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A bill to be entitled

An act relating to water resources; amending s. 159.803, F.S.; revising the definition of "priority project"; amending s. 163.3167, F.S.; requiring local governments to include projected water use in comprehensive plans; amending s. 367.081, F.S.; revising procedure for fixing and changing rates to include the recovery of costs of alternative water supply facilities; amending s. 367.0814, F.S.; revising limit on the amount of revenues received by a utility to qualify for staff assistance in changing rates or charges; creating s. 373.227, F.S.; providing for the development of a water conservation guidance manual by the Department of Environmental Protection; providing for purpose and contents of the manual and requirements with respect thereto; requiring the Department of Environmental Protection to adopt the manual by rule by a specified date; providing program requirements for public water supply utilities that choose to design a comprehensive water conservation program based on the water conservation guidance manual; amending s. 373.0361, F.S.; providing for a public workshop on the development of regional water supply plans that include the consideration of population projections; providing for a list of water source options in regional water supply plans; providing additional regional water supply plan components; including conservation measures in regional water supply plans; revising specified reporting requirements of the Department of Environmental Protection; providing that a district water management plan may not be used as criteria for the review of permits for consumptive uses of water

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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. 373.116, F.S.;
 39 providing that specified notice of application for a
 40 consumptive use permit may be transmitted by electronic
 41 mail; amending s. 373.1961, F.S.; removing obsolete
 42 language; providing funding priority; providing for the
 43 establishment of a revolving loan fund for alternative
 44 water supply projects; providing conditions for certain
 45 projects to receive funding assistance; amending s.
 46 373.1963, F.S.; prohibiting the West Coast Regional Water
 47 Supply Authority from seeking permits from the Southwest
 48 Florida Water Management District for the consumptive use
 49 of water from groundwater in a specified area; amending s.
 50 373.223, F.S.; requiring the Department of Environmental
 51 Protection and the water management districts to submit
 52 specified recommendations to the Legislature; creating s.
 53 373.2234, F.S.; authorizing the governing board of a water
 54 management district to adopt rules identifying certain
 55 preferred water supply sources; providing requirements
 56 with respect to such rules; providing construction;
 57 amending s. 373.250, F.S.; authorizing water management
 58 districts to require the use of reclaimed water in lieu of
 59 surface or groundwater when the use of uncommitted
 60 reclaimed water is environmentally, economically, and

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61 technically feasible; providing construction with respect
62 to such authority; amending s. 373.536, F.S.; expanding
63 requirements of the 5-year water resource development work
64 program for water management districts; providing
65 legislative findings and intent with regard to landscape
66 irrigation design; requiring water management districts to
67 develop landscape irrigation and xeriscape design
68 standards; amending s. 378.212, F.S.; providing for the
69 granting of a variance from pt. III of ch. 378, F.S.,
70 relating to phosphate land reclamation, for specified
71 reclamation, and from pt. IV of ch. 373, for certain
72 projects under described circumstances; amending s.
73 378.404, F.S.; authorizing the department to grant
74 variances from the provisions of pt. IV of ch. 378 to
75 accommodate reclamation that provides for water supply
76 development or water resource development under specified
77 circumstances; amending s. 403.064, F.S.; revising
78 provisions relating to reuse feasibility studies;
79 providing for metering use of reclaimed water and volume-
80 based rates therefor; requiring wastewater utilities to
81 submit plans for metering use and volume-based rate
82 structures to the department; amending s. 403.1835, F.S.;
83 authorizing the Department of Environmental Protection to
84 make specified deposits for the purpose of enabling below-
85 market interest rate loans for treatment of polluted
86 water; providing for development of rate structures for
87 alternative water supply systems; providing criteria;
88 providing for a study of the feasibility of discharging
89 reclaimed wastewater into canals and the aquifer system in
90 a specified area as an environmentally acceptable means of

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91 | accomplishing described objectives; requiring reports;
 92 | providing severability; providing effective dates.

93 |

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

95 |

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

98 | 159.803 Definitions.--As used in this part, the term:

99 | (5) "Priority project" means a solid waste disposal
 100 | facility or a sewage facility, as such terms are defined in s.
 101 | 142 of the Code, or water facility, as defined in s. 142 of the
 102 | Code, which is operated by a member-owned, not-for-profit
 103 | utility, or any project which is to be located in an area which
 104 | is an enterprise zone designated pursuant to s. 290.0065.

105 | Section 2. Subsection (13) is added to section 163.3167,
 106 | Florida Statutes, to read:

107 | 163.3167 Scope of act.--

108 | (13) Each local government shall address in its
 109 | comprehensive plan, as enumerated in this chapter, the water
 110 | supply projects necessary to meet and achieve the existing and
 111 | projected water use demand for the established planning period,
 112 | considering the applicable plan developed pursuant to s.
 113 | 373.0361.

114 | Section 3. Subsection (2) of section 367.081, Florida
 115 | Statutes, is amended to read:

116 | 367.081 Rates; procedure for fixing and changing.--

117 | (2)(a)1. The commission shall, either upon request or upon
 118 | its own motion, fix rates which are just, reasonable,
 119 | compensatory, and not unfairly discriminatory. In every such
 120 | proceeding, the commission shall consider the value and quality

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121 of the service and the cost of providing the service, which
 122 shall include, but not be limited to, debt interest; the
 123 requirements of the utility for working capital; maintenance,
 124 depreciation, tax, and operating expenses incurred in the
 125 operation of all property used and useful in the public service;
 126 and a fair return on the investment of the utility in property
 127 used and useful in the public service. Pursuant to s.
 128 373.1961(2)(1), the commission shall allow recovery of the full,
 129 prudently incurred costs of alternative water supply facilities.
 130 However, the commission shall not allow the inclusion of
 131 contributions-in-aid-of-construction in the rate base of any
 132 utility during a rate proceeding, nor shall the commission
 133 impute prospective future contributions-in-aid-of-construction
 134 against the utility's investment in property used and useful in
 135 the public service; and accumulated depreciation on such
 136 contributions-in-aid-of-construction shall not be used to reduce
 137 the rate base, nor shall depreciation on such contributed assets
 138 be considered a cost of providing utility service.

