

By the Committees on Ways and Means; Governmental Oversight and Productivity; Environmental Preservation; and Senators Dockery and Argenziano

576-2382-05

1 A bill to be entitled
2 An act relating to the development of water
3 supplies; amending s. 373.019, F.S.; defining
4 the terms "alternative water supply," "capital
5 costs," and "multijurisdictional water supply
6 entities"; amending s. 373.196, F.S.;
7 encouraging cooperation in the development of
8 water supplies; providing for alternative water
9 supply development; encouraging municipalities,
10 counties, and special districts to create
11 regional water supply authorities; establishing
12 the primary roles of the water management
13 district in alternative water supply
14 development; establishing the primary roles of
15 local governments, regional water supply
16 authorities, special districts, and publicly
17 owned and privately owned water utilities in
18 alternative water supply development; requiring
19 the water management districts to detail the
20 specific allocations to be used for alternative
21 water supply development in their annual budget
22 submission; amending s. 373.1961, F.S.;
23 providing general powers and duties of the
24 water management districts in water production;
25 requiring that the water management districts
26 include the amount needed to implement the
27 water supply development projects in each
28 annual budget; establishing general funding
29 criteria for funding assistance to the state or
30 water management districts; establishing
31 economic incentives for alternative water

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 supply development; creating a funding formula
2 for the distribution of state funds to the
3 water management districts for alternative
4 water supply development; requiring that
5 funding assistance for alternative water supply
6 development be limited to a percentage of the
7 total capital costs of an approved project;
8 establishing a selection process and criteria;
9 providing for cost recovery from the Public
10 Service Commission; amending s. 373.1962, F.S.;
11 clarifying that counties, municipalities, and
12 special districts may execute interlocal
13 agreements to create regional water supply
14 authorities; amending s. 373.223, F.S.;
15 establishing criteria for certain water supply
16 entities to be presumed to have a use
17 consistent with the public interest for
18 requirements for consumptive use permitting;
19 amending s. 373.236, F.S.; providing permits of
20 at least 20 years for development of
21 alternative water supplies under certain
22 conditions; amending s. 373.459, F.S.;
23 requiring that entities receiving state funding
24 for implementation of surface water improvement
25 and management projects provide a 50-percent
26 match of cash or in-kind services; amending s.
27 373.0361, F.S.; providing for the development
28 of regional water supply plans; providing
29 requirements for the content of each plan;
30 providing for an approval process for the
31 plans; providing for annual updates; providing

1 for local government use of the plans;
2 providing notification requirements for water
3 management districts concerning findings within
4 the plan; requiring identified entities to
5 select alternative water supply projects and
6 provide periodic status reports; changing the
7 deadline for certain plan updates; amending s.
8 163.3177, F.S.; requiring a local government to
9 incorporate alternative water supply projects
10 into the comprehensive plan; requiring local
11 governments to identify specific projects
12 needed; providing for cooperative planning;
13 amending s. 163.3180, F.S.; requiring adequate
14 water supplies to serve new development;
15 amending s. 163.3191, F.S.; requiring the
16 evaluation and appraisal report to evaluate the
17 degree to which the local government has
18 implemented the work plan for regional water
19 supply facilities, including development of
20 alternative water supplies necessary to serve
21 existing and new development; amending s.
22 403.067, F.S.; providing that initial
23 allocation of allowable pollutant loads between
24 point and nonpoint sources may be developed as
25 part of a total maximum daily load;
26 establishing criteria for establishing initial
27 and detailed allocations to attain pollutant
28 reductions; authorizing the Department of
29 Environmental Protection to adopt phased total
30 maximum daily loads that establish incremental
31 total maximum daily loads under certain

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

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

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

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

1 restoration project grants; eliminating grants
2 for water quality improvement, water
3 management, and drinking water projects;
4 authorizing grants for wastewater management;
5 creating additional criteria for funding storm
6 water grants; requiring local matching funds;
7 providing an exception from matching fund
8 requirements for financially disadvantaged
9 small local governments; creating s. 403.890,
10 F.S.; establishing the Water Protection and
11 Sustainability Program; establishing a funding
12 formula for the distribution of revenues;
13 providing for legislative review; providing an
14 effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Section 373.019, Florida Statutes, is
19 amended to read:

20 373.019 Definitions.--When appearing in this chapter
21 or in any rule, regulation, or order adopted pursuant thereto,
22 the ~~term following words shall, unless the context clearly~~
23 ~~indicates otherwise, mean:~~

24 (1) "Alternative water supplies" means salt water;
25 brackish surface and groundwater; surface water captured
26 predominately during wet-weather flows; sources made available
27 through the addition of new storage capacity for surface or
28 groundwater, water that has been reclaimed after one or more
29 public supply, municipal, industrial, commercial, or
30 agricultural uses; the downstream augmentation of water bodies
31 with reclaimed water; stormwater; and any other water supply

1 source that is designated as nontraditional for a water supply
2 planning region in the applicable regional water supply plan.

3 (2) "Capital costs" means planning, design,
4 engineering, and project construction costs.

5 (3)~~(1)~~ "Coastal waters" means waters of the Atlantic
6 Ocean or the Gulf of Mexico within the jurisdiction of the
7 state.

8 (4)~~(2)~~ "Department" means the Department of
9 Environmental Protection or its successor agency or agencies.

10 (5)~~(3)~~ "District water management plan" means the
11 regional water resource plan developed by a governing board
12 under s. 373.036.

13 (6)~~(4)~~ "Domestic use" means the use of water for the
14 individual personal household purposes of drinking, bathing,
15 cooking, or sanitation. All other uses shall not be considered
16 domestic.

17 (7)~~(5)~~ "Florida water plan" means the state-level
18 water resource plan developed by the department under s.
19 373.036.

20 (8)~~(6)~~ "Governing board" means the governing board of
21 a water management district.

22 (9)~~(7)~~ "Groundwater" means water beneath the surface
23 of the ground, whether or not flowing through known and
24 definite channels.

25 (10)~~(8)~~ "Impoundment" means any lake, reservoir, pond,
26 or other containment of surface water occupying a bed or
27 depression in the earth's surface and having a discernible
28 shoreline.

29 (11)~~(9)~~ "Independent scientific peer review" means the
30 review of scientific data, theories, and methodologies by a
31 panel of independent, recognized experts in the fields of

1 hydrology, hydrogeology, limnology, and other scientific
2 disciplines relevant to the matters being reviewed under s.
3 373.042.

4 (12) "Multijurisdictional water supply entity" means
5 two or more water utilities or local governments that have
6 organized into a larger entity, or entered into an interlocal
7 agreement or contract, for the purpose of more efficiently
8 pursuing water supply development or alternative water supply
9 development projects listed pursuant to a regional water
10 supply plan.

11 ~~(13)~~~~(10)~~ "Nonregulated use" means any use of water
12 which is exempted from regulation by the provisions of this
13 chapter.

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

18 ~~(15)~~~~(12)~~ "Person" means any and all persons, natural
19 or artificial, including any individual, firm, association,
20 organization, partnership, business trust, corporation,
21 company, the United States of America, and the state and all
22 political subdivisions, regions, districts, municipalities,
23 and public agencies thereof. The enumeration herein is not
24 intended to be exclusive or exhaustive.

25 ~~(16)~~~~(13)~~ "Reasonable-beneficial use" means the use of
26 water in such quantity as is necessary for economic and
27 efficient utilization for a purpose and in a manner which is
28 both reasonable and consistent with the public interest.

29 ~~(17)~~~~(14)~~ "Regional water supply plan" means a detailed
30 water supply plan developed by a governing board under s.
31 373.0361.

1 ~~(18)~~(15) "Stream" means any river, creek, slough, or
2 natural watercourse in which water usually flows in a defined
3 bed or channel. It is not essential that the flowing be
4 uniform or uninterrupted. The fact that some part of the bed
5 or channel has been dredged or improved does not prevent the
6 watercourse from being a stream.

7 ~~(19)~~(16) "Surface water" means water upon the surface
8 of the earth, whether contained in bounds created naturally or
9 artificially or diffused. Water from natural springs shall be
10 classified as surface water when it exits from the spring onto
11 the earth's surface.

12 ~~(20)~~(17) "Water" or "waters in the state" means any
13 and all water on or beneath the surface of the ground or in
14 the atmosphere, including natural or artificial watercourses,
15 lakes, ponds, or diffused surface water and water percolating,
16 standing, or flowing beneath the surface of the ground, as
17 well as all coastal waters within the jurisdiction of the
18 state.

19 ~~(21)~~(18) "Water management district" means any flood
20 control, resource management, or water management district
21 operating under the authority of this chapter.

22 ~~(22)~~(19) "Water resource development" means the
23 formulation and implementation of regional water resource
24 management strategies, including the collection and evaluation
25 of surface water and groundwater data; structural and
26 nonstructural programs to protect and manage water resources;
27 the development of regional water resource implementation
28 programs; the construction, operation, and maintenance of
29 major public works facilities to provide for flood control,
30 surface and underground water storage, and groundwater
31 recharge augmentation; and related technical assistance to

1 | local governments and to government-owned and privately owned
2 | water utilities.

3 | ~~(23)~~~~(20)~~ "Water resource implementation rule" means
4 | the rule authorized by s. 373.036, which sets forth goals,
5 | objectives, and guidance for the development and review of
6 | programs, rules, and plans relating to water resources, based
7 | on statutory policies and directives. The waters of the state
8 | are among its most basic resources. Such waters should be
9 | managed to conserve and protect water resources and to realize
10 | the full beneficial use of these resources.

