

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: CS/CS/SB 2580

INTRODUCER: General Government Appropriations Committee, Environmental Preservation and Conservation Committee, and Senator Alexander

SUBJECT: West-Central Florida Water Restoration Action Plan

DATE: April 10, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kiger	Kiger	EP	Fav/CS
2.	Kynoch	DeLoach	GA	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill directs the Southwest Florida Water Management District to implement the West-Central Florida Water Restoration Action Plan, which is defined as the District's regional environmental restoration and water resource sustainability program for the Southern Water Use Caution Area (SWUCA).

The bill restricts the issuance of landfill permits in the SWUCA.

The bill provides an effective date of July 1, 2008.

The bill substantially amends section 403.087, Florida Statutes.

This bill creates section 373.0363, Florida Statutes.

II. Present Situation:

The Southern Water Use Caution Area encompasses approximately 5,100 square miles, including all or part of eight counties in the west-central portion of the Southwest Florida Water Management District (district). Because of growing demands created from population growth, agriculture, mining, power generation and recreational uses, groundwater withdrawals in the SWUCA steadily increased before peaking in the mid-1970s. The results of these increased groundwater withdrawals has been depressed aquifer levels which have resulted in saltwater intrusion, reduced flows in the upper Peace River and lowered lake levels in the Lake Wales Ridge areas of Polk and Highlands counties.

Aside from the impacts in the northern area of the SWUCA, the southern area also has its share of water related issues. The major feature of this southern area is Charlotte Harbor which is a state designated Surface Water Improvement and Management priority water body and also a designated Estuary of National Significance by the U.S. Environmental Protection Agency. The Peace and Myakka Rivers feed directly into the harbor, and portions of these rivers are characterized as having water quality problems. Because of these problems, the harbor has seen water quality degradation, hydrologic alterations and habitat loss over the past 20 years.

In response to the water impacts in this area and in compliance with s. 373.036, F.S. (District water supply planning requirements), and s. 373.0361, F.S. (Regional water supply planning requirements), the district determined that a regional water supply plan was needed to ensure sustainable growth in terms of water resources.

As directed by statute, regional water supply planning is required in areas where the district determines that sources of water are not adequate for all existing and projected reasonable-beneficial uses and to sustain the water resources and related natural systems. Regional water supply planning includes quantification of the water needs during a 1-in-10 year drought event for all existing and projected reasonable and beneficial uses within a planning horizon of not less than 20 years. The required planning also includes development of water supply options, including traditional and alternative sources, from which local governments, government-owned and privately owned utilities, self-suppliers and others may choose. The quantities available through the various options must exceed the identified needs.

Regional water supply plans also include establishment of minimum flows and levels for priority water bodies. A minimum flow for a watercourse is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area. A minimum level is the level in an aquifer or surface water body, such as a lake, at which further withdrawals would be significantly harmful to the water resources of the area. If the existing flow or level of a water body is below, or is projected to fall below the applicable minimum flow or level of a water body is below, or is projected to fall below the applicable minimum flow or level within 20 years, then as part of the regional water supply plan the district must expeditiously implement a recovery or prevention strategy. This strategy must include the development of additional water supplies and other actions to achieve recovery to the established minimum flow or level as soon as practicable, or prevent the existing flow or level from falling below the established minimum flow or level. The recovery or prevention strategy must include phasing or a timetable which will allow for the provision of sufficient water supplies for all existing and projected reasonable-

beneficial uses. This includes development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, and to the extent practical, to offset reductions in permitted withdrawals.

As a result of the planning efforts undertaken by the district the West-Central Florida Water Restoration Action Plan (WRAP) was developed with the following goals.

- Restore minimum levels on a permanent basis to priority lakes in the Lake Wales Ridge.
- Restore minimum flows on a permanent basis to the upper Peach River.
- Reduce the rate of saltwater intrusion in coastal Hillsborough, Manatee and Sarasota counties.
- Ensure that there are sufficient water supplies for all existing and projected reasonable-beneficial uses.

According to the district, expenditures to date on this effort exceed \$36 million. The district projects that the total cost of the projects included in the WRAP is approximately \$1.6 billion. The district estimates that approximately one-third of the total cost will be derived from state or federal sources over the next 17-year course of the plan.

III. Effect of Proposed Changes:

The bill creates s. 373.0363, F.S., which would establish the West-Central Florida Water Restoration Action Plan. Specific provisions include:

- Providing definitions for the following terms: “Central Florida Coordination Area,” “District,” “Southern Water Use Caution Area,” “Southern Water Use Caution Area Recovery Strategy,” and “West-Central Florida Restoration Action Plan.”
- Providing legislative findings that:
 - The growing use of and demand for water from many different sectors has resulted in declines in aquifer levels throughout the basin.
 - Even though ground water withdrawals have stabilized, depressed aquifer levels continue to result in saltwater intrusion, reduced flows in the Upper Peace River, lowered water levels, and adverse impact to lakes in the area.
 - Traditional sources of water are not adequate to supply water for all existing and projected reasonable and beneficial uses.
 - An expeditious implementation of the Southern Water Use Caution Area Recovery Strategy is needed to meet minimum flow requirements, slow saltwater intrusion, improve lake levels, improve water quality, and ensure sufficient water supplies.
 - Sufficient research has been conducted and plans developed to immediately expand and accelerate programs to sustain water resources and natural systems in the SWUCA.
 - Implementation of the components of the Southern Water Use Caution Area Recovery Strategy will benefit the public and is in the public interest.
 - Implementation of the WRAP is necessary to meet minimum flow requirements, slow saltwater intrusion, improve lake levels and water quality, and ensure sufficient water supplies.
 - A continuing source of funding is needed to implement the WRAP.

The bill requires that the implementation of the WRAP by the district shall: further strategies for the management of water resources; be based on a watershed approach; consider water quality issues; utilize best-management practices; provide for structural and nonstructural projects; and be coordinated with the appropriate federal, state, regional, and local partners in order to maximize funding opportunities.

The WRAP plan shall include the following initiatives.

- **The Central West Coast Surface Water Enhancement Initiative** - The purpose of this is to make additional surface waters available for public supply through restoration efforts. It is designed to allow limits on ground water withdrawals in order to slow the rate of saltwater intrusion. It will be an on-going program in cooperation with the Peace River-Manasota Regional Water Supply Authority. Components of the initiative shall include:
 - Dona Bay-Cow Pen Slough which is designed to increase capacity to store excess freshwater.
 - Shell Creek Watershed which is anticipated to increase water storage capacity and redirect stored water to its natural and historical flow patterns.
 - Upper Myakka River-Flatford Swamp which is anticipated to reduce the amount of water entering the swamp in order to restore normal hydroperiods and increase the availability of water for public supply.
- **The Facilitating Agricultural Resource Management Systems Initiative (FARMS)** - The purpose of this is to expedite the implementation of production scale, best-management practices in the agricultural sector thus reducing water demand, improving water quality, conservation and restoration. Funding for this initiative is based on a cost-share reimbursement program that will provide funding incentives to agricultural landowners.
- **The Ridge Lakes Restoration Initiative** - The purpose of this is to protect, restore, and enhance natural systems and flood protection by improving and protecting the water quality of approximately 130 lakes along the Lake Wales Ridge in Polk and Highlands counties. This shall be accomplished through the construction of systems designed to treat the stormwater runoff that threatens the water quality of such lakes.
- **The Upper Peace River Watershed Restoration Initiative** - The purpose of this initiative is to improve the quality of waters and ecosystems in the watershed of the Upper Peace River. Since the alteration and degradation of this river adversely affects the quantity and quality of the fresh water that flows to the basin of the Peace River and Charlotte Harbor, and because the restoration of the Upper Peace River is a critical component of the Charlotte Harbor National Estuary Program's Comprehensive Conservation and Management Plan, the district's Surface Water Improvement and Management Plan, and the Southern Water Use Caution Area Recovery Strategy, the Legislature finds that such improvements are necessary. This initiative shall include an Upper-Peace-River component, which shall include the following projects:
 - The Lake Hancock Component, which is meant to help meet the minimum-flow requirements in the Upper Peace River and to improve water quality.
 - The Peace Creek Canal Restoration Project, which is meant to enhance the recharge of aquifers, restore the capacity of natural systems to store waters, and provide flood protection.
- **The Central Florida Water Resource Development Initiative** - The purpose of this initiative is to create and implement a long-term plan that takes a comprehensive approach to

limit ground water withdrawals in the SWUCA and to identify and develop alternative water supplies for Polk County. The initiative shall be implemented by the district as an on-going program in cooperation with Polk County and the South Florida Water Management District, and shall include:

- The Kissimmee River component, which shall include developing, if feasible, a supply of potable water from surface waters in the Lake Kissimmee basin. The intention of this project is to increase the amount of water available for meeting public demands in the Central Florida Coordination Area while not violating the minimum flows and levels adopted for the Kissimmee River.
- The Upper Peace River component, which shall be implemented by investigating the feasibility of using an off-stream reservoir that may include the storage of water on private lands to capture water from the Peace River during high-flow periods for use as a public water supply. Should the reservoir be located outside of Polk County the district will promote the county's participation in the development and use of such reservoir contingent upon compliance with state and district rules and regulations.
- Project components within this initiative shall be classified as alternative water supply for the purposes of pursuing funding under the alternative water supply program (s. 373.196, F.S.).

The bill requires the district to report by March 1 each year, in cooperation with other coordinating agencies and governments, on the implementation of this section as part of the consolidated annual report required in s. 373.036(7), F.S. The district shall also submit a copy of the implementation report and recommended legislative proposals to the Governor, the President of the Senate and the Speaker of the House of Representatives annually. The report must include, at minimum:

- A summary of the conditions of the SWUCA, including the status of the components of the WRAP.
- An annual accounting of the expenditure of funds.

The bill amends s. 403.087, F.S., concerning the issuance of permits by the Department of Environmental Protection, to restrict the issuance of landfill permits in the SWUCA.

The bill provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The district estimates that one-third of the total \$1.6 billion dollar project cost would be derived from state or federal sources. The potential fiscal impact to the state over the next 17 years is \$533 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by General Government Appropriations on April 8, 2008:**

The committee substitute provides clarifying language to ensure that state and water management district rules and regulations are followed concerning the citing and use of the reservoir.

The committee substitute provides clarifying language relating to defining the types of waste that can be placed in a landfill located in the Southern Water Use Caution Area.

CS by Environmental Preservation and Conservation on April 3, 2008:

The CS provides that the Southwest Florida Water Management District is required to prepare the annual report in cooperation with coordinating agencies and affected local governments. The CS also provides that the annual report and legislative proposals be submitted to the Governor, as well as the President of the Senate and the Speaker of the House of Representatives.

The CS also provides a definition for the “Central Florida Coordination Area”.

The CS also amends the purpose of the Facilitating Agricultural Resource Management Systems Initiative.

The CS provides that project components developed pursuant to the Central Florida Water Resource Development Initiative are eligible for state and regional funding under s. 373.196, F.S., as an alternative water supply, as defined in s. 373.019, F.S., or as a supplemental water supply under the rules of the Southwest Florida Water Management District of the South Florida Water Management District.

The CS amends the Kissimmee River component.

The CS also provides a provision in the Upper Pease River component to allow for the promotion of an off-stream reservoir to be located outside of Polk County, if that is the most feasible location. If located outside the county the district shall ensure that the county is allowed to fully participate in its use.

B. Amendments:

None.