



841792

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/22/2015	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 928 - 1414

and insert:

(2) (a) If a minimum flow or minimum water level has not been adopted for an Outstanding Florida Spring, a water management district or the department shall use the emergency rulemaking authority provided in paragraph (c) to adopt a minimum flow or minimum water level no later than July 1, 2017, except for the Northwest Florida Water Management District,



841792

11 which shall use such authority to adopt minimum flows and
12 minimum water levels for Outstanding Florida Springs no later
13 than July 1, 2026.

14 (b) For Outstanding Florida Springs identified on a water
15 management district's priority list developed pursuant to
16 subsection (3) which have the potential to be affected by
17 withdrawals in an adjacent district, the adjacent district or
18 districts and the department shall collaboratively develop and
19 implement a recovery or prevention strategy for an Outstanding
20 Florida Spring not meeting an adopted minimum flow or minimum
21 water level.

22 (c) The Legislature finds as provided in s. 373.801(3) (b)
23 that the adoption of minimum flows and minimum water levels or
24 recovery or prevention strategies for Outstanding Florida
25 Springs requires immediate action. The department and the
26 districts are authorized, and all conditions are deemed to be
27 met, to use emergency rulemaking provisions pursuant to s.
28 120.54(4) to adopt minimum flows and minimum water levels
29 pursuant to this subsection and recovery or prevention
30 strategies adopted concurrently with a minimum flow or minimum
31 water level pursuant to s. 373.805(2).

32 (3)(2) By November 15, 1997, and annually thereafter, each
33 water management district shall submit to the department for
34 review and approval a priority list and schedule for the
35 establishment of minimum flows and minimum water levels for
36 surface watercourses, aquifers, and surface waters within the
37 district. The priority list and schedule shall identify those
38 listed water bodies for which the district will voluntarily
39 undertake independent scientific peer review; any reservations



841792

40 proposed by the district to be established pursuant to s.
41 373.223(4); and those listed water bodies that have the
42 potential to be affected by withdrawals in an adjacent district
43 for which the department's adoption of a reservation pursuant to
44 s. 373.223(4) or a minimum flow or minimum water level pursuant
45 to subsection (1) may be appropriate. By March 1, 2006, and
46 annually thereafter, each water management district shall
47 include its approved priority list and schedule in the
48 consolidated annual report required by s. 373.036(7). The
49 priority list shall be based upon the importance of the waters
50 to the state or region and the existence of or potential for
51 significant harm to the water resources or ecology of the state
52 or region, and shall include those waters which are experiencing
53 or may reasonably be expected to experience adverse impacts.
54 Each water management district's priority list and schedule
55 shall include all first magnitude springs, and all second
56 magnitude springs within state or federally owned lands
57 purchased for conservation purposes. The specific schedule for
58 establishment of spring minimum flows and minimum water levels
59 shall be commensurate with the existing or potential threat to
60 spring flow from consumptive uses. Springs within the Suwannee
61 River Water Management District, or second magnitude springs in
62 other areas of the state, need not be included on the priority
63 list if the water management district submits a report to the
64 Department of Environmental Protection demonstrating that
65 adverse impacts are not now occurring nor are reasonably
66 expected to occur from consumptive uses during the next 20
67 years. The priority list and schedule is not subject to any
68 proceeding pursuant to chapter 120. Except as provided in



841792

69 subsection (4) ~~(3)~~, the development of a priority list and
70 compliance with the schedule for the establishment of minimum
71 flows and minimum water levels pursuant to this subsection
72 satisfies the requirements of subsection (1).

73 ~~(4)~~ ~~(3)~~ Minimum flows or minimum water levels for priority
74 waters in the counties of Hillsborough, Pasco, and Pinellas
75 shall be established by October 1, 1997. Where a minimum flow or
76 minimum water level for the priority waters within those
77 counties has not been established by the applicable deadline,
78 the secretary of the department shall, if requested by the
79 governing body of any local government within whose jurisdiction
80 the affected waters are located, establish the minimum flow or
81 minimum water level in accordance with the procedures
82 established by this section. The department's reasonable costs
83 in establishing a minimum flow or minimum water level shall,
84 upon request of the secretary, be reimbursed by the district.

