

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on The Environment and Natural Resources

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BILL: CS/SB 928

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Stargel

SUBJECT: Water Protection and Sustainability

DATE: April 12, 2017                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	<b>Fav/CS</b>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEN</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 928 creates the “Heartland Headwaters Protection and Sustainability Act.” The bill contains legislative findings and intent regarding the significance of, and protections for, water resources in the Green Swamp Area of central Florida.

The bill requires the Polk County Regional Water Cooperative (PRWC), in coordination with all of its member county and municipal governments, to prepare a comprehensive annual report on water resource projects identified for priority state funding within its members’ jurisdictions. The report must include lists of projects, identified by the PRWC for priority state funding, ranked in several categories, and the source and amount of financial assistance to be provided by the PRWC, the member county or municipal governments, or other entity for each listed project. The bill requires the PRWC to submit its annual report beginning December 1, 2017 to the Governor, the Legislature, the Department of Environmental Protection (DEP), and appropriate water management districts (WMDs). The bill also requires the PRWC to coordinate with appropriate WMDs on the inclusion in consolidated WMD annual reports of a status report on projects receiving priority state funding.

Finally, the bill clarifies the spending of a discretionary local government infrastructure surtax by authorizing a county or municipality that receives tax proceeds to transfer some part or all of the tax proceeds to a regional water supply authority whose purpose is to develop, recover, store, and supply water.

The bill has no impact on state or local government revenues or expenditures.

## II. Present Situation:

### Water Supply Planning

#### *The Floridan Aquifer*

The Floridan Aquifer is one of the most productive aquifers in the world, underlying approximately 100,000 square miles in southern Alabama, southeastern Georgia, southern South Carolina, and all of Florida. It is a multiple-use aquifer system. Where it contains freshwater, it is the principal source of water supply for several large cities (e.g., Savannah and Brunswick in Georgia; Jacksonville, Tallahassee, Orlando, and St. Petersburg in Florida) and for hundreds of thousands in smaller communities and rural areas.<sup>1</sup>

#### *Regional Water Supply Planning*

In 1998, each of Florida's five water management districts (WMDs) prepared water supply assessments to determine the existing and future water needs of the state. The WMDs evaluated the adequacy of existing and potential sources to meet reasonable-beneficial needs and sustain natural systems for the following 20-year period. At that time, four of the five WMDs determined that sources were inadequate to meet future needs while sustaining the natural resources and were required to prepare a regional water supply plan (RWSP).<sup>2</sup>

By the end of 2015, the South Florida WMD, the St. Johns River WMD, and the Southwest Florida WMD had developed RWSPs for all regions within their districts and were working on their next 5-year updates. The Northwest Florida WMD currently has two RWSPs. Additionally, in areas where ground water basins (GWBs) are shared between WMDs, inter-district water supply planning efforts are developed, such as the Central Florida Water Initiative (CFWI) and the North Florida Regional Water supply Partnership involving the Suwannee River WMD and the St. Johns River WMD.<sup>3</sup>

Regional water supply planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities,<sup>4</sup> government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), and other affected and interested parties.<sup>5</sup> It is based on a 20 year planning period and includes a water supply development component (e.g., further development of fresh ground water and surface water, demineralization of brackish ground water, desalination of seawater, reuse of reclaimed water, water conservation) and a water resource development component (e.g., increasing water storage capabilities through

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<sup>1</sup> USGS. *Floridan Aquifer System*, [https://pubs.usgs.gov/ha/ha730/ch\\_g/G-text6.html](https://pubs.usgs.gov/ha/ha730/ch_g/G-text6.html) (last visited Mar. 22, 2017).

<sup>2</sup> Section 373.709(1), F.S.; DEP, *Regional Water Supply Planning*, <http://www.dep.state.fl.us/water/waterpolicy/rwsp.htm> (last visited Mar. 22, 2017).

<sup>3</sup> DEP, *Regional Water Supply Planning Fact Sheet*, <http://www.dep.state.fl.us/water/waterpolicy/docs/factsheets/wrfss-regional-water-supply-planning.pdf> (last visited Mar. 22, 2017).

<sup>4</sup> A regional water supply authority is created pursuant to s. 373.713, F.S.; It can be an "agency" under ch. 120, F.S.; see s. 120.52(1), F.S.; A "governmental authority" under ch. 367, F.S.; see s. 367.021(7), F.S.

