



HB 0065A

2003

1 A bill to be entitled

2 An act relating to water resources; amending s. 159.803,
3 F.S.; revising the definition of "priority project";
4 amending s. 163.3167, F.S.; requiring local governments to
5 include projected water use in comprehensive plans;
6 amending s. 367.081, F.S.; revising procedure for fixing
7 and changing rates to include the recovery of costs of
8 alternative water supply facilities; amending s. 367.0814,
9 F.S.; revising limit on the amount of revenues received by
10 a utility to qualify for staff assistance in changing
11 rates or charges; creating s. 373.227, F.S.; providing for
12 the development of a water conservation guidance manual by
13 the Department of Environmental Protection; providing for
14 purpose and contents of the manual and requirements with
15 respect thereto; requiring the Department of Environmental
16 Protection to adopt the manual by rule by a specified
17 date; providing program requirements for public water
18 supply utilities that choose to design a comprehensive
19 water conservation program based on the water conservation
20 guidance manual; amending s. 373.0361, F.S.; providing for
21 a public workshop on the development of regional water
22 supply plans that include the consideration of population
23 projections; providing for a list of water source options
24 in regional water supply plans; providing additional
25 regional water supply plan components; including
26 conservation measures in regional water supply plans;
27 revising specified reporting requirements of the
28 Department of Environmental Protection; providing that a
29 district water management plan may not be used as criteria
30 for the review of permits for consumptive uses of water



HB 0065A

2003

31 unless the plan or applicable portion thereof has been
32 adopted by rule; providing construction; amending s.
33 373.0831, F.S.; revising the criteria by which water
34 supply development projects may receive priority
35 consideration for funding assistance; providing for
36 permitting and funding of a proposed alternative water
37 supply project identified in the relevant approved
38 regional water supply plan; amending s. 373.1961, F.S.;
39 providing funding priority; providing for the
40 establishment of a revolving loan fund for alternative
41 water supply projects; providing conditions for certain
42 projects to receive funding assistance; amending s.
43 373.1963, F.S.; prohibiting the West Coast Regional Water
44 Supply Authority from seeking permits from the South
45 Florida Water Management District for the consumptive use
46 of water from groundwater in a specified area; amending s.
47 373.223, F.S.; requiring the Department of Environmental
48 Protection and the water management districts to submit
49 specified recommendations to the Legislature; creating s.
50 373.2234, F.S.; authorizing the governing board of a water
51 management district to adopt rules identifying certain
52 preferred water supply sources; providing requirements
53 with respect to such rules; providing construction;
54 amending s. 373.250, F.S.; authorizing water management
55 districts to require the use of reclaimed water in lieu of
56 surface or groundwater when the use of uncommitted
57 reclaimed water is environmentally, economically, and
58 technically feasible; providing construction with respect
59 to such authority; amending s. 373.536, F.S.; expanding
60 requirements of the 5-year water resource development work



HB 0065A

2003

61 program for water management districts; providing
62 legislative findings and intent with regard to landscape
63 irrigation design; requiring water management districts to
64 develop landscape irrigation and xeriscape design
65 standards; amending s. 378.212, F.S.; providing for the
66 granting of a variance from pt. III of ch. 378, F.S.,
67 relating to phosphate land reclamation, for specified
68 reclamation, and from pt. IV of ch. 373, for certain
69 projects under described circumstances; amending s.
70 378.404, F.S.; authorizing the department to grant
71 variances from the provisions of part IV of chapter 378 to
72 accommodate reclamation that provides for water supply
73 development or water resource development under specified
74 circumstances; amending s. 403.064, F.S.; revising
75 provisions relating to reuse feasibility studies;
76 providing for metering use of reclaimed water and volume-
77 based rates therefor; requiring wastewater utilities to
78 submit plans for metering use and volume-based rate
79 structures to the department; amending s. 403.1835, F.S.;
80 authorizing the Department of Environmental Protection to
81 make specified deposits for the purpose of enabling below-
82 market interest rate loans for treatment of polluted
83 water; providing for development of rate structures for
84 alternative water supply systems; providing criteria;
85 providing for a study of the feasibility of discharging
86 reclaimed wastewater into canals and the aquifer system in
87 a specified area as an environmentally acceptable means of
88 accomplishing described objectives; requiring reports;
89 providing severability; providing legislative findings
90 with respect to loss of property values due to the



HB 0065A

2003

91 proximity of a regional water reservoir; authorizing a
92 cause of action for a property owner; specifying a period
93 during which a property owner may present a claim for
94 compensation to the regional water supply authority that
95 constructs, operates, and maintains the reservoir;
96 providing requirements for the offer of compensation by a
97 regional water supply authority; providing for judicial
98 review under the Bert J. Harris, Jr., Private Property
99 Rights Protection Act; providing for an award of costs and
100 attorney's fees; providing for future repeal of the
101 section; providing for applicability; providing for
102 construction of the act in pari materia with laws enacted
103 during the Regular Session of the Legislature; providing
104 effective dates.

105
106 Be It Enacted by the Legislature of the State of Florida:

107
108 Section 1. Subsection (5) of section 159.803, Florida
109 Statutes, is amended to read:

110 159.803 Definitions.--As used in this part, the term:

111 (5) "Priority project" means a solid waste disposal
112 facility or a sewage facility, as such terms are defined in s.
113 142 of the Code, or water facility, as defined in s. 142 of the
114 Code, which is operated by a member-owned, not-for-profit
115 utility, or any project which is to be located in an area which
116 is an enterprise zone designated pursuant to s. 290.0065.

117 Section 2. Subsection (13) is added to section 163.3167,
118 Florida Statutes, to read:

119 163.3167 Scope of act.--

120 (13) Each local government shall address in its



HB 0065A

2003

121 comprehensive plan, as enumerated in this chapter, the water
122 supply projects necessary to meet and achieve the existing and
123 projected water use demand for the established planning period,
124 considering the applicable plan developed pursuant to s.
125 373.0361.

126 Section 3. Subsection (2) of section 367.081, Florida
127 Statutes, is amended to read:

128 367.081 Rates; procedure for fixing and changing.--

129 (2)(a)1. The commission shall, either upon request or upon
130 its own motion, fix rates which are just, reasonable,
131 compensatory, and not unfairly discriminatory. In every such
132 proceeding, the commission shall consider the value and quality
133 of the service and the cost of providing the service, which
134 shall include, but not be limited to, debt interest; the
135 requirements of the utility for working capital; maintenance,
136 depreciation, tax, and operating expenses incurred in the
137 operation of all property used and useful in the public service;
138 and a fair return on the investment of the utility in property
139 used and useful in the public service. Pursuant to s.
140 373.1961(2)(1), the commission shall allow recovery of the full,
141 prudently incurred costs of alternative water supply facilities.

