

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill directs the SWFWMD to implement the West-Central Florida Water Restoration Action Plan (WRAP). The District estimates it will cost \$1.8 billion over the next 17 years to implement the plan.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Current legislative findings:

The SWUCA encompasses approximately 5,100 square miles, including all or part of eight counties in the southern portion of the District. In response to growing demands from public supply, agriculture, mining, power generation and recreational uses, groundwater withdrawals steadily increased for nearly a century before peaking in the mid-1970s. These withdrawals resulted in declines in aquifer levels throughout the groundwater basin, which in some areas exceeded 50 feet. Although groundwater withdrawals have since stabilized as a result of management efforts, depressed aquifer levels continue to cause saltwater intrusion and contribute to reduced flows in the upper Peace River and lowered lake levels of some of the more "leaky" lakes in the upland areas of Polk and Highlands counties.

In response to these concerns and in compliance with s. 373.036, F.S., the District determined that regional water supply planning was needed to ensure sustainable growth in terms of water resources. Florida law requires regional water supply planning in areas where the District determines that sources of water are not adequate for all existing and projected reasonable-beneficial uses and to sustain the water resources and related natural systems. Regional water supply planning includes quantification of the water needs during a 1-in-10-year drought event for all existing and projected reasonable and beneficial uses within a planning horizon of not less than 20 years. The required planning also includes development of water supply options, including traditional and alternative sources, from which local governments, government-owned and privately owned utilities, self-suppliers and others may choose. The quantities available through the various options must exceed the identified needs.

Regional water supply plans also include establishment of minimum flows and levels for priority water bodies pursuant to s. 373.036, F.S. A minimum flow for a watercourse is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area. A minimum level is the level in an aquifer or surface water body, such as a lake, at which further withdrawals would be significantly harmful to the water resources of the area. If the existing flow or level of a water body is below, or is projected to fall below the applicable minimum flow or level within 20 years, then as part of the regional water supply plan the District must expeditiously implement a recovery or prevention strategy. This strategy must include the development of additional water supplies and other actions to achieve recovery to the established minimum flow or level as soon as practicable, or prevent the existing flow or level from falling below the established minimum flow or level. The recovery or prevention strategy must include phasing or a timetable, which will allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses. This includes development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, and to the extent practical, to offset reductions in permitted withdrawals.

Effect of Proposed Changes

The bill defines the “Central Florida Coordination Area” to mean all of Polk, Osceola, Orange and Seminole Counties, and southern Lake County, as designated by the SWFWMD, the South Florida Water Management District (SFWMD), and the St. Johns River Water Management District (SJRWMD).

The bill directs the SWFWMD to implement the WRAP, which is defined as the District’s regional environmental restoration and water resource sustainability program for the SWUCA. The bill declares implementation of the WRAP is necessary to meet the minimum flow requirement for the Upper Peace River, slow saltwater intrusion, provide for improved lake levels and water quality along the Lake Wales Ridge, and ensure sufficient water supplies for all existing and projected reasonable and beneficial uses. The bill also finds that implementation of components of the Southern Water Use Caution Area Recovery Strategy, which are contained in the WRAP, is for the benefit of the public health, safety, and welfare and is in the public interest. The bill defines the Southern Water Use Caution Area Recovery Strategy as the District’s regulatory, planning, and financial strategy for ensuring that adequate water supplies are available to meet growing demands while protecting and restoring the water and related natural resources of the area.

The bill declares sufficient research has been conducted and sufficient plans developed to immediately expand and accelerate programs to sustain the water resources and related natural systems in the SWUCA and finds that a continuing source of funding is needed to effectively implement the WRAP. The plan must be implemented in a manner that furthers progressive strategies for the management of water resources, is watershed-based, provides for consideration of water quality issues, and includes monitoring, the development and implementation of best management practices (BMPs), and structural and nonstructural projects, including public works projects. The District must coordinate its implementation of the plan with regional water supply authorities, public and private partnerships, and local, state, and federal partners in order to maximize opportunities for the most efficient and timely expenditures of public funds. There are five initiatives to the WRAP:

Central West Coast Surface Water Enhancement Initiative

The purpose of this initiative is to make available additional surface waters for public supply through restoration of surface waters, natural water flows, and freshwater wetland communities. The initiative is designed to allow ground water withdrawals to be limited in order to slow the rate of saltwater intrusion. This will be an ongoing program in cooperation with the Peace River-Manasota Regional Water Supply Authority created under s. 373.1962, F.S. There are three projects in this initiative:

1. **Dona Bay-Cow Slough**— This project is anticipated to increase the capacity to store excess freshwater flows for the purposes of supplying potable water and restoring wetland ecosystems, including the quality and clarity of water in the system and the subsequent rejuvenation of the system’s mollusks, oyster beds, seagrasses, and salinity.
2. **Shell Creek Watershed**— This project would increase water storage capacity upstream, redirecting stored water to its natural and historical flow pattern resulting in a benefit to the downstream ecosystem, and capturing high flows for use as public supply during low flow periods.
3. **Upper Myakka River-Flatford Swamp**—This project is anticipated to reduce the amount of water entering the swamp so that normal hydroperiods are restored, to create a historically more natural system and the opportunity to increase the availability of water for public supply.

The Facilitating Agricultural Resource Management Systems Initiative

The purpose of this initiative is to expedite the implementation of production-scale, BMPs in the agricultural sector which will result in reductions in groundwater withdrawals and improvements in water

quality, water resources, and ecology. The initiative is a cost-share reimbursement program to provide funding incentives to agricultural landowners for the implementation of BMP practices. The initiative shall be implemented by the district in cooperation with the Department of Agriculture and Consumer Services.

Ridge Lakes Restoration Initiative

The purpose of this initiative includes the protection and enhancement of water quality through stormwater treatment in approximately 130 lakes located along the Lake Wales Ridge in Polk and Highlands Counties, which quality is threatened by stormwater runoff, wastewater effluent, fertilizer applications, groundwater pollution, degradation of shoreline habitats, and hydrologic alterations. The initiative shall be accomplished through the construction of systems designed to treat stormwater runoff that threatens the water quality of such lakes. The systems will include swales, retention basins and long infiltration basins, if feasible.

Upper Peace River Watershed Restoration Initiative

The purpose of this initiative is to improve the quality of waters and ecosystems in the watershed of the Upper Peace River by recharging aquifers, restoring the flow of surface waters, and restoring the capacity of natural systems to store surface waters. The Legislature finds that such improvements are necessary because the quantity and quality of the fresh water that flows to the basin of the Peace River and Charlotte Harbor are adversely affected by the significant alteration and degradation of the watershed of the Upper Peace river. Restoration of the Upper Peace River watershed is also a critical component of Charlotte Harbor National Estuary Program's Comprehensive Conservation and Management Plan, the District's Surface Water Improvement and Management Plan, and the Southern Water Use Caution Area Recovery Strategy.

In addition to the initiative's other purposes, this component will provide a critical link to a major greenway that extends from the lower southwest coast of Florida through the watershed of the Peace River and the Green Swamp and further north to the Ocala National Forest. There are two projects included in this initiative:

- 1. Lake Hancock Component**—Purpose of this component is to help meet the minimum flow requirements in the Upper Peace River and to improve water quality. This will include Lake Hancock elevation control structure modifications and lake outfall treatment.
- 2. Peace Creek Canal Restoration Project**—The purpose of this component is to enhance the recharge of aquifers, restore the capacity of natural systems to store storage waters, and provide flood protection. The project will be implemented by undertaking the actions needed to meet the minimum-flow requirements pursuant to s. 373.042, F.S., and thereafter holding excess surface water from the Peace Creek Canal in storage for public supply, or commercial or industrial water users.

Central Florida Water Resources Development Initiative

This initiative's purpose is to create and implement a long-term plan that takes a comprehensive approach to limit ground water withdrawals in the SWUCA, which includes the identification and development of alternative water supplies for Polk County. The project components developed pursuant to this initiative are eligible for state and regional funding under s. 373.196, F.S., as an alternative water supply, as defined in s. 373.019, F.S., or as a supplemental water supply under the rules of the SWFWMD or the SFWMD. The initiative shall be implemented by the district as an on-going program in cooperation with Polk County and the SFWMD. This includes two components:

- 1. Kissimmee River Component**—This includes developing, if feasible, a public water supply from surface waters in the Kissimmee Basin near Lake Kissimmee, blending such supply with

other potable water supplies, and distributing such potable waters by connecting to the water-distribution systems of municipal water utilities. This project is intended to increase the amount of water available for meeting public water demands in the Central Florida Coordination Area while not violating the minimum flows and levels adopted for the Kissimmee River.

2. **Upper Peace River Component**—This will be implemented by investigating the feasibility of using an off-stream reservoir to capture water from the Peace River during high-flow periods, which may include the storage of water on private lands for use as a public water supply. It is determined that the most feasible location of an off-stream reservoir is outside Polk County, the district shall promote Polk County's participation in the development and use of such reservoir so long as such development and use satisfies all requirements of this chapter and the rules of the district.

The District must report, by March 1 of each year, on the implementation of this section as part of the Consolidated Annual Report, which is required by each water management district pursuant to s. 373.036(7), F.S. The report, including proposed legislative recommendations, must be submitted to the President of the Senate and the Speaker of the House of Representatives. The district must prepare the implementation report in cooperation with the other coordinating agencies and affected local governments. The implementation report must include:

- A summary of the conditions of the SWUCA, including the status of the WRAP components; and
- An annual accounting of the expenditure of funds. The accounting must, at a minimum, provide details of expenditures separately by plan component and any subparts of a plan component, and include specific information about amount and use of funds from federal, state, or local government sources. In detailing the use of these funds, the District must indicate those designated to meet requirements for matching funds.

C. SECTION DIRECTORY:

Section 1: Creates s. 373.0363, F.S., requiring that the Southwest Florida Water Management District implement the West-Central Florida Water Restoration Action Plan; providing criteria governing the implementation of the plan; requiring that the district coordinate with regional water supply authorities and governmental partners to maximize opportunities concerning the efficient expenditure of public funds; providing criteria governing implementation of the Central West Coast Surface Water Enhancement Initiative, the Facilitating Agricultural Resource Management Systems Initiative, the Ridge Lakes Restoration Initiative, the Upper Peace River Watershed Restoration Initiative, and the Central Florida Water Resource Development Initiative and certain components or projects included in such initiatives; providing for the District to implement certain initiatives or parts thereof in cooperation with the Peace River-Manasota Regional Water Supply Authority, the Department of Agriculture and Consumer Services, or Polk County; requiring an annual report that meets specified criteria concerning implementation of the plan, regional conditions, and the use of funds.

Section 2: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

See Fiscal Comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the District, water is critical to our future and is a huge economic driver to both the region and state. In addition, the WRAP will provide significant environmental restoration as well as additional water supplies to meet the growing demands of the region.

D. FISCAL COMMENTS:

The Governor's budget recommendation for the FY 08-09 includes \$25 million for the WRAP.

The District and project partners have invested more than \$36 million toward the recovery effort and the District anticipates the cost to complete the WRAP to be \$1.8 billion over the next 17 years. Of these costs, the District anticipates that approximately one-third will need to be derived from state or federal sources over the 17-year course of this plan.

The bill provides that project components within the Central Florida Water Resource Development Initiative are eligible for state and regional funding relating to alternative water supply or supplemental water supply.

The bill clarifies that the Facilitating Agricultural Resource Management Systems Initiative is a cost share reimbursement program implemented by the Department of Agriculture and Consumer Services which provides funding incentives to agricultural landowners for the implementation of best-management practices.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

Water is the essential economic driver for growth in the state. This comprehensive program provides significant environmental restoration as well as economically sustainable water supplies for all users. It is an important investment in protecting vital water resources.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 9, 2008, the Environment & Natural Resources Council adopted one strike all amendment and passed HB 1415 as a committee substitute (CS).

The CS defines "Central Florida Coordination Area"; adds language to the Facilitating Agricultural Resource Management Systems Initiative to ensure reductions in groundwater withdrawals and improvements in water quality, water resources, and ecology through a cost-share reimbursement program for agricultural landowners to implement BMPs; changes language in the Upper Peace River component to make sure potential reservoir components are eligible for funding from a water management district; and adds language in the Kissimmee River component stating that if feasible, there will be public water supply and the intent is to increase water to meet public demand including Polk County. However, all projects must meet all permitting criteria. Lastly, the CS strengthens what the WMD must do in the report it submits each year.