

1 water management districts develop a plan to
2 provide economic incentives for alternative
3 water supply development by January 1, 2006;
4 requiring that state funds made available for
5 alternative water supply development be matched
6 by the entity receiving the funds; requiring
7 the development of cost-effective alternative
8 water supplies in areas where traditional
9 sources of water are inadequate for existing
10 and future uses; requiring that appropriate
11 rate-setting authorities establish a rate
12 structure for all water facilities in a service
13 area that receives financial assistance from
14 the state and a water management district for
15 alternative water supply development; amending
16 s. 373.1961, F.S.; providing general powers and
17 duties of the water management districts in
18 water production; requiring that the water
19 management districts include the amount needed
20 to implement the water supply development
21 projects in each annual budget; establishing
22 general funding criteria for funding assistance
23 to the state or water management districts;
24 establishing economic incentives for
25 alternative water supply development; defining
26 the term "alternative water supplies"; creating
27 a funding formula for the distribution of state
28 funds to the water management districts for
29 alternative water supply development; requiring
30 that funding assistance for alternative water
31 supply development be limited to a percentage

1 of the local capital costs of an approved
2 project; defining the term "capital costs";
3 requiring that the alternative water supplies
4 grants advisory committee recommend alternative
5 water supply projects for grant funding;
6 establishing criteria; establishing criteria
7 for funding assistance for water reuse systems;
8 amending s. 373.1962, F.S.; clarifying that
9 counties, municipalities, and special districts
10 may execute interlocal agreements to create
11 regional water supply authorities; amending s.
12 373.223, F.S.; establishing criteria for
13 certain water supply entities to be presumed to
14 have a use consistent with the public interest
15 for requirements for consumptive use
16 permitting; amending s. 373.236, F.S.;
17 providing permits of at least 20 years for
18 development of alternative water supplies under
19 certain conditions; amending s. 373.459, F.S.;
20 requiring that entities receiving state funding
21 for implementation of surface water improvement
22 and management projects provide a 50-percent
23 match of cash or in-kind services; amending s.
24 373.0361, F.S.; providing for the development
25 of regional water supply plans; providing
26 requirements for the content of each plan;
27 providing for an approval process for the
28 plans; providing for annual updates; providing
29 for local government use of the plans;
30 providing notification requirements for water
31 management districts concerning findings within

1 the plan; changing the deadline for certain
2 plan updates; amending s. 163.3177, F.S.;
3 providing that a local government submit a
4 water supply analysis to the department;
5 establishing criteria; encouraging
6 multijurisdictional water supply facilities to
7 develop alternative water sources; amending s.
8 163.3180, F.S.; requiring adequate water
9 supplies to serve new development; amending s.
10 163.3191, F.S.; requiring the evaluation and
11 appraisal report to evaluate water supply
12 sources; amending s. 403.067, F.S.; providing
13 that preliminary allocation of allowable
14 pollutant loads between point and nonpoint
15 sources may be developed as part of a total
16 maximum daily load; establishing criteria for
17 establishing preliminary and final allocations
18 to attain pollutant reductions; authorizing the
19 Department of Environmental Protection to adopt
20 phased total maximum daily loads that establish
21 incremental total maximum daily loads under
22 certain conditions; requiring the development
23 of basin management action plans; requiring
24 that basin management action plans integrate
25 the appropriate management strategies to
26 achieve the total maximum daily loads and the
27 restoration of designated uses; requiring that
28 the plans establish a schedule for implementing
29 management strategies, establish a basis for
30 evaluating the plans' effectiveness, and
31 identify feasible water funding strategies;

1 requiring that a basin management action plan
2 equitably allocate pollutant reductions to
3 individual basins; authorizing that plans may
4 provide pollutant load reduction credits to
5 dischargers that have implemented strategies to
6 reduce pollutant loads prior to the development
7 of the basin management action plan; requiring
8 that the plan identify mechanisms by which
9 potential future sources of pollution will be
10 addressed; requiring that the department assure
11 key stakeholder participation in the basin
12 management action planning process; requiring
13 that the department hold at least one public
14 meeting to discuss and receive comments during
15 the planning process; providing notice
16 requirements; requiring that the department
17 adopt all or part of a basin management action
18 plan by secretarial order pursuant to ch. 120,
19 F.S.; requiring that basin management action
20 plans that alter that calculation or
21 preliminary allocation of a total maximum daily
22 load, the revised calculation, or preliminary
23 allocation must be adopted by rule; requiring
24 periodic evaluation of basin management action
25 plans; requiring that revisions to plans be
26 made by the department in cooperation with
27 stakeholders; providing for basin plan
28 revisions regarding nonpoint pollutant sources;
29 authorizing the department's use of additional
30 strategies, including an adopted basin plan, to
31 implement pollutant load reductions; requiring

1 that adopted basin management action plans be
2 included in subsequent NPDES permits or permit
3 modifications; providing that implementation of
4 a total maximum daily load or basin management
5 action plan for holders of a NPDES municipal
6 separate storm water sewer system permit may be
7 achieved through the use of best management
8 practices; requiring the department to impose
9 additional pollution-reduction requirements for
10 a pollutant of concern in a NPDES permit until
11 such time as the total maximum daily load or
12 the basin management action plan is revised,
13 the NPDES permit expires, or the NPDES permit
14 holder modifies its discharge; providing that
15 basin management action plans do not relieve a
16 discharger from the requirement to obtain,
17 renew, or modify a NPDES permit or to abide by
18 other requirements of the permit; requiring
19 that plan management strategies be completed
20 pursuant to the schedule set forth in the basin
21 management action plan and providing that the
22 implementation schedule may extend beyond the
23 term of a NPDES permit; providing that
24 management strategies and pollution reduction
25 requirements in a basin management action plan
26 for a specific pollutant of concern are not
27 subject to a challenge under ch. 120, F.S., at
28 the time they are incorporated, in identical
29 form, into a subsequent NPDES permit or permit
30 modification; requiring timely adoption and
31 implementation of pollutant reduction actions

1 for nonagricultural pollutant sources not
2 subject to NPDES permitting but regulated
3 pursuant to other state, regional, or local
4 regulatory programs; requiring timely
5 implementation of best management practices for
6 agricultural or nonagricultural nonpoint
7 pollutant source dischargers not subject to
8 permitting at the time a basin management
9 action plan is adopted; providing an exemption;
10 providing for presumption of compliance under
11 certain circumstances; providing for
12 enforcement action by the department or a water
13 management district; requiring that a
14 landowner, discharger, or other responsible
15 person that is implementing management
16 strategies specified in an adopted basin
17 management action plan will not be required by
18 permit, enforcement action, or otherwise to
19 implement additional management strategies to
20 reduce pollutant loads; providing that the
21 authority of the department to amend a basin
22 management plan is not limited; requiring that
23 the department verify at representative sites
24 the effectiveness of interim measures, best
25 management practices, and other measures
26 adopted by rule; requiring that the department
27 use its best professional judgment in making
28 initial verifications that best management
29 practices are not effective; requiring notice
30 to the appropriate water management district or
31 the Department of Agriculture and Consumer

1 Services under certain conditions; establishing
2 a presumption of compliance for implementation
3 of practices initially verified to be effective
4 or verified to be effective at representative
5 sites; limiting the institution of proceedings
6 by the department against the owner of a source
7 of pollution to recover costs or damages
8 associated with the contamination of surface or
9 ground water caused by those pollutants;
10 requiring the Department of Agriculture and
11 Consumer Services to institute a reevaluation
12 of best management practices or other measures
13 where water quality problems are detected or
14 predicted during the development or amendment
15 of a basin management action plan; providing
16 for rule revisions; providing the department
17 with rulemaking authority; requiring that a
18 report be submitted to the Governor, the
19 President of the Senate, and the Speaker of the
20 House of Representatives containing
21 recommendations on rules for pollutant trading
22 prior to the adoption of those rules; requiring
23 that recommendations be adopted in cooperation
24 with a technical advisory committee containing
25 experts in pollutant trading and
26 representatives of potentially affected
27 parties; deleting a requirement that no
28 pollutant trading program shall become
29 effective prior to review and ratification by
30 the Legislature; amending ss. 373.4595 and
31 570.085, F.S.; correcting cross-references;

1 amending s. 403.885, F.S.; revising
2 requirements relating to the department's grant
3 program for water quality improvement and water
4 restoration project grants; eliminating grants
5 for water quality improvement, water
6 management, and drinking water projects;
7 authorizing grants for wastewater management;
8 creating additional criteria for funding storm
9 water grants; requiring local matching funds;
10 providing an exception from matching fund
11 requirements for financially disadvantaged
12 small local governments; creating s. 403.890,
13 F.S.; establishing the Water Protection and
14 Sustainability Funding Program; establishing a
15 funding formula for the distribution of
16 revenues generated by the bonding provisions as
17 provided in s. 215.6197, F.S.; establishing
18 funding for alternative water supply
19 development as provided in s. 373.1961, F.S.,
20 the development and implementation of total
21 maximum daily load projects as provided in s.
22 403.067, F.S., surface water improvement and
23 management plans and programs as provided in
24 ss. 373.451 and 373.459, F.S., the Clean Water
25 State Revolving Loan Grants Program as provided
26 in s. 403.1835, F.S., the Drinking Water State
27 Revolving Loan Grant Program as provided in s.
28 403.8532, F.S., and the Disadvantaged Small
29 Community Wastewater Grant Program as provided
30 in s. 403.1838, F.S.; providing an effective
31 date.

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

2

3 Section 1. Paragraph (d) of subsection (1) and
4 subsections (6) and (8) of section 201.15, Florida Statutes,
5 are amended to read:

6 201.15 Distribution of taxes collected.--All taxes
7 collected under this chapter shall be distributed as follows
8 and shall be subject to the service charge imposed in s.
9 215.20(1), except that such service charge shall not be levied
10 against any portion of taxes pledged to debt service on bonds
11 to the extent that the amount of the service charge is
12 required to pay any amounts relating to the bonds:

13 (1)

14 (d) The remainder of the moneys distributed under this
15 subsection, after the required payments under paragraphs (a),
16 (b), and (c), shall be paid into the State Treasury to the
17 credit of the General Revenue Fund of the state to be used and
18 expended for the purposes for which the General Revenue Fund
19 was created and exists by law or to the Ecosystem Management
20 and Restoration Trust Fund or to the Marine Resources
21 Conservation Trust Fund as provided in subsection (11), or to
22 the Water Protection and Sustainability Program Trust Fund of
23 the Department of Environmental Protection as provided in s.
24 215.6197. Moneys available under this paragraph shall first be
25 used to pay debt service due on any water protection and
26 sustainability bonds or to make any other payments required by
27 the bond documents authorizing the issuance before such moneys
28 are used for other purposes authorized by this paragraph.

29 (6) Two and ~~seventy-eight~~ ~~twenty-eight~~ hundredths
30 percent of the remaining taxes collected under this chapter
31 shall be paid into the State Treasury to the credit of the

1 Invasive Plant Control Trust Fund to carry out the purposes
2 set forth in ss. 369.22 and 369.252.

3 (8) Each fiscal year the Legislature, to the extent
4 practicable, should use nonrecurring revenue sources in lieu
5 of issuing bonds pursuant to this section. One half of one
6 percent of the remaining taxes collected under this chapter
7 shall be paid into the State Treasury and divided equally to
8 the credit of the Department of Environmental Protection Water
9 Quality Assurance Trust Fund to address water quality impacts
10 associated with nonagricultural nonpoint sources and to the
11 credit of the Department of Agriculture and Consumer Services
12 General Inspection Trust Fund to address water quality impacts
13 associated with agricultural nonpoint sources, respectively.
14 These funds shall be used for research, development,
15 demonstration, and implementation of suitable best management
16 practices or other measures used to achieve water quality
17 standards in surface waters and water segments identified
18 pursuant to ss. 303(d) of the Clean Water Act, Pub. L. No.
19 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best
20 management practices and other measures may include cost share
21 grants, technical assistance, implementation tracking, and
22 conservation leases or other agreements for water quality
23 improvement. The Department of Environmental Protection and
24 the Department of Agriculture and Consumer Services may adopt
25 rules governing the distribution of funds for implementation
26 of best management practices. The unobligated balance of funds
27 received from the distribution of taxes collected under this
28 chapter to address water quality impacts associated with
29 nonagricultural nonpoint sources will be excluded when
30 calculating the unobligated balance of the Water Quality
31

1 ~~Assurance Trust Fund as it relates to the determination of the~~
2 ~~applicable excise tax rate.~~

3 Section 2. Section 215.6197, Florida Statutes, is
4 created to read:

5 215.6197 Bonds for Water Protection and Sustainability
6 Program.--

7 (1) The issuance of water protection and
8 sustainability bonds is authorized. The water protection and
9 sustainability bonds may be issued over the next 10 fiscal
10 years commencing on July 1, 2005, in an amount not exceeding
11 \$500 million in any fiscal year, subject to s. 403.890 and s.
12 11(e), Art. VII of the State Constitution. The duration of
13 each series of bonds issued may not exceed 20 annual
14 maturities. Except for refunding bonds, a series of bonds may
15 not be issued unless an amount equal to the debt service
16 coming due in the year of issuance has been specifically
17 appropriated in the General Appropriations Act.

18 (2) The state covenants with the holders of water
19 protection and sustainability bonds that it will not take any
20 action that will materially and adversely affect the rights of
21 such holders so long as the bonds are outstanding, including,
22 but not limited to, a reduction in the portion of documentary
23 stamp taxes distributable to the Water Protection and
24 Sustainability Program Trust Fund of the Department of
25 Environmental Protection for payment of debt service.

26 (3) Bonds issued under this section shall be payable
27 from taxes distributable to the Water Protection and
28 Sustainability Program Trust Fund of the Department of
29 Environmental Protection under s. 201.15(1)(d). Bonds issued
30 under this section do not constitute a general obligation of,
31 or a pledge of the full faith and credit of, the state.

