

1 local governments, regional water supply
2 authorities, special districts, and publicly
3 owned and privately owned water utilities in
4 alternative water supply development; requiring
5 the water management districts to detail the
6 specific allocations to be used for alternative
7 water supply development in their annual budget
8 submission; amending s. 373.1961, F.S.;
9 providing general powers and duties of the
10 water management districts in water production;
11 requiring that the water management districts
12 include the amount needed to implement the
13 water supply development projects in each
14 annual budget; establishing general funding
15 criteria for funding assistance to the state or
16 water management districts; establishing
17 economic incentives for alternative water
18 supply development; creating a funding formula
19 for the distribution of state funds to the
20 water management districts for alternative
21 water supply development; requiring that
22 funding assistance for alternative water supply
23 development be limited to a percentage of the
24 local capital costs of an approved project;
25 requiring that the governing board or
26 alternative water supplies advisory committee
27 recommend alternative water supply projects for
28 funding; establishing criteria; providing for
29 cost recovery from the Public Service
30 Commission; establishing criteria for funding
31 assistance for water reuse systems; amending s.

1 373.1962, F.S.; clarifying that counties,
2 municipalities, and special districts may
3 execute interlocal agreements to create
4 regional water supply authorities; amending s.
5 373.223, F.S.; establishing criteria for
6 certain water supply entities to be presumed to
7 have a use consistent with the public interest
8 for requirements for consumptive use
9 permitting; amending s. 373.236, F.S.;
10 providing permits of at least 20 years for
11 development of alternative water supplies under
12 certain conditions; amending s. 373.459, F.S.;
13 requiring that entities receiving state funding
14 for implementation of surface water improvement
15 and management projects provide a 50-percent
16 match of cash or in-kind services; amending s.
17 373.0361, F.S.; providing for the development
18 of regional water supply plans; providing
19 requirements for the content of each plan;
20 providing for an approval process for the
21 plans; providing for annual updates; providing
22 for local government use of the plans;
23 providing notification requirements for water
24 management districts concerning findings within
25 the plan; changing the deadline for certain
26 plan updates; amending s. 163.3177, F.S.;
27 requiring a local government to incorporate
28 alternative water supply projects into the
29 comprehensive plan; requiring local governments
30 to identify specific projects needed; providing
31 for cooperative planning; amending s. 163.3180,

1 F.S.; requiring adequate water supplies to
2 serve new development; amending s. 163.3191,
3 F.S.; requiring the evaluation and appraisal
4 report to evaluate water supply sources;
5 amending s. 403.067, F.S.; providing that
6 initial allocation of allowable pollutant loads
7 between point and nonpoint sources may be
8 developed as part of a total maximum daily
9 load; establishing criteria for establishing
10 initial and detailed allocations to attain
11 pollutant reductions; authorizing the
12 Department of Environmental Protection to adopt
13 phased total maximum daily loads that establish
14 incremental total maximum daily loads under
15 certain conditions; requiring the development
16 of basin management action plans; requiring
17 that basin management action plans integrate
18 the appropriate management strategies to
19 achieve the total maximum daily loads;
20 requiring that the plans establish a schedule
21 for implementing management strategies;
22 requiring that a basin management action plan
23 equitably allocate pollutant reductions to
24 individual basins; authorizing that plans may
25 provide pollutant load reduction credits to
26 dischargers that have implemented strategies to
27 reduce pollutant loads prior to the development
28 of the basin management action plan; requiring
29 that the plan identify mechanisms by which
30 potential future sources of pollution will be
31 addressed; requiring that the department assure

1 key stakeholder participation in the basin
2 management action planning process; requiring
3 that the department hold at least one public
4 meeting to discuss and receive comments during
5 the planning process; providing notice
6 requirements; requiring that the department
7 adopt all or part of a basin management action
8 plan by secretarial order pursuant to ch. 120,
9 F.S.; requiring that basin management action
10 plans that alter that calculation or initial
11 allocation of a total maximum daily load, the
12 revised calculation, or initial allocation must
13 be adopted by rule; requiring periodic
14 evaluation of basin management action plans;
15 requiring that revisions to plans be made by
16 the department in cooperation with
17 stakeholders; providing for basin plan
18 revisions regarding nonpoint pollutant sources;
19 requiring that adopted basin management action
20 plans be included in subsequent NPDES permits
21 or permit modifications; providing that
22 implementation of a total maximum daily load or
23 basin management action plan for holders of an
24 NPDES municipal separate stormwater sewer
25 system permit may be achieved through the use
26 of best management practices; providing that
27 basin management action plans do not relieve a
28 discharger from the requirement to obtain,
29 renew, or modify an NPDES permit or to abide by
30 other requirements of the permit; requiring
31 that plan management strategies be completed

1 pursuant to the schedule set forth in the basin
2 management action plan and providing that the
3 implementation schedule may extend beyond the
4 term of an NPDES permit; providing that
5 management strategies and pollution reduction
6 requirements in a basin management action plan
7 for a specific pollutant of concern are not
8 subject to a challenge under ch. 120, F.S., at
9 the time they are incorporated, in identical
10 form, into a subsequent NPDES permit or permit
11 modification; requiring timely adoption and
12 implementation of pollutant reduction actions
13 for nonagricultural pollutant sources not
14 subject to NPDES permitting but regulated
15 pursuant to other state, regional, or local
16 regulatory programs; requiring timely
17 implementation of best management practices for
18 nonpoint pollutant source dischargers not
19 subject to permitting at the time a basin
20 management action plan is adopted; providing
21 for presumption of compliance under certain
22 circumstances; providing for enforcement action
23 by the department or a water management
24 district; requiring that a landowner,
25 discharger, or other responsible person that is
26 implementing management strategies specified in
27 an adopted basin management action plan will
28 not be required by permit, enforcement action,
29 or otherwise to implement additional management
30 strategies to reduce pollutant loads; providing
31 that the authority of the department to amend a

1 basin management plan is not limited; requiring
2 that the department verify at representative
3 sites the effectiveness of interim measures,
4 best management practices, and other measures
5 adopted by rule; requiring that the department
6 use its best professional judgment in making
7 initial verifications that best management
8 practices are not effective; requiring notice
9 to the appropriate water management district
10 and the Department of Agriculture and Consumer
11 Services under certain conditions; establishing
12 a presumption of compliance for implementation
13 of practices initially verified to be effective
14 or verified to be effective at representative
15 sites; limiting the institution of proceedings
16 by the department against the owner of a source
17 of pollution to recover costs or damages
18 associated with the contamination of surface
19 water or groundwater caused by those
20 pollutants; requiring the Department of
21 Agriculture and Consumer Services to institute
22 a reevaluation of best management practices or
23 other measures where water quality problems are
24 detected or predicted during the development or
25 amendment of a basin management action plan;
26 providing for rule revisions; providing the
27 department with rulemaking authority; requiring
28 that a report be submitted to the Governor, the
29 President of the Senate, and the Speaker of the
30 House of Representatives containing
31 recommendations on rules for pollutant trading

1 prior to the adoption of those rules; requiring
2 that recommendations be adopted in cooperation
3 with a technical advisory committee containing
4 experts in pollutant trading and
5 representatives of potentially affected
6 parties; deleting a requirement that no
7 pollutant trading program shall become
8 effective prior to review and ratification by
9 the Legislature; amending ss. 373.4595 and
10 570.085, F.S.; correcting cross-references;
11 amending s. 403.885, F.S.; revising
12 requirements relating to the department's grant
13 program for water quality improvement and water
14 restoration project grants; eliminating grants
15 for water quality improvement, water
16 management, and drinking water projects;
17 authorizing grants for wastewater management;
18 creating additional criteria for funding storm
19 water grants; requiring local matching funds;
20 providing an exception from matching fund
21 requirements for financially disadvantaged
22 small local governments; creating s. 403.890,
23 F.S.; establishing the Water Protection and
24 Sustainability Program; establishing a funding
25 formula for the distribution of revenues
26 generated by the bonding provisions as provided
27 in s. 215.6197, F.S.; establishing funding for
28 alternative water supply development as
29 provided in s. 373.1961, F.S., the development
30 and implementation of total maximum daily load
31 projects as provided in s. 403.067, F.S.,

1 surface water improvement and management plans
2 and programs as provided in ss. 373.451 and
3 373.459, F.S., the Clean Water State Revolving
4 Loan Grants Program as provided in s. 403.1835,
5 F.S., the Drinking Water State Revolving Loan
6 Grant Program as provided in s. 403.8532, F.S.,
7 and the Disadvantaged Small Community
8 Wastewater Grant Program as provided in s.
9 403.1838, F.S.; providing for legislative
10 review; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (d) of subsection (1) and
15 subsections (6) and (8) of section 201.15, Florida Statutes,
16 are amended, and subsection (15) is added to that section, to
17 read:

18 201.15 Distribution of taxes collected.--All taxes
19 collected under this chapter shall be distributed as follows
20 and shall be subject to the service charge imposed in s.
21 215.20(1), except that such service charge shall not be levied
22 against any portion of taxes pledged to debt service on bonds
23 to the extent that the amount of the service charge is
24 required to pay any amounts relating to the bonds:

25 (1) Sixty-two and sixty-three hundredths percent of
26 the remaining taxes collected under this chapter shall be used
27 for the following purposes:

28 (d) The remainder of the moneys distributed under this
29 subsection, after the required payments under paragraphs (a),
30 (b), and (c), shall be paid into the State Treasury to the
31 credit of the General Revenue Fund of the state to be used and

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

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

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

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

19 (15) Each fiscal year, the Legislature should use
20 nonrecurring revenue sources, when available, for all or a
21 portion of the annual \$500 million funding in lieu of issuing
22 bonds for the Water Protection and Sustainability Program
23 created in s. 215.6197.

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

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, as long as the bonds
10 are outstanding, it will not take any action that will
11 materially and adversely affect the rights of such holders,
12 including, but not limited to, a reduction in the portion of
13 documentary stamp taxes distributable to the Water Protection
14 and 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

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 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 ~~term~~ following words shall, unless the context clearly
30 ~~indicates otherwise, mean:~~

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

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

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

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

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

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

29 ~~(7)(5)~~ "Florida water plan" means the state-level
30 water resource plan developed by the department under s.
31 373.036.

1 ~~(8)(6)~~ "Governing board" means the governing board of
2 a water management district.

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

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

10 ~~(11)(9)~~ "Independent scientific peer review" means the
11 review of scientific data, theories, and methodologies by a
12 panel of independent, recognized experts in the fields of
13 hydrology, hydrogeology, limnology, and other scientific
14 disciplines relevant to the matters being reviewed under s.
15 373.042.

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

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

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

30 ~~(15)(12)~~ "Person" means any and all persons, natural
31 or artificial, including any individual, firm, association,

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

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

10 ~~(17)~~(14) "Regional water supply plan" means a detailed
11 water supply plan developed by a governing board under s.
12 373.0361.

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

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

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

31

1 ~~(21)~~~~(18)~~ "Water management district" means any flood
2 control, resource management, or water management district
3 operating under the authority of this chapter.

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

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

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

29 ~~(25)~~~~(22)~~ For the sole purpose of serving as the basis
30 for the unified statewide methodology adopted pursuant to s.
31 373.421(1), as amended, "wetlands" means those areas that are

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

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

29 | Section 5. Section 373.196, Florida Statutes, is
30 | amended to read:

31 | (Substantial rewording of section. See

1 s. 373.196, F.S., for present text.)

2 373.196 Alternative water supply development.--

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

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

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

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

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

31

1 (e) Cooperation between counties, municipalities,
2 regional water supply authorities, multijurisdictional water
3 supply entities, special districts, and publicly owned and
4 privately owned water utilities in the development of
5 countywide and multi-countywide alternative water supply
6 projects will allow for necessary economies of scale and
7 efficiencies to be achieved in order to accelerate the
8 development of new, dependable, and sustainable alternative
9 water supplies.

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

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

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

27 (c) Funding for the development of alternative water
28 supplies shall be a shared responsibility of water suppliers
29 and users, the State of Florida, and the water management
30 districts, with water suppliers and users having the primary
31 responsibility and the State of Florida and the water

1 management districts being responsible for providing funding
2 assistance.

3 (3) The primary roles of the water management
4 districts in water resource development as it relates to
5 supporting alternative water resource development are:

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

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

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

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

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

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

30 (4) The primary roles of local government, regional
31 water supply authorities, multijurisdictional water supply

1 entities, special districts, and publicly owned and privately
2 owned water utilities in alternative water supply development
3 shall be:

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

8 (b) The formulation and implementation of alternative
9 water supply development strategies and programs;

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

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

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

27 (6)(a) The statewide funds provided pursuant to the
28 Water Protection and Sustainability Program serve to
29 supplement existing water management district funding for
30 alternative water supply development assistance and should not
31 result in a reduction of such funding. Therefore, the water

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

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

21 Section 6. Section 373.1961, Florida Statutes, is
22 amended to read:

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

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

30 (a) Shall engage in planning to assist counties,
31 municipalities, special districts, publicly owned and

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

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

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

27 | (d) Shall not engage in local water supply
28 | distribution.

29 | (e) Shall not deprive, directly or indirectly, any
30 | county wherein water is withdrawn of the prior right to the
31 | reasonable and beneficial use of water which is required to

1 supply adequately the reasonable and beneficial needs of the
2 county or any of the inhabitants or property owners therein.

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

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

31

1 (h) In addition to the power to issue revenue bonds
2 pursuant to s. 373.584, may issue revenue bonds for the
3 purposes of paying the costs and expenses incurred in carrying
4 out the purposes of this chapter or refunding obligations of
5 the district issued pursuant to this section. Such revenue
6 bonds shall be secured by, and be payable from, revenues
7 derived from the operation, lease, or use of its water
8 production and transmission facilities and other water-related
9 facilities and from the sale of water or services relating
10 thereto. Such revenue bonds may not be secured by, or be
11 payable from, moneys derived by the district from the Water
12 Management Lands Trust Fund or from ad valorem taxes received
13 by the district. All provisions of s. 373.584 relating to the
14 issuance of revenue bonds which are not inconsistent with this
15 section shall apply to the issuance of revenue bonds pursuant
16 to this section. The district may also issue bond
17 anticipation notes in accordance with the provisions of s.
18 373.584.

19 (i) May join with one or more other water management
20 districts, counties, municipalities, special districts,
21 publicly owned or privately owned water ~~private~~ utilities,
22 multijurisdictional water supply entities, or regional water
23 supply authorities for the purpose of carrying out any of its
24 powers, and may contract with such other entities to finance
25 acquisitions, construction, operation, and maintenance. The
26 contract may provide for contributions to be made by each
27 party thereto, for the division and apportionment of the
28 expenses of acquisitions, construction, operation, and
29 maintenance, and for the division and apportionment of the
30 benefits, services, and products therefrom. The contracts may
31

1 contain other covenants and agreements necessary and
2 appropriate to accomplish their purposes.

3 (2) IDENTIFICATION OF WATER SUPPLY NEEDS IN DISTRICT
4 BUDGET.--The water management district shall implement its
5 responsibilities as expeditiously as possible in areas subject
6 to regional water supply plans. Each district's governing
7 board shall include in its annual budget the amount needed for
8 the fiscal year to assist in implementing alternative water
9 supply development projects. The Legislature finds that, due
10 to a combination of factors, vastly increased demands have
11 been placed on natural supplies of fresh water, and that,
12 absent increased development of alternative water supplies,
13 such demands may increase in the future. The Legislature also
14 finds that potential exists in the state for the production of
15 significant quantities of alternative water supplies,
16 including reclaimed water, and that water production includes
17 the development of alternative water supplies, including
18 reclaimed water, for appropriate uses. It is the intent of the
19 Legislature that utilities develop reclaimed water systems,
20 where reclaimed water is the most appropriate alternative
21 water supply option, to deliver reclaimed water to as many
22 users as possible through the most cost effective means, and
23 to construct reclaimed water system infrastructure to their
24 owned or operated properties and facilities where they have
25 reclamation capability. It is also the intent of the
26 Legislature that

27 (3) FUNDING.--

28 (a) The water management districts and the state shall
29 which levy ad valorem taxes for water management purposes
30 should share a percentage of those tax revenues with water
31 providers and users, including local governments, water,

1 wastewater, and reuse utilities, municipal, special district,
2 industrial, and agricultural water users, and other public and
3 private water users, to be used to supplement other funding
4 sources in the development of alternative water supplies. ~~The~~
5 ~~Legislature finds that public moneys or services provided to~~
6 ~~private entities for such uses constitute public purposes~~
7 ~~which are in the public interest. In order to further the~~
8 ~~development and use of alternative water supply systems,~~
9 ~~including reclaimed water systems, the Legislature provides~~
10 ~~the following:~~

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

22 1. Forty percent to the South Florida Water Management
23 District;

24 2. Twenty-five percent to the Southwest Florida Water
25 Management District;

26 3. Twenty-five percent to the St. Johns River Water
27 Management District;

28 4. Five percent to the Suwannee River Water Management
29 District; and

30 5. Five percent to the Northwest Florida Water
31 Management District.

1 (c) The financial assistance for alternative water
2 supply projects allocated in each district's budget as
3 required in s. 373.196(6) shall be combined with the state
4 funds and used to assist in funding the capital costs of
5 alternative water supply projects selected by the governing
6 board. If the district has not completed any regional water
7 supply plan, or the regional water supply plan does not
8 identify the need for any alternative water supply projects,
9 funds deposited in that district's trust fund may be used for
10 water resource development projects, including, but not
11 limited to, springs protection.

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

16 (e) Applicants for projects that may receive funding
17 assistance pursuant to the Water Protection and Sustainability
18 Program shall, at a minimum, be required to pay 60 percent of
19 the project's capital costs. The water management districts
20 may, at their discretion, totally or partially waive this
21 requirement for projects sponsored by financially
22 disadvantaged small local governments as defined in s.
23 403.885(4).

24 (f) The governing boards shall determine those
25 projects that will be selected for financial assistance. The
26 governing boards may establish factors to determine project
27 funding; however, significant weight shall be given to the
28 following factors:

29 1. Whether the project provides substantial
30 environmental benefits by preventing or limiting adverse water
31 resource impacts.

1 2. Whether the project reduces competition for water
2 supplies.

3 3. Whether the project brings about replacement of
4 traditional sources in order to help implement a minimum flow
5 or level or a reservation.

6 4. Whether the project will be implemented by a
7 consumptive use permittee that has achieved the targets
8 contained in a goal-based water conservation program approved
9 pursuant to s. 373.227.

10 5. The quantity of water supplied by the project as
11 compared to its cost.

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

14 7. Whether the project will be implemented by a
15 multijurisdictional water supply entity or regional water
16 supply authority.

17 (g) Additional factors to be considered in determining
18 project funding shall include:

19 1. Whether the project is part of a plan to implement
20 two or more alternative water supply projects, all of which
21 will be operated to produce water at a uniform rate for the
22 participants in a multijurisdictional water supply entity or
23 regional water supply authority.

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

26 3. Whether the project proposal includes sufficient
27 preliminary planning and engineering to demonstrate that the
28 project can reasonably be implemented within the timeframes
29 provided in the regional water supply plan.

30 4. Whether the project is a subsequent phase of an
31 alternative water supply project that is underway.

1 5. Whether and in what percentage a local government
2 or local government utility is transferring water supply
3 system revenues to the local government general fund in excess
4 of reimbursements for services received from the general fund,
5 including direct and indirect costs and legitimate payments in
6 lieu of taxes.

7 (h) After conducting one or more meetings to solicit
8 public input on eligible projects for implementation of
9 alternative water supply projects, the governing board of each
10 water management district shall select projects for funding
11 assistance based upon the criteria set forth in paragraphs (f)
12 and (g). The governing board may select a project identified
13 or listed as an alternative water supply development project
14 in the regional water supply plan, or allocate up to 20
15 percent of the funding for alternative water supply projects
16 that are not identified or listed in the regional water supply
17 plan but are consistent with the goals of the plan.

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

30 (i) Without diminishing amounts available through
31 other means described in this paragraph, the governing boards

1 are encouraged to consider establishing revolving loan funds
2 to expand the total funds available to accomplish the
3 objectives of this section. A revolving loan fund created
4 under this paragraph must be a nonlapsing fund from which the
5 water management district may make loans with interest rates
6 below prevailing market rates to public or private entities
7 for the purposes described in this section. The governing
8 board may adopt resolutions to establish revolving loan funds
9 which must specify the details of the administration of the
10 fund, the procedures for applying for loans from the fund, the
11 criteria for awarding loans from the fund, the initial
12 capitalization of the fund, and the goals for future
13 capitalization of the fund in subsequent budget years.
14 Revolving loan funds created under this paragraph must be used
15 to expand the total sums and sources of cooperative funding
16 available for the development of alternative water supplies.
17 The Legislature does not intend for the creation of revolving
18 loan funds to supplant or otherwise reduce existing sources or
19 amounts of funds currently available through other means.

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

- 27 1. Promote the development of alternative water supply
28 systems;
29 2. Promote the conservation of water;
30
31

1 3. Appropriately distribute costs among all the users
2 of water, wastewater, and alternative water supplies within
3 the service area; and

4 4. Prohibit rate discrimination within classes of
5 utility users.

6 ~~(b) It is the intent of the Legislature that for each~~
7 ~~reclaimed water utility, or any other utility, which receives~~
8 ~~funds pursuant to this subsection, the appropriate~~
9 ~~rate setting authorities should develop rate structures for~~
10 ~~all water, wastewater, and reclaimed water and other~~
11 ~~alternative water supply utilities in the service area of the~~
12 ~~funded utility, which accomplish the following:~~

13 ~~1. Provide meaningful progress toward the development~~
14 ~~and implementation of alternative water supply systems,~~
15 ~~including reclaimed water systems;~~

16 ~~2. Promote the conservation of fresh water withdrawn~~
17 ~~from natural systems;~~

18 ~~3. Provide for an appropriate distribution of costs~~
19 ~~for all water, wastewater, and alternative water supply~~
20 ~~utilities, including reclaimed water utilities, among all of~~
21 ~~the users of those utilities; and~~

22 ~~4. Prohibit rate discrimination within classes of~~
23 ~~utility users.~~

24 ~~(c) Funding assistance provided by the water~~
25 ~~management districts for a water reuse system project may~~
26 ~~include the following grant or loan conditions for that~~
27 ~~project if the water management district determines that such~~
28 ~~conditions will encourage water use efficiency:~~

29 ~~1. Metering of reclaimed water use for the following~~
30 ~~activities: residential irrigation, agricultural irrigation,~~
31 ~~industrial uses except for electric utilities as defined in s.~~

1 ~~366.02(2), landscape irrigation, irrigation of other public~~
2 ~~access areas, commercial and institutional uses such as toilet~~
3 ~~flushing, and transfers to other reclaimed water utilities.~~

4 ~~2. Implementation of reclaimed water rate structures~~
5 ~~based on actual use of reclaimed water for the types of reuse~~
6 ~~activities listed in subparagraph 1.~~

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

10 ~~4. Development of location data for key reuse~~
11 ~~facilities.~~

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

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

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

29 ~~1. An application process and a deadline for filing~~
30 ~~applications annually.~~

31

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

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

6 ~~(g) The governing board of each water management~~
7 ~~district shall establish an alternative water supplies grants~~
8 ~~advisory committee to recommend to the governing board~~
9 ~~projects for funding pursuant to this subsection. The advisory~~
10 ~~committee members shall include, but not be limited to, one or~~
11 ~~more representatives of county, municipal, and investor owned~~
12 ~~private utilities, and may include, but not be limited to,~~
13 ~~representatives of agricultural interests and environmental~~
14 ~~interests. Each committee member shall represent his or her~~
15 ~~interest group as a whole and shall not represent any specific~~
16 ~~entity. The committee shall apply the guidelines and project~~
17 ~~eligibility criteria established by the governing board in~~
18 ~~reviewing proposed projects. After one or more hearings to~~
19 ~~solicit public input on eligible projects, the committee shall~~
20 ~~rank the eligible projects and shall submit them to the~~
21 ~~governing board for final funding approval. The advisory~~
22 ~~committee may submit to the governing board more projects than~~
23 ~~the available grant money would fund.~~

24 ~~(1)(h)~~ All revenues made available annually pursuant
25 to this subsection must be encumbered annually by the
26 governing board when if it approves projects sufficient to
27 expend the available revenues. ~~Funds must be disbursed within~~
28 ~~36 months after encumbrance.~~

29 ~~(i) For purposes of this subsection, alternative water~~
30 ~~supplies are supplies of water that have been reclaimed after~~
31 ~~one or more public supply, municipal, industrial, commercial,~~

1 ~~or agricultural uses, or are supplies of stormwater, or~~
2 ~~brackish or salt water, that have been treated in accordance~~
3 ~~with applicable rules and standards sufficient to supply the~~
4 ~~intended use.~~

5 (m)(j) This subsection ~~is shall~~ not be subject to the
6 rulemaking requirements of chapter 120.

7 (n)(k) By March 1 ~~January 30~~ of each year, as part of
8 a consolidated annual report, each water management district
9 shall submit a ~~an annual~~ report to the Governor, the President
10 of the Senate, and the Speaker of the House of Representatives
11 which accounts for the disbursement of all budgeted amounts
12 pursuant to this section ~~subsection~~. Such report shall
13 describe all alternative water supply projects funded as well
14 as the quantity of new water to be created as a result of such
15 projects and shall account separately for any other moneys
16 provided through grants, matching grants, revolving loans, and
17 the use of district lands or facilities to implement regional
18 water supply plans.

19 (o)(l) The Florida Public Service Commission shall
20 allow entities under its jurisdiction constructing or
21 participating in constructing facilities that provide
22 alternative water supplies ~~supply facilities, including but~~
23 ~~not limited to aquifer storage and recovery wells~~, to recover
24 their ~~the~~ full, prudently incurred cost of constructing such
25 facilities through their rate structure. If construction of a
26 facility or participation in construction is pursuant to or in
27 furtherance of a regional water supply plan, the cost shall be
28 deemed to be prudently incurred. Every component of an
29 alternative water supply facility constructed by an
30 investor-owned utility shall be recovered in current rates.
31

1 Any state or water management district cost-share is not
2 subject to the recovery provisions allowed in this paragraph.

3 (4) FUNDING FOR REUSE.--Funding assistance provided by
4 the water management districts for a water reuse system may
5 include the following conditions for that project if a water
6 management district determines that such conditions will
7 encourage water use efficiency:

8 (a) Metering of reclaimed water use for residential
9 irrigation, agricultural irrigation, industrial uses, except
10 for electric utilities as defined in s. 366.02(2), landscape
11 irrigation, golf course irrigation, irrigation of other public
12 access areas, commercial and institutional uses such as toilet
13 flushing, and transfers to other reclaimed water utilities;

14 (b) Implementation of reclaimed water rate structures
15 based on actual use of reclaimed water for the reuse
16 activities listed in paragraph (a);

17 (c) Implementation of education programs to inform the
18 public about water issues, water conservation, and the
19 importance and proper use of reclaimed water; or

20 (d) Development of location data for key reuse
21 facilities.

22 Section 7. Subsections (1) and (5) of section
23 373.1962, Florida Statutes, are amended to read:

24 373.1962 Regional water supply authorities.--

25 (1) By interlocal agreement between counties,
26 municipalities, or special districts, as applicable agreement
27 between local governmental units created or existing pursuant
28 to the provisions of Art. VIII of the State Constitution,
29 pursuant to the Florida Interlocal Cooperation Act of 1969, s.
30 163.01, and upon the approval of the Secretary of
31 Environmental Protection to ensure that such agreement will be

1 | in the public interest and complies with the intent and
2 | purposes of this act, regional water supply authorities may be
3 | created for the purpose of developing, recovering, storing,
4 | and supplying water for county or municipal purposes in such a
5 | manner as will give priority to reducing adverse environmental
6 | effects of excessive or improper withdrawals of water from
7 | concentrated areas. In approving said agreement the Secretary
8 | of Environmental Protection shall consider, but not be limited
9 | to, the following:

10 | (a) Whether the geographic territory of the proposed
11 | authority is of sufficient size and character to reduce the
12 | environmental effects of improper or excessive withdrawals of
13 | water from concentrated areas.

14 | (b) The maximization of economic development of the
15 | water resources within the territory of the proposed
16 | authority.

17 | (c) The availability of a dependable and adequate
18 | water supply.

19 | (d) The ability of any proposed authority to design,
20 | construct, operate, and maintain water supply facilities in
21 | the locations, and at the times necessary, to ensure that an
22 | adequate water supply will be available to all citizens within
23 | the authority.

24 | (e) The effect or impact of any proposed authority on
25 | any municipality, county, or existing authority or
26 | authorities.

27 | (f) The existing needs of the water users within the
28 | area of the authority.

29 | (5) Each county, special district, or municipality
30 | that ~~which~~ is a party to an agreement pursuant to subsection
31 | (1) shall have a preferential right to purchase water from the

1 regional water supply authority for use by such county,
2 special district, or municipality.

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

5 373.223 Conditions for a permit.--

6 (5) In evaluating an application for consumptive use
7 of water which proposes the use of an alternative water supply
8 project as described in the regional water supply plan and
9 provides reasonable assurances of the applicant's capability
10 to design, construct, operate, and maintain the project, the
11 governing board or department shall presume that the
12 alternative water supply use is consistent with the public
13 interest under s. 373.223(1)(c). This subsection does not
14 effect evaluation of the use pursuant to the provisions of ss.
15 373.223(1)(a) and (b), (2), and (3), 373.2295, and 373.233.

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

18 373.236 Duration of permits; compliance reports.--

19 (4) Permits approved for the development of
20 alternative water supplies shall be granted for a term of at
21 least 20 years. However, if the permittee issues bonds for the
22 construction of the project, upon request of the permittee
23 prior to the expiration of the permit, that permit shall be
24 extended for such additional time as is required for the
25 retirement of bonds, not including any refunding or
26 refinancing of such bonds, provided that the governing board
27 determines that the use will continue to meet the conditions
28 for the issuance of the permit. Such a permit is subject to
29 compliance reports under subsection (3).

30 Section 10. Section 373.459, Florida Statutes, is
31 amended to read:

1 373.459 Funds for surface water improvement and
2 management.--

3 (1) Legislative appropriations provided to the water
4 management districts for surface water improvement and
5 management activities shall be available for detailed planning
6 and plan and program implementation.

7 (2) An entity that receives state funding for the
8 implementation of programs specified in ss. 373.451-373.459,
9 including a water management district, federal, local, or
10 regional agency, university, or nonprofit or private
11 organization, shall provide a 50-percent match of cash or
12 in-kind services towards the implementation of the specific
13 project for which it is contracting.

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

25 ~~(4)(3)~~ The department shall authorize the release of
26 money from the fund in accordance with the provisions of s.
27 373.501(2) and procedures in s. 373.59(4) and (5).

28 ~~(5)(4)~~ Moneys in the fund which are not needed to meet
29 current obligations incurred under this section shall be
30 transferred to the State Board of Administration, to the
31 credit of the trust fund, to be invested in the manner

1 provided by law. Interest received on such investments shall
2 be credited to the trust fund.

3 Section 11. Section 373.0361, Florida Statutes, is
4 amended to read:

5 (Substantial rewording of section. See
6 s. s. 373.0361, F.S., for present text.)
7 373.0361 Regional water supply planning.--

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

1 regional water supply plan for a specific planning region is
2 not needed pursuant to this section shall be subject to s.
3 120.569. The governing board shall reevaluate such a
4 determination at least once every 5 years and shall initiate a
5 regional water supply plan, if needed, pursuant to this
6 subsection.

7 (2) Each regional water supply plan shall be based on
8 at least a 20-year planning period and shall include, but is
9 not limited to:

10 (a) A water supply development component for each
11 water supply planning region identified by the district which
12 includes:

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

31

1 2. A list of water supply development project options,
2 including traditional and alternative water supply project
3 options, from which local government, government-owned and
4 privately owned utilities, self-suppliers, and others may
5 choose for water supply development. In addition to projects
6 listed by the district, such users may propose specific
7 projects for inclusion in the list of alternative water supply
8 projects. If such users propose a project to be listed as an
9 alternative water supply project, the district shall determine
10 whether it meets the goals of the plan, and, if so, it shall
11 be included in the list. The total capacity of the projects
12 included in the plan shall exceed the needs identified in
13 subparagraph 1. and shall take into account water conservation
14 and other demand management measures, as well as water
15 resources constraints, including adopted minimum flows and
16 levels and water reservations. Where the district determines
17 it is appropriate, the plan should specifically identify the
18 need for multijurisdictional approaches to project options
19 that, based on planning level analysis, are appropriate to
20 supply the intended uses and that, based on such analysis,
21 appear to be permissible and financially and technically
22 feasible.

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

25 a. An estimate of the amount of water to become
26 available through the project.

27 b. The timeframe in which the project option should be
28 implemented and the estimated planning-level costs for capital
29 investment and operating and maintaining the project.

30 c. An analysis of funding needs and sources of
31 possible funding options.

1 d. Identification of the entity that should implement
2 each project option and the current status of project
3 implementation.

4 (b) A water resource development component that
5 includes:

6 1. A listing of those water resource development
7 projects that support water supply development.

8 2. For each water resource development project listed:

9 a. An estimate of the amount of water to become
10 available through the project.

11 b. The timeframe in which the project option should be
12 implemented and the estimated planning-level costs for capital
13 investment and for operating and maintaining the project.

14 c. An analysis of funding needs and sources of
15 possible funding options.

16 d. Identification of the entity that should implement
17 each project option and the current status of project
18 implementation.

19 (c) The recovery and prevention strategy described in
20 s. 373.0421(2).

21 (d) A funding strategy for water resource development
22 projects, which shall be reasonable and sufficient to pay the
23 cost of constructing or implementing all of the listed
24 projects.

25 (e) Consideration of how the project options addressed
26 in paragraph (a) serve the public interest or save costs
27 overall by preventing the loss of natural resources or
28 avoiding greater future expenditures for water resource
29 development or water supply development. However, unless
30 adopted by rule, these considerations do not constitute final
31 agency action.

1 (f) The technical data and information applicable to
2 each planning region which are necessary to support the
3 regional water supply plan.

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

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

8 (i) Identification of surface waters or aquifers for
9 which minimum flows and levels are scheduled to be adopted.

10 (j) An analysis, developed in cooperation with the
11 department, of areas or instances in which the variance
12 provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to
13 create water supply development or water resource development
14 projects.

15 (3) The water supply development component of a
16 regional water supply plan which deals with or affects public
17 utilities and public water supply for those areas served by a
18 regional water supply authority and its member governments
19 within the boundary of the Southwest Florida Water Management
20 District shall be developed jointly by the authority and the
21 district. In areas not served by regional water supply
22 authorities, or other multijurisdictional water supply
23 entities, and where opportunities exist to meet water supply
24 needs more efficiently through multijurisdictional projects
25 identified pursuant to s. 372.0361(2)(a), water management
26 districts are directed to assist in developing
27 multijurisdictional approaches to water supply project
28 development jointly with affected water utilities, special
29 districts, and local governments.

30 (4) Governing board approval of a regional water
31 supply plan shall not be subject to the rulemaking

1 requirements of chapter 120. However, any portion of an
2 approved regional water supply plan which affects the
3 substantial interests of a party shall be subject to s.
4 120.569.

5 (5) Annually and in conjunction with the reporting
6 requirements of s. 373.536(6)(a)4., the department shall
7 submit to the Governor and the Legislature a report on the
8 status of regional water supply planning in each district. The
9 report shall include:

10 (a) A compilation of the estimated costs of and
11 potential sources of funding for water resource development
12 and water supply development projects as identified in the
13 water management district regional water supply plans.

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

17 (c) A description of each district's progress toward
18 achieving its water resource development objectives, including
19 the district's implementation of its 5-year water resource
20 development work program.

21 (d) An assessment of the specific progress being made
22 to implement each alternative water supply project option
23 chosen by the entities and identified for implementation in
24 the plan.

25 (e) An overall assessment of the progress being made
26 to develop water supply in each district, including, but not
27 limited to, an explanation of how each project, either
28 alternative or traditional, will produce, contribute to, or
29 account for additional water being made available for
30 consumptive uses, an estimate of the quantity of water to be
31 produced by each project, and an assessment of the

1 contribution of the district's regional water supply plan in
2 providing sufficient water to meet the needs of existing and
3 future reasonable-beneficial uses for a 1-in-10 year drought
4 event, as well as the needs of the natural systems.

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

20 (7) Where the water supply component of a water supply
21 planning region shows the need for one or more alternative
22 water supply projects, the district shall notify the affected
23 local governments and make every reasonable effort to educate
24 and involve local public officials in working toward solutions
25 in conjunction with the districts and, where appropriate,
26 other local and regional water supply entities.

27 (a) Within 6 months following approval or amendment of
28 its regional water supply plan, each water management district
29 shall notify by certified mail each entity identified in
30 sub-subparagraph (2)(a)3.d. of that portion of the plan
31 relevant to the entity. Upon request of such an entity, the

1 water management district shall appear before and present its
2 findings and recommendations to the entity.

3 (b) Within 1 year after the notification by a water
4 management district pursuant to paragraph (a), each entity
5 identified in sub-subparagraph (2)(a)3.d. shall provide to the
6 water management district written notification of the
7 following: the water supply projects that it has developed or
8 intends to develop, if any; an estimate of the quantity of
9 water to be produced by each project; the status of project
10 implementation, including development of the financial plan,
11 facilities master planning, permitting, and efforts in
12 coordinating multijurisdictional projects, if applicable. The
13 information provided in the notification shall be updated
14 annually and a progress report shall be provided by November
15 15 of each year to the water management district. If an entity
16 does not intend to develop one of the alternative water supply
17 project options identified in the regional water supply plan,
18 the entity shall propose, within 1 year after notification by
19 a water management district pursuant to paragraph (a), another
20 alternative water supply project option sufficient to address
21 the needs identified in paragraph (2)(a) within the entity's
22 jurisdiction and shall provide an estimate of the quantity of
23 water to be produced by the project and the status of project
24 implementation as described in this paragraph. The entity may
25 request that the water management district consider the other
26 project for inclusion in the regional water supply plan.

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

30 Section 12. Paragraph (c) of subsection (6) of section
31 163.3177, Florida Statutes, is amended to read:

1 163.3177 Required and optional elements of
2 comprehensive plan; studies and surveys.--

3 (6) In addition to the requirements of subsections
4 (1)-(5), the comprehensive plan shall include the following
5 elements:

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

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

26 Section 13. Paragraph (a) of subsection (2) of section
27 163.3180, Florida Statutes, is amended to read:

28 163.3180 Concurrency.--

29 (2)(a) Consistent with public health and safety,
30 sanitary sewer, solid waste, drainage, adequate water
31 supplies, and potable water facilities shall be in place and

1 available to serve new development no later than certificate
2 of occupancy ~~the issuance~~ by the local government's approval
3 to commence construction ~~government of a certificate of~~
4 ~~occupancy or its functional equivalent.~~

5 Section 14. Paragraph (1) of subsection (2) of section
6 163.3191, Florida Statutes, is amended to read:

7 163.3191 Evaluation and appraisal of comprehensive
8 plan.--

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

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

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

31

1 403.067 Establishment and implementation of total
2 maximum daily loads.--

3 (6) CALCULATION AND ALLOCATION.--

4 (a) Calculation of total maximum daily load.

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

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

1 account any lack of knowledge concerning the relationship
2 between effluent limitations and water quality. The total
3 maximum daily load may be based on a pollutant load reduction
4 goal developed by a water management district, provided that
5 such pollutant load reduction goal is promulgated by the
6 department in accordance with the procedural and substantive
7 requirements of this subsection.

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

1 ~~pursuant to paragraph (a) water quality standards~~ and shall be
2 based on consideration of the following:

3 1. Existing treatment levels and management practices;

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

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

8 ~~4.2.~~ Differing impacts pollutant sources and forms of
9 pollutant may have on water quality;

10 ~~5.3.~~ The availability of treatment technologies,
11 management practices, or other pollutant reduction measures;

12 ~~6.4.~~ Environmental, economic, and technological
13 feasibility of achieving the allocation;

14 ~~7.5.~~ The cost benefit associated with achieving the
15 allocation;

16 ~~8.6.~~ Reasonable timeframes for implementation;

17 ~~9.7.~~ Potential applicability of any moderating
18 provisions such as variances, exemptions, and mixing zones;
19 and

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

24 ~~(c) Not later than February 1, 2001, the department~~
25 ~~shall submit a report to the Governor, the President of the~~
26 ~~Senate, and the Speaker of the House of Representatives~~
27 ~~containing recommendations, including draft legislation, for~~
28 ~~any modifications to the process for allocating total maximum~~
29 ~~daily loads, including the relationship between allocations~~
30 ~~and the watershed or basin management planning process. Such~~
31 ~~recommendations shall be developed by the department in~~

1 ~~cooperation with a technical advisory committee which includes~~
2 ~~representatives of affected parties, environmental~~
3 ~~organizations, water management districts, and other~~
4 ~~appropriate local, state, and federal government agencies. The~~
5 ~~technical advisory committee shall also include such members~~
6 ~~as may be designated by the President of the Senate and the~~
7 ~~Speaker of the House of Representatives.~~

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

1 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
2 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.--

3 (a) Basin management action plans.--

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

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

1 identify the mechanisms by which potential future sources of
2 pollution will be addressed, whether the future source is a
3 result of the expansion of, or increased loading from, an
4 existing source, a land-use change, a new discharge, or
5 similar circumstances.

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

28 4. The department shall adopt all or any part of a
29 basin management action plan by secretarial order pursuant to
30 chapter 120 to implement the provisions of this section. If a
31 basin management action plan alters the calculation or

1 preliminary allocation made under subsection (6), the revised
2 calculation or final allocation shall be adopted by rule.

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

15 (b)(a) Total maximum daily load implementation.--

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

26 ~~a.1-~~ Permitting and other existing regulatory
27 programs, including water-quality-based effluent limitations;

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

1 ~~c.3.~~ Other water quality management and restoration
2 activities, for example surface water improvement and
3 management plans approved by water management districts or
4 watershed or basin management plans developed pursuant to this
5 subsection;

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

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

9 ~~f.6.~~ Land acquisition.

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

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

28 b. The basin management action plan does not relieve
29 the discharger from any requirement to obtain, renew, or
30 modify an NPDES permit or to abide by other requirements of
31

1 the permit, including effluent limits and other requirements
2 associated with other pollutants.

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

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

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

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

28 g. A nonpoint source discharger included in a basin
29 management action plan may be subject to enforcement action by
30 the department or a water management district based upon the
31

1 failure to implement the responsibilities set forth in
2 sub-subparagraph f.

3 h. A landowner, discharger, or other responsible
4 person who is implementing applicable management strategies
5 specified in an adopted basin management action plan shall not
6 be required by permit, enforcement action, or otherwise to
7 implement additional management strategies to reduce pollutant
8 loads to attain the pollutant reductions pursuant to
9 subsection (6) and shall be deemed to be in compliance with
10 this section. This subparagraph does not limit the authority
11 of the department to amend a basin management action plan as
12 specified in subparagraph (a)5.

13 ~~(b) In developing and implementing the total maximum~~
14 ~~daily load for a water body, the department, or the department~~
15 ~~in conjunction with a water management district, may develop a~~
16 ~~watershed or basin management plan that addresses some or all~~
17 ~~of the watersheds and basins tributary to the water body.~~
18 ~~These plans will serve to fully integrate the management~~
19 ~~strategies available to the state for the purpose of~~
20 ~~implementing the total maximum daily loads and achieving water~~
21 ~~quality restoration. The watershed or basin management~~
22 ~~planning process is intended to involve the broadest possible~~
23 ~~range of interested parties, with the objective of encouraging~~
24 ~~the greatest amount of cooperation and consensus possible. The~~
25 ~~department or water management district shall hold at least~~
26 ~~one public meeting in the vicinity of the watershed or basin~~
27 ~~to discuss and receive comments during the planning process~~
28 ~~and shall otherwise encourage public participation to the~~
29 ~~greatest practical extent. Notice of the public meeting shall~~
30 ~~be published in a newspaper of general circulation in each~~
31 ~~county in which the watershed or basin lies not less than 5~~

1 ~~days nor more than 15 days before the public meeting. A~~
2 ~~watershed or basin management plan shall not supplant or~~
3 ~~otherwise alter any assessment made under s. 403.086(3) and~~
4 ~~(4), or any calculation or allocation made under s.~~
5 ~~403.086(6).~~

6 (c) Best management practices.--

7 1. The department, in cooperation with the water
8 management districts and other interested parties, as
9 appropriate, may develop suitable interim measures, best
10 management practices, or other measures necessary to achieve
11 the level of pollution reduction established by the department
12 for nonagricultural nonpoint pollutant sources in allocations
13 developed pursuant to subsection (6) and this subsection
14 ~~paragraph (6)(b)~~. These practices and measures may be adopted
15 by rule by the department and the water management districts
16 pursuant to ss. 120.536(1) and 120.54, and, where adopted by
17 rule, shall ~~may~~ be implemented by those parties responsible
18 for nonagricultural nonpoint source pollution pollutant
19 ~~sources and the department and the water management districts~~
20 ~~shall assist with implementation. Where interim measures, best~~
21 ~~management practices, or other measures are adopted by rule,~~
22 ~~the 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~~

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. Such rules shall also~~
4 ~~incorporate provisions for a notice of intent to implement the~~
5 ~~practices and a system to assure the implementation of the~~
6 ~~practices, including recordkeeping requirements. Where water~~
7 ~~quality problems are detected despite the appropriate~~
8 ~~implementation, operation, and maintenance of best management~~
9 ~~practices and other measures according to rules adopted under~~
10 ~~this paragraph, the department or the water management~~
11 ~~districts shall institute a reevaluation of the best~~
12 ~~management practice or other measures.~~

13 2.(d)1. The Department of Agriculture and Consumer
14 Services may develop and adopt by rule pursuant to ss.
15 120.536(1) and 120.54 suitable interim measures, best
16 management practices, or other measures necessary to achieve
17 the level of pollution reduction established by the department
18 for agricultural pollutant sources in allocations developed
19 pursuant to subsection (6) and this subsection paragraph
20 ~~(6)(b)~~. These practices and measures may be implemented by
21 those parties responsible for agricultural pollutant sources
22 and the department, the water management districts, and the
23 Department of Agriculture and Consumer Services shall assist
24 with implementation. ~~Where interim measures, best management~~
25 ~~practices, or other measures are adopted by rule, the~~
26 ~~effectiveness of such practices in achieving the levels of~~
27 ~~pollution reduction established in allocations developed by~~
28 ~~the department pursuant to paragraph (6)(b) shall be verified~~
29 ~~by the department. Implementation, in accordance with~~
30 ~~applicable rules, of practices that have been verified by the~~
31 ~~department to be effective at representative sites shall~~

1 ~~provide a presumption of compliance with state water quality~~
2 ~~standards and release from the provisions of s. 376.307(5) for~~
3 ~~those pollutants addressed by the practices, and the~~
4 ~~department is not authorized to institute proceedings against~~
5 ~~the owner of the source of pollution to recover costs or~~
6 ~~damages associated with the contamination of surface or ground~~
7 ~~water caused by those pollutants.~~ In the process of developing
8 and adopting rules for interim measures, best management
9 practices, or other measures, the Department of Agriculture
10 and Consumer Services shall consult with the department, the
11 Department of Health, the water management districts,
12 representatives from affected farming groups, and
13 environmental group representatives. Such rules shall also
14 incorporate provisions for a notice of intent to implement the
15 practices and a system to assure the implementation of the
16 practices, including recordkeeping requirements. ~~Where water~~
17 ~~quality problems are detected despite the appropriate~~
18 ~~implementation, operation, and maintenance of best management~~
19 ~~practices and other measures according to rules adopted under~~
20 ~~this paragraph, the Department of Agriculture and Consumer~~
21 ~~Services shall institute a reevaluation of the best management~~
22 ~~practice or other measure.~~

23 3. Where interim measures, best management practices,
24 or other measures are adopted by rule, the effectiveness of
25 such practices in achieving the levels of pollution reduction
26 established in allocations developed by the department
27 pursuant to subsection (6) and this subsection shall be
28 verified at representative sites by the department. The
29 department shall use its best professional judgment in making
30 the initial verification that the best management practices
31 are effective and, where applicable, shall notify the

1 appropriate water management district and the Department of
2 Agriculture and Consumer Services of its initial verification
3 prior to the adoption of a rule proposed pursuant to this
4 paragraph. Implementation by the department, in accordance
5 with rules adopted under this paragraph, of practices that
6 have been initially verified to be effective, or verified to
7 be effective by monitoring at representative sites, shall
8 provide a presumption of compliance with state water quality
9 standards and release from the provisions of s. 376.307(5) for
10 those pollutants addressed by the practices, and the
11 department is not authorized to institute proceedings against
12 the owner of the source of pollution to recover costs or
13 damages associated with the contamination of surface water or
14 groundwater caused by those pollutants.

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

30 5.2- Individual agricultural records relating to
31 processes or methods of production, or relating to costs of

1 production, profits, or other financial information which are
2 otherwise not public records, which are reported to the
3 Department of Agriculture and Consumer Services pursuant to
4 subparagraphs 3. and 4. this paragraph or pursuant to any rule
5 adopted pursuant to subparagraph 2. this paragraph shall be
6 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
7 of the State Constitution. Upon request of the department or
8 any water management district, the Department of Agriculture
9 and Consumer Services shall make such individual agricultural
10 records available to that agency, provided that the
11 confidentiality specified by this subparagraph for such
12 records is maintained. This subparagraph is subject to the
13 Open Government Sunset Review Act of 1995 in accordance with
14 s. 119.15, and shall stand repealed on October 2, 2006, unless
15 reviewed and saved from repeal through reenactment by the
16 Legislature.

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

28 (8) RULES.--The department is authorized to adopt
29 rules pursuant to ss. 120.536(1) and 120.54 for:
30
31

1 (a) Delisting water bodies or water body segments from
2 the list developed under subsection (4) pursuant to the
3 guidance under subsection (5);

4 (b) Administration of funds to implement the total
5 maximum daily load and basin management action planning
6 programs program;

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

15 (d) The total maximum daily load calculation in
16 accordance with paragraph (6)(a) immediately upon the
17 effective date of this act, for those eight water segments
18 within Lake Okeechobee proper as submitted to the United
19 States Environmental Protection Agency pursuant to subsection
20 (2); ~~and~~

21 (e) Implementation of other specific provisions.

22
23 Prior to adopting rules for pollutant trading under paragraph
24 (c), and no later than November 30, 2006, the Department of
25 Environmental Protection shall submit a report to the
26 Governor, the President of the Senate, and the Speaker of the
27 House of Representatives containing recommendations on such
28 rules, including the proposed basis for equitable economically
29 based agreements and the tracking and accounting of pollution
30 credits or other similar mechanisms. Such recommendations
31 shall be developed in cooperation with a technical advisory

1 committee that includes experts in pollutant trading and
2 representatives of potentially affected parties.

3 (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

4 (a) The department shall not implement, without prior
5 legislative approval, any additional regulatory authority
6 pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
7 130, if such implementation would result in water quality
8 discharge regulation of activities not currently subject to
9 regulation.

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

18 Section 16. Paragraph (c) of subsection (3) of section
19 373.4595, Florida Statutes, is amended to read:

20 373.4595 Lake Okeechobee Protection Program.--

21 (3) LAKE OKEECHOBEE PROTECTION PROGRAM.--A protection
22 program for Lake Okeechobee that achieves phosphorus load
23 reductions for Lake Okeechobee shall be immediately
24 implemented as specified in this subsection. The program shall
25 address the reduction of phosphorus loading to the lake from
26 both internal and external sources. Phosphorus load reductions
27 shall be achieved through a phased program of implementation.
28 Initial implementation actions shall be technology-based,
29 based upon a consideration of both the availability of
30 appropriate technology and the cost of such technology, and
31 shall include phosphorus reduction measures at both the source

1 and the regional level. The initial phase of phosphorus load
2 reductions shall be based upon the district's Technical
3 Publication 81-2 and the district's WOD program, with
4 subsequent phases of phosphorus load reductions based upon the
5 total maximum daily loads established in accordance with s.
6 403.067. In the development and administration of the Lake
7 Okeechobee Protection Program, the coordinating agencies shall
8 maximize opportunities provided by federal cost-sharing
9 programs and opportunities for partnerships with the private
10 sector.

