

CHAMBER ACTION

1 The Committee on Natural Resources recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act relating to water resources; amending s. 159.803,
8 F.S.; revising the definition of "priority project";
9 amending s. 163.3167, F.S.; requiring local governments to
10 include projected water use in comprehensive plans;
11 amending s. 367.081, F.S.; revising procedure for fixing
12 and changing rates to include the recovery of costs of
13 alternative water supply facilities; amending s. 367.0814,
14 F.S.; revising limit on the amount of revenues received by
15 a utility to qualify for staff assistance in changing
16 rates or charges; amending s. 367.145, F.S.; clarifying
17 provisions relating to payment of annual regulatory
18 assessment fees by a utility; providing for payment of
19 such fees by small utilities in conjunction with the
20 filing of annual financial reports; creating s. 373.227,
21 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
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. 373.116, F.S.;
49 | providing that specified notice of application for a
50 | consumptive use permit may be transmitted by electronic
51 | mail; amending s. 373.1961, F.S.; removing obsolete

52 language; providing funding priority; providing for the
53 establishment of a revolving loan fund for alternative
54 water supply projects; providing conditions for certain
55 projects to receive funding assistance; amending s.
56 373.1963, F.S.; prohibiting the West Coast Regional Water
57 Supply Authority from seeking permits from the Southwest
58 Florida Water Management District for the consumptive use
59 of water from groundwater in a specified area; amending s.
60 373.223, F.S.; requiring the Department of Environmental
61 Protection and the water management districts to submit
62 specified recommendations to the Legislature; creating s.
63 373.2234, F.S.; authorizing the governing board of a water
64 management district to adopt rules identifying certain
65 preferred water supply sources; providing requirements
66 with respect to such rules; providing construction;
67 amending s. 373.250, F.S.; authorizing water management
68 districts to require the use of reclaimed water in lieu of
69 surface or groundwater when the use of uncommitted
70 reclaimed water is environmentally, economically, and
71 technically feasible; providing construction with respect
72 to such authority; amending s. 373.536, F.S.; expanding
73 requirements of the 5-year water resource development work
74 program for water management districts; providing
75 legislative findings and intent with regard to landscape
76 irrigation design; requiring water management districts to
77 develop landscape irrigation and xeriscape design
78 standards; amending s. 403.064, F.S.; revising provisions
79 relating to reuse feasibility studies; providing for

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80 metering use of reclaimed water and volume-based rates
 81 therefor; requiring wastewater utilities to submit plans
 82 for metering use and volume-based rate structures to the
 83 department; amending s. 403.1835, F.S.; authorizing the
 84 Department of Environmental Protection to make specified
 85 deposits for the purpose of enabling below-market interest
 86 rate loans for treatment of polluted water; providing for
 87 development of rate structures for alternative water
 88 supply systems; providing criteria; providing for a study
 89 of the feasibility of discharging reclaimed wastewater
 90 into canals and the aquifer system in a specified area as
 91 an environmentally acceptable means of accomplishing
 92 described objectives; requiring reports; providing
 93 severability; providing effective dates.

94

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

96

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

99 159.803 Definitions.--As used in this part, the term:

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

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

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108 | 163.3167 Scope of act.--
 109 | (13) Each local government shall address in its
 110 | comprehensive plan, as enumerated in this chapter, the water
 111 | supply projects necessary to meet and achieve the existing and
 112 | projected water use demand for the established planning period,
 113 | considering the applicable plan developed pursuant to s.
 114 | 373.0361.
 115 | Section 3. Subsection (2) of section 367.081, Florida
 116 | Statutes, is amended to read:
 117 | 367.081 Rates; procedure for fixing and changing.--
 118 | (2)(a)1. The commission shall, either upon request or upon
 119 | its own motion, fix rates which are just, reasonable,
 120 | compensatory, and not unfairly discriminatory. In every such
 121 | proceeding, the commission shall consider the value and quality
 122 | of the service and the cost of providing the service, which
 123 | shall include, but not be limited to, debt interest; the
 124 | requirements of the utility for working capital; maintenance,
 125 | depreciation, tax, and operating expenses incurred in the
 126 | operation of all property used and useful in the public service;
 127 | and a fair return on the investment of the utility in property
 128 | used and useful in the public service. Pursuant to s.
 129 | 373.1961(2)(1), the commission shall allow recovery of the full,
 130 | prudently incurred costs of alternative water supply facilities.
 131 | However, the commission shall not allow the inclusion of
 132 | contributions-in-aid-of-construction in the rate base of any
 133 | utility during a rate proceeding, nor shall the commission
 134 | impute prospective future contributions-in-aid-of-construction
 135 | against the utility's investment in property used and useful in

136 | the public service; and accumulated depreciation on such
 137 | contributions-in-aid-of-construction shall not be used to reduce
 138 | the rate base, nor shall depreciation on such contributed assets
 139 | be considered a cost of providing utility service.

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

147 | a. Such property is needed to serve current customers;

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

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

158 |
 159 | Notwithstanding the provisions of this paragraph, the commission
 160 | shall approve rates for service which allow a utility to recover
 161 | from customers the full amount of environmental compliance
 162 | costs. Such rates may not include charges for allowances for
 163 | funds prudently invested or similar charges. For purposes of

164 | this requirement, the term "environmental compliance costs"
 165 | includes all reasonable expenses and fair return on any prudent
 166 | investment incurred by a utility in complying with the
 167 | requirements or conditions contained in any permitting,
 168 | enforcement, or similar decisions of the United States
 169 | Environmental Protection Agency, the Department of Environmental
 170 | Protection, a water management district, or any other
 171 | governmental entity with similar regulatory jurisdiction.

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

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

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

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

185 | Section 5. Subsection (1) of section 367.145, Florida
 186 | Statutes, is amended to read:

187 | 367.145 Regulatory assessment and application fees.--

188 | (1) The commission shall set by rule a regulatory
 189 | assessment fee that each utility must pay in accordance with s.
 190 | 350.113(3); however, small utilities with annual revenues of
 191 | less than \$200,000 shall pay once a year in conjunction with

192 filing its annual financial report required by commission rule.
 193 Notwithstanding any provision of law to the contrary, the amount
 194 of the regulatory assessment fee shall not exceed 4.5 percent of
 195 the gross revenues of the utility derived from intrastate
 196 business, excluding sales for resale made to a regulated
 197 company.

198 (a) A governmental authority to which ownership or control
 199 of a utility is transferred is not liable for any fees owed the
 200 commission by the utility as of the date of transfer. However,
 201 whenever a purchase at wholesale is made of any water or
 202 wastewater service and a fee is paid or payable thereon by the
 203 selling utility and the utility purchasing such water or
 204 wastewater service resells the same directly to customers, the
 205 purchasing utility is entitled to, and must receive, credit on
 206 such fees as may be due by it under this section to the extent
 207 of the fee paid or payable upon such water or wastewater service
 208 by the utility from which such purchase was made. All such fee
 209 payments and penalties must be deposited in accordance with s.
 210 350.113.

211 (b) In addition to the penalties and interest otherwise
 212 provided, the commission may impose a penalty upon a utility for
 213 failure to pay regulatory assessment fees in a timely manner in
 214 accordance with s. 367.161.

215 Section 6. Section 373.227, Florida Statutes, is created
 216 to read:

217 373.227 Water conservation guidance manual.--

218 (1) The Legislature recognizes that the proper
 219 conservation of water is an important means of achieving the

220 economical and efficient utilization of water necessary to
 221 constitute a reasonable-beneficial use. The Legislature
 222 encourages the development and use of water conservation
 223 measures that are effective, flexible, and affordable. In the
 224 context of the use of water for public supply provided by a
 225 water utility, the Legislature intends for a variety of
 226 conservation measures to be available and used to encourage
 227 efficient water use. The Legislature finds that the social,
 228 economic, and cultural conditions of this state relating to the
 229 use of public water supply vary by geographic region, and thus
 230 water utilities must have the flexibility to tailor water
 231 conservation measures to best suit their individual
 232 circumstances. For purposes of this section, the term "public
 233 water supply utility" shall include both publicly owned and
 234 privately owned public water supply utilities.

235 (2) In order to implement the findings in subsection (1),
 236 the Department of Environmental Protection shall develop a water
 237 conservation guidance manual containing a menu of water
 238 conservation measures from which public water supply utilities
 239 may select in the development of a comprehensive, goal-based
 240 water conservation program tailored for their individual service
 241 areas that is effective and does not impose undue costs or
 242 burdens on customers. The water conservation guidance manual
 243 shall promote statewide consistency in the approach to utility
 244 conservation while maintaining appropriate flexibility. The
 245 manual may contain measures such as: water conservation audits,
 246 informative billing practices to educate customers on their
 247 patterns of water use, the costs of water, and ways to conserve

248 water; ordinances requiring low-flow plumbing fixtures and
 249 efficient landscape irrigation; rebate programs for the
 250 installation of water-saving plumbing or appliances; general
 251 water conservation educational programs, including bill inserts;
 252 measures to promote the more effective and efficient reuse of
 253 reclaimed water; water conservation or drought rate structures
 254 that encourage customers to conserve water through appropriate
 255 price signals; and programs to apply utility profits generated
 256 through conservation and drought rates to additional water
 257 conservation programs or water supply development. The manual
 258 shall specifically state that it is the responsibility of the
 259 appropriate utility to determine the specific rates it will
 260 charge its customers and that the role of the department or
 261 water management district is confined to the review of those
 262 rate structures to determine whether they encourage water
 263 conservation. The water conservation guidance manual shall also
 264 state that a utility need not adopt a water conservation or
 265 drought rate structure if the utility employs other measures
 266 that are equally or more effective. The manual shall provide for
 267 different levels of complexity and expected levels of effort in
 268 conservation programs depending on the size of the utility.
 269 However, all utilities will be expected to have at least basic
 270 programs in each of the following areas:

- 271 (a) Individual metering, to the extent feasible as
- 272 determined by the utility.
- 273 (b) Water accounting and loss control.
- 274 (c) Cost-of-service accounting.
- 275 (d) Information programs on water conservation.

276 (e) Landscaping water efficiency programs.

277 (3) The Department of Environmental Protection shall

278 develop the water conservation guidance manual no later than

279 June 15, 2005. The department shall develop the manual in

280 consultation with interested parties, which, at a minimum, shall

281 include representatives from the water management districts, the

282 Department of Health, three utilities that are members of the

283 American Water Works Association, two utilities that are members

284 of the Florida Water Environment Association, a representative

285 of the Florida Chamber of Commerce, representatives of counties

286 and municipalities, and representatives of environmental

287 organizations. By December 15, 2005, the department shall adopt

288 the water conservation guidance manual by rule. Once the

289 department adopts the water conservation guidance manual by

290 rule, the water management districts may apply the manual and

291 any revisions thereto in the review of water conservation

292 requirements for obtaining a permit pursuant to part II without

293 the need to adopt the manual pursuant to s. 120.54. Once the

294 water conservation guidance manual is adopted by rule, a public

295 water supply utility may choose to comply with the standard

296 water conservation requirements adopted by the appropriate water

297 management district for obtaining a consumptive use permit from

298 that district, or may choose to develop a comprehensive, goal-

299 based water conservation program from the options contained in

300 the manual. If the utility chooses to design a comprehensive

301 water conservation program based on the water conservation

302 guidance manual, the proposed program must include the

303 following:

304 (a) An inventory of water system characteristics and
 305 conservation opportunities.

306 (b) Demand forecasts.

307 (c) An explanation of the proposed program.

308 (d) Specific numeric water conservation targets for the
 309 utility as a whole and for appropriate customer classes, with a
 310 justification of why the numeric targets are appropriate based
 311 on that utility's particular customer characteristics and
 312 conservation opportunities.

313 (e) A demonstration that the program will promote
 314 effective water conservation at least as well as standard water
 315 use conservation requirements adopted by the appropriate water
 316 management district.

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

320 (4) If the utility provides reasonable assurance that the
 321 proposed conservation program is consistent with the water
 322 conservation guidance manual and contains the elements specified
 323 in subsection (3), then the water management district shall
 324 approve the proposed program and the program shall satisfy water
 325 conservation requirements imposed as a condition of obtaining a
 326 permit under part II. The department, in consultation with the
 327 parties specified in subsection(3), may periodically amend or
 328 revise the water conservation guidance manual rule as
 329 appropriate to reflect changed circumstances or new technologies
 330 or approaches. The findings and provisions in this section shall

331 not be construed to apply to users of water other than public
 332 and private water supply utilities.

333 Section 7. Subsections (1), (2), (5), and (6) of section
 334 373.0361, Florida Statutes, are amended to read:

335 373.0361 Regional water supply planning.--

336 (1) By October 1, 1998, the governing board shall initiate
 337 water supply planning for each water supply planning region
 338 identified in the district water management plan under s.
 339 373.036, where it determines that sources of water are not
 340 adequate for the planning period to supply water for all
 341 existing and projected reasonable-beneficial uses and to sustain
 342 the water resources and related natural systems. The planning
 343 must be conducted in an open public process, in coordination and
 344 cooperation with local governments, regional water supply
 345 authorities, government-owned and privately owned water
 346 utilities, self-suppliers, and other affected and interested
 347 parties. During development, but prior to completion of the
 348 regional water supply plan, the district must conduct at least
 349 one public workshop to discuss the technical data and modeling
 350 tools anticipated to be used to support the plan. A
 351 determination by the governing board that initiation of a
 352 regional water supply plan for a specific planning region is not
 353 needed pursuant to this section shall be subject to s. 120.569.
 354 The governing board shall reevaluate such a determination at
 355 least once every 5 years and shall initiate a regional water
 356 supply plan, if needed, pursuant to this subsection.

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

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

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

378 2. A list of water source options ~~for water supply~~
 379 ~~development~~, including traditional and alternative source
 380 options ~~sources~~, from which local government, government-owned
 381 and privately owned utilities, self-suppliers, and others may
 382 choose, for water supply development, the total capacity of
 383 which will, in conjunction with water conservation and other

384 | demand management measures, exceed the needs identified in
385 | subparagraph 1.

386 | 3. For each option listed in subparagraph 2., the
387 | estimated amount of water available for use and the estimated
388 | costs of and potential sources of funding for water supply
389 | development.

390 | 4. A list of water supply development projects that meet
391 | the criteria in s. 373.0831(4).

392 | (b) A water resource development component that includes:

393 | 1. A listing of those water resource development projects
394 | that support water supply development.

395 | 2. For each water resource development project listed:

396 | a. An estimate of the amount of water to become available
397 | through the project.

398 | b. The timetable for implementing or constructing the
399 | project and the estimated costs for implementing, operating, and
400 | maintaining the project.

401 | c. Sources of funding and funding needs.

402 | d. Who will implement the project and how it will be
403 | implemented.

404 | (c) The recovery and prevention strategy described in s.
405 | 373.0421(2).

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

409 | (e) Consideration of how the options addressed in
410 | paragraphs (a) and (b) serve the public interest or save costs
411 | overall by preventing the loss of natural resources or avoiding

412 greater future expenditures for water resource development or
 413 water supply development. However, unless adopted by rule, these
 414 considerations do not constitute final agency action.

415 (f) The technical data and information applicable to the
 416 planning region which are contained in the district water
 417 management plan and are necessary to support the regional water
 418 supply plan.

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

421 (h) Reservations of water adopted by rule pursuant to s.
 422 373.223(4).

423 (i) An analysis, developed in cooperation with the
 424 department, of areas or instances in which the variance
 425 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
 426 create water supply development or water resource development
 427 projects.

428
 429 Within boundaries of a regional water supply authority, those
 430 parts of the water supply development component of the regional
 431 water supply plan which deal with or affect public utilities and
 432 public water supply shall be developed jointly by such authority
 433 and the district for those areas served by the authority and its
 434 member governments.

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

440 (a) A compilation of the estimated costs of and potential
 441 sources of funding for water resource development and water
 442 supply development projects, as identified in the water
 443 management district regional water supply plans.

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

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

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

465 Section 8. Subsection (3) of section 373.0831, Florida
 466 Statutes, is amended, and paragraph (c) is added to
 467 subsection(4) of said section, to read:

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468 373.0831 Water resource development; water supply
469 development.--

470 (3) The water management districts shall fund and
471 implement water resource development as defined in s. 373.019.
472 The water management districts are encouraged to implement water
473 resource development as expeditiously as possible in areas
474 subject to regional water supply plans. Each governing board
475 shall include in its annual budget the amount needed for the
476 fiscal year to implement water resource development projects, as
477 prioritized in its regional water supply plans.

478 (4)

479 (c) If a proposed alternative water supply development
480 project is identified in the relevant approved regional water
481 supply plan, the project shall receive:

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

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

487 Section 9. Section 373.116, Florida Statutes, is amended
488 to read:

489 373.116 Procedure for water use and impoundment
490 construction permit applications.--

491 (1) Applications for water use permits, under part II of
492 this chapter; for permits for construction or alteration of
493 dams, impoundments, reservoirs, and appurtenant works, under
494 part IV of this chapter; and for permits under s. 403.812 shall

495 | be filed with the water management district on appropriate forms
496 | provided by the governing board.

497 | (2) Upon receipt of an application for a permit of the
498 | type referred to in subsection (1), the governing board shall
499 | cause a notice thereof to be published in a newspaper having
500 | general circulation within the affected area. In addition, the
501 | governing board shall send, by regular or electronic mail, a
502 | copy of such notice to any person who has filed a written
503 | request for notification of any pending applications affecting
504 | this particular designated area. Notice of application for the
505 | consumptive use of water shall be mailed by regular or
506 | electronic mail to the county and appropriate city government
507 | from which boundaries the withdrawal is proposed to be made.

508 | (3) All permits issued under this section shall include
509 | the following language:

510 | This permit does not convey to the permittee any property
511 | rights or privileges other than those specified herein, nor
512 | relieve the permittee from complying with any applicable local
513 | government, state, or federal law, rule, or ordinance.

514 | Section 10. Subsection (2) of section 373.1961, Florida
515 | Statutes, is amended to read:

516 | 373.1961 Water production.--

517 | (2) The Legislature finds that, due to a combination of
518 | factors, vastly increased demands have been placed on natural
519 | supplies of fresh water, and that, absent increased development
520 | of alternative water supplies, such demands may increase in the
521 | future. The Legislature also finds that potential exists in the
522 | state for the production of significant quantities of

523 alternative water supplies, including reclaimed water, and that
 524 water production includes the development of alternative water
 525 supplies, including reclaimed water, for appropriate uses. It is
 526 the intent of the Legislature that utilities develop reclaimed
 527 water systems, where reclaimed water is the most appropriate
 528 alternative water supply option, to deliver reclaimed water to
 529 as many users as possible through the most cost-effective means,
 530 and to construct reclaimed water system infrastructure to their
 531 owned or operated properties and facilities where they have
 532 reclamation capability. It is also the intent of the Legislature
 533 that the water management districts which levy ad valorem taxes
 534 for water management purposes should share a percentage of those
 535 tax revenues with water providers and users, including local
 536 governments, water, wastewater, and reuse utilities, municipal,
 537 industrial, and agricultural water users, and other public and
 538 private water users, to be used to supplement other funding
 539 sources in the development of alternative water supplies. The
 540 Legislature finds that public moneys or services provided to
 541 private entities for such uses constitute public purposes which
 542 are in the public interest. In order to further the development
 543 and use of alternative water supply systems, including reclaimed
 544 water systems, the Legislature provides the following:

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

550 ~~Beginning in 1996,~~ Such amounts shall be made available to water

551 providers and users ~~no later than December 31 of each year,~~
552 through grants, matching grants, revolving loans, or the use of
553 district lands or facilities pursuant to the requirements of
554 this subsection and guidelines established by the districts. In
555 making grants or loans, funding priority shall be given to
556 projects in accordance with s. 373.0831(4). Without diminishing
557 amounts available through other means described in this
558 paragraph, the governing boards are encouraged to consider
559 establishing revolving loan funds to expand the total funds
560 available to accomplish the objectives of this section. A
561 revolving loan fund created pursuant to this paragraph shall be
562 a nonlapsing fund from which the water management district may
563 make loans with interest rates below prevailing market rates to
564 public or private entities for the purposes described in this
565 section. The governing board may adopt resolutions to establish
566 revolving loan funds which shall specify the details of the
567 administration of the fund, the procedures for applying for
568 loans from the fund, the criteria for awarding loans from the
569 fund, the initial capitalization of the fund, and the goals for
570 future capitalization of the fund in subsequent budget years.
571 Revolving loan funds created pursuant to this paragraph shall be
572 used to expand the total sums and sources of cooperative funding
573 available for the development of alternative water supplies. The
574 Legislature does not intend for the creation of revolving loan
575 trust funds to supplant or otherwise reduce existing sources or
576 amounts of funds currently available through other means.

577 (b) It is the intent of the Legislature that for each
578 reclaimed water utility, or any other utility, which receives

579 funds pursuant to this subsection, the appropriate rate-setting
 580 authorities should develop rate structures for all water,
 581 wastewater, and reclaimed water and other alternative water
 582 supply utilities in the service area of the funded utility,
 583 which accomplish the following:

584 1. Provide meaningful progress toward the development and
 585 implementation of alternative water supply systems, including
 586 reclaimed water systems;

587 2. Promote the conservation of fresh water withdrawn from
 588 natural systems;

589 3. Provide for an appropriate distribution of costs for
 590 all water, wastewater, and alternative water supply utilities,
 591 including reclaimed water utilities, among all of the users of
 592 those utilities; and

593 4. Prohibit rate discrimination within classes of utility
 594 users.

595 (c) Funding assistance provided by the water management
 596 districts for a water reuse system project shall include the
 597 following grant or loan conditions for that project when the
 598 water management district determines such conditions will
 599 encourage water use efficiency:

600 1. Metering of reclaimed water use for the following
 601 activities: residential irrigation, agricultural irrigation,
 602 industrial uses except for electric utilities as defined in s.
 603 366.02(2), golf course irrigation, landscape irrigation,
 604 irrigation of other public access areas, commercial and
 605 institutional uses such as toilet flushing, and transfers to
 606 other reclaimed water utilities.