1 (4) The Department of Environmental Protection shall
2 request the Division of Bond Finance of the State Board of
3 Administration to issue the water protection and
4 sustainability bonds authorized by this section. The Division
5 of Bond Finance shall issue such bonds pursuant to the State
6 Bond Act.

7 (5) The proceeds from the sale of bonds issued under
8 this section, less the costs of issuance, the costs of funding
9 reserve accounts, and other costs with respect to the bonds
10 shall be deposited into the Water Protection and
11 Sustainability Program Trust Fund of the Department of
12 Environmental Protection as provided in s. 403.890.

13 (6) The sale, disposition, lease, easement, license,
14 or other use of any land, water areas, or related property
15 interests acquired or improved with proceeds of water
16 protection and sustainability bonds which would cause all or
17 any portion of the interest of such bonds to lose the
18 exclusion from gross income for federal income tax purposes is
19 prohibited.

20 (7) The initial series of water protection and
21 sustainability bonds shall be validated in addition to any
22 other bonds required to be validated under s. 215.82. Any
23 complaint for validation of bonds issued under this section
24 shall be filed only in the circuit court of the county where
25 the seat of state government is situated, the notice required
26 to be published by s. 75.06 shall be published only in the
27 county where the complaint is filed, and the complaint and
28 order of the circuit court shall be served only on the state
29 attorney of the circuit in which the action is pending.

30 Section 3. In accordance with section 215.98(1),
31 Florida Statutes, the Legislature determines that the issuance

1 of water protection and sustainability bonds under section 2
2 of this act is in the best interest of the state and should be
3 implemented.

4 Section 4. Section 373.196, Florida Statutes, is
5 amended to read:

6 373.196 Water supply development; alternative water
7 supply development ~~Legislative findings.--~~

8 (1) The purpose of this section is to encourage
9 cooperation in the development of water supplies and to
10 provide for alternative water supply development.

11 (a) Demands on natural supplies of fresh water to meet
12 the needs of a rapidly growing population, and the needs of
13 the environment, agriculture, industry, and mining will
14 continue to increase.

15 (b) There is a need for the development of alternative
16 water supplies for Florida to sustain its economic growth and
17 viability. The development of alternative water supplies will
18 benefit the environment by reducing the impacts of consumptive
19 uses on traditional groundwater sources.

20 (c) Alternative water supply development must receive
21 priority funding attention to increase the available supplies
22 of water to meet all existing and future reasonable-beneficial
23 uses and to benefit the natural systems.

24 (d) Cooperation between counties, municipalities,
25 special districts, and publicly owned or privately owned water
26 utilities in the development of countywide and multicountywide
27 alternative water supply projects will allow for necessary
28 economies of scale and efficiencies to be achieved in order to
29 accelerate the development of new, dependable, and sustainable
30 alternative water supplies.

31

1 (e) It is in the public interest that municipal,
2 industrial, agricultural, and other public and private water
3 users, the Department of Environmental Protection, and the
4 water management districts cooperate and work together in the
5 development of alternative water supplies to avoid the adverse
6 effects of competition for limited supplies of water. Public
7 moneys or services provided to private entities for
8 alternative water supply development may constitute public
9 purposes that also are in the public interest.

10 (f) The primary roles of the water management
11 districts in water supply development are:

12 1. The formulation, development, and implementation of
13 regional water supply management strategies and programs;

14 2. The collection and evaluation of surface water and
15 groundwater data;

16 3. The construction, operation, and maintenance of
17 major public works facilities for flood control, aboveground
18 and belowground water storage, and groundwater recharge
19 augmentation;

20 4. Planning for regional water supply development in
21 conjunction with local governments, regional water supply
22 authorities, special districts, and publicly owned and
23 privately owned water utilities;

24 5. The construction, operation, and maintenance of
25 structural and nonstructural projects; and

26 6. The provision of technical and financial assistance
27 to local and regional water utilities for alternative water
28 supply projects.

29 (g) The primary roles of local government, regional
30 water supply authorities, special districts, and publicly
31

1 owned or privately owned water utilities in water supply
2 development shall be:

3 1. The planning, design, construction, operation, and
4 maintenance of water supply development projects, including
5 alternative water supply development projects;

6 2. The formulation, development, and implementation of
7 water supply development and alternative water supply
8 development strategies, programs, and projects;

9 3. The planning, design, construction, operation, and
10 maintenance of facilities to collect, divert, produce, treat,
11 transmit, and distribute water for sale, resale, or end use;
12 and

13 4. The coordination of water supply development and
14 alternative water supply development activities with the
15 appropriate water management district having jurisdiction over
16 the activity.

17 ~~(h) It is the finding of the Legislature that~~
18 Cooperative efforts between municipalities, counties, special
19 districts, water management districts, and the Department of
20 Environmental Protection are mandatory in order to meet the
21 water needs of rapidly urbanizing areas in a manner which will
22 supply adequate and dependable supplies of water where needed
23 without resulting in adverse effects upon the areas from
24 whence such water is withdrawn. Such efforts should utilize
25 all practical means of obtaining water, including, but not
26 limited to, withdrawals of surface water and groundwater,
27 ~~reuse recycling of waste water~~, and desalinization, and will
28 necessitate not only cooperation but also well-coordinated
29 activities. Municipalities, counties, and special districts
30 are encouraged to create regional water supply authorities as
31 authorized in s. 373.1962. ~~The purpose of this act is to~~

1 ~~provide additional statutory authority for such cooperative~~
2 ~~and coordinated efforts.~~

3 ~~(2) Municipalities and counties are encouraged to~~
4 ~~create regional water supply authorities as authorized herein.~~
5 ~~It is further the intent that municipalities, counties, and~~
6 ~~regional water supply authorities are to have the primary~~
7 ~~responsibility for water supply, and water management~~
8 ~~districts and their basin boards are to engage only in those~~
9 ~~functions that are incidental to the exercise of their flood~~
10 ~~control and water management powers or that are related to~~
11 ~~water resource development pursuant to s. 373.0831.~~

12 ~~(i)(3)~~ Nothing herein shall be construed to preclude
13 the various special districts, municipalities, and counties
14 from continuing to operate existing water production and
15 transmission facilities or to enter into cooperative
16 agreements with other special districts, municipalities, and
17 counties for the purpose of meeting their respective needs for
18 dependable and adequate supplies of water, provided the
19 obtaining of water through such operations shall not be done
20 in a manner which results in adverse effects upon the areas
21 from whence such water is withdrawn.

22 (2)(a) Sufficient water must be available for all
23 existing and future reasonable-beneficial uses and the natural
24 systems, and the adverse effects of competition for water
25 supplies must be avoided.

26 (b) Water supply development and alternative water
27 supply development must be conducted in coordination with
28 water management district regional water supply planning.

29 (c) Funding for the development of alternative water
30 supplies shall be a shared responsibility of the state of
31 Florida, the water management districts and local water

1 suppliers. The development of alternative water supplies will
2 benefit both water consumers and the environment and will
3 avoid the negative impacts of competition for a limited
4 resource.

5 (3)(a) The Legislature shall identify a recurring and
6 dedicated source of statewide funds to provide economic
7 incentives to water management districts and local water
8 suppliers to support and promote water supply development
9 including the development of alternative water supplies. As
10 used in this section, the term "local water suppliers" means a
11 municipality, county, special district, water supply
12 authority, and a publicly owned or privately owned water
13 utility.

14 (b) By January 1, 2006, each water management district
15 shall develop a financially feasible plan to provide economic
16 incentives for alternative water supply development, including
17 allocating a portion of each annual budget to provide
18 financial assistance for the capital cost of any alternative
19 water supply development project to eligible local
20 governments, publicly owned or privately owned water
21 utilities, regional water supply authorities, special
22 districts, industrial and agricultural water users, and other
23 public and private water users. At a minimum, the plan shall
24 include a strategy for providing, on an annual basis, no less
25 than 30 percent of the water management district's allocation
26 pursuant to s. 373.1961. By February 1, 2006, each water
27 management district must submit a copy of the economic
28 incentives plan to the Governor, the President of the Senate,
29 the Speaker of the House of Representatives, and the
30 appropriate substantive legislative committees.

1 (c) State funds made available for alternative water
2 supply development as provided in the Water Protection and
3 Sustainability Funding program created in s. 403.890 and
4 financial assistance for alternative water supply development
5 provided by a water management district pursuant to paragraph
6 (b) shall be made available to local governments, publicly
7 owned or privately owned water utilities, regional water
8 supply authorities, special districts, industrial and
9 agricultural water users, and other public and private water
10 users under a water management district grant program created
11 in s. 373.1961(4).

12 Section 5. Section 373.1961, Florida Statutes, is
13 amended to read:

14 373.1961 Water production; general powers and duties;
15 identification of needs; funding criteria; economic
16 incentives; reuse funding.--

17 (1) GENERAL POWERS AND DUTIES.--In the performance of,
18 and in conjunction with, its other powers and duties, the
19 governing board of a water management district existing
20 pursuant to this chapter:

21 (a) Shall engage in planning to assist counties,
22 municipalities, special districts, publicly owned and
23 privately owned water ~~private~~ utilities, or regional water
24 supply authorities in meeting water supply needs in such
25 manner as will give priority to encouraging conservation and
26 reducing adverse environmental effects of improper or
27 excessive withdrawals of water from concentrated areas. As
28 used in this section and s. 373.196, regional water supply
29 authorities are regional water authorities created under s.
30 373.1962 or other laws of this state.

31

1 (b) Shall assist counties, municipalities, special
2 districts, publicly owned or privately owned water ~~private~~
3 utilities, or regional water supply authorities in meeting
4 water supply needs in such manner as will give priority to
5 encouraging conservation and reducing adverse environmental
6 effects of improper or excessive withdrawals of water from
7 concentrated areas.

8 (c) May establish, design, construct, operate, and
9 maintain water production and transmission facilities for the
10 purpose of supplying water to counties, municipalities,
11 special districts, publicly owned and privately owned water
12 ~~private~~ utilities, or regional water supply authorities. The
13 permit required by part II of this chapter for a water
14 management district engaged in water production and
15 transmission shall be granted, denied, or granted with
16 conditions by the department.

17 (d) Shall not engage in local water supply
18 distribution.

19 (e) Shall not deprive, directly or indirectly, any
20 county wherein water is withdrawn of the prior right to the
21 reasonable and beneficial use of water which is required to
22 supply adequately the reasonable and beneficial needs of the
23 county or any of the inhabitants or property owners therein.

24 (f) May provide water and financial assistance to
25 regional water supply authorities, but may not provide water
26 to counties and municipalities which are located within the
27 area of such authority without the specific approval of the
28 authority or, in the event of the authority's disapproval, the
29 approval of the Governor and Cabinet sitting as the Land and
30 Water Adjudicatory Commission. The district may supply water
31 at rates and upon terms mutually agreed to by the parties or,

1 | if they do not agree, as set by the governing board and
2 | specifically approved by the Governor and Cabinet sitting as
3 | the Land and Water Adjudicatory Commission.

4 | (g) May acquire title to such interest as is necessary
5 | in real property, by purchase, gift, devise, lease, eminent
6 | domain, or otherwise, for water production and transmission
7 | consistent with this section and s. 373.196. However, the
8 | district shall not use any of the eminent domain powers herein
9 | granted to acquire water and water rights already devoted to
10 | reasonable and beneficial use or any water production or
11 | transmission facilities owned by any county, municipality,
12 | special districts, or regional water supply authority. The
13 | district may exercise eminent domain powers outside of its
14 | district boundaries for the acquisition of pumpage facilities,
15 | storage areas, transmission facilities, and the normal
16 | appurtenances thereto, provided that at least 45 days prior to
17 | the exercise of eminent domain, the district notifies the
18 | district where the property is located after public notice and
19 | the district where the property is located does not object
20 | within 45 days after notification of such exercise of eminent
21 | domain authority.

22 | (h) In addition to the power to issue revenue bonds
23 | pursuant to s. 373.584, may issue revenue bonds for the
24 | purposes of paying the costs and expenses incurred in carrying
25 | out the purposes of this chapter or refunding obligations of
26 | the district issued pursuant to this section. Such revenue
27 | bonds shall be secured by, and be payable from, revenues
28 | derived from the operation, lease, or use of its water
29 | production and transmission facilities and other water-related
30 | facilities and from the sale of water or services relating
31 | thereto. Such revenue bonds may not be secured by, or be

1 payable from, moneys derived by the district from the Water
2 Management Lands Trust Fund or from ad valorem taxes received
3 by the district. All provisions of s. 373.584 relating to the
4 issuance of revenue bonds which are not inconsistent with this
5 section shall apply to the issuance of revenue bonds pursuant
6 to this section. The district may also issue bond
7 anticipation notes in accordance with the provisions of s.
8 373.584.

9 (i) May join with one or more other water management
10 districts, counties, municipalities, special districts,
11 publicly owned or privately owned water ~~private~~ utilities, or
12 regional water supply authorities for the purpose of carrying
13 out any of its powers, and may contract with such other
14 entities to finance acquisitions, construction, operation, and
15 maintenance. The contract may provide for contributions to be
16 made by each party thereto, for the division and apportionment
17 of the expenses of acquisitions, construction, operation, and
18 maintenance, and for the division and apportionment of the
19 benefits, services, and products therefrom. The contracts may
20 contain other covenants and agreements necessary and
21 appropriate to accomplish their purposes.

22 (2) IDENTIFICATION OF WATER SUPPLY NEEDS IN DISTRICT
23 BUDGET.--The water management districts shall implement water
24 supply development responsibilities as expeditiously as
25 possible in areas subject to regional water supply plans. Each
26 district's governing board shall include in its annual budget
27 the amount needed for the fiscal year to implement water
28 supply development projects, as prioritized in its regional
29 water supply plans.