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

25 1. Agricultural nonpoint source best management
26 practices, developed in accordance with s. 403.067 and
27 designed to achieve the objectives of the Lake Okeechobee
28 Protection Program, shall be implemented on an expedited
29 basis. By March 1, 2001, the coordinating agencies shall
30 develop an interagency agreement pursuant to ss. 373.046 and
31 373.406(5) that assures the development of best management

1 | practices that complement existing regulatory programs and
2 | specifies how those best management practices are implemented
3 | and verified. The interagency agreement shall address measures
4 | to be taken by the coordinating agencies during any best
5 | management practice reevaluation performed pursuant to
6 | sub-subparagraph d. The department shall use best professional
7 | judgment in making the initial determination of best
8 | management practice effectiveness.

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

26 | b. Where agricultural nonpoint source best management
27 | practices or interim measures have been adopted by rule of the
28 | Department of Agriculture and Consumer Services, the owner or
29 | operator of an agricultural nonpoint source addressed by such
30 | rule shall either implement interim measures or best
31 | management practices or demonstrate compliance with the

1 | district's WOD program by conducting monitoring prescribed by
2 | the department or the district. Owners or operators of
3 | agricultural nonpoint sources who implement interim measures
4 | or best management practices adopted by rule of the Department
5 | of Agriculture and Consumer Services shall be subject to the
6 | provisions of s. 403.067(7). The Department of Agriculture and
7 | Consumer Services, in cooperation with the department and the
8 | district, shall provide technical and financial assistance for
9 | implementation of agricultural best management practices,
10 | subject to the availability of funds.

11 | c. The district or department shall conduct monitoring
12 | at representative sites to verify the effectiveness of
13 | agricultural nonpoint source best management practices.

14 | d. Where water quality problems are detected for
15 | agricultural nonpoint sources despite the appropriate
16 | implementation of adopted best management practices, the
17 | Department of Agriculture and Consumer Services, in
18 | consultation with the other coordinating agencies and affected
19 | parties, shall institute a reevaluation of the best management
20 | practices and make appropriate changes to the rule adopting
21 | best management practices.

22 | 2. Nonagricultural nonpoint source best management
23 | practices, developed in accordance with s. 403.067 and
24 | designed to achieve the objectives of the Lake Okeechobee
25 | Protection Program, shall be implemented on an expedited
26 | basis. By March 1, 2001, the department and the district shall
27 | develop an interagency agreement pursuant to ss. 373.046 and
28 | 373.406(5) that assures the development of best management
29 | practices that complement existing regulatory programs and
30 | specifies how those best management practices are implemented
31 | and verified. The interagency agreement shall address measures

1 | to be taken by the department and the district during any best
2 | management practice reevaluation performed pursuant to
3 | sub-subparagraph d.

4 | a. The department and the district are directed to
5 | work with the University of Florida's Institute of Food and
6 | Agricultural Sciences to develop appropriate nutrient
7 | application rates for all nonagricultural soil amendments in
8 | the watershed. As provided in s. 403.067(7)(c), by January 1,
9 | 2001, the department, in consultation with the district and
10 | affected parties, shall develop interim measures, best
11 | management practices, or other measures necessary for Lake
12 | Okeechobee phosphorus load reduction. Development of
13 | nonagricultural nonpoint source best management practices
14 | shall initially focus on those priority basins listed in
15 | subparagraph (b)1. The department, the district, and affected
16 | parties shall conduct an ongoing program for improvement of
17 | existing and development of new interim measures or best
18 | management practices. The district shall adopt
19 | technology-based standards under the district's WOD program
20 | for nonagricultural nonpoint sources of phosphorus.

21 | b. Where nonagricultural nonpoint source best
22 | management practices or interim measures have been developed
23 | by the department and adopted by the district, the owner or
24 | operator of a nonagricultural nonpoint source shall implement
25 | interim measures or best management practices and be subject
26 | to the provisions of s. 403.067(7). The department and
27 | district shall provide technical and financial assistance for
28 | implementation of nonagricultural nonpoint source best
29 | management practices, subject to the availability of funds.

30 |
31 |

1 c. The district or the department shall conduct
2 monitoring at representative sites to verify the effectiveness
3 of nonagricultural nonpoint source best management practices.

4 d. Where water quality problems are detected for
5 nonagricultural nonpoint sources despite the appropriate
6 implementation of adopted best management practices, the
7 department and the district shall institute a reevaluation of
8 the best management practices.

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

19 4. Projects which reduce the phosphorus load
20 originating from domestic wastewater systems within the Lake
21 Okeechobee watershed shall be given funding priority in the
22 department's revolving loan program under s. 403.1835. The
23 department shall coordinate and provide assistance to those
24 local governments seeking financial assistance for such
25 priority projects.

26 5. Projects that make use of private lands, or lands
27 held in trust for Indian tribes, to reduce nutrient loadings
28 or concentrations within a basin by one or more of the
29 following methods: restoring the natural hydrology of the
30 basin, restoring wildlife habitat or impacted wetlands,
31 reducing peak flows after storm events, increasing aquifer

1 recharge, or protecting range and timberland from conversion
2 to development, are eligible for grants available under this
3 section from the coordinating agencies. For projects of
4 otherwise equal priority, special funding priority will be
5 given to those projects that make best use of the methods
6 outlined above that involve public-private partnerships or
7 that obtain federal match money. Preference ranking above the
8 special funding priority will be given to projects located in
9 a rural area of critical economic concern designated by the
10 Governor. Grant applications may be submitted by any person or
11 tribal entity, and eligible projects may include, but are not
12 limited to, the purchase of conservation and flowage
13 easements, hydrologic restoration of wetlands, creating
14 treatment wetlands, development of a management plan for
15 natural resources, and financial support to implement a
16 management plan.

17 6.a. The department shall require all entities
18 disposing of domestic wastewater residuals within the Lake
19 Okeechobee watershed and the remaining areas of Okeechobee,
20 Glades, and Hendry Counties to develop and submit to the
21 department an agricultural use plan that limits applications
22 based upon phosphorus loading. By July 1, 2005, phosphorus
23 concentrations originating from these application sites shall
24 not exceed the limits established in the district's WOD
25 program.

26 b. Private and government-owned utilities within
27 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
28 River, Okeechobee, Highlands, Hendry, and Glades Counties that
29 dispose of wastewater residual sludge from utility operations
30 and septic removal by land spreading in the Lake Okeechobee
31 watershed may use a line item on local sewer rates to cover

1 | wastewater residual treatment and disposal if such disposal
2 | and treatment is done by approved alternative treatment
3 | methodology at a facility located within the areas designated
4 | by the Governor as rural areas of critical economic concern
5 | pursuant to s. 288.0656. This additional line item is an
6 | environmental protection disposal fee above the present sewer
7 | rate and shall not be considered a part of the present sewer
8 | rate to customers, notwithstanding provisions to the contrary
9 | in chapter 367. The fee shall be established by the county
10 | commission or its designated assignee in the county in which
11 | the alternative method treatment facility is located. The fee
12 | shall be calculated to be no higher than that necessary to
13 | recover the facility's prudent cost of providing the service.
14 | Upon request by an affected county commission, the Florida
15 | Public Service Commission will provide assistance in
16 | establishing the fee. Further, for utilities and utility
17 | authorities that use the additional line item environmental
18 | protection disposal fee, such fee shall not be considered a
19 | rate increase under the rules of the Public Service Commission
20 | and shall be exempt from such rules. Utilities using the
21 | provisions of this section may immediately include in their
22 | sewer invoicing the new environmental protection disposal fee.
23 | Proceeds from this environmental protection disposal fee shall
24 | be used for treatment and disposal of wastewater residuals,
25 | including any treatment technology that helps reduce the
26 | volume of residuals that require final disposal, but such
27 | proceeds shall not be used for transportation or shipment
28 | costs for disposal or any costs relating to the land
29 | application of residuals in the Lake Okeechobee watershed.
30 | c. No less frequently than once every 3 years, the
31 | Florida Public Service Commission or the county commission

1 through the services of an independent auditor shall perform a
2 financial audit of all facilities receiving compensation from
3 an environmental protection disposal fee. The Florida Public
4 Service Commission or the county commission through the
5 services of an independent auditor shall also perform an audit
6 of the methodology used in establishing the environmental
7 protection disposal fee. The Florida Public Service Commission
8 or the county commission shall, within 120 days after
9 completion of an audit, file the audit report with the
10 President of the Senate and the Speaker of the House of
11 Representatives and shall provide copies to the county
12 commissions of the counties set forth in sub-subparagraph b.
13 The books and records of any facilities receiving compensation
14 from an environmental protection disposal fee shall be open to
15 the Florida Public Service Commission and the Auditor General
16 for review upon request.

17 7. The Department of Health shall require all entities
18 disposing of septage within the Lake Okeechobee watershed and
19 the remaining areas of Okeechobee, Glades, and Hendry Counties
20 to develop and submit to that agency, by July 1, 2003, an
21 agricultural use plan that limits applications based upon
22 phosphorus loading. By July 1, 2005, phosphorus
23 concentrations originating from these application sites shall
24 not exceed the limits established in the district's WOD
25 program.

