

By the Committee on Natural Resources; and Senator Dockery

312-2235-03

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

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

15 Be It Enacted by the Legislature of the State of Florida:
16

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

19 373.0693 Basins; basin boards.--

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

1 ~~(b) Assets or liabilities of the basin located in~~
2 ~~those areas transferred from the Hillsborough and Alafia~~
3 ~~Basins into the Peace River Basin pursuant to this section,~~
4 ~~including funds held in trust, shall be transferred to the~~
5 ~~Peace River Basin.~~

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

8 373.451 Short title; legislative findings and
9 intent.--

10 (5) The Legislature finds that many surface water
11 problems can be and have been corrected and prevented through
12 plans and programs for surface water improvement and
13 management that are developed ~~planned, designed,~~ and
14 implemented by the water management districts, the department,
15 and local governments.

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

24 ~~(8) The state, through the department, shall provide~~
25 ~~funds to assist with the implementation of the district plans~~
26 ~~and programs under this act. However, to achieve the goals of~~
27 ~~this act, cooperation and funding is necessary from the state,~~
28 ~~the water management districts, and local governments.~~

29 Section 3. Section 373.453, Florida Statutes, is
30 amended to read:

31

1 373.453 Surface water improvement and management plans
2 and programs.--

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

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

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

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

5 2. The Southwest Florida Water Management District
6 shall give priority to the restoration needs of Tampa Bay and
7 its tributaries.

8 3. The St. Johns River Water Management District shall
9 give priority to the restoration needs of Lake Apopka, the
10 Lower St. Johns River, and the Indian River Lagoon system and
11 their tributaries.

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

24 (a) A description of the water body system, its
25 historical and current uses, its hydrology, and ~~a history of~~
26 the conditions that ~~which~~ have led to the need for restoration
27 or protection;

28 (b) An identification of all governmental units that
29 have jurisdiction over the water body and its drainage basin
30 within the approved surface water improvement and management
31

1 plan area, including local, regional, state, and federal
2 units;

3 (c) A description of land uses within the drainage
4 basin of the priority water body ~~within the approved surface~~
5 ~~water improvement and management plan area~~ and those of
6 important tributaries, ~~point and nonpoint sources of~~
7 ~~pollution, and permitted discharge activities;~~

8 (d) Identification ~~A list of the owners~~ of point and
9 nonpoint sources of water pollution that are discharged into
10 the each water body and its important tributaries ~~tributary~~
11 ~~thereto and that adversely affect the public interest,~~
12 ~~including separate lists of those sources that are:~~

- 13 1. ~~Operating without a permit;~~
- 14 2. ~~Operating with a temporary operating permit; and~~
- 15 3. ~~Presently violating effluent limits or water~~
16 ~~quality standards.~~

17
18 ~~The plan shall also include recommendations and schedules for~~
19 ~~bringing all sources into compliance with state standards when~~
20 ~~not contrary to the public interest. This paragraph does not~~
21 ~~authorize any existing or future violation of any applicable~~
22 ~~statute, regulation, or permit requirement, and does not~~
23 ~~diminish the authority of the department or the water~~
24 ~~management district;~~

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

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

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

4 (f)(h) A description of the management actions
5 measures needed to manage and maintain the water body once it
6 has been restored and to prevent future degradation; and

7 ~~(i)~~ A schedule for restoration and protection of the
8 water body; and

9 (g)(j) An estimate of the funding needed to carry out
10 the restoration or protection strategies and a listing of
11 available and potential funding sources and amounts.

12 ~~(3) Each water management district shall be~~
13 ~~responsible for planning and coordinating restoration or~~
14 ~~protection strategies for the priority water bodies within the~~
15 ~~district which have been approved by the department as water~~
16 ~~bodies of regional and statewide significance in need of~~
17 ~~protection or restoration.~~The governing board of the
18 appropriate water management district shall hold at least one
19 public hearing and public workshop ~~workshops~~ in the vicinity
20 of a priority ~~the~~ water body for which a plan is being
21 developed to obtain ~~under consideration as may be necessary~~
22 ~~for obtaining~~ public input prior to finalizing the surface
23 water improvement and management plan ~~plans~~ for the water body
24 ~~bodies on the priority list~~. The water management district
25 shall then forward a copy of the plan ~~plans~~ to the department,
26 the Fish and Wildlife Conservation Commission, the Department
27 of Agriculture and Consumer Services, and ~~to~~ appropriate local
28 governmental units for their review and comment within 45
29 calendar days after the date the plan is forwarded to them.
30 The department shall specifically comment on the likelihood
31 that implementing the plan will significantly improve or

1 protect water quality and associated natural systems. At the
2 end of the 45-day review period, the water management district
3 may proceed to approve the plan, whether or not comments have
4 been submitted.