30 (3) GENERAL FUNDING CRITERIA FOR WATER SUPPLY
31 DEVELOPMENT PROJECTS.--Water supply development projects

1 identified pursuant to s. 373.0361(2)(a) which receive state
2 or water management district funding assistance shall meet one
3 or more of the following criteria:

4 (a) The project supports establishment of a
5 dependable, sustainable supply of water but requires funding
6 assistance to be financially feasible;

7 (b) The project provides substantial environmental
8 benefits by limiting or preventing adverse water resource
9 impacts, but requires funding assistance to be economically
10 competitive with other options;

11 (c) The project significantly implements or develops
12 alternative water supplies as defined in paragraph (4)(a) or
13 conservation of water in a manner that contributes to the
14 sustainability of regional water sources; or

15 (d) The project assists in the replenishment of
16 existing sources to help implement a minimum flow or level or
17 water reservation established pursuant to s. 373.223(4) or
18 provides for an alternative water supply source.

19 ~~(4) FUNDING.--(2) The Legislature finds that, due to~~
20 ~~a combination of factors, vastly increased demands have been~~
21 ~~placed on natural supplies of fresh water, and that, absent~~
22 ~~increased development of alternative water supplies, such~~
23 ~~demands may increase in the future. The Legislature also finds~~
24 ~~that potential exists in the state for the production of~~
25 ~~significant quantities of alternative water supplies,~~
26 ~~including reclaimed water, and that water production includes~~
27 ~~the development of alternative water supplies, including~~
28 ~~reclaimed water, for appropriate uses. It is the intent of the~~
29 ~~Legislature that utilities develop reclaimed water systems,~~
30 ~~where reclaimed water is the most appropriate alternative~~
31 ~~water supply option, to deliver reclaimed water to as many~~

1 ~~users as possible through the most cost effective means, and~~
2 ~~to construct reclaimed water system infrastructure to their~~
3 ~~owned or operated properties and facilities where they have~~
4 ~~reclamation capability. It is also the intent of the~~
5 ~~Legislature that~~ The water management districts and the state
6 shall ~~which levy ad valorem taxes for water management~~
7 ~~purposes should~~ share a percentage of ~~those~~ tax and other
8 revenues with water providers and users, including local
9 governments, water, wastewater, and reuse utilities,
10 municipal, special district, industrial, and agricultural
11 water users, and other public and private water users, to be
12 used to supplement other funding sources in the development of
13 alternative water supplies. ~~The Legislature finds that public~~
14 ~~moneys or services provided to private entities for such uses~~
15 ~~constitute public purposes which are in the public interest.~~
16 ~~In order to further the development and use of alternative~~
17 ~~water supply systems, including reclaimed water systems, the~~
18 ~~Legislature provides the following:~~

19 (a) For the purposes of this subsection, the term
20 "alternative water supplies" includes, but is not limited to,
21 water that has been reclaimed after one or more public supply,
22 municipal, industrial, commercial, or agricultural uses;
23 stormwater, brackish water, or saltwater; sources made more
24 efficient through the interconnection of separate utility and
25 other water supply systems; sources made available through
26 enhanced storage capacity such as groundwater augmentation,
27 aquifer storage and recovery, and surface water reservoirs;
28 and any other nontraditional source of water supply that has
29 been treated in accordance with applicable rules and standards
30 sufficient to meet the intended use.

31

1 (b) Where sufficient data establishes that one or more
2 alternative water supply projects are necessary to meet the
3 existing and future reasonable-beneficial uses within a water
4 supply planning region identified in a district water
5 management plan, the district must:

6 1. Identify alternative water supply project options;

7 2. Quantify the sources of alternative water supplies
8 which can be made available by the projects within the
9 planning region;

10 3. Perform an assessment of the alternative water
11 supply project's technical feasibility, ability to be
12 permitted, and the estimated cost of the various project
13 options for developing alternative water supplies; and

14 4. Conduct one or more public workshops within the
15 water supply planning region for the purpose of receiving
16 public input on the district's findings and recommendations.

17 (c) Beginning in fiscal year 2005-2006, the state
18 shall annually provide a portion of those revenues received
19 from the sale of bonds authorized in s. 215.6197 for the
20 purpose of providing funding for the development of
21 alternative water supplies. At the beginning of each fiscal
22 year, beginning with fiscal year 2005-2006, such revenues
23 shall be distributed by the department into the alternative
24 water supply trust fund accounts created by each district for
25 the purpose of alternative supply development under the
26 following funding formula:

27 1. Forty percent to the South Florida Water Management
28 District,

29 2. Twenty-five percent to the Southwest Florida Water
30 Management District,

31

1 3. Twenty-five percent to the St. Johns River Water
2 Management District,

3 4. Five percent to the Suwannee River Water Management
4 District, and

5 5. Five percent to the Northwest Florida Water
6 Management District.

7 (d) The financial assistance for alternative water
8 supply development contained in each district's economic
9 incentives plan as required in s. 373.196(3) shall be
10 deposited along with the state funds into an alternative water
11 supply trust account created by each district and used to fund
12 the local capital costs of alternative water supply projects
13 approved pursuant to this section. For purposes of this
14 section, the term "capital costs" means planning, design,
15 engineering, and project construction costs, as well as legal,
16 administrative, and permitting costs.

17 (e) All funds provided by the state for the purpose of
18 funding alternative water supply grants, shall, at a minimum,
19 require a 50-percent match by the water management districts
20 and grant applicant.

21 ~~(a) The governing boards of the water management~~
22 ~~districts where water resource caution areas have been~~
23 ~~designated shall include in their annual budgets an amount for~~
24 ~~the development of alternative water supply systems, including~~
25 ~~reclaimed water systems, pursuant to the requirements of this~~
26 ~~subsection. Beginning in 1996, such amounts shall be made~~
27 ~~available to water providers and users no later than December~~
28 ~~31 of each year, through grants, matching grants, revolving~~
29 ~~loans, or the use of district lands or facilities pursuant to~~
30 ~~the requirements of this subsection and guidelines established~~
31

1 ~~by the districts. In making grants or loans, funding priority~~
2 ~~must be given to projects in accordance with s. 373.0831(4).~~

3 (f) Without diminishing amounts available through
4 other means described in this paragraph, the governing boards
5 are encouraged to consider establishing revolving loan funds
6 to expand the total funds available to accomplish the
7 objectives of this section. A revolving loan fund created
8 under this paragraph must be a nonlapsing fund from which the
9 water management district may make loans with interest rates
10 below prevailing market rates to public or private entities
11 for the purposes described in this section. The governing
12 board may adopt resolutions to establish revolving loan funds
13 which must specify the details of the administration of the
14 fund, the procedures for applying for loans from the fund, the
15 criteria for awarding loans from the fund, the initial
16 capitalization of the fund, and the goals for future
17 capitalization of the fund in subsequent budget years.

18 Revolving loan funds created under this paragraph must be used
19 to expand the total sums and sources of cooperative funding
20 available for the development of alternative water supplies.
21 The Legislature does not intend for the creation of revolving
22 loan funds to supplant or otherwise reduce existing sources or
23 amounts of funds currently available through other means.

24 (g) For each utility that receives financial
25 assistance from the state or a water management district for
26 alternative water supply development projects, the appropriate
27 rate-setting authority must develop rate structures for all
28 water, wastewater, and other alternative water facilities in
29 the service area of the utility receiving assistance. Rate
30 structures must:

31

1 1. Promote the development of alternative water supply
2 systems;

3 2. Promote the conservation of groundwater withdrawn
4 from natural systems;

5 3. Appropriately distribute costs among all the users
6 of water, wastewater, and alternative water supplies within
7 the service area; and

8 4. Prohibit rate discrimination within classes of
9 utility users.

10 ~~(b) It is the intent of the Legislature that for each~~
11 ~~reclaimed water utility, or any other utility, which receives~~
12 ~~funds pursuant to this subsection, the appropriate~~
13 ~~rate setting authorities should develop rate structures for~~
14 ~~all water, wastewater, and reclaimed water and other~~
15 ~~alternative water supply utilities in the service area of the~~
16 ~~funded utility, which accomplish the following:~~

17 ~~1. Provide meaningful progress toward the development~~
18 ~~and implementation of alternative water supply systems,~~
19 ~~including reclaimed water systems;~~

20 ~~2. Promote the conservation of fresh water withdrawn~~
21 ~~from natural systems;~~

22 ~~3. Provide for an appropriate distribution of costs~~
23 ~~for all water, wastewater, and alternative water supply~~
24 ~~utilities, including reclaimed water utilities, among all of~~
25 ~~the users of those utilities; and~~

26 ~~4. Prohibit rate discrimination within classes of~~
27 ~~utility users.~~

28 ~~(c) Funding assistance provided by the water~~
29 ~~management districts for a water reuse system project may~~
30 ~~include the following grant or loan conditions for that~~
31

1 ~~project if the water management district determines that such~~
2 ~~conditions will encourage water use efficiency:~~

3 1. ~~Metering of reclaimed water use for the following~~
4 ~~activities: residential irrigation, agricultural irrigation,~~
5 ~~industrial uses except for electric utilities as defined in s.~~
6 ~~366.02(2), landscape irrigation, irrigation of other public~~
7 ~~access areas, commercial and institutional uses such as toilet~~
8 ~~flushing, and transfers to other reclaimed water utilities.~~

9 2. ~~Implementation of reclaimed water rate structures~~
10 ~~based on actual use of reclaimed water for the types of reuse~~
11 ~~activities listed in subparagraph 1.~~

12 3. ~~Implementation of education programs to inform the~~
13 ~~public about water issues, water conservation, and the~~
14 ~~importance and proper use of reclaimed water.~~

15 4. ~~Development of location data for key reuse~~
16 ~~facilities.~~

17 ~~(d)~~ ~~In order to be eligible for funding pursuant to~~
18 ~~this subsection, a project must be consistent with a local~~
19 ~~government comprehensive plan and the governing body of the~~
20 ~~local government must require all appropriate new facilities~~
21 ~~within the project's service area to connect to and use the~~
22 ~~project's alternative water supplies. The appropriate local~~
23 ~~government must provide written notification to the~~
24 ~~appropriate district that the proposed project is consistent~~
25 ~~with the local government comprehensive plan.~~

26 (h)(e) Any and all revenues disbursed pursuant to this
27 subsection shall be applied only for the payment of capital
28 costs for alternative water supply projects, which contribute
29 to meeting the existing and future reasonable-beneficial uses,
30 and which are identified or listed within a regional water
31 supply plan pursuant to s. 373.0361(2)(a) or infrastructure

1 ~~costs for the construction of alternative water supply systems~~
2 ~~that provide alternative water supplies.~~

3 ~~(i)1.(f) By January 1 of each year, The governing~~
4 ~~boards shall establish an application process and a deadline~~
5 ~~for filing applications annually make available written~~
6 ~~guidelines for the disbursal of revenues pursuant to this~~
7 ~~subsection. Such guidelines shall include at minimum:~~

8 ~~1. An application process and a deadline for filing~~
9 ~~applications annually.~~

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

12 ~~3. A process and criteria for funding projects~~
13 ~~pursuant to this subsection that cross district boundaries or~~
14 ~~that serve more than one district.~~

15 ~~2.(g) The governing board of each water management~~
16 ~~district shall also establish an alternative water supplies~~
17 ~~grants advisory committee to recommend to the governing board~~
18 ~~projects for funding pursuant to this subsection. The advisory~~
19 ~~committee members shall include, but not be limited to, one or~~
20 ~~more representatives of county, municipal, special district,~~
21 ~~and investor-owned private utilities, and may include, but not~~
22 ~~be limited to, representatives of agricultural interests and~~
23 ~~environmental interests. Each committee member shall represent~~
24 ~~his or her interest group as a whole and shall not represent~~
25 ~~any specific entity. The committee shall apply the guidelines~~
26 ~~and project eligibility criteria established by the governing~~
27 ~~board in reviewing proposed projects.~~

28 ~~(j) After one or more hearings to solicit public input~~
29 ~~on eligible projects, the alternative water supply grants~~
30 ~~advisory committee shall rank and recommend alternative water~~
31 ~~supply projects for grant funding based upon the project being~~

1 identified or listed as an option in the regional water supply
2 plan pursuant to s. 373.0361(2)(a) and by balancing the
3 following criteria:
4 1. Projects that are most cost-effective;
5 2. Projects serving a larger number of local
6 governments pursuant to the terms of an interlocal agreement,
7 especially those projects that interconnect separate utility
8 systems, share a uniform production cost and a uniform per
9 gallon or blended wholesale rate, or otherwise result in the
10 most cost-effective system of production for the most users
11 whereby the cost of the water produced to service a number of
12 local providers is less than the costs incurred by producing
13 water through separate supply systems for separate local
14 providers;
15 3. Projects where local governments match a higher
16 percentage of the capital costs of the projects;
17 4. Projects serving those local governments with the
18 lower per capita use of potable water;
19 5. Projects that reduce the consumption of traditional
20 supplies for the benefit of the natural system or other
21 economic uses;
22 6. Projects that supplement an existing supply or
23 traditional source that has been reduced for existing and
24 future reasonable-beneficial uses by the adoption of a minimum
25 flow or level pursuant to s. 373.042 or a water reservation
26 established pursuant to s. 373.223(4);
27 7. Projects that reduce competition between existing
28 and future users;
29 8. Projects that are included in a county-wide or
30 geographically larger water supply development plan; and
31

1 9. Projects where the applicant has established a
2 goal-based water conservation program as required in s.
3 373.227 and is demonstrating measurable progress towards
4 achieving conservation goals.

5 10. Projects in which the construction and delivery to
6 end users of reuse water is a major component.

7 (k) Each applicant for a grant pursuant to this
8 section shall provide data that shows the percentage of water
9 system utility revenues reinvested into water projects. The
10 advisory committee shall give priority to those applicants
11 that have the highest percentage of reinvestment.

12
13 The advisory committee shall submit the list of ranked and
14 recommended projects, along with a recommendation for the
15 amount of funding, for final funding approval to the governing
16 board and to be included in the district's annual budget
17 supporting the development of alternative water supplies. The
18 list of ranked and recommended projects may contain more
19 projects than available grant moneys will fund. In approving a
20 project for funding, the governing board must take action on
21 and give great weight to the advisory committee's ranking and
22 recommendation list. ~~the eligible projects and shall submit~~
23 ~~them to the governing board for final funding approval. The~~
24 ~~advisory committee may submit to the governing board more~~
25 ~~projects than the available grant money would fund.~~

26 (l)(h) All revenues made available annually pursuant
27 to this subsection must be encumbered annually by the
28 governing board if it approves projects sufficient to expend
29 the available revenues. Funds must be disbursed within 36
30 months after encumbrance.

31

1 ~~(i) For purposes of this subsection, alternative water~~
2 ~~supplies are supplies of water that have been reclaimed after~~
3 ~~one or more public supply, municipal, industrial, commercial,~~
4 ~~or agricultural uses, or are supplies of stormwater, or~~
5 ~~brackish or salt water, that have been treated in accordance~~
6 ~~with applicable rules and standards sufficient to supply the~~
7 ~~intended use.~~

8 ~~(m)(j)~~ This subsection shall not be subject to the
9 rulemaking requirements of chapter 120.

10 ~~(n)(k)~~ By January 30 of each year, each water
11 management district shall submit an annual report to the
12 Governor, the President of the Senate, and the Speaker of the
13 House of Representatives which accounts for the disbursement of
14 all budgeted amounts pursuant to this ~~section~~ subsection. Such
15 report shall describe all alternative water supply projects
16 funded as well as the quantity of new water projects to be
17 created as a result of such projects and shall account
18 separately for any other moneys provided through grants,
19 matching grants, revolving loans, and the use of district
20 lands or facilities to implement regional water supply plans.

21 ~~(o)(l)~~ The Florida Public Service Commission shall
22 allow entities under its jurisdiction constructing or
23 participating in constructing facilities that provide
24 alternative water supplies ~~supply facilities, including but~~
25 ~~not limited to aquifer storage and recovery wells,~~ to recover
26 the full, prudently incurred cost of such facilities through
27 their rate structure. If construction of a facility or
28 participating in constructing is pursuant to or in furtherance
29 of a regional water supply plan, the cost shall be deemed to
30 be prudently incurred. Every component of an alternative water
31

1 supply facility constructed by an investor-owned utility shall
2 be recovered in current rates.

3 (5) FUNDING FOR REUSE.--Funding assistance provided by
4 the water management districts for a water reuse system may
5 include the following grant or loan conditions for that
6 project if a water management district determines that such
7 conditions will encourage water use efficiency:

8 (a) Metering of reclaimed water use for residential
9 irrigation, agricultural irrigation, industrial uses, except
10 for electric utilities as defined in s. 366.02(2), landscape
11 irrigation, golf course irrigation, irrigation of other public
12 access areas, commercial and institutional uses such as toilet
13 flushing, and transfers to other reclaimed water utilities;

14 (b) Implementation of reclaimed water rate structures
15 based on actual use of reclaimed water for the reuse
16 activities listed in paragraph (a);

17 (c) Implementation of education programs to inform the
18 public about water issues, water conservation, and the
19 importance and proper use of reclaimed water; or

20 (d) Development of location data for key reuse
21 facilities.

22 Section 6. Subsections (1) and (5) of section
23 373.1962, Florida Statutes, are amended to read:

24 373.1962 Regional water supply authorities.--

25 (1) By interlocal agreement between counties,
26 municipalities, or special districts, as applicable ~~agreement~~
27 ~~between local governmental units created or existing pursuant~~
28 ~~to the provisions of Art. VIII of the State Constitution,~~
29 pursuant to the Florida Interlocal Cooperation Act of 1969, s.
30 163.01, and upon the approval of the Secretary of
31 Environmental Protection to ensure that such agreement will be

1 | in the public interest and complies with the intent and
2 | purposes of this act, regional water supply authorities may be
3 | created for the purpose of developing, recovering, storing,
4 | and supplying water for county or municipal purposes in such a
5 | manner as will give priority to reducing adverse environmental
6 | effects of excessive or improper withdrawals of water from
7 | concentrated areas. In approving said agreement the Secretary
8 | of Environmental Protection shall consider, but not be limited
9 | to, the following:

10 | (a) Whether the geographic territory of the proposed
11 | authority is of sufficient size and character to reduce the
12 | environmental effects of improper or excessive withdrawals of
13 | water from concentrated areas.

14 | (b) The maximization of economic development of the
15 | water resources within the territory of the proposed
16 | authority.

17 | (c) The availability of a dependable and adequate
18 | water supply.

19 | (d) The ability of any proposed authority to design,
20 | construct, operate, and maintain water supply facilities in
21 | the locations, and at the times necessary, to ensure that an
22 | adequate water supply will be available to all citizens within
23 | the authority.

24 | (e) The effect or impact of any proposed authority on
25 | any municipality, county, or existing authority or
26 | authorities.

27 | (f) The existing needs of the water users within the
28 | area of the authority.

29 | (5) Each county, special district, or municipality
30 | which is a party to an agreement pursuant to subsection (1)
31 | shall have a preferential right to purchase water from the

1 regional water supply authority for use by such county,
2 special district, or municipality.

3 Section 7. Subsection (5) is added to section 373.223,
4 Florida Statutes, to read:

5 373.223 Conditions for a permit.--

6 (5) In the event that a local or regional water supply
7 utility, water supply authority, or other multijurisdictional
8 entity as defined in s. 373.0361(3) demonstrates the ability
9 to design, construct, operate, and maintain one or more
10 alternative water supply projects identified by the district
11 pursuant to s. 373.1961(4), or in the event that more than one
12 water utility organizes for the purpose of developing an
13 alternative water supply project as defined in s. 373.1961(4),
14 the appropriate entity shall be presumed to have a use
15 consistent with the public interest pursuant to the
16 requirements of subsection (1).

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

19 373.236 Duration of permits; compliance reports.--

20 (4) Permits approved for the development of
21 alternative water supplies shall be granted for a term of at
22 least 20 years, and up to such period of time as may be
23 required for the retirement of bonds for the construction of
24 facilities that provide alternative water supplies.

25 Section 9. Section 373.459, Florida Statutes, is
26 amended to read:

27 373.459 Funds for surface water improvement and
28 management.--

29 (1) Legislative appropriations provided to the water
30 management districts for surface water improvement and
31

1 management activities shall be available for detailed planning
2 and plan and program implementation.

3 (2) All entities receiving state funding for the
4 implementation of programs specified in ss. 373.451-373.459,
5 including water management districts, federal, local, and
6 regional agencies, universities, and nonprofit or private
7 organizations, shall provide a 50-percent match of cash or
8 in-kind services towards the implementation of the specific
9 project for which it is contracting.

10 ~~(3)(2)~~ The Ecosystem Management and Restoration Trust
11 Fund shall be used for the deposit of funds appropriated by
12 the Legislature for the purposes of ss. 373.451-373.4595. The
13 department shall administer all funds appropriated to or
14 received for surface water improvement and management
15 activities. Expenditure of the moneys shall be limited to the
16 costs of detailed planning and plan and program implementation
17 for priority surface water bodies. Moneys from the fund shall
18 not be expended for planning for, or construction or expansion
19 of, treatment facilities for domestic or industrial waste
20 disposal.

21 ~~(4)(3)~~ The department shall authorize the release of
22 money from the fund in accordance with the provisions of s.
23 373.501(2) and procedures in s. 373.59(4) and (5).

24 ~~(5)(4)~~ Moneys in the fund which are not needed to meet
25 current obligations incurred under this section shall be
26 transferred to the State Board of Administration, to the
27 credit of the trust fund, to be invested in the manner
28 provided by law. Interest received on such investments shall
29 be credited to the trust fund.

30 Section 10. Section 373.0361, Florida Statutes, is
31 amended to read:

1 (Substantial rewording of section. See
2 s. 373.0361, F.S., for present text)
3 373.0361 Regional water supply planning.--
4 (1) The governing board of each water management
5 district shall conduct water supply planning for any water
6 supply planning region within the district identified in the
7 appropriate district water supply plan under s. 373.036, where
8 it determines that existing sources of water are not adequate
9 to supply water for all existing and future
10 reasonable-beneficial uses and to sustain the water resources
11 and related natural systems for the planning period. The
12 planning must be conducted in an open public process, in
13 coordination and cooperation with local governments, regional
14 water supply authorities, government-owned and privately owned
15 water utilities, self-suppliers, and other affected and
16 interested parties. The districts will actively engage in
17 public education and outreach to all affected local entities
18 and their officials, as well as members of the public, in the
19 planning process and in seeking input. During preparation, but
20 prior to completion of the regional water supply plan, the
21 district must conduct at least one public workshop to discuss
22 the technical data and modeling tools anticipated to be used
23 to support the regional water supply plan. The district shall
24 also hold several public meetings to communicate the status,
25 overall conceptual intent, and impacts of the plan on existing
26 and future reasonable-beneficial uses and natural systems. A
27 determination by the governing board that initiation of a
28 regional water supply plan for a specific planning region is
29 not needed pursuant to this section shall be subject to s.
30 120.569. The governing board shall reevaluate such a
31 determination at least once every 5 years and shall initiate a

1 regional water supply plan, if needed, pursuant to this
2 subsection.

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

6 (a) A water supply development component for each
7 water supply planning region identified by the district that
8 includes:

9 1. A quantification of the water supply needs for all
10 existing and future reasonable-beneficial uses within the
11 planning horizon. The level-of-certainty planning goal
12 associated with identifying the water supply needs of existing
13 and future reasonable-beneficial uses shall be based upon
14 meeting those needs for a 1-in-10-year drought event.
15 Population projections used for determining public water
16 supply needs must be based upon the best available data. In
17 determining the best available data, the district shall
18 consider the University of Florida's Bureau of Economic and
19 Business Research (BEBR) medium population projections and any
20 population projection data and analysis submitted by a local
21 government pursuant to the public workshop described in
22 subsection (1) if the data and analysis support the local
23 government's comprehensive plan. Any adjustment of or
24 deviation from the BEBR projections must be fully described,
25 and the original BEBR data must be presented along with the
26 adjusted data.

27 2. A list of water supply development project options,
28 including traditional and alternative water supply project
29 options, from which local government, government-owned and
30 privately owned utilities, self-suppliers, and others may
31 choose for water supply development. In addition to projects

1 listed by the district, such users may propose specific
2 projects for inclusion in the list of alternative water supply
3 projects. In the event such users propose a project to be
4 listed as an alternative water supply project, the district
5 shall determine whether it meets the goals of the plan and
6 will be included in the list. The total capacity of the
7 projects or options included in the plan shall exceed the
8 needs identified in subparagraph 1., and shall take into
9 account water conservation and other demand management
10 measures, as well as water resources constraints, including
11 adopted minimum flows and levels and water reservations.
12 Where the district determines it is appropriate, the plan
13 should specifically identify the need for multijurisdictional
14 approaches to project options that, based on planning level
15 analysis, are appropriate to supply the intended uses and
16 that, based on such analysis, appear to be permissible and
17 financially and technically feasible.

18 3. For each project option identified in subparagraph
19 2., the following shall be provided:

20 a. An estimate of the amount of water to become
21 available through the project.

22 b. The timeframe in which the project option should be
23 implemented and the estimated planning level costs for capital
24 investment and operating and maintaining the project.

25 c. An analysis of funding needs and sources of
26 possible funding options.

27 d. Identification of the entity that should implement
28 each project option and the current status of project
29 implementation.

30 (b) A water resource development component that
31 includes:

- 1 1. A listing of those water resource development
2 projects that support water supply development.
- 3 2. For each water resource development project listed:
- 4 a. An estimate of the amount of water to become
5 available through the project.
- 6 b. The timeframe in which the project option should be
7 implemented and the estimated planning level costs for capital
8 investment and operating and maintaining the project.
- 9 c. An analysis of funding needs and sources of
10 possible funding options.
- 11 d. Identification of the entity that should implement
12 each project option and the current status of project
13 implementation.
- 14 (c) The recovery and prevention strategy described in
15 s. 373.0421(2).
- 16 (d) A funding strategy for water resource development
17 projects, which shall be reasonable and sufficient to pay the
18 cost of constructing or implementing all of the listed
19 projects.
- 20 (e) Consideration of how the project options addressed
21 in paragraph (a) serve the public interest or save costs
22 overall by preventing the loss of natural resources or
23 avoiding greater future expenditures for water resource
24 development or water supply development. However, unless
25 adopted by rule, these considerations do not constitute final
26 agency action.
- 27 (f) The technical data and information applicable to
28 each planning region which are necessary to support the
29 regional water supply plan.
- 30 (g) The minimum flows and levels established for water
31 resources within each planning region.

1 (h) Reservations of water adopted by rule pursuant to
2 s. 373.223(4) within each planning region.

3 (i) Identification of surface waters or aquifers for
4 which minimum flows and levels are scheduled to be adopted.

5 (j) An analysis, developed in cooperation with the
6 department, of areas or instances in which the variance
7 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
8 create water supply development or water resource development
9 projects.

