

By Senator Dockery

15-1179A-03

See HB 1405

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

1 s. 373.459, F.S.; providing for appropriation
2 of funds for surface water improvement and
3 management activities by water management
4 districts; providing for release of funds by
5 the Department of Environmental Protection;
6 repealing s. 373.455, F.S., relating to review
7 of surface water improvement and management
8 plans; repealing s. 373.456, F.S., relating to
9 approval of surface water improvement and
10 management plans; repealing s. 373.457, F.S.,
11 relating to implementation of surface water
12 improvement and management plans and programs;
13 amending ss. 259.101, 373.4136, 403.067, and
14 403.1835, F.S.; deleting cross-references;
15 providing an effective date.
16

17 Be It Enacted by the Legislature of the State of Florida:
18

19 Section 1. Subsection (11) of section 373.0693,
20 Florida Statutes, is amended to read:

21 373.0693 Basins; basin boards.--

22 (11)(a) Basins existing within the Southwest Florida
23 Water Management District, as described in rule 40D-0.061,
24 Florida Administrative Code, may not be abolished or combined
25 without the approval of the Legislature, except that the
26 entire area lying to the East of the Hillsborough County line
27 formerly and presently located within the Hillsborough Basin
28 is hereby annexed into the Peace River Basin from the
29 Hillsborough Basin is hereby deannexed from the Peace River
30 Basin and reannexed into the Hillsborough Basin. Within the
31 Southwest Florida Water Management District, the entire area

1 lying to the East of the Hillsborough County line formerly and
2 ~~presently located within the Alafia Basin is hereby~~ annexed
3 into the Peace River Basin from the Alafia Basin is hereby
4 ~~deannexed from the Peace River Basin and reannexed into the~~
5 Alafia Basin.

6 (b) Assets or liabilities of the basin located in
7 those areas transferred from the Peace River Basin back into
8 the Hillsborough and Alafia Basins ~~into the Peace River Basin~~
9 pursuant to this section, including funds held in trust, shall
10 be transferred to the Hillsborough and Alafia Basins ~~Peace~~
11 ~~River Basin.~~

12 Section 2. Subsections (5), (7), and (8) of section
13 373.451, Florida Statutes, are amended to read:

14 373.451 Short title; legislative findings and
15 intent.--

16 (5) The Legislature finds that many surface water
17 problems can be and have been corrected and prevented through
18 plans and programs for surface water improvement and
19 management that are developed ~~planned, designed, and~~
20 implemented by the water management districts, the department,
21 and local governments.

22 (7) It is also the intent of the Legislature that the
23 department, the water management districts, and others ~~shall~~
24 ~~conduct or coordinate statewide~~ research ~~by the water~~
25 ~~management districts or others~~ to provide a better scientific
26 understanding of the causes and effects of surface water
27 pollution and of the destruction of natural systems in order
28 to improve and manage surface waters and associated natural
29 systems.

30 ~~(8) The state, through the department, shall provide~~
31 ~~funds to assist with the implementation of the district plans~~

1 ~~and programs under this act. However, to achieve the goals of~~
2 ~~this act, cooperation and funding is necessary from the state,~~
3 ~~the water management districts, and local governments.~~

4 Section 3. Section 373.453, Florida Statutes, is
5 amended to read:

6 373.453 Surface water improvement and management plans
7 and programs.--

8 (1)(a) Each water management district, in cooperation
9 with the department, the Department of Agriculture and
10 Consumer Services, the Department of Community Affairs, the
11 Fish and Wildlife Conservation Commission, ~~and~~ local
12 governments, and others, shall ~~prepare and~~ maintain a list
13 that prioritizes ~~which shall prioritize~~ water bodies of
14 regional or statewide significance within the ~~each~~ water
15 management district. The list shall be reviewed and updated
16 every 5 ~~3~~ years. ~~The list shall be based on criteria adopted~~
17 ~~by rule of the department and shall assign priorities to the~~
18 ~~water bodies based on their need for protection and~~
19 ~~restoration.~~

20 (b) Criteria to be used in developing the lists
21 ~~developed by the department~~ shall include, but ~~need~~ not be
22 limited to, consideration of violations of water quality
23 standards occurring in the water body, the amounts of
24 nutrients entering the water body and the water body's trophic
25 state, water bodies on the department's list of impaired
26 waters, water bodies with established total maximum daily
27 loads, the existence of or need for a continuous aquatic weed
28 control program in the water body, the biological condition of
29 the water body, reduced fish and wildlife values, ~~and~~ threats
30 to agricultural and urban water supplies, threats to ~~and~~
31 public recreational opportunities, public input, and the

1 management of the water body through federal, state, or local
2 water quality programs or plans.

