

By Senator Justice

16-01497A-09

20092424__

1 A bill to be entitled
2 An act relating to water supply; creating part VII of
3 ch. 373, F.S., relating to water supply policy,
4 planning, production, and funding; providing a
5 declaration of policy; providing definitions;
6 providing for the powers and duties of water
7 management district governing boards; requiring the
8 Department of Environmental Protection to develop the
9 Florida water supply plan; providing components of the
10 plan; requiring water management district governing
11 boards to develop water supply plans for their
12 respective regions; providing components of district
13 water supply plans; providing legislative findings and
14 intent with respect to water resource development and
15 water supply development; requiring water management
16 districts to fund and implement water resource
17 development; specifying water supply development
18 projects that are eligible to receive priority
19 consideration for state or water management district
20 funding assistance; encouraging cooperation in the
21 development of water supplies; providing for
22 alternative water supply development; encouraging
23 municipalities, counties, and special districts to
24 create regional water supply authorities; establishing
25 the primary roles of the water management districts in
26 alternative water supply development; establishing the
27 primary roles of local governments, regional water
28 supply authorities, special districts, and publicly
29 owned and privately owned water utilities in

16-01497A-09

20092424__

30 alternative water supply development; requiring the
31 water management districts to detail the specific
32 allocations to be used for alternative water supply
33 development in their annual budget submission;
34 requiring that the water management districts include
35 the amount needed to implement the water supply
36 development projects in each annual budget;
37 establishing general funding criteria for funding
38 assistance to the state or water management districts;
39 establishing economic incentives for alternative water
40 supply development; providing a funding formula for
41 the distribution of state funds to the water
42 management districts for alternative water supply
43 development; requiring that funding assistance for
44 alternative water supply development be limited to a
45 percentage of the total capital costs of an approved
46 project; establishing a selection process and
47 criteria; providing for cost recovery from the Public
48 Service Commission; requiring a water management
49 district governing board to conduct water supply
50 planning for each region identified in the district
51 water supply plan; providing procedures and
52 requirements with respect to regional water supply
53 plans; providing for joint development of a specified
54 water supply development component of a regional water
55 supply plan within the boundaries of the Southwest
56 Florida Water Management District; providing that
57 approval of a regional water supply plan is not
58 subject to the rulemaking requirements of the

16-01497A-09

20092424__

59 Administrative Procedure Act; requiring the department
60 to submit annual reports on the status of regional
61 water supply planning in each district; providing
62 construction with respect to the water supply
63 development component of a regional water supply plan;
64 requiring water management districts to present to
65 certain entities the relevant portions of a regional
66 water supply plan; requiring certain entities to
67 provide written notification to water management
68 districts as to the implementation of water supply
69 project options; requiring water management districts
70 to notify local governments of the need for
71 alternative water supply projects; requiring water
72 management districts to assist local governments in
73 the development and future revision of local
74 government comprehensive plan elements or public
75 facilities reports related to water resource issues;
76 providing for the creation of regional water supply
77 authorities; providing purpose of such authorities;
78 specifying considerations with respect to the creation
79 of a proposed authority; specifying authority of a
80 regional water supply authority; providing authority
81 of specified entities to convey title, dedicate land,
82 or grant land-use rights to a regional water supply
83 authority for specified purposes; providing
84 preferential rights of counties and municipalities to
85 purchase water from regional water supply authorities;
86 providing exemption for specified water supply
87 authorities from consideration of certain factors and

16-01497A-09

20092424__

88 submissions; providing applicability of such
89 exemptions; authorizing the West Coast Regional Water
90 Supply Authority and its member governments to
91 reconstitute the authority's governance and rename the
92 authority under a voluntary interlocal agreement;
93 providing compliance requirements with respect to the
94 interlocal agreement; providing for supersession of
95 conflicting general or special laws; providing
96 requirements with respect to annual budgets;
97 specifying the annual millage for the authority;
98 authorizing the authority to request the governing
99 board of the district to levy ad valorem taxes within
100 the boundaries of the authority to finance authority
101 functions; providing requirements and procedures with
102 respect to the collection of such taxes; amending ss.
103 11.80, 120.52, 163.3167, and 163.3177, 163.3191,
104 186.009, 189.404, 189.4155, 189.4156, and 367.021,
105 F.S.; conforming cross-references and terminology;
106 amending s. 373.016, F.S., relating to the declaration
107 of policy, to conform; amending s. 373.019, F.S.,
108 relating to definitions, to conform; amending s.
109 373.026, F.S.; conforming a cross-reference; amending
110 s. 373.036, F.S., relating to the Florida water plan
111 and district water management plans, to include the
112 Florida water supply plan and district water supply
113 plans and make other conforming changes; amending ss.
114 373.042, 373.0421, 373.0695, 373.199, 373.223,
115 373.2234, 373.229, 373.414, 373.421, 373.4592,
116 373.45926, 373.4595, 373.470, 373.536, 373.59,

16-01497A-09

20092424__

117 378.212, 378.404, 403.031, 403.0891, 403.813, 403.890,
118 556.102, and 682.02, F.S.; conforming cross-
119 references; renumbering s. 373.71, F.S., relating to
120 the Apalachicola-Chattahoochee-Flint River Basin
121 Compact, to clarify retention of the section in part
122 VI of ch. 373, F.S.; repealing s. 373.0361, F.S.,
123 relating to regional water supply planning; repealing
124 s. 373.0391, F.S., relating to technical assistance to
125 local governments; repealing s. 373.0831, F.S.,
126 relating to water resource and water supply
127 development; repealing s. 373.196, F.S., relating to
128 alternative water supply development; repealing s.
129 373.1961, F.S., relating to water production and
130 related powers and duties of water management
131 districts; repealing s. 373.1962, F.S., relating to
132 regional water supply authorities; repealing s.
133 373.1963, F.S., relating to assistance to the West
134 Coast Regional Water Supply Authority; providing an
135 effective date.

136

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

138

139 Section 1. Part VII of chapter 373, Florida Statutes,
140 consisting of sections 373.701, 373.703, 373.705, 373.707,
141 373.709, 373.711, 373.713, 373.715, 373.717, and 373.719, is
142 created to read:

143

PART VII

144

WATER SUPPLY POLICY, PLANNING, PRODUCTION, AND FUNDING

145

373.701 Declaration of policy.—It is declared to be the

16-01497A-09

20092424__

146 policy of the Legislature that:

147 (1) Water constitutes a public resource benefiting the
148 entire state, and therefore water supply planning in the state
149 should be conducted on a state and regional basis.

150 (2) The availability of sufficient water for all existing
151 and future reasonable-beneficial uses and natural systems shall
152 be promoted.

153 (3) In order to protect the state's water resources and to
154 meet the current and future needs of those areas with abundant
155 water, the Legislature directs the Department of Environmental
156 Protection and the water management districts to encourage the
157 use of water from sources nearest the area of use or application
158 whenever practicable. Such sources shall include all naturally
159 occurring water sources and all alternative water sources,
160 including, but not limited to, desalination, conservation, reuse
161 of nonpotable reclaimed water and stormwater, and aquifer
162 storage and recovery.

163 (4) In establishing the policy outlined in subsection (3),
164 the Legislature realizes that, under certain circumstances, the
165 need to transport water from distant sources may be necessary
166 for environmental, technical, or economic reasons.

167 (5) Cooperative efforts between municipalities, counties,
168 water management districts, and the department are mandatory in
169 order to meet the water needs of rapidly urbanizing areas in a
170 manner that will supply adequate and dependable supplies of
171 water where needed without resulting in adverse effects upon the
172 areas from which such water is withdrawn. Such efforts should
173 use all practical means of obtaining water, including, but not
174 limited to, withdrawals of surface water and groundwater,

16-01497A-09

20092424

175 recycling wastewater, and desalination and will necessitate not
176 only cooperation but also well-coordinated activities.

177 (6) Municipalities and counties are encouraged to create
178 regional water supply authorities and multijurisdictional water
179 supply entities as authorized in this part.

180 (7) Nothing in this part shall be construed to preclude the
181 various municipalities and counties from continuing to operate
182 existing water production and transmission facilities or to
183 enter into cooperative agreements with other municipalities and
184 counties for the purpose of meeting their respective needs for
185 dependable and adequate supplies of water, provided that
186 obtaining water through such operations shall not be done in a
187 manner that results in adverse effects upon the areas from which
188 such water is withdrawn.

189 373.703 Definitions.—As used in this part or in any rule,
190 regulation, or order adopted pursuant to this part, the
191 following terms shall, unless the context clearly indicates
192 otherwise, mean:

193 (1) "Alternative water supplies" means salt water; brackish
194 surface water and groundwater; surface water captured
195 predominately during wet-weather flows; sources made available
196 through the addition of new storage capacity for surface water
197 or groundwater, water that has been reclaimed after one or more
198 public supply, municipal, industrial, commercial, or
199 agricultural uses; the downstream augmentation of water bodies
200 with reclaimed water; stormwater; and any other water supply
201 source that is designated as nontraditional for a water supply
202 planning region in the applicable regional water supply plan.

203 (2) "Capital costs" means planning, design, engineering,

16-01497A-09

20092424__

204 and project construction costs.

205 (3) "Department" means the Department of Environmental
206 Protection.

207 (4) "District water supply plan" means the regional plan
208 developed by a governing board under s. 373.707.

209 (5) "Florida water supply plan" means the state-level plan
210 developed by the department under s. 373.707.

211 (6) "Governing board" means the governing board of a water
212 management district.

213 (7) "Multijurisdictional water supply entity" means two or
214 more water utilities or local governments that have organized
215 into a larger entity, or entered into an interlocal agreement or
216 contract, for the purpose of more efficiently pursuing water
217 supply development or alternative water supply development
218 projects listed pursuant to a regional water supply plan.

219 (8) "Regional water supply plan" means a detailed water
220 supply plan developed by a governing board under s. 373.713.

221 (9) "Water management district" means any flood control,
222 resource management, or water management district operating
223 under the authority of this chapter.

224 (10) "Water resource development" means the formulation and
225 implementation of regional water resource management strategies,
226 including the collection and evaluation of surface water and
227 groundwater data; structural and nonstructural programs to
228 protect and manage water resources; the development of regional
229 water resource implementation programs; the construction,
230 operation, and maintenance of major public works facilities to
231 provide for surface water and underground water storage and
232 groundwater recharge augmentation; and related technical

16-01497A-09

20092424__

233 assistance to local governments and to government-owned and
234 privately owned water utilities.

235 (11) "Water supply development" means the planning, design,
236 construction, operation, and maintenance of public or private
237 facilities for water collection, production, treatment,
238 transmission, or distribution for sale, resale, or end use.

239 373.705 Powers and duties.—In the performance of, and in
240 conjunction with, its other powers and duties, the governing
241 board of a water management district existing pursuant to this
242 chapter:

243 (1) Shall engage in planning to assist counties,
244 municipalities, special districts, publicly owned and privately
245 owned water utilities, multijurisdictional water supply
246 entities, or regional water supply authorities in meeting water
247 supply needs in such manner as will give priority to encouraging
248 conservation and reducing adverse environmental effects of
249 improper or excessive withdrawals of water from concentrated
250 areas. As used in this section, regional water supply
251 authorities are regional water authorities created under s.
252 373.717 or other laws of this state.

253 (2) Shall assist counties, municipalities, special
254 districts, publicly owned or privately owned water utilities,
255 multijurisdictional water supply entities, or regional water
256 supply authorities in meeting water supply needs in such manner
257 as will give priority to encouraging conservation and reducing
258 adverse environmental effects of improper or excessive
259 withdrawals of water from concentrated areas.

260 (3) May establish, design, construct, operate, and maintain
261 water production and transmission facilities for the purpose of

16-01497A-09

20092424

262 supplying water to counties, municipalities, special districts,
263 publicly owned and privately owned water utilities,
264 multijurisdictional water supply entities, or regional water
265 supply authorities. The permit required by part II of this
266 chapter for a water management district engaged in water
267 production and transmission shall be granted, denied, or granted
268 with conditions by the department.

269 (4) Shall not engage in local water supply distribution.

270 (5) Shall not deprive, directly or indirectly, any county
271 wherein water is withdrawn of the prior right to the reasonable
272 and beneficial use of water which is required to supply
273 adequately the reasonable and beneficial needs of the county or
274 any of the inhabitants or property owners in the county.

275 (6) May provide water and financial assistance to regional
276 water supply authorities, but may not provide water to counties
277 and municipalities that are located within the area of such
278 authority without the specific approval of the authority or, in
279 the event of the authority's disapproval, the approval of the
280 Governor and Cabinet sitting as the Land and Water Adjudicatory
281 Commission. The district may supply water at rates and upon
282 terms mutually agreed to by the parties or, if they do not
283 agree, as set by the governing board and specifically approved
284 by the Land and Water Adjudicatory Commission.

285 (7) May acquire title to such interest as is necessary in
286 real property, by purchase, gift, devise, lease, eminent domain,
287 or otherwise, for water production and transmission consistent
288 with this section and s. 373.711. However, the district shall
289 not use any of the eminent domain powers granted in this section
290 to acquire water and water rights already devoted to reasonable

16-01497A-09

20092424

291 and beneficial use or any water production or transmission
292 facilities owned by any county, municipality, or regional water
293 supply authority. The district may exercise eminent domain
294 powers outside of its district boundaries for the acquisition of
295 pumpage facilities, storage areas, transmission facilities, and
296 the normal appurtenances thereto, provided that at least 45 days
297 prior to the exercise of eminent domain, the district notifies
298 the district where the property is located after public notice
299 and the district where the property is located does not object
300 within 45 days after notification of such exercise of eminent
301 domain authority.

302 (8) In addition to the power to issue revenue bonds
303 pursuant to s. 373.584, may issue revenue bonds for the purposes
304 of paying the costs and expenses incurred in carrying out the
305 purposes of this chapter or refunding obligations of the
306 district issued pursuant to this section. Such revenue bonds
307 shall be secured by, and be payable from, revenues derived from
308 the operation, lease, or use of its water production and
309 transmission facilities and other water-related facilities and
310 from the sale of water or services relating thereto. Such
311 revenue bonds may not be secured by, or be payable from, moneys
312 derived by the district from the Water Management Lands Trust
313 Fund or from ad valorem taxes received by the district. All
314 provisions of s. 373.584 relating to the issuance of revenue
315 bonds which are not inconsistent with this section shall apply
316 to the issuance of revenue bonds pursuant to this section. The
317 district may also issue bond anticipation notes in accordance
318 with the provisions of s. 373.584.

319 (9) May join with one or more other water management

16-01497A-09

20092424__

320 districts, counties, municipalities, special districts, publicly
321 owned or privately owned water utilities, multijurisdictional
322 water supply entities, or regional water supply authorities for
323 the purpose of carrying out any of its powers, and may contract
324 with such other entities to finance acquisitions, construction,
325 operation, and maintenance. The contract may provide for
326 contributions to be made by each party thereto, for the division
327 and apportionment of the expenses of acquisitions, construction,
328 operation, and maintenance, and for the division and
329 apportionment of the benefits, services, and products therefrom.
330 The contracts may contain other covenants and agreements
331 necessary and appropriate to accomplish their purposes.

332 373.707 Florida water supply plan; district water supply
333 plans.-

334 (1) In cooperation with the water management districts,
335 regional water supply authorities, and others, the department
336 shall develop the Florida water supply plan. The Florida water
337 supply plan shall include, but not be limited to:

338 (a) The programs and activities of the department related
339 to water supply.

340 (b) The district water supply plans.

341 (c) Goals, objectives, and guidance for the development and
342 review of programs, rules, and plans relating to water supply
343 based on statutory policies and directives.

344 (2) (a) Each governing board shall develop a district water
345 supply plan for its region. The district water supply plan shall
346 be based on at least a 20-year planning period, shall be
347 developed and revised in cooperation with other agencies,
348 regional water supply authorities, units of government, and

16-01497A-09

20092424

349 interested parties and shall be updated at least once every 5
350 years. The governing board shall hold a public hearing at least
351 30 days in advance of completing the development or revision of
352 the district water supply plan.

353 (b) The district water supply plan shall include, but not
354 be limited to:

355 1. The scientific methodologies for establishing minimum
356 flows and levels under s. 373.042 and all established minimum
357 flows and levels.

358 2. Identification of one or more water supply planning
359 regions that singly or together encompass the entire district.

360 3. Technical data and information prepared under s.
361 373.715.

362 4. A districtwide water supply assessment that determines
363 for each water supply planning region:

364 a. Existing legal uses, reasonably anticipated future
365 needs, and existing and reasonably anticipated sources of water
366 and conservation efforts.

367 b. Whether existing and reasonably anticipated sources of
368 water and conservation efforts are adequate to supply water for
369 all existing legal uses and reasonably anticipated future needs
370 and to sustain the water resources and related natural systems.

371 5. Any completed regional water supply plans prepared
372 pursuant to s. 373.713.

373 (c) If necessary for implementation, the governing board
374 shall adopt by rule or order relevant portions of the district
375 water supply plan to the extent of its statutory authority.

376 (d) In the formulation of the district water supply plan,
377 the governing board shall give due consideration to:

16-01497A-09

20092424

378 1. The attainment of maximum reasonable-beneficial use of
379 water resources.

380 2. The maximum economic development of the water resources
381 consistent with other uses.

382 3. The management of water resources for such purposes as
383 environmental protection, drainage, flood control, and water
384 storage.

385 4. The quantity of water available for application to a
386 reasonable-beneficial use.

387 5. The prevention of wasteful, uneconomical, impractical,
388 or unreasonable uses of water resources.

389 6. Presently exercised domestic use and permit rights.

390 7. The state water resources policy as expressed by this
391 chapter.

392 (3) The department and governing board shall give careful
393 consideration to the requirements of public recreation and to
394 the protection and propagation of fish and wildlife. The
395 department or governing board may prohibit or restrict other
396 future uses on certain designated bodies of water which may be
397 inconsistent with these objectives.

398 (4) The governing board may designate certain uses in
399 connection with a particular source of supply that, because of
400 the nature of the activity or the amount of water required,
401 would constitute an undesirable use for which the governing
402 board may deny a permit.

403 (5) The governing board may designate certain uses in
404 connection with a particular source of supply that, because of
405 the nature of the activity or the amount of water required,
406 would result in an enhancement or improvement of the water

16-01497A-09

20092424

407 resources of the area. Such uses shall be preferred over other
408 uses in the event of competing applications under the permitting
409 systems authorized by this chapter.

