

1
2 An act relating to the development of water
3 supplies; amending s. 373.019, F.S.; defining
4 the terms "alternative water supply," "capital
5 costs," and "multijurisdictional water supply
6 entities"; amending s. 373.196, F.S.;
7 encouraging cooperation in the development of
8 water supplies; providing for alternative water
9 supply development; encouraging municipalities,
10 counties, and special districts to create
11 regional water supply authorities; establishing
12 the primary roles of the water management
13 district in alternative water supply
14 development; establishing the primary roles of
15 local governments, regional water supply
16 authorities, special districts, and publicly
17 owned and privately owned water utilities in
18 alternative water supply development; requiring
19 the water management districts to detail the
20 specific allocations to be used for alternative
21 water supply development in their annual budget
22 submission; amending s. 373.1961, F.S.;
23 providing general powers and duties of the
24 water management districts in water production;
25 requiring that the water management districts
26 include the amount needed to implement the
27 water supply development projects in each
28 annual budget; establishing general funding
29 criteria for funding assistance to the state or
30 water management districts; establishing
31 economic incentives for alternative water

1 supply development; creating a funding formula
2 for the distribution of state funds to the
3 water management districts for alternative
4 water supply development; requiring that
5 funding assistance for alternative water supply
6 development be limited to a percentage of the
7 total capital costs of an approved project;
8 establishing a selection process and criteria;
9 providing for cost recovery from the Public
10 Service Commission; repealing paragraph (c) of
11 subsection (4) of s. 373.0831, F.S.; relating
12 to certain alternative water supply development
13 projects; amending s. 373.1962, F.S. ;
14 clarifying that counties, municipalities, and
15 special districts may execute interlocal
16 agreements to create regional water supply
17 authorities; amending s. 373.223, F.S. ;
18 establishing criteria for certain water supply
19 entities to be presumed to have a use
20 consistent with the public interest for
21 requirements for consumptive use permitting;
22 amending s. 373.236, F.S. ; providing permits of
23 at least 20 years for development of
24 alternative water supplies under certain
25 conditions; amending s. 373.459, F.S. ;
26 requiring that entities receiving state funding
27 for implementation of surface water improvement
28 and management projects provide a 50-percent
29 match of cash or in-kind services; amending s.
30 373.0361, F.S. ; providing for the development
31 of regional water supply plans; providing

1 requirements for the content of each plan;
2 providing for an approval process for the
3 plans; providing for annual updates; providing
4 for local government use of the plans;
5 providing notification requirements for water
6 management districts concerning findings within
7 the plan; requiring identified entities to
8 select alternative water supply projects and
9 provide periodic status reports; changing the
10 deadline for certain plan updates; amending s.
11 163.3177, F.S.; requiring a local government to
12 incorporate alternative water supply projects
13 into the comprehensive plan; requiring local
14 governments to identify specific projects
15 needed; providing for cooperative planning;
16 amending s. 163.3180, F.S.; requiring adequate
17 water supplies to serve new development;
18 amending s. 163.3191, F.S.; requiring the
19 evaluation and appraisal report to evaluate the
20 degree to which the local government has
21 implemented the work plan for regional water
22 supply facilities, including development of
23 alternative water supplies necessary to serve
24 existing and new development; amending s.
25 403.067, F.S.; providing that initial
26 allocation of allowable pollutant loads between
27 point and nonpoint sources may be developed as
28 part of a total maximum daily load;
29 establishing criteria for establishing initial
30 and detailed allocations to attain pollutant
31 reductions; authorizing the Department of

1 Environmental Protection to adopt phased total
2 maximum daily loads that establish incremental
3 total maximum daily loads under certain
4 conditions; requiring the development of basin
5 management action plans; requiring that basin
6 management action plans integrate the
7 appropriate management strategies to achieve
8 the total maximum daily loads; requiring that
9 the plans establish a schedule for implementing
10 management strategies; requiring that a basin
11 management action plan equitably allocate
12 pollutant reductions to individual basins or to
13 each identified point source or category of
14 nonpoint sources; authorizing that plans may
15 provide pollutant load reduction credits to
16 dischargers that have implemented strategies to
17 reduce pollutant loads prior to the development
18 of the basin management action plan; requiring
19 that the plan identify mechanisms by which
20 potential future sources of pollution will be
21 addressed; requiring that the department assure
22 key stakeholder participation in the basin
23 management action planning process; requiring
24 that the department hold at least one public
25 meeting to discuss and receive comments during
26 the planning process; providing notice
27 requirements; requiring that the department
28 adopt all or part of a basin management action
29 plan by secretarial order pursuant to ch. 120,
30 F.S.; requiring that basin management action
31 plans that alter that calculation or initial

1 allocation of a total maximum daily load, the
2 revised calculation, or initial allocation must
3 be adopted by rule; requiring periodic
4 evaluation of basin management action plans;
5 requiring that revisions to plans be made by
6 the department in cooperation with
7 stakeholders; providing for basin plan
8 revisions regarding nonpoint pollutant sources;
9 requiring that adopted basin management action
10 plans be included in subsequent NPDES permits
11 or permit modifications; providing that
12 implementation of a total maximum daily load or
13 basin management action plan for holders of an
14 NPDES municipal separate stormwater sewer
15 system permit may be achieved through the use
16 of best management practices; providing that
17 basin management action plans do not relieve a
18 discharger from the requirement to obtain,
19 renew, or modify an NPDES permit or to abide by
20 other requirements of the permit; requiring
21 that plan management strategies be completed
22 pursuant to the schedule set forth in the basin
23 management action plan and providing that the
24 implementation schedule may extend beyond the
25 term of an NPDES permit; providing that
26 management strategies and pollution reduction
27 requirements in a basin management action plan
28 for a specific pollutant of concern are not
29 subject to a challenge under ch. 120, F.S., at
30 the time they are incorporated, in identical
31 form, into a subsequent NPDES permit or permit

1 modification; requiring timely adoption and
2 implementation of pollutant reduction actions
3 for nonagricultural pollutant sources not
4 subject to NPDES permitting but regulated
5 pursuant to other state, regional, or local
6 regulatory programs; requiring timely
7 implementation of best management practices for
8 nonpoint pollutant source dischargers not
9 subject to permitting at the time a basin
10 management action plan is adopted; providing
11 for presumption of compliance under certain
12 circumstances; providing for enforcement action
13 by the department or a water management
14 district; requiring that a landowner,
15 discharger, or other responsible person that is
16 implementing management strategies specified in
17 an adopted basin management action plan will
18 not be required by permit, enforcement action,
19 or otherwise to implement additional management
20 strategies to reduce pollutant loads; providing
21 that the authority of the department to amend a
22 basin management plan is not limited; requiring
23 that the department verify at representative
24 sites the effectiveness of interim measures,
25 best 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
31 and 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
9 water or groundwater caused by those
10 pollutants; requiring the Department of
11 Agriculture and Consumer Services to institute
12 a reevaluation of best management practices or
13 other measures where water quality problems are
14 detected or predicted during the development or
15 amendment of a basin management action plan;
16 providing for rule revisions; providing the
17 department with rulemaking authority; requiring
18 that a 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 developed in
24 cooperation with a technical advisory committee
25 containing 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 Program; establishing a funding
15 formula for the distribution of revenues;
16 providing for legislative review; providing an
17 effective date.

18

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

20

21 Section 1. Section 373.019, Florida Statutes, is
22 amended to read:23 373.019 Definitions.--When appearing in this chapter
24 or in any rule, regulation, or order adopted pursuant thereto,
25 the ~~term following words shall, unless the context clearly~~
26 ~~indicates otherwise, mean:~~27 (1) "Alternative water supplies" means salt water;
28 brackish surface and groundwater; surface water captured
29 predominately during wet-weather flows; sources made available
30 through the addition of new storage capacity for surface or
31 groundwater, water that has been reclaimed after one or more

1 public supply, municipal, industrial, commercial, or
2 agricultural uses; the downstream augmentation of water bodies
3 with reclaimed water; stormwater; and any other water supply
4 source that is designated as nontraditional for a water supply
5 planning region in the applicable regional water supply plan.

6 (2) "Capital costs" means planning, design,
7 engineering, and project construction costs.

8 (3)(1) "Coastal waters" means waters of the Atlantic
9 Ocean or the Gulf of Mexico within the jurisdiction of the
10 state.

11 (4)(2) "Department" means the Department of
12 Environmental Protection or its successor agency or agencies.

13 (5)(3) "District water management plan" means the
14 regional water resource plan developed by a governing board
15 under s. 373.036.

16 (6)(4) "Domestic use" means the use of water for the
17 individual personal household purposes of drinking, bathing,
18 cooking, or sanitation. All other uses shall not be considered
19 domestic.

20 (7)(5) "Florida water plan" means the state-level
21 water resource plan developed by the department under s.
22 373.036.

23 (8)(6) "Governing board" means the governing board of
24 a water management district.

25 (9)(7) "Groundwater" means water beneath the surface
26 of the ground, whether or not flowing through known and
27 definite channels.

28 (10)(8) "Impoundment" means any lake, reservoir, pond,
29 or other containment of surface water occupying a bed or
30 depression in the earth's surface and having a discernible
31 shoreline.

1 ~~(11)(9)~~ "Independent scientific peer review" means the
2 review of scientific data, theories, and methodologies by a
3 panel of independent, recognized experts in the fields of
4 hydrology, hydrogeology, limnology, and other scientific
5 disciplines relevant to the matters being reviewed under s.
6 373.042.

7 ~~(12)~~ "Multijurisdictional water supply entity" means
8 two or more water utilities or local governments that have
9 organized into a larger entity, or entered into an interlocal
10 agreement or contract, for the purpose of more efficiently
11 pursuing water supply development or alternative water supply
12 development projects listed pursuant to a regional water
13 supply plan.

14 ~~(13)(10)~~ "Nonregulated use" means any use of water
15 which is exempted from regulation by the provisions of this
16 chapter.

17 ~~(14)(11)~~ "Other watercourse" means any canal, ditch,
18 or other artificial watercourse in which water usually flows
19 in a defined bed or channel. It is not essential that the
20 flowing be uniform or uninterrupted.

21 ~~(15)(12)~~ "Person" means any and all persons, natural
22 or artificial, including any individual, firm, association,
23 organization, partnership, business trust, corporation,
24 company, the United States of America, and the state and all
25 political subdivisions, regions, districts, municipalities,
26 and public agencies thereof. The enumeration herein is not
27 intended to be exclusive or exhaustive.

28 ~~(16)(13)~~ "Reasonable-beneficial use" means the use of
29 water in such quantity as is necessary for economic and
30 efficient utilization for a purpose and in a manner which is
31 both reasonable and consistent with the public interest.

1 ~~(17)~~(14) "Regional water supply plan" means a detailed
2 water supply plan developed by a governing board under s.
3 373.0361.

4 ~~(18)~~(15) "Stream" means any river, creek, slough, or
5 natural watercourse in which water usually flows in a defined
6 bed or channel. It is not essential that the flowing be
7 uniform or uninterrupted. The fact that some part of the bed
8 or channel has been dredged or improved does not prevent the
9 watercourse from being a stream.

10 ~~(19)~~(16) "Surface water" means water upon the surface
11 of the earth, whether contained in bounds created naturally or
12 artificially or diffused. Water from natural springs shall be
13 classified as surface water when it exits from the spring onto
14 the earth's surface.

15 ~~(20)~~(17) "Water" or "waters in the state" means any
16 and all water on or beneath the surface of the ground or in
17 the atmosphere, including natural or artificial watercourses,
18 lakes, ponds, or diffused surface water and water percolating,
19 standing, or flowing beneath the surface of the ground, as
20 well as all coastal waters within the jurisdiction of the
21 state.

22 ~~(21)~~(18) "Water management district" means any flood
23 control, resource management, or water management district
24 operating under the authority of this chapter.

25 ~~(22)~~(19) "Water resource development" means the
26 formulation and implementation of regional water resource
27 management strategies, including the collection and evaluation
28 of surface water and groundwater data; structural and
29 nonstructural programs to protect and manage water resources;
30 the development of regional water resource implementation
31 programs; the construction, operation, and maintenance of

1 major public works facilities to provide for flood control,
2 surface and underground water storage, and groundwater
3 recharge augmentation; and related technical assistance to
4 local governments and to government-owned and privately owned
5 water utilities.

6 ~~(23)~~(20) "Water resource implementation rule" means
7 the rule authorized by s. 373.036, which sets forth goals,
8 objectives, and guidance for the development and review of
9 programs, rules, and plans relating to water resources, based
10 on statutory policies and directives. The waters of the state
11 are among its most basic resources. Such waters should be
12 managed to conserve and protect water resources and to realize
13 the full beneficial use of these resources.

14 ~~(24)~~(21) "Water supply development" means the
15 planning, design, construction, operation, and maintenance of
16 public or private facilities for water collection, production,
17 treatment, transmission, or distribution for sale, resale, or
18 end use.

