

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7177 PCB ANR 10-10 Water Conservation

SPONSOR(S): General Government Policy Council, Agriculture & Natural Resources Policy Committee, Williams, T.

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Agriculture & Natural Resources Policy Committee	11 Y, 0 N	Kliner	Reese
1)	General Government Policy Council	15 Y, 0 N, As CS	Kliner	Hamby
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill amends various sections of Florida Statutes that relate to water supply, conservation, and governance, generally. More specifically, the bill codifies the name of the currently existing state-wide water conservation program and the attendant guide, the Conserve Florida Clearinghouse, and the Conserve Florida Clearinghouse Guide (the Guide), respectively. While use of the guide is not mandatory, this bill encourages utilities to use the guide, and requires that any water conservation plan must be designed to achieve the water conservation goal or goals in a cost effective manner, considering the utility's customers, service area, and other individual circumstances of the utility.

With reference to regional water supply planning, the bill incorporates those entities that produce and offer reclaimed water for beneficial uses.

The bill extends the duration for a Consumptive Use Permit (CUP) compliance report to the WMD by a 20 year CUP holder, from every five years to every 10 years. One water management district (WMD), the Suwannee River WMD, may require a five-year compliance schedule until July 1, 2015, and thereafter every ten years during the term of the permit.

With regard to water governance, the bill restricts a WMD governing board from delegating authority for issues relating to part II, Chapter 373, F.S., and directs WMD governing boards that have delegated authority to executive directors to take final action on permit applications under part IV of Chapter 373, F.S., or petitions for variances, waivers, or general permits, to provide a process for referring a denial of a petition to the governing board for the purpose to taking final action. In addition, the bill encourages WMDs and other governmental agencies to promote public-private partnerships when procuring materials for infrastructure and restoration work projects.

The bill directs the DEP and/or WMDs to promulgate rules relating to the reuse of reclaimed water by consumptive use permit holders, and rules providing a preference for mitigation banks and offsite regional mitigation over onsite mitigation.

The bill prohibits actions destroying, damaging or obstructing drainage canals maintained by water control districts.

The bill has an effective date of July 1, 2010.

The bill appears to have no significant fiscal impact on local governments. According to the DEP, revising administrative rules relating to mitigation banking to provide a preference for mitigation banks and offsite regional mitigation over onsite mitigation is expected to increase the number and use of mitigation banks in the state. The increase in workload will require two additional, full time staff, resulting in a \$161,000 first year cost, and a recurring expense of \$130,000.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Following an exceptionally severe drought in 1999-2001, the Department of Environmental Protection (DEP), along with the state's five water management districts, water providers, water users, and other stakeholders, participated in the Florida Water Conservation Initiative, a collaborative effort to address water conservation measures. In the final report of the Initiative, published in April 2002, the participants collectively recommended further pursuit of a wide range of water conservation tools, including agriculture and landscape irrigation techniques, indoor water use, the use of reclaimed water, and measures for industrial, commercial, and institutional water use.¹ The report recognized public water supply as the second largest water use sector in Florida, and acknowledged conservation as an important management tool for public water supply utilities. The DEP, the water management districts, the Florida Public Service Commission, the Utility Council of the American Water Works Association (Florida Section), the Utility Council of the Florida Water Environment Association, and the Florida Rural Water Association signed a Joint Statement of Commitment to cooperatively develop a comprehensive water conservation program.²

During the 2004 Regular Session, the Florida Legislature enacted HB 293, which codified many of the findings presented in the final report of the initiative. HB 293 created, among other things, a new section 373.227, F.S., encouraging the use of efficient, effective, and affordable water conservation measures, and providing that a goal-based, accountable, tailored water conservation program should be emphasized for public water supply utilities. The section states that the overall water conservation goal of the state is "to prevent and reduce wasteful, uneconomical, impractical, or unreasonable use of water resources." To achieve these conservation objectives, the legislation emphasizes "goal-based, accountable, tailored, and measurable water conservation programs for public water supply." The section directs the DEP, in cooperation with the water management districts and the other stakeholders, to develop a statewide water conservation program for public water supply utilities, and to create a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities which provides an integrated statewide database for information on public water supply conservation programs and practices and their effectiveness.³

¹ http://www.dep.state.fl.us/water/waterpolicy/docs/WCI_2002_Final_Report.pdf

² http://www.dep.state.fl.us/water/waterpolicy/docs/JSOC--new_small.pdf

³ In addition, the program must include cost and benefit data on individual water conservation practices, standardized public water supply conservation definitions, and standardized quantitative and qualitative performance measures.

