 levels are equal to or greater than existing levels. The land  
16 use plan adopted by the respective jurisdictions may include  
17 establishing reasonable urban growth boundaries for existing  
18 municipalities in the area. As a component of the land use  
19 plan, a local government shall have the option to investigate  
20 the economic and other benefits that might be derived from the  
21 establishment of a Rural Land Stewardship Area pursuant to s.  
22 163.3177(11)(d). As part of this investigation, a local  
23 government shall have the flexibility to consider application  
24 of the stewardship concept that may be better suited to local  
25 circumstances. If deemed beneficial, a Rural Land Stewardship  
26 Area may be established by the local government.

27 2. A transportation plan that addresses the Wekiva  
28 Parkway and U.S. 441 alignments, as applicable, interchange  
29 locations, and design and construction features. The  
30 transportation plan should include an evaluation of any  
31

1 programmed road improvements that are made unnecessary by the  
2 Wekiva Parkway or the U.S. 441 Bypass.

3 3. Infrastructure planning including incentives for  
4 enhanced wastewater treatment and effluent disposal and  
5 stormwater management, including programs establishing  
6 incentives or regulations for the inspection and maintenance  
7 of existing onsite treatment and disposal systems, and for the  
8 installation of enhanced onsite treatment and disposal  
9 systems.

10 4. Provisions requiring design standards for  
11 commercial and other signage which are compatible with and  
12 reflect the character of the area.

13 5. Interchange land use plans, as applicable,  
14 including provisions for land use planning requirements for  
15 each of the interchanges associated with the Wekiva Parkway,  
16 including land use strategies and development standards, to  
17 maintain and to protect groundwater resources. The interchange  
18 land use plans or any other plans for additional expressways  
19 must address appropriate land uses and compatible development,  
20 secondary road access, access management, right-of-way  
21 protection, vegetative protection and landscaping, signage,  
22 and the height and appearance of structures.

23 (c) A local government may not amend its comprehensive  
24 plan if it does not adopt the comprehensive plan amendments as  
25 required by this section. The Administration Commission may  
26 impose the sanctions provided by s. 163.3184(11) against any  
27 local government that fails to adopt the required  
28 comprehensive plan amendments, using the procedure in s.  
29 163.3191(11). All existing local governments are required to  
30 adopt the comprehensive plan amendments required by this  
31 subsection as amendments to their respective comprehensive

1 plans. Any municipality incorporated within the integrated  
2 planning area after the effective date of this act shall  
3 include applicable portions of the comprehensive plan  
4 amendments required by this subsection in the initial  
5 transmittal and adoption of its local government comprehensive  
6 plan.

7 (d) After December 31, 2004, the state land planning  
8 agency shall review the local comprehensive plans, and all  
9 amendments, which are applicable to portions of the integrated  
10 planning area for compliance with the provisions of this  
11 subsection in addition to its review of local comprehensive  
12 plans and amendments for compliance as defined in s. 163.3184.  
13 All the procedures and penalties described in s. 163.3184  
14 shall be applicable to this review.

15 (e) As part of the integrated planning process for  
16 future transportation, land use, and water resources, the  
17 state land planning agency and local governments with  
18 jurisdiction shall consider issues of compatibility of the  
19 integrated planning area with the Wekiva River Protection Area  
20 as designated in part II of chapter 369. By January 30, 2005,  
21 the state land planning agency shall report to the Governor,  
22 the President of the Senate, and the Speaker of the House of  
23 Representatives any land use compatibility issues with respect  
24 to the Wekiva River Protection Area, including recommendations  
25 to address any identified compatibility issues.

26 (8) TRANSPORTATION REQUIREMENTS IN THE WEKIVA RIVER  
27 BASIN.--

28 (a) The Department of Transportation, in collaboration  
29 with the Turnpike Enterprise, the Orlando-Orange County  
30 Expressway Authority, and the Seminole County Expressway  
31 Authority shall, by September 15, 2004, provide to the

1 Governor and the Legislature a report of their joint  
2 recommendations to implement the Wekiva Basin Area Task Force  
3 recommendations in its Final Report dated January 15, 2003.

4 The report shall also include the agencies' joint  
5 recommendations on the following:

6 1. The choice of a lead agency to build the Wekiva  
7 Parkway and the respective roles of other transportation  
8 agencies, authorities, and enterprises;

9 2. A funding plan for locating, designing, and  
10 constructing the Wekiva Parkway which addresses the task force  
11 recommendations related to wider rights-of-way to promote the  
12 parkway concept, preserve rural character, buffer  
13 interchanges, and other design features; and

14 3. Any legislation needed to secure the authority  
15 needed to acquire private lands or development rights within  
16 the Wekiva River Protection Area or the Wekiva River  
17 Springshed Protection Area in excess of that which is required  
18 for right-of-way and associated roadway construction.