410 (6) The department, in cooperation with the Executive
411 Office of the Governor, may add to the Florida water supply plan
412 any other information, directions, or objectives it deems
413 necessary or desirable for the guidance of the governing boards
414 or other agencies in the administration and enforcement of this
415 chapter.

416 373.709 Water resource development; water supply
417 development.-

418 (1) The Legislature finds that:

419 (a) The proper role of the water management districts in
420 water supply is primarily planning and water resource
421 development, but this does not preclude them from providing
422 assistance with water supply development.

423 (b) The proper role of local government, regional water
424 supply authorities, and government-owned and privately owned
425 water utilities in water supply is primarily water supply
426 development, but this does not preclude them from providing
427 assistance with water resource development.

428 (c) Water resource development and water supply development
429 must receive priority attention, where needed, to increase the
430 availability of sufficient water for all existing and future
431 reasonable-beneficial uses and natural systems.

432 (2) It is the intent of the Legislature that:

433 (a) Sufficient water be available for all existing and
434 future reasonable-beneficial uses and the natural systems and
435 that the adverse effects of competition for water supplies be

16-01497A-09

20092424__

436 avoided.

437 (b) Water management districts take the lead in identifying
438 and implementing water resource development projects and are
439 responsible for securing necessary funding for regionally
440 significant water resource development projects.

441 (c) Local governments, regional water supply authorities,
442 and government-owned and privately owned water utilities take
443 the lead in securing funds for and implementing water supply
444 development projects. Generally, direct beneficiaries of water
445 supply development projects should pay the costs of the projects
446 from which they benefit, and water supply development projects
447 should continue to be paid for through local funding sources.

448 (d) Water supply development be conducted in coordination
449 with water management district regional water supply planning
450 and water resource development.

451 (3) The water management districts shall fund and implement
452 water resource development as defined in s. 373.703. The water
453 management districts are encouraged to implement their
454 responsibility for water resource development and to assist in
455 water supply development as expeditiously as possible in areas
456 subject to regional water supply plans.

457 (4) Each governing board shall include in its annual budget
458 an amount to be made available for the fiscal year to assist in
459 implementing alternative water supply development projects
460 listed pursuant to s. 373.713(2) (a)2.

461 (5) (a) Water supply development projects that are included
462 in the relevant regional water supply plans and that meet one or
463 more of the following criteria shall receive priority
464 consideration for state or water management district funding

16-01497A-09

20092424__

465 assistance:

466 1. The project supports establishment of a dependable,
467 sustainable supply of water from alternative water supplies;

468 2. The project provides substantial environmental benefits
469 by preventing or limiting adverse water resource impacts but
470 requires funding assistance to be economically competitive with
471 other options;

472 3. The project significantly implements the reuse, storage,
473 recharge, or conservation of water in a manner that contributes
474 to the sustainability of regional water sources; or

475 4. The project significantly contributes to a recovery plan
476 pursuant to s. 373.0421 for a minimum flow or level established
477 by a governing board.

478 (b) Water supply development projects that meet the
479 criteria in paragraph (a) and also bring about replacement of
480 existing sources in order to help implement a minimum flow or
481 level shall be given first consideration for state or water
482 management district funding assistance.

483 373.711 Alternative water supply development.—

484 (1) The purpose of this section is to encourage cooperation
485 in the development of water supplies and to provide for
486 alternative water supply development. Accordingly, the
487 Legislature finds that:

488 (a) Demands on natural supplies of fresh water to meet the
489 needs of a rapidly growing population and the needs of the
490 environment, agriculture, industry, and mining will continue to
491 increase.

492 (b) There is a need for the development of alternative
493 water supplies for Florida to sustain its economic growth,

16-01497A-09

20092424__

494 economic viability, and natural resources.

495 (c) Alternative water supply development must receive
496 priority funding attention to increase the available supplies of
497 water to meet all existing and future reasonable-beneficial uses
498 and to benefit the natural systems.

499 (d) Cooperation between counties, municipalities, regional
500 water supply authorities, multijurisdictional water supply
501 entities, special districts, and publicly owned and privately
502 owned water utilities in the development of countywide and
503 multicountywide alternative water supply projects will allow for
504 necessary economies of scale and efficiencies to be achieved in
505 order to accelerate the development of new, dependable, and
506 sustainable alternative water supplies.

507 (e) It is in the public interest that county, municipal,
508 industrial, agricultural, and other public and private water
509 users, the Department of Environmental Protection, and the water
510 management districts cooperate and work together in the
511 development of alternative water supplies to avoid the adverse
512 effects of competition for limited supplies of water. Public
513 moneys or services provided to private entities for alternative
514 water supply development may constitute public purposes that
515 also are in the public interest.

516 (2) The Legislature also finds with regard to the
517 development of alternative water supplies that:

518 (a) Sufficient water must be available for all existing and
519 future reasonable-beneficial uses and the natural systems, and
520 the adverse effects of competition for water supplies must be
521 avoided.

522 (b) Alternative water supply development must be conducted

16-01497A-09

20092424__

523 in coordination with water management district regional water
524 supply planning.

525 (c) Funding for the development of alternative water
526 supplies shall be a shared responsibility of water suppliers and
527 users, the state, and the water management districts, with water
528 suppliers and users having the primary responsibility and the
529 state and the water management districts being responsible for
530 providing funding assistance.

531 (3) The primary roles of the water management districts in
532 water resource development as it relates to supporting
533 alternative water supply development are:

534 (a) The formulation and implementation of regional water
535 resource management strategies that support alternative water
536 supply development.

537 (b) The collection and evaluation of surface water and
538 groundwater data to be used for a planning level assessment of
539 the feasibility of alternative water supply development
540 projects.

541 (c) The construction, operation, and maintenance of major
542 public works facilities for flood control, surface water and
543 underground water storage, and groundwater recharge augmentation
544 to support alternative water supply development.

545 (d) Planning for alternative water supply development as
546 provided in regional water supply plans in coordination with
547 local governments, regional water supply authorities,
548 multijurisdictional water supply entities, special districts,
549 and publicly owned and privately owned water utilities and self-
550 suppliers.

551 (e) The formulation and implementation of structural and

16-01497A-09

20092424

552 nonstructural programs to protect and manage water resources in
553 support of alternative water supply projects.

554 (f) The provision of technical and financial assistance to
555 local governments and publicly owned and privately owned water
556 utilities for alternative water supply projects.

557 (4) The primary roles of local government, regional water
558 supply authorities, multijurisdictional water supply entities,
559 special districts, and publicly owned and privately owned water
560 utilities in alternative water supply development are:

561 (a) The planning, design, construction, operation, and
562 maintenance of alternative water supply development projects.

563 (b) The formulation and implementation of alternative water
564 supply development strategies and programs.

565 (c) The planning, design, construction, operation, and
566 maintenance of facilities to collect, divert, produce, treat,
567 transmit, and distribute water for sale, resale, or end use.

568 (d) The coordination of alternative water supply
569 development activities with the appropriate water management
570 district having jurisdiction over the activity.

571 (5) Nothing in this section shall be construed to preclude
572 the various special districts, municipalities, and counties from
573 continuing to operate existing water production and transmission
574 facilities or to enter into cooperative agreements with other
575 special districts, municipalities, and counties for the purpose
576 of meeting their respective needs for dependable and adequate
577 supplies of water; however, the obtaining of water through such
578 operations shall not be done in a manner that results in adverse
579 effects upon the areas from which such water is withdrawn.

580 (6) (a) The statewide funds provided pursuant to the Water

16-01497A-09

20092424

581 Protection and Sustainability Program serve to supplement
582 existing water management district or basin board funding for
583 alternative water supply development assistance and should not
584 result in a reduction of such funding. Therefore, the water
585 management districts shall include in the annual tentative and
586 adopted budget submittals required under this chapter the amount
587 of funds allocated for water resource development that supports
588 alternative water supply development and the funds allocated for
589 alternative water supply projects selected for inclusion in the
590 Water Protection and Sustainability Program. It shall be the
591 goal of each water management district and basin board that the
592 combined funds allocated annually for these purposes be, at a
593 minimum, the equivalent of 100 percent of the state funding
594 provided to the water management district for alternative water
595 supply development. If this goal is not achieved, the water
596 management district shall provide in the budget submittal an
597 explanation of the reasons or constraints that prevent this goal
598 from being met, an explanation of how the goal will be met in
599 future years, and affirmation of match is required during the
600 budget review process as established under s. 373.536(5). The
601 Suwannee River Water Management District and the Northwest
602 Florida Water Management District shall not be required to meet
603 the match requirements of this paragraph; however, they shall
604 try to achieve the match requirement to the greatest extent
605 practicable.

606 (b) State funds from the Water Protection and
607 Sustainability Program created in s. 403.890 shall be made
608 available for financial assistance for the project construction
609 costs of alternative water supply development projects selected

16-01497A-09

20092424

610 by a water management district governing board for inclusion in
611 the program.

612 (7) The water management district shall implement its
613 responsibilities as expeditiously as possible in areas subject
614 to regional water supply plans. Each district's governing board
615 shall include in its annual budget the amount needed for the
616 fiscal year to assist in implementing alternative water supply
617 development projects.

618 (8) (a) The water management districts and the state shall
619 share a percentage of revenues with water providers and users,
620 including local governments; water, wastewater, and reuse
621 utilities; municipal, special district, industrial, and
622 agricultural water users; and other public and private water
623 users, to be used to supplement other funding sources in the
624 development of alternative water supplies.

625 (b) Beginning in fiscal year 2009-2010, the state shall
626 annually provide a portion of those revenues deposited into the
627 Water Protection and Sustainability Program Trust Fund for the
628 purpose of providing funding assistance for the development of
629 alternative water supplies pursuant to the Water Protection and
630 Sustainability Program. At the beginning of each fiscal year,
631 beginning with fiscal year 2009-2010, such revenues shall be
632 distributed by the department into the alternative water supply
633 trust fund accounts created by each district for the purpose of
634 alternative water supply development under the following funding
635 formula:

636 1. Thirty percent to the South Florida Water Management
637 District;

638 2. Twenty-five percent to the Southwest Florida Water

16-01497A-09

20092424__

639 Management District;

640 3. Twenty-five percent to the St. Johns River Water
641 Management District;

642 4. Ten percent to the Suwannee River Water Management
643 District; and

644 5. Ten percent to the Northwest Florida Water Management
645 District.

646 (c) The financial assistance for alternative water supply
647 projects allocated in each district's budget as required in
648 subsection (6) shall be combined with the state funds and used
649 to assist in funding the project construction costs of
650 alternative water supply projects selected by the governing
651 board. If the district has not completed any regional water
652 supply plan, or the regional water supply plan does not identify
653 the need for any alternative water supply projects, funds
654 deposited in that district's trust fund may be used for water
655 resource development projects, including, but not limited to,
656 springs protection.

657 (d) All projects submitted to the governing board for
658 consideration shall reflect the total capital cost for
659 implementation. The costs shall be segregated pursuant to the
660 categories described in the definition of capital costs.

661 (e) Applicants for projects that may receive funding
662 assistance pursuant to the Water Protection and Sustainability
663 Program shall, at a minimum, be required to pay 60 percent of
664 the project's construction costs. The water management districts
665 may, at their discretion, totally or partially waive this
666 requirement for projects sponsored by financially disadvantaged
667 small local governments as defined in former s. 403.885(3)(c).

16-01497A-09

20092424__

668 The water management districts or basin boards may, at their
669 discretion, use ad valorem or federal revenues to assist a
670 project applicant in meeting the requirements of this paragraph.

671 (f) The governing boards shall determine those projects
672 that will be selected for financial assistance. The governing
673 boards may establish factors to determine project funding;
674 however, significant weight shall be given to the following
675 factors:

676 1. Whether the project provides substantial environmental
677 benefits by preventing or limiting adverse water resource
678 impacts.

679 2. Whether the project reduces competition for water
680 supplies.

681 3. Whether the project brings about replacement of
682 traditional sources in order to help implement a minimum flow or
683 level or a reservation.

684 4. Whether the project will be implemented by a consumptive
685 use permittee that has achieved the targets contained in a goal-
686 based water conservation program approved pursuant to s.
687 373.227.

688 5. The quantity of water supplied by the project as
689 compared to its cost.

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

692 7. Whether the project will be implemented by a
693 multijurisdictional water supply entity or regional water supply
694 authority.

695 (g) Additional factors to be considered in determining
696 project funding shall include:

16-01497A-09

20092424

697 1. Whether the project is part of a plan to implement two
698 or more alternative water supply projects, all of which will be
699 operated to produce water at a uniform rate for the participants
700 in a multijurisdictional water supply entity or regional water
701 supply authority.

702 2. The percentage of project costs to be funded by the
703 water supplier or water user.

704 3. Whether the project proposal includes sufficient
705 preliminary planning and engineering to demonstrate that the
706 project can reasonably be implemented within the timeframes
707 provided in the regional water supply plan.

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

710 5. Whether and in what percentage a local government or
711 local government utility is transferring water supply system
712 revenues to the local government general fund in excess of
713 reimbursements for services received from the general fund,
714 including direct and indirect costs and legitimate payments in
715 lieu of taxes.

716 (h) After conducting one or more meetings to solicit public
717 input on eligible projects, including input from those entities
718 identified pursuant to s. 373.713(2)(a)2.d. for implementation
719 of alternative water supply projects, the governing board of
720 each water management district shall select projects for funding
721 assistance based upon the criteria set forth in paragraphs (f)
722 and (g). The governing board may select a project identified or
723 listed as an alternative water supply development project in the
724 regional water supply plan, or allocate up to 20 percent of the
725 funding for alternative water supply projects that are not

16-01497A-09

20092424

726 identified or listed in the regional water supply plan but are
727 consistent with the goals of the plan.

728 (i) Without diminishing amounts available through other
729 means described in this subsection, the governing boards are
730 encouraged to consider establishing revolving loan funds to
731 expand the total funds available to accomplish the objectives of
732 this section. A revolving loan fund created under this paragraph
733 must be a nonlapsing fund from which the water management
734 district may make loans with interest rates below prevailing
735 market rates to public or private entities for the purposes
736 described in this section. The governing board may adopt
737 resolutions to establish revolving loan funds which must specify
738 the details of the administration of the fund, the procedures
739 for applying for loans from the fund, the criteria for awarding
740 loans from the fund, the initial capitalization of the fund, and
741 the goals for future capitalization of the fund in subsequent
742 budget years. Revolving loan funds created under this paragraph
743 must be used to expand the total sums and sources of cooperative
744 funding available for the development of alternative water
745 supplies. The Legislature does not intend for the creation of
746 revolving loan funds to supplant or otherwise reduce existing
747 sources or amounts of funds currently available through other
748 means.

749 (j) For each utility that receives financial assistance
750 from the state or a water management district for an alternative
751 water supply project, the water management district shall
752 require the appropriate rate-setting authority to develop rate
753 structures for water customers in the service area of the funded
754 utility that will:

16-01497A-09

20092424__

755 1. Promote the conservation of water; and

756 2. Promote the use of water from alternative water
757 supplies.

758 (k) The governing boards shall establish a process for the
759 disbursal of revenues pursuant to this subsection.

760 (l) All revenues made available pursuant to this subsection
761 must be encumbered annually by the governing board when it
762 approves projects sufficient to expend the available revenues.

763 (m) This subsection is not subject to the rulemaking
764 requirements of chapter 120.

765 (n) By March 1 of each year, as part of the consolidated
766 annual report required by s. 373.036(7), each water management
767 district shall submit a report on the disbursal of all budgeted
768 amounts pursuant to this section. Such report shall describe all
769 alternative water supply projects funded as well as the quantity
770 of new water to be created as a result of such projects and
771 shall account separately for any other moneys provided through
772 grants, matching grants, revolving loans, and the use of
773 district lands or facilities to implement regional water supply
774 plans.

775 (o) The Florida Public Service Commission shall allow
776 entities under its jurisdiction constructing or participating in
777 constructing facilities that provide alternative water supplies
778 to recover their full, prudently incurred cost of constructing
779 such facilities through their rate structure. If construction of
780 a facility or participation in construction is pursuant to or in
781 furtherance of a regional water supply plan, the cost shall be
782 deemed to be prudently incurred. Every component of an
783 alternative water supply facility constructed by an investor-

16-01497A-09

20092424

784 owned utility shall be recovered in current rates. Any state or
785 water management district cost-share is not subject to the
786 recovery provisions allowed in this paragraph.

787 (9) Funding assistance provided by the water management
788 districts for a water reuse system may include the following
789 conditions for that project if a water management district
790 determines that such conditions will encourage water use
791 efficiency:

792 (a) Metering of reclaimed water use for residential
793 irrigation, agricultural irrigation, industrial uses, except for
794 electric utilities as defined in s. 366.02(2), landscape
795 irrigation, golf course irrigation, irrigation of other public
796 access areas, commercial and institutional uses such as toilet
797 flushing, and transfers to other reclaimed water utilities;

798 (b) Implementation of reclaimed water rate structures based
799 on actual use of reclaimed water for the reuse activities listed
800 in paragraph (a);

801 (c) Implementation of education programs to inform the
802 public about water issues, water conservation, and the
803 importance and proper use of reclaimed water; or

804 (d) Development of location data for key reuse facilities.
805 373.713 Regional water supply planning.—

806 (1) The governing board of each water management district
807 shall conduct water supply planning for any water supply
808 planning region within the district identified in the
809 appropriate district water supply plan under s. 373.707, where
810 it determines that existing sources of water are not adequate to
811 supply water for all existing and future reasonable-beneficial
812 uses and to sustain the water resources and related natural

16-01497A-09

20092424

813 systems for the planning period. The planning must be conducted
814 in an open public process, in coordination and cooperation with
815 local governments, regional water supply authorities,
816 government-owned and privately owned water utilities,
817 multijurisdictional water supply entities, self-suppliers, and
818 other affected and interested parties. The districts shall
819 actively engage in public education and outreach to all affected
820 local entities and their officials, as well as members of the
821 public, in the planning process and in seeking input. During
822 preparation, but prior to completion of the regional water
823 supply plan, the district must conduct at least one public
824 workshop to discuss the technical data and modeling tools
825 anticipated to be used to support the regional water supply
826 plan. The district shall also hold several public meetings to
827 communicate the status, overall conceptual intent, and impacts
828 of the plan on existing and future reasonable-beneficial uses
829 and related natural systems. During the planning process, a
830 local government may choose to prepare its own water supply
831 assessment to determine if existing water sources are adequate
832 to meet existing and projected reasonable-beneficial needs of
833 the local government while sustaining water resources and
834 related natural systems. The local government shall submit such
835 assessment, including the data and methodology used, to the
836 district. The district shall consider the local government's
837 assessment during the formation of the plan. A determination by
838 the governing board that initiation of a regional water supply
839 plan for a specific planning region is not needed pursuant to
840 this section shall be subject to s. 120.569. The governing board
841 shall reevaluate such a determination at least once every 5

16-01497A-09

20092424

842 years and shall initiate a regional water supply plan, if
843 needed, pursuant to this subsection.