142 However, the commission shall not allow the inclusion of
143 contributions-in-aid-of-construction in the rate base of any
144 utility during a rate proceeding, nor shall the commission
145 impute prospective future contributions-in-aid-of-construction
146 against the utility's investment in property used and useful in
147 the public service; and accumulated depreciation on such
148 contributions-in-aid-of-construction shall not be used to reduce
149 the rate base, nor shall depreciation on such contributed assets
150 be considered a cost of providing utility service.



HB 0065A

2003

151 2. For purposes of such proceedings, the commission shall
152 consider utility property, including land acquired or facilities
153 constructed or to be constructed within a reasonable time in the
154 future, not to exceed 24 months after the end of the historic
155 base year used to set final rates unless a longer period is
156 approved by the commission, to be used and useful in the public
157 service, if:

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

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

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

169

170 Notwithstanding the provisions of this paragraph, the commission
171 shall approve rates for service which allow a utility to recover
172 from customers the full amount of environmental compliance
173 costs. Such rates may not include charges for allowances for
174 funds prudently invested or similar charges. For purposes of
175 this requirement, the term "environmental compliance costs"
176 includes all reasonable expenses and fair return on any prudent
177 investment incurred by a utility in complying with the
178 requirements or conditions contained in any permitting,
179 enforcement, or similar decisions of the United States
180 Environmental Protection Agency, the Department of Environmental



HB 0065A

2003

181 Protection, a water management district, or any other
182 governmental entity with similar regulatory jurisdiction.

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

187 Section 4. Subsection (1) of section 367.0814, Florida
188 Statutes, is amended to read:

189 367.0814 Staff assistance in changing rates and charges;
190 interim rates.--

191 (1) The commission may establish rules by which a water or
192 wastewater utility whose gross annual revenues are \$200,000
193 ~~\$150,000~~ or less may request and obtain staff assistance for the
194 purpose of changing its rates and charges. A utility may request
195 staff assistance by filing an application with the commission.

196 Section 5. Section 373.227, Florida Statutes, is created
197 to read:

198 373.227 Water conservation guidance manual.--

199 (1) The Legislature recognizes that the proper
200 conservation of water is an important means of achieving the
201 economical and efficient utilization of water necessary to
202 constitute a reasonable-beneficial use. The Legislature
203 encourages the development and use of water conservation
204 measures that are effective, flexible, and affordable. In the
205 context of the use of water for public supply provided by a
206 water utility, the Legislature intends for a variety of
207 conservation measures to be available and used to encourage
208 efficient water use. The Legislature finds that the social,
209 economic, and cultural conditions of this state relating to the
210 use of public water supply vary by geographic region, and thus



HB 0065A

2003

211 water utilities must have the flexibility to tailor water
212 conservation measures to best suit their individual
213 circumstances. For purposes of this section, the term "public
214 water supply utility" shall include both publicly owned and
215 privately owned public water supply utilities.

216 (2) In order to implement the findings in subsection (1),
217 the Department of Environmental Protection shall develop a water
218 conservation guidance manual containing a menu of water
219 conservation measures from which public water supply utilities
220 may select in the development of a comprehensive, goal-based
221 water conservation program tailored for their individual service
222 areas that is effective and does not impose undue costs or
223 burdens on customers. The water conservation guidance manual
224 shall promote statewide consistency in the approach to utility
225 conservation while maintaining appropriate flexibility. The
226 manual may contain measures such as: water conservation audits,
227 informative billing practices to educate customers on their
228 patterns of water use, the costs of water, and ways to conserve
229 water; ordinances requiring low-flow plumbing fixtures and
230 efficient landscape irrigation; rebate programs for the
231 installation of water-saving plumbing or appliances; general
232 water conservation educational programs including bill inserts;
233 measures to promote the more effective and efficient reuse of
234 reclaimed water; water conservation or drought rate structures
235 that encourage customers to conserve water through appropriate
236 price signals; and programs to apply utility profits generated
237 through conservation and drought rates to additional water
238 conservation programs or water supply development. The manual
239 shall specifically state that it is the responsibility of the
240 appropriate utility to determine the specific rates it will



HB 0065A

2003

241 charge its customers and that the role of the department or
242 water management district is confined to the review of those
243 rate structures to determine whether they encourage water
244 conservation. The water conservation guidance manual shall also
245 state that a utility need not adopt a water conservation or
246 drought rate structure if the utility employs other measures
247 that are equally or more effective. The manual shall provide for
248 different levels of complexity and expected levels of effort in
249 conservation programs depending on the size of the utility.
250 However, all utilities will be expected to have at least basic
251 programs in each of the following areas:

252 (a) Individual metering, to the extent feasible as
253 determined by the utility.

254 (b) Water accounting and loss control.

255 (c) Cost of service accounting.

256 (d) Information programs on water conservation.

257 (e) Landscaping water efficiency programs.

258 (3) The Department of Environmental Protection shall
259 develop the water conservation guidance manual no later than
260 June 15, 2004. The department shall develop the manual in
261 consultation with interested parties, which, at a minimum, shall
262 include representatives from the water management districts,
263 three utilities that are members of the American Water Works
264 Association, two utilities that are members of the Florida Water
265 Environment Association, a representative of the Florida Chamber
266 of Commerce, representatives of counties and municipalities, and
267 representatives of environmental organizations. By December 15,
268 2004, the department shall adopt the water conservation guidance
269 manual by rule. Once the department adopts the water
270 conservation guidance manual by rule, the water management



HB 0065A

2003

271 districts may apply the manual and any revisions thereto in the
272 review of water conservation requirements for obtaining a permit
273 pursuant to part II without the need to adopt the manual
274 pursuant to s. 120.54. Once the water conservation guidance
275 manual is adopted by rule, a public water supply utility may
276 choose to comply with the standard water conservation
277 requirements adopted by the appropriate water management
278 district for obtaining a consumptive use permit from that
279 district, or may choose to develop a comprehensive, goal-based
280 water conservation program from the options contained in the
281 manual. If the utility chooses to design a comprehensive water
282 conservation program based on the water conservation guidance
283 manual, the proposed program must include the following:

284 (a) An inventory of water system characteristics and
285 conservation opportunities.

286 (b) Demand forecasts.

287 (c) An explanation of the proposed program.

288 (d) Specific numeric water conservation targets for the
289 utility as a whole and for appropriate customer classes, with a
290 justification of why the numeric targets are appropriate based
291 on that utility's particular customer characteristics and
292 conservation opportunities.