19 (b) The Orlando-Orange County Expressway Authority,  
20 the Seminole County Expressway Authority, the Department of  
21 Transportation, and the Turnpike Enterprise shall locate the  
22 precise corridor and interchanges for the Wekiva Parkway  
23 within the corridor generally depicted in Figure 3,  
24 "Recommended Corridor for the Wekiva Parkway," of the Final  
25 Report of the Wekiva Basin Area Task Force dated January 15,  
26 2003. The determination of the final alignment of the Wekiva  
27 Parkway within Seminole County shall be subject to approval by  
28 the Seminole County Expressway Authority. The transportation  
29 agencies shall apply the "Guiding Principles for the Wekiva  
30 Parkway Design Features and Construction" to the construction  
31 of the Wekiva Parkway and, as applicable, to the U.S. 441

1 Bypass, the expansion of existing expressways within the  
2 Wekiva River Springshed Protection Area, and the Wekiva River  
3 Protection Area, as the Task Force recommended in  
4 Recommendation 2 and Recommendation 8 of its Final Report,  
5 dated January 15, 2003.

6 (c) The specific design features included within  
7 Recommendations Nos. 3, 4, 6, and 7 of the Wekiva Basin Area  
8 Task Force Report shall be incorporated within the design of  
9 the Wekiva Parkway and the U.S. 441 Bypass, as applicable,  
10 where those expressways extend into or across the Wekiva River  
11 Protection Area or Wekiva River Springshed Protection Area.  
12 Such features, to the maximum extent feasible, shall include,  
13 but not be limited to, elevated roadways or bridging of  
14 identified wildlife corridors, a parkway design with  
15 appropriate natural buffers between the roadways and adjacent  
16 areas, fulfillment of mitigation needs by supporting land  
17 acquisition projects only within the Wekiva River Protection  
18 Area or Wekiva River Springshed Protection Area, and  
19 limitations on the number and location of permissible  
20 interchanges.

21 (d) If a local government fails to timely adopt plan  
22 amendments required by this section, it shall be subject to  
23 the imposition of sanctions by the Administration Commission,  
24 and that government's failure to adopt amendments by December  
25 31, 2004, shall not preclude construction of the Wekiva  
26 Parkway or U.S. 441 Bypass. Nothing herein shall preclude the  
27 immediate planning, design, engineering, and right-of-way  
28 acquisition of the U.S. 441 Bypass pursuant to Recommendation  
29 11 of the Final Report of the Wekiva Basin Area Task Force,  
30 dated January 15, 2003.

31

1           (9) PLANNING ASSISTANCE TO LOCAL GOVERNMENTS.--The  
2 state land planning agency and appropriate state and regional  
3 agencies shall provide planning assistance to the affected  
4 local governments in the development of comprehensive plan  
5 amendments to meet the requirements of this act. The state  
6 land planning agency, with the support of the Department of  
7 Environmental Protection, the Department of Agriculture and  
8 Consumer Services, and the St. Johns River Water Management  
9 District shall develop model land development regulations for  
10 the implementation of this act. The state land planning agency  
11 is authorized to prioritize the expenditure of funds  
12 appropriated for the purpose of providing technical assistance  
13 to local governments to those local governments with  
14 jurisdiction in the Wekiva River Springshed Protection Area  
15 and integrated planning area defined in subsection (6).

16           (10) DUTIES OF THE DEPARTMENT OF AGRICULTURE AND  
17 CONSUMER SERVICES.--The Department of Agriculture and Consumer  
18 Services shall assist local governments in implementing this  
19 section and local governments shall consult with the  
20 Department of Agriculture and Consumer Services to determine  
21 if agricultural best management practices should be included  
22 in the comprehensive plan. Following consultation with a local  
23 government, any agricultural best management practices  
24 referenced or required in a comprehensive plan amendment shall  
25 be developed and adopted by the Department of Agriculture and  
26 Consumer Services.

27           Section 3. Paragraph (m) is added to subsection (1) of  
28 section 163.3187, Florida Statutes, to read:

29           163.3187 Amendment of adopted comprehensive plan.--  
30  
31



1 (1) Amendments to comprehensive plans adopted pursuant  
2 to this part may be made not more than two times during any  
3 calendar year, except:

4 (m) Any comprehensive plan amendment related to the  
5 implementation of the Wekiva River Basin Planning Act,  
6 pursuant to s. 369.3011.

