

By the Committees on Budget Subcommittee on General Government  
Appropriations; Community Affairs; and Environmental  
Preservation and Conservation; and Senator Hays

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1                   A bill to be entitled  
2           An act relating to water management; amending s.  
3           373.042, F.S.; requiring water management districts to  
4           include certain reservations and water bodies in  
5           priority lists and schedules; providing for the  
6           adoption of certain reservations and minimum flows and  
7           levels by the Department of Environmental Protection;  
8           requiring water management districts to apply, without  
9           adopting by rule, reservations, minimum flows and  
10          levels, and recovery and prevention strategies adopted  
11          by the department; amending s. 373.046, F.S.;  
12          authorizing water management districts to enter into  
13          interagency agreements for resource management  
14          activities, studies, or projects under specified  
15          conditions; requiring that the district providing the  
16          funding for an activity, study, or project ensure that  
17          some or all of the benefits accrue to the funding  
18          district; providing applicability; amending s.  
19          373.171, F.S.; exempting cooperative funding programs  
20          from certain rulemaking requirements; amending s.  
21          373.236, F.S.; specifying conditions for the issuance  
22          of permits for the development of alternative water  
23          supplies; requiring that certain permits be granted  
24          for at least 30 years; requiring that such permits be  
25          extended under specified conditions; providing for a  
26          reduction in permitted water quantities during  
27          compliance reviews under certain circumstances;  
28          excluding from application of the act a permit for  
29          nonbrackish groundwater or nonalternative water

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30 supplies; providing an option for the duration of an  
31 alternative water supply permit to a county, special  
32 district, regional water supply authority,  
33 multijurisdictional water supply entity, or publicly  
34 or privately owned utility; amending s. 373.605, F.S.;  
35 authorizing water management districts to provide  
36 group insurance for employees of other water  
37 management districts; removing obsolete provisions;  
38 amending s. 373.709, F.S., relating to regional water  
39 supply planning; removing a reference to the Southwest  
40 Florida Water Management District; requiring a  
41 regional water supply authority and the applicable  
42 water management district to jointly develop the water  
43 supply component of the regional water supply plan;  
44 creating the Study Committee on Investor-Owned Water  
45 and Wastewater Utility Systems; providing for  
46 membership and terms of service; prohibiting  
47 compensation of the members; providing for  
48 reimbursement of the members for certain expenses;  
49 providing for removal or suspension of members by the  
50 appointing authority; requiring the Public Service  
51 Commission to provide staff, information, assistance,  
52 and facilities that are deemed necessary for the  
53 committee to perform its duties; providing for funding  
54 from the Florida Public Service Regulatory Trust Fund;  
55 providing duties of the committee; providing for  
56 public meetings; requiring the committee to report its  
57 findings to the Governor, the Legislature, and  
58 appropriate agencies and make certain recommendations;

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59 providing for future termination of the committee;  
60 providing an effective date.

61  
62 Be It Enacted by the Legislature of the State of Florida:

63  
64 Section 1. Present subsections (4) and (5) of section  
65 373.042, Florida Statutes, are redesignated as subsections (5)  
66 and (6), respectively, a new subsection (4) is added to that  
67 section, and subsection (2) of that section is amended, to read:

68 373.042 Minimum flows and levels.—

69 (2) By November 15, 1997, and annually thereafter, each  
70 water management district shall submit to the department for  
71 review and approval a priority list and schedule for the  
72 establishment of minimum flows and levels for surface  
73 watercourses, aquifers, and surface waters within the district.  
74 The priority list and schedule shall ~~also~~ identify those listed  
75 water bodies for which the district will voluntarily undertake  
76 independent scientific peer review, any reservations proposed by  
77 the district to be established pursuant to s. 373.223(4), and  
78 those listed water bodies that have the potential to be affected  
79 by withdrawals in an adjacent district for which department  
80 adoption of a reservation pursuant to s. 373.223(4) or a minimum  
81 flow or level pursuant to subsection (1) may be appropriate. By  
82 March 1, 2006, and annually thereafter, each water management  
83 district shall include its approved priority list and schedule  
84 in the consolidated annual report required by s. 373.036(7). The  
85 priority list shall be based upon the importance of the waters  
86 to the state or region and the existence of or potential for  
87 significant harm to the water resources or ecology of the state