85 ~~(5)~~ ~~(4)~~ A water management district shall provide the
86 department with technical information and staff support for the
87 development of a reservation, minimum flow or minimum water
88 level, or recovery or prevention strategy to be adopted by the
89 department by rule. A water management district shall apply any
90 reservation, minimum flow or minimum water level, or recovery or
91 prevention strategy adopted by the department by rule without
92 the district's adoption by rule of such reservation, minimum
93 flow or minimum water level, or recovery or prevention strategy.

94 ~~(6)~~ ~~(5)~~ (a) Upon written request to the department or
95 governing board by a substantially affected person, or by
96 decision of the department or governing board, prior to the
97 establishment of a minimum flow or minimum water level and prior



841792

98 to the filing of any petition for administrative hearing related
99 to the minimum flow or minimum water level, all scientific or
100 technical data, methodologies, and models, including all
101 scientific and technical assumptions employed in each model,
102 used to establish a minimum flow or minimum water level shall be
103 subject to independent scientific peer review. Independent
104 scientific peer review means review by a panel of independent,
105 recognized experts in the fields of hydrology, hydrogeology,
106 limnology, biology, and other scientific disciplines, to the
107 extent relevant to the establishment of the minimum flow or
108 minimum water level.

109 (b) If independent scientific peer review is requested, it
110 shall be initiated at an appropriate point agreed upon by the
111 department or governing board and the person or persons
112 requesting the peer review. If no agreement is reached, the
113 department or governing board shall determine the appropriate
114 point at which to initiate peer review. The members of the peer
115 review panel shall be selected within 60 days of the point of
116 initiation by agreement of the department or governing board and
117 the person or persons requesting the peer review. If the panel
118 is not selected within the 60-day period, the time limitation
119 may be waived upon the agreement of all parties. If no waiver
120 occurs, the department or governing board may proceed to select
121 the peer review panel. The cost of the peer review shall be
122 borne equally by the district and each party requesting the peer
123 review, to the extent economically feasible. The panel shall
124 submit a final report to the governing board within 120 days
125 after its selection unless the deadline is waived by agreement
126 of all parties. Initiation of peer review pursuant to this



841792

127 paragraph shall toll any applicable deadline under chapter 120
128 or other law or district rule regarding permitting, rulemaking,
129 or administrative hearings, until 60 days following submittal of
130 the final report. Any such deadlines shall also be tolled for 60
131 days following withdrawal of the request or following agreement
132 of the parties that peer review will no longer be pursued. The
133 department or the governing board shall give significant weight
134 to the final report of the peer review panel when establishing
135 the minimum flow or minimum water level.

136 (c) If the final data, methodologies, and models, including
137 all scientific and technical assumptions employed in each model
138 upon which a minimum flow or level is based, have undergone peer
139 review pursuant to this subsection, by request or by decision of
140 the department or governing board, no further peer review shall
141 be required with respect to that minimum flow or minimum water
142 level.

143 (d) No minimum flow or minimum water level adopted by rule
144 or formally noticed for adoption on or before May 2, 1997, shall
145 be subject to the peer review provided for in this subsection.

146 (7)~~(6)~~ If a petition for administrative hearing is filed
147 under chapter 120 challenging the establishment of a minimum
148 flow or minimum water level, the report of an independent
149 scientific peer review conducted under subsection (5) ~~(4)~~ is
150 admissible as evidence in the final hearing, and the
151 administrative law judge must render the order within 120 days
152 after the filing of the petition. The time limit for rendering
153 the order shall not be extended except by agreement of all the
154 parties. To the extent that the parties agree to the findings of
155 the peer review, they may stipulate that those findings be



841792

156 incorporated as findings of fact in the final order.

157 (8) The rules adopted pursuant to this section are not
158 subject to s. 120.541(3).

