

By Senator Evers

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1 A bill to be entitled
2 An act relating to permitting of consumptive uses of
3 water; amending s. 373.016, F.S.; conforming a cross-
4 reference; amending s. 373.223, F.S.; prohibiting the
5 governing board of a water management district or the
6 Department of Environmental Protection from requiring
7 a county or municipality to adopt any resolution or
8 ordinance or require review or approval of the
9 resolution or ordinance as a condition for a permit;
10 limiting the requests for additional information by a
11 district or the department after initial notification
12 of an error or omission in a permit application;
13 amending s. 373.227, F.S.; removing provisions that
14 give a public water supply utility latitude in
15 selecting a rate structure and provide limited review
16 of the rate designed to promote efficient use of
17 water; amending s. 373.229, F.S.; conforming a cross-
18 reference; amending s. 373.236, F.S.; requiring
19 permits to be granted for not less than 20 years when
20 the conditions of issuance are met; adding the
21 condition of at least 50 percent of alternative
22 supplies to the requirement for granting permits for a
23 term of at least 20 years; amending s. 373.250, F.S.;
24 adding a legislative finding; specifying that ch. 373,
25 F.S., does authorize a water management district to
26 restrict the use of, or require a permit for,
27 reclaimed water; amending ss. 373.701, 373.709, and
28 373.713, F.S.; conforming a cross-reference; providing
29 an effective date.

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

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33 Section 1. Paragraph (a) of subsection (4) of section
34 373.016, Florida Statutes, is amended to read:

35 373.016 Declaration of policy.—

36 (4) (a) Because water constitutes a public resource
37 benefiting the entire state, it is the policy of the Legislature
38 that the waters in the state be managed on a state and regional
39 basis. Consistent with this directive, the Legislature
40 recognizes the need to allocate water throughout the state so as
41 to meet all reasonable-beneficial uses. However, the Legislature
42 acknowledges that such allocations have in the past adversely
43 affected the water resources of certain areas in this state. To
44 protect such water resources and to meet the current and future
45 needs of those areas with abundant water, the Legislature
46 directs the department and the water management districts to
47 encourage the use of water from sources nearest the area of use
48 or application whenever practicable. Such sources shall include
49 all naturally occurring water sources and all alternative water
50 sources, including, but not limited to, desalination,
51 conservation, reuse of nonpotable reclaimed water and
52 stormwater, and aquifer storage and recovery. Reuse of potable
53 reclaimed water and stormwater shall not be subject to the
54 evaluation described in s. 373.223(5)~~(3)~~(a)-(g). However, this
55 directive to encourage the use of water, whenever practicable,
56 from sources nearest the area of use or application shall not
57 apply to the transport and direct and indirect use of water
58 within the area encompassed by the Central and Southern Florida

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59 Flood Control Project, nor shall it apply anywhere in the state
60 to the transport and use of water supplied exclusively for
61 bottled water as defined in s. 500.03(1)(d), nor shall it apply
62 to the transport and use of reclaimed water for electrical power
63 production by an electric utility as defined in section
64 366.02(2).

65 Section 2. Present subsections (2), (3), (4), and (5) of
66 section 373.223, Florida Statutes, are redesignated as
67 subsections (4), (5), (6), and (7), respectively, and new
68 subsections (2) and (3) are added to that section, and present
69 subsection (5) of that section is amended, to read:

70 373.223 Conditions for a permit.—

71 (2) The governing board or department may not require a
72 county or municipality to adopt any resolution or ordinance as a
73 condition for obtaining a permit. Additionally, the governing
74 board or department may not require a county or municipality to
75 submit ordinances for review or approval by the board or
76 department as a condition for obtaining a permit.

77 (3) Notwithstanding s. 120.60(1), the governing board or
78 department may not request additional information from an
79 applicant more than once after the initial notification of error
80 or omission within the first 30 days after receipt of the
81 application unless the applicant waives this restriction.

