

By the Committees on Agriculture; and Environmental Preservation and Conservation; and Senator Latvala

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1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 s. 373.019, F.S.; redefining the term "alternative
4 water supplies" to exclude the development of
5 nonbrackish groundwater supplies; amending s. 373.236,
6 F.S.; requiring the Department of Environmental
7 Protection or governing board of a water management
8 district to limit its review following issuance of a
9 consumptive use permit and make only one request for
10 additional information; providing for the governing
11 board rather than the district to grant permits for
12 certain projects; extending the term to 10 years from
13 5 years for submitting compliance reports; allowing a
14 permit to be issued for a shorter period if requested
15 by the applicant; providing for the modification of
16 existing consumptive use permits under certain
17 conditions; amending s. 373.250, F.S.; providing
18 requirements for water management districts in
19 evaluating applications for the consumptive use of
20 water in mandatory reuse zones; providing
21 applicability; amending ss. 373.2234 and 373.243,
22 F.S.; conforming cross-references; amending s.
23 373.41492, F.S.; authorizing the use of proceeds from
24 the water treatment plant upgrade fee to pay for
25 specified mitigation projects; requiring proceeds from
26 the water treatment plant upgrade fee to be
27 transferred by the Department of Revenue to the South
28 Florida Water Management District and deposited into
29 the Lake Belt Mitigation Trust Fund for a specified

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30 period of time; providing, after that period, for the
31 proceeds of the water treatment plant upgrade fee to
32 return to being transferred by the Department of
33 Revenue to a trust fund established by Miami-Dade
34 County for specified purposes; conforming a term;
35 amending s. 373.707, F.S.; providing an additional
36 weighting factor that the governing board may consider
37 when determining which alternative water supply
38 projects to select for financial assistance; directing
39 each water management district to consult with the
40 Department of Environmental Protection to examine
41 options for improving the coordination between the
42 consumptive use permitting process and the water
43 supply planning process by extending and reconciling
44 certain permitting provisions; requiring each water
45 management district to provide a report to the
46 Governor and the Legislature; providing an effective
47 date.

48
49 Be It Enacted by the Legislature of the State of Florida:

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51 Section 1. Subsection (1) of section 373.019, Florida
52 Statutes, is amended to read:

53 373.019 Definitions.—When appearing in this chapter or in
54 any rule, regulation, or order adopted pursuant thereto, the
55 term:

56 (1) "Alternative water supplies" means salt water; brackish
57 surface and groundwater; surface water captured predominately
58 during wet-weather flows; sources made available through the

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59 addition of new storage capacity for surface or groundwater;
60 water that has been reclaimed after one or more public supply,
61 municipal, industrial, commercial, or agricultural uses; the
62 downstream augmentation of water bodies with reclaimed water;
63 stormwater; and any other water supply source that is designated
64 as nontraditional for a water supply planning region in the
65 applicable regional water supply plan. The term does not include
66 nonbrackish groundwater supply development.

67 Section 2. Subsections (4), (6), and (7) of section
68 373.236, Florida Statutes, are amended, and subsection (8) is
69 added to that section, to read:

70 373.236 Duration of permits; compliance reports.-

71 (4) Where necessary to maintain reasonable assurance that
72 the conditions for issuance of a 20-year permit can continue to
73 be met, the governing board or department, in addition to any
74 conditions required pursuant to s. 373.219, may require a
75 compliance report by the permittee every 10 years during the
76 term of a permit. This review shall be limited to a 3-month
77 period from the 10-year date. During the review, the department
78 or governing board may make only one request for additional
79 information. The Suwannee River Water Management District may
80 require a compliance report by the permittee every 5 years
81 through July 1, 2015, and thereafter every 10 years during the
82 term of the permit. This review shall be limited to a 3-month
83 period from the 10-year date. During the review, the department
84 or governing board may make only one request for additional
85 information. This report shall contain sufficient data to
86 maintain reasonable assurance that the initial conditions for
87 permit issuance are met. Following review of this report, the

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88 governing board or the department may modify the permit to
89 ensure that the use meets the conditions for issuance. Permit
90 modifications pursuant to this subsection shall not be subject
91 to competing applications, provided there is no increase in the
92 permitted allocation or permit duration, and no change in
93 source, except for changes in source requested by the district.
94 This subsection shall not be construed to limit the existing
95 authority of the department or the governing board to modify or
96 revoke a consumptive use permit.

