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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.; providing that if a local
5 government grants a quasi-judicial development order
6 pursuant to its adopted land development regulations and
7 the order is not the subject of a pending appeal, the
8 right to commence and complete development pursuant to the
9 order may not be abrogated by a subsequent judicial
10 determination that such land development regulations, or
11 any portion thereof, are invalid because of a deficiency
12 in the approval standards; retaining certain legal rights;
13 providing for retroactive application; requiring local
14 governments to include projected water use in
15 comprehensive plans; amending s. 367.081, F.S.; revising
16 procedure for fixing and changing rates to include the
17 recovery of costs of alternative water supply facilities;
18 amending s. 367.0814, F.S.; revising limit on the amount
19 of revenues received by a utility to qualify for staff
20 assistance in changing rates or charges; creating s.
21 373.227, F.S.; providing for the development of a water
22 conservation guidance manual by the Department of
23 Environmental Protection; providing for purpose and
24 contents of the manual and requirements with respect
25 thereto; requiring the Department of Environmental
26 Protection to adopt the manual by rule by a specified
27 date; providing program requirements for public water
28 supply utilities that choose to design a comprehensive
29 water conservation program based on the water conservation
30 guidance manual; amending s. 373.0361, F.S.; providing for



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31 a public workshop on the development of regional water
32 supply plans that include the consideration of population
33 projections; providing for a list of water source options
34 in regional water supply plans; providing additional
35 regional water supply plan components; including
36 conservation measures in regional water supply plans;
37 revising specified reporting requirements of the
38 Department of Environmental Protection; providing that a
39 district water management plan may not be used as criteria
40 for the review of permits for consumptive uses of water
41 unless the plan or applicable portion thereof has been
42 adopted by rule; providing construction; amending s.
43 373.0831, F.S.; revising the criteria by which water
44 supply development projects may receive priority
45 consideration for funding assistance; providing for
46 permitting and funding of a proposed alternative water
47 supply project identified in the relevant approved
48 regional water supply plan; amending s. 373.1961, F.S.;
49 providing funding priority; providing for the
50 establishment of a revolving loan fund for alternative
51 water supply projects; providing conditions for certain
52 projects to receive funding assistance; amending s.
53 373.116, F.S.; providing for notice of applications for
54 specified water use permits, specified permits for
55 construction or alteration of dams, impoundments,
56 reservoirs, and appurtenant works, dredge and fill permits
57 for certain stormwater management systems, and consumptive
58 use permits to be transmitted by electronic mail; amending
59 s. 373.1963, F.S.; prohibiting the West Coast Regional
60 Water Supply Authority from seeking permits from the South



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61 Florida Water Management District for the consumptive use
 62 of water from groundwater in a specified area; amending s.
 63 373.223, F.S.; requiring the Department of Environmental
 64 Protection and the water management districts to submit
 65 specified recommendations to the Legislature; creating s.
 66 373.2234, F.S.; authorizing the governing board of a water
 67 management district to adopt rules identifying certain
 68 preferred water supply sources; providing requirements
 69 with respect to such rules; providing construction;
 70 amending s. 373.250, F.S.; authorizing water management
 71 districts to require the use of reclaimed water in lieu of
 72 surface or groundwater when the use of uncommitted
 73 reclaimed water is environmentally, economically, and
 74 technically feasible; providing construction with respect
 75 to such authority; amending s. 373.536, F.S.; expanding
 76 requirements of the 5-year water resource development work
 77 program for water management districts; providing
 78 legislative findings and intent with regard to landscape
 79 irrigation design; requiring water management districts to
 80 develop landscape irrigation and xeriscape design
 81 standards; amending s. 378.212, F.S.; providing for the
 82 granting of a variance from pt. III of ch. 378, F.S.,
 83 relating to phosphate land reclamation, for specified
 84 reclamation, and from pt. IV of ch. 373, for certain
 85 projects under described circumstances; amending s.
 86 378.404, F.S.; authorizing the department to grant
 87 variances from the provisions of pt. IV of ch. 378, F.S.,
 88 to accommodate reclamation that provides for water supply
 89 development or water resource development under specified
 90 circumstances; amending s. 403.064, F.S.; revising



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91 provisions relating to reuse feasibility studies;
92 providing for metering use of reclaimed water and volume-
93 based rates therefor; requiring wastewater utilities to
94 submit plans for metering use and volume-based rate
95 structures to the department; amending s. 403.1835, F.S.;
96 authorizing the Department of Environmental Protection to
97 make specified deposits for the purpose of enabling below-
98 market interest rate loans for treatment of polluted
99 water; providing for development of rate structures for
100 alternative water supply systems; providing criteria;
101 providing for a study of the feasibility of discharging
102 reclaimed wastewater into canals and the aquifer system in
103 a specified area as an environmentally acceptable means of
104 accomplishing described objectives; requiring reports;
105 providing severability; providing legislative findings
106 with respect to loss of property values due to the
107 proximity of a regional water reservoir; authorizing a
108 cause of action for a property owner; specifying a period
109 during which a property owner may present a claim for
110 compensation to the regional water supply authority that
111 constructs, operates, and maintains the reservoir;
112 providing requirements for the offer of compensation by a
113 regional water supply authority; providing for judicial
114 review under the Bert J. Harris, Jr., Private Property
115 Rights Protection Act; providing for an award of costs and
116 attorney's fees; providing for future repeal of the
117 section; providing for applicability; providing for
118 construction of the act in pari materia with laws enacted
119 during the 2003 Regular Session or the 2003 Special
120 Session A of the Legislature; providing effective dates.



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

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

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

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

Section 2. Subsections (13) and (14) are added to section 163.3167, Florida Statutes, to read:

163.3167 Scope of act.--

(13) Each local government shall address in its comprehensive plan, as enumerated in this chapter, the water supply projects necessary to meet and achieve the existing and projected water use demand for the established planning period, considering the applicable plan developed pursuant to s. 373.0361.

(14)(a) If a local government grants a quasi-judicial development order pursuant to its adopted land development regulations and the order is not the subject of a pending appeal, the right to commence and complete development pursuant to the order may not be abrogated by a subsequent judicial determination that such land development regulations, or any portion thereof, are invalid because of a deficiency in the approval standards.

