

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 373, F.S., was originally enacted by the Florida Legislature as the "Water Resources Act of 1972" (chapter 72-299, Laws of Florida). At that time, Chapter 373, F.S., was limited in scope to principally address issues relating to flood control, the management and storage of surface water, the regulation of consumptive use of water including wells, and the governance of the water management districts. No effort was made at that time to address water supply except through the "state water plan." The direction of the state water plan was to "study existing water sources . . . to formulate, as a functional element of a comprehensive state plan, an integrated, coordinated plan for the use and development of the waters of the state" (see Subsection 373.036(1), F.S. (1972)).

Chapter 373, F.S., has been amended numerous times since 1972 to address a multitude of issues relating to water. The following sections of Chapter 373, F.S., either in whole or in part, specifically address *water supply policy, planning and production*:

- 373.016 Declaration of policy
- 373.019 Definitions
- 373.036 Florida Water Plan; district water management plans
- 373.0361 Regional Water Supply Planning
- 373.0391 Technical Assistance
- 373.0831 Water resource development; water supply development
- 373.196 Legislative findings
- 373.1961 Water production
- 373.1962 Regional water supply authorities
- 373.1963 Assistance to West Coast Regional Water Supply Authority

Section 373.016, F.S., Declaration of policy

Section 373.016, F.S., was included in the original Water Resources Act of 1972. At that time it included little in the way of policy that addressed water supply planning and production. Section 373.016, F.S., was amended in 1997 to add what is now paragraph (3)(d) which establishes a policy that the "availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems shall be promoted" (s. 1, ch. 97-160, Laws of Florida). In 1998, paragraphs (4)(a) and (b) were added to address the issue of the use of local sources of water for consumptive uses first before transporting water across county boundaries (s. 1, ch. 98-88, Laws of Florida).

373.019, F.S., Definitions

Section 373.019, F.S., was included in the original Water Resources Act of 1972. However, there were no sections which provided definitions relating to water supply policy, planning or production. Several definitions were added in 1997 (s. 2, ch. 97-160, Laws of Florida). These included definitions for "district water management plan," "Florida water plan," "regional water supply plan," "water resource development," and "water supply development" (see Sections 373.019 (2), (5), (14), (19), and (21), F.S.).

373.036, F.S., Florida Water Plan; district water management plans

The Water Resources Act of 1972 also included Section 373.036, F.S. It addressed in very brief and general terms the "Florida Water Plan." However, it was substantially rewritten in 1997 to its current

wording to provide not only for the Florida water plan and but also for district water management plans (s. 3, ch. 97-160, Laws of Florida). While Section 373.036, F.S., addresses several water planning issues, it primarily addresses issues relating to water supply planning, both in the Florida water plan and the district water management plans.

373.0361, F.S., Regional Water Supply Planning

In 1997, a significant effort was made by the Legislature to address water supply planning, and that primarily at a regional level. Section 4 of chapter 97-160, Laws of Florida, created the regional water supply planning process that is still used today.

373.0391, F.S., Technical Assistance

Section 373.0391, F.S., was created in 1989 and requires water management districts to provide a range of technical services to assist local governments in the preparation and implementation of their comprehensive plans and public facilities reports. It has never been amended.

373.0831, F.S., Water resource development; water supply development

Along with the section on regional water supply planning (Section 373.0361, F.S.), Section 373.0831, F.S., was another significant section added in 1997 by Chapter 97-160, Laws of Florida (section 11). This section provides for legislative findings and intent relating to the planning and development of water resources and the production of water supplies from those water resources. Section 373.0831, F.S., was amended in 2004 to add (4)(c) dealing with permitting and funding for the development of alternative water sources (s. 10, ch. 2004-381, Laws of Florida).

373.196, F.S., Legislative findings

Section 373.196, F.S., was created in 1974 (s. 1, ch. 74-114, Laws of Florida). It contains provisions regarding the need for cooperation between local governments and the water management districts in order to meet the needs of the increasing demand on water resources, and the need for the creation of regional water supply authorities. Subsection (2) of Section 373.196, F.S., was amended in 1998 (s. 2, ch. 98-88, Laws of Florida) to provide that water management districts are to have the power to engage in functions “that are related to water resource development pursuant to s. 373.0831.” This was done to conform with the powers given to the water management districts in 1997 that gave them the responsibility for water supply planning and water resource development.