<sup>5</sup> Section 373.709(1), F.S.; s. 373.036(2), F.S.

surface reservoirs, aquifer storage and recovery) that could meet the projected reasonable-beneficial needs.<sup>6</sup>

### ***Heartland Water Supply Planning Region***

The Heartland water supply planning region covers approximately 2,569 square miles and includes Hardee County and the portions of Polk and Highlands counties within the Southwest Florida WMD.<sup>7</sup> The remaining portions of Polk and Highlands counties are within the South Florida WMD and are in separate water supply planning regions, the Upper Kissimmee and Lower Kissimmee, respectively.<sup>8</sup>

### ***The Central Florida Water Initiative***

The Central Florida Water Initiative (CFWI) is a collaborative process involving the DEP, the St. Johns River WMD, the South Florida WMD, the Southwest Florida WMD, DACS, regional public water supply utilities, and other stakeholders to address the current and long-term water supply needs of central Florida without causing harm to the water resources and associated natural systems.<sup>9</sup> The CFWI area includes all of Orange, Osceola, Polk, and Seminole counties, and southern Lake County.<sup>10</sup> The area covers approximately 5,300 square miles and encompasses:

- The headwaters for seven river systems:
  - The Alafia, located in Polk County;<sup>11</sup>
  - The Hillsborough, located in the Green Swamp in southeast Pasco County;<sup>12</sup>
  - The Kissimmee;
  - The Ocklawaha, located in the Green Swamp near Lake Apopka, in Orange County;<sup>13</sup>
  - The Peace, located in the Green Swamp in northern Polk County;<sup>14</sup>
  - The St. Johns, located in Indian River and Brevard counties;<sup>15</sup>
  - The Withlacoochee, located in the Green Swamp in northwestern Polk and southern Sumter counties.<sup>16</sup>

<sup>6</sup> Section 373.709(2), F.S.; DEP, *Regional Water Supply Planning*, <http://www.dep.state.fl.us/water/waterpolicy/rwsp.htm> (last visited Mar. 22, 2017).

<sup>7</sup> Southwest Florida WMD. *Regional Water Supply Plan*, <https://www.swfwmd.state.fl.us/documents/plans/RWSP/heartland.php> (last visited Mar. 20, 2017).

<sup>8</sup> Southwest Florida WMD. *Florida's Water Management Districts*, <http://www.swfwmd.state.fl.us/about/wmds.php> (last visited Mar. 22, 2017).

<sup>9</sup> Section 373.0465(1)(c), F.S.; CFWI. *Central Florida Water Initiative Guiding Document* (January 2015), [http://cfwiwater.com/pdfs/CFWI\\_Guiding\\_Document\\_2015-01-30.pdf](http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf) (last visited Mar. 22, 2017).

<sup>10</sup> Section 373.0465(2)(a), F.S.; CFWI. *Central Florida Water Initiative Guiding Document* (January 2015), [http://cfwiwater.com/pdfs/CFWI\\_Guiding\\_Document\\_2015-01-30.pdf](http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf) (last visited Mar. 21, 2017).

<sup>11</sup> See *infra* n. 48 and accompanying text.

<sup>12</sup> Southwest Florida WMD. *Green Swamp Interactive*, <https://www.swfwmd.state.fl.us/education/interactive/greenswamp/rivers.html> (last visited Mar. 20, 2017).

<sup>13</sup> *Id.*

<sup>14</sup> Southwest Florida WMD. *The Peace River*, <http://www.swfwmd.state.fl.us/education/interactive/peacriver/natural.php>; Southwest Florida WMD. *Green Swamp Interactive*, <https://www.swfwmd.state.fl.us/education/interactive/greenswamp/rivers.html> (last visited Mar. 22, 2017).

<sup>15</sup> St. Johns River WMD. *Upper St. Johns River Basin*, <http://www.sjrwm.com/upperstjohnsriver/> (last visited Mar. 21, 2017).

<sup>16</sup> Southwest Florida WMD. *Green Swamp Interactive*, <https://www.swfwmd.state.fl.us/education/interactive/greenswamp/rivers.html> (last visited Mar. 20, 2017).

