

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2758

SPONSOR: Natural Resources Committee and Senator Dockery

SUBJECT: Water Resources

DATE: April 21, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kiger	Kiger	NR	Fav/CS
2.	_____	_____	CP	_____
3.	_____	_____	CU	_____
4.	_____	_____	AED	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides that local governments must address water supply projects necessary to meet and achieve existing and projected water use demand in local comprehensive plans. The Public Service Commission is authorized to allow the recovery of alternative water supply facilities when setting rates, and is authorized to provide staff assistance to additional small water utilities that require rate-setting assistance. The bill includes additional responsibilities for the water management districts when regional water supply plans are being developed, including public workshops, identification of alternative water sources as options for water supply development, and an analysis of areas where phosphate reclamation variances, or other resource extraction reclamation variances may be used to create water supply development or water resource development projects. Funding priority is established for projects using alternative sources of water and meeting specific criteria.

The bill directs the Department of Environmental Protection and the water management districts to submit recommendations to the Legislature to identify alternative methods of extending the use of existing water resources. The governing boards of the water management districts are authorized to adopt rules to identify preferred water supply sources. Longer term permits are authorized for consumptive use permit applicants proposing to use preferred water supply sources.

The bill creates new provisions to regulate Landscape Irrigation Design, encourages utilities to meter and charge for reclaimed water based on the actual volume used, and mandates that state agencies use reclaimed water whenever possible.

This bill substantially amends ss. 163.3167, 367.081, 367.0814, 373.0361, 373.1961, 373.223, 493.964, Florida Statutes, and creates ss. 373.2234 and 403.0645, Florida Statutes.

II. Present Situation:

Comprehensive Planning

Pursuant to s. 163.3177(6)(c), F.S., local governments are required to include in their comprehensive plans an element addressing sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge. By January 1, 2005, the statutorily mandated periodic evaluations and appraisals by local governments of their comprehensive plans are required to consider the appropriate water management districts regional water supply plan. In addition, s. 163.3191(2)(l), F.S., directs that the potable water element of the comprehensive plan be revised to include a work plan for building any water supply facilities necessary to serve existing and new development for a 10 year planning period.

Water conservation and reuse

The water management districts (WMDs) are currently required to prepare regional water supply plans where it has been determined that sources of water are not adequate for the planning period to supply water for all the existing and projected uses, and to sustain the natural systems. Each water supply plan is to be based on a 20-year planning period (see s. 373.0361, F.S.).

WMDs currently consider conservation as a way to meet future water demands to varying degrees. The WMDs are required to develop their regional water supply plans in an open public process. They share the data and modeling tools with all effected parties during this process and consider input and comments.

In their consumptive use permitting programs, the WMDs may require, on a case-by-case basis, the use of conservation rate structures, drought rate structures, or informative billing. However, these measures are not required of every utility applicant.

The Public Service Commission (PSC) can only allow full recovery on reuse facilities, and not on other alternative water supply projects. The PSC currently feels it has authority to authorize conservation and drought rate structures, but feels the authority could be clearer. Utilities with a gross annual revenue of less than \$150,000 can request PSC staff assistance on rate changes.

There are no statewide standards for design of irrigation systems, but some counties have adopted ordinances regulating landscaping and irrigation system design.

Individual metering of water use is not currently required for new construction.

Reuse and Reclaimed Water

Reuse is integral to water resource management and wastewater management in Florida. In 1999, about 450 domestic wastewater treatment facilities provided 520 million gallons of reclaimed water per day for beneficial purposes. Reuse capacity represents about 47% of the total permitted domestic wastewater treatment capacity in Florida. Among the benefits of reuse are the reduction in demands on surface and ground waters, eliminating discharges to sensitive surface waters, ground water recharge, reducing the need for costly investment in new water sources and supplies, and saving the consumer money in irrigation costs.