373.1961, F.S., Water production

Section 373.1961, F.S., was also created in 1974 (s.2, ch. 74-114, Laws of Florida), and has been amended several times since then. This section contains two subsections. Subsection (1) sets forth the powers and duties of the governing boards with respect to the production of water; and Subsection (2) sets forth legislative findings and intent with regard to the need to develop alternative water supplies to meet the growing demand in Florida for water, and it provides a funding mechanism for the development of alternative water supplies.

373.1962, F.S., Regional water supply authorities

In 1974 the Legislature established a process for the creation of regional water supply authorities in Section 373.1962, F.S., (s.7, ch. 74-114, Laws of Florida). Numerous minor amendments have been made to this section since then.

373.1963, F.S., Assistance to West Coast Regional Water Supply Authority

Section 373.1963, F.S., was created in 1976 to address issues relating to the governance of the West Coast Regional Water Supply Authority (s. 13, ch. 76-243, Laws of Florida). The section has been substantially rewritten three time with the last rewrite coming in 1998 (s. 4, ch. 339, Laws of Florida, s. 30, ch. 97-160, Laws of Florida, and s. 2, ch. 98-402, Laws of Florida). It was under this last revision that the West Coast Regional Water Supply Authority became Tampa Bay Water.

Effect of Proposed Changes

The bill creates a new Part VII to Chapter 373, F.S., to include all those sections of Chapter 373, F.S., that address water supply policy, planning, and production.

New Section 373.701, F.S., Declaration of Policy

Those policy statements in s. 373.016, F.S., dealing with water supply planning and production are moved to a new Section 373.701, F.S., Declaration of Policy. Subsection 373.701(3), F.S., has been reworded to emphasize the state policy with regard to the use of "local sources" first. Section 373.196, F.S., is moved in its entirety to Section 373.701, F.S. New language is included to reference "multi-jurisdictional water supply entities."

New Section 373.703, F.S., Definitions

Those definitions in s. 373.019, F.S., dealing with water supply planning and production (i.e. Subsections (14), (19), and (21), F.S.) are moved to a new Section 373.703, F.S., Definitions. Included are new definitions for "Alternative water supply" and "multi-jurisdictional water supply entity." Revised definitions are provided for the "District water supply plan" and the "Florida water supply plan."

New Section 373.705, F.S., Powers and duties

Subsection 373.1961(1), F.S., is moved in its entirety to Section 373.705, F.S., Powers and duties. New language is included that adds "special districts," "multi-jurisdictional water supply entities" and "regional" water supply authorities to those entities which are to be assisted by water management districts in meeting water supply needs.

New Section 373.707, F.S., Florida water supply plan; district water management plans

Except for paragraphs (1)(b) and (2)(d)7 (which deal with water quality), s. 373.036, F.S., is moved in its entirety to Section 373.707, F.S., Florida water supply plan; district water management plans. The references to "Florida water plan" and "district water management plans" are changed to "Florida water supply plan" and "district water supply plans."

New Section 373.709, F.S., Water resource development; water supply development

Section 373.0831, F.S., is moved in its entirety to Section 373.709, F.S., Water resource development; water supply development. New language is added to (4) to require water management districts to include in their annual budgets the amount available to implement alternative water supply projects. New language is added to allow priority funding for projects that significantly contribute to a recovery plan where minimum flows or levels are not being met.

New Section 373.711, F.S., Alternative water supplies

Subsection 373.1961(2), F.S., is moved to Section 373.711, F.S., Alternative water supplies. New language is added to s. 373.711, F.S., to require water management districts to make funds available to local utilities, special districts, regional water supply authorities, and other multi-jurisdictional water supply entities for alternative water supply projects. The current alternative water supplies grants advisory committee provided in s. 373.1961(2)(g), F.S., is eliminated and the responsibilities are assumed by the governing board. New criteria are provided for the selection of alternative water supply projects for funding assistance by the water management district. New language is added to (10) as to the contents of the annual report to be submitted by the water management districts to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report is to describe all alternative water supply projects funded, as well as the quantity of new water created as a result of such projects.