- Four distinct ground water basins (GWBs). These GWBs meet in north-central Polk County, and in general this location represents an important area of recharge with ground water flow radiating out in all directions.<sup>17</sup>
- Approximately 1,200 square miles or 782,000 acres of wetlands.
- Approximately 475 square miles or 300,300 acres of open water bodies.
- Seven regional wetlands systems: the Green Swamp, Reedy Creek Swamp, Davenport Creek Swamp, Big Bend Swamp, Cat Island Swamp, Boggy Creek Swamp, and Shingle Creek Swamp.
- Sixteen first, second, and third magnitude springs.<sup>18</sup>

Areas that appear to be more susceptible to the effects of ground water withdrawals include the Wekiva Springs/River System, western Seminole County and western Orange County, southern Lake County, the Lake Wales Ridge, and the Southern Water Use Caution Area (SWUCA) in Polk County. The Southwest Florida WMD has already adopted rules for the SWUCA that are as restrictive, if not more restrictive, than those in the CFWI. Since portions of Polk County are in both areas, only the portion of Polk County that is outside the SWUCA is subject to the CFWI rules.<sup>19</sup>

### *The Southern Water Use Caution Area*

The SWUCA was established in 1992, by the Southwest Florida WMD, in response to growing water demands from public supply, agriculture, mining, power generation and recreational uses and environmental concerns related to these ground water withdrawals.<sup>20</sup> It is an area of approximately 5,100 square miles in the Southern West-Central GWB that includes all of Desoto, Hardee, Manatee, and Sarasota counties and parts of Charlotte, Highlands, Hillsborough, and Polk counties.<sup>21</sup>

In 2006, the Southwest Florida WMD adopted the SWUCA Recovery Strategy<sup>22</sup> that has four main goals:

- Achieve minimum flows in the upper Peace River;
- Achieve minimum lake levels in lakes along the Lake Wales Ridge, which extends roughly 90 miles along the center of the state in Polk and Highlands counties;
- Achieve the saltwater intrusion minimum aquifer level; and

<sup>17</sup> CFWI. *Central Florida Water Initiative Guiding Document* (January 2015), [http://cfwiwater.com/pdfs/CFWI\\_Guiding\\_Document\\_2015-01-30.pdf](http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf) (last visited Mar. 22, 2017).

<sup>18</sup> CFWI. *Central Florida Water Initiative Regional Water Supply Plan Public Draft*, [http://cfwiwater.com/pdfs/plans/CFWI\\_RWSP\\_DrftPblc2\\_VolIa\\_5-1-15.pdf](http://cfwiwater.com/pdfs/plans/CFWI_RWSP_DrftPblc2_VolIa_5-1-15.pdf) (last visited Mar. 22, 2017).

<sup>19</sup> *Id.*

<sup>20</sup> Section 373.0363(2)(a), F.S.; Southwest Florida WMD. *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/swuca/> (last visited Mar. 22, 2017); Southwest Florida WMD. *Southern Water Use Caution Area Recovery Strategy* (March 2006), [https://www.swfwmd.state.fl.us/documents/plans/swuca\\_recovery\\_strategy.pdf](https://www.swfwmd.state.fl.us/documents/plans/swuca_recovery_strategy.pdf) (last visited Mar. 21, 2017).

<sup>21</sup> Section 373.0363(1)(c), F.S.; SWFWMD. *Southern Water Use Caution Area Recovery Strategy* (March 2006), [https://www.swfwmd.state.fl.us/documents/plans/swuca\\_recovery\\_strategy.pdf](https://www.swfwmd.state.fl.us/documents/plans/swuca_recovery_strategy.pdf) (last visited Mar. 20, 2017).

<sup>22</sup> The “Southern Water Use Caution Area Recovery Strategy” is the district’s planning, regulatory, and financial strategy for ensuring that adequate water supplies are available to meet growing demands while protecting and restoring the water and related natural resources of the area; s. 373.0363(1)(d), F.S.