19 ~~(25)~~(22) For the sole purpose of serving as the basis
20 for the unified statewide methodology adopted pursuant to s.
21 373.421(1), as amended, "wetlands" means those areas that are
22 inundated or saturated by surface water or groundwater at a
23 frequency and a duration sufficient to support, and under
24 normal circumstances do support, a prevalence of vegetation
25 typically adapted for life in saturated soils. Soils present
26 in wetlands generally are classified as hydric or alluvial, or
27 possess characteristics that are associated with reducing soil
28 conditions. The prevalent vegetation in wetlands generally
29 consists of facultative or obligate hydrophytic macrophytes
30 that are typically adapted to areas having soil conditions
31 described above. These species, due to morphological,

1 physiological, or reproductive adaptations, have the ability
2 to grow, reproduce, or persist in aquatic environments or
3 anaerobic soil conditions. Florida wetlands generally include
4 swamps, marshes, bayheads, bogs, cypress domes and strands,
5 sloughs, wet prairies, riverine swamps and marshes, hydric
6 seepage slopes, tidal marshes, mangrove swamps and other
7 similar areas. Florida wetlands generally do not include
8 longleaf or slash pine flatwoods with an understory dominated
9 by saw palmetto. Upon legislative ratification of the
10 methodology adopted pursuant to s. 373.421(1), as amended, the
11 limitation contained herein regarding the purpose of this
12 definition shall cease to be effective.

13 ~~(26)(23)~~ "Works of the district" means those projects
14 and works, including, but not limited to, structures,
15 impoundments, wells, streams, and other watercourses, together
16 with the appurtenant facilities and accompanying lands, which
17 have been officially adopted by the governing board of the
18 district as works of the district.

19 Section 2. Section 373.196, Florida Statutes, is
20 amended to read:

21 (Substantial rewording of section. See
22 s. 373.196, F.S., for present text.)

23 373.196 Alternative water supply development.--

24 (1) The purpose of this section is to encourage
25 cooperation in the development of water supplies and to
26 provide for alternative water supply development.

27 (a) Demands on natural supplies of fresh water to meet
28 the needs of a rapidly growing population and the needs of the
29 environment, agriculture, industry, and mining will continue
30 to increase.

31

1 (b) There is a need for the development of alternative
2 water supplies for Florida to sustain its economic growth,
3 economic viability, and natural resources.

4 (c) Cooperative efforts between municipalities,
5 counties, special districts, water management districts, and
6 the Department of Environmental Protection are mandatory in
7 order to meet the water needs of rapidly urbanizing areas in a
8 manner that will supply adequate and dependable supplies of
9 water where needed without resulting in adverse effects upon
10 the areas from which such water is withdrawn. Such efforts
11 should use all practical means of obtaining water, including,
12 but not limited to, withdrawals of surface water and
13 groundwater, reuse, and desalinization, and will necessitate
14 not only cooperation but also well-coordinated activities.
15 Municipalities, counties, and special districts are encouraged
16 to create regional water supply authorities as authorized in
17 s. 373.1962 or multijurisdictional water supply entities.

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

22 (e) Cooperation between counties, municipalities,
23 regional water supply authorities, multijurisdictional water
24 supply entities, special districts, and publicly owned and
25 privately owned water utilities in the development of
26 countywide and multi-countywide alternative water supply
27 projects will allow for necessary economies of scale and
28 efficiencies to be achieved in order to accelerate the
29 development of new, dependable, and sustainable alternative
30 water supplies.

31

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

11 (2)(a) Sufficient water must be available for all
12 existing and future reasonable-beneficial uses and the natural
13 systems, and the adverse effects of competition for water
14 supplies must be avoided.

15 (b) Water supply development and alternative water
16 supply development must be conducted in coordination with
17 water management district regional water supply planning.

18 (c) Funding for the development of alternative water
19 supplies shall be a shared responsibility of water suppliers
20 and users, the State of Florida, and the water management
21 districts, with water suppliers and users having the primary
22 responsibility and the State of Florida and the water
23 management districts being responsible for providing funding
24 assistance.

25 (3) The primary roles of the water management
26 districts in water resource development as it relates to
27 supporting alternative water supply development are:

28 (a) The formulation and implementation of regional
29 water resource management strategies that support alternative
30 water supply development;

31

1 (b) The collection and evaluation of surface water and
2 groundwater data to be used for a planning level assessment of
3 the feasibility of alternative water supply development
4 projects;

5 (c) The construction, operation, and maintenance of
6 major public works facilities for flood control, surface and
7 underground water storage, and groundwater recharge
8 augmentation to support alternative water supply development;

9 (d) Planning for alternative water supply development
10 as provided in regional water supply plans in coordination
11 with local governments, regional water supply authorities,
12 multijurisdictional water supply entities, special districts,
13 and publicly owned and privately owned water utilities and
14 self-suppliers;

15 (e) The formulation and implementation of structural
16 and nonstructural programs to protect and manage water
17 resources in support of alternative water supply projects; and

18 (f) The provision of technical and financial
19 assistance to local governments and publicly owned and
20 privately owned water utilities for alternative water supply
21 projects.

22 (4) The primary roles of local government, regional
23 water supply authorities, multijurisdictional water supply
24 entities, special districts, and publicly owned and privately
25 owned water utilities in alternative water supply development
26 shall be:

27 (a) The planning, design, construction, operation, and
28 maintenance of alternative water supply development projects;

29 (b) The formulation and implementation of alternative
30 water supply development strategies and programs;

31

1 (c) The planning, design, construction, operation, and
2 maintenance of facilities to collect, divert, produce, treat,
3 transmit, and distribute water for sale, resale, or end use;
4 and

5 (d) The coordination of alternative water supply
6 development activities with the appropriate water management
7 district having jurisdiction over the activity.

8 (5) Nothing in this section shall be construed to
9 preclude the various special districts, municipalities, and
10 counties from continuing to operate existing water production
11 and transmission facilities or to enter into cooperative
12 agreements with other special districts, municipalities, and
13 counties for the purpose of meeting their respective needs for
14 dependable and adequate supplies of water; however, the
15 obtaining of water through such operations shall not be done
16 in a manner that results in adverse effects upon the areas
17 from which such water is withdrawn.

18 (6)(a) The statewide funds provided pursuant to the
19 Water Protection and Sustainability Program serve to
20 supplement existing water management district or basin board
21 funding for alternative water supply development assistance
22 and should not result in a reduction of such funding.
23 Therefore, the water management districts shall include, in
24 the annual tentative and adopted budget submittals required
25 under this chapter the amount of funds allocated for water
26 resource development that supports alternative water supply
27 development and the funds allocated for alternative water
28 supply projects selected for inclusion in the Water Protection
29 and Sustainability Program. It shall be the goal of each water
30 management district and basin boards that the combined funds
31 allocated annually for these purposes be, at a minimum, the

1 equivalent of 100 percent of the state funding provided to the
2 water management district for alternative water supply
3 development. If this goal is not achieved, the water
4 management district shall provide in the budget submittal an
5 explanation of the reasons or constraints that prevent this
6 goal from being met, an explanation of how the goal will be
7 met in future years, and affirmation of match is required
8 during the budget review process as established under s.
9 373.536(5). The Suwannee River Water Management District and
10 the Northwest Florida Water Management District shall not be
11 required to meet the match requirements of this paragraph;
12 however, they shall try to achieve the match requirement to
13 the greatest extent practicable.

14 (b) State funds from the Water Protection and
15 Sustainability Program created in s. 403.890 shall be made
16 available for financial assistance for the project
17 construction costs of alternative water supply development
18 projects selected by a water management district governing
19 board for inclusion in the program.

20 Section 3. Section 373.1961, Florida Statutes, is
21 amended to read:

22 373.1961 Water production; general powers and duties;
23 identification of needs; funding criteria; economic
24 incentives; reuse funding.--

25 (1) POWERS AND DUTIES OF BOARD.--In the performance
26 of, and in conjunction with, its other powers and duties, the
27 governing board of a water management district existing
28 pursuant to this chapter:

29 (a) Shall engage in planning to assist counties,
30 municipalities, special districts, publicly owned and
31 privately owned water ~~private~~ utilities, multijurisdictional

1 | water supply entities, or regional water supply authorities in
2 | meeting water supply needs in such manner as will give
3 | priority to encouraging conservation and reducing adverse
4 | environmental effects of improper or excessive withdrawals of
5 | water from concentrated areas. As used in this section and s.
6 | 373.196, regional water supply authorities are regional water
7 | authorities created under s. 373.1962 or other laws of this
8 | state.

9 | (b) Shall assist counties, municipalities, special
10 | districts, publicly owned or privately owned water ~~private~~
11 | utilities, multijurisdictional water supply entities, or
12 | regional water supply authorities in meeting water supply
13 | needs in such manner as will give priority to encouraging
14 | conservation and reducing adverse environmental effects of
15 | improper or excessive withdrawals of water from concentrated
16 | areas.

17 | (c) May establish, design, construct, operate, and
18 | maintain water production and transmission facilities for the
19 | purpose of supplying water to counties, municipalities,
20 | special districts, publicly owned and privately owned water
21 | ~~private~~ utilities, multijurisdictional water supply entities,
22 | or regional water supply authorities. The permit required by
23 | part II of this chapter for a water management district
24 | engaged in water production and transmission shall be granted,
25 | denied, or granted with conditions by the department.

26 | (d) Shall not engage in local water supply
27 | distribution.

28 | (e) Shall not deprive, directly or indirectly, any
29 | county wherein water is withdrawn of the prior right to the
30 | reasonable and beneficial use of water which is required to
31 |

1 supply adequately the reasonable and beneficial needs of the
2 county or any of the inhabitants or property owners therein.

3 (f) May provide water and financial assistance to
4 regional water supply authorities, but may not provide water
5 to counties and municipalities which are located within the
6 area of such authority without the specific approval of the
7 authority or, in the event of the authority's disapproval, the
8 approval of the Governor and Cabinet sitting as the Land and
9 Water Adjudicatory Commission. The district may supply water
10 at rates and upon terms mutually agreed to by the parties or,
11 if they do not agree, as set by the governing board and
12 specifically approved by the Governor and Cabinet sitting as
13 the Land and Water Adjudicatory Commission.

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

31

1 (h) In addition to the power to issue revenue bonds
2 pursuant to s. 373.584, may issue revenue bonds for the
3 purposes of paying the costs and expenses incurred in carrying
4 out the purposes of this chapter or refunding obligations of
5 the district issued pursuant to this section. Such revenue
6 bonds shall be secured by, and be payable from, revenues
7 derived from the operation, lease, or use of its water
8 production and transmission facilities and other water-related
9 facilities and from the sale of water or services relating
10 thereto. Such revenue bonds may not be secured by, or be
11 payable from, moneys derived by the district from the Water
12 Management Lands Trust Fund or from ad valorem taxes received
13 by the district. All provisions of s. 373.584 relating to the
14 issuance of revenue bonds which are not inconsistent with this
15 section shall apply to the issuance of revenue bonds pursuant
16 to this section. The district may also issue bond
17 anticipation notes in accordance with the provisions of s.
18 373.584.

19 (i) May join with one or more other water management
20 districts, counties, municipalities, special districts,
21 publicly owned or privately owned water ~~private~~ utilities,
22 multijurisdictional water supply entities, or regional water
23 supply authorities for the purpose of carrying out any of its
24 powers, and may contract with such other entities to finance
25 acquisitions, construction, operation, and maintenance. The
26 contract may provide for contributions to be made by each
27 party thereto, for the division and apportionment of the
28 expenses of acquisitions, construction, operation, and
29 maintenance, and for the division and apportionment of the
30 benefits, services, and products therefrom. The contracts may
31

1 contain other covenants and agreements necessary and
2 appropriate to accomplish their purposes.

3 (2) IDENTIFICATION OF WATER SUPPLY NEEDS IN DISTRICT
4 BUDGET.--The water management district shall implement its
5 responsibilities as expeditiously as possible in areas subject
6 to regional water supply plans. Each district's governing
7 board shall include in its annual budget the amount needed for
8 the fiscal year to assist in implementing alternative water
9 supply development projects. The Legislature finds that, due
10 to a combination of factors, vastly increased demands have
11 been placed on natural supplies of fresh water, and that,
12 absent increased development of alternative water supplies,
13 such demands may increase in the future. The Legislature also
14 finds that potential exists in the state for the production of
15 significant quantities of alternative water supplies,
16 including reclaimed water, and that water production includes
17 the development of alternative water supplies, including
18 reclaimed water, for appropriate uses. It is the intent of the
19 Legislature that utilities develop reclaimed water systems,
20 where reclaimed water is the most appropriate alternative
21 water supply option, to deliver reclaimed water to as many
22 users as possible through the most cost effective means, and
23 to construct reclaimed water system infrastructure to their
24 owned or operated properties and facilities where they have
25 reclamation capability. It is also the intent of the
26 Legislature that

27 (3) FUNDING.--

28 (a) The water management districts and the state shall
29 which levy ad valorem taxes for water management purposes
30 should share a percentage of those tax revenues with water
31 providers and users, including local governments, water,

1 wastewater, and reuse utilities, municipal, special district,
2 industrial, and agricultural water users, and other public and
3 private water users, to be used to supplement other funding
4 sources in the development of alternative water supplies. ~~The~~
5 ~~Legislature finds that public moneys or services provided to~~
6 ~~private entities for such uses constitute public purposes~~
7 ~~which are in the public interest. In order to further the~~
8 ~~development and use of alternative water supply systems,~~
9 ~~including reclaimed water systems, the Legislature provides~~
10 ~~the following:~~

11 (b) Beginning in fiscal year 2005-2006, the state
12 shall annually provide a portion of those revenues deposited
13 into the Water Protection and Sustainability Trust Fund for
14 the purpose of providing funding assistance for the
15 development of alternative water supplies pursuant to the
16 Water Protection and Sustainability Program. At the beginning
17 of each fiscal year, beginning with fiscal year 2005-2006,
18 such revenues shall be distributed by the department into the
19 alternative water supply trust fund accounts created by each
20 district for the purpose of alternative water supply
21 development under the following funding formula:

22 1. Thirty percent to the South Florida Water
23 Management District;

24 2. Twenty-five percent to the Southwest Florida Water
25 Management District;

26 3. Twenty-five percent to the St. Johns River Water
27 Management District;

28 4. Ten percent to the Suwannee River Water Management
29 District; and

30 5. Ten percent to the Northwest Florida Water
31 Management District.

1 (c) The financial assistance for alternative water
2 supply projects allocated in each district's budget as
3 required in s. 373.196(6) shall be combined with the state
4 funds and used to assist in funding the project construction
5 costs of alternative water supply projects selected by the
6 governing board. If the district has not completed any
7 regional water supply plan, or the regional water supply plan
8 does not identify the need for any alternative water supply
9 projects, funds deposited in that district's trust fund may be
10 used for water resource development projects, including, but
11 not limited to, springs protection.

12 (d) All projects submitted to the governing board for
13 consideration shall reflect the total capital cost for
14 implementation. The costs shall be segregated pursuant to the
15 categories described in the definition of capital costs.

16 (e) Applicants for projects that may receive funding
17 assistance pursuant to the Water Protection and Sustainability
18 Program shall, at a minimum, be required to pay 60 percent of
19 the project's construction costs. The water management
20 districts may, at their discretion, totally or partially waive
21 this requirement for projects sponsored by financially
22 disadvantaged small local governments as defined in s.
23 403.885(4). The water management districts or basin boards,
24 may at their discretion, use ad valorem or federal revenues to
25 assist a project applicant in meeting the requirements of this
26 paragraph.

27 (f) The governing boards shall determine those
28 projects that will be selected for financial assistance. The
29 governing boards may establish factors to determine project
30 funding; however, significant weight shall be given to the
31 following factors:

- 1 1. Whether the project provides substantial
2 environmental benefits by preventing or limiting adverse water
3 resource impacts.
- 4 2. Whether the project reduces competition for water
5 supplies.
- 6 3. Whether the project brings about replacement of
7 traditional sources in order to help implement a minimum flow
8 or level or a reservation.
- 9 4. Whether the project will be implemented by a
10 consumptive use permittee that has achieved the targets
11 contained in a goal-based water conservation program approved
12 pursuant to s. 373.227.
- 13 5. The quantity of water supplied by the project as
14 compared to its cost.
- 15 6. Projects in which the construction and delivery to
16 end users of reuse water is a major component.
- 17 7. Whether the project will be implemented by a
18 multijurisdictional water supply entity or regional water
19 supply authority.
- 20 (g) Additional factors to be considered in determining
21 project funding shall include:
- 22 1. Whether the project is part of a plan to implement
23 two or more alternative water supply projects, all of which
24 will be operated to produce water at a uniform rate for the
25 participants in a multijurisdictional water supply entity or
26 regional water supply authority.
- 27 2. The percentage of project costs to be funded by the
28 water supplier or water user.
- 29 3. Whether the project proposal includes sufficient
30 preliminary planning and engineering to demonstrate that the
31

1 project can reasonably be implemented within the timeframes
2 provided in the regional water supply plan.

3 4. Whether the project is a subsequent phase of an
4 alternative water supply project that is underway.

5 5. Whether and in what percentage a local government
6 or local government utility is transferring water supply
7 system revenues to the local government general fund in excess
8 of reimbursements for services received from the general fund,
9 including direct and indirect costs and legitimate payments in
10 lieu of taxes.

11 (h) After conducting one or more meetings to solicit
12 public input on eligible projects including input from those
13 entities identified pursuant to s. 373.036(2)(a)3.d. for
14 implementation of alternative water supply projects, the
15 governing board of each water management district shall select
16 projects for funding assistance based upon the criteria set
17 forth in paragraphs (f) and (g). The governing board may
18 select a project identified or listed as an alternative water
19 supply development project in the regional water supply plan,
20 or allocate up to 20 percent of the funding for alternative
21 water supply projects that are not identified or listed in the
22 regional water supply plan but are consistent with the goals
23 of the plan.

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

1 ~~loans, or the use of district lands or facilities pursuant to~~
2 ~~the requirements of this subsection and guidelines established~~
3 ~~by the districts. In making grants or loans, funding priority~~
4 ~~must be given to projects in accordance with s. 373.0831(4).~~

5 (i) Without diminishing amounts available through
6 other means described in this paragraph, the governing boards
7 are encouraged to consider establishing revolving loan funds
8 to expand the total funds available to accomplish the
9 objectives of this section. A revolving loan fund created
10 under this paragraph must be a nonlapsing fund from which the
11 water management district may make loans with interest rates
12 below prevailing market rates to public or private entities
13 for the purposes described in this section. The governing
14 board may adopt resolutions to establish revolving loan funds
15 which must specify the details of the administration of the
16 fund, the procedures for applying for loans from the fund, the
17 criteria for awarding loans from the fund, the initial
18 capitalization of the fund, and the goals for future
19 capitalization of the fund in subsequent budget years.
20 Revolving loan funds created under this paragraph must be used
21 to expand the total sums and sources of cooperative funding
22 available for the development of alternative water supplies.
23 The Legislature does not intend for the creation of revolving
24 loan funds to supplant or otherwise reduce existing sources or
25 amounts of funds currently available through other means.

26 (j) For each utility that receives financial
27 assistance from the state or a water management district for
28 an alternative water supply project, the water management
29 district shall require the appropriate rate-setting authority
30 to develop rate structures for water customers in the service
31 area of the funded utility that will:

1 1. Promote the conservation of water; and
2 2. Promote the use of water from alternative water
3 supplies.
4 ~~(b) It is the intent of the Legislature that for each~~
5 ~~reclaimed water utility, or any other utility, which receives~~
6 ~~funds pursuant to this subsection, the appropriate~~
7 ~~rate setting authorities should develop rate structures for~~
8 ~~all water, wastewater, and reclaimed water and other~~
9 ~~alternative water supply utilities in the service area of the~~
10 ~~funded utility, which accomplish the following:~~
11 ~~1. Provide meaningful progress toward the development~~
12 ~~and implementation of alternative water supply systems,~~
13 ~~including reclaimed water systems;~~
14 ~~2. Promote the conservation of fresh water withdrawn~~
15 ~~from natural systems;~~
16 ~~3. Provide for an appropriate distribution of costs~~
17 ~~for all water, wastewater, and alternative water supply~~
18 ~~utilities, including reclaimed water utilities, among all of~~
19 ~~the users of those utilities; and~~
20 ~~4. Prohibit rate discrimination within classes of~~
21 ~~utility users.~~
22 ~~(c) Funding assistance provided by the water~~
23 ~~management districts for a water reuse system project may~~
24 ~~include the following grant or loan conditions for that~~
25 ~~project if the water management district determines that such~~
26 ~~conditions will encourage water use efficiency:~~
27 ~~1. Metering of reclaimed water use for the following~~
28 ~~activities: residential irrigation, agricultural irrigation,~~
29 ~~industrial uses except for electric utilities as defined in s.~~
30 ~~366.02(2), landscape irrigation, irrigation of other public~~
31

1 ~~access areas, commercial and institutional uses such as toilet~~
2 ~~flushing, and transfers to other reclaimed water utilities.~~

3 ~~2. Implementation of reclaimed water rate structures~~
4 ~~based on actual use of reclaimed water for the types of reuse~~
5 ~~activities listed in subparagraph 1.~~

6 ~~3. Implementation of education programs to inform the~~
7 ~~public about water issues, water conservation, and the~~
8 ~~importance and proper use of reclaimed water.~~

9 ~~4. Development of location data for key reuse~~
10 ~~facilities.~~

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

20 ~~(e) Any and all revenues disbursed pursuant to this~~
21 ~~subsection shall be applied only for the payment of capital or~~
22 ~~infrastructure costs for the construction of alternative water~~
23 ~~supply systems that provide alternative water supplies.~~

24 ~~(k)(f) By January 1 of each year, The governing boards~~
25 ~~shall establish a process make available written guidelines~~
26 ~~for the disbursement of revenues pursuant to this subsection.~~
27 ~~Such guidelines shall include at minimum:~~

28 ~~1. An application process and a deadline for filing~~
29 ~~applications annually.~~

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

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

4 ~~(g) The governing board of each water management~~
5 ~~district shall establish an alternative water supplies grants~~
6 ~~advisory committee to recommend to the governing board~~
7 ~~projects for funding pursuant to this subsection. The advisory~~
8 ~~committee members shall include, but not be limited to, one or~~
9 ~~more representatives of county, municipal, and investor owned~~
10 ~~private utilities, and may include, but not be limited to,~~
11 ~~representatives of agricultural interests and environmental~~
12 ~~interests. Each committee member shall represent his or her~~
13 ~~interest group as a whole and shall not represent any specific~~
14 ~~entity. The committee shall apply the guidelines and project~~
15 ~~eligibility criteria established by the governing board in~~
16 ~~reviewing proposed projects. After one or more hearings to~~
17 ~~solicit public input on eligible projects, the committee shall~~
18 ~~rank the eligible projects and shall submit them to the~~
19 ~~governing board for final funding approval. The advisory~~
20 ~~committee may submit to the governing board more projects than~~
21 ~~the available grant money would fund.~~

22 ~~(l)(h)~~ All revenues made available annually pursuant
23 to this subsection must be encumbered annually by the
24 governing board when if it approves projects sufficient to
25 expend the available revenues. ~~Funds must be disbursed within~~
26 ~~36 months after encumbrance.~~

27 ~~(i) For purposes of this subsection, alternative water~~
28 ~~supplies are supplies of water that have been reclaimed after~~
29 ~~one or more public supply, municipal, industrial, commercial,~~
30 ~~or agricultural uses, or are supplies of stormwater, or~~
31 ~~brackish or salt water, that have been treated in accordance~~

1 ~~with applicable rules and standards sufficient to supply the~~
2 ~~intended use.~~

3 ~~(m)(j)~~ This subsection ~~is shall~~ not ~~be~~ subject to the
4 rulemaking requirements of chapter 120.

5 ~~(n)(k)~~ By March 1 ~~January 30~~ of each year, as part of
6 a consolidated annual report, each water management district
7 shall submit a ~~an annual~~ report to the Governor, the President
8 of the Senate, and the Speaker of the House of Representatives
9 which accounts for the disbursement of all budgeted amounts
10 pursuant to this section ~~subsection~~. Such report shall
11 describe all alternative water supply projects funded as well
12 as the quantity of new water to be created as a result of such
13 projects and shall account separately for any other moneys
14 provided through grants, matching grants, revolving loans, and
15 the use of district lands or facilities to implement regional
16 water supply plans.

17 ~~(o)(l)~~ The Florida Public Service Commission shall
18 allow entities under its jurisdiction constructing or
19 participating in constructing facilities that provide
20 alternative water supplies ~~supply facilities, including but~~
21 ~~not limited to aquifer storage and recovery wells~~, to recover
22 their ~~the~~ full, prudently incurred cost of constructing such
23 facilities through their rate structure. If construction of a
24 facility or participation in construction is pursuant to or in
25 furtherance of a regional water supply plan, the cost shall be
26 deemed to be prudently incurred. Every component of an
27 alternative water supply facility constructed by an
28 investor-owned utility shall be recovered in current rates.
29 Any state or water management district cost-share is not
30 subject to the recovery provisions allowed in this paragraph.

31

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

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

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

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

18 (d) Development of location data for key reuse
19 facilities.

20 Section 4. Paragraph (c) of subsection (4) of section
21 373.0831, Florida Statutes, is repealed.

22 Section 5. 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 that ~~which~~ is a party to an agreement pursuant to subsection
31 (1) 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 6. Subsection (5) is added to section 373.223,
4 Florida Statutes, to read:

5 373.223 Conditions for a permit.--

6 (5) In evaluating an application for consumptive use
7 of water which proposes the use of an alternative water supply
8 project as described in the regional water supply plan and
9 provides reasonable assurances of the applicant's capability
10 to design, construct, operate, and maintain the project, the
11 governing board or department shall presume that the
12 alternative water supply use is consistent with the public
13 interest under s. 373.223(1)(c). However, where the governing
14 board identifies the need for a multijurisdictional water
15 supply entity or regional water supply authority to develop
16 the alternative water supply project pursuant to s.
17 373.0361(2)(a)2., the presumption shall be accorded only to
18 that use proposed by such entity or authority. This subsection
19 does not effect evaluation of the use pursuant to the
20 provisions of ss. 373.223(1)(a) and (b), (2), and (3),
21 373.2295, and 373.233.