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

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

10 2. The Southwest Florida Water Management District
11 shall give priority to the restoration needs of Tampa Bay and
12 its tributaries.

13 3. The St. Johns River Water Management District shall
14 give priority to the restoration needs of Lake Apopka, the
15 Lower St. Johns River, and the Indian River Lagoon system and
16 their tributaries.

17 (2) Unless otherwise provided by law ~~Once the priority~~
18 ~~lists are approved by the department,~~ the water management
19 districts, in cooperation with state agencies, ~~the department,~~
20 ~~the Fish and Wildlife Conservation Commission, the Department~~
21 ~~of Community Affairs, the Department of Agriculture and~~
22 ~~Consumer Services, and local governments, and others, may~~
23 ~~shall~~ develop surface water improvement and management plans
24 and programs for the water bodies identified ~~based~~ on the
25 priority lists. ~~The department shall establish a uniform~~
26 ~~format for such plans and a schedule for reviewing and~~
27 ~~updating the plans. These~~ Plans developed pursuant to this
28 subsection shall include, but not be limited to:

29 (a) A description of the water body system, its
30 historical and current uses, its hydrology, and ~~a history of~~

31

1 the conditions that ~~which~~ have led to the need for restoration
2 or protection;

3 (b) An identification of all governmental units that
4 have jurisdiction over the water body and its drainage basin
5 within the approved surface water improvement and management
6 plan area, including local, regional, state, and federal
7 units;

8 (c) A description of land uses within the drainage
9 basin of the priority water body ~~within the approved surface~~
10 ~~water improvement and management plan area~~ and those of
11 important tributaries, ~~point and nonpoint sources of~~
12 ~~pollution, and permitted discharge activities;~~

13 (d) Identification ~~A list of the owners~~ of point and
14 nonpoint sources of water pollution that are discharged into
15 the each water body and its important tributaries ~~tributary~~
16 ~~thereto and that adversely affect the public interest,~~
17 ~~including separate lists of those sources that are:~~

- 18 1. ~~Operating without a permit;~~
19 2. ~~Operating with a temporary operating permit; and~~
20 3. ~~Presently violating effluent limits or water~~
21 ~~quality standards.~~

22
23 ~~The plan shall also include recommendations and schedules for~~
24 ~~bringing all sources into compliance with state standards when~~
25 ~~not contrary to the public interest. This paragraph does not~~
26 ~~authorize any existing or future violation of any applicable~~
27 ~~statute, regulation, or permit requirement, and does not~~
28 ~~diminish the authority of the department or the water~~
29 ~~management district;~~

30 (e) A description of strategies and a schedule for
31 related management actions ~~potential strategies~~ for restoring

1 or protecting the water body to Class III or better, including
2 those needed to help achieve state-adopted total maximum daily
3 loads for the water body;
4 ~~(f) A listing of studies that are being or have been~~
5 ~~prepared for the water body;~~
6 ~~(g) A description of the research and feasibility~~
7 ~~studies which will be performed to determine the particular~~
8 ~~strategy or strategies to restore or protect the water body;~~
9 ~~(f)(h) A description of the management actions~~
10 ~~measures needed to ~~manage and~~ maintain the water body once it~~
11 ~~has been restored and to prevent future degradation; and~~
12 ~~(i) A schedule for restoration and protection of the~~
13 ~~water body; and~~
14 ~~(g)(j) An estimate of the funding needed to carry out~~
15 ~~the restoration or protection strategies and a listing of~~
16 ~~available and potential funding sources and amounts.~~
17 ~~(3) Each water management district shall be~~
18 ~~responsible for planning and coordinating restoration or~~
19 ~~protection strategies for the priority water bodies within the~~
20 ~~district which have been approved by the department as water~~
21 ~~bodies of regional and statewide significance in need of~~
22 ~~protection or restoration. The governing board of the~~
23 ~~appropriate water management district shall hold at least one~~
24 ~~public hearing and public workshop ~~workshops~~ in the vicinity~~
25 ~~of a priority ~~the~~ water body for which a plan is being~~
26 ~~developed to obtain under consideration as may be necessary~~
27 ~~for obtaining public input prior to finalizing the surface~~
28 ~~water improvement and management plan ~~plans~~ for the water body~~
29 ~~bodies on the priority list. The water management district~~
30 ~~shall then forward a copy of the plan ~~plans~~ to the department,~~
31 ~~the Fish and Wildlife Conservation Commission, the Department~~

1 of Agriculture and Consumer Services, and to appropriate local
2 governmental units for their review and comment within 45
3 calendar days after the date the plan is forwarded to them.
4 The department shall specifically comment on the likelihood
5 that implementing the plan will significantly improve or
6 protect water quality and associated natural systems. At the
7 end of the 45-day review period, the water management district
8 may proceed to approve the plan, whether or not comments have
9 been submitted. Approval of a surface water improvement and
10 management plan is not subject to the rule adoption
11 requirements of chapter 120.

12 (4) Plans shall be updated as necessary to ensure that
13 they effectively address the restoration and protection needs
14 of the priority water bodies and that they reflect current
15 scientific understandings and budgetary adjustments. If a
16 district determines that modifications of or additions to a
17 plan are necessary, such modifications or additions shall be
18 subject to the review process established in this section.
19 ~~Each September 1, the water management districts shall submit~~
20 ~~a funding proposal for the next state fiscal year to the~~
21 ~~department for its review and approval. The proposal shall~~
22 ~~specify the activities that need state funding and the amounts~~
23 ~~of funding, and shall describe the specific restoration or~~
24 ~~protection activities proposed. The department shall review~~
25 ~~water management district funding proposals and shall consider~~
26 ~~them in making its annual budget request.~~

27 (5) The governing board of each water management
28 district is encouraged to appoint advisory committees as
29 necessary to assist in formulating and evaluating strategies
30 for water body protection and restoration activities and to
31 increase public awareness and intergovernmental cooperation.

1 Such committees should include representatives of ~~the Fish and~~
2 ~~Wildlife Conservation Commission, the Department of~~
3 ~~Agriculture and Consumer Services,~~ appropriate local
4 governments, state and federal agencies, existing advisory
5 councils for the priority ~~subject~~ water body, and
6 representatives of the public who use the water body.

7 (6) The water management districts may contract with
8 appropriate state, local, and regional agencies and others to
9 perform various tasks associated with the development and
10 implementation of ~~the~~ surface water improvement and management
11 plans and programs.

12 Section 4. Section 373.459, Florida Statutes, is
13 amended to read:

14 373.459 Funds for surface water improvement and
15 management.--

16 (1) Legislative appropriations provided to the water
17 management districts for surface water improvement and
18 management activities shall be available for detailed planning
19 and plan and program implementation.

20 (2)~~(1)~~ The Ecosystem Management and Restoration Trust
21 Fund shall be used for the deposit of funds appropriated by
22 the Legislature for the purposes of ss. 373.451-373.4595. The
23 department shall administer all funds appropriated to or
24 received for surface water improvement and management
25 activities. Expenditure of the moneys shall be limited to the
26 costs of detailed planning ~~for~~ and plan and program
27 implementation of programs prepared for priority surface water
28 bodies waters. Moneys from the fund shall not be expended for
29 planning for, or construction or expansion of, treatment
30 facilities for domestic or industrial waste disposal.

31

1 (3)(2) The ~~secretary of the~~ department shall authorize
2 the release of money from the fund in accordance with the
3 provisions of s. 373.501(2) and procedures in s. 373.59(4) and
4 ~~(5) within 30 days after receipt of a request adopted by the~~
5 ~~governing board of a water management district or by the~~
6 ~~executive director when authority has been delegated by the~~
7 ~~governing board, certifying that the money is needed for~~
8 ~~detailed planning for or implementation of plans approved~~
9 ~~pursuant to ss. 373.453, 373.455, and 373.456. A water~~
10 ~~management district may not receive more than 50 percent of~~
11 ~~the moneys appropriated to the fund for the purposes of ss.~~
12 ~~373.451-373.4595 in any fiscal year unless otherwise provided~~
13 ~~for by law. Each year after funds are appropriated, each water~~
14 ~~management district shall receive the amount requested~~
15 ~~pursuant to s. 373.453(4) or 10 percent of the money~~
16 ~~appropriated for the purposes of ss. 373.451-373.4595,~~
17 ~~whichever is less. The department shall allocate the remaining~~
18 ~~money in the appropriation for such purposes annually, based~~
19 ~~upon the specific needs of the districts. The department, at~~
20 ~~its discretion, may include any funds allocated to a district~~
21 ~~for such purposes in previous years which remain unencumbered~~
22 ~~by the district on July 1, to the amount of money to be~~
23 ~~distributed based upon specific needs of the districts.~~