Section 403.064, F.S., states, “The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest.” Under current law, applicants for permits to construct or operate a wastewater treatment facility located within a water resource caution area must prepare a reuse feasibility study as part of their permit application. Such studies must be prepared in accordance with Department guidelines that are adopted by rule. If a permit applicant determines upon completion of the study that reuse is feasible, the applicant must implement reuse to the extent it is determined to be feasible. Determination by the applicant is final.

Consumptive Use Permits and Water Rights

Currently there are no legal restrictions on an entity’s ability to sell water rights that it may be able to acquire. In the consumptive use permitting process, the WMDs currently consider the cumulative effect of the requested use along with other existing legal uses. However, they do not include future projected uses of water in this analysis.

Part II, chapter 373, F.S., contains provisions used to issue consumptive use permits. Included in these provisions are laws governing the duration of permits. Current law, s. 373.236, F.S., directs that permits shall be issued for a period of 20 years with authorization granted to the water management districts to allow for the issuance of 50-year permits.

An additional provision of law, s. 373.621, F.S., directs the water management districts to give special consideration in permitting decisions for those entities that implement water conservation practices or other conservation measures. The practical application of this provision is the intent to reward those who efficiently manage water.

Public Service Commission (PSC) - Staff Assistance to utilities

The PSC has traditionally provided staff assistance in rate cases for the very small water and wastewater companies because it is difficult and expensive for small companies to present a rate case. The current maximum revenue level for eligibility for staff assistance is \$150,000 on an annual basis.¹

III. Effect of Proposed Changes:

Section 1: Amends s. 163.3167, F.S., by creating subsection (13), to require that in local comprehensive plans, each local government must address water supply projects necessary to meet and achieve existing and projected water use demand, taking into consideration regional water supply plans created pursuant to s. 373.0361, F.S.

Section 2: Amends s. 367.081, F.S., to require that the PSC allow the recovery of the full, prudently incurred costs of alternative water supply facilities when setting rates.

Section 3: Amends s. 367.0814, F.S., providing for the ability of the staff of the PSC to provide assistance to water and wastewater utilities with gross revenues of \$200,000.

¹ PSC Fiscal Note provided to the Senate Appropriations Committee, April 8, 2003.

Section 4: Amends s. 373.0361, F.S., to provide that during the development of a regional water supply plan but before completion of the plan, a water management district must conduct one public workshop to discuss the technical data and modeling tools used to support the regional plan. Population projections used to develop public water supply needs must be the best available data. A district must consider the University of Florida's Bureau of Economic and Business Research medium population projections, and population projection data and analysis of the data submitted by a local government.

Provides that regional water supply plans must identify alternative water sources as well as traditional water sources as options for water supply development, the total capacity of which, in conjunction with conservation and water demand management measures, will exceed the water supply need contained in the plan.

Provides that regional water supply plans must contain an analysis of areas or instances in which phosphate reclamation variances, or other resource extraction reclamation variances, may be used to create water supply development or water resource development projects. The analysis must be developed with the cooperation of the DEP.

Provides that regional water supply plans relating to the use of water within the boundaries of a regional water supply authority must be developed jointly by the regional authority and a water management district.

Provides that annual reports submitted to the executive and legislative branches on regional water supply planning must contain an assessment of the overall progress in developing water supplies that are consistent with regional plans to meet existing and reasonable, beneficial needs during a 1-in-10-year drought.

Provides that regional water supply plans can not be used in the review of consumptive use permits unless the plan has been adopted by rule, but that the data and other information used to develop the plan can be considered by the district when reviewing consumptive use permits.

Section 5: Amends s. 373.1961, F.S., to require that when making grants or loans for alternative sources of water, water management districts must give funding priority to water supply development projects that are consistent with regional water supply plans, and that support one of the following:

- Establishment of a dependable, sustainable supply of water that is not otherwise financially feasible,
- Substantial environmental benefits that prevent or limit adverse water resource impacts, but that need funding assistance to be economically competitive, or
- Implementation of reuse, storage, recharge, or conservation of water in such a way as to contribute to the sustainability of regional water sources.