5 (4) Plans shall be updated as necessary to ensure that
6 they effectively address the restoration and protection needs
7 of the priority water bodies and that they reflect current
8 scientific understandings and budgetary adjustments. If a
9 district determines that modifications of or additions to a
10 plan are necessary, such modifications or additions shall be
11 subject to the review process established in this section.

12 ~~Each September 1, the water management districts shall submit~~
13 ~~a funding proposal for the next state fiscal year to the~~
14 ~~department for its review and approval. The proposal shall~~
15 ~~specify the activities that need state funding and the amounts~~
16 ~~of funding, and shall describe the specific restoration or~~
17 ~~protection activities proposed. The department shall review~~
18 ~~water management district funding proposals and shall consider~~
19 ~~them in making its annual budget request.~~

20 (5) The governing board of each water management
21 district is encouraged to appoint advisory committees as
22 necessary to assist in formulating and evaluating strategies
23 for water body protection and restoration activities and to
24 increase public awareness and intergovernmental cooperation.
25 Such committees should include representatives of ~~the Fish and~~
26 ~~Wildlife Conservation Commission, the Department of~~
27 ~~Agriculture and Consumer Services,~~ appropriate local
28 governments, state and federal agencies, existing advisory
29 councils for the priority ~~subject~~ water body, and
30 representatives of the public who use the water body.

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1 (6) The water management districts may contract with
2 appropriate state, local, and regional agencies and others to
3 perform various tasks associated with the development and
4 implementation of ~~the~~ surface water improvement and management
5 plans and programs.

6 Section 4. Section 373.459, Florida Statutes, is
7 amended to read:

8 373.459 Funds for surface water improvement and
9 management.--

10 (1) Legislative appropriations provided to the water
11 management districts for surface water improvement and
12 management activities shall be available for detailed planning
13 and plan and program implementation.

14 ~~(2)(1)~~ The Ecosystem Management and Restoration Trust
15 Fund shall be used for the deposit of funds appropriated by
16 the Legislature for the purposes of ss. 373.451-373.4595. The
17 department shall administer all funds appropriated to or
18 received for surface water improvement and management
19 activities. Expenditure of the moneys shall be limited to the
20 costs of detailed planning ~~for~~ and plan and program
21 implementation of programs prepared for priority surface water
22 bodies waters. Moneys from the fund shall not be expended for
23 planning for, or construction or expansion of, treatment
24 facilities for domestic or industrial waste disposal.

25 ~~(3)(2)~~ The ~~secretary of the~~ department shall authorize
26 the release of money from the fund in accordance with the
27 provisions of s. 373.501(2) and procedures in s. 373.59(4) and
28 ~~(5) within 30 days after receipt of a request adopted by the~~
29 ~~governing board of a water management district or by the~~
30 ~~executive director when authority has been delegated by the~~
31 ~~governing board, certifying that the money is needed for~~

1 ~~detailed planning for or implementation of plans approved~~
2 ~~pursuant to ss. 373.453, 373.455, and 373.456. A water~~
3 ~~management district may not receive more than 50 percent of~~
4 ~~the moneys appropriated to the fund for the purposes of ss.~~
5 ~~373.451-373.4595 in any fiscal year unless otherwise provided~~
6 ~~for by law. Each year after funds are appropriated, each water~~
7 ~~management district shall receive the amount requested~~
8 ~~pursuant to s. 373.453(4) or 10 percent of the money~~
9 ~~appropriated for the purposes of ss. 373.451-373.4595,~~
10 ~~whichever is less. The department shall allocate the remaining~~
11 ~~money in the appropriation for such purposes annually, based~~
12 ~~upon the specific needs of the districts. The department, at~~
13 ~~its discretion, may include any funds allocated to a district~~
14 ~~for such purposes in previous years which remain unencumbered~~
15 ~~by the district on July 1, to the amount of money to be~~
16 ~~distributed based upon specific needs of the districts.~~

17 ~~(3) The amount of money that may be released to a~~
18 ~~water management district from the fund for approved plans, or~~
19 ~~continuations of approved plans, to improve and manage the~~
20 ~~surface waters described in ss. 373.451-373.4595 is limited to~~
21 ~~not more than 60 percent of the amount of money necessary for~~
22 ~~the approved plans of the South Florida Water Management~~
23 ~~District, the Southwest Florida Water Management District, and~~
24 ~~the St. Johns River Water Management District, and not more~~
25 ~~than 80 percent of the amount of money necessary for the~~
26 ~~approved plans of the Northwest Florida Water Management~~
27 ~~District and the Suwannee River Water Management District. The~~
28 ~~remaining funds necessary for the approved plans shall be~~
29 ~~provided by the district.~~

30 ~~(4) Moneys in the fund which are not needed to meet~~
31 ~~current obligations incurred under this section shall be~~

1 transferred to the State Board of Administration, to the
2 credit of the trust fund, to be invested in the manner
3 provided by law. Interest received on such investments shall
4 be credited to the trust fund.

