

By Senator Dockery

15-1541-03

1 A bill to be entitled
2 An act relating to water resources; amending s.
3 163.3177, F.S.; requiring information
4 pertaining to potable water and to present and
5 potential water resources to be included in
6 comprehensive plans; amending s. 367.081, F.S.;
7 providing for the Public Service Commission to
8 allow cost recovery for alternative water
9 supply facilities; amending s. 367.0814, F.S.;
10 revising eligibility standards for water and
11 wastewater utilities to receive commission
12 staff assistance in changing rates and charges;
13 creating s. 367.0818, F.S.; providing for
14 conservation or drought water rates; amending
15 s. 373.0361, F.S.; including conservation
16 measures among the water source options to be
17 included in a regional water supply plan;
18 amending s. 373.0831, F.S.; requiring water
19 management districts to include certain
20 information in their annual budgets; amending
21 s. 373.233, F.S.; providing criteria for
22 evaluating competing applications for water
23 use; amending s. 373.236, F.S.; providing for
24 issuance of longer-duration permits to
25 applicants who will implement conservation
26 measures; amending s. 373.1961, F.S.; providing
27 additional guidelines for establishing funding
28 priorities; amending s. 378.212, F.S.;
29 expanding authority to issue certain variances
30 and authorizing variances from additional
31 statutory requirements; amending s. 403.064,

1 F.S.; encouraging the metering of use of
2 reclaimed water and charging for actual use of
3 such water; creating s. 403.0645, F.S.;
4 requiring the maximum practicable use of
5 reclaimed water by state agencies and water
6 management districts; creating s. 373.186,
7 F.S.; encouraging the use of certain landscape
8 design criteria; providing an effective date.

9

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

11

12 Section 1. Subsection (3) and paragraph (a) of
13 subsection (6) of section 163.3177, Florida Statutes, are
14 amended to read:

15 163.3177 Required and optional elements of
16 comprehensive plan; studies and surveys.--

17 (3)(a) The comprehensive plan shall contain a capital
18 improvements element designed to consider the need for and the
19 location of public facilities in order to encourage the
20 efficient utilization of such facilities and set forth:

21 1. A component ~~that~~ which outlines principles for
22 construction, extension, or increase in capacity of public
23 facilities, as well as a component which outlines principles
24 for correcting existing public facility deficiencies, which
25 are necessary to implement the comprehensive plan. The
26 components shall cover at least a 5-year period.

27 2. A component that outlines plans for construction,
28 extension, or increase in capacity of potable water
29 facilities. Such component shall be compatible with the
30 applicable regional water supply plan developed pursuant to s.
31 373.061. Such component shall include a water conservation

1 section that outlines potential water savings to be gained
2 through water conservation practices.

3 ~~3.2.~~ Estimated public facility costs, including a
4 delineation of when facilities will be needed, the general
5 location of the facilities, and projected revenue sources to
6 fund the facilities.

7 ~~4.3.~~ Standards to ensure the availability of public
8 facilities and the adequacy of those facilities including
9 acceptable levels of service.

10 ~~5.4.~~ Standards for the management of debt.

11 (b) The capital improvements element shall be reviewed
12 on an annual basis and modified as necessary in accordance
13 with s. 163.3187 or s. 163.3189, except that corrections,
14 updates, and modifications concerning costs; revenue sources;
15 acceptance of facilities pursuant to dedications which are
16 consistent with the plan; or the date of construction of any
17 facility enumerated in the capital improvements element may be
18 accomplished by ordinance and shall not be deemed to be
19 amendments to the local comprehensive plan. All public
20 facilities shall be consistent with the capital improvements
21 element.