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88 or region, and shall include those waters which are experiencing  
89 or may reasonably be expected to experience adverse impacts.  
90 Each water management district's priority list and schedule  
91 shall include all first magnitude springs, and all second  
92 magnitude springs within state or federally owned lands  
93 purchased for conservation purposes. The specific schedule for  
94 establishment of spring minimum flows and levels shall be  
95 commensurate with the existing or potential threat to spring  
96 flow from consumptive uses. Springs within the Suwannee River  
97 Water Management District, or second magnitude springs in other  
98 areas of the state, need not be included on the priority list if  
99 the water management district submits a report to the Department  
100 of Environmental Protection demonstrating that adverse impacts  
101 are not now occurring nor are reasonably expected to occur from  
102 consumptive uses during the next 20 years. The priority list and  
103 schedule shall not be subject to any proceeding pursuant to  
104 chapter 120. Except as provided in subsection (3), the  
105 development of a priority list and compliance with the schedule  
106 for the establishment of minimum flows and levels pursuant to  
107 this subsection shall satisfy the requirements of subsection  
108 (1).

109 (4) A water management district shall provide the  
110 department with technical information and staff support for the  
111 development of a reservation, minimum flow or level, or recovery  
112 or prevention strategy to be adopted by rule by the department.  
113 A reservation, minimum flow or level, or recovery or prevention  
114 strategy adopted by rule by the department shall be applied by  
115 the water management districts without adoption of such  
116 reservation, minimum flow or level, or recovery or prevention

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117 strategy by rule.

118 Section 2. Subsection (7) is added to section 373.046,  
119 Florida Statutes, to read:

120 373.046 Interagency agreements.—

121 (7) If the geographic area of a resource management  
122 activity, study, or project crosses water management district  
123 boundaries, the affected districts may designate a single  
124 affected district to conduct all or part of the applicable  
125 resource management responsibilities under this chapter, with  
126 the exception of those regulatory responsibilities that are  
127 subject to subsection (6). If funding assistance is provided to  
128 a resource management activity, study, or project, the district  
129 providing the funding must ensure that some or all of the  
130 benefits accrue to the funding district. This subsection does  
131 not impair any interagency agreement in effect on July 1, 2012.

132 Section 3. Subsection (5) is added to section 373.171,  
133 Florida Statutes, to read:

134 373.171 Rules.—

135 (5) Cooperative funding programs are not subject to the  
136 rulemaking requirements of chapter 120. However, any portion of  
137 an approved program which affects the substantial interests of a  
138 party is subject to s. 120.569.

139 Section 4. Subsection (5) of section 373.236, Florida  
140 Statutes, is amended to read:

141 373.236 Duration of permits; compliance reports.—

142 (5)(a) Permits approved for the development of alternative  
143 water supplies shall be granted for a term of at least 20 years  
144 if there is sufficient data to provide reasonable assurance that  
145 the conditions for permit issuance will be met for the duration

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146 of the permit. However, if the permittee issues bonds for the  
147 construction of the project, upon request of the permittee  
148 before ~~prior to~~ the expiration of the permit, the ~~that~~ permit  
149 shall be extended for such additional time as is required for  
150 the retirement of bonds, not including any refunding or  
151 refinancing of such bonds, if ~~provided that~~ the governing board  
152 determines that the use will continue to meet the conditions for  
153 the issuance of the permit. Such a permit is subject to  
154 compliance reports under subsection (4).