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

7 Section 6. Paragraph (b) of subsection (3) of section
8 259.101, Florida Statutes, is amended to read:

9 259.101 Florida Preservation 2000 Act.--

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

29 (b) Thirty percent to the Department of Environmental
30 Protection for the purchase of water management lands pursuant
31 to s. 373.59, to be distributed among the water management

1 districts as provided in that section. Funds received by each
2 district may also be used for acquisition of lands necessary
3 to implement surface water improvement and management plans
4 ~~approved in accordance with s. 373.456~~ or for acquisition of
5 lands necessary to implement the Everglades Construction
6 Project authorized by s. 373.4592.

7
8 Local governments may use federal grants or loans, private
9 donations, or environmental mitigation funds, including
10 environmental mitigation funds required pursuant to s.
11 338.250, for any part or all of any local match required for
12 the purposes described in this subsection. Bond proceeds
13 allocated pursuant to paragraph (c) may be used to purchase
14 lands on the priority lists developed pursuant to s. 259.035.
15 Title to lands purchased pursuant to paragraphs (a), (d), (e),
16 (f), and (g) shall be vested in the Board of Trustees of the
17 Internal Improvement Trust Fund. Title to lands purchased
18 pursuant to paragraph (c) may be vested in the Board of
19 Trustees of the Internal Improvement Trust Fund. The board of
20 trustees shall hold title to land protection agreements and
21 conservation easements that were or will be acquired pursuant
22 to s. 380.0677, and the Southwest Florida Water Management
23 District and the St. Johns River Water Management District
24 shall monitor such agreements and easements within their
25 respective districts until the state assumes this
26 responsibility.

27 Section 7. Paragraph (a) of subsection (6) of section
28 373.4136, Florida Statutes, is amended to read:

29 373.4136 Establishment and operation of mitigation
30 banks.--

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

15 (a) In determining the boundaries of the mitigation
16 service area, the department or the water management district
17 shall consider the characteristics, size, and location of the
18 mitigation bank and, at a minimum, the extent to which the
19 mitigation bank:

20 1. Contributes to a regional integrated ecological
21 network;

22 2. Will significantly enhance the water quality or
23 restoration of an offsite receiving water body that is
24 designated as an Outstanding Florida Water, a Wild and Scenic
25 River, an aquatic preserve, a water body designated in a plan
26 approved ~~adopted~~ pursuant to ~~s. 373.456~~ of the Surface Water
27 Improvement and Management Act, or a nationally designated
28 estuarine preserve;

29 3. Will provide for the long-term viability of
30 endangered or threatened species or species of special
31 concern;

1 4. Is consistent with the objectives of a regional
2 management plan adopted or endorsed by the department or water
3 management districts; and

4 5. Can reasonably be expected to offset specific types
5 of wetland impacts within a specific geographic area. A
6 mitigation bank need not be able to offset all expected
7 impacts within its service area.

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

11 403.067 Establishment and implementation of total
12 maximum daily loads.--

13 (3) ASSESSMENT.--

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

23 1. Water quality sample collection and analysis
24 requirements, accounting for ambient background conditions,
25 seasonal and other natural variations;

26 2. Approved methodologies;

27 3. Quality assurance and quality control protocols;

28 4. Data modeling; and

29 5. Other appropriate water quality assessment
30 measures.

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

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

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

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

25 403.1835 Water pollution control financial
26 assistance.--

27 (7) Eligible projects must be given priority according
28 to the extent each project is intended to remove, mitigate, or
29 prevent adverse effects on surface or ground water quality and
30 public health. The relative costs of achieving environmental
31 and public health benefits must be taken into consideration

1 during the department's assignment of project priorities. The
2 department shall adopt a priority system by rule. In
3 developing the priority system, the department shall give
4 priority to projects that:

5 (a) Eliminate public health hazards;

6 (b) Enable compliance with laws requiring the
7 elimination of discharges to specific water bodies;

8 (c) Assist in the implementation of total maximum
9 daily loads adopted under s. 403.067;

10 (d) Enable compliance with other pollution control
11 requirements, including, but not limited to, toxics control,
12 wastewater residuals management, and reduction of nutrients
13 and bacteria;

14 (e) Assist in the implementation of surface water
15 improvement and management plans ~~approved under s. 373.456~~ and
16 pollutant load reduction goals developed under state water
17 policy;

18 (f) Promote reclaimed water reuse;

19 (g) Eliminate failing onsite sewage treatment and
20 disposal systems or those that are causing environmental
21 damage; or

22 (h) Reduce pollutants to and otherwise promote the
23 restoration of Florida's surface and ground waters.

24 Section 10. This act shall take effect upon becoming a
25 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2260

The committee substitute deletes provisions requiring that Basins within the Southwest Florida Water Management District may not be abolished or combined without the approval of the Legislature. The committee substitute also adds the Lake Worth Lagoon to the priority areas which must be considered by the South Florida Water Management District when developing a SWIM priority water body list.