293 (e) A demonstration that the program will promote
294 effective water conservation at least as well as standard water
295 use conservation requirements adopted by the appropriate water
296 management district.

297 (f) A timetable for the utility and the water management
298 district to evaluate progress in meeting the water conservation
299 targets and making needed program modifications.

300 (4) If the utility provides reasonable assurance that the



HB 0065A

2003

301 proposed conservation program is consistent with the water
302 conservation guidance manual and contains the elements specified
303 in subsection (3), then the water management district shall
304 approve the proposed program and the program shall satisfy water
305 conservation requirements imposed as a condition of obtaining a
306 permit under part II. The department, in consultation with the
307 parties specified in subsection(3), may periodically amend or
308 revise the water conservation guidance manual rule as
309 appropriate to reflect changed circumstances or new technologies
310 or approaches. The findings and provisions in this section shall
311 not be construed to apply to users of water other than public
312 and private water supply utilities.

313 Section 6. Subsections (1), (2), (5), and (6) of section
314 373.0361, Florida Statutes, are amended to read:

315 373.0361 Regional water supply planning.--

316 (1) By October 1, 1998, the governing board shall initiate
317 water supply planning for each water supply planning region
318 identified in the district water management plan under s.
319 373.036, where it determines that sources of water are not
320 adequate for the planning period to supply water for all
321 existing and projected reasonable-beneficial uses and to sustain
322 the water resources and related natural systems. The planning
323 must be conducted in an open public process, in coordination and
324 cooperation with local governments, regional water supply
325 authorities, government-owned and privately owned water
326 utilities, self-suppliers, and other affected and interested
327 parties. During development but prior to completion of the
328 regional water supply plan, the district must conduct at least
329 one public workshop to discuss the technical data and modeling
330 tools anticipated to be used to support the plan. A



HB 0065A

2003

331 determination by the governing board that initiation of a
 332 regional water supply plan for a specific planning region is not
 333 needed pursuant to this section shall be subject to s. 120.569.
 334 The governing board shall reevaluate such a determination at
 335 least once every 5 years and shall initiate a regional water
 336 supply plan, if needed, pursuant to this subsection.

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

340 (a) A water supply development component that includes:

341 1. A quantification of the water supply needs for all
 342 existing and reasonably projected future uses within the
 343 planning horizon. The level-of-certainty planning goal
 344 associated with identifying the water supply needs of existing
 345 and future reasonable-beneficial uses shall be based upon
 346 meeting those needs for a 1-in-10-year drought event. Population
 347 projections used for determining public water supply needs shall
 348 be based upon the best available data. In determining the best
 349 available data, the district shall consider the University of
 350 Florida's Bureau of Economic and Business Research(BEBR) medium
 351 population projections and any population projection data and
 352 analysis submitted by a local government pursuant to the public
 353 workshop described in subsection(1) when such data and analysis
 354 support the local government's comprehensive plan. Any
 355 adjustment of or deviation from the BEBR projections shall be
 356 fully described and the original BEBR data shall be presented
 357 along with the adjusted data.

358 2. A list of water source options ~~for water supply~~
 359 ~~development~~, including traditional and alternative source
 360 options ~~sources~~, from which local government, government-owned



HB 0065A

2003

361 and privately owned utilities, self-suppliers, and others may
362 choose, for water supply development, the total capacity of
363 which will, in conjunction with water conservation and other
364 demand management measures, exceed the needs identified in
365 subparagraph 1.

366 3. For each option listed in subparagraph 2., the
367 estimated amount of water available for use and the estimated
368 costs of and potential sources of funding for water supply
369 development.

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

372 (b) A water resource development component that includes:

373 1. A listing of those water resource development projects
374 that support water supply development.

375 2. For each water resource development project listed:

376 a. An estimate of the amount of water to become available
377 through the project.

378 b. The timetable for implementing or constructing the
379 project and the estimated costs for implementing, operating, and
380 maintaining the project.

381 c. Sources of funding and funding needs.

382 d. Who will implement the project and how it will be
383 implemented.

384 (c) The recovery and prevention strategy described in s.
385 373.0421(2).

386 (d) A funding strategy for water resource development
387 projects, which shall be reasonable and sufficient to pay the
388 cost of constructing or implementing all of the listed projects.

389 (e) Consideration of how the options addressed in
390 paragraphs (a) and (b) serve the public interest or save costs



HB 0065A

2003

391 overall by preventing the loss of natural resources or avoiding
 392 greater future expenditures for water resource development or
 393 water supply development. However, unless adopted by rule, these
 394 considerations do not constitute final agency action.

395 (f) The technical data and information applicable to the
 396 planning region which are contained in the district water
 397 management plan and are necessary to support the regional water
 398 supply plan.

399 (g) The minimum flows and levels established for water
 400 resources within the planning region.

401 (h) Reservations of water adopted by rule pursuant to s.
 402 373.223(4).

403 (i) An analysis, developed in cooperation with the
 404 department, of areas or instances in which the variance
 405 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
 406 create water supply development or water resource development
 407 projects.

408
 409 Within boundaries of a regional water supply authority, those
 410 parts of the water supply development component of the regional
 411 water supply plan which deal with or affect public utilities and
 412 public water supply shall be developed jointly by such authority
 413 and the district for those areas served by the authority and its
 414 member governments.

415 (5) ~~By November 15, 1997, and~~ Annually and in conjunction
 416 with the reporting requirements of s. 373.536(6)(a)4.
 417 ~~thereafter~~, the department shall submit to the Governor and the
 418 Legislature a report on the status of regional water supply
 419 planning in each district. The report shall include:

420 (a) A compilation of the estimated costs of and potential



HB 0065A

2003

421 sources of funding for water resource development and water
 422 supply development projects, as identified in the water
 423 management district regional water supply plans.

424 (b) A description of each district's progress toward
 425 achieving its water resource development objectives, as directed
 426 by s. 373.0831(3), including the district's implementation of
 427 its 5-year water resource development work program.

428 (c) An assessment of the overall progress being made to
 429 develop water supply that is consistent with regional water
 430 supply plans to meet existing and future reasonable-beneficial
 431 needs during a 1-in-10-year drought.

432 (6) Nothing contained in the water supply development
 433 component of the district water management plan shall be
 434 construed to require local governments, government-owned or
 435 privately owned water utilities, self-suppliers, or other water
 436 suppliers to select a water supply development option identified
 437 in the component merely because it is identified in the plan,
 438 nor may the plan be used in the review of permits under part II
 439 unless the plan, or an applicable portion thereof, has been
 440 adopted by rule. However, this subsection does not prohibit a
 441 water management district from employing the data or other
 442 information used to establish the plan in reviewing permits
 443 under part II, nor shall it ~~not~~ be construed to limit the
 444 authority of the department or governing board under part II.