22 Section 7. Subsection (4) is added to section 373.236,
23 Florida Statutes, to read:

24 373.236 Duration of permits; compliance reports.--

25 (4) Permits approved for the development of
26 alternative water supplies shall be granted for a term of at
27 least 20 years. However, if the permittee issues bonds for the
28 construction of the project, upon request of the permittee
29 prior to the expiration of the permit, that permit shall be
30 extended for such additional time as is required for the
31 retirement of bonds, not including any refunding or

1 refinancing of such bonds, provided that the governing board
2 determines that the use will continue to meet the conditions
3 for the issuance of the permit. Such a permit is subject to
4 compliance reports under subsection (3).

5 Section 8. Section 373.459, Florida Statutes, is
6 amended to read:

7 373.459 Funds for surface water improvement and
8 management.--

9 (1) Legislative appropriations provided to the water
10 management districts for surface water improvement and
11 management activities shall be available for detailed planning
12 and plan and program implementation.

13 (2) An entity that receives state funding for the
14 implementation of programs specified in ss. 373.451-373.459,
15 including a water management district, federal, local, or
16 regional agency, university, or nonprofit or private
17 organization, shall provide a 50-percent match of cash or
18 in-kind services towards the implementation of the specific
19 project for which it is contracting.

20 ~~(3)(2)~~ The Ecosystem Management and Restoration Trust
21 Fund shall be used for the deposit of funds appropriated by
22 the Legislature for the purposes of ss. 373.451-373.4595. The
23 department shall administer all funds appropriated to or
24 received for surface water improvement and management
25 activities. Expenditure of the moneys shall be limited to the
26 costs of detailed planning and plan and program implementation
27 for priority surface water bodies. Moneys from the fund shall
28 not be expended for planning for, or construction or expansion
29 of, treatment facilities for domestic or industrial waste
30 disposal.

31

1 ~~(4)(3)~~ The department shall authorize the release of
2 money from the fund in accordance with the provisions of s.
3 373.501(2) and procedures in s. 373.59(4) and (5).

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

10 Section 9. Section 373.0361, Florida Statutes, is
11 amended to read:

12 (Substantial rewording of section. See
13 s. s. 373.0361, F.S., for present text.)

14 373.0361 Regional water supply planning.--

15 (1) The governing board of each water management
16 district shall conduct water supply planning for any water
17 supply planning region within the district identified in the
18 appropriate district water supply plan under s. 373.036, where
19 it determines that existing sources of water are not adequate
20 to supply water for all existing and future
21 reasonable-beneficial uses and to sustain the water resources
22 and related natural systems for the planning period. The
23 planning must be conducted in an open public process, in
24 coordination and cooperation with local governments, regional
25 water supply authorities, government-owned and privately owned
26 water utilities, multijurisdictional water supply entities,
27 self-suppliers, and other affected and interested parties. The
28 districts shall actively engage in public education and
29 outreach to all affected local entities and their officials,
30 as well as members of the public, in the planning process and
31 in seeking input. During preparation, but prior to completion

1 of the regional water supply plan, the district must conduct
2 at least one public workshop to discuss the technical data and
3 modeling tools anticipated to be used to support the regional
4 water supply plan. The district shall also hold several public
5 meetings to communicate the status, overall conceptual intent,
6 and impacts of the plan on existing and future
7 reasonable-beneficial uses and related natural systems. During
8 the planning process, a local government may choose to prepare
9 its own water supply assessment to determine if existing water
10 sources are adequate to meet existing and projected
11 reasonable-beneficial needs of the local government while
12 sustaining water resources and related natural systems. The
13 local government shall submit such assessment, including the
14 data and methodology used, to the district. The district shall
15 consider the local government's assessment during the
16 formation of the plan. A determination by the governing board
17 that initiation of a regional water supply plan for a specific
18 planning region is not needed pursuant to this section shall
19 be subject to s. 120.569. The governing board shall reevaluate
20 such a determination at least once every 5 years and shall
21 initiate a regional water supply plan, if needed, pursuant to
22 this subsection.

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

26 (a) A water supply development component for each
27 water supply planning region identified by the district which
28 includes:

29 1. A quantification of the water supply needs for all
30 existing and future reasonable-beneficial uses within the
31 planning horizon. The level-of-certainty planning goal

1 associated with identifying the water supply needs of existing
2 and future reasonable-beneficial uses shall be based upon
3 meeting those needs for a 1-in-10-year drought event.
4 Population projections used for determining public water
5 supply needs must be based upon the best available data. In
6 determining the best available data, the district shall
7 consider the University of Florida's Bureau of Economic and
8 Business Research (BEBR) medium population projections and any
9 population projection data and analysis submitted by a local
10 government pursuant to the public workshop described in
11 subsection (1) if the data and analysis support the local
12 government's comprehensive plan. Any adjustment of or
13 deviation from the BEBR projections must be fully described,
14 and the original BEBR data must be presented along with the
15 adjusted data.

16 2. A list of water supply development project options,
17 including traditional and alternative water supply project
18 options, from which local government, government-owned and
19 privately owned utilities, regional water supply authorities,
20 multijurisdictional water supply entities, self-suppliers, and
21 others may choose for water supply development. In addition to
22 projects listed by the district, such users may propose
23 specific projects for inclusion in the list of alternative
24 water supply projects. If such users propose a project to be
25 listed as an alternative water supply project, the district
26 shall determine whether it meets the goals of the plan, and,
27 if so, it shall be included in the list. The total capacity of
28 the projects included in the plan shall exceed the needs
29 identified in subparagraph 1. and shall take into account
30 water conservation and other demand management measures, as
31 well as water resources constraints, including adopted minimum

1 flows and levels and water reservations. Where the district
2 determines it is appropriate, the plan should specifically
3 identify the need for multijurisdictional approaches to
4 project options that, based on planning level analysis, are
5 appropriate to supply the intended uses and that, based on
6 such analysis, appear to be permittable and financially and
7 technically feasible.

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

10 a. An estimate of the amount of water to become
11 available through the project.

12 b. The timeframe in which the project option should be
13 implemented and the estimated planning-level costs for capital
14 investment and operating and maintaining the project.

15 c. An analysis of funding needs and sources of
16 possible funding options. For alternative water supply
17 projects the water management districts shall provide funding
18 assistance in accordance with s. 373.1961(3).

19 d. Identification of the entity that should implement
20 each project option and the current status of project
21 implementation.

22 (b) A water resource development component that
23 includes:

24 1. A listing of those water resource development
25 projects that support water supply development.

26 2. For each water resource development project listed:

27 a. An estimate of the amount of water to become
28 available through the project.

29 b. The timeframe in which the project option should be
30 implemented and the estimated planning-level costs for capital
31 investment and for operating and maintaining the project.

1 c. An analysis of funding needs and sources of
2 possible funding options.

3 d. Identification of the entity that should implement
4 each project option and the current status of project
5 implementation.

6 (c) The recovery and prevention strategy described in
7 s. 373.0421(2).

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

12 (e) Consideration of how the project options addressed
13 in paragraph (a) serve the public interest or save costs
14 overall by preventing the loss of natural resources or
15 avoiding greater future expenditures for water resource
16 development or water supply development. However, unless
17 adopted by rule, these considerations do not constitute final
18 agency action.

19 (f) The technical data and information applicable to
20 each planning region which are necessary to support the
21 regional water supply plan.

22 (g) The minimum flows and levels established for water
23 resources within each planning region.

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

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

28 (j) An analysis, developed in cooperation with the
29 department, of areas or instances in which the variance
30 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
31

1 create water supply development or water resource development
2 projects.

3 (3) The water supply development component of a
4 regional water supply plan which deals with or affects public
5 utilities and public water supply for those areas served by a
6 regional water supply authority and its member governments
7 within the boundary of the Southwest Florida Water Management
8 District shall be developed jointly by the authority and the
9 district. In areas not served by regional water supply
10 authorities, or other multijurisdictional water supply
11 entities, and where opportunities exist to meet water supply
12 needs more efficiently through multijurisdictional projects
13 identified pursuant to s. 372.0361(2)(a), water management
14 districts are directed to assist in developing
15 multijurisdictional approaches to water supply project
16 development jointly with affected water utilities, special
17 districts, and local governments.

18 (4) Governing board approval of a regional water
19 supply plan shall not be subject to the rulemaking
20 requirements of chapter 120. However, any portion of an
21 approved regional water supply plan which affects the
22 substantial interests of a party shall be subject to s.
23 120.569.

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

29 (a) A compilation of the estimated costs of and
30 potential sources of funding for water resource development
31

1 and water supply development projects as identified in the
2 water management district regional water supply plans.

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

6 (c) A description of each district's progress toward
7 achieving its water resource development objectives, including
8 the district's implementation of its 5-year water resource
9 development work program.

10 (d) An assessment of the specific progress being made
11 to implement each alternative water supply project option
12 chosen by the entities and identified for implementation in
13 the plan.

14 (e) An overall assessment of the progress being made
15 to develop water supply in each district, including, but not
16 limited to, an explanation of how each project, either
17 alternative or traditional, will produce, contribute to, or
18 account for additional water being made available for
19 consumptive uses, an estimate of the quantity of water to be
20 produced by each project, and an assessment of the
21 contribution of the district's regional water supply plan in
22 providing sufficient water to meet the needs of existing and
23 future reasonable-beneficial uses for a 1-in-10 year drought
24 event, as well as the needs of the natural systems.

25 (6) Nothing contained in the water supply development
26 component of a regional water supply plan shall be construed
27 to require local governments, government-owned or privately
28 owned water utilities, special districts, self-suppliers,
29 regional water supply authorities, multijurisdictional water
30 supply entities, or other water suppliers to select a water
31 supply development project identified in the component merely

1 because it is identified in the plan. Except as provided in s.
2 373.223(3) and (5), the plan may not be used in the review of
3 permits under part II unless the plan or an applicable portion
4 thereof has been adopted by rule. However, this subsection
5 does not prohibit a water management district from employing
6 the data or other information used to establish the plan in
7 reviewing permits under part II, nor does it limit the
8 authority of the department or governing board under part II.

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

16 (a) Within 6 months following approval or amendment of
17 its regional water supply plan, each water management district
18 shall notify by certified mail each entity identified in
19 sub-subparagraph (2)(a)3.d. of that portion of the plan
20 relevant to the entity. Upon request of such an entity, the
21 water management district shall appear before and present its
22 findings and recommendations to the entity.

23 (b) Within 1 year after the notification by a water
24 management district pursuant to paragraph (a), each entity
25 identified in sub-subparagraph (2)(a)3.d. shall provide to the
26 water management district written notification of the
27 following: the alternative water supply projects or options
28 identified in s. 373.0361(2)(a) which it has developed or
29 intends to develop, if any; an estimate of the quantity of
30 water to be produced by each project; and the status of
31 project implementation, including development of the financial

1 plan, facilities master planning, permitting, and efforts in
2 coordinating multijurisdictional projects, if applicable. The
3 information provided in the notification shall be updated
4 annually and a progress report shall be provided by November
5 15 of each year to the water management district. If an entity
6 does not intend to develop one or more of the alternative
7 water supply project options identified in the regional water
8 supply plan, the entity shall propose, within 1 year after
9 notification by a water management district pursuant to
10 paragraph (a), another alternative water supply project option
11 sufficient to address the needs identified in paragraph (2)(a)
12 within the entity's jurisdiction and shall provide an estimate
13 of the quantity of water to be produced by the project and the
14 status of project implementation as described in this
15 paragraph. The entity may request that the water management
16 district consider the other project for inclusion in the
17 regional water supply plan.

18 (8) For any regional water supply plan that is
19 scheduled to be updated before December 31, 2005, the deadline
20 for such update shall be extended by 1 year.