139 2. For purposes of such proceedings, the commission shall
 140 consider utility property, including land acquired or facilities
 141 constructed or to be constructed within a reasonable time in the
 142 future, not to exceed 24 months after the end of the historic
 143 base year used to set final rates unless a longer period is
 144 approved by the commission, to be used and useful in the public
 145 service, if:

- 146 a. Such property is needed to serve current customers;
- 147 b. Such property is needed to serve customers 5 years
- 148 after the end of the test year used in the commission's final
- 149 order on a rate request as provided in subsection(6) at a growth

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150 rate for equivalent residential connections not to exceed 5
 151 percent per year; or

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

157
 158 Notwithstanding the provisions of this paragraph, the commission
 159 shall approve rates for service which allow a utility to recover
 160 from customers the full amount of environmental compliance
 161 costs. Such rates may not include charges for allowances for
 162 funds prudently invested or similar charges. For purposes of
 163 this requirement, the term "environmental compliance costs"
 164 includes all reasonable expenses and fair return on any prudent
 165 investment incurred by a utility in complying with the
 166 requirements or conditions contained in any permitting,
 167 enforcement, or similar decisions of the United States
 168 Environmental Protection Agency, the Department of Environmental
 169 Protection, a water management district, or any other
 170 governmental entity with similar regulatory jurisdiction.

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

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

177 367.0814 Staff assistance in changing rates and charges;
 178 interim rates.--

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179 (1) The commission may establish rules by which a water or
180 wastewater utility whose gross annual revenues are \$200,000
181 ~~\$150,000~~ or less may request and obtain staff assistance for the
182 purpose of changing its rates and charges. A utility may request
183 staff assistance by filing an application with the commission.

184 Section 5. Section 373.227, Florida Statutes, is created
185 to read:

186 373.227 Water conservation guidance manual.--

187 (1) The Legislature recognizes that the proper
188 conservation of water is an important means of achieving the
189 economical and efficient utilization of water necessary to
190 constitute a reasonable-beneficial use. The Legislature
191 encourages the development and use of water conservation
192 measures that are effective, flexible, and affordable. In the
193 context of the use of water for public supply provided by a
194 water utility, the Legislature intends for a variety of
195 conservation measures to be available and used to encourage
196 efficient water use. The Legislature finds that the social,
197 economic, and cultural conditions of this state relating to the
198 use of public water supply vary by geographic region, and thus
199 water utilities must have the flexibility to tailor water
200 conservation measures to best suit their individual
201 circumstances. For purposes of this section, the term "public
202 water supply utility" shall include both publicly owned and
203 privately owned public water supply utilities.

204 (2) In order to implement the findings in subsection (1),
205 the Department of Environmental Protection shall develop a water
206 conservation guidance manual containing a menu of water
207 conservation measures from which public water supply utilities
208 may select in the development of a comprehensive, goal-based

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209 water conservation program tailored for their individual service
 210 areas that is effective and does not impose undue costs or
 211 burdens on customers. The water conservation guidance manual
 212 shall promote statewide consistency in the approach to utility
 213 conservation while maintaining appropriate flexibility. The
 214 manual may contain measures such as: water conservation audits,
 215 informative billing practices to educate customers on their
 216 patterns of water use, the costs of water, and ways to conserve
 217 water; ordinances requiring low-flow plumbing fixtures and
 218 efficient landscape irrigation; rebate programs for the
 219 installation of water-saving plumbing or appliances; general
 220 water conservation educational programs, including bill inserts;
 221 measures to promote the more effective and efficient reuse of
 222 reclaimed water; water conservation or drought rate structures
 223 that encourage customers to conserve water through appropriate
 224 price signals; and programs to apply utility profits generated
 225 through conservation and drought rates to additional water
 226 conservation programs or water supply development. The manual
 227 shall specifically state that it is the responsibility of the
 228 appropriate utility to determine the specific rates it will
 229 charge its customers and that the role of the department or
 230 water management district is confined to the review of those
 231 rate structures to determine whether they encourage water
 232 conservation. The water conservation guidance manual shall also
 233 state that a utility need not adopt a water conservation or
 234 drought rate structure if the utility employs other measures
 235 that are equally or more effective. The manual shall provide for
 236 different levels of complexity and expected levels of effort in
 237 conservation programs depending on the size of the utility.

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238 However, all utilities will be expected to have at least basic
 239 programs in each of the following areas:

240 (a) Individual metering, to the extent feasible as
 241 determined by the utility.

242 (b) Water accounting and loss control.

243 (c) Cost-of-service accounting.

244 (d) Information programs on water conservation.

245 (e) Landscaping water efficiency programs.