155 (b)1. Permits approved on or after July 1, 2012, for the  
156 development of alternative water supplies shall be granted for a  
157 term of at least 30 years if there is sufficient data to provide  
158 reasonable assurance that the conditions for permit issuance  
159 will be met for the duration of the permit. If, within 7 years  
160 after a permit is granted, the permittee issues bonds to finance  
161 the project, completes construction of the project, and requests  
162 an extension of the permit duration, the permit shall be  
163 extended to expire upon the retirement of such bonds or 30 years  
164 after the date construction of the project is complete,  
165 whichever occurs later. However, a permit's duration may not be  
166 extended by more than 7 years beyond the permit's original  
167 expiration date. A 7-year permit extension, as described in this  
168 subparagraph, shall be applicable to any 30-year permit for the  
169 development of alternative water supplies granted between June  
170 1, 2011, and July 1, 2012.

171 2. Permits issued under this paragraph are subject to  
172 compliance reports under subsection (4). However, if the  
173 permittee demonstrates that bonds issued to finance the project  
174 are outstanding, the quantity of alternative water allocated in

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175 the permit may not be reduced during a compliance report review  
176 unless a reduction is needed to address unanticipated harm to  
177 water resources or to existing legal uses present when the  
178 permit was issued. A reduction required by an applicable water  
179 shortage order shall apply to permits issued under this  
180 paragraph.

181 3. Permits issued under this paragraph may not authorize  
182 the use of nonbrackish groundwater supplies or nonalternative  
183 water supplies.

184 (c) Entities that wish to develop alternative water  
185 supplies may apply for a permit under paragraph (a) or paragraph  
186 (b).

187 Section 5. Section 373.605, Florida Statutes, is amended to  
188 read:

189 373.605 Group insurance for water management districts.—

190 (1) The governing board of a ~~any~~ water management district  
191 ~~may is hereby authorized and empowered to~~ provide group  
192 insurance for its employees in the same manner and with the same  
193 provisions and limitations authorized for other public employees  
194 by ss. 112.08, 112.09, 112.10, 112.11, and 112.14.

195 (2) The governing board of a water management district may  
196 provide group insurance for its employees and the employees of  
197 another water management district in the same manner and with  
198 the same provisions and limitations authorized for other public  
199 employees by ss. 112.08, 112.09, 112.10, 112.11, and 112.14. Any  
200 ~~and all insurance agreements in effect as of October 1, 1974,~~  
201 ~~which conform to the provisions of this section are hereby~~  
202 ~~ratified.~~

203 Section 6. Subsection (3) of section 373.709, Florida

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204 Statutes, is amended to read:

205 373.709 Regional water supply planning.—

206 (3) The water supply development component of a regional  
207 water supply plan which deals with or affects public utilities  
208 and public water supply for those areas served by a regional  
209 water supply authority and its member governments ~~within the~~  
210 ~~boundary of the Southwest Florida Water Management District~~  
211 shall be developed jointly by the authority and the applicable  
212 water management district. In areas not served by regional water  
213 supply authorities, or other multijurisdictional water supply  
214 entities, and where opportunities exist to meet water supply  
215 needs more efficiently through multijurisdictional projects  
216 identified pursuant to paragraph (2) (a), water management  
217 districts are directed to assist in developing  
218 multijurisdictional approaches to water supply project  
219 development jointly with affected water utilities, special  
220 districts, and local governments.

221 Section 7. Study Committee on Investor-Owned Water and  
222 Wastewater Utility Systems.—

223 (1) There is created a Study Committee on Investor-Owned  
224 Water and Wastewater Utility Systems, which shall be composed of  
225 18 residents of the state designated and appointed as follows:

226 (a) The chair of the Public Service Commission or a  
227 commissioner designated by the chair, who shall serve as chair  
228 of the committee and shall be a nonvoting member of the  
229 committee.

230 (b) The Secretary of Environmental Protection or his or her  
231 designee, who shall be a nonvoting member of the committee.

232 (c) The Public Counsel or his or her designee, who shall be



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233 a nonvoting member of the committee.

234 (d) One member of the Senate appointed by the President of  
235 the Senate.