7 Section 4. Section 373.0425, Florida Statutes, is  
8 created to read:

9 373.0425 Duties of the St. Johns River Water  
10 Management District regarding springshed protection.--

11 (1) The Legislature recognizes that Recommendation 15  
12 of the Final Report of the Wekiva Basin Area Task Force, dated  
13 January 15, 2003 addressed the potential to enhance protection  
14 of the Wekiva River System through the regulatory authority of  
15 the St. Johns River Water Management District. Therefore, the  
16 Legislature directs the St. Johns River Water Management  
17 District to review its permitting rules authorized under Parts  
18 II and IV to determine whether additional criteria specific to  
19 the Wekiva River Springshed Protection Area are appropriate to  
20 protect the water quality and flow of springs in accordance  
21 with state water quality standards and s. 373.042 in the  
22 Wekiva River System as defined in s. 369.303(10). The review  
23 shall include, but need not be limited to consideration of  
24 criteria to address: aquifer recharge protection; permitting  
25 thresholds to prevent significant adverse impacts to the  
26 springs; concurrent action on consumptive use permit and  
27 environmental resource permit applications; landscaping to  
28 reduce irrigation needs; best management practices to protect  
29 spring water quality; and use of reclaimed water to reduce the  
30 use of groundwater. This review shall be completed by December  
31 1, 2003.

1           (2) If rule amendments are determined to be  
2 appropriate, the St. Johns River Water Management District  
3 shall commence the rulemaking process within 90 days after the  
4 adoption of the boundary of the Wekiva River Springshed  
5 Protection Area by the Administration Commission pursuant to  
6 s. 369.3011(4). If such rule amendments include amendments to  
7 chapter 40C-44, Florida Administrative Code, governing the  
8 regulation of agricultural surface water management systems,  
9 the St. Johns River Water Management District shall consult  
10 with the Department of Agriculture and Consumer Services to  
11 develop such rule amendments.

12           Section 5. Section 381.0069, Florida Statutes, is  
13 created to read:

14           381.0069 Wekiva River Springshed Protection  
15 Area.--Within 3 years after the adoption of a final boundary  
16 of the Wekiva River Springshed Protection Area by the  
17 Administration Commission pursuant to s. 369.3011(4)(d), the  
18 Department of Health, with assistance from the Department of  
19 Environmental Protection, shall develop a program to encourage  
20 and provide incentives for the inspection and maintenance of  
21 onsite wastewater treatment and disposal systems and for the  
22 installation of enhanced onsite treatment and disposal systems  
23 within the Wekiva River Springshed Protection Area.

24           Section 6. Subsection (8) is added to section 373.139,  
25 Florida Statutes, to read:

26           373.139 Acquisition of real property.--

27           (8) The St. Johns River Water Management District is  
28 encouraged to pursue the fee simple or less-than-fee-simple  
29 purchase of lands in the Wekiva Basin Area which contribute  
30 surface water and groundwater to spring flow as a means to  
31 protect the Wekiva River Springs.

1           Section 7. Subsection (5) of section 369.307, Florida  
2 Statutes, is amended to read:

3           369.307 Developments of regional impact in the Wekiva  
4 River Protection Area; land acquisition.--

5           (5) The Department of Environmental Protection is  
6 directed to proceed to negotiate for acquisition of  
7 conservation and recreation lands projects within the Wekiva  
8 River Protection Area provided that such projects have been  
9 deemed qualified under statutory and rule criteria for  
10 purchase and have been placed on the priority list for  
11 acquisition by the advisory council created in s. 259.035 or  
12 its successor. Agencies are encouraged to use all means at  
13 their disposal for completing the acquisition of the  
14 Wekiva-Ocala Greenway Florida Forever Projects identified in  
15 Recommendation 16 of the Final Report of the Wekiva Basin Area  
16 Task Force, dated January 15, 2003, prior to construction  
17 associated with the Wekiva Parkway.

18  
19 It is also the intent of the Legislature that efforts should  
20 be made to identify and acquire additional lands located  
21 within the Wekiva River Springs recharge area. Agencies are  
22 encouraged to pursue binding purchase agreements for the  
23 acquisition of properties identified above, to the greatest  
24 extent practicable, prior to the commencement of construction  
25 of the Wekiva Parkway.

26           Section 8. Private property rights and regional  
27 reservoirs.--

28           (1) The Legislature finds that construction of a  
29 regional reservoir designed to store more than 10 billion  
30 gallons of water may inordinately burden nearby real property  
31 because of the proximity of the reservoir and may result in a

1 loss of value for the property owner. Therefore, a regional  
2 water supply authority, serving three or fewer counties, that  
3 is authorized to construct, operate, and maintain such a  
4 regional reservoir shall be deemed a governmental entity under  
5 section 70.001, Florida Statutes, the Bert J. Harris, Jr.,  
6 Private Property Rights Protection Act, for purposes of this  
7 section.

8 (2) This section provides a cause of action for the  
9 actions of a regional water supply authority, in siting and  
10 constructing a reservoir as described in subsection (1), that  
11 may not rise to the level of a taking under the State  
12 Constitution or the United States Constitution. This section  
13 may not necessarily be construed under the case law regarding  
14 takings if the action of a regional water supply authority  
15 does not rise to the level of a taking. The provisions of this  
16 section are cumulative and do not abrogate any other remedy  
17 lawfully available, including any remedy lawfully available  
18 for the actions of a regional water supply authority that rise  
19 to the level of a taking. However, a regional water supply  
20 authority may not be liable more than once for compensation  
21 due to an action of the regional water supply authority that  
22 results in a loss of value for a subject real property.

23 (3) Each owner of real property located within 10,000  
24 feet of the the center of the footprint of a regional  
25 reservoir, as described in subsection (1), or 5,500 feet from  
26 the exterior of the berm of such reservoir, may present a  
27 claim for compensation in writing to the head of the regional  
28 water supply authority on or before December 31, 2004, for a  
29 loss in property value resulting from the proximity of the  
30 reservoir. For each claim presented under this section,  
31 section 70.001, Florida Statutes, applies, except when there

1 is conflict with this section, the provisions of this section  
2 shall govern.

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

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

10 (4) The Legislature recognizes that construction and  
11 maintenance of a regional reservoir may not necessarily  
12 interfere with allowable uses of real property near the  
13 reservoir. However, the siting and construction of the  
14 reservoir may result in an actual loss to the fair market  
15 value of real property located within 10,000 feet of the  
16 center of the footprint of the reservoir, or 5,500 feet from  
17 the exterior of the berm, because of the proximity of the  
18 reservoir. Therefore, any offer of compensation by the  
19 regional water supply authority shall be based solely on the  
20 loss of value for the property owner as a result of the  
21 proximity of the reservoir and not on the effects the  
22 reservoir has on existing uses or on a vested right to a  
23 specific use of real property.

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

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

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

5           3. Terminate negotiations.

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

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

14           (a) The real property has a loss in value due to an  
15 inordinate burden on the property resulting from the proximity  
16 of the reservoir and the regional water supply authority and  
17 property owner cannot reach agreement on the amount of  
18 compensation; or

19           (b) The property owner has failed to establish a basis  
20 for relief under the provisions of this section and section  
21 70.001, Florida Statutes.

22  
23 Failure of the regional water supply authority to issue a  
24 final decision as required by this subsection shall cause the  
25 written offer or termination of negotiations required in  
26 subsection (4) to operate as a final decision. As a matter of  
27 law, this final decision constitutes the last prerequisite to  
28 judicial review of the merits for the purposes of the judicial  
29 proceeding provided for in section 70.001, Florida Statutes.

30           (6) The circuit court, for purposes of this section,  
31 shall determine whether, considering the written offer and

1 final decision, the regional water supply authority has  
2 inordinately burdened the subject real property. Following a  
3 determination that the regional water supply authority has  
4 inordinately burdened the real property, the court shall  
5 impanel a jury to determine the total amount of compensation  
6 to the property owner for the loss in value due to the  
7 inordinate burden to the subject real property.

8 (7) Pursuant to section 70.001, Florida Statutes, the  
9 court may award reasonable costs and attorney's fees and the  
10 court shall determine the amount. If the court awards the  
11 property owner reasonable costs and attorney's fees, the costs  
12 shall include the cost of the appraisal required in subsection  
13 (3).

14 (8) This section is repealed effective January 1,  
15 2005. However, the repeal of this section shall not affect a  
16 claim filed on or before December 31, 2004.

17 Section 9. If any provision of this act or the  
18 application thereof to any person or circumstance is held  
19 invalid, the invalidity does not affect other provisions or  
20 applications of this act which can be given effect without the  
21 invalid provision or application, and to this end the  
22 provisions of this act are declared severable.

23 Section 10. Except as otherwise expressly provided in  
24 this act, this act shall stand repealed effective July 1,  
25 2008, unless purchase of the right-of-way for the Wekiva  
26 Parkway or the U.S. 441 Bypass has been commenced. Part II of  
27 chapter 369, Florida Statutes, (2002) shall not be repealed by  
28 operation of this section.

29 Section 11. This act shall take effect July 1, 2003.  
30  
31