246 (3) The Department of Environmental Protection shall
 247 develop the water conservation guidance manual no later than
 248 June 15, 2005. The department shall develop the manual in
 249 consultation with interested parties, which, at a minimum, shall
 250 include representatives from the water management districts,
 251 three utilities that are members of the American Water Works
 252 Association, two utilities that are members of the Florida Water
 253 Environment Association, a representative of the Florida Chamber
 254 of Commerce, representatives of counties and municipalities, and
 255 representatives of environmental organizations. By December 15,
 256 2005, the department shall adopt the water conservation guidance
 257 manual by rule. Once the department adopts the water
 258 conservation guidance manual by rule, the water management
 259 districts may apply the manual and any revisions thereto in the
 260 review of water conservation requirements for obtaining a permit
 261 pursuant to part II without the need to adopt the manual
 262 pursuant to s. 120.54. Once the water conservation guidance
 263 manual is adopted by rule, a public water supply utility may
 264 choose to comply with the standard water conservation
 265 requirements adopted by the appropriate water management
 266 district for obtaining a consumptive use permit from that
 267 district, or may choose to develop a comprehensive, goal-based

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268 water conservation program from the options contained in the
269 manual. If the utility chooses to design a comprehensive water
270 conservation program based on the water conservation guidance
271 manual, the proposed program must include the following:

272 (a) An inventory of water system characteristics and
273 conservation opportunities.

274 (b) Demand forecasts.

275 (c) An explanation of the proposed program.

276 (d) Specific numeric water conservation targets for the
277 utility as a whole and for appropriate customer classes, with a
278 justification of why the numeric targets are appropriate based
279 on that utility's particular customer characteristics and
280 conservation opportunities.

281 (e) A demonstration that the program will promote
282 effective water conservation at least as well as standard water
283 use conservation requirements adopted by the appropriate water
284 management district.

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

288 (4) If the utility provides reasonable assurance that the
289 proposed conservation program is consistent with the water
290 conservation guidance manual and contains the elements specified
291 in subsection (3), then the water management district shall
292 approve the proposed program and the program shall satisfy water
293 conservation requirements imposed as a condition of obtaining a
294 permit under part II. The department, in consultation with the
295 parties specified in subsection (3), may periodically amend or
296 revise the water conservation guidance manual rule as
297 appropriate to reflect changed circumstances or new technologies

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298 or approaches. The findings and provisions in this section shall
 299 not be construed to apply to users of water other than public
 300 and private water supply utilities.

301 Section 6. Subsections (1), (2), (5), and (6) of section
 302 373.0361, Florida Statutes, are amended to read:

303 373.0361 Regional water supply planning.--

304 (1) By October 1, 1998, the governing board shall initiate
 305 water supply planning for each water supply planning region
 306 identified in the district water management plan under s.
 307 373.036, where it determines that sources of water are not
 308 adequate for the planning period to supply water for all
 309 existing and projected reasonable-beneficial uses and to sustain
 310 the water resources and related natural systems. The planning
 311 must be conducted in an open public process, in coordination and
 312 cooperation with local governments, regional water supply
 313 authorities, government-owned and privately owned water
 314 utilities, self-suppliers, and other affected and interested
 315 parties. During development, but prior to completion of the
 316 regional water supply plan, the district must conduct at least
 317 one public workshop to discuss the technical data and modeling
 318 tools anticipated to be used to support the plan. A
 319 determination by the governing board that initiation of a
 320 regional water supply plan for a specific planning region is not
 321 needed pursuant to this section shall be subject to s. 120.569.
 322 The governing board shall reevaluate such a determination at
 323 least once every 5 years and shall initiate a regional water
 324 supply plan, if needed, pursuant to this subsection.

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

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328 (a) A water supply development component that includes:
 329 1. A quantification of the water supply needs for all
 330 existing and reasonably projected future uses within the
 331 planning horizon. The level-of-certainty planning goal
 332 associated with identifying the water supply needs of existing
 333 and future reasonable-beneficial uses shall be based upon
 334 meeting those needs for a 1-in-10-year drought event. Population
 335 projections used for determining public water supply needs shall
 336 be based upon the best available data. In determining the best
 337 available data, the district shall consider the University of
 338 Florida's Bureau of Economic and Business Research (BEBR) medium
 339 population projections and any population projection data and
 340 analysis submitted by a local government pursuant to the public
 341 workshop described in subsection (1) when such data and analysis
 342 support the local government's comprehensive plan. Any
 343 adjustment of or deviation from the BEBR projections shall be
 344 fully described and the original BEBR data shall be presented
 345 along with the adjusted data.
 346 2. A list of water source options ~~for water supply~~
 347 ~~development~~, including traditional and alternative source
 348 options ~~sources~~, from which local government, government-owned
 349 and privately owned utilities, self-suppliers, and others may
 350 choose, for water supply development, the total capacity of
 351 which will, in conjunction with water conservation and other
 352 demand management measures, exceed the needs identified in
 353 subparagraph 1.
 354 3. For each option listed in subparagraph 2., the
 355 estimated amount of water available for use and the estimated
 356 costs of and potential sources of funding for water supply
 357 development.

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

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

361 1. A listing of those water resource development projects
 362 that support water supply development.

363 2. For each water resource development project listed:

364 a. An estimate of the amount of water to become available
 365 through the project.

366 b. The timetable for implementing or constructing the
 367 project and the estimated costs for implementing, operating, and
 368 maintaining the project.

369 c. Sources of funding and funding needs.

370 d. Who will implement the project and how it will be
 371 implemented.

372 (c) The recovery and prevention strategy described in s.
 373 373.0421(2).

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

377 (e) Consideration of how the options addressed in
 378 paragraphs (a) and (b) serve the public interest or save costs
 379 overall by preventing the loss of natural resources or avoiding
 380 greater future expenditures for water resource development or
 381 water supply development. However, unless adopted by rule, these
 382 considerations do not constitute final agency action.

383 (f) The technical data and information applicable to the
 384 planning region which are contained in the district water
 385 management plan and are necessary to support the regional water
 386 supply plan.

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

389 (h) Reservations of water adopted by rule pursuant to s.
 390 373.223(4).