159 Section 11. Section 373.0421, Florida Statutes, is amended
160 to read:

161 373.0421 Establishment and implementation of minimum flows
162 and minimum levels.—

163 (1) ESTABLISHMENT.—

164 (a) *Considerations.*—When establishing minimum flows and
165 minimum water levels pursuant to s. 373.042, the department or
166 governing board shall consider changes and structural
167 alterations to watersheds, surface waters, and aquifers and the
168 effects such changes or alterations have had, and the
169 constraints such changes or alterations have placed, on the
170 hydrology of an affected watershed, surface water, or aquifer,
171 provided that nothing in this paragraph shall allow significant
172 harm as provided by s. 373.042(1) caused by withdrawals.

173 (b) *Exclusions.*—

174 1. The Legislature recognizes that certain water bodies no
175 longer serve their historical hydrologic functions. The
176 Legislature also recognizes that recovery of these water bodies
177 to historical hydrologic conditions may not be economically or
178 technically feasible, and that such recovery effort could cause
179 adverse environmental or hydrologic impacts. Accordingly, the
180 department or governing board may determine that setting a
181 minimum flow or minimum water level for such a water body based
182 on its historical condition is not appropriate.

183 2. The department or the governing board is not required to
184 establish minimum flows or minimum water levels pursuant to s.



841792

185 373.042 for surface water bodies less than 25 acres in area,
186 unless the water body or bodies, individually or cumulatively,
187 have significant economic, environmental, or hydrologic value.

188 3. The department or the governing board shall not set
189 minimum flows or minimum water levels pursuant to s. 373.042 for
190 surface water bodies constructed prior to the requirement for a
191 permit, or pursuant to an exemption, a permit, or a reclamation
192 plan which regulates the size, depth, or function of the surface
193 water body under the provisions of this chapter, chapter 378, or
194 chapter 403, unless the constructed surface water body is of
195 significant hydrologic value or is an essential element of the
196 water resources of the area.

197
198 The exclusions of this paragraph shall not apply to the
199 Everglades Protection Area, as defined in s. 373.4592(2)(i).

200 (2) If the existing flow or water level in a water body is
201 below, or is projected to fall within 20 years below, the
202 applicable minimum flow or minimum water level established
203 pursuant to s. 373.042, the department or governing board,
204 concurrent with the adoption of the minimum flow or minimum
205 water level and as part of the regional water supply plan
206 described in s. 373.709, shall adopt and ~~expeditiously~~ implement
207 a recovery or prevention strategy, which includes the
208 development of additional water supplies and other actions,
209 consistent with the authority granted by this chapter, to:

210 (a) Achieve recovery to the established minimum flow or
211 minimum water level as soon as practicable; or

212 (b) Prevent the existing flow or water level from falling
213 below the established minimum flow or minimum water level.



841792

214
215 The recovery or prevention strategy must ~~shall~~ include a phased-
216 in approach ~~phasing~~ or a timetable which will allow for the
217 provision of sufficient water supplies for all existing and
218 projected reasonable-beneficial uses, including development of
219 additional water supplies and implementation of conservation and
220 other efficiency measures concurrent with and, to the maximum
221 extent practical, ~~and~~ to offset, reductions in permitted
222 withdrawals, consistent with ~~the provisions of~~ this chapter. The
223 recovery or prevention strategy may not depend solely on water
224 shortage restrictions declared pursuant to s. 373.175 or s.
225 373.246.

226 (3) In order to ensure that sufficient water is available
227 for all existing and future reasonable-beneficial uses and the
228 natural systems, the applicable regional water supply plan
229 prepared pursuant to s. 373.709 shall be amended to include any
230 water supply development project or water resource development
231 project identified in a recovery or prevention strategy. Such
232 amendment shall be approved concurrently with relevant portions
233 of the recovery or prevention strategy.