22 (6) In addition to the requirements of subsections
23 (1)-(5), the comprehensive plan shall include the following
24 elements:

25 (a) A future land use plan element designating
26 proposed future general distribution, location, and extent of
27 the uses of land for residential uses, commercial uses,
28 industry, agriculture, recreation, conservation, education,
29 public buildings and grounds, other public facilities, and
30 other categories of the public and private uses of land. Each
31 future land use category must be defined in terms of uses

1 included, and must include standards to be followed in the
2 control and distribution of population densities and building
3 and structure intensities. The proposed distribution,
4 location, and extent of the various categories of land use
5 shall be shown on a land use map or map series which shall be
6 supplemented by goals, policies, and measurable objectives.
7 The future land use plan shall be based upon surveys, studies,
8 and data regarding the area, including the amount of land
9 required to accommodate anticipated growth; the projected
10 population of the area; the character of undeveloped land; the
11 availability of groundwater and surface water resources for
12 present and future water supplies and the potential for
13 development of alternative water supplies;the availability of
14 public services; the need for redevelopment, including the
15 renewal of blighted areas and the elimination of nonconforming
16 uses which are inconsistent with the character of the
17 community; and, in rural communities, the need for job
18 creation, capital investment, and economic development that
19 will strengthen and diversify the community's economy. The
20 future land use plan may designate areas for future planned
21 development use involving combinations of types of uses for
22 which special regulations may be necessary to ensure
23 development in accord with the principles and standards of the
24 comprehensive plan and this act. In addition, for rural
25 communities, the amount of land designated for future planned
26 industrial use shall be based upon surveys and studies that
27 reflect the need for job creation, capital investment, and the
28 necessity to strengthen and diversify the local economies, and
29 shall not be limited solely by the projected population of the
30 rural community. The future land use plan of a county may also
31 designate areas for possible future municipal incorporation.

1 The land use maps or map series shall generally identify and
2 depict historic district boundaries and shall designate
3 historically significant properties meriting protection. The
4 future land use element must clearly identify the land use
5 categories in which public schools are an allowable use. When
6 delineating the land use categories in which public schools
7 are an allowable use, a local government shall include in the
8 categories sufficient land proximate to residential
9 development to meet the projected needs for schools in
10 coordination with public school boards and may establish
11 differing criteria for schools of different type or size.
12 Each local government shall include lands contiguous to
13 existing school sites, to the maximum extent possible, within
14 the land use categories in which public schools are an
15 allowable use. All comprehensive plans must comply with the
16 school siting requirements of this paragraph no later than
17 October 1, 1999. The failure by a local government to comply
18 with these school siting requirements by October 1, 1999, will
19 result in the prohibition of the local government's ability to
20 amend the local comprehensive plan, except for plan amendments
21 described in s. 163.3187(1)(b), until the school siting
22 requirements are met. Amendments proposed by a local
23 government for purposes of identifying the land use categories
24 in which public schools are an allowable use or for adopting
25 or amending the school-siting maps pursuant to s. 163.31776(3)
26 are exempt from the limitation on the frequency of plan
27 amendments contained in s. 163.3187. The future land use
28 element shall include criteria that encourage the location of
29 schools proximate to urban residential areas to the extent
30 possible and shall require that the local government seek to
31 collocate public facilities, such as parks, libraries, and

1 community centers, with schools to the extent possible and to
2 encourage the use of elementary schools as focal points for
3 neighborhoods. For schools serving predominantly rural
4 counties, defined as a county with a population of 100,000 or
5 fewer, an agricultural land use category shall be eligible for
6 the location of public school facilities if the local
7 comprehensive plan contains school siting criteria and the
8 location is consistent with such criteria.

9 Section 2. Subsection (2) of section 367.081, Florida
10 Statutes, is amended to read:

11 367.081 Rates; procedure for fixing and changing.--

12 (2)(a)1. The commission shall, either upon request or
13 upon its own motion, fix rates which are just, reasonable,
14 compensatory, and not unfairly discriminatory. In every such
15 proceeding, the commission shall consider the value and
16 quality of the service and the cost of providing the service,
17 which shall include, but not be limited to, debt interest; the
18 requirements of the utility for working capital; maintenance,
19 depreciation, tax, and operating expenses incurred in the
20 operation of all property used and useful in the public
21 service; and a fair return on the investment of the utility in
22 property used and useful in the public service. Pursuant to s.
23 373.1961(2)(k), the commission shall allow the full, prudently
24 incurred costs of alternative water-supply facilities.