445 Section 7. Subsection (3) of section 373.0831, Florida
 446 Statutes, is amended, and paragraph (c) is added to
 447 subsection(4) of said section, to read:

448 373.0831 Water resource development; water supply
 449 development.--

450 (3) The water management districts shall fund and



HB 0065A

2003

451 implement water resource development as defined in s. 373.019.
 452 The water management districts are encouraged to implement water
 453 resource development as expeditiously as possible in areas
 454 subject to regional water supply plans. Each governing board
 455 shall include in its annual budget the amount needed for the
 456 fiscal year to implement water resource development projects, as
 457 prioritized in its regional water supply plans.

458 (4)

459 (c) If a proposed alternative water supply development
 460 project is identified in the relevant approved regional water
 461 supply plan, the project shall receive:

462 1. A 20-year consumptive use permit, if it otherwise meets
 463 the permit requirements under ss. 373.223 and 373.236 and rules
 464 adopted thereunder.

465 2. Priority funding pursuant to s. 373.1961(2) if the
 466 project meets one of two criteria in s. 373.0831(4).

467 Section 8. Subsection (2) of section 373.1961, Florida
 468 Statutes, is amended to read:

469 373.1961 Water production.--

470 (2) The Legislature finds that, due to a combination of
 471 factors, vastly increased demands have been placed on natural
 472 supplies of fresh water, and that, absent increased development
 473 of alternative water supplies, such demands may increase in the
 474 future. The Legislature also finds that potential exists in the
 475 state for the production of significant quantities of
 476 alternative water supplies, including reclaimed water, and that
 477 water production includes the development of alternative water
 478 supplies, including reclaimed water, for appropriate uses. It is
 479 the intent of the Legislature that utilities develop reclaimed
 480 water systems, where reclaimed water is the most appropriate



HB 0065A

2003

481 alternative water supply option, to deliver reclaimed water to
482 as many users as possible through the most cost-effective means,
483 and to construct reclaimed water system infrastructure to their
484 owned or operated properties and facilities where they have
485 reclamation capability. It is also the intent of the Legislature
486 that the water management districts which levy ad valorem taxes
487 for water management purposes should share a percentage of those
488 tax revenues with water providers and users, including local
489 governments, water, wastewater, and reuse utilities, municipal,
490 industrial, and agricultural water users, and other public and
491 private water users, to be used to supplement other funding
492 sources in the development of alternative water supplies. The
493 Legislature finds that public moneys or services provided to
494 private entities for such uses constitute public purposes which
495 are in the public interest. In order to further the development
496 and use of alternative water supply systems, including reclaimed
497 water systems, the Legislature provides the following:

498 (a) The governing boards of the water management districts
499 where water resource caution areas have been designated shall
500 include in their annual budgets an amount for the development of
501 alternative water supply systems, including reclaimed water
502 systems, pursuant to the requirements of this subsection.
503 Beginning in 1996, such amounts shall be made available to water
504 providers and users no later than December 31 of each year,
505 through grants, matching grants, revolving loans, or the use of
506 district lands or facilities pursuant to the requirements of
507 this subsection and guidelines established by the districts. In
508 making grants or loans, funding priority shall be given to
509 projects in accordance with s. 373.0831(4). Without diminishing
510 amounts available through other means described in this



HB 0065A

2003

511 paragraph, the governing boards are encouraged to consider
512 establishing revolving loan funds to expand the total funds
513 available to accomplish the objectives of this section. A
514 revolving loan fund created pursuant to this paragraph shall be
515 a nonlapsing fund from which the water management district may
516 make loans with interest rates below prevailing market rates to
517 public or private entities for the purposes described in this
518 section. The governing board may adopt resolutions to establish
519 revolving loan funds which shall specify the details of the
520 administration of the fund, the procedures for applying for
521 loans from the fund, the criteria for awarding loans from the
522 fund, the initial capitalization of the fund, and the goals for
523 future capitalization of the fund in subsequent budget years.
524 Revolving loan funds created pursuant to this paragraph shall be
525 used to expand the total sums and sources of cooperative funding
526 available for the development of alternative water supplies. The
527 Legislature does not intend for the creation of revolving loan
528 trust funds to supplant or otherwise reduce existing sources or
529 amounts of funds currently available through other means.

530 (b) It is the intent of the Legislature that for each
531 reclaimed water utility, or any other utility, which receives
532 funds pursuant to this subsection, the appropriate rate-setting
533 authorities should develop rate structures for all water,
534 wastewater, and reclaimed water and other alternative water
535 supply utilities in the service area of the funded utility,
536 which accomplish the following:

537 1. Provide meaningful progress toward the development and
538 implementation of alternative water supply systems, including
539 reclaimed water systems;

540 2. Promote the conservation of fresh water withdrawn from



HB 0065A

2003

541 natural systems;

542 3. Provide for an appropriate distribution of costs for
543 all water, wastewater, and alternative water supply utilities,
544 including reclaimed water utilities, among all of the users of
545 those utilities; and

546 4. Prohibit rate discrimination within classes of utility
547 users.

548 (c) Funding assistance provided by the water management
549 districts for a water reuse system project shall include the
550 following grant or loan conditions for that project when the
551 water management district determines such conditions will
552 encourage water use efficiency:

553 1. Metering of reclaimed water use for the following
554 activities: residential irrigation, agricultural irrigation,
555 industrial uses except for electric utilities as defined in s.
556 366.02(2), golf course irrigation, landscape irrigation,
557 irrigation of other public access areas, commercial and
558 institutional uses such as toilet flushing, and transfers to
559 other reclaimed water utilities.

560 2. Implementation of reclaimed water rate structures based
561 on actual use of reclaimed water for the types of reuse
562 activities listed in subparagraph 1.

563 3. Implementation of education programs to inform the
564 public about water issues, water conservation, and the
565 importance and proper use of reclaimed water.

566 4. Development of location data for key reuse facilities.

567 (d)(e) In order to be eligible for funding pursuant to
568 this subsection, a project must be consistent with a local
569 government comprehensive plan and the governing body of the
570 local government must require all appropriate new facilities



HB 0065A

2003

571 within the project's service area to connect to and use the
572 project's alternative water supplies. The appropriate local
573 government must provide written notification to the appropriate
574 district that the proposed project is consistent with the local
575 government comprehensive plan.

576 (e)~~(d)~~ Any and all revenues disbursed pursuant to this
577 subsection shall be applied only for the payment of capital or
578 infrastructure costs for the construction of alternative water
579 supply systems that provide alternative water supplies.