391 (i) An analysis, developed in cooperation with the
 392 department, of areas or instances in which the variance
 393 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
 394 create water supply development or water resource development
 395 projects.

396
 397 Within boundaries of a regional water supply authority, those
 398 parts of the water supply development component of the regional
 399 water supply plan which deal with or affect public utilities and
 400 public water supply shall be developed jointly by such authority
 401 and the district for those areas served by the authority and its
 402 member governments.

403 (5) ~~By November 15, 1997, and~~ Annually and in conjunction
 404 with the reporting requirements of s. 373.536(6)(a)4.

405 ~~thereafter~~, the department shall submit to the Governor and the
 406 Legislature a report on the status of regional water supply
 407 planning in each district. The report shall include:

408 (a) A compilation of the estimated costs of and potential
 409 sources of funding for water resource development and water
 410 supply development projects, as identified in the water
 411 management district regional water supply plans.

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

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

420 (6) Nothing contained in the water supply development
 421 component of the district water management plan shall be
 422 construed to require local governments, government-owned or
 423 privately owned water utilities, self-suppliers, or other water
 424 suppliers to select a water supply development option identified
 425 in the component merely because it is identified in the plan,
 426 nor may the plan be used in the review of permits under part II
 427 unless the plan, or an applicable portion thereof, has been
 428 adopted by rule. However, this subsection does not prohibit a
 429 water management district from employing the data or other
 430 information used to establish the plan in reviewing permits
 431 under part II, nor shall it ~~not~~ be construed to limit the
 432 authority of the department or governing board under part II.

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

436 373.0831 Water resource development; water supply
 437 development.--

438 (3) The water management districts shall fund and
 439 implement water resource development as defined in s. 373.019.
 440 The water management districts are encouraged to implement water
 441 resource development as expeditiously as possible in areas
 442 subject to regional water supply plans. Each governing board
 443 shall include in its annual budget the amount needed for the
 444 fiscal year to implement water resource development projects, as
 445 prioritized in its regional water supply plans.

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446 (4)

447 (c) If a proposed alternative water supply development
 448 project is identified in the relevant approved regional water
 449 supply plan, the project shall receive:

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

453 2. Priority funding pursuant to s. 373.1961(2) if the
 454 project meets one of the criteria in this subsection.

455 Section 8. Section 373.116, Florida Statutes, is amended
 456 to read:

457 373.116 Procedure for water use and impoundment
 458 construction permit applications.--

459 (1) Applications for water use permits, under part II of
 460 this chapter; for permits for construction or alteration of
 461 dams, impoundments, reservoirs, and appurtenant works, under
 462 part IV of this chapter; and for permits under s. 403.812 shall
 463 be filed with the water management district on appropriate forms
 464 provided by the governing board.

465 (2) Upon receipt of an application for a permit of the
 466 type referred to in subsection (1), the governing board shall
 467 cause a notice thereof to be published in a newspaper having
 468 general circulation within the affected area. In addition, the
 469 governing board shall send, by regular or electronic mail, a
 470 copy of such notice to any person who has filed a written
 471 request for notification of any pending applications affecting
 472 this particular designated area. Notice of application for the
 473 consumptive use of water shall be mailed by regular or
 474 electronic mail to the county and appropriate city government
 475 from which boundaries the withdrawal is proposed to be made.

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476 (3) All permits issued under this section shall include
 477 the following language:

478
 479 This permit does not convey to the permittee any property rights
 480 or privileges other than those specified herein, nor relieve the
 481 permittee from complying with any applicable local government,
 482 state, or federal law, rule, or ordinance.

483 Section 9. Subsection (2) of section 373.1961, Florida
 484 Statutes, is amended to read:

485 373.1961 Water production.--

486 (2) The Legislature finds that, due to a combination of
 487 factors, vastly increased demands have been placed on natural
 488 supplies of fresh water, and that, absent increased development
 489 of alternative water supplies, such demands may increase in the
 490 future. The Legislature also finds that potential exists in the
 491 state for the production of significant quantities of
 492 alternative water supplies, including reclaimed water, and that
 493 water production includes the development of alternative water
 494 supplies, including reclaimed water, for appropriate uses. It is
 495 the intent of the Legislature that utilities develop reclaimed
 496 water systems, where reclaimed water is the most appropriate
 497 alternative water supply option, to deliver reclaimed water to
 498 as many users as possible through the most cost-effective means,
 499 and to construct reclaimed water system infrastructure to their
 500 owned or operated properties and facilities where they have
 501 reclamation capability. It is also the intent of the Legislature
 502 that the water management districts which levy ad valorem taxes
 503 for water management purposes should share a percentage of those
 504 tax revenues with water providers and users, including local
 505 governments, water, wastewater, and reuse utilities, municipal,

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506 industrial, and agricultural water users, and other public and
 507 private water users, to be used to supplement other funding
 508 sources in the development of alternative water supplies. The
 509 Legislature finds that public moneys or services provided to
 510 private entities for such uses constitute public purposes which
 511 are in the public interest. In order to further the development
 512 and use of alternative water supply systems, including reclaimed
 513 water systems, the Legislature provides the following:

514 (a) The governing boards of the water management districts
 515 where water resource caution areas have been designated shall
 516 include in their annual budgets an amount for the development of
 517 alternative water supply systems, including reclaimed water
 518 systems, pursuant to the requirements of this subsection.