Pursuant to s. 373.227, F.S., water management districts must give public water supply utilities wide latitude in selecting a rate structure when utilities use water conservation or drought rate structures as a conservation practice. The district may not revise or fix rates, and their rate review is limited to whether the utility has provided reasonable assurance that the rate structure contains a schedule of rates designed to promote efficient use of water by providing economic incentives.

As part of an application for a consumptive use permit (CUP), the water conservation requirements that are imposed as a condition of obtaining a CUP shall be deemed satisfied if the utility provides reasonable assurance that a proposed goal-based water conservation plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the district.⁴ If the plan fails to meet the water conservation goal(s) by the timeframes specified in the permit, the utility is required to revise the plan to address the deficiency or employ the water conservation requirements that would otherwise apply in the absence of an approved goal-based plan.

The DEP and the other stakeholders developed common definitions and performance measures for evaluating water conservation programs and practices. The definitions and measures have been incorporated into a water conservation planning and reporting guide that is available online. The Guide is an interactive web-based application (software and database) to aid utilities in developing utility-specific conservation goals, selecting best management practices to meet those goals, measuring and reporting results, and adjusting their conservation programs as needed to better meet conservation goals.⁵

Effect of Proposed Changes

Conserve Florida

The bill codifies the name of the currently existing state-wide water conservation program and the attendant guide, the Conserve Florida Clearinghouse, and the Conserve Florida Clearinghouse Guide (the Guide), respectively. The bill provides that the Guide is an appropriate tool to assist public water supply utilities in developing plans in order to meet conservation requirements for obtaining consumptive use permits (CUPs). Water management districts and public water supply utilities are encouraged to use the Guide to develop conservation plans, report conservation practices and measures used in CUPs, evaluate proposals for cost sharing of conservation activities, and assessing the effectiveness of conservation projects.

Use of the Guide is encouraged, but not mandatory, for a public water supply utility to develop a goal-based water conservation plan. A plan must include a means to measure the utility's progress toward its conservation goal or goals and may serve as a partial or as an entire alternative to water conservation requirements adopted by the district.

Current law provides that water conservation requirements imposed as a condition of obtaining a CUP shall be deemed satisfied if a utility provides reasonable assurance that its plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the water management district. The bill removes the comparison between the utility's plan and the water management districts' adopted water conservation requirements. In its place the bill requires a goal-based water conservation plan submitted by a utility be designed to achieve the water conservation goal or goals in a cost-effective manner, considering the utility's customers, service area, and other individual circumstances of the utility.

⁴ A consumptive use permit, also called a water use permit, constitutes authorization to withdraw a specified amount of water for a specified time either from the ground or from a surface water body. CUPs are generally issued by the water management districts under Part II of Chapter 373, specifically Section 373.223, F.S. State law allows the Department of Environmental Protection to issue CUPs where an applicant proposes an "inter-district transfer" of water (i.e. from a source within one water management district to a user in another water management district). A CUP may be issued only if the applicant can establish that the proposed use of the water meets the "three prong test" specified in ss. 373.223(1), F.S.; that is, the proposed use of water: (1) is a reasonable-beneficial use (meaning it is both an economic and efficient utilization of water for a purpose and in a manner which is both reasonable and consistent with the public interest); (2) will not interfere with any presently existing legal use of water; and (3) is consistent with the public interest.

⁵ <http://www.conservefloridawater.org/default.asp>

The bill also deletes an obsolete statutory provision requiring the DEP to submit a progress report on water conservation efforts by December 1, 2005.

Reclaimed Water

Currently, the governing board of each water management district is required to conduct water supply planning for any water supply planning region within the district identified in the appropriate district water supply plan where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. The bill adds wastewater and water reuse utilities in regional water supply planning, along with WMDs, the DEP, local governments, water utilities, and multijurisdictional water supply entities, in order to incorporate reclaimed water in the planning process. In addition, the bill directs WMDs to implement rules relating to the reuse of reclaimed water by consumptive use permit holders. WMDs are required to initiate rulemaking relating to the reuse of reclaimed water no later than July 1, 2011. The rules shall:

- Require consumptive use permit applicants seeking withdrawals for non-potable water uses within a designated reclaimed water service area to submit to the water management district a letter from the applicable reclaimed water provider that addresses the availability and feasibility of using reclaimed water. The reclaimed water provider only has 30 days to respond to a request for information;
- Specify the content of the documentation required, including the availability and costs associated with connection to and the use of reclaimed water; and,
- Encourage reuse facilities and WMDs to periodically share information concerning the status of the reclaimed water distribution system, the availability of reclaimed water, and existing CUPs in areas served by the reuse utility.