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

847 (a) A water supply development component for each water
848 supply planning region identified by the district which
849 includes:

850 1. A quantification of the water supply needs for all
851 existing and future reasonable-beneficial uses within the
852 planning horizon. The level-of-certainty planning goal
853 associated with identifying the water supply needs of existing
854 and future reasonable-beneficial uses shall be based upon
855 meeting those needs for a 1-in-10-year drought event. Population
856 projections used for determining public water supply needs must
857 be based upon the best available data. In determining the best
858 available data, the district shall consider the University of
859 Florida's Bureau of Economic and Business Research (BEBR) medium
860 population projections and any population projection data and
861 analysis submitted by a local government pursuant to the public
862 workshop described in subsection (1) if the data and analysis
863 support the local government's comprehensive plan. Any
864 adjustment of or deviation from the BEBR projections must be
865 fully described, and the original BEBR data must be presented
866 along with the adjusted data.

867 2. A list of water supply development project options,
868 including traditional and alternative water supply project
869 options, from which local government, government-owned and
870 privately owned utilities, regional water supply authorities,

16-01497A-09

20092424

871 multijurisdictional water supply entities, self-suppliers, and
872 others may choose for water supply development. In addition to
873 projects listed by the district, such users may propose specific
874 projects for inclusion in the list of alternative water supply
875 projects. If such users propose a project to be listed as an
876 alternative water supply project, the district shall determine
877 whether it meets the goals of the plan and, if so, it shall be
878 included in the list. The total capacity of the projects
879 included in the plan shall exceed the needs identified in
880 subparagraph 1. and shall take into account water conservation
881 and other demand management measures, as well as water resources
882 constraints, including adopted minimum flows and levels and
883 water reservations. When the district determines it is
884 appropriate, the plan should specifically identify the need for
885 multijurisdictional approaches to project options that, based on
886 planning level analysis, are appropriate to supply the intended
887 uses and that, based on such analysis, appear to be permissible
888 and financially and technically feasible. The list of water
889 supply development options must contain provisions that
890 recognize that alternative water supply options for agricultural
891 self-suppliers are limited. For each project option identified,
892 the following shall be provided:

893 a. An estimate of the amount of water to become available
894 through the project.

895 b. The timeframe in which the project option should be
896 implemented and the estimated planning-level costs for capital
897 investment and operating and maintaining the project.

898 c. An analysis of funding needs and sources of possible
899 funding options. For alternative water supply projects, the

16-01497A-09

20092424

900 water management districts shall provide funding assistance in
901 accordance with s. 373.711(8).

902 d. Identification of the entity that should implement each
903 project option and the current status of project implementation.

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

905 1. A listing of those water resource development projects
906 that support water supply development.

907 2. For each water resource development project listed:

908 a. An estimate of the amount of water to become available
909 through the project.

910 b. The timeframe in which the project option should be
911 implemented and the estimated planning-level costs for capital
912 investment and for operating and maintaining the project.

913 c. An analysis of funding needs and sources of possible
914 funding options.

915 d. Identification of the entity that should implement each
916 project option and the current status of project implementation.

917 (c) The recovery and prevention strategy described in s.
918 373.0421(2).

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

922 (e) Consideration of how the project options addressed in
923 paragraph (a) serve the public interest or save costs overall by
924 preventing the loss of natural resources or avoiding greater
925 future expenditures for water resource development or water
926 supply development. However, unless adopted by rule, these
927 considerations do not constitute final agency action.

928 (f) The technical data and information applicable to each

16-01497A-09

20092424

929 planning region which are necessary to support the regional
930 water supply plan.

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

933 (h) Reservations of water adopted by rule pursuant to s.
934 373.223(4) within each planning region.

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

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

942 (3) The South Florida Water Management District shall
943 include in its regional water supply plan water resource and
944 water supply development projects that promote the elimination
945 of wastewater ocean outfalls as provided in s. 403.086(9).

946 (4) The water supply development component of a regional
947 water supply plan which deals with or affects public utilities
948 and public water supply for those areas served by a regional
949 water supply authority and its member governments within the
950 boundary of the Southwest Florida Water Management District
951 shall be developed jointly by the authority and the district. In
952 areas not served by regional water supply authorities, or other
953 multijurisdictional water supply entities, and where
954 opportunities exist to meet water supply needs more efficiently
955 through multijurisdictional projects identified pursuant to
956 paragraph (2)(a), water management districts are directed to
957 assist in developing multijurisdictional approaches to water

16-01497A-09

20092424__

958 supply project development jointly with affected water
959 utilities, special districts, and local governments.

960 (5) Governing board approval of a regional water supply
961 plan shall not be subject to the rulemaking requirements of
962 chapter 120. However, any portion of an approved regional water
963 supply plan which affects the substantial interests of a party
964 shall be subject to s. 120.569.

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

970 (a) A compilation of the estimated costs of and potential
971 sources of funding for water resource development and water
972 supply development projects as identified in the water
973 management district regional water supply plans.

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

977 (c) A description of each district's progress toward
978 achieving its water resource development objectives, including
979 the district's implementation of its 5-year water resource
980 development work program.

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

984 (e) An overall assessment of the progress being made to
985 develop water supply in each district, including, but not
986 limited to, an explanation of how each project, either

16-01497A-09

20092424

987 alternative or traditional, will produce, contribute to, or
988 account for additional water being made available for
989 consumptive uses, an estimate of the quantity of water to be
990 produced by each project, and an assessment of the contribution
991 of the district's regional water supply plan in providing
992 sufficient water to meet the needs of existing and future
993 reasonable-beneficial uses for a 1-in-10 year drought event, as
994 well as the needs of the natural systems.

995 (7) Nothing contained in the water supply development
996 component of a regional water supply plan shall be construed to
997 require local governments, government-owned or privately owned
998 water utilities, special districts, self-suppliers, regional
999 water supply authorities, multijurisdictional water supply
1000 entities, or other water suppliers to select a water supply
1001 development project identified in the component merely because
1002 it is identified in the plan. Except as provided in s.
1003 373.223(3) and (5), the plan may not be used in the review of
1004 permits under part II unless the plan or an applicable portion
1005 thereof has been adopted by rule. However, this subsection shall
1006 not prohibit a water management district from employing the data
1007 or other information used to establish the plan in reviewing
1008 permits under part II, nor shall it limit the authority of the
1009 department or governing board under part II.

1010 (8) Where the water supply component of a water supply
1011 planning region shows the need for one or more alternative water
1012 supply projects, the district shall notify the affected local
1013 governments and make every reasonable effort to educate and
1014 involve local public officials in working toward solutions in
1015 conjunction with the districts and, where appropriate, other

16-01497A-09

20092424__

1016 local and regional water supply entities.

1017 (a) Within 6 months after approval or amendment of its
1018 regional water supply plan, each water management district shall
1019 notify by certified mail each entity identified in sub-
1020 subparagraph (2) (a)2.d. of that portion of the plan relevant to
1021 the entity. Upon request of such an entity, the water management
1022 district shall appear before and present its findings and
1023 recommendations to the entity.

1024 (b) Within 1 year after the notification by a water
1025 management district pursuant to paragraph (a), each entity
1026 identified in sub-subparagraph (2) (a)2.d. shall provide to the
1027 water management district written notification of the following:
1028 the alternative water supply projects or options identified in
1029 paragraph (2) (a) which it has developed or intends to develop,
1030 if any; an estimate of the quantity of water to be produced by
1031 each project; and the status of project implementation,
1032 including development of the financial plan, facilities master
1033 planning, permitting, and efforts in coordinating
1034 multijurisdictional projects, if applicable. The information
1035 provided in the notification shall be updated annually, and a
1036 progress report shall be provided by November 15 of each year to
1037 the water management district. If an entity does not intend to
1038 develop one or more of the alternative water supply project
1039 options identified in the regional water supply plan, the entity
1040 shall propose, within 1 year after notification by a water
1041 management district pursuant to paragraph (a), another
1042 alternative water supply project option sufficient to address
1043 the needs identified in paragraph (2) (a) within the entity's
1044 jurisdiction and shall provide an estimate of the quantity of

16-01497A-09

20092424

1045 water to be produced by the project and the status of project
1046 implementation as described in this paragraph. The entity may
1047 request that the water management district consider the other
1048 project for inclusion in the regional water supply plan.

1049 373.715 Technical assistance to local governments.-

1050 (1) The water management districts shall assist local
1051 governments in the development and future revision of local
1052 government comprehensive plan elements or public facilities
1053 report, as required by s. 189.415, related to water supply
1054 issues by annually providing to all local governments within the
1055 jurisdiction current relevant information, including, but not
1056 limited to:

1057 (a) Information and data to assist local governments in
1058 preparation of the 10-year work plan required to be included in
1059 the local government comprehensive plan pursuant to s.
1060 163.3177(6)(c).

1061 (b) A description of regulations, programs, and schedules
1062 implemented by the district.

1063 (c) A description of groundwater characteristics, including
1064 existing and planned wellfield sites, existing and anticipated
1065 cones of influence, highly productive groundwater areas, aquifer
1066 recharge areas, deep well injection zones, contaminated areas,
1067 an assessment of regional water resource needs and sources for
1068 the next 20 years, and water quality.

1069 (d) Information reflecting the existing minimum flows for
1070 surface watercourses to avoid harm to water resources or the
1071 ecosystem and information reflecting the existing minimum water
1072 levels for aquifers to avoid harm to water resources or the
1073 ecosystem.

16-01497A-09

20092424

1074 (e) Information reflecting existing reservations of water
1075 for the protection of fish and wildlife or the public health and
1076 safety pursuant to s. 373.223(4).

1077 (f) Identification of surface waters and aquifers for which
1078 minimum flows and levels are scheduled to be adopted.

1079 (2) Upon request, the district shall provide technical
1080 assistance to local governments in the development of water
1081 supply development project options identified in s.
1082 373.713(2)(a).

1083 373.717 Regional water supply authorities.—

1084 (1) By interlocal agreement between counties,
1085 municipalities, or special districts, as applicable pursuant to
1086 s. 163.01 and upon the approval of the Secretary of the
1087 Department of Environmental Protection to ensure that such
1088 agreement will be in the public interest and complies with the
1089 intent and purposes of this act, regional water supply
1090 authorities may be created for the purpose of developing,
1091 recovering, storing, and supplying water for county or municipal
1092 purposes in such a manner as will give priority to reducing
1093 adverse environmental effects of excessive or improper
1094 withdrawals of water from concentrated areas. In approving such
1095 agreement, the Secretary of Environmental Protection shall
1096 consider, but not be limited to, the following:

1097 (a) Whether the geographic territory of the proposed
1098 authority is of sufficient size and character to reduce the
1099 environmental effects of improper or excessive withdrawals of
1100 water from concentrated areas.

1101 (b) The maximization of economic development of the water
1102 resources within the territory of the proposed authority.

16-01497A-09

20092424

1103 (c) The availability of a dependable and adequate water
1104 supply.

1105 (d) The ability of any proposed authority to design,
1106 construct, operate, and maintain water supply facilities in the
1107 locations and at the times necessary to ensure that an adequate
1108 water supply will be available to all citizens within the
1109 authority.

1110 (e) The effect or impact of any proposed authority on any
1111 municipality, county, or existing authority or authorities.

1112 (f) The existing needs of the water users within the area
1113 of the authority.

1114 (2) In addition to other powers and duties agreed upon and
1115 notwithstanding the provisions of s. 163.01, such authority may:

1116 (a) Upon approval of the electors residing in each county
1117 or municipality within the territory to be included in any
1118 authority, levy ad valorem taxes, not to exceed 0.5 mill,
1119 pursuant to s. 9(b), Art. VII of the State Constitution. No tax
1120 authorized by this paragraph shall be levied in any county or
1121 municipality without an affirmative vote of the electors
1122 residing in such county or municipality.

1123 (b) Acquire water; develop, store, and transport water;
1124 provide, sell, and deliver water for county or municipal uses
1125 and purposes; and provide for the furnishing of such water and
1126 water service upon terms and conditions and at rates that will
1127 apportion to parties and nonparties an equitable share of the
1128 capital cost and operating expense of the authority's work to
1129 the purchaser.

1130 (c) Collect, treat, and recover wastewater.

1131 (d) Not engage in local distribution.

16-01497A-09

20092424__

1132 (e) Exercise the power of eminent domain in the manner
1133 provided by law for the condemnation of private property for
1134 public use to acquire title to such interest in real property as
1135 is necessary to the exercise of the powers granted in this
1136 section, except water already devoted to reasonable and
1137 beneficial use or any water production or transmission
1138 facilities owned by any county or municipality.

1139 (f) Issue revenue bonds in the manner prescribed by the
1140 Revenue Bond Act of 1953, as amended, part I of chapter 159, to
1141 be payable solely from funds derived from the sale of water by
1142 the authority to any county or municipality. Such bonds may be
1143 additionally secured by the full faith and credit of any county
1144 or municipality, as provided by s. 159.16, or by a pledge of
1145 excise taxes, as provided by s. 159.19. For the purpose of
1146 issuing revenue bonds, an authority shall be considered a
1147 "unit," as defined in s. 159.02(2), and as that term is used in
1148 the Revenue Bond Act of 1953, as amended. Such bonds may be
1149 issued to finance the cost of acquiring properties and
1150 facilities for the production and transmission of water by the
1151 authority to any county or municipality, which cost shall
1152 include the acquisition of real property and easements therein
1153 for such purposes. Such bonds may be in the form of refunding
1154 bonds to take up any outstanding bonds of the authority or of
1155 any county or municipality when such outstanding bonds are
1156 secured by properties and facilities for production and
1157 transmission of water, which properties and facilities are being
1158 acquired by the authority. Refunding bonds may be issued to take
1159 up and refund all outstanding bonds of the authority that are
1160 subject to call and termination and all bonds of the authority

16-01497A-09

20092424__

1161 that are not subject to call or redemption when the surrender of
1162 such bonds can be procured from the holder thereof at prices
1163 satisfactory to the authority. Such refunding bonds may be
1164 issued at any time when, in the judgment of the authority, it
1165 will be in the best interest of the authority financially or
1166 economically by securing a lower rate of interest on such bonds
1167 or by extending the time of maturity of such bonds or, for any
1168 other reason, in the judgment of the authority, advantageous to
1169 the authority.

1170 (g) Sue and be sued in its own name.

1171 (h) Borrow money and incur indebtedness and issue bonds or
1172 other evidence of such indebtedness.

1173 (i) Join with one or more other public corporations for the
1174 purpose of carrying out any of its powers and, for that purpose,
1175 to contract with such other public corporation or corporations
1176 for the purpose of financing such acquisitions, construction,
1177 and operations. Such contracts may provide for contributions to
1178 be made by each party thereto, for the division and
1179 apportionment of the expenses of such acquisitions and
1180 operations, and for the division and apportionment of the
1181 benefits, services, and products therefrom. Such contract may
1182 contain such other and further covenants and agreements as may
1183 be necessary and convenient to accomplish the purposes
1184 authorized in this paragraph.

1185 (3) A regional water supply authority is authorized to
1186 develop, construct, operate, maintain, or contract for
1187 alternative sources of potable water, including desalinated
1188 water, and pipelines to interconnect authority sources and
1189 facilities, either by itself or jointly with a water management

16-01497A-09

20092424__

1190 district; however, such alternative potable water sources,
1191 facilities, and pipelines may also be privately developed,
1192 constructed, owned, operated, and maintained, in which event an
1193 authority and a water management district are authorized to
1194 pledge and contribute their funds to reduce the wholesale cost
1195 of water from such alternative sources of potable water supplied
1196 by an authority to its member governments.

1197 (4) When it is found to be in the public interest, for the
1198 public convenience and welfare, for a public benefit, and
1199 necessary for carrying out the purpose of any regional water
1200 supply authority, any state agency, county, water control
1201 district existing pursuant to chapter 298, water management
1202 district existing pursuant to this chapter, municipality,
1203 governmental agency, or public corporation in this state holding
1204 title to any interest in land is hereby authorized, in its
1205 discretion, to convey the title to or dedicate land, title to
1206 which is in such entity, including tax-reverted land, or to
1207 grant use-rights therein, to any regional water supply authority
1208 created pursuant to this section. Land granted or conveyed to
1209 such authority shall be for the public purposes of such
1210 authority and may be made subject to the condition that in the
1211 event such land is not so used, or if used and subsequently its
1212 use for such purpose is abandoned, the interest granted shall
1213 cease as to such authority and shall automatically revert to the
1214 granting entity.

1215 (5) Each county, special district, or municipality that is
1216 a party to an agreement pursuant to subsection (1) shall have a
1217 preferential right to purchase water from the regional water
1218 supply authority for use by such county, special district, or

16-01497A-09

20092424__

1219 municipality.

1220 (6) In carrying out the provisions of this section, any
1221 county wherein water is withdrawn by the authority shall not be
1222 deprived, directly or indirectly, of the prior right to the
1223 reasonable and beneficial use of water which is required
1224 adequately to supply the reasonable and beneficial needs of the
1225 county or any of the inhabitants or property owners in the
1226 county.

1227 (7) Upon a resolution adopted by the governing body of any
1228 county or municipality, the authority may, subject to a majority
1229 vote of its voting members, include such county or municipality
1230 in its regional water supply authority upon such terms and
1231 conditions as may be prescribed.

1232 (8) The authority shall design, construct, operate, and
1233 maintain facilities in the locations and at the times necessary
1234 to ensure that an adequate water supply will be available to all
1235 citizens within the authority.

1236 (9) Where a water supply authority exists pursuant to this
1237 section or s. 373.719 under a voluntary interlocal agreement
1238 that is consistent with requirements in s. 373.719(1)(b) and
1239 receives or maintains consumptive use permits under this
1240 voluntary agreement consistent with the water supply plan, if
1241 any, adopted by the governing board, such authority shall be
1242 exempt from consideration by the governing board or department
1243 of the factors specified in s. 373.223(3)(a)-(g) and the
1244 submissions required by s. 373.229(3). Such exemptions shall
1245 apply only to water sources within the jurisdictional areas of
1246 such voluntary water supply interlocal agreements.

1247 373.719 Assistance to Tampa Bay Water.-

16-01497A-09

20092424

1248 (1) It is the intent of the Legislature to authorize the
1249 implementation of changes in governance recommended by the West
1250 Coast Regional Water Supply Authority, the predecessor to Tampa
1251 Bay Water, in its reports to the Legislature dated February 1,
1252 1997, and January 5, 1998. The authority and its member
1253 governments may reconstitute the authority's governance and
1254 rename the authority under a voluntary interlocal agreement with
1255 a term of at least 20 years. The interlocal agreement must
1256 comply with this subsection as follows:

1257 (a) The authority and its member governments must agree
1258 that cooperative efforts are mandatory to meet their water needs
1259 in a manner that will provide adequate and dependable supplies
1260 of water where needed without resulting in adverse environmental
1261 effects upon the areas from which the water is withdrawn or
1262 otherwise produced.

1263 (b) In accordance with s. 4, Art. VIII of the State
1264 Constitution and notwithstanding s. 163.01, the interlocal
1265 agreement may include the following terms, which are considered
1266 approved by the parties without a vote of their electors, upon
1267 execution of the interlocal agreement by all member governments
1268 and upon satisfaction of all conditions precedent in the
1269 interlocal agreement:

1270 1. All member governments shall relinquish to the authority
1271 their individual rights to develop potable water supply sources,
1272 except as otherwise provided in the interlocal agreement.

1273 2. The authority shall be the sole and exclusive wholesale
1274 potable water supplier for all member governments.

1275 3. The authority shall have the absolute and unequivocal
1276 obligation to meet the wholesale needs of the member governments

16-01497A-09

20092424__

1277 for potable water.

1278 4. A member government may not restrict or prohibit the use
1279 of land within a member's jurisdictional boundaries by the
1280 authority for water supply purposes through the use of zoning,
1281 land use, comprehensive planning, or other form of regulation.

1282 5. A member government may not impose any tax, fee, or
1283 charge upon the authority in conjunction with the production or
1284 supply of water not otherwise provided for in the interlocal
1285 agreement.

1286 6. The authority may use the powers provided in part II of
1287 chapter 159 for financing and refinancing water treatment,
1288 production, or transmission facilities, including, but not
1289 limited to, desalination facilities. All such water treatment,
1290 production, or transmission facilities are considered a
1291 manufacturing plant for purposes of s. 159.27(5) and serve a
1292 paramount public purpose by providing water to citizens of the
1293 state.

1294 7. A member government and any governmental or quasi-
1295 judicial board or commission established by local ordinance or
1296 general or special law when the governing membership of such
1297 board or commission is shared, in whole or in part, or appointed
1298 by a member government agreeing to be bound by the interlocal
1299 agreement shall be limited to the procedures set forth in the
1300 interlocal agreement regarding actions that directly or
1301 indirectly restrict or prohibit the use of lands or other
1302 activities related to the production or supply of water.

1303 (c) The authority shall acquire full or lesser interests in
1304 all regionally significant member government wholesale water
1305 supply facilities and tangible assets and each member government

16-01497A-09

20092424

1306 shall convey such interests in the facilities and assets to the
1307 authority, at an agreed value.

1308 (d) The authority shall charge a uniform per gallon
1309 wholesale rate to member governments for the wholesale supply of
1310 potable water. All capital, operation, maintenance, and
1311 administrative costs for existing facilities and acquired
1312 facilities, authority master water plan facilities, and other
1313 future projects must be allocated to member governments based on
1314 water usage at the uniform per-gallon wholesale rate.

1315 (e) The interlocal agreement may include procedures for
1316 resolving the parties' differences regarding water management
1317 district proposed agency action in the water use permitting
1318 process within the authority. Such procedures should minimize
1319 the potential for litigation and include alternative dispute
1320 resolution. Any governmental or quasi-judicial board or
1321 commission established by local ordinance or general or special
1322 law where the governing members of such board or commission are
1323 shared, in whole or in part, or appointed by a member government
1324 may agree to be bound by the dispute resolution procedures set
1325 forth in the interlocal agreement.

1326 (f) Upon execution of the voluntary interlocal agreement
1327 provided for in this section, the authority shall jointly
1328 develop with the Southwest Florida Water Management District
1329 alternative sources of potable water and transmission pipelines
1330 to interconnect regionally significant water supply sources and
1331 facilities of the authority in amounts sufficient to meet the
1332 needs of all member governments for a period of at least 20
1333 years and for natural systems. Nothing in this section, however,
1334 shall preclude the authority and its member governments from

16-01497A-09

20092424

1335 developing traditional water sources pursuant to the voluntary
1336 interlocal agreement. Development and construction costs for
1337 alternative source facilities, which may include a desalination
1338 facility and significant regional interconnects, must be borne
1339 as mutually agreed to by both the authority and the Southwest
1340 Florida Water Management District. Nothing in this section shall
1341 preclude authority or district cost sharing with private
1342 entities for the construction or ownership of alternative source
1343 facilities. By December 31, 1997, the authority and the
1344 Southwest Florida Water Management District shall:

1345 1. Enter into a mutually acceptable agreement detailing the
1346 development and implementation of directives contained in this
1347 paragraph; or

1348 2. Jointly prepare and submit to the President of the
1349 Senate and the Speaker of the House of Representatives a report
1350 describing the progress made and impediments encountered in
1351 their attempts to implement the water resource development and
1352 water supply development directives contained in this paragraph.
1353 Nothing in this section shall be construed to modify the rights
1354 or responsibilities of the authority or its member governments,
1355 except as otherwise provided in this section, or of the
1356 Southwest Florida Water Management District or the department
1357 pursuant to this chapter or chapter 403 and as otherwise set
1358 forth by law.

1359 (g) Unless otherwise provided in the interlocal agreement,
1360 the authority shall be governed by a board of commissioners
1361 consisting of nine voting members, all of whom must be elected
1362 officers, as follows:

1363 1. Three members from Hillsborough County who must be

16-01497A-09

20092424

1364 selected by the county commission; provided, however, that one
1365 member shall be selected by the Mayor of Tampa in the event that
1366 the City of Tampa elects to be a member of the authority.

1367 2. Three members from Pasco County, two of whom must be
1368 selected by the county commission and one of whom must be
1369 selected by the City Council of New Port Richey.

1370 3. Three members from Pinellas County, two of whom must be
1371 selected by the county commission and one of whom must be
1372 selected by the City Council of St. Petersburg. Except as
1373 otherwise provided in this section or in the voluntary
1374 interlocal agreement between the member governments, a majority
1375 vote shall bind the authority and its member governments in all
1376 matters relating to the funding of wholesale water supply,
1377 production, delivery, and related activities.

1378 (2) The provisions of this section supersede any
1379 conflicting provisions contained in all other general or special
1380 laws or provisions thereof as they may apply directly or
1381 indirectly to the exclusivity of water supply or withdrawal of
1382 water, including provisions relating to the environmental
1383 effects, if any, in conjunction with the production and supply
1384 of potable water, and the provisions of this section are
1385 intended to be a complete revision of all laws related to a
1386 regional water supply authority created under s. 373.717 and
1387 this section.

1388 (3) The authority shall prepare its annual budget in the
1389 same manner as prescribed for the preparation of basin budgets,
1390 but such authority budget shall not be subject to review by the
1391 respective basin boards or by the governing board of the
1392 district.

16-01497A-09

20092424__

1393 (4) The annual millage for the authority shall be the
1394 amount required to raise the amount called for by the annual
1395 budget when applied to the total assessment on all taxable
1396 property within the limits of the authority, as determined for
1397 county taxing purposes.

1398 (5) The authority may, by resolution, request the governing
1399 board of the district to levy ad valorem taxes within the
1400 boundaries of the authority. Upon receipt of such request,
1401 together with formal certification of the adoption of its annual
1402 budget and of the required tax levy, the authority tax levy
1403 shall be made by the governing board of the district to finance
1404 authority functions.

1405 (6) The taxes provided for in this section shall be
1406 extended by the property appraiser on the county tax roll in
1407 each county within, or partly within, the authority boundaries
1408 and shall be collected by the tax collector in the same manner
1409 and time as county taxes, and the proceeds therefrom paid to the
1410 district, which shall forthwith pay them over to the authority.
1411 Until paid, such taxes shall be a lien on the property against
1412 which assessed and enforceable in like manner as county taxes.
1413 The property appraisers, tax collectors, and clerks of the
1414 circuit court of the respective counties shall be entitled to
1415 compensation for services performed in connection with such
1416 taxes at the same rates as apply to county taxes.

1417 (7) The governing board of the district shall not be
1418 responsible for any actions or lack of actions by the authority.

1419 Section 2. Subsection (4) of section 11.80, Florida
1420 Statutes, is amended to read:

1421 11.80 Joint Legislative Committee on Everglades Oversight.-

16-01497A-09

20092424__

1422 (4) Annually, no later than March 1, as part of the
1423 consolidated annual report required by s. 373.036(5)~~(7)~~, the
1424 South Florida Water Management District shall report to the
1425 Joint Legislative Committee on Everglades Oversight on the
1426 status of the implementation of the Everglades Forever Act. Such
1427 report shall include, but is not limited to:

1428 (a) Progress on the Everglades Construction Project.

1429 (b) Changes to the Everglades Construction Project.

1430 (c) Actual revenues, compared to projected revenues.

1431 (d) Projected acquisition costs, construction costs,
1432 operation and maintenance costs, and projected revenues, over
1433 the succeeding 5 years.

1434 Section 3. Subsection (13) of section 120.52, Florida
1435 Statutes, is amended to read:

1436 120.52 Definitions.—As used in this act:

1437 (13) "Party" means:

1438 (a) Specifically named persons whose substantial interests
1439 are being determined in the proceeding.

1440 (b) Any other person who, as a matter of constitutional
1441 right, provision of statute, or provision of agency regulation,
1442 is entitled to participate in whole or in part in the
1443 proceeding, or whose substantial interests will be affected by
1444 proposed agency action, and who makes an appearance as a party.

1445 (c) Any other person, including an agency staff member,
1446 allowed by the agency to intervene or participate in the
1447 proceeding as a party. An agency may by rule authorize limited
1448 forms of participation in agency proceedings for persons who are
1449 not eligible to become parties.

1450 (d) Any county representative, agency, department, or unit

16-01497A-09

20092424__

1451 funded and authorized by state statute or county ordinance to
1452 represent the interests of the consumers of a county, when the
1453 proceeding involves the substantial interests of a significant
1454 number of residents of the county and the board of county
1455 commissioners has, by resolution, authorized the representative,
1456 agency, department, or unit to represent the class of interested
1457 persons. The authorizing resolution shall apply to a specific
1458 proceeding and to appeals and ancillary proceedings thereto, and
1459 it shall not be required to state the names of the persons whose
1460 interests are to be represented.

1461
1462 The term "party" does not include a member government of a
1463 regional water supply authority or a governmental or quasi-
1464 judicial board or commission established by local ordinance or
1465 special or general law where the governing membership of such
1466 board or commission is shared with, in whole or in part, or
1467 appointed by a member government of a regional water supply
1468 authority in proceedings under s. 120.569, s. 120.57, or s.
1469 120.68, to the extent that an interlocal agreement under ss.
1470 163.01 and 373.717 ~~373.1962~~ exists in which the member
1471 government has agreed that its substantial interests are not
1472 affected by the proceedings or that it is to be bound by
1473 alternative dispute resolution in lieu of participating in the
1474 proceedings. This exclusion applies only to those particular
1475 types of disputes or controversies, if any, identified in an
1476 interlocal agreement.

1477 Section 4. Subsection (13) of section 163.3167, Florida
1478 Statutes, is amended to read:

1479 163.3167 Scope of act.—

16-01497A-09

20092424__

1480 (13) Each local government shall address in its
1481 comprehensive plan, as enumerated in this chapter, the water
1482 supply sources necessary to meet and achieve the existing and
1483 projected water use demand for the established planning period,
1484 considering the applicable plan developed pursuant to s. 373.713
1485 ~~373.0361~~.

1486 Section 5. Paragraph (a) of subsection (4) and paragraphs
1487 (c), (d), and (h) of subsection (6) of section 163.3177, Florida
1488 Statutes, are amended to read:

1489 163.3177 Required and optional elements of comprehensive
1490 plan; studies and surveys.—

1491 (4) (a) Coordination of the local comprehensive plan with
1492 the comprehensive plans of adjacent municipalities, the county,
1493 adjacent counties, or the region; with the appropriate water
1494 management district's regional water supply plans approved
1495 pursuant to s. 373.713 ~~373.0361~~; with adopted rules pertaining
1496 to designated areas of critical state concern; and with the
1497 state comprehensive plan shall be a major objective of the local
1498 comprehensive planning process. To that end, in the preparation
1499 of a comprehensive plan or element thereof, and in the
1500 comprehensive plan or element as adopted, the governing body
1501 shall include a specific policy statement indicating the
1502 relationship of the proposed development of the area to the
1503 comprehensive plans of adjacent municipalities, the county,
1504 adjacent counties, or the region and to the state comprehensive
1505 plan, as the case may require and as such adopted plans or plans
1506 in preparation may exist.

1507 (6) In addition to the requirements of subsections (1)-(5)
1508 and (12), the comprehensive plan shall include the following

16-01497A-09

20092424__

1509 elements:

1510 (c) A general sanitary sewer, solid waste, drainage,
1511 potable water, and natural groundwater aquifer recharge element
1512 correlated to principles and guidelines for future land use,
1513 indicating ways to provide for future potable water, drainage,
1514 sanitary sewer, solid waste, and aquifer recharge protection
1515 requirements for the area. The element may be a detailed
1516 engineering plan including a topographic map depicting areas of
1517 prime groundwater recharge. The element shall describe the
1518 problems and needs and the general facilities that will be
1519 required for solution of the problems and needs. The element
1520 shall also include a topographic map depicting any areas adopted
1521 by a regional water management district as prime groundwater
1522 recharge areas for the Floridan or Biscayne aquifers, pursuant
1523 to s. 373.0397. These areas shall be given special consideration
1524 when the local government is engaged in zoning or considering
1525 future land use for said designated areas. For areas served by
1526 septic tanks, soil surveys shall be provided which indicate the
1527 suitability of soils for septic tanks. Within 18 months after
1528 the governing board approves an updated regional water supply
1529 plan, the element must incorporate the alternative water supply
1530 project or projects selected by the local government from those
1531 identified in the regional water supply plan pursuant to s.
1532 373.713 ~~373.0361(2)(a)~~ or proposed by the local government under
1533 s. 373.713 ~~373.0361(7)(b)~~. If a local government is located
1534 within two water management districts, the local government
1535 shall adopt its comprehensive plan amendment within 18 months
1536 after the later updated regional water supply plan. The element
1537 must identify such alternative water supply projects and

16-01497A-09

20092424__

1538 traditional water supply projects and conservation and reuse
1539 necessary to meet the water needs identified in s. 373.713
1540 ~~373.0361(2)(a)~~ within the local government's jurisdiction and
1541 include a work plan, covering at least a 10 year planning
1542 period, for building public, private, and regional water supply
1543 facilities, including development of alternative water supplies,
1544 which are identified in the element as necessary to serve
1545 existing and new development. The work plan shall be updated, at
1546 a minimum, every 5 years within 18 months after the governing
1547 board of a water management district approves an updated
1548 regional water supply plan. Amendments to incorporate the work
1549 plan do not count toward the limitation on the frequency of
1550 adoption of amendments to the comprehensive plan. Local
1551 governments, public and private utilities, regional water supply
1552 authorities, special districts, and water management districts
1553 are encouraged to cooperatively plan for the development of
1554 multijurisdictional water supply facilities that are sufficient
1555 to meet projected demands for established planning periods,
1556 including the development of alternative water sources to
1557 supplement traditional sources of groundwater and surface water
1558 supplies.

1559 (d) A conservation element for the conservation, use, and
1560 protection of natural resources in the area, including air,
1561 water, water recharge areas, wetlands, waterwells, estuarine
1562 marshes, soils, beaches, shores, flood plains, rivers, bays,
1563 lakes, harbors, forests, fisheries and wildlife, marine habitat,
1564 minerals, and other natural and environmental resources,
1565 including factors that affect energy conservation. Local
1566 governments shall assess their current, as well as projected,

16-01497A-09

20092424__

1567 water needs and sources for at least a 10-year period,
1568 considering the appropriate regional water supply plan approved
1569 pursuant to s. 373.713 ~~373.0361~~, or, in the absence of an
1570 approved regional water supply plan, the district water supply
1571 ~~management~~ plan approved pursuant to s. 373.707 ~~373.036(2)~~. This
1572 information shall be submitted to the appropriate agencies. The
1573 land use map or map series contained in the future land use
1574 element shall generally identify and depict the following:

- 1575 1. Existing and planned waterwells and cones of influence
1576 where applicable.
- 1577 2. Beaches and shores, including estuarine systems.
- 1578 3. Rivers, bays, lakes, flood plains, and harbors.
- 1579 4. Wetlands.
- 1580 5. Minerals and soils.
- 1581 6. Energy conservation.

1582
1583 The land uses identified on such maps shall be consistent with
1584 applicable state law and rules.

1585 (h)1. An intergovernmental coordination element showing
1586 relationships and stating principles and guidelines to be used
1587 in the accomplishment of coordination of the adopted
1588 comprehensive plan with the plans of school boards, regional
1589 water supply authorities, and other units of local government
1590 providing services but not having regulatory authority over the
1591 use of land, with the comprehensive plans of adjacent
1592 municipalities, the county, adjacent counties, or the region,
1593 with the state comprehensive plan and with the applicable
1594 regional water supply plan approved pursuant to s. 373.713
1595 ~~373.0361~~, as the case may require and as such adopted plans or

16-01497A-09

20092424__

1596 plans in preparation may exist. This element of the local
1597 comprehensive plan shall demonstrate consideration of the
1598 particular effects of the local plan, when adopted, upon the
1599 development of adjacent municipalities, the county, adjacent
1600 counties, or the region, or upon the state comprehensive plan,
1601 as the case may require.

1602 a. The intergovernmental coordination element shall provide
1603 for procedures to identify and implement joint planning areas,
1604 especially for the purpose of annexation, municipal
1605 incorporation, and joint infrastructure service areas.

1606 b. The intergovernmental coordination element shall provide
1607 for recognition of campus master plans prepared pursuant to s.
1608 1013.30.

1609 c. The intergovernmental coordination element may provide
1610 for a voluntary dispute resolution process as established
1611 pursuant to s. 186.509 for bringing to closure in a timely
1612 manner intergovernmental disputes. A local government may
1613 develop and use an alternative local dispute resolution process
1614 for this purpose.

1615 2. The intergovernmental coordination element shall further
1616 state principles and guidelines to be used in the accomplishment
1617 of coordination of the adopted comprehensive plan with the plans
1618 of school boards and other units of local government providing
1619 facilities and services but not having regulatory authority over
1620 the use of land. In addition, the intergovernmental coordination
1621 element shall describe joint processes for collaborative
1622 planning and decisionmaking on population projections and public
1623 school siting, the location and extension of public facilities
1624 subject to concurrency, and siting facilities with countywide

16-01497A-09

20092424__

1625 significance, including locally unwanted land uses whose nature
1626 and identity are established in an agreement. Within 1 year of
1627 adopting their intergovernmental coordination elements, each
1628 county, all the municipalities within that county, the district
1629 school board, and any unit of local government service providers
1630 in that county shall establish by interlocal or other formal
1631 agreement executed by all affected entities, the joint processes
1632 described in this subparagraph consistent with their adopted
1633 intergovernmental coordination elements.

1634 3. To foster coordination between special districts and
1635 local general-purpose governments as local general-purpose
1636 governments implement local comprehensive plans, each
1637 independent special district must submit a public facilities
1638 report to the appropriate local government as required by s.
1639 189.415.

1640 4.a. Local governments must execute an interlocal agreement
1641 with the district school board, the county, and nonexempt
1642 municipalities pursuant to s. 163.31777. The local government
1643 shall amend the intergovernmental coordination element to
1644 provide that coordination between the local government and
1645 school board is pursuant to the agreement and shall state the
1646 obligations of the local government under the agreement.

1647 b. Plan amendments that comply with this subparagraph are
1648 exempt from the provisions of s. 163.3187(1).

1649 5. The state land planning agency shall establish a
1650 schedule for phased completion and transmittal of plan
1651 amendments to implement subparagraphs 1., 2., and 3. from all
1652 jurisdictions so as to accomplish their adoption by December 31,
1653 1999. A local government may complete and transmit its plan

16-01497A-09

20092424__

1654 amendments to carry out these provisions prior to the scheduled
1655 date established by the state land planning agency. The plan
1656 amendments are exempt from the provisions of s. 163.3187(1).

1657 6. By January 1, 2004, any county having a population
1658 greater than 100,000, and the municipalities and special
1659 districts within that county, shall submit a report to the
1660 Department of Community Affairs which:

1661 a. Identifies all existing or proposed interlocal service
1662 delivery agreements regarding the following: education; sanitary
1663 sewer; public safety; solid waste; drainage; potable water;
1664 parks and recreation; and transportation facilities.

1665 b. Identifies any deficits or duplication in the provision
1666 of services within its jurisdiction, whether capital or
1667 operational. Upon request, the Department of Community Affairs
1668 shall provide technical assistance to the local governments in
1669 identifying deficits or duplication.

1670 7. Within 6 months after submission of the report, the
1671 Department of Community Affairs shall, through the appropriate
1672 regional planning council, coordinate a meeting of all local
1673 governments within the regional planning area to discuss the
1674 reports and potential strategies to remedy any identified
1675 deficiencies or duplications.

1676 8. Each local government shall update its intergovernmental
1677 coordination element based upon the findings in the report
1678 submitted pursuant to subparagraph 6. The report may be used as
1679 supporting data and analysis for the intergovernmental
1680 coordination element.

1681 Section 6. Paragraph (1) of subsection (2) of section
1682 163.3191, Florida Statutes, is amended to read:

16-01497A-09

20092424__

1683 163.3191 Evaluation and appraisal of comprehensive plan.—

1684 (2) The report shall present an evaluation and assessment
1685 of the comprehensive plan and shall contain appropriate
1686 statements to update the comprehensive plan, including, but not
1687 limited to, words, maps, illustrations, or other media, related
1688 to:

1689 (1) The extent to which the local government has been
1690 successful in identifying alternative water supply projects and
1691 traditional water supply projects, including conservation and
1692 reuse, necessary to meet the water needs identified in s.
1693 373.713 ~~373.0361(2)(a)~~ within the local government's
1694 jurisdiction. The report must evaluate the degree to which the
1695 local government has implemented the work plan for building
1696 public, private, and regional water supply facilities, including
1697 development of alternative water supplies, identified in the
1698 element as necessary to serve existing and new development.

1699 Section 7. Paragraph (n) of subsection (2) of section
1700 186.009, Florida Statutes, is amended to read:

1701 186.009 Growth management portion of the state
1702 comprehensive plan.—

1703 (2) The growth management portion of the state
1704 comprehensive plan shall:

1705 (n) Set forth recommendations on how to integrate the
1706 Florida water supply plan required by s. 373.707 ~~373.036~~ and
1707 transportation plans required by chapter 339.

1708
1709 The growth management portion of the state comprehensive plan
1710 shall not include a land use map.

1711 Section 8. Paragraphs (c) and (d) of subsection (4) of

16-01497A-09

20092424__

1712 section 189.404, Florida Statutes, are amended to read:

1713 189.404 Legislative intent for the creation of independent
1714 special districts; special act prohibitions; model elements and
1715 other requirements; general-purpose local government/Governor
1716 and Cabinet creation authorizations.—

1717 (4) LOCAL GOVERNMENT/GOVERNOR AND CABINET CREATION
1718 AUTHORIZATIONS.—Except as otherwise authorized by general law,
1719 only the Legislature may create independent special districts.

1720 (c) The Governor and Cabinet may create an independent
1721 special district which shall be established by rule in
1722 accordance with s. 190.005 or as otherwise authorized in general
1723 law. The Governor and Cabinet may also approve the establishment
1724 of a charter for the creation of an independent special district
1725 which shall be in accordance with s. 373.717 ~~373.1962~~, or as
1726 otherwise authorized in general law.

1727 (d)1. Any combination of two or more counties may create a
1728 regional special district which shall be established in
1729 accordance with s. 950.001, or as otherwise authorized in
1730 general law.

1731 2. Any combination of two or more counties or
1732 municipalities may create a regional special district which
1733 shall be established in accordance with s. 373.717 ~~373.1962~~, or
1734 as otherwise authorized by general law.

1735 3. Any combination of two or more counties, municipalities,
1736 or other political subdivisions may create a regional special
1737 district in accordance with s. 163.567, or as otherwise
1738 authorized in general law.

1739 Section 9. Subsection (3) of section 189.4155, Florida
1740 Statutes, is amended to read:

16-01497A-09

20092424__

1741 189.4155 Activities of special districts; local government
1742 comprehensive planning.—

1743 (3) The provisions of this section shall not apply to water
1744 management districts created pursuant to s. 373.069, to regional
1745 water supply authorities created pursuant to s. 373.717
1746 ~~373.1962~~, or to spoil disposal sites owned or used by the
1747 Federal Government.

1748 Section 10. Section 189.4156, Florida Statutes, is amended
1749 to read:

1750 189.4156 Water management district technical assistance;
1751 local government comprehensive planning.—Water management
1752 districts shall assist local governments in the development of
1753 local government comprehensive plan elements related to water
1754 resource issues as required by s. 373.715 ~~373.0391~~.

1755 Section 11. Subsection (7) of section 367.021, Florida
1756 Statutes, is amended to read:

1757 367.021 Definitions.—As used in this chapter, the following
1758 words or terms shall have the meanings indicated:

1759 (7) "Governmental authority" means a political subdivision,
1760 as defined by s. 1.01(8), a regional water supply authority
1761 created pursuant to s. 373.717 ~~373.1962~~, or a nonprofit
1762 corporation formed for the purpose of acting on behalf of a
1763 political subdivision with respect to a water or wastewater
1764 facility.

1765 Section 12. Subsections (4), (5), and (6) of section
1766 373.016, Florida Statutes, are amended to read:

1767 373.016 Declaration of policy.—

1768 ~~(4) (a) Because water constitutes a public resource~~
1769 ~~benefiting the entire state, it is the policy of the Legislature~~

16-01497A-09

20092424

1770 ~~that the waters in the state be managed on a state and regional~~
1771 ~~basis. Consistent with this directive, the Legislature~~
1772 ~~recognizes the need to allocate water throughout the state so as~~
1773 ~~to meet all reasonable beneficial uses. However, the Legislature~~
1774 ~~acknowledges that such allocations have in the past adversely~~
1775 ~~affected the water resources of certain areas in this state. To~~
1776 ~~protect such water resources and to meet the current and future~~
1777 ~~needs of those areas with abundant water, the Legislature~~
1778 ~~directs the department and the water management districts to~~
1779 ~~encourage the use of water from sources nearest the area of use~~
1780 ~~or application whenever practicable. Such sources shall include~~
1781 ~~all naturally occurring water sources and all alternative water~~
1782 ~~sources, including, but not limited to, desalination,~~
1783 ~~conservation, reuse of nonpotable reclaimed water and~~
1784 ~~stormwater, and aquifer storage and recovery. Reuse of potable~~
1785 ~~reclaimed water and stormwater shall not be subject to the~~
1786 ~~evaluation described in s. 373.223(3)(a)-(g). However, this~~
1787 ~~directive to encourage the use of water, whenever practicable,~~
1788 ~~from sources nearest the area of use or application shall not~~
1789 ~~apply to the transport and direct and indirect use of water~~
1790 ~~within the area encompassed by the Central and Southern Florida~~
1791 ~~Flood Control Project, nor shall it apply anywhere in the state~~
1792 ~~to the transport and use of water supplied exclusively for~~
1793 ~~bottled water as defined in s. 500.03(1)(d), nor shall it apply~~
1794 ~~to the transport and use of reclaimed water for electrical power~~
1795 ~~production by an electric utility as defined in section~~
1796 ~~366.02(2).~~

1797 ~~(b) In establishing the policy outlined in paragraph (a),~~
1798 ~~the Legislature realizes that under certain circumstances the~~

16-01497A-09

20092424__

1799 ~~need to transport water from distant sources may be necessary~~
1800 ~~for environmental, technical, or economic reasons.~~

1801 (4)~~(5)~~ The Legislature recognizes that the water resource
1802 problems of the state vary from region to region, both in
1803 magnitude and complexity. It is therefore the intent of the
1804 Legislature to vest in the Department of Environmental
1805 Protection or its successor agency the power and responsibility
1806 to accomplish the conservation, protection, management, and
1807 control of the waters of the state and with sufficient
1808 flexibility and discretion to accomplish these ends through
1809 delegation of appropriate powers to the various water management
1810 districts. The department may exercise any power herein
1811 authorized to be exercised by a water management district;
1812 however, to the greatest extent practicable, such power should
1813 be delegated to the governing board of a water management
1814 district.

1815 (5)~~(6)~~ It is further declared the policy of the Legislature
1816 that each water management district, to the extent consistent
1817 with effective management practices, shall approximate its
1818 fiscal and budget policies and procedures to those of the state.

1819 Section 13. Section 373.019, Florida Statutes, is amended
1820 to read:

1821 373.019 Definitions.—When appearing in this chapter or in
1822 any rule, regulation, or order adopted pursuant thereto, the
1823 term:

1824 ~~(1) "Alternative water supplies" means salt water; brackish~~
1825 ~~surface and groundwater; surface water captured predominately~~
1826 ~~during wet weather flows; sources made available through the~~
1827 ~~addition of new storage capacity for surface or groundwater,~~

16-01497A-09

20092424__

1828 ~~water that has been reclaimed after one or more public supply,~~
1829 ~~municipal, industrial, commercial, or agricultural uses; the~~
1830 ~~downstream augmentation of water bodies with reclaimed water;~~
1831 ~~stormwater; and any other water supply source that is designated~~
1832 ~~as nontraditional for a water supply planning region in the~~
1833 ~~applicable regional water supply plan.~~

1834 ~~(2) "Capital costs" means planning, design, engineering,~~
1835 ~~and project construction costs.~~

1836 (1)~~(3)~~ "Coastal waters" means waters of the Atlantic Ocean
1837 or the Gulf of Mexico within the jurisdiction of the state.

1838 (2)~~(4)~~ "Department" means the Department of Environmental
1839 Protection or its successor agency or agencies.

1840 (3)~~(5)~~ "District water management plan" means the regional
1841 water resource plan developed by a governing board under s.
1842 373.036.

1843 (4)~~(6)~~ "Domestic use" means the use of water for the
1844 individual personal household purposes of drinking, bathing,
1845 cooking, or sanitation. All other uses shall not be considered
1846 domestic.

1847 (5)~~(7)~~ "Florida water plan" means the state-level water
1848 resource plan developed by the department under s. 373.036.

1849 (6)~~(8)~~ "Governing board" means the governing board of a
1850 water management district.

1851 (7)~~(9)~~ "Groundwater" means water beneath the surface of the
1852 ground, whether or not flowing through known and definite
1853 channels.

1854 (8)~~(10)~~ "Impoundment" means any lake, reservoir, pond, or
1855 other containment of surface water occupying a bed or depression
1856 in the earth's surface and having a discernible shoreline.

16-01497A-09

20092424__

1857 (9)~~(11)~~ "Independent scientific peer review" means the
1858 review of scientific data, theories, and methodologies by a
1859 panel of independent, recognized experts in the fields of
1860 hydrology, hydrogeology, limnology, and other scientific
1861 disciplines relevant to the matters being reviewed under s.
1862 373.042.

1863 ~~(12) "Multijurisdictional water supply entity" means two or~~
1864 ~~more water utilities or local governments that have organized~~
1865 ~~into a larger entity, or entered into an interlocal agreement or~~
1866 ~~contract, for the purpose of more efficiently pursuing water~~
1867 ~~supply development or alternative water supply development~~
1868 ~~projects listed pursuant to a regional water supply plan.~~

1869 (10)~~(13)~~ "Nonregulated use" means any use of water which is
1870 exempted from regulation by the provisions of this chapter.

1871 (11)~~(14)~~ "Other watercourse" means any canal, ditch, or
1872 other artificial watercourse in which water usually flows in a
1873 defined bed or channel. It is not essential that the flowing be
1874 uniform or uninterrupted.

1875 (12)~~(15)~~ "Person" means any and all persons, natural or
1876 artificial, including any individual, firm, association,
1877 organization, partnership, business trust, corporation, company,
1878 the United States of America, and the state and all political
1879 subdivisions, regions, districts, municipalities, and public
1880 agencies thereof. The enumeration herein is not intended to be
1881 exclusive or exhaustive.

1882 (13)~~(16)~~ "Reasonable-beneficial use" means the use of water
1883 in such quantity as is necessary for economic and efficient
1884 utilization for a purpose and in a manner which is both
1885 reasonable and consistent with the public interest.

16-01497A-09

20092424

1886 ~~(17) "Regional water supply plan" means a detailed water~~
 1887 ~~supply plan developed by a governing board under s. 373.0361.~~

1888 (14)~~(18)~~ "Stream" means any river, creek, slough, or
 1889 natural watercourse in which water usually flows in a defined
 1890 bed or channel. It is not essential that the flowing be uniform
 1891 or uninterrupted. The fact that some part of the bed or channel
 1892 has been dredged or improved does not prevent the watercourse
 1893 from being a stream.

1894 (15)~~(19)~~ "Surface water" means water upon the surface of
 1895 the earth, whether contained in bounds created naturally or
 1896 artificially or diffused. Water from natural springs shall be
 1897 classified as surface water when it exits from the spring onto
 1898 the earth's surface.

1899 (16)~~(20)~~ "Water" or "waters in the state" means any and all
 1900 water on or beneath the surface of the ground or in the
 1901 atmosphere, including natural or artificial watercourses, lakes,
 1902 ponds, or diffused surface water and water percolating,
 1903 standing, or flowing beneath the surface of the ground, as well
 1904 as all coastal waters within the jurisdiction of the state.

1905 (17)~~(21)~~ "Water management district" means any flood
 1906 control, resource management, or water management district
 1907 operating under the authority of this chapter.

1908 ~~(22) "Water resource development" means the formulation and~~
 1909 ~~implementation of regional water resource management strategies,~~
 1910 ~~including the collection and evaluation of surface water and~~
 1911 ~~groundwater data; structural and nonstructural programs to~~
 1912 ~~protect and manage water resources; the development of regional~~
 1913 ~~water resource implementation programs; the construction,~~
 1914 ~~operation, and maintenance of major public works facilities to~~

16-01497A-09

20092424__

1915 ~~provide for flood control, surface and underground water~~
1916 ~~storage, and groundwater recharge augmentation; and related~~
1917 ~~technical assistance to local governments and to government-~~
1918 ~~owned and privately owned water utilities.~~

1919 (18)~~(23)~~ "Water resource implementation rule" means the
1920 rule authorized by s. 373.036, which sets forth goals,
1921 objectives, and guidance for the development and review of
1922 programs, rules, and plans relating to water resources, based on
1923 statutory policies and directives. The waters of the state are
1924 among its most basic resources. Such waters should be managed to
1925 conserve and protect water resources and to realize the full
1926 beneficial use of these resources.

1927 ~~(24) "Water supply development" means the planning, design,~~
1928 ~~construction, operation, and maintenance of public or private~~
1929 ~~facilities for water collection, production, treatment,~~
1930 ~~transmission, or distribution for sale, resale, or end use.~~

1931 (19)~~(25)~~ For the sole purpose of serving as the basis for
1932 the unified statewide methodology adopted pursuant to s.
1933 373.421(1), ~~as amended,~~ "wetlands" means those areas that are
1934 inundated or saturated by surface water or groundwater at a
1935 frequency and a duration sufficient to support, and under normal
1936 circumstances do support, a prevalence of vegetation typically
1937 adapted for life in saturated soils. Soils present in wetlands
1938 generally are classified as hydric or alluvial, or possess
1939 characteristics that are associated with reducing soil
1940 conditions. The prevalent vegetation in wetlands generally
1941 consists of facultative or obligate hydrophytic macrophytes that
1942 are typically adapted to areas having soil conditions described
1943 above. These species, due to morphological, physiological, or

16-01497A-09

20092424__

1944 reproductive adaptations, have the ability to grow, reproduce,
1945 or persist in aquatic environments or anaerobic soil conditions.
1946 Florida wetlands generally include swamps, marshes, bayheads,
1947 bogs, cypress domes and strands, sloughs, wet prairies, riverine
1948 swamps and marshes, hydric seepage slopes, tidal marshes,
1949 mangrove swamps and other similar areas. Florida wetlands
1950 generally do not include longleaf or slash pine flatwoods with
1951 an understory dominated by saw palmetto. Upon legislative
1952 ratification of the methodology adopted pursuant to s.
1953 373.421(1), ~~as amended~~, the limitation contained herein
1954 regarding the purpose of this definition shall cease to be
1955 effective.

1956 (20)~~(26)~~ "Works of the district" means those projects and
1957 works, including, but not limited to, structures, impoundments,
1958 wells, streams, and other watercourses, together with the
1959 appurtenant facilities and accompanying lands, which have been
1960 officially adopted by the governing board of the district as
1961 works of the district.

1962 Section 14. Paragraph (b) of subsection (8) of section
1963 373.026, Florida Statutes, is amended to read:

1964 373.026 General powers and duties of the department.—The
1965 department, or its successor agency, shall be responsible for
1966 the administration of this chapter at the state level. However,
1967 it is the policy of the state that, to the greatest extent
1968 possible, the department may enter into interagency or
1969 interlocal agreements with any other state agency, any water
1970 management district, or any local government conducting programs
1971 related to or materially affecting the water resources of the
1972 state. All such agreements shall be subject to the provisions of

16-01497A-09

20092424__

1973 s. 373.046. In addition to its other powers and duties, the
 1974 department shall, to the greatest extent possible:
 1975 (8)
 1976 (b) To ensure to the greatest extent possible that project
 1977 components will go forward as planned, the department shall
 1978 collaborate with the South Florida Water Management District in
 1979 implementing the comprehensive plan as defined in s.
 1980 373.470(2)(b), the Lake Okeechobee Watershed Protection Plan as
 1981 defined in s. 373.4595(2), and the River Watershed Protection
 1982 Plans as defined in s. 373.4595(2). Before any project component
 1983 is submitted to Congress for authorization or receives an
 1984 appropriation of state funds, the department must approve, or
 1985 approve with amendments, each project component within 60 days
 1986 following formal submittal of the project component to the
 1987 department. Prior to the release of state funds for the
 1988 implementation of the comprehensive plan, department approval
 1989 shall be based upon a determination of the South Florida Water
 1990 Management District's compliance with s. 373.1501(5). Once a
 1991 project component is approved, the South Florida Water
 1992 Management District shall provide to the Joint Legislative
 1993 Committee on Everglades Oversight a schedule for implementing
 1994 the project component, the estimated total cost of the project
 1995 component, any existing federal or nonfederal credits, the
 1996 estimated remaining federal and nonfederal share of costs, and
 1997 an estimate of the amount of state funds that will be needed to
 1998 implement the project component. All requests for an
 1999 appropriation of state funds needed to implement the project
 2000 component shall be submitted to the department, and such
 2001 requests shall be included in the department's annual request to

16-01497A-09

20092424__

2002 the Governor. Prior to the release of state funds for the
 2003 implementation of the Lake Okeechobee Watershed Protection Plan
 2004 or the River Watershed Protection Plans, on an annual basis, the
 2005 South Florida Water Management District shall prepare an annual
 2006 work plan as part of the consolidated annual report required in
 2007 s. 373.036(5)~~(7)~~. Upon a determination by the secretary of the
 2008 annual work plan's consistency with the goals and objectives of
 2009 s. 373.4595, the secretary may approve the release of state
 2010 funds. Any modifications to the annual work plan shall be
 2011 submitted to the secretary for review and approval.

2012 Section 15. Section 373.036, Florida Statutes, is amended
 2013 to read:

2014 373.036 Florida water plan; district water management
 2015 plans.-

2016 (1) FLORIDA WATER PLAN.-In cooperation with the water
 2017 management districts, regional water supply authorities, and
 2018 others, the department shall develop the Florida water plan. The
 2019 Florida water plan shall include, but not be limited to:

2020 (a) The programs and activities of the department related
 2021 to water supply, water quality, flood protection and floodplain
 2022 management, and natural systems.

2023 (b) The Florida water supply plan.

2024 (c)~~(b)~~ The water quality standards of the department.

2025 (d)~~(e)~~ The district water management plans.

2026 (e)~~(d)~~ Goals, objectives, and guidance for the development
 2027 and review of programs, rules, and plans relating to water
 2028 resources, based on statutory policies and directives. The state
 2029 water policy rule, renamed the water resource implementation
 2030 rule pursuant to s. 373.019(18)~~(23)~~, shall serve as this part of

16-01497A-09

20092424__

2031 the plan. Amendments or additions to this part of the Florida
2032 water plan shall be adopted by the department as part of the
2033 water resource implementation rule. In accordance with s.
2034 373.114, the department shall review rules of the water
2035 management districts for consistency with this rule. Amendments
2036 to the water resource implementation rule must be adopted by the
2037 secretary of the department and be submitted to the President of
2038 the Senate and the Speaker of the House of Representatives
2039 within 7 days after publication in the Florida Administrative
2040 Weekly. Amendments shall not become effective until the
2041 conclusion of the next regular session of the Legislature
2042 following their adoption.

2043 (2) DISTRICT WATER MANAGEMENT PLANS.—

2044 (a) Each governing board shall develop a district water
2045 management plan for water resources within its region, which
2046 plan addresses water supply, water quality, flood protection and
2047 floodplain management, and natural systems. The district water
2048 management plan shall be based on at least a 20-year planning
2049 period, shall be developed and revised in cooperation with other
2050 agencies, regional water supply authorities, units of
2051 government, and interested parties, and shall be updated at
2052 least once every 5 years. The governing board shall hold a
2053 public hearing at least 30 days in advance of completing the
2054 development or revision of the district water management plan.

2055 (b) The district water management plan shall include, but
2056 not be limited to:

2057 1. The district water supply plan.

2058 ~~2.1.~~ The scientific methodologies for establishing minimum
2059 flows and levels under s. 373.042, and all established minimum

16-01497A-09

20092424__

2060 flows and levels.

2061 ~~2. Identification of one or more water supply planning~~
2062 ~~regions that singly or together encompass the entire district.~~

2063 ~~3. Technical data and information prepared under s.~~
2064 ~~373.0391.~~

2065 ~~4. A districtwide water supply assessment, to be completed~~
2066 ~~no later than July 1, 1998, which determines for each water~~
2067 ~~supply planning region:~~

2068 ~~a. Existing legal uses, reasonably anticipated future~~
2069 ~~needs, and existing and reasonably anticipated sources of water~~
2070 ~~and conservation efforts; and~~

2071 ~~b. Whether existing and reasonably anticipated sources of~~
2072 ~~water and conservation efforts are adequate to supply water for~~
2073 ~~all existing legal uses and reasonably anticipated future needs~~
2074 ~~and to sustain the water resources and related natural systems.~~

2075 ~~5. Any completed regional water supply plans.~~

2076 (c) If necessary for implementation, the governing board
2077 shall adopt by rule or order relevant portions of the district
2078 water management plan, to the extent of its statutory authority.

2079 (d) In the formulation of the district water management
2080 plan, the governing board shall give due consideration to:

2081 ~~1. The attainment of maximum reasonable beneficial use of~~
2082 ~~water resources.~~

2083 ~~2. The maximum economic development of the water resources~~
2084 ~~consistent with other uses.~~

2085 1.3. The management of water resources for such purposes as
2086 environmental protection, drainage, flood control, and water
2087 storage.

2088 ~~4. The quantity of water available for application to a~~

16-01497A-09

20092424__

2089 ~~reasonable-beneficial use.~~

2090 ~~5. The prevention of wasteful, uneconomical, impractical,~~
2091 ~~or unreasonable uses of water resources.~~

2092 ~~6. Presently exercised domestic use and permit rights.~~

2093 2.7. The preservation and enhancement of the water quality
2094 of the state.

2095 3.8. The state water resources policy as expressed by this
2096 chapter.

2097 (e) At its option, a governing board may substitute an
2098 annual strategic plan for the requirement to develop a district
2099 water management plan and the district water management plan
2100 annual report required by subparagraph ~~(5)-(7)~~(b)1., provided
2101 that nothing herein affects any other provision or requirement
2102 of law concerning the completion of the regional water supply
2103 plan and the strategic plan meets the following minimum
2104 requirements:

2105 1. The strategic plan establishes the water management
2106 district's strategic priorities for at least a future 5-year
2107 period.

2108 2. The strategic plan identifies the goals, strategies,
2109 success indicators, funding sources, deliverables, and
2110 milestones to accomplish the strategic priorities.

2111 3. The strategic plan development process includes at least
2112 one publicly noticed meeting to allow public participation in
2113 its development.

2114 4. The strategic plan includes separately, as an addendum,
2115 an annual work plan report on the implementation of the
2116 strategic plan for the previous fiscal year, addressing success
2117 indicators, deliverables, and milestones.

16-01497A-09

20092424__

2118 (3) OBJECTIVES.—The department and governing board shall
2119 give careful consideration to the requirements of public
2120 recreation and to the protection and procreation of fish and
2121 wildlife. The department or governing board may prohibit or
2122 restrict other future uses on certain designated bodies of water
2123 which may be inconsistent with these objectives.

2124 ~~(4) The governing board may designate certain uses in~~
2125 ~~connection with a particular source of supply which, because of~~
2126 ~~the nature of the activity or the amount of water required,~~
2127 ~~would constitute an undesirable use for which the governing~~
2128 ~~board may deny a permit.~~

2129 ~~(5) The governing board may designate certain uses in~~
2130 ~~connection with a particular source of supply which, because of~~
2131 ~~the nature of the activity or the amount of water required,~~
2132 ~~would result in an enhancement or improvement of the water~~
2133 ~~resources of the area. Such uses shall be preferred over other~~
2134 ~~uses in the event of competing applications under the permitting~~
2135 ~~systems authorized by this chapter.~~

2136 (4)-(6) ADDITIONS TO FLORIDA WATER PLAN.—The department, in
2137 cooperation with the Executive Office of the Governor, or its
2138 successor agency, may add to the Florida water plan any other
2139 information, directions, or objectives it deems necessary or
2140 desirable for the guidance of the governing boards or other
2141 agencies in the administration and enforcement of this chapter.

2142 (5)-(7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL
2143 REPORT.—

2144 (a) By March 1, 2006, and annually thereafter, each water
2145 management district shall prepare and submit to the department,
2146 the Governor, the President of the Senate, and the Speaker of

16-01497A-09

20092424

2147 the House of Representatives a consolidated water management
2148 district annual report on the management of water resources. In
2149 addition, copies must be provided by the water management
2150 districts to the chairs of all legislative committees having
2151 substantive or fiscal jurisdiction over the districts and the
2152 governing board of each county in the district having
2153 jurisdiction or deriving any funds for operations of the
2154 district. Copies of the consolidated annual report must be made
2155 available to the public, either in printed or electronic format.

2156 (b) The consolidated annual report shall contain the
2157 following elements, as appropriate to that water management
2158 district:

2159 1. A district water management plan annual report or the
2160 annual work plan report allowed in subparagraph (2)(e)4.

2161 2. The department-approved minimum flows and levels annual
2162 priority list and schedule required by s. 373.042(2).

2163 3. The annual 5-year capital improvements plan required by
2164 s. 373.536(6)(a)3.

2165 4. The alternative water supplies annual report required by
2166 s. 373.711(8)(n) ~~373.1961(3)(n)~~.

2167 5. The final annual 5-year water resource development work
2168 program required by s. 373.536(6)(a)4.

2169 6. The Florida Forever Water Management District Work Plan
2170 annual report required by s. 373.199(7).

2171 7. The mitigation donation annual report required by s.
2172 373.414(1)(b)2.

2173 (c) Each of the elements listed in paragraph (b) is to be
2174 addressed in a separate chapter or section within the
2175 consolidated annual report, although information common to more

16-01497A-09

20092424__

2176 than one of these elements may be consolidated as deemed
2177 appropriate by the individual water management district.

2178 (d) Each water management district may include in the
2179 consolidated annual report such additional information on the
2180 status or management of water resources within the district as
2181 it deems appropriate.

2182 (e) In addition to the elements specified in paragraph (b),
2183 the South Florida Water Management District shall include in the
2184 consolidated annual report the following elements:

2185 1. The Lake Okeechobee Protection Program annual progress
2186 report required by s. 373.4595 (6) ~~(3)~~ ~~(g)~~.

2187 2. The Everglades annual progress reports specified in s.
2188 373.4592(4)(d)5., (13), and (14).

2189 3. The Everglades restoration annual report required by s.
2190 373.470(7).

2191 4. The Everglades Forever Act annual implementation report
2192 required by s. 11.80(4).

2193 5. The Everglades Trust Fund annual expenditure report
2194 required by s. 373.45926(3).

2195 Section 16. Subsection (2) of section 373.042, Florida
2196 Statutes, is amended to read:

2197 373.042 Minimum flows and levels.—

2198 (2) By November 15, 1997, and annually thereafter, each
2199 water management district shall submit to the department for
2200 review and approval a priority list and schedule for the
2201 establishment of minimum flows and levels for surface
2202 watercourses, aquifers, and surface waters within the district.
2203 The priority list shall also identify those water bodies for
2204 which the district will voluntarily undertake independent

16-01497A-09

20092424__

2205 scientific peer review. By March 1, 2006, and annually
2206 thereafter, each water management district shall include its
2207 approved priority list and schedule in the consolidated annual
2208 report required by s. 373.036(5)~~(7)~~. The priority list shall be
2209 based upon the importance of the waters to the state or region
2210 and the existence of or potential for significant harm to the
2211 water resources or ecology of the state or region, and shall
2212 include those waters which are experiencing or may reasonably be
2213 expected to experience adverse impacts. Each water management
2214 district's priority list and schedule shall include all first
2215 magnitude springs, and all second magnitude springs within state
2216 or federally owned lands purchased for conservation purposes.
2217 The specific schedule for establishment of spring minimum flows
2218 and levels shall be commensurate with the existing or potential
2219 threat to spring flow from consumptive uses. Springs within the
2220 Suwannee River Water Management District, or second magnitude
2221 springs in other areas of the state, need not be included on the
2222 priority list if the water management district submits a report
2223 to the Department of Environmental Protection demonstrating that
2224 adverse impacts are not now occurring nor are reasonably
2225 expected to occur from consumptive uses during the next 20
2226 years. The priority list and schedule shall not be subject to
2227 any proceeding pursuant to chapter 120. Except as provided in
2228 subsection (3), the development of a priority list and
2229 compliance with the schedule for the establishment of minimum
2230 flows and levels pursuant to this subsection shall satisfy the
2231 requirements of subsection (1).

2232 Section 17. Subsection (2) of section 373.0421, Florida
2233 Statutes, is amended to read:

16-01497A-09

20092424__

2234 373.0421 Establishment and implementation of minimum flows
2235 and levels.—

2236 (2) If the existing flow or level in a water body is below,
2237 or is projected to fall within 20 years below, the applicable
2238 minimum flow or level established pursuant to s. 373.042, the
2239 department or governing board, as part of the regional water
2240 supply plan described in s. 373.713 ~~373.0361~~, shall
2241 expeditiously implement a recovery or prevention strategy, which
2242 includes the development of additional water supplies and other
2243 actions, consistent with the authority granted by this chapter,
2244 to:

2245 (a) Achieve recovery to the established minimum flow or
2246 level as soon as practicable; or

2247 (b) Prevent the existing flow or level from falling below
2248 the established minimum flow or level.

2249
2250 The recovery or prevention strategy shall include phasing or a
2251 timetable which will allow for the provision of sufficient water
2252 supplies for all existing and projected reasonable-beneficial
2253 uses, including development of additional water supplies and
2254 implementation of conservation and other efficiency measures
2255 concurrent with, to the extent practical, and to offset,
2256 reductions in permitted withdrawals, consistent with the
2257 provisions of this chapter.

2258 Section 18. Subsection (4) of section 373.0695, Florida
2259 Statutes, is amended to read:

2260 373.0695 Duties of basin boards; authorized expenditures.—

2261 (4) In the exercise of the duties and powers granted
2262 herein, the basin boards shall be subject to all the limitations

16-01497A-09

20092424__

2263 and restrictions imposed on the water management districts in s.
2264 373.705 ~~373.1961~~.

2265 Section 19. Subsection (7) of section 373.199, Florida
2266 Statutes, is amended to read:

2267 373.199 Florida Forever Water Management District Work
2268 Plan.—

2269 (7) By June 1, 2001, each district shall file with the
2270 President of the Senate, the Speaker of the House of
2271 Representatives, and the Secretary of Environmental Protection
2272 the initial 5-year work plan as required under subsection (2).
2273 By March 1 of each year thereafter, as part of the consolidated
2274 annual report required by s. 373.036 (5) ~~(7)~~, each district shall
2275 report on acquisitions completed during the year together with
2276 modifications or additions to its 5-year work plan. Included in
2277 the report shall be:

2278 (a) A description of land management activity for each
2279 property or project area owned by the water management district.

2280 (b) A list of any lands surplused and the amount of
2281 compensation received.

2282 (c) The progress of funding, staffing, and resource
2283 management of every project funded pursuant to s. 259.101, s.
2284 259.105, or s. 373.59 for which the district is responsible.

2285
2286 The secretary shall submit the report referenced in this
2287 subsection to the Board of Trustees of the Internal Improvement
2288 Trust Fund together with the Acquisition and Restoration
2289 Council's project list as required under s. 259.105.

2290 Section 20. Subsections (3) and (5) of section 373.223,
2291 Florida Statutes, are amended to read:

16-01497A-09

20092424__

2292 373.223 Conditions for a permit.-

2293 (3) Except for the transport and use of water supplied by
2294 the Central and Southern Florida Flood Control Project, and
2295 anywhere in the state when the transport and use of water is
2296 supplied exclusively for bottled water as defined in s.
2297 500.03(1)(d), any water use permit applications pending as of
2298 April 1, 1998, with the Northwest Florida Water Management
2299 District and self-suppliers of water for which the proposed
2300 water source and area of use or application are located on
2301 contiguous private properties, when evaluating whether a
2302 potential transport and use of ground or surface water across
2303 county boundaries is consistent with the public interest,
2304 pursuant to paragraph (1)(c), the governing board or department
2305 shall consider:

2306 (a) The proximity of the proposed water source to the area
2307 of use or application.

2308 (b) All impoundments, streams, groundwater sources, or
2309 watercourses that are geographically closer to the area of use
2310 or application than the proposed source, and that are
2311 technically and economically feasible for the proposed transport
2312 and use.

2313 (c) All economically and technically feasible alternatives
2314 to the proposed source, including, but not limited to,
2315 desalination, conservation, reuse of nonpotable reclaimed water
2316 and stormwater, and aquifer storage and recovery.

2317 (d) The potential environmental impacts that may result
2318 from the transport and use of water from the proposed source,
2319 and the potential environmental impacts that may result from use
2320 of the other water sources identified in paragraphs (b) and (c).

16-01497A-09

20092424__

2321 (e) Whether existing and reasonably anticipated sources of
2322 water and conservation efforts are adequate to supply water for
2323 existing legal uses and reasonably anticipated future needs of
2324 the water supply planning region in which the proposed water
2325 source is located.

2326 (f) Consultations with local governments affected by the
2327 proposed transport and use.

2328 (g) The value of the existing capital investment in water-
2329 related infrastructure made by the applicant.

2330
2331 Where districtwide water supply assessments and regional water
2332 supply plans have been prepared pursuant to ss. 373.707 and
2333 373.713 ~~373.036 and 373.0361~~, the governing board or the
2334 department shall use the applicable plans and assessments as the
2335 basis for its consideration of the applicable factors in this
2336 subsection.

2337 (5) In evaluating an application for consumptive use of
2338 water which proposes the use of an alternative water supply
2339 project as described in the regional water supply plan and
2340 provides reasonable assurances of the applicant's capability to
2341 design, construct, operate, and maintain the project, the
2342 governing board or department shall presume that the alternative
2343 water supply use is consistent with the public interest under
2344 paragraph (1)(c). However, where the governing board identifies
2345 the need for a multijurisdictional water supply entity or
2346 regional water supply authority to develop the alternative water
2347 supply project pursuant to s. 373.713(2)(a)2. ~~373.0361(2)(a)2.~~,
2348 the presumption shall be accorded only to that use proposed by
2349 such entity or authority. This subsection does not effect

16-01497A-09

20092424__

2350 evaluation of the use pursuant to the provisions of paragraphs
2351 (1) (a) and (b), subsections (2) and (3), and ss. 373.2295 and
2352 373.233.

2353 Section 21. Section 373.2234, Florida Statutes, is amended
2354 to read:

2355 373.2234 Preferred water supply sources.—The governing
2356 board of a water management district is authorized to adopt
2357 rules that identify preferred water supply sources for
2358 consumptive uses for which there is sufficient data to establish
2359 that a preferred source will provide a substantial new water
2360 supply to meet the existing and projected reasonable-beneficial
2361 uses of a water supply planning region identified pursuant to s.
2362 373.713(1) ~~373.0361(1)~~, while sustaining existing water
2363 resources and natural systems. At a minimum, such rules must
2364 contain a description of the preferred water supply source and
2365 an assessment of the water the preferred source is projected to
2366 produce. If an applicant proposes to use a preferred water
2367 supply source, that applicant's proposed water use is subject to
2368 s. 373.223(1), except that the proposed use of a preferred water
2369 supply source must be considered by a water management district
2370 when determining whether a permit applicant's proposed use of
2371 water is consistent with the public interest pursuant to s.
2372 373.223(1) (c). A consumptive use permit issued for the use of a
2373 preferred water supply source must be granted, when requested by
2374 the applicant, for at least a 20-year period and may be subject
2375 to the compliance reporting provisions of s. 373.236(4). Nothing
2376 in this section shall be construed to exempt the use of
2377 preferred water supply sources from the provisions of ss.
2378 373.701(3) ~~373.016(4)~~ and 373.223(2) and (3), or be construed to

16-01497A-09

20092424

2379 provide that permits issued for the use of a nonpreferred water
2380 supply source must be issued for a duration of less than 20
2381 years or that the use of a nonpreferred water supply source is
2382 not consistent with the public interest. Additionally, nothing
2383 in this section shall be interpreted to require the use of a
2384 preferred water supply source or to restrict or prohibit the use
2385 of a nonpreferred water supply source. Rules adopted by the
2386 governing board of a water management district to implement this
2387 section shall specify that the use of a preferred water supply
2388 source is not required and that the use of a nonpreferred water
2389 supply source is not restricted or prohibited.

2390 Section 22. Subsection (3) of section 373.229, Florida
2391 Statutes, is amended to read:

2392 373.229 Application for permit.—

2393 (3) In addition to the information required in subsection
2394 (1), all permit applications filed with the governing board or
2395 the department which propose the transport and use of water
2396 across county boundaries shall include information pertaining to
2397 factors to be considered, pursuant to s. 373.223(3), unless
2398 exempt under s. 373.717 ~~373.1962(9)~~.

2399 Section 23. Paragraph (b) of subsection (1) of section
2400 373.414, Florida Statutes, is amended to read:

2401 373.414 Additional criteria for activities in surface
2402 waters and wetlands.—

2403 (1) As part of an applicant's demonstration that an
2404 activity regulated under this part will not be harmful to the
2405 water resources or will not be inconsistent with the overall
2406 objectives of the district, the governing board or the
2407 department shall require the applicant to provide reasonable

16-01497A-09

20092424

2408 assurance that state water quality standards applicable to
2409 waters as defined in s. 403.031(13) will not be violated and
2410 reasonable assurance that such activity in, on, or over surface
2411 waters or wetlands, as delineated in s. 373.421(1), is not
2412 contrary to the public interest. However, if such an activity
2413 significantly degrades or is within an Outstanding Florida
2414 Water, as provided by department rule, the applicant must
2415 provide reasonable assurance that the proposed activity will be
2416 clearly in the public interest.

2417 (b) If the applicant is unable to otherwise meet the
2418 criteria set forth in this subsection, the governing board or
2419 the department, in deciding to grant or deny a permit, shall
2420 consider measures proposed by or acceptable to the applicant to
2421 mitigate adverse effects that may be caused by the regulated
2422 activity. Such measures may include, but are not limited to,
2423 onsite mitigation, offsite mitigation, offsite regional
2424 mitigation, and the purchase of mitigation credits from
2425 mitigation banks permitted under s. 373.4136. It shall be the
2426 responsibility of the applicant to choose the form of
2427 mitigation. The mitigation must offset the adverse effects
2428 caused by the regulated activity.

2429 1. The department or water management districts may accept
2430 the donation of money as mitigation only where the donation is
2431 specified for use in a duly noticed environmental creation,
2432 preservation, enhancement, or restoration project, endorsed by
2433 the department or the governing board of the water management
2434 district, which offsets the impacts of the activity permitted
2435 under this part. However, the provisions of this subsection
2436 shall not apply to projects undertaken pursuant to s. 373.4137

16-01497A-09

20092424__

2437 or chapter 378. Where a permit is required under this part to
2438 implement any project endorsed by the department or a water
2439 management district, all necessary permits must have been issued
2440 prior to the acceptance of any cash donation. After the
2441 effective date of this act, when money is donated to either the
2442 department or a water management district to offset impacts
2443 authorized by a permit under this part, the department or the
2444 water management district shall accept only a donation that
2445 represents the full cost to the department or water management
2446 district of undertaking the project that is intended to mitigate
2447 the adverse impacts. The full cost shall include all direct and
2448 indirect costs, as applicable, such as those for land
2449 acquisition, land restoration or enhancement, perpetual land
2450 management, and general overhead consisting of costs such as
2451 staff time, building, and vehicles. The department or the water
2452 management district may use a multiplier or percentage to add to
2453 other direct or indirect costs to estimate general overhead.
2454 Mitigation credit for such a donation shall be given only to the
2455 extent that the donation covers the full cost to the agency of
2456 undertaking the project that is intended to mitigate the adverse
2457 impacts. However, nothing herein shall be construed to prevent
2458 the department or a water management district from accepting a
2459 donation representing a portion of a larger project, provided
2460 that the donation covers the full cost of that portion and
2461 mitigation credit is given only for that portion. The department
2462 or water management district may deviate from the full cost
2463 requirements of this subparagraph to resolve a proceeding
2464 brought pursuant to chapter 70 or a claim for inverse
2465 condemnation. Nothing in this section shall be construed to

16-01497A-09

20092424

2466 require the owner of a private mitigation bank, permitted under
2467 s. 373.4136, to include the full cost of a mitigation credit in
2468 the price of the credit to a purchaser of said credit.

2469 2. The department and each water management district shall
2470 report by March 1 of each year, as part of the consolidated
2471 annual report required by s. 373.036 (5) ~~(7)~~, all cash donations
2472 accepted under subparagraph 1. during the preceding water
2473 management district fiscal year for wetland mitigation purposes.
2474 The report shall exclude those contributions pursuant to s.
2475 373.4137. The report shall include a description of the endorsed
2476 mitigation projects and, except for projects governed by s.
2477 373.4135(6), shall address, as applicable, success criteria,
2478 project implementation status and timeframe, monitoring, long-
2479 term management, provisions for preservation, and full cost
2480 accounting.

2481 3. If the applicant is unable to meet water quality
2482 standards because existing ambient water quality does not meet
2483 standards, the governing board or the department shall consider
2484 mitigation measures proposed by or acceptable to the applicant
2485 that cause net improvement of the water quality in the receiving
2486 body of water for those parameters which do not meet standards.

2487 4. If mitigation requirements imposed by a local government
2488 for surface water and wetland impacts of an activity regulated
2489 under this part cannot be reconciled with mitigation
2490 requirements approved under a permit for the same activity
2491 issued under this part, including application of the uniform
2492 wetland mitigation assessment method adopted pursuant to
2493 subsection (18), the mitigation requirements for surface water
2494 and wetland impacts shall be controlled by the permit issued

16-01497A-09

20092424__

2495 under this part.

2496 Section 24. Subsection (1) of section 373.421, Florida
2497 Statutes, is amended to read:

2498 373.421 Delineation methods; formal determinations.—

2499 (1) The Environmental Regulation Commission shall adopt a
2500 unified statewide methodology for the delineation of the extent
2501 of wetlands as defined in s. 373.019(19)~~(25)~~. This methodology
2502 shall consider regional differences in the types of soils and
2503 vegetation that may serve as indicators of the extent of
2504 wetlands. This methodology shall also include provisions for
2505 determining the extent of surface waters other than wetlands for
2506 the purposes of regulation under s. 373.414. This methodology
2507 shall not become effective until ratified by the Legislature.
2508 Subsequent to legislative ratification, the wetland definition
2509 in s. 373.019(19)~~(25)~~ and the adopted wetland methodology shall
2510 be binding on the department, the water management districts,
2511 local governments, and any other governmental entities. Upon
2512 ratification of such wetland methodology, the Legislature
2513 preempts the authority of any water management district, state
2514 or regional agency, or local government to define wetlands or
2515 develop a delineation methodology to implement the definition
2516 and determines that the exclusive definition and delineation
2517 methodology for wetlands shall be that established pursuant to
2518 s. 373.019(19)~~(25)~~ and this section. Upon such legislative
2519 ratification, any existing wetlands definition or wetland
2520 delineation methodology shall be superseded by the wetland
2521 definition and delineation methodology established pursuant to
2522 this chapter. Subsequent to legislative ratification, a
2523 delineation of the extent of a surface water or wetland by the

16-01497A-09

20092424

2524 department or a water management district, pursuant to a formal
2525 determination under subsection (2), or pursuant to a permit
2526 issued under this part in which the delineation was field-
2527 verified by the permitting agency and specifically approved in
2528 the permit, shall be binding on all other governmental entities
2529 for the duration of the formal determination or permit. All
2530 existing rules and methodologies of the department, the water
2531 management districts, and local governments, regarding surface
2532 water or wetland definition and delineation shall remain in full
2533 force and effect until the common methodology rule becomes
2534 effective. However, this shall not be construed to limit any
2535 power of the department, the water management districts, and
2536 local governments to amend or adopt a surface water or wetland
2537 definition or delineation methodology until the common
2538 methodology rule becomes effective.

2539 Section 25. Paragraph (d) of subsection (4) and subsections
2540 (13) and (14) of section 373.4592, Florida Statutes, are amended
2541 to read:

2542 373.4592 Everglades improvement and management.—

2543 (4) EVERGLADES PROGRAM.—

2544 (d) *Everglades research and monitoring program.*—

2545 1. The department and the district shall review and
2546 evaluate available water quality data for the Everglades
2547 Protection Area and tributary waters and identify any additional
2548 information necessary to adequately describe water quality in
2549 the Everglades Protection Area and tributary waters. The
2550 department and the district shall also initiate a research and
2551 monitoring program to generate such additional information
2552 identified and to evaluate the effectiveness of the BMPs and

16-01497A-09

20092424__

2553 STAs, as they are implemented, in improving water quality and
2554 maintaining designated and existing beneficial uses of the
2555 Everglades Protection Area and tributary waters. As part of the
2556 program, the district shall monitor all discharges into the
2557 Everglades Protection Area for purposes of determining
2558 compliance with state water quality standards.

2559 2. The research and monitoring program shall evaluate the
2560 ecological and hydrological needs of the Everglades Protection
2561 Area, including the minimum flows and levels. Consistent with
2562 such needs, the program shall also evaluate water quality
2563 standards for the Everglades Protection Area and for the canals
2564 of the EAA, so that these canals can be classified in the manner
2565 set forth in paragraph (e) and protected as an integral part of
2566 the water management system which includes the STAs of the
2567 Everglades Construction Project and allows landowners in the EAA
2568 to achieve applicable water quality standards compliance by BMPs
2569 and STA treatment to the extent this treatment is available and
2570 effective.

2571 3. The research and monitoring program shall include
2572 research seeking to optimize the design and operation of the
2573 STAs, including research to reduce outflow concentrations, and
2574 to identify other treatment and management methods and
2575 regulatory programs that are superior to STAs in achieving the
2576 intent and purposes of this section.

2577 4. The research and monitoring program shall be conducted
2578 to allow the department to propose a phosphorus criterion in the
2579 Everglades Protection Area, and to evaluate existing state water
2580 quality standards applicable to the Everglades Protection Area
2581 and existing state water quality standards and classifications

16-01497A-09

20092424__

2582 applicable to the EAA canals. In developing the phosphorus
2583 criterion, the department shall also consider the minimum flows
2584 and levels for the Everglades Protection Area and the district's
2585 water supply plans for the Lower East Coast.

2586 5. Beginning March 1, 2006, as part of the consolidated
2587 annual report required by s. 373.036 (5) ~~(7)~~, the district and the
2588 department shall annually issue a peer-reviewed report regarding
2589 the research and monitoring program that summarizes all data and
2590 findings. The report shall identify water quality parameters, in
2591 addition to phosphorus, which exceed state water quality
2592 standards or are causing or contributing to adverse impacts in
2593 the Everglades Protection Area.

2594 6. The district shall continue research seeking to optimize
2595 the design and operation of STAs and to identify other treatment
2596 and management methods that are superior to STAs in achieving
2597 optimum water quality and water quantity for the benefit of the
2598 Everglades. The district shall optimize the design and operation
2599 of the STAs described in the Everglades Construction Project
2600 prior to expanding their size. Additional methods to achieve
2601 compliance with water quality standards shall not be limited to
2602 more intensive management of the STAs.

2603 (13) ANNUAL REPORTS.—Beginning March 1, 2006, as part of
2604 the consolidated annual report required by s. 373.036 (5) ~~(7)~~, the
2605 district shall report on implementation of the section. The
2606 annual report will include a summary of the water conditions in
2607 the Everglades Protection Area, the status of the impacted
2608 areas, the status of the construction of the STAs, the
2609 implementation of the BMPs, and actions taken to monitor and
2610 control exotic species. The district must prepare the report in

16-01497A-09

20092424__

2611 coordination with federal and state agencies.

2612 (14) EVERGLADES FUND.—The South Florida Water Management
2613 District is directed to separately account for all moneys used
2614 for the purpose of funding the Everglades Construction Project
2615 as part of the consolidated annual report required by s.
2616 373.036(5)~~(7)~~.

2617 Section 26. Subsection (3) of section 373.45926, Florida
2618 Statutes, is amended to read:

2619 373.45926 Everglades Trust Fund; allocation of revenues and
2620 expenditure of funds for conservation and protection of natural
2621 resources and abatement of water pollution.—

2622 (3) The South Florida Water Management District shall
2623 furnish, as part of the consolidated annual report required by
2624 s. 373.036(5)~~(7)~~, a detailed copy of its expenditures from the
2625 Everglades Trust Fund to the Governor, the President of the
2626 Senate, and the Speaker of the House of Representatives, and
2627 shall make copies available to the public. The information shall
2628 be provided in a format approved by the Joint Legislative
2629 Committee on Everglades Oversight. At the direction of the Joint
2630 Legislative Committee on Everglades Oversight, an audit may be
2631 made from time to time by the Auditor General, and such audit
2632 shall be within the authority of said Auditor General to make.

2633 Section 27. Subsection (6) of section 373.4595, Florida
2634 Statutes, is amended to read:

2635 373.4595 Northern Everglades and Estuaries Protection
2636 Program.—

2637 (6) ANNUAL PROGRESS REPORT.—Each March 1 the district shall
2638 report on implementation of this section as part of the
2639 consolidated annual report required in s. 373.036(5)~~(7)~~. The

16-01497A-09

20092424__

2640 annual report shall include a summary of the conditions of the
2641 hydrology, water quality, and aquatic habitat in the northern
2642 Everglades based on the results of the Research and Water
2643 Quality Monitoring Programs, the status of the Lake Okeechobee
2644 Watershed Construction Project, the status of the Caloosahatchee
2645 River Watershed Construction Project, and the status of the St.
2646 Lucie River Watershed Construction Project. In addition, the
2647 report shall contain an annual accounting of the expenditure of
2648 funds from the Save Our Everglades Trust Fund. At a minimum, the
2649 annual report shall provide detail by program and plan,
2650 including specific information concerning the amount and use of
2651 funds from federal, state, or local government sources. In
2652 detailing the use of these funds, the district shall indicate
2653 those designated to meet requirements for matching funds. The
2654 district shall prepare the report in cooperation with the other
2655 coordinating agencies and affected local governments.

2656 Section 28. Subsection (7) of section 373.470, Florida
2657 Statutes, is amended to read:

2658 373.470 Everglades restoration.—

2659 (7) ANNUAL REPORT.—To provide enhanced oversight of and
2660 accountability for the financial commitments established under
2661 this section and the progress made in the implementation of the
2662 comprehensive plan, the following information must be prepared
2663 annually as part of the consolidated annual report required by
2664 s. 373.036(5)~~(7)~~:

2665 (a) The district, in cooperation with the department, shall
2666 provide the following information as it relates to
2667 implementation of the comprehensive plan:

2668 1. An identification of funds, by source and amount,

16-01497A-09

20092424__

2669 received by the state and by each local sponsor during the
 2670 fiscal year.

2671 2. An itemization of expenditures, by source and amount,
 2672 made by the state and by each local sponsor during the fiscal
 2673 year.

2674 3. A description of the purpose for which the funds were
 2675 expended.

2676 4. The unencumbered balance of funds remaining in trust
 2677 funds or other accounts designated for implementation of the
 2678 comprehensive plan.

2679 5. A schedule of anticipated expenditures for the next
 2680 fiscal year.

2681 (b) The department shall prepare a detailed report on all
 2682 funds expended by the state and credited toward the state's
 2683 share of funding for implementation of the comprehensive plan.
 2684 The report shall include:

2685 1. A description of all expenditures, by source and amount,
 2686 from the Conservation and Recreation Lands Trust Fund, the Land
 2687 Acquisition Trust Fund, the Preservation 2000 Trust Fund, the
 2688 Florida Forever Trust Fund, the Save Our Everglades Trust Fund,
 2689 and other named funds or accounts for the acquisition or
 2690 construction of project components or other features or
 2691 facilities that benefit the comprehensive plan.

2692 2. A description of the purposes for which the funds were
 2693 expended.

2694 3. The unencumbered fiscal-year-end balance that remains in
 2695 each trust fund or account identified in subparagraph 1.

2696 (c) The district, in cooperation with the department, shall
 2697 provide a detailed report on progress made in the implementation

16-01497A-09

20092424__

2698 of the comprehensive plan, including the status of all project
2699 components initiated after the effective date of this act or the
2700 date of the last report prepared under this subsection,
2701 whichever is later.

2702
2703 The information required in paragraphs (a), (b), and (c) shall
2704 be provided as part of the consolidated annual report required
2705 by s. 373.036(5)~~(7)~~. The initial report is due by November 30,
2706 2000, and each annual report thereafter is due by March 1.

2707 Section 29. Paragraph (a) of subsection (6) of section
2708 373.536, Florida Statutes, is amended to read:

2709 373.536 District budget and hearing thereon.—

2710 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
2711 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

2712 (a) Each district must, by the date specified for each
2713 item, furnish copies of the following documents to the Governor,
2714 the President of the Senate, the Speaker of the House of
2715 Representatives, the chairs of all legislative committees and
2716 subcommittees having substantive or fiscal jurisdiction over the
2717 districts, as determined by the President of the Senate or the
2718 Speaker of the House of Representatives as applicable, the
2719 secretary of the department, and the governing board of each
2720 county in which the district has jurisdiction or derives any
2721 funds for the operations of the district:

2722 1. The adopted budget, to be furnished within 10 days after
2723 its adoption.

2724 2. A financial audit of its accounts and records, to be
2725 furnished within 10 days after its acceptance by the governing
2726 board. The audit must be conducted in accordance with the

16-01497A-09

20092424__

2727 provisions of s. 11.45 and the rules adopted thereunder. In
2728 addition to the entities named above, the district must provide
2729 a copy of the audit to the Auditor General within 10 days after
2730 its acceptance by the governing board.

2731 3. A 5-year capital improvements plan, to be included in
2732 the consolidated annual report required by s. 373.036(5)~~(7)~~. The
2733 plan must include expected sources of revenue for planned
2734 improvements and must be prepared in a manner comparable to the
2735 fixed capital outlay format set forth in s. 216.043.

2736 4. A 5-year water resource development work program to be
2737 furnished within 30 days after the adoption of the final budget.
2738 The program must describe the district's implementation strategy
2739 for the water resource development component of each approved
2740 regional water supply plan developed or revised under s. 373.713
2741 ~~373.0361~~. The work program must address all the elements of the
2742 water resource development component in the district's approved
2743 regional water supply plans and must identify which projects in
2744 the work program will provide water, explain how each water
2745 resource development project will produce additional water
2746 available for consumptive uses, estimate the quantity of water
2747 to be produced by each project, and provide an assessment of the
2748 contribution of the district's regional water supply plans in
2749 providing sufficient water to meet the water supply needs of
2750 existing and future reasonable-beneficial uses for a 1-in-10-
2751 year drought event. Within 30 days after its submittal, the
2752 department shall review the proposed work program and submit its
2753 findings, questions, and comments to the district. The review
2754 must include a written evaluation of the program's consistency
2755 with the furtherance of the district's approved regional water

16-01497A-09

20092424__

2756 supply plans, and the adequacy of proposed expenditures. As part
 2757 of the review, the department shall give interested parties the
 2758 opportunity to provide written comments on each district's
 2759 proposed work program. Within 45 days after receipt of the
 2760 department's evaluation, the governing board shall state in
 2761 writing to the department which changes recommended in the
 2762 evaluation it will incorporate into its work program submitted
 2763 as part of the March 1 consolidated annual report required by s.
 2764 373.036 (5) ~~(7)~~ or specify the reasons for not incorporating the
 2765 changes. The department shall include the district's responses
 2766 in a final evaluation report and shall submit a copy of the
 2767 report to the Governor, the President of the Senate, and the
 2768 Speaker of the House of Representatives.

2769 Section 30. Subsection (11) of section 373.59, Florida
 2770 Statutes, is amended to read:

2771 373.59 Water Management Lands Trust Fund.—

2772 (11) Notwithstanding any provision of this section to the
 2773 contrary, the governing board of a water management district may
 2774 request, and the Secretary of Environmental Protection shall
 2775 release upon such request, moneys allocated to the districts
 2776 pursuant to subsection (8) for purposes consistent with the
 2777 provisions of s. 373.713 ~~373.0361~~, s. 373.709 ~~373.0831~~, s.
 2778 373.139, or ss. 373.451-373.4595 and for legislatively
 2779 authorized land acquisition and water restoration initiatives.
 2780 No funds may be used pursuant to this subsection until necessary
 2781 debt service obligations, requirements for payments in lieu of
 2782 taxes, and land management obligations that may be required by
 2783 this chapter are provided for.

2784 Section 31. Paragraph (g) of subsection (1) of section

16-01497A-09

20092424__

2785 378.212, Florida Statutes, is amended to read:

2786 378.212 Variances.—

2787 (1) Upon application, the secretary may grant a variance
2788 from the provisions of this part or the rules adopted pursuant
2789 thereto. Variances and renewals thereof may be granted for any
2790 one of the following reasons:

2791 (g) To accommodate reclamation that provides water supply
2792 development or water resource development not inconsistent with
2793 the applicable regional water supply plan approved pursuant to
2794 s. 373.713 ~~373.0361~~, provided adverse impacts are not caused to
2795 the water resources in the basin. A variance may also be granted
2796 from the requirements of part IV of chapter 373, or the rules
2797 adopted thereunder, when a project provides an improvement in
2798 water availability in the basin and does not cause adverse
2799 impacts to water resources in the basin.

2800 Section 32. Subsection (9) of section 378.404, Florida
2801 Statutes, is amended to read:

2802 378.404 Department of Environmental Protection; powers and
2803 duties.—The department shall have the following powers and
2804 duties:

2805 (9) To grant variances from the provisions of this part to
2806 accommodate reclamation that provides for water supply
2807 development or water resource development not inconsistent with
2808 the applicable regional water supply plan approved pursuant to
2809 s. 373.713 ~~373.0361~~, appropriate stormwater management, improved
2810 wildlife habitat, recreation, or a mixture thereof, provided
2811 adverse impacts are not caused to the water resources in the
2812 basin and public health and safety are not adversely affected.

2813 Section 33. Subsection (14) of section 403.031, Florida

16-01497A-09

20092424__

2814 Statutes, is amended to read:

2815 403.031 Definitions.—In construing this chapter, or rules
2816 and regulations adopted pursuant hereto, the following words,
2817 phrases, or terms, unless the context otherwise indicates, have
2818 the following meanings:

2819 (14) "State water resource implementation rule" means the
2820 rule authorized by s. 373.707 ~~373.036~~, which sets forth goals,
2821 objectives, and guidance for the development and review of
2822 programs, rules, and plans relating to water resources, based on
2823 statutory policies and directives. The waters of the state are
2824 among its most basic resources. Such waters should be managed to
2825 conserve and protect water resources and to realize the full
2826 beneficial use of these resources.

2827 Section 34. Paragraph (a) of subsection (3) of section
2828 403.0891, Florida Statutes, is amended to read:

2829 403.0891 State, regional, and local stormwater management
2830 plans and programs.—The department, the water management
2831 districts, and local governments shall have the responsibility
2832 for the development of mutually compatible stormwater management
2833 programs.

2834 (3) (a) Each local government required by chapter 163 to
2835 submit a comprehensive plan, whose plan is submitted after July
2836 1, 1992, and the others when updated after July 1, 1992, in the
2837 development of its stormwater management program described by
2838 elements within its comprehensive plan shall consider the water
2839 resource implementation rule, district stormwater management
2840 goals, plans approved pursuant to the Surface Water Improvement
2841 and Management Act, ss. 373.451-373.4595, and technical
2842 assistance information provided by the water management

16-01497A-09

20092424__

2843 districts pursuant to s. 373.715 ~~373.0391~~.

2844 Section 35. Paragraphs (r) and (u) of subsection (1) of
2845 section 403.813, Florida Statutes, are amended to read:

2846 403.813 Permits issued at district centers; exceptions.—

2847 (1) A permit is not required under this chapter, chapter
2848 373, chapter 61-691, Laws of Florida, or chapter 25214 or
2849 chapter 25270, 1949, Laws of Florida, for activities associated
2850 with the following types of projects; however, except as
2851 otherwise provided in this subsection, nothing in this
2852 subsection relieves an applicant from any requirement to obtain
2853 permission to use or occupy lands owned by the Board of Trustees
2854 of the Internal Improvement Trust Fund or any water management
2855 district in its governmental or proprietary capacity or from
2856 complying with applicable local pollution control programs
2857 authorized under this chapter or other requirements of county
2858 and municipal governments:

2859 (r) The removal of aquatic plants, the removal of tussocks,
2860 the associated replanting of indigenous aquatic plants, and the
2861 associated removal from lakes of organic detrital material when
2862 such planting or removal is performed and authorized by permit
2863 or exemption granted under s. 369.20 or s. 369.25, provided
2864 that:

2865 1. Organic detrital material that exists on the surface of
2866 natural mineral substrate shall be allowed to be removed to a
2867 depth of 3 feet or to the natural mineral substrate, whichever
2868 is less;

2869 2. All material removed pursuant to this paragraph shall be
2870 deposited in an upland site in a manner that will prevent the
2871 reintroduction of the material into waters in the state except

16-01497A-09

20092424__

2872 when spoil material is permitted to be used to create wildlife
2873 islands in freshwater bodies of the state when a governmental
2874 entity is permitted pursuant to s. 369.20 to create such islands
2875 as a part of a restoration or enhancement project;

2876 3. All activities are performed in a manner consistent with
2877 state water quality standards; and

2878 4. No activities under this exemption are conducted in
2879 wetland areas, as defined by s. 373.019 (19) ~~(25)~~, which are
2880 supported by a natural soil as shown in applicable United States
2881 Department of Agriculture county soil surveys, except when a
2882 governmental entity is permitted pursuant to s. 369.20 to
2883 conduct such activities as a part of a restoration or
2884 enhancement project.

2885

2886 The department may not adopt implementing rules for this
2887 paragraph, notwithstanding any other provision of law.

2888 (u) Notwithstanding any provision to the contrary in this
2889 subsection, a permit or other authorization under chapter 253,
2890 chapter 369, chapter 373, or this chapter is not required for an
2891 individual residential property owner for the removal of organic
2892 detrital material from freshwater rivers or lakes that have a
2893 natural sand or rocky substrate and that are not Aquatic
2894 Preserves or for the associated removal and replanting of
2895 aquatic vegetation for the purpose of environmental enhancement,
2896 providing that:

2897 1. No activities under this exemption are conducted in
2898 wetland areas, as defined by s. 373.019 (19) ~~(25)~~, which are
2899 supported by a natural soil as shown in applicable United States
2900 Department of Agriculture county soil surveys.

16-01497A-09

20092424

- 2901 2. No filling or peat mining is allowed.
- 2902 3. No removal of native wetland trees, including, but not
2903 limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.
- 2904 4. When removing organic detrital material, no portion of
2905 the underlying natural mineral substrate or rocky substrate is
2906 removed.
- 2907 5. Organic detrital material and plant material removed is
2908 deposited in an upland site in a manner that will not cause
2909 water quality violations.
- 2910 6. All activities are conducted in such a manner, and with
2911 appropriate turbidity controls, so as to prevent any water
2912 quality violations outside the immediate work area.
- 2913 7. Replanting with a variety of aquatic plants native to
2914 the state shall occur in a minimum of 25 percent of the
2915 preexisting vegetated areas where organic detrital material is
2916 removed, except for areas where the material is removed to bare
2917 rocky substrate; however, an area may be maintained clear of
2918 vegetation as an access corridor. The access corridor width may
2919 not exceed 50 percent of the property owner's frontage or 50
2920 feet, whichever is less, and may be a sufficient length
2921 waterward to create a corridor to allow access for a boat or
2922 swimmer to reach open water. Replanting must be at a minimum
2923 density of 2 feet on center and be completed within 90 days
2924 after removal of existing aquatic vegetation, except that under
2925 dewatered conditions replanting must be completed within 90 days
2926 after reflooding. The area to be replanted must extend waterward
2927 from the ordinary high water line to a point where normal water
2928 depth would be 3 feet or the preexisting vegetation line,
2929 whichever is less. Individuals are required to make a reasonable

16-01497A-09

20092424__

2930 effort to maintain planting density for a period of 6 months
2931 after replanting is complete, and the plants, including
2932 naturally recruited native aquatic plants, must be allowed to
2933 expand and fill in the revegetation area. Native aquatic plants
2934 to be used for revegetation must be salvaged from the
2935 enhancement project site or obtained from an aquatic plant
2936 nursery regulated by the Department of Agriculture and Consumer
2937 Services. Plants that are not native to the state may not be
2938 used for replanting.

2939 8. No activity occurs any farther than 100 feet waterward
2940 of the ordinary high water line, and all activities must be
2941 designed and conducted in a manner that will not unreasonably
2942 restrict or infringe upon the riparian rights of adjacent upland
2943 riparian owners.

2944 9. The person seeking this exemption notifies the
2945 applicable department district office in writing at least 30
2946 days before commencing work and allows the department to conduct
2947 a preconstruction site inspection. Notice must include an
2948 organic-detrital-material removal and disposal plan and, if
2949 applicable, a vegetation-removal and revegetation plan.

2950 10. The department is provided written certification of
2951 compliance with the terms and conditions of this paragraph
2952 within 30 days after completion of any activity occurring under
2953 this exemption.

2954 Section 36. Paragraph (a) of subsection (1) and paragraph
2955 (a) of subsection (2) of section 403.890, Florida Statutes, are
2956 amended to read:

2957 403.890 Water Protection and Sustainability Program;
2958 intent; goals; purposes.—

16-01497A-09

20092424__

2959 (1) Effective July 1, 2006, revenues transferred from the
2960 Department of Revenue pursuant to s. 201.15(1)(c)2. shall be
2961 deposited into the Water Protection and Sustainability Program
2962 Trust Fund in the Department of Environmental Protection. These
2963 revenues and any other additional revenues deposited into or
2964 appropriated to the Water Protection and Sustainability Program
2965 Trust Fund shall be distributed by the Department of
2966 Environmental Protection in the following manner:

2967 (a) Sixty percent to the Department of Environmental
2968 Protection for the implementation of an alternative water supply
2969 program as provided in s. 373.717 ~~373.1961~~.

2970 (2) Applicable beginning in the 2007-2008 fiscal year,
2971 revenues transferred from the Department of Revenue pursuant to
2972 s. 201.15(1)(d)2. shall be deposited into the Water Protection
2973 and Sustainability Program Trust Fund in the Department of
2974 Environmental Protection. These revenues and any other
2975 additional revenues deposited into or appropriated to the Water
2976 Protection and Sustainability Program Trust Fund shall be
2977 distributed by the Department of Environmental Protection in the
2978 following manner:

2979 (a) Sixty-five percent to the Department of Environmental
2980 Protection for the implementation of an alternative water supply
2981 program as provided in s. 373.717 ~~373.1961~~.

2982 Section 37. Subsection (6) of section 556.102, Florida
2983 Statutes, is amended to read:

2984 556.102 Definitions.—As used in this act:

2985 (6) "Excavate" or "excavation" means any manmade cut,
2986 cavity, trench, or depression in the earth's surface, formed by
2987 removal of earth, intended to change the grade or level of land,

16-01497A-09

20092424__

2988 or intended to penetrate or disturb the surface of the earth,
2989 including land beneath the waters of the state, as defined in s.
2990 373.019 (16) ~~(20)~~, and the term includes pipe bursting and
2991 directional drilling or boring from one point to another point
2992 beneath the surface of the earth, or other trenchless
2993 technologies.

2994 Section 38. Section 682.02, Florida Statutes, is amended to
2995 read:

2996 682.02 Arbitration agreements made valid, irrevocable, and
2997 enforceable; scope.—Two or more parties may agree in writing to
2998 submit to arbitration any controversy existing between them at
2999 the time of the agreement, or they may include in a written
3000 contract a provision for the settlement by arbitration of any
3001 controversy thereafter arising between them relating to such
3002 contract or the failure or refusal to perform the whole or any
3003 part thereof. This section also applies to written interlocal
3004 agreements under ss. 163.01 and 373.717 ~~373.1962~~ in which two or
3005 more parties agree to submit to arbitration any controversy
3006 between them concerning water use permit applications and other
3007 matters, regardless of whether or not the water management
3008 district with jurisdiction over the subject application is a
3009 party to the interlocal agreement or a participant in the
3010 arbitration. Such agreement or provision shall be valid,
3011 enforceable, and irrevocable without regard to the justiciable
3012 character of the controversy; provided that this act shall not
3013 apply to any such agreement or provision to arbitrate in which
3014 it is stipulated that this law shall not apply or to any
3015 arbitration or award thereunder.

3016 Section 39. Section 373.71, Florida Statutes, is renumbered

16-01497A-09

20092424__

3017 as section 373.69, Florida Statutes.

3018 Section 40. Sections 373.0361, 373.0391, 373.0831, 373.196,

3019 373.1961, 373.1962, and 373.1963, Florida Statutes, are

3020 repealed.

3021 Section 41. This act shall take effect July 1, 2009.