519 ~~Beginning in 1996,~~ Such amounts shall be made available to water
 520 providers and users ~~no later than December 31 of each year,~~
 521 through grants, matching grants, revolving loans, or the use of
 522 district lands or facilities pursuant to the requirements of
 523 this subsection and guidelines established by the districts. In
 524 making grants or loans, funding priority shall be given to
 525 projects in accordance with s. 373.0831(4). Without diminishing
 526 amounts available through other means described in this
 527 paragraph, the governing boards are encouraged to consider
 528 establishing revolving loan funds to expand the total funds
 529 available to accomplish the objectives of this section. A
 530 revolving loan fund created pursuant to this paragraph shall be
 531 a nonlapsing fund from which the water management district may
 532 make loans with interest rates below prevailing market rates to
 533 public or private entities for the purposes described in this
 534 section. The governing board may adopt resolutions to establish
 535 revolving loan funds which shall specify the details of the

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536 administration of the fund, the procedures for applying for
 537 loans from the fund, the criteria for awarding loans from the
 538 fund, the initial capitalization of the fund, and the goals for
 539 future capitalization of the fund in subsequent budget years.
 540 Revolving loan funds created pursuant to this paragraph shall be
 541 used to expand the total sums and sources of cooperative funding
 542 available for the development of alternative water supplies. The
 543 Legislature does not intend for the creation of revolving loan
 544 trust funds to supplant or otherwise reduce existing sources or
 545 amounts of funds currently available through other means.

546 (b) It is the intent of the Legislature that for each
 547 reclaimed water utility, or any other utility, which receives
 548 funds pursuant to this subsection, the appropriate rate-setting
 549 authorities should develop rate structures for all water,
 550 wastewater, and reclaimed water and other alternative water
 551 supply utilities in the service area of the funded utility,
 552 which accomplish the following:

553 1. Provide meaningful progress toward the development and
 554 implementation of alternative water supply systems, including
 555 reclaimed water systems;

556 2. Promote the conservation of fresh water withdrawn from
 557 natural systems;

558 3. Provide for an appropriate distribution of costs for
 559 all water, wastewater, and alternative water supply utilities,
 560 including reclaimed water utilities, among all of the users of
 561 those utilities; and

562 4. Prohibit rate discrimination within classes of utility
 563 users.

564 (c) Funding assistance provided by the water management
 565 districts for a water reuse system project shall include the

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566 following grant or loan conditions for that project when the
 567 water management district determines such conditions will
 568 encourage water use efficiency:

569 1. Metering of reclaimed water use for the following
 570 activities: residential irrigation, agricultural irrigation,
 571 industrial uses except for electric utilities as defined in s.
 572 366.02(2), golf course irrigation, landscape irrigation,
 573 irrigation of other public access areas, commercial and
 574 institutional uses such as toilet flushing, and transfers to
 575 other reclaimed water utilities.

576 2. Implementation of reclaimed water rate structures based
 577 on actual use of reclaimed water for the types of reuse
 578 activities listed in subparagraph 1.

579 3. Implementation of education programs to inform the
 580 public about water issues, water conservation, and the
 581 importance and proper use of reclaimed water.

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

583 (d)-(e) In order to be eligible for funding pursuant to
 584 this subsection, a project must be consistent with a local
 585 government comprehensive plan and the governing body of the
 586 local government must require all appropriate new facilities
 587 within the project's service area to connect to and use the
 588 project's alternative water supplies. The appropriate local
 589 government must provide written notification to the appropriate
 590 district that the proposed project is consistent with the local
 591 government comprehensive plan.

592 (e)-(d) Any and all revenues disbursed pursuant to this
 593 subsection shall be applied only for the payment of capital or
 594 infrastructure costs for the construction of alternative water
 595 supply systems that provide alternative water supplies.

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

600 1. An application process and a deadline for filing
 601 applications annually.

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

604 3. A process and criteria for funding projects pursuant to
 605 this subsection that cross district boundaries or that serve
 606 more than one district.

607 (g)~~(f)~~ The governing board of each water management
 608 district shall establish an alternative water supplies grants
 609 advisory committee to recommend to the governing board projects
 610 for funding pursuant to this subsection. The advisory committee
 611 members shall include, but not be limited to, one or more
 612 representatives of county, municipal, and investor-owned private
 613 utilities, and may include, but not be limited to,
 614 representatives of agricultural interests and environmental
 615 interests. Each committee member shall represent his or her
 616 interest group as a whole and shall not represent any specific
 617 entity. The committee shall apply the guidelines and project
 618 eligibility criteria established by the governing board in
 619 reviewing proposed projects. After one or more hearings to
 620 solicit public input on eligible projects, the committee shall
 621 rank the eligible projects and shall submit them to the
 622 governing board for final funding approval. The advisory
 623 committee may submit to the governing board more projects than
 624 the available grant money would fund.

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625 (h)~~(g)~~ All revenues made available annually pursuant to
 626 this subsection must be encumbered annually by the governing
 627 board if it approves projects sufficient to expend the available
 628 revenues. Funds must be disbursed within 36 months after
 629 encumbrance.

630 (i)~~(h)~~ For purposes of this subsection, alternative water
 631 supplies are supplies of water that have been reclaimed after
 632 one or more public supply, municipal, industrial, commercial, or
 633 agricultural uses, or are supplies of stormwater, or brackish or
 634 salt water, that have been treated in accordance with applicable
 635 rules and standards sufficient to supply the intended use.

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

638 (k)~~(j)~~ By January 30 of each year, each water management
 639 district shall submit an annual report to the Governor, the
 640 President of the Senate, and the Speaker of the House of
 641 Representatives which accounts for the disbursement of all budgeted
 642 amounts pursuant to this subsection. Such report shall describe
 643 all projects funded and shall account separately for moneys
 644 provided through grants, matching grants, revolving loans, and
 645 the use of district lands or facilities.