Provides that water supply development projects that meet the above provisions, but that also bring about the replacement of existing sources to help implement a minimum flow or level must receive funding priority.

Provides that water reuse projects that receive funding assistance from a water management district must include grant or loan conditions such as metering of reclaimed water for specific activities, implementation of reclaimed water rate structures, implementation of water-related educational programs, and development of location data for key reuse facilities, if a water management district determines that use of the measures will encourage water use efficiency.

Section 6: Amends s. 373.223, F.S., by creating subsection (5), to establish legislative findings that the issuance of consumptive use permits has a direct relation to efficient and effective water resource development, and the management of consumptive use permits has a direct relation to efficient and effective water supply development. Directs the DEP and each water management district to submit recommendations to the appropriate substantive committees of the Legislature to identify alternative methods of extending the use of existing water resources. Provides that alternative methods include the potential rights of existing consumptive use permit holders to share water allocated under a permit. Encourages the DEP and the districts to use public hearings to gather information, and requires that the DEP and the districts include information provided by basin boards and regional water supply authorities.

Section 7: Creates s. 373.2234, F.S., to authorize the governing board of a water management district to adopt rules that identify preferred water supply sources if there is sufficient data to establish that the source can be used to provide a substantial new water supply to meet existing and reasonably anticipated water needs in a water supply planning region identified in a regional water supply plan, and so long as water resources and related natural systems are sustained.

Provides that consumptive use permit applicants proposing to use a preferred water supply source must meet the "three-prong" test of s. 373.223(1), F.S., and must not violate the "local sources first" requirements of s. 373.223(2), F.S. Proposed uses for preferred water supplies are deemed to be consistent with the public interest, and consumptive use permits using preferred water supply sources must be issued for at least 20 years. These permits must be applied for within a 2-year period from the effective date of implementation of this provision.

Section 8: Creates new law to regulate "Landscape Irrigation Design." Establishes legislative findings that multiple areas of the state have been identified as water resource caution areas, indicating that water demand will exceed available water supply in the near future, and that water conservation is one of the mechanisms by which future water demand will be met. Establishes legislative findings that landscape irrigation comprises a significant portion of water use. Establishes the Legislature's intent to improve landscape irrigation water use efficiency. Directs each water management district to develop and adopt by rule landscape irrigation and xeriscape design standards for new construction. The design standard should promote the effective and efficient use of irrigation water.

Provides that each water management district will work with the Florida Chapter of the American Society of Landscape Architects, the Florida Irrigation Society, the Florida Nursery and Grower's Association, and others, to develop scientifically based model guidelines for urban, commercial, and residential landscape irrigation, which must be used by local governments when developing landscape irrigation ordinances or guidelines.

Section 9: Amends s. 403.064, F.S., to encourages utilities to meter and charge for reclaimed water based on the actual volume used when metering and charges can be shown to encourage water conservation. Utilities are directed to report to the DEP by January 1, 2004 on their efforts regarding metering and rates.

Section 10: Creates s. 403.0645, F.S., to mandate that state agencies use reclaimed water whenever possible and to report such usage to the Department of Environmental Protection.

Section 11: Provides that the act shall take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Longer duration permits would provide for a cost savings.

Depending on rates, the cost for those using reclaimed water may rise.

C. Government Sector Impact:

Local governments would incur more work in developing certain aspects of their comprehensive plans.

Utilities would realize a series of impacts. Cost savings would be realized because of the ability to recoup the cost of alternative water supply. Provisions related to metering of reuse could potentially cost utilities. The fiscal impact is unknown because these same provisions direct that reuse rates should be established and the meter cost may be recouped.

The PSC Fiscal Note to the Senate Appropriations Committee, dated April 8, 2003, indicates that the change in eligibility for staff assistance would allow the staff to provide

assistance to an additional 13 small utilities. However, the staff expects no fiscal impact to the PSC from this provision as it is unlikely that the 13 additional utilities would request assistance at the same time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