26 8. The Department of Agriculture and Consumer Services
27 shall initiate rulemaking requiring entities within the Lake
28 Okeechobee watershed and the remaining areas of Okeechobee,
29 Glades, and Hendry Counties which land-apply animal manure to
30 develop conservation or nutrient management plans that limit
31 application, based upon phosphorus loading. Such rules may

1 include criteria and thresholds for the requirement to develop
2 a conservation or nutrient management plan, requirements for
3 plan approval, and recordkeeping requirements.

4 9. Prior to authorizing a discharge into works of the
5 district, the district shall require responsible parties to
6 demonstrate that proposed changes in land use will not result
7 in increased phosphorus loading over that of existing land
8 uses.

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

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

15 570.085 Department of Agriculture and Consumer
16 Services; agricultural water conservation.--The department
17 shall establish an agricultural water conservation program
18 that includes the following:

19 (1) A cost-share program, coordinated where
20 appropriate with the United States Department of Agriculture
21 and other federal, state, regional, and local agencies, for
22 irrigation system retrofit and application of mobile
23 irrigation laboratory evaluations for water conservation as
24 provided in this section and, where applicable, for water
25 quality improvement pursuant to s. 403.067(7)(c) ~~s.~~
26 ~~403.067(7)(d)~~.

27 Section 18. Section 403.885, Florida Statutes, is
28 amended to read:

29 403.885 Stormwater management; wastewater management;
30 ~~Water Quality Improvement~~ and Water Restoration Grant
31 Program.--

1 (1) The Department of Environmental Protection shall
2 ~~develop and~~ administer a ~~competitive~~ grant program to use
3 funds transferred pursuant to s. 212.20 to the Ecosystem
4 Management and Restoration Trust Fund or other moneys as
5 appropriated by the Legislature for stormwater management,
6 wastewater management, water quality improvement and water
7 restoration project grants. Eligible recipients of such grants
8 include counties, municipalities, water management districts,
9 and special districts that have legal responsibilities for
10 ~~water quality improvement, water management,~~ storm water
11 management, wastewater management, and water sewer system
12 ~~operations, and lake and river~~ restoration projects. Drinking
13 water projects are not eligible for funding pursuant to this
14 section.

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

18 (a) Protect public health and the environment.

19 (b) Implement plans developed pursuant to the Surface
20 Water Improvement and Management Act created in part IV of
21 chapter 373, other water restoration plans required by law,
22 management plans prepared pursuant to s. 403.067, or other
23 plans adopted by local government for water quality
24 improvement and water restoration.

25 (3) In addition to meeting the criteria in subsection
26 (2), annual grant proposals must also meet the following
27 requirements:

28 (a) An application for a stormwater management project
29 may be funded only if the application is approved by the water
30 management district with jurisdiction in the project area.

31

1 District approval must be based on a determination that the
2 project provides a benefit to a priority water body.

3 (b) Except as provided in paragraph (c), an
4 application for a wastewater management project may be funded
5 only if:

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

8 2. The project is under construction.

9 (c) An application for a wastewater management project
10 that would qualify as a water pollution control project and
11 activity in s. 403.1838 may be funded only if the project
12 sponsor has submitted an application to the department for
13 funding pursuant to that section.

14 (4) All project applicants must provide local matching
15 funds as follows:

16 (a) An applicant for state funding of a stormwater
17 management project shall provide local matching funds equal to
18 at least 50 percent of the total cost of the project; and

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

22
23 The requirement for matching funds may be waived if the
24 applicant is a financially disadvantaged small local
25 government as defined in subsection (5).

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

31

1 ~~(5)(4)~~ Each fiscal year, at least 20 percent of the
2 funds available pursuant to this section ~~subsection (1)~~ shall
3 be used for projects to assist financially disadvantaged small
4 local governments. For purposes of this section, the term
5 "financially disadvantaged small local government" means a
6 municipality having a population of 7,500 or less, a county
7 having a population of 35,000 or less, according to the latest
8 decennial census and a per capita annual income less than the
9 state per capita annual income as determined by the United
10 States Department of Commerce, or a county in an area
11 designated by the Governor as a rural area of critical
12 economic concern pursuant to s. 288.0656. Grants made to these
13 eligible local governments shall not require matching local
14 funds.

15 ~~(6)(5)~~ ~~No later than February 1 of Each year,~~
16 stormwater management and wastewater management water quality
17 improvement projects and water restoration projects submitted
18 for funding through the legislative process shall be submitted
19 to the department by the appropriate fiscal committees of the
20 House of Representatives and the Senate. The department shall
21 review the projects ~~for funding eligibility~~ and must, ~~no later~~
22 ~~than March 1 of each year,~~ provide each fiscal committee with
23 a list of projects that appear to meet the eligibility
24 requirements under this grant program.

25 ~~(6)~~ ~~The department may adopt rules necessary to~~
26 ~~administer this section, including, but not limited to, rules~~
27 ~~governing timeframes for submitting grant applications,~~
28 ~~evaluation criteria, forms, matching criteria, maximum grant~~
29 ~~amounts, and allocation of appropriated funds based upon~~
30 ~~project and applicant size.~~

31

1 Section 19. Section 403.890, Florida Statutes, is
2 created to read:

3 403.890 Water Protection and Sustainability Program;
4 intent; goals; purposes.--

5 (1) Revenues transferred from the Department of
6 Revenue pursuant to s. 215.6197 shall be deposited into the
7 Water Protection and Sustainability Program Trust Fund in the
8 Department of Environmental Protection. Revenues shall be
9 distributed by the Department of Environmental Protection in
10 the following manner:

11 (a) Forty-five percent to the Department of
12 Environmental Protection for the implementation of an
13 alternative water supply program as provided in s. 373.1961.

14 (b) Twenty-five percent for the implementation of best
15 management practices and capital project expenditures
16 necessary for the implementation of the goals of the total
17 maximum daily loads program established in s. 403.067. Of
18 these funds, 85 percent shall be transferred to the credit of
19 the Department of Environmental Protection Water Quality
20 Assurance Trust Fund to address water quality impacts
21 associated with nonagricultural nonpoint sources. Fifteen
22 percent of these funds shall be transferred to the Department
23 of Agriculture and Consumer Services General Inspection Trust
24 Fund to address water quality impacts associated with
25 agricultural nonpoint sources. These funds shall be used for
26 research, development, demonstration, and implementation of
27 suitable best management practices or other measures used to
28 achieve water quality standards in surface waters and water
29 segments identified pursuant to s. 303(d) of the Clean Water
30 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
31 Implementation of best management practices and other measures

1 may include cost-share grants, technical assistance,
2 implementation tracking, and conservation leases or other
3 agreements for water quality improvement. The Department of
4 Environmental Protection and the Department of Agriculture and
5 Consumer Services may adopt rules governing the distribution
6 of funds for implementation of best management practices.
7 These funds shall not be used to abrogate the financial
8 responsibility of those point and nonpoint sources that have
9 contributed to the degradation of water or land areas.
10 Increased priority shall be given by the department and the
11 water management district governing boards to those projects
12 that have secured a cost-sharing agreement allocating
13 responsibility for the cleanup of point and nonpoint sources.

14 (c) Fifteen percent shall be disbursed for the
15 purposes of funding projects pursuant to ss. 373.451-373.459
16 or surface water restoration activities in
17 water-management-district-designated priority water bodies.
18 The Secretary of Environmental Protection shall ensure that
19 each water management district receives the following
20 percentage of funds annually:

21 1. Thirty-five percent to the South Florida Water
22 Management District;

23 2. Twenty-five percent to the Southwest Florida Water
24 Management District;

25 3. Twenty-five percent to the St. Johns River Water
26 Management District;

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

29 5. Seven and one-half percent to the Northwest Florida
30 Water Management District.

31

1 (d) Fifteen percent to the Department of Environmental
2 Protection for the implementation of the stormwater, drinking
3 water, and wastewater programs. These funds shall be divided
4 equally among the following programs:

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

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

9 3. The Disadvantaged Small Community Wastewater Grant
10 Program as provided in s. 403.1838.

11
12 Prior to the end of the 2008 Regular Session, the Legislature
13 must review the distribution of funds under the Water
14 Protection and Sustainability Program to determine if
15 revisions to the funding formula are required. At the
16 discretion of the President of the Senate and the Speaker of
17 the House of Representatives, the appropriate substantive
18 committees of the Legislature may conduct an interim project
19 to review the Water Protection and Sustainability Program and
20 the funding formula and make written recommendations to the
21 Legislature proposing necessary changes, if any.

22 Section 20. This act shall take effect upon becoming a
23 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for Senate Bill 444

The committee substitute for committee substitute makes numerous technical, grammatical and conforming changes. Substantive changes made to the committee substitute include: changing the match provision to reflect an increase to 60 percent in the contribution level needed from the grant applicant; the creation of definitions to be utilized by the program; clarification on the intent of the legislature to utilize non-recurring revenues in lieu of bonding for funding the program; refining the requirements concerning local governments requirements to include alternative water supply projects in their capital improvement elements; and creating more specific reporting requirements for information contained in the regional water supply plans.