607 2. Implementation of reclaimed water rate structures based
 608 on actual use of reclaimed water for the types of reuse
 609 activities listed in subparagraph 1.

610 3. Implementation of education programs to inform the
 611 public about water issues, water conservation, and the
 612 importance and proper use of reclaimed water.

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

614 ~~(d)(e)~~ In order to be eligible for funding pursuant to
 615 this subsection, a project must be consistent with a local
 616 government comprehensive plan and the governing body of the
 617 local government must require all appropriate new facilities
 618 within the project's service area to connect to and use the
 619 project's alternative water supplies. The appropriate local
 620 government must provide written notification to the appropriate
 621 district that the proposed project is consistent with the local
 622 government comprehensive plan.

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

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

631 1. An application process and a deadline for filing
 632 applications annually.

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

635 3. A process and criteria for funding projects pursuant to
636 this subsection that cross district boundaries or that serve
637 more than one district.

638 (g)~~(f)~~ The governing board of each water management
639 district shall establish an alternative water supplies grants
640 advisory committee to recommend to the governing board projects
641 for funding pursuant to this subsection. The advisory committee
642 members shall include, but not be limited to, one or more
643 representatives of county, municipal, and investor-owned private
644 utilities, and may include, but not be limited to,
645 representatives of agricultural interests and environmental
646 interests. Each committee member shall represent his or her
647 interest group as a whole and shall not represent any specific
648 entity. The committee shall apply the guidelines and project
649 eligibility criteria established by the governing board in
650 reviewing proposed projects. After one or more hearings to
651 solicit public input on eligible projects, the committee shall
652 rank the eligible projects and shall submit them to the
653 governing board for final funding approval. The advisory
654 committee may submit to the governing board more projects than
655 the available grant money would fund.

656 (h)~~(g)~~ All revenues made available annually pursuant to
657 this subsection must be encumbered annually by the governing
658 board if it approves projects sufficient to expend the available
659 revenues. Funds must be disbursed within 36 months after
660 encumbrance.

661 (i)~~(h)~~ For purposes of this subsection, alternative water
662 supplies are supplies of water that have been reclaimed after

663 one or more public supply, municipal, industrial, commercial, or
 664 agricultural uses, or are supplies of stormwater, or brackish or
 665 salt water, that have been treated in accordance with applicable
 666 rules and standards sufficient to supply the intended use.

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

669 ~~(k)(j)~~ By January 30 of each year, each water management
 670 district shall submit an annual report to the Governor, the
 671 President of the Senate, and the Speaker of the House of
 672 Representatives which accounts for the disbursement of all budgeted
 673 amounts pursuant to this subsection. Such report shall describe
 674 all projects funded and shall account separately for moneys
 675 provided through grants, matching grants, revolving loans, and
 676 the use of district lands or facilities.

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

684 Section 11. Subsection (9) is added to section 373.1963,
 685 Florida Statutes, to read:

686 373.1963 Assistance to West Coast Regional Water Supply
 687 Authority.--

688 (9) It is the intent of the Legislature that wetland areas
 689 in northeastern Hillsborough County which have not yet been
 690 adversely impacted by groundwater withdrawals for consumptive

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691 use not be subject to groundwater withdrawals by the development
 692 of wellfields by the authority. In order to protect the wetlands
 693 in this area, the authority is hereby prohibited from seeking
 694 permits from the Southwest Florida Water Management District for
 695 the consumptive use of water from groundwater in northeastern
 696 Hillsborough County north of Knights Griffin Road and east of
 697 State Road 39.

698 Section 12. Subsection (5) is added to section 373.223,
 699 Florida Statutes, to read:

700 373.223 Conditions for a permit.--

701 (5) The Legislature finds that the issuance of consumptive
 702 use permits has a direct relation to efficient and effective
 703 water resource development. The Legislature further finds that
 704 the management of consumptive use permits has a direct relation
 705 to efficient and effective water supply development. To help
 706 identify the changes necessary to better utilize these permits,
 707 the Legislature directs that the Department of Environmental
 708 Protection and each water management district submit
 709 recommendations to the appropriate substantive committees of
 710 each house of the Legislature by December 1, 2004. The
 711 recommendations shall identify alternative methods of extending
 712 the use of existing water resources, including, but not limited
 713 to, the potential rights of existing permit holders to share
 714 water allocated under a consumptive use permit. The department
 715 and the districts are encouraged to use public hearings to
 716 gather information and shall include information provided by
 717 basin boards and regional water supply authorities.