97 (6) (a) The Legislature finds that the need for alternative
98 water supply development projects to meet anticipated public
99 water supply demands of the state is so important that it is
100 essential to encourage participation in and contribution to
101 these projects by private-rural-land owners who
102 characteristically have relatively modest near-term water
103 demands but substantially increasing demands after the 20-year
104 planning period in s. 373.709. Therefore, where such landowners
105 make extraordinary contributions of lands or construction
106 funding to enable the expeditious implementation of such
107 projects, the governing board ~~water management districts~~ and the
108 department may grant permits for such projects for a period of
109 up to 50 years to municipalities, counties, special districts,
110 regional water supply authorities, multijurisdictional water
111 supply entities, and publicly or privately owned utilities, with
112 the exception of any publicly or privately owned utilities
113 created for or by a private landowner after April 1, 2008, which
114 have entered into an agreement with the private landowner for
115 the purpose of more efficiently pursuing alternative public
116 water supply development projects identified in a district's

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117 regional water supply plan and meeting water demands of both the
118 applicant and the landowner.

119 (b) A permit under paragraph (a) may be granted only for
120 that period for which there is sufficient data to provide
121 reasonable assurance that the conditions for permit issuance
122 will be met. Such a permit shall require a compliance report by
123 the permittee every 10 ~~5~~ years during the term of the permit.
124 The report shall contain sufficient data to maintain reasonable
125 assurance that the conditions for permit issuance applicable at
126 the time of district review of the compliance report are met.
127 After review of this report, the governing board or the
128 department may modify the permit to ensure that the use meets
129 the conditions for issuance. This subsection does not limit the
130 existing authority of the department or the governing board to
131 modify or revoke a consumptive use permit.

132 (7) A permit approved for a renewable energy generating
133 facility or the cultivation of agricultural products on lands
134 consisting of 1,000 acres or more for use in the production of
135 renewable energy, as defined in s. 366.91(2)(d), shall be
136 granted for a term of at least 25 years at the applicant's
137 request based on the anticipated life of the facility if there
138 is sufficient data to provide reasonable assurance that the
139 conditions for permit issuance will be met for the duration of
140 the permit; otherwise, a permit may be issued for a shorter
141 duration if requested by the applicant ~~that reflects the longest~~
142 ~~period for which such reasonable assurances are provided. Such a~~
143 ~~permit is subject to compliance reports under subsection (4).~~

144 (8) If requested by an existing consumptive use
145 permitholder, the governing board shall modify the permit to

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146 bring it into compliance with this section.

147 Section 3. Present subsections (4), (5), and (6) of section
148 373.250, Florida Statutes, are renumbered as subsections (5),
149 (6), and (7), respectively, and a new subsection (4) is added to
150 that section, to read:

151 373.250 Reuse of reclaimed water.—

152 (4) (a) In evaluating an application for the consumptive use
153 of water, other than for an agricultural use on land that has
154 been classified as agricultural pursuant to s. 193.461, a water
155 management district shall recognize a mandatory reuse zone that
156 is created by the local government or a special district
157 pursuant to applicable law and that requires persons specified
158 by the local government or special district to connect to a
159 reclaimed water system for irrigation and other nonpotable uses,
160 as follows:

161 1. Where reclaimed water is available and technically and
162 environmentally feasible for the proposed use, the water
163 management district shall presume that reclaimed water is
164 economically feasible in a mandatory reuse zone, and an
165 applicant bears the burden of overcoming the presumption;

166 2. Any applicant in a mandatory reuse zone seeking
167 authorization for a nonpotable use shall consider the
168 feasibility of using available reclaimed water. This requirement
169 applies to all regulated water uses, regardless of type of
170 permit or authorization, excluding exemptions from permitting;
171 and

172 3. In a mandatory reuse zone, the use of reclaimed water
173 shall be prioritized over other water sources for nonpotable
174 uses and shall be required if determined to be technically,

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175 environmentally, and economically feasible.

176 (b) This subsection does not limit the ability of a reuse
177 utility, the local government, or a special district to restrict
178 the use of potable water supplied by the potable water
179 distribution system serving its customers for the purposes of
180 irrigation or other nonpotable uses that may be met by reclaimed
181 water. This subsection does not affect the authority of a water
182 management district to consider the feasibility of using
183 reclaimed water in any permit application for the agricultural
184 use of water.

185 Section 4. Section 373.2234, Florida Statutes, is amended
186 to read:

187 373.2234 Preferred water supply sources.—The governing
188 board of a water management district is authorized to adopt
189 rules that identify preferred water supply sources for
190 consumptive uses for which there is sufficient data to establish
191 that a preferred source will provide a substantial new water
192 supply to meet the existing and projected reasonable-beneficial
193 uses of a water supply planning region identified pursuant to s.
194 373.709(1), while sustaining existing water resources and
195 natural systems. At a minimum, such rules must contain a
196 description of the preferred water supply source and an
197 assessment of the water the preferred source is projected to
198 produce. If an applicant proposes to use a preferred water
199 supply source, that applicant's proposed water use is subject to
200 s. 373.223(1), except that the proposed use of a preferred water
201 supply source must be considered by a water management district
202 when determining whether a permit applicant's proposed use of
203 water is consistent with the public interest pursuant to s.

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204 373.223(1)(c). A consumptive use permit issued for the use of a
205 preferred water supply source must be granted, when requested by
206 the applicant, for at least a 20-year period ~~and may be subject~~
207 ~~to the compliance reporting provisions of s. 373.236(4)~~. Nothing
208 in this section shall be construed to exempt the use of
209 preferred water supply sources from the provisions of ss.
210 373.016(4) and 373.223(2) and (3), or be construed to provide
211 that permits issued for the use of a nonpreferred water supply
212 source must be issued for a duration of less than 20 years or
213 that the use of a nonpreferred water supply source is not
214 consistent with the public interest. Additionally, nothing in
215 this section shall be interpreted to require the use of a
216 preferred water supply source or to restrict or prohibit the use
217 of a nonpreferred water supply source. Rules adopted by the
218 governing board of a water management district to implement this
219 section shall specify that the use of a preferred water supply
220 source is not required and that the use of a nonpreferred water
221 supply source is not restricted or prohibited.

222 Section 5. Subsection (4) of section 373.243, Florida
223 Statutes, is amended to read:

224 373.243 Revocation of permits.—The governing board or the
225 department may revoke a permit as follows:

226 (4) For nonuse of the water supply allowed by the permit
227 for a period of 2 years or more, the governing board or the
228 department may revoke the permit permanently and in whole unless
229 the user can prove that his or her nonuse was due to extreme
230 hardship caused by factors beyond the user's control. For a
231 permit issued pursuant to s. 373.236(5)~~(7)~~, the governing board
232 or the department may revoke the permit only if the nonuse of

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233 the water supply allowed by the permit is for a period of 4
234 years or more.

235 Section 6. Subsections (2) and (3), paragraph (a) of
236 subsection (4), and paragraph (a) of subsection (6) of section
237 373.41492, Florida Statutes, are amended to read:

238 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
239 mitigation for mining activities within the Miami-Dade County
240 Lake Belt.—

241 (2) To provide for the mitigation of wetland resources lost
242 to mining activities within the Miami-Dade County Lake Belt
243 Plan, effective October 1, 1999, a mitigation fee is imposed on
244 each ton of limerock and sand extracted by any person who
245 engages in the business of extracting limerock or sand from
246 within the Miami-Dade County Lake Belt Area and the east one-
247 half of sections 24 and 25 and all of sections 35 and 36,
248 Township 53 South, Range 39 East. The mitigation fee is imposed
249 for each ton of limerock and sand sold from within the
250 properties where the fee applies in raw, processed, or
251 manufactured form, including, but not limited to, sized
252 aggregate, asphalt, cement, concrete, and other limerock and
253 concrete products. The mitigation fee imposed by this subsection
254 for each ton of limerock and sand sold shall be 12 cents per ton
255 beginning January 1, 2007; 18 cents per ton beginning January 1,
256 2008; 24 cents per ton beginning January 1, 2009; and 45 cents
257 per ton beginning close of business December 31, 2011. To pay
258 for seepage mitigation projects, including hydrological
259 structures, as authorized in an environmental resource permit
260 issued by the department for mining activities within the Miami-
261 Dade County Lake Belt Area, and to upgrade a water treatment

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262 plant that treats water coming from the Northwest Wellfield in
263 Miami-Dade County, a water treatment plant upgrade fee is
264 imposed within the same Lake Belt Area subject to the mitigation
265 fee and upon the same kind of mined limerock and sand subject to
266 the mitigation fee. The water treatment plant upgrade fee
267 imposed by this subsection for each ton of limerock and sand
268 sold shall be 15 cents per ton beginning on January 1, 2007, and
269 the collection of this fee shall cease once the total amount of
270 proceeds collected for this fee reaches the amount of the actual
271 moneys necessary to design and construct the water treatment
272 plant upgrade, as determined in an open, public solicitation
273 process. Any limerock or sand that is used within the mine from
274 which the limerock or sand is extracted is exempt from the fees.
275 The amount of the mitigation fee and the water treatment plant
276 upgrade fee imposed under this section must be stated separately
277 on the invoice provided to the purchaser of the limerock or sand
278 product from the limerock or sand miner, or its subsidiary or
279 affiliate, for which the fee or fees apply. The limerock or sand
280 miner, or its subsidiary or affiliate, who sells the limerock or
281 sand product shall collect the mitigation fee and the water
282 treatment plant upgrade fee and forward the proceeds of the fees
283 to the Department of Revenue on or before the 20th day of the
284 month following the calendar month in which the sale occurs. As
285 used in this section, the term "proceeds of the fee" means all
286 funds collected and received by the Department of Revenue under
287 this section, including interest and penalties on delinquent
288 fees. The amount deducted for administrative costs may not
289 exceed 3 percent of the total revenues collected under this
290 section and may equal only those administrative costs reasonably

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291 attributable to the fees.

292 (3) The mitigation fee and the water treatment plant
293 upgrade fee imposed by this section must be reported to the
294 Department of Revenue. Payment of the mitigation and the water
295 treatment plant upgrade fees must be accompanied by a form
296 prescribed by the Department of Revenue. The proceeds of the
297 mitigation fee, less administrative costs, must be transferred
298 by the Department of Revenue to the South Florida Water
299 Management District and deposited into the Lake Belt Mitigation
300 Trust Fund. Beginning January 1, 2012, and ending December 31,
301 2017, or upon issuance of water quality certification by the
302 department for mining activities within Phase II of the Miami-
303 Dade County Lake Belt Plan, whichever occurs later, the proceeds
304 of the water treatment plant upgrade fee, less administrative
305 costs, must be transferred by the Department of Revenue to the
306 South Florida Water Management District and deposited into the
307 Lake Belt Mitigation Trust Fund. Beginning January 1, 2018, the
308 proceeds of the water treatment plant upgrade fee, less
309 administrative costs, must be transferred by the Department of
310 Revenue to a trust fund established by Miami-Dade County, for
311 the sole purpose authorized by paragraph (6) (a). ~~As used in this~~
312 ~~section, the term "proceeds of the fee" means all funds~~
313 ~~collected and received by the Department of Revenue under this~~
314 ~~section, including interest and penalties on delinquent fees.~~
315 ~~The amount deducted for administrative costs may not exceed 3~~
316 ~~percent of the total revenues collected under this section and~~
317 ~~may equal only those administrative costs reasonably~~
318 ~~attributable to the fees.~~

319 (4) (a) The Department of Revenue shall administer, collect,

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320 and enforce the mitigation and water treatment plant upgrade
321 fees authorized under this section in accordance with the
322 procedures used to administer, collect, and enforce the general
323 sales tax imposed under chapter 212. The provisions of chapter
324 212 with respect to the authority of the Department of Revenue
325 to audit and make assessments, the keeping of books and records,
326 and the interest and penalties imposed on delinquent fees apply
327 to this section. The fees may not be included in computing
328 estimated taxes under s. 212.11, and the dealer's credit for
329 collecting taxes or fees provided for in s. 212.12 does not
330 apply to the fees imposed by this section.

331 (6) (a) The proceeds of the mitigation fee must be used to
332 conduct mitigation activities that are appropriate to offset the
333 loss of the value and functions of wetlands as a result of
334 mining activities and must be used in a manner consistent with
335 the recommendations contained in the reports submitted to the
336 Legislature by the Miami-Dade County Lake Belt Plan
337 Implementation Committee and adopted under s. 373.4149. Such
338 mitigation may include the purchase, enhancement, restoration,
339 and management of wetlands and uplands, the purchase of
340 mitigation credit from a permitted mitigation bank, and any
341 structural modifications to the existing drainage system to
342 enhance the hydrology of the Miami-Dade County Lake Belt Area.
343 Funds may also be used to reimburse other funding sources,
344 including the Save Our Rivers Land Acquisition Program, the
345 Internal Improvement Trust Fund, the South Florida Water
346 Management District, and Miami-Dade County, for the purchase of
347 lands that were acquired in areas appropriate for mitigation due
348 to rock mining and to reimburse governmental agencies that

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349 exchanged land under s. 373.4149 for mitigation due to rock
350 mining. The proceeds of the water treatment plant upgrade fee
351 that are deposited into the Lake Belt Mitigation Trust Fund
352 shall be used solely to pay for seepage mitigation projects,
353 including groundwater or surface water management structures, as
354 authorized in an environmental resource permit issued by the
355 department for mining activities within the Miami-Dade County
356 Lake Belt Area. The proceeds of the water treatment plant
357 upgrade fee that are transferred to a trust fund established by
358 Miami-Dade County shall be used to upgrade a water treatment
359 plant that treats water coming from the Northwest Wellfield in
360 Miami-Dade County. As used in this section, the terms "upgrade a
361 water treatment plant" or "water treatment plant upgrade" means
362 those works necessary to treat or filter a surface water source
363 or supply or both.

364 Section 7. Paragraph (f) of subsection (8) of section
365 373.707, Florida Statutes, is amended to read:

366 373.707 Alternative water supply development.—

367 (8)

368 (f) The governing boards shall determine those projects
369 that will be selected for financial assistance. The governing
370 boards may establish factors to determine project funding;
371 however, significant weight shall be given to the following
372 factors:

373 1. Whether the project provides substantial environmental
374 benefits by preventing or limiting adverse water resource
375 impacts.

376 2. Whether the project reduces competition for water
377 supplies.

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378 3. Whether the project brings about replacement of
379 traditional sources in order to help implement a minimum flow or
380 level or a reservation.

381 4. Whether the project will be implemented by a consumptive
382 use permittee that has achieved the targets contained in a goal-
383 based water conservation program approved pursuant to s.
384 373.227.

385 5. The quantity of water supplied by the project as
386 compared to its cost.

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

389 7. Whether the project will be implemented by a
390 multijurisdictional water supply entity or regional water supply
391 authority.

392 8. Whether the project implements reuse that assists in the
393 elimination of domestic wastewater ocean outfalls as provided in
394 s. 403.086(9).

395 9. Whether the county or municipality, or the multiple
396 counties or municipalities, in which the project is located has
397 implemented a high-water recharge protection tax assessment
398 program as provided in s. 193.625.

399 10. Whether the project provides additional storage
400 capacity of surface water flows to ensure sustainability of the
401 public water supply.

402 Section 8. In consultation with the Department of
403 Environmental Protection, each water management district is
404 directed to examine options for improving the coordination
405 between the consumptive use permitting process under part II of
406 chapter 373, Florida Statutes, and the water supply planning

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407 process under part VII of chapter 373, Florida Statutes, by
408 extending and reconciling the duration of issued consumptive use
409 permits to provide for the simultaneous expiration and renewal
410 of the permits, at the request of an applicant, on a rolling
411 basin-specific basis. Each water management district shall
412 report its findings and recommendations to the Governor, the
413 President of the Senate, and the Speaker of the House of
414 Representatives by January 1, 2012. This section does not affect
415 the term of any consumptive use permit issued in accordance with
416 Florida law.

417 Section 9. This act shall take effect July 1, 2011.