11 | ~~(24)~~~~(21)~~ "Water supply development" means the
12 | planning, design, construction, operation, and maintenance of
13 | public or private facilities for water collection, production,
14 | treatment, transmission, or distribution for sale, resale, or
15 | end use.

16 | ~~(25)~~~~(22)~~ For the sole purpose of serving as the basis
17 | for the unified statewide methodology adopted pursuant to s.
18 | 373.421(1), as amended, "wetlands" means those areas that are
19 | inundated or saturated by surface water or groundwater at a
20 | frequency and a duration sufficient to support, and under
21 | normal circumstances do support, a prevalence of vegetation
22 | typically adapted for life in saturated soils. Soils present
23 | in wetlands generally are classified as hydric or alluvial, or
24 | possess characteristics that are associated with reducing soil
25 | conditions. The prevalent vegetation in wetlands generally
26 | consists of facultative or obligate hydrophytic macrophytes
27 | that are typically adapted to areas having soil conditions
28 | described above. These species, due to morphological,
29 | physiological, or reproductive adaptations, have the ability
30 | to grow, reproduce, or persist in aquatic environments or
31 | anaerobic soil conditions. Florida wetlands generally include

1 swamps, marshes, bayheads, bogs, cypress domes and strands,
2 sloughs, wet prairies, riverine swamps and marshes, hydric
3 seepage slopes, tidal marshes, mangrove swamps and other
4 similar areas. Florida wetlands generally do not include
5 longleaf or slash pine flatwoods with an understory dominated
6 by saw palmetto. Upon legislative ratification of the
7 methodology adopted pursuant to s. 373.421(1), as amended, the
8 limitation contained herein regarding the purpose of this
9 definition shall cease to be effective.

10 ~~(26)(23)~~ "Works of the district" means those projects
11 and works, including, but not limited to, structures,
12 impoundments, wells, streams, and other watercourses, together
13 with the appurtenant facilities and accompanying lands, which
14 have been officially adopted by the governing board of the
15 district as works of the district.

16 Section 2. Section 373.196, Florida Statutes, is
17 amended to read:

18 (Substantial rewording of section. See
19 s. 373.196, F.S., for present text.)

20 373.196 Alternative water supply development.--

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

24 (a) Demands on natural supplies of fresh water to meet
25 the needs of a rapidly growing population and the needs of the
26 environment, agriculture, industry, and mining will continue
27 to increase.

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

31

1 (c) Cooperative efforts between municipalities,
2 counties, special districts, water management districts, and
3 the Department of Environmental Protection are mandatory in
4 order to meet the water needs of rapidly urbanizing areas in a
5 manner that will supply adequate and dependable supplies of
6 water where needed without resulting in adverse effects upon
7 the areas from which such water is withdrawn. Such efforts
8 should use all practical means of obtaining water, including,
9 but not limited to, withdrawals of surface water and
10 groundwater, reuse, and desalinization, and will necessitate
11 not only cooperation but also well-coordinated activities.
12 Municipalities, counties, and special districts are encouraged
13 to create regional water supply authorities as authorized in
14 s. 373.1962 or multijurisdictional water supply entities.

15 (d) Alternative water supply development must receive
16 priority funding attention to increase the available supplies
17 of water to meet all existing and future reasonable-beneficial
18 uses and to benefit the natural systems.

19 (e) Cooperation between counties, municipalities,
20 regional water supply authorities, multijurisdictional water
21 supply entities, special districts, and publicly owned and
22 privately owned water utilities in the development of
23 countywide and multi-countywide alternative water supply
24 projects will allow for necessary economies of scale and
25 efficiencies to be achieved in order to accelerate the
26 development of new, dependable, and sustainable alternative
27 water supplies.

28 (f) It is in the public interest that county,
29 municipal, industrial, agricultural, and other public and
30 private water users, the Department of Environmental
31 Protection, and the water management districts cooperate and

1 work together in the development of alternative water supplies
2 to avoid the adverse effects of competition for limited
3 supplies of water. Public moneys or services provided to
4 private entities for alternative water supply development may
5 constitute public purposes that also are in the public
6 interest.

7 (2)(a) Sufficient water must be available for all
8 existing and future reasonable-beneficial uses and the natural
9 systems, and the adverse effects of competition for water
10 supplies must be avoided.

11 (b) Water supply development and alternative water
12 supply development must be conducted in coordination with
13 water management district regional water supply planning.

14 (c) Funding for the development of alternative water
15 supplies shall be a shared responsibility of water suppliers
16 and users, the State of Florida, and the water management
17 districts, with water suppliers and users having the primary
18 responsibility and the State of Florida and the water
19 management districts being responsible for providing funding
20 assistance.

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

24 (a) The formulation and implementation of regional
25 water resource management strategies that support alternative
26 water supply development;

27 (b) The collection and evaluation of surface water and
28 groundwater data to be used for a planning level assessment of
29 the feasibility of alternative water supply development
30 projects;

31

1 (c) The construction, operation, and maintenance of
2 major public works facilities for flood control, surface and
3 underground water storage, and groundwater recharge
4 augmentation to support alternative water supply development;

5 (d) Planning for alternative water supply development
6 as provided in regional water supply plans in coordination
7 with local governments, regional water supply authorities,
8 multijurisdictional water supply entities, special districts,
9 and publicly owned and privately owned water utilities and
10 self-suppliers;

11 (e) The formulation and implementation of structural
12 and nonstructural programs to protect and manage water
13 resources in support of alternative water supply projects; and

14 (f) The provision of technical and financial
15 assistance to local governments and publicly owned and
16 privately owned water utilities for alternative water supply
17 projects.

18 (4) The primary roles of local government, regional
19 water supply authorities, multijurisdictional water supply
20 entities, special districts, and publicly owned and privately
21 owned water utilities in alternative water supply development
22 shall be:

23 (a) The planning, design, construction, operation, and
24 maintenance of alternative water supply development projects,
25 with funding assistance from the state and the water
26 management districts;

27 (b) The formulation and implementation of alternative
28 water supply development strategies and programs;

29 (c) The planning, design, construction, operation, and
30 maintenance of facilities to collect, divert, produce, treat,
31

1 transmit, and distribute water for sale, resale, or end use;

2 and

3 (d) The coordination of alternative water supply
4 development activities with the appropriate water management
5 district having jurisdiction over the activity.

6 (5) Nothing in this section shall be construed to
7 preclude the various special districts, municipalities, and
8 counties from continuing to operate existing water production
9 and transmission facilities or to enter into cooperative
10 agreements with other special districts, municipalities, and
11 counties for the purpose of meeting their respective needs for
12 dependable and adequate supplies of water; however, the
13 obtaining of water through such operations shall not be done
14 in a manner that results in adverse effects upon the areas
15 from which such water is withdrawn.

16 (6)(a) The statewide funds provided pursuant to the
17 Water Protection and Sustainability Program serve to
18 supplement existing water management district or basin board
19 funding for alternative water supply development assistance
20 and should not result in a reduction of such funding.
21 Therefore, the water management districts shall include, in
22 the annual tentative and adopted budget submittals required
23 under this chapter the amount of funds allocated for water
24 resource development that supports alternative water supply
25 development and the funds allocated for alternative water
26 supply projects selected for inclusion in the Water Protection
27 and Sustainability Program. It shall be the goal of each water
28 management district and basin boards that the combined funds
29 allocated annually for these purposes be, at a minimum, the
30 equivalent of 25 percent of the state funding provided to the
31 water management district for alternative water supply

1 development. If this goal is not achieved, the water
2 management district shall provide in the budget submittal an
3 explanation of the reasons or constraints that prevent this
4 goal from being met.

5 (b) State funds from the Water Protection and
6 Sustainability Program created in s. 403.890 shall be made
7 available for financial assistance for the project
8 construction costs of alternative water supply development
9 projects selected by a water management district governing
10 board for inclusion in the program.

11 Section 3. Section 373.1961, Florida Statutes, is
12 amended to read:

13 373.1961 Water production; general powers and duties;
14 identification of needs; funding criteria; economic
15 incentives; reuse funding.--

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

20 (a) Shall engage in planning to assist counties,
21 municipalities, special districts, publicly owned and
22 privately owned water ~~private~~ utilities, multijurisdictional
23 water supply entities, or regional water supply authorities in
24 meeting water supply needs in such manner as will give
25 priority to encouraging conservation and reducing adverse
26 environmental effects of improper or excessive withdrawals of
27 water from concentrated areas. As used in this section and s.
28 373.196, regional water supply authorities are regional water
29 authorities created under s. 373.1962 or other laws of this
30 state.
31

1 (b) Shall assist counties, municipalities, special
2 districts, publicly owned or privately owned water ~~private~~
3 utilities, multijurisdictional water supply entities, or
4 regional water supply authorities in meeting water supply
5 needs in such manner as will give priority to encouraging
6 conservation and reducing adverse environmental effects of
7 improper or excessive withdrawals of water from concentrated
8 areas.

9 (c) May establish, design, construct, operate, and
10 maintain water production and transmission facilities for the
11 purpose of supplying water to counties, municipalities,
12 special districts, publicly owned and privately owned water
13 ~~private~~ utilities, multijurisdictional water supply entities,
14 or regional water supply authorities. The permit required by
15 part II of this chapter for a water management district
16 engaged in water production and transmission shall be granted,
17 denied, or granted with conditions by the department.

18 (d) Shall not engage in local water supply
19 distribution.

20 (e) Shall not deprive, directly or indirectly, any
21 county wherein water is withdrawn of the prior right to the
22 reasonable and beneficial use of water which is required to
23 supply adequately the reasonable and beneficial needs of the
24 county or any of the inhabitants or property owners therein.

25 (f) May provide water and financial assistance to
26 regional water supply authorities, but may not provide water
27 to counties and municipalities which are located within the
28 area of such authority without the specific approval of the
29 authority or, in the event of the authority's disapproval, the
30 approval of the Governor and Cabinet sitting as the Land and
31 Water Adjudicatory Commission. The district may supply water

1 at rates and upon terms mutually agreed to by the parties or,
2 if they do not agree, as set by the governing board and
3 specifically approved by the Governor and Cabinet sitting as
4 the Land and Water Adjudicatory Commission.

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

22 (h) In addition to the power to issue revenue bonds
23 pursuant to s. 373.584, may issue revenue bonds for the
24 purposes of paying the costs and expenses incurred in carrying
25 out the purposes of this chapter or refunding obligations of
26 the district issued pursuant to this section. Such revenue
27 bonds shall be secured by, and be payable from, revenues
28 derived from the operation, lease, or use of its water
29 production and transmission facilities and other water-related
30 facilities and from the sale of water or services relating
31 thereto. Such revenue bonds may not be secured by, or be

1 payable from, moneys derived by the district from the Water
2 Management Lands Trust Fund or from ad valorem taxes received
3 by the district. All provisions of s. 373.584 relating to the
4 issuance of revenue bonds which are not inconsistent with this
5 section shall apply to the issuance of revenue bonds pursuant
6 to this section. The district may also issue bond
7 anticipation notes in accordance with the provisions of s.
8 373.584.

9 (i) May join with one or more other water management
10 districts, counties, municipalities, special districts,
11 publicly owned or privately owned water ~~private~~ utilities,
12 multijurisdictional water supply entities, or regional water
13 supply authorities for the purpose of carrying out any of its
14 powers, and may contract with such other entities to finance
15 acquisitions, construction, operation, and maintenance. The
16 contract may provide for contributions to be made by each
17 party thereto, for the division and apportionment of the
18 expenses of acquisitions, construction, operation, and
19 maintenance, and for the division and apportionment of the
20 benefits, services, and products therefrom. The contracts may
21 contain other covenants and agreements necessary and
22 appropriate to accomplish their purposes.

23 (2) IDENTIFICATION OF WATER SUPPLY NEEDS IN DISTRICT
24 BUDGET.--The water management district shall implement its
25 responsibilities as expeditiously as possible in areas subject
26 to regional water supply plans. Each district's governing
27 board shall include in its annual budget the amount needed for
28 the fiscal year to assist in implementing alternative water
29 supply development projects. The Legislature finds that, due
30 to a combination of factors, vastly increased demands have
31 been placed on natural supplies of fresh water, and that,

1 ~~absent increased development of alternative water supplies,~~
2 ~~such demands may increase in the future. The Legislature also~~
3 ~~finds that potential exists in the state for the production of~~
4 ~~significant quantities of alternative water supplies,~~
5 ~~including reclaimed water, and that water production includes~~
6 ~~the development of alternative water supplies, including~~
7 ~~reclaimed water, for appropriate uses. It is the intent of the~~
8 ~~Legislature that utilities develop reclaimed water systems,~~
9 ~~where reclaimed water is the most appropriate alternative~~
10 ~~water supply option, to deliver reclaimed water to as many~~
11 ~~users as possible through the most cost effective means, and~~
12 ~~to construct reclaimed water system infrastructure to their~~
13 ~~owned or operated properties and facilities where they have~~
14 ~~reclamation capability. It is also the intent of the~~
15 ~~Legislature that~~

16 (3) FUNDING.--

17 (a) The water management districts and the state shall
18 ~~which levy ad valorem taxes for water management purposes~~
19 ~~should share a percentage of those tax revenues with water~~
20 ~~providers and users, including local governments, water,~~
21 ~~wastewater, and reuse utilities, municipal, special district,~~
22 ~~industrial, and agricultural water users, and other public and~~
23 ~~private water users, to be used to supplement other funding~~
24 ~~sources in the development of alternative water supplies. The~~
25 ~~Legislature finds that public moneys or services provided to~~
26 ~~private entities for such uses constitute public purposes~~
27 ~~which are in the public interest. In order to further the~~
28 ~~development and use of alternative water supply systems,~~
29 ~~including reclaimed water systems, the Legislature provides~~
30 ~~the following:~~
31

1 (b) Beginning in fiscal year 2005-2006, the state
2 shall annually provide a portion of those revenues deposited
3 into the Water Protection and Sustainability Trust Fund for
4 the purpose of providing funding assistance for the
5 development of alternative water supplies pursuant to the
6 Water Protection and Sustainability Program. At the beginning
7 of each fiscal year, beginning with fiscal year 2005-2006,
8 such revenues shall be distributed by the department into the
9 alternative water supply trust fund accounts created by each
10 district for the purpose of alternative supply development
11 under the following funding formula:

- 12 1. Thirty percent to the South Florida Water
13 Management District;
14 2. Twenty-five percent to the Southwest Florida Water
15 Management District;
16 3. Twenty-five percent to the St. Johns River Water
17 Management District;
18 4. Ten percent to the Suwannee River Water Management
19 District; and
20 5. Ten percent to the Northwest Florida Water
21 Management District.

22 (c) The financial assistance for alternative water
23 supply projects allocated in each district's budget as
24 required in s. 373.196(6) shall be combined with the state
25 funds and used to assist in funding the project construction
26 costs of alternative water supply projects selected by the
27 governing board. If the district has not completed any
28 regional water supply plan, or the regional water supply plan
29 does not identify the need for any alternative water supply
30 projects, funds deposited in that district's trust fund may be
31

1 used for water resource development projects, including, but
2 not limited to, springs protection.

3 (d) All projects submitted to the governing board for
4 consideration shall reflect the total capital cost for
5 implementation. The costs shall be segregated pursuant to the
6 categories described in the definition of capital costs.

7 (e) Applicants for projects that may receive funding
8 assistance pursuant to the Water Protection and Sustainability
9 Program shall, at a minimum, be required to pay 60 percent of
10 the project's construction costs. The water management
11 districts may, at their discretion, totally or partially waive
12 this requirement for projects sponsored by financially
13 disadvantaged small local governments as defined in s.
14 403.885(4).

15 (f) The governing boards shall determine those
16 projects that will be selected for financial assistance. The
17 governing boards may establish factors to determine project
18 funding; however, significant weight shall be given to the
19 following factors:

20 1. Whether the project provides substantial
21 environmental benefits by preventing or limiting adverse water
22 resource impacts.

23 2. Whether the project reduces competition for water
24 supplies.

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

28 4. Whether the project will be implemented by a
29 consumptive use permittee that has achieved the targets
30 contained in a goal-based water conservation program approved
31 pursuant to s. 373.227.

1 5. The quantity of water supplied by the project as
2 compared to its cost.

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

5 7. Whether the project will be implemented by a
6 multijurisdictional water supply entity or regional water
7 supply authority.

8 (g) Additional factors to be considered in determining
9 project funding shall include:

10 1. Whether the project is part of a plan to implement
11 two or more alternative water supply projects, all of which
12 will be operated to produce water at a uniform rate for the
13 participants in a multijurisdictional water supply entity or
14 regional water supply authority.

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

17 3. Whether the project proposal includes sufficient
18 preliminary planning and engineering to demonstrate that the
19 project can reasonably be implemented within the timeframes
20 provided in the regional water supply plan.

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

23 5. Whether and in what percentage a local government
24 or local government utility is transferring water supply
25 system revenues to the local government general fund in excess
26 of reimbursements for services received from the general fund,
27 including direct and indirect costs and legitimate payments in
28 lieu of taxes.

29 (h) After conducting one or more meetings to solicit
30 public input on eligible projects including input from those
31 entities identified pursuant to s. 373.036(2)(a)3.d. for

1 implementation of alternative water supply projects, the
2 governing board of each water management district shall select
3 projects for funding assistance based upon the criteria set
4 forth in paragraphs (f) and (g). The governing board may
5 select a project identified or listed as an alternative water
6 supply development project in the regional water supply plan,
7 or allocate up to 20 percent of the funding for alternative
8 water supply projects that are not identified or listed in the
9 regional water supply plan but are consistent with the goals
10 of the plan.

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

23 (i) Without diminishing amounts available through
24 other means described in this paragraph, the governing boards
25 are encouraged to consider establishing revolving loan funds
26 to expand the total funds available to accomplish the
27 objectives of this section. A revolving loan fund created
28 under this paragraph must be a nonlapsing fund from which the
29 water management district may make loans with interest rates
30 below prevailing market rates to public or private entities
31 for the purposes described in this section. The governing

1 board may adopt resolutions to establish revolving loan funds
2 which must specify the details of the administration of the
3 fund, the procedures for applying for loans from the fund, the
4 criteria for awarding loans from the fund, the initial
5 capitalization of the fund, and the goals for future
6 capitalization of the fund in subsequent budget years.
7 Revolving loan funds created under this paragraph must be used
8 to expand the total sums and sources of cooperative funding
9 available for the development of alternative water supplies.
10 The Legislature does not intend for the creation of revolving
11 loan funds to supplant or otherwise reduce existing sources or
12 amounts of funds currently available through other means.

13 (j) For each utility that receives financial
14 assistance from the state or a water management district for
15 alternative water supply project, the water management
16 district shall require the appropriate rate-setting authority
17 to develop rate structures for water customers in the service
18 area of the funded utility that will:

- 19 1. Promote the conservation of water; and
20 2. Promote the use of water from alternative water
21 supplies.

22 ~~(b) It is the intent of the Legislature that for each~~
23 ~~reclaimed water utility, or any other utility, which receives~~
24 ~~funds pursuant to this subsection, the appropriate~~
25 ~~rate setting authorities should develop rate structures for~~
26 ~~all water, wastewater, and reclaimed water and other~~
27 ~~alternative water supply utilities in the service area of the~~
28 ~~funded utility, which accomplish the following:~~

- 29 ~~1. Provide meaningful progress toward the development~~
30 ~~and implementation of alternative water supply systems,~~
31 ~~including reclaimed water systems;~~

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

3 ~~3. Provide for an appropriate distribution of costs~~
4 ~~for all water, wastewater, and alternative water supply~~
5 ~~utilities, including reclaimed water utilities, among all of~~
6 ~~the users of those utilities; and~~

7 ~~4. Prohibit rate discrimination within classes of~~
8 ~~utility users.~~

9 ~~(c) Funding assistance provided by the water~~
10 ~~management districts for a water reuse system project may~~
11 ~~include the following grant or loan conditions for that~~
12 ~~project if the water management district determines that such~~
13 ~~conditions will encourage water use efficiency:~~

14 ~~1. Metering of reclaimed water use for the following~~
15 ~~activities: residential irrigation, agricultural irrigation,~~
16 ~~industrial uses except for electric utilities as defined in s.~~
17 ~~366.02(2), landscape irrigation, irrigation of other public~~
18 ~~access areas, commercial and institutional uses such as toilet~~
19 ~~flushing, and transfers to other reclaimed water utilities.~~

20 ~~2. Implementation of reclaimed water rate structures~~
21 ~~based on actual use of reclaimed water for the types of reuse~~
22 ~~activities listed in subparagraph 1.~~

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

26 ~~4. Development of location data for key reuse~~
27 ~~facilities.~~

28 ~~(d) In order to be eligible for funding pursuant to~~
29 ~~this subsection, a project must be consistent with a local~~
30 ~~government comprehensive plan and the governing body of the~~
31 ~~local government must require all appropriate new facilities~~

1 ~~within the project's service area to connect to and use the~~
2 ~~project's alternative water supplies. The appropriate local~~
3 ~~government must provide written notification to the~~
4 ~~appropriate district that the proposed project is consistent~~
5 ~~with the local government comprehensive plan.~~

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

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

14 ~~1. An application process and a deadline for filing~~
15 ~~applications annually.~~

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

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

21 ~~(g) The governing board of each water management~~
22 ~~district shall establish an alternative water supplies grants~~
23 ~~advisory committee to recommend to the governing board~~
24 ~~projects for funding pursuant to this subsection. The advisory~~
25 ~~committee members shall include, but not be limited to, one or~~
26 ~~more representatives of county, municipal, and investor owned~~
27 ~~private utilities, and may include, but not be limited to,~~
28 ~~representatives of agricultural interests and environmental~~
29 ~~interests. Each committee member shall represent his or her~~
30 ~~interest group as a whole and shall not represent any specific~~
31 ~~entity. The committee shall apply the guidelines and project~~

1 ~~eligibility criteria established by the governing board in~~
2 ~~reviewing proposed projects. After one or more hearings to~~
3 ~~solicit public input on eligible projects, the committee shall~~
4 ~~rank the eligible projects and shall submit them to the~~
5 ~~governing board for final funding approval. The advisory~~
6 ~~committee may submit to the governing board more projects than~~
7 ~~the available grant money would fund.~~

8 ~~(l)(h)~~ All revenues made available ~~annually~~ pursuant
9 to this subsection must be encumbered annually by the
10 governing board when ~~if~~ it approves projects sufficient to
11 expend the available revenues. ~~Funds must be disbursed within~~
12 ~~36 months after encumbrance.~~

13 ~~(i)~~ ~~For purposes of this subsection, alternative water~~
14 ~~supplies are supplies of water that have been reclaimed after~~
15 ~~one or more public supply, municipal, industrial, commercial,~~
16 ~~or agricultural uses, or are supplies of stormwater, or~~
17 ~~brackish or salt water, that have been treated in accordance~~
18 ~~with applicable rules and standards sufficient to supply the~~
19 ~~intended use.~~

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

22 ~~(n)(k)~~ By March 1 ~~January 30~~ of each year, as part of
23 a consolidated annual report, each water management district
24 shall submit a ~~an annual~~ report to the Governor, the President
25 of the Senate, and the Speaker of the House of Representatives
26 which accounts for the disbursement of all budgeted amounts
27 pursuant to this section ~~subsection~~. Such report shall
28 describe all alternative water supply projects funded as well
29 as the quantity of new water to be created as a result of such
30 projects and shall account separately for any other moneys
31 provided through grants, matching grants, revolving loans, and

1 the use of district lands or facilities to implement regional
2 water supply plans.

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

17 (4) FUNDING FOR REUSE.--Funding assistance provided by
18 the water management districts for a water reuse system may
19 include the following conditions for that project if a water
20 management district determines that such conditions will
21 encourage water use efficiency:

22 (a) Metering of reclaimed water use for residential
23 irrigation, agricultural irrigation, industrial uses, except
24 for electric utilities as defined in s. 366.02(2), landscape
25 irrigation, golf course irrigation, irrigation of other public
26 access areas, commercial and institutional uses such as toilet
27 flushing, and transfers to other reclaimed water utilities;

28 (b) Implementation of reclaimed water rate structures
29 based on actual use of reclaimed water for the reuse
30 activities listed in paragraph (a);

31

1 (c) Implementation of education programs to inform the
2 public about water issues, water conservation, and the
3 importance and proper use of reclaimed water; or

4 (d) Development of location data for key reuse
5 facilities.

6 Section 4. Subsections (1) and (5) of section
7 373.1962, Florida Statutes, are amended to read:

8 373.1962 Regional water supply authorities.--

9 (1) By interlocal agreement between counties,
10 municipalities, or special districts, as applicable ~~agreement~~
11 ~~between local governmental units created or existing pursuant~~
12 ~~to the provisions of Art. VIII of the State Constitution,~~
13 pursuant to the Florida Interlocal Cooperation Act of 1969, s.
14 163.01, and upon the approval of the Secretary of
15 Environmental Protection to ensure that such agreement will be
16 in the public interest and complies with the intent and
17 purposes of this act, regional water supply authorities may be
18 created for the purpose of developing, recovering, storing,
19 and supplying water for county or municipal purposes in such a
20 manner as will give priority to reducing adverse environmental
21 effects of excessive or improper withdrawals of water from
22 concentrated areas. In approving said agreement the Secretary
23 of Environmental Protection shall consider, but not be limited
24 to, the following:

25 (a) Whether the geographic territory of the proposed
26 authority is of sufficient size and character to reduce the
27 environmental effects of improper or excessive withdrawals of
28 water from concentrated areas.

29 (b) The maximization of economic development of the
30 water resources within the territory of the proposed
31 authority.

1 (c) The availability of a dependable and adequate
2 water supply.

3 (d) The ability of any proposed authority to design,
4 construct, operate, and maintain water supply facilities in
5 the locations, and at the times necessary, to ensure that an
6 adequate water supply will be available to all citizens within
7 the authority.

8 (e) The effect or impact of any proposed authority on
9 any municipality, county, or existing authority or
10 authorities.

11 (f) The existing needs of the water users within the
12 area of the authority.

13 (5) Each county, special district, or municipality
14 ~~that which~~ is a party to an agreement pursuant to subsection
15 (1) shall have a preferential right to purchase water from the
16 regional water supply authority for use by such county, or
17 special district, or municipality.

18 Section 5. Subsection (5) is added to section 373.223,
19 Florida Statutes, to read:

20 373.223 Conditions for a permit.--

21 (5) In evaluating an application for consumptive use
22 of water which proposes the use of an alternative water supply
23 project as described in the regional water supply plan and
24 provides reasonable assurances of the applicant's capability
25 to design, construct, operate, and maintain the project, the
26 governing board or department shall presume that the
27 alternative water supply use is consistent with the public
28 interest under s. 373.223(1)(c). However, where the governing
29 board identifies the need for a multijurisdictional water
30 supply entity or regional water supply authority to develop
31 the alternative water supply project pursuant to s.

1 373.0361(2)(a)2., the presumption shall be accorded only to
2 that use proposed by such entity or authority. This subsection
3 does not effect evaluation of the use pursuant to the
4 provisions of ss. 373.223(1)(a) and (b), (2), and (3),
5 373.2295, and 373.233.

6 Section 6. Subsection (4) is added to section 373.236,
7 Florida Statutes, to read:

8 373.236 Duration of permits; compliance reports.--

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

20 Section 7. Section 373.459, Florida Statutes, is
21 amended to read:

22 373.459 Funds for surface water improvement and
23 management.--

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

28 (2) An entity that receives state funding for the
29 implementation of programs specified in ss. 373.451-373.459,
30 including a water management district, federal, local, or
31 regional agency, university, or nonprofit or private

1 organization, shall provide a 50-percent match of cash or
2 in-kind services towards the implementation of the specific
3 project for which it is contracting.

4 ~~(3)(2)~~ The Ecosystem Management and Restoration Trust
5 Fund shall be used for the deposit of funds appropriated by
6 the Legislature for the purposes of ss. 373.451-373.4595. The
7 department shall administer all funds appropriated to or
8 received for surface water improvement and management
9 activities. Expenditure of the moneys shall be limited to the
10 costs of detailed planning and plan and program implementation
11 for priority surface water bodies. Moneys from the fund shall
12 not be expended for planning for, or construction or expansion
13 of, treatment facilities for domestic or industrial waste
14 disposal.

15 ~~(4)(3)~~ The department shall authorize the release of
16 money from the fund in accordance with the provisions of s.
17 373.501(2) and procedures in s. 373.59(4) and (5).

18 ~~(5)(4)~~ Moneys in the fund which are not needed to meet
19 current obligations incurred under this section shall be
20 transferred to the State Board of Administration, to the
21 credit of the trust fund, to be invested in the manner
22 provided by law. Interest received on such investments shall
23 be credited to the trust fund.

24 Section 8. Section 373.0361, Florida Statutes, is
25 amended to read:

26 (Substantial rewording of section. See
27 s. s. 373.0361, F.S., for present text.)

28 373.0361 Regional water supply planning.--

29 (1) The governing board of each water management
30 district shall conduct water supply planning for any water
31 supply planning region within the district identified in the

1 appropriate district water supply plan under s. 373.036, where
2 it determines that existing sources of water are not adequate
3 to supply water for all existing and future
4 reasonable-beneficial uses and to sustain the water resources
5 and related natural systems for the planning period. The
6 planning must be conducted in an open public process, in
7 coordination and cooperation with local governments, regional
8 water supply authorities, government-owned and privately owned
9 water utilities, multijurisdictional water supply entities,
10 self-suppliers, and other affected and interested parties. The
11 districts shall actively engage in public education and
12 outreach to all affected local entities and their officials,
13 as well as members of the public, in the planning process and
14 in seeking input. During preparation, but prior to completion
15 of the regional water supply plan, the district must conduct
16 at least one public workshop to discuss the technical data and
17 modeling tools anticipated to be used to support the regional
18 water supply plan. The district shall also hold several public
19 meetings to communicate the status, overall conceptual intent,
20 and impacts of the plan on existing and future
21 reasonable-beneficial uses and natural systems. During the
22 planning process, a local government may choose to prepare its
23 own water supply assessment to determine if existing water
24 sources are adequate to meet existing and projected
25 reasonable-beneficial needs of the local government while
26 sustaining water resources and related natural systems. The
27 local government shall submit such assessment, including the
28 data and methodology used, to the district. The district shall
29 consider the local government's assessment during the
30 formation of the plan. A determination by the governing board
31 that initiation of a regional water supply plan for a specific

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

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

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

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

30 2. A list of water supply development project options,
31 including traditional and alternative water supply project

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

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

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

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

29 c. An analysis of funding needs and sources of
30 possible funding options. For alternative water supply
31

1 projects the water management districts shall provide funding
2 assistance in accordance with s. 373.1961(3).

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

6 (b) A water resource development component that
7 includes:

8 1. A listing of those water resource development
9 projects that support water supply development.

10 2. For each water resource development project listed:

11 a. An estimate of the amount of water to become
12 available through the project.

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

16 c. An analysis of funding needs and sources of
17 possible funding options.

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

21 (c) The recovery and prevention strategy described in
22 s. 373.0421(2).

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

27 (e) Consideration of how the project options addressed
28 in paragraph (a) serve the public interest or save costs
29 overall by preventing the loss of natural resources or
30 avoiding greater future expenditures for water resource
31 development or water supply development. However, unless

1 adopted by rule, these considerations do not constitute final
2 agency action.

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

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

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

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

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

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

1 (4) Governing board approval of a regional water
2 supply plan shall not be subject to the rulemaking
3 requirements of chapter 120. However, any portion of an
4 approved regional water supply plan which affects the
5 substantial interests of a party shall be subject to s.
6 120.569.

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

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

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

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

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

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

1 consumptive uses, an estimate of the quantity of water to be
2 produced by each project, and an assessment of the
3 contribution of the district's regional water supply plan in
4 providing sufficient water to meet the needs of existing and
5 future reasonable-beneficial uses for a 1-in-10 year drought
6 event, as well as the needs of the natural systems.

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

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

29 (a) Within 6 months following approval or amendment of
30 its regional water supply plan, each water management district
31 shall notify by certified mail each entity identified in

1 sub-subparagraph (2)(a)3.d. of that portion of the plan
2 relevant to the entity. Upon request of such an entity, the
3 water management district shall appear before and present its
4 findings and recommendations to the entity.

5 (b) Within 1 year after the notification by a water
6 management district pursuant to paragraph (a), each entity
7 identified in sub-subparagraph (2)(a)3.d. shall provide to the
8 water management district written notification of the
9 following: the alternative water supply projects or options
10 identified in s. 373.0361(2)(a) which it has developed or
11 intends to develop, if any; an estimate of the quantity of
12 water to be produced by each project; and the status of
13 project implementation, including development of the financial
14 plan, facilities master planning, permitting, and efforts in
15 coordinating multijurisdictional projects, if applicable. The
16 information provided in the notification shall be updated
17 annually and a progress report shall be provided by November
18 15 of each year to the water management district. If an entity
19 does not intend to develop one or more of the alternative
20 water supply project options identified in the regional water
21 supply plan, the entity shall propose, within 1 year after
22 notification by a water management district pursuant to
23 paragraph (a), another alternative water supply project option
24 sufficient to address the needs identified in paragraph (2)(a)
25 within the entity's jurisdiction and shall provide an estimate
26 of the quantity of water to be produced by the project and the
27 status of project implementation as described in this
28 paragraph. The entity may request that the water management
29 district consider the other project for inclusion in the
30 regional water supply plan.

1 (8) For any regional water supply plan that is
2 scheduled to be updated before December 31, 2005, the deadline
3 for such update shall be extended by 1 year.

4 Section 9. Paragraph (c) of subsection (6) of section
5 163.3177, Florida Statutes, is amended to read:

6 163.3177 Required and optional elements of
7 comprehensive plan; studies and surveys.--

8 (6) In addition to the requirements of subsections
9 (1)-(5), the comprehensive plan shall include the following
10 elements:

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

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

30 Section 10. Paragraph (a) of subsection (2) of section
31 163.3180, Florida Statutes, is amended to read:

1 163.3180 Concurrency.--

2 (2)(a) Consistent with public health and safety,
3 adequate water supplies and sanitary sewer, solid waste,
4 drainage, and potable water facilities shall be in place and
5 available to serve new development no later than the issuance
6 by the local government of a certificate of occupancy or its
7 functional equivalent. Prior to approval of a building permit
8 or its functional equivalent, the local government shall
9 confirm with the applicable water supplier that adequate water
10 supplies to serve the new development will be available no
11 later than the anticipated date of issuance by the local
12 government of a certificate of occupancy or its functional
13 equivalent.

14 Section 11. Paragraph (1) of subsection (2) of section
15 163.3191, Florida Statutes, is amended to read:

16 163.3191 Evaluation and appraisal of comprehensive
17 plan.--

18 (2) The report shall present an evaluation and
19 assessment of the comprehensive plan and shall contain
20 appropriate statements to update the comprehensive plan,
21 including, but not limited to, words, maps, illustrations, or
22 other media, related to:

23 (1) The extent to which the local government has been
24 successful in identifying alternative water supply projects
25 and traditional water supply projects, including conservation
26 and reuse, necessary to meet the water needs identified in s.
27 373.0361(2)(a) within the local government's jurisdiction. The
28 report must evaluate the degree to which the local government
29 has implemented the work plan for building public, private,
30 and regional water supply facilities, including development of
31 alternative water supplies, identified in the element as

1 necessary to serve existing and new development. The
2 ~~evaluation must consider the appropriate water management~~
3 ~~district's regional water supply plan approved pursuant to s.~~
4 ~~373.0361. The potable water element must be revised to include~~
5 ~~a work plan, covering at least a 10 year planning period, for~~
6 ~~building any water supply facilities that are identified in~~
7 ~~the element as necessary to serve existing and new development~~
8 ~~and for which the local government is responsible.~~

9 Section 12. Paragraph (d) of subsection (2) and
10 subsections (6), (7), (8), and (11) of section 403.067,
11 Florida Statutes, are amended to read:

12 403.067 Establishment and implementation of total
13 maximum daily loads.--

14 (2) LIST OF SURFACE WATERS OR SEGMENTS.--In accordance
15 with s. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33
16 U.S.C. ss. 1251 et seq., the department must submit
17 periodically to the United States Environmental Protection
18 Agency a list of surface waters or segments for which total
19 maximum daily load assessments will be conducted. The
20 assessments shall evaluate the water quality conditions of the
21 listed waters and, if such waters are determined not to meet
22 water quality standards, total maximum daily loads shall be
23 established, subject to the provisions of subsection (4). The
24 department shall establish a priority ranking and schedule for
25 analyzing such waters.

26 (d) If the department proposes to implement total
27 maximum daily load calculations or allocations established
28 prior to the effective date of this act, the department shall
29 adopt those calculations and allocations by rule by the
30 secretary pursuant to ss. 120.536(1) and 120.54 and paragraph
31 (6)(c)(6)(d).

1 (6) CALCULATION AND ALLOCATION.--

2 (a) Calculation of total maximum daily load.

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

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

1 maximum daily load may be based on a pollutant load reduction
2 goal developed by a water management district, provided that
3 such pollutant load reduction goal is promulgated by the
4 department in accordance with the procedural and substantive
5 requirements of this subsection.

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

1 1. Existing treatment levels and management practices;
2 2. Best management practices established and
3 implemented pursuant to paragraph (7)(c);
4 3. Enforceable treatment levels established pursuant
5 to state or local law or permit;
6 ~~4.2.~~ Differing impacts pollutant sources and forms of
7 pollutant may have on water quality;
8 ~~5.3.~~ The availability of treatment technologies,
9 management practices, or other pollutant reduction measures;
10 ~~6.4.~~ Environmental, economic, and technological
11 feasibility of achieving the allocation;
12 ~~7.5.~~ The cost benefit associated with achieving the
13 allocation;
14 ~~8.6.~~ Reasonable timeframes for implementation;
15 ~~9.7.~~ Potential applicability of any moderating
16 provisions such as variances, exemptions, and mixing zones;
17 and
18 ~~10.8.~~ The extent to which nonattainment of water
19 quality standards is caused by pollution sources outside of
20 Florida, discharges that have ceased, or alterations to water
21 bodies prior to the date of this act.
22 ~~(c) Not later than February 1, 2001, the department~~
23 ~~shall submit a report to the Governor, the President of the~~
24 ~~Senate, and the Speaker of the House of Representatives~~
25 ~~containing recommendations, including draft legislation, for~~
26 ~~any modifications to the process for allocating total maximum~~
27 ~~daily loads, including the relationship between allocations~~
28 ~~and the watershed or basin management planning process. Such~~
29 ~~recommendations shall be developed by the department in~~
30 ~~cooperation with a technical advisory committee which includes~~
31 ~~representatives of affected parties, environmental~~

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

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

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

1 (a) Basin management action plans.--
2 1. In developing and implementing the total maximum
3 daily load for a water body, the department, or the department
4 in conjunction with a water management district, may develop a
5 basin management action plan that addresses some or all of the
6 watersheds and basins tributary to the water body. Such a plan
7 shall integrate the appropriate management strategies
8 available to the state through existing water quality
9 protection programs to achieve the total maximum daily loads
10 and may provide for phased implementation of these management
11 strategies to promote timely, cost-effective actions as
12 provided for in s. 403.151. The plan shall establish a
13 schedule for implementing the management strategies, establish
14 a basis for evaluating the plan's effectiveness, and identify
15 feasible funding strategies for implementing the plan's
16 management strategies. The management strategies may include
17 regional treatment systems or other public works, where
18 appropriate, to achieve the needed pollutant load reductions.
19 2. A basin management action plan shall equitably
20 allocate, pursuant to paragraph (6)(b), pollutant reductions
21 to individual basins, as a whole to all basins, or to each
22 identified point source or category of nonpoint sources, as
23 appropriate. For nonpoint sources for which best management
24 practices have been adopted, the initial requirement specified
25 by the plan shall be those practices developed pursuant to
26 paragraph (c). Where appropriate, the plan may provide
27 pollutant-load-reduction credits to dischargers that have
28 implemented management strategies to reduce pollutant loads,
29 including best management practices, prior to the development
30 of the basin management action plan. The plan shall also
31

1 identify the mechanisms by which potential future increases in
2 pollutant loading will be addressed.

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

25 4. The department shall adopt all or any part of a
26 basin management action plan by secretarial order pursuant to
27 chapter 120 to implement the provisions of this section.

28 5. The basin management action plan shall include
29 milestones for implementation and water quality improvement,
30 and an associated water quality monitoring component
31 sufficient to evaluate whether reasonable progress in

1 pollutant load reductions is being achieved over time. An
2 assessment of progress toward these milestones shall be
3 conducted every 5 years, and revisions to the plan shall be
4 made as appropriate. Revisions to the basin management action
5 plan shall be made by the department in cooperation with basin
6 stakeholders. Revisions to the management strategies required
7 for nonpoint sources shall follow the procedures set forth in
8 subparagraph (c)4. Revised basin management action plans shall
9 be adopted pursuant to subparagraph 4.

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

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

20 a.1- Permitting and other existing regulatory
21 programs, including water-quality-based effluent limitations;

22 b.2- Nonregulatory and incentive-based programs,
23 including best management practices, cost sharing, waste
24 minimization, pollution prevention, agreements established
25 pursuant to s. 403.061(21), and public education;

26 c.3- Other water quality management and restoration
27 activities, for example surface water improvement and
28 management plans approved by water management districts ~~or~~
29 ~~watershed~~ or basin management action plans developed pursuant
30 to this subsection;

31

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

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

4 ~~f.6.~~ Land acquisition.

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

17 a. Absent a detailed allocation, total maximum daily
18 loads shall be implemented through NPDES permit conditions
19 that afford a compliance schedule. In such instances, a
20 facility's NPDES permit shall allow time for the issuance of
21 an order adopting the basin management action plan. The time
22 allowed for the issuance of an order adopting the plan shall
23 not exceed five years. Upon issuance of an order adopting the
24 plan, the permit shall be reopened, as necessary, and permit
25 conditions consistent with the plan shall be established.
26 Notwithstanding the other provisions of this subparagraph,
27 upon request by a NPDES permittee, the department as part of a
28 permit issuance, renewal or modification may establish
29 individual allocations prior to the adoption of a basin
30 management action plan.

31

1 b. For holders of NPDES municipal separate storm sewer
2 system permits and other stormwater sources, implementation of
3 a total maximum daily load or basin management action plan
4 shall be achieved, to the maximum extent practicable, through
5 the use of best management practices or other management
6 measures.

7 c. The basin management action plan does not relieve
8 the discharger from any requirement to obtain, renew, or
9 modify an NPDES permit or to abide by other requirements of
10 the permit.

11 d. Management strategies set forth in a basin
12 management action plan to be implemented by a discharger
13 subject to permitting by the department shall be completed
14 pursuant to the schedule set forth in the basin management
15 action plan. This implementation schedule may extend beyond
16 the 5-year term of an NPDES permit.

17 e. Management strategies and pollution reduction
18 requirements set forth in a basin management action plan for a
19 specific pollutant of concern shall not be subject to
20 challenge under chapter 120 at the time they are incorporated,
21 in an identical form, into a subsequent NPDES permit or permit
22 modification.

23 f. For nonagricultural pollutant sources not subject
24 to NPDES permitting but permitted pursuant to other state,
25 regional, or local water quality programs, the pollutant
26 reduction actions adopted in a basin management action plan
27 shall be implemented to the maximum extent practicable as part
28 of those permitting programs.

29 g. A nonpoint source discharger included in a basin
30 management action plan shall demonstrate compliance with the
31 pollutant reductions established pursuant to subsection (6) by

1 either implementing the appropriate best management practices
2 established pursuant to paragraph (c) or conducting water
3 quality monitoring prescribed by the department or a water
4 management district.

5 h. A nonpoint source discharger included in a basin
6 management action plan may be subject to enforcement action by
7 the department or a water management district based upon a
8 failure to implement the responsibilities set forth in
9 sub-subparagraph g.

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

20 ~~(b) In developing and implementing the total maximum~~
21 ~~daily load for a water body, the department, or the department~~
22 ~~in conjunction with a water management district, may develop a~~
23 ~~watershed or basin management plan that addresses some or all~~
24 ~~of the watersheds and basins tributary to the water body.~~
25 ~~These plans will serve to fully integrate the management~~
26 ~~strategies available to the state for the purpose of~~
27 ~~implementing the total maximum daily loads and achieving water~~
28 ~~quality restoration. The watershed or basin management~~
29 ~~planning process is intended to involve the broadest possible~~
30 ~~range of interested parties, with the objective of encouraging~~
31 ~~the greatest amount of cooperation and consensus possible. The~~

1 ~~department or water management district shall hold at least~~
2 ~~one public meeting in the vicinity of the watershed or basin~~
3 ~~to discuss and receive comments during the planning process~~
4 ~~and shall otherwise encourage public participation to the~~
5 ~~greatest practical extent. Notice of the public meeting shall~~
6 ~~be published in a newspaper of general circulation in each~~
7 ~~county in which the watershed or basin lies not less than 5~~
8 ~~days nor more than 15 days before the public meeting. A~~
9 ~~watershed or basin management plan shall not supplant or~~
10 ~~otherwise alter any assessment made under s. 403.086(3) and~~
11 ~~(4), or any calculation or allocation made under s.~~
12 ~~403.086(6).~~

13 (c) Best management practices.--

14 1. The department, in cooperation with the water
15 management districts and other interested parties, as
16 appropriate, may develop suitable interim measures, best
17 management practices, or other measures necessary to achieve
18 the level of pollution reduction established by the department
19 for nonagricultural nonpoint pollutant sources in allocations
20 developed pursuant to subsection (6) and this subsection
21 ~~paragraph (6)(b)~~. These practices and measures may be adopted
22 by rule by the department and the water management districts
23 pursuant to ss. 120.536(1) and 120.54, and, where adopted by
24 rule, shall ~~may~~ be implemented by those parties responsible
25 for nonagricultural nonpoint source pollution pollutant
26 ~~sources and the department and the water management districts~~
27 ~~shall assist with implementation. Where interim measures, best~~
28 ~~management practices, or other measures are adopted by rule,~~
29 ~~the effectiveness of such practices in achieving the levels of~~
30 ~~pollution reduction established in allocations developed by~~
31 ~~the department pursuant to paragraph (6)(b) shall be verified~~

1 ~~by the department. Implementation, in accordance with~~
2 ~~applicable rules, of practices that have been verified by the~~
3 ~~department to be effective at representative sites shall~~
4 ~~provide a presumption of compliance with state water quality~~
5 ~~standards and release from the provisions of s. 376.307(5) for~~
6 ~~those pollutants addressed by the practices, and the~~
7 ~~department is not authorized to institute proceedings against~~
8 ~~the owner of the source of pollution to recover costs or~~
9 ~~damages associated with the contamination of surface or ground~~
10 ~~water caused by those pollutants. Such rules shall also~~
11 ~~incorporate provisions for a notice of intent to implement the~~
12 ~~practices and a system to assure the implementation of the~~
13 ~~practices, including recordkeeping requirements. Where water~~
14 ~~quality problems are detected despite the appropriate~~
15 ~~implementation, operation, and maintenance of best management~~
16 ~~practices and other measures according to rules adopted under~~
17 ~~this paragraph, the department or the water management~~
18 ~~districts shall institute a reevaluation of the best~~
19 ~~management practice or other measures.~~

20 2.(d)1. The Department of Agriculture and Consumer
21 Services may develop and adopt by rule pursuant to ss.
22 120.536(1) and 120.54 suitable interim measures, best
23 management practices, or other measures necessary to achieve
24 the level of pollution reduction established by the department
25 for agricultural pollutant sources in allocations developed
26 pursuant to subsection (6) and this subsection ~~paragraph~~
27 ~~(6)(b)~~. These practices and measures may be implemented by
28 those parties responsible for agricultural pollutant sources
29 and the department, the water management districts, and the
30 Department of Agriculture and Consumer Services shall assist
31 with implementation. ~~Where interim measures, best management~~

1 ~~practices, or other measures are adopted by rule, the~~
2 ~~effectiveness of such practices in achieving the levels of~~
3 ~~pollution reduction established in allocations developed by~~
4 ~~the department pursuant to paragraph (6)(b) shall be verified~~
5 ~~by the department. Implementation, in accordance with~~
6 ~~applicable rules, of practices that have been verified by the~~
7 ~~department to be effective 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 or ground~~
14 ~~water caused by those pollutants. In the process of developing~~
15 ~~and adopting rules for interim measures, best management~~
16 ~~practices, or other measures, the Department of Agriculture~~
17 ~~and Consumer Services shall consult with the department, the~~
18 ~~Department of Health, the water management districts,~~
19 ~~representatives from affected farming groups, and~~
20 ~~environmental group representatives. Such rules shall also~~
21 ~~incorporate provisions for a notice of intent to implement the~~
22 ~~practices and a system to assure the implementation of the~~
23 ~~practices, including recordkeeping requirements. Where water~~
24 ~~quality problems are detected despite the appropriate~~
25 ~~implementation, operation, and maintenance of best management~~
26 ~~practices and other measures according to rules adopted under~~
27 ~~this paragraph, the Department of Agriculture and Consumer~~
28 ~~Services shall institute a reevaluation of the best management~~
29 ~~practice or other measure.~~

30 3. Where interim measures, best management practices,
31 or other measures are adopted by rule, the effectiveness of

1 such practices in achieving the levels of pollution reduction
2 established in allocations developed by the department
3 pursuant to subsection (6) and this subsection shall be
4 verified at representative sites by the department. The
5 department shall use best professional judgment in making the
6 initial verification that the best management practices are
7 effective and, where applicable, shall notify the appropriate
8 water management district and the Department of Agriculture
9 and Consumer Services of its initial verification prior to the
10 adoption of a rule proposed pursuant to this paragraph.
11 Implementation, in accordance with rules adopted under this
12 paragraph, of practices that have been initially verified to
13 be effective, or verified to be effective by monitoring at
14 representative sites, by the department, shall provide a
15 presumption of compliance with state water quality standards
16 and release from the provisions of s. 376.307(5) for those
17 pollutants addressed by the practices, and the department is
18 not authorized to institute proceedings against the owner of
19 the source of pollution to recover costs or damages associated
20 with the contamination of surface water or groundwater caused
21 by those pollutants.

22 4. Where water quality problems are demonstrated,
23 despite the appropriate implementation, operation, and
24 maintenance of best management practices and other measures
25 according to rules adopted under this paragraph, the
26 department, a water management district, or the Department of
27 Agriculture and Consumer Services, in consultation with the
28 department, shall institute a reevaluation of the best
29 management practice or other measure. Should the reevaluation
30 determine that the best management practice or other measure
31 requires modification, the department, a water management

1 district, or the Department of Agriculture and Consumer
2 Services, as appropriate, shall revise the rule to require
3 implementation of the modified practice within a reasonable
4 time period as specified in the rule.

5 ~~5.2.~~ Individual agricultural records relating to
6 processes or methods of production, or relating to costs of
7 production, profits, or other financial information which are
8 otherwise not public records, which are reported to the
9 Department of Agriculture and Consumer Services pursuant to
10 subparagraphs 3. and 4. this paragraph or pursuant to any rule
11 adopted pursuant to subparagraph 2. this paragraph shall be
12 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
13 of the State Constitution. Upon request of the department or
14 any water management district, the Department of Agriculture
15 and Consumer Services shall make such individual agricultural
16 records available to that agency, provided that the
17 confidentiality specified by this subparagraph for such
18 records is maintained. This subparagraph is subject to the
19 Open Government Sunset Review Act of 1995 in accordance with
20 s. 119.15, and shall stand repealed on October 2, 2006, unless
21 reviewed and saved from repeal through reenactment by the
22 Legislature.

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

1 necessary to maintain a federally delegated or approved
2 program.

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

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

8 (b) Administration of funds to implement the total
9 maximum daily load and basin management action planning
10 programs program;

11 (c) Procedures for pollutant trading among the
12 pollutant sources to a water body or water body segment,
13 including a mechanism for the issuance and tracking of
14 pollutant credits. Such procedures may be implemented through
15 permits or other authorizations and must be legally binding.
16 Prior to adopting rules for pollutant trading under this
17 paragraph, and no later than November 30, 2006, the Department
18 of Environmental Protection shall submit a report to the
19 Governor, the President of the Senate, and the Speaker of the
20 House of Representatives containing recommendations on such
21 rules, including the proposed basis for equitable economically
22 based agreements and the tracking and accounting of pollution
23 credits or other similar mechanisms. Such recommendations
24 shall be developed in cooperation with a technical advisory
25 committee that includes experts in pollutant trading and
26 representatives of potentially affected parties; No rule
27 implementing a pollutant trading program shall become
28 effective prior to review and ratification by the Legislature;
29 and

30 (d) The total maximum daily load calculation in
31 accordance with paragraph (6)(a) immediately upon the

1 | effective date of this act, for those eight water segments
2 | within Lake Okeechobee proper as submitted to the United
3 | States Environmental Protection Agency pursuant to subsection
4 | (2); ~~and-~~

5 | (e) Implementation of other specific provisions.

6 | (11) IMPLEMENTATION OF ADDITIONAL PROGRAMS.--

7 | (a) The department shall not implement, without prior
8 | legislative approval, any additional regulatory authority
9 | pursuant to s. 303(d) of the Clean Water Act or 40 C.F.R. part
10 | 130, if such implementation would result in water quality
11 | discharge regulation of activities not currently subject to
12 | regulation.

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

21 | Section 13. Paragraph (c) of subsection (3) of section
22 | 373.4595, Florida Statutes, is amended to read:

23 | 373.4595 Lake Okeechobee Protection Program.--

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

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

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

28 1. Agricultural nonpoint source best management
29 practices, developed in accordance with s. 403.067 and
30 designed to achieve the objectives of the Lake Okeechobee
31 Protection Program, shall be implemented on an expedited

1 basis. By March 1, 2001, the coordinating agencies shall
2 develop an interagency agreement pursuant to ss. 373.046 and
3 373.406(5) that assures the development of best management
4 practices that complement existing regulatory programs and
5 specifies how those best management practices are implemented
6 and verified. The interagency agreement shall address measures
7 to be taken by the coordinating agencies during any best
8 management practice reevaluation performed pursuant to
9 sub-subparagraph d. The department shall use best professional
10 judgment in making the initial determination of best
11 management practice effectiveness.

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

29 b. Where agricultural nonpoint source best management
30 practices or interim measures have been adopted by rule of the
31 Department of Agriculture and Consumer Services, the owner or

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

14 c. The district or department shall conduct monitoring
15 at representative sites to verify the effectiveness of
16 agricultural nonpoint source best management practices.

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

25 2. Nonagricultural 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 department and the district 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 department and the district during any best
5 | management practice reevaluation performed pursuant to
6 | sub-subparagraph d.

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

24 | b. Where nonagricultural nonpoint source best
25 | management practices or interim measures have been developed
26 | by the department and adopted by the district, the owner or
27 | operator of a nonagricultural nonpoint source shall implement
28 | interim measures or best management practices and be subject
29 | to the provisions of s. 403.067(7). The department and
30 | district shall provide technical and financial assistance for
31 |

1 implementation of nonagricultural nonpoint source best
2 management practices, subject to the availability of funds.

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

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

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

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

28 5. Projects that make use of private lands, or lands
29 held in trust for Indian tribes, to reduce nutrient loadings
30 or concentrations within a basin by one or more of the
31 following methods: restoring the natural hydrology of the

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

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

28 b. Private and government-owned utilities within
29 Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian
30 River, Okeechobee, Highlands, Hendry, and Glades Counties that
31 dispose of wastewater residual sludge from utility operations

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

1 c. No less frequently than once every 3 years, the
2 Florida Public Service Commission or the county commission
3 through the services of an independent auditor shall perform a
4 financial audit of all facilities receiving compensation from
5 an environmental protection disposal fee. The Florida Public
6 Service Commission or the county commission through the
7 services of an independent auditor shall also perform an audit
8 of the methodology used in establishing the environmental
9 protection disposal fee. The Florida Public Service Commission
10 or the county commission shall, within 120 days after
11 completion of an audit, file the audit report with the
12 President of the Senate and the Speaker of the House of
13 Representatives and shall provide copies to the county
14 commissions of the counties set forth in sub-subparagraph b.
15 The books and records of any facilities receiving compensation
16 from an environmental protection disposal fee shall be open to
17 the Florida Public Service Commission and the Auditor General
18 for review upon request.

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

28 8. The Department of Agriculture and Consumer Services
29 shall initiate rulemaking requiring entities within the Lake
30 Okeechobee watershed and the remaining areas of Okeechobee,
31 Glades, and Hendry Counties which land-apply animal manure to

1 develop conservation or nutrient management plans that limit
2 application, based upon phosphorus loading. Such rules may
3 include criteria and thresholds for the requirement to develop
4 a conservation or nutrient management plan, requirements for
5 plan approval, and recordkeeping requirements.

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

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

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

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

21 (1) A cost-share program, coordinated where
22 appropriate with the United States Department of Agriculture
23 and other federal, state, regional, and local agencies, for
24 irrigation system retrofit and application of mobile
25 irrigation laboratory evaluations for water conservation as
26 provided in this section and, where applicable, for water
27 quality improvement pursuant to s. 403.067(7)(c) ~~s.~~
28 ~~403.067(7)(d)~~.

29 Section 15. Section 403.885, Florida Statutes, is
30 amended to read:

31

1 403.885 Stormwater management; wastewater management;
2 ~~Water Quality Improvement~~ and Water Restoration Grant
3 Program.--

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

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

21 (a) Protect public health and the environment.

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

28 (3) In addition to meeting the criteria in subsection
29 (2), annual grant proposals must also meet the following
30 requirements:

1 (a) An application for a stormwater management project
2 may be funded only if the application is approved by the water
3 management district with jurisdiction in the project area.
4 District approval must be based on a determination that the
5 project provides a benefit to a priority water body.

6 (b) Except as provided in paragraph (c), an
7 application for a wastewater management project may be funded
8 only if:

- 9 1. The project has been funded previously through a
10 line item in the General Appropriations Act; and
11 2. The project is under construction.

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

17 (4) All project applicants must provide local matching
18 funds as follows:

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

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

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

29 ~~(3) The department shall evaluate the annual grant~~
30 ~~proposals and present the annual list of projects recommended~~
31 ~~to be funded to the Governor and the Legislature as part of~~

1 ~~its annual budget request submitted pursuant to chapter 216~~
2 ~~beginning with fiscal year 2003-2004.~~

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

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

27 (6) ~~The department may adopt rules necessary to~~
28 ~~administer this section, including, but not limited to, rules~~
29 ~~governing timeframes for submitting grant applications,~~
30 ~~evaluation criteria, forms, matching criteria, maximum grant~~
31

1 ~~amounts, and allocation of appropriated funds based upon~~
2 ~~project and applicant size.~~

3 Section 16. Section 403.890, Florida Statutes, is
4 created to read:

5 403.890 Water Protection and Sustainability Program;
6 intent; goals; purposes.--

7 (1) Effective July 1, 2006, revenues transferred from
8 the Department of Revenue pursuant to s. 201.15(1)(d)2. shall
9 be deposited into the Water Protection and Sustainability
10 Program Trust Fund in the Department of Environmental
11 Protection. These revenues and any other additional revenues
12 deposited into or appropriated to the Water Protection and
13 Sustainability Trust Fund shall be distributed by the
14 Department of Environmental Protection in the following
15 manner:

16 (a) Sixty percent to the Department of Environmental
17 Protection for the implementation of an alternative water
18 supply program as provided in s. 373.1961.

19 (b) Twenty percent for the implementation of best
20 management practices and capital project expenditures
21 necessary for the implementation of the goals of the total
22 maximum daily loads program established in s. 403.067. Of
23 these funds, 85 percent shall be transferred to the credit of
24 the Department of Environmental Protection Water Quality
25 Assurance Trust Fund to address water quality impacts
26 associated with nonagricultural nonpoint sources. Fifteen
27 percent of these funds shall be transferred to the Department
28 of Agriculture and Consumer Services General Inspection Trust
29 Fund to address water quality impacts associated with
30 agricultural nonpoint sources. These funds shall be used for
31 research, development, demonstration, and implementation of

1 suitable best management practices or other measures used to
2 achieve water quality standards in surface waters and water
3 segments identified pursuant to s. 303(d) of the Clean Water
4 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
5 Implementation of best management practices and other measures
6 may include cost-share grants, technical assistance,
7 implementation tracking, and conservation leases or other
8 agreements for water quality improvement. The Department of
9 Environmental Protection and the Department of Agriculture and
10 Consumer Services may adopt rules governing the distribution
11 of funds for implementation of best management practices.
12 These funds shall not be used to abrogate the financial
13 responsibility of those point and nonpoint sources that have
14 contributed to the degradation of water or land areas.
15 Increased priority shall be given by the department and the
16 water management district governing boards to those projects
17 that have secured a cost-sharing agreement allocating
18 responsibility for the cleanup of point and nonpoint sources.
19 (c) Ten percent shall be disbursed for the purposes of
20 funding projects pursuant to ss. 373.451-373.459 or surface
21 water restoration activities in
22 water-management-district-designated priority water bodies.
23 The Secretary of Environmental Protection shall ensure that
24 each water management district receives the following
25 percentage of funds annually:
26 1. Thirty-five percent to the South Florida Water
27 Management District;
28 2. Twenty-five percent to the Southwest Florida Water
29 Management District;
30 3. Twenty-five percent to the St. Johns River Water
31 Management District;

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

3 5. Seven and one-half percent to the Northwest Florida
4 Water Management District.

5 (d) Ten percent to the Department of Environmental
6 Protection for the Disadvantaged Small Community Wastewater
7 Grant Program as provided in s. 403.1838.

8 (e) Beginning June 30, 2007, and every 24 months
9 thereafter, the Department of Environmental Protection shall
10 request the return of all unencumbered funds distributed
11 pursuant to this section. These funds shall be deposited into
12 the Water Protection and Sustainability Program Trust Fund and
13 redistributed pursuant to the provisions of this section.

14 (2) For fiscal year 2005-2006, funds deposited or
15 appropriated into the Water Protection and Sustainability
16 Trust Fund shall be distributed as follows:

17 1. One hundred million dollars to the Department of
18 Environmental Protection for the implementation of an
19 alternative water supply program as provided in s. 373.1961.

20 2. Funds remaining after the distribution provided for
21 in subsection (1) shall be distributed as follows:

22 (a) Fifty percent for the implementation of best
23 management practices and capital project expenditures
24 necessary for the implementation of the goals of the total
25 maximum daily loads program established in s. 403.067. Of
26 these funds, 85 percent shall be transferred to the credit of
27 the Department of Environmental Protection Water Quality
28 Assurance Trust Fund to address water quality impacts
29 associated with nonagricultural nonpoint sources. Fifteen
30 percent of these funds shall be transferred to the Department
31 of Agriculture and Consumer Services General Inspection Trust

1 Fund to address water quality impacts associated with
2 agricultural nonpoint sources. These funds shall be used for
3 research, development, demonstration, and implementation of
4 suitable best management practices or other measures used to
5 achieve water quality standards in surface waters and water
6 segments identified pursuant to s. 303(d) of the Clean Water
7 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.
8 Implementation of best management practices and other measures
9 may include cost-share grants, technical assistance,
10 implementation tracking, and conservation leases or other
11 agreements for water quality improvement. The Department of
12 Environmental Protection and the Department of Agriculture and
13 Consumer Services may adopt rules governing the distribution
14 of funds for implementation of best management practices.
15 These funds shall not be used to abrogate the financial
16 responsibility of those point and nonpoint sources that have
17 contributed to the degradation of water or land areas.
18 Increased priority shall be given by the department and the
19 water management district governing boards to those projects
20 that have secured a cost-sharing agreement allocating
21 responsibility for the cleanup of point and nonpoint sources.

22 (b) Twenty-five percent for the purposes of funding
23 projects pursuant to ss. 373.451-373.459 or surface water
24 restoration activities in water-management-district-designated
25 priority water bodies. The Secretary of Environmental
26 Protection shall ensure that each water management district
27 receives the following percentage of funds annually:

28 1. Thirty-five percent to the South Florida Water
29 Management District;

30 2. Twenty-five percent to the Southwest Florida Water
31 Management District;

1 3. Twenty-five percent to the St. Johns River Water
2 Management District;

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

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

7 (c) Twenty-five percent to the Department of
8 Environmental Protection for the Disadvantaged Small Community
9 Wastewater Grant Program as provided in s. 403.1838.

10
11 Prior to the end of the 2008 Regular Session, the Legislature
12 must review the distribution of funds under the Water
13 Protection and Sustainability Program to determine if
14 revisions to the funding formula are required. At the
15 discretion of the President of the Senate and the Speaker of
16 the House of Representatives, the appropriate substantive
17 committees of the Legislature may conduct an interim project
18 to review the Water Protection and Sustainability Program and
19 the funding formula and make written recommendations to the
20 Legislature proposing necessary changes, if any.

21 Section 17. Except as otherwise expressly provided in
22 this act, the act shall take effect upon becoming a law.

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

The committee substitute removes the bonding authority and the state revenues. (The state revenue stream is provided in the growth management bill, CS/CS/CS/SB 360.) It provides that state funds support not only water management district funding, but also basin board funding. It narrows the responsibility of utilities that receive financial assistance to rate-setting for alternative water supply projects. It clarifies the districts' ability to grant a presumption about the need for multi-jurisdictional water supply entities. It requires the selection of alternative water supply projects. It requires reports on how well local governments have implemented plans for regional water supply facilities and clarifies provisions related to concurrency (to track the growth management bill). It provides conforming changes and clarifications needed in the TMDL language. It provides for the distribution of funds deposited into the Water Protection and Sustainability Program Trust Fund.