(b) This subsection does not preclude or affect the timely



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151 institution of common law writ of certiorari proceedings
 152 pursuant to Rule 9.190, Florida Rules of Appellate Procedure, or
 153 original proceedings pursuant to s. 163.3215, as applicable.

154 (c) This subsection applies retroactively to any order
 155 granted on or after January 1, 2002.

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

158 367.081 Rates; procedure for fixing and changing.--

159 (2)(a)1. The commission shall, either upon request or upon
 160 its own motion, fix rates which are just, reasonable,
 161 compensatory, and not unfairly discriminatory. In every such
 162 proceeding, the commission shall consider the value and quality
 163 of the service and the cost of providing the service, which
 164 shall include, but not be limited to, debt interest; the
 165 requirements of the utility for working capital; maintenance,
 166 depreciation, tax, and operating expenses incurred in the
 167 operation of all property used and useful in the public service;
 168 and a fair return on the investment of the utility in property
 169 used and useful in the public service. Pursuant to s.
 170 373.1961(2)(1), the commission shall allow recovery of the full,
 171 prudently incurred costs of alternative water supply facilities.

172 However, the commission shall not allow the inclusion of
 173 contributions-in-aid-of-construction in the rate base of any
 174 utility during a rate proceeding, nor shall the commission
 175 impute prospective future contributions-in-aid-of-construction
 176 against the utility's investment in property used and useful in
 177 the public service; and accumulated depreciation on such
 178 contributions-in-aid-of-construction shall not be used to reduce
 179 the rate base, nor shall depreciation on such contributed assets
 180 be considered a cost of providing utility service.



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181 2. For purposes of such proceedings, the commission shall
182 consider utility property, including land acquired or facilities
183 constructed or to be constructed within a reasonable time in the
184 future, not to exceed 24 months after the end of the historic
185 base year used to set final rates unless a longer period is
186 approved by the commission, to be used and useful in the public
187 service, if:

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

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

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

199

200 Notwithstanding the provisions of this paragraph, the commission
201 shall approve rates for service which allow a utility to recover
202 from customers the full amount of environmental compliance
203 costs. Such rates may not include charges for allowances for
204 funds prudently invested or similar charges. For purposes of
205 this requirement, the term "environmental compliance costs"
206 includes all reasonable expenses and fair return on any prudent
207 investment incurred by a utility in complying with the
208 requirements or conditions contained in any permitting,
209 enforcement, or similar decisions of the United States
210 Environmental Protection Agency, the Department of Environmental



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

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

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

219 367.0814 Staff assistance in changing rates and charges;
220 interim rates.--

221 (1) The commission may establish rules by which a water or
222 wastewater utility whose gross annual revenues are \$200,000
223 ~~\$150,000~~ or less may request and obtain staff assistance for the
224 purpose of changing its rates and charges. A utility may request
225 staff assistance by filing an application with the commission.

226 Section 5. Section 373.227, Florida Statutes, is created
227 to read:

228 373.227 Water conservation guidance manual.--

229 (1) The Legislature recognizes that the proper
230 conservation of water is an important means of achieving the
231 economical and efficient utilization of water necessary to
232 constitute a reasonable-beneficial use. The Legislature
233 encourages the development and use of water conservation
234 measures that are effective, flexible, and affordable. In the
235 context of the use of water for public supply provided by a
236 water utility, the Legislature intends for a variety of
237 conservation measures to be available and used to encourage
238 efficient water use. The Legislature finds that the social,
239 economic, and cultural conditions of this state relating to the
240 use of public water supply vary by geographic region, and thus



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241 water utilities must have the flexibility to tailor water
242 conservation measures to best suit their individual
243 circumstances. For purposes of this section, the term "public
244 water supply utility" shall include both publicly owned and
245 privately owned public water supply utilities.

246 (2) In order to implement the findings in subsection (1),
247 the Department of Environmental Protection shall develop a water
248 conservation guidance manual containing a menu of water
249 conservation measures from which public water supply utilities
250 may select in the development of a comprehensive, goal-based
251 water conservation program tailored for their individual service
252 areas that is effective and does not impose undue costs or
253 burdens on customers. The water conservation guidance manual
254 shall promote statewide consistency in the approach to utility
255 conservation while maintaining appropriate flexibility. The
256 manual may contain measures such as: water conservation audits,
257 informative billing practices to educate customers on their
258 patterns of water use, the costs of water, and ways to conserve
259 water; ordinances requiring low-flow plumbing fixtures and
260 efficient landscape irrigation; rebate programs for the
261 installation of water-saving plumbing or appliances; general
262 water conservation educational programs, including bill inserts;
263 measures to promote the more effective and efficient reuse of
264 reclaimed water; water conservation or drought rate structures
265 that encourage customers to conserve water through appropriate
266 price signals; and programs to apply utility profits generated
267 through conservation and drought rates to additional water
268 conservation programs or water supply development. The manual
269 shall specifically state that it is the responsibility of the
270 appropriate utility to determine the specific rates it will



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271 charge its customers and that the role of the department or
272 water management district is confined to the review of those
273 rate structures to determine whether they encourage water
274 conservation. The water conservation guidance manual shall also
275 state that a utility need not adopt a water conservation or
276 drought rate structure if the utility employs other measures
277 that are equally or more effective. The manual shall provide for
278 different levels of complexity and expected levels of effort in
279 conservation programs depending on the size of the utility.
280 However, all utilities will be expected to have at least basic
281 programs in each of the following areas:

- 282 (a) Individual metering, to the extent feasible as
283 determined by the utility.
- 284 (b) Water accounting and loss control.
- 285 (c) Cost of service accounting.
- 286 (d) Information programs on water conservation.
- 287 (e) Landscaping water efficiency programs.

288 (3) The Department of Environmental Protection shall
289 develop the water conservation guidance manual no later than
290 June 15, 2004. The department shall develop the manual in
291 consultation with interested parties, which, at a minimum, shall
292 include representatives from the water management districts,
293 three utilities that are members of the American Water Works
294 Association, two utilities that are members of the Florida Water
295 Environment Association, a representative of the Florida Chamber
296 of Commerce, representatives of counties and municipalities, and
297 representatives of environmental organizations. By December 15,
298 2004, the department shall adopt the water conservation guidance
299 manual by rule. Once the department adopts the water
300 conservation guidance manual by rule, the water management



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301 districts may apply the manual and any revisions thereto in the
302 review of water conservation requirements for obtaining a permit
303 pursuant to part II without the need to adopt the manual
304 pursuant to s. 120.54. Once the water conservation guidance
305 manual is adopted by rule, a public water supply utility may
306 choose to comply with the standard water conservation
307 requirements adopted by the appropriate water management
308 district for obtaining a consumptive use permit from that
309 district, or may choose to develop a comprehensive, goal-based
310 water conservation program from the options contained in the
311 manual. If the utility chooses to design a comprehensive water
312 conservation program based on the water conservation guidance
313 manual, the proposed program must include the following:

314 (a) An inventory of water system characteristics and
315 conservation opportunities.

316 (b) Demand forecasts.

317 (c) An explanation of the proposed program.

318 (d) Specific numeric water conservation targets for the
319 utility as a whole and for appropriate customer classes, with a
320 justification of why the numeric targets are appropriate based
321 on that utility's particular customer characteristics and
322 conservation opportunities.

323 (e) A demonstration that the program will promote
324 effective water conservation at least as well as standard water
325 use conservation requirements adopted by the appropriate water
326 management district.

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

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



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331 proposed conservation program is consistent with the water
332 conservation guidance manual and contains the elements specified
333 in subsection (3), then the water management district shall
334 approve the proposed program and the program shall satisfy water
335 conservation requirements imposed as a condition of obtaining a
336 permit under part II. The department, in consultation with the
337 parties specified in subsection (3), may periodically amend or
338 revise the water conservation guidance manual rule as
339 appropriate to reflect changed circumstances or new technologies
340 or approaches. The findings and provisions in this section shall
341 not be construed to apply to users of water other than public
342 and private water supply utilities.

343 Section 6. Subsections (1), (2), (5), and (6) of section
344 373.0361, Florida Statutes, are amended to read:

345 373.0361 Regional water supply planning.--

346 (1) By October 1, 1998, the governing board shall initiate
347 water supply planning for each water supply planning region
348 identified in the district water management plan under s.
349 373.036, where it determines that sources of water are not
350 adequate for the planning period to supply water for all
351 existing and projected reasonable-beneficial uses and to sustain
352 the water resources and related natural systems. The planning
353 must be conducted in an open public process, in coordination and
354 cooperation with local governments, regional water supply
355 authorities, government-owned and privately owned water
356 utilities, self-suppliers, and other affected and interested
357 parties. During development but prior to completion of the
358 regional water supply plan, the district must conduct at least
359 one public workshop to discuss the technical data and modeling
360 tools anticipated to be used to support the plan. A



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361 determination by the governing board that initiation of a
 362 regional water supply plan for a specific planning region is not
 363 needed pursuant to this section shall be subject to s. 120.569.
 364 The governing board shall reevaluate such a determination at
 365 least once every 5 years and shall initiate a regional water
 366 supply plan, if needed, pursuant to this subsection.

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

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

371 1. A quantification of the water supply needs for all
 372 existing and reasonably projected future uses within the
 373 planning horizon. The level-of-certainty planning goal
 374 associated with identifying the water supply needs of existing
 375 and future reasonable-beneficial uses shall be based upon
 376 meeting those needs for a 1-in-10-year drought event. Population
 377 projections used for determining public water supply needs shall
 378 be based upon the best available data. In determining the best
 379 available data, the district shall consider the University of
 380 Florida's Bureau of Economic and Business Research(BEBR) median
 381 population projections and any population projection data and
 382 analysis submitted by a local government pursuant to the public
 383 workshop described in subsection (1) when such data and analysis
 384 support the local government's comprehensive plan. Any
 385 adjustment of or deviation from the BEBR projections shall be
 386 fully described and the original BEBR data shall be presented
 387 along with the adjusted data.

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



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391 and privately owned utilities, self-suppliers, and others may
392 choose, for water supply development, the total capacity of
393 which will, in conjunction with water conservation and other
394 demand management measures, exceed the needs identified in
395 subparagraph 1.

396 3. For each option listed in subparagraph 2., the
397 estimated amount of water available for use and the estimated
398 costs of and potential sources of funding for water supply
399 development.

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

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

403 1. A listing of those water resource development projects
404 that support water supply development.

405 2. For each water resource development project listed:

406 a. An estimate of the amount of water to become available
407 through the project.

408 b. The timetable for implementing or constructing the
409 project and the estimated costs for implementing, operating, and
410 maintaining the project.

411 c. Sources of funding and funding needs.

412 d. Who will implement the project and how it will be
413 implemented.

414 (c) The recovery and prevention strategy described in s.
415 373.0421(2).

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

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



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

425 (f) The technical data and information applicable to the
 426 planning region which are contained in the district water
 427 management plan and are necessary to support the regional water
 428 supply plan.

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

431 (h) Reservations of water adopted by rule pursuant to s.
 432 373.223(4).

433 (i) An analysis, developed in cooperation with the
 434 department, of areas or instances in which the variance
 435 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
 436 create water supply development or water resource development
 437 projects.

438
 439 Within boundaries of a regional water supply authority, those
 440 parts of the water supply development component of the regional
 441 water supply plan which deal with or affect public utilities and
 442 public water supply shall be developed jointly by such authority
 443 and the district for those areas served by the authority and its
 444 member governments.

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

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



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451 sources of funding for water resource development and water
452 supply development projects, as identified in the water
453 management district regional water supply plans.

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

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

462 (6) Nothing contained in the water supply development
463 component of the district water management plan shall be
464 construed to require local governments, government-owned or
465 privately owned water utilities, self-suppliers, or other water
466 suppliers to select a water supply development option identified
467 in the component merely because it is identified in the plan,
468 nor may the plan be used in the review of permits under part II
469 unless the plan, or an applicable portion thereof, has been
470 adopted by rule. However, this subsection does not prohibit a
471 water management district from employing the data or other
472 information used to establish the plan in reviewing permits
473 under part II, nor shall it ~~not~~ be construed to limit the
474 authority of the department or governing board under part II.

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

478 373.0831 Water resource development; water supply
479 development.--

480 (3) The water management districts shall fund and



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481 implement water resource development as defined in s. 373.019.
482 The water management districts are encouraged to implement water
483 resource development as expeditiously as possible in areas
484 subject to regional water supply plans. Each governing board
485 shall include in its annual budget the amount needed for the
486 fiscal year to implement water resource development projects, as
487 prioritized in its regional water supply plans.

488 (4)

489 (c) If a proposed alternative water supply development
490 project is identified in the relevant approved regional water
491 supply plan, the project shall receive:

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

495 2. Priority funding pursuant to s. 373.1961(2) if the
496 project meets one of the criteria specified in paragraph (a).

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

499 373.1961 Water production.--

500 (2) The Legislature finds that, due to a combination of
501 factors, vastly increased demands have been placed on natural
502 supplies of fresh water, and that, absent increased development
503 of alternative water supplies, such demands may increase in the
504 future. The Legislature also finds that potential exists in the
505 state for the production of significant quantities of
506 alternative water supplies, including reclaimed water, and that
507 water production includes the development of alternative water
508 supplies, including reclaimed water, for appropriate uses. It is
509 the intent of the Legislature that utilities develop reclaimed
510 water systems, where reclaimed water is the most appropriate



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511 alternative water supply option, to deliver reclaimed water to
512 as many users as possible through the most cost-effective means,
513 and to construct reclaimed water system infrastructure to their
514 owned or operated properties and facilities where they have
515 reclamation capability. It is also the intent of the Legislature
516 that the water management districts which levy ad valorem taxes
517 for water management purposes should share a percentage of those
518 tax revenues with water providers and users, including local
519 governments, water, wastewater, and reuse utilities, municipal,
520 industrial, and agricultural water users, and other public and
521 private water users, to be used to supplement other funding
522 sources in the development of alternative water supplies. The
523 Legislature finds that public moneys or services provided to
524 private entities for such uses constitute public purposes which
525 are in the public interest. In order to further the development
526 and use of alternative water supply systems, including reclaimed
527 water systems, the Legislature provides the following:

528 (a) The governing boards of the water management districts
529 where water resource caution areas have been designated shall
530 include in their annual budgets an amount for the development of
531 alternative water supply systems, including reclaimed water
532 systems, pursuant to the requirements of this subsection.
533 Beginning in 1996, such amounts shall be made available to water
534 providers and users no later than December 31 of each year,
535 through grants, matching grants, revolving loans, or the use of
536 district lands or facilities pursuant to the requirements of
537 this subsection and guidelines established by the districts. In
538 making grants or loans, funding priority shall be given to
539 projects in accordance with s. 373.0831(4). Without diminishing
540 amounts available through other means described in this



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541 paragraph, the governing boards are encouraged to consider
542 establishing revolving loan funds to expand the total funds
543 available to accomplish the objectives of this section. A
544 revolving loan fund created pursuant to this paragraph shall be
545 a nonlapsing fund from which the water management district may
546 make loans with interest rates below prevailing market rates to
547 public or private entities for the purposes described in this
548 section. The governing board may adopt resolutions to establish
549 revolving loan funds which shall specify the details of the
550 administration of the fund, the procedures for applying for
551 loans from the fund, the criteria for awarding loans from the
552 fund, the initial capitalization of the fund, and the goals for
553 future capitalization of the fund in subsequent budget years.
554 Revolving loan funds created pursuant to this paragraph shall be
555 used to expand the total sums and sources of cooperative funding
556 available for the development of alternative water supplies. The
557 Legislature does not intend for the creation of revolving loan
558 trust funds to supplant or otherwise reduce existing sources or
559 amounts of funds currently available through other means.

560 (b) It is the intent of the Legislature that for each
561 reclaimed water utility, or any other utility, which receives
562 funds pursuant to this subsection, the appropriate rate-setting
563 authorities should develop rate structures for all water,
564 wastewater, and reclaimed water and other alternative water
565 supply utilities in the service area of the funded utility,
566 which accomplish the following:

567 1. Provide meaningful progress toward the development and
568 implementation of alternative water supply systems, including
569 reclaimed water systems;

570 2. Promote the conservation of fresh water withdrawn from



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571 natural systems;

572 3. Provide for an appropriate distribution of costs for
573 all water, wastewater, and alternative water supply utilities,
574 including reclaimed water utilities, among all of the users of
575 those utilities; and

576 4. Prohibit rate discrimination within classes of utility
577 users.

578 (c) Funding assistance provided by the water management
579 districts for a water reuse system project shall include the
580 following grant or loan conditions for that project when the
581 water management district determines such conditions will
582 encourage water use efficiency:

583 1. Metering of reclaimed water use for the following
584 activities: residential irrigation, agricultural irrigation,
585 industrial uses except for electric utilities as defined in s.
586 366.02(2), golf course irrigation, landscape irrigation,
587 irrigation of other public access areas, commercial and
588 institutional uses such as toilet flushing, and transfers to
589 other reclaimed water utilities.

590 2. Implementation of reclaimed water rate structures based
591 on actual use of reclaimed water for the types of reuse
592 activities listed in subparagraph 1.

593 3. Implementation of education programs to inform the
594 public about water issues, water conservation, and the
595 importance and proper use of reclaimed water.

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

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



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601 within the project's service area to connect to and use the
602 project's alternative water supplies. The appropriate local
603 government must provide written notification to the appropriate
604 district that the proposed project is consistent with the local
605 government comprehensive plan.

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

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

614 1. An application process and a deadline for filing
615 applications annually.

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

618 3. A process and criteria for funding projects pursuant to
619 this subsection that cross district boundaries or that serve
620 more than one district.

621 (g)~~(f)~~ The governing board of each water management
622 district shall establish an alternative water supplies grants
623 advisory committee to recommend to the governing board projects
624 for funding pursuant to this subsection. The advisory committee
625 members shall include, but not be limited to, one or more
626 representatives of county, municipal, and investor-owned private
627 utilities, and may include, but not be limited to,
628 representatives of agricultural interests and environmental
629 interests. Each committee member shall represent his or her
630 interest group as a whole and shall not represent any specific



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631 entity. The committee shall apply the guidelines and project
632 eligibility criteria established by the governing board in
633 reviewing proposed projects. After one or more hearings to
634 solicit public input on eligible projects, the committee shall
635 rank the eligible projects and shall submit them to the
636 governing board for final funding approval. The advisory
637 committee may submit to the governing board more projects than
638 the available grant money would fund.

639 (h)~~(g)~~ All revenues made available annually pursuant to
640 this subsection must be encumbered annually by the governing
641 board if it approves projects sufficient to expend the available
642 revenues. Funds must be disbursed within 36 months after
643 encumbrance.

644 (i)~~(h)~~ For purposes of this subsection, alternative water
645 supplies are supplies of water that have been reclaimed after
646 one or more public supply, municipal, industrial, commercial, or
647 agricultural uses, or are supplies of stormwater, or brackish or
648 salt water, that have been treated in accordance with applicable
649 rules and standards sufficient to supply the intended use.

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

652 (k)~~(j)~~ By January 30 of each year, each water management
653 district shall submit an annual report to the Governor, the
654 President of the Senate, and the Speaker of the House of
655 Representatives which accounts for the disbursement of all budgeted
656 amounts pursuant to this subsection. Such report shall describe
657 all projects funded and shall account separately for moneys
658 provided through grants, matching grants, revolving loans, and
659 the use of district lands or facilities.

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



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

667 Section 9. Section 373.116, Florida Statutes, is amended
668 to read:

669 373.116 Procedure for water use and impoundment
670 construction permit applications.--

671 (1) Applications for water use permits, under part II of
672 this chapter; for permits for construction or alteration of
673 dams, impoundments, reservoirs, and appurtenant works, under
674 part IV of this chapter; and for permits under s. 403.812 shall
675 be filed with the water management district on appropriate forms
676 provided by the governing board.

677 (2) Upon receipt of an application for a permit of the
678 type referred to in subsection (1), the governing board shall
679 cause a notice thereof to be published in a newspaper having
680 general circulation within the affected area. In addition, the
681 governing board shall send, by regular or electronic mail, a
682 copy of such notice to any person who has filed a written
683 request for notification of any pending applications affecting
684 this particular designated area. ~~Upon written request,~~ Notice of
685 application for the consumptive use of water shall be mailed by
686 regular or electronic mail to the county and appropriate city
687 government from which boundaries the withdrawal is proposed to
688 be made.

689 Section 10. Subsection (9) is added to section 373.1963,
690 Florida Statutes, to read:



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691 373.1963 Assistance to West Coast Regional Water Supply
692 Authority.--

693 (9) It is the intent of the Legislature that wetland areas
694 in northeastern Hillsborough County which have not yet been
695 adversely impacted by groundwater withdrawals for consumptive
696 use not be subject to groundwater withdrawals by the development
697 of wellfields by the authority. In order to protect the wetlands
698 in this area, the authority is hereby prohibited from seeking
699 permits from the Southwest Florida Water Management District for
700 the consumptive use of water from groundwater in northeastern
701 Hillsborough County north of Knights Griffin Road and east of
702 State Road 39.

703 Section 11. Subsection (5) is added to section 373.223,
704 Florida Statutes, to read:

705 373.223 Conditions for a permit.--

706 (5) The Legislature finds that the issuance of consumptive
707 use permits has a direct relation to efficient and effective
708 water resource development. The Legislature further finds that
709 the management of consumptive use permits has a direct relation
710 to efficient and effective water supply development. To help
711 identify the changes necessary to better utilize these permits,
712 the Legislature directs that the Department of Environmental
713 Protection and each water management district submit
714 recommendations to the appropriate substantive committees of
715 each house of the Legislature by December 1, 2003. The
716 recommendations shall identify alternative methods of extending
717 the use of existing water resources, including, but not limited
718 to, the potential rights of existing permitholders to share
719 water allocated under a consumptive use permit. The department
720 and the districts are encouraged to use public hearings to



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721 gather information and shall include information provided by
722 basin boards and regional water supply authorities.

723 Section 12. Section 373.2234, Florida Statutes, is created
724 to read:

725 373.2234 Preferred water supply sources.--The governing
726 board of the district is authorized to adopt rules identifying
727 preferred water supply sources for which there is sufficient
728 data to establish that the source can be used to provide a
729 substantial new water supply to meet existing and reasonably
730 anticipated water needs in a water supply planning region
731 identified pursuant to s. 373.0361(1) while sustaining the water
732 resources and related natural systems. Such rules shall, at a
733 minimum, contain a description of the source and an assessment
734 of the water the source is projected to produce. If a
735 consumptive use permit applicant proposes to use such a source
736 consistent with the assessment, the proposed use shall be
737 subject to the provisions of s. 373.223(1), but such proposed
738 use shall be a factor deemed to be consistent with the public
739 interest pursuant to s. 373.223(1)(c). A consumptive use permit
740 issued approving the use of such a source shall be for at least
741 20 years and may be subject to the provisions of s. 373.226(3).
742 However, nothing in this section shall be construed to provide
743 that the use of nonpreferred sources must receive a permit
744 duration of less than 20 years or that such nonpreferred sources
745 are not consistent with the public interest.

746 Section 13. Paragraph (c) is added to subsection (2) of
747 section 373.250, Florida Statutes, to read:

748 373.250 Reuse of reclaimed water.--

749 (2)

750 (c) A water management district may require the use of



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751 reclaimed water in lieu of surface water or groundwater when the
 752 use of uncommitted reclaimed water is environmentally,
 753 economically, and technically feasible. However, while
 754 recognizing that the state's surface water and groundwater are
 755 public resources, nothing in this paragraph shall be construed
 756 to give a water management district the authority to require a
 757 provider of reclaimed water to redirect reclaimed water from one
 758 user to another or to provide uncommitted water to a specific
 759 user if such water is anticipated to be used by the provider, or
 760 a different user selected by the provider, within a reasonable
 761 amount of time.

762 Section 14. Paragraph (a) of subsection (6) of section
 763 373.536, Florida Statutes, is amended to read:

764 373.536 District budget and hearing thereon.--

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

767 (a) Each district must, by the date specified for each
 768 item, furnish copies of the following documents to the Governor,
 769 the President of the Senate, the Speaker of the House of
 770 Representatives, the chairs of all legislative committees and
 771 subcommittees having substantive or fiscal jurisdiction over the
 772 districts, as determined by the President of the Senate or the
 773 Speaker of the House of Representatives as applicable, the
 774 secretary of the department, and the governing board of each
 775 county in which the district has jurisdiction or derives any
 776 funds for the operations of the district:

777 1. The adopted budget, to be furnished within 10 days
 778 after its adoption.

779 2. A financial audit of its accounts and records, to be
 780 furnished within 10 days after its acceptance by the governing



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781 board. The audit must be conducted in accordance with the
782 provisions of s. 11.45 and the rules adopted thereunder. In
783 addition to the entities named above, the district must provide
784 a copy of the audit to the Auditor General within 10 days after
785 its acceptance by the governing board.

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

791 4. A 5-year water resource development work program to be
792 furnished within 45 days after the adoption of the final budget.
793 The program must describe the district's implementation strategy
794 for the water resource development component of each approved
795 regional water supply plan developed or revised under s.
796 373.0361. The work program must address all the elements of the
797 water resource development component in the district's approved
798 regional water supply plans and must identify which projects in
799 the work program will provide water, explain how each water
800 resource development project will produce additional water
801 available for consumptive uses, estimate the quantity of water
802 to be produced by each project, and provide an assessment of the
803 contribution of the district's regional water supply plans in
804 providing sufficient water to meet the water supply needs of
805 existing and future reasonable-beneficial uses for a 1-in-10-
806 year drought event. Within 45 days after its submittal, the
807 department shall review the proposed work program and submit its
808 findings, questions, and comments to the district. The review
809 must include a written evaluation of the program's consistency
810 with the furtherance of the district's approved regional water



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811 supply plans, and the adequacy of proposed expenditures. As part
812 of the review, the department shall give interested parties the
813 opportunity to provide written comments on each district's
814 proposed work program. Within 60 days after receipt of the
815 department's evaluation, the governing board shall state in
816 writing to the department which changes recommended in the
817 evaluation it will incorporate into its work program or specify
818 the reasons for not incorporating the changes. The department
819 shall include the district's responses in a final evaluation
820 report and shall submit a copy of the report to the Governor,
821 the President of the Senate, and the Speaker of the House of
822 Representatives.

823 (b) If any entity listed in paragraph (a) provides written
824 comments to the district regarding any document furnished under
825 this subsection, the district must respond to the comments in
826 writing and furnish copies of the comments and written responses
827 to the other entities.

828 Section 15. Landscape irrigation design.--

829 (1) The Legislature finds that multiple areas throughout
830 the state have been identified by water management districts as
831 water resource caution areas, which indicates that in the near
832 future water demand in those areas will exceed the current
833 available water supply and that conservation is one of the
834 mechanisms by which future water demand will be met.

835 (2) The Legislature finds that landscape irrigation
836 comprises a significant portion of water use and that the
837 current typical landscape irrigation system and xeriscape
838 designs offer significant potential water conservation benefits.

839 (3) It is the intent of the Legislature to improve
840 landscape irrigation water use efficiency by ensuring landscape



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841 irrigation systems meet or exceed minimum design criteria.

842 (4) The water management districts shall develop and adopt
843 by rule landscape irrigation and xeriscape design standards for
844 new construction that incorporate a landscape irrigation system.
845 The standards shall be based on the irrigation code defined in
846 the Florida Building Code, Plumber's Volume, Appendix F. Such
847 design standards should promote the effective and efficient use
848 of irrigation water and include a consideration of local
849 demographic, hydrologic, and other considerations as they apply
850 to landscape irrigation water use. When adopting an ordinance or
851 regulation, local governments shall use these approved
852 irrigation design standards.

853 (5) The water management districts shall work with the
854 Florida Chapter of the American Society of Landscape Architects,
855 the Florida Irrigation Society, the Florida Nurserymen and
856 Growers Association, the Department of Agriculture and Consumer
857 Services, the Institute of Food and Agricultural Sciences, the
858 Department of Environmental Protection, the Florida League of
859 Cities, and the Florida Association of Counties to develop
860 scientifically based model guidelines for urban, commercial, and
861 residential landscape irrigation, including drip irrigation, for
862 plants, trees, sod, and other landscaping. Local governments
863 shall use the scientific information when developing landscape
864 irrigation ordinances or guidelines. Every 3 years, the
865 agencies and entities specified in this subsection shall review
866 the model guidelines to determine whether new research findings
867 require a change or modification of the guidelines.

868 Section 16. Paragraph (g) is added to subsection (1) of
869 section 378.212, Florida Statutes, to read:

870 378.212 Variances.--



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

875 (g) To accommodate reclamation that provides water supply
876 development or water resource development not inconsistent with
877 the applicable regional water supply plan approved pursuant to
878 s. 373.0361, provided adverse impacts are not caused to the
879 water resources in the basin. A variance may also be granted
880 from the requirements of part IV of chapter 373, or the rules
881 adopted thereunder, when a project provides an improvement in
882 water availability in the basin and does not cause adverse
883 impacts to water resources in the basin.

884 Section 17. Subsection (9) is added to section 378.404,
885 Florida Statutes, to read:

886 378.404 Department of Environmental Protection; powers and
887 duties.--The department shall have the following powers and
888 duties:

889 (9) To grant variances from the provisions of this part to
890 accommodate reclamation that provides for water supply
891 development or water resource development not inconsistent with
892 the applicable regional water supply plan approved pursuant to
893 s. 373.0361, appropriate stormwater management, improved
894 wildlife habitat, recreation, or a mixture thereof, provided
895 adverse impacts are not caused to the water resources in the
896 basin and public health and safety are not adversely affected.

897 Section 18. Subsections (1) and (6) of section 403.064,
898 Florida Statutes, are amended, and subsection (16) is added to
899 said section, to read:

900 403.064 Reuse of reclaimed water.--



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901 (1) The encouragement and promotion of water conservation,
 902 and reuse of reclaimed water, as defined by the department, are
 903 state objectives and are considered to be in the public
 904 interest. The Legislature finds that the reuse of reclaimed
 905 water is a critical component of meeting the state's existing
 906 and future water supply needs while sustaining natural systems.
 907 The Legislature further finds that for those wastewater
 908 treatment plants permitted and operated under an approved reuse
 909 program by the department, the reclaimed water shall be
 910 considered environmentally acceptable and not a threat to public
 911 health and safety. The Legislature encourages the development of
 912 incentive-based programs for reuse implementation.

913 (6) A reuse feasibility study prepared under subsection(2)
 914 satisfies a water management district requirement to conduct a
 915 reuse feasibility study imposed on a local government or utility
 916 that has responsibility for wastewater management. The data
 917 included in the study and the study's conclusions shall be given
 918 significant consideration by the applicant and the appropriate
 919 water management district in an analysis of the economic,
 920 environmental, and technical feasibility of providing reclaimed
 921 water for reuse under part II of chapter 373 and shall be
 922 presumed relevant to the determination of feasibility. A water
 923 management district shall not require a separate study when a
 924 reuse feasibility study has been completed under subsection (2).

925 (16) Utilities implementing reuse projects are encouraged,
 926 except in the case of use by electric utilities as defined in s.
 927 366.02(2), to meter use of reclaimed water by all end users and
 928 to charge for the use of reclaimed water based on the actual
 929 volume used when such metering and charges can be shown to
 930 encourage water conservation. Metering and the use of volume-



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931 based rates are effective water management tools for the
 932 following reuse activities: residential irrigation, agricultural
 933 irrigation, industrial uses, golf course irrigation, landscape
 934 irrigation, irrigation of other public access areas, commercial
 935 and institutional uses such as toilet flushing, and transfers to
 936 other reclaimed water utilities. Beginning with the submittal
 937 due on January 1, 2004, each domestic wastewater utility that
 938 provides reclaimed water for the reuse activities listed in this
 939 section shall include a summary of its metering and rate
 940 structure as part of its annual reuse report to the department.

941 Section 19. Paragraph (b) of subsection (3) of section
 942 403.1835, Florida Statutes, is amended, and subsection (12) is
 943 added to said section, to read:

944 403.1835 Water pollution control financial assistance.--

945 (3) The department may provide financial assistance
 946 through any program authorized under s. 603 of the Federal Water
 947 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as
 948 amended, including, but not limited to, making grants and loans,
 949 providing loan guarantees, purchasing loan insurance or other
 950 credit enhancements, and buying or refinancing local debt. This
 951 financial assistance must be administered in accordance with
 952 this section and applicable federal authorities. The department
 953 shall administer all programs operated from funds secured
 954 through the activities of the Florida Water Pollution Control
 955 Financing Corporation under s. 403.1837, to fulfill the purposes
 956 of this section.

957 (b) The department may make or request the corporation to
 958 make loans, grants, and deposits to other entities eligible to
 959 participate in the financial assistance programs authorized
 960 under the Federal Water Pollution Control Act, or as a result of



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961 other federal action, which entities may pledge any revenue
962 available to them to repay any funds borrowed. Notwithstanding
963 s. 18.10, the department may make deposits to financial
964 institutions that earn less than the prevailing rate for United
965 States Treasury securities with corresponding maturities for the
966 purpose of enabling such financial institutions to make below-
967 market interest rate loans to entities qualified to receive
968 loans under this section and the rules of the department.

969 (12)(a) It is the intent of the Legislature that for each
970 reclaimed water utility or any other utility that receives funds
971 pursuant to this subsection, the appropriate rate-setting
972 authorities shall develop rate structures for all water,
973 wastewater, and reclaimed water and other alternative water
974 supply utilities in the service area of the funded utility which
975 accomplish the following:

976 1. Provide meaningful progress toward the development and
977 implementation of alternative water supply systems, including
978 reclaimed water systems.

979 2. Promote the conservation of fresh water withdrawn from
980 natural systems.

981 3. Provide for an appropriate distribution of costs for
982 all water, wastewater, and alternative water supply utilities,
983 including reclaimed water utilities, among all of the users of
984 those utilities.

985 (b) Funding assistance provided for a water reuse system
986 project shall include the following loan conditions for that
987 project when such conditions will encourage water use
988 efficiency:

989 1. Metering of reclaimed water use for the following
990 activities: residential irrigation, agricultural irrigation,



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991 industrial uses except for electric utilities as defined in s.
992 366.02(2), golf course irrigation, landscape irrigation,
993 irrigation of other public access areas, and commercial uses.

994 2. Implementation of reclaimed water rate structures based
995 on actual use of reclaimed water for the reuse types listed in
996 subparagraph 1.

997 3. Implementation of education programs to inform the
998 public about water issues, water conservation, and the
999 importance and proper use of reclaimed water.

1000 Section 20. The Legislature finds that, within the area
1001 identified in the Lower East Coast Regional Water Supply Plan
1002 approved by the South Florida Water Management District pursuant
1003 to s. 373.0361, Florida Statutes, the groundwater levels can
1004 benefit from augmentation. The Legislature finds that the direct
1005 or indirect discharge of reclaimed water into canals and the
1006 aquifer system for transport and subsequent reuse may provide an
1007 environmentally acceptable means to augment water supplies and
1008 enhance natural systems; however, the Legislature also
1009 recognizes that there are water quality and water quantity
1010 issues that must be better understood and resolved. In addition,
1011 there are cost savings possible by collocating enclosed conduits
1012 for conveyance of water for reuse in this area within canal
1013 rights-of-way that should be investigated. Toward that end, the
1014 Department of Environmental Protection, in consultation with the
1015 South Florida Water Management District, Southeast Florida
1016 utilities, affected local governments, including local
1017 governments with principal responsibility for the operation and
1018 maintenance of a water control system capable of conveying
1019 reclaimed wastewater for reuse, representatives of the
1020 environmental and engineering communities, public health



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1021 professionals, and individuals having expertise in water
1022 quality, shall conduct a study to investigate the feasibility of
1023 discharging reclaimed wastewater into canals and the aquifer
1024 system as an environmentally acceptable means of augmenting
1025 groundwater supplies, enhancing natural systems, and conveying
1026 reuse water within enclosed conduits within the canal right-of-
1027 way. The study shall include an assessment of the water quality,
1028 water supply, public health, technical, and legal implications
1029 related to the canal discharge and collocation concepts. The
1030 department shall issue a preliminary written report containing
1031 draft findings and recommendations for public comment by
1032 November 1, 2003. The department shall provide a written report
1033 on the results of its study to the Governor and the relevant
1034 substantive committees of the House of Representatives and the
1035 Senate by January 31, 2004. Nothing in this section shall be
1036 used to alter the purpose of the Comprehensive Everglades
1037 Restoration Plan or the implementation of the Water Resources
1038 Development Act of 2000.

1039 Section 21. If any provision of this act or the
1040 application thereof to any person or circumstance is held
1041 invalid, the invalidity does not affect other provisions or
1042 applications of this act which can be given effect without the
1043 invalid provision or application, and to this end the provisions
1044 of this act are declared severable.

1045 Section 22. Private property rights and regional
1046 reservoirs.--

1047 (1) The Legislature finds that construction of a regional
1048 reservoir designed to store more than 10 billion gallons of
1049 water may inordinately burden nearby real property because of
1050 the proximity of the reservoir and may result in a loss of value



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1051 for the property owner. Therefore, a regional water supply
1052 authority, serving three or fewer counties, that is authorized
1053 to construct, operate, and maintain such a regional reservoir
1054 shall be deemed a governmental entity under s. 70.001, Florida
1055 Statutes, the Bert J. Harris, Jr., Private Property Rights
1056 Protection Act, for purposes of this section.

1057 (2) This section provides a cause of action for the
1058 actions of a regional water supply authority, in siting and
1059 constructing a reservoir as described in subsection (1), that
1060 may not rise to the level of a taking under the State
1061 Constitution or the United States Constitution. This section may
1062 not necessarily be construed under the case law regarding
1063 takings if the action of a regional water supply authority does
1064 not rise to the level of a taking. The provisions of this
1065 section are cumulative and do not abrogate any other remedy
1066 lawfully available, including any remedy lawfully available for
1067 the actions of a regional water supply authority that rise to
1068 the level of a taking.

1069 (3) Each owner of real property located within 10,000 feet
1070 of the center of the footprint of a regional reservoir, as
1071 described in subsection (1), or 5,500 feet from the exterior of
1072 the berm of such reservoir, may present a claim for compensation
1073 in writing to the head of the regional water supply authority on
1074 or before December 31, 2004, for a loss in property value
1075 resulting from the proximity of the reservoir. For each claim
1076 presented under this section, s. 70.001, Florida Statutes,
1077 applies, except, when there is conflict with this section, the
1078 provisions of this section shall govern.

1079 (a) The property owner must submit along with the claim a
1080 bona fide, valid appraisal that supports the claim and



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1081 demonstrates the loss in property value to the real property.

1082 (b) A claim under this section shall be presented only to
1083 the regional water supply authority that is authorized to
1084 construct, operate, and maintain the reservoir.

1085 (4) The Legislature recognizes that construction and
1086 maintenance of a regional reservoir may not necessarily
1087 interfere with allowable uses of real property near the
1088 reservoir. However, the siting and construction of the reservoir
1089 may result in an actual loss in property value of real property
1090 located within 10,000 feet of the center of the footprint of the
1091 reservoir, or 5,500 feet from the exterior of the berm, because
1092 of the proximity of the reservoir. Therefore, any offer of
1093 compensation by the regional water supply authority shall be
1094 based solely on the loss in property value for the property
1095 owner as a result of the proximity of the reservoir and not on
1096 the effects the reservoir has on existing uses or on a vested
1097 right to a specific use of real property.

1098 (a) Notwithstanding s. 70.001, Florida Statutes, the
1099 regional water supply authority to whom a claim is presented
1100 shall, not later than 180 days after receiving such claim:

1101 1. Make a written offer to purchase the real property if
1102 there is more than a 50-percent loss in value to the real
1103 property as a result of the proximity of the reservoir and if
1104 the property owner is a willing seller;

1105 2. Make a written offer to purchase an interest in rights
1106 of use which may become transferable development rights to be
1107 held, sold, or otherwise disposed of by the regional water
1108 supply authority; or

1109 3. Terminate negotiations.

1110 (b) An offer by the regional water supply authority to



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1111 purchase the property in fee or purchase an interest in rights
 1112 of use under this section shall cover the cost of the appraisal
 1113 required in subsection (3).

1114 (5) During the 180-day period, unless the property owner
 1115 accepts a written offer for purchase pursuant to subparagraph
 1116 (4)(a)1. or 2., the regional water supply authority shall issue
 1117 a final decision stating that:

1118 (a) The real property has a loss in property value due to
 1119 an inordinate burden on the property resulting from the
 1120 proximity of the reservoir and the regional water supply
 1121 authority and property owner cannot reach agreement on the
 1122 amount of compensation; or

1123 (b) The property owner has failed to establish a basis for
 1124 relief under the provisions of this section and s. 70.001,
 1125 Florida Statutes.

1126
 1127 Failure of the regional water supply authority to issue a final
 1128 decision as required by this subsection shall cause the written
 1129 offer or termination of negotiations required in subsection (4)
 1130 to operate as a final decision. As a matter of law, this final
 1131 decision constitutes the last prerequisite to judicial review of
 1132 the merits for the purposes of the judicial proceeding provided
 1133 for in s. 70.001, Florida Statutes.

1134 (6) The circuit court, for purposes of this section, shall
 1135 determine whether, considering the written offer and final
 1136 decision, the regional water supply authority has inordinately
 1137 burdened the subject real property. Following a determination
 1138 that the regional water supply authority has inordinately
 1139 burdened the real property, the court shall impanel a jury to
 1140 determine the total amount of compensation to the property owner



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1141 for the loss in property value due to the inordinate burden to
1142 the subject real property.

1143 (7) Pursuant to s. 70.001, Florida Statutes, the court may
1144 award reasonable costs and attorney's fees and the court shall
1145 determine the amount. If the court awards the property owner
1146 reasonable costs and attorney's fees, the costs shall include
1147 the cost of the appraisal required in subsection (3).

1148 (8) This section shall take effect July 1, 2003, or upon
1149 becoming a law, whichever occurs later, and is repealed
1150 effective January 1, 2005. However, the repeal of this section
1151 shall not affect a claim filed on or before December 31, 2004.

1152 Section 23. If any law amended by this act was also
1153 amended by a law enacted at the 2003 Regular Session of the
1154 Legislature or at the 2003 Special Session A of the Legislature,
1155 such laws shall be construed as if they had been enacted at the
1156 same session of the Legislature, and full effect shall be given
1157 to each if possible.

1158 Section 24. Except as otherwise provided herein, this act
1159 shall take effect upon becoming a law and shall apply to all
1160 contracts pending on that date.