- Ensure water supply needs are met for existing and projected reasonable and beneficial uses.<sup>23</sup>

Ground water withdrawals have since stabilized in the SWUCA. Water supply needs for the region are being met through the planning period as a result of regional water supply planning and management efforts. However, depressed aquifer levels continue to cause saltwater intrusion into the Floridan Aquifer and contribute to reduced flows in the upper Peace River and lowered lake levels of some of the lakes in the upland areas of Polk and Highlands counties.<sup>24</sup> The Southwest Florida WMD has formed two separate stakeholder workgroups to assist in identifying additional options for achieving these goals.<sup>25</sup>

### **Consolidated Water Management District Annual Report**

Each year, each WMD must prepare and submit to the DEP, the Governor, the President of the Senate, and the Speaker of the House of Representatives a consolidated WMD annual report on the management of water resources. Also, they must provide copies to all legislative committee chairs having substantive or fiscal jurisdiction over the WMDs and the governing board of each county in the WMD having jurisdiction or deriving any funds for operations of the WMD. Copies must also be available to the public, either in printed or electronic format.<sup>26</sup>

Among other requirements, the report must contain information on all projects related to water quality or water quantity as part of a five-year work program, including:

- A list of all specific projects identified to implement a basin management action plan or a recovery or prevention strategy;
- A priority ranking for each listed project for which state funding through the water resources development work program is requested, which must be made available to the public for comment at least 30 days before submission of the consolidated annual report;
- The estimated cost for each listed project;
- The estimated completion date for each listed project;
- The source and amount of financial assistance to be made available by the DEP, a WMD, or other entity for each listed project; and
- A quantitative estimate of each listed project's benefit to the watershed, water body, or water segment in which it is located.<sup>27</sup>

<sup>23</sup> Southwest Florida WMD. *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/swuca/> (last visited Mar. 22, 2017).

<sup>24</sup> Section 373.0363(2)(b), F.S.; Southwest Florida WMD. *Southern Water Use Caution Area Recovery Strategy* (March 2006), [https://www.swfwmd.state.fl.us/documents/plans/swuca\\_recovery\\_strategy.pdf](https://www.swfwmd.state.fl.us/documents/plans/swuca_recovery_strategy.pdf) (last visited Mar. 22, 2017); CFWI. *Central Florida Water Initiative Regional Water Supply Plan Public Draft*, [http://cfwiwater.com/pdfs/plans/CFWI\\_RWSP\\_DrftPblc2\\_Voll1a\\_5-1-15.pdf](http://cfwiwater.com/pdfs/plans/CFWI_RWSP_DrftPblc2_Voll1a_5-1-15.pdf) (last visited Mar. 21, 2017).

<sup>25</sup> Southwest Florida WMD. *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/swuca/> (last visited Mar. 22, 2017).

<sup>26</sup> Section 373.036(7)(a), F.S.

<sup>27</sup> Section 373.036(7)(b)8.a.-f., F.S.

## Regional Water Supply Authorities

Counties, municipalities, or special districts may enter into interlocal agreements to create a regional water supply authority (RWSA) for the purpose of developing, recovering, storing, and supplying water for county or municipal purposes that will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas. These agreements must be approved by the Secretary of the DEP to ensure that the agreement will be in the public interest and complies with the intent and purposes of the Florida Interlocal Cooperation Act.<sup>28</sup>

In approving such an agreement, the Secretary of the DEP must consider, but is not limited to, the following:

- Whether the geographic territory of the proposed authority is of sufficient size and character to reduce the environmental effects of improper or excessive withdrawals of water from concentrated areas.
- The maximization of economic development of the water resources within the territory of the proposed authority.
- The availability of a dependable and adequate water supply.
- The ability of any proposed authority to design, construct, operate, and maintain water supply facilities in the locations, and at the times necessary, to ensure that an adequate water supply will be available within the authority.
- The effect or impact of any proposed authority on any municipality, county, or existing authority or authorities.<sup>29</sup>

Currently, there are four RWSAs: Tampa Bay Water (formerly known as the West Coast RWSA), Peace River/Manasota RWSA, Withlacoochee RWSA, and Walton/Okaloosa/Santa Rosa Regional Utility Authority.<sup>30</sup>

### *Polk County Regional Water Cooperative*

In June 2016, Polk County and 16 municipalities within Polk County<sup>31</sup> entered into an interlocal agreement to create a RWSA known as the Polk County Regional Water Cooperative (PRWC).<sup>32</sup> The role of the PRWC is to proactively identify alternative water resources and projects that ensure the future sustainability of the regional water supply. The PRWC will specifically identify sustainable ground water sources, develop strategies that meet water demands, determine needed infrastructure, and establish consistent rules.<sup>33</sup>

<sup>28</sup> Sections 373.713(1), F.S., and 163.01, F.S.