82 (7)~~(5)~~ In evaluating an application for consumptive use of
83 water which proposes the use of an alternative water supply
84 project as described in the regional water supply plan and
85 provides reasonable assurances of the applicant's capability to
86 design, construct, operate, and maintain the project, the
87 governing board or department shall presume that the alternative

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88 water supply use is consistent with the public interest under
89 paragraph (1)(c). However, where the governing board identifies
90 the need for a multijurisdictional water supply entity or
91 regional water supply authority to develop the alternative water
92 supply project pursuant to s. 373.709(2)(a)2., the presumption
93 shall be accorded only to that use proposed by such entity or
94 authority. This subsection does not affect ~~effect~~ evaluation of
95 the use pursuant to the provisions of paragraphs (1)(a) and (b),
96 subsections (4) ~~(2)~~ and (5) ~~(3)~~, and ss. 373.2295 and 373.233.

97 Section 3. Subsection (3) of section 373.227, Florida
98 Statutes, is amended to read:

99 373.227 Water conservation; legislative findings;
100 legislative intent; objectives; comprehensive statewide water
101 conservation program requirements.—

102 ~~(3) Regarding the use of water conservation or drought rate~~
103 ~~structures as a conservation practice, a water management~~
104 ~~district shall afford a public water supply utility wide~~
105 ~~latitude in selecting a rate structure and shall limit its~~
106 ~~review to whether the utility has provided reasonable assurance~~
107 ~~that the rate structure contains a schedule of rates designed to~~
108 ~~promote efficient use of water by providing economic incentives.~~
109 A water management district may ~~shall~~ not fix or revise rates.

110 Section 4. Subsection (3) of section 373.229, Florida
111 Statutes, is amended to read:

112 373.229 Application for permit.—

113 (3) In addition to the information required in subsection
114 (1), all permit applications filed with the governing board or
115 the department which propose the transport and use of water
116 across county boundaries shall include information pertaining to

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117 factors to be considered, pursuant to s. 373.223(5)~~(3)~~, unless
118 exempt under s. 373.713(9).

119 Section 5. Subsections (1) and (5) of section 373.236,
120 Florida Statutes, are amended to read:

121 373.236 Duration of permits; compliance reports.—

122 (1) Permits shall be granted for a period of 20 years, if
123 requested for that period of time, if there is sufficient data
124 to provide reasonable assurance that the conditions for permit
125 issuance will be met for the duration of the permit; otherwise,
126 permits may be issued for shorter durations which reflect the
127 period for which such reasonable assurances can be provided.
128 Permits shall be granted for a period of not less than 20 years
129 for any county or municipality or regional water supply
130 authority when the conditions of issuance are met. The governing
131 board or the department may base the duration of permits on a
132 reasonable system of classification according to source of
133 supply or type of use, or both.

134 (5) Permits approved for which the quantity of water
135 requested includes at least 50 percent of alternative supplies
136 or for the development of alternative water supplies shall be
137 granted for a term of at least 20 years. However, if the
138 permittee issues bonds for the construction of the project, upon
139 request of the permittee prior to the expiration of the permit,
140 that permit shall be extended for such additional time as is
141 required for the retirement of bonds, not including any
142 refunding or refinancing of such bonds, provided that the
143 governing board determines that the use will continue to meet
144 the conditions for the issuance of the permit. Such a permit is
145 subject to compliance reports under subsection (4).

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146 Section 6. Subsection (1) and paragraph (c) of subsection
147 (2) of section 373.250, Florida Statutes, are amended, present
148 subsection (6) of that section is renumbered as subsection (7),
149 and a new subsection (6) is added to that section, to read:

150 373.250 Reuse of reclaimed water.—

151 (1) The encouragement and promotion of water conservation
152 and reuse of reclaimed water, as defined by the department, are
153 state objectives and considered to be in the public interest.
154 The Legislature finds that the use of reclaimed water provided
155 by domestic wastewater treatment plants permitted and operated
156 under a reuse program approved by the department is
157 environmentally acceptable and not a threat to public health and
158 safety. The Legislature finds that reclaimed water is not water
159 or waters in the state as defined under s. 373.019(20), and
160 therefore not subject to the requirements for consumptive use
161 pursuant to this chapter.