646 (l)~~(k)~~ The Florida Public Service Commission shall allow
 647 entities under its jurisdiction constructing alternative water
 648 supply facilities, including but not limited to aquifer storage
 649 and recovery wells, to recover the full, prudently incurred cost
 650 of such facilities through their rate structure. Every component
 651 of an alternative water supply facility constructed by an
 652 investor-owned utility shall be recovered in current rates.

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

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655 373.1963 Assistance to West Coast Regional Water Supply
 656 Authority.--

657 (9) It is the intent of the Legislature that wetland areas
 658 in northeastern Hillsborough County which have not yet been
 659 adversely impacted by groundwater withdrawals for consumptive
 660 use not be subject to groundwater withdrawals by the development
 661 of wellfields by the authority. In order to protect the wetlands
 662 in this area, the authority is hereby prohibited from seeking
 663 permits from the Southwest Florida Water Management District for
 664 the consumptive use of water from groundwater in northeastern
 665 Hillsborough County north of Knights Griffin Road and east of
 666 State Road 39.

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

669 373.223 Conditions for a permit.--

670 (5) The Legislature finds that the issuance of consumptive
 671 use permits has a direct relation to efficient and effective
 672 water resource development. The Legislature further finds that
 673 the management of consumptive use permits has a direct relation
 674 to efficient and effective water supply development. To help
 675 identify the changes necessary to better utilize these permits,
 676 the Legislature directs that the Department of Environmental
 677 Protection and each water management district submit
 678 recommendations to the appropriate substantive committees of
 679 each house of the Legislature by December 1, 2004. The
 680 recommendations shall identify alternative methods of extending
 681 the use of existing water resources, including, but not limited
 682 to, the potential rights of existing permitholders to share
 683 water allocated under a consumptive use permit. The department
 684 and the districts are encouraged to use public hearings to

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685 gather information and shall include information provided by
 686 basin boards and regional water supply authorities.

687 Section 12. Section 373.2234, Florida Statutes, is created
 688 to read:

689 373.2234 Preferred water supply sources.--The governing
 690 board of the district is authorized to adopt rules identifying
 691 preferred water supply sources for which there is sufficient
 692 data to establish that the source can be used to provide a
 693 substantial new water supply to meet existing and reasonably
 694 anticipated water needs in a water supply planning region
 695 identified pursuant to s. 373.0361(1) while sustaining the water
 696 resources and related natural systems. Such rules shall, at a
 697 minimum, contain a description of the source and an assessment
 698 of the water the source is projected to produce. If a
 699 consumptive use permit applicant proposes to use such a source
 700 consistent with the assessment, the proposed use shall be
 701 subject to the provisions of s. 373.223(1), but such proposed
 702 use shall be a factor deemed to be consistent with the public
 703 interest pursuant to s. 373.223(1)(c). A consumptive use permit
 704 issued approving the use of such a source shall be for at least
 705 20 years and may be subject to the provisions of s. 373.226(3).
 706 However, nothing in this section shall be construed to provide
 707 that the use of nonpreferred sources must receive a permit
 708 duration of less than 20 years or that such nonpreferred sources
 709 are not consistent with the public interest.

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

712 373.250 Reuse of reclaimed water.--
 713 (2)

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714 (c) A water management district may require the use of
 715 reclaimed water in lieu of surface water or groundwater when the
 716 use of uncommitted reclaimed water is environmentally,
 717 economically, and technically feasible. However, while
 718 recognizing that the state's surface water and groundwater are
 719 public resources, nothing in this paragraph shall be construed
 720 to give a water management district the authority to require a
 721 provider of reclaimed water to redirect reclaimed water from one
 722 user to another or to provide uncommitted water to a specific
 723 user if such water is anticipated to be used by the provider, or
 724 a different user selected by the provider, within a reasonable
 725 amount of time.

726 Section 14. Paragraph (a) of subsection (6) of section
 727 373.536, Florida Statutes, is amended to read:

728 373.536 District budget and hearing thereon.--

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

731 (a) Each district must, by the date specified for each
 732 item, furnish copies of the following documents to the Governor,
 733 the President of the Senate, the Speaker of the House of
 734 Representatives, the chairs of all legislative committees and
 735 subcommittees having substantive or fiscal jurisdiction over the
 736 districts, as determined by the President of the Senate or the
 737 Speaker of the House of Representatives as applicable, the
 738 secretary of the department, and the governing board of each
 739 county in which the district has jurisdiction or derives any
 740 funds for the operations of the district:

741 1. The adopted budget, to be furnished within 10 days
 742 after its adoption.

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743 2. A financial audit of its accounts and records, to be
 744 furnished within 10 days after its acceptance by the governing
 745 board. The audit must be conducted in accordance with the
 746 provisions of s. 11.45 and the rules adopted thereunder. In
 747 addition to the entities named above, the district must provide
 748 a copy of the audit to the Auditor General within 10 days after
 749 its acceptance by the governing board.

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

755 4. A 5-year water resource development work program to be
 756 furnished within 45 days after the adoption of the final budget.
 757 The program must describe the district's implementation strategy
 758 for the water resource development component of each approved
 759 regional water supply plan developed or revised under s.
 760 373.0361. The work program must address all the elements of the
 761 water resource development component in the district's approved
 762 regional water supply plans and must identify which projects in
 763 the work program will provide water, explain how each water
 764 resource development project will produce additional water
 765 available for consumptive uses, estimate the quantity of water
 766 to be produced by each project, and provide an assessment of the
 767 contribution of the district's regional water supply plans in
 768 providing sufficient water to meet the water supply needs of
 769 existing and future reasonable-beneficial uses for a 1-in-10-
 770 year drought event. Within 45 days after its submittal, the
 771 department shall review the proposed work program and submit its
 772 findings, questions, and comments to the district. The review

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773 must include a written evaluation of the program's consistency
774 with the furtherance of the district's approved regional water
775 supply plans, and the adequacy of proposed expenditures. As part
776 of the review, the department shall give interested parties the
777 opportunity to provide written comments on each district's
778 proposed work program. Within 60 days after receipt of the
779 department's evaluation, the governing board shall state in
780 writing to the department which changes recommended in the
781 evaluation it will incorporate into its work program or specify
782 the reasons for not incorporating the changes. The department
783 shall include the district's responses in a final evaluation
784 report and shall submit a copy of the report to the Governor,
785 the President of the Senate, and the Speaker of the House of
786 Representatives.