<sup>29</sup> Section 373.713(1)(a)-(f), F.S.

<sup>30</sup> DEO. *Water Supply Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/water-supply-planning> (last visited Mar. 22, 2017).

<sup>31</sup> The City of Auburndale; City of Bartow; City of Davenport; Town of Dundee; City of Eagle Lake; City of Fort Meade; City of Frostproof; Haines City; City of Lake Alfred; Town of Lake Hampton; City of Lakeland; City of Lake Wales; City of Mulberry; Polk City; and City of Winter Haven; Polk County Regional Water Cooperative. *Members*, <http://www.prcwater.org/Members.aspx> (last visited Mar. 20, 2017).

<sup>32</sup> Polk County Regional Water Cooperative. *Interlocal Agreement Relating to the Establishment of the Polk County Regional Water Cooperative*, <http://www.prcwater.org/boccsite/WorkArea/DownloadAsset.aspx?id=11306> (last visited Mar. 22, 2017).

<sup>33</sup> Polk County Regional Water Cooperative. *Homepage* <http://www.prcwater.org/> (last visited Mar. 21, 2017).

## The Green Swamp

The Green Swamp includes portions of Polk, Lake, Sumter, Hernando and Pasco counties. The region consists of 560,000 acres of wetlands, flatlands and low ridges bound by prominent sandy ridgelines that form the headwaters of the Withlacoochee,<sup>34</sup> the Ocklawaha,<sup>35</sup> the Hillsborough<sup>36</sup> and the Peace Rivers.<sup>37</sup> The Peace and Hillsborough Rivers are potable water sources for Tampa and Sarasota. The Ocklawaha, Withlacoochee and Hillsborough Rivers are designated Outstanding Florida Waters.<sup>38</sup>

The Green Swamp is elevated above outlying areas and the Floridan Aquifer rises very close to the land surface, which causes the region to function as the pressure head for the aquifer, helping maintain free-flowing springs, rivers, and abundant high quality drinking water. Accordingly, protecting the Green Swamp is vital to protecting the quality and quantity of Florida's water supply. In recognizing the statewide significance of this area's valuable hydrologic functions, second only to that of the Everglades, and the need to specifically regulate encroaching development that would imperil these functions, the state in 1979, designated 322,690 acres of the Green Swamp as an area of critical state concern.<sup>39</sup> The designated area is located in northern Polk and southern Lake counties.<sup>40</sup>

### *Areas of Critical State Concern*

The Governor and Cabinet, sitting as the Administration Commission,<sup>41</sup> are authorized to designate certain areas within the state that contain resources of statewide significance as areas of critical state concern.<sup>42</sup> An area of critical state concern may only be designated for an area:

- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters,<sup>43</sup> and aquifer recharge areas, where uncontrolled development would cause substantial deterioration of such resources;

<sup>34</sup> See *supra* n. 17 and accompanying text.

<sup>35</sup> See *supra* n. 14 and accompanying text.

<sup>36</sup> See *supra* n. 13 and accompanying text.

<sup>37</sup> See *supra* n. 15 and accompanying text.

<sup>38</sup> DEO. *Green Swamp Area*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/the-green-swamp> (last visited Mar. 22, 2017); "Outstanding Florida Waters" are waters designated by the Environmental Regulation Commission as being worthy of special protection because of their natural attributes; r. 62-302.200(26), F.A.C.

<sup>39</sup> Section 380.0551, F.S.; Southwest Florida WMD. *Green Swamp Wilderness Preserve*,

<http://www.swfwmd.state.fl.us/recreation/areas/greenswamp.html> (last visited Mar. 22, 2017); DEO. *Green Swamp Area*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/the-green-swamp> (last visited Mar. 21, 2017); Southwest Florida WMD *Green Swamp Interactive*, <https://www.swfwmd.state.fl.us/education/interactive/greenswamp/textonly.html> (last visited Mar. 22, 2017).