10 (3) The water supply development component of a
11 regional water supply plan which deals with or affects public
12 utilities and public water supply for those areas served by a
13 regional water supply authority and its member governments
14 within the boundary of the Southwest Florida Water Management
15 District shall be developed jointly by the authority and the
16 district. In areas not served by regional water supply
17 authorities, or other multijurisdictional water supply
18 entities, and where opportunities exist to meet water supply
19 needs more efficiently through multijurisdictional projects
20 identified pursuant to s. 373.1962(2), water management
21 districts are directed to assist in developing
22 multijurisdictional approaches to water supply project
23 development jointly with affected water utilities, special
24 districts, and local governments.

25 (4) Governing board approval of a regional water
26 supply plan shall not be subject to the rulemaking
27 requirements of chapter 120. However, any portion of an
28 approved regional water supply plan which affects the
29 substantial interests of a party shall be subject to s.
30 120.569.

31

1 (5) Annually and in conjunction with the reporting
2 requirements of s. 373.536(6)(a)4., the department shall
3 submit to the Governor and the Legislature a report on the
4 status of regional water supply planning in each district. The
5 report shall include:

6 (a) A compilation of the estimated costs of and
7 potential sources of funding for water resource development
8 and water supply development projects as identified in the
9 water management district regional water supply plans.

10 (b) The percentage and amount, by district, of
11 district ad valorem tax revenues or other district funds made
12 available to develop alternative water supplies.

13 (c) A description of each district's progress toward
14 achieving its water resource development objectives, including
15 the district's implementation of its 5-year water resource
16 development work program.

17 (d) An assessment of the specific progress being made
18 to implement each alternative water supply project option
19 chosen by the entities identified for implementation in the
20 plan.

21 (6) Nothing contained in the water supply development
22 component of a regional water supply plan shall be construed
23 to require local governments, government-owned or privately
24 owned water utilities, special districts, self-suppliers,
25 regional water supply authorities, self suppliers, or other
26 water suppliers to select a water supply development project
27 identified in the component merely because it is identified in
28 the plan. Except as provided in s. 373.223(3) and s.
29 373.223(5), the plan may not be used in the review of permits
30 under part II unless the plan, or an applicable portion
31 thereof, has been adopted by rule. However, this subsection

1 does not prohibit a water management district from employing
2 the data or other information used to establish the plan in
3 reviewing permits under part II nor does it limit the
4 authority of the department or governing board under part II.

5 (7) Where the water supply component of a water supply
6 planning region shows the need for one or more alternative
7 water supply projects, the district shall notify the affected
8 local governments and make every reasonable effort to educate
9 and involve local public officials in working toward solutions
10 in conjunction with the districts and, where appropriate,
11 other local and regional water supply entities.

12 (a) Within 1 year after governing board approval of a
13 regional water supply plan, each entity identified in
14 sub-subparagraph (2)(a)3.d. shall provide written notification
15 to the water management district of the following: the water
16 supply projects or options that it has developed or intends to
17 develop, if any; an estimate of the quantity of water to be
18 produced by each project; the status of project
19 implementation, including development of the financial plan,
20 facilities master planning, permitting, and efforts in
21 coordinating multijurisdictional projects, if applicable. The
22 information provided in the notification shall be updated on
23 an annual basis and a progress report shall be provided by
24 November 15 of each year to the water management district. If
25 an entity proposes a water supply project that is not in the
26 plan, the entity shall request that the water management
27 district consider the project for inclusion in the regional
28 water supply plan.

29 (8) For any regional water supply plan that is
30 scheduled to be updated before December 31, 2005, the deadline
31 for such update shall be extended to December 1, 2006.

1 Section 11. Paragraph (c) of subsection (6) of section
2 163.3177, Florida Statutes, is amended to read:

3 163.3177 Required and optional elements of
4 comprehensive plan; studies and surveys.--

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

8 (c) A general sanitary sewer, solid waste, drainage,
9 potable water, and natural groundwater aquifer recharge
10 element correlated to principles and guidelines for future
11 land use, indicating ways to provide for future potable water,
12 drainage, sanitary sewer, solid waste, and aquifer recharge
13 protection requirements for the area. The element may be a
14 detailed engineering plan including a topographic map
15 depicting areas of prime groundwater recharge. The element
16 shall describe the problems and needs and the general
17 facilities that will be required for solution of the problems
18 and needs. The element shall also include a topographic map
19 depicting any areas adopted by a regional water management
20 district as prime groundwater recharge areas for the Floridan
21 or Biscayne aquifers, pursuant to s. 373.0395. These areas
22 shall be given special consideration when the local government
23 is engaged in zoning or considering future land use for said
24 designated areas. For areas served by septic tanks, soil
25 surveys shall be provided which indicate the suitability of
26 soils for septic tanks. By December 1, 2006, the element must
27 be consistent with ~~consider~~ the appropriate water management
28 district's regional water supply plan approved pursuant to s.
29 373.0361. If the local government chooses to prepare its own
30 water supply analysis, it shall submit a description of the
31 data and methodology used to generate the analysis to the

1 department with its plan when the plan is due for compliance
2 review unless it has submitted it for advance review. The
3 department shall evaluate the application of the methodology
4 used by a local government in preparing its own water supply
5 analysis and determine whether the particular methodology is
6 professionally accepted. The department shall provide its
7 findings to the local government within 60 days. The
8 department shall be guided by the applicable water management
9 district in its review of any methodology proposed by a local
10 government. The element must identify the water supply
11 sources, including conservation and reuse, necessary to meet
12 existing and projected water use demand and include a work
13 plan, covering the comprehensive plan's established at least a
14 ~~10-year~~ planning period, for building public, private, and
15 regional water supply facilities, including development of
16 alternative water supplies, which ~~that~~ are identified in the
17 element as necessary to serve existing and new development and
18 ~~for which the local government is responsible.~~ The work plan
19 shall be updated, at a minimum, every 5 years within 12 months
20 after the governing board of a water management district
21 approves an updated regional water supply plan. Local
22 governments, public and private utilities, regional water
23 supply authorities, and water management districts are
24 encouraged to cooperatively plan for the development of
25 multijurisdictional water supply facilities sufficient to meet
26 projected demands for established planning periods, including
27 the development of alternative water sources to supplement
28 traditional sources of ground and surface water supplies.
29 Amendments to incorporate the work plan do not count toward
30 the limitation on the frequency of adoption of amendments to
31 the comprehensive plan.

1 Section 12. Paragraph (a) of subsection (2) of section
2 163.3180, Florida Statutes, is amended to read:

3 163.3180 Concurrency.--

4 (2)(a) Consistent with public health and safety,
5 sanitary sewer, solid waste, drainage, adequate water
6 supplies, and potable water facilities shall be in place and
7 available to serve new development no later than ~~the issuance~~
8 by the local government's approval to commence construction
9 ~~government of a certificate of occupancy or its functional~~
10 ~~equivalent~~.

11 Section 13. Paragraph (1) of subsection (2) of section
12 163.3191, Florida Statutes, is amended to read:

13 163.3191 Evaluation and appraisal of comprehensive
14 plan.--

15 (2) The report shall present an evaluation and
16 assessment of the comprehensive plan and shall contain
17 appropriate statements to update the comprehensive plan,
18 including, but not limited to, words, maps, illustrations, or
19 other media, related to:

20 (1) The report must evaluate whether the local
21 government has been successful in identifying water supply
22 sources, including conservation and reuse, necessary to meet
23 existing and projected water use demand for the comprehensive
24 plan's established planning period. The water supply sources
25 evaluated in the report must be consistent with evaluation
26 ~~must consider~~ the appropriate water management district's
27 regional water supply plan approved pursuant to s. 373.0361.
28 The report must evaluate the degree to which the local
29 government has implemented the work plan for water supply
30 facilities included in the potable water element. The potable
31 ~~water element must be revised to include a work plan, covering~~

1 ~~at least a 10 year planning period, for building any water~~
2 ~~supply facilities that are identified in the element as~~
3 ~~necessary to serve existing and new development and for which~~
4 ~~the local government is responsible.~~

5 Section 14. Subsections (6), (7), (8), and (11) of
6 section 403.067, Florida Statutes, are amended to read:

7 403.067 Establishment and implementation of total
8 maximum daily loads.--

9 (6) CALCULATION AND ALLOCATION.--

10 (a) Calculation of total maximum daily load.

11 1. Prior to developing a total maximum daily load
12 calculation for each water body or water body segment on the
13 list specified in subsection (4), the department shall
14 coordinate with applicable local governments, water management
15 districts, the Department of Agriculture and Consumer
16 Services, other appropriate state agencies, local soil and
17 water conservation districts, environmental groups, regulated
18 interests, and affected pollution sources to determine the
19 information required, accepted methods of data collection and
20 analysis, and quality control/quality assurance requirements.
21 The analysis may include mathematical water quality modeling
22 using approved procedures and methods.

23 2. The department shall develop total maximum daily
24 load calculations for each water body or water body segment on
25 the list described in subsection (4) according to the priority
26 ranking and schedule unless the impairment of such waters is
27 due solely to activities other than point and nonpoint sources
28 of pollution. For waters determined to be impaired due solely
29 to factors other than point and nonpoint sources of pollution,
30 no total maximum daily load will be required. A total maximum
31 daily load may be required for those waters that are impaired

1 | predominantly due to activities other than point and nonpoint
2 | sources. The total maximum daily load calculation shall
3 | establish the amount of a pollutant that a water body or water
4 | body segment may receive from all sources without exceeding
5 | water quality standards, and shall account for seasonal
6 | variations and include a margin of safety that takes into
7 | account any lack of knowledge concerning the relationship
8 | between effluent limitations and water quality. The total
9 | maximum daily load may be based on a pollutant load reduction
10 | goal developed by a water management district, provided that
11 | such pollutant load reduction goal is promulgated by the
12 | department in accordance with the procedural and substantive
13 | requirements of this subsection.

14 | (b) Allocation of total maximum daily loads.--The
15 | total maximum daily loads shall include establishment of
16 | reasonable and equitable allocations of the total maximum
17 | daily load between or among point and nonpoint sources that
18 | will alone, or in conjunction with other management and
19 | restoration activities, provide for the attainment of the
20 | pollutant reductions established pursuant to paragraph (a) to
21 | achieve water quality standards for the pollutants of concern
22 | ~~water quality standards and the restoration of impaired~~
23 | ~~waters~~. The allocations may establish the maximum amount of
24 | the water pollutant ~~from a given source or category of sources~~
25 | that may be discharged or released into the water body or
26 | water body segment in combination with other discharges or
27 | releases. Allocations may also be made to individual basins
28 | and sources or as a whole to all basins and sources or
29 | categories of sources of inflow to the water body or water
30 | body segments. A preliminary allocation of allowable pollutant
31 | loads between or among point and nonpoint sources may be

1 developed as part of the total maximum daily load. However, in
2 such cases, the final allocation to specific point sources and
3 specific categories of nonpoint sources shall be established
4 in the basin management action plan pursuant to subsection
5 (7). The preliminary and final allocations shall be designed
6 to attain the pollutant reductions established pursuant to
7 paragraph (a) ~~water quality standards~~ and shall be based on
8 consideration of the following:
9 1. Existing treatment levels and management practices;
10 2. Best management practices established and
11 implemented pursuant to paragraph (7)(c);
12 3. Enforceable treatment levels established pursuant
13 to state or local law or permit;
14 ~~4.2.~~ Differing impacts pollutant sources may have on
15 water quality;
16 ~~5.3.~~ The availability of treatment technologies,
17 management practices, or other pollutant reduction measures;
18 ~~6.4.~~ Environmental, economic, and technological
19 feasibility of achieving the allocation;
20 ~~7.5.~~ The cost benefit associated with achieving the
21 allocation;
22 ~~8.6.~~ Reasonable timeframes for implementation;
23 ~~9.7.~~ Potential applicability of any moderating
24 provisions such as variances, exemptions, and mixing zones;
25 and
26 ~~10.8.~~ The extent to which nonattainment of water
27 quality standards is caused by pollution sources outside of
28 Florida, discharges that have ceased, or alterations to water
29 bodies prior to the date of this act.
30 ~~(c) Not later than February 1, 2001, the department~~
31 ~~shall submit a report to the Governor, the President of the~~

1 ~~Senate, and the Speaker of the House of Representatives~~
2 ~~containing recommendations, including draft legislation, for~~
3 ~~any modifications to the process for allocating total maximum~~
4 ~~daily loads, including the relationship between allocations~~
5 ~~and the watershed or basin management planning process. Such~~
6 ~~recommendations shall be developed by the department in~~
7 ~~cooperation with a technical advisory committee which includes~~
8 ~~representatives of affected parties, environmental~~
9 ~~organizations, water management districts, and other~~
10 ~~appropriate local, state, and federal government agencies. The~~
11 ~~technical advisory committee shall also include such members~~
12 ~~as may be designated by the President of the Senate and the~~
13 ~~Speaker of the House of Representatives.~~

14 (c)(d) Adoption of rules.--The total maximum daily
15 load calculations and allocations established under this
16 subsection for each water body or water body segment shall be
17 adopted by rule by the secretary pursuant to ss. 120.536(1),
18 120.54, and 403.805. Where additional data collection and
19 analysis are needed to increase the scientific precision and
20 accuracy of the total maximum daily load, the department is
21 authorized to adopt phased total maximum daily loads until the
22 additional data is available. The rules adopted pursuant to
23 this paragraph shall not be subject to approval by the
24 Environmental Regulation Commission. As part of the rule
25 development process, the department shall hold at least one
26 public workshop in the vicinity of the water body or water
27 body segment for which the total maximum daily load is being
28 developed. Notice of the public workshop shall be published
29 not less than 5 days nor more than 15 days before the public
30 workshop in a newspaper of general circulation in the county
31 or counties containing the water bodies or water body segments

1 for which the total maximum daily load calculation and
2 allocation are being developed.