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718 Section 13. Section 373.2234, Florida Statutes, is created
719 to read:

720 373.2234 Preferred water supply sources.--The governing
721 board of the district is authorized to adopt rules identifying
722 preferred water supply sources for which there is sufficient
723 data to establish that the source can be used to provide a
724 substantial new water supply to meet existing and reasonably
725 anticipated water needs in a water supply planning region
726 identified pursuant to s. 373.0361(1) while sustaining the water
727 resources and related natural systems. Such rules shall, at a
728 minimum, contain a description of the source and an assessment
729 of the water the source is projected to produce. If a
730 consumptive use permit applicant proposes to use such a source
731 consistent with the assessment, the proposed use shall be
732 subject to the provisions of s. 373.223(1), but such proposed
733 use shall be a factor deemed to be consistent with the public
734 interest pursuant to s. 373.223(1)(c). A consumptive use permit
735 issued approving the use of such a source shall be for at least
736 20 years and may be subject to the provisions of s. 373.226(3).
737 However, nothing in this section shall be construed to provide
738 that the use of nonpreferred sources must receive a permit
739 duration of less than 20 years or that such nonpreferred sources
740 are not consistent with the public interest.

741 Section 14. Paragraph (c) is added to subsection (2) of
742 section 373.250, Florida Statutes, to read:

743 373.250 Reuse of reclaimed water.--
744 (2)

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

757 Section 15. Paragraph (a) of subsection (6) of section
758 373.536, Florida Statutes, is amended to read:

759 373.536 District budget and hearing thereon.--

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

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

772 1. The adopted budget, to be furnished within 10 days
773 after its adoption.

774 2. A financial audit of its accounts and records, to be
775 furnished within 10 days after its acceptance by the governing
776 board. The audit must be conducted in accordance with the
777 provisions of s. 11.45 and the rules adopted thereunder. In
778 addition to the entities named above, the district must provide
779 a copy of the audit to the Auditor General within 10 days after
780 its acceptance by the governing board.

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

786 4. A 5-year water resource development work program to be
787 furnished within 45 days after the adoption of the final budget.
788 The program must describe the district's implementation strategy
789 for the water resource development component of each approved
790 regional water supply plan developed or revised under s.
791 373.0361. The work program must address all the elements of the
792 water resource development component in the district's approved
793 regional water supply plans and must identify which projects in
794 the work program will provide water, explain how each water
795 resource development project will produce additional water
796 available for consumptive uses, estimate the quantity of water
797 to be produced by each project, and provide an assessment of the
798 contribution of the district's regional water supply plans in
799 providing sufficient water to meet the water supply needs of

800 existing and future reasonable-beneficial uses for a 1-in-10-
801 year drought event. Within 45 days after its submittal, the
802 department shall review the proposed work program and submit its
803 findings, questions, and comments to the district. The review
804 must include a written evaluation of the program's consistency
805 with the furtherance of the district's approved regional water
806 supply plans, and the adequacy of proposed expenditures. As part
807 of the review, the department shall give interested parties the
808 opportunity to provide written comments on each district's
809 proposed work program. Within 60 days after receipt of the
810 department's evaluation, the governing board shall state in
811 writing to the department which changes recommended in the
812 evaluation it will incorporate into its work program or specify
813 the reasons for not incorporating the changes. The department
814 shall include the district's responses in a final evaluation
815 report and shall submit a copy of the report to the Governor,
816 the President of the Senate, and the Speaker of the House of
817 Representatives.

818 (b) If any entity listed in paragraph (a) provides written
819 comments to the district regarding any document furnished under
820 this subsection, the district must respond to the comments in
821 writing and furnish copies of the comments and written responses
822 to the other entities.

823 Section 16. Landscape irrigation design.--

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

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

830 (2) The Legislature finds that landscape irrigation
 831 comprises a significant portion of water use and that the
 832 current typical landscape irrigation system and xeriscape
 833 designs offer significant potential water conservation benefits.

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

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

848 (5) The water management districts shall work with the
 849 Florida Chapter of the American Society of Landscape Architects,
 850 the Florida Irrigation Society, the Florida Nurserymen and
 851 Growers Association, the Department of Agriculture and Consumer
 852 Services, the Institute of Food and Agricultural Sciences, the
 853 Department of Environmental Protection, the Florida League of
 854 Cities, and the Florida Association of Counties to develop
 855 scientifically based model guidelines for urban, commercial, and

856 residential landscape irrigation, including drip irrigation, for
 857 plants, trees, sod, and other landscaping. Local governments
 858 shall use the scientific information when developing landscape
 859 irrigation ordinances or guidelines. Every 3 years, the agencies
 860 and entities specified in this subsection shall review the model
 861 guidelines to determine whether new research findings require a
 862 change or modification of the guidelines.