24 ~~(3)~~ The amount of money that may be released to a
25 water management district from the fund for approved plans, or
26 continuations of approved plans, to improve and manage the
27 surface waters described in ~~ss. 373.451-373.4595~~ is limited to
28 not more than 60 percent of the amount of money necessary for
29 the approved plans of the South Florida Water Management
30 District, the Southwest Florida Water Management District, and
31 the St. Johns River Water Management District, and not more

1 ~~than 80 percent of the amount of money necessary for the~~
2 ~~approved plans of the Northwest Florida Water Management~~
3 ~~District and the Suwannee River Water Management District. The~~
4 ~~remaining funds necessary for the approved plans shall be~~
5 ~~provided by the district.~~

6 (4) Moneys in the fund which are not needed to meet
7 current obligations incurred under this section shall be
8 transferred to the State Board of Administration, to the
9 credit of the trust fund, to be invested in the manner
10 provided by law. Interest received on such investments shall
11 be credited to the trust fund.

12 Section 5. Sections 373.455, 373.456, and 373.457,
13 Florida Statutes, are repealed.

14 Section 6. Paragraph (b) of subsection (3) of section
15 259.101, Florida Statutes, is amended to read:

16 259.101 Florida Preservation 2000 Act.--

17 (3) LAND ACQUISITION PROGRAMS SUPPLEMENTED.--Less the
18 costs of issuance, the costs of funding reserve accounts, and
19 other costs with respect to the bonds, the proceeds of bonds
20 issued pursuant to this act shall be deposited into the
21 Florida Preservation 2000 Trust Fund created by s. 375.045. In
22 fiscal year 2000-2001, for each Florida Preservation 2000
23 program described in paragraphs (a)-(g), that portion of each
24 program's total remaining cash balance which, as of June 30,
25 2000, is in excess of that program's total remaining
26 appropriation balances shall be redistributed by the
27 department and deposited into the Save Our Everglades Trust
28 Fund for land acquisition. For purposes of calculating the
29 total remaining cash balances for this redistribution, the
30 Florida Preservation 2000 Series 2000 bond proceeds, including
31 interest thereon, and the fiscal year 1999-2000 General

1 Appropriations Act amounts shall be deducted from the
2 remaining cash and appropriation balances, respectively. The
3 remaining proceeds shall be distributed by the Department of
4 Environmental Protection in the following manner:
5 (b) Thirty percent to the Department of Environmental
6 Protection for the purchase of water management lands pursuant
7 to s. 373.59, to be distributed among the water management
8 districts as provided in that section. Funds received by each
9 district may also be used for acquisition of lands necessary
10 to implement surface water improvement and management plans
11 ~~approved in accordance with s. 373.456~~ or for acquisition of
12 lands necessary to implement the Everglades Construction
13 Project authorized by s. 373.4592.
14
15 Local governments may use federal grants or loans, private
16 donations, or environmental mitigation funds, including
17 environmental mitigation funds required pursuant to s.
18 338.250, for any part or all of any local match required for
19 the purposes described in this subsection. Bond proceeds
20 allocated pursuant to paragraph (c) may be used to purchase
21 lands on the priority lists developed pursuant to s. 259.035.
22 Title to lands purchased pursuant to paragraphs (a), (d), (e),
23 (f), and (g) shall be vested in the Board of Trustees of the
24 Internal Improvement Trust Fund. Title to lands purchased
25 pursuant to paragraph (c) may be vested in the Board of
26 Trustees of the Internal Improvement Trust Fund. The board of
27 trustees shall hold title to land protection agreements and
28 conservation easements that were or will be acquired pursuant
29 to s. 380.0677, and the Southwest Florida Water Management
30 District and the St. Johns River Water Management District
31 shall monitor such agreements and easements within their

1 respective districts until the state assumes this
2 responsibility.

3 Section 7. Paragraph (a) of subsection (6) of section
4 373.4136, Florida Statutes, is amended to read:

5 373.4136 Establishment and operation of mitigation
6 banks.--

7 (6) MITIGATION SERVICE AREA.--The department or water
8 management district shall establish a mitigation service area
9 for each mitigation bank permit. The department or water
10 management district shall notify and consider comments
11 received on the proposed mitigation service area from each
12 local government within the proposed mitigation service area.
13 Except as provided herein, mitigation credits may be withdrawn
14 and used only to offset adverse impacts in the mitigation
15 service area. The boundaries of the mitigation service area
16 shall depend upon the geographic area where the mitigation
17 bank could reasonably be expected to offset adverse impacts.
18 Mitigation service areas may overlap, and mitigation service
19 areas for two or more mitigation banks may be approved for a
20 regional watershed.