Relating to works of the WMDs, the bill encourages WMDs and other governmental agencies to promote public-private partnerships when procuring materials for infrastructure and restoration work projects.

Consumptive Use Permits

The bill extends the duration for a 20-year CUP holder to file a compliance report to the WMD from every five years to every 10 years. The Suwannee River WMD may require a five-year compliance schedule until July 1, 2015, and thereafter every ten years during the term of the permit.

Water Management District Governing Board Delegation Authority

Currently, WMD governing boards may delegate duties and responsibilities relating to applications and permits relating to environmental resource permitting (ERP) and CUPs to the WMD executive director. The bill restricts a WMD governing board's delegation authority for issues relating to part II, Chapter 373, F.S. (ERP), and directs WMD governing boards that have delegated authority to executive directors to take final action on permit applications under part IV of Chapter 373, F.S. (CUPs), or petitions for variances or waivers, to provide a process for referring a denial of a petition to the governing board for the purpose to taking final action. In addition, the bill authorizes a WMD governing board to delegate powers and duties relating to general permits to its executive director. The governing board must provide a process for referring a denial of a petition to the governing board for the purpose to taking final action.

Mitigation Banking

Part IV of Chapter 373, F.S., provides the statutory framework for the regulation of wetlands and other surface waters in the state. The ERP program regulates activities involving the alteration of surface water flows and includes new activities in uplands that generate stormwater runoff from upland construction, as well as dredging and filling in wetlands and other surface waters. Before an ERP is granted to an applicant, a number of tests are performed to decide if an activity will adversely affect fish, wildlife, listed species, and their habitats. The evaluations of these tests are largely based on best professional judgment of the staff evaluating the permit.

As part of the permitting conditions, an applicant may be required to mitigate adverse impacts that are unavoidable. Two general approaches are available: on-site compensation and off-site mitigation,

which may include mitigation credits through mitigation banks. On-site compensation may involve in-kind replacement or enhancement replacement of wetlands within the project boundary. Off-site mitigation is used when there is an insufficient area for on-site compensation or when restoration of the original wetland communities is not desirable. One example of off-site mitigation is the use of a mitigation bank. Mitigation banking means the restoration, creation, enhancement, and in exceptional circumstances, preservation of wetlands and/or other aquatic resources expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.⁶

The objective of a mitigation bank is to provide for the replacement of the chemical, physical and biological functions of wetlands and other aquatic resources which are lost as a result of authorized impacts. Using appropriate methods, the newly established functions are quantified as mitigation "credits" which are available for use by the bank sponsor or by other parties to compensate for adverse impacts (i.e., "debits").

Mitigation banks are designed to provide greater flexibility to applicants needing to comply with mitigation requirements and can have several advantages over individual mitigation projects.

According to the US Environmental Protection Agency (EPA), advantages include the following:

- It may be more advantageous for maintaining the integrity of the aquatic ecosystem to consolidate compensatory mitigation into a single large parcel or contiguous parcels when ecologically appropriate;
- Establishment of a mitigation bank can bring together financial resources, planning and scientific expertise not practicable to many project-specific compensatory mitigation proposals.⁷ This consolidation of resources can increase the potential for the establishment and long-term management of successful mitigation that maximizes opportunities for contributing to biodiversity and/or watershed function;
- Use of mitigation banks may reduce permit processing times and provide more cost-effective compensatory mitigation opportunities for projects that qualify;
- Compensatory mitigation is typically implemented and functioning in advance of project impacts, thereby reducing temporal losses of aquatic functions and uncertainty over whether the mitigation will be successful in offsetting project impacts;
- Consolidation of compensatory mitigation within a mitigation bank increases the efficiency of limited agency resources in the review and compliance monitoring of mitigation projects, and thus improves the reliability of efforts to restore, create or enhance wetlands for mitigation purposes; and,
- The existence of mitigation banks can contribute towards attainment of the goal for no overall net loss of the Nation's wetlands by providing opportunities to compensate for authorized impacts when mitigation might not otherwise be appropriate or practicable.⁸

On March 31, 2008, the EPA and the U.S. Army Corps of Engineers issued revised regulations governing compensatory mitigation for authorized impacts to wetlands, streams, and other waters of the U.S. under Section 404 of the Clean Water Act. Designed to improve the effectiveness of compensatory mitigation to replace lost aquatic resource functions and area, expand public participation in compensatory mitigation decision making, and increase the efficiency and predictability of the mitigation project review process, the rules provide a distinct preference for mitigation banks as a regional, watershed approach to mitigating impacts to the environment.

The DEP stresses that the statutes are neutral in regard to any preference for onsite environmental mitigation over the use of a mitigation bank, however, the administrative rules require an applicant/potential user of a mitigation bank to demonstrate that on-site mitigation is not expected to have comparable long-term viability as a mitigation bank or demonstrate that use of a mitigation bank would provide greater improvement in ecological value than on-site mitigation.⁹

The bill directs the DEP and WMDs to amend administrative rules to provide a preference for mitigation banks and offsite regional mitigation over onsite mitigation, and that such rules regarding the use of

⁶ Applicants who only seek individual mitigation permits do not have the option of purchasing credits from a mitigation bank and are, therefore, held liable for the compensatory mitigation requirements.

⁷ One concern expressed to staff by representatives for the Association of Mitigation Bankers is uncertainty in the process to establish a bank under existing law, which was established in 1993 and has not kept up with current practices or guidelines suggested by the federal agencies.

⁸ <http://www.epa.gov/wetlands/facts/fact16.html>

⁹ Chapter 62-342.300, F.A.C.

mitigation banks be consistent with the provisions of 33 C.F.R. 332.3(b). In addition, a not-for-profit private entity is authorized to voluntarily elect to establish and operate a mitigation bank under a memorandum of agreement with the DEP or a WMD.

Drainage Structures

Chapter 298, F.S., regulates the formation and operation of water control districts. A water control district provides flood control and water management on a local level and historically, was the precursor entity to the current, regional WMD. Some water control districts are over 100 years old, and still manage drainage structures that may be as old as the district.

The bill provides clarifying language to the existing prohibition of obstructing drainage canals to prohibit destroying or damaging canals and public drainage that are maintained by water control districts.

B. SECTION DIRECTORY:

Section 1. Amends s. 373.227, F.S., providing a name for the currently existing state-wide water conservation program and program guide to assist public water supply utilities in developing water conservation plans. While use of the guide is not mandatory, this section encourages utilities to use the guide, and requires that any water conservation plan must be designed to achieve the water conservation goal or goals in a cost effective manner, considering the utility's customers, service area, and other individual circumstances of the utility.

Section 2. Amends s. 298.66, F.S., clarifying the existing prohibition of obstructing drainage canals to include all canals and public drainage on public land maintained by water control districts.

Section 3. Amends s.373.0361, F.S., including wastewater and water reuse utilities along with WMDs, the DEP, local governments, water utilities, and multijurisdictional water supply entities, in order to incorporate reclaimed water in regional water supply planning.

Section 4. Amends s. 373.079, F.S., restricting a WMD governing board's delegation authority for issues relating to part II, Chapter 373, F.S., and directing WMD governing boards that have delegated authority to executive directors to take final action on permit applications under part IV of Chapter 373, F.S., or petitions for variances or waivers, to provide a process for referring a denial of a petition to the governing board for the purpose to taking final action.

Section 5. Amends s. 373.083, F.S., restricting a WMD governing board's delegation authority for issues relating to part II, Chapter 373, F.S., and directing WMD governing boards that have delegated authority to executive directors to take final action on permit applications under part IV of Chapter 373, F.S., or petitions for variances or waivers, to provide a process for referring a denial of a petition to the governing board for the purpose to taking final action.

Section 6. Amends s. 373.085, F.S., encouraging WMDs and other governmental agencies to promote public-private partnerships when procuring materials for infrastructure and restoration work projects.

Section 7. Amends s. 373.118, F.S., authorizing a WMD governing board to delegate powers and duties relating to general permits to its executive director. The governing board must provide a process for referring a denial of a petition to the governing board for the purpose to taking final action.

Section 8. Amends s. 373.236, F.S., extending the duration for a CUP compliance report to the WMD by a 20 year CUP holder, from every five years to every 10 years. The Suwannee River WMD may require a five-year compliance schedule until July 1, 2015, and thereafter every ten years during the term of the permit.

Section 9. Amends s. 373.250, F.S., directing WMDs to implement rules relating to the reuse of reclaimed water by consumptive use permit holders.

Section 10. Provides an un-numbered section directing WMDs to initiate rulemaking relating to the reuse of reclaimed water no later than July 1, 2011.

Section 11. Amends s. 373.4135, F.S., directing the DEP and WMDs to amend administrative rules to provide a preference for mitigation banks and offsite regional mitigation over onsite mitigation, and that such rules regarding the use of mitigation banks be consistent with the provisions of 33 C.F.R. 332.3(b). A not-for-profit private entity may voluntarily elect to establish and operate a mitigation bank under a memorandum of agreement with the DEP or a WMD.

Section 12. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Incorporating reclaimed water in regional water supply planning will likely accrue to the benefit of certain publicly-owned utilities that provide reclaimed water for re-use. In addition, extending the duration of CUP compliance reports will provide a savings to publicly-owned water utilities and water providers.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provision requiring revision to mitigation banking administrative rules to provide a preference for mitigation banks and offsite regional mitigation over onsite mitigation, and to ensure such rules regarding the use of mitigation banks be consistent with the provisions of 33 C.F.R., is expected to increase the number and use of mitigation banks in the state.

Incorporating reclaimed water in regional water supply planning will likely accrue to the benefit of certain privately-owned utilities that provide reclaimed water for re-use.

Extending the duration of CUP compliance reports will provide a savings to privately-owned water utilities and water providers.

D. FISCAL COMMENTS:

Revising administrative rules relating to mitigation banking to provide a preference for mitigation banks and offsite regional mitigation over onsite mitigation is expected to increase the number and use of mitigation banks in the state. According to DEP, that will require two additional, full time staff to handle the expected workload, resulting in a \$161,000 first year cost, and a recurring expense of \$130,000. The DEP and/or WMDs are expected to receive an indeterminate amount resulting from fees associated with permitting new mitigation banks.

The DEP may need to revise administrative rules to address the standard by which a utility meets the water conservation requirements that are imposed as a condition for receiving a CUP by the utility's use of a water conservation plan. The bill directs the DEP and/or WMDs to promulgate:

- Administrative rules relating to the reuse of reclaimed water by consumptive use permit holders.
- Administrative rules relating to mitigation banking to provide a preference for mitigation banks and offsite regional mitigation over onsite mitigation

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

Existing law grants broad rulemaking authority to the DEP for the amended subsections in s. 373.227, F.S., relating to the water conservation plan. Rulemaking authority for mitigation banks and for the reuse of reclaimed water is provided.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the Agriculture and Natural Resources Committee adopted one amendment offered by Representative Williams. The amendment:

- Requires a goal-based water conservation plan to include a schedule for implementing the water conservation goal or goals
- Requires a goal-based water conservation plan that is submitted to a water management district be designed to achieve the water conservation goals in a cost effective manner, considering the utility's customers, service area, and other individual circumstances of the utility.
- Removes from the original bill (and from Florida Statutes) the requirement that the district must approve the conservation plan if the utility provides reasonable assurance that the plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the district and is otherwise consistent with s. 373.223, F.S.

On April 14, 2010, the General Government Policy Council adopted one strike-all amendment that broadened the scope of the bill to include . Specifically, the bill:

- Directs a WMD to approve the water conservation goals proposed by a utility if such are consistent with the "three-prong test" in s. 373.223(1), F.S., and to approve a utility's water conservation plan if it meets specific requirements of the act.
- Includes wastewater and water reuse utilities along with WMDs, the DEP, local governments, water utilities, and multijurisdictional water supply entities, in order to incorporate reclaimed water in regional water supply planning.
- Directs the WMDs to implement rules relating to the reuse of reclaimed water by consumptive use permit holders. The WMDs must initiate rulemaking no later than July 1, 2011. The rules shall:
 - Require consumptive use permit applicants seeking withdrawals for non-potable water uses within a designated reclaimed water service area to submit to the water

management district a letter from the applicable reclaimed water provider that addresses the availability and feasibility of using reclaimed water. The reclaimed water provider only has 30 days to respond to a request for information.

- Specify the content of the documentation required, including the availability and costs associated with connection to and the use of reclaimed water.
- Encourage reuse facilities and WMDs to periodically share information concerning the status of the reclaimed water distribution system, the availability of reclaimed water, and existing CUPs in areas served by the reuse utility.
- Encourages WMDs and other governmental agencies to promote public-private partnerships when procuring materials for infrastructure and restoration work projects.
- Extends the duration for a CUP compliance report to the WMD by a 20 year CUP holder, from every five years to every 10 years. The Suwannee River WMD may require a five-year compliance schedule until July 1, 2015, and thereafter every ten years during the term of the permit.
- Restricts a WMD governing board's delegation authority for issues relating to part II, Chapter 373, F.S. Directs WMD governing boards that have delegated authority to executive directors to take final action on permit applications under part IV of Chapter 373, F.S., or petitions for variances or waivers, or general permits, to provide a process for referring a denial of a petition to the governing board for the purpose to taking final action.
- Directs the DEP and WMDs to amend administrative rules to provide a preference for mitigation banks and offsite regional mitigation over onsite mitigation, and that such rules regarding the use of mitigation banks be consistent with the provisions of 33 C.F.R. 332.3(b).
- Clarifies s. 298.66, F.S., prohibiting the obstruction of canals to include all canals and public drainage on public land maintained by water control districts.