787 (b) If any entity listed in paragraph (a) provides written
788 comments to the district regarding any document furnished under
789 this subsection, the district must respond to the comments in
790 writing and furnish copies of the comments and written responses
791 to the other entities.

792 Section 15. Landscape irrigation design.--

793 (1) The Legislature finds that multiple areas throughout
794 the state have been identified by water management districts as
795 water resource caution areas, which indicates that in the near
796 future water demand in those areas will exceed the current
797 available water supply and that conservation is one of the
798 mechanisms by which future water demand will be met.

799 (2) The Legislature finds that landscape irrigation
800 comprises a significant portion of water use and that the
801 current typical landscape irrigation system and xeriscape
802 designs offer significant potential water conservation benefits.

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

806 (4) The water management districts shall develop and adopt
807 by rule landscape irrigation and xeriscape design standards for
808 new construction that incorporate a landscape irrigation system.
809 The standards shall be based on the irrigation code defined in
810 the Florida Building Code, Plumber's Volume, Appendix F. Such
811 design standards should promote the effective and efficient use
812 of irrigation water and include a consideration of local
813 demographic, hydrologic, and other considerations as they apply
814 to landscape irrigation water use. When adopting an ordinance or
815 regulation, local governments shall use these approved
816 irrigation design standards.

817 (5) The water management districts shall work with the
818 Florida Chapter of the American Society of Landscape Architects,
819 the Florida Irrigation Society, the Florida Nurserymen and
820 Growers Association, the Department of Agriculture and Consumer
821 Services, the Institute of Food and Agricultural Sciences, the
822 Department of Environmental Protection, the Florida League of
823 Cities, and the Florida Association of Counties to develop
824 scientifically based model guidelines for urban, commercial, and
825 residential landscape irrigation, including drip irrigation, for
826 plants, trees, sod, and other landscaping. Local governments
827 shall use the scientific information when developing landscape
828 irrigation ordinances or guidelines. Every 3 years, the agencies
829 and entities specified in this subsection shall review the model
830 guidelines to determine whether new research findings require a
831 change or modification of the guidelines.

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

834 378.212 Variances.--

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

839 (g) To accommodate reclamation that provides water supply
 840 development or water resource development not inconsistent with
 841 the applicable regional water supply plan approved pursuant to
 842 s. 373.0361, provided adverse impacts are not caused to the
 843 water resources in the basin. A variance may also be granted
 844 from the requirements of part IV of chapter 373, or the rules
 845 adopted thereunder, when a project provides an improvement in
 846 water availability in the basin and does not cause adverse
 847 impacts to water resources in the basin.

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

850 378.404 Department of Environmental Protection; powers and
 851 duties.--The department shall have the following powers and
 852 duties:

853 (9) To grant variances from the provisions of this part to
 854 accommodate reclamation that provides for water supply
 855 development or water resource development not inconsistent with
 856 the applicable regional water supply plan approved pursuant to
 857 s. 373.0361, appropriate stormwater management, improved
 858 wildlife habitat, recreation, or a mixture thereof, provided
 859 adverse impacts are not caused to the water resources in the
 860 basin and public health and safety are not adversely affected.

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

864 403.064 Reuse of reclaimed water.--

865 (1) The encouragement and promotion of water conservation,
 866 and reuse of reclaimed water, as defined by the department, are
 867 state objectives and are considered to be in the public
 868 interest. The Legislature finds that the reuse of reclaimed
 869 water is a critical component of meeting the state's existing
 870 and future water supply needs while sustaining natural systems.
 871 The Legislature further finds that for those wastewater
 872 treatment plants permitted and operated under an approved reuse
 873 program by the department, the reclaimed water shall be
 874 considered environmentally acceptable and not a threat to public
 875 health and safety. The Legislature encourages the development of
 876 incentive-based programs for reuse implementation.

877 (6) A reuse feasibility study prepared under subsection
 878 (2) satisfies a water management district requirement to conduct
 879 a reuse feasibility study imposed on a local government or
 880 utility that has responsibility for wastewater management. The
 881 data included in the study and the study's conclusions shall be
 882 given significant consideration by the applicant and the
 883 appropriate water management district in an analysis of the
 884 economic, environmental, and technical feasibility of providing
 885 reclaimed water for reuse under part II of chapter 373, and
 886 shall be presumed relevant to the determination of feasibility.
 887 A water management district shall not require a separate study
 888 when a reuse feasibility study has been completed under
 889 subsection (2).

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890 (16) Utilities implementing reuse projects are encouraged,
 891 except in the case of use by electric utilities as defined in s.
 892 366.02(2), to meter use of reclaimed water by all end users and
 893 to charge for the use of reclaimed water based on the actual
 894 volume used when such metering and charges can be shown to
 895 encourage water conservation. Metering and the use of volume-
 896 based rates are effective water management tools for the
 897 following reuse activities: residential irrigation, agricultural
 898 irrigation, industrial uses, golf course irrigation, landscape
 899 irrigation, irrigation of other public access areas, commercial
 900 and institutional uses such as toilet flushing, and transfers to
 901 other reclaimed water utilities. Beginning with the submittal
 902 due on January 1, 2004, each domestic wastewater utility that
 903 provides reclaimed water for the reuse activities listed in this
 904 section shall include a summary of its metering and rate
 905 structure as part of its annual reuse report to the department.