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

866 403.064 Reuse of reclaimed water.--

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

879 (6) A reuse feasibility study prepared under subsection(2)
 880 satisfies a water management district requirement to conduct a
 881 reuse feasibility study imposed on a local government or utility
 882 that has responsibility for wastewater management. The data
 883 included in the study and the study's conclusions shall be given

884 significant consideration by the applicant and the appropriate
 885 water management district in an analysis of the economic,
 886 environmental, and technical feasibility of providing reclaimed
 887 water for reuse under part II of chapter 373, and shall be
 888 presumed relevant to the determination of feasibility. A water
 889 management district shall not require a separate study when a
 890 reuse feasibility study has been completed under subsection (2).

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

907 Section 18. Paragraph (b) of subsection (3) of section
 908 403.1835, Florida Statutes, is amended, and subsection (12) is
 909 added to said section, to read:

910 403.1835 Water pollution control financial assistance.--

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911 (3) The department may provide financial assistance
912 through any program authorized under s. 603 of the Federal Water
913 Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as
914 amended, including, but not limited to, making grants and loans,
915 providing loan guarantees, purchasing loan insurance or other
916 credit enhancements, and buying or refinancing local debt. This
917 financial assistance must be administered in accordance with
918 this section and applicable federal authorities. The department
919 shall administer all programs operated from funds secured
920 through the activities of the Florida Water Pollution Control
921 Financing Corporation under s. 403.1837, to fulfill the purposes
922 of this section.

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

935 (12)(a) It is the intent of the Legislature that for each
936 reclaimed water utility or any other utility that receives funds
937 pursuant to this subsection, the appropriate rate-setting
938 authorities should develop rate structures for all water,

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939 wastewater, and reclaimed water and other alternative water
940 supply utilities in the service area of the funded utility which
941 accomplish the following:

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

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

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

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

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

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

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

966 Section 19. The Legislature finds that, within the area
967 identified in the Lower East Coast Regional Water Supply Plan
968 approved by the South Florida Water Management District pursuant
969 to s. 373.0361, Florida Statutes, the groundwater levels can
970 benefit from augmentation. The Legislature finds that the direct
971 or indirect discharge of reclaimed water into canals and the
972 aquifer system for transport and subsequent reuse may provide an
973 environmentally acceptable means to augment water supplies and
974 enhance natural systems; however, the Legislature also
975 recognizes that there are water quality and water quantity
976 issues that must be better understood and resolved. In addition,
977 there are cost savings possible by collocating enclosed conduits
978 for conveyance of water for reuse in this area within canal
979 rights-of-way that should be investigated. Toward that end, the
980 Department of Environmental Protection, in consultation with the
981 Department of Health, the South Florida Water Management
982 District, Southeast Florida utilities, affected local
983 governments, including local governments with principal
984 responsibility for the operation and maintenance of a water
985 control system capable of conveying reclaimed wastewater for
986 reuse, representatives of the environmental and engineering
987 communities, public health professionals, and individuals having
988 expertise in water quality, shall conduct a study to investigate
989 the feasibility of discharging reclaimed wastewater into canals
990 and the aquifer system as an environmentally acceptable means of
991 augmenting groundwater supplies, enhancing natural systems, and
992 conveying reuse water within enclosed conduits within the canal
993 right-of-way. The study shall include an assessment of the water

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994 quality, water supply, public health, technical, and legal
995 implications related to the canal discharge and collocation
996 concepts. The department shall issue a preliminary written
997 report containing draft findings and recommendations for public
998 comment by November 1, 2004. The department shall provide a
999 written report on the results of its study to the Governor and
1000 the relevant substantive committees of the House of
1001 Representatives and the Senate by January 31, 2005. Nothing in
1002 this section shall be used to alter the purpose of the
1003 Comprehensive Everglades Restoration Plan or the implementation
1004 of the Water Resources Development Act of 2000.

1005 Section 20. If any provision of this act or the
1006 application thereof to any person or circumstance is held
1007 invalid, the invalidity does not affect other provisions or
1008 applications of this act which can be given effect without the
1009 invalid provision or application, and to this end the provisions
1010 of this act are declared severable.

1011 Section 21. This act shall take effect upon becoming a law
1012 and shall apply to all contracts pending on that date.