25 However, the commission shall not allow the inclusion of
26 contributions-in-aid-of-construction in the rate base of any
27 utility during a rate proceeding, nor shall the commission
28 impute prospective future contributions-in-aid-of-construction
29 against the utility's investment in property used and useful
30 in the public service; and accumulated depreciation on such
31 contributions-in-aid-of-construction shall not be used to

1 reduce the rate base, nor shall depreciation on such
2 contributed assets be considered a cost of providing utility
3 service.

4 2. For purposes of such proceedings, the commission
5 shall consider utility property, including land acquired or
6 facilities constructed or to be constructed within a
7 reasonable time in the future, not to exceed 24 months after
8 the end of the historic base year used to set final rates
9 unless a longer period is approved by the commission, to be
10 used and useful in the public service, if:

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

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

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

22
23 Notwithstanding the provisions of this paragraph, the
24 commission shall approve rates for service which allow a
25 utility to recover from customers the full amount of
26 environmental compliance costs. Such rates may not include
27 charges for allowances for funds prudently invested or similar
28 charges. For purposes of this requirement, the term
29 "environmental compliance costs" includes all reasonable
30 expenses and fair return on any prudent investment incurred by
31 a utility in complying with the requirements or conditions

1 contained in any permitting, enforcement, or similar decisions
2 of the United States Environmental Protection Agency, the
3 Department of Environmental Protection, a water management
4 district, or any other governmental entity with similar
5 regulatory jurisdiction.

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

10 Section 3. Subsection (1) of section 367.0814, Florida
11 Statutes, is amended to read:

12 367.0814 Staff assistance in changing rates and
13 charges; interim rates.--

14 (1) The commission may establish rules by which a
15 water or wastewater utility whose gross annual revenues are
16 ~~\$200,000~~~~\$150,000~~ or less may request and obtain staff
17 assistance for the purpose of changing its rates and charges.
18 A utility may request staff assistance by filing an
19 application with the commission.

20 Section 4. Section 367.0818, Florida Statutes, is
21 created to read:

22 367.0818 Conservation or drought rates.--The
23 commission may, during any proceeding for a change in rates,
24 upon its own motion, upon a petition from any party, or by a
25 tariff filing, establish conservation or drought rates
26 designed to promote more efficient use of water and provide an
27 economic incentive for consumers to limit water use. The
28 commission has the authority to stabilize the revenues that
29 are generated by conservation or drought rates.

30 Section 5. Paragraph (a) of subsection (2) of section
31 373.0361, Florida Statutes, is amended to read:

1 373.0361 Regional water supply planning.--

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

5 (a) A water supply development component that
6 includes:

7 1. A quantification of the water supply needs for all
8 existing and reasonably projected future uses within the
9 planning horizon. The level-of-certainty planning goal
10 associated with identifying the water supply needs of existing
11 and future reasonable-beneficial uses shall be based upon
12 meeting those needs for a 1-in-10-year drought event.

13 2. A list of water source options for water supply
14 development, including traditional and alternative sources and
15 conservation measures, from which local government,
16 government-owned and privately owned utilities,
17 self-suppliers, and others may choose, which will exceed the
18 needs identified in subparagraph 1.

19 3. For each option listed in subparagraph 2., the
20 estimated amount of water available for use and the estimated
21 costs of and potential sources of funding for water supply
22 development.

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

25 Section 6. Subsection (3) of section 373.0831, Florida
26 Statutes, is amended to read:

27 373.0831 Water resource development; water supply
28 development.--

29 (3) The water management districts shall fund and
30 implement water resource development as defined in s. 373.019.
31 Each governing board shall include in its annual budget the

1 amount needed for the fiscal year to implement water resource
2 development projects, as prioritized in its regional water
3 supply plans. When submitting its annual budget to the
4 Governor's office for review under s. 373.536, the governing
5 board shall explain how each water resource development
6 project will produce additional water available for
7 consumptive uses and estimate the quantity of water to be
8 produced.

9 Section 7. Subsection (3) is added to section 373.233,
10 Florida Statutes, to read:

11 373.233 Competing applications.--

12 (3) If two or more applications that otherwise comply
13 with the provisions of this part are pending for a quantity of
14 water, the governing board or the department shall give
15 preference to the application that has adopted water
16 conservation rates that promote appropriate water use
17 efficiency, including, but not limited to, a conservation or
18 drought rate structure.