162 (2)

163 (c) A water management district may require the use of
164 reclaimed water in lieu of surface water or groundwater when the
165 use of uncommitted reclaimed water is environmentally,
166 economically, and technically feasible and of such quality and
167 reliability as is necessary to the user. However, this paragraph
168 does not authorize a water management district to require a
169 provider of reclaimed water to redirect reclaimed water from one
170 user to another or to provide uncommitted water to a specific
171 user ~~if such water is anticipated to be used by the provider, or~~
172 ~~a different user selected by the provider, within a reasonable~~
173 ~~amount of time.~~

174 (6) This chapter does not authorize a water management

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175 district to restrict the use or application of reclaimed water
176 or to require a permit for the use of reclaimed water.

177 Section 7. Paragraph (a) of subsection (2) of section
178 373.701, Florida Statutes, is amended to read:

179 373.701 Declaration of policy.—It is declared to be the
180 policy of the Legislature:

181 (2) (a) Because water constitutes a public resource
182 benefiting the entire state, it is the policy of the Legislature
183 that the waters in the state be managed on a state and regional
184 basis. Consistent with this directive, the Legislature
185 recognizes the need to allocate water throughout the state so as
186 to meet all reasonable-beneficial uses. However, the Legislature
187 acknowledges that such allocations have in the past adversely
188 affected the water resources of certain areas in this state. To
189 protect such water resources and to meet the current and future
190 needs of those areas with abundant water, the Legislature
191 directs the department and the water management districts to
192 encourage the use of water from sources nearest the area of use
193 or application whenever practicable. Such sources shall include
194 all naturally occurring water sources and all alternative water
195 sources, including, but not limited to, desalination,
196 conservation, reuse of nonpotable reclaimed water and
197 stormwater, and aquifer storage and recovery. Reuse of potable
198 reclaimed water and stormwater shall not be subject to the
199 evaluation described in s. 373.223(5)~~(3)~~(a)-(g). However, this
200 directive to encourage the use of water, whenever practicable,
201 from sources nearest the area of use or application shall not
202 apply to the transport and direct and indirect use of water
203 within the area encompassed by the Central and Southern Florida

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204 Flood Control Project, nor shall it apply anywhere in the state
205 to the transport and use of water supplied exclusively for
206 bottled water as defined in s. 500.03(1)(d), nor shall it apply
207 to the transport and use of reclaimed water for electrical power
208 production by an electric utility as defined in s. 366.02(2).

209 Section 8. Subsection (7) of section 373.709, Florida
210 Statutes, is amended to read:

211 373.709 Regional water supply planning.—

212 (7) Nothing contained in the water supply development
213 component of a regional water supply plan shall be construed to
214 require local governments, government-owned or privately owned
215 water utilities, special districts, self-suppliers, regional
216 water supply authorities, multijurisdictional water supply
217 entities, or other water suppliers to select a water supply
218 development project identified in the component merely because
219 it is identified in the plan. Except as provided in s.
220 373.223(5)(3) and (7)(5), the plan may not be used in the review
221 of permits under part II of this chapter unless the plan or an
222 applicable portion thereof has been adopted by rule. However,
223 this subsection does not prohibit a water management district
224 from employing the data or other information used to establish
225 the plan in reviewing permits under part II, nor does it limit
226 the authority of the department or governing board under part
227 II.

228 Section 9. Subsection (9) of section 373.713, Florida
229 Statutes, is amended to read:

230 373.713 Regional water supply authorities.—

231 (9) Where a water supply authority exists pursuant to this
232 section or s. 373.715 under a voluntary interlocal agreement

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233 that is consistent with requirements in s. 373.715(1)(b) and
234 receives or maintains consumptive use permits under this
235 voluntary agreement consistent with the water supply plan, if
236 any, adopted by the governing board, such authority shall be
237 exempt from consideration by the governing board or department
238 of the factors specified in s. 373.223(5)~~(3)~~(a)-(g) and the
239 submissions required by s. 373.229(3). Such exemptions shall
240 apply only to water sources within the jurisdictional areas of
241 such voluntary water supply interlocal agreements.

242 Section 10. This act shall take effect July 1, 2011.