21 Section 10. Paragraph (c) of subsection (6) of section
22 163.3177, Florida Statutes, is amended to read:

23 163.3177 Required and optional elements of
24 comprehensive plan; studies and surveys.--

25 (6) In addition to the requirements of subsections
26 (1)-(5), the comprehensive plan shall include the following
27 elements:

28 (c) A general sanitary sewer, solid waste, drainage,
29 potable water, and natural groundwater aquifer recharge
30 element correlated to principles and guidelines for future
31 land use, indicating ways to provide for future potable water,

1 drainage, sanitary sewer, solid waste, and aquifer recharge
2 protection requirements for the area. The element may be a
3 detailed engineering plan including a topographic map
4 depicting areas of prime groundwater recharge. The element
5 shall describe the problems and needs and the general
6 facilities that will be required for solution of the problems
7 and needs. The element shall also include a topographic map
8 depicting any areas adopted by a regional water management
9 district as prime groundwater recharge areas for the Floridan
10 or Biscayne aquifers, pursuant to s. 373.0395. These areas
11 shall be given special consideration when the local government
12 is engaged in zoning or considering future land use for said
13 designated areas. For areas served by septic tanks, soil
14 surveys shall be provided which indicate the suitability of
15 soils for septic tanks. Within 18 months after the governing
16 board approves an updated regional water supply plan ~~By~~
17 ~~December 1, 2006~~, the element must incorporate the alternative
18 water supply project or projects selected by the local
19 government from those identified in the regional water supply
20 plan pursuant to s. 373.0361(2)(a) or proposed by the local
21 government under s. 373.0361(7)(b) ~~consider the appropriate~~
22 ~~water management district's regional water supply plan~~
23 ~~approved pursuant to s. 373.0361.~~ If a local government is
24 located within two water management districts, the local
25 government shall adopt its comprehensive plan amendment within
26 18 months after the later updated regional water supply plan.
27 The element must identify such alternative water supply
28 projects and traditional water supply projects and
29 conservation and reuse, necessary to meet the water needs
30 identified in s. 373.0361(2)(a) within the local government's
31 jurisdiction and include a work plan, covering at least a 10

1 year planning period, for building public, private, and
2 regional water supply facilities, including development of
3 alternative water supplies, which ~~that~~ are identified in the
4 element as necessary to serve existing and new development ~~and~~
5 ~~for which the local government is responsible~~. The work plan
6 shall be updated, at a minimum, every 5 years within ~~18~~ 12
7 months after the governing board of a water management
8 district approves an updated regional water supply plan. Local
9 governments, public and private utilities, regional water
10 supply authorities, special districts, and water management
11 districts are encouraged to cooperatively plan for the
12 development of multijurisdictional water supply facilities
13 sufficient to meet projected demands for established planning
14 periods, including the development of alternative water
15 sources to supplement traditional sources of groundwater and
16 surface water supplies. Amendments to incorporate the work
17 plan do not count toward the limitation on the frequency of
18 adoption of amendments to the comprehensive plan.

19 Section 11. Paragraph (a) of subsection (2) of section
20 163.3180, Florida Statutes, is amended to read:

21 163.3180 Concurrency.--

22 (2)(a) Consistent with public health and safety,
23 adequate water supplies and sanitary sewer, solid waste,
24 drainage, and potable water facilities shall be in place and
25 available to serve new development no later than the issuance
26 by the local government of a certificate of occupancy or its
27 functional equivalent. Prior to approval of a building permit
28 or its functional equivalent, the local government shall
29 consult with the applicable water supplier to determine
30 whether adequate water supplies to serve the new development
31 will be available no later than the anticipated date of

1 issuance by the local government of a certificate of occupancy
2 or its functional equivalent.

3 Section 12. Paragraph (1) of subsection (2) of section
4 163.3191, Florida Statutes, is amended to read:

5 163.3191 Evaluation and appraisal of comprehensive
6 plan.--

7 (2) The report shall present an evaluation and
8 assessment of the comprehensive plan and shall contain
9 appropriate statements to update the comprehensive plan,
10 including, but not limited to, words, maps, illustrations, or
11 other media, related to:

12 (1) The extent to which the local government has been
13 successful in identifying alternative water supply projects
14 and traditional water supply projects, including conservation
15 and reuse, necessary to meet the water needs identified in s.
16 373.0361(2)(a) within the local government's jurisdiction. The
17 report must evaluate the degree to which the local government
18 has implemented the work plan for building public, private,
19 and regional water supply facilities, including development of
20 alternative water supplies, identified in the element as
21 necessary to serve existing and new development. The
22 ~~evaluation must consider the appropriate water management~~
23 ~~district's regional water supply plan approved pursuant to s.~~
24 ~~373.0361. The potable water element must be revised to include~~
25 ~~a work plan, covering at least a 10 year planning period, for~~
26 ~~building any water supply facilities that are identified in~~
27 ~~the element as necessary to serve existing and new development~~
28 ~~and for which the local government is responsible.~~

29 Section 13. Paragraph (d) of subsection (2) and
30 subsections (6), (7), (8), and (11) of section 403.067,
31 Florida Statutes, are amended to read:

1 403.067 Establishment and implementation of total
2 maximum daily loads.--

3 (2) LIST OF SURFACE WATERS OR SEGMENTS.--In accordance
4 with s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
5 U.S.C. ss. 1251 et seq., the department must submit
6 periodically to the United States Environmental Protection
7 Agency a list of surface waters or segments for which total
8 maximum daily load assessments will be conducted. The
9 assessments shall evaluate the water quality conditions of the
10 listed waters and, if such waters are determined not to meet
11 water quality standards, total maximum daily loads shall be
12 established, subject to the provisions of subsection (4). The
13 department shall establish a priority ranking and schedule for
14 analyzing such waters.

15 (d) If the department proposes to implement total
16 maximum daily load calculations or allocations established
17 prior to the effective date of this act, the department shall
18 adopt those calculations and allocations by rule by the
19 secretary pursuant to ss. 120.536(1) and 120.54 and paragraph
20 (6)(c)~~(6)(d)~~.

21 (6) CALCULATION AND ALLOCATION.--

22 (a) Calculation of total maximum daily load.

23 1. Prior to developing a total maximum daily load
24 calculation for each water body or water body segment on the
25 list specified in subsection (4), the department shall
26 coordinate with applicable local governments, water management
27 districts, the Department of Agriculture and Consumer
28 Services, other appropriate state agencies, local soil and
29 water conservation districts, environmental groups, regulated
30 interests, and affected pollution sources to determine the
31 information required, accepted methods of data collection and

1 analysis, and quality control/quality assurance requirements.
2 The analysis may include mathematical water quality modeling
3 using approved procedures and methods.

4 2. The department shall develop total maximum daily
5 load calculations for each water body or water body segment on
6 the list described in subsection (4) according to the priority
7 ranking and schedule unless the impairment of such waters is
8 due solely to activities other than point and nonpoint sources
9 of pollution. For waters determined to be impaired due solely
10 to factors other than point and nonpoint sources of pollution,
11 no total maximum daily load will be required. A total maximum
12 daily load may be required for those waters that are impaired
13 predominantly due to activities other than point and nonpoint
14 sources. The total maximum daily load calculation shall
15 establish the amount of a pollutant that a water body or water
16 body segment may receive from all sources without exceeding
17 water quality standards, and shall account for seasonal
18 variations and include a margin of safety that takes into
19 account any lack of knowledge concerning the relationship
20 between effluent limitations and water quality. The total
21 maximum daily load may be based on a pollutant load reduction
22 goal developed by a water management district, provided that
23 such pollutant load reduction goal is promulgated by the
24 department in accordance with the procedural and substantive
25 requirements of this subsection.

26 (b) Allocation of total maximum daily loads. The total
27 maximum daily loads shall include establishment of reasonable
28 and equitable allocations of the total maximum daily load
29 between or among point and nonpoint sources that will alone,
30 or in conjunction with other management and restoration
31 activities, provide for the attainment of the pollutant

1 reductions established pursuant to paragraph (a) to achieve
2 water quality standards for the pollutant causing impairment
3 ~~water quality standards and the restoration of impaired~~
4 ~~waters~~. The allocations may establish the maximum amount of
5 the water pollutant ~~from a given source or category of sources~~
6 that may be discharged or released into the water body or
7 water body segment in combination with other discharges or
8 releases. Allocations may also be made to individual basins
9 and sources or as a whole to all basins and sources or
10 categories of sources of inflow to the water body or water
11 body segments. An initial allocation of allowable pollutant
12 loads among point and nonpoint sources may be developed as
13 part of the total maximum daily load. However, in such cases,
14 the detailed allocation to specific point sources and specific
15 categories of nonpoint sources shall be established in the
16 basin management action plan pursuant to subsection (7). The
17 initial and detailed allocations shall be designed to attain
18 the pollutant reductions established pursuant to paragraph (a)
19 ~~water quality standards~~ and shall be based on consideration of
20 the following:

- 21 1. Existing treatment levels and management practices;
- 22 2. Best management practices established and
23 implemented pursuant to paragraph (7)(c);
- 24 3. Enforceable treatment levels established pursuant
25 to state or local law or permit;
- 26 4.2- Differing impacts pollutant sources and forms of
27 pollutant may have on water quality;
- 28 5.3- The availability of treatment technologies,
29 management practices, or other pollutant reduction measures;
- 30 6.4- Environmental, economic, and technological
31 feasibility of achieving the allocation;

1 ~~7.5.~~ The cost benefit associated with achieving the
2 allocation;

3 ~~8.6.~~ Reasonable timeframes for implementation;

4 ~~9.7.~~ Potential applicability of any moderating
5 provisions such as variances, exemptions, and mixing zones;
6 and

7 ~~10.8.~~ The extent to which nonattainment of water
8 quality standards is caused by pollution sources outside of
9 Florida, discharges that have ceased, or alterations to water
10 bodies prior to the date of this act.

11 ~~(c) Not later than February 1, 2001, the department~~
12 ~~shall submit a report to the Governor, the President of the~~
13 ~~Senate, and the Speaker of the House of Representatives~~
14 ~~containing recommendations, including draft legislation, for~~
15 ~~any modifications to the process for allocating total maximum~~
16 ~~daily loads, including the relationship between allocations~~
17 ~~and the watershed or basin management planning process. Such~~
18 ~~recommendations shall be developed by the department in~~
19 ~~cooperation with a technical advisory committee which includes~~
20 ~~representatives of affected parties, environmental~~
21 ~~organizations, water management districts, and other~~
22 ~~appropriate local, state, and federal government agencies. The~~
23 ~~technical advisory committee shall also include such members~~
24 ~~as may be designated by the President of the Senate and the~~
25 ~~Speaker of the House of Representatives.~~

26 ~~(c)(d)~~ Adoption of rules. The total maximum daily load
27 calculations and allocations established under this subsection
28 for each water body or water body segment shall be adopted by
29 rule by the secretary pursuant to ss. 120.536(1), 120.54, and
30 403.805. Where additional data collection and analysis are
31 needed to increase the scientific precision and accuracy of

1 the total maximum daily load, the department is authorized to
2 adopt phased total maximum daily loads that are subject to
3 change as additional data becomes available. Where phased
4 total maximum daily loads are proposed, the department shall,
5 in the detailed statement of facts and circumstances
6 justifying the rule, explain why the data are inadequate so as
7 to justify a phased total maximum daily load. The rules
8 adopted pursuant to this paragraph shall not be subject to
9 approval by the Environmental Regulation Commission. As part
10 of the rule development process, the department shall hold at
11 least one public workshop in the vicinity of the water body or
12 water body segment for which the total maximum daily load is
13 being developed. Notice of the public workshop shall be
14 published not less than 5 days nor more than 15 days before
15 the public workshop in a newspaper of general circulation in
16 the county or counties containing the water bodies or water
17 body segments for which the total maximum daily load
18 calculation and allocation are being developed.

19 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
20 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

21 (a) Basin management action plans.--

22 1. In developing and implementing the total maximum
23 daily load for a water body, the department, or the department
24 in conjunction with a water management district, may develop a
25 basin management action plan that addresses some or all of the
26 watersheds and basins tributary to the water body. Such a plan
27 shall integrate the appropriate management strategies
28 available to the state through existing water quality
29 protection programs to achieve the total maximum daily loads
30 and may provide for phased implementation of these management
31 strategies to promote timely, cost-effective actions as

1 provided for in s. 403.151. The plan shall establish a
2 schedule for implementing the management strategies, establish
3 a basis for evaluating the plan's effectiveness, and identify
4 feasible funding strategies for implementing the plan's
5 management strategies. The management strategies may include
6 regional treatment systems or other public works, where
7 appropriate, to achieve the needed pollutant load reductions.

8 2. A basin management action plan shall equitably
9 allocate, pursuant to paragraph (6)(b), pollutant reductions
10 to individual basins, as a whole to all basins, or to each
11 identified point source or category of nonpoint sources, as
12 appropriate. For nonpoint sources for which best management
13 practices have been adopted, the initial requirement specified
14 by the plan shall be those practices developed pursuant to
15 paragraph (c). Where appropriate, the plan may provide
16 pollutant-load-reduction credits to dischargers that have
17 implemented management strategies to reduce pollutant loads,
18 including best management practices, prior to the development
19 of the basin management action plan. The plan shall also
20 identify the mechanisms by which potential future increases in
21 pollutant loading will be addressed.

22 3. The basin management action planning process is
23 intended to involve the broadest possible range of interested
24 parties, with the objective of encouraging the greatest amount
25 of cooperation and consensus possible. In developing a basin
26 management action plan, the department shall assure that key
27 stakeholders, including, but not limited to, applicable local
28 governments, water management districts, the Department of
29 Agriculture and Consumer Services, other appropriate state
30 agencies, local soil and water conservation districts,
31 environmental groups, regulated interests, and affected

1 pollution sources, are invited to participate in the process.
2 The department shall hold at least one public meeting in the
3 vicinity of the watershed or basin to discuss and receive
4 comments during the planning process and shall otherwise
5 encourage public participation to the greatest practicable
6 extent. Notice of the public meeting shall be published in a
7 newspaper of general circulation in each county in which the
8 watershed or basin lies not less than 5 days nor more than 15
9 days before the public meeting. A basin management action plan
10 shall not supplant or otherwise alter any assessment made
11 under subsection (3) or subsection (4) or any calculation or
12 initial allocation.

13 4. The department shall adopt all or any part of a
14 basin management action plan by secretarial order pursuant to
15 chapter 120 to implement the provisions of this section.