19 Section 8. Subsection (4) is added to section 373.236,
20 Florida Statutes, to read:

21 373.236 Duration of permits; compliance reports.--

22 (4) The department or the water management district
23 shall adopt rules for the issuance of longer-duration permits
24 to applicants who implement and provide reasonable assurances
25 of effective and efficient conservation measures that exceed
26 the average for the industry or type of water use when there
27 are sufficient data to provide reasonable assurance that the
28 conditions for permit issuance will be met for the duration of
29 the permit. Permits issued pursuant to this subsection are
30 subject to the provisions of subsection (3).

31

1 Section 9. Paragraph (a) of subsection (2) of section
2 373.1961, Florida Statutes, is amended to read:

3 373.1961 Water production.--

4 (2) The Legislature finds that, due to a combination
5 of factors, vastly increased demands have been placed on
6 natural supplies of fresh water, and that, absent increased
7 development of alternative water supplies, such demands may
8 increase in the future. The Legislature also finds that
9 potential exists in the state for the production of
10 significant quantities of alternative water supplies,
11 including reclaimed water, and that water production includes
12 the development of alternative water supplies, including
13 reclaimed water, for appropriate uses. It is the intent of
14 the Legislature that utilities develop reclaimed water
15 systems, where reclaimed water is the most appropriate
16 alternative water supply option, to deliver reclaimed water to
17 as many users as possible through the most cost-effective
18 means, and to construct reclaimed water system infrastructure
19 to their owned or operated properties and facilities where
20 they have reclamation capability. It is also the intent of the
21 Legislature that the water management districts which levy ad
22 valorem taxes for water management purposes should share a
23 percentage of those tax revenues with water providers and
24 users, including local governments, water, wastewater, and
25 reuse utilities, municipal, industrial, and agricultural water
26 users, and other public and private water users, to be used to
27 supplement other funding sources in the development of
28 alternative water supplies. The Legislature finds that public
29 moneys or services provided to private entities for such uses
30 constitute public purposes which are in the public interest.
31 In order to further the development and use of alternative

1 water supply systems, including reclaimed water systems, the
2 Legislature provides the following:

3 (a) The governing boards of the water management
4 districts where water resource caution areas have been
5 designated shall include in their annual budgets an amount for
6 the development of alternative water supply systems, including
7 reclaimed water systems, pursuant to the requirements of this
8 subsection. Beginning in 1996, such amounts shall be made
9 available to water providers and users no later than December
10 31 of each year, through grants, matching grants, revolving
11 loans, or the use of district lands or facilities pursuant to
12 the requirements of this subsection and guidelines established
13 by the districts. In making grants or loans, funding
14 priorities shall be given to projects located within water
15 resource caution areas, to projects consistent with regional
16 water supply plans, and to projects featuring efficient and
17 effective use of reclaimed water.

18 Section 10. Subsection (1) of section 378.212, Florida
19 Statutes, is amended to read:

20 378.212 Variances.--

21 (1) Upon application, the secretary may grant a
22 variance from the provisions of this part, part IV, and part
23 IV of chapter 373 or the rules adopted pursuant thereto.
24 Variances and renewals thereof may be granted for any one of
25 the following reasons:

26 (a) There is no practicable means known or available
27 to comply with the provisions of this part or the rules
28 adopted pursuant thereto.

29 (b) Compliance with a particular requirement or
30 requirements from which a variance is sought will necessitate
31 the taking of measures which must be spread over a

1 considerable period of time. A variance granted for this
2 reason shall prescribe a timetable for the taking of the
3 measures required.

4 (c) To relieve or prevent hardship, including economic
5 hardship, of a kind other than those provided for in
6 paragraphs (a) and (b).

7 (d) To accommodate specific phosphate mining,
8 processing or chemical plant uses that otherwise would be
9 inconsistent with the requirements of this part.

10 (e) To provide for an experimental technique that
11 would advance the knowledge of reclamation and restoration
12 methods.

13 (f) To accommodate projects, including those proposing
14 offsite mitigation, that provide a significant regional
15 benefit for wildlife and the environment.

16 (g) To accommodate reclamation that provides water
17 supply development or water resource development consistent
18 with the applicable regional water supply plan approved
19 pursuant to s. 373.0361, if regional water resources are not
20 adversely affected.

21 Section 11. Subsection (16) is added to section
22 403.064, Florida Statutes, to read:

23 403.064 Reuse of reclaimed water.--

24 (16) Utilities implementing reuse projects are
25 encouraged to meter use of reclaimed water by all end users
26 and to charge for the use of reclaimed water based on the
27 actual volume used. Metering and the use of volume-based rates
28 are effective water management tools for the following reuse
29 activities; residential irrigation, agricultural irrigation,
30 industrial uses, golf course irrigation, landscape irrigation,
31 irrigation of other public access areas, commercial and

1 institutional uses such as toilet flushing, and transfers to
2 other reclaimed water utilities. Beginning with the submittal
3 due on January 1, 2004, each domestic wastewater utility that
4 provides reclaimed water for the reuse activities listed above
5 shall include a summary of its metering and rate structure as
6 part of its annual reuse report to the department. By January
7 1, 2006, each domestic wastewater utility that provides
8 reclaimed water for the reuse activities listed above shall
9 prepare a plan that presents its planned activities and an
10 implementation schedule for metering and utilization of
11 volume-based rate structures for reclaimed water use. These
12 plans shall be reviewed and must be approved by the
13 department.

14 Section 12. Section 403.0645, Florida Statutes, is
15 created to read:

16 403.0645 Reclaimed water use at state facilities.--

17 (1) The encouragement and promotion of reuse of
18 reclaimed water have been established as state objectives in
19 ss. 373.250 and 403.064. Reuse has become an integral part of
20 water and wastewater management in Florida, and Florida is
21 recognized as a national leader in water reuse.

22 (2) The state and various state agencies and water
23 management districts should take a leadership role in using
24 reclaimed water in lieu of other water sources. Use of
25 reclaimed water by state agencies and facilities will conserve
26 potable quality waters and will serve an important public
27 education function.

28 (3) All state agencies and water management districts
29 shall use reclaimed water to the greatest extent practicable
30 for landscape irrigation, toilet flushing, aesthetic features
31 such as decorative ponds and fountains, cooling water, and

1 other useful purposes allowed by Department of Environmental
2 Protection rules at state facilities, including, but not
3 limited to, parks, rest areas, visitor welcome centers,
4 buildings; college campuses, and other facilities.

5 (4) Each state agency and water management district
6 shall submit to the Secretary of Environmental Protection by
7 February 1 an annual summary of activities designed to use
8 reclaimed water at its facilities, along with a summary of the
9 amounts of reclaimed water actually used for beneficial
10 purposes.

11 Section 13. Section 373.186, Florida Statutes, is
12 created to read:

13 373.186 Landscape irrigation design.--

14 (1) The Legislature finds that multiple areas
15 throughout the state have been identified by water management
16 districts as water resource caution areas, indicating that
17 water demand in those areas will, in the near future, exceed
18 current, available water supply and that conservation is one
19 of the mechanisms by which future water demand will be met.

20 (2) The Legislature finds that landscape irrigation
21 comprises a significant portion of water use and that the
22 current, typical landscape irrigation system designs offer
23 significant potential water conservation benefits.

24 (3) It is the intent of the Legislature to improve
25 landscape irrigation water use efficiency by ensuring that
26 landscape irrigation systems meet or exceed minimum design
27 criteria.

28 (4) All local governments are encouraged to develop
29 and adopt landscape irrigation design standards for new
30 construction that incorporate a landscape irrigation system.
31 Such standards should promote effective and efficient use of

1 irrigation water and include a consideration of local
2 demographic, hydrologic, and other considerations as they
3 apply to landscape irrigation water use.

4 Section 14. This act shall take effect upon becoming a
5 law.

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8 SENATE SUMMARY

9 Revises a variety of statutory provisions relating to
10 water use and supplies. Requires information relating to
11 projected water use and sources to be included among
12 comprehensive plan elements. Revises various provisions
13 to encourage the use of alternative water supplies, to
14 encourage the use of reclaimed water, and to maintain
15 closer monitoring of water use and supplies. (See bill
16 for details.)
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