3 (7) DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS AND
4 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

5 (a) Basin Management Action Plans.--

6 1. In developing and implementing the total maximum
7 daily load for a water body, the department, or the department
8 in conjunction with a water management district, may develop a
9 basin management action plan that addresses some or all of the
10 watersheds and basins tributary to the water body. Such a plan
11 shall integrate the appropriate management strategies to
12 achieve the total maximum daily loads and the restoration of
13 designated uses and shall provide for phased implementation of
14 these management strategies to promote timely, cost-effective
15 actions as provided for in s. 403.151. The plan shall
16 establish a schedule for implementing the management
17 strategies, establish a basis for evaluating the effectiveness
18 of the plan, and identify feasible funding strategies to
19 implement the plan's management strategies. The management
20 strategies may include regional treatment systems or other
21 public works, where appropriate, to achieve the needed
22 pollutant load reductions.

23 2. A basin management action plan shall equitably
24 allocate, pursuant to paragraph (6)(b), pollutant reductions
25 to individual basins, as a whole to all basins, or to each
26 identified point source or category of nonpoint sources, as
27 appropriate. For nonpoint sources for which best management
28 practices have been adopted, the initial requirement specified
29 by the plan shall be those practices developed pursuant to
30 paragraph (c). Where appropriate, the plan may provide
31 pollutant-load-reduction credits to dischargers that have

1 implemented management strategies to reduce pollutant loads,
2 including best management practices, prior to the development
3 of the basin management action plan. The plan shall also
4 identify the mechanisms by which potential future sources of
5 pollution will be addressed, whether the future source is a
6 result of the expansion of or increased loading from an
7 existing source, a land-use change, a new discharge, or
8 similar circumstances.

9 3. The basin management action planning process is
10 intended to involve the broadest possible range of interested
11 parties, with the objective of encouraging the greatest amount
12 of cooperation and consensus possible. In developing a basin
13 management action plan, the department shall assure that key
14 stakeholders, including, but not limited to, applicable local
15 governments, water management districts, the Department of
16 Agriculture and Consumer Services, other appropriate state
17 agencies, local soil and water conservation districts,
18 environmental groups, regulated interests, and affected
19 pollution sources, are invited to participate in the process.
20 The department shall hold at least one public meeting in the
21 vicinity of the watershed or basin to discuss and receive
22 comments during the planning process and shall otherwise
23 encourage public participation to the greatest practical
24 extent. Notice of the public meeting shall be published in a
25 newspaper of general circulation in each county in which the
26 watershed or basin lies not less than 5 days nor more than 15
27 days before the public meeting. A basin management action plan
28 shall not supplant or otherwise alter any assessment made
29 under subsection (3) or subsection (4), or any calculation or
30 preliminary allocation made under subsection (6) except
31 through rulemaking.

1 4. The department shall adopt all or any part of a
2 basin management action plan by secretarial order pursuant to
3 chapter 120 to implement the provisions of this subsection. If
4 a basin management action plan alters the calculation or
5 preliminary allocation made under subsection (6), the revised
6 calculation or final allocation shall be adopted by rule.

7 5. The basin management action plan shall be evaluated
8 on a periodic basis to determine whether its management
9 strategies are leading to pollutant load reductions in a
10 timely manner and whether revisions are needed to achieve the
11 pollutant load reductions specified in the adopted total
12 maximum daily load calculation or allocation. Revisions to the
13 basin management action plan shall be made by the department
14 in cooperation with basin stakeholders. Revisions to the
15 management strategies required for nonpoint sources shall
16 follow the procedures set forth in subparagraph (c)4. Revised
17 basin management action plans shall be adopted pursuant to
18 subparagraph 4.

19 **(b)(a) Total Maximum Daily Load Implementation.--**

20 1. The department shall be the lead agency in
21 coordinating the implementation of the total maximum daily
22 loads through basin management action plans, and water quality
23 protection programs. Application of a total maximum daily load
24 by a water management district shall be consistent with this
25 section and shall not require the issuance of an order or a
26 separate action pursuant to s. 120.536(1) or s. 120.54 for
27 adoption of the calculation and allocation previously
28 established by the department. Management strategies to
29 achieve the total maximum daily load ~~Such programs~~ may
30 include, but are not limited to:

1 ~~a.1.~~ Permitting and other existing regulatory
2 programs;
3 ~~b.2.~~ Nonregulatory and incentive-based programs,
4 including best management practices, cost sharing, waste
5 minimization, pollution prevention, agreements established
6 pursuant to s. 403.061(21), and public education;
7 ~~c.3.~~ Other water quality management and restoration
8 activities, for example surface water improvement and
9 management plans approved by water management districts or
10 watershed or basin management plans developed pursuant to this
11 subsection;
12 ~~d.4.~~ Pollutant trading or other equitable economically
13 based agreements;
14 ~~e.5.~~ Public works including capital facilities; or
15 ~~f.6.~~ Land acquisition.
16 g. Water quality based effluent limitations.
17 2. For a basin management action plan adopted pursuant
18 to subparagraph (a)4., any management strategies and pollutant
19 reduction requirements associated with a pollutant of concern
20 for which a total maximum daily load was developed, including
21 effluent limits set forth for a discharger subject to NPDES
22 permitting, if any, shall be included in a timely manner in
23 subsequent NPDES permits or permit modifications for that
24 discharger. For holders of NPDES municipal separate storm
25 sewer system permits and other stormwater sources,
26 implementation of a total maximum daily load or basin
27 management action plan shall be achieved, to the maximum
28 extent practicable, through the use of best management
29 practices or other management measures.
30 a. The department shall not impose in a NPDES permit
31 additional pollution reduction requirements for a pollutant of

1 concern until such time as the total maximum daily load or the
2 basin management action plan is revised, the NPDES permit
3 expires, or the NPDES permit holder modifies its discharge.

4 b. The basin management action plan does not relieve
5 the discharger from any requirement to obtain, renew, or
6 modify a NPDES permit or to abide by other requirements of the
7 permit, including effluent limits and other requirements
8 associated with other pollutants.

9 c. Management strategies set forth in a basin
10 management action plan to be implemented by a discharger
11 subject to permitting by the department shall be completed
12 pursuant to the schedule set forth in the basin management
13 action plan. This implementation schedule may extend beyond
14 the 5-year term of a NPDES permit.

15 d. Management strategies and pollution reduction
16 requirements set forth in a basin management action plan for a
17 specific pollutant of concern shall not be subject to
18 challenge under chapter 120 at the time it is incorporated, in
19 an identical form, into a subsequent NPDES permit or permit
20 modification.

21 e. For nonagricultural pollutant sources not subject
22 to NPDES permitting but permitted pursuant to other state,
23 regional, or local water quality programs, the pollutant
24 reduction actions adopted in a basin management action plan
25 shall be implemented to the maximum extent practicable as part
26 of those permitting programs.

27 f. A nonpoint source discharger included in a basin
28 management action plan may demonstrate compliance with the
29 pollutant reductions established pursuant to subsection (6) by
30 either implementing the appropriate best management practices
31 established pursuant to paragraph (c) or conducting water

1 quality monitoring prescribed by the department or a water
2 management district.

3 g. A nonpoint source discharger included in a basin
4 management action plan may be subject to enforcement action by
5 the department or a water management district based upon the
6 failure to implement the responsibilities set forth in
7 sub-subparagraph f.

8 h. A nonpoint pollutant source discharger included in
9 a basin management action plan shall timely implement the
10 appropriate best management practices established pursuant to
11 paragraph (c) to attain the pollutant reductions established
12 pursuant to paragraph (6)(a).

13 i. A landowner, discharger, or other responsible
14 person who is implementing applicable management strategies
15 specified in an adopted basin management action plan shall not
16 be required by permit, enforcement action, or otherwise to
17 implement additional management strategies to reduce pollutant
18 loads to attain the pollutant reductions pursuant to paragraph
19 (6)(a), and shall be deemed to be in compliance with this
20 section. This subparagraph does not limit the authority of the
21 department to amend a basin management action plan as
22 specified in subparagraph (a)5.

23 ~~(b) In developing and implementing the total maximum~~
24 ~~daily load for a water body, the department, or the department~~
25 ~~in conjunction with a water management district, may develop a~~
26 ~~watershed or basin management plan that addresses some or all~~
27 ~~of the watersheds and basins tributary to the water body.~~
28 ~~These plans will serve to fully integrate the management~~
29 ~~strategies available to the state for the purpose of~~
30 ~~implementing the total maximum daily loads and achieving water~~
31 ~~quality restoration. The watershed or basin management~~

1 ~~planning process is intended to involve the broadest possible~~
2 ~~range of interested parties, with the objective of encouraging~~
3 ~~the greatest amount of cooperation and consensus possible. The~~
4 ~~department or water management district shall hold at least~~
5 ~~one public meeting in the vicinity of the watershed or basin~~
6 ~~to discuss and receive comments during the planning process~~
7 ~~and shall otherwise encourage public participation to the~~
8 ~~greatest practical extent. Notice of the public meeting shall~~
9 ~~be published in a newspaper of general circulation in each~~
10 ~~county in which the watershed or basin lies not less than 5~~
11 ~~days nor more than 15 days before the public meeting. A~~
12 ~~watershed or basin management plan shall not supplant or~~
13 ~~otherwise alter any assessment made under s. 403.086(3) and~~
14 ~~(4), or any calculation or allocation made under s.~~
15 ~~403.086(6).~~

16 (c) Best Management Practices.--

17 1. The department, in cooperation with the water
18 management districts and other interested parties, as
19 appropriate, may develop suitable interim measures, best
20 management practices, or other measures necessary to achieve
21 the level of pollution reduction established by the department
22 for nonagricultural nonpoint pollutant sources in allocations
23 developed pursuant to subsection (6) and this subsection
24 ~~paragraph (6)(b)~~. These practices and measures may be adopted
25 by rule by the department and the water management districts
26 pursuant to ss. 120.536(1) and 120.54, and where adopted by
27 rule, shall ~~may~~ be implemented by those parties responsible
28 for nonagricultural nonpoint source pollution ~~pollutant~~
29 ~~sources and the department and the water management districts~~
30 ~~shall assist with implementation. Where interim measures, best~~
31 ~~management practices, or other measures are adopted by rule,~~

1 | ~~the effectiveness of such practices in achieving the levels of~~
2 | ~~pollution reduction established in allocations developed by~~
3 | ~~the department pursuant to paragraph (6)(b) shall be verified~~
4 | ~~by the department. Implementation, in accordance with~~
5 | ~~applicable rules, of practices that have been verified by the~~
6 | ~~department to be effective at representative sites shall~~
7 | ~~provide a presumption of compliance with state water quality~~
8 | ~~standards and release from the provisions of s. 376.307(5) for~~
9 | ~~those pollutants addressed by the practices, and the~~
10 | ~~department is not authorized to institute proceedings against~~
11 | ~~the owner of the source of pollution to recover costs or~~
12 | ~~damages associated with the contamination of surface or ground~~
13 | ~~water caused by those pollutants. Such rules shall also~~
14 | ~~incorporate provisions for a notice of intent to implement the~~
15 | ~~practices and a system to assure the implementation of the~~
16 | ~~practices, including recordkeeping requirements. Where water~~
17 | ~~quality problems are detected despite the appropriate~~
18 | ~~implementation, operation, and maintenance of best management~~
19 | ~~practices and other measures according to rules adopted under~~
20 | ~~this paragraph, the department or the water management~~
21 | ~~districts shall institute a reevaluation of the best~~
22 | ~~management practice or other measures.~~

23 | 2.(d)1. The Department of Agriculture and Consumer
24 | Services may develop and adopt by rule pursuant to ss.
25 | 120.536(1) and 120.54 suitable interim measures, best
26 | management practices, or other measures necessary to achieve
27 | the level of pollution reduction established by the department
28 | for agricultural pollutant sources in allocations developed
29 | pursuant to subsection (6) and this subsection ~~paragraph~~
30 | ~~(6)(b)~~. These practices and measures may be implemented by
31 | those parties responsible for agricultural pollutant sources

1 and the department, the water management districts, and the
2 Department of Agriculture and Consumer Services shall assist
3 with implementation. ~~Where interim measures, best management~~
4 ~~practices, or other measures are adopted by rule, the~~
5 ~~effectiveness of such practices in achieving the levels of~~
6 ~~pollution reduction established in allocations developed by~~
7 ~~the department pursuant to paragraph (6)(b) shall be verified~~
8 ~~by the department. Implementation, in accordance with~~
9 ~~applicable rules, of practices that have been verified by the~~
10 ~~department to be effective at representative sites shall~~
11 ~~provide a presumption of compliance with state water quality~~
12 ~~standards and release from the provisions of s. 376.307(5) for~~
13 ~~those pollutants addressed by the practices, and the~~
14 ~~department is not authorized to institute proceedings against~~
15 ~~the owner of the source of pollution to recover costs or~~
16 ~~damages associated with the contamination of surface or ground~~
17 ~~water caused by those pollutants. In the process of developing~~
18 and adopting rules for interim measures, best management
19 practices, or other measures, the Department of Agriculture
20 and Consumer Services shall consult with the department, the
21 Department of Health, the water management districts,
22 representatives from affected farming groups, and
23 environmental group representatives. Such rules shall also
24 incorporate provisions for a notice of intent to implement the
25 practices and a system to assure the implementation of the
26 practices, including recordkeeping requirements. ~~Where water~~
27 ~~quality problems are detected despite the appropriate~~
28 ~~implementation, operation, and maintenance of best management~~
29 ~~practices and other measures according to rules adopted under~~
30 ~~this paragraph, the Department of Agriculture and Consumer~~
31

1 ~~Services shall institute a reevaluation of the best management~~
2 ~~practice or other measure.~~

3 3. Where interim measures, best management practices,
4 or other measures are adopted by rule, the effectiveness of
5 such practices in achieving the levels of pollution reduction
6 established in allocations developed by the department
7 pursuant to subsection (6) and this subsection shall be
8 verified at representative sites by the department. The
9 department shall use its best professional judgment in making
10 the initial verification that the best management practices
11 are effective and, where applicable, shall notify the
12 appropriate water management district and the Department of
13 Agriculture and Consumer Services of its initial verification
14 prior to the adoption of a rule proposed pursuant to this
15 paragraph. Implementation, in accordance with rules adopted
16 under this paragraph, of practices that have been initially
17 verified to be effective, or verified to be effective by
18 monitoring at representative sites, by the department, shall
19 provide a presumption of compliance with state water quality
20 standards and release from the provisions of s. 376.307(5) for
21 those pollutants addressed by the practices, and the
22 department is not authorized to institute proceedings against
23 the owner of the source of pollution to recover costs or
24 damages associated with the contamination of surface or ground
25 water caused by those pollutants.