580 (f)~~(e)~~ By January 1 of each year, the governing boards
581 shall make available written guidelines for the disbursement of
582 revenues pursuant to this subsection. Such guidelines shall
583 include at minimum:

584 1. An application process and a deadline for filing
585 applications annually.

586 2. A process for determining project eligibility pursuant
587 to the requirements of paragraphs (d) ~~(e)~~ and (e) ~~(d)~~.

588 3. A process and criteria for funding projects pursuant to
589 this subsection that cross district boundaries or that serve
590 more than one district.

591 (g)~~(f)~~ The governing board of each water management
592 district shall establish an alternative water supplies grants
593 advisory committee to recommend to the governing board projects
594 for funding pursuant to this subsection. The advisory committee
595 members shall include, but not be limited to, one or more
596 representatives of county, municipal, and investor-owned private
597 utilities, and may include, but not be limited to,
598 representatives of agricultural interests and environmental
599 interests. Each committee member shall represent his or her
600 interest group as a whole and shall not represent any specific



HB 0065A

2003

601 entity. The committee shall apply the guidelines and project
602 eligibility criteria established by the governing board in
603 reviewing proposed projects. After one or more hearings to
604 solicit public input on eligible projects, the committee shall
605 rank the eligible projects and shall submit them to the
606 governing board for final funding approval. The advisory
607 committee may submit to the governing board more projects than
608 the available grant money would fund.

609 (h)~~(g)~~ All revenues made available annually pursuant to
610 this subsection must be encumbered annually by the governing
611 board if it approves projects sufficient to expend the available
612 revenues. Funds must be disbursed within 36 months after
613 encumbrance.

614 (i)~~(h)~~ For purposes of this subsection, alternative water
615 supplies are supplies of water that have been reclaimed after
616 one or more public supply, municipal, industrial, commercial, or
617 agricultural uses, or are supplies of stormwater, or brackish or
618 salt water, that have been treated in accordance with applicable
619 rules and standards sufficient to supply the intended use.

620 (j)~~(i)~~ This subsection shall not be subject to the
621 rulemaking requirements of chapter 120.

622 (k)~~(j)~~ By January 30 of each year, each water management
623 district shall submit an annual report to the Governor, the
624 President of the Senate, and the Speaker of the House of
625 Representatives which accounts for the disbursement of all budgeted
626 amounts pursuant to this subsection. Such report shall describe
627 all projects funded and shall account separately for moneys
628 provided through grants, matching grants, revolving loans, and
629 the use of district lands or facilities.

630 (l)~~(k)~~ The Florida Public Service Commission shall allow



HB 0065A

2003

631 entities under its jurisdiction constructing alternative water
632 supply facilities, including but not limited to aquifer storage
633 and recovery wells, to recover the full, prudently incurred cost
634 of such facilities through their rate structure. Every component
635 of an alternative water supply facility constructed by an
636 investor-owned utility shall be recovered in current rates.

637 Section 9. Subsection (9) is added to section 373.1963,
638 Florida Statutes, to read:

639 373.1963 Assistance to West Coast Regional Water Supply
640 Authority.--

641 (9) It is the intent of the Legislature that wetland areas
642 in northeastern Hillsborough County which have not yet been
643 adversely impacted by groundwater withdrawals for consumptive
644 use not be subject to groundwater withdrawals by the development
645 of wellfields by the authority. In order to protect the
646 wetlands in this area, the authority is hereby prohibited from
647 seeking permits from the Southwest Florida Water Management
648 District for the consumptive use of water from groundwater in
649 northeastern Hillsborough County north of Knights Griffin Road
650 and east of State Road 39.

651 Section 10. Subsection (5) is added to section 373.223,
652 Florida Statutes, to read:

653 373.223 Conditions for a permit.--

654 (5) The Legislature finds that the issuance of consumptive
655 use permits has a direct relation to efficient and effective
656 water resource development. The Legislature further finds that
657 the management of consumptive use permits has a direct relation
658 to efficient and effective water supply development. To help
659 identify the changes necessary to better utilize these permits,
660 the Legislature directs that the Department of Environmental



HB 0065A

2003

661 Protection and each water management district submit
662 recommendations to the appropriate substantive committees of
663 each house of the Legislature by December 1, 2003. The
664 recommendations shall identify alternative methods of extending
665 the use of existing water resources, including, but not limited
666 to, the potential rights of existing permitholders to share
667 water allocated under a consumptive use permit. The department
668 and the districts are encouraged to use public hearings to
669 gather information and shall include information provided by
670 basin boards and regional water supply authorities.

671 Section 11. Section 373.2234, Florida Statutes, is created
672 to read:

673 373.2234 Preferred water supply sources.--The governing
674 board of the district is authorized to adopt rules identifying
675 preferred water supply sources for which there is sufficient
676 data to establish that the source can be used to provide a
677 substantial new water supply to meet existing and reasonably
678 anticipated water needs in a water supply planning region
679 identified pursuant to s. 373.0361(1) while sustaining the water
680 resources and related natural systems. Such rules shall, at a
681 minimum, contain a description of the source and an assessment
682 of the water the source is projected to produce. If a
683 consumptive use permit applicant proposes to use such a source
684 consistent with the assessment, the proposed use shall be
685 subject to the provisions of s. 373.223(1), but such proposed
686 use shall be a factor deemed to be consistent with the public
687 interest pursuant to s. 373.223(1)(c). A consumptive use permit
688 issued approving the use of such a source shall be for at least
689 20 years and may be subject to the provisions of s. 373.226(3).
690 However, nothing in this section shall be construed to provide



HB 0065A

2003

691 that the use of nonpreferred sources must receive a permit
 692 duration of less than 20 years or that such nonpreferred sources
 693 are not consistent with the public interest.

694 Section 12. Paragraph (c) is added to subsection (2) of
 695 section 373.250, Florida Statutes, to read:

696 373.250 Reuse of reclaimed water.--

697 (2)

698 (c) A water management district may require the use of
 699 reclaimed water in lieu of surface water or groundwater when the
 700 use of uncommitted reclaimed water is environmentally,
 701 economically, and technically feasible. However, while
 702 recognizing that the state's surface water and groundwater are
 703 public resources, nothing in this paragraph shall be construed
 704 to give a water management district the authority to require a
 705 provider of reclaimed water to redirect reclaimed water from one
 706 user to another or to provide uncommitted water to a specific
 707 user if such water is anticipated to be used by the provider, or
 708 a different user selected by the provider, within a reasonable
 709 amount of time.

710 Section 13. Paragraph (a) of subsection (6) of section
 711 373.536, Florida Statutes, is amended to read:

712 373.536 District budget and hearing thereon.--

713 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
 714 WATER RESOURCE DEVELOPMENT WORK PROGRAM.--

715 (a) Each district must, by the date specified for each
 716 item, furnish copies of the following documents to the Governor,
 717 the President of the Senate, the Speaker of the House of
 718 Representatives, the chairs of all legislative committees and
 719 subcommittees having substantive or fiscal jurisdiction over the
 720 districts, as determined by the President of the Senate or the



HB 0065A

2003

721 Speaker of the House of Representatives as applicable, the
722 secretary of the department, and the governing board of each
723 county in which the district has jurisdiction or derives any
724 funds for the operations of the district:

725 1. The adopted budget, to be furnished within 10 days
726 after its adoption.

727 2. A financial audit of its accounts and records, to be
728 furnished within 10 days after its acceptance by the governing
729 board. The audit must be conducted in accordance with the
730 provisions of s. 11.45 and the rules adopted thereunder. In
731 addition to the entities named above, the district must provide
732 a copy of the audit to the Auditor General within 10 days after
733 its acceptance by the governing board.

734 3. A 5-year capital improvements plan, to be furnished
735 within 45 days after the adoption of the final budget. The plan
736 must include expected sources of revenue for planned
737 improvements and must be prepared in a manner comparable to the
738 fixed capital outlay format set forth in s. 216.043.

739 4. A 5-year water resource development work program to be
740 furnished within 45 days after the adoption of the final budget.
741 The program must describe the district's implementation strategy
742 for the water resource development component of each approved
743 regional water supply plan developed or revised under s.
744 373.0361. The work program must address all the elements of the
745 water resource development component in the district's approved
746 regional water supply plans and must identify which projects in
747 the work program will provide water, explain how each water
748 resource development project will produce additional water
749 available for consumptive uses, estimate the quantity of water
750 to be produced by each project, and provide an assessment of the



HB 0065A

2003

751 contribution of the district's regional water supply plans in
752 providing sufficient water to meet the water supply needs of
753 existing and future reasonable-beneficial uses for a 1-in-10-
754 year drought event. Within 45 days after its submittal, the
755 department shall review the proposed work program and submit its
756 findings, questions, and comments to the district. The review
757 must include a written evaluation of the program's consistency
758 with the furtherance of the district's approved regional water
759 supply plans, and the adequacy of proposed expenditures. As part
760 of the review, the department shall give interested parties the
761 opportunity to provide written comments on each district's
762 proposed work program. Within 60 days after receipt of the
763 department's evaluation, the governing board shall state in
764 writing to the department which changes recommended in the
765 evaluation it will incorporate into its work program or specify
766 the reasons for not incorporating the changes. The department
767 shall include the district's responses in a final evaluation
768 report and shall submit a copy of the report to the Governor,
769 the President of the Senate, and the Speaker of the House of
770 Representatives.

771 (b) If any entity listed in paragraph (a) provides written
772 comments to the district regarding any document furnished under
773 this subsection, the district must respond to the comments in
774 writing and furnish copies of the comments and written responses
775 to the other entities.

776 Section 14. Landscape irrigation design.--

777 (1) The Legislature finds that multiple areas throughout
778 the state have been identified by water management districts as
779 water resource caution areas, which indicates that in the near
780 future water demand in those areas will exceed the current



HB 0065A

2003

781 available water supply and that conservation is one of the
782 mechanisms by which future water demand will be met.

783 (2) The Legislature finds that landscape irrigation
784 comprises a significant portion of water use and that the
785 current typical landscape irrigation system and xeriscape
786 designs offer significant potential water conservation benefits.

787 (3) It is the intent of the Legislature to improve
788 landscape irrigation water use efficiency by ensuring landscape
789 irrigation systems meet or exceed minimum design criteria.

790 (4) The water management districts shall develop and adopt
791 by rule landscape irrigation and xeriscape design standards for
792 new construction that incorporate a landscape irrigation system.
793 The standards shall be based on the irrigation code defined in
794 the Florida Building Code, Plumber's Volume, Appendix F. Such
795 design standards should promote the effective and efficient use
796 of irrigation water and include a consideration of local
797 demographic, hydrologic, and other considerations as they apply
798 to landscape irrigation water use. When adopting an ordinance or
799 regulation, local governments shall use these approved
800 irrigation design standards.

801 (5) The water management districts shall work with the
802 Florida Chapter of the American Society of Landscape Architects,
803 the Florida Irrigation Society, the Florida Nurserymen and
804 Growers Association, the Department of Agriculture and Consumer
805 Services, the Institute of Food and Agricultural Sciences, the
806 Department of Environmental Protection, the Florida League of
807 Cities, and the Florida Association of Counties to develop
808 scientifically-based model guidelines for urban, commercial, and
809 residential landscape irrigation, including drip irrigation, for
810 plants, trees, sod, and other landscaping. Local governments



HB 0065A

2003

811 shall use the scientific information when developing landscape
812 irrigation ordinances or guidelines. Every 3 years, the
813 agencies and entities specified in this subsection shall review
814 the model guidelines to determine whether new research findings
815 require a change or modification of the guidelines.

816 Section 15. Paragraph (g) is added to subsection (1) of
817 section 378.212, Florida Statutes, to read:

818 378.212 Variances.--

819 (1) Upon application, the secretary may grant a variance
820 from the provisions of this part or the rules adopted pursuant
821 thereto. Variances and renewals thereof may be granted for any
822 one of the following reasons:

823 (g) To accommodate reclamation that provides water supply
824 development or water resource development not inconsistent with
825 the applicable regional water supply plan approved pursuant to
826 s. 373.0361, provided adverse impacts are not caused to the
827 water resources in the basin. A variance may also be granted
828 from the requirements of part IV of chapter 373, or the rules
829 adopted thereunder, when a project provides an improvement in
830 water availability in the basin and does not cause adverse
831 impacts to water resources in the basin.

832 Section 16. Subsection (9) is added to section 378.404,
833 Florida Statutes, to read:

834 378.404 Department of Environmental Protection; powers and
835 duties.--The department shall have the following powers and
836 duties:

837 (9) To grant variances from the provisions of this part to
838 accommodate reclamation that provides for water supply
839 development or water resource development not inconsistent with
840 the applicable regional water supply plan approved pursuant to



HB 0065A

2003

841 s. 373.0361, appropriate stormwater management, improved
842 wildlife habitat, recreation, or a mixture thereof, provided
843 adverse impacts are not caused to the water resources in the
844 basin and public health and safety are not adversely affected.