906 Section 19. Paragraph (b) of subsection (3) of section
 907 403.1835, Florida Statutes, is amended, and subsection (12) is
 908 added to said section, to read:

909 403.1835 Water pollution control financial assistance.--

910 (3) The department may provide financial assistance
 911 through any program authorized under s. 603 of the Federal Water
 912 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as
 913 amended, including, but not limited to, making grants and loans,
 914 providing loan guarantees, purchasing loan insurance or other
 915 credit enhancements, and buying or refinancing local debt. This
 916 financial assistance must be administered in accordance with
 917 this section and applicable federal authorities. The department
 918 shall administer all programs operated from funds secured
 919 through the activities of the Florida Water Pollution Control

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920 Financing Corporation under s. 403.1837, to fulfill the purposes
 921 of this section.

922 (b) The department may make or request the corporation to
 923 make loans, grants, and deposits to other entities eligible to
 924 participate in the financial assistance programs authorized
 925 under the Federal Water Pollution Control Act, or as a result of
 926 other federal action, which entities may pledge any revenue
 927 available to them to repay any funds borrowed. Notwithstanding
 928 s. 17.57, the department may make deposits to financial
 929 institutions that earn less than the prevailing rate for United
 930 States Treasury securities with corresponding maturities for the
 931 purpose of enabling such financial institutions to make below-
 932 market interest rate loans to entities qualified to receive
 933 loans under this section and the rules of the department.

934 (12)(a) It is the intent of the Legislature that for each
 935 reclaimed water utility or any other utility that receives funds
 936 pursuant to this subsection, the appropriate rate-setting
 937 authorities should develop rate structures for all water,
 938 wastewater, and reclaimed water and other alternative water
 939 supply utilities in the service area of the funded utility which
 940 accomplish the following:

941 1. Provide meaningful progress toward the development and
 942 implementation of alternative water supply systems, including
 943 reclaimed water systems.

944 2. Promote the conservation of fresh water withdrawn from
 945 natural systems.

946 3. Provide for an appropriate distribution of costs for
 947 all water, wastewater, and alternative water supply utilities,
 948 including reclaimed water utilities, among all of the users of
 949 those utilities.

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950 (b) Funding assistance provided for a water reuse system
951 project shall include the following loan conditions for that
952 project where such conditions will encourage water use
953 efficiency:

954 1. Metering of reclaimed water use for the following
955 activities: residential irrigation, agricultural irrigation,
956 industrial uses except for electric utilities as defined in s.
957 366.02(2), golf course irrigation, landscape irrigation,
958 irrigation of other public access areas, and commercial uses.

959 2. Implementation of reclaimed water rate structures based
960 on actual use of reclaimed water for the reuse types listed in
961 subparagraph 1.

962 3. Implementation of education programs to inform the
963 public about water issues, water conservation, and the
964 importance and proper use of reclaimed water.

965 Section 20. The Legislature finds that, within the area
966 identified in the Lower East Coast Regional Water Supply Plan
967 approved by the South Florida Water Management District pursuant
968 to s. 373.0361, Florida Statutes, the groundwater levels can
969 benefit from augmentation. The Legislature finds that the direct
970 or indirect discharge of reclaimed water into canals and the
971 aquifer system for transport and subsequent reuse may provide an
972 environmentally acceptable means to augment water supplies and
973 enhance natural systems; however, the Legislature also
974 recognizes that there are water quality and water quantity
975 issues that must be better understood and resolved. In addition,
976 there are cost savings possible by collocating enclosed conduits
977 for conveyance of water for reuse in this area within canal
978 rights-of-way that should be investigated. Toward that end, the
979 Department of Environmental Protection, in consultation with the

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980 South Florida Water Management District, Southeast Florida
 981 utilities, affected local governments, including local
 982 governments with principal responsibility for the operation and
 983 maintenance of a water control system capable of conveying
 984 reclaimed wastewater for reuse, representatives of the
 985 environmental and engineering communities, public health
 986 professionals, and individuals having expertise in water
 987 quality, shall conduct a study to investigate the feasibility of
 988 discharging reclaimed wastewater into canals and the aquifer
 989 system as an environmentally acceptable means of augmenting
 990 groundwater supplies, enhancing natural systems, and conveying
 991 reuse water within enclosed conduits within the canal right-of-
 992 way. The study shall include an assessment of the water quality,
 993 water supply, public health, technical, and legal implications
 994 related to the canal discharge and collocation concepts. The
 995 department shall issue a preliminary written report containing
 996 draft findings and recommendations for public comment by
 997 November 1, 2004. The department shall provide a written report
 998 on the results of its study to the Governor and the relevant
 999 substantive committees of the House of Representatives and the
 1000 Senate by January 31, 2005. Nothing in this section shall be
 1001 used to alter the purpose of the Comprehensive Everglades
 1002 Restoration Plan or the implementation of the Water Resources
 1003 Development Act of 2000.

1004 Section 21. If any provision of this act or the
 1005 application thereof to any person or circumstance is held
 1006 invalid, the invalidity does not affect other provisions or
 1007 applications of this act which can be given effect without the
 1008 invalid provision or application, and to this end the provisions
 1009 of this act are declared severable.

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1010 Section 22. This act shall take effect upon becoming a law
1011 and shall apply to all contracts pending on that date.