26 4. Where water quality problems are demonstrated in
27 the development or amendment of a basin management action
28 plan, despite the appropriate implementation, operation, and
29 maintenance of best management practices and other measures
30 according to rules adopted under this paragraph, the
31 department, a water management district, or the Department of

1 Agriculture and Consumer Services, shall institute a
2 reevaluation of the best management practice or other measure.
3 Should the reevaluation determine that the best management
4 practice or other measure requires modification, the
5 department, a water management district, or the Department of
6 Agriculture and Consumer Services, as appropriate, shall
7 revise the rule to require implementation of the modified
8 practice within a reasonable time period as specified in the
9 rule.

10 ~~5.2.~~ Individual agricultural records relating to
11 processes or methods of production, or relating to costs of
12 production, profits, or other financial information which are
13 otherwise not public records, which are reported to the
14 Department of Agriculture and Consumer Services pursuant to
15 ~~subparagraphs 3. and 4. this paragraph~~ or pursuant to any rule
16 adopted pursuant to ~~subparagraph 2. this paragraph~~ shall be
17 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
18 of the State Constitution. Upon request of the department or
19 any water management district, the Department of Agriculture
20 and Consumer Services shall make such individual agricultural
21 records available to that agency, provided that the
22 confidentiality specified by this subparagraph for such
23 records is maintained. This subparagraph is subject to the
24 Open Government Sunset Review Act of 1995 in accordance with
25 s. 119.15, and shall stand repealed on October 2, 2006, unless
26 reviewed and saved from repeal through reenactment by the
27 Legislature.

28 ~~(6)(e)~~ The provisions of subparagraphs 1. and 2.
29 ~~paragraphs (c) and (d)~~ shall not preclude the department or
30 water management district from requiring compliance with water
31 quality standards or with current best management practice

1 requirements set forth in any applicable regulatory program
2 authorized by law for the purpose of protecting water quality.
3 Additionally, subparagraphs 1. and 2. ~~paragraphs (c) and (d)~~
4 are applicable only to the extent that they do not conflict
5 with any rules adopted ~~promulgated~~ by the department that are
6 necessary to maintain a federally delegated or approved
7 program.

8 (8) RULES.--The department is authorized to adopt
9 rules pursuant to ss. 120.536(1) and 120.54 for:

10 (a) Delisting water bodies or water body segments from
11 the list developed under subsection (4) pursuant to the
12 guidance under subsection (5);

13 (b) Administration of funds to implement the total
14 maximum daily load and basin management action planning
15 programs ~~program~~;

16 (c) Procedures for pollutant trading among the
17 pollutant sources to a water body or water body segment,
18 including a mechanism for the issuance and tracking of
19 pollutant credits. Such procedures may be implemented through
20 permits or other authorizations and must be legally binding;
21 ~~No rule implementing a pollutant trading program shall become~~
22 ~~effective prior to review and ratification by the Legislature;~~
23 ~~and~~

24 (d) The implementation of basin management action
25 plans through permitting or other programs under this chapter
26 and chapter 373;

27 (e) ~~(d)~~ The total maximum daily load calculation in
28 accordance with paragraph (6)(a) immediately upon the
29 effective date of this act, for those eight water segments
30 within Lake Okeechobee proper as submitted to the United
31

1 States Environmental Protection Agency pursuant to subsection
2 (2); ~~and-~~

3 (f) Implementation of other specific provisions.

4
5 Prior to adopting rules for pollutant trading under paragraph
6 (c), and no later than November 30, 2006, the Department of
7 Environmental Protection shall submit a report to the
8 Governor, the President of the Senate, and the Speaker of the
9 House of Representatives containing recommendations on such
10 rules, including the proposed basis for equitable economically
11 based agreements and the tracking and accounting of pollution
12 credits or other similar mechanisms. Such recommendations
13 shall be developed in cooperation with a technical advisory
14 committee that includes experts in pollutant trading and
15 representatives of potentially affected parties.

16 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

17 (a) The department shall not implement, without prior
18 legislative approval, any additional regulatory authority
19 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
20 130, if such implementation would result in water quality
21 discharge regulation of activities not currently subject to
22 regulation.

23 (b) Interim measures, best management practices, or
24 other measures may be developed and voluntarily implemented
25 pursuant to ~~subparagraphs paragraph~~ (7)(c) 1. and 2. or
26 ~~paragraph (7)(d)~~ for any water body or segment for which a
27 total maximum daily load or allocation has not been
28 established. The implementation of such pollution control
29 programs may be considered by the department in the
30 determination made pursuant to subsection (4).

31

1 Section 15. Paragraph (c) of subsection (3) of section
2 373.4595, Florida Statutes, is amended to read:

3 373.4595 Lake Okeechobee Protection Program.--

4 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
5 program for Lake Okeechobee that achieves phosphorus load
6 reductions for Lake Okeechobee shall be immediately
7 implemented as specified in this subsection. The program shall
8 address the reduction of phosphorus loading to the lake from
9 both internal and external sources. Phosphorus load reductions
10 shall be achieved through a phased program of implementation.
11 Initial implementation actions shall be technology-based,
12 based upon a consideration of both the availability of
13 appropriate technology and the cost of such technology, and
14 shall include phosphorus reduction measures at both the source
15 and the regional level. The initial phase of phosphorus load
16 reductions shall be based upon the district's Technical
17 Publication 81-2 and the district's WOD program, with
18 subsequent phases of phosphorus load reductions based upon the
19 total maximum daily loads established in accordance with s.
20 403.067. In the development and administration of the Lake
21 Okeechobee Protection Program, the coordinating agencies shall
22 maximize opportunities provided by federal cost-sharing
23 programs and opportunities for partnerships with the private
24 sector.

25 (c) Lake Okeechobee Watershed Phosphorus Control
26 Program.--The Lake Okeechobee Watershed Phosphorus Control
27 Program is designed to be a multifaceted approach to reducing
28 phosphorus loads by improving the management of phosphorus
29 sources within the Lake Okeechobee watershed through continued
30 implementation of existing regulations and best management
31 practices, development and implementation of improved best

1 management practices, improvement and restoration of the
2 hydrologic function of natural and managed systems, and
3 utilization of alternative technologies for nutrient
4 reduction. The coordinating agencies shall facilitate the
5 application of federal programs that offer opportunities for
6 water quality treatment, including preservation, restoration,
7 or creation of wetlands on agricultural lands.

8 1. Agricultural nonpoint source best management
9 practices, developed in accordance with s. 403.067 and
10 designed to achieve the objectives of the Lake Okeechobee
11 Protection Program, shall be implemented on an expedited
12 basis. By March 1, 2001, the coordinating agencies shall
13 develop an interagency agreement pursuant to ss. 373.046 and
14 373.406(5) that assures the development of best management
15 practices that complement existing regulatory programs and
16 specifies how those best management practices are implemented
17 and verified. The interagency agreement shall address measures
18 to be taken by the coordinating agencies during any best
19 management practice reevaluation performed pursuant to
20 sub-subparagraph d. The department shall use best professional
21 judgment in making the initial determination of best
22 management practice effectiveness.

23 a. As provided in s. 403.067(7)(c) ~~s. 403.067(7)(d)~~,
24 by October 1, 2000, the Department of Agriculture and Consumer
25 Services, in consultation with the department, the district,
26 and affected parties, shall initiate rule development for
27 interim measures, best management practices, conservation
28 plans, nutrient management plans, or other measures necessary
29 for Lake Okeechobee phosphorus load reduction. The rule shall
30 include thresholds for requiring conservation and nutrient
31 management plans and criteria for the contents of such plans.

1 Development of agricultural nonpoint source best management
2 practices shall initially focus on those priority basins
3 listed in subparagraph (b)1. The Department of Agriculture and
4 Consumer Services, in consultation with the department, the
5 district, and affected parties, shall conduct an ongoing
6 program for improvement of existing and development of new
7 interim measures or best management practices for the purpose
8 of adoption of such practices by rule.

9 b. Where agricultural nonpoint source best management
10 practices or interim measures have been adopted by rule of the
11 Department of Agriculture and Consumer Services, the owner or
12 operator of an agricultural nonpoint source addressed by such
13 rule shall either implement interim measures or best
14 management practices or demonstrate compliance with the
15 district's WOD program by conducting monitoring prescribed by
16 the department or the district. Owners or operators of
17 agricultural nonpoint sources who implement interim measures
18 or best management practices adopted by rule of the Department
19 of Agriculture and Consumer Services shall be subject to the
20 provisions of s. 403.067(7). The Department of Agriculture and
21 Consumer Services, in cooperation with the department and the
22 district, shall provide technical and financial assistance for
23 implementation of agricultural best management practices,
24 subject to the availability of funds.

25 c. The district or department shall conduct monitoring
26 at representative sites to verify the effectiveness of
27 agricultural nonpoint source best management practices.

28 d. Where water quality problems are detected for
29 agricultural nonpoint sources despite the appropriate
30 implementation of adopted best management practices, the
31 Department of Agriculture and Consumer Services, in

1 | consultation with the other coordinating agencies and affected
2 | parties, shall institute a reevaluation of the best management
3 | practices and make appropriate changes to the rule adopting
4 | best management practices.

5 | 2. Nonagricultural nonpoint source best management
6 | practices, developed in accordance with s. 403.067 and
7 | designed to achieve the objectives of the Lake Okeechobee
8 | Protection Program, shall be implemented on an expedited
9 | basis. By March 1, 2001, the department and the district shall
10 | develop an interagency agreement pursuant to ss. 373.046 and
11 | 373.406(5) that assures the development of best management
12 | practices that complement existing regulatory programs and
13 | specifies how those best management practices are implemented
14 | and verified. The interagency agreement shall address measures
15 | to be taken by the department and the district during any best
16 | management practice reevaluation performed pursuant to
17 | sub-subparagraph d.

18 | a. The department and the district are directed to
19 | work with the University of Florida's Institute of Food and
20 | Agricultural Sciences to develop appropriate nutrient
21 | application rates for all nonagricultural soil amendments in
22 | the watershed. As provided in s. 403.067(7)(c), by January 1,
23 | 2001, the department, in consultation with the district and
24 | affected parties, shall develop interim measures, best
25 | management practices, or other measures necessary for Lake
26 | Okeechobee phosphorus load reduction. Development of
27 | nonagricultural nonpoint source best management practices
28 | shall initially focus on those priority basins listed in
29 | subparagraph (b)1. The department, the district, and affected
30 | parties shall conduct an ongoing program for improvement of
31 | existing and development of new interim measures or best

1 management practices. The district shall adopt
2 technology-based standards under the district's WOD program
3 for nonagricultural nonpoint sources of phosphorus.

4 b. Where nonagricultural nonpoint source best
5 management practices or interim measures have been developed
6 by the department and adopted by the district, the owner or
7 operator of a nonagricultural nonpoint source shall implement
8 interim measures or best management practices and be subject
9 to the provisions of s. 403.067(7). The department and
10 district shall provide technical and financial assistance for
11 implementation of nonagricultural nonpoint source best
12 management practices, subject to the availability of funds.

13 c. The district or the department shall conduct
14 monitoring at representative sites to verify the effectiveness
15 of nonagricultural nonpoint source best management practices.

16 d. Where water quality problems are detected for
17 nonagricultural nonpoint sources despite the appropriate
18 implementation of adopted best management practices, the
19 department and the district shall institute a reevaluation of
20 the best management practices.

21 3. The provisions of subparagraphs 1. and 2. shall not
22 preclude the department or the district from requiring
23 compliance with water quality standards or with current best
24 management practices requirements set forth in any applicable
25 regulatory program authorized by law for the purpose of
26 protecting water quality. Additionally, subparagraphs 1. and
27 2. are applicable only to the extent that they do not conflict
28 with any rules promulgated by the department that are
29 necessary to maintain a federally delegated or approved
30 program.

31

1 4. Projects which reduce the phosphorus load
2 originating from domestic wastewater systems within the Lake
3 Okeechobee watershed shall be given funding priority in the
4 department's revolving loan program under s. 403.1835. The
5 department shall coordinate and provide assistance to those
6 local governments seeking financial assistance for such
7 priority projects.

8 5. Projects that make use of private lands, or lands
9 held in trust for Indian tribes, to reduce nutrient loadings
10 or concentrations within a basin by one or more of the
11 following methods: restoring the natural hydrology of the
12 basin, restoring wildlife habitat or impacted wetlands,
13 reducing peak flows after storm events, increasing aquifer
14 recharge, or protecting range and timberland from conversion
15 to development, are eligible for grants available under this
16 section from the coordinating agencies. For projects of
17 otherwise equal priority, special funding priority will be
18 given to those projects that make best use of the methods
19 outlined above that involve public-private partnerships or
20 that obtain federal match money. Preference ranking above the
21 special funding priority will be given to projects located in
22 a rural area of critical economic concern designated by the
23 Governor. Grant applications may be submitted by any person or
24 tribal entity, and eligible projects may include, but are not
25 limited to, the purchase of conservation and flowage
26 easements, hydrologic restoration of wetlands, creating
27 treatment wetlands, development of a management plan for
28 natural resources, and financial support to implement a
29 management plan.