New Section 373.713, F.S., Regional Water Supply Planning

Section 373.0361, F.S., is moved in its entirety to Section 373.713, F.S., Regional Water Supply Planning. Subsection 373.0361(3), F.S., addresses requirements for regional water supplies completed before July 1, 1997 and, therefore, has no continuing effect and is deleted from Section 373.713, F.S. New language is added to s. 373.713, F.S., with respect to public education, the assessment of the impacts of minimum flows and levels on water supply needs, listing of water supply

development projects, the joint development of regional water supply plans, and annual reporting requirements of the Department of Environmental Protection on the status of regional water supply planning. New provision are added in (7), (8), and (9) that:

- require water management district to appear before and present to those entities who are responsible for implementing water supply development projects that portion of the regional water supply plan relevant to such entity within six months following approval of its regional water supply plan update.
- require, within one year of the water management district presentation, each such entity to provide written notification to the water management district of the following: the water supply project option(s) that it intends to develop; its timetable for development of a master facility plan, a financial plan, and acquisition of permits; and any other entities they intend to cooperate with on implementation.
- where the water supply component of a water supply planning region shows the need for one or more alternative water supply projects, require the district to notify the affected local governments and make every reasonable effort to educate and involve local public officials in working toward solutions.

New Section 373.715, F.S., Technical Assistance

Except for paragraphs (2)(d) (which deals with flooding and water quality) and (2)(f) (which deals with land acquisition), s. 373.0391, F.S., is moved in its entirety to Section 373.715, F.S., Technical Assistance. New language is added to s. 373.715, F.S., to include additional information that water management districts are to provide to local governments relating to water resources and to require water management districts to provide technical assistance to local governments in the development of water supply development project options.

New Section 373.717, F.S., Regional water supply authorities

Subsection 373.1962, F.S., is moved in its entirety to Section 373.717, F.S., Regional water supply authorities. References to “water rights” in Paragraphs 373.1962(2)(b) and (e), F.S., are deleted from Section 373.717, F.S.

New Section 373.719, F.S., West Coast Regional Water Supply Authority

Subsection 373.1963, F.S. is moved in its entirety to Section 373.719, F.S., West Coast Regional Water Supply Authority. The name of the authority is changed to reflect the 1998 name change to Tampa Bay Water. Subsection 373.1963(3), F.S., addresses certain assistance from the Southwest Florida Water Management District to the water authority which was to have terminated on December 31, 1981. This subsection is obsolete and has been deleted from Section 373.719, F.S.

The bill amends s. 373.016, F.S., to reflect the relocation of subsections to s. 373.701, F.S.

The bill amends s. 373.019, F.S., to delete those definitions moved to s. 373.703, F.S.

The bill amends s. 373.036, F.S., to reflect the relocation of subsections to s. 373.707, F.S.

The bill amends s. 373.042, F.S., to provide that where a local water utility, water supply authority, or other water supply entity seeks to develop an alternative water supply project option, the minimum flow and level for the proposed source of water supply shall be added to the priority list developed by the district and approved by the department with an assigned schedule for the completion as determined by the district.

The bill amends s. 373.223, F.S., relating to the conditions for the issuance of a consumptive use permit (CUP), to provide that alternative water supply projects are presumed to have a use consistent with the public interest.

The bill also amends s. 373.236, F.S., relating to the duration of consumptive use permits to provide that CUPs approving alternative water supply projects shall be granted for a term of at least 20 years or for the time needed to retire bonds for the construction of the facilities.

C. SECTION DIRECTORY:

Section 1. Creates s. 373.701, F.S., Declaration of Policy, to include those policy statements currently in s. 373.016, F.S., dealing with water supply planning and production.

Section 2. Creates s. 373.703, F.S., Definitions, to include those definitions in s. 373.019, F.S., dealing with water supply planning and production (i.e. Subsections 373.019(2), (5), (14), (19), and (21), F.S.). Included are new definitions for "Alternative water supply" and "multi-jurisdictional water supply entity." Revised definitions are provided for the "District water supply plan" and the "Florida water supply plan."

Section 3. Creates s. 373.705, F.S., Powers and duties, to include ss. 373.1961(1), F.S., in its entirety (adds "multi-jurisdictional water supply entities" and "regional" water supply authorities to those entities which are to be assisted by water management districts in meeting water supply needs).

Section 4. Creates s. 373.707, F.S., Florida water supply plan; district water management plans, to include s. 373.036, F.S., except for paragraphs 373.036(1)(b) and (2)(d)7, F.S., (which deal with water quality), The references to "Florida water plan" and "district water management plans" are changed to "Florida water supply plan" and "district water supply plans."

Section 5. Creates s. 373.709, F.S., Water resource development; water supply development, to include s. 373.0831, F.S., in its entirety and adds language to require water management districts to include in their annual budgets the amount available to implement water supply projects.