234 (4) The water management district shall notify the
235 department if an application for a water use permit is denied
236 based upon the impact that the use will have on an adopted
237 minimum flow or minimum water level. Upon receipt of such
238 notice, the department shall, as soon as practicable and in
239 cooperation with the water management district, conduct a review
240 of the applicable regional water supply plan prepared pursuant
241 to s. 373.709. Such review shall include an assessment by the
242 department of the adequacy of the plan in addressing the



841792

243 legislative intent of s. 373.705(2)(b) which provides that
244 sufficient water be available for all existing and future
245 reasonable-beneficial uses and natural systems and that the
246 adverse effects of competition for water supplies be avoided. If
247 the department determines, based upon this review, that the
248 regional water supply plan does not adequately address the
249 legislative intent of s. 373.705(2)(b), the water management
250 district shall immediately initiate an update of the plan
251 consistent with s. 373.709.

252 (5)(3) The provisions of this section are supplemental to
253 any other specific requirements or authority provided by law.
254 Minimum flows and minimum water levels shall be reevaluated
255 periodically and revised as needed.

256 Section 12. Section 373.0465, Florida Statutes, is created
257 to read:

258 373.0465 Central Florida Water Initiative.-

259 (1) The Legislature finds that:

260 (a) Historically, the Floridan Aquifer system has supplied
261 the vast majority of the water used in the Central Florida
262 Coordination Area.

263 (b) Because the boundaries of the St. Johns River Water
264 Management District, the South Florida Water Management
265 District, and the Southwest Florida Water Management District
266 meet within the Central Florida Coordination Area, the three
267 districts and the Department of Environmental Protection have
268 worked cooperatively to determine that the Floridan Aquifer
269 system is locally approaching the sustainable limits of use and
270 are exploring the need to develop sources of water to meet the
271 long-term water needs of the area.



841792

272 (c) The Central Florida Water Initiative is a collaborative
273 process involving the Department of Environmental Protection,
274 the St. Johns River Water Management District, the South Florida
275 Water Management District, the Southwest Florida Water
276 Management District, the Department of Agriculture and Consumer
277 Services, regional public water supply utilities, and other
278 stakeholders. As set forth in the Central Florida Water
279 Initiative Guiding Document of January 30, 2015, the initiative
280 has developed an initial framework for a unified process to
281 address the current and long-term water supply needs of Central
282 Florida without causing harm to the water resources and
283 associated natural systems.

284 (d) Developing water sources as an alternative to continued
285 reliance on the Floridan Aquifer will benefit existing and
286 future water users and natural systems within and beyond the
287 boundaries of the Central Florida Water Initiative.

288 (2) (a) As used in this section, the term "Central Florida
289 Water Initiative Area" means all of Orange, Osceola, Polk, and
290 Seminole Counties, and southern Lake County, as designated by
291 the Central Florida Water Initiative Guiding Document of January
292 30, 2015.

293 (b) The department, the St. Johns River Water Management
294 District, the South Florida Water Management District, the
295 Southwest Florida Water Management District, and the Department
296 of Agriculture and Consumer Services shall:

297 1. Provide for a continuation of the collaborative process
298 in the Central Florida Water Initiative Area among the state
299 agencies, affected water management districts, regional public
300 water supply utilities, and other stakeholders;



841792

301 2. Build upon the guiding principles and goals set forth in
302 the Central Florida Water Initiative Guiding Document of January
303 30, 2015, and the work that has already been accomplished by the
304 Central Florida Water Initiative participants;

305 3. Develop and implement, as set forth in the Central
306 Florida Water Initiative Guiding Document of January 30, 2015, a
307 single multidistrict regional water supply plan, including any
308 needed recovery or prevention strategies and a list of water
309 supply development projects or water resource projects; and

310 4. Provide for a single hydrologic planning model to assess
311 the availability of groundwater in the Central Florida Water
312 Initiative Area.

313 (c) In developing the water supply planning program
314 consistent with the goals set forth in this subsection, the
315 department, the St. Johns River Water Management District, the
316 South Florida Water Management District, the Southwest Florida
317 Water Management District, and the Department of Agriculture and
318 Consumer Services shall:

319 1. Consider limitations on groundwater use together with
320 opportunities for new, increased, or redistributed groundwater
321 uses that are consistent with the conditions established under
322 s. 373.223;

323 2. Establish a coordinated process for the identification
324 of water resources requiring new or revised conditions
325 consistent with the conditions established under s. 373.223;

326 3. Consider existing recovery or prevention strategies;

327 4. Include a list of water supply options sufficient to
328 meet the water needs of all existing and future reasonable-
329 beneficial uses consistent with the conditions established under



841792

330 s. 373.223; and
331 5. Identify, as necessary, which of the water supply
332 sources are preferred water supply sources pursuant to s.
333 373.2234.
334 (d) The department, in consultation with the St. Johns
335 River Water Management District, the South Florida Water
336 Management District, the Southwest Florida Water Management
337 District, and the Department of Agriculture and Consumer
338 Services, shall adopt uniform rules for application within the
339 Central Florida Water Initiative Area that include:
340 1. A single, uniform definition of "harmful to the water
341 resources" consistent with the term's usage in s. 373.219;
342 2. A single method for calculating residential per capita
343 water use;
344 3. A single process for permit reviews;
345 4. A single, consistent process, as appropriate, to set
346 minimum flows and minimum water levels and water reservations;
347 5. A goal for residential per capita water use for each
348 consumptive use permit; and
349 6. An annual conservation goal for each consumptive use
350 permit consistent with the regional water supply plan.
351
352 The uniform rules shall include existing recovery strategies
353 within the Central Florida Water Initiative Area adopted before
354 July 1, 2015. The department may grant variances to the uniform
355 rules if there are unique circumstances or hydrogeological
356 factors that make application of the uniform rules unrealistic
357 or impractical.
358 (e) The department shall initiate rulemaking for the



841792

359 uniform rules by December 31, 2015. The department's uniform
360 rules shall be applied by the water management districts only
361 within the Central Florida Water Initiative Area. Upon adoption
362 of the rules, the water management districts shall implement the
363 rules without further rulemaking pursuant to s. 120.54. The
364 rules adopted by the department pursuant to this section are
365 considered the rules of the water management districts.

366 (f) Water management district planning programs developed
367 pursuant this subsection shall be approved or adopted as
368 required under this chapter. However, such planning programs may
369 not serve to modify planning programs in areas of the affected
370 districts that are not within the Central Florida Water
371 Initiative Area, but may include interregional projects located
372 outside the Central Florida Water Initiative Area which are
373 consistent with planning and regulatory programs in the areas in
374 which they are located.

375 Section 13. Subsection (4) of section 373.1501, Florida
376 Statutes, is amended, present subsections (7) and (8) are
377 redesignated as subsections (8) and (9), respectively, and a new
378 subsection (7) is added to that section, to read:

379 373.1501 South Florida Water Management District as local
380 sponsor.-

381 (4) The district is authorized to act as local sponsor of
382 the project for those project features within the district as
383 provided in this subsection and subject to the oversight of the
384 department as further provided in s. 373.026. The district shall
385 exercise the authority of the state to allocate quantities of
386 water within its jurisdiction, including the water supply in
387 relation to the project, and be responsible for allocating water



841792

388 and assigning priorities among the other water uses served by
389 the project pursuant to state law. The district may:

390 (a) Act as local sponsor for all project features
391 previously authorized by Congress.~~†~~

392 (b) Continue data gathering, analysis, research, and design
393 of project components, participate in preconstruction
394 engineering and design documents for project components, and
395 further refine the Comprehensive Plan of the restudy as a guide
396 and framework for identifying other project components.~~†~~

397 (c) Construct pilot projects that will assist in
398 determining the feasibility of technology included in the
399 Comprehensive Plan of the restudy.~~† and~~

400 (d) Act as local sponsor for project components.

401 (7) When developing or implementing water control plans or
402 regulation schedules required for the operation of the project,
403 the district shall provide recommendations to the United States
404 Army Corps of Engineers which are consistent with all district
405 programs and plans.

406 Section 14. Subsection (3) is added to section 373.219,
407 Florida Statutes, to read:

408 373.219 Permits required.—

409 (3) The department shall adopt uniform rules for issuing
410 permits which prevent groundwater withdrawals that are harmful
411 to the water resources and adopt by rule a uniform definition of
412 the term "harmful to the water resources" for Outstanding
413 Florida Springs to provide water management districts with
414 minimum standards necessary to be consistent with the overall
415 water policy of the state. This subsection does not prohibit a
416 water management district from adopting a definition that is



841792

417 more protective of the water resources consistent with local or
418 regional conditions and objectives.

419 Section 15. Subsection (6) is added to section 373.223,
420 Florida Statutes, to read:

421 373.223 Conditions for a permit.—

422 (6) A new, renewal of, or modification to a consumptive use
423 permit authorizing groundwater withdrawals of 100,000 gallons or
424 more per day shall be monitored for water usage at intervals and
425 using methods determined by the applicable water management
426 district, the results of which shall be reported to the water
427 management district at least annually. The water management
428 districts may adopt rules to implement this subsection.

429 Section 16. Section 373.2234, Florida Statutes, is amended
430 to read:

431 373.2234 Preferred water supply sources.—

432 (1) The governing board of a water management district is
433 authorized to adopt rules that identify preferred water supply
434 sources for consumptive uses for which there is sufficient data
435 to establish that a preferred source will provide a substantial
436 new water supply to meet the existing and projected reasonable-
437 beneficial uses of a water supply planning region identified
438 pursuant to s. 373.709(1), while sustaining existing water
439 resources and natural systems. At a minimum, such rules must
440 contain a description of the preferred water supply source and
441 an assessment of the water the preferred source is projected to
442 produce.

443 (2)(a) If an applicant proposes to use a preferred water
444 supply source, that applicant's proposed water use is subject to
445 s. 373.223(1), except that the proposed use of a preferred water



841792

446 supply source must be considered by a water management district
447 when determining whether a permit applicant's proposed use of
448 water is consistent with the public interest pursuant to s.
449 373.223(1) (c) .

450 (b) The governing board of a water management district
451 shall consider the identification of preferred water supply
452 sources for water users for whom access to or development of new
453 water supplies is not technically or financially feasible.
454 Identification of preferred water supply sources for such water
455 users must be consistent with s. 373.016.

456 (c) A consumptive use permit issued for the use of a
457 preferred water supply source must be granted, when requested by
458 the applicant, for at least a 20-year period and may be subject
459 to the compliance reporting provisions of s. 373.236(4) .

460 (3) (a) Nothing in This section does not: shall be construed
461 to

462 1. Exempt the use of preferred water supply sources from
463 the provisions of ss. 373.016(4) and 373.223(2) and (3); ~~or be~~
464 construed to

465 2. Provide that permits issued for the use of a
466 nonpreferred water supply source must be issued for a duration
467 of less than 20 years or that the use of a nonpreferred water
468 supply source is not consistent with the public interest; ~~or-~~

469 3. Additionally, nothing in this section shall be
470 interpreted to Require the use of a preferred water supply
471 source or to restrict or prohibit the use of a nonpreferred
472 water supply source.

473 (b) Rules adopted by the governing board of a water
474 management district to implement this section shall specify that



841792

475 the use of a preferred water supply source is not required and
476 that the use of a nonpreferred water supply source is not
477 restricted or prohibited.

478 Section 17. Present subsection (5) of section 373.227,
479 Florida Statutes, is redesignated as subsection (7), and a new
480 subsection (5) and a subsection (6) are added to that section,
481 to read:

482 373.227 Water conservation; legislative findings and
483 intent; objectives; comprehensive statewide water conservation
484 program requirements.—

485 (5) In order to incentivize water conservation, if actual
486 water use is less than permitted water use due to documented
487 implementation of water conservation measures beyond those
488 required in a consumptive use permit, including, but not limited
489 to, those measures identified in best management practices
490 pursuant to s. 570.93, the permitted allocation may not be
491 modified solely due to such water conservation during the term

492
493 ===== T I T L E A M E N D M E N T =====

494 And the title is amended as follows:

495 Delete lines 88 - 90

496 and insert:

497 s. 373.219, F.S.; requiring the department to adopt
498 certain uniform rules; amending s. 373.223, F.S.;
499 requiring