30 6.a. The department shall require all entities
31 disposing of domestic wastewater residuals within the Lake

1 Okeechobee watershed and the remaining areas of Okeechobee,
2 Glades, and Hendry Counties to develop and submit to the
3 department an agricultural use plan that limits applications
4 based upon phosphorus loading. By July 1, 2005, phosphorus
5 concentrations originating from these application sites shall
6 not exceed the limits established in the district's WOD
7 program.

8 b. Private and government-owned utilities within
9 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
10 River, Okeechobee, Highlands, Hendry, and Glades Counties that
11 dispose of wastewater residual sludge from utility operations
12 and septic removal by land spreading in the Lake Okeechobee
13 watershed may use a line item on local sewer rates to cover
14 wastewater residual treatment and disposal if such disposal
15 and treatment is done by approved alternative treatment
16 methodology at a facility located within the areas designated
17 by the Governor as rural areas of critical economic concern
18 pursuant to s. 288.0656. This additional line item is an
19 environmental protection disposal fee above the present sewer
20 rate and shall not be considered a part of the present sewer
21 rate to customers, notwithstanding provisions to the contrary
22 in chapter 367. The fee shall be established by the county
23 commission or its designated assignee in the county in which
24 the alternative method treatment facility is located. The fee
25 shall be calculated to be no higher than that necessary to
26 recover the facility's prudent cost of providing the service.
27 Upon request by an affected county commission, the Florida
28 Public Service Commission will provide assistance in
29 establishing the fee. Further, for utilities and utility
30 authorities that use the additional line item environmental
31 protection disposal fee, such fee shall not be considered a

1 rate increase under the rules of the Public Service Commission
2 and shall be exempt from such rules. Utilities using the
3 provisions of this section may immediately include in their
4 sewer invoicing the new environmental protection disposal fee.
5 Proceeds from this environmental protection disposal fee shall
6 be used for treatment and disposal of wastewater residuals,
7 including any treatment technology that helps reduce the
8 volume of residuals that require final disposal, but such
9 proceeds shall not be used for transportation or shipment
10 costs for disposal or any costs relating to the land
11 application of residuals in the Lake Okeechobee watershed.

12 c. No less frequently than once every 3 years, the
13 Florida Public Service Commission or the county commission
14 through the services of an independent auditor shall perform a
15 financial audit of all facilities receiving compensation from
16 an environmental protection disposal fee. The Florida Public
17 Service Commission or the county commission through the
18 services of an independent auditor shall also perform an audit
19 of the methodology used in establishing the environmental
20 protection disposal fee. The Florida Public Service Commission
21 or the county commission shall, within 120 days after
22 completion of an audit, file the audit report with the
23 President of the Senate and the Speaker of the House of
24 Representatives and shall provide copies to the county
25 commissions of the counties set forth in sub-subparagraph b.
26 The books and records of any facilities receiving compensation
27 from an environmental protection disposal fee shall be open to
28 the Florida Public Service Commission and the Auditor General
29 for review upon request.

30 7. The Department of Health shall require all entities
31 disposing of septage within the Lake Okeechobee watershed and

1 | the remaining areas of Okeechobee, Glades, and Hendry Counties
2 | to develop and submit to that agency, by July 1, 2003, an
3 | agricultural use plan that limits applications based upon
4 | phosphorus loading. By July 1, 2005, phosphorus
5 | concentrations originating from these application sites shall
6 | not exceed the limits established in the district's WOD
7 | program.

8 | 8. The Department of Agriculture and Consumer Services
9 | shall initiate rulemaking requiring entities within the Lake
10 | Okeechobee watershed and the remaining areas of Okeechobee,
11 | Glades, and Hendry Counties which land-apply animal manure to
12 | develop conservation or nutrient management plans that limit
13 | application, based upon phosphorus loading. Such rules may
14 | include criteria and thresholds for the requirement to develop
15 | a conservation or nutrient management plan, requirements for
16 | plan approval, and recordkeeping requirements.

17 | 9. Prior to authorizing a discharge into works of the
18 | district, the district shall require responsible parties to
19 | demonstrate that proposed changes in land use will not result
20 | in increased phosphorus loading over that of existing land
21 | uses.

22 | 10. The district, the department, or the Department of
23 | Agriculture and Consumer Services, as appropriate, shall
24 | implement those alternative nutrient reduction technologies
25 | determined to be feasible pursuant to subparagraph (d)6.

26 | Section 16. Subsection (1) of section 570.085, Florida
27 | Statutes, is amended to read:

28 | 570.085 Department of Agriculture and Consumer
29 | Services; agricultural water conservation.--The department
30 | shall establish an agricultural water conservation program
31 | that includes the following:

1 (1) A cost-share program, coordinated where
2 appropriate with the United States Department of Agriculture
3 and other federal, state, regional, and local agencies, for
4 irrigation system retrofit and application of mobile
5 irrigation laboratory evaluations for water conservation as
6 provided in this section and, where applicable, for water
7 quality improvement pursuant to s. 403.067(7)(c) ~~s.~~
8 ~~403.067(7)(d)~~.

9 Section 17. Section 403.885, Florida Statutes, is
10 amended to read:

11 403.885 Storm water management; waste water
12 management; Water Quality Improvement and Water Restoration
13 Grant Program.--

14 (1) The Department of Environmental Protection shall
15 ~~develop and~~ administer a ~~competitive~~ grant program to use
16 funds transferred pursuant to s. 212.20 to the Ecosystem
17 Management and Restoration Trust Fund or other moneys as
18 appropriated by the Legislature for storm water management,
19 waste water management, water quality improvement and water
20 restoration project grants. Eligible recipients of such grants
21 include counties, municipalities, water management districts,
22 and special districts that have legal responsibilities for
23 ~~water quality improvement, water management,~~ storm water
24 management, waste water management, and sewer system
25 ~~operations, and lake and river water~~ restoration projects.
26 Drinking water projects are not eligible for funding pursuant
27 to this section.

28 (2) The ~~competitive~~ grant program shall provide for
29 the evaluation of annual grant proposals. The department
30 shall evaluate such proposals to determine if they:

31 (a) Protect public health and the environment.

1 (b) Implement plans developed pursuant to the Surface
2 Water Improvement and Management Act created in part IV of
3 chapter 373, other water restoration plans required by law,
4 management plans prepared pursuant to s. 403.067, or other
5 plans adopted by local government for water quality
6 improvement and water restoration.

7 (3) In addition to meeting the criteria in subsection
8 (2), annual grant proposals must also meet the following
9 requirements:

10 (a) An application for a storm water management
11 project may be funded only if the application is approved by
12 the water management district with jurisdiction in the project
13 area. District approval must be based on a determination that
14 the project provides a benefit to a priority water body.

15 (b) Except as provided in paragraph (c), an
16 application for a wastewater management project may be funded
17 only if:

18 1. The project has been funded previously through a
19 line item in the General Appropriations Act; and

20 2. The project is under construction.

21 (c) An application for a wastewater management project
22 that would qualify as a water pollution control project and
23 activity in s. 403.1838 may be funded only if the project
24 sponsor has submitted an application to the department for
25 funding pursuant to that section.

26 (4) All project applicants must provide local matching
27 funds as follows:

28 (a) An applicant for state funding of a storm water
29 management project shall provide local matching funds equal to
30 at least 50 percent of the total cost of the project; and
31

1 (b) An applicant for state funding of a wastewater
2 management project shall provide matching funds equal to at
3 least 25 percent of the total cost of the project.

4
5 The requirement for matching funds may be waived if the
6 applicant is a financially disadvantaged small local
7 government as defined in subsection (5).

8 ~~(3) The department shall evaluate the annual grant~~
9 ~~proposals and present the annual list of projects recommended~~
10 ~~to be funded to the Governor and the Legislature as part of~~
11 ~~its annual budget request submitted pursuant to chapter 216~~
12 ~~beginning with fiscal year 2003-2004.~~

13 (5)(4) Each fiscal year, at least 20 percent of the
14 funds available pursuant to this section ~~subsection (1)~~ shall
15 be used for projects to assist financially disadvantaged small
16 local governments. For purposes of this section, the term
17 "financially disadvantaged small local government" means a
18 municipality having a population of 7,500 or less, a county
19 having a population of 35,000 or less, according to the latest
20 decennial census and a per capita annual income less than the
21 state per capita annual income as determined by the United
22 States Department of Commerce, or a county in an area
23 designated by the Governor as a rural area of critical
24 economic concern pursuant to s. 288.0656. Grants made to these
25 eligible local governments shall not require matching local
26 funds.

27 ~~(6)(5) No later than February 1 of Each year, storm~~
28 ~~water management and waste water management water quality~~
29 ~~improvement projects and water restoration projects submitted~~
30 ~~for funding through the legislative process shall be submitted~~
31 ~~to the department by the appropriate fiscal committees of the~~

1 House of Representatives and the Senate. The department shall
2 review the projects ~~for funding eligibility~~ and must, ~~no later~~
3 ~~than March 1 of each year,~~ provide each fiscal committee with
4 a list of projects that appear to meet the eligibility
5 requirements under this grant program.

6 ~~(6) The department may adopt rules necessary to~~
7 ~~administer this section, including, but not limited to, rules~~
8 ~~governing timeframes for submitting grant applications,~~
9 ~~evaluation criteria, forms, matching criteria, maximum grant~~
10 ~~amounts, and allocation of appropriated funds based upon~~
11 ~~project and applicant size.~~

12 Section 18. Section 403.890, Florida Statutes, is
13 created to read:

14 403.890 Water Protection and Sustainability Funding
15 Program; intent; goals; purposes.--

16 (1) Revenues transferred from the Department of
17 Revenue pursuant to s. 215.6197 shall be deposited into the
18 Water Protection and Sustainability Program Trust Fund in the
19 Department of Environmental Protection. Revenues shall be
20 distributed by the Department of Environmental Protection in
21 the following manner:

22 (a) Forty-five percent to the Department of
23 Environmental Protection for the implementation of an
24 alternative water supply grant program as provided in s.
25 373.1961.

26 (b) Twenty-five percent for the implementation of best
27 management practices and capital project expenditures
28 necessary for the implementation of the goals of the total
29 maximum daily loads program established in s. 403.067. Of
30 these funds, 85 percent shall be transferred to the credit of
31 the Department of Environmental Protection Water Quality

1 Assurance Trust Fund to address water quality impacts
2 associated with nonagricultural nonpoint sources. Fifteen
3 percent of these funds shall be transferred to the Department
4 of Agriculture and Consumer Services General Inspection Trust
5 Fund to address water quality impacts associated with
6 agricultural nonpoint sources. These funds shall be used for
7 research, development, demonstration, and implementation of
8 suitable best management practices or other measures used to
9 achieve water quality standards in surface waters and water
10 segments identified pursuant to ss. 303(d) of the Clean Water
11 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
12 Implementation of best management practices and other measures
13 may include cost-share grants, technical assistance,
14 implementation tracking, and conservation leases or other
15 agreements for water quality improvement. The Department of
16 Environmental Protection and the Department of Agriculture and
17 Consumer Services may adopt rules governing the distribution
18 of funds for implementation of best management practices.
19 These funds shall not be used to abrogate the financial
20 responsibility of those point and nonpoint sources that have
21 contributed to the degradation of water or land areas.
22 Increased priority shall be given by the department and the
23 water management district governing boards to those projects
24 that have secured a cost-sharing agreement allocating
25 responsibility for the cleanup of point and nonpoint sources.
26 (c) Fifteen percent shall be disbursed for the
27 purposes of funding projects pursuant to ss. 373.451 - 373.459
28 or surface water restoration activities in water management
29 district designated priority water bodies. The Secretary of
30 Environmental Protection shall ensure that each water
31

1 management district receives the following percentage of funds
2 annually:
3 1. Thirty-five percent to the South Florida Water
4 Management District;
5 2. Twenty-five percent to the Southwest Florida Water
6 Management District;
7 3. Twenty-five percent to the St. John's River Water
8 Management District;
9 4. Seven and one-half percent to the Suwannee River
10 Water Management District; and
11 5. Seven and one-half percent to the Northwest Florida
12 Water Management District.
13 (d) Fifteen percent to the Department of Environmental
14 Protection for the implementation of the stormwater, drinking
15 water, and wastewater programs. These funds shall be divided
16 equally among the following programs:
17 1. The Clean Water State Revolving Loan Grants Program
18 as provided in s. 403.1835;
19 2. The Drinking Water State Revolving Loan Grant
20 Program as provided in s. 403.8532; and
21 3. The Disadvantaged Small Community Wastewater Grant
22 Program as provided in s. 403.1838.
23
24 Prior to the end of the 2008 Regular Session, the Legislature
25 must review the distribution of funds under the Water
26 Protection and Sustainability Program to determine if
27 revisions to the funding formula are required. At the
28 discretion of the President of the Senate and the Speaker of
29 the House of Representatives, the appropriate substantive
30 committees of the Legislature may conduct an interim project
31 to review the Water Protection and Sustainability Program and

1 the funding formula and make written recommendations to the
2 Legislature proposing necessary changes, if any.

3 Section 19. This act shall take effect upon becoming a
4 law.

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 444

9 The committee substitute creates the "Florida Water Protection
10 and Sustainability Program." Funding is provided and a
11 distribution methodology is created. Substantial changes are
12 made to the Total Maximum Daily Load Program to address issues
13 concerning the adoption and implementation of the program.
14 The committee substitute also makes a number of conforming
15 changes needed as a result of amendments to current statutes.
16 In addition, the committee substitute creates new requirements
17 in local comprehensive planning provisions that address
18 concurrency, required plan elements, and development of
19 evaluation and appraisal reports.
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