236 (e) One member of the House of Representatives appointed by  
237 the Speaker of the House of Representatives.

238 (f) Two representatives of Class A investor-owned water or  
239 wastewater utilities appointed by the Governor.

240 (g) One representative of a Class B investor-owned water or  
241 wastewater utility appointed by the Governor.

242 (h) One representative of a Class C investor-owned water or  
243 wastewater utility appointed by the Governor.

244 (i) One customer of a Class A investor-owned water or  
245 wastewater utility appointed by the Governor.

246 (j) One customer of a Class B or Class C investor-owned  
247 water or wastewater utility appointed by the Governor.

248 (k) One representative of a water management district  
249 appointed by the Governor.

250 (l) One representative of the Florida Section of the  
251 American Water Works Association appointed by the Governor.

252 (m) One representative of the Florida Rural Water  
253 Association appointed by the Governor.

254 (n) One representative of a water or wastewater system  
255 owned or operated by a municipal or county government appointed  
256 by the Governor.

257 (o) One representative of a governmental authority that is  
258 created pursuant to chapter 163, Florida Statutes, appointed by  
259 the Governor.

260 (p) The chair of a county commission that regulates  
261 investor-owned water or wastewater utility systems appointed by

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262 the Governor.

263 (q) One representative of a county health department  
264 appointed by the Governor.

265 (2) The members shall serve until the work of the committee  
266 is complete and the committee is terminated, except that if a  
267 member no longer serves in the position required for  
268 appointment, the member shall be replaced by the individual who  
269 serves in such position.

270 (3) Members of the committee shall serve without  
271 compensation, but are entitled to reimbursement for all  
272 reasonable and necessary expenses, including travel expenses, in  
273 the performance of their duties as provided in s. 112.061,  
274 Florida Statutes.

275 (4) An appointing authority may remove or suspend a member  
276 appointed by it for cause, including, but not limited to,  
277 failure to attend two or more meetings of the committee.

278 (5) The Public Service Commission shall provide the staff,  
279 information, assistance, and facilities as are deemed necessary  
280 for the committee to carry out its duties under this section.

281 Funding for the committee shall be paid from the Florida Public  
282 Service Regulatory Trust Fund.

283 (6) The committee shall identify issues of concern of  
284 investor-owned water and wastewater utility systems,  
285 particularly small systems, and their customers and research  
286 possible solutions. In addition, the committee shall consider:

287 (a) The ability of a small investor-owned water or  
288 wastewater utility to achieve economies of scale when purchasing  
289 equipment, commodities, or services.

290 (b) The availability of low interest loans to a small,

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291 privately owned water or wastewater utility.

292 (c) Any tax incentives or exemptions, temporary or  
293 permanent, which are available to a small water or wastewater  
294 utility.

295 (d) The impact on customer rates if a utility purchases an  
296 existing water or wastewater utility system.

297 (e) The impact on customer rates of a utility providing  
298 service through the use of a reseller.

299 (f) Other issues that the committee identifies during its  
300 investigation.

301 (7) The committee shall meet at the time and location as  
302 the chair determines, except that the committee shall meet a  
303 minimum of four times. At least two meetings must be held in an  
304 area that is centrally located to utility customers who have  
305 recently been affected by a significant increase in water or  
306 wastewater utility rates. The public shall be given the  
307 opportunity to speak at the meetings.

308 (8) By February 15, 2013, the committee shall prepare and  
309 submit to the Governor, the President of the Senate, and the  
310 Speaker of the House of Representatives a report detailing its  
311 findings pursuant to subsection (6) and making specific  
312 legislative recommendations, including proposed legislation  
313 intended to implement its recommendations. If the committee, in  
314 its report, finds that an issue may effectively be addressed  
315 through agency rulemaking, the committee shall submit to the  
316 appropriate agencies its report and recommendations, including  
317 proposed rules.

318 (9) This section expires and the committee terminates June  
319 30, 2013.

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Section 8. This act shall take effect July 1, 2012.