Section 6. Creates s. 373.711, F.S., Alternative water supplies, to include ss. 373.1961(2), F.S.; adds new language to require water management districts to make funds available to local utilities, special districts, regional water supply authorities, and other multi-jurisdictional water supply entities; adds new language for an application process to water management districts for funding.

Section 7. Creates s. 373.713, F.S., Regional Water Supply Planning, to include s. 373.0361, F.S., in its entirety, except that ss. 373.0361(3), F.S., is deleted from Section 373.713, F.S. New language is added with respect to public education, the assessment of the impacts of minimum flows and levels on water supply needs, listing of water supply development projects, the joint development of regional water supply plans, and annual reporting requirements of the Department of Environmental Protection on the status of regional water supply planning.

Section 8. Creates s. 373.715, F.S., Technical Assistance, to include s. 373.0391, F.S., in its entirety except for paragraphs (2)(d) and (f). New language is added to include additional information that water management districts are to provide to local governments relating to water resources and to require water management districts to provide technical assistance to local governments in the development of water supply development project options.

Section 9. Creates s. 373.717, F.S., Regional water supply authorities, to include ss. 373.1962, F.S., in its entirety. References to "water rights" in Paragraphs 373.1962(2)(b) and (e), F.S., are deleted from Section 373.717, F.S. New language is added to include "special districts."

Section 10. Creates s. 373.719, F.S., West Coast Regional Water Supply Authority to include s. 373.1963, F.S., in its entirety. Subsection 373.1963(3), F.S., has been deleted from Section 373.719, F.S.

Section 11. Amends s. 120.52(12), F.S., to conform a cross-reference.

Section 12. Amends s. 163.3167(13), F.S., to conform a cross-reference.

- Section 13. Amends s. 163.3177(4) and (6), F.S., to conform cross-references.
- Section 14. Amends s. 163.3191(2), F.S., to conform a cross-reference.
- Section 15. Amends s. 186.009(2), F.S., to conform a cross-reference.
- Section 16. Amends s. 189.404(4), F.S., to conform cross-references.
- Section 17. Amends s. 189.4145(3), F.S., to conform a cross-reference.
- Section 18. Amends s. 189.4156, F.S., to conform a cross-reference.
- Section 19. Amends s. 367.021(7), F.S., to conform a cross-reference.
- Section 20. Amends s. 373.016, F.S., to conform to changes to s. 373.701, F.S.
- Section 21. Amends s. 373.019 (14), (19), and (21) F.S., to delete definitions.
- Section 22. Amends s. 373.036, F.S., , to conform to changes to s. 373.707, F.S.
- Section 23. Creates s. 373.042(6), F.S., relating to minimum flows and levels.
- Section 24. Amends s. 373.0421(2), F.S., to conform a cross-reference.
- Section 25. Amends s. 373.0695(4), F.S., to conform a cross-reference.
- Section 26. Amends s. 373.223(3), F.S., to conform a cross-reference, and creates ss. 373.223(5), F.S., relating to consumptive use permits.
- Section 27. Amends s. 373.2234(3), F.S., to conform cross-references.
- Section 28. Amends s. 373.229(3), F.S., to conform a cross-reference.
- Section 29. Creates subsection (4) of section 373.236, F.S., relating to consumptive use permit duration.
- Section 30. Amends s. 373.421(1), F.S., to conform cross-references.
- Section 31. Amends s. 373.536(6), F.S., to conform a cross-reference.
- Section 32. Amends s. 373.59(11), F.S., to conform cross-references.
- Section 33. Amends s. 378.212, F.S., to conform a cross-reference.
- Section 34. Amends s. 378.404(9), F.S., to conform a cross-reference.
- Section 35. Amends s. 403.031(14), F.S., to conform cross-references.
- Section 36. Amends s. 403.813(2), F.S., to conform cross-references.
- Section 37. Amends s. 403.0891(3), F.S., to conform a cross-reference.
- Section 38. Amends s. 556.102(6), F.S., to conform a cross-reference.
- Section 39. Amends s. 682.02, F.S., to conform a cross-reference.

Section 40. Section 373.71, F.S., is renumbered as section 373.69, F.S.

Section 41. Repeals sections 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, F.S.

Section 42. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill does not require the promulgation of rules by nor alter the rulemaking authority of any state agency

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES