

Bill No. CS for SB 444

Barcode 550866

CHAMBER ACTION

Senate

House

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The Committee on Governmental Oversight and Productivity
(Lawson) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (d) of subsection (1) and
subsections (6) and (8) are amended and a new subsection (15)
is added to section 201.15, Florida Statutes, to read:

201.15 Distribution of taxes collected.--All taxes
collected under this chapter shall be distributed as follows
and shall be subject to the service charge imposed in s.
215.20(1), except that such service charge shall not be levied
against any portion of taxes pledged to debt service on bonds
to the extent that the amount of the service charge is
required to pay any amounts relating to the bonds:

(1)

(d) The remainder of the moneys distributed under this
subsection, after the required payments under paragraphs (a),
(b), and (c), shall be paid into the State Treasury to the

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1 credit of the General Revenue Fund of the state to be used and
 2 expended for the purposes for which the General Revenue Fund
 3 was created and exists by law or to the Ecosystem Management
 4 and Restoration Trust Fund or to the Marine Resources
 5 Conservation Trust Fund as provided in subsection (11), or to
 6 the Water Protection and Sustainability Program Trust Fund of
 7 the Department of Environmental Protection as provided in s.
 8 215.6197. Moneys available under this paragraph shall first be
 9 used to pay debt service due on any water protection and
 10 sustainability bonds or to make any other payments required by
 11 the bond documents authorizing the issuance before such moneys
 12 are used for other purposes authorized by this paragraph.

13 (6) Two and fifty-three ~~twenty-eight~~ hundredths
 14 percent of the remaining taxes collected under this chapter
 15 shall be paid into the State Treasury to the credit of the
 16 Invasive Plant Control Trust Fund to carry out the purposes
 17 set forth in ss. 369.22 and 369.252.

18 (8) One-quarter of one percent of the remaining taxes
 19 collected under this chapter shall be paid into the State
 20 Treasury to the credit of the Department of Agriculture and
 21 Consumer Services General Inspection Trust Fund to address
 22 water quality impacts associated with agricultural nonpoint
 23 sources. ~~One-half of one percent of the remaining taxes~~
 24 ~~collected under this chapter shall be paid into the State~~
 25 ~~Treasury and divided equally to the credit of the Department~~
 26 ~~of Environmental Protection Water Quality Assurance Trust Fund~~
 27 ~~to address water quality impacts associated with~~
 28 ~~nonagricultural nonpoint sources and to the credit of the~~
 29 ~~Department of Agriculture and Consumer Services General~~
 30 ~~Inspection Trust Fund to address water quality impacts~~
 31 ~~associated with agricultural nonpoint sources, respectively.~~

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1 These funds shall be used for research, development,
 2 demonstration, and implementation of suitable best management
 3 practices or other measures used to achieve water quality
 4 standards in surface waters and water segments identified
 5 pursuant to ss. 303(d) of the Clean Water Act, Pub. L. No.
 6 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best
 7 management practices and other measures may include cost-share
 8 grants, technical assistance, implementation tracking, and
 9 conservation leases or other agreements for water quality
 10 improvement. ~~The Department of Environmental Protection and~~
 11 ~~The Department of Agriculture and Consumer Services may adopt~~
 12 ~~rules governing the distribution of funds for implementation~~
 13 ~~of best management practices. The unobligated balance of funds~~
 14 ~~received from the distribution of taxes collected under this~~
 15 ~~chapter to address water quality impacts associated with~~
 16 ~~nonagricultural nonpoint sources will be excluded when~~
 17 ~~calculating the unobligated balance of the Water Quality~~
 18 ~~Assurance Trust Fund as it relates to the determination of the~~
 19 ~~applicable excise tax rate.~~

20 (15) Each fiscal year the Legislature, when available,
 21 should use nonrecurring revenue sources for all or a portion
 22 of the annual \$500 million funding in lieu of issuing bonds
 23 pursuant to this section.

24 Section 2. Section 215.6197, Florida Statutes, is
 25 created to read:

26 215.6197 Bonds for Water Protection and Sustainability
 27 Program.--

28 (1) The issuance of water protection and
 29 sustainability bonds is authorized. The water protection and
 30 sustainability bonds may be issued over the next 10 fiscal
 31 years commencing on July 1, 2005, in an amount not exceeding

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1 \$500 million in any fiscal year, subject to s. 403.890 and s.
 2 11(e), Art. VII of the State Constitution. The duration of
 3 each series of bonds issued may not exceed 20 annual
 4 maturities. Except for refunding bonds, a series of bonds may
 5 not be issued unless an amount equal to the debt service
 6 coming due in the year of issuance has been specifically
 7 appropriated in the General Appropriations Act.

8 (2) The state covenants with the holders of water
 9 protection and sustainability bonds that it will not take any
 10 action that will materially and adversely affect the rights of
 11 such holders so long as the bonds are outstanding, including,
 12 but not limited to, a reduction in the portion of documentary
 13 stamp taxes distributable to the Water Protection and
 14 Sustainability Program Trust Fund of the Department of
 15 Environmental Protection for payment of debt service.

16 (3) Bonds issued under this section shall be payable
 17 from taxes distributable to the Water Protection and
 18 Sustainability Program Trust Fund of the Department of
 19 Environmental Protection under s. 201.15(1)(d). Bonds issued
 20 under this section do not constitute a general obligation of,
 21 or a pledge of the full faith and credit of, the state.

22 (4) The Department of Environmental Protection shall
 23 request the Division of Bond Finance of the State Board of
 24 Administration to issue the water protection and
 25 sustainability bonds authorized by this section. The Division
 26 of Bond Finance shall issue such bonds pursuant to the State
 27 Bond Act.

28 (5) The proceeds from the sale of bonds issued under
 29 this section, less the costs of issuance, the costs of funding
 30 reserve accounts, and other costs with respect to the bonds
 31 shall be deposited into the Water Protection and

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1 Sustainability Program Trust Fund of the Department of
2 Environmental Protection as provided in s. 403.890.

3 (6) The sale, disposition, lease, easement, license,
4 or other use of any land, water areas, or related property
5 interests acquired or improved with proceeds of water
6 protection and sustainability bonds which would cause all or
7 any portion of the interest of such bonds to lose the
8 exclusion from gross income for federal income tax purposes is
9 prohibited.

10 (7) The initial series of water protection and
11 sustainability bonds shall be validated in addition to any
12 other bonds required to be validated under s. 215.82. Any
13 complaint for validation of bonds issued under this section
14 shall be filed only in the circuit court of the county where
15 the seat of state government is situated, the notice required
16 to be published by s. 75.06 shall be published only in the
17 county where the complaint is filed, and the complaint and
18 order of the circuit court shall be served only on the state
19 attorney of the circuit in which the action is pending.

20 Section 3. In accordance with section 215.98(1),
21 Florida Statutes, the Legislature determines that the issuance
22 of water protection and sustainability bonds under section 2
23 of this act is in the best interest of the state and should be
24 implemented.

25 Section 4. Section 373.019, Florida Statutes, is
26 amended to read:

27 373.019 Definitions.--When appearing in this chapter
28 or in any rule, regulation, or order adopted pursuant thereto,
29 the following words shall, unless the context clearly
30 indicates otherwise, mean:

31 (1) "Alternative water supplies" means saltwater;

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1 brackish surface and groundwater; surface water captured
 2 predominately during wet-weather flows; sources made available
 3 through the addition of new storage capacity for surface or
 4 groundwater, water that has been reclaimed after one or more
 5 public supply, municipal, industrial, commercial, or
 6 agricultural uses, the downstream augmentation of waterbodies
 7 with reclaimed water; stormwater; and any other water supply
 8 source that is designated as non-traditional for a water
 9 supply planning region in the applicable regional water supply
 10 plan.

11 (2)"Capital costs" means planning, design, engineering,
 12 and project construction costs. Any use of bond proceeds to
 13 pay these costs that would cause all or any portion of the
 14 interest of such bonds to lose the exclusion from gross income
 15 for federal income tax purposes is prohibited.

16 (3)(1) "Coastal waters" means waters of the Atlantic
 17 Ocean or the Gulf of Mexico within the jurisdiction of the
 18 state.

19 (4)(2) "Department" means the Department of
 20 Environmental Protection or its successor agency or agencies.

21 (5)(3) "District water management plan" means the
 22 regional water resource plan developed by a governing board
 23 under s. 373.036.

24 (6)(4) "Domestic use" means the use of water for the
 25 individual personal household purposes of drinking, bathing,
 26 cooking, or sanitation. All other uses shall not be considered
 27 domestic.

28 (7)(5) "Florida water plan" means the state-level
 29 water resource plan developed by the department under s.
 30 373.036.

31 (8)(6) "Governing board" means the governing board of

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1 a water management district.

2 ~~(9)(7)~~ "Groundwater" means water beneath the surface
3 of the ground, whether or not flowing through known and
4 definite channels.

5 ~~(10)(8)~~ "Impoundment" means any lake, reservoir, pond,
6 or other containment of surface water occupying a bed or
7 depression in the earth's surface and having a discernible
8 shoreline.

9 ~~(11)(9)~~ "Independent scientific peer review" means the
10 review of scientific data, theories, and methodologies by a
11 panel of independent, recognized experts in the fields of
12 hydrology, hydrogeology, limnology, and other scientific
13 disciplines relevant to the matters being reviewed under s.
14 373.042.

15 ~~(12)~~ "Multi-jurisdictional water supply entity" means
16 two or more water utilities or local governments, organized
17 into a larger entity or that have entered into an interlocal
18 agreement or contract, for the purpose of more efficiently
19 pursuing water supply development or alternative water supply
20 development projects listed pursuant regional water supply
21 plan.

22 ~~(13)(10)~~ "Nonregulated use" means any use of water
23 which is exempted from regulation by the provisions of this
24 chapter.

25 ~~(14)(11)~~ "Other watercourse" means any canal, ditch,
26 or other artificial watercourse in which water usually flows
27 in a defined bed or channel. It is not essential that the
28 flowing be uniform or uninterrupted.

29 ~~(15)(12)~~ "Person" means any and all persons, natural
30 or artificial, including any individual, firm, association,
31 organization, partnership, business trust, corporation,

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1 company, the United States of America, and the state and all
2 political subdivisions, regions, districts, municipalities,
3 and public agencies thereof. The enumeration herein is not
4 intended to be exclusive or exhaustive.

5 ~~(16)(13)~~ "Reasonable-beneficial use" means the use of
6 water in such quantity as is necessary for economic and
7 efficient utilization for a purpose and in a manner which is
8 both reasonable and consistent with the public interest.

9 ~~(17)(14)~~ "Regional water supply plan" means a detailed
10 water supply plan developed by a governing board under s.
11 373.0361.

12 ~~(18)(15)~~ "Stream" means any river, creek, slough, or
13 natural watercourse in which water usually flows in a defined
14 bed or channel. It is not essential that the flowing be
15 uniform or uninterrupted. The fact that some part of the bed
16 or channel has been dredged or improved does not prevent the
17 watercourse from being a stream.

18 ~~(19)(16)~~ "Surface water" means water upon the surface
19 of the earth, whether contained in bounds created naturally or
20 artificially or diffused. Water from natural springs shall be
21 classified as surface water when it exits from the spring onto
22 the earth's surface.

23 ~~(20)(17)~~ "Water" or "waters in the state" means any
24 and all water on or beneath the surface of the ground or in
25 the atmosphere, including natural or artificial watercourses,
26 lakes, ponds, or diffused surface water and water percolating,
27 standing, or flowing beneath the surface of the ground, as
28 well as all coastal waters within the jurisdiction of the
29 state.

30 ~~(21)(18)~~ "Water management district" means any flood
31 control, resource management, or water management district

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1 operating under the authority of this chapter.

2 ~~(22)(19)~~ "Water resource development" means the
3 formulation and implementation of regional water resource
4 management strategies, including the collection and evaluation
5 of surface water and groundwater data; structural and
6 nonstructural programs to protect and manage water resources;
7 the development of regional water resource implementation
8 programs; the construction, operation, and maintenance of
9 major public works facilities to provide for flood control,
10 surface and underground water storage, and groundwater
11 recharge augmentation; and related technical assistance to
12 local governments and to government-owned and privately owned
13 water utilities.

14 ~~(23)(20)~~ "Water resource implementation rule" means
15 the rule authorized by s. 373.036, which sets forth goals,
16 objectives, and guidance for the development and review of
17 programs, rules, and plans relating to water resources, based
18 on statutory policies and directives. The waters of the state
19 are among its most basic resources. Such waters should be
20 managed to conserve and protect water resources and to realize
21 the full beneficial use of these resources.

22 ~~(24)(21)~~ "Water supply development" means the
23 planning, design, construction, operation, and maintenance of
24 public or private facilities for water collection, production,
25 treatment, transmission, or distribution for sale, resale, or
26 end use.

27 ~~(25)(22)~~ For the sole purpose of serving as the basis
28 for the unified statewide methodology adopted pursuant to s.
29 373.421(1), as amended, "wetlands" means those areas that are
30 inundated or saturated by surface water or groundwater at a
31 frequency and a duration sufficient to support, and under

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1 normal circumstances do support, a prevalence of vegetation
 2 typically adapted for life in saturated soils. Soils present
 3 in wetlands generally are classified as hydric or alluvial, or
 4 possess characteristics that are associated with reducing soil
 5 conditions. The prevalent vegetation in wetlands generally
 6 consists of facultative or obligate hydrophytic macrophytes
 7 that are typically adapted to areas having soil conditions
 8 described above. These species, due to morphological,
 9 physiological, or reproductive adaptations, have the ability
 10 to grow, reproduce, or persist in aquatic environments or
 11 anaerobic soil conditions. Florida wetlands generally include
 12 swamps, marshes, bayheads, bogs, cypress domes and strands,
 13 sloughs, wet prairies, riverine swamps and marshes, hydric
 14 seepage slopes, tidal marshes, mangrove swamps and other
 15 similar areas. Florida wetlands generally do not include
 16 longleaf or slash pine flatwoods with an understory dominated
 17 by saw palmetto. Upon legislative ratification of the
 18 methodology adopted pursuant to s. 373.421(1), as amended, the
 19 limitation contained herein regarding the purpose of this
 20 definition shall cease to be effective.

21 ~~(26)~~~~(23)~~ "Works of the district" means those projects
 22 and works, including, but not limited to, structures,
 23 impoundments, wells, streams, and other watercourses, together
 24 with the appurtenant facilities and accompanying lands, which
 25 have been officially adopted by the governing board of the
 26 district as works of the district.

27 Section 5. Section 373.196, Florida Statutes, is
 28 amended to read:

29 (Substantial rewording of section. See
 30 s. 373.196, F.S.; for present text.)
 31 373.196 Alternative water supply development.--

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1 (1) The purpose of this section is to encourage
2 cooperation in the development of water supplies and to
3 provide for alternative water supply development.

4 (a) Demands on natural supplies of fresh water to meet
5 the needs of a rapidly growing population, and the needs of
6 the environment, agriculture, industry, and mining will
7 continue to increase.

8 (b) There is a need for the development of alternative
9 water supplies for Florida to sustain its economic growth,
10 economic viability, and natural resources.

11 (c) Cooperative efforts between municipalities,
12 counties, special districts, water management districts, and
13 the Department of Environmental Protection are mandatory in
14 order to meet the water needs of rapidly urbanizing areas in a
15 manner which will supply adequate and dependable supplies of
16 water where needed without resulting in adverse effects upon
17 the areas from whence such water is withdrawn. Such efforts
18 should utilize all practical means of obtaining water,
19 including, but not limited to, withdrawals of surface water
20 and groundwater, reuse, and desalinization, and will
21 necessitate not only cooperation but also well-coordinated
22 activities. Municipalities, counties, and special districts
23 are encouraged to create regional water supply authorities as
24 authorized in s. 373.1962 or multi-jurisdictional water supply
25 entities.

26 (d) Alternative water supply development must receive
27 priority funding attention to increase the available supplies
28 of water to meet all existing and future reasonable-beneficial
29 uses and to benefit the natural systems.

30 (e) Cooperation between counties, municipalities,
31 regional water supply authorities, multi-jurisdictional water

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1 supply entities, special districts, and publicly owned and
 2 privately owned water utilities in the development of
 3 countywide and multi-countywide alternative water supply
 4 projects will allow for necessary economies of scale and
 5 efficiencies to be achieved in order to accelerate the
 6 development of new, dependable, and sustainable alternative
 7 water supplies.

8 (f) It is in the public interest that county,
 9 municipal, industrial, agricultural, and other public and
 10 private water users, the Department of Environmental
 11 Protection, and the water management districts cooperate and
 12 work together in the development of alternative water supplies
 13 to avoid the adverse effects of competition for limited
 14 supplies of water. Public moneys or services provided to
 15 private entities for alternative water supply development may
 16 constitute public purposes that also are in the public
 17 interest.

18 (2)(a) Sufficient water must be available for all
 19 existing and future reasonable-beneficial uses and the natural
 20 systems, and the adverse effects of competition for water
 21 supplies must be avoided.

22 (b) Water supply development and alternative water
 23 supply development must be conducted in coordination with
 24 water management district regional water supply planning.

25 (c) Funding for the development of alternative water
 26 supplies shall be a shared responsibility of water suppliers
 27 and users, the state of Florida, and the water management
 28 districts, with water suppliers and users having the primary
 29 responsibility and the state of Florida and the water
 30 management districts being responsible to provide funding
 31 assistance.

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1 (3) The primary roles of the water management
2 districts in water supply development as it relates to
3 supporting alternative water supply development are:

4 (a) The formulation and implementation of regional
5 water resource management strategies that support alternative
6 water supply development;

7 (b) The collection and evaluation of surface water and
8 groundwater data to be used for a planning level assessment of
9 the feasibility of alternative water supply development
10 projects;

11 (c) The construction, operation, and maintenance of
12 major public works facilities for flood control, surface and
13 underground water storage, and groundwater recharge
14 augmentation to support alternative water supply development;

15 (d) Planning for alternative water supply development
16 as provided in regional water supply plans in coordination
17 with local governments, regional water supply authorities,
18 multi-jurisdictional water supply entities, special districts,
19 and publicly owned and privately owned water utilities and
20 self suppliers;

21 (e) The formulation and implementation of structural
22 and nonstructural programs to protect and manage water
23 resources in support of alternative water supply projects; and

24 (f) The provision of technical and financial
25 assistance to local governments and publicly owned and
26 privately owned water utilities for alternative water supply
27 projects.

28 (4) The primary roles of local government, regional
29 water supply authorities, multi-jurisdictional water supply
30 entities, special districts, and publicly owned and privately
31 owned water utilities in alternative water supply development

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1 shall be:

2 (a) The planning, design, construction, operation, and
3 maintenance of alternative water supply development projects,
4 with funding assistance from the state and the water
5 management districts;

6 (b) The formulation and implementation of alternative
7 water supply development strategies and programs;

8 (c) The planning, design, construction, operation, and
9 maintenance of facilities to collect, divert, produce, treat,
10 transmit, and distribute water for sale, resale, or end use;
11 and

12 (d) The coordination of alternative water supply
13 development activities with the appropriate water management
14 district having jurisdiction over the activity.

15 (5) Nothing herein shall be construed to preclude the
16 various special districts, municipalities, and counties from
17 continuing to operate existing water production and
18 transmission facilities or to enter into cooperative
19 agreements with other special districts, municipalities, and
20 counties for the purpose of meeting their respective needs for
21 dependable and adequate supplies of water, provided the
22 obtaining of water through such operations shall not be done
23 in a manner which results in adverse effects upon the areas
24 from whence such water is withdrawn.

25 (6)(a) The statewide funds provided pursuant to the
26 Water Protection and Sustainability Program serve to
27 supplement existing water management district funding for
28 alternative water supply development assistance, and not
29 result in a reduction of such funding. Therefore, the water
30 management districts shall include, in the annual tentative
31 and adopted budget submittals required under this chapter the

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1 amount of funds allocated for water resource development that
 2 supports alternative water supply development, and the funds
 3 allocated for alternative water supply projects selected for
 4 inclusion in the Water Protection and Sustainability Program.
 5 It shall be the goal of each water management district that
 6 the combined funds allocated annually for these purposes be,
 7 at a minimum, the equivalent of 25 percent of the state
 8 funding provided to the water management district for
 9 alternative water supply development. If this goal is not
 10 achieved, the water management district shall provide in the
 11 budget submittal an explanation of the reasons or constraints
 12 that prevent this goal from being met.

13 (b) State funds from the Water Protection and
 14 Sustainability program created in s. 403.890, shall be made
 15 available for financial assistance for the capital costs of
 16 alternative water supply development projects selected by a
 17 water management district governing board for inclusion in the
 18 program.

19 Section 6. Section 373.1961, Florida Statutes, is
 20 amended to read:

21 373.1961 Water production; general powers and duties;
 22 identification of needs; funding criteria; economic
 23 incentives; reuse funding.--

24 (1) GENERAL POWERS AND DUTIES.--In the performance of,
 25 and in conjunction with, its other powers and duties, the
 26 governing board of a water management district existing
 27 pursuant to this chapter:

28 (a) Shall engage in planning to assist counties,
 29 municipalities, special districts, publicly owned and
 30 privately owned water ~~private~~ utilities, multi-jurisdictional
 31 water supply entities, or regional water supply authorities in

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1 meeting water supply needs in such manner as will give
 2 priority to encouraging conservation and reducing adverse
 3 environmental effects of improper or excessive withdrawals of
 4 water from concentrated areas. As used in this section and s.
 5 373.196, regional water supply authorities are regional water
 6 authorities created under s. 373.1962 or other laws of this
 7 state.

8 (b) Shall assist counties, municipalities, special
 9 districts, publicly owned or privately owned water ~~private~~
 10 utilities, multi-jurisdictional water supply entities, or
 11 regional water supply authorities in meeting water supply
 12 needs in such manner as will give priority to encouraging
 13 conservation and reducing adverse environmental effects of
 14 improper or excessive withdrawals of water from concentrated
 15 areas.

16 (c) May establish, design, construct, operate, and
 17 maintain water production and transmission facilities for the
 18 purpose of supplying water to counties, municipalities,
 19 special districts, publicly owned and privately owned water
 20 ~~private~~ utilities, multi-jurisdictional water supply entities,
 21 or regional water supply authorities. The permit required by
 22 part II of this chapter for a water management district
 23 engaged in water production and transmission shall be granted,
 24 denied, or granted with conditions by the department.

25 (d) Shall not engage in local water supply
 26 distribution.

27 (e) Shall not deprive, directly or indirectly, any
 28 county wherein water is withdrawn of the prior right to the
 29 reasonable and beneficial use of water which is required to
 30 supply adequately the reasonable and beneficial needs of the
 31 county or any of the inhabitants or property owners therein.

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1 (f) May provide water and financial assistance to
 2 regional water supply authorities, but may not provide water
 3 to counties and municipalities which are located within the
 4 area of such authority without the specific approval of the
 5 authority or, in the event of the authority's disapproval, the
 6 approval of the Governor and Cabinet sitting as the Land and
 7 Water Adjudicatory Commission. The district may supply water
 8 at rates and upon terms mutually agreed to by the parties or,
 9 if they do not agree, as set by the governing board and
 10 specifically approved by the Governor and Cabinet sitting as
 11 the Land and Water Adjudicatory Commission.

12 (g) May acquire title to such interest as is necessary
 13 in real property, by purchase, gift, devise, lease, eminent
 14 domain, or otherwise, for water production and transmission
 15 consistent with this section and s. 373.196. However, the
 16 district shall not use any of the eminent domain powers herein
 17 granted to acquire water and water rights already devoted to
 18 reasonable and beneficial use or any water production or
 19 transmission facilities owned by any county, municipality,
 20 special districts, or regional water supply authority. The
 21 district may exercise eminent domain powers outside of its
 22 district boundaries for the acquisition of pumpage facilities,
 23 storage areas, transmission facilities, and the normal
 24 appurtenances thereto, provided that at least 45 days prior to
 25 the exercise of eminent domain, the district notifies the
 26 district where the property is located after public notice and
 27 the district where the property is located does not object
 28 within 45 days after notification of such exercise of eminent
 29 domain authority.

30 (h) In addition to the power to issue revenue bonds
 31 pursuant to s. 373.584, may issue revenue bonds for the

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1 purposes of paying the costs and expenses incurred in carrying
2 out the purposes of this chapter or refunding obligations of
3 the district issued pursuant to this section. Such revenue
4 bonds shall be secured by, and be payable from, revenues
5 derived from the operation, lease, or use of its water
6 production and transmission facilities and other water-related
7 facilities and from the sale of water or services relating
8 thereto. Such revenue bonds may not be secured by, or be
9 payable from, moneys derived by the district from the Water
10 Management Lands Trust Fund or from ad valorem taxes received
11 by the district. All provisions of s. 373.584 relating to the
12 issuance of revenue bonds which are not inconsistent with this
13 section shall apply to the issuance of revenue bonds pursuant
14 to this section. The district may also issue bond
15 anticipation notes in accordance with the provisions of s.
16 373.584.

17 (i) May join with one or more other water management
18 districts, counties, municipalities, special districts,
19 publicly owned or privately owned water ~~private~~ utilities,
20 multi-jurisdictional water supply entities, or regional water
21 supply authorities for the purpose of carrying out any of its
22 powers, and may contract with such other entities to finance
23 acquisitions, construction, operation, and maintenance. The
24 contract may provide for contributions to be made by each
25 party thereto, for the division and apportionment of the
26 expenses of acquisitions, construction, operation, and
27 maintenance, and for the division and apportionment of the
28 benefits, services, and products therefrom. The contracts may
29 contain other covenants and agreements necessary and
30 appropriate to accomplish their purposes.

31 (2) IDENTIFICATION OF WATER SUPPLY NEEDS IN DISTRICT

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1 BUDGET.--The water management districts shall implement its
 2 responsibilities as expeditiously as possible in areas subject
 3 to regional water supply plans. Each district's governing
 4 board shall include in its annual budget the amount needed for
 5 the fiscal year to assist in implementing alternative water
 6 supply development projects.

7 ~~(2) The Legislature finds that, due to a combination~~
 8 ~~of factors, vastly increased demands have been placed on~~
 9 ~~natural supplies of fresh water, and that, absent increased~~
 10 ~~development of alternative water supplies, such demands may~~
 11 ~~increase in the future. The Legislature also finds that~~
 12 ~~potential exists in the state for the production of~~
 13 ~~significant quantities of alternative water supplies,~~
 14 ~~including reclaimed water, and that water production includes~~
 15 ~~the development of alternative water supplies, including~~
 16 ~~reclaimed water, for appropriate uses. It is the intent of the~~
 17 ~~Legislature that utilities develop reclaimed water systems,~~
 18 ~~where reclaimed water is the most appropriate alternative~~
 19 ~~water supply option, to deliver reclaimed water to as many~~
 20 ~~users as possible through the most cost-effective means, and~~
 21 ~~to construct reclaimed water system infrastructure to their~~
 22 ~~owned or operated properties and facilities where they have~~
 23 ~~reclamation capability. It is also the intent of the~~
 24 ~~Legislature that~~

25 (3)FUNDING.--(a) The water management districts and the
 26 state shall which levy ad valorem taxes for water management
 27 purposes should share a percentage of those tax revenues with
 28 water providers and users, including local governments, water,
 29 wastewater, and reuse utilities, municipal, special district,
 30 industrial, and agricultural water users, and other public and
 31 private water users, to be used to supplement other funding

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1 sources in the development of alternative water supplies. ~~The~~
 2 ~~Legislature finds that public moneys or services provided to~~
 3 ~~private entities for such uses constitute public purposes~~
 4 ~~which are in the public interest. In order to further the~~
 5 ~~development and use of alternative water supply systems,~~
 6 ~~including reclaimed water systems, the Legislature provides~~
 7 ~~the following:~~

8 (b) Beginning in fiscal year 2005-2006, the state
 9 shall annually provide a portion of those revenues received
 10 from the sale of bonds authorized in s. 215.6197 for the
 11 purpose of providing funding assistance for the development of
 12 alternative water supplies pursuant to the Water Protection
 13 and Sustainability Program. At the beginning of each fiscal
 14 year, beginning with fiscal year 2005-2006, such revenues
 15 shall be distributed by the department into the alternative
 16 water supply trust fund accounts created by each district for
 17 the purpose of alternative supply development under the
 18 following funding formula:

19 1. Forty percent to the South Florida Water Management
 20 District,

21 2. Twenty-five percent to the Southwest Florida Water
 22 Management District,

23 3. Twenty-five percent to the St. Johns River Water
 24 Management District,

25 4. Five percent to the Suwannee River Water Management
 26 District, and

27 5. Five percent to the Northwest Florida Water
 28 Management District.

29 (c) The financial assistance for alternative water
 30 supply projects allocated in each district's budget as
 31 required in s. 373.196(6) shall be combined with the state

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1 funds and used to assist in funding the capital costs of
 2 alternative water supply projects selected by the governing
 3 board. In the case where the district has not completed any
 4 regional water supply plan, or the regional water supply plan
 5 does not identify the need for any alternative water supply
 6 projects, funds deposited in that district's trust fund may be
 7 used for water resource development projects, including but
 8 not limited to springs protection.

9 (d) All projects submitted to the governing board for
 10 consideration shall reflect the total cost for implementation.
 11 The costs shall be segregated pursuant to the categories
 12 described in the definition of capital costs.

13 (e) Applicants for projects that may receive funding
 14 assistance pursuant to the Water Protection and Sustainability
 15 Program shall, at a minimum, be required to pay 60 percent of
 16 the projects total costs. The water management districts may,
 17 at their discretion, wave this requirement for projects
 18 sponsored by financially disadvantaged small local governments
 19 as defined in s. 403.885(5).

20 (f) The governing boards shall determine those
 21 projects that will be eligible for financial assistance. The
 22 governing boards may establish factors to determine project
 23 eligibility, however, significant weight shall be given to
 24 those projects with factors that consider:

25 1. Whether the project provides substantial
 26 environmental benefits by preventing or limiting adverse water
 27 resource impacts.

28 2. Whether the project reduces competition for water
 29 supplies.

30 3. Whether the project brings about replacement of
 31 traditional sources in order to help implement a minimum flow

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1 or level or a reservation.

2 4. Whether the project will be implemented by a
3 consumptive use permittee that has achieved the targets
4 contained in a goal based water conservation program approved
5 pursuant to s. 373.227.

6 5. The quantity of water supplied by the project as
7 compared to its cost.

8 6. Projects in which the construction and delivery to
9 end users of reuse water is a major component.

10 7. Whether the project will be implemented by a
11 multi-jurisdictional water supply entity or regional water
12 supply authority.

13 (g) Additional factors to be considered in determining
14 project eligibility shall include:

15 1. Whether the project is part of a plan to implement
16 two or more alternative water supply projects, all of which
17 will be operated to produce water at a uniform rate for the
18 participants in a multi-jurisdictional water supply entity or
19 regional water supply authority.

20 2. The percentage of project costs to be funded by the
21 water supplier or water user.

22 3. Whether the project proposal includes sufficient
23 preliminary planning and engineering to demonstrate that the
24 project can reasonably be implemented within the timeframes
25 provided in the regional water supply plan.

26 4. Whether the project is a subsequent phase of an
27 alternative water supply project underway.

28 5. Whether and in what percentage a local government
29 or local government utility is transferring water supply
30 system revenues to the local government general fund in excess
31 of reimbursements for services received from the general fund

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1 including direct and indirect costs and legitimate payments in
2 lieu of taxes.

3 (h) After conducting one or more meetings to solicit
4 public input on eligible projects for implementation of
5 alternative water supply projects, the governing board of each
6 water management district shall select projects for funding
7 assistance based upon the above criteria and the project being
8 identified or listed as an alternative water supply
9 development option in the regional water supply plan.

10 Alternatively, the governing board may select and allocate up
11 to 20 percent of the funding for alternative water supply
12 projects not identified or listed in the regional water supply
13 plan but which are consistent with the goals of the plan.

14 ~~(a) The governing boards of the water management~~
15 ~~districts where water resource caution areas have been~~
16 ~~designated shall include in their annual budgets an amount for~~
17 ~~the development of alternative water supply systems, including~~
18 ~~reclaimed water systems, pursuant to the requirements of this~~
19 ~~subsection. Beginning in 1996, such amounts shall be made~~
20 ~~available to water providers and users no later than December~~
21 ~~31 of each year, through grants, matching grants, revolving~~
22 ~~loans, or the use of district lands or facilities pursuant to~~
23 ~~the requirements of this subsection and guidelines established~~
24 ~~by the districts. In making grants or loans, funding priority~~
25 ~~must be given to projects in accordance with s. 373.0831(4).~~

26 (i) Without diminishing amounts available through
27 other means described in this paragraph, the governing boards
28 are encouraged to consider establishing revolving loan funds
29 to expand the total funds available to accomplish the
30 objectives of this section. A revolving loan fund created
31 under this paragraph must be a nonlapsing fund from which the

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1 water management district may make loans with interest rates
 2 below prevailing market rates to public or private entities
 3 for the purposes described in this section. The governing
 4 board may adopt resolutions to establish revolving loan funds
 5 which must specify the details of the administration of the
 6 fund, the procedures for applying for loans from the fund, the
 7 criteria for awarding loans from the fund, the initial
 8 capitalization of the fund, and the goals for future
 9 capitalization of the fund in subsequent budget years.

10 Revolving loan funds created under this paragraph must be used
 11 to expand the total sums and sources of cooperative funding
 12 available for the development of alternative water supplies.
 13 The Legislature does not intend for the creation of revolving
 14 loan funds to supplant or otherwise reduce existing sources or
 15 amounts of funds currently available through other means.

16 (j) For each utility that receives financial
 17 assistance from the state or a water management district for
 18 alternative water supply development projects, the appropriate
 19 rate-setting authority must develop rate structures for all
 20 water, wastewater, and other alternative water facilities in
 21 the service area of the utility receiving assistance. Rate
 22 structures must:

- 23 1. Promote the development of alternative water supply
 24 systems;
- 25 2. Promote the conservation of water;
- 26 3. Appropriately distribute costs among all the users
 27 of water, wastewater, and alternative water supplies within
 28 the service area; and
- 29 4. Prohibit rate discrimination within classes of
 30 utility users.

31 ~~(b) It is the intent of the Legislature that for each~~

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1 ~~reclaimed water utility, or any other utility, which receives~~
 2 ~~funds pursuant to this subsection, the appropriate~~
 3 ~~rate setting authorities should develop rate structures for~~
 4 ~~all water, wastewater, and reclaimed water and other~~
 5 ~~alternative water supply utilities in the service area of the~~
 6 ~~funded utility, which accomplish the following:~~

7 1. ~~Provide meaningful progress toward the development~~
 8 ~~and implementation of alternative water supply systems,~~
 9 ~~including reclaimed water systems;~~

10 2. ~~Promote the conservation of fresh water withdrawn~~
 11 ~~from natural systems;~~

12 3. ~~Provide for an appropriate distribution of costs~~
 13 ~~for all water, wastewater, and alternative water supply~~
 14 ~~utilities, including reclaimed water utilities, among all of~~
 15 ~~the users of those utilities; and~~

16 4. ~~Prohibit rate discrimination within classes of~~
 17 ~~utility users.~~

18 (c) ~~Funding assistance provided by the water~~
 19 ~~management districts for a water reuse system project may~~
 20 ~~include the following grant or loan conditions for that~~
 21 ~~project if the water management district determines that such~~
 22 ~~conditions will encourage water use efficiency:~~

23 1. ~~Metering of reclaimed water use for the following~~
 24 ~~activities: residential irrigation, agricultural irrigation,~~
 25 ~~industrial uses except for electric utilities as defined in s.~~
 26 ~~366.02(2), landscape irrigation, irrigation of other public~~
 27 ~~access areas, commercial and institutional uses such as toilet~~
 28 ~~flushing, and transfers to other reclaimed water utilities.~~

29 2. ~~Implementation of reclaimed water rate structures~~
 30 ~~based on actual use of reclaimed water for the types of reuse~~
 31 ~~activities listed in subparagraph 1.~~

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1 ~~3. Implementation of education programs to inform the~~
2 ~~public about water issues, water conservation, and the~~
3 ~~importance and proper use of reclaimed water.~~

4 ~~4. Development of location data for key reuse~~
5 ~~facilities.~~

6 ~~(d) In order to be eligible for funding pursuant to~~
7 ~~this subsection, a project must be consistent with a local~~
8 ~~government comprehensive plan and the governing body of the~~
9 ~~local government must require all appropriate new facilities~~
10 ~~within the project's service area to connect to and use the~~
11 ~~project's alternative water supplies. The appropriate local~~
12 ~~government must provide written notification to the~~
13 ~~appropriate district that the proposed project is consistent~~
14 ~~with the local government comprehensive plan.~~

15 ~~(e) Any and all revenues disbursed pursuant to this~~
16 ~~subsection shall be applied only for the payment of capital or~~
17 ~~infrastructure costs for the construction of alternative water~~
18 ~~supply systems that provide alternative water supplies.~~

19 ~~(k)1.(f) By January 1 of each year, The governing~~
20 ~~boards shall establish a process make available written~~
21 ~~guidelines for the disbursement of revenues pursuant to this~~
22 ~~subsection. Such guidelines shall include at minimum:~~

23 ~~1. An application process and a deadline for filing~~
24 ~~applications annually.~~

25 ~~2. A process for determining project eligibility~~
26 ~~pursuant to the requirements of paragraphs (d) and (e).~~

27 ~~3. A process and criteria for funding projects~~
28 ~~pursuant to this subsection that cross district boundaries or~~
29 ~~that serve more than one district.~~

30 ~~(g) The governing board of each water management~~
31 ~~district shall establish an alternative water supplies grants~~

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1 ~~advisory committee to recommend to the governing board~~
 2 ~~projects for funding pursuant to this subsection. The advisory~~
 3 ~~committee members shall include, but not be limited to, one or~~
 4 ~~more representatives of county, municipal, and investor-owned~~
 5 ~~private utilities, and may include, but not be limited to,~~
 6 ~~representatives of agricultural interests and environmental~~
 7 ~~interests. Each committee member shall represent his or her~~
 8 ~~interest group as a whole and shall not represent any specific~~
 9 ~~entity. The committee shall apply the guidelines and project~~
 10 ~~eligibility criteria established by the governing board in~~
 11 ~~reviewing proposed projects. After one or more hearings to~~
 12 ~~solicit public input on eligible projects, the committee shall~~
 13 ~~rank the eligible projects and shall submit them to the~~
 14 ~~governing board for final funding approval. The advisory~~
 15 ~~committee may submit to the governing board more projects than~~
 16 ~~the available grant money would fund.~~

17 ~~(l)(h)~~ All revenues made available ~~annually~~ pursuant
 18 to this subsection must be encumbered ~~annually~~ by the
 19 governing board when if it approves projects sufficient to
 20 expend the available revenues. ~~Funds must be disbursed within~~
 21 ~~36 months after encumbrance.~~

22 ~~(i)~~ For purposes of this subsection, ~~alternative water~~
 23 ~~supplies are supplies of water that have been reclaimed after~~
 24 ~~one or more public supply, municipal, industrial, commercial,~~
 25 ~~or agricultural uses, or are supplies of stormwater, or~~
 26 ~~brackish or salt water, that have been treated in accordance~~
 27 ~~with applicable rules and standards sufficient to supply the~~
 28 ~~intended use.~~

29 ~~(m)(j)~~ This subsection shall not be subject to the
 30 rulemaking requirements of chapter 120.

31 ~~(n)(k)~~ By March 1 ~~January 30~~ of each year, as part of

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1 a consolidated annual report, each water management district
 2 shall submit a ~~an annual~~ report to the Governor, the President
 3 of the Senate, and the Speaker of the House of Representatives
 4 which accounts for the disbursement of all budgeted amounts
 5 pursuant to this section ~~subsection~~. Such report shall
 6 describe all alternative water supply projects funded as well
 7 as the quantity of new water to be created as a result of such
 8 projects and shall account separately for any other moneys
 9 provided through grants, matching grants, revolving loans, and
 10 the use of district lands or facilities to implement regional
 11 water supply plans.

12 (o)(1) The Florida Public Service Commission shall
 13 allow entities under its jurisdiction constructing or
 14 participating in constructing facilities that provide
 15 alternative water supplies ~~supply facilities, including but~~
 16 ~~not limited to aquifer storage and recovery wells~~, to recover
 17 their ~~the~~ full, prudently incurred cost of such facilities
 18 through their rate structure. If construction of a facility or
 19 participating in constructing is pursuant to or in furtherance
 20 of a regional water supply plan, the cost shall be deemed to
 21 be prudently incurred. Every component of an alternative water
 22 supply facility constructed by an investor-owned utility shall
 23 be recovered in current rates. Any state or water management
 24 district cost-share shall not be subject to the recovery
 25 provisions allowed in this paragraph.

26 (4) FUNDING FOR REUSE.--Funding assistance provided by
 27 the water management districts for a water reuse system may
 28 include the following conditions for that project if a water
 29 management district determines that such conditions will
 30 encourage water use efficiency:

31 (a) Metering of reclaimed water use for residential

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1 irrigation, agricultural irrigation, industrial uses, except
 2 for electric utilities as defined in s. 366.02(2), landscape
 3 irrigation, golf course irrigation, irrigation of other public
 4 access areas, commercial and institutional uses such as toilet
 5 flushing, and transfers to other reclaimed water utilities;

6 (b) Implementation of reclaimed water rate structures
 7 based on actual use of reclaimed water for the reuse
 8 activities listed in paragraph (a);

9 (c) Implementation of education programs to inform the
 10 public about water issues, water conservation, and the
 11 importance and proper use of reclaimed water; or

12 (d) Development of location data for key reuse
 13 facilities.

14 Section 7. Subsections (1) and (5) of section
 15 373.1962, Florida Statutes, are amended to read:

16 373.1962 Regional water supply authorities.--

17 (1) By interlocal agreement between counties,
 18 ~~munipalities, or special districts, as applicable agreement~~
 19 ~~between local governmental units created or existing pursuant~~
 20 ~~to the provisions of Art. VIII of the State Constitution,~~
 21 pursuant to the Florida Interlocal Cooperation Act of 1969, s.
 22 163.01, and upon the approval of the Secretary of
 23 Environmental Protection to ensure that such agreement will be
 24 in the public interest and complies with the intent and
 25 purposes of this act, regional water supply authorities may be
 26 created for the purpose of developing, recovering, storing,
 27 and supplying water for county or municipal purposes in such a
 28 manner as will give priority to reducing adverse environmental
 29 effects of excessive or improper withdrawals of water from
 30 concentrated areas. In approving said agreement the Secretary
 31 of Environmental Protection shall consider, but not be limited

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1 to, the following:

2 (a) Whether the geographic territory of the proposed
3 authority is of sufficient size and character to reduce the
4 environmental effects of improper or excessive withdrawals of
5 water from concentrated areas.

6 (b) The maximization of economic development of the
7 water resources within the territory of the proposed
8 authority.

9 (c) The availability of a dependable and adequate
10 water supply.

11 (d) The ability of any proposed authority to design,
12 construct, operate, and maintain water supply facilities in
13 the locations, and at the times necessary, to ensure that an
14 adequate water supply will be available to all citizens within
15 the authority.

16 (e) The effect or impact of any proposed authority on
17 any municipality, county, or existing authority or
18 authorities.

19 (f) The existing needs of the water users within the
20 area of the authority.

21 (5) Each county, special district, or municipality
22 which is a party to an agreement pursuant to subsection (1)
23 shall have a preferential right to purchase water from the
24 regional water supply authority for use by such county,
25 special district, or municipality.

26 Section 8. Subsection (5) is added to section 373.223,
27 Florida Statutes, to read:

28 373.223 Conditions for a permit.--

29 (5) In evaluating an application for consumptive use
30 of water that proposes the use of an alternative water supply
31 project as described in the regional water supply plan and

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1 that provides reasonable assurances of the applicant's
 2 capability to design, construct, operate, and maintain such
 3 project, the governing board or department shall presume the
 4 alternative water supply use is consistent with the public
 5 interest under s. 373.223(1)(c). Nothing in this subsection
 6 shall effect evaluation of the use pursuant to the provisions
 7 of ss. 373.223(1)(a), 373.223(1)(b), 373.223(2), 373.223(3),
 8 373.2295, and 373.233.

9 Section 9. Subsection (4) is added to section 373.236,
 10 Florida Statutes, to read:

11 373.236 Duration of permits; compliance reports.--

12 (4) Permits approved for the development of
 13 alternative water supplies shall be granted for a term of at
 14 least 20 years. However, if the permittee issues bonds for the
 15 construction of the project, then upon request of the
 16 permittee prior to the expiration of the permit, such permit
 17 shall be extended for such additional time as may be required
 18 for the retirement of bonds, not including any refunding or
 19 refinancing of such bonds, provided that the governing board
 20 determines that the use continues to meet the conditions for
 21 the issuance of the permit. Such a permit shall be subject to
 22 compliance reports under subsection (3).

23 Section 10. Section 373.459, Florida Statutes, is
 24 amended to read:

25 373.459 Funds for surface water improvement and
 26 management.--

27 (1) Legislative appropriations provided to the water
 28 management districts for surface water improvement and
 29 management activities shall be available for detailed planning
 30 and plan and program implementation.

31 (2) All entities receiving state funding for the

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1 implementation of programs specified in ss. 373.451-373.459,
 2 including water management districts, federal, local, and
 3 regional agencies, universities, and nonprofit or private
 4 organizations, shall provide a 50-percent match of cash or
 5 in-kind services towards the implementation of the specific
 6 project for which it is contracting.

7 ~~(3)(2)~~ The Ecosystem Management and Restoration Trust
 8 Fund shall be used for the deposit of funds appropriated by
 9 the Legislature for the purposes of ss. 373.451-373.4595. The
 10 department shall administer all funds appropriated to or
 11 received for surface water improvement and management
 12 activities. Expenditure of the moneys shall be limited to the
 13 costs of detailed planning and plan and program implementation
 14 for priority surface water bodies. Moneys from the fund shall
 15 not be expended for planning for, or construction or expansion
 16 of, treatment facilities for domestic or industrial waste
 17 disposal.

18 ~~(4)(3)~~ The department shall authorize the release of
 19 money from the fund in accordance with the provisions of s.
 20 373.501(2) and procedures in s. 373.59(4) and (5).

21 ~~(5)(4)~~ Moneys in the fund which are not needed to meet
 22 current obligations incurred under this section shall be
 23 transferred to the State Board of Administration, to the
 24 credit of the trust fund, to be invested in the manner
 25 provided by law. Interest received on such investments shall
 26 be credited to the trust fund.

27 Section 11. Section 373.0361, Florida Statutes, is
 28 amended to read:

29 (Substantial rewording of section. See
 30 s. 373.0361, F.S., for present text)
 31 373.0361 Regional water supply planning.--

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1 (1) The governing board of each water management
2 district shall conduct water supply planning for any water
3 supply planning region within the district identified in the
4 appropriate district water supply plan under s. 373.036, where
5 it determines that existing sources of water are not adequate
6 to supply water for all existing and future
7 reasonable-beneficial uses and to sustain the water resources
8 and related natural systems for the planning period. The
9 planning must be conducted in an open public process, in
10 coordination and cooperation with local governments, regional
11 water supply authorities, government-owned and privately owned
12 water utilities, self-suppliers, and other affected and
13 interested parties. The districts will actively engage in
14 public education and outreach to all affected local entities
15 and their officials, as well as members of the public, in the
16 planning process and in seeking input. During preparation, but
17 prior to completion of the regional water supply plan, the
18 district must conduct at least one public workshop to discuss
19 the technical data and modeling tools anticipated to be used
20 to support the regional water supply plan. The district shall
21 also hold several public meetings to communicate the status,
22 overall conceptual intent, and impacts of the plan on existing
23 and future reasonable-beneficial uses and natural systems. A
24 determination by the governing board that initiation of a
25 regional water supply plan for a specific planning region is
26 not needed pursuant to this section shall be subject to s.
27 120.569. The governing board shall reevaluate such a
28 determination at least once every 5 years and shall initiate a
29 regional water supply plan, if needed, pursuant to this
30 subsection.

31 (2) Each regional water supply plan shall be based on

1 at least a 20-year planning period and shall include, but is
2 not limited to:

3 (a) A water supply development component for each
4 water supply planning region identified by the district that
5 includes:

6 1. A quantification of the water supply needs for all
7 existing and future reasonable-beneficial uses within the
8 planning horizon. The level-of-certainty planning goal
9 associated with identifying the water supply needs of existing
10 and future reasonable-beneficial uses shall be based upon
11 meeting those needs for a 1-in-10-year drought event.
12 Population projections used for determining public water
13 supply needs must be based upon the best available data. In
14 determining the best available data, the district shall
15 consider the University of Florida's Bureau of Economic and
16 Business Research (BEBR) medium population projections and any
17 population projection data and analysis submitted by a local
18 government pursuant to the public workshop described in
19 subsection (1) if the data and analysis support the local
20 government's comprehensive plan. Any adjustment of or
21 deviation from the BEBR projections must be fully described,
22 and the original BEBR data must be presented along with the
23 adjusted data.

24 2. A list of water supply development project options,
25 including traditional and alternative water supply project
26 options, from which local government, government-owned and
27 privately owned utilities, self-suppliers, and others may
28 choose for water supply development. In addition to projects
29 listed by the district, such users may propose specific
30 projects for inclusion in the list of alternative water supply
31 projects. In the event such users propose a project to be

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1 listed as an alternative water supply project, the district
2 shall determine whether it meets the goals of the plan and
3 will be included in the list. The total capacity of the
4 projects or options included in the plan shall exceed the
5 needs identified in subparagraph 1., and shall take into
6 account water conservation and other demand management
7 measures, as well as water resources constraints, including
8 adopted minimum flows and levels and water reservations.
9 Where the district determines it is appropriate, the plan
10 should specifically identify the need for multi-jurisdictional
11 approaches to project options that, based on planning level
12 analysis, are appropriate to supply the intended uses and
13 that, based on such analysis, appear to be permissible and
14 financially and technically feasible.

15 3. For each project option identified in subparagraph
16 2., the following shall be provided:

17 a. An estimate of the amount of water to become
18 available through the project.

19 b. The timeframe in which the project option should be
20 implemented and the estimated planning level costs for capital
21 investment and operating and maintaining the project.

22 c. An analysis of funding needs and sources of
23 possible funding options.

24 d. Identification of the entity that should implement
25 each project option and the current status of project
26 implementation.

27 (b) A water resource development component that
28 includes:

29 1. A listing of those water resource development
30 projects that support water supply development.

31 2. For each water resource development project listed:

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1 a. An estimate of the amount of water to become
2 available through the project.

3 b. The timeframe in which the project option should be
4 implemented and the estimated planning level costs for capital
5 investment and operating and maintaining the project.

6 c. An analysis of funding needs and sources of
7 possible funding options.

8 d. Identification of the entity that should implement
9 each project option and the current status of project
10 implementation.

11 (c) The recovery and prevention strategy described in
12 s. 373.0421(2).

13 (d) A funding strategy for water resource development
14 projects, which shall be reasonable and sufficient to pay the
15 cost of constructing or implementing all of the listed
16 projects.

17 (e) Consideration of how the project options addressed
18 in paragraph (a) serve the public interest or save costs
19 overall by preventing the loss of natural resources or
20 avoiding greater future expenditures for water resource
21 development or water supply development. However, unless
22 adopted by rule, these considerations do not constitute final
23 agency action.

24 (f) The technical data and information applicable to
25 each planning region which are necessary to support the
26 regional water supply plan.

27 (g) The minimum flows and levels established for water
28 resources within each planning region.

29 (h) Reservations of water adopted by rule pursuant to
30 s. 373.223(4) within each planning region.

31 (i) Identification of surface waters or aquifers for

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1 which minimum flows and levels are scheduled to be adopted.

2 (j) An analysis, developed in cooperation with the
3 department, of areas or instances in which the variance
4 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
5 create water supply development or water resource development
6 projects.

7 (3) The water supply development component of a
8 regional water supply plan which deals with or affects public
9 utilities and public water supply for those areas served by a
10 regional water supply authority and its member governments
11 within the boundary of the Southwest Florida Water Management
12 District shall be developed jointly by the authority and the
13 district. In areas not served by regional water supply
14 authorities, or other multi-jurisdictional water supply
15 entities, and where opportunities exist to meet water supply
16 needs more efficiently through multi-jurisdictional projects
17 identified pursuant to s. 373.1962(2), water management
18 districts are directed to assist in developing
19 multi-jurisdictional approaches to water supply project
20 development jointly with affected water utilities, special
21 districts, and local governments.

22 (4) Governing board approval of a regional water
23 supply plan shall not be subject to the rulemaking
24 requirements of chapter 120. However, any portion of an
25 approved regional water supply plan which affects the
26 substantial interests of a party shall be subject to s.
27 120.569.

28 (5) Annually and in conjunction with the reporting
29 requirements of s. 373.536(6)(a)4., the department shall
30 submit to the Governor and the Legislature a report on the
31 status of regional water supply planning in each district. The

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1 report shall include:

2 (a) A compilation of the estimated costs of and
3 potential sources of funding for water resource development
4 and water supply development projects as identified in the
5 water management district regional water supply plans.

6 (b) The percentage and amount, by district, of
7 district ad valorem tax revenues or other district funds made
8 available to develop alternative water supplies.

9 (c) A description of each district's progress toward
10 achieving its water resource development objectives, including
11 the district's implementation of its 5-year water resource
12 development work program.

13 (d) An assessment of the specific progress being made
14 to implement each alternative water supply project option
15 chosen by the entities identified for implementation in the
16 plan.

17 (6) Nothing contained in the water supply development
18 component of a regional water supply plan shall be construed
19 to require local governments, government-owned or privately
20 owned water utilities, special districts, self-suppliers,
21 regional water supply authorities, self suppliers, or other
22 water suppliers to select a water supply development project
23 identified in the component merely because it is identified in
24 the plan. Except as provided in s. 373.223(3) and s.
25 373.223(5), the plan may not be used in the review of permits
26 under part II unless the plan, or an applicable portion
27 thereof, has been adopted by rule. However, this subsection
28 does not prohibit a water management district from employing
29 the data or other information used to establish the plan in
30 reviewing permits under part II nor does it limit the
31 authority of the department or governing board under part II.

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1 (7) Where the water supply component of a water supply
 2 planning region shows the need for one or more alternative
 3 water supply projects, the district shall notify the affected
 4 local governments and make every reasonable effort to educate
 5 and involve local public officials in working toward solutions
 6 in conjunction with the districts and, where appropriate,
 7 other local and regional water supply entities.

8 (a) Within 1 year after governing board approval of a
 9 regional water supply plan, each entity identified in
 10 sub-subparagraph (2)(a)3.d. shall provide written notification
 11 to the water management district of the following: the water
 12 supply projects or options that it has developed or intends to
 13 develop, if any; an estimate of the quantity of water to be
 14 produced by each project; the status of project
 15 implementation, including development of the financial plan,
 16 facilities master planning, permitting, and efforts in
 17 coordinating multi-jurisdictional projects, if applicable. The
 18 information provided in the notification shall be updated on
 19 an annual basis and a progress report shall be provided by
 20 November 15 of each year to the water management district. If
 21 an entity proposes a water supply project that is not in the
 22 plan, the entity shall request that the water management
 23 district consider the project for inclusion in the regional
 24 water supply plan.

25 (8) For any regional water supply plan that is
 26 scheduled to be updated before December 31, 2005, the deadline
 27 for such update shall be extended to December 1, 2006.

28 Section 12. Paragraph (c) of subsection (6) of section
 29 163.3177, Florida Statutes, is amended to read:

30 163.3177 Required and optional elements of
 31 comprehensive plan; studies and surveys.--

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1 (6) In addition to the requirements of subsections
 2 (1)-(5), the comprehensive plan shall include the following
 3 elements:

4 (c) A general sanitary sewer, solid waste, drainage,
 5 potable water, and natural groundwater aquifer recharge
 6 element correlated to principles and guidelines for future
 7 land use, indicating ways to provide for future potable water,
 8 drainage, sanitary sewer, solid waste, and aquifer recharge
 9 protection requirements for the area. The element may be a
 10 detailed engineering plan including a topographic map
 11 depicting areas of prime groundwater recharge. The element
 12 shall describe the problems and needs and the general
 13 facilities that will be required for solution of the problems
 14 and needs. The element shall also include a topographic map
 15 depicting any areas adopted by a regional water management
 16 district as prime groundwater recharge areas for the Floridan
 17 or Biscayne aquifers, pursuant to s. 373.0395. These areas
 18 shall be given special consideration when the local government
 19 is engaged in zoning or considering future land use for said
 20 designated areas. For areas served by septic tanks, soil
 21 surveys shall be provided which indicate the suitability of
 22 soils for septic tanks. By December 1, 2006, or within 12
 23 months after the governing board approves an updated regional
 24 water supply plan, whichever occurs later, the element must
 25 incorporate the alternative water supply projects identified
 26 in the regional water supply plan pursuant to s.
 27 373.0361(2)(a) as applicable to the jurisdiction of the local
 28 government or proposed by the local government under s.
 29 373.0361(7)(a) consider the appropriate water management
 30 district's regional water supply plan approved pursuant to s.
 31 373.0361. The element must identify such alternative water

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1 supply projects and traditional water supply projects and
2 conservation and reuse, necessary to meet the water needs
3 identified in s. 373.0361(2)(a) within the local government's
4 jurisdiction and include a work plan, covering the
5 comprehensive plan's established ~~at least a 10-year~~ planning
6 period, for building public, private, and regional water
7 supply facilities, including development of alternative water
8 supplies, which ~~that~~ are identified in the element as
9 necessary to serve existing and new development ~~and for which~~
10 the local government is responsible. The work plan shall be
11 updated, at a minimum, every 5 years within 12 months after
12 the governing board of a water management district approves an
13 updated regional water supply plan. Local governments, public
14 and private utilities, regional water supply authorities, and
15 water management districts are encouraged to cooperatively
16 plan for the development of multi-jurisdictional water supply
17 facilities sufficient to meet projected demands for
18 established planning periods, including the development of
19 alternative water sources to supplement traditional sources of
20 ground and surface water supplies. Amendments to incorporate
21 the work plan do not count toward the limitation on the
22 frequency of adoption of amendments to the comprehensive plan.

23 Section 13. Paragraph (a) of subsection (2) of section
24 163.3180, Florida Statutes, is amended to read:

25 163.3180 Concurrency.--
26 (2)(a) Consistent with public health and safety,
27 sanitary sewer, solid waste, drainage, adequate water
28 supplies, and potable water facilities shall be in place and
29 available to serve new development no later than certificate
30 of occupancy ~~the issuance~~ by the local government's approval
31 to commence construction ~~government of a certificate of~~

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1 ~~occupancy or its functional equivalent.~~

2 Section 14. Paragraph (1) of subsection (2) of section
3 163.3191, Florida Statutes, is amended to read:

4 163.3191 Evaluation and appraisal of comprehensive
5 plan.--

6 (2) The report shall present an evaluation and
7 assessment of the comprehensive plan and shall contain
8 appropriate statements to update the comprehensive plan,
9 including, but not limited to, words, maps, illustrations, or
10 other media, related to:

11 (1) The report must evaluate whether the local
12 government has been successful in identifying water supply
13 sources, including conservation and reuse, necessary to meet
14 existing and projected water use demand for the comprehensive
15 plan's established planning period. ~~The evaluation must~~
16 ~~consider the appropriate water management district's regional~~
17 ~~water supply plan approved pursuant to s. 373.0361. The report~~
18 ~~must evaluate the degree to which the local government has~~
19 ~~implemented the work plan for water supply facilities included~~
20 ~~in the potable water element. The potable water element must~~
21 ~~be revised to include a work plan, covering at least a 10-year~~
22 ~~planning period, for building any water supply facilities that~~
23 ~~are identified in the element as necessary to serve existing~~
24 ~~and new development and for which the local government is~~
25 ~~responsible.~~

26 Section 15. Subsections (6), (7), (8), and (11) of
27 section 403.067, Florida Statutes, are amended to read:

28 403.067 Establishment and implementation of total
29 maximum daily loads.--

30 (6) CALCULATION AND ALLOCATION.--

31 (a) Calculation of total maximum daily load.

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1 1. Prior to developing a total maximum daily load
2 calculation for each water body or water body segment on the
3 list specified in subsection (4), the department shall
4 coordinate with applicable local governments, water management
5 districts, the Department of Agriculture and Consumer
6 Services, other appropriate state agencies, local soil and
7 water conservation districts, environmental groups, regulated
8 interests, and affected pollution sources to determine the
9 information required, accepted methods of data collection and
10 analysis, and quality control/quality assurance requirements.
11 The analysis may include mathematical water quality modeling
12 using approved procedures and methods.

13 2. The department shall develop total maximum daily
14 load calculations for each water body or water body segment on
15 the list described in subsection (4) according to the priority
16 ranking and schedule unless the impairment of such waters is
17 due solely to activities other than point and nonpoint sources
18 of pollution. For waters determined to be impaired due solely
19 to factors other than point and nonpoint sources of pollution,
20 no total maximum daily load will be required. A total maximum
21 daily load may be required for those waters that are impaired
22 predominantly due to activities other than point and nonpoint
23 sources. The total maximum daily load calculation shall
24 establish the amount of a pollutant that a water body or water
25 body segment may receive from all sources without exceeding
26 water quality standards, and shall account for seasonal
27 variations and include a margin of safety that takes into
28 account any lack of knowledge concerning the relationship
29 between effluent limitations and water quality. The total
30 maximum daily load may be based on a pollutant load reduction
31 goal developed by a water management district, provided that

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1 such pollutant load reduction goal is promulgated by the
 2 department in accordance with the procedural and substantive
 3 requirements of this subsection.

4 (b) Allocation of total maximum daily loads.--The
 5 total maximum daily loads shall include establishment of
 6 reasonable and equitable allocations of the total maximum
 7 daily load between or among point and nonpoint sources that
 8 will alone, or in conjunction with other management and
 9 restoration activities, provide for the attainment of the
 10 pollutant reductions established pursuant to paragraph (a) to
 11 achieve water quality standards for the pollutant causing
 12 impairment ~~water quality standards and the restoration of~~
 13 ~~impaired waters~~. The allocations may establish the maximum
 14 amount of the water pollutant ~~from a given source or category~~
 15 ~~of sources~~ that may be discharged or released into the water
 16 body or water body segment in combination with other
 17 discharges or releases. Allocations may also be made to
 18 individual basins and sources or as a whole to all basins and
 19 sources or categories of sources of inflow to the water body
 20 or water body segments. An initial allocation of allowable
 21 pollutant loads between or among point and nonpoint sources
 22 may be developed as part of the total maximum daily load.
 23 However, in such cases, the detailed allocation to specific
 24 point sources and specific categories of nonpoint sources
 25 shall be established in the basin management action plan
 26 pursuant to subsection (7). The initial and detailed
 27 allocations shall be designed to attain the pollutant
 28 reductions established pursuant to paragraph (a) ~~water quality~~
 29 ~~standards~~ and shall be based on consideration of the
 30 following:

- 31 1. Existing treatment levels and management practices;

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1 2. Best management practices established and
2 implemented pursuant to paragraph (7)(c);

3 3. Enforceable treatment levels established pursuant
4 to state or local law or permit;

5 4.2. Differing impacts pollutant sources and forms of
6 pollutant may have on water quality;

7 5.3. The availability of treatment technologies,
8 management practices, or other pollutant reduction measures;

9 6.4. Environmental, economic, and technological
10 feasibility of achieving the allocation;

11 7.5. The cost benefit associated with achieving the
12 allocation;

13 8.6. Reasonable timeframes for implementation;

14 9.7. Potential applicability of any moderating
15 provisions such as variances, exemptions, and mixing zones;
16 and

17 10.8. The extent to which nonattainment of water
18 quality standards is caused by pollution sources outside of
19 Florida, discharges that have ceased, or alterations to water
20 bodies prior to the date of this act.

21 ~~(c) Not later than February 1, 2001, the department~~
22 ~~shall submit a report to the Governor, the President of the~~
23 ~~Senate, and the Speaker of the House of Representatives~~
24 ~~containing recommendations, including draft legislation, for~~
25 ~~any modifications to the process for allocating total maximum~~
26 ~~daily loads, including the relationship between allocations~~
27 ~~and the watershed or basin management planning process. Such~~
28 ~~recommendations shall be developed by the department in~~
29 ~~cooperation with a technical advisory committee which includes~~
30 ~~representatives of affected parties, environmental~~
31 ~~organizations, water management districts, and other~~

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1 ~~appropriate local, state, and federal government agencies. The~~
 2 ~~technical advisory committee shall also include such members~~
 3 ~~as may be designated by the President of the Senate and the~~
 4 ~~Speaker of the House of Representatives.~~

5 (c)(d) Adoption of rules.--The total maximum daily
 6 load calculations and allocations established under this
 7 subsection for each water body or water body segment shall be
 8 adopted by rule by the secretary pursuant to ss. 120.536(1),
 9 120.54, and 403.805. Where additional data collection and
 10 analysis are needed to increase the scientific precision and
 11 accuracy of the total maximum daily load, the department is
 12 authorized to adopt phased total maximum daily loads that are
 13 subject to change as additional data becomes available. Where
 14 phased total maximum daily loads are proposed the department
 15 shall, in the detailed statement of facts and circumstances
 16 justifying the rule, explain why the data are inadequate so as
 17 to justify a phased total maximum daily load. The rules
 18 adopted pursuant to this paragraph shall not be subject to
 19 approval by the Environmental Regulation Commission. As part
 20 of the rule development process, the department shall hold at
 21 least one public workshop in the vicinity of the water body or
 22 water body segment for which the total maximum daily load is
 23 being developed. Notice of the public workshop shall be
 24 published not less than 5 days nor more than 15 days before
 25 the public workshop in a newspaper of general circulation in
 26 the county or counties containing the water bodies or water
 27 body segments for which the total maximum daily load
 28 calculation and allocation are being developed.

29 (7) DEVELOPMENT OF BASIN MANAGEMENT ACTION PLANS AND
 30 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

31 (a) Basin Management Action Plans.--

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1 1. In developing and implementing the total maximum
2 daily load for a water body, the department, or the department
3 in conjunction with a water management district, may develop a
4 basin management action plan that addresses some or all of the
5 watersheds and basins tributary to the water body. Such a plan
6 shall integrate the appropriate management strategies
7 available to the state through existing water quality
8 protection programs to achieve the total maximum daily loads
9 and may provide for phased implementation of these management
10 strategies to promote timely, cost-effective actions as
11 provided for in s. 403.151. The plan shall establish a
12 schedule for implementing the management strategies, the plan,
13 and identify feasible funding strategies to implement the
14 plan's management strategies. The management strategies may
15 include regional treatment systems or other public works,
16 where appropriate, to achieve the needed pollutant load
17 reductions.

18 2. A basin management action plan shall equitably
19 allocate, pursuant to paragraph (6)(b), pollutant reductions
20 to individual basins, as a whole to all basins, or to each
21 identified point source or category of nonpoint sources, as
22 appropriate. For nonpoint sources for which best management
23 practices have been adopted, the initial requirement specified
24 by the plan shall be those practices developed pursuant to
25 paragraph (c). Where appropriate, the plan may provide
26 pollutant-load-reduction credits to dischargers that have
27 implemented management strategies to reduce pollutant loads,
28 including best management practices, prior to the development
29 of the basin management action plan. The plan shall also
30 identify the mechanisms by which potential future sources of
31 pollution will be addressed, whether the future source is a

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1 result of the expansion of or increased loading from an
2 existing source, a land-use change, a new discharge, or
3 similar circumstances.

4 3. The basin management action planning process is
5 intended to involve the broadest possible range of interested
6 parties, with the objective of encouraging the greatest amount
7 of cooperation and consensus possible. In developing a basin
8 management action plan, the department shall assure that key
9 stakeholders, including, but not limited to, applicable local
10 governments, water management districts, the Department of
11 Agriculture and Consumer Services, other appropriate state
12 agencies, local soil and water conservation districts,
13 environmental groups, regulated interests, and affected
14 pollution sources, are invited to participate in the process.
15 The department shall hold at least one public meeting in the
16 vicinity of the watershed or basin to discuss and receive
17 comments during the planning process and shall otherwise
18 encourage public participation to the greatest practical
19 extent. Notice of the public meeting shall be published in a
20 newspaper of general circulation in each county in which the
21 watershed or basin lies not less than 5 days nor more than 15
22 days before the public meeting. A basin management action plan
23 shall not supplant or otherwise alter any assessment made
24 under subsection (3) or subsection (4), or any calculation or
25 preliminary allocation made under subsection (6).

26 4. The department shall adopt all or any part of a
27 basin management action plan by secretarial order pursuant to
28 chapter 120 to implement the provisions of this section. If a
29 basin management action plan alters the calculation or
30 preliminary allocation made under subsection (6), the revised
31 calculation or final allocation shall be adopted by rule.

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1 5. The basin management action plan shall include
2 milestones for implementation and water quality improvement,
3 and an associated water quality monitoring component
4 sufficient to evaluate whether reasonable progress in
5 pollutant load reductions is being achieved over time. An
6 assessment of progress toward these milestones shall be
7 conducted every five years and revisions to the plan shall be
8 made as appropriate. Revisions to the basin management
9 strategies required for nonpoint sources shall follow the
10 procedures set forth in subparagraph (c)4. Revised basin
11 management action plans shall be adopted pursuant to
12 subparagraph 4.

13 ~~(b)(a)~~ Total Maximum Daily Load Implementation.--

14 1. The department shall be the lead agency in
15 coordinating the implementation of the total maximum daily
16 loads through existing water quality protection programs.
17 Application of a total maximum daily load by a water
18 management district shall be consistent with this section and
19 shall not require the issuance of an order or a separate
20 action pursuant to s. 120.536(1) or s. 120.54 for adoption of
21 the calculation and allocation previously established by the
22 department. Management strategies to achieve the total maximum
23 daily load ~~Such programs~~ may include, but are not limited to:

24 ~~a.1.~~ Permitting and other existing regulatory
25 programs, including water quality based effluent limitations;

26 ~~b.2.~~ Nonregulatory and incentive-based programs,
27 including best management practices, cost sharing, waste
28 minimization, pollution prevention, agreements established
29 pursuant to s. 403.061(21), and public education;

30 ~~c.3.~~ Other water quality management and restoration
31 activities, for example surface water improvement and

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1 management plans approved by water management districts or
2 watershed or basin management plans developed pursuant to this
3 subsection;

4 ~~d.4.~~ Pollutant trading or other equitable economically
5 based agreements;

6 ~~e.5.~~ Public works including capital facilities; or

7 ~~f.6.~~ Land acquisition.

8 2. For a basin management action plan adopted pursuant
9 to subparagraph (a)4., any management strategies and pollutant
10 reduction requirements associated with a pollutant of concern
11 for which a total maximum daily load was developed, including
12 effluent limits set forth for a discharger subject to NPDES
13 permitting, if any, shall be included in a timely manner in
14 subsequent NPDES permits or permit modifications for that
15 discharger. The department shall not impose limits or
16 conditions implementing an adopted total maximum daily load in
17 a NPDES permit until the permit expires, the discharge is
18 modified, or the permit is re-opened pursuant to an adopted
19 basin management action plan.

20 a. For holders of NPDES municipal separate storm sewer
21 system permits and other stormwater sources, implementation of
22 a total maximum daily load or basin management action plan
23 shall be achieved, to the maximum extent practicable, through
24 the use of best management practices or other management
25 measures.

26 b. The basin management action plan does not relieve
27 the discharger from any requirement to obtain, renew, or
28 modify a NPDES permit or to abide by other requirements of the
29 permit, including effluent limits and other requirements
30 associated with other pollutants.

31 c. Management strategies set forth in a basin

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1 management action plan to be implemented by a discharger
2 subject to permitting by the department shall be completed
3 pursuant to the schedule set forth in the basin management
4 action plan. This implementation schedule may extend beyond
5 the 5-year term of a NPDES permit.

6 d. Management strategies and pollution reduction
7 requirements set forth in a basin management action plan for a
8 specific pollutant of concern shall not be subject to
9 challenge under chapter 120 at the time it is incorporated, in
10 an identical form, into a subsequent NPDES permit or permit
11 modification.

12 e. For nonagricultural pollutant sources not subject
13 to NPDES permitting but permitted pursuant to other state,
14 regional, or local water quality programs, the pollutant
15 reduction actions adopted in a basin management action plan
16 shall be implemented to the maximum extent practicable as part
17 of those permitting programs.

18 f. A nonpoint source discharger included in a basin
19 management action plan shall demonstrate compliance with the
20 pollutant reductions established pursuant to subsection (6) by
21 either implementing the appropriate best management practices
22 established pursuant to paragraph (c) or conducting water
23 quality monitoring prescribed by the department or a water
24 management district.

25 g. A nonpoint source discharger included in a basin
26 management action plan may be subject to enforcement action by
27 the department or a water management district based upon the
28 failure to implement the responsibilities set forth in
29 sub-subparagraph f.

30 h. A landowner, discharger, or other responsible
31 person who is implementing applicable management strategies

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1 specified in an adopted basin management action plan shall not
 2 be required by permit, enforcement action, or otherwise to
 3 implement additional management strategies to reduce pollutant
 4 loads to attain the pollutant reductions pursuant to
 5 subsection (6) and shall be deemed to be in compliance with
 6 this section. This subparagraph does not limit the authority
 7 of the department to amend a basin management action plan as
 8 specified in subparagraph (a)5.

9 ~~(b) In developing and implementing the total maximum~~
 10 ~~daily load for a water body, the department, or the department~~
 11 ~~in conjunction with a water management district, may develop a~~
 12 ~~watershed or basin management plan that addresses some or all~~
 13 ~~of the watersheds and basins tributary to the water body.~~
 14 ~~These plans will serve to fully integrate the management~~
 15 ~~strategies available to the state for the purpose of~~
 16 ~~implementing the total maximum daily loads and achieving water~~
 17 ~~quality restoration. The watershed or basin management~~
 18 ~~planning process is intended to involve the broadest possible~~
 19 ~~range of interested parties, with the objective of encouraging~~
 20 ~~the greatest amount of cooperation and consensus possible. The~~
 21 ~~department or water management district shall hold at least~~
 22 ~~one public meeting in the vicinity of the watershed or basin~~
 23 ~~to discuss and receive comments during the planning process~~
 24 ~~and shall otherwise encourage public participation to the~~
 25 ~~greatest practical extent. Notice of the public meeting shall~~
 26 ~~be published in a newspaper of general circulation in each~~
 27 ~~county in which the watershed or basin lies not less than 5~~
 28 ~~days nor more than 15 days before the public meeting. A~~
 29 ~~watershed or basin management plan shall not supplant or~~
 30 ~~otherwise alter any assessment made under s. 403.086(3) and~~
 31 ~~(4), or any calculation or allocation made under s.~~

1 ~~403.086(6).~~

2 (c) Best Management Practices.--

3 1. The department, in cooperation with the water
4 management districts and other interested parties, as
5 appropriate, may develop suitable interim measures, best
6 management practices, or other measures necessary to achieve
7 the level of pollution reduction established by the department
8 for nonagricultural nonpoint pollutant sources in allocations
9 developed pursuant to subsection (6) and this subsection
10 ~~paragraph (6)(b)~~. These practices and measures may be adopted
11 by rule by the department and the water management districts
12 pursuant to ss. 120.536(1) and 120.54, and where adopted by
13 rule, shall ~~may~~ be implemented by those parties responsible
14 for nonagricultural nonpoint source pollution pollutant
15 ~~sources and the department and the water management districts~~
16 ~~shall assist with implementation. Where interim measures, best~~
17 ~~management practices, or other measures are adopted by rule,~~
18 ~~the effectiveness of such practices in achieving the levels of~~
19 ~~pollution reduction established in allocations developed by~~
20 ~~the department pursuant to paragraph (6)(b) shall be verified~~
21 ~~by the department. Implementation, in accordance with~~
22 ~~applicable rules, of practices that have been verified by the~~
23 ~~department to be effective at representative sites shall~~
24 ~~provide a presumption of compliance with state water quality~~
25 ~~standards and release from the provisions of s. 376.307(5) for~~
26 ~~those pollutants addressed by the practices, and the~~
27 ~~department is not authorized to institute proceedings against~~
28 ~~the owner of the source of pollution to recover costs or~~
29 ~~damages associated with the contamination of surface or ground~~
30 ~~water caused by those pollutants. Such rules shall also~~
31 ~~incorporate provisions for a notice of intent to implement the~~

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1 ~~practices and a system to assure the implementation of the~~
2 ~~practices, including recordkeeping requirements. Where water~~
3 ~~quality problems are detected despite the appropriate~~
4 ~~implementation, operation, and maintenance of best management~~
5 ~~practices and other measures according to rules adopted under~~
6 ~~this paragraph, the department or the water management~~
7 ~~districts shall institute a reevaluation of the best~~
8 ~~management practice or other measures.~~

9 2.(d)1. The Department of Agriculture and Consumer
10 Services may develop and adopt by rule pursuant to ss.
11 120.536(1) and 120.54 suitable interim measures, best
12 management practices, or other measures necessary to achieve
13 the level of pollution reduction established by the department
14 for agricultural pollutant sources in allocations developed
15 pursuant to subsection (6) and this subsection ~~paragraph~~
16 ~~(6)(b)~~. These practices and measures may be implemented by
17 those parties responsible for agricultural pollutant sources
18 and the department, the water management districts, and the
19 Department of Agriculture and Consumer Services shall assist
20 with implementation. ~~Where interim measures, best management~~
21 ~~practices, or other measures are adopted by rule, the~~
22 ~~effectiveness of such practices in achieving the levels of~~
23 ~~pollution reduction established in allocations developed by~~
24 ~~the department pursuant to paragraph (6)(b) shall be verified~~
25 ~~by the department. Implementation, in accordance with~~
26 ~~applicable rules, of practices that have been verified by the~~
27 ~~department to be effective at representative sites shall~~
28 ~~provide a presumption of compliance with state water quality~~
29 ~~standards and release from the provisions of s. 376.307(5) for~~
30 ~~those pollutants addressed by the practices, and the~~
31 ~~department is not authorized to institute proceedings against~~

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1 ~~the owner of the source of pollution to recover costs or~~
2 ~~damages associated with the contamination of surface or ground~~
3 ~~water caused by those pollutants.~~ In the process of developing
4 and adopting rules for interim measures, best management
5 practices, or other measures, the Department of Agriculture
6 and Consumer Services shall consult with the department, the
7 Department of Health, the water management districts,
8 representatives from affected farming groups, and
9 environmental group representatives. Such rules shall also
10 incorporate provisions for a notice of intent to implement the
11 practices and a system to assure the implementation of the
12 practices, including recordkeeping requirements. ~~Where water~~
13 ~~quality problems are detected despite the appropriate~~
14 ~~implementation, operation, and maintenance of best management~~
15 ~~practices and other measures according to rules adopted under~~
16 ~~this paragraph, the Department of Agriculture and Consumer~~
17 ~~Services shall institute a reevaluation of the best management~~
18 ~~practice or other measure.~~

19 3. Where interim measures, best management practices,
20 or other measures are adopted by rule, the effectiveness of
21 such practices in achieving the levels of pollution reduction
22 established in allocations developed by the department
23 pursuant to subsection (6) and this subsection shall be
24 verified at representative sites by the department. The
25 department shall use its best professional judgment in making
26 the initial verification that the best management practices
27 are effective and, where applicable, shall notify the
28 appropriate water management district and the Department of
29 Agriculture and Consumer Services of its initial verification
30 prior to the adoption of a rule proposed pursuant to this
31 paragraph. Implementation, in accordance with rules adopted

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1 under this paragraph, of practices that have been initially
 2 verified to be effective, or verified to be effective by
 3 monitoring at representative sites, by the department, shall
 4 provide a presumption of compliance with state water quality
 5 standards and release from the provisions of s. 376.307(5) for
 6 those pollutants addressed by the practices, and the
 7 department is not authorized to institute proceedings against
 8 the owner of the source of pollution to recover costs or
 9 damages associated with the contamination of surface or ground
 10 water caused by those pollutants.

11 4. Where water quality problems are demonstrated in
 12 the development or amendment of a basin management action
 13 plan, despite the appropriate implementation, operation, and
 14 maintenance of best management practices and other measures
 15 according to rules adopted under this paragraph, the
 16 department, a water management district, or the Department of
 17 Agriculture and Consumer Services, shall institute a
 18 reevaluation of the best management practice or other measure.
 19 Should the reevaluation determine that the best management
 20 practice or other measure requires modification, the
 21 department, a water management district, or the Department of
 22 Agriculture and Consumer Services, as appropriate, shall
 23 revise the rule to require implementation of the modified
 24 practice within a reasonable time period as specified in the
 25 rule.

26 5.2. Individual agricultural records relating to
 27 processes or methods of production, or relating to costs of
 28 production, profits, or other financial information which are
 29 otherwise not public records, which are reported to the
 30 Department of Agriculture and Consumer Services pursuant to
 31 subparagraphs 3. and 4. ~~this paragraph~~ or pursuant to any rule

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1 adopted pursuant to subparagraph 2. ~~this paragraph~~ shall be
 2 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 3 of the State Constitution. Upon request of the department or
 4 any water management district, the Department of Agriculture
 5 and Consumer Services shall make such individual agricultural
 6 records available to that agency, provided that the
 7 confidentiality specified by this subparagraph for such
 8 records is maintained. This subparagraph is subject to the
 9 Open Government Sunset Review Act of 1995 in accordance with
 10 s. 119.15, and shall stand repealed on October 2, 2006, unless
 11 reviewed and saved from repeal through reenactment by the
 12 Legislature.

13 (6)~~(e)~~ The provisions of subparagraphs 1. and 2.
 14 ~~paragraphs (c) and (d)~~ shall not preclude the department or
 15 water management district from requiring compliance with water
 16 quality standards or with current best management practice
 17 requirements set forth in any applicable regulatory program
 18 authorized by law for the purpose of protecting water quality.
 19 Additionally, subparagraphs 1. and 2. ~~paragraphs (c) and (d)~~
 20 are applicable only to the extent that they do not conflict
 21 with any rules adopted ~~promulgated~~ by the department that are
 22 necessary to maintain a federally delegated or approved
 23 program.

24 (8) RULES.--The department is authorized to adopt
 25 rules pursuant to ss. 120.536(1) and 120.54 for:

26 (a) Delisting water bodies or water body segments from
 27 the list developed under subsection (4) pursuant to the
 28 guidance under subsection (5);

29 (b) Administration of funds to implement the total
 30 maximum daily load and basin management action planning
 31 programs ~~program~~;

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1 (c) Procedures for pollutant trading among the
 2 pollutant sources to a water body or water body segment,
 3 including a mechanism for the issuance and tracking of
 4 pollutant credits. Such procedures may be implemented through
 5 permits or other authorizations and must be legally binding;
 6 ~~No rule implementing a pollutant trading program shall become~~
 7 ~~effective prior to review and ratification by the Legislature;~~
 8 ~~and~~

9 (d) The total maximum daily load calculation in
 10 accordance with paragraph (6)(a) immediately upon the
 11 effective date of this act, for those eight water segments
 12 within Lake Okeechobee proper as submitted to the United
 13 States Environmental Protection Agency pursuant to subsection
 14 (2); ~~and~~

15 (e) Implementation of other specific provisions.
 16
 17 Prior to adopting rules for pollutant trading under paragraph
 18 (c), and no later than November 30, 2006, the Department of
 19 Environmental Protection shall submit a report to the
 20 Governor, the President of the Senate, and the Speaker of the
 21 House of Representatives containing recommendations on such
 22 rules, including the proposed basis for equitable economically
 23 based agreements and the tracking and accounting of pollution
 24 credits or other similar mechanisms. Such recommendations
 25 shall be developed in cooperation with a technical advisory
 26 committee that includes experts in pollutant trading and
 27 representatives of potentially affected parties.

28 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

29 (a) The department shall not implement, without prior
 30 legislative approval, any additional regulatory authority
 31 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part

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1 130, if such implementation would result in water quality
2 discharge regulation of activities not currently subject to
3 regulation.

4 (b) Interim measures, best management practices, or
5 other measures may be developed and voluntarily implemented
6 pursuant to subparagraphs ~~paragraph~~ (7)(c) 1. and 2. ~~or~~
7 ~~paragraph (7)(d)~~ for any water body or segment for which a
8 total maximum daily load or allocation has not been
9 established. The implementation of such pollution control
10 programs may be considered by the department in the
11 determination made pursuant to subsection (4).

12 Section 16. Paragraph (c) of subsection (3) of section
13 373.4595, Florida Statutes, is amended to read:

14 373.4595 Lake Okeechobee Protection Program.--

15 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
16 program for Lake Okeechobee that achieves phosphorus load
17 reductions for Lake Okeechobee shall be immediately
18 implemented as specified in this subsection. The program shall
19 address the reduction of phosphorus loading to the lake from
20 both internal and external sources. Phosphorus load reductions
21 shall be achieved through a phased program of implementation.
22 Initial implementation actions shall be technology-based,
23 based upon a consideration of both the availability of
24 appropriate technology and the cost of such technology, and
25 shall include phosphorus reduction measures at both the source
26 and the regional level. The initial phase of phosphorus load
27 reductions shall be based upon the district's Technical
28 Publication 81-2 and the district's WOD program, with
29 subsequent phases of phosphorus load reductions based upon the
30 total maximum daily loads established in accordance with s.

31 403.067. In the development and administration of the Lake

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1 Okeechobee Protection Program, the coordinating agencies shall
2 maximize opportunities provided by federal cost-sharing
3 programs and opportunities for partnerships with the private
4 sector.

5 (c) Lake Okeechobee Watershed Phosphorus Control
6 Program.--The Lake Okeechobee Watershed Phosphorus Control
7 Program is designed to be a multifaceted approach to reducing
8 phosphorus loads by improving the management of phosphorus
9 sources within the Lake Okeechobee watershed through continued
10 implementation of existing regulations and best management
11 practices, development and implementation of improved best
12 management practices, improvement and restoration of the
13 hydrologic function of natural and managed systems, and
14 utilization of alternative technologies for nutrient
15 reduction. The coordinating agencies shall facilitate the
16 application of federal programs that offer opportunities for
17 water quality treatment, including preservation, restoration,
18 or creation of wetlands on agricultural lands.

19 1. Agricultural nonpoint source best management
20 practices, developed in accordance with s. 403.067 and
21 designed to achieve the objectives of the Lake Okeechobee
22 Protection Program, shall be implemented on an expedited
23 basis. By March 1, 2001, the coordinating agencies shall
24 develop an interagency agreement pursuant to ss. 373.046 and
25 373.406(5) that assures the development of best management
26 practices that complement existing regulatory programs and
27 specifies how those best management practices are implemented
28 and verified. The interagency agreement shall address measures
29 to be taken by the coordinating agencies during any best
30 management practice reevaluation performed pursuant to
31 sub-subparagraph d. The department shall use best professional

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1 judgment in making the initial determination of best
 2 management practice effectiveness.

3 a. As provided in s. 403.067(7)(c) ~~s. 403.067(7)(d)~~,
 4 by October 1, 2000, the Department of Agriculture and Consumer
 5 Services, in consultation with the department, the district,
 6 and affected parties, shall initiate rule development for
 7 interim measures, best management practices, conservation
 8 plans, nutrient management plans, or other measures necessary
 9 for Lake Okeechobee phosphorus load reduction. The rule shall
 10 include thresholds for requiring conservation and nutrient
 11 management plans and criteria for the contents of such plans.
 12 Development of agricultural nonpoint source best management
 13 practices shall initially focus on those priority basins
 14 listed in subparagraph (b)1. The Department of Agriculture and
 15 Consumer Services, in consultation with the department, the
 16 district, and affected parties, shall conduct an ongoing
 17 program for improvement of existing and development of new
 18 interim measures or best management practices for the purpose
 19 of adoption of such practices by rule.

20 b. Where agricultural nonpoint source best management
 21 practices or interim measures have been adopted by rule of the
 22 Department of Agriculture and Consumer Services, the owner or
 23 operator of an agricultural nonpoint source addressed by such
 24 rule shall either implement interim measures or best
 25 management practices or demonstrate compliance with the
 26 district's WOD program by conducting monitoring prescribed by
 27 the department or the district. Owners or operators of
 28 agricultural nonpoint sources who implement interim measures
 29 or best management practices adopted by rule of the Department
 30 of Agriculture and Consumer Services shall be subject to the
 31 provisions of s. 403.067(7). The Department of Agriculture and

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1 Consumer Services, in cooperation with the department and the
 2 district, shall provide technical and financial assistance for
 3 implementation of agricultural best management practices,
 4 subject to the availability of funds.

5 c. The district or department shall conduct monitoring
 6 at representative sites to verify the effectiveness of
 7 agricultural nonpoint source best management practices.

8 d. Where water quality problems are detected for
 9 agricultural nonpoint sources despite the appropriate
 10 implementation of adopted best management practices, the
 11 Department of Agriculture and Consumer Services, in
 12 consultation with the other coordinating agencies and affected
 13 parties, shall institute a reevaluation of the best management
 14 practices and make appropriate changes to the rule adopting
 15 best management practices.

16 2. Nonagricultural nonpoint source best management
 17 practices, developed in accordance with s. 403.067 and
 18 designed to achieve the objectives of the Lake Okeechobee
 19 Protection Program, shall be implemented on an expedited
 20 basis. By March 1, 2001, the department and the district shall
 21 develop an interagency agreement pursuant to ss. 373.046 and
 22 373.406(5) that assures the development of best management
 23 practices that complement existing regulatory programs and
 24 specifies how those best management practices are implemented
 25 and verified. The interagency agreement shall address measures
 26 to be taken by the department and the district during any best
 27 management practice reevaluation performed pursuant to
 28 sub-subparagraph d.

29 a. The department and the district are directed to
 30 work with the University of Florida's Institute of Food and
 31 Agricultural Sciences to develop appropriate nutrient

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1 application rates for all nonagricultural soil amendments in
2 the watershed. As provided in s. 403.067(7)(c), by January 1,
3 2001, the department, in consultation with the district and
4 affected parties, shall develop interim measures, best
5 management practices, or other measures necessary for Lake
6 Okeechobee phosphorus load reduction. Development of
7 nonagricultural nonpoint source best management practices
8 shall initially focus on those priority basins listed in
9 subparagraph (b)1. The department, the district, and affected
10 parties shall conduct an ongoing program for improvement of
11 existing and development of new interim measures or best
12 management practices. The district shall adopt
13 technology-based standards under the district's WOD program
14 for nonagricultural nonpoint sources of phosphorus.

15 b. Where nonagricultural nonpoint source best
16 management practices or interim measures have been developed
17 by the department and adopted by the district, the owner or
18 operator of a nonagricultural nonpoint source shall implement
19 interim measures or best management practices and be subject
20 to the provisions of s. 403.067(7). The department and
21 district shall provide technical and financial assistance for
22 implementation of nonagricultural nonpoint source best
23 management practices, subject to the availability of funds.

24 c. The district or the department shall conduct
25 monitoring at representative sites to verify the effectiveness
26 of nonagricultural nonpoint source best management practices.

27 d. Where water quality problems are detected for
28 nonagricultural nonpoint sources despite the appropriate
29 implementation of adopted best management practices, the
30 department and the district shall institute a reevaluation of
31 the best management practices.

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1 3. The provisions of subparagraphs 1. and 2. shall not
2 preclude the department or the district from requiring
3 compliance with water quality standards or with current best
4 management practices requirements set forth in any applicable
5 regulatory program authorized by law for the purpose of
6 protecting water quality. Additionally, subparagraphs 1. and
7 2. are applicable only to the extent that they do not conflict
8 with any rules promulgated by the department that are
9 necessary to maintain a federally delegated or approved
10 program.

11 4. Projects which reduce the phosphorus load
12 originating from domestic wastewater systems within the Lake
13 Okeechobee watershed shall be given funding priority in the
14 department's revolving loan program under s. 403.1835. The
15 department shall coordinate and provide assistance to those
16 local governments seeking financial assistance for such
17 priority projects.

18 5. Projects that make use of private lands, or lands
19 held in trust for Indian tribes, to reduce nutrient loadings
20 or concentrations within a basin by one or more of the
21 following methods: restoring the natural hydrology of the
22 basin, restoring wildlife habitat or impacted wetlands,
23 reducing peak flows after storm events, increasing aquifer
24 recharge, or protecting range and timberland from conversion
25 to development, are eligible for grants available under this
26 section from the coordinating agencies. For projects of
27 otherwise equal priority, special funding priority will be
28 given to those projects that make best use of the methods
29 outlined above that involve public-private partnerships or
30 that obtain federal match money. Preference ranking above the
31 special funding priority will be given to projects located in

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1 a rural area of critical economic concern designated by the
 2 Governor. Grant applications may be submitted by any person or
 3 tribal entity, and eligible projects may include, but are not
 4 limited to, the purchase of conservation and flowage
 5 easements, hydrologic restoration of wetlands, creating
 6 treatment wetlands, development of a management plan for
 7 natural resources, and financial support to implement a
 8 management plan.

9 6.a. The department shall require all entities
 10 disposing of domestic wastewater residuals within the Lake
 11 Okeechobee watershed and the remaining areas of Okeechobee,
 12 Glades, and Hendry Counties to develop and submit to the
 13 department an agricultural use plan that limits applications
 14 based upon phosphorus loading. By July 1, 2005, phosphorus
 15 concentrations originating from these application sites shall
 16 not exceed the limits established in the district's WOD
 17 program.

18 b. Private and government-owned utilities within
 19 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
 20 River, Okeechobee, Highlands, Hendry, and Glades Counties that
 21 dispose of wastewater residual sludge from utility operations
 22 and septic removal by land spreading in the Lake Okeechobee
 23 watershed may use a line item on local sewer rates to cover
 24 wastewater residual treatment and disposal if such disposal
 25 and treatment is done by approved alternative treatment
 26 methodology at a facility located within the areas designated
 27 by the Governor as rural areas of critical economic concern
 28 pursuant to s. 288.0656. This additional line item is an
 29 environmental protection disposal fee above the present sewer
 30 rate and shall not be considered a part of the present sewer
 31 rate to customers, notwithstanding provisions to the contrary

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1 in chapter 367. The fee shall be established by the county
2 commission or its designated assignee in the county in which
3 the alternative method treatment facility is located. The fee
4 shall be calculated to be no higher than that necessary to
5 recover the facility's prudent cost of providing the service.
6 Upon request by an affected county commission, the Florida
7 Public Service Commission will provide assistance in
8 establishing the fee. Further, for utilities and utility
9 authorities that use the additional line item environmental
10 protection disposal fee, such fee shall not be considered a
11 rate increase under the rules of the Public Service Commission
12 and shall be exempt from such rules. Utilities using the
13 provisions of this section may immediately include in their
14 sewer invoicing the new environmental protection disposal fee.
15 Proceeds from this environmental protection disposal fee shall
16 be used for treatment and disposal of wastewater residuals,
17 including any treatment technology that helps reduce the
18 volume of residuals that require final disposal, but such
19 proceeds shall not be used for transportation or shipment
20 costs for disposal or any costs relating to the land
21 application of residuals in the Lake Okeechobee watershed.

22 c. No less frequently than once every 3 years, the
23 Florida Public Service Commission or the county commission
24 through the services of an independent auditor shall perform a
25 financial audit of all facilities receiving compensation from
26 an environmental protection disposal fee. The Florida Public
27 Service Commission or the county commission through the
28 services of an independent auditor shall also perform an audit
29 of the methodology used in establishing the environmental
30 protection disposal fee. The Florida Public Service Commission
31 or the county commission shall, within 120 days after

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1 completion of an audit, file the audit report with the
2 President of the Senate and the Speaker of the House of
3 Representatives and shall provide copies to the county
4 commissions of the counties set forth in sub-subparagraph b.
5 The books and records of any facilities receiving compensation
6 from an environmental protection disposal fee shall be open to
7 the Florida Public Service Commission and the Auditor General
8 for review upon request.

9 7. The Department of Health shall require all entities
10 disposing of septage within the Lake Okeechobee watershed and
11 the remaining areas of Okeechobee, Glades, and Hendry Counties
12 to develop and submit to that agency, by July 1, 2003, an
13 agricultural use plan that limits applications based upon
14 phosphorus loading. By July 1, 2005, phosphorus
15 concentrations originating from these application sites shall
16 not exceed the limits established in the district's WOD
17 program.

18 8. The Department of Agriculture and Consumer Services
19 shall initiate rulemaking requiring entities within the Lake
20 Okeechobee watershed and the remaining areas of Okeechobee,
21 Glades, and Hendry Counties which land-apply animal manure to
22 develop conservation or nutrient management plans that limit
23 application, based upon phosphorus loading. Such rules may
24 include criteria and thresholds for the requirement to develop
25 a conservation or nutrient management plan, requirements for
26 plan approval, and recordkeeping requirements.

27 9. Prior to authorizing a discharge into works of the
28 district, the district shall require responsible parties to
29 demonstrate that proposed changes in land use will not result
30 in increased phosphorus loading over that of existing land
31 uses.

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1 10. The district, the department, or the Department of
 2 Agriculture and Consumer Services, as appropriate, shall
 3 implement those alternative nutrient reduction technologies
 4 determined to be feasible pursuant to subparagraph (d)6.

5 Section 17. Subsection (1) of section 570.085, Florida
 6 Statutes, is amended to read:

7 570.085 Department of Agriculture and Consumer
 8 Services; agricultural water conservation.--The department
 9 shall establish an agricultural water conservation program
 10 that includes the following:

11 (1) A cost-share program, coordinated where
 12 appropriate with the United States Department of Agriculture
 13 and other federal, state, regional, and local agencies, for
 14 irrigation system retrofit and application of mobile
 15 irrigation laboratory evaluations for water conservation as
 16 provided in this section and, where applicable, for water
 17 quality improvement pursuant to s. 403.067(7)(c) ~~s.~~
 18 ~~403.067(7)(d)~~.

19 Section 18. Section 403.885, Florida Statutes, is
 20 amended to read:

21 403.885 Storm water management; waste water
 22 management; Water Quality Improvement and Water Restoration
 23 Grant Program.--

24 (1) The Department of Environmental Protection shall
 25 ~~develop and~~ administer a ~~competitive~~ grant program to use
 26 funds transferred pursuant to s. 212.20 to the Ecosystem
 27 Management and Restoration Trust Fund or other moneys as
 28 appropriated by the Legislature for storm water management,
 29 waste water management, water quality improvement and water
 30 restoration project grants. Eligible recipients of such grants
 31 include counties, municipalities, water management districts,

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1 and special districts that have legal responsibilities for
 2 ~~water quality improvement, water management, storm water~~
 3 ~~management, waste water management, and sewer system~~
 4 ~~operations, and lake and river water~~ restoration projects.
 5 Drinking water projects are not eligible for funding pursuant
 6 to this section.

7 (2) The ~~competitive~~ grant program shall provide for
 8 the evaluation of annual grant proposals. The department
 9 shall evaluate such proposals to determine if they:

10 (a) Protect public health and the environment.

11 (b) Implement plans developed pursuant to the Surface
 12 Water Improvement and Management Act created in part IV of
 13 chapter 373, other water restoration plans required by law,
 14 management plans prepared pursuant to s. 403.067, or other
 15 plans adopted by local government for water quality
 16 improvement and water restoration.

17 (3) In addition to meeting the criteria in subsection
 18 (2), annual grant proposals must also meet the following
 19 requirements:

20 (a) An application for a storm water management
 21 project may be funded only if the application is approved by
 22 the water management district with jurisdiction in the project
 23 area. District approval must be based on a determination that
 24 the project provides a benefit to a priority water body.

25 (b) Except as provided in paragraph (c), an
 26 application for a wastewater management project may be funded
 27 only if:

28 1. The project has been funded previously through a
 29 line item in the General Appropriations Act; and

30 2. The project is under construction.

31 (c) An application for a wastewater management project

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1 that would qualify as a water pollution control project and
2 activity in s. 403.1838 may be funded only if the project
3 sponsor has submitted an application to the department for
4 funding pursuant to that section.

5 (4) All project applicants must provide local matching
6 funds as follows:

7 (a) An applicant for state funding of a storm water
8 management project shall provide local matching funds equal to
9 at least 50 percent of the total cost of the project; and

10 (b) An applicant for state funding of a wastewater
11 management project shall provide matching funds equal to at
12 least 25 percent of the total cost of the project.

13
14 The requirement for matching funds may be waived if the
15 applicant is a financially disadvantaged small local
16 government as defined in subsection (5).

17 ~~(3) The department shall evaluate the annual grant~~
18 ~~proposals and present the annual list of projects recommended~~
19 ~~to be funded to the Governor and the Legislature as part of~~
20 ~~its annual budget request submitted pursuant to chapter 216~~
21 ~~beginning with fiscal year 2003-2004.~~

22 ~~(5)(4)~~ Each fiscal year, at least 20 percent of the
23 funds available pursuant to this section ~~subsection (1)~~ shall
24 be used for projects to assist financially disadvantaged small
25 local governments. For purposes of this section, the term
26 "financially disadvantaged small local government" means a
27 municipality having a population of 7,500 or less, a county
28 having a population of 35,000 or less, according to the latest
29 decennial census and a per capita annual income less than the
30 state per capita annual income as determined by the United
31 States Department of Commerce, or a county in an area

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1 designated by the Governor as a rural area of critical
2 economic concern pursuant to s. 288.0656. Grants made to these
3 eligible local governments shall not require matching local
4 funds.