<sup>40</sup> DEO. *Green Swamp Area*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/the-green-swamp> (last visited Mar. 20, 2017).

<sup>41</sup> See ss. 380.031(1) and 14.202, F.S.

<sup>42</sup> Section 380.05, F.S.

<sup>43</sup> "Outstanding Florida Waters" means waters designated by the Environmental Regulation Commission as worthy of special protection because of their natural attributes; r. 62-302.200(26), F.A.C.

- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, where development would cause substantial deterioration or complete loss of such resources, sites, or districts; or
- Having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment including, highways, ports, airports, energy facilities, and water management projects.<sup>44</sup>

In addition to the Green Swamp Area, the Big Cypress Area,<sup>45</sup> the Florida Keys Area, the City of Key West Area,<sup>46</sup> and the Apalachicola Bay Area<sup>47</sup> are areas of critical state concern.

### **The Alafia River**

The Alafia River consists of two major branches, the North Prong and the South Prong, which originate in western Polk County and converge in eastern Hillsborough County to form the river.<sup>48</sup> The Alafia River now contributes the largest outflow of any river to Tampa Bay. The Hillsborough River was Tampa Bay's biggest freshwater contributor, but a prolonged drought, coupled with Tampa's water needs, has placed heavy demands on the Hillsborough River and its watershed.<sup>49</sup>

### **The Kissimmee River**

The Kissimmee River Basin covers approximately 2,940 square miles in Central Florida. The watershed is approximately 105 miles long, extending from Orlando southward to Lake Okeechobee, encompassing Orange, Osceola, Okeechobee, Highlands, and Polk Counties and a small portion of Lake County.<sup>50</sup> The basin is made up of more than two dozen lakes in the Kissimmee Chain of Lakes, their tributary streams and associated marshes and the Kissimmee River and floodplain, forming the headwaters of Lake Okeechobee and the Everglades.<sup>51</sup>

Historically, the Kissimmee Chain of Lakes and the Kissimmee River were an integrated system of headwater lakes connected by broad shallow wetlands and creeks. These systems were substantially altered by the construction of the Central and South Florida Flood Control Project in the 1960s. The river, which once meandered for 103 miles throughout Central Florida, with its floodplain reaching up to three miles wide, was reconfigured into a 56 mile long canal for flood control. Restoration efforts are underway for portions of the Kissimmee River.<sup>52</sup>

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<sup>44</sup> Section 380.05(2)(a)-(c), F.S.

<sup>45</sup> Section 380.055, F.S.

<sup>46</sup> Section 380.0552, F.S.

<sup>47</sup> Section 380.0555, F.S.

<sup>48</sup> USGS. Gerold Morrison and Holly Greening, *Freshwater Flows* ch. 6, p. 169, <https://pubs.usgs.gov/circ/1348/pdf/> (Jan. 2012) (last visited Mar. 20, 2017).

<sup>49</sup> Southwest Florida WMD. *Alafia River Watershed Excursion*, <http://www.swfwmd.state.fl.us/education/watersheds/afia/geology> (last visited Mar. 21, 2017).

<sup>50</sup> DEP, *Kissimmee River Basin Lakes, Rivers, Streams, and Aquifers*, <https://www.dep.state.fl.us/water/monitoring/docs/bmr/kissimmee.pdf> (last visited Mar. 20, 2017).

<sup>51</sup> South Florida WMD. *Kissimmee River*, <https://www.sfwmd.gov/our-work/kissimmee-river> (last visited Mar. 22, 2017).

<sup>52</sup> *Id.*

### **Local Government Infrastructure Surtax**

A county may levy a discretionary sales surtax of 0.5 percent or one percent pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax must be placed on the ballot and will take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.<sup>53</sup> Surtax proceeds and any accrued interest must be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county.<sup>54</sup>

### **III. Effect of Proposed Changes:**

The bill creates the "Heartland Headwaters Protection and Sustainability Act."