845 Section 17. Subsections (1) and (6) of section 403.064,
846 Florida Statutes, are amended, and subsection (16) is added to
847 said section, to read:

848 403.064 Reuse of reclaimed water.--

849 (1) The encouragement and promotion of water conservation,
850 and reuse of reclaimed water, as defined by the department, are
851 state objectives and are considered to be in the public
852 interest. The Legislature finds that the reuse of reclaimed
853 water is a critical component of meeting the state's existing
854 and future water supply needs while sustaining natural systems.
855 The Legislature further finds that for those wastewater
856 treatment plants permitted and operated under an approved reuse
857 program by the department, the reclaimed water shall be
858 considered environmentally acceptable and not a threat to public
859 health and safety. The Legislature encourages the development of
860 incentive-based programs for reuse implementation.

861 (6) A reuse feasibility study prepared under subsection(2)
862 satisfies a water management district requirement to conduct a
863 reuse feasibility study imposed on a local government or utility
864 that has responsibility for wastewater management. The data
865 included in the study and the study's conclusions shall be given
866 significant consideration by the applicant and the appropriate
867 water management district in an analysis of the economic,
868 environmental, and technical feasibility of providing reclaimed
869 water for reuse under part II of chapter 373, and shall be
870 presumed relevant to the determination of feasibility. A water



HB 0065A

2003

871 management district shall not require a separate study when a
872 reuse feasibility study has been completed under subsection (2).

873 (16) Utilities implementing reuse projects are encouraged,
874 except in the case of use by electric utilities as defined in s.
875 366.02(2), to meter use of reclaimed water by all end users and,
876 to charge for the use of reclaimed water based on the actual
877 volume used when such metering and charges can be shown to
878 encourage water conservation. Metering and the use of volume-
879 based rates are effective water management tools for the
880 following reuse activities: residential irrigation, agricultural
881 irrigation, industrial uses, golf course irrigation, landscape
882 irrigation, irrigation of other public access areas, commercial
883 and institutional uses such as toilet flushing, and transfers to
884 other reclaimed water utilities. Beginning with the submittal
885 due on January 1, 2004, each domestic wastewater utility that
886 provides reclaimed water for the reuse activities listed in this
887 section shall include a summary of its metering and rate
888 structure as part of its annual reuse report to the department.

889 Section 18. Paragraph (b) of subsection (3) of section
890 403.1835, Florida Statutes, is amended, and subsection (12) is
891 added to said section, to read:

892 403.1835 Water pollution control financial assistance.--

893 (3) The department may provide financial assistance
894 through any program authorized under s. 603 of the Federal Water
895 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as
896 amended, including, but not limited to, making grants and loans,
897 providing loan guarantees, purchasing loan insurance or other
898 credit enhancements, and buying or refinancing local debt. This
899 financial assistance must be administered in accordance with
900 this section and applicable federal authorities. The department



HB 0065A

2003

901 shall administer all programs operated from funds secured
902 through the activities of the Florida Water Pollution Control
903 Financing Corporation under s. 403.1837, to fulfill the purposes
904 of this section.

905 (b) The department may make or request the corporation to
906 make loans, grants, and deposits to other entities eligible to
907 participate in the financial assistance programs authorized
908 under the Federal Water Pollution Control Act, or as a result of
909 other federal action, which entities may pledge any revenue
910 available to them to repay any funds borrowed. Notwithstanding
911 s. 18.10, the department may make deposits to financial
912 institutions that earn less than the prevailing rate for United
913 States Treasury securities with corresponding maturities for the
914 purpose of enabling such financial institutions to make below-
915 market interest rate loans to entities qualified to receive
916 loans under this section and the rules of the department.

917 (12)(a) It is the intent of the Legislature that for each
918 reclaimed water utility or any other utility that receives funds
919 pursuant to this subsection, the appropriate rate-setting
920 authorities should develop rate structures for all water,
921 wastewater, and reclaimed water and other alternative water
922 supply utilities in the service area of the funded utility which
923 accomplish the following:

924 1. Provide meaningful progress toward the development and
925 implementation of alternative water supply systems, including
926 reclaimed water systems.

927 2. Promote the conservation of fresh water withdrawn from
928 natural systems.

929 3. Provide for an appropriate distribution of costs for
930 all water, wastewater, and alternative water supply utilities,



HB 0065A

2003

931 including reclaimed water utilities, among all of the users of
932 those utilities.

933 (b) Funding assistance provided for a water reuse system
934 project shall include the following loan conditions for that
935 project where such conditions will encourage water use
936 efficiency:

937 1. Metering of reclaimed water use for the following
938 activities: residential irrigation, agricultural irrigation,
939 industrial uses except for electric utilities as defined in s.
940 366.02(2), golf course irrigation, landscape irrigation,
941 irrigation of other public access areas, and commercial uses.

942 2. Implementation of reclaimed water rate structures based
943 on actual use of reclaimed water for the reuse types listed in
944 subparagraph 1.

945 3. Implementation of education programs to inform the
946 public about water issues, water conservation, and the
947 importance and proper use of reclaimed water.

948 Section 19. The Legislature finds that, within the area
949 identified in the Lower East Coast Regional Water Supply Plan
950 approved by the South Florida Water Management District pursuant
951 to s. 373.0361, Florida Statutes, the groundwater levels can
952 benefit from augmentation. The Legislature finds that the direct
953 or indirect discharge of reclaimed water into canals and the
954 aquifer system for transport and subsequent reuse may provide an
955 environmentally acceptable means to augment water supplies and
956 enhance natural systems; however, the Legislature also
957 recognizes that there are water quality and water quantity
958 issues that must be better understood and resolved. In addition,
959 there are cost savings possible by collocating enclosed conduits
960 for conveyance of water for reuse in this area within canal



HB 0065A

2003

961 rights-of-way that should be investigated. Toward that end, the
962 Department of Environmental Protection, in consultation with the
963 South Florida Water Management District, Southeast Florida
964 utilities, affected local governments, including local
965 governments with principal responsibility for the operation and
966 maintenance of a water control system capable of conveying
967 reclaimed wastewater for reuse, representatives of the
968 environmental and engineering communities, public health
969 professionals, and individuals having expertise in water
970 quality, shall conduct a study to investigate the feasibility of
971 discharging reclaimed wastewater into canals and the aquifer
972 system as an environmentally acceptable means of augmenting
973 groundwater supplies, enhancing natural systems, and conveying
974 reuse water within enclosed conduits within the canal right-of-
975 way. The study shall include an assessment of the water quality,
976 water supply, public health, technical, and legal implications
977 related to the canal discharge and collocation concepts. The
978 department shall issue a preliminary written report containing
979 draft findings and recommendations for public comment by
980 November 1, 2003. The department shall provide a written report
981 on the results of its study to the Governor and the relevant
982 substantive committees of the House of Representatives and the
983 Senate by January 31, 2004. Nothing in this section shall be
984 used to alter the purpose of the Comprehensive Everglades
985 Restoration Plan or the implementation of the Water Resources
986 Development Act of 2000.

987 Section 20. If any provision of this act or the
988 application thereof to any person or circumstance is held
989 invalid, the invalidity does not affect other provisions or
990 applications of this act which can be given effect without the



HB 0065A

2003

991 invalid provision or application, and to this end the provisions
 992 of this act are declared severable.

993 Section 21. Private property rights and regional
 994 reservoirs.--

995 (1) The Legislature finds that construction of a regional
 996 reservoir designed to store more than 10 billion gallons of
 997 water may inordinately burden nearby real property because of
 998 the proximity of the reservoir and may result in a loss of value
 999 for the property owner. Therefore, a regional water supply
 1000 authority, serving three or fewer counties, that is authorized
 1001 to construct, operate, and maintain such a regional reservoir
 1002 shall be deemed a governmental entity under section 70.001,
 1003 Florida Statutes, the Bert J. Harris, Jr., Private Property
 1004 Rights Protection Act, for purposes of this section.

1005 (2) This section provides a cause of action for the
 1006 actions of a regional water supply authority, in siting and
 1007 constructing a reservoir as described in subsection (1), that
 1008 may not rise to the level of a taking under the State
 1009 Constitution or the United States Constitution. This section may
 1010 not necessarily be construed under the case law regarding
 1011 takings if the action of a regional water supply authority does
 1012 not rise to the level of a taking. The provisions of this
 1013 section are cumulative and do not abrogate any other remedy
 1014 lawfully available, including any remedy lawfully available for
 1015 the actions of a regional water supply authority that rise to
 1016 the level of a taking. However, a regional water supply
 1017 authority may not be liable more than once for compensation due
 1018 to an action of the regional water supply authority that results
 1019 in a loss of value for a subject real property.

1020 (3) Each owner of real property located within 10,000 feet



HB 0065A

2003

1021 of the center of the footprint of a regional reservoir, as
1022 described in subsection (1), or 5,500 feet from the exterior of
1023 the berm of such reservoir, may present a claim for compensation
1024 in writing to the head of the regional water supply authority on
1025 or before December 31, 2004, for a loss in property value
1026 resulting from the proximity of the reservoir. For each claim
1027 presented under this section, section 70.001, Florida Statutes,
1028 applies, except when there is conflict with this section, the
1029 provisions of this section shall govern.

1030 (a) The property owner must submit along with the claim a
1031 bona fide, valid appraisal that supports the claim and
1032 demonstrates the loss in fair market value to the real property.

1033 (b) A claim under this section shall be presented only to
1034 the regional water supply authority that is authorized to
1035 construct, operate, and maintain the reservoir.

1036 (4) The Legislature recognizes that construction and
1037 maintenance of a regional reservoir may not necessarily
1038 interfere with allowable uses of real property near the
1039 reservoir. However, the siting and construction of the reservoir
1040 may result in an actual loss to the fair market value of real
1041 property located within 10,000 feet of the center of the
1042 footprint of the reservoir, or 5,500 feet from the exterior of
1043 the berm, because of the proximity of the reservoir. Therefore,
1044 any offer of compensation by the regional water supply authority
1045 shall be based solely on the loss of value for the property
1046 owner as a result of the proximity of the reservoir and not on
1047 the effects the reservoir has on existing uses or on a vested
1048 right to a specific use of real property.

1049 (a) Notwithstanding section 70.001, Florida Statutes, the
1050 regional water supply authority to whom a claim is presented



HB 0065A

2003

1051 shall, not later than 180 days after receiving such claim:

1052 1. Make a written offer to purchase the real property if
 1053 there is more than a 50-percent loss in value to the real
 1054 property as a result of the proximity of the reservoir and if
 1055 the property owner is a willing seller;

1056 2. Make a written offer to purchase an interest in rights
 1057 of use which may become transferable development rights to be
 1058 held, sold, or otherwise disposed of by the regional water
 1059 supply authority; or

1060 3. Terminate negotiations.

1061 (b) An offer by the regional water supply authority to
 1062 purchase the property in fee or purchase an interest in rights
 1063 of use under this section shall cover the cost of the appraisal
 1064 required in subsection(3).

1065 (5) During the 180-day period, unless the property owner
 1066 accepts a written offer for purchase pursuant to subparagraph
 1067 (4)(a)1. or 2., the regional water supply authority shall issue
 1068 a final decision stating that:

1069 (a) The real property has a loss in value due to an
 1070 inordinate burden on the property resulting from the proximity
 1071 of the reservoir and the regional water supply authority and
 1072 property owner cannot reach agreement on the amount of
 1073 compensation; or

1074 (b) The property owner has failed to establish a basis for
 1075 relief under the provisions of this section and section 70.001,
 1076 Florida Statutes.

1077
 1078 Failure of the regional water supply authority to issue a final
 1079 decision as required by this subsection shall cause the written
 1080 offer or termination of negotiations required in subsection (4)



HB 0065A

2003

1081 to operate as a final decision. As a matter of law, this final
1082 decision constitutes the last prerequisite to judicial review of
1083 the merits for the purposes of the judicial proceeding provided
1084 for in section 70.001, Florida Statutes.

1085 (6) The circuit court, for purposes of this section, shall
1086 determine whether, considering the written offer and final
1087 decision, the regional water supply authority has inordinately
1088 burdened the subject real property. Following a determination
1089 that the regional water supply authority has inordinately
1090 burdened the real property, the court shall impanel a jury to
1091 determine the total amount of compensation to the property owner
1092 for the loss in value due to the inordinate burden to the
1093 subject real property.

1094 (7) Pursuant to section 70.001, Florida Statutes, the
1095 court may award reasonable costs and attorney's fees and the
1096 court shall determine the amount. If the court awards the
1097 property owner reasonable costs and attorney's fees, the costs
1098 shall include the cost of the appraisal required in subsection
1099 (3).

1100 (8) This section shall take effect July 1, 2003, and is
1101 repealed effective January 1, 2005. However, the repeal of this
1102 section shall not affect a claim filed on or before December 31,
1103 2004.

1104 Section 22. If any law amended by this act was also
1105 amended by a law enacted at the 2003 Regular Session of the
1106 Legislature, such laws shall be construed as if they had been
1107 enacted at the same session of the Legislature, and full effect
1108 shall be given to each if possible.



HB 0065A

2003

1109 Section 23. Except as otherwise provided herein, this act
1110 shall take effect upon becoming a law and shall apply to all
1111 contracts pending on that date.