5 ~~(6)(5) No later than February 1 of Each year, storm~~
6 ~~water management and waste water management water quality~~
7 ~~improvement projects and water restoration projects submitted~~
8 ~~for funding through the legislative process shall be submitted~~
9 ~~to the department by the appropriate fiscal committees of the~~
10 ~~House of Representatives and the Senate. The department shall~~
11 ~~review the projects for funding eligibility and must, no later~~
12 ~~than March 1 of each year, provide each fiscal committee with~~
13 ~~a list of projects that appear to meet the eligibility~~
14 ~~requirements under this grant program.~~

15 ~~(6) The department may adopt rules necessary to~~
16 ~~administer this section, including, but not limited to, rules~~
17 ~~governing timeframes for submitting grant applications,~~
18 ~~evaluation criteria, forms, matching criteria, maximum grant~~
19 ~~amounts, and allocation of appropriated funds based upon~~
20 ~~project and applicant size.~~

21 Section 19. Section 403.890, Florida Statutes, is
22 created to read:

23 403.890 Water Protection and Sustainability Program;
24 intent; goals; purposes.--

25 (1) Revenues transferred from the Department of
26 Revenue pursuant to s. 215.6197 shall be deposited into the
27 Water Protection and Sustainability Program Trust Fund in the
28 Department of Environmental Protection. Revenues shall be
29 distributed by the Department of Environmental Protection in
30 the following manner:

31 (a) Forty-five percent to the Department of

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1 Environmental Protection for the implementation of an
2 alternative water supply program as provided in s. 373.1961.
3 (b) Twenty-five percent for the implementation of best
4 management practices and capital project expenditures
5 necessary for the implementation of the goals of the total
6 maximum daily loads program established in s. 403.067. Of
7 these funds, 85 percent shall be transferred to the credit of
8 the Department of Environmental Protection Water Quality
9 Assurance Trust Fund to address water quality impacts
10 associated with nonagricultural nonpoint sources. Fifteen
11 percent of these funds shall be transferred to the Department
12 of Agriculture and Consumer Services General Inspection Trust
13 Fund to address water quality impacts associated with
14 agricultural nonpoint sources. These funds shall be used for
15 research, development, demonstration, and implementation of
16 suitable best management practices or other measures used to
17 achieve water quality standards in surface waters and water
18 segments identified pursuant to ss. 303(d) of the Clean Water
19 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
20 Implementation of best management practices and other measures
21 may include cost-share grants, technical assistance,
22 implementation tracking, and conservation leases or other
23 agreements for water quality improvement. The Department of
24 Environmental Protection and the Department of Agriculture and
25 Consumer Services may adopt rules governing the distribution
26 of funds for implementation of best management practices.
27 These funds shall not be used to abrogate the financial
28 responsibility of those point and nonpoint sources that have
29 contributed to the degradation of water or land areas.
30 Increased priority shall be given by the department and the
31 water management district governing boards to those projects

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1 that have secured a cost-sharing agreement allocating
2 responsibility for the cleanup of point and nonpoint sources.

3 (c) Fifteen percent shall be disbursed for the
4 purposes of funding projects pursuant to ss. 373.451 - 373.459
5 or surface water restoration activities in water management
6 district designated priority water bodies. The Secretary of
7 Environmental Protection shall ensure that each water
8 management district receives the following percentage of funds
9 annually:

10 1. Thirty-five percent to the South Florida Water
11 Management District;

12 2. Twenty-five percent to the Southwest Florida Water
13 Management District;

14 3. Twenty-five percent to the St. John's River Water
15 Management District;

16 4. Seven and one-half percent to the Suwannee River
17 Water Management District; and

18 5. Seven and one-half percent to the Northwest Florida
19 Water Management District.

20 (d) Fifteen percent to the Department of Environmental
21 Protection for the implementation of the stormwater, drinking
22 water, and wastewater programs. These funds shall be divided
23 equally among the following programs:

24 1. The Clean Water State Revolving Loan Grants Program
25 as provided in s. 403.1835;

26 2. The Drinking Water State Revolving Loan Grant
27 Program as provided in s. 403.8532; and

28 3. The Disadvantaged Small Community Wastewater Grant
29 Program as provided in s. 403.1838.

30
31 Prior to the end of the 2008 Regular Session, the Legislature

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1 must review the distribution of funds under the Water
2 Protection and Sustainability Program to determine if
3 revisions to the funding formula are required. At the
4 discretion of the President of the Senate and the Speaker of
5 the House of Representatives, the appropriate substantive
6 committees of the Legislature may conduct an interim project
7 to review the Water Protection and Sustainability Program and
8 the funding formula and make written recommendations to the
9 Legislature proposing necessary changes, if any.

10 Section 20. This act shall take effect upon becoming a
11 law.

12

13

14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 Delete everything before the enacting clause

17

18 and insert:

19

 A bill to be entitled

20

 An act relating to the development of water

21

 supplies; amending s. 201.15, F.S.; providing

22

 for the distribution of certain excise taxes on

23

 documents to; the Water Protection and

24

 Sustainability Program Trust Fund of the

25

 Department of Environmental Protection; the

26

 Invasive Plant Control Trust fund of the

27

 Department of Environmental Protection; and the

28

 General Inspection Trust Fund of the Department

29

 of Agriculture and Consumer Services; creating

30

 s. 215.6197, F.S.; establishing the Water

31

 Protection and Sustainability Program;

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1 authorizing the issuance of bonds; establishing
 2 criteria for distribution of bonds for a
 3 specified period; prohibiting the sale of bonds
 4 under certain conditions; authorizing the
 5 issuance of the water protection and
 6 sustainability bonds in the best interest of
 7 the state; amending s. 373.019, F.S.; creating
 8 definitions for "alternative water supply";
 9 "capital costs"; and "multi-jurisdictional
 10 water supply entities"; amending s. 373.196,
 11 F.S.; encouraging cooperation in the
 12 development of water supplies; providing for
 13 alternative water supply development;
 14 encouraging municipalities, counties, and
 15 special districts to create regional water
 16 supply authorities; establishing the primary
 17 roles of the water management district in
 18 alternative water supply development;
 19 establishing the primary roles of local
 20 governments, regional water supply authorities,
 21 special districts, and publicly owned and
 22 privately owned water utilities in alternative
 23 water supply development; requiring the water
 24 management districts to detail the specific
 25 allocations to be used for alternative water
 26 supply development in their annual budget
 27 submission; amending s. 373.1961, F.S. ;
 28 providing general powers and duties of the
 29 water management districts in water production;
 30 requiring that the water management districts
 31 include the amount needed to implement the

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1 water supply development projects in each
2 annual budget; establishing general funding
3 criteria for funding assistance to the state or
4 water management districts; establishing
5 economic incentives for alternative water
6 supply development; creating a funding formula
7 for the distribution of state funds to the
8 water management districts for alternative
9 water supply development; requiring that
10 funding assistance for alternative water supply
11 development be limited to a percentage of the
12 local capital costs of an approved project;
13 requiring that the governing board or
14 alternative water supplies advisory committee
15 recommend alternative water supply projects for
16 funding; establishing criteria; providing for
17 cost recovery from the Public Service
18 Commission; establishing criteria for funding
19 assistance for water reuse systems; amending s.
20 373.1962, F.S.; clarifying that counties,
21 municipalities, and special districts may
22 execute interlocal agreements to create
23 regional water supply authorities; amending s.
24 373.223, F.S.; establishing criteria for
25 certain water supply entities to be presumed to
26 have a use consistent with the public interest
27 for requirements for consumptive use
28 permitting; amending s. 373.236, F.S.;
29 providing permits of at least 20 years for
30 development of alternative water supplies under
31 certain conditions; amending s. 373.459, F.S.;

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1 requiring that entities receiving state funding
2 for implementation of surface water improvement
3 and management projects provide a 50-percent
4 match of cash or in-kind services; amending s.
5 373.0361, F.S.; providing for the development
6 of regional water supply plans; providing
7 requirements for the content of each plan;
8 providing for an approval process for the
9 plans; providing for annual updates; providing
10 for local government use of the plans;
11 providing notification requirements for water
12 management districts concerning findings within
13 the plan; changing the deadline for certain
14 plan updates; amending s. 163.3177, F.S. ;
15 requiring a local government to incorporate
16 alternative water supply projects into the
17 comprehensive plan, requiring local governments
18 to identify specific projects needed ;
19 providing for cooperative planning; amending s.
20 163.3180, F.S.; requiring adequate water
21 supplies to serve new development; amending s.
22 163.3191, F.S.; requiring the evaluation and
23 appraisal report to evaluate water supply
24 sources; amending s. 403.067, F.S.; providing
25 that initial allocation of allowable pollutant
26 loads between point and nonpoint sources may be
27 developed as part of a total maximum daily
28 load; establishing criteria for establishing
29 initial and detailed allocations to attain
30 pollutant reductions; authorizing the
31 Department of Environmental Protection to adopt

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1 | phased total maximum daily loads that establish
2 | incremental total maximum daily loads under
3 | certain conditions; requiring the development
4 | of basin management action plans; requiring
5 | that basin management action plans integrate
6 | the appropriate management strategies to
7 | achieve the total maximum daily loads;
8 | requiring that the plans establish a schedule
9 | for implementing management strategies;
10 | requiring that a basin management action plan
11 | equitably allocate pollutant reductions to
12 | individual basins; authorizing that plans may
13 | provide pollutant load reduction credits to
14 | dischargers that have implemented strategies to
15 | reduce pollutant loads prior to the development
16 | of the basin management action plan; requiring
17 | that the plan identify mechanisms by which
18 | potential future sources of pollution will be
19 | addressed; requiring that the department assure
20 | key stakeholder participation in the basin
21 | management action planning process; requiring
22 | that the department hold at least one public
23 | meeting to discuss and receive comments during
24 | the planning process; providing notice
25 | requirements; requiring that the department
26 | adopt all or part of a basin management action
27 | plan by secretarial order pursuant to ch. 120,
28 | F.S.; requiring that basin management action
29 | plans that alter that calculation or initial
30 | allocation of a total maximum daily load, the
31 | revised calculation, or initial allocation must

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1 be adopted by rule; requiring periodic
2 evaluation of basin management action plans;
3 requiring that revisions to plans be made by
4 the department in cooperation with
5 stakeholders; providing for basin plan
6 revisions regarding nonpoint pollutant sources;
7 requiring that adopted basin management action
8 plans be included in subsequent NPDES permits
9 or permit modifications; providing that
10 implementation of a total maximum daily load or
11 basin management action plan for holders of a
12 NPDES municipal separate storm water sewer
13 system permit may be achieved through the use
14 of best management practices; providing that
15 basin management action plans do not relieve a
16 discharger from the requirement to obtain,
17 renew, or modify a NPDES permit or to abide by
18 other requirements of the permit; requiring
19 that plan management strategies be completed
20 pursuant to the schedule set forth in the basin
21 management action plan and providing that the
22 implementation schedule may extend beyond the
23 term of a NPDES permit; providing that
24 management strategies and pollution reduction
25 requirements in a basin management action plan
26 for a specific pollutant of concern are not
27 subject to a challenge under ch. 120, F.S., at
28 the time they are incorporated, in identical
29 form, into a subsequent NPDES permit or permit
30 modification; requiring timely adoption and
31 implementation of pollutant reduction actions

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1 for nonagricultural pollutant sources not
2 subject to NPDES permitting but regulated
3 pursuant to other state, regional, or local
4 regulatory programs; requiring timely
5 implementation of best management practices for
6 nonpoint pollutant source dischargers not
7 subject to permitting at the time a basin
8 management action plan is adopted; providing
9 for presumption of compliance under certain
10 circumstances; providing for enforcement action
11 by the department or a water management
12 district; requiring that a landowner,
13 discharger, or other responsible person that is
14 implementing management strategies specified in
15 an adopted basin management action plan will
16 not be required by permit, enforcement action,
17 or otherwise to implement additional management
18 strategies to reduce pollutant loads; providing
19 that the authority of the department to amend a
20 basin management plan is not limited; requiring
21 that the department verify at representative
22 sites the effectiveness of interim measures,
23 best management practices, and other measures
24 adopted by rule; requiring that the department
25 use its best professional judgment in making
26 initial verifications that best management
27 practices are not effective; requiring notice
28 to the appropriate water management district
29 and the Department of Agriculture and Consumer
30 Services under certain conditions; establishing
31 a presumption of compliance for implementation

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1 of practices initially verified to be effective
2 or verified to be effective at representative
3 sites; limiting the institution of proceedings
4 by the department against the owner of a source
5 of pollution to recover costs or damages
6 associated with the contamination of surface or
7 ground water caused by those pollutants;
8 requiring the Department of Agriculture and
9 Consumer Services to institute a reevaluation
10 of best management practices or other measures
11 where water quality problems are detected or
12 predicted during the development or amendment
13 of a basin management action plan; providing
14 for rule revisions; providing the department
15 with rulemaking authority; requiring that a
16 report be submitted to the Governor, the
17 President of the Senate, and the Speaker of the
18 House of Representatives containing
19 recommendations on rules for pollutant trading
20 prior to the adoption of those rules; requiring
21 that recommendations be adopted in cooperation
22 with a technical advisory committee containing
23 experts in pollutant trading and
24 representatives of potentially affected
25 parties; deleting a requirement that no
26 pollutant trading program shall become
27 effective prior to review and ratification by
28 the Legislature; amending ss. 373.4595 and
29 570.085, F.S.; correcting cross-references;
30 amending s. 403.885, F.S.; revising
31 requirements relating to the department's grant

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1 program for water quality improvement and water
2 restoration project grants; eliminating grants
3 for water quality improvement, water
4 management, and drinking water projects;
5 authorizing grants for wastewater management;
6 creating additional criteria for funding storm
7 water grants; requiring local matching funds;
8 providing an exception from matching fund
9 requirements for financially disadvantaged
10 small local governments; creating s. 403.890,
11 F.S.; establishing the Water Protection and
12 Sustainability Program; establishing a funding
13 formula for the distribution of revenues
14 generated by the bonding provisions as provided
15 in s. 215.6197, F.S.; establishing funding for
16 alternative water supply development as
17 provided in s. 373.1961, F.S., the development
18 and implementation of total maximum daily load
19 projects as provided in s. 403.067, F.S.,
20 surface water improvement and management plans
21 and programs as provided in ss. 373.451 and
22 373.459, F.S., the Clean Water State Revolving
23 Loan Grants Program as provided in s. 403.1835,
24 F.S., the Drinking Water State Revolving Loan
25 Grant Program as provided in s. 403.8532, F.S.,
26 and the Disadvantaged Small Community
27 Wastewater Grant Program as provided in s.
28 403.1838, F.S.; providing for Legislative
29 review; providing an effective date.

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