**Section 2** creates s. 373.462, F.S., containing legislative findings and intent regarding the significance of, and protections for, water resources in the Green Swamp Area of central Florida, and providing legislative recognition of the following:

- By law in 1979, portions of Lake and Polk Counties were designated as the Green Swamp Area of Critical State Concern in acknowledgment of the regional and statewide importance of the area in maintaining the quality and quantity of Florida's water supply and water resources for the public and the environment; and
- The Southern Water Use Caution Area (SWUCA) Recovery Strategy dated March of 2006, and the Central Florida Water Initiative (CFWI) Guiding Document dated January 30, 2015, both recognized the fact that the surface water and ground water resources in the heartland counties of Hardee, Highlands, and Polk are integral to the health, public safety, and economic future of the Green Swamp Area and surrounding regions.

The section makes specific legislative findings that:

- The Green Swamp Area and the surrounding region are economically, environmentally, and socially defined by some of the most important and vulnerable water resources in the state;
- The Green Swamp Area, which encompasses approximately 560,000 acres, is located in a regionally significant high recharge area of the Floridan Aquifer system and helps protect coastal communities from saltwater intrusion;
- The Green Swamp Area's unique topography and geology receives no water inputs other than rainfall. The area is essential in maintaining the potentiometric head of the Floridan Aquifer system that directly influences the aquifer's productivity for water supply; and
- The headwaters of six major river systems are located in the Green Swamp Area or in Polk County.

The section makes additional legislative declarations that:

- There is an important state interest in partnering with regional water supply authorities (RWSA), local governments, and water management districts to protect the water resources

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<sup>53</sup> Section 212.055(2)(a)1., F.S.

<sup>54</sup> Section 212.055(2)(d), F.S.

of the headwaters of the Alafia, Hillsborough, Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers and surrounding areas; and

- Priority state funding consideration must be given to solutions to manage the water resources of these headwaters and the local Floridan Aquifer system in the most efficient, cost-effective, and environmentally beneficial way.

Section 3 creates s. 373.463, F.S., to require the Polk County Regional Water Cooperative (PRWC), in coordination with all of its member county and municipal governments, to prepare a comprehensive annual report on water resource projects identified for priority state funding within its members' jurisdictions. The report must include, at a minimum:

- Lists of projects, identified by the PRWC for priority state funding, in each of the following categories, which may list the same project in more than one category:
  - Drinking water supply;
  - Wastewater, including reuse;
  - Stormwater and flood control;
  - Environmental restoration; and
  - Conservation;
- A priority ranking within each category for each listed project that will be ready for implementation in the upcoming fiscal year;
- The estimated cost of each listed project;
- The estimated completion date of each listed project; and
- The source and amount of financial assistance to be provided by the PRWC, the member county or municipal governments, or other entity for each listed project.

This section requires the PRWC to submit its annual report beginning December 1, 2017, to the Governor, the Legislature, the Department of Environmental Protection (DEP), and appropriate water management districts. The PRWC is required to coordinate with appropriate water management districts on the inclusion in consolidated water management district annual reports of a status report on projects receiving priority state funding.

Finally, section 4 amends s. 212.055, F.S., to authorize a city or county to transfer the revenues generated by the local government infrastructure surtax to a regional water supply authority to develop, recover, store, and supply water consistent with the purposes specified in s. 212.055(2)(d), F.S.

The bill takes effect July 1, 2017.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable.

##### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill does not impact state or local government revenues or expenditures.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 373.462 and 373.463.

This bill substantially amends section 212.055 of the Florida Statutes.

IX. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environmental Preservation and Conservation on March 28, 2017:**

- Removes an exemption from the bill so that the Secretary of the Department of Environmental Protection must, under s. 373.713(1), F.S., approve the Polk County Regional Water Cooperative (PRWC).
- Adds reuse to the wastewater category of projects listed for priority state funding in the annual report by the PRWC.
- Requires the PRWC to submit its annual report beginning December 1, 2017, to the Governor, the Legislature, the DEP, and appropriate water management districts.
- Requires the PRWC to coordinate with appropriate water management districts on the inclusion in consolidated water management district annual reports of a status report on projects receiving priority state funding.

- Clarifies spending of a local government infrastructure surtax by authorizing a county or municipality that receives tax proceeds to transfer some part or all of the tax proceeds to a regional water supply authority whose purpose is to develop, recover, store, and supply water.
- Removes an annual appropriation, beginning in the 2017-2018 fiscal year and ending in the 2036-2037 fiscal year, for an unspecified amount of funds to the DEP for projects identified for priority state funding in the PRWC annual report.

B. Amendments:

None.