16 5. The basin management action plan shall include
17 milestones for implementation and water quality improvement,
18 and an associated water quality monitoring component
19 sufficient to evaluate whether reasonable progress in
20 pollutant load reductions is being achieved over time. An
21 assessment of progress toward these milestones shall be
22 conducted every 5 years, and revisions to the plan shall be
23 made as appropriate. Revisions to the basin management action
24 plan shall be made by the department in cooperation with basin
25 stakeholders. Revisions to the management strategies required
26 for nonpoint sources shall follow the procedures set forth in
27 subparagraph (c)4. Revised basin management action plans shall
28 be adopted pursuant to subparagraph 4.

29 (b)(a) Total maximum daily load implementation.--

30 1. The department shall be the lead agency in
31 coordinating the implementation of the total maximum daily

1 loads through existing water quality protection programs.
2 Application of a total maximum daily load by a water
3 management district shall be consistent with this section and
4 shall not require the issuance of an order or a separate
5 action pursuant to s. 120.536(1) or s. 120.54 for adoption of
6 the calculation and allocation previously established by the
7 department. Such programs may include, but are not limited to:
8 ~~a.1.~~ Permitting and other existing regulatory
9 programs, including water-quality-based effluent limitations;
10 ~~b.2.~~ Nonregulatory and incentive-based programs,
11 including best management practices, cost sharing, waste
12 minimization, pollution prevention, agreements established
13 pursuant to s. 403.061(21), and public education;
14 ~~c.3.~~ Other water quality management and restoration
15 activities, for example surface water improvement and
16 management plans approved by water management districts ~~or~~
17 ~~watershed~~ or basin management action plans developed pursuant
18 to this subsection;
19 ~~d.4.~~ Pollutant trading or other equitable economically
20 based agreements;
21 ~~e.5.~~ Public works including capital facilities; or
22 ~~f.6.~~ Land acquisition.
23 2. For a basin management action plan adopted pursuant
24 to subparagraph (a)4., any management strategies and pollutant
25 reduction requirements associated with a pollutant of concern
26 for which a total maximum daily load has been developed,
27 including effluent limits set forth for a discharger subject
28 to NPDES permitting, if any, shall be included in a timely
29 manner in subsequent NPDES permits or permit modifications for
30 that discharger. The department shall not impose limits or
31 conditions implementing an adopted total maximum daily load in

1 an NPDES permit until the permit expires, the discharge is
2 modified, or the permit is reopened pursuant to an adopted
3 basin management action plan.

4 a. Absent a detailed allocation, total maximum daily
5 loads shall be implemented through NPDES permit conditions
6 that afford a compliance schedule. In such instances, a
7 facility's NPDES permit shall allow time for the issuance of
8 an order adopting the basin management action plan. The time
9 allowed for the issuance of an order adopting the plan shall
10 not exceed five years. Upon issuance of an order adopting the
11 plan, the permit shall be reopened, as necessary, and permit
12 conditions consistent with the plan shall be established.
13 Notwithstanding the other provisions of this subparagraph,
14 upon request by a NPDES permittee, the department as part of a
15 permit issuance, renewal or modification may establish
16 individual allocations prior to the adoption of a basin
17 management action plan.

18 b. For holders of NPDES municipal separate storm sewer
19 system permits and other stormwater sources, implementation of
20 a total maximum daily load or basin management action plan
21 shall be achieved, to the maximum extent practicable, through
22 the use of best management practices or other management
23 measures.

24 c. The basin management action plan does not relieve
25 the discharger from any requirement to obtain, renew, or
26 modify an NPDES permit or to abide by other requirements of
27 the permit.

28 d. Management strategies set forth in a basin
29 management action plan to be implemented by a discharger
30 subject to permitting by the department shall be completed
31 pursuant to the schedule set forth in the basin management

1 action plan. This implementation schedule may extend beyond
2 the 5-year term of an NPDES permit.

3 e. Management strategies and pollution reduction
4 requirements set forth in a basin management action plan for a
5 specific pollutant of concern shall not be subject to
6 challenge under chapter 120 at the time they are incorporated,
7 in an identical form, into a subsequent NPDES permit or permit
8 modification.

9 f. For nonagricultural pollutant sources not subject
10 to NPDES permitting but permitted pursuant to other state,
11 regional, or local water quality programs, the pollutant
12 reduction actions adopted in a basin management action plan
13 shall be implemented to the maximum extent practicable as part
14 of those permitting programs.

15 g. A nonpoint source discharger included in a basin
16 management action plan shall demonstrate compliance with the
17 pollutant reductions established pursuant to subsection (6) by
18 either implementing the appropriate best management practices
19 established pursuant to paragraph (c) or conducting water
20 quality monitoring prescribed by the department or a water
21 management district.

22 h. A nonpoint source discharger included in a basin
23 management action plan may be subject to enforcement action by
24 the department or a water management district based upon a
25 failure to implement the responsibilities set forth in
26 sub-subparagraph g.

27 i. A landowner, discharger, or other responsible
28 person who is implementing applicable management strategies
29 specified in an adopted basin management action plan shall not
30 be required by permit, enforcement action, or otherwise to
31 implement additional management strategies to reduce pollutant

1 loads to attain the pollutant reductions established pursuant
2 to subsection (6) and shall be deemed to be in compliance with
3 this section. This subparagraph does not limit the authority
4 of the department to amend a basin management action plan as
5 specified in subparagraph (a)5.

6 ~~(b) 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 ~~watershed or basin management plan that addresses some or all~~
10 ~~of the watersheds and basins tributary to the water body.~~
11 ~~These plans will serve to fully integrate the management~~
12 ~~strategies available to the state for the purpose of~~
13 ~~implementing the total maximum daily loads and achieving water~~
14 ~~quality restoration. The watershed or basin management~~
15 ~~planning process is intended to involve the broadest possible~~
16 ~~range of interested parties, with the objective of encouraging~~
17 ~~the greatest amount of cooperation and consensus possible. The~~
18 ~~department or water management district shall hold at least~~
19 ~~one public meeting in the vicinity of the watershed or basin~~
20 ~~to discuss and receive comments during the planning process~~
21 ~~and shall otherwise encourage public participation to the~~
22 ~~greatest practical extent. Notice of the public meeting shall~~
23 ~~be published in a newspaper of general circulation in each~~
24 ~~county in which the watershed or basin lies not less than 5~~
25 ~~days nor more than 15 days before the public meeting. A~~
26 ~~watershed or basin management plan shall not supplant or~~
27 ~~otherwise alter any assessment made under s. 403.086(3) and~~
28 ~~(4), or any calculation or allocation made under s.~~
29 ~~403.086(6).~~

30 (c) Best management practices.--
31

1 1. The department, in cooperation with the water
2 management districts and other interested parties, as
3 appropriate, may develop suitable interim measures, best
4 management practices, or other measures necessary to achieve
5 the level of pollution reduction established by the department
6 for nonagricultural nonpoint pollutant sources in allocations
7 developed pursuant to subsection (6) and this subsection
8 ~~paragraph (6)(b)~~. These practices and measures may be adopted
9 by rule by the department and the water management districts
10 pursuant to ss. 120.536(1) and 120.54, and, where adopted by
11 rule, shall ~~may~~ be implemented by those parties responsible
12 for nonagricultural nonpoint source pollution pollutant
13 ~~sources and the department and the water management districts~~
14 ~~shall assist with implementation. Where interim measures, best~~
15 ~~management practices, or other measures are adopted by rule,~~
16 ~~the effectiveness of such practices in achieving the levels of~~
17 ~~pollution reduction established in allocations developed by~~
18 ~~the department pursuant to paragraph (6)(b) shall be verified~~
19 ~~by the department. Implementation, in accordance with~~
20 ~~applicable rules, of practices that have been verified by the~~
21 ~~department to be effective at representative sites shall~~
22 ~~provide a presumption of compliance with state water quality~~
23 ~~standards and release from the provisions of s. 376.307(5) for~~
24 ~~those pollutants addressed by the practices, and the~~
25 ~~department is not authorized to institute proceedings against~~
26 ~~the owner of the source of pollution to recover costs or~~
27 ~~damages associated with the contamination of surface or ground~~
28 ~~water caused by those pollutants. Such rules shall also~~
29 ~~incorporate provisions for a notice of intent to implement the~~
30 ~~practices and a system to assure the implementation of the~~
31 ~~practices, including recordkeeping requirements. Where water~~

1 ~~quality problems are detected despite the appropriate~~
2 ~~implementation, operation, and maintenance of best management~~
3 ~~practices and other measures according to rules adopted under~~
4 ~~this paragraph, the department or the water management~~
5 ~~districts shall institute a reevaluation of the best~~
6 ~~management practice or other measures.~~

7 2.(d)1. The Department of Agriculture and Consumer
8 Services may develop and adopt by rule pursuant to ss.
9 120.536(1) and 120.54 suitable interim measures, best
10 management practices, or other measures necessary to achieve
11 the level of pollution reduction established by the department
12 for agricultural pollutant sources in allocations developed
13 pursuant to subsection (6) and this subsection ~~paragraph~~
14 ~~(6)(b)~~. These practices and measures may be implemented by
15 those parties responsible for agricultural pollutant sources
16 and the department, the water management districts, and the
17 Department of Agriculture and Consumer Services shall assist
18 with implementation. ~~Where interim measures, best management~~
19 ~~practices, or other measures are adopted by rule, the~~
20 ~~effectiveness of such practices in achieving the levels of~~
21 ~~pollution reduction established in allocations developed by~~
22 ~~the department pursuant to paragraph (6)(b) shall be verified~~
23 ~~by the department. Implementation, in accordance with~~
24 ~~applicable rules, of practices that have been verified by the~~
25 ~~department to be effective at representative sites shall~~
26 ~~provide a presumption of compliance with state water quality~~
27 ~~standards and release from the provisions of s. 376.307(5) for~~
28 ~~those pollutants addressed by the practices, and the~~
29 ~~department is not authorized to institute proceedings against~~
30 ~~the owner of the source of pollution to recover costs or~~
31 ~~damages associated with the contamination of surface or ground~~

1 ~~water caused by those pollutants.~~ In the process of developing
2 and adopting rules for interim measures, best management
3 practices, or other measures, the Department of Agriculture
4 and Consumer Services shall consult with the department, the
5 Department of Health, the water management districts,
6 representatives from affected farming groups, and
7 environmental group representatives. Such rules shall also
8 incorporate provisions for a notice of intent to implement the
9 practices and a system to assure the implementation of the
10 practices, including recordkeeping requirements. ~~Where water~~
11 ~~quality problems are detected despite the appropriate~~
12 ~~implementation, operation, and maintenance of best management~~
13 ~~practices and other measures according to rules adopted under~~
14 ~~this paragraph, the Department of Agriculture and Consumer~~
15 ~~Services shall institute a reevaluation of the best management~~
16 ~~practice or other measure.~~

17 3. Where interim measures, best management practices,
18 or other measures are adopted by rule, the effectiveness of
19 such practices in achieving the levels of pollution reduction
20 established in allocations developed by the department
21 pursuant to subsection (6) and this subsection shall be
22 verified at representative sites by the department. The
23 department shall use best professional judgment in making the
24 initial verification that the best management practices are
25 effective and, where applicable, shall notify the appropriate
26 water management district and the Department of Agriculture
27 and Consumer Services of its initial verification prior to the
28 adoption of a rule proposed pursuant to this paragraph.
29 Implementation, in accordance with rules adopted under this
30 paragraph, of practices that have been initially verified to
31 be effective, or verified to be effective by monitoring at

1 representative sites, by the department, shall provide a
2 presumption of compliance with state water quality standards
3 and release from the provisions of s. 376.307(5) for those
4 pollutants addressed by the practices, and the department is
5 not authorized to institute proceedings against the owner of
6 the source of pollution to recover costs or damages associated
7 with the contamination of surface water or groundwater caused
8 by those pollutants.

9 4. Where water quality problems are demonstrated,
10 despite the appropriate implementation, operation, and
11 maintenance of best management practices and other measures
12 according to rules adopted under this paragraph, the
13 department, a water management district, or the Department of
14 Agriculture and Consumer Services, in consultation with the
15 department, shall institute a reevaluation of the best
16 management practice or other measure. Should the reevaluation
17 determine that the best management practice or other measure
18 requires modification, the department, a water management
19 district, or the Department of Agriculture and Consumer
20 Services, as appropriate, shall revise the rule to require
21 implementation of the modified practice within a reasonable
22 time period as specified in the rule.

23 5.2- Individual agricultural records relating to
24 processes or methods of production, or relating to costs of
25 production, profits, or other financial information which are
26 otherwise not public records, which are reported to the
27 Department of Agriculture and Consumer Services pursuant to
28 subparagraphs 3. and 4. this paragraph or pursuant to any rule
29 adopted pursuant to subparagraph 2. this paragraph shall be
30 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
31 of the State Constitution. Upon request of the department or

1 any water management district, the Department of Agriculture
2 and Consumer Services shall make such individual agricultural
3 records available to that agency, provided that the
4 confidentiality specified by this subparagraph for such
5 records is maintained. This subparagraph is subject to the
6 Open Government Sunset Review Act of 1995 in accordance with
7 s. 119.15, and shall stand repealed on October 2, 2006, unless
8 reviewed and saved from repeal through reenactment by the
9 Legislature.

10 6.(e) The provisions of subparagraphs 1. and 2.
11 ~~paragraphs (c) and (d)~~ shall not preclude the department or
12 water management district from requiring compliance with water
13 quality standards or with current best management practice
14 requirements set forth in any applicable regulatory program
15 authorized by law for the purpose of protecting water quality.
16 Additionally, subparagraphs 1. and 2. ~~paragraphs (c) and (d)~~
17 are applicable only to the extent that they do not conflict
18 with any rules adopted ~~promulgated~~ by the department that are
19 necessary to maintain a federally delegated or approved
20 program.

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

23 (a) Delisting water bodies or water body segments from
24 the list developed under subsection (4) pursuant to the
25 guidance under subsection (5);

26 (b) Administration of funds to implement the total
27 maximum daily load and basin management action planning
28 programs ~~program~~;

29 (c) Procedures for pollutant trading among the
30 pollutant sources to a water body or water body segment,
31 including a mechanism for the issuance and tracking of

1 pollutant credits. Such procedures may be implemented through
2 permits or other authorizations and must be legally binding.
3 Prior to adopting rules for pollutant trading under this
4 paragraph, and no later than November 30, 2006, the Department
5 of Environmental Protection shall submit a report to the
6 Governor, the President of the Senate, and the Speaker of the
7 House of Representatives containing recommendations on such
8 rules, including the proposed basis for equitable economically
9 based agreements and the tracking and accounting of pollution
10 credits or other similar mechanisms. Such recommendations
11 shall be developed in cooperation with a technical advisory
12 committee that includes experts in pollutant trading and
13 representatives of potentially affected parties; ~~No rule~~
14 ~~implementing a pollutant trading program shall become~~
15 ~~effective prior to review and ratification by the Legislature;~~
16 ~~and~~

17 (d) The total maximum daily load calculation in
18 accordance with paragraph (6)(a) immediately upon the
19 effective date of this act, for those eight water segments
20 within Lake Okeechobee proper as submitted to the United
21 States Environmental Protection Agency pursuant to subsection
22 (2); ~~and-~~

23 (e) Implementation of other specific provisions.

24 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

25 (a) The department shall not implement, without prior
26 legislative approval, any additional regulatory authority
27 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
28 130, if such implementation would result in water quality
29 discharge regulation of activities not currently subject to
30 regulation.

31

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

9 Section 14. Paragraph (c) of subsection (3) of section
10 373.4595, Florida Statutes, is amended to read:

11 373.4595 Lake Okeechobee Protection Program.--

12 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
13 program for Lake Okeechobee that achieves phosphorus load
14 reductions for Lake Okeechobee shall be immediately
15 implemented as specified in this subsection. The program shall
16 address the reduction of phosphorus loading to the lake from
17 both internal and external sources. Phosphorus load reductions
18 shall be achieved through a phased program of implementation.
19 Initial implementation actions shall be technology-based,
20 based upon a consideration of both the availability of
21 appropriate technology and the cost of such technology, and
22 shall include phosphorus reduction measures at both the source
23 and the regional level. The initial phase of phosphorus load
24 reductions shall be based upon the district's Technical
25 Publication 81-2 and the district's WOD program, with
26 subsequent phases of phosphorus load reductions based upon the
27 total maximum daily loads established in accordance with s.
28 403.067. In the development and administration of the Lake
29 Okeechobee Protection Program, the coordinating agencies shall
30 maximize opportunities provided by federal cost-sharing

31

1 | programs and opportunities for partnerships with the private
2 | sector.

3 | (c) Lake Okeechobee Watershed Phosphorus Control
4 | Program.--The Lake Okeechobee Watershed Phosphorus Control
5 | Program is designed to be a multifaceted approach to reducing
6 | phosphorus loads by improving the management of phosphorus
7 | sources within the Lake Okeechobee watershed through continued
8 | implementation of existing regulations and best management
9 | practices, development and implementation of improved best
10 | management practices, improvement and restoration of the
11 | hydrologic function of natural and managed systems, and
12 | utilization of alternative technologies for nutrient
13 | reduction. The coordinating agencies shall facilitate the
14 | application of federal programs that offer opportunities for
15 | water quality treatment, including preservation, restoration,
16 | or creation of wetlands on agricultural lands.

17 | 1. Agricultural nonpoint source best management
18 | practices, developed in accordance with s. 403.067 and
19 | designed to achieve the objectives of the Lake Okeechobee
20 | Protection Program, shall be implemented on an expedited
21 | basis. By March 1, 2001, the coordinating agencies shall
22 | develop an interagency agreement pursuant to ss. 373.046 and
23 | 373.406(5) that assures the development of best management
24 | practices that complement existing regulatory programs and
25 | specifies how those best management practices are implemented
26 | and verified. The interagency agreement shall address measures
27 | to be taken by the coordinating agencies during any best
28 | management practice reevaluation performed pursuant to
29 | sub-subparagraph d. The department shall use best professional
30 | judgment in making the initial determination of best
31 | management practice effectiveness.

1 a. As provided in s. 403.067(7)(c) ~~s. 403.067(7)(d)~~,
2 by October 1, 2000, the Department of Agriculture and Consumer
3 Services, in consultation with the department, the district,
4 and affected parties, shall initiate rule development for
5 interim measures, best management practices, conservation
6 plans, nutrient management plans, or other measures necessary
7 for Lake Okeechobee phosphorus load reduction. The rule shall
8 include thresholds for requiring conservation and nutrient
9 management plans and criteria for the contents of such plans.
10 Development of agricultural nonpoint source best management
11 practices shall initially focus on those priority basins
12 listed in subparagraph (b)1. The Department of Agriculture and
13 Consumer Services, in consultation with the department, the
14 district, and affected parties, shall conduct an ongoing
15 program for improvement of existing and development of new
16 interim measures or best management practices for the purpose
17 of adoption of such practices by rule.

18 b. Where agricultural nonpoint source best management
19 practices or interim measures have been adopted by rule of the
20 Department of Agriculture and Consumer Services, the owner or
21 operator of an agricultural nonpoint source addressed by such
22 rule shall either implement interim measures or best
23 management practices or demonstrate compliance with the
24 district's WOD program by conducting monitoring prescribed by
25 the department or the district. Owners or operators of
26 agricultural nonpoint sources who implement interim measures
27 or best management practices adopted by rule of the Department
28 of Agriculture and Consumer Services shall be subject to the
29 provisions of s. 403.067(7). The Department of Agriculture and
30 Consumer Services, in cooperation with the department and the
31 district, shall provide technical and financial assistance for

1 implementation of agricultural best management practices,
2 subject to the availability of funds.

3 c. The district or department shall conduct monitoring
4 at representative sites to verify the effectiveness of
5 agricultural nonpoint source best management practices.

6 d. Where water quality problems are detected for
7 agricultural nonpoint sources despite the appropriate
8 implementation of adopted best management practices, the
9 Department of Agriculture and Consumer Services, in
10 consultation with the other coordinating agencies and affected
11 parties, shall institute a reevaluation of the best management
12 practices and make appropriate changes to the rule adopting
13 best management practices.

14 2. Nonagricultural nonpoint source best management
15 practices, developed in accordance with s. 403.067 and
16 designed to achieve the objectives of the Lake Okeechobee
17 Protection Program, shall be implemented on an expedited
18 basis. By March 1, 2001, the department and the district shall
19 develop an interagency agreement pursuant to ss. 373.046 and
20 373.406(5) that assures the development of best management
21 practices that complement existing regulatory programs and
22 specifies how those best management practices are implemented
23 and verified. The interagency agreement shall address measures
24 to be taken by the department and the district during any best
25 management practice reevaluation performed pursuant to
26 sub-subparagraph d.

27 a. The department and the district are directed to
28 work with the University of Florida's Institute of Food and
29 Agricultural Sciences to develop appropriate nutrient
30 application rates for all nonagricultural soil amendments in
31 the watershed. As provided in s. 403.067(7)(c), by January 1,

1 | 2001, the department, in consultation with the district and
2 | affected parties, shall develop interim measures, best
3 | management practices, or other measures necessary for Lake
4 | Okeechobee phosphorus load reduction. Development of
5 | nonagricultural nonpoint source best management practices
6 | shall initially focus on those priority basins listed in
7 | subparagraph (b)1. The department, the district, and affected
8 | parties shall conduct an ongoing program for improvement of
9 | existing and development of new interim measures or best
10 | management practices. The district shall adopt
11 | technology-based standards under the district's WOD program
12 | for nonagricultural nonpoint sources of phosphorus.

13 | b. Where nonagricultural nonpoint source best
14 | management practices or interim measures have been developed
15 | by the department and adopted by the district, the owner or
16 | operator of a nonagricultural nonpoint source shall implement
17 | interim measures or best management practices and be subject
18 | to the provisions of s. 403.067(7). The department and
19 | district shall provide technical and financial assistance for
20 | implementation of nonagricultural nonpoint source best
21 | management practices, subject to the availability of funds.

22 | c. The district or the department shall conduct
23 | monitoring at representative sites to verify the effectiveness
24 | of nonagricultural nonpoint source best management practices.

25 | d. Where water quality problems are detected for
26 | nonagricultural nonpoint sources despite the appropriate
27 | implementation of adopted best management practices, the
28 | department and the district shall institute a reevaluation of
29 | the best management practices.

30 | 3. The provisions of subparagraphs 1. and 2. shall not
31 | preclude the department or the district from requiring

1 compliance with water quality standards or with current best
2 management practices requirements set forth in any applicable
3 regulatory program authorized by law for the purpose of
4 protecting water quality. Additionally, subparagraphs 1. and
5 2. are applicable only to the extent that they do not conflict
6 with any rules promulgated by the department that are
7 necessary to maintain a federally delegated or approved
8 program.

9 4. Projects which reduce the phosphorus load
10 originating from domestic wastewater systems within the Lake
11 Okeechobee watershed shall be given funding priority in the
12 department's revolving loan program under s. 403.1835. The
13 department shall coordinate and provide assistance to those
14 local governments seeking financial assistance for such
15 priority projects.

16 5. Projects that make use of private lands, or lands
17 held in trust for Indian tribes, to reduce nutrient loadings
18 or concentrations within a basin by one or more of the
19 following methods: restoring the natural hydrology of the
20 basin, restoring wildlife habitat or impacted wetlands,
21 reducing peak flows after storm events, increasing aquifer
22 recharge, or protecting range and timberland from conversion
23 to development, are eligible for grants available under this
24 section from the coordinating agencies. For projects of
25 otherwise equal priority, special funding priority will be
26 given to those projects that make best use of the methods
27 outlined above that involve public-private partnerships or
28 that obtain federal match money. Preference ranking above the
29 special funding priority will be given to projects located in
30 a rural area of critical economic concern designated by the
31 Governor. Grant applications may be submitted by any person or

1 tribal entity, and eligible projects may include, but are not
2 limited to, the purchase of conservation and flowage
3 easements, hydrologic restoration of wetlands, creating
4 treatment wetlands, development of a management plan for
5 natural resources, and financial support to implement a
6 management plan.

7 6.a. The department shall require all entities
8 disposing of domestic wastewater residuals within the Lake
9 Okeechobee watershed and the remaining areas of Okeechobee,
10 Glades, and Hendry Counties to develop and submit to the
11 department an agricultural use plan that limits applications
12 based upon phosphorus loading. By July 1, 2005, phosphorus
13 concentrations originating from these application sites shall
14 not exceed the limits established in the district's WOD
15 program.

16 b. Private and government-owned utilities within
17 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
18 River, Okeechobee, Highlands, Hendry, and Glades Counties that
19 dispose of wastewater residual sludge from utility operations
20 and septic removal by land spreading in the Lake Okeechobee
21 watershed may use a line item on local sewer rates to cover
22 wastewater residual treatment and disposal if such disposal
23 and treatment is done by approved alternative treatment
24 methodology at a facility located within the areas designated
25 by the Governor as rural areas of critical economic concern
26 pursuant to s. 288.0656. This additional line item is an
27 environmental protection disposal fee above the present sewer
28 rate and shall not be considered a part of the present sewer
29 rate to customers, notwithstanding provisions to the contrary
30 in chapter 367. The fee shall be established by the county
31 commission or its designated assignee in the county in which

1 the alternative method treatment facility is located. The fee
2 shall be calculated to be no higher than that necessary to
3 recover the facility's prudent cost of providing the service.
4 Upon request by an affected county commission, the Florida
5 Public Service Commission will provide assistance in
6 establishing the fee. Further, for utilities and utility
7 authorities that use the additional line item environmental
8 protection disposal fee, such fee shall not be considered a
9 rate increase under the rules of the Public Service Commission
10 and shall be exempt from such rules. Utilities using the
11 provisions of this section may immediately include in their
12 sewer invoicing the new environmental protection disposal fee.
13 Proceeds from this environmental protection disposal fee shall
14 be used for treatment and disposal of wastewater residuals,
15 including any treatment technology that helps reduce the
16 volume of residuals that require final disposal, but such
17 proceeds shall not be used for transportation or shipment
18 costs for disposal or any costs relating to the land
19 application of residuals in the Lake Okeechobee watershed.

20 c. No less frequently than once every 3 years, the
21 Florida Public Service Commission or the county commission
22 through the services of an independent auditor shall perform a
23 financial audit of all facilities receiving compensation from
24 an environmental protection disposal fee. The Florida Public
25 Service Commission or the county commission through the
26 services of an independent auditor shall also perform an audit
27 of the methodology used in establishing the environmental
28 protection disposal fee. The Florida Public Service Commission
29 or the county commission shall, within 120 days after
30 completion of an audit, file the audit report with the
31 President of the Senate and the Speaker of the House of

1 Representatives and shall provide copies to the county
2 commissions of the counties set forth in sub-subparagraph b.
3 The books and records of any facilities receiving compensation
4 from an environmental protection disposal fee shall be open to
5 the Florida Public Service Commission and the Auditor General
6 for review upon request.

7 7. The Department of Health shall require all entities
8 disposing of septage within the Lake Okeechobee watershed and
9 the remaining areas of Okeechobee, Glades, and Hendry Counties
10 to develop and submit to that agency, by July 1, 2003, an
11 agricultural use plan that limits applications based upon
12 phosphorus loading. By July 1, 2005, phosphorus
13 concentrations originating from these application sites shall
14 not exceed the limits established in the district's WOD
15 program.

16 8. The Department of Agriculture and Consumer Services
17 shall initiate rulemaking requiring entities within the Lake
18 Okeechobee watershed and the remaining areas of Okeechobee,
19 Glades, and Hendry Counties which land-apply animal manure to
20 develop conservation or nutrient management plans that limit
21 application, based upon phosphorus loading. Such rules may
22 include criteria and thresholds for the requirement to develop
23 a conservation or nutrient management plan, requirements for
24 plan approval, and recordkeeping requirements.

25 9. Prior to authorizing a discharge into works of the
26 district, the district shall require responsible parties to
27 demonstrate that proposed changes in land use will not result
28 in increased phosphorus loading over that of existing land
29 uses.

30 10. The district, the department, or the Department of
31 Agriculture and Consumer Services, as appropriate, shall

1 implement those alternative nutrient reduction technologies
2 determined to be feasible pursuant to subparagraph (d)6.

3 Section 15. Subsection (1) of section 570.085, Florida
4 Statutes, is amended to read:

5 570.085 Department of Agriculture and Consumer
6 Services; agricultural water conservation.--The department
7 shall establish an agricultural water conservation program
8 that includes the following:

9 (1) A cost-share program, coordinated where
10 appropriate with the United States Department of Agriculture
11 and other federal, state, regional, and local agencies, for
12 irrigation system retrofit and application of mobile
13 irrigation laboratory evaluations for water conservation as
14 provided in this section and, where applicable, for water
15 quality improvement pursuant to s. 403.067(7)(c) ~~s.~~
16 ~~403.067(7)(d)~~.

17 Section 16. Section 403.885, Florida Statutes, is
18 amended to read:

19 403.885 Stormwater management; wastewater management;
20 ~~Water Quality Improvement~~ and Water Restoration Grant
21 Program.--

22 (1) The Department of Environmental Protection shall
23 ~~develop and~~ administer a ~~competitive~~ grant program to use
24 funds transferred pursuant to s. 212.20 to the Ecosystem
25 Management and Restoration Trust Fund or other moneys as
26 appropriated by the Legislature for stormwater management,
27 wastewater management, ~~water quality improvement~~ and water
28 restoration project grants. Eligible recipients of such grants
29 include counties, municipalities, water management districts,
30 and special districts that have legal responsibilities for
31 ~~water quality improvement, water management,~~ storm water

1 management, wastewater management, and water ~~sewer system~~
2 ~~operations, and lake and river~~ restoration projects. Drinking
3 water projects are not eligible for funding pursuant to this
4 section.

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

8 (a) Protect public health and the environment.

9 (b) Implement plans developed pursuant to the Surface
10 Water Improvement and Management Act created in part IV of
11 chapter 373, other water restoration plans required by law,
12 management plans prepared pursuant to s. 403.067, or other
13 plans adopted by local government for water quality
14 improvement and water restoration.

15 (3) In addition to meeting the criteria in subsection
16 (2), annual grant proposals must also meet the following
17 requirements:

18 (a) An application for a stormwater management project
19 may be funded only if the application is approved by the water
20 management district with jurisdiction in the project area.
21 District approval must be based on a determination that the
22 project provides a benefit to a priority water body.

23 (b) Except as provided in paragraph (c), an
24 application for a wastewater management project may be funded
25 only if:

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

28 2. The project is under construction.

29 (c) An application for a wastewater management project
30 that would qualify as a water pollution control project and
31 activity in s. 403.1838 may be funded only if the project

1 sponsor has submitted an application to the department for
2 funding pursuant to that section.

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

5 (a) An applicant for state funding of a stormwater
6 management project shall provide local matching funds equal to
7 at least 50 percent of the total cost of the project; and

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

11
12 The requirement for matching funds may be waived if the
13 applicant is a financially disadvantaged small local
14 government as defined in subsection (5).

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

20 (5)(4) Each fiscal year, at least 20 percent of the
21 funds available pursuant to this section ~~subsection (1)~~ shall
22 be used for projects to assist financially disadvantaged small
23 local governments. For purposes of this section, the term
24 "financially disadvantaged small local government" means a
25 municipality having a population of 7,500 or less, a county
26 having a population of 35,000 or less, according to the latest
27 decennial census and a per capita annual income less than the
28 state per capita annual income as determined by the United
29 States Department of Commerce, or a county in an area
30 designated by the Governor as a rural area of critical
31 economic concern pursuant to s. 288.0656. Grants made to these

1 eligible local governments shall not require matching local
2 funds.

3 ~~(6)(5) No later than February 1 of Each year,~~
4 ~~stormwater management and wastewater management water quality~~
5 ~~improvement projects and water restoration projects~~ submitted
6 for funding through the legislative process shall be submitted
7 to the department by the appropriate fiscal committees of the
8 House of Representatives and the Senate. The department shall
9 review the projects ~~for funding eligibility~~ and must, ~~no later~~
10 ~~than March 1 of each year,~~ provide each fiscal committee with
11 a list of projects that appear to meet the eligibility
12 requirements under this grant program.

13 ~~(6) The department may adopt rules necessary to~~
14 ~~administer this section, including, but not limited to, rules~~
15 ~~governing timeframes for submitting grant applications,~~
16 ~~evaluation criteria, forms, matching criteria, maximum grant~~
17 ~~amounts, and allocation of appropriated funds based upon~~
18 ~~project and applicant size.~~

19 Section 17. Section 403.890, Florida Statutes, is
20 created to read:

21 403.890 Water Protection and Sustainability Program;
22 intent; goals; purposes.--

23 (1) Effective July 1, 2006, revenues transferred from
24 the Department of Revenue pursuant to s. 201.15(1)(d)2. shall
25 be deposited into the Water Protection and Sustainability
26 Program Trust Fund in the Department of Environmental
27 Protection. These revenues and any other additional revenues
28 deposited into or appropriated to the Water Protection and
29 Sustainability Trust Fund shall be distributed by the
30 Department of Environmental Protection in the following
31 manner:

1 (a) Sixty percent to the Department of Environmental
2 Protection for the implementation of an alternative water
3 supply program as provided in s. 373.1961.

4 (b) Twenty percent for the implementation of best
5 management practices and capital project expenditures
6 necessary for the implementation of the goals of the total
7 maximum daily loads program established in s. 403.067. Of
8 these funds, 85 percent shall be transferred to the credit of
9 the Department of Environmental Protection Water Quality
10 Assurance Trust Fund to address water quality impacts
11 associated with nonagricultural nonpoint sources. Fifteen
12 percent of these funds shall be transferred to the Department
13 of Agriculture and Consumer Services General Inspection Trust
14 Fund to address water quality impacts associated with
15 agricultural nonpoint sources. These funds shall be used for
16 research, development, demonstration, and implementation of
17 the total maximum daily load program under s. 403.067,
18 suitable best management practices or other measures used to
19 achieve water quality standards in surface waters and water
20 segments identified pursuant to s. 303(d) of the Clean Water
21 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
22 Implementation of best management practices and other measures
23 may include cost-share grants, technical assistance,
24 implementation tracking, and conservation leases or other
25 agreements for water quality improvement. The Department of
26 Environmental Protection and the Department of Agriculture and
27 Consumer Services may adopt rules governing the distribution
28 of funds for implementation of capital projects, best
29 management practices, and other measures. These funds shall
30 not be used to abrogate the financial responsibility of those
31 point and nonpoint sources that have contributed to the

1 degradation of water or land areas. Increased priority shall
2 be given by the department and the water management district
3 governing boards to those projects that have secured a
4 cost-sharing agreement allocating responsibility for the
5 cleanup of point and nonpoint sources.

6 (c) Ten percent shall be disbursed for the purposes of
7 funding projects pursuant to ss. 373.451-373.459 or surface
8 water restoration activities in
9 water-management-district-designated priority water bodies.
10 The Secretary of Environmental Protection shall ensure that
11 each water management district receives the following
12 percentage of funds annually:

13 1. Thirty-five percent to the South Florida Water
14 Management District;

15 2. Twenty-five percent to the Southwest Florida Water
16 Management District;

17 3. Twenty-five percent to the St. Johns River Water
18 Management District;

19 4. Seven and one-half percent to the Suwannee River
20 Water Management District; and

21 5. Seven and one-half percent to the Northwest Florida
22 Water Management District.

23 (d) Ten percent to the Department of Environmental
24 Protection for the Disadvantaged Small Community Wastewater
25 Grant Program as provided in s. 403.1838.

26 (e) Beginning June 30, 2007, and every 24 months
27 thereafter, the Department of Environmental Protection shall
28 request the return of all unencumbered funds distributed
29 pursuant to this section. These funds shall be deposited into
30 the Water Protection and Sustainability Program Trust Fund and
31 redistributed pursuant to the provisions of this section.

1 (2) For fiscal year 2005-2006, funds deposited or
2 appropriated into the Water Protection and Sustainability
3 Trust Fund shall be distributed as follows:

4 1. One hundred million dollars to the Department of
5 Environmental Protection for the implementation of an
6 alternative water supply program as provided in s. 373.1961.

7 2. Funds remaining after the distribution provided for
8 in subsection (1) shall be distributed as follows:

9 (a) Fifty percent for the implementation of best
10 management practices and capital project expenditures
11 necessary for the implementation of the goals of the total
12 maximum daily loads program established in s. 403.067. Of
13 these funds, 85 percent shall be transferred to the credit of
14 the Department of Environmental Protection Water Quality
15 Assurance Trust Fund to address water quality impacts
16 associated with nonagricultural nonpoint sources. Fifteen
17 percent of these funds shall be transferred to the Department
18 of Agriculture and Consumer Services General Inspection Trust
19 Fund to address water quality impacts associated with
20 agricultural nonpoint sources. These funds shall be used for
21 research, development, demonstration, and implementation of
22 suitable best management practices or other measures used to
23 achieve water quality standards in surface waters and water
24 segments identified pursuant to s. 303(d) of the Clean Water
25 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
26 Implementation of best management practices and other measures
27 may include cost-share grants, technical assistance,
28 implementation tracking, and conservation leases or other
29 agreements for water quality improvement. The Department of
30 Environmental Protection and the Department of Agriculture and
31 Consumer Services may adopt rules governing the distribution

1 of funds for implementation of best management practices.
2 These funds shall not be used to abrogate the financial
3 responsibility of those point and nonpoint sources that have
4 contributed to the degradation of water or land areas.
5 Increased priority shall be given by the department and the
6 water management district governing boards to those projects
7 that have secured a cost-sharing agreement allocating
8 responsibility for the cleanup of point and nonpoint sources.
9 (b) Twenty-five percent for the purposes of funding
10 projects pursuant to ss. 373.451-373.459 or surface water
11 restoration activities in water-management-district-designated
12 priority water bodies. The Secretary of Environmental
13 Protection shall ensure that each water management district
14 receives the following percentage of funds annually:
15 1. Thirty-five percent to the South Florida Water
16 Management District;
17 2. Twenty-five percent to the Southwest Florida Water
18 Management District;
19 3. Twenty-five percent to the St. Johns River Water
20 Management District;
21 4. Seven and one-half percent to the Suwannee River
22 Water Management District; and
23 5. Seven and one-half percent to the Northwest Florida
24 Water Management District.
25 (c) Twenty-five percent to the Department of
26 Environmental Protection for the Disadvantaged Small Community
27 Wastewater Grant Program as provided in s. 403.1838.
28
29 Prior to the end of the 2008 Regular Session, the Legislature
30 must review the distribution of funds under the Water
31 Protection and Sustainability Program to determine if

1 revisions to the funding formula are required. At the
2 discretion of the President of the Senate and the Speaker of
3 the House of Representatives, the appropriate substantive
4 committees of the Legislature may conduct an interim project
5 to review the Water Protection and Sustainability Program and
6 the funding formula and make written recommendations to the
7 Legislature proposing necessary changes, if any.

8 Section 18. Except as otherwise expressly provided in
9 this act, the act shall take effect upon becoming a law.

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