21 (a) In determining the boundaries of the mitigation
22 service area, the department or the water management district
23 shall consider the characteristics, size, and location of the
24 mitigation bank and, at a minimum, the extent to which the
25 mitigation bank:

26 1. Contributes to a regional integrated ecological
27 network;

28 2. Will significantly enhance the water quality or
29 restoration of an offsite receiving water body that is
30 designated as an Outstanding Florida Water, a Wild and Scenic
31 River, an aquatic preserve, a water body designated in a plan

1 adopted pursuant to ~~s. 373.456~~ of the Surface Water
2 Improvement and Management Act, or a nationally designated
3 estuarine preserve;

4 3. Will provide for the long-term viability of
5 endangered or threatened species or species of special
6 concern;

7 4. Is consistent with the objectives of a regional
8 management plan adopted or endorsed by the department or water
9 management districts; and

10 5. Can reasonably be expected to offset specific types
11 of wetland impacts within a specific geographic area. A
12 mitigation bank need not be able to offset all expected
13 impacts within its service area.

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

17 403.067 Establishment and implementation of total
18 maximum daily loads.--

19 (3) ASSESSMENT.--

20 (b) The department shall adopt by rule a methodology
21 for determining those waters which are impaired. The rule
22 shall provide for consideration as to whether water quality
23 standards codified in chapter 62-302, Florida Administrative
24 Code, are being exceeded, based on objective and credible
25 data, studies and reports, including surface water improvement
26 and management plans approved by water management districts
27 ~~under s. 373.456~~ and pollutant load reduction goals developed
28 according to department rule. Such rule also shall set forth:

29 1. Water quality sample collection and analysis
30 requirements, accounting for ambient background conditions,
31 seasonal and other natural variations;

- 1 2. Approved methodologies;
2 3. Quality assurance and quality control protocols;
3 4. Data modeling; and
4 5. Other appropriate water quality assessment
5 measures.

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

7 (a) The department shall be the lead agency in
8 coordinating the implementation of the total maximum daily
9 loads through water quality protection programs. Application
10 of a total maximum daily load by a water management district
11 shall be consistent with this section and shall not require
12 the issuance of an order or a separate action pursuant to s.
13 120.536(1) or s. 120.54 for adoption of the calculation and
14 allocation previously established by the department. Such
15 programs may include, but are not limited to:

- 16 1. Permitting and other existing regulatory programs;
17 2. Nonregulatory and incentive-based programs,
18 including best management practices, cost sharing, waste
19 minimization, pollution prevention, and public education;
20 3. Other water quality management and restoration
21 activities, for example surface water improvement and
22 management plans approved by water management districts ~~under~~
23 ~~s. 373.456~~ or watershed or basin management plans developed
24 pursuant to this subsection;
25 4. Pollutant trading or other equitable economically
26 based agreements;
27 5. Public works including capital facilities; or
28 6. Land acquisition.

29 Section 9. Subsection (7) of section 403.1835, Florida
30 Statutes, is amended to read:

31

1 403.1835 Water pollution control financial
2 assistance.--
3 (7) Eligible projects must be given priority according
4 to the extent each project is intended to remove, mitigate, or
5 prevent adverse effects on surface or ground water quality and
6 public health. The relative costs of achieving environmental
7 and public health benefits must be taken into consideration
8 during the department's assignment of project priorities. The
9 department shall adopt a priority system by rule. In
10 developing the priority system, the department shall give
11 priority to projects that:
12 (a) Eliminate public health hazards;
13 (b) Enable compliance with laws requiring the
14 elimination of discharges to specific water bodies;
15 (c) Assist in the implementation of total maximum
16 daily loads adopted under s. 403.067;
17 (d) Enable compliance with other pollution control
18 requirements, including, but not limited to, toxics control,
19 wastewater residuals management, and reduction of nutrients
20 and bacteria;
21 (e) Assist in the implementation of surface water
22 improvement and management plans ~~approved under s. 373.456~~ and
23 pollutant load reduction goals developed under state water
24 policy;
25 (f) Promote reclaimed water reuse;
26 (g) Eliminate failing onsite sewage treatment and
27 disposal systems or those that are causing environmental
28 damage; or
29 (h) Reduce pollutants to and otherwise promote the
30 restoration of Florida's surface and ground waters.
31

1 Section 10. This